



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **17 March 2021** which reads as follows:*

“G.R. No. 254852 (*Andy Cristobal y Agcaoile v. People of the Philippines*).

This case stemmed from two separate Informations charging Andy Cristobal y Agcaoile (Cristobal) with Illegal Sale and Illegal Possession of Dangerous Drugs, to wit:

Criminal Case No. 11503
Viol. Of Section 11 Art. II RA 9165

That on or about the 19th day of May 2016, in the City of San Fernando, La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without first securing the necessary permit, license or authority of the proper government agency, did then and there willfully, unlawfully and feloniously have in his possession, custody and control five (5) heat sealed transparent plastic sachets containing methamphetamine hydrochloride also known as shabu weighing as follows: zero point zero five eighty eight (0.0588) gram, zero point zero one sixty six (0.166) gram, zero point zero five nineteen (0.0519) gram, zero point zero two forty two (0.0242) gram and zero point zero five hundred (0.0500) gram, knowing the same to be dangerous under the provisions of the above-cited law.

Contrary to law.

Criminal Case No. 11504
Viol. of Section 5. Art. II RA 9165

That on or about the 19th day of May 2016, in the City of San Fernando, La Union, Philippines and within the jurisdiction of this

Honorable Court, the above-named accused, without first securing the necessary permit, license or authority from the proper government agency, did then and there, willfully, unlawfully and feloniously, deliver and sell one (1) heat sealed transparent plastic sachet containing methamphetamine hydrochloride also known as shabu with a weight of zero point zero nine eighty (0.0980) gram to PO1 Pierre G. Gachallan who posed as buyer, and in consideration of said shabu used one (1) genuine five hundred peso Philippine currency bill (Php500.00) with serial number GD44594.

Contrary to law.¹

Cristobal pleaded not guilty. At the trial, the prosecution witnesses testified that on May 19, 2016, at around 2:30 p.m, a confidential informant visited the San Fernando Police Station and reported to PO1 Pierre Gachallan (PO1 Gachallan) that a certain Andy Cristobal, a resident of Bauang, La Union, was selling *shabu*. PO1 Gachallan instructed the informant to contact and to meet Cristobal at West Meridian Inn at Brgy. Pagudpud, San Fernando City, La Union. A buy bust team was then organized composed of P/Insp. Juanito Buaron (P/Isp. Buaron) as team leader, PO1 Gachallan as poseur-buyer, and PO1 Werlo Galvan (PO1 Galvan) as back up. At around 3:20 p.m of the same date, the buy-bust team proceeded to West Meridian Inn. PO1 Gachallan and the informant checked in at Room No. 7, while Cristobal was checked in at Room No. 8. When the informant knocked at Cristobal's door, Cristobal let them in and the informant introduced PO1 Gachallan as the buyer. Inside the room, PO1 Gachallan gave the marked money to Cristobal who, in turn, handed over one piece of small transparent plastic sachet containing white crystalline substance of alleged *shabu*. PO1 Gachallan placed the *shabu* inside his pocket. Thereafter, PO1 Gachallan went outside the room and removed his upper garment, which was the pre-arranged signal for the rest of the team to rush into the room and arrest Cristobal. PO1 Gachallan informed Cristobal of his rights and then proceeded to conduct a body-search. PO1 Gachallan recovered from Cristobal the buy-bust money, a cellular phone and five more pieces of small transparent heat sealed plastic sachets containing white crystalline substance all believed to be *shabu*. PO1 Gachallan marked the seized items with his initials and prepared the Certificate of Inventory, while PO1 Galvan took pictures in the presence of Barangay Kagawad Reynaldo Mendoza and media representative, John Patrick Soriano who both signed the Certification.²

From West Meridian Inn, the buy-bust team proceeded to the city health office and thereafter, to the police station where the request for laboratory examination was prepared. PO1 Gachallan turned over the request and the seized items to the duty desk officer of the Regional Crime Laboratory Office which was immediately received by Forensic Chemist PS/Insp. Maria Theresa Amor, and Manuel Sobejana. Evaluation of the specimen of the seized items yielded positive results of Methamphetamine Hydrochloride otherwise known as *shabu*.

¹ *Rollo*, pp. 43-44.

² *Id.* at 42-43

On the other hand, the defense argued that Cristobal was framed-up and that he was at West Meridian Inn waiting for his mistress Jenny Marzan (Jenny). When Jenny was already inside, Cristobal heard another knock on the door and opened it. To Cristobal's surprise, a lot of men rushed in and handcuffed him.³

On February 9, 2017, the Regional Trial Court (RTC) convicted Cristobal for violation of Sections 5 and 11, Article II of Republic Act (RA) No. 9165⁴ in Criminal Case Nos. 11503 and 11504, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused Andy Cristobal y Agcaoile:

(1) GUILTY beyond reasonable doubt in Criminal Case No. 11503 for Violation of Section 11 Article II of Republic Act No. 9165 for Illegal Possession of Dangerous Drugs and is hereby sentenced to suffer the indeterminate penalty of imprisonment of Twelve (12) Years and One Day to Fourteen (14) Years and Eight (8) Months and to pay a Fine in the amount of Three Hundred Thousand Pesos (P300,000.00); and

(2) GUILTY beyond reasonable doubt in Criminal Case No. 11504 for Violation of Section 5 Article II of Republic Act No. 9165 for Illegal Sale of Dangerous Drugs and is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00)

The subject items in these cases are declared forfeited in favor of the government and to be disposed of in accordance with R.A. No. 9165 and related rules and regulations.

SO ORDERED.⁵

Aggrieved, Cristobal elevated the case to the Court of Appeals (CA). On November 18, 2019, the CA affirmed *in toto* the RTC's findings,⁶ viz.:

WHEREFORE, premises considered, the Decision dated February 9, 2017 rendered by the Regional Trial Court, Branch 26, San Fernando City, La Union in Criminal Case No. 11503 and 11504 are hereby AFFIRMED in TOTO.

SO ORDERED.⁷

Hence, this petition. Cristobal argues that the buy-bust team committed several and patent procedural lapses because only two witnesses arrived; that the items were marked only after the arrival of the media and the *barangay* official at the place of the arrest;⁸ that the apprehending officer did not turn

³ *Id.* at 23.

⁴ "Comprehensive Dangerous Drugs Act of 2002," signed on June 7, 2002.

⁵ *Rollo*, p. 46.

⁶ *Id.* at 41-53; penned by Associate Justice Danton Q. Bueser, with the concurrence of Associate Justices Fernanda Lampas Peralta and Ronaldo Roberto B. Martin.

⁷ *Id.* at 53.

⁸ *Id.* at 30-31.



over the seized items to the investigator;⁹ and that the amount seized from the accused was miniscule so the trial court should have scrutinized the prosecution's evidence.¹⁰

The petition is unmeritorious.

For the crime of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA No. 9165, the prosecution must prove the following elements: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.¹¹ On the other hand, the elements of Illegal Possession of Dangerous Drugs under Sec. 11, Art. II of RA No. 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.¹² Here, we agree with the factual findings of the RTC and the CA that there was a valid buy-bust operation and that Cristobal was caught in possession of five sachets of *shabu* without any legal authority, and that Cristobal illegally sold another sachet of *shabu* to PO1 Gachallan, the poseur-buyer. We also affirm the findings of the courts *a quo* that the buy-bust team sufficiently complied with the law. Notably, the alleged crime happened in 2016, when RA No. 10640¹³ was already in effect. Section 21 (1) of RA No. 10640, provides:

SEC. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — x x x

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: *Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly

⁹ *Id.* at 34.

¹⁰ *Id.* at 32.

¹¹ *People v. Cuevas*, G.R. No. 238906, November 5, 2018.

¹² *Id.*

¹³ AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002," approved on July 15, 2014.

RA No. 10640 took effect on July 23, 2014. See OCA Circular No. 77-2015 dated April 23, 2015.

preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

Here, the seized sachets of *shabu* were inventoried and photographed immediately at the place of arrest and in the presence of Barangay Kagawad Reynaldo Mendoza and media representative, John Patrick Soriano who both signed the Certification. Furthermore, in illegal sale and possession of dangerous drugs, the contraband itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction.¹⁴ Thus, it is essential to ensure that the substance recovered from the accused is the same substance offered in court.¹⁵ In *People v. Goco*,¹⁶ the Court explained that “[i]n order to fulfill the chain of custody requirement, the prosecution must identify the persons who handled the seized items from seizure up until their presentation in court as evidence. To do so, the prosecution must present testimonies about every link in the chain, in such a way that every person who touched the illegal drugs would describe how and from whom they were received, where they were and what happened to them while in his or her possession, the condition in which he or she received them, and their condition upon delivery. The witnesses must describe the precautions taken to ensure that there was no change in the condition of the illegal drugs and no opportunity for someone not in the chain to have possessed the said items. Also, crucial in proving the chain of custody is the marking of the seized drugs or other related items immediately after they are seized from the accused.”¹⁷

Here, the prosecution established that the integrity of the seized drugs was preserved. As correctly ruled by the CA, the seized contraband were immediately marked, inventoried, and photographed at the place of the arrest; that PO1 Gachallan retained custody over the seized items until they were brought to the Police Station of San Fernando City, La Union; that the request for drug test, Chain Custody Form and other documents were prepared; that the marked sachets of *shabu* were turned over to the Crime Laboratory for examination while PO3 Marie June Milo received these items and turned over the same to Forensic Chemist PSI Sobejana, who conducted the laboratory examination. Thus, every step has been identified and documented until the seized contraband was offered as evidence in court.

FOR THESE REASONS, the Petition for Review on Certiorari¹⁸ is **DENIED**. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 10891, dated November 18, 2019 is **AFFIRMED**. Andy Cristobal y Agcaoile is **GUILTY** of violation of Section 11, Article II of Republic Act No. 9165, for Illegal Possession of Dangerous Drugs and sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day,

¹⁴ *People v. Partido*, 605 Phil. 883, 890 (2009). See also *People v. Cariño*, G.R. No. 233336, January 14, 2019; *People v. Crispo*, 828 Phil. 416, 436 (2018); *People v. Sanchez*, 827 Phil. 457, 472 (2018); *People v. Magsano*, 826 Phil. 947, 964-965 (2018); *People v. Manansala*, 826 Phil. 578, 592 (2018); *People v. Miranda*, 824 Phil. 1042, 1058 (2018); and *People v. Mamangon*, 824 Phil. 728, 742 (2018).

¹⁵ *People v. Ismael*, 806 Phil. 21, 30-31, 33 (2017). Citing *Mallillin v. People*, 576 Phil. 576, 587 (2008).

¹⁶ *People v. Ismael*, 806 Phil. 21, 30-31, 33 (2017).

¹⁷ *People v. Ismael*, 806 Phil. 21, 30-31, 33 (2017).

¹⁸ *People v. Ismael*, 806 Phil. 21, 30-31, 33 (2017).

to fourteen (14) years and eight (8) months, and to pay a fine in the amount of Three Hundred Thousand Pesos (₱300,000.00); and of violation of Section 5, Article II of Republic Act No. 9165, for Illegal Sale of Dangerous Drugs and is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos (₱500,000.00).

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *Uth*

10 JUN 2021

6/10

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 26
San Fernando City, La Union
(Crim. Case Nos. 11503 & I1504)

ANDY CRISTOBAL y AGCAOILE (reg)
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c/o The Director
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THE DIRECTOR (reg)
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