

THIRD DIVISION

[G.R. No. 188313, August 23, 2017]

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. JALIL LAMAMA, RESPONDENT.

DECISION

BERSAMIN, J.:

Accused Jalil Lamama^[1] (Lamama) appeals the decision promulgated on September 24, 2008,^[2] whereby the Court of Appeals (CA) affirmed his conviction for a violation of Section 5, Article II of Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*) handed down on December 11, 2006 by the Regional Trial Court (RTC), Branch 48, in Urdaneta City, and for which he was sentenced to life imprisonment and to pay a fine of P500,000.00.^[3]

Antecedents

On October 30, 2004, the Office of the City Prosecutor of Urdaneta City, Pangasinan charged Lamama with illegal sale of *methamphetamine hydrochloride* or *shabu* as defined and punished under Section 5 of the *Comprehensive Dangerous Drugs Act of 2002*. The information filed in the RTC alleged:

That on or about October 29, 2004 at Brgy. Pinmaludpod, Urdaneta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and feloniously *sell three (3) plastic bags containing Methamphetamine Hydrochloride (SHABU), weighing 102.5 grams.*

CONTRARY to Republic Act 9165, otherwise known as "Comprehensive Dangerous Drugs Act of 2002."^[4]

The evidence of the Prosecution follows.

In the morning of October 29, 2004, an informant told PO2 Marlo M. Velasquez (PO2 Velasquez) and PO1 Danny Ventura (PO1 Ventura) of the Philippine Drug Enforcement Agency (PDEA), Dagupan City Station, that Lamama was selling *shabu* in Barangay Pinmaludpod, Urdaneta City, Pangasinan. The informant confided that he used to be a drug peddler, and that Lamama was his supplier. The officers reported the information to Chief Insp. Christopher N. Abrahano, their superior, who tasked them to conduct a "casing surveillance" together with the informant. Thereafter, Chief Insp. Abrahano organized a buy-bust operation to be conducted in the area where the "casing surveillance" was to be conducted. PO2 Velasquez was designated as the poseur-buyer, while others would serve as back-up and arresting officers. The buy-bust money consisted of a marked genuine P1,000.00 bill and a thick wad of paper cut out to the size of real bills.

At past 12:00 in the afternoon, the informant contacted Lamama by cellphone to arrange a drug deal for 100 grams of *shabu*.^[5]

Upon arriving at the designated place at about 3:20 in the afternoon, the buy-bust team and the informant found Lamama sitting on a Honda Wave motorcycle. PO2 Velasquez and the informant approached Lamama while the other officers took distant positions. The informant introduced PO2 Velasquez to Lamama as the buyer of *shabu*. PO2 Velasquez told Lamama that he wanted to buy *shabu* "if the price is right." Lamama replied that he had 100 grams of *shabu* costing P150,000.00. PO2 Velasquez explained that he only had P100,000.00 with him; hence, Lamama agreed to sell the 100 grams of *shabu* to PO2 Velasquez for P100,000.00 after the latter promised to pay the balance of P50,000.00 within two days. Thereupon, Lamama opened the tool box of his motorcycle, took out three plastic sachets containing white crystalline granules, and gave the sachets to PO2 Velasquez. In turn, the latter handed the buy-bust money to Lamama. Upon giving the pre-arranged signal to his fellow officers, PO2 Velasquez immediately introduced himself to Lamama as a PDEA agent. The other officers rushed forward and arrested Lamama.

Subsequently, the buy-bust team brought Lamama to the PDEA Station in Dagupan City where he was booked and investigated. The seized items were then marked and inventoried in detail.^[6] Chief Insp. Abrahano signed the written request for laboratory examination by the PNP Crime Laboratory in Urdaneta City of the contents of the seized three plastic sachets.^[7]

In her chemistry report dated October 30, 2004, Forensic Chemist Emelda Besarra-Roderos confirmed that the three plastic sachets contained *shabu* with an aggregate weight of 102.5 grams.^[8]

On the other hand, the evidence of the Defense was as follows.

A certain Bulldog Vargas (Vargas) promised to reward Lamama with a commission if the latter would assist in finding a drug supplier. On October 29, 2004, Vargas told Lamama to proceed to a house in Barangay Pinmaludpod where the latter would be introduced to a drug buyer. Although Lamama had nothing to sell, he went to said house. Upon entering the house, he found three plastic sachets of *shabu* on top of a table. Thereafter, several PDEA agents surrounded and arrested him. They brought him with them to the PDEA Station.^[9]

On December 11, 2006, the RTC convicted Lamama as charged, its judgment disposing thusly:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs defined and penalized under Sec. 5 of Republic Act 9165 and the Court hereby sentences him to suffer a penalty of Life Imprisonment and shall pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The illegal drugs presented as evidence in Court marked as Exhibits "A-1,

A-2 and A-3" which were remarked as Exhibit "N" and submarkings, Exhibit "O" and submarkings, and Exhibit "P" and submarkings are hereby forfeited in favor of the government and shall be forwarded to the office of PDEA for proper disposition pursuant to Par.7, Sec. 21 of R.A. 9165.

The period of imprisonment of which herein accused has undergone shall be credited in the service of the term of his imprisonment.^[10]

On appeal, the CA affirmed the RTC's judgment.^[11]

Hence, this appeal, in which Lamama asserts that the RTC and the CA erred in believing the testimony of PO2 Velasquez, the poseur-buyer, to the effect that the informant had been a drug dealer, and that Lamama had been his supplier; that such testimony was incredible and contrary to human experience because no informant who was a former drug dealer would dare approach the police authorities to disclose his own past drug activities and the activities of his supplier; that the Prosecution did not present the informant to confirm such testimony; that his guilt was not proved beyond reasonable doubt because: (1) the alleged buy-bust money had not been dusted with ultra-violet powder, thereby negating the conduct of a buy-bust operation and the consummation of the sale; (2) no picture of him with the seized *shabu* was taken immediately after his arrest; (3) no physical inventory of the seized *shabu* was made in his presence or that of his counsel; and (4) the marking of the seized *shabu* was made inside the PDEA office, not at the place of seizure.^[12]

Ruling of the Court

The appeal has no merit.

The elements of illegal sale of *shabu* are: (1) the identity of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefor. What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*. The commission of the offense of illegal sale of dangerous drugs, like *shabu*, requires the consummation of the selling transaction, which occurs at the moment the buyer receives the drug from the seller and the latter receives the payment.^[13]

PO2 Velasquez narrated his transaction with Lamama as follows:

PROS. BELTRAN

x x x

Q And after seeing him (Lamama) Mr. Witness, what did you do next?

A The voluntary civilian informant introduced me as a good buyer, Sir

Q What is the response of Aka Jap (Lamama)?

A He said "I have here only 100 grams and it costs Php 150,000.00." and I replied, I have only here Php 100,000.00 (witness demonstrated by

showing the portion of the boodle money).

Q Will you demonstrate how did you show to Aka Jap the buy-bust money?

A (Witness demonstrated by showing the envelope with the portion of the envelope with boodle money No. 1,000.)

Q After you have shown that to Aka Jap, what is the response of Aka Jap to your proposal?

A Since my money is only Php 100,000.00, I told him that if he will trust me, my friend, the civilian informant will guarantee the remaining balance will be paid after two (2) days.

Q And what was the response of Aka Jap to you?

A After few minutes of conversation, Aka Jap agreed that I will pay the balance after two (2) days, sir.

Q What happened next?

A Aka Jap opened the tool box of his motor and got from inside three (3) plastic sachets containing shabu, sir.

Q What happened next?

A And the shabu was handed over to me sir.

COURT

Q What is the weight?

A He said I have 100 grams only sir.

PROS. BELTRAN

Q When Aka Jap handed to you those plastic sachets, what did you do with the plastic sachets?

A I looked at the three (3) plastic sachets and examined them carefully and after proof that it is really a *shabu*, I gave the boodle money then I brought out my handkerchief and I wiped my face with the handkerchief to signal my companions, sir.^[14]

PO1 Ventura, one of the back-up/arresting officers, corroborated PO2 Velasquez on relevant points of the latter's testimony.^[15] The Prosecution presented the three plastic sachets of *shabu*, the chemistry report of Chemist Roderos, and the buy-bust money.^[16] Per the Chemistry Report by Chemist Roderos, the white crystalline substances contained in the three plastic sachets (having an aggregate weight of 102.5 grams) bought by PO2 Velasquez were found to be positive for

methamphetamine hydrochloride or *shabu*.^[17] Thus, the Prosecution sufficiently established that PO2 Velasquez, acting as poseur-buyer, bought *shabu* from Lamama during the legitimate buy-bust operation.^[18]

In contrast, Lamama interposed denial and frame-up. But such defenses were weak and unreliable. To start with, such defenses have often been viewed with disfavor by the Court due to their being easily concocted, and because of their being common defense ploys in criminal prosecutions for violations of anti-drugs laws. Moreover, such defenses must be proved with strong and convincing evidence in order to prosper,^[19] which Lamama utterly failed to do. He presented no proof to corroborate his version of the incident. Also, that he had been the victim of a frame-up lacked plausibility considering his admission that he and the members of the buy-bust team had no grudge between them prior to the arrest.^[20] This explains why he did not file a complaint for extortion or false incrimination against the members of the buy-bust team.

Lamama impugns the RTC and CA's assessment of the witnesses' credibility. In the absence of glaring errors or gross misapprehension of facts on the part of the CA, however, we accord respect to the findings of the trial court on the credibility of witnesses because of the trial judge's unique advantage of directly observing the demeanor of the witnesses as they testified.^[21] With more reason do we accord the respect now that the CA affirmed the factual findings as the appellate court.^[22] Hence, in the absence of allegation and proof about PO2 Velasquez harboring any ill motive to falsely testify against the accused, the factual findings and conclusions of the lower courts on the credibility of PO2 Velasquez as a witness should prevail.

Lamama has taken issue against PO2 Velasquez's recollections to the effect that the informant introduced himself to the PDEA agents as having dealt in drugs in the past, and that the accused had been his supplier; and against the non-presentation of the informant as a witness during the trial. The issue is of little consequence in this adjudication. What matters more is that the report of the informant on the illegal drug dealing of the accused was objectively confirmed during the legitimate buy-bust operation. Neither was the presentation of the informant at the trial necessary to a finding of guilt. Informants have generally not been presented in court for security reasons in recognition of the need to hide their identities and to preserve their invaluable service to law enforcement.^[23] At any rate, the informant's testimony was not superfluous to the successful prosecution of the case for illegal sale of dangerous drugs due to the availability of the poseur-buyer himself who transacted with the seller. In this case, the informant's testimony would merely corroborate the testimony of the poseur-buyer, PO2 Velasquez, who had earlier testified on the illegal sale.^[24]

The dusting of the buy-bust money with ultra-violet powder is not indispensable for the prosecution of illegal sale of *shabu*.^[25] There is no requirement either in *Comprehensive Dangerous Drugs Act of 2002* or in its *Implementing Rules and Regulations* that the buy-bust money to be used in the actual buy-bust operation should be dusted with ultra-violet powder. For sure, the use of dusted buy-bust money is not an element of the offense of illegal dealing in drugs. The function for dusting of the buy-bust money with ultra-violet powder is identification, that is, to determine if there was handling of the buy-bust money by the accused in exchange