

FIRST DIVISION

[G.R. No. 199018, September 27, 2017]

**ROLANDO DACANAY Y LACASTE, PETITIONER, VS. PEOPLE OF
THE PHILIPPINES, RESPONDENT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

In this Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, petitioner Rolando Dacanay y Lacaste assails the Decision^[1] dated May 26, 2011 of the Court of Appeals in CA-G.R. CR. No. 30826, which affirmed the Decision^[2] dated July 16, 2006 of the Regional Trial Court (RTC) of Mandaluyong City, Branch 209, in Criminal Case No. MC02-6030-D, finding petitioner guilty beyond reasonable doubt of illegal possession of dangerous drugs, in violation of Article II, Section 11 of Republic Act No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

In an Information dated October 24, 2002 filed before the RTC, petitioner was charged with illegal possession of dangerous drugs, allegedly committed as follows:

That on or about the 23rd day of October 2002, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not having been lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously and knowingly have in his possession, custody and control one (1) heat-sealed transparent plastic sachet containing 0.03 gram of white crystalline substance, which was found positive to the test for Methamphetamine Hydro chloride, commonly known as "shabu", a dangerous drug without the corresponding license and prescription, in violation of the above-cited law.^[3]

During his arraignment on December 11, 2002, petitioner pleaded not guilty to the crime charged against him. Thereafter, trial ensued.

Version of the Prosecution

The prosecution presented as witnesses Police Senior Inspector (P/Sr. Insp.) Annalee R. Forro (Forro), Forensic Chemist, Philippine National Police (PNP); Raylan G. Genguyon (Genguyon), a member of Task Force Anti-Vice (TFAV) Unit, Mandaluyong City Police Station; and Police Officer (PO) 3 Noli S. Cortes^[4] (Cortes), the officer on case, Eastern Police District (EPD) Crime Laboratory Office.

The taking of PO3 Cortes's testimony was dispensed with after the defense admitted the following: that PO3 Cortes was a member of the PNP who conducted an investigation of the case; that PO3 Cortes could identify petitioner in court; that the

specimen subject matter of the case was turned over to PO3 Cortes during the investigation; and that PO3 Cortes caused the preparation of the Request for Laboratory Examination, Genguyon's Sworn Statement, the Arrest Report, and the Endorsement of the EPD to the Office of the City Prosecutor for inquest proceedings; and that the Inquest Prosecutor, after conducting an investigation, proposed the direct filing of the case.^[5]

As gathered from the collective testimonies of the prosecution witnesses, at around 8:30 in the morning of October 23, 2002, a TFAV Unit consisting of Senior Police Officer (SPO) 2 Cirilo Maniego (Maniego), as team leader, and Carlos Gojo, Noel Bueva, and Genguyon, as members, were on board an unmarked multi-cab, patrolling the streets of Fernandez and Samat, Barangay Highway Hills, Mandaluyong City, when they noticed a male person, whom Genguyon later identified as petitioner, holding a plastic sachet in his right hand and a baseball cap in his left hand. The TFAV Unit already knew petitioner for the latter had been previously arrested several times by authorities for illegal drug possession. As the TFAV Unit neared petitioner, the latter scurried away. Petitioner tried to throw away the plastic sachet as he was boarding a tricycle but the members of the TFAV Unit caught up with him. Genguyon arrested petitioner and recovered the plastic sachet, containing white crystalline substance, from the latter's possession. Genguyon placed his initials "RG" on the plastic sachet. After informing petitioner of his constitutional rights, Genguyon gave the plastic sachet to their team leader, SPO2 Maniego. Thereafter, the TFAV Unit brought petitioner to the Mandaluyong City Medical Center and to the Criminal Investigation Unit for medical examination and investigation, respectively.

The plastic sachet, marked as "RG," was turned over to PO3 Cortes, assigned to investigate petitioner's case. PO3 Cortes made a written request for the laboratory examination of the contents of said plastic sachet.

P/Sr. Insp. Forro performed the laboratory examination of the contents of the plastic sachet, and per Chemistry Report No. D-2096-02E,^[6] she confirmed the presence of Methamphetamine Hydrochloride or *shabu*, a dangerous drug.

In the meantime, Genguyon executed a Sworn Statement and an Arrest Report both dated October 23, 2002 relative to the apprehension of petitioner.

Together with Genguyon's Sworn Statement^[7] and Arrest Report^[8] dated October 23, 2002, PO3 Cortes's written request for laboratory analysis and P/Sr. Insp. Forro's Chemistry Report No. D-2096-02E, Police Chief Inspector (PC/Insp.) Plaridel V. Justo, Chief, Station Investigation Unit, forwarded petitioner's case to the Mandaluyong City Prosecutor for inquest proceeding.

On trial, Genguyon identified in court the plastic sachet that he marked as "RG." Likewise, P/Sr. Insp. Forro testified that she prepared the Chemistry Report No. D-2096-02E and identified her signature appearing thereon, as well as the signatures of PC/Insp. Leslie Chambers Maala (Maala), Chief of the Chemistry Section, and Police Superintendent (P/Supt.) Ma. Cristina B. Freyra (Freyra), Chief of the EPD Crime Laboratory. P/Sr. Insp. Forro stated that she was present when PC/Insp. Maala and P/Supt. Freyra signed the Chemistry Report.^[9]

Version of the Defense

Petitioner was the sole witness for the defense.

According to petitioner, he worked as a tricycle driver. At around 8:30 in the morning of October 23, 2002, he was transporting a passenger from Crossing I to Fernandez Street. Upon arriving on Fernandez Street and while waiting for the passenger's tricycle fare, a member of the TFAV Unit passed by, telling petitioner that there was an on-going sale of *shabu* on Fernandez Street. After receiving the tricycle fare, petitioner proceeded to Samat Street where he was flagged down by the TFAV Unit. Petitioner alighted from his tricycle and five members of the TFAV Unit conducted a search of petitioner's person and his tricycle. A sixth member of the TFAV Unit, the driver, was standing near the TFAV vehicle. Petitioner then saw said sixth member of the TFAV Unit picking up a small plastic sachet about a meter away from where petitioner was. The sixth TFAV Unit member approached petitioner while holding the plastic sachet and said that the TFAV Unit recovered the plastic sachet from petitioner's tricycle. Petitioner denied that the plastic sachet was his but he was handcuffed. Petitioner offered to bring the TFAV Unit members to the passenger he dropped off on Fernandez Street but the TFAV Unit members said nothing and simply brought petitioner to Mandaluyong City Hall. At the Criminal Investigation Division, a person, who was not part of the TFAV Unit who arrested petitioner, asked him if he owned the plastic sachet. Petitioner denied ownership of the plastic sachet. Notwithstanding petitioner's denial, he was detained. Petitioner posted bail afterwards.

On July 16, 2006, the RTC promulgated its Decision finding petitioner guilty of the crime charged, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding [petitioner], ROLANDO DACANAY y LACASTE, guilty beyond reasonable doubt for violation of Section 11 of Article II of Republic Act 9165 and hereby sentencing him to suffer an indeterminate penalty of six (6) years and one (1) day of *prision mayor* as minimum to twelve (12) years and one (1) day of *reclusion temporal* as maximum and to pay a fine of three hundred thousand (P300,000.00) [pesos]. [Petitioner] shall be credited in full of the period of his preventive imprisonment.

The specimen consisting of 0.03 gram of methamphetamine hydrochloride is hereby confiscated in favor of the government. The evidence custodian is ordered to turn over the same to the Dangerous Drugs Board within 10 days from receipt for proper disposition.

Pursuant to section 6, paragraph 4, Rule 120 of the Revised Rules on Criminal Procedure, the Clerk of this Court in charge of the records of criminal cases is ordered to record this judgment in criminal docket and to serve a copy thereof at the last known address of Rolando Dacanay y Lacaste or through his counsel.^[10]

Petitioner's appeal before the Court of Appeals was docketed as CA-G.R. CR. No. 30826. The appellate court affirmed petitioner's conviction in its Decision dated May 26, 2011.

Hence, petitioner filed the instant Petition for Review, raising the following issues:

I

WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERROR INSOFAR AS IT FAILED TO RULE THAT PETITIONER WAS ILLEGALLY ARRESTED AND ILLEGALLY SEARCHED BY THE MEMBERS OF THE TASK FORCE ANTI-VICE UNIT.

II

WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT FOUND PETITIONER GUILTY BEYOND REASONABLE DOUBT OF THE CRIME BEING IMPUTED AGAINST HIM.^[11]

Petitioner refutes the findings of the Court of Appeals, maintaining that he was illegally arrested and searched without a warrant by the TFAV Unit. According to petitioner, he was arrested on mere suspicion of the TFAV Unit members who allegedly saw him holding a plastic sachet. Petitioner's alleged possession of a plastic sachet, previous criminal record, or act of running away from apprehending officers were not crimes, nor were they sufficient to raise suspicion or provide probable cause for warrantless arrest. Considering that petitioner's arrest did not fall under any of the instances identified under Rule 113, Section 5^[12] of the Revised Rules of Court - as petitioner was not actually committing or attempting to commit an offense in the presence of the arresting officer, and no offense had just been committed that gave rise to a probable cause that he committed an offense - petitioner's arrest was illegal.

Petitioner also contends that the warrantless search of petitioner's person, which was neither incidental to a valid arrest nor based on probable cause that he had committed, was committing, or was attempting to commit a crime, violated his Constitutional right^[13] against unreasonable search and seizures. As a consequence, any evidence, such as the plastic sachet, obtained as a result of the unlawful search by the TFAV Unit, should be inadmissible in evidence for any purpose in any proceeding for being the "fruit of the poisonous tree."

Petitioner lastly points out that the version of the prosecution of his arrest was based solely on Genguyon's self-serving testimony. Petitioner argues that the prosecution should have presented additional witnesses, such as the other TFAV Unit members, to corroborate Genguyon's testimony, as well as rebuttal evidence to disprove petitioner's defense of frame up. The reliance by the RTC and the Court of Appeals on the presumption of regularity in the performance of official duties was misplaced as such presumption could not override the presumption of innocence in petitioner's favor. Therefore, the quantum of proof required to convict petitioner, *i.e.*, proof beyond reasonable doubt, had not been satisfied.

We find no merit in the present Petition.

Questions of fact are not the proper subject of a petition for review under Rule 45; findings of fact of the RTC, affirmed by the Court of Appeals, are binding on the Court

We highlight, at the outset, that this Petition was filed under Rule 45 of the Revised Rules of Court, which should be limited to questions of law. For a question to be one of law, it must not involve an examination of the probative value of the evidence presented by the litigants or any of them.^[14]

The resolution of both issues raised in the Petition at bar requires us to sift through the records, and examine and inquire into the probative value of the evidence presented by the parties before the RTC. This is exactly the situation which Rule 45, Section 1 of the Revised Rules of Court prohibits by requiring that the petition raise only questions of law. A re-examination of factual findings cannot be done through a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court because this Court is not a trier of facts. This Court is not duty-bound to analyze and weigh again the evidence considered in the RTC. Further, this case does not fall under any of the exceptions^[15] recognized in jurisprudence.

Moreover, it is settled that the findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded respect, if not conclusive effect. This is more true if such findings were affirmed by the appellate court. When the findings of the trial court have been affirmed by the appellate court, said findings are generally binding upon this Court.^[16] The exception is when it is established that the trial court ignored, overlooked, misconstrued, or misinterpreted cogent facts and circumstances which, if considered, will change the outcome of the case.^[17]

In the instant case, the RTC, after receiving and evaluating the respective evidence of the prosecution and the defense, adjudged:

This court finds the prosecution adequate or sufficient to warrant conviction of the accused.

In a prosecution for illegal possession of dangerous drugs, the following facts must be proven with moral certainty.

(1) That the accused is in possession of the object identified as prohibited or regulated drug; (2) That such possession is not authorized by law and, (3) That the accused freely and consciously possessed the said drug. To warrant conviction of the accused or that animus possidendi existed together with the possession or control of said articles xxx.

In the instant case, the arresting officer, Raylan G. Genguyon who executed a Sworn Statement and confirmed in open court that on October 23, [2002] at 8:30 in the morning, while he and members of his team were patrolling along Fernandez Street, he saw a male person whom he knew for having been previously arrested by authorities for illegal possession of drugs, came out from an interior alley, stood at the corner of Samat and Fernandez Streets, a place notoriously known for buying and selling dangerous drugs, holding a small transparent plastic sachet containing suspected shabu which he immediately hide (sic) in his cap. When they stopped their patrol vehicle and approached [petitioner],