

## SECOND DIVISION

[ G.R. No. 186527, June 29, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROY PAMPILLONA  
Y REBADULLA, APPELLANT.**

### DECISION

**MENDOZA, J.:**

Time and again the Court has condemned the illegal drug trade for being a scourge to our society. As an ardent sentinel of the people's rights and welfare, this Court shall not hesitate to dispense justice on people who engage in such an activity.<sup>[1]</sup> Drug pushers are merchants of death<sup>[2]</sup> whose commodities cause so much physical, mental and moral pain not only to the immediate victims of their greed, but also to the families of the victims.<sup>[3]</sup>

Before this Court is the case of one of those merchants, accused Roy

Pampillona y Rebadulla.

After being apprehended for the sale of Methylamphetamine Hydrochloride also known as "*shabu*," a dangerous drug, the accused was charged with having committed a violation of Section 5, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002. The Information<sup>[4]</sup> dated November 22, 2004 reads:

"That on or about the 20<sup>th</sup> day of November, 2004, in Quezon City, Philippines, the said accused not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there willfully and unlawfully sell, dispense, deliver, transport, distribute, or act as a broker in the said transaction, point zero four (0.04) gram of white crystalline substance containing Methylamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW."

As culled from the evidence of the prosecution, it appears that on November 20, 2004, around 3:30 o'clock in the morning, a female informant, a drug-user, appeared at the office of the Anti-Illegal Drugs Special Operations Team (SAID-SOAP), Galas Police Station, Quezon City, and informed team leader, Police Inspector (P/Insp.) Erwin Guevarra, about the illegal drug trade activities of one "*Taroy*" in Barangay Damayang Lagi, Quezon City. P/Insp. Guevarra then formed a team composed of PO2 Anthony Palimar, SPO2 Mario Abong, PO2 Erwin Bautista, and two

(2) confidential agents.

P/Insp. Guevarra then briefed the team members on the buy-bust operation they would be conducting based on the information relayed by the informant. PO2 Bautista was designated as the poseur-buyer, while SPO2 Abong would serve as back-up. The rest of the team would act as look-outs. P/Insp. Guevarra handed to PO2 Bautista a one hundred (P100.00) peso bill with Serial Number XE004371 to be utilized as the marked money. SPO2 Bautista then placed his initials "EB" inside the two zeros of the bill. A pre-operation report was also prepared for purposes of coordination with the Philippine Drug Enforcement Agency (PDEA).

Later, at around 4:00 o'clock in the morning, the buy-bust team, together with the informant, proceeded to a house located in Barangay Damayang Lagi, Quezon City. The informant told PO2 Bautista that the person standing in front of the house was the drug pusher. In a little while, the informant introduced PO2 Bautista to the seller, who was identified as accused Roy Pampillona. The accused then asked PO2 Bautista, "*Magkano ba bibilhin mo?*" (How much are you going to buy?), to which the latter replied, "*Isang Piso Lang.*" (One Peso only.) The accused then asked for the money and the officer handed to him the marked one hundred peso bill. In exchange, the accused gave a plastic sachet to PO2 Bautista, who, after examining its content, was satisfied that it was *shabu*.

Following a pre-arranged signal, PO2 Bautista removed his baseball cap. Immediately, the waiting team members rushed towards the scene and accosted the accused. SPO2 Abong introduced himself as a police officer and asked the accused to empty his pockets. SPO2 Abong then took the marked money from him and apprised him of his constitutional rights. Thereafter, the accused was taken to the Galas Police Station. Upon orders of the station investigator, PO2 Bautista marked the plastic sachet with the letters "EB-RP" so that it could be properly identified when delivered to the PNP Crime Laboratory for examination.

During the trial, the prosecution and the defense agreed to dispense with the testimony of Senior Police Inspector Maridel C. Rodis, the forensic chemist of the Philippine National Police (PNP), and stipulated on the existence of a Letter-Request for examination of the specimen; the confirmatory report, Chemistry Report No. D-1111-04; and the finding that the specimen was found positive for Methylamphetamine Hydrochloride.

The defense, on the other hand, presented the lone testimony of the accused who claimed that around 3:00 o'clock in the morning of November 20, 2004, he was in his house with his wife and grandchild when he heard knocks on the door; that he did not mind them but his wife got out of bed and opened the door; that suddenly, several persons rushed to their bedroom and, after introducing themselves as policemen, handcuffed him; that they did not tell him why they did so and why they were bringing him to the police station; and that at the Galas Police Station, a certain police asset named "Manny" came over and talked to him.

The accused also recalled that a day earlier, he was with his *barkada* together with a certain Manny playing *kara y kruz*. In that game, Manny lost P8,000.00.

That Manny was the same "Manny" who approached him at the police station. He asked for the P8,000.00 he lost from the game explaining that the money belonged

to some policemen who wanted it back. He told Manny, however, that he had only won P2,000.00 in their game and that he had given the money to his neighbor as payment for his electric bill covering two (2) months. According to him, his electric line was only connected to the line of his neighbor ("*nakakabit*"). For his failure to give P8,000.00 to Manny, he was framed up.

### ***Decision of the Trial Court***

On September 22, 2006, the trial court handed down its Decision<sup>[5]</sup> convicting the accused of having violated Section 5, Article II of Republic Act No. 9165. The decretal portion of said decision reads:

"ACCORDINGLY, judgment is hereby rendered finding the accused, ROY PAMPILLONA y REBADULLA, GUILTY beyond reasonable doubt of the offense of Violation of Section 5, Article II of R.A. No. 9165 (for drug pushing) as charged and he is hereby sentenced to a jail term of LIFE IMPRISONMENT and to pay a fine of P500,000.00.

The plastic sachet of shabu involved in this case is ordered transmitted to the PDEA thru the DDB for proper disposition per R.A. 9165. PDEA is requested to be extra careful in safekeeping this shabu.

SO ORDERED."

The accused was convicted on the strength of the testimonies of PO2 Bautista and SPO2 Abong. The trial court did not give weight to his defense of alibi. It wrote that PO2 Bautista and SPO2 Abong appeared to be candid and honest as they admitted that the pre-operation coordination report had been prepared in advance or prior to the arrival of their female informant. Their explanation that the said report had a lifetime or duration of twenty-four (24) hours and that the rest of the items in that report were entered after the informant had been interviewed, satisfied the court.

The trial court was of the view that the buy-bust team performed their official duties in a regular manner. Although the plastic bag containing the *shabu* was only marked at the police station, its physical integrity was not affected because SPO2 Bautista was in possession of it at all times, until he marked the sachet with "*EB-RP*" at the station. They were the same specimen and sachet confirmed by the PNP Forensic Chemist in his Chemistry Report.

The trial court did not give credence to the version of the accused basically because it was not corroborated by any of his co-players in the *kara y cruz* or *barkadas*. It could not also believe that the accused, a jobless person, would bet several thousand of pesos in a game of *kara y kruz*. Even his wife did not take the witness stand to confirm his story.

### **Decision of the Court of Appeals**

In its Decision,<sup>[6]</sup> the Court of Appeals affirmed the conviction stating that there was

no reason to doubt the evaluation and assessment of the trial court regarding the credibility of the prosecution's witnesses. The appellate court noted that PO2 Bautista categorically narrated the buy-bust operation transaction and his testimony was corroborated on material points by SPO2 Abong who was waiting in the car, just a few meters away. The fact that SPO2 Bautista could not recall the name of the person who brought the specimen to the crime laboratory only proves that he was worthy of belief, as he was not coached. Neither could it be said that he rehearsed his lines. At any rate, the lapse in his memory was filled in by SPO2 Abong who claimed that he, together with the investigator, brought the confiscated *shabu* to the PNP Crime Laboratory for examination.

On the claim of the accused that he was just being harassed by the policemen because he won in a game of *kara y cruz*, the appellate court opined that he could have filed the proper administrative charges against them if it were true. Since no administrative or criminal charges were filed, it concluded that his story was merely fabricated to enfeeble the case of the prosecution. Besides, it was lacking in corroboration. Thus, the accused failed to show that the police officers were impelled by improper and malicious motives in arresting him.

The accused also contends that the Pre-Operation Report was defective since it was prepared in advance and that there was no evidence presented that the same was received and acted upon by the PDEA. To this, the appellate court ruled that such contention had no basis and that assuming there were defects, it would not impair the fact that the accused was arrested in the illegal sale of *shabu* during a buy-bust operation.

### **THE COURT'S RULING**

The Court finds no merit in this appeal.

The elements necessary for the prosecution of illegal sale of drugs are (1) the identities of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>[7]</sup> What is material to the prosecution of illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.<sup>[8]</sup>

All these elements were present in this case. There is no doubt that the accused was caught red-handed in a buy-bust operation. The illegal sale of *shabu* was convincingly established by the credible and corroborated testimony of SPO2 Bautista who acted as the poseur-buyer. He had personal knowledge of the sale and positively identified the accused as the seller of the contraband. The object of the sale was examined and found to be positive for methylamphetamine hydrochloride (*shabu*), per Chemistry Report No. D-1111-04. The testimony of PO2 Bautista appears in the record as follows:

- Q: When you noticed that the subject was there, what did you do?
- A: Our female informant introduced me as the supposed shabu buyer, sir.
- Q: Were you able to talk to the subject at that time?