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SECOND DIVISION

[G.R. No. 175604, April 10, 2008]

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SALVADOR PEÑAFLORIDA, JR., Y CLIDORO, APPELLANT.

D E C I S I O N

TINGA, J,:

Subject of this appeal is the Decision[1] of the Court of Appeals in CA-G.R. CR No. 01219, dated 31 July 2006, affirming in *toto* the judgment[2] of the Regional Trial Court of Camarines Sur, Branch 30, in Criminal Case No. T-1476. The trial court found appellant Salvador Peñaflorida y Clidoro guilty of transporting marijuana and sentenced him to suffer the penalty of *reclusion perpetua* and to pay a fine of one million pesos.

The Information against appellant reads:

> That on or about the 7th day of June, 1994, in the afternoon thereat, at Barangay Huyon-huyon, Municipality of Tigaon, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to sell, possess and to deliver with the use of a bicycle, did then and there, willfully, unlawfully and feloniously have in his possession, control and custody, [o]ne bundle estimated to be one (1) kilo more or less, of dried marijuana leaves (Indian Hemp) without the necessary license, permit or authority to sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug from a competent officer as required by law.
>
> ACTS CONTRARY TO LAW.[3]

Upon arraignment, appellant pleaded not guilty. Trial ensued.

Two police officers and one forensic chemist testified for the prosecution.

SPO3 Vicente Competente (Competente) narrated that in his capacity as chief of the Investigation and Operation Division of the Philippine National Police (PNP) station in Tigaon, Camarines Sur, that he received a tip from an asset that a bundle of marijuana was being transported by appellant to Huyon-huyon from another barangay in Tigaon, Camarines Sur.[4] Major Domingo Agravante (Agravante), chief of police of Tigaon, then organized a team composed of Competente as team leader, SPO2 Ricardo Callo (Callo), SPO1 Portugal, PO3 Pillos and PO2 Edgar Latam. The team boarded the police mobile car and proceeded to Sitio Nasulan in Barangay Huyon-huyon.[5] They overtook appellant who was on a bicycle. The police officers flagged appellant down and found marijuana wrapped in a cellophane and newspaper together with other grocery items. The amount of P1550.00 was also

found in appellant's possession. The police officers confiscated these items and took photographs thereof. Appellant was then brought to the headquarters where he was booked. [6]

Callo, who was the chief intelligence officer of Tigaon PNP, recounted that at around 1:00 p.m. on 7 June 1994, he was called by Competente and was briefed about the operation. While they were in Nasulan, the members of the police team caught a man riding a bicycle who turned out to be appellant. Callo saw the marijuana wrapped in a cellophane and newspaper in the bicycle of appellant so the latter was brought to the police headquarters and turned over to the desk officer. [7]

Major Lorlie Arroyo (Arroyo), a forensic chemist at the PNP Crime Laboratory Regional Office No. V, was presented as an expert witness to identify the subject marijuana leaves. She related that after taking a representative sample from the 928-gram confiscated dried leaves, the same was tested positive of marijuana. The findings were reflected in Chemistry Report No. D-26-94 dated 9 June 1994.[8]

Appellant denied the accusations against him. Appellant, who is a resident of Huyon-huyon, Tigaon, Camarines Sur, testified that in the morning of 7 June 1994, he first went to the house of Igmidio Miranda (Miranda) in Sagnay, Camarines Sur. The latter accompanied appellant to the house of Arnel Dadis in San Francisco, Tigaon to buy a dog. They, however, failed to get the dog; prompting them to leave. On their way home, they met Boyet Obias (Obias) who requested appellant to bring a package wrapped in a newspaper to Jimmy Gonzales (Gonzales).[9] Appellant placed it in the basket in front of his bicycle and Gonzales proceeded to the Tiagon town proper. He and Miranda parted ways when they reached the place. Appellant dropped by the grocery store and the blacksmith to get his scythe. On his way home, he was flagged down by the police and was invited to go with them to the headquarters. Upon inspection of the package in his bicycle, the police discovered the subject marijuana. Appellant tried to explain that the package was owned by Obias but the police did not believe him. He was sent to jail.[10]

Miranda corroborated the testimony of appellant that the two of them went to San Francisco, Tigaon, Camarines Sur in the morning of 7 June 1994 to buy a dog. On their way back to the town proper of Tigaon, they met Obias who requested appellant to bring a package, which Miranda thought contained cookies, to Gonzales. Upon reaching the town proper, they parted ways.[11]

On 26 October 1998, the trial court rendered judgment finding appellant guilty beyond reasonable doubt of transporting a prohibited drug, a violation of Section 4, Article II of Republic Act (R.A.) No. 6425, otherwise known as The Dangerous Drugs Act of 1972, as amended by R.A. No. 7659. The dispositive portion of the decision reads:

> WHEREFORE, the accused Salvador Peñaflorida[,Jr.] is hereby sentenced to suffer the penalty of imprisonment of *reclusion perpetua* and to pay a fine of One Million (P1,000,000.00) Pesos, with subsidiary imprisonment in accordance with law, in case of insolvency for the fine and for him to pay the costs.
>
> The accused Salvador Peñaflorida[,Jr.] shall be entitled to full credit of his

> preventive imprisonment if he agreed to abide with the rules imposed upon convicted person, otherwise, he shall be entitled to four-fifth (4/5) credit thereof.
>
> The subject marijuana consisting of 928 grams, possession thereof being *mala prohibita*, the court hereby orders its confiscation in favor of the Government to be destroyed in accordance with law.
>
> This court, however, hereby recommends to His Excellency, the President of the Philippines, through the Honorable Secretary of Justice to commute the above penalty herein imposed, being too harsh; accordingly, the said penalty imposed to accused Salvador Peñaflorida[,Jr] shall be six (6) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.
>
> SO ORDERED.[12]

In convicting appellant, the trial court lent credence to the testimonies of the police officers, thus:

> Now going over the evidence adduced, the court is convinced that the accused Salvador Peñaflorida[,Jr.] committed the offense of illegal possession of 928 grams of marijuana, if not, of transporting it, as charged. This is so, because it appears undisputed that on June 7, 1994, at about 1:00 o'clock in the afternoon police officers Vicente Competente and his four (4) other co-police officers apprehended the accused Salvador Peñaflorida[,Jr.] on the roadside at Nasulan, Huyon-huyon, Tigaon, Camarines Sur [,] then riding on his bicycle and placed on the still structure at its front, a thing wrapped in a newspaper and found to be 928 grams of marijuana. No ill-motive has been presented by the defense against the police officers Vicente Competente and companions by falsely testifying against the accused Salvador Peñaflorida, Jr. So, the conclusion is inevitable that the presumption that the police officers were in the regular performance of their duties apply. The confiscation of the marijuana subject of the instant case and the arrest of the accused Salvador Peñaflorida[,Jr.] by the said police officers being lawful, having been caught *in flagrante delicto*, there is no need for the warrant for the seizure of the fruit of the crime, the same being incidental to the lawful arrest. Rightly so, because a person caught illegally possessing or transporting drugs is subject to the warrantless search. Besides, object in the "plain view" of an officer who has the right to be in the position to have that view are subject to seizure and may be presented as evidence. [13]

In view of the penalty imposed, the case was directly appealed to this Court on automatic review. Pursuant to our decision in *People v. Mateo*,[14] however, this case was referred to the Court of Appeals. The appellate court affirmed appellant's conviction on 31 July 2006.

In a Resolution[15] dated 14 February 2007, the parties were given to file their supplemental briefs, if they so desire. Both parties manifested their intention not to

file any supplemental brief since all the issues and arguments have already been raised in their respective briefs.[16]

Hence, the instant case is now before this Court on automatic review.

In assailing his conviction, appellant submits that there is doubt that he had freely and consciously possessed marijuana. First, he claims that the alleged asset did not name the person who would transport the marijuana to Huyon-huyon. In view of the "vague" information supplied by the asset, the latter should have been presented in court. Second, upon receipt of the information from the asset, the police officers should have first investigated and tried to obtain a warrant of arrest against appellant, instead of arbitrarily arresting him. Third, appellant maintains that he is not aware of the contents of the package. Fourth, upon arrival at the headquarters, the police did not determine the contents and weight of the package. Fifth, appellant argues that the findings of the forensic expert are questionable because there is doubt as to the identity of the package examined.[17]

Prefatorily, factual findings of the trial courts, including their assessment of the witness' credibility are entitled to great weight and respect by this Court, particularly when the Court of Appeals affirm the findings.[18] Indeed, the trial court is in the best position to assess the credibility of witnesses since it has observed firsthand their demeanor, conduct and attitude under grilling examination.[19] After a review of the records of this case, we find no cogent reason to disregard this time-honored principle.

We shall retrace the series of events leading to the arrest of appellant and resolve the issues raised by him.

Acting on an asset's tip, a police team was organized to apprehend appellant who was allegedly about to transport the subject marijuana. Appellant is wrong in concluding that the asset did not name appellant. As early as 16 November 1996, appellant through counsel had already conceded in his Memorandum[20] filed with the trial court that based on the tip, he was about to transport the contraband. It further cited excerpts from the result of the preliminary investigation conducted by the judge on Competente, and we quote:

> Q: Did your [a]sset tell you the place and the person or persons involved?
>
> A: Yes[,]sir.
>
> Q: Where and who?
>
> A: He said that marijuana is being transported from Tigaon town to Bgy. Huyon-huyon by Salvador Peñaflorida, Jr.[21]

Moreover, on cross-examination, the defense counsel even assumed that according to the asset's tip it was appellant who was assigned to deliver the contraband. And the witness under cross-examination affirmed it was indeed appellant who would be making the delivery according to the tip:

Q: Will you inform this Honorable Court who has given you the **tip that the accused was going to deliver that marijuana[?]** [W]ho is [this] person?

A: It was a confidential tip.

Q: Now, but [*sic*] on June 1 you were in your office?

A: Yes[,] sir[.] I was in the office.

Q: Since your office is just near the Municipal Trial Court of Tigaon and you were given a **tip that Salvador Peñaflorida[,Jr.] will be delivering marijuana**, why did you not get a [w]arrant of [a]rrest?

x x x

Q: The tip that was given to you that **it was Salvador Peñaflorida [who] will be dealing marijuana on that date** and according to you **Salvador was to travel from a certain town to Tigaon**, is that the tip?

A: Yes[,] sir[.] That he would deliver marijuana.

Q: So, at the time that you form[ed] a team, Salvador was nowhere to be seen, you have not seen the shadow of Salvador?

A: When the tip was given to us[,] I have not seen him[.] **[B]ut the tip is he will deliver from Tigaon to Huyon-huyon**, that is why we chased him.[22] [Emphasis supplied]

Prescinding from the above argument, appellant insists that the asset should have been presented in court. He invoked the court ruling in *People v. Libag,*[23] wherein the non-presentation of the informant was fatal to the case of the prosecution. *Libag* cannot find application in this case. In that case, the crime charged was the sale of *shabu* where the informant himself was a poseur-buyer and a witness to the transaction. His testimony as a poseur-buyer was indispensable because it could have helped the trial court in determining whether or not the appellant had knowledge that the bag contained marijuana, such knowledge being an essential ingredient of the offense for which he was convicted.[24] In this case, however, the asset was not present in the police operation. The rule is that the presentation of an informant in an illegal drugs case is not essential for conviction nor is it indispensable for a successful prosecution because his testimony would merely be corroborative and cumulative. Informants are generally not presented in court because of the need to hide their identity and preserve their invaluable service to the police.[25]

Competente testified that his team caught up with appellant who was riding a