

## FIRST DIVISION

[ G.R. No. 144317, August 05, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MICHAEL MONTE Y ABDUL, APPELLANT.**

### DECISION

**YNARES-SANTIAGO, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court of Manila, Branch 18, in Criminal Case No. 99-171228, finding appellant Michael Monte guilty beyond reasonable doubt of violation of Article III, Section 15 of Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972,<sup>[2]</sup> as amended, and sentencing him to suffer the penalty of *reclusion perpetua*, with all the accessory penalties provided by law, and to pay the costs.

Appellant Michael Monte was charged with violation of Article III, Section 15, of RA 6425, as amended, in an information which reads:

That on or about March 1, 1999, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there wilfully, unlawfully, and knowingly sell or offer for sale five (5) heat-sealed transparent plastic bags each containing white crystalline substance with a total weight [of] 262.272 grams known as shabu containing methamphetamine hydrochloride, which is a regulated drug.

Contrary to law.<sup>[3]</sup>

When arraigned, appellant pleaded not guilty. Thereafter, trial ensued.

The following facts are established:

On March 1, 1999, at about 6:00 in the morning, SPO2 Virgilio Martinez of the Metro Manila Drug Enforcement Group, National Capital Region Police Office (MMDEG-NCRPO), Camp Bagong Diwa, Taguig Metro Manila, received a call from a confidential informant about the illegal drug activities of appellant Michael Monte on P. Casal Street, San Miguel Manila.<sup>[4]</sup> A team of eight operatives, SPO1 Isagani Jimenez included, was organized to conduct surveillance and buy-bust operations.<sup>[5]</sup> They prepared fake money which were arranged in a bundle placed in between genuine P500.00 bills.<sup>[6]</sup> SPO1 Jimenez was designated as the poseur buyer.<sup>[7]</sup> Upon arriving at P. Casal Street, the confidential informant met SPO1 Jimenez and introduced him to appellant as a prospective buyer of 250 grams of shabu. Appellant told them that he can deliver the desired quantity of shabu at P50,000.00 per 50 gram. After SPO1 Jimenez agreed to the price, appellant told him to come back at

10:00 in the evening of the same day.<sup>[8]</sup>

The team returned to the scene at the designated time and positioned themselves strategically around the area. After a few minutes, the informant and appellant arrived and, after a brief conversation, SPO1 Jimenez handed the bundle of money to appellant, who in turn gave Jimenez white crystalline substance contained in five plastic sachets. Immediately, SPO1 Jimenez introduced himself as a police officer and simultaneously raised his right hand as a pre-arranged signal to his companions that the sale had been consummated. Appellant tried to escape, but he was arrested by SPO1 Jimenez, with the help of his companions who had rushed to the scene after seeing the signal. SPO1 Jimenez confiscated from appellant the bundle of money. Appellant was then brought to the MMDEG-NCRPO station for investigation. The five plastic sachets containing the white crystalline substance, which weighed 262.272 grams were forwarded to the PNP Crime Laboratory for examination and were found positive for methamphetamine hydrochloride or shabu, a regulated drug.

Appellant denied the charge and claimed that he was framed up by the police. He alleged that on March 1, 1999, at 3:30 in the afternoon, his friend, a certain Sherman, and the latter's female companion, dropped by his sister's house where he was then staying. Sherman invited him to go with them to the Luneta Park and later to have a snack at Jollibee.<sup>[9]</sup> They boarded a black Mitsubishi Pajero. As soon as they passed Ayala bridge, they were blocked by a Honda Civic. Eight armed men in civilian clothes alighted therefrom and introduced themselves as police officers. Appellant and his companions were ordered to alight from the Pajero and were frisked.<sup>[10]</sup> Afterwards, appellant was made to board the Honda Civic while Sherman and his female companion boarded the Pajero.<sup>[11]</sup> Inside the Honda Civic, appellant was mauled by the police officers.<sup>[12]</sup> He was brought to the Drug Enforcement Unit in Bicutan, Taguig, where he was tortured by putting a plastic bag over his head and tying it around his neck.<sup>[13]</sup> He was told to put up a bailbond for his release.<sup>[14]</sup>

On July 10, 2002, the trial court rendered a decision convicting appellant of the crime charged, the dispositive portion of which reads:

WHEREFORE, the accused, Michael Monte y Abdul, is hereby convicted of the crime of Violation of Section 15, Article III of R.A. 6425 as amended without any aggravating and/or mitigating circumstances, and sentenced to suffer the penalty of *reclusion perpetua* with all the accessory penalties provided by law and to pay the costs.

The 262.272 grams of shabu is forfeited in favor of the government and is ordered turned over to the Dangerous Drugs Board, for proper disposition.

SO ORDERED.<sup>[15]</sup>

Hence this appeal, raising the following errors:

- I. THE COURT A *QUO* GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE UNBELIEVALE TESTIMONY OF PROSECUTION WITNESS SPO1 ISAGANI JIMENEZ AND IN GIVING IN HIS FAVOR THE PRESUMPTION OF REGULARITY IN THE PERFORMANCE OF

DUTY DESPITE THE APPARENT IRREGULARITIES IN THE MANNER THEY CONDUCTED THE ALLEGED BUY-BUST OPERATION.

II. THE COURT A *QUO* GRAVELY ERRED IN GIVING SCANT CONSIDERATION TO THE EVIDENCE PRESENTED BY THE ACCUSED APPELLANT.

III. THE COURT A *QUO* GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.<sup>[16]</sup>

The issue of whether or not the prosecution was able to prove beyond reasonable doubt the guilt of appellant Michael Monte is the core of the instant appeal.

Appellant argues that the trial court failed to consider the irregularities in the conduct of the buy-bust operation which could have exculpated him from criminal liability. He said that while the prosecution claimed that two genuine 500 peso bills were put, one on top and the other at the bottom of the fake money, it failed to show the source of the said bills, which creates doubt as to their existence and to the prosecution's claim that said genuine 500 peso bills were taken from appellant. Appellant maintains that as a standard operating procedure in buy-bust operations, the law enforcers put mark on the money bills and have them photocopied. In the case at bar, the police officers who participated in the buy bust neither marked nor photocopied the two 500 peso bills. Also, SPO1 Jimenez, the lone prosecution witness, testified that he confiscated from appellant 262.272 grams of shabu. However, he did not present the Booking Sheet and Arrest Report which would show that shabu was indeed taken from appellant.

The appeal is without merit.

In the prosecution for the sale of regulated drugs, like shabu, what is material is the proof that the transaction or sale transpired, coupled with the presentation in court of the *corpus delicti*.<sup>[17]</sup> *Corpus delicti* is the body or substance of the crime, and establishes the fact that a crime has been actually committed.<sup>[18]</sup> It has two elements, namely: (1) proof of the occurrence of a certain event; and (2) some person's criminal responsibility for the act.<sup>[19]</sup>

SPO1 Jimenez, the poseur-buyer, clearly established the above elements, *viz*: an illegal sale of the regulated drug actually took place and appellant was the author thereof. He testified as follows:

Prosecutor Panfilo Pabelonia, Jr. to witness

Q: When you arrived at that bridge [P. Casal], was the accused already there?

A: He was not yet there, Sir.

Q: How long did you wait?

A: Around 10 minutes then the accused arrived.

Q: The accused arrived together with the confidential informant?

A: Yes, Sir.

Q: After the accused arrived together with the confidential informant, what transpired?

A: He asked me the money and I also asked him where is the shabu, and when I handed the money to him I asked him to hand to me the shabu and when the shabu was handed to me, I introduced myself as police officer and at the same time I held the accused and signaled for my companions to approach us. [20]

The result of the laboratory examination conducted on the white crystalline substance confiscated from appellant and forwarded to the Western Police District bolsters the foregoing testimony that, indeed, what was sold by appellant was shabu, a regulated drug. The results of the examination states:

FINDINGS:

Qualitative examination conducted on the above-stated specimens gave POSITIVE results to the tests for methylamphetamine hydrochloride, a regulated drug. x x x

CONCLUSION:

Specimen A contains methylamphetamine hydrochloride, a regulated drug. x x x. [21]

Moreover, the prosecution witness was able to present and identify in court the confiscated drugs, which are corroborating pieces of evidence of the *corpus delicti*, thus:

Prosecutor Jaime Guray to witness:

Q: And you also testified that you were handed by the accused 5 plastic sachets containing white crystalline substance?

A: Yes, sir.

Q: If shown to you these five plastic sachets containing white crystalline substance which you said was handed to you by the accused, will you be able to identify the same?

A: Yes, sir.

Q: May I invite you in the table, Mr. witness, and examine these five plastic sachets which have been marked as Exhibit F, F-1 to F-5 for the prosecution and tell us what relation is these five plastic sachets to the plastic sachets which you stated that was handed to you by the accused?

A: These were the shabu that were sold to me by the accused, sir. [22]

We find no reason to deviate from the findings of the trial court. It is very clear from the testimony of the prosecution witness that his narration of events was positive, probable and in accord with human experience. It bears the badges of truth, such that it is extremely difficult for a rational mind not to find it credible. SPO1 Jimenez's testimony was coherent, straightforward and unperturbed even under the intense cross-examination by the defense and searching questions by the trial court.