

## FIRST DIVISION

**[ G.R. No. 136292, January 15, 2002 ]**

**RUDY CABALLES Y TAIÑO, PETITIONER, VS. COURT OF APPEALS  
AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**PUNO, J.:**

This is an appeal by certiorari from the decision<sup>[1]</sup> of respondent Court of Appeals dated September 15, 1998 which affirmed the judgment rendered by the Regional Trial Court of Santa Cruz, Laguna, finding herein petitioner, Rudy Caballes y Taiño, guilty beyond reasonable doubt of the crime of theft, and the resolution<sup>[2]</sup> dated November 9, 1998 which denied petitioner's motion for reconsideration.

In an Information<sup>[3]</sup> dated October 16, 1989, petitioner was charged with the crime of theft committed as follows:

"That on or about the 28th day of June, 1989, in the Municipality of Pagsanjan, and/or elsewhere in the Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, with intent of gain, and without the knowledge and consent of the owner thereof, the NATIONAL POWER CORPORATION, did then and there wilfully, unlawfully and feloniously take, steal and carry away about 630-kg of Aluminum Cable Conductors, valued at P27, 450.00, belonging to and to the damage and prejudice of said owner National Power Corp., in the aforesaid amount.

CONTRARY TO LAW."

During the arraignment, petitioner pleaded not guilty and hence, trial on the merits ensued.

The facts are summarized by the appellate court as follows:

"[At] about 9:15 p.m. of June 28, 1989, Sgt. Victorino Noceja and Pat. Alex de Castro, while on a routine patrol in Barangay Sampalucan, Pagsanjan, Laguna, spotted a passenger jeep unusually covered with "kakawati" leaves.

Suspecting that the jeep was loaded with smuggled goods, the two police officers flagged down the vehicle. The jeep was driven by appellant. When asked what was loaded on the jeep, he did not answer; he appeared pale and nervous.

With appellant's consent, the police officers checked the cargo and they discovered bundles of 3.08 mm aluminum/galvanized conductor wires

exclusively owned by National Power Corporation (NPC). The conductor wires weighed 700 kilos and valued at P55, 244.45. Noceja asked appellant where the wires came from and appellant answered that they came from Cavinti, a town approximately 8 kilometers away from Sampalucan. Thereafter, appellant and the vehicle with the high-voltage wires were brought to the Pagsanjan Police Station. Danilo Cabale took pictures of the appellant and the jeep loaded with the wires which were turned over to the Police Station Commander of Pagsanjan, Laguna. Appellant was incarcerated for 7 days in the Municipal jail.

In defense, appellant interposed denial and alibi. He testified that he is a driver and resident of Pagsanjan, Laguna; a NARCOM civilian agent since January, 1988 although his identification card (ID) has already expired. In the afternoon of June 28, 1989, while he was driving a passenger jeepney, he was stopped by one Resty Fernandez who requested him to transport in his jeepney conductor wires which were in Cavinti, Laguna. He told Resty to wait until he had finished his last trip for the day from Santa Cruz, Laguna. On his way to Santa Cruz, Laguna, he dropped by the NARCOM headquarters and informed his superior, Sgt. Callos, that something unlawful was going to happen. Sgt. Callos advised him to proceed with the loading of the wires and that the former would act as back-up and intercept the vehicle at the Sambat Patrol Base in Pagsanjan.

After receiving those instructions, he went back to see Resty. Although Resty had his own vehicle, its tires were old so the cable wires were loaded in appellant's jeep and covered with kakawati leaves. The loading was done by about five (5) masked men. He was promised P1,000.00 for the job. Upon crossing a bridge, the two vehicles separated but in his case, he was intercepted by Sgt. Noceja and Pat. De Castro. When they discovered the cables, he told the police officers that the cables were loaded in his jeep by the owner, Resty Fernandez. But despite his explanation, he was ordered to proceed to police headquarters where he was interrogated. The police officers did not believe him and instead locked him up in jail for a week."<sup>[4]</sup>

On April 27, 1993, the court *a quo* rendered judgment<sup>[5]</sup> the dispositive portion of which reads:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of Theft of property worth P55,244.45, the Court hereby sentences him to suffer imprisonment from TWO (2) [YEARS], FOUR (4) MONTHS, and ONE (1) DAY of Prison Correccional, as minimum, to TEN (10) YEARS of Prison Mayor, as maximum, to indemnify the complainant National Power Corporation in the amount of P55, 244.45, and to pay the costs."

On appeal, the Court of Appeals affirmed the judgment of conviction but deleted the award for damages on the ground that the stolen materials were recovered and modified the penalty imposed, to wit:

"WHEREFORE, the appealed decision is hereby AFFIRMED with the modification that appellant RUDY CABALLES is found guilty beyond

reasonable doubt as principal in theft, defined and penalized under Articles 308 and 309, par. 1, Revised Penal Code, and there being no modifying circumstances, he is hereby meted an indeterminate penalty of Four (4) years, Nine (9) months and Eleven (11) days of *prision correccional*, as minimum term, to Eight (8) years, Eight (8) months and one (1) day of *prision mayor*, as maximum term. No civil indemnity and no costs."<sup>[6]</sup>

Petitioner comes before us and raises the following issues:

"(a) Whether or not the constitutional right of petitioner was violated when the police officers searched his vehicle and seized the wires found therein without a search warrant and when samples of the wires and references to them were admitted in evidence as basis for his conviction;

(b) Whether or not respondent Court erred in rejecting petitioner's defense that he was engaged in an entrapment operation and in indulging in speculation and conjecture in rejecting said defense; and

(c) Whether or not the evidence of the prosecution failed to establish the guilt of petitioner beyond reasonable doubt and thus failed to overcome the constitutional right of petitioner to presumption of innocence."

The conviction or acquittal of petitioner hinges primarily on the validity of the warrantless search and seizure made by the police officers, and the admissibility of the evidence obtained by virtue thereof.

In holding that the warrantless search and seizure is valid, the trial court ruled that:

"As his last straw of argument, the accused questions the constitutionality of the search and validity of his arrest on the ground that no warrant was issued to that effect. The Court cannot again sustain such view. In the case of *People v. Lo Ho [Wing]*, G.R. No. 88017, January 21, 1991, it has been held that 'considering that before a warrant can be obtained, the place, things and persons to be searched must be described to the satisfaction of the issuing judge - a requirement which borders on the impossible in the case of smuggling effected by the use of a moving vehicle that can transport contraband from one place to another with impunity, a warrantless search of a moving vehicle is justified on grounds of practicability.' The doctrine is not of recent vintage. In the case of *Valmonte vs. de Villa*, G.R. No. 83988, May 24, 1990 (Resolution on Motion for Reconsideration, September 29, 1989), it was ruled that 'automobiles because of their mobility may be searched without a warrant upon facts not justifying warrantless search of a resident or office. x x x To hold that no criminal can, in any case, be arrested and searched for the evidence and tokens of his crime without a warrant, would be to leave society, to a large extent, at the mercy of the shrewdest, the most expert, and the most depraved of criminals, facilitating their escape in many instances' (Ibid.). In *Umil v. Ramos*, 187 SCRA 311, and *People vs. Ortiz*, 191 SCRA 836, the Supreme Court held that a search may be made even without a warrant where the accused is caught in flagrante. Under the circumstances, the police officers are not

only authorized but are also under obligation to arrest the accused even without a warrant."<sup>[7]</sup>

Petitioner contends that the flagging down of his vehicle by police officers who were on routine patrol, merely on "suspicion" that "it might contain smuggled goods," does not constitute probable cause that will justify a warrantless search and seizure. He insists that, contrary to the findings of the trial court as adopted by the appellate court, he did not give any consent, express or implied, to the search of the vehicle. Perforce, any evidence obtained in violation of his right against unreasonable search and seizure shall be deemed inadmissible.

Enshrined in our Constitution is the inviolable right of the people to be secure in their persons and properties against unreasonable searches and seizures, as defined under Section 2, Article III thereof, which reads:

"Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized."

The exclusionary rule under Section 3(2), Article III of the Constitution bars the admission of evidence obtained in violation of such right.

The constitutional proscription against warrantless searches and seizures is not absolute but admits of certain exceptions, namely: (1) warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence;<sup>[8]</sup> (2) seizure of evidence in plain view;<sup>[9]</sup> (3) search of moving vehicles;<sup>[10]</sup> (4) consented warrantless search;<sup>[11]</sup> (5) customs search; (6) stop and frisk situations (Terry search);<sup>[12]</sup> and (7) exigent and emergency circumstances.<sup>[13]</sup>

In cases where warrant is necessary, the steps prescribed by the Constitution and reiterated in the Rules of Court must be complied with. In the exceptional events where warrant is not necessary to effect a valid search or seizure, or when the latter cannot be performed except without a warrant, what constitutes a reasonable or unreasonable search or seizure is purely a judicial question, determinable from the uniqueness of the circumstances involved, including the purpose of the search or seizure, the presence or absence of probable cause, the manner in which the search and seizure was made, the place or thing searched and the character of the articles procured.<sup>[14]</sup>

It is not controverted that the search and seizure conducted by the police officers in the case at bar was not authorized by a search warrant. The main issue is whether the evidence taken from the warrantless search is admissible against the appellant. Without said evidence, the prosecution cannot prove the guilt of the appellant beyond reasonable doubt.

## *I. Search of moving vehicle*

Highly regulated by the government, the vehicle's inherent mobility reduces expectation of privacy especially when its transit in public thoroughfares furnishes a highly reasonable suspicion amounting to probable cause that the occupant committed a criminal activity.<sup>[15]</sup> Thus, the rules governing search and seizure have over the years been steadily liberalized whenever a moving vehicle is the object of the search on the basis of practicality. This is so considering that before a warrant could be obtained, the place, things and persons to be searched must be described to the satisfaction of the issuing judge — a requirement which borders on the impossible in the case of smuggling effected by the use of a moving vehicle that can transport contraband from one place to another with impunity. We might add that a warrantless search of a moving vehicle is justified on the ground that it is not practicable to secure a warrant because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought.<sup>[16]</sup> Searches without warrant of automobiles is also allowed for the purpose of preventing violations of smuggling or immigration laws, provided such searches are made at borders or 'constructive borders' like checkpoints near the boundary lines of the State.<sup>[17]</sup>

The mere mobility of these vehicles, however, does not give the police officers unlimited discretion to conduct indiscriminate searches without warrants if made within the interior of the territory and in the absence of probable cause.<sup>[18]</sup> Still and all, the important thing is that there was probable cause to conduct the warrantless search, which must still be present in such a case.

Although the term eludes exact definition, probable cause signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged; or the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.<sup>[19]</sup> The required probable cause that will justify a warrantless search and seizure is not determined by a fixed formula but is resolved according to the facts of each case.<sup>[20]</sup>

One such form of search of moving vehicles is the "stop-and-search" without warrant at military or police checkpoints which has been declared to be not illegal per se,<sup>[21]</sup> for as long as it is warranted by the exigencies of public order<sup>[22]</sup> and conducted in a way least intrusive to motorists.<sup>[23]</sup> A checkpoint may either be a mere routine inspection or it may involve an extensive search.

Routine inspections are not regarded as violative of an individual's right against unreasonable search. The search which is normally permissible in this instance is limited to the following instances: (1) where the officer merely draws aside the curtain of a vacant vehicle which is parked on the public fair grounds;<sup>[24]</sup> (2) simply looks into a vehicle;<sup>[25]</sup> (3) flashes a light therein without opening the car's doors;<sup>[26]</sup> (4) where the occupants are not subjected to a physical or body search;<sup>[27]</sup> (5) where the inspection of the vehicles is limited to a visual search or visual inspection;