

SECOND DIVISION

[G.R. No. 141244, February 19, 2001]

**THE PEOPLE OF PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SALIPADA MUSTAPA Y MUHAMMAD, ACCUSED-APPELLANT**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated November 11, 1999, of the Regional Trial Court, Branch 116, Pasay City, finding accused-appellant Salipada Mustapa y Muhammad guilty of violation of Section 16 of R.A. No. 6425 (Dangerous Drugs Act, as amended by R.A. No. 7659) and sentencing him to suffer the penalty of *reclusion perpetua* and to pay a fine of P500,000.00 and the costs of the suit.

The amended information against accused-appellant alleged:

That on or about the 7th day of May, 1998, in Pasay City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused SALIPADA MUSTAPA y MUHAMMAD, without authority of law, did then and there wilfully, unlawfully and feloniously have in his possession, custody and control 984.58 grams of Methamphetamine Hydrochloride (shabu), a regulated drug.

CONTRARY TO LAW.^[2]

Upon being arraigned, accused-appellant pleaded not guilty,^[3] whereupon trial was held.

The prosecution presented four witnesses, namely, PNP Crime Laboratory Forensic Chemist P/INSP Efren E. Fadriquela, Intel-Agent Aide Noel Lucas, SPO3 Dan Fabiana, and Intel-Agent Aide Amelia Palacay. The defense presented Alvin Mohammad and accused-appellant who testified in his own behalf.

The facts are as follows:

On May 7, 1998, at about 5:30 a.m., Noel Lucas and Amelia Palacay of the DILG's National Action Committee on Anti-Hijacking and Terrorism (NACAHT), who were assigned to the 2nd Regional Aviation and Security Group, were on duty as baggage inspector and x-ray machine operator, respectively, at the check-in section of the Departure Area, Terminal 1, of the Manila Domestic Airport.^[4] A red and white plastic bag passed through the x-ray machine which Palacay was then operating. The x-ray monitor showed that the plastic bag contained a black box, which in turn contained a green kerosene stove.^[5] The contents of the kerosene stove appeared blurred on the x-ray monitor and could not be identified by her. Palacay asked Lucas to open the plastic bag and check its contents.^[6] Lucas asked who the owner of the

plastic bag was, whereupon accused-appellant Salipada Mustapa, a passenger bound for Cotabato, answered: "*Sa akin `yan.*" ("That's mine.")^[7] Accused-appellant, at that point, was standing beside the x-ray machine right after the metal detector.^[8] Lucas asked accused-appellant to open the plastic bag for inspection, but accused-appellant refused.^[9] Lucas therefore reported the matter to their supervisor, SPO2 Dan Fabiana, who was then at the check-in inspection area supervising the work of civilian employees.^[10] Accused-appellant approached Fabiana and the two discussed something which Lucas could not hear. According to Fabiana, accused-appellant approached him and said, "*Sir, paki tulungan naman ako na huwag ng buksan ang baggage ko.*" ("Sir, please help me so that my baggage would not have to be opened.")^[11] Fabiana said he asked accused-appellant why he did not want his baggage opened and accused-appellant replied because it contained money.^[12] Fabiana asked, "*Bakit, ninakaw mo ba iyan at ayaw mong pabuksan?*" ("Why? Did you steal the money and that is why you don't want your bag opened?")^[13] He asked accused-then appellant to point to him where his baggage was. Accused-appellant accompanied him to the check-in inspection area and pointed to his baggage.^[14] Fabiana then ordered Lucas to open the plastic bag which was on top of the inspection table.^[15] Before the bag was opened, accused-appellant allegedly told Fabiana that he owned the plastic bag.^[16] It was Lucas who actually inspected the plastic bag in the presence of Police Chief Inspector Moises Tuliao and Senior Inspector Mateo of the PNP Aviation Security Group.^[17] Lucas opened the bag and found a box, which contained a green kerosene gas stove.^[18] He unscrewed the stopper of the gas tank of the stove^[19] and found a black plastic bag which contained 20 plastic sachets containing a white crystalline substance.^[20] Fabiana wrote his initials on the plastic bag while both he and Lucas placed their initials on each of the 20 sachets to prevent substitution and to show that they came from accused-appellant.^[21]

Fabiana placed accused-appellant under arrest and turned him over to Inspector Tuliao for investigation.^[22] The sachets containing the white crystalline substances were then sent to the PNP Crime Laboratory for examination.^[23]

Each of the 20 sachets weighed a little over 49 grams and their total weight was 984.58 grams.^[24] The sachets were placed inside a black plastic bag. After a qualitative examination, the forensic chemist, P/INSP Efren E. Fadriquela, found that the substance in each of the sachets was positive for the presence of methamphetamine hydrochloride or shabu.^[25] He submitted an initial laboratory report and later a final laboratory report on the results of his examination.^[26]

In his defense, accused-appellant alleged that in the early morning of May 7, 1998, he arrived at the Pasay City Domestic Airport accompanied by his cousin Alvin Muhammad. He was en route to Cotabato to attend the death anniversary of his grandfather.^[27] When he entered Terminal 1 of the airport, he was carrying a black bag and a radio cassette.^[28] He said he placed his baggage on the conveyor belt which would carry them through the x-ray machine. As he picked up his bags, Noel Lucas accosted him and asked to see his ticket. Lucas read accused-appellant's name written on the ticket. He then required accused-appellant to open a red and

white plastic bag which was on top of the x-ray machine inspection table. Accused-appellant said he refused to open the plastic bag because it was not his. Accused-appellant was about to leave when SPO3 Dan Fabiana came and asked Lucas, "*Ano yan?*" ("What is that?"), whereupon Lucas informed him that accused-appellant refused to open the plastic bag. At that point, accused-appellant says, Fabiana drew his gun and poked it at him.^[29] As accused-appellant again refused to open the plastic bag, he was handcuffed and taken to the office for investigation. The plastic bag was taken into the office by Lucas. He was shown the shabu which had allegedly been recovered from the plastic bag and some of the sachets containing the substance were put in his hands. Accused-appellant threw them away.^[30] Then, Lucas, with gun drawn, asked him to give them P1 million, but accused-appellant said he had no money.^[31] He was detained in a small cell. Early the next morning, Fabiana returned to the cell, apologized to the accused-appellant, and said: "*Pasensiya ka na brother naiintindihan ko alam ko hindi sa `yo `yan, aksidente lang ang nangyari.*"^[32] ("We're sorry, brother. We understand that it was not yours, what happened was merely an accident.")

Based on the evidence on record, the trial court rendered a decision on November 11, 1999, the dispositive portion of which reads:^[33]

WHEREFORE, the Court finds accused SALIPADA MUSTAPA y MUHAMMAD, GUILTY beyond reasonable doubt of the crime of violation of Section 16, Article III, Republic Act No. 6425, as amended.

Accordingly, he is hereby sentenced to suffer an imprisonment of RECLUSION PERPETUA, to pay a fine of Five Hundred Thousand Pesos (P500,000.00) and the cost of the suit.

The OIC-Branch Clerk of Court of this Branch is hereby directed to turn over to the Dangerous Drugs Board the twenty (20) sachets of shabu weighing approximately 984.58 grams for the latter to dispose of said drugs in accordance with law.

SO ORDERED.

Accused-appellant made the following assignment of errors:^[34]

- A. THE TRIAL COURT GRAVELY ERRED IN PRINCIPALLY RELYING ON THE SUPPOSED ADMISSION MADE BY ACCUSED-APPELLANT THAT THE LATTER IS THE OWNER OF THE RED AND WHITE PLASTIC BAG WHICH LATER YIELDED A KEROSENE GAS STOVE CONTAINING 20 SACHETS OF METHAMPHETAMINE HYDROCHLORIDE IN ITS GAS TANK, AND ON PRESUMPTION O[F] REGULARITY IN THE PERFORMANCE OF DUTY OF THE ARRESTING POLICE OFFICERS, DESPITE CATEGORICAL, INSISTENT, FIRM AND VEHEMENT DENIAL BY APPELLANT THAT HE EVER MADE THIS STATEMENT "SA AKIN YAN" AND DESPITE HIS VEHEMENT DENIAL HE EVER PLEADED FOR THE OFFICERS NOT TO OPEN THE RED AND WHITE PLASTIC BAG, AND DESPITE UNREBUTTED STATEMENT MADE TO ACCUSED-APPELLANT BY ONE OF THE ARRESTING OFFICERS, THAT "PASENSIYA KA NA BROTHER, NAIINTINDIHAN KO, ALAM KO HINDI

B. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED
DESPITE SO MUCH DOUBT ON HIS CULPABILITY.

First. Accused-appellant contends that the trial court, in convicting him, erred in relying on the testimonies of the prosecution witnesses that the red and white plastic bag, which was found to contain shabu, belonged to him.^[35] He claims that the only belongings he had with him at the airport were a black bag which contained a prayer book, a rosary, and a radio cassette player. According to accused-appellant, even granting that Intel-Agent Aid Lucas did ask the passengers present around the x-ray machine who the owner of the plastic bag was, there was no specific reference to the red and white plastic bag. Accused-appellant denies having said "*Akin `yan*" to Lucas when the latter asked who owned the bag in question.

Accused-appellant's denial must be rejected. It is well-settled that denials, if unsubstantiated, are negative self-serving evidence and, therefore, deserve no weight in law and cannot be given greater evidentiary weight over the testimony of credible witnesses who testify on affirmative matters.^[36] As between positive declarations of the prosecution witnesses and the negative statements of the accused, the former deserves more credence.^[37]

The prosecution witnesses testified positively and categorically that accused-appellant had admitted that he owned the red and white plastic bag in question,^[38] that accused-appellant asked for help so that his baggage would not be opened,^[39] that accused-appellant was the one carrying the red and white plastic bag when it was being checked;^[40] and that upon inspection, the bag in question was found to contain a white crystalline substance which was later positively identified as shabu.^[41] Accused-appellant merely denied these allegations without presenting any clear and convincing evidence to support such denials. It is axiomatic, under the rules of evidence, that the defense of denial cannot prevail when arrayed against the positive testimonies of prosecution witnesses.^[42]

It is noteworthy that, aside from the denial of accused-appellant, only his cousin, Alvin Mohammad, was presented in his behalf. This witness merely parroted accused-appellant's unsubstantiated denials.^[43] Therefore, his testimony, at best, can only be given the same evidentiary weight accorded to accused-appellant's denials. This does little to further accused-appellant's cause. In one case, this Court held:

[D]enial is a weak form of defense, particularly when it is not substantiated by clear and convincing evidence. The defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act.^[44]

Accused-appellant claims that he was framed and that the arresting officers' motive in framing him is to extort P1 million from him.^[45] This defense requires strong and convincing evidence because of the presumption that the law enforcement agents