

SECOND DIVISION

[G.R. No. 88684, March 20, 1997]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,
VS. CESAR LACBANES, ACCUSED-APPELLANT.**

DECISION

ROMERO, J.:

For selling marijuana, accused-appellant Cesar Lacbanes was arrested and charged with violating Section 4, Article II of Republic Act 6425 or the Dangerous Drugs Act. He was convicted by the Regional Trial Court of Palo, Leyte and sentenced to thirty years' imprisonment.^[1] In his appeal before this Court, he assails his conviction on the ground that entrapment was never clearly established by the prosecution's evidence.

The prosecution relied on the testimony of PFC Ricardo Rosales, a member of the Narcotics Section of the Tacloban Police Station who testified that his command received information that accused-appellant had been peddling marijuana cigarettes in Tacloban City. A buy-bust operation was then set up after conducting surveillance on the accused-appellant. At around 4:15 p.m. of October 3, 1986 at the corner of Burgos and Tarcela Streets, Tacloban City, their confidential agent informed PFC Rosales and his team, composed of Patrolmen Arpon and Buena, Sgt. Madriaga and Lt. Saranza, that the former made contact with accused-appellant. Thereafter, the team deployed themselves in the area in such a way as to see clearly the transaction.

According to PFC Rosales, after the conversation of their confidential agent with accused-appellant, the former handed the latter two P5.00 bills with serial numbers MU80883 and MU840129. In return, the latter handed sticks of suspected marijuana cigarettes to the former. Thereupon, the team approached accused-appellant, introduced themselves as members of the Narcotics Section and arrested him. They found the two P5.00 bills in his possession and recovered three sticks of suspected marijuana cigarettes. Accused-appellant was brought to the police station where upon investigation, he allegedly admitted that the marijuana in his possession was for sale and that a friend of his named Francing was the source of the prohibited drug. The witness testified that they informed accused-appellant about his constitutional rights before the investigation and that the latter understood them. However, they allegedly forgot to put down in writing accused-appellant's admission of guilt.^[2]

The only other witness for the prosecution was Lt. Liza Madeja-Sabong, a forensic chemist of the PC Crime Laboratory, who affirmed her own findings and declared in Chemistry Report No. NB-134-86^[3] that the three suspected marijuana cigarettes were positive for marijuana, a prohibited drug.^[4]

Accused-appellant flatly denied selling the three sticks of marijuana cigarettes. He testified that on said date, he was asleep in his house from two o'clock until past four o'clock in the afternoon. He was awakened by his father who told him that a certain Lieutenant Boy Saranza, together with Patrolmen Arpon and Buena, would like to take him to the police station to answer some questions. He denied knowing PFC Rosales and stated that the latter was not with the arresting group.

At the police station, when asked if he knew the whereabouts of one Cresencio de la Cruz, he answered in the negative. He also testified that the investigators forced him to affix his signature on a piece of paper, the contents of which he did not know at the time but which turned out to be a receipt for property seized. The said receipt showed that the three sticks of marijuana cigarettes and the two marked P5.00 bills were seized from his possession. He claimed that the policemen filed this case against him when he could not give any information about NPAs.

He asserted that he had never been charged or convicted of any crime and that he was also a confidential agent of the Regional Security Unit, as well as a barangay tanod.^[5]

Another witness, Cpl. Felix Dacut, corroborated accused-appellant's claim that he was a confidential agent or a civilian informer of the Regional Security Unit.^[6] Capt. Manuel Abuda of the INP, Tacloban City, likewise testified that he knows the accused-appellant to be of good moral character and that the latter was used in the past as an agent both in buy-bust and sell-bust operations.^[7]

On the issue of credibility, Judge Pedro S. Espina held that as between the positive identification and assertion of the arresting officers and the mere unsubstantiated denial by the accused-appellant, the former is more worthy of credence. The trial court found the prosecution's evidence weightier inasmuch as the arresting officers enjoy the presumption of regularity in the performance of their public functions which has not been rebutted by the defense. Coupled with the presumption is the lack of any proof of improper motives on their part.

The trial court also found the defense's version of the incident inherently incredible stating it was hard to believe that accused-appellant, a barangay tanod and a confidential agent of the military who reached second year high school, would readily sign a blank sheet of paper presented to him by the authorities without any protest or objection. Neither did accused-appellant's introduction of evidence of good character convince the trial court of his innocence as he was unable to overcome the evidence for the prosecution.^[8]

In this appeal, accused-appellant contends that the failure of the prosecution to present the confidential informant-turned poseur-buyer is a violation of his constitutional right to know the witnesses against him and meet them in court. He also contended that since the testimony of PFC Rosales revolves around the confidential informant who cannot corroborate the same, said testimony would be plain hearsay and unworthy of credence. Therefore, the prosecution failed to establish clearly the fact of entrapment. Moreover, the defense pointed out that although PFC Rosales, the prosecution's star witness, was within earshot, he did not testify as to the conversation between the confidential informant and the accused-appellant.

This Court is not persuaded. PFC Rosales did testify that he saw the poseur-buyer and accused-appellant exchange the two P5.00 bills and the three marijuana sticks. [9] The P5.00 bills were presented as evidence [10] and a photocopy of the same, the faithful reproduction of which was admitted by the defense, was likewise proffered in the trial court. [11] The three sticks of marijuana cigarettes were also presented before the trial court and identified by PFC Rosales as the ones recovered from the poseur-buyer. [12] This Court held in *People v. Vocente* [13] that:

"The commission of the offense of illegal sale of marijuana requires merely the consummation of the selling transaction whereby as in this case, the accused handed over the tea bag of marijuana upon the agreement with the poseur-buyer to exchange it for money. x x x What is important is the fact that the poseur-buyer received the marijuana from the appellant and that the contents were presented as evidence in court. Proof of the transaction suffices. The identity of the tea bag of marijuana which constitutes the corpus delicti was established before the court." (Emphasis supplied)

In other words, accused-appellant was caught in flagrante delicto. In every prosecution for illegal sale of dangerous drugs, what is material and indispensable is the submission of proof that the sale of illicit drug took place between the seller and the poseur-buyer. [14]

There was no need to present the poseur-buyer as PFC Rosales witnessed the whole transaction where the marked money was exchanged for three sticks of marijuana cigarettes. The settled rule is that the testimony of a lone prosecution witness, as long as it is positive and clear and not arising from an improper motive to impute a serious offense to the accused, deserves full credit. [15] This Court has ruled in several cases that non-presentation of the informer, where his testimony would be merely corroborative or cumulative, is not fatal to the prosecution's case. [16]

Accused-appellant, on his part, merely denied that he sold the three sticks of marijuana cigarettes. If he tried to use alibi as defense, he should have presented his father in court to corroborate his version that he was in the latter's house when he was apprehended.

Accused-appellant, through his statements implied that he was a victim of a "frameup." However, x x x like alibi, frameup is a defense that has been invariably viewed by the Court with disfavor as it is a common and standard line of defense in most prosecutions arising from violations of the Dangerous Drugs Act. Clear and convincing evidence are required to prove the defense of "frameup" which, unfortunately, are inexistent here. [17]

Accused-appellant's claim of a "frameup" is not credible as he gave conflicting motives of the police authorities therefor. In his direct examination, he claimed that he was framed up by the policemen because he did not supply them with information regarding NPAs. [18] In the cross-examination conducted by the prosecution, however, he alleged that the policemen were retaliating against him for working for the Regional Security Unit instead of for them. [19] Such failure on the part of the accused-appellant to muster convincing proof of a frameup lends