

FIRST DIVISION

[G.R. No. 99838, October 23, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ERNESTO ENRIQUEZ Y ROSALES AND WILFREDO ROSALES Y
YUCOT, ACCUSED-APPELLANTS.
D E C I S I O N**

VITUG, J.:

Ernesto Enriquez y Rosales and Wilfredo Rosales y Yucot were charged with having violated Section 4, Article II, of Republic Act ("R.A.") No. 6425 (Dangerous Drugs Act of 1972), as amended, in an information that read:

"That on or about June 5, 1990, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, not being authorized by law to sell, deliver, give away to another or distribute any prohibited drug, did then and there wilfully and unlawfully sell or offer for sale six (6) kgrms of dried flowering tops of marijuana stuffed in a plastic sack, which is a prohibited drug.

"Contrary to law."^[1]

The antecedent facts leading to the filing of the information, according to the prosecution, are hereunder narrated.

At around eleven o'clock in the morning of 05 June 1990, Sgt. Pedro I. Cerrillo, Jr., the Officer-in-Charge of the Intelligence and Drug Law Enforcement Unit of Police Station No. 2 (located in Tondo, Manila) of the Western Police District, was in the vicinity of North Harbor routinely scouting for information from his civilian informants. Near the gate fronting Pier 10, "Danny," a porter and member of the Anti-Drug Abuse Movement ("ADAM"), approached and informed Sgt. Cerrillo that a free-lance porter at the North Harbor, a.k.a. "Bulag," was looking for prospective buyers of marijuana. Sgt. Cerrillo instructed Danny to say that he had come across a couple who would be interested in buying the prohibited drug. Sgt. Cerrillo had then in mind a possible buy-bust operation.

The buy-bust plan was broached to Patrolwoman Shirley Maramot who was manning Police Station No. 2. Fellow police officers were at the time on duty at the U.S. Embassy where a "rally" by certain activists was in progress. Using his own owner-type jeep, Sgt. Cerrillo repaired to his house at 727 Moriones St., Tondo, Manila, to procure ten (10) pieces of one hundred peso bills^[2] to be used in the projected buy-bust operation.^[3] He thereupon had, at a store near the police station, xerox copies made of the bills that can readily show the serial numbers which he had also noted

down in his personal notebook.^[4]

Back at the police station, Sgt. Cerrillo handed the buy-bust money to Pat. Maramot. Since there were no other "operatives" at the station available for the operation, Sgt. Cerrillo sought the assistance of ADAM members Joseph Mendoza, Amado Betita and Alex Trinidad. The team, including "Danny," were briefed by Sgt. Cerrillo. The plan called for Pat. Maramot and Mendoza to pose as the couple interested in buying marijuana and for Trinidad, Betita and Sgt. Cerrillo to act as the "back-up" men. Pat. Maramot was to nod her head as soon as the sale was consummated.^[5]

At about 11:35 a.m., the group, using two vehicles, proceeded to the vicinity of Pier 10 at the North Harbor. At the corner of Moriones Street and Radial Road 10, Pat. Maramot and Mendoza sat on a bench by a store to wait for the return of "Danny," who had meanwhile left to fetch "Bulag," while Sgt. Cerrillo, Trinidad and Betita strategically positioned themselves at a billiard hall, mingling with spectators and pretending to be bystanders. The billiard hall was only about ten meters away from Pat. Maramot's group, and it afforded a good view of the place.^[6]

Moments later, Danny arrived with accused Wilfredo Rosales, a.k.a. "Bulag." Rosales talked with the poseur-buyers. After about five minutes, the poseur-buyers, Rosales and the informant entered an alley, walking along shanties, until they reached a house numbered 1349.

A half-naked man in green shorts emerged from one of the doors of the house. The man, later identified to be accused Ernesto Enriquez, a.k.a. "Nene," asked Pat. Maramot in Visayan accent, "Dala mo ba ang pera?" Pat. Maramot took out from her pocket the bundle of the marked money and showed it to Enriquez. The latter allowed Maramot's group to enter the house.^[7] Minutes later, as so pre-arranged, Sgt. Cerrillo followed and proceeded to house No. 1349. Finding the door closed, he went around the house. Sgt. Cerrillo saw Pat. Maramot, Mendoza and the informant exit through the back door. Rosales, carrying a plastic bag, was with them. Again, Sgt. Cerrillo's group followed Pat. Maramot and Rosales until the latter reached a nearby waiting shed for jeepney passengers. At this point, Pat. Maramot announced that she was a policewoman. Sgt. Cerrillo held Rosales and took his bag. Sgt. Cerrillo opened the sack, and inside it was another sack containing marijuana wrapped in plastic.

The group hurriedly returned to house No. 1349 only to find that Enriquez had by then left the premises. The team boarded the police service jeep and moved on to Kagitingan Street at the Lakandula detachment. Sgt. Cerrillo interviewed Rosales. Upon being informed that Enriquez would usually visit the Pier 10 area, Sgt. Cerrillo proceeded to the place. After scouring the area, a security guard supervisor at the pier, who accompanied the group, spotted Enriquez walking near the pier. Sgt. Cerrillo "picked up" Enriquez and brought him to the Lakandula detachment for investigation. Later, Minda, the wife of Enriquez, arrived. Someone, at the request of Enriquez, had fetched her to "bring the money." Enriquez told her to return the amount to Sgt. Cerrillo. She took out from her wallet its contents three of which were the 100-peso marked bills.^[8] Minda became hysterical. She embraced Sgt. Cerrillo and begged him to forgive her husband. Sgt. Cerrillo told her to instead see the station commander.^[9]

Sgt. Cerrillo apprised Enriquez and Rosales of their constitutional rights. Sgt. Cerrillo advised Enriquez, in front of the latter's wife, that he should look for a lawyer so that his statement could be taken. Sgt. Cerrillo prepared the request for the examination of the evidence taken from the accused and the affidavit^[10] of the latter's arrest.^[11]

On the evening of 05 June 1990, Minda and other relatives of Enriquez approached Sgt. Cerrillo for the possibility of "settling" the case. During the trial, another relative, a senior supervising agent of the Napolcom, also approached and requested Sgt. Cerrillo to help out.^[12]

Patrolwoman Shirley Maramot, 37 years old, assigned at Police Station No. 2, corroborated Sgt. Cerrillo. She testified that she was requested by Sgt. Cerrillo to be the poseur-buyer in the buy-bust operation conducted in the morning of 05 June 1990 along Alinian Street, Tondo, Manila. After Sgt. Cerrillo had conducted a briefing and provided her with the buy-bust money, Pat. Maramot went with Mendoza, who portrayed the role of her husband, and the informer to Radial 10 at Pier 14. When Wilfredo Rosales turned up, he asked if she had cash with her. After being shown the money, Rosales led her to a house numbered 1349. The poseur-buyers were made to wait momentarily while Rosales talked to Ernesto Enriquez. Rosales later signaled Pat. Maramot, who was around four (4) meters away, to again show her money. Forthwith, Pat. Maramot was led to the house of Enriquez. Once inside a small room, Enriquez locked the door. Enriquez asked Pat. Maramot how much money she had. She replied that she only had P1,000.00 since she was not sure that she could get as much as the one-half sack of the contraband shown to her. Pat. Maramot was told she could get the lot for P4,500.00. She said she was willing to get the lot if she could be trusted with the balance of the price. Enriquez agreed. Pat. Maramot handed over the P1,000.00 to Enriquez. The latter was about to hand over the marijuana when he decided to, instead, have Rosales personally deliver the marijuana.

Pat. Maramot followed Rosales until Maramot finally introduced herself as a policewoman. Rosales posthaste attempted to board a passing passenger jeep but Pat. Maramot and Sgt. Cerrillo, who had rushed in, were able to timely get hold of Rosales.^[13]

NBI Forensic Chemist George J. de Lara issued, on 06 June 1990, a certification to the effect that the specimen submitted to him was positive for marijuana.^[14] Sgt. Cerrillo prepared a case report^[15] and the respective booking sheet and arrest report.^[16] The official report of the NBI forensic chemist, dated 07 June 1990, disclosed the following findings:

"Weight of specimen = 6.00 kilograms (before examination)

5.999 kilograms (after examination)

Microscopic, chemical and chromatographic examinations made on the above-mentioned specimen gave POSITIVE RESULTS for MARIHUANA."^[17]

On the same day, Station Commander Benjamin de Jesus endorsed the case against

Enriquez and Rosales to the City Prosecutor for further proceedings. The inquest fiscal recommended^[18] that the two accused be charged with violation of Section 4, Article II, Republic Act No. 6425, as amended.

The defense gave a different version of the incident.

Accused Rosales testified that he had come from Bohol to Manila in April of 1990 and stayed with accused Enriquez, his cousin, while working as an extra porter of William Lines. At around 11:30 in the morning of 05 June 1990, he was on his way home from work when a male person whom he recognized only by face sought his assistance in carrying a sack to a place where jeepney commuters would take their ride. The sack was colored white and emitted the smell of dried fish. He was promised P20 in exchange for his help. At a junction, a security guard whom he later identified to be Homer Ciesta, blocked and pushed him inside a vehicle where he was promptly handcuffed. During the commotion, the owner of the sack disappeared.^[19] Rosales was brought to a house near the slum area in Parola where P20,000 was quoted for his release by Sgt. Cerrillo.^[20] When Rosales did not heed the demand, he was brought first to the Lakandula detachment and then to Station No. 2 of the Western Police District.

On his part, Enriquez, a resident of 1349-C Alinian Street, Tondo, Manila, claimed that he was in the business of purchase and sale of oil at the North Harbor, under the business name of Nie-Men R. Enriquez Enterprises,^[21] being the grantee of a permit to operate an oil sludge collection service.^[22] He was under contract by the Lorenzo Shipping Corporation from January 1983 to April 1984. He was also the Vice-President of the "Kapisanan ng Maralitang Naninirahan ng Tondo, Inc." a civic organization and a recipient of a certification of merit from the National Steel Corporation.^[23]

Recounting his whereabouts in the morning of 05 June 1990, Enriquez said he left his house at around 11:45 a.m. for Pier 10 of the North Harbor, barely a thirty-minute walk away from his residence, to meet his brother, Victor Enriquez, at the pier. He had with him P2,000 in P100 denominations stacked in his wallet. Robinson Lumbis, a neighbor who was road testing his cab along North Harbor, saw and greeted Enriquez.^[24] Betty Quimbo, another neighbor, later saw Enriquez with his brother.^[25] Appellant took his lunch at home and thereafter hurriedly returned to the pier. He was not able to spend the night in his house. The following day, 06 June 1990, at around two o'clock in the afternoon, Enriquez went to the maintenance section of the Lorenzo Shipping Lines to pay for the oil he had obtained from its vessels. Homer Ciesta, the officer-in-charge of the security guards of the shipping line, invited Enriquez, and the latter agreed, to join him (Ciesta) earn some "extra money." The two left for the squatter's area in Parola and, once there, Ciesta told Enriquez to approach a certain person, later identified to be Sgt. Cerrillo, who instantly handcuffed him. Sgt. Cerrillo demanded P20,000 in exchange for his freedom. When he refused to give in to the demand, Enriquez was brought to the Lakandula detachment where the P2,000 he had in his wallet was taken and presented in evidence as the amount used in the buy-bust operation. He was brought to Station No. 2 of the WPD for investigation.^[26] Homer Ciesta went to tell Arminda, the wife of Enriquez, to bring some money to the Lakandula police detachment. Arriving at the detachment, someone approached Arminda and asked

her whether she had the money. She replied in the affirmative. The person then grabbed her wallet, took its contents and later returned the empty wallet.^[27]

On 24 January 1991, the trial court, giving credence to the evidence submitted by the prosecution, found both accused guilty beyond reasonable doubt of the crime charged and sentenced each of them to life imprisonment and to pay a fine of P30,000.

In their appeal to this Court, Rosales and Enriquez have filed separate briefs.

Appellant Enriquez insists on his innocence and faults the trial court for giving too much credence to the testimony of Sgt. Cerrillo and Pat. Maramot who, Enriquez asserts, have merely framed them up for selfish motives. He theorizes that it would seem incredible for either Pat. Maramot or Sgt. Cerrillo to have left and abandoned Station No. 2 considering that the Station Commander and his men have all been posted in the then on-going rally at the U.S. Embassy. He downgrades the prosecution's asseveration that Pat. Maramot, being unarmed, could not effect his immediate arrest, and that Sgt. Cerrillo has so used his personal funds as marked money. Enriquez also questions the six-day delay in the filing of the information.

The Court is scarcely impressed.

Simply said, appellant Enriquez would assail the credibility of the two prosecution witnesses. Almost always, the evaluation made by the trial court on the credibility of witnesses is viewed with respect. The trial judge, who has the distinct advantage of being able to observe closely the demeanor and deportment of witnesses on the stand as well as the manner in which they testify, undoubtedly can better determine than anyone else if such witnesses are telling or are not telling the truth. He is in an ideal position to weigh conflicting testimonies and unless, as so repeatedly said, he has obviously discarded or missed certain facts of substance and significance that, otherwise, would have altered his judgment, an assessment on credibility made by him should indeed deserve approbation by an appellate court.^[28]

The Court, in the case at bench, has scrutinized the records, and it finds no justification for holding differently from the findings made by the trial court.

In drug related cases, particularly in a buy-bust operation, the contention that the accused has merely been framed up by law enforcement personnel for selfish motives is quite often raised by the defense. For this claim to prosper, the evidence adduced must be clear and convincing^[29] in order to overcome the presumption that government officials have performed their duties in a regular and proper manner.^[30] Appellant, regrettably, has miserably failed to substantiate his allegations in this respect.

Enriquez questions the six-day delay in the filing of the information against him which he attributes to an extortion attempt made on him. Like an alleged frame-up, a supposed extortion by police officers has, too, been a standard defense in drug cases. Appellant's failure to offer evidence, independently of his bare claim of extortion, suggests that this defense could either be a fabrication or an afterthought. If, truly, the arresting police officers have tried to extort money from him, it should have behooved Enriquez to come forward with the proper charges