

THIRTEENTH DIVISION

[CA-G.R. CR HC No. 04732, February 28, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MOHAMMAD NASSER Y IKO AND MAUNARA MAAMOR Y SULTAN,
ACCUSED-APPELLANTS.**

D E C I S I O N

YBAÑEZ, J.:

This is an appeal from the Decision dated 9 February 2010, of the Regional Trial Court, Branch 9, Manila, in Crim. Case No. 07-251467 for Violation of Section 5, Article II in relation to Section 26 of Republic Act No. 6165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, finding both accused guilty beyond reasonable doubt of the crime charged, disposing that:

WHEREFORE, this Court finds both accused MOHAMMAD NASSER Y IKO and MAUNARA MAAMOR Y SULTAN "GUILTY" beyond reasonable doubt of the crime charged; and considering that accused Mohammad Nasser y Iko is a minor, being sixteen (16) years of age at the time of the commission of the offense, is hereby ordered to suffer a suspended sentence of RECLUSION TEMPORAL and a fine of ONE HUNDRED THOUSAND PESOS (Php1000,000.00) Philippine Currency; and accused Maunara Maamor y Suntan is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay the fine of FINVE HUNDRED THOUSAND PESOS (Php500,000.00) Philippine Currency.

Both accused shall be credited with the full period of their preventive imprisonment as provided for and mandated in Article 29 of the Revised Penal Code of the Philippines.

The Jail Warden of Manila City Jail is directed to transfer the custody of accused Mohammad Nasser y Iko to the National Training School For Boys, Sampaloc, Tanay, Rizal.

Let a Mittimus Order be issued to the Bureau of Corrections, Muntinlupa City for accused Maunara Maamor y Sultan.

The two (2) small heat sealed transparent plastic sachet containing zero point one one nine (0.119) and zero point one four zero (0.140) grams of methamphetamine hydrochloride known as "SHABU", are hereby ordered forfeited in favor of the government; and the Branch Clerk of Court is hereby directed to surrender the same to the Dangerous Drugs Board for proper disposition.

Let this Decision be recorded in the Criminal Case Docket of this Court.

SO ORDERED.^[1]

As can be culled from the records, it appears that:

On 28 February 2007, PO3 Eduardo David was assigned at the District Mobile Force, Western Police District, UN Avenue, Manila. That night, SPO1 Cabacangan received an information from a confidential informant regarding the drug activities of the two (2) suspects.^[2] SPO1 Cabacangan then relayed the information to the DAID Chief Superintendent Florencio T. Ortila who afterwards, organized a buy bust operation. The Team Leader prepared a Pre-operation Report, boodle money and coordinated with PDEA the planned buy bust operation.^[3] After the briefing, the team proceeded to Palanca Street, Sta. Cruz, Manila, which is the target area of the operation to meet the confidential agent.^[4] The team waited for the suspects at around 8:00 o'clock in the evening. The suspect, Mohammad Nasser arrived with a male companion at around 8:30 o'clock in the evening. The confidential informant talked to Mohammad Nasser and thereafter the former introduced Nasser to PO3 David as buyer. The confidential agent informed Mohammad Nasser that PO3 David will buy One Hundred Pesos (P100.00) worth of shabu. Nasser then asked for the money and PO3 David showed him the money inside an envelope. PO3 David told Nasser that he will give him the money once he hands him in the shabu. Nasser then went to the other suspect Maunara Maamor. When Nasser returned, he handed to PO3 David the two (2) plastic suspected to contain shabu. At that point, PO3 David arrested Nasser with the assistance of SPO1 Cabacangan while SPO2 Benitez and Borinaga arrested Maamor.^[5]

Upon the arrest of Nasser and Maamor, PO3 David confiscated from Nasser the boodle money and the shabu. He then informed them of their constitutional rights but the two (2) suspects remained silent. PO3 David put a mark DAID and DAID-1 on the two (2) confiscated plastic sachets.^[6] The two (2) suspects Nasser and Maamor were brought and turned over to the DAID together with the marked specimens.^[7] After the investigation, the two (2) plastic sachets were forwarded to the Crime Laboratory of the Manila Police District for laboratory examination.^[8] Per Chemistry Report No. D-271-07 dated 1 March 2007, a qualitative examination conducted on the specimens marked "DAID AND "DAID-1" gave positive result for Methylamphetamine Hydrochloride, a dangerous drug.^[9] In relation to the case, SPO2 Borinaga, SPO1 Cabacangan, PO3 David and PO2 Benitez executed a Joint Affidavit of Apprehension dated 1 March 2007.

On 9 March 2007, the two (2) suspects, Mohammad Nasser y Iko and Maunara Maamor y Sultan were charged in an Information for Violation of Section 5, Article II in relation to Section 26 of Republic Act No. 9165, alleging that:

That on or about February 28, 2007, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, not being been authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there wilfully, (sic) unlawfully and knowingly sell two (2) heat sealed transparent plastic sachet containing zero point one one nine (0.119) and zero point one four zero (0.140) gram of white crystalline substance containing methamphetamine hydrochloride known as "SHABU", which is a dangerous drug.

Contrary to law.^[10]

On 18 September 2007, both accused, assisted by counsel *de officio*, pleaded not guilty to the charge.^[11]

On 5 August 2008, pre-trial was held.^[12] Thereafter, trial ensued.

In a Decision dated 9 February 2010,^[13] the trial court found the two (2) accused guilty beyond reasonable doubt of the crime charged and sentenced them to suffer the penalty aforestated.

Before Us, accused-appellants contend that:

I

THE TRIAL COURT GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE ACCUSED-APPELLANTS DESPITE THE OBVIOUS NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER REPUBLIC ACT NO. 9165.

II

THE TRIAL COURT GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE ACCUSED-APPELLANTS NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PRESERVE THE INTEGRITY AND EVIDENTIARY VALUE OF THE ALLEGEDLY SEIZED DANGEROUS DRUGS.^[14]

The appeal is not meritorious.

We shall pass upon the two (2) assigned errors jointly and simultaneously.