



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **March 16, 2022**, which reads as follows:

“G.R. No. 238952 (*Jaime de Lima Saludar v. People of the Philippines*). — This resolves the Petition for Review on *Certiorari*,¹ assailing the Decision² dated July 25, 2017 and Resolution³ dated March 21, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 02589 affirming the Decision⁴ dated July 29, 2015 of the Regional Trial Court, Branch 57, Cebu City (RTC). The RTC earlier found Jaime De Lima Saludar⁵ (*Saludar*) guilty of committing illegal possession of dangerous drugs, as defined and penalized under Section 11, Article II of Republic Act No. 9165 (*R.A. No. 9165*), as amended.

The Antecedents

At around 4:15 in the afternoon of March 1, 2011, barangay *tanods* Aslan Macapalao (*Macapalao*) and Macud Sultan (*Sultan*) were on foot patrol in Barangay Ermita, Cebu when Macapalao saw a man walking in their direction. From six meters away, Macapalao noticed that the person was holding a small plastic sachet with his left thumb and index finger and was tinkering it with his right index finger. The said man tried to run when he noticed the two barangay *tanods* but they were able to restrain him. Suddenly, the plastic sachet that he was holding fell on the ground. Macapalao picked it up and suspected that its contents were *shabu*. Macapalao then asked him why he had that in his possession, but he failed to show any document to explain why. Thus, the two barangay *tanods* arrested him. They informed him of his constitutional rights and the offense that he committed. Considering that there was a crowd in the place of arrest, the two barangay *tanods* brought him to

¹ *Rollo*, pp. 11-29.

² Penned by Associate Justice Gabriel T. Robeniol with Associate Justices Edgardo L. delos Santos (now a retired justice of this Court) and Edward B. Contreras concurring; *id.* at 73-85.

³ *Id.* at 93-94.

⁴ Penned by Acting Presiding Judge James Stewart Ramon E. Himalalao; *id.* at 33-38.

⁵ Also referred to as “Jayme” in some parts of the *rollo*.

Police Station 5 of Cebu City, where they identified the man they arrested as herein petitioner, Jaime De Lima Saludar.⁶

When they arrived at the police station, Macapalao marked the plastic sachet that he seized from the petitioner with "JDS 03-01-11" and inventoried the same in front of Saludar and the barangay councilor of Ermita, Winfredo Miro. Photos were also taken while these were ongoing. Afterwards, the two barangay *tanods* brought the seized item and letter request for laboratory examination⁷ to the PNP Crime Laboratory. Macapalao was holding the seized item and letter request but he had to turn these over to Sultan as he was having a stomach disorder. Accordingly, it was Sultan who turned over the seized item to PO2 Chavez.⁸ After conducting a qualitative examination, the forensic chemist, Engr. Ryan Ace Sala, confirmed that the seized plastic sachet contained 0.03 gram of methamphetamine hydrochloride.⁹

Accordingly, Saludar was charged with violation of Section 11, Article II of R.A. No. 9165. The Information indicting him reads as follows:

Criminal Case No. CBU-91720

"That on the 1st day of March 2011, at about 4:15 o'clock in the afternoon, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, did then and there have in his possession and under his control one (1) heat sealed transparent plastic sachet containing 0.03 gram of white crystalline substance which after laboratory examination conducted gave positive result to the test for the presence of Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW."¹⁰

In his defense, Saludar testified that he was arrested on February 25, 2011. He narrated that he was on duty and was working in Queensland Car Mall when his neighbors dropped by to inform him that a complaint was filed against him in the barangay. Saludar asked his employer if he could go to the barangay hall to clear his name. However, when he arrived at the barangay hall, he was immediately detained because there was a complaint for robbery filed against him. Saludar demanded the barangay *tanods* to release him, but they refused to do so. Instead, he was detained for five days before he was brought to Police Station 5. He was later surprised that they changed their charge to illegal possession of dangerous drugs, as defined and penalized under Section 11, Article II of R.A. No. 9165.¹¹

⁶ *Rollo*, pp. 33-34.

⁷ *Records*, p. 109.

⁸ Request for Laboratory Examination dated March 1, 2011; *Id.*

⁹ *Id.* at 34.

¹⁰ *Records*, p. 1.

¹¹ *Rollo*, pp. 35-36.

After trial on the merits, the RTC held that the prosecution was able to prove the guilt of Saludar by proof beyond reasonable doubt. Macapalao categorically testified that Saludar was in possession of a plastic sachet with *shabu*, which accidentally fell on the ground. The RTC also found that there was substantial compliance with the chain of custody rule under Section 21, Article II of R.A. No. 9165. The RTC noted that the prosecution was able to present in evidence a certificate of inventory, signed by an elected official who witnessed the conduct of the inventory. There were also photographs taken during the conduct of the inventory. On the other hand, the RTC did not give credence to the denial and defense of Saludar as these were uncorroborated. Thus, the RTC disposed as follows:

WHEREFORE, by the foregoing, a judgment of CONVICTION is hereby rendered by this court against accused Jaime De Lima Saludar beyond reasonable doubt of the offense of Illegal Possession of Dangerous Drug in accordance with Sec. 11(3), Article II of R.A. 9165.

The court sentences him to a penalty of an imprisonment of eighteen (18) years and one (1) day to eighteen (18) years and one (1) month and a fine of Three Hundred Thousand Pesos (P300,000.00).

The *shabu* subject of this case is hereby confiscated in favor of the government to be disposed of in accordance with the rules governing the same.

Costs against the accused.

SO ORDERED.¹²

On appeal the CA affirmed the aforesaid ruling. The CA found that all the elements of the crime of illegal possession of dangerous drugs, as defined and penalized under Section 11, Article II of R.A. No. 9165, were proven by proof beyond reasonable doubt. The CA also concurred with the Decision of the RTC that there was substantial compliance with the chain of custody rule as every chain in the link of custody was well accounted for. Also, Macapalao was able to explain the reason for the marking "JDS-01-01-11" when petitioner's initials are "JLS." Evidently, the integrity and evidentiary value of the seized item were preserved.

Saludar filed a Motion for Reconsideration¹³ on August 25, 2017, but the same was denied by the CA in its Resolution¹⁴ dated March 21, 2018.

Hence, the instant petition.

¹² *Id.* 38.

¹³ *Id.* at 86.

¹⁴ *Id.* at 93-94.

Issue

Whether the Honorable Court of Appeals erred in affirming that the guilt of the petitioner was proven beyond reasonable doubt.

Petitioner insists that he was illegally detained for several days for a trumped-up robbery charge. He claims that the barangay *tanods* changed his alleged violation to illegal possession of dangerous drugs. He then maintains that he is innocent and that the prosecution failed to prove his guilt by proof beyond reasonable doubt. First, the marking was doubtful as it failed to indicate the time it was confiscated. Second, there was no photograph of the seized item. Third, there was no representative from the media and the Department of Justice (*DOJ*), who should have witnessed the conduct of the inventory. With these procedural lapses, the presumption of his innocence was not overturned. Accordingly, the courts *a quo* should have given credence to his defense of denial.¹⁵

The Office of the Solicitor General counters that the petitioner failed to substantiate his claim that he was illegally detained on an earlier date and for a different charge. Furthermore, the prosecution was able to show that the integrity and evidentiary value of the seized evidence were preserved in the instant case. As noted by the courts *a quo*, Macapalao was able to explain the error in the marking of the seized item. In any event, what was important was Macapalao was able to identify it when it was presented in court.¹⁶

Our Ruling

The petition is meritorious.

Well-settled is the rule that when a party files an appeal in a criminal case, this opens the entire case wide open for review. In such instances, the appellate court has the authority to correct errors committed by the lower courts, even if these were not raised by the parties. Likewise, the appellate court can revise the judgment appealed from.¹⁷

Upon a careful review of the records of the instant case, this Court finds that petitioner's conviction must be set aside.

The validity of the warrantless arrest is highly suspicious

¹⁵ *Id.* at 20-27.

¹⁶ *Id.* at 132-140.

¹⁷ *Cruz v. People*, G.R. 238141, July 1, 2019, 907 SCRA 116, 122, citing *Sindac v. People*, 794 Phil. 421, 427 (2016); and *People v. Comboy*, 782 Phil. 187, 196 (2016). (Citations omitted).

Enshrined in the Constitution is the inviolable right of the people not to be subject to unreasonable searches and seizures of whatever nature and for any purpose.¹⁸ As such, there has to be a search or arrest warrant issued by a judge upon their personal finding of probable cause. All the same, Section 5, Rule 113 of the Rules of Court provides for three instances when a police officer or private person may arrest another without a warrant, to wit: “(a) the arrest of a suspect *in flagrante delicto*; (b) the arrest of a suspect where, based on the personal knowledge of the arresting officer, there is probable cause that the suspect was the perpetrator of a crime that had just been committed, or a “hot pursuit” arrest; and (c) the arrest of a prisoner, who has escaped from custody, or has escaped while being transferred from one confinement to another.”¹⁹

In this case, petitioner was arrested without a warrant because he was allegedly caught by barangay *tanods* Macapalao and Sultan *in flagrante delicto* to be in possession of methamphetamine hydrochloride or *shabu*. For there to be a valid *in flagrante delicto* arrest, it has been held in several cases that the following elements must be satisfied, to wit: “(a) the person to be arrested must execute an overt act indicating that [they have] just committed, [are] actually committing, or [are] attempting to commit a crime; and (b) such overt act is done in the presence or within the view of the arresting officer.”²⁰ Specifically, the prosecution must prove that the arresting officer personally saw the accused committing the offense charged.²¹

Here, the testimony of the two barangay *tanods* was riddled with inconsistencies. Macapalao testified during his cross-examination that he saw the petitioner holding a small transparent plastic sachet “between his left thumb and index finger and tinkering the same using his right index finger,” while he was walking toward them.²² Petitioner, who was six meters away, allegedly tried to run when he spotted them but Sultan was quick enough to restrain him.²³ Afterwards, Macapalao narrated that he picked up the plastic sachet that petitioner was fiddling with when it fell to the ground.²⁴

On the other hand, Sultan testified that Macapalao was walking ahead of him when he saw Macapalao holding the petitioner. Macapalao then asked for his assistance in restraining petitioner. Sultan likewise admitted in open court that he did not see what happened before Macapalao held petitioner. Neither did he see any plastic sachet that fell on the ground. What he saw was

¹⁸ CONSTITUTION, Art. III, Section 2.

¹⁹ *Porteria v. People*, 898 Phil. 106, 119 (2019), citing *Comerciante v. People*, 764 Phil. 627, 634-635 (2015).

²⁰ *Cruz v. People*, *supra* note 17. (Citations omitted).

²¹ *Id.*

²² TSN dated December 8, 2011, pp. 6-8.

²³ TSN dated July 14, 2011, pp. 7-9.

²⁴ *Id.*

that Macapalao held petitioner and on his hand was a plastic sachet, which he allegedly confiscated from the latter.²⁵

With such inconsistencies, it is not clear who among the two barangay *tanods* personally saw the petitioner commit the crime. Assuming arguendo that either of the two barangay *tanods* personally witnessed petitioner's commission of the crime charged, their narration of the facts was scarcely credible.

Macapalao testified that he and Sultan saw petitioner, in broad daylight, holding with his two left fingers and tinkering with his right finger, a plastic sachet that contained 0.03 gram of *shabu*.²⁶ Also, petitioner was wearing a loose long-sleeve shirt when he was apprehended by the two barangay *tanods*.²⁷ With such a small plastic sachet, this Court could not imagine how the petitioner could not have hid the whole plastic sachet with his fingers or hands.

Even if we were to assume that the two barangay *tanods* have perfect vision, it is incredulous that they were able to see and recognize with reasonable accuracy such minuscule amount of drugs at such distance.²⁸ What they could readily see was simply the act of petitioner walking toward them. Clearly, there was no overt act on the part of the petitioner that could have roused the suspicion of the two barangay *tanods* that criminal activity is afoot. Accordingly, the prosecution failed to justify petitioner's warrantless arrest.

It would appear from the records that petitioner voluntarily submitted to the court's jurisdiction, entered his plea during arraignment, and actively participated during trial. As such, he is deemed to have waived his objection to the illegality of his warrantless arrest.²⁹ All the same, this does not preclude this Court from ruling on the admissibility of the evidence seized from him during his illegal warrantless arrest.³⁰

Generally, a judicial warrant must first be issued, upon a finding of probable cause, before a search and seizure may be carried out.³¹ Otherwise, the pieces of evidence seized as a consequence of the warrantless search would be deemed tainted for being the proverbial fruit of a poisonous tree and inadmissible in evidence for any purpose in any proceeding.³² In time, there have been several cases where this Court admitted several exceptions to this constitutional proscription, to wit:

²⁵ TSN dated May 30, 2014, pp. 4-5; pp. 13-14.

²⁶ TSN dated July 14, 2011, pp. 7-9. TSN dated December 8, 2011, pp. 6-8.

²⁷ Records, p. 9.

²⁸ See *Cruz v. People*, *supra* note 17.

²⁹ *Porteria v. People*, *supra* note 19, citing *People v. Divina*, 558 Phil. 390, 395 (2007).

³⁰ *Id.*, citing *Ilamar v. People*, 768 Phil. 195, 203 (2015). *Cruz v. People*, *supra* note 17.

³¹ CONSTITUTION, Art. III, Section 2.

³² *Id.* *Cruz v. People*, *supra* note 17.

1) warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence; 2) seizure of evidence in plain view; 3) search of moving vehicles; 4) consented warrantless search; 5) customs search; 6) stop and frisk situations (Terry search); and 7) exigent and emergency circumstances.³³

Here, the two barangay *tanods* confiscated the plastic sachet with *shabu* that petitioner was allegedly fiddling with after they restrained him. However, for the first exception to apply, there has to be a valid warrantless arrest before a search can be made. “[T]he process cannot be reversed.”³⁴ As earlier ruled, there was no valid warrantless arrest in the instant case. Consequently, the confiscated plastic sachet with *shabu* is inadmissible in evidence against the petitioner. As the said seized item is the *corpus delicti* of the crime charged, petitioner must thus be acquitted.³⁵

There were lapses in the chain of custody

Even if this Court were to assume that the *shabu* found in petitioner’s possession is admissible in evidence, this Court finds that he should still be acquitted.

Petitioner was charged with illegal possession of dangerous drugs, as defined and penalized under Section 11, Article II of R.A. No. 9165, which he allegedly committed on March 1, 2011. Accordingly, the applicable law is R.A. No. 9165, before it was amended by R.A. No. 10640 in 2014.

Section 21, Article II of R.A. No. 9165 requires the recording of the movements and custody of the seized dangerous drugs from the time they were confiscated to the time they were received by the forensic laboratory for their safekeeping and presentation in court for destruction.³⁶ This Court summarized the four links in the chain of custody that must be established by the prosecution to be as follows:

first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and

³³ *People v. Aruta*, 351 Phil. 868, 879-880 (1998) as cited in *Telen v. People*, G.R. No. 228107, October 9, 2019, 923 SCRA 108, 120 and *Porteria v. People*, *supra* note 16.

³⁴ *Cruz v. People*, *supra* note 17, citing *Trinidad v. People*, G.R. No. 239957, February 18, 2019, 893 SCRA 228, 237; *Telen v. People*, *supra*, citing *People v. Manago*, 793 Phil. 505, 515 (2016); *Porteria v. People*, *supra* note 16, citing *Sanchez v. People*, 747 Phil. 552, 567 (2014).

³⁵ *Cruz v. People*, *supra* note 17, citing *Villamor v. People*, 807 Phil. 894 (2017).

³⁶ *People v. Balubal*, G.R. No. 234033, July 30, 2018, 875 SCRA 1, 12-13, citing *People v. Barte*, 806 Phil. 533, 542-543 (2017).

submission of the marked illegal drug seized from the forensic chemist to the court.³⁷

The prohibited drugs under R.A. No. 9165 may not be readily identifiable by sight or touch. As such, they can easily be tampered with or substituted. Thus, Congress included a provision in R.A. No. 9165 specifically requiring the prosecution to show that the dangerous drugs confiscated from the accused are the same ones examined and presented in court.³⁸ The rationale behind the mandatory nature of this rule was further explained by this Court in the case of *Fuentes v. People*³⁹ as follows:

At this juncture, the Court takes this opportunity to clarify that compliance with the chain of custody rule is not a mere technical rule of procedure that courts may, in their discretion, opt to relax. In the first place, the chain of custody procedure is embodied in statutory provisions which were “crafted by Congress as safety precautions to address potential police abuses [in drugs cases], especially considering that the penalty imposed may be life imprisonment.” It is not a Supreme Court-issued rule of procedure created under its constitutional authority to “[p]romulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts.” Rather, it is an administrative protocol that law enforcement officers and operatives are enjoined to implement as part of their police functions. Indeed, while the chain of custody rule is “procedural” in the sense that it sets a step-by-step process that must be followed, it is by no means remedial in nature since it is not, properly speaking, a requirement or process that pertains to court litigation.

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It deserves pointing out that the mandatory nature of the chain of custody rule traces its roots to, as earlier stated, the peculiarity of drugs cases in that the seized drugs constitute the “body of the crime.” The chain of custody rule is the administrative mechanism established by legislature to ensure an acceptable level of certainty with respect to the drugs’ integrity and evidentiary value. Hence, failure to comply or failure to justify non-compliance means that this level of certainty has not been satisfied, and as a result, conjures reasonable doubt on an indispensable element of the crime. This is the reason why the law states “non-compliance with the requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items,” which inversely stated, effectively means that the seizure and custody over the items are rendered void and invalid by the non-compliance with these requirements, unless the non-compliance is under justifiable grounds, and that the integrity and the evidentiary value of the seized items are properly preserved. Overall, it may therefore be said that the foundational bearings of the chain of custody rule, owing to the peculiar treatment of the corpus delicti in drugs cases, hearken to the

³⁷ *Pagal v. People*, G.R. No. 251894, March 2, 2022, citing *People v. Baltazar*, G.R. No. 229037, July 29, 2019.

³⁸ *People v. Guzon*, 719 Phil. 441, 459-460 (2013), citing *People v. Peralta*, 627 Phil. 570, 576-577 (2010) and *People v. Nandi*, 639 Phil. 134, 144-145 (2010). (Citations omitted).

³⁹ G.R. No. 228718, January 7, 2019, 890 SCRA 75.

accused's presumption of innocence, and thus, flesh out safeguards therefor. It is this signification that firmly confirms the nature of the chain of custody rule as a matter of substantive law, and not a mere technical rules of court procedure.⁴⁰

Nevertheless, it has been acknowledged that compliance with the chain of custody rule may not be feasible in all cases.⁴¹ In such instances, the seized items will only be admitted in evidence if the prosecution was able to satisfactorily establish that there was a justifiable ground for their noncompliance, which must be proven as a fact, and that the integrity and evidentiary value of the seized items were properly preserved.⁴²

In the case at bar, the prosecution failed to prove that the two barangay *tanods* complied with the chain of custody rule as mandated by Section 21, Article II of R.A. No. 9165 and its implementing rules and regulations. Neither did they present any explanation to justify their failure to observe the prescribed procedure.

Firstly, there was a discrepancy between the marking on the seized item and the one written on the certificate of inventory and police blotter. Specifically, the seized item was marked as "JDS-03-01-11"⁴³ but in the certificate of inventory⁴⁴ and police blotter,⁴⁵ the item allegedly confiscated from the petitioner was marked as "JLS-03-01-11." Macapalao explained in court that he made a mistake in the marking. He thought petitioner's initials was "JLS" and not "JDS," to wit:

PROS. LABATA:

At the police station what happened to the accused and the plastic pack of white crystalline substance?

A: We finished the inventory and the marking of evidence was also done and the incident was blotted.

Q: Who made the marking of the evidence confiscated?

A: Me, sir.

⁴⁰ *Id.*, citing *People v. Umipang*, 686 Phil. 1024, 1052-1053 (2012).

⁴¹ *People v. Gamboa*, 833 Phil. 1055, 1067 (2018), citing *People v. Sanchez*, 590 Phil. 214, 234 (2008).

⁴² Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640. See *Fuentes v. People*, *supra* note 37, citing *People v. Almorfe*, 631 Phil. 51, 60 (2010). See Implementing Rules and Regulations of Republic Act No. 9165 on the handling and disposition of seized dangerous drugs, which partly reads as follows:

Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.

⁴³ Request for Laboratory Examination dated March 1, 2011, records, p. 109. Chemistry Report No. D-250-2011 dated March 1, 2011, records, p. 5.

⁴⁴ Certificate of Inventory dated March 1, 2011, *id.* at 7.

⁴⁵ Police Blotter, *id.* at 10.

Q: And do you recall what marking that you made on the plastic pack of white crystalline substance.

A: JLS 03-01-11.

COURT:

You said earlier that the name of the accused was Jaime Delima Saludar, so what does that L stand for?

A: De Lima Your Honor.

PROS. LABATA:

I'm showing to you Exh. "B", try to examine this Exh. "B", if this is a plastic pack containing white crystalline substance and tell the court whether this is the same plastic pack that you picked up from the ground

A: The same.

Q: You try to examine the marking on this plastic pack and tell the court whether that marking in that plastic pack were your handwriting?

A: This is my handwriting but I was mistaken in placing the marking because I marked this pack of *shabu* as JDS.

COURT:

So what actually is the middle name of the accused?

A: Delima, Your Honor.

COURT:

And why did you say it is wrong when you stated the middle name of the accused is Delima, so that is correct JDS, so the marking you placed there based on the initial name of the accused JDS is correct after all because you stated earlier that the name of the accused is Jaime Delima Saludar because L stands for Lima?

A: What I mean my testimony earlier was correct, Your Honor.

COURT:

Which one?

A: That the marking I made Your Honor was JLS.

COURT:

Proceed prosecutor

PROS. LABATA:

(continued to witness)

At the police station what other documents being prepared there?

A: The evidence was photographed.

Q: You mentioned earlier also that there was an inventory being conducted, am I correct Mr. Witness?

A: Yes, sir.

Q: I'm showing to you Certificate of Inventory dated March 1, 2011, please go over this and tell the court whether this is the Certificate of Inventory that you prepared?

A: This is the same because of the name I affixed as confiscating officer.

PROS. LABATA:

May I request Your Honor that the inventory attached to the record be marked as our Exh. "D"

INTERPRETER:
(Marking)

PROS. LABATA:

As you mentioned earlier that there was photograph taken on the item confiscated?

A: Yes, sir.

Q: I'm showing to you now photographs attached to the record, please examine these photographs and tell the court what are these photographs in relation to the one that you have mentioned?

A: This is the same.

Q: This photograph, what is being depicted on this?

A: The evidence and Certificate of Inventory and in that certificate of inventory I affixed my signature above my name.⁴⁶

Macapalao, however, failed to explain the discrepancy in what was written on the allegedly seized plastic sachet as compared from the one recorded in the certificate of inventory and the police blotter.

Secondly, the conduct of the inventory and photograph was only witnessed by an elected official, Barangay Councilor Wilfredo Miro. R.A. No. 9165 explicitly requires the presence of the accused, or their representative or counsel and the following insulating witnesses during the conduct of the inventory and photograph, to wit: (a) a representative from the media (b) a representative from the DOJ; and (c) any elected public official. The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence."⁴⁷ The barangay *tanods* failed to provide an explanation as to why they were not able to secure the presence of the representatives from the media and DOJ. Neither was there any showing that they exerted genuine and sufficient efforts to secure the presence of the said insulating witnesses.⁴⁸

It should be emphasized that the two barangay *tanods* purportedly confiscated a minuscule amount from the petitioner. While a minuscule amount of dangerous drug is not *per se* a badge of innocence or would automatically entitle the petitioner to an acquittal, it has been recognized that such amount is highly susceptible to planting, tampering, or alteration.⁴⁹ Such

⁴⁶ TSN, July 14, 2011, pp. 9-13.

⁴⁷ *People v. Miranda*, 824 Phil. 1042, 1054-1055 (2018) and *People v. Mendoza*, 736 Phil. 749, 764 (2014). (Citations omitted).

⁴⁸ *Pinga v. People*, G.R. No. 245368, June 21, 2021; *Matabilas v. People*, *supra* note 39, citing *People v. Manansala*, 826 Phil. 578 (2018). (Citations omitted).

⁴⁹ *People v. Oliva*, 890 Phil. 106, 125 (2019), citing *People v. Abelurde*, 824 Phil. 122 (2018). (Citations omitted).

miniscule amount should have impelled the two barangay *tanods* to faithfully comply with the law.⁵⁰

Taken together with the discrepancy in the marking, the absence of the required number of witnesses and the failure of the barangay *tanods* to adopt appropriate safeguards to preserve the integrity of the *corpus delicti* place the credibility of the evidence presented by the prosecution in serious doubt. Thus, this Court has no recourse but to give petitioner the benefit of doubt under the law and acquit him of the charges imputed against him.

WHEREFORE, premises considered, the petition is hereby **GRANTED**. The Decision dated July 25, 2017 and Resolution dated March 21, 2018 of the Court of Appeals in CA-G.R. CR No. 02589, which affirmed the Decision dated July 29, 2015 rendered by Regional Trial Court in Cebu City, are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Jaime de Lima Saludar is **ACQUITTED** of the charge of illegal possession of dangerous drugs, as defined and penalized under Section 11, Article II of R.A. No. 9165, on the ground of reasonable doubt. Let an entry of judgment be issued immediately.

SO ORDERED."

By authority of the Court:

Misael DC Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *0227*

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COURT OF APPEALS
CA G.R. CR HC No. 02589
6000 Cebu City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 57, 6000 Cebu City
(Crim. Case No. CBU-91720)

⁵⁰ *People v. Balubal*, *supra* note 36, citing *People v. Casacop*, 755 Phil. 265, 283 (2015).

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