



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 10, 2022 which reads as follows:

“G.R. No. 250127 (*People of the Philippines v. Judy Malate y Reynoso*). — Challenged in this appeal is the May 22, 2019 Decision¹ of the Court of Appeals in CA-G.R. CR-HC No. 11545 which affirmed the conviction of accused-appellant Judy Malate y Reynoso (accused-appellant) for Illegal Sale and Possession of Dangerous Drugs in violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165,² otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Accused-appellant was charged with Illegal Sale and Possession of Dangerous Drugs punishable under Sections 5 and 11, Article II of RA 9165 in two separate Informations both dated June 16, 2017 which read:

Criminal Case No. 14203

That on or about the 9th day of January 2017, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, and for a consideration in the amount of Five Hundred Pesos (Php500.00), did then and there willfully, unlawfully and criminally sell to a poseur buyer, PO2 Randy C. Casais, one (1) piece of heat-sealed transparent plastic sachet with markings RCC

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¹ *Rollo*, pp. 3-16. Penned by Associate Justice Marlene B. Gonzales-Sison and concurred in by Associate Justices Victoria Isabel A. Paredes and Ruben Reynaldo G. Roxas.

² Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.” Approved: June 7, 2002.

1/9/17 containing 0.027 gram of white crystalline substance, which upon examination, yielded a positive result to the test for the presence of METHAMPHETAMINE HYDROCHLORIDE, known as "SHABU," a dangerous drug.

CONTRARY TO LAW.³

Criminal Case No. 14204

That on or about the 9th day of January 2017, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and criminally have in her possession, control and custody Three (3) heat[-]sealed transparent plastic sachets, each containing white crystalline substance, marked as follows with their respective weights, totalling to 0.081 gram:

MEN-1 1/9/[1]7	=	0[.]025 gram
MEN-2 1/9/17	=	0.024 gram
MEN-3 1/9/17	=	0.032 gram

which mean subjected to laboratory examination, contain METHAMPHETAMINE HYDROCHLORIDE known as "SHABU", a dangerous drug, without the necessary prescription nor authority of law.

CONTRARY TO LAW.⁴

Accused-appellant pleaded "not guilty" upon arraignment.⁵ Trial thereafter ensued.

Version of the Prosecution

On January 9, 2017, at around 4:30 p.m., Police Officer 2 Randy Casais (PO2 Casais) received a tip from a confidential informant that accused-appellant was selling illegal drugs. PO2 Casais instructed the informant to transact with accused-appellant and set up a purchase of shabu worth ₱500.00.⁶

At around 5:00 p.m. of the same day, the confidential informant arrived at the police station and informed the police officers that accused-appellant agreed to the sale transaction. Police Senior Inspector Efren A. Paloyo (PSI Paloyo) then informed Police Superintendent Nilo Berdin (P/Supt. Berdin), the officer-in-charge of

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³ Records, Criminal Case No. 14203, pp.1-2.

⁴ Records, Criminal Case No. 14204, pp. 1-2.

⁵ *Rollo*, p. 5.

⁶ *Id.*

the Legazpi Police Station, who ordered an entrapment operation against accused-appellant. PO2 Casais was assigned to act as poseur-buyer. Police Officer 2 Marian Navarro (PO2 Navarro) was designated as the arresting and seizing officer. PSI Paloyo gave the ₱500.00 marked money. A police blotter was prepared and the operation was coordinated with the Philippine Drug Enforcement Agency-Regional Office V (PDEA-ROV).⁷

At 6:47 p.m., the informant and the police officers went to the target area and waited for accused-appellant. Later, accused-appellant approached the informant and PO2 Casais. The informant introduced PO2 Casais as his classmate and buyer of shabu. PO2 Casais gave the marked money to accused-appellant. In turn, accused-appellant took out one piece of heat-sealed plastic sachet containing white crystalline substance and gave it to PO2 Casais. Afterwards, PO2 Casais took off his hat signaling to the police officers that the sale transaction has been consummated.⁸

Immediately thereafter, the police officers ran towards accused-appellant and apprehended her. PO2 Casais called the mandatory witnesses, *Barangay Kagawad* Irene Romano, Elmer Belga from the Department of Justice (DOJ), and Josefino Dioquino from the media. PO2 Navarro frisked accused-appellant and recovered the marked money from her front pocket. She likewise recovered three plastic sachets containing white crystalline substance and marked them as "MEN-1 1/9/17," "MEN-2 1/9/17," and "MEN-3 1/9/17." The marking and inventory were conducted in front of accused-appellant and the required witnesses. Police Officer 1 Mark Thom Semeniano (PO1 Semeniano) was in charge of taking photographs.⁹

PO2 Casais then proceeded to the crime laboratory in Camp Ola and submitted the seized plastic sachets to Police Senior Inspector Wilfredo I. Pabustan, Jr. (PSI Pabustan), the forensic chemist, for examination.¹⁰ In Chemistry Report Nos. D-08-2017¹¹ and D-09-2017¹² prepared by PSI Pabustan, the seized plastic sachets yielded positive results for methamphetamine hydrochloride, also known as shabu.¹³

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⁷ Id.

⁸ Id. at 5-6.

⁹ Id. at 6.

¹⁰ Records, Criminal Case No. 14203, pp. 24 and 28.

¹¹ Id. at 23.

¹² Id. at 26.

¹³ *Rollo*, pp. 7-8.

Version of the Defense

Accused-appellant denied the charges and claimed that she was framed-up. She averred that on the date of the incident, she was alone in her boarding house when she received a text message from her friend who would get something from her. She informed her friend to meet her at the corner of Rizal Street near Cres Canteen. Upon arriving at the meeting place, accused-appellant saw Ryan Marquez. She was about to approach him when she bumped into PO2 Navarro and PO2 Casais. The two then arrested accused-appellant for allegedly selling illegal drugs. Accused-appellant was subsequently handcuffed and frisked. She was found in possession of one cigarette stick, her voter's identification card, and cash amounting to ₱1,500.00.¹⁴

Accused-appellant further narrated that PO2 Navarro frisked her again when a *barangay kagawad* arrived after 30 minutes. PO2 Navarro purportedly found three plastic sachets in her pocket. Accused-appellant also heard PO2 Navarro ask the *barangay kagawad* if he knew her to which the latter responded in the negative.¹⁵

Ruling of the Regional Trial Court

The trial court found accused-appellant guilty of Illegal Sale and Possession of the Dangerous Drugs. It held that accused-appellant was caught red-handedly selling shabu in a legitimate buy-bust operation. The prosecution sufficiently proved that a consummated sale transaction took place between accused-appellant and PO2 Casais who acted as the poseur-buyer. Not only was she caught in *flagrante delicto* selling shabu, accused-appellant was also found in possession thereof in three plastic sachets when she was frisked immediately after her lawful arrest.¹⁶

The RTC further ruled that the chain of custody remained unbroken preserving the identity of the seized illegal drugs. Thus, accused-appellant's guilt of Illegal Sale and Possession of Dangerous Drugs was duly proven by the prosecution. The *fallo* of the RTC's July 6, 2018 Decision¹⁷ reads:

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¹⁴ Id. at 8.

¹⁵ Id.

¹⁶ CA *rollo*, pp. 66-71.

¹⁷ Id. at 57-72.

WHEREFORE, judgment is rendered as follows:

1. In Criminal Case 14203, the court finds accused Judy Malate y Reynoso GUILTY beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165 and she is sentenced to suffer the penalty of life imprisonment and to pay a fine of Php500,000.00; and

2. In Criminal Case 14204, the court finds accused Judy Malate y Reynoso GUILTY beyond reasonable doubt of violation of par. 3 of Section 11, Article II of R.A. 9165 and she is sentenced to suffer the indeterminate penalty of imprisonment for a period of twelve (12) years and one (1) day to fourteen (14) years and one (1) day and to pay a fine in the amount of Php300,000.00.

The Acting Branch Clerk of Court is ordered to turn over to the Evidence Custodian of the PDEA Crime Laboratory, Legazpi City the drug items involved in these cases (Exhs. N to O-3) so that these items would be included by the PDEA's next scheduled date of burning and destruction. The PDEA Evidence Custodian is directed to immediately submit to this court proof of destruction of these drug items.

The genuine Php500 bill with serial no. VH732206 (Exh. P) is ordered confiscated and forfeited in favor of the government. The Acting Branch Clerk of Court is ordered to turn over this bill to the Clerk of Court and the latter is directed to deposit it at the account of the National Treasury and to submit to this court proof of such deposit.

Considering the judgment of conviction, let the corresponding mittimus/commitment order be issued against accused.

SO ORDERED.¹⁸

Aggrieved, accused-appellant appealed to the CA asserting that she was merely framed-up of the crimes charged.¹⁹

Ruling of the Court of Appeals

In a Decision²⁰ dated May 22, 2019, the CA affirmed the findings of the RTC, *viz.*:

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¹⁸ Id. at 71.

¹⁹ Id. at 16-17.

²⁰ *Rollo*, pp. 3-16.

WHEREFORE, in view of the foregoing, the appeal is hereby DENIED. The Decision of Regional Trial Court, Fifth Judicial Region, Branch 5, Legazpi City, in Criminal Case Nos. 14203 and 14204 is hereby AFFIRMED.

SO ORDERED.²¹

The CA agreed with the RTC that there was a valid buy-bust operation conducted against accused-appellant wherein she was caught selling shabu to PO2 Casais who acted as the poseur-buyer. Accused-appellant was likewise caught in possession of shabu in a search conducted on her immediately after her arrest. The appellate court further opined that the prosecution adequately proved that the apprehending officers complied with the chain of custody rule. As found by the trial court, the illegal drugs subject of the sale and found in possession of accused-appellant were the very same drugs presented during trial.²²

Hence, the instant appeal.

Issues

- a) Whether accused-appellant's guilt of the crimes charged was duly proven.
- b) Whether the chain of custody remained unbroken.

Our Ruling

The appeal has merit.

Upon a careful examination of the records, the Courts finds reversible error on the part of the CA in affirming the findings of the RTC.

In Illegal Sale of Dangerous Drugs, the elements are: (1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.²³ It must be proven that a sale transaction of drugs actually took place and that the object thereof is presented as evidence in court, and is shown to be the same drugs seized from the accused.²⁴

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²¹ Id. at 15.

²² Id. at 11-15.

²³ *People v. Ismael*, 806 Phil. 21, 29 (2017).

²⁴ Id.

On the other hand, the elements of Illegal Possession of Dangerous Drugs under Section 11 of the same law are as follows: (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug.

Corollarily, We stress that the drug itself is the *corpus delicti* of the offense in illegal drugs cases.²⁵ It is the duty of the prosecution to prove that the seized drugs are the same as those presented before the court during the trial.²⁶ It must show that the following links in the chain of custody have been properly observed by the apprehending officers:²⁷ *first*, the seizure and marking 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 submission of the marked illegal drug seized by the forensic chemist to the court.²⁸

Considering that the sale and possession of *shabu* happened on January 9, 2017, Section 21 of RA 9165, as amended by RA 10640,²⁹ therefore applies, which states:

SEC. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals,

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²⁵ *People v. Claudel*, G.R. No. 219852, April 3, 2019, citing *People v. Sagana*, 815 Phil. 356, 367 (2017).

²⁶ *Id.*, citing *People v. Alvaro*, 823 Phil. 444, 458 (2018).

²⁷ *Id.*, citing *People v. Manansala*, 826 Phil. 578, 586 (2018).

²⁸ *People v. Miranda*, G.R. No. 218126, July 10, 2019, citing *People v. Dahil*, 750 Phil. 212, 231 (2015).

²⁹ Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002." Approved: July 15, 2014.

instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these 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.

There is no dispute that the first, second, and third links of the chain of custody were sufficiently observed. PO2 Casais immediately placed his marking, "RCC 1/9/17," on the shabu which was subject of the sale. On the other hand, PO2 Navarro, who conducted the search on the person of accused-appellant, marked the three plastic sachets containing *shabu* with "MEN-1 1/9/17," "MEN-2 1/9/17," and "MEN-3 1/9/17." PO2 Casais immediately called the insulating witnesses who were present during the marking, and taking of the photograph of seized drugs.

PO2 Casais and PO2 Navarro remained in possession of the drugs subject of the sale and possession, respectively, while in transport to the police station. Thereat, an inventory was conducted in the presence of the insulating witnesses and accused-appellant. PO2 Casais and PO2 Navarro then personally brought the seized drugs for the laboratory examination which were received by PCI Pabustan, the forensic chemist.

However, the fourth link in the chain of custody is wanting in the case. It is worthy to note that the parties dispensed with the examination of PCI Pabustan.

In *People v. Cabuhay*,³⁰ the Court laid down the statements to be included in the parties' stipulations in case the testimony of the forensic chemist has been dispensed with:

In *People v. Pajarin*, the Court ruled that in case of a stipulation by the parties to dispense with the attendance and testimony of the forensic chemist, it should be stipulated that the forensic chemist would have testified that he had taken the precautionary steps required to preserve the integrity and evidentiary value of the seized item, thus: **(1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he resealed it after examination of the content; and (3) that he placed his own marking on the same to ensure that it could not be tampered with pending trial.**³¹ (Emphasis supplied)

The required second and third stipulations were lacking in the case at bench. Indeed, the Chain of Custody Forms showed that PCI Pabustan received from PO2 Casais and PO2 Navarro the sealed and marked seized drugs subject of sale and possession, respectively. However, no description or narration can be found on record stating that after conducting qualitative and quantitative examinations, PCI Pabustan resealed the specimens after the examination and placed his own markings thereon. What can only be deduced from the Chain of Custody Forms was that PCI Pabustan: (a) received a request for examination of the drug specimen; (b) personally received the illegal drugs from PO2 Casais and PO2 Navarro; (c) conducted a laboratory examination thereon; (d) deduced his findings into writing and prepared the Chemistry Report Nos. D-08-2017 and D-09-2017; and (e) turned over the specimens to the evidence custodian. These are general statements resulting to a serious breach of the fourth link of the chain of custody.

Unfortunately, the prosecution did not adduce any justifiable reason why the apprehending officers failed to comply with the fourth link. This therefore raises doubt on the integrity and evidentiary value of the seized drugs.

In fine, the integrity and evidentiary value of the *corpus delicti* was not duly preserved. The apprehending officers' failure to justify their non-compliance with the chain of custody rule gives negates the presumption that they regularly performed their duties.³² Accused-appellant is therefore entitled to an acquittal due to serious breach in the chain of custody.

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³⁰ *People v. Cabuhay*, 836 Phil. 903 (2018).

³¹ *Id.* at 918.

³² *People v. Balibay*, 742 Phil. 746, 757 (2014).

WHEREFORE, the appeal is **GRANTED**. The May 22, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11545 is **REVERSED and SET ASIDE**.

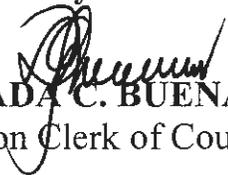
Accused-appellant Judy Malate y Reynoso is **ACQUITTED** of Illegal Sale and Possession of Drugs under Sections 5 and 11, Article II of Republic Act No. 9165 for failure of the prosecution to prove her guilt beyond reasonable doubt.

The Superintendent of the Correctional Institution for Women, Mandaluyong City is **ORDERED** to cause the immediate release of Judy Malate y Reynoso unless she is being held in custody for any other lawful reason, and to **REPORT** to this Court the action taken hereon within five days from receipt of this Resolution.

Let entry of final judgment be immediately issued.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

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(CA-G.R. CR-HC No. 11545)

The Superintendent (x)
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The Hon. Presiding Judge
Regional Trial Court, Branch 5
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(Crim. Case Nos. 14203 & 14204)

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