



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **09 March 2022** which reads as follows:*

“G.R. No. 256774 (Jun Dolor y Dimatatac @ “Katcho” v. People of the Philippines). – The Court resolves to **GRANT** petitioner Jun Dolor y Dimatatac’s¹ (petitioner) Motion for Extension of 30 days from the expiration of the reglementary period within which to file a petition for review on *certiorari*.

This resolves the Petition for Review on *Certiorari*² filed by petitioner assailing the Decision³ dated November 12, 2019 and the Resolution⁴ dated June 3, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 40796 which affirmed the Decision⁵ dated October 10, 2017 of the Regional Trial Court (RTC) of Batangas City, Branch 4 in Crim. Case No. 19276.

I

The prosecution’s version of the facts is as follows:

Petitioner is a detainee in the Batangas Provincial Jail for illegal possession of firearms and explosives. On November 20, 2014, he was allowed to leave the detention facility in order to visit his sick wife. He returned to the provincial jail in the afternoon and was subjected to a search for contraband per standard operating procedure, during which Provincial Guard 1 Gregorio Baldrias, Jr. (PG1 Baldrias) noticed a bulge in the watch

¹ Alias Katcho.

² *Rollo*, pp. 12-25.

³ *Id.* at 31-43. Penned by Associate Justice Gabriel T. Robeniol, and concurred in by Associate Justices Celia C. Librea-Leagogo and Ramon A. Cruz.

⁴ *Id.* at 45-46. Penned by Associate Justice Gabriel T. Robeniol, and concurred in by Associate Justices Ramon A. Cruz and Carlito B. Calpatura.

⁵ *Id.* at 62-65. Penned by Presiding Judge Albert A. Kalalo.

pocket of petitioner's pants. When PG1 Baldrias ordered petitioner to take out the contents of his pocket, the latter took out a tissue paper secured with electrical tape. Further inspection revealed that the tissue paper contained a plastic sachet containing what looked like *shabu*. Petitioner was taken to the security office where he was read his Miranda rights. The seized item was also marked with the guard's initials "GJB 11-20-14." The security officer informed the Batangas City Police Station of the incident, after which they took petitioner to the *barangay* hall of Cuta, Batangas City where the incident was recorded on the blotter. The inventory of the seized item was then conducted and photographed as witnessed by *Barangay Kagawad* Bernie Flores (Flores) and Mr. Rodel Espina (Espina), Evidence Custodian for the Office of the City Prosecutor of Batangas City. PG1 Baldrias turned over the seized item to Police Officer Norwin Ilustre (PO1 Ilustre), who in turn brought the evidence and petitioner to the Philippine National Police Regional Crime Laboratory for drug testing. Qualitative tests performed on the seized item found it positive for methamphetamine hydrochloride.⁶

Prosecution witnesses Flores and Espina no longer took the witness stand upon the parties' stipulation on their intended testimonies. The corroborative testimonies of Police Officer 3 Carlos Llegado, PO1 Ilustre, Police Officer 1 Durwin Tunitit, and Senior Police Officer 4 Joselito Mariano were likewise admitted by the defense. The prosecution also dispensed with the testimony of Forensic Chemist Maricel Fabros regarding the examination she conducted on the confiscated *shabu* as contained in Chemistry Report D-1403-14⁷ since it was likewise admitted by the defense.⁸

The defense's version of the facts is as follows:

Before leaving the provincial jail to visit his dying wife, petitioner was frisked by a security officer for contraband, but nothing was found. He was then escorted by six jail guards to his house in *Brgy. Alalum*, San Pascual, Batangas. Upon arrival, many of his relatives were already present. However, his escorts did not allow him to approach any of them, nor was he allowed to go to the restroom. He was able to approach his wife under the watchful eye of the escorts, but his wife had great difficulty talking. After more or less 30 minutes, they returned to the provincial jail where he was again subjected to a search. Petitioner was then surprised when *shabu* was found in his watch pocket considering that he had always been restricted by his escorts, and that he was wearing the same clothes as he did earlier. He was later subjected to a drug test which yielded a negative result.⁹

Petitioner was indicted under an Information which reads:

⁶ Id. at 32-33.

⁷ Id. at 33.

⁸ Id.

⁹ Id. at 33-34.

That on or about November 20, 2014 at around 4:00 in the afternoon inside the Batangas Provincial Jail, Brgy. Cuta, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there knowingly, willfully and criminally possess or have under his custody and control one (1) heat-sealed transparent plastic sachet weighing 0.61 gram of Methamphetamine Hydrochloride, more commonly known as “Shabu”, a dangerous drug, which is a clear violation of the above-cited law.

CONTRARY TO LAW.¹⁰

The trial court convicted petitioner of illegal possession of dangerous drugs under Section 11, Article II of Republic Act (R.A.) No. 9165 and sentenced him to suffer imprisonment of 12 years and one day to 17 years, and to pay a fine of ₱300,000.00 without subsidiary imprisonment in case of insolvency.¹¹

On appeal, petitioner assailed the trial court’s decision for giving full credence to the allegedly uncorroborated, implausible and self-serving testimony of PG1Baldrias, as well as the broken chain of custody, and failure of the prosecution to preserve the integrity and evidentiary value of the allegedly seized *shabu*.¹² The CA affirmed his conviction,¹³ finding that the prosecution presented credible evidence of his guilt, and that the integrity of the evidence was maintained throughout the chain of custody.¹⁴ The CA denied¹⁵ petitioner’s motion for reconsideration¹⁶ for merely reiterating the same arguments that it had already exhaustively passed upon.¹⁷

Hence, this Petition.

II

At the onset, We observe that the arguments raised are factual in nature. This Court, not being a trier of facts, is limited under a Rule 45 petition to a review of errors of law that may have been committed by the courts *a quo*. Accordingly, factual findings of the trial court including its evaluation of the credibility of witness testimonies, when affirmed by the appellate court, are binding on Us, save for a few recognized exceptions such as when the trial court is shown to have overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.¹⁸ The assessment of the credibility

¹⁰ Id. at 31-32.

¹¹ Id. at 65.

¹² Id. at 49.

¹³ Id. at 42.

¹⁴ Id. at 37-41.

¹⁵ Id. at 45-46.

¹⁶ Not attached to the petition.

¹⁷ *Rollo*, pp. 45-46.

¹⁸ *People v. Francica*, 817 Phil. 972, 991 (2017).

of witnesses, being properly within the domain of trial courts, is entitled to great respect absent a showing of the foregoing exceptions.¹⁹

The CA observed that the prosecution was able to establish an unbroken chain of custody over the *corpus delicti*, and accordingly, affirmed the trial court's finding that the integrity and evidentiary value thereof had been preserved.²⁰

However, the chain of custody rule, as enshrined in Section (Sec.) 21, Article II of R.A. No. 9165, as amended, is more than a just a to-do list or routing slip indicating various persons to whom the *corpus delicti* is turned over until the same reaches the court. It is a matter of substantive law which cannot be brushed aside as a simple procedural technicality.²¹ While failure to strictly comply therewith does not, *ipso facto*, render the seizure and custody over the illegal drugs void, the final proviso of Sec. 21(1), Art. II of R.A. No. 9165 requires that (a) there be justifiable ground for such noncompliance; and (b) the integrity and evidentiary value of the seized evidence be preserved.

In this case, it is undisputed that while the inventory was conducted in the presence of the accused, *Barangay Kagawad* Flores and Mr. Espina of the Department of Justice, the same was held at the *barangay* hall, contrary to what Sec. 21 requires, to wit:

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.* – xxx

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

x x x x (Emphases and underscoring supplied.)

¹⁹ *People v. Amistoso*, 701 Phil. 305, 356-357 (2013).

²⁰ *Rollo*, pp. 38-41.

²¹ *People v. Macapundag*, 807 Phil. 234, 244 (2017).

Since the prosecution did not provide any justifiable ground as to why the inventory was not conducted at the nearest police station or at the nearest office of the apprehending officer/team, non-compliance with the procedure laid down under R.A. No. 9165 negates the presumption of regularity accorded to acts undertaken by apprehending officers in the pursuit of their official duties.²²

In *People v. Cornel*,²³ the inventory was likewise conducted at the *barangay* hall. In attempting to justify the deviation, the prosecution witness explained that “[f]or security purposes and to prevent any damage, the arresting team decided to make the markings at the [*Barangay*] Hall xxx.”²⁴ However, We found such explanation to be insufficient and unjustifiable considering that the arresting team was composed of eight police officers, seven of whom were armed. Hence, they could have easily contained a commotion and proceeded with the immediate inventory of the seized item in order to comply with the law.²⁵ Accordingly, We acquitted the accused for failure of the prosecution to prove his guilt beyond reasonable doubt.²⁶

In stark contrast, the prosecution here did not even attempt to explain why the inventory was held at the *barangay* hall. It bears stressing that the justifiable ground for noncompliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.²⁷

For utter failure of the prosecution to prove a justifiable ground for their deviation in the conduct of the inventory, the integrity and evidentiary value of the seized item is seriously undermined and reasonable doubt has entered the mind of this Court, thus, warranting the acquittal of the accused.

WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated November 12, 2019 and the Resolution dated June 3, 2021 of the Court of Appeals in CA-G.R. CR No. 40796 are hereby **REVERSED** and **SET ASIDE**.

Petitioner Jun Dolor y Dimatatac @ “Katcho” is **ACQUITTED** of the crime charged for failure of the prosecution to prove his guilt beyond reasonable doubt. He is **ORDERED** immediately released from detention unless he is still serving his sentence for illegal possession of firearms and explosives or for some other lawful cause.

²² *People v. Dela Cruz*, G.R. No. 229053, July 17, 2019.

²³ 829 Phil. 645 (2018).

²⁴ *Id.* at 657.

²⁵ *Id.*

²⁶ *Id.* at 659.

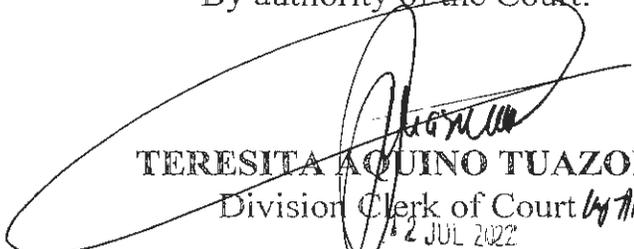
²⁷ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

Furnish the Director General of the Bureau of Corrections, Muntinlupa City with a copy of this Resolution for immediate implementation. The Director General of the Bureau of Corrections is **DIRECTED** to report to this Court, within five (5) working days from receipt of this Resolution, the action thus taken.

Let entry of judgment be issued immediately.

SO ORDERED.” (*Perlas-Bernabe, SAJ.*, on official business.)

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court
 2 JUL 2022

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THE DIRECTOR (x)
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HON. PRESIDING JUDGE (reg)
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 (Crim. Case No. 19276)

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