



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 15, 2022 which reads as follows:

“G.R. No. 257138 (*Jasmin Mangadang y Tampogao v. The People of the Philippines*). — The conviction of petitioner Jasmin Mangadang y Tampogao (Jasmin) for Violation of Sections 5¹ and 11,² Article II³ of Republic Act (RA) No. 9165⁴ is the subject of review in this Petition for Review on *Certiorari* (petition),⁵ assailing the Decision⁶ of the Court of Appeals (CA) dated October 30, 2020, and the Resolution⁷ dated June 7, 2021 in CA-G.R. CR-HC No. 13388, which affirmed the Joint Decision⁸ dated December 14, 2018 of the Regional Trial Court of Angeles City, Branch 60 (RTC).

At the outset, we note the following defects in the petition:

(1) The petition was filed out of time. Jasmin received a copy of the CA’s June 7, 2021 Resolution, denying her motion for reconsideration, on July 14, 2021. Under Section 2, Rule 45 of the Rules of Court, she had 15 days or until July 29, 2021, to file the petition. Here, the petition was filed on July 30, 2021, one day after it was due.

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¹ *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.*

² *Possession of Dangerous Drugs.*

³ UNLAWFUL ACTS AND PENALTIES.

⁴ Known and cited as the “Comprehensive Dangerous Drugs Act of 2002.”

⁵ *Rollo*, pp. 3-28.

⁶ *Id.* at 30-63. Penned by Associate Justice Apolinario D. Bruselas, Jr., with the concurrence of Associate Justices Marie Christine Azcarraga-Jacob and Tita Marilyn B. Payoyo-Villordon.

⁷ *Id.* at 64-65.

⁸ *Id.* At 67-81. Docketed as Criminal Cases Nos. R-ANG-18-02212-CR and R-ANG-18-02213-CR. Penned by Presiding Judge Eda P. Dizon-Era.

(2) Similarly, the docket fees and other lawful fees were belatedly paid considering that payment of the corresponding docket and other lawful fees shall be done at the time of the filing of the petition.

(3) The petition lacks proof of service of its copy to the Court of Appeals as required by Section 3, Rule 45 of the Rules of Court.

(4) A perusal of the Verification and Certification of Non-Forum Shopping⁹ shows that petitioner failed to sufficiently allege that the pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation pursuant to Section 4, Rule 7 of the 2019 Amendment to the 1997 Rules of Civil Procedure.¹⁰

(5) The affiant in the petition, as well as in the Verification and Certification of Non-Forum Shopping, Anna Lee K. Gomes, lacks proof of authority to cause the preparation of the pleading and to sign the verification and certification there being no special power of attorney made in her favor attached to the petition.

For these reasons, the petition warrants an outright denial.

In any case, the petition is devoid of merit. The prosecution was able to prove the guilt of Jasmin for illegal sale and illegal possession of dangerous drugs through the testimony of Police Officer II Adrian Rodriguez (PO2 Rodriguez), who identified her as the person from whom he was able to buy a plastic sachet of *shabu*, and thereafter recovered 11 more plastic sachets with white crystalline substance. After the sale, PO2 Rodriguez confiscated a small white South Star-marked plastic bag from Jasmin and found nine small plastic sachets and two medium plastic sachets with crystalline substance, all of which tested positive for methamphetamine hydrochloride or *shabu*. Jasmin freely and consciously possessed the prohibited drugs without authority by law.¹¹

Nonetheless, Jasmin invokes *People v. Yagao*,¹² and contends that there was no consummated sale of dangerous drugs. In the cited case, Yagao was acquitted due to the prosecution's failure to prove delivery of the dangerous drug to the poseur-buyer because the apprehending officers effected the arrest of Yagao as soon as he

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⁹ Id. at 28.

¹⁰ A.M. No. 19-10-20-SC 2019.

¹¹ *Rollo*, pp. 35-37.

¹² G.R. No. 216725, February 18, 2019.

pulled out the marijuana from his pocket. Diversely in this case, the sale between Jasmin and PO2 Rodriguez, as the poseur-buyer, was consummated after the exchange of one small transparent plastic from Jasmin and the marked ₱1,000.00-bill from PO2 Rodriguez.

Moreover, Jasmin's arguments, as to the incompleteness and inconsistencies in the testimonies of the prosecution witnesses, are misplaced. *First*, Jasmin asserts that PO2 Rodriguez's statement as to the time of her arrest casts doubt on her guilt for the crimes charged. She points out that PO2 Rodriguez's testimony – that the arrest was made at around 7:00 p.m. – contradicted the testimony of Barangay Kagawad Dela Cruz – that the inventory was done at 6:00 p.m. onwards. It is settled, however, that time is not a material element in crimes involving dangerous drugs.¹³ It is not even necessary to allege the date of the commission of the crime with absolute specificity or certainty in the Information. "The Rules of Court merely requires, for the sake of properly informing an accused, that the date of commission be approximated."¹⁴

Second, not all persons who came into contact with the seized drugs are required to testify in court. There is nothing in RA No. 9165, or its implementing rules, that imposes such requirement. As long as the chain of custody of the seized drug was clearly established not to have been broken, and that the prosecution did not fail to identify the drugs seized, it is not indispensable that each and every person who came into possession of the drugs should take the witness stand.¹⁵

Particularly, the non-presentation of the confidential informant as a witness does not ordinarily weaken the State's case against the accused, unless the confidential informant was given a vital role in the buy bust operation creating a situation that the elements of the crime may only be proved by the testimony of the informant.¹⁶ This is not the case here. Aside from pointing to Jasmin as the target and introducing PO2 Rodriguez to Jasmin, the confidential informant served no other purpose in the buy bust. In contrast, in *People v. Andaya*,¹⁷ it was the confidential informant who was designated to be the poseur-buyer while the police officers positioned themselves at a distance and waited for the informant's signal that the sale was

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¹³ *People v. Requiz*, 376 Phil. 750, 759 (1999).

¹⁴ *People v. Delfin*, 738 Phil. 811, 817 (2014).

¹⁵ *People v. Macaspac*, G.R. 246165, November 28, 2019.

¹⁶ *People v. Andaya*, 745 Phil. 237, 247-248 (2014).

¹⁷ *Supra*.

consummated. In effect, none of the buy bust team directly witnessed the transaction, and effected the arrest on the basis of the pre-arranged signal from the poseur-buyer. The Court ruled that it was only through the testimony of the confidential informant, as poseur-buyer, that the State can credibly incriminate the accused. Similarly, in *People v. Amin*,¹⁸ the confidential informant stood as the poseur-buyer. We emphasized the Court's pronouncement in *Andaya* that, the reliance on the supposed signal made by the informant/poseur-buyer to establish the consummation of the transaction between the poseur-buyer and the accused was unwarranted because the unmitigatedly hearsay character of the signal rendered it entirely bereft of trustworthiness; likewise, the reliance on the signal would deprive the accused-appellant of the right to confront and test the credibility of the poseur buyer who supposedly gave it.¹⁹

Furthermore, the RTC and the CA correctly ruled that the chain of custody over the seized drugs was continuous and unbroken. Satisfactory proof of the following links establish the movement and custody of the seized drug: *first*, the confiscation and marking of the specimen seized from the accused by the apprehending officer; *second*, the turnover of the seized item by the apprehending officer to the investigating officer; *third*, the investigating officer's turnover of the specimen to the forensic chemist for examination; and *fourth*, the submission of the item by the forensic chemist to the court.²⁰ We quote with approval the following discourse of the CA:

It can be gleaned from the evidence presented by the [prosecution] that PO2 Rodriguez narrated the first link in the chain of custody which includes the seizure of that sachets of shabu as a result of the buy-bust operation that caught [Jasmin] *in flagrante delicto* selling and possessing plastic sachets of *shabu*. PO2 Rodriguez further testified that he arranged the purchased and confiscated items on top of the back compartment of the white *Mitsubishi Montero* and proceeded with the marking and inventory of the items in the presence of [Jasmin], witnessed by Barangay *Kagawad* Dela Cruz and media representative Hipolito who were contacted by PSI Quiambao. PO2 Rodriguez narrated that the buy-bust team was also present during the marking and conduct of the inventory including the investigator-on-case SPO3 Sembrano who took the photographs of the confiscated articles and illegal drugs, marking, inventory and the signing of the inventory document by the witnesses. Significantly, PO2 Rodriguez positively identified in court the 12 plastic sachets of *shabu* with markings "ADR-S",

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¹⁸ 803 Phil. 557 (2017).

¹⁹ See *Id.* at 566, citing *People v. Andaya*, *supra* note 16, at 249.

²⁰ *People v. Bugtong*, 826 Phil. 628, 638-639 (2018); and *People v. Enad*, 780 Phil. 346, 353 (2016).

“ADR-1” to “ADR-11” as well as [Jasmin] whom he arrested during the buy-bust operation conducted on 01 September 2018. PO2 Rodriguez’s testimony is corroborated by the statements of Dela Cruz who arrived at the place of arrest to witness the marking and inventory of the seized items. To prove his presence, Dela Cruz identified himself and [Jasmin] in the photographs taken during the marking and inventory as well as his signature on the inventory document. The first link in the chain of custody was therefore proven.

x x x x

Based on his testimony, PO2 Rodriguez utilized the small, *Southstar Drug* plastic bag as evidence bag to secure the seized items after they were marked and inventoried and the said plastic bag was in his possession when the team, together with [Jasmin], traveled back to the police station. To the Court, the use of the *Southstar Drug* plastic bag that had been confiscated from [Jasmin] as evidence bag, which also bore PO2 Rodriguez’s marking, was substantial compliance with the [IRR of RA No. 9165] because it served the purpose of preventing the switching or contamination of the seized items since this was the same plastic bag from where the seized items had been found.

x x x x

Upon [the team’s] arrival at the police station, PO2 Rodriguez presented to duty investigator SPO3 Sembrano the pieces of evidence for the preparation of the corresponding documents for laboratory examination and drug test. It is worth noting that duty investigator SPO3 Sembrano was at the scene of the buy-bust operation and was the one who took the photographs that showed the seized items, the marking and conduct of inventory in the presence of [Jasmin] and the witnesses. Thereafter, the same pieces of evidence were returned to PO2 Rodriguez to be delivered to the crime laboratory for examination. The fact that investigator-on-case SPO3 Sembrano returned to PO2 Rodriguez the pieces of evidence is bolstered by the latter’s signature on the stamp portion of the request for laboratory examination that signified PO2 Rodriguez having retained possession of the seized items to personally deliver them to the crime laboratory office. PO2 Rodriguez’s testimony, supported by documentary evidence, clearly proved the second link in the chain of custody x x x.

The unbroken chain of custody continued when PO2 Rodriguez personally delivered the request for laboratory examination, together with the specimens, to the crime laboratory office which was a mere twenty (20) meters away from the police station. The delivery and receipt of the requests and specimens are bolstered by PO2 Rodriguez’s and SPO2 Medina’s name and signature on the [Angeles City Crime Laboratory Office] ACCLLO

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stamp placed on the upper right portion of the request for laboratory examination. Based on the time indicated on the second stamp of ACCLO's Chemistry Section, it took only five (5) minutes for SPO2 Medina to transmit the same request and specimens to the forensic chemist PCI Timario. x x x.

x x x x

[I]n lieu of the testimony of forensic chemist PCI Timario, the parties stipulated on the delivery, receipt and examination of the specimens by PCI Timario and that the results of the forensic chemical examination of the specimens showed positively the presence of *methamphetamine hydrochloride* or *shabu*. x x x.

The fourth and last link in the chain of custody remained unbroken. Upon subpoena by the trial court, PO2 Lodelfo Marcial of the ACCLO submitted to the court the original copies of the laboratory examination result signed by PCI Timario and the request for laboratory examination signed by PSI Quiambao. Attached to the documents was a plastic pouch marked with "D-390-2018 (ACCLO)" that contained the sachets of *shabu*. The marked pieces of evidence were turned over to the officer-in-charge of the court for recording and presentation to the court.²¹

In *People v. Macaspac*,²² citing *People v. Galicia*,²³ the Court declared that the prosecution's failure to present the forensic chemist to testify on how the seized items were handled and taken into custody was not fatal to the admissibility of the seized drugs. What is important is the preservation of the integrity and the evidentiary value of the seized items to determine the guilt or innocence of the accused,²⁴ as in this case. Inarguably, the identity and integrity of the confiscated *shabu* was preserved from the time of seizure from Jasmin up to the time that they were turned over to the crime laboratory for examination, and until presentation as evidence in court.

Besides, both the RTC and the CA gave credence to the testimony of the prosecution witnesses and found no malice or ill will on their part to falsely charge Jasmin. In cases involving violations of RA No. 9165, the narration of the incident by the prosecution should be given great weight and credibility, especially when they are police officers who are not only presumed but have been clearly shown to have performed their official duty in a regular manner.²⁵

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²¹ *Rollo*, pp. 54-60.

²² *Supra* note 15.

²³ 826 Phil. 119 (2018).

²⁴ *People v. Macaspac*, *supra* note 15.

²⁵ *People v. Baterina*, G.R. No. 236259, September 16, 2020.

Nevertheless, we find it necessary to modify the penalty imposed in that the phrase “without eligibility for parole” must be omitted. In A.M. No. 15-08-02-SC,²⁶ this Court set the guidelines for the use of the phrase “without eligibility for parole” only in cases where the death penalty is warranted, but is not imposed because of R.A. No. 9346; otherwise, there is no need to use the phrase “without eligibility for parole” when the penalty is life imprisonment.²⁷

FOR THESE REASONS, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated October 30, 2020 and the Resolution dated June 7, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 13388 – convicting petitioner Jasmin Mangadang y Tampogao of Violation of Sections 5 and 11, Article II of Republic Act No. 9165 and sentencing her with life imprisonment and imposing a fine of ₱500,000.00 for each offense – is **AFFIRMED** with **MODIFICATION** in that the phrase “without eligibility for parole” is **DELETED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA,
Division Clerk of Court⁴¹⁰

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Manila
(CA-G.R. CR No. 13388)

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²⁶ Entitled “GUIDELINES FOR THE PROPER USE OF THE PHRASE ‘WITHOUT ELIGIBILITY FOR PAROLE’ IN INDIVISIBLE PENALTIES,” dated August 4, 2015

²⁷ *People v. Bartolome, Jr.*, G.R. No. 250132 (Notice), November 16, 2020.



The Hon. Presiding Judge
Regional Trial Court, Branch 60
Angeles City, 2009 Pampanga
(Crim. Case No. R-ANG-02212-CR)

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