



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated July 4, 2022 which reads as follows:*

“**G.R. No. 248531 (*People of the Philippines v. Kevin Dayap*)** – This Court resolves an appeal<sup>1</sup> from the Decision<sup>2</sup> dated March 19, 2019 of the Court of Appeals (*CA*) finding accused-appellant Kevin Dayap (*Dayap*) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (*R.A.*) No. 9165,<sup>3</sup> as amended, the dispositive portion of which reads:

**WHEREFORE**, premises considered, the instant appeal is hereby **DENIED**. The Consolidated Judgment dated December 11, 2017 of the Regional Trial Court (*RTC*), Branch 5, Legazpi City in Criminal Case No. 13781 is **AFFIRMED**.

**SO ORDERED.**<sup>4</sup>

*The Antecedents*

Dayap was charged with violation of Sections 5, 11, and 12 Article II of R.A. No. 9165, as amended, and violation of R.A. No. 10591<sup>5</sup> in four separate Informations,<sup>6</sup> thus:

Criminal Case No. 13781  
(For Violation of Section 5, Article II of R.A. No. 9165)

That on the 24<sup>th</sup> day of July, 2016, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and criminally sell, to PO2 Randy C. Casais, a poseur buyer, one (1) piece heat-sealed transparent plastic sachet containing white crystalline substance with a net weight of 0.154 gram, and marked as RCC 7/24/16 in consideration of Five hundred (Php500.00) pesos which when subjected to laboratory examination contains METHAMPHETAMINE HYDROCHLORIDE or “SHABU”, a dangerous drug.

<sup>1</sup> *Rollo*, p. 22.

<sup>2</sup> Penned by Associate Justice Ramon R. Garcia, with Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Robeniol, concurring; *id.* at 3-21.

<sup>3</sup> Otherwise known as the Dangerous Drugs Act of 2002.

<sup>4</sup> *Rollo*, p. 20.

<sup>5</sup> Otherwise known as the Comprehensive Firearms and Ammunition Regulation Act.

<sup>6</sup> *RTC records*, p. 1.

Contrary to law.<sup>7</sup>

Criminal Case No. 13782

(For violation of Section 11, Article II of R.A. No. 9165)

That on the 24<sup>th</sup> day of July, 2016, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and criminally have in his possession Six (6) heat-sealed transparent sachets, to wit:

RCC-1A 7/24/16- 0.330 gram  
 RCC-2A 7/24/16- 0.407 gram  
 RCC-3L1 7/24/16- 3.685 gram  
 RCC 3L2 7/24/16-0.310 gram  
 RCC-3L3 7/24/16-0.167 gram  
 RCC-3L4 7/24/16-0.212 gram

Having a total weight of 5.111 grams, which when subjected to laboratory examination contains METAMPHETAMINE HYDROCHLORIDE or "SHABU", a dangerous drug without authority of law.

Contrary to law.<sup>8</sup>

Criminal Case No. 13783

(For violation of Section 12, Article II of R.A. No. 9165)

That on the 24<sup>th</sup> day of July, 2016, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody the following drug paraphernalia, which are fit or intended to be used for consuming or ingesting metamphetamine hydrochloride or shabu, a dangerous drug, into the body, to wit:

Two (2) syringe needles marked with RCC-30 7/24/16 and RCC 31 7/24/16 respectively  
 Two (2) pieces disposable lighter color green and blue marked with RCC-3E 7/24/16  
 One (1) improvised gloss tooter marked with RCC-3H 7/24/16

Contrary to law.

Criminal Case No. 13784

(For violation of Section 28 (g) of R.A. No. 10591)

That on the 24<sup>th</sup> day of July 2016, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, and under his custody and control two (2) caliber 9mm live ammunition with markings RCC-3M1

<sup>7</sup> *Id.*

<sup>8</sup> CA rollo, pp. 41-42.

7/24/16 and RCC-3M2 7/24/16 respectively, without authority/ license to carry or to possess the same and without pertinent papers as to its legality.

Contrary to law.<sup>9</sup>

Upon arraignment, Dayap pleaded not guilty to the charges. Pre-trial commenced, and thereafter, trial proceeded. The prosecution presented the following witnesses, namely: Police Officer 2 Randy C. Casais (*PO2 Casais*), and Police Senior Inspector Wenifredo V. Padilla (*PSI Padilla*). For the defense, Dayap was the lone witness. The testimonies of the Department of Justice (*DOJ*) representative Jesus Arsenio Aragon (*Aragon*),<sup>10</sup> Barangay Captain Jonathan Rodenas (*Brgy. Captain Rodenas*),<sup>11</sup> Police Officer 1 Angelo Josef B. Balderama (*PO1 Balderama*),<sup>12</sup> forensic chemist Police Senior Inspector Vina Zarina M. Zaldua-Cunom (*PSI Zaldua-Cunom*),<sup>13</sup> Police Officer 2 Evangeline Hilis Baitan (*PO2 Baitan*),<sup>14</sup> and Police Officer 3 Angelo Serrano Villanueva (*PO3 Villanueva*)<sup>15</sup> were dispensed with by the parties.

According to the prosecution witnesses, on July 24, 2016, PO2 Casais received a tip from a confidential informant that Dayap was engaged in selling illegal drugs at his residence in Valencia Apartment, Washington Drive, Legazpi City. The confidential informant claimed that he was able to purchase illegal drugs from Dayap thrice. A buy-bust team was formed and PO2 Casais was designated as the poseur-buyer.<sup>16</sup> On the same day, the team proceeded to Dayap's residence. At the gate of Dayap's residence, the confidential informant introduced PO2 Casais as a buyer of drugs. Dayap then asked for the payment. PO2 Casais thereafter handed the ₱500.00 buy-bust money. Dayap placed the money inside the left back pocket of his shorts and took one heat-sealed transparent plastic sachet containing white crystalline substance from his sling bag and handed the same to PO2 Casais. After inspecting the sachet, PO2 Casais executed the pre-arranged signal by taking off his cap. Dayap tried to evade arrest by closing the gate of his residence but PO2 Casais was able to chase him inside a room at the Valencia Apartment and arrested him.<sup>17</sup>

At the scene of the crime, Brgy. Captain Rodenas and DOJ representative Aragon witnessed PO2 Casais mark the plastic sachet as "RCC 7/24/16." PO2 Casais conducted a body search on Dayap and found the ₱500.00 buy-bust money and two plastic sachets containing white crystalline substance which he marked as "RCC-1A 7/24/16" and "RCC-2A 7/24/16."<sup>18</sup>

<sup>9</sup> *Id.* at 43-44.

<sup>10</sup> RTC records, 99-100.

<sup>11</sup> *Id.* at 101-102.

<sup>12</sup> *Id.* at 103-104.

<sup>13</sup> *Id.* at 105-106.

<sup>14</sup> *Id.* at 107-108.

<sup>15</sup> *Id.* at 109-110.

<sup>16</sup> *Rollo*, p. 7.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 7-8.

PO2 Casais also searched the sling bag worn by Dayap and recovered the following: one pouch containing four heat-sealed transparent plastic sachets containing white crystalline substance; and one black pouch containing two live ammunition for a Caliber 9mm. Drug paraphernalia consisting of one improvised glass tooter, two syringe needles, one stainless cutter, one glass tube, two pieces of disposable lighter, four stainless scissors, one digital weighing scale, and one crumpled aluminum foil were also found in his bag. The items were inventoried and photographed at the police station in the presence of Brgy. Captain Rodenas and DOJ representative Aragon, as evidenced by the Certificate of Inventory/Receipt of Property Seized.<sup>19</sup>

PO2 Casais personally brought the plastic sachets to the Provincial Laboratory Office in Naga City and were received by forensic chemist PSI Zaldua-Cunom. Thereafter, she conducted the qualitative examination on the purported drugs confiscated. Based on Chemistry Report No. D-434-2016-CJ,<sup>20</sup> these tested positive for methamphetamine hydrochloride or *shabu*.<sup>21</sup>

Dayap denied the allegations against him and maintained that he was framed-up. He claimed that at the time of the incident, he was driving when he was suddenly blocked by two men on board a motorcycle who pointed a gun at him. They allegedly struck his nape with the gun. He averred that they covered his head with an eco-bag and brought him to his apartment where they continued to hit him. He alleged that they made him wear a sling bag and put several items in his pocket. After about 30 minutes, the DOJ representative and *barangay* captain arrived. Thereafter, he was brought to the police station where the inventory took place. He admitted that during his medical check-up, he did not inform the physician about the hitting incident, upon the instruction of the police. He also did not file a complaint against the police.<sup>22</sup>

On December 11, 2017, the Regional Trial Court, Branch 5, Legazpi City (*RTC*) rendered its Consolidated Judgment,<sup>23</sup> the dispositive portion of which states:

**WHEREFORE**, the Court renders judgment as follows:

- a.) In Criminal Case No.13781, the Court finds accused Kevin Dayap guilty beyond reasonable doubt of the crime of illegal selling of Methamphetamine Hydrochloride or Shabu, proscribed and penalized under Sec. 5, Article II, of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Considering the abolition of the death penalty under Republic Act No. 9346, the accused is sentenced to suffer the penalty of life imprisonment, and to pay a fine of Five Hundred Thousand Pesos ([P]500,000.00.)

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<sup>19</sup> *Id.* at 8; Records, p. 128

<sup>20</sup> Records, p. 134.

<sup>21</sup> *Id.*

<sup>22</sup> *Rollo*, p. 11.

<sup>23</sup> Penned by Judge Frank E. Lobrigo; *CA rollo*, pp. 64-71.

b.) In Criminal Case numbered 13782, 13783, & 13784 are dismissed for insufficiency [sic] evidence.

Conformably with Supreme Court Circular No. 4-92-A, the Court directs the issuance of *mittimus* for the immediate remission of the accused to the Bureau of Corrections, Muntinlupa City.

The Court further directs the Branch Clerk of Court, with the assistance of the Clerk III in charge of criminal cases, to transmit the drug evidence submitted by the prosecution to the Dangerous Drugs Board, or the PDEA, Regional Office No. 5, Legazpi City, immediately upon the promulgation of this consolidated judgment, for destruction in accordance with the law, rules, or regulation. The Court directs the Dangerous Drugs Board, or the PDEA, to submit to the Court a report on the destruction of the drug evidence within Five (5) days thereof.

Further, the Two live ammunitions are forfeited in favor of the State, and are directed to be turned over to the Firearms and Explosives Office of the Philippine National Police, Regional Office No. V, Camp Simeon Ola, Legazpi City who shall dispose of them in accordance with pertinent rules and regulations.

**SO ORDERED.**<sup>24</sup>

In Criminal Case No. 13781, the RTC held that the elements of illegal sale of dangerous drugs were proven beyond reasonable doubt. The identity of the seller and poseur-buyer, as well as the object of the sale, and the consideration were also established. The RTC found that the chain of custody of the seized drugs was sufficiently demonstrated and that its integrity was not compromised.<sup>25</sup> Thus, the RTC convicted Dayap of the crime of illegal sale of dangerous drugs penalized under Section 5, Article II, of R.A. No. 9165 and sentenced him to suffer the penalty of life imprisonment, and to pay a fine of ₱500,000.00.<sup>26</sup>

As regards the sachets of *shabu* and the live ammunitions found inside the sling bag, the RTC ruled that these are inadmissible as they were obtained through an unreasonable search. The RTC explained that the police had no valid justification to search the sling bag without a warrant incidental to a warrantless arrest because the bag *per se* is not a contraband. For the RTC, while PO2 Casais had knowledge that the accused took the *shabu* from the sling bag, it is not sufficient basis to conduct a warrantless search. It was only a probable cause for an application for a search warrant and a justification to take custody of the sling bag, preserve its integrity, and apply for a search warrant.<sup>27</sup> Hence, in Criminal Case Nos. 13782, 13783, and 13784 for violation of Sections 11 and 12, Article II, R.A. No. 9165, and violation of

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<sup>24</sup> *Id.* at 71.

<sup>25</sup> *Id.* at 69-70.

<sup>26</sup> *Id.* at 71.

<sup>27</sup> *Id.* at 70.

Section 28(g), R.A. No. 10591, the charges against Dayap were dismissed for insufficiency of evidence.<sup>28</sup>

Dayap filed an appeal with the CA, which was denied in a Decision<sup>29</sup> dated March 19, 2019. In affirming Dayap's conviction, the CA gave credence to the testimony of poseur-buyer PO2 Casais, which was reinforced by Chemistry Report No. D-434-2016-CS.<sup>30</sup> The CA also iterated that the warrantless arrest effected upon Dayap was legally justified since he was apprehended *in flagrante delicto* during a legitimate buy-bust operation.<sup>31</sup>

The CA also stressed that there was no break in the chain of custody over the illegal drugs and that the integrity and evidentiary value of the evidence seized were duly preserved.<sup>32</sup> The CA noted that at the scene of the crime, PO2 Casais marked the sachet bought from Dayap in the presence of Brgy. Captain Rodenas and DOJ representative Aragon. The seized items remained in the custody of PO2 Casais until the buy-bust team and Dayap reached the police station. The confiscated items were presented to the police investigator and were inventoried and photographed in the presence of Dayap, Brgy. Captain Rodenas, and Aragon.<sup>33</sup> Thereafter, PO2 Casais personally delivered the seized illegal drugs, together with the request for laboratory examination, to the Provincial Laboratory Office in Naga and was received by forensic chemist PSI Zaldua-Cunom. After conducting confirmatory tests, the specimens were turned over to evidence custodian PO2 Alex Purisima. In turn, PSI Zaldua-Cunom retrieved the items from PO2 Purisima and turned them over to the Assistant City Prosecutor for submission to the trial court.<sup>34</sup>

Aggrieved, Dayap filed a Notice of Appeal.<sup>35</sup> The parties were thereafter notified to file their supplemental briefs.<sup>36</sup> However, Dayap opted not to file his supplemental brief as he believes that he already adequately argued all matters pertinent to his defense in his brief.<sup>37</sup> For its part, the Office of the Solicitor General manifested that it will no longer file a supplemental brief.<sup>38</sup>

### *Issue*

The issue to be resolved here is whether the evidence of the prosecution was sufficient to convict Dayap of illegal sale of *shabu*, in violation of Section 5 of R.A. No. 9165, as amended.

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<sup>28</sup> *Id.* at 71.

<sup>29</sup> *Supra* note 1.

<sup>30</sup> *Id.* at 15-17.

<sup>31</sup> *Id.* at 17.

<sup>32</sup> *Id.* at 18.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> CA rollo, pp. 133-135.

<sup>36</sup> Rollo, p. 29.

<sup>37</sup> *Id.* at 37.

<sup>38</sup> *Id.* at 32-33.

### *Our Ruling*

The appeal is meritorious. The integrity and evidentiary value of the dangerous drugs allegedly seized from the accused-appellant were not properly preserved in compliance with Section 21 of R.A. No. 9165, as amended.

Accused-appellant essentially assails that the evidence presented by the prosecution did not comply with Section 21 of R.A. No. 9165, as amended, and the integrity and evidentiary value of the seized items were not properly preserved. These are evidently factual because a careful examination of the evidence on record is required. It is settled that, as a rule, the trial court's findings of fact are entitled to great weight and will not be disturbed on appeal. Nonetheless, this rule does not apply where facts of weight and substance have been overlooked, misapprehended, or misapplied in a case under appeal.<sup>39</sup> After a judicious examination of the records, this Court found material facts and circumstances that the RTC had overlooked or misappreciated which, if properly considered, would justify a different conclusion.

To sustain a conviction for illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165, the following elements must be established: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor. It is essential that the sale transaction of drugs actually took place and that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the accused.<sup>40</sup>

In cases involving illegal sale of dangerous drugs under R.A. No. 9165, "the identity of the dangerous drug must be established with moral certainty as the dangerous drug itself forms an integral part of the *corpus delicti* of the crime."<sup>41</sup> Failure to prove the integrity of the *corpus delicti* renders the drugs seized insufficient to prove the guilt of the accused beyond reasonable doubt, thus warranting an acquittal. If the offense was committed after August 7, 2014, the date when R.A. No. 10640 which amended R.A. No. 9165, took effect, as in this case, R.A. No. 10640 shall govern.<sup>42</sup> The governing provision in R.A. No. 10640 states:

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<sup>39</sup> *People v. Gonzales*, G.R. No. 233544, March 25, 2019, citing *People v. Robles*, 604 Phil. 536, 543 (2009).

<sup>40</sup> *Tolentino v. People*, G.R. No. 227217, February 12, 2020, citing *People v. Ismael*, 806 Phil. 21, 29 (2017).

<sup>41</sup> *People v. Crispo*, 828 Phil. 416, 429 (2018).

<sup>42</sup> *Plan, Jr. v. People*, G.R. No. 247589, August 24, 2020, citing *People v. Gutierrez*, 842 Phil. 681 (2018). R.A. No. 10640, which was approved on July 15, 2014, states that it shall "take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation." Accordingly, a copy of the law was published on July 23, 2014 in the respective issues of "The Philippine Star" (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and the "Manila Bulletin" (Vol. 499, No. 23; World News section, p. 6); hence, RA 10640 became effective on August 7, 2014. (See also *People v. Santos*, G.R. No. 243627, November 27, 2019).

SECTION 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, 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

Based on the quoted provision, the presence of the following insulating witnesses is required during the conduct of physical inventory and photograph: (1) a representative from the media or DOJ; and (2) any elected public official. The presence of these witnesses during the marking of the seized items is critical in drugs cases and the unjustified absence of any of these witnesses cast serious doubt on the integrity and evidentiary value of the seized items. While Brgy. Captain Rodenas and DOJ representative Aragon witnessed the marking of evidence, there is still serious doubt on the integrity and evidentiary value of the items seized.

To establish the identity of the dangerous drug seized with moral certainty, the following links in the chain of custody must be established:

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 submission of the marked illegal drug seized by the forensic chemist to the court.**<sup>43</sup>

Each link in the chain of custody must be established to ensure that the integrity and evidentiary value of the seized item are preserved. Indeed, PO2 Casais had possession of the *shabu* from the time of confiscation of the subject drugs until turnover for laboratory examination.

However, it is unclear whether the second link was sufficiently established. The second link in the chain of custody pertains to the turnover of the seized drugs by the apprehending officer to the investigating officer. In *People v. Hementiza*,<sup>44</sup> this Court explained that:

[u]sually, the police officer who seizes the suspected substance turns it over to a supervising officer, who will then send it by courier to the police crime laboratory for testing. This is a necessary step in the chain of custody because it will be the investigating officer who shall conduct the proper investigation and prepare the necessary documents for the developing criminal case. Certainly, **the investigating officer must have possession of the illegal drugs to properly prepare the required documents.**<sup>45</sup> (Emphasis supplied)

In the present case, PO2 Casais maintains that upon reaching the police station, he kept the seized drugs inside the evidence room before turning it over to the crime laboratory.<sup>46</sup> In certain cases, the apprehending officer and investigating officer may be the same. In such case, he could have just manifested that he was the one who conducted the investigation and prepared the necessary documents for the filing of a criminal case against accused-appellant. However, this Court notes that the Request for Laboratory Examination was made by another officer, Police Chief Inspector Dixon B. Berango (*PCI Berango*). However, he was not mentioned at any point during the testimony of PO2 Casais. It is difficult to believe that an officer who claims to have been in possession of the seized drugs from the moment of confiscation until turnover to the crime laboratory did not know that another officer, PCI Berango, also had custody of the same as the requesting party in the Request for Laboratory Examination.<sup>47</sup> Even if PCI Berango's custody over the seized drugs was only momentary, this should have been properly documented to preserve the integrity and evidentiary value of the seized drugs.

Moreover, it is uncertain whether the drugs brought to court and identified by PO2 Casais are the same drugs purportedly turned over to the forensic chemist for confirmatory examination.

<sup>43</sup> *People v. Siaton*, 789 Phil. 87, 98-99 (2016). (Emphasis supplied).

<sup>44</sup> 807 Phil. 1017 (2017).

<sup>45</sup> *Id.* at 1034. (Emphasis supplied).

<sup>46</sup> TSN, July 17, 2017, p. 15.

<sup>47</sup> Records, p. 135.

As a rule, the forensic chemist must testify to show compliance with the fourth link. However, in *People v. Pajarin*,<sup>48</sup> this Court recognized that:

as a rule, the police chemist who examines a seized substance should ordinarily testify that [they] received the seized article as marked, properly sealed and intact; that [they] resealed it after examination of the content; and that [they] placed [their] own marking on the same to ensure that it could not be tampered pending trial. **In case the parties stipulate to dispense with the attendance of the police chemist, they should stipulate that the latter would have testified that [they] took the precautionary steps mentioned. Here, the record fails to show this.**<sup>49</sup>

In order to properly dispense with the testimony of the forensic chemist, the following information must be included in the agreed stipulations by the parties: (1) [they] received the seized article as marked, properly sealed and intact; (2) [they] resealed it after examination of the content; and (3) [they] placed [their] own marking on the same to ensure that it could not be tampered pending trial. In case any of the foregoing stipulations are lacking, the fourth link cannot be established and the accused must be acquitted.<sup>50</sup>

In the present case, the testimony of PCI Zaldua-Cunom was dispensed with and, in lieu thereof, the parties agreed to the following stipulations:

1. That P/S Insp. Vina Zarina M. Zaldua-Cunom was a forensic chemist of the Philippine National police, Camarines Sur Provincial Crime laboratory Office, Concepcion Grande, Naga City on 25 July 2016;
2. That on such date, she received a Request for Laboratory Examination dated July 24, 2016 marked Exhibit "G", together with seven (7) piece/s specimen/s marked Exhibits "O", "P", "P-1", "P-2", "P-3", "P-4" and "P-5";
3. The witness conducted qualitative examination of the specimens;
4. She also conducted confirmatory examination of the specimens;
5. She reduced her findings in writing and issued an "Initial Laboratory Report" marked Exhibit "E" for purposes of inquest and thereafter issued Chemistry Report No. D-434-2016-CS marked Exhibit "F";
6. That after the examination, she turned-over the specimens to the Evidence custodian of the Camarines Sur Provincial Crime Laboratory Office, PO2 Alex Purisima, and thereafter retrieved said specimens from the same custodian for turn-over to Prosecutor Charo Marie A. Arjona-Tena by virtue of a *Subpoena*;
7. That she turned-over the specimens to Prosecutor Charo Marie A. Arjona-Tena on 21 June 2018 at 10:13 in the morning at the Office of the City Prosecutor, Hall of Justice, Rawis, Legazpi City as evidenced by a Chain of Custody Form duly signed by the witness and Prosecutor Tena, Marked Exhibit S;
8. That the witness does not know the provenance of the drug evidence subject of her examination.<sup>51</sup>

<sup>48</sup> 654 Phil. 461 (2011).

<sup>49</sup> *Id.* at 466.

<sup>50</sup> *Id.*; citing *People v. Leano*, G.R. No. 246461, July 28, 2020; *People v. Ubungen*, 836 Phil. 888, 901 (2018).

<sup>51</sup> RTC records, pp. 105-106. (Italics in the original).

It can be deduced from the foregoing that while the parties stipulated as to the manner the seized articles were received by the forensic chemist and the process undergone to reach the results stated in the chemistry report, noticeably absent are the stipulations on the manner by which the seized items were managed, stored, preserved, and handled at the crime laboratory after being turned over to the forensic chemist. Furthermore, conspicuously lacking is information on the condition of the seized items, particularly whether it was properly sealed and intact upon turnover. This information is crucial in addressing allegations that the drugs seized were tampered with, or compromised at any stage of the chain of custody. Thus, this Court finds that the fourth link was not established with moral certainty.

Although Dayap's denial of the charges against him and his claim that he was framed-up was uncorroborated by any convincing evidence, the apparent weakness of his defense does not add any strength nor can it help the prosecution's cause. If, in the first place, the prosecution cannot establish his guilt beyond reasonable doubt, the need for the defense to adduce evidence in its behalf never arises. However weak the defense evidence might be, the prosecution's whole case still falls. The evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense.<sup>52</sup> To this Court's mind, the prosecution failed to prove compliance with the stringent rules and requirements governing chain of custody.

This Court has acknowledged that "in some instances[,] law enforcers resort to the practice of planting evidence to extract information or even to harass civilians."<sup>53</sup> Thus, this Court must be extra vigilant in trying drugs cases. The presumption of regularity in the performance of the arresting officer's duty cannot prevail over the constitutional presumption of innocence of the accused.<sup>54</sup> In this case, this Court finds that the integrity and evidentiary value of the *shabu* purportedly seized from accused-appellant were compromised, thus necessitating his acquittal.

**FOR THESE REASONS**, the appeal is **GRANTED**. The Decision of the Court of Appeals dated March 19, 2019 is **REVERSED** and **SET ASIDE**. Accused-appellant Kevin Dayap is **ACQUITTED** in Criminal Case No. 13781 for violation of Section 5, Article II of R.A. No. 9165. He is **ORDERED** to be **IMMEDIATELY RELEASED** from detention unless he is being held for some other valid or lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is **DIRECTED** to **REPORT** the action

<sup>52</sup> *People v. Sanchez*, 590 Phil. 214, 244 (2008).

<sup>53</sup> *People v. Gonzales y Vital*, G.R. No. 233544, March 25, 2019 citing *People v. Bintaib*, 829 Phil. 13, 25-26 (2018).

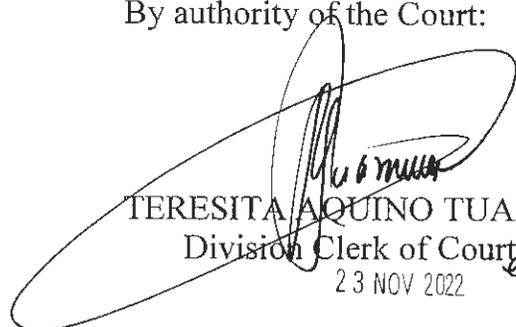
<sup>54</sup> *Id.* at 26.

he has taken to this Court within five (5) days from receipt of this Resolution. Copies shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Let entry of final judgment be issued immediately.

**SO ORDERED.**"

By authority of the Court:

  
 TERESITA AQUINO TUAZON  
 Division Clerk of Court  
 23 NOV 2022

POLICE GENERAL (reg)  
 Philippine National Police  
 National Headquarters  
 Camp Crame, Quezon City

PUBLIC ATTORNEY'S OFFICE (reg)  
 Special & Appealed Cases Service  
 Department of Justice  
 PAO-DOJ Agencies Building  
 NIA Road corner East Avenue  
 1104 Diliman, Quezon City

HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 5  
 Legazpi City, Albay  
 (Crim. Case Nos. 13781, 13782, 13783 and 13784)

OFFICE OF THE SOLICITOR GENERAL (reg)  
 134 Amorsolo Street  
 1229 Legaspi Village  
 Makati City

JUDGMENT DIVISION (x)  
 Supreme Court, Manila

KEVIN DAYAP (x)  
 Accused-Appellant  
 c/o The Director  
 Bureau of Corrections  
 1770 Muntinlupa City

PUBLIC INFORMATION OFFICE (x)  
 LIBRARY SERVICES (x)  
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THE DIRECTOR (x)  
 Bureau of Corrections  
 1770 Muntinlupa City

OFFICE OF THE CHIEF ATTORNEY (x)  
 PHILIPPINE JUDICIAL ACADEMY (x)  
 Supreme Court, Manila

THE DIRECTOR GENERAL (reg)  
 Philippine Drug Enforcement Agency  
 National Government Center  
 NIA Northside Road Brgy. Pinyahan  
 Quezon City

COURT OF APPEALS (x)  
 Ma. Orosa Street  
 Ermita, 1000 Manila  
 CA-G.R. CR-HC No. 10458

*Please notify the Court of any change in your address.*  
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