



M. Aquino

**Republic of the Philippines
Supreme Court
Manila**

THIRD DIVISION

N O T I C E

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 27, 2022, which reads as follows:

“G.R. No. 252550 (*People of the Philippines v. Farhena Jailani y Salham*). – Before this Court is an appeal from the Decision¹ dated November 8, 2019 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 10543 affirming the Decision² dated November 2, 2017 rendered by the Regional Trial Court (RTC) of Quezon City, Branch 82 in Criminal Case No. R-QZN-15-01607-CR, which found Farhena Jailani y Salham (accused-appellant) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

ANTECEDENTS

In an Information³ dated February 16, 2015, accused-appellant was charged in this manner:

That on or about the 14th day of February, 2015 [sic], in Quezon City, Philippines, the said accused, without lawful authority, did then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, a dangerous drug, to wit: fifty-one point ninety-five (51.95) grams of white crystalline substance containing Methamphetamine hydrochloride, a dangerous drugs [sic].

CONTRARY TO LAW.⁴

When arraigned on March 6, 2015, accused-appellant pleaded “not guilty.”⁵ The pre-trial conference was held on even date where the parties agreed, among others, to dispense with the testimonies of the forensic chemist, Police Chief Inspector (PCI) Anamelisa Bacani (PCI Bacani), and the duty investigator, Police Officer (PO) 3 Warlito Cagurungan (PO3 Cagurungan),

¹ *Rollo*, pp. 3-18; penned by Associate Justice Ricardo R. Rosario (now a Member of this Court), with Associate Justices Zenaida T. Galapate-Laguilles and Walter S. Ong, concurring.

² CA *rollo*, pp. 53-67; penned by Presiding Judge Lyn Ebora-Cacha.

³ Records, pp. 1-2.

⁴ *Id.* at 1.

⁵ *Id.* at 28.

after making a stipulation of facts thereon.⁶ Then, trial on the merits ensued.

Version of the Prosecution

Pieced together from the testimonies of PO3 Eladio N. Pamittan (PO3 Pamittan) and PO3 Fernando Salonga (PO3 Salonga), the parties' stipulation on the testimonies of PCI Bacani and PO3 Cagurungan, as well as the documentary and object evidence presented, the prosecution's account of the events is as follows:

On February 12, 2015, a confidential informant first came to the District Anti-Illegal Drugs-Special Operation Task Group (DAID-SOTG) office in Quezon City⁷ to relay about the illegal drug peddling activities of a certain Farhena, later on identified as accused-appellant, in Barangay Pinyahan, Quezon City.⁸ Because of which, a buy-bust operation was planned⁹ and coordinated with the Philippine Drug Enforcement Agency (PDEA).¹⁰

However, it was not until two days thereafter that the buy-bust operation pushed through because it was only then that the confidential informant was able to order *via* cellphone ₱100,000.00 worth of *shabu* from accused-appellant. The transaction was scheduled between 10:30 to 11:30 a.m. at Jollibee located along East Avenue corner V. Luna Street, Quezon City.¹¹ Thus, the DAID-SOTG coordinated anew with the PDEA and asked that its authority to operate be extended until that day.

Police Senior Inspector Edecio Llano created a team and conducted a briefing. PO3 Pamittan was designated as the poseur-buyer and was given a ₱1,000.00 bill with Serial No. YG881068, which he marked with his initials "ENP" and incorporated with the ninety-nine (99) pieces of boodle money to complete the agreed purchase price of ₱100,000.00. PO3 Salonga was assigned as back-up, along with other companions.¹²

The buy-bust team and the confidential informant proceeded to the target area. Upon arrival, PO3 Salonga and the others positioned themselves strategically while PO3 Pamittan and the confidential informant waited for accused-appellant inside Jollibee. It was around 10:45 a.m. when accused-appellant turned up and approached the latter. The confidential informant introduced PO3 Pamittan as the buyer. Accused-appellant then showed the item contained inside a Jollibee paper bag and, in turn, PO3 Pamittan showed the money placed inside a brown envelope. When the exchange happened, signifying that the sale had been consummated, PO3 Pamittan executed the pre-arranged signal of removing his bull cap. Seeing this, PO3 Salonga and his

⁶ Id. at 29-32.

⁷ TSN, November 12, 2015, p. 21.

⁸ Id. at 6.

⁹ Records, p. 9.

¹⁰ Id. at 8.

¹¹ TSN, November 12, 2015, pp. 7-8.

¹² Id. at 6; Id., September 13, 2016, pp. 5-6.

companions rushed to the scene.¹³

The police officers introduced themselves as such, informed accused-appellant of her constitutional rights, and PO3 Salonga effected her arrest. PO3 Salonga was able to recover from accused-appellant's right hand the pre-marked ₱1,000.00 bill and the boodle money. Accordingly, PO3 Pamittan marked the transparent plastic sachet containing white crystalline substance suspected to be *shabu*, subject of the sale, with "ENP FSJ-2-14-15" representing his initials, accused-appellants' initials, and the date of recovery.¹⁴

Accused-appellant and the seized items were brought to the barangay hall of Barangay Pinyahan, Quezon City. The seized items were inventoried¹⁵ and photographed¹⁶ in the presence of accused-appellant and Barangay Kagawad Marites M. Palma (Kagawad Palma).¹⁷ For proper documentation, they went to the police station where PO3 Pamittan also turned over the seized plastic sachet to PO3 Cagurungan,¹⁸ who prepared all the necessary documents¹⁹ including the request for laboratory examination.²⁰

PO3 Cagurungan, accompanied by PO3 Pamittan, delivered the plastic sachet of suspected *shabu* with the request for its laboratory examination to the Quezon City Police District Crime Laboratory Office.²¹ Both of which were received by the forensic chemist, PCI Bacani.²² Per Chemistry Report No. D-140-15,²³ the specimen taken from the plastic sachet yielded positive for positive for methamphetamine hydrochloride, commonly known as *shabu*.

Version of the Defense

Accused-appellant was the lone witness for the defense. In denying the accusation hurled against her, accused-appellant averred that no buy-bust operation happened²⁴ and she was summarily arrested on February 13 2015, at about 5:00 p.m., at the parking lot of Isetann Mall in Recto, Manila.²⁵

According to accused-appellant, she bought tickets for herself and her five-year old daughter for a trip back to Jolo, Sulu from the ticket outlet of 2GO Travel located in the food court of the said mall. Allegedly, she met a certain Lavila, her neighbor at the JMM Lodge in Quiapo, Manila where she was then staying. Since they were both going back to the lodge, Lavila supposedly invited her to just ride together in the newly bought car of Lavila's cousin, to

¹³ Id. 8-10; Id. at 6-9.

¹⁴ Id. at 10, 12; Id., March 30, 2016, pp. 3-4; Id., September 13, 2016, p. 9.

¹⁵ Records, p. 10.

¹⁶ Id. at 20-21.

¹⁷ TSN, November 12, 2015, pp. 12-15; Id., September 13, 2016, pp. 9-12.

¹⁸ Id. at 16; Id. at 12.

¹⁹ Records, p. 31.

²⁰ Id. at 72.

²¹ TSN, dated November 12, 2015, p. 16.

²² Records, p. 31.

²³ Id. at 74.

²⁴ TSN, October 4, 2017, p. 11.

²⁵ Id. at 3.

which she acceded.²⁶

Upon reaching the parking lot, Lavila and her cousin boarded the car up front while accused-appellant took the back seat. Suddenly, two (2) unknown men sat beside accused-appellant, causing her to shout and become hysterical as she thought they were hold-uppers. They later identified themselves as police officers. Meanwhile, their companions pointed guns at Lavila and her cousin, forcibly brought them out of the car, and boarded them in another vehicle.²⁷

The police drove the car around Quiapo, Manila and asked accused-appellant to point out to them the rich Muslim residents of the area, but accused-appellant could not point to any. When the car stopped near the entrance of a mall, accused-appellant attempted to shout but one of the police officers slapped her. From Quiapo, the police officers brought accused-appellant to Camp Karingal, where they took her necklace, ring, and watch. They instructed her to call her family but accused-appellant told them that she does not have any relatives in Manila. They demanded ₱50,000.00 from accused-appellant. When she could not produce the said amount, accused-appellant was detained and subsequently charged with Illegal Sale of Dangerous Drugs.²⁸

THE RTC RULING

On November 2, 2017, the RTC rendered a Decision,²⁹ the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused **Farhena Jailani y Salham alias “Farhena”** “Guilty” beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165.

Accordingly, this Court sentences the accused **Farhena Jailani y Salham alias “Farhena”** to suffer the penalty of ***Life Imprisonment*** and to pay a Fine in the amount of Five Hundred Thousand (₱500,000.00) Pesos without eligibility for parole in accordance with R.A. 9346.

The Branch Clerk of Court is hereby directed to transmit to the Philippine Drug Enforcement Agency the dangerous drug subject of this case for proper disposition and final disposal.

SO ORDERED.³⁰

The RTC ruled that the prosecution successfully discharged the burden of establishing the elements of Illegal Sale of Dangerous Drugs and proving accused-appellant's guilt beyond reasonable doubt. Giving full faith and

²⁶ Id. at 3-5.

²⁷ Id. at 5-6.

²⁸ Id. at 6-9.

²⁹ CA *rollo*, pp. 53-67.

³⁰ Id. at 67.

credence to the testimonies of the police officers, the RTC found the *corpus delicti* to have been duly preserved through an unbroken chain of custody. Although the RTC recognized the buy-bust team's failure to strictly comply with Section 21, Article II of R.A. No. 9165, as amended, specifically with the rule on witnesses, it held that such non-compliance did not in any way affect the evidentiary weight of the drugs seized from accused-appellant. The RTC further held that in the absence of clear and convincing evidence contrary to the presumption of regularity in the performance of official duty accorded to the police officers, accused-appellant's defense of denial had no leg to stand on.³¹

Dissatisfied, accused-appellant appealed to the CA.³²

THE CA RULING

In its Decision³³ dated November 8, 2019, the CA sustained accused-appellant's conviction.

The CA found that all the elements of the crime charged against accused-appellant were satisfactorily proven by the prosecution. Unlike the RTC, however, the CA ruled that the police officers substantially complied with the requirements of the law in the seizure, initial custody, and handling of the seized drugs. The CA went on to point out that whatever objections or questions accused-appellant had with respect to Section 21, they cannot be raised for the first time on appeal. Lastly, the CA stressed that a judgment of conviction cannot be reversed solely on procedural technicalities because in doing so, it would not only put form above substance, it would also deprive the Court of its authority to review the correctness of the trial court's decision.³⁴

Feeling aggrieved, accused-appellant filed a Notice of Appeal.³⁵ The CA, per its Resolution³⁶ dated February 10, 2020, gave due course to her appeal and elevated the records of the case to this Court.

In a Resolution³⁷ dated September 9, 2020, the Court noted the case records forwarded by the CA and notified the parties that they may file their respective supplemental briefs within 30 days from notice, if they so desire.

Both accused-appellant³⁸ and the People, through the Office of the Solicitor General (OSG),³⁹ opted to no longer file their supplemental briefs and, instead, adopted the arguments set forth in their separate briefs before the CA.

³¹ Id. at 64-67.

³² Records, p. 108.

³³ *Rollo*, pp. 3-18.

³⁴ Id. at 12-17.

³⁵ Id. at 19-22.

³⁶ Id. at 23.

³⁷ Id. at 25-26.

³⁸ Id. at 31-33.

³⁹ Id. at 36-38.

Accused-appellant contends that the prosecution's grossly inconsistent or incredible narration of the supposed buy-bust operation indicates that none ever transpired and the evidence against her was merely fabricated; hence, the charge of Illegal Sale of Dangerous drugs was not proven beyond reasonable doubt. Moreover, accused-appellant asserts that the police officers cannot be presumed to have performed their duties in a regular manner when they have violated the procedural safeguards embodied in Section 21, Article II of R.A. No. 9165, as amended. Accused-appellant likewise claims that there are gaps in the chain of custody, creating suspicion as to the identity and integrity of the *corpus delicti*.⁴⁰

On the other hand, the OSG argues that, applying the "objective test" in buy-bust operations, the prosecution was able to establish beyond moral certainty the details of the transaction, which took place between PO3 Pamittan and accused-appellant on February 14, 2015. The OSG posits that the inconsistencies in the testimonies of the prosecution witnesses alluded to by accused-appellant refer only to minor and insignificant matters which do not taint their credibility. In the absence of evidence suggesting ill motive on the part of the police officers, the OSG maintains that they enjoy the presumption of regularity in the performance of their official duties, which cannot be overcome by accused-appellant's self-serving defense of denial. Echoing the RTC's line of reasoning, the OSG insists that the integrity and evidentiary value of the drugs seized from accused-appellant have been properly preserved because all the links in the chain of custody are all accounted for.⁴¹

THE COURT'S RULING

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.⁴²

With these precepts in mind, the Court finds the appeal meritorious.

In all prosecutions for violations of R.A. No. 9165, the *corpus delicti* is the dangerous drug itself, the existence of which is essential to a judgment of conviction.⁴³ Thus, it is of utmost importance that the integrity and identity of the seized drug must be shown to have been duly preserved.⁴⁴ This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration, or

⁴⁰ CA *rollo*, pp. 39-50.

⁴¹ *Id.* at 84-91.

⁴² *People v. Villalon, Jr.*, G.R. No. 229412, March 15, 2021.

⁴³ *People v. Jaafar*, 803 Phil. 582, 591 (2017).

⁴⁴ *People v. Ismael*, 806 Phil. 21, 29 (2017).

substitution either by accident or otherwise.⁴⁵

To remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused; otherwise, the prosecution for possession or for sale fails. The chain of custody rule performs the function of ensuring that unnecessary doubts concerning the identity of the evidence are removed.⁴⁶

“Chain of Custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and used in court as evidence, and the final disposition.⁴⁷

Jurisprudence dictates the links that must be established in the chain of custody in a buy-bust situation, as in this case, namely: 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 from the forensic chemist to the court.⁴⁸ Indeed, establishing every link in the chain of custody is crucial to the preservation of the integrity, identity, and evidentiary value of the seized items. Failure to demonstrate compliance with even just one of these links creates reasonable doubt that the items confiscated from the accused are the same items offered in evidence.⁴⁹

Marking after seizure is the starting point in the custodial link.⁵⁰ The importance of the prompt marking cannot be denied, because succeeding handlers of dangerous drugs or related items will use the marking as reference. Also, the marking operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting, or contamination of evidence.⁵¹

⁴⁵ *People v. Nuarin*, 764 Phil. 550, 557 (2015).

⁴⁶ *People v. Prudencio*, 800 Phil. 128, 136 (2016).

⁴⁷ Section 1(b) of the Dangerous Drugs Board Regulation No. 1, Series of 2002.

⁴⁸ *Tumabini v. People*, G.R. No. 224495, February 19, 2020; *Jocson v. People*, G.R. No. 199644, June 19, 2019; *People v. Arposeple*, 821 Phil. 340, 364 (2017).

⁴⁹ *People v. Villalon, Jr.*, G.R. No. 249412, March 15, 2021.

⁵⁰ *People v. Sabdula*, 733 Phil. 85, 95 (2014).

⁵¹ *People v. Gonzales*, 708 Phil. 121, 131 (2013).

In the present case, PO3 Pamittan testified that he placed the marking "ENP FSJ-2-14-15" on the seized plastic sachet of then suspected drugs⁵² at the place of arrest, in the presence of accused-appellant and the buy-bust team.⁵³ However, on cross-examination, it was revealed that the marking was actually made in two (2) places:

Q: Where did you conduct the marking of the specimen subject of this case?

A: My initial ENP was only placed, sir.

Q: Only?

A: That is the first, I placed my initial at the crime scene, sir.

Q: So you did not place that long markings you stated earlier?

A: In the Brgy. Pinyahan when we conducted the photograph and inventory, sir.

Q: So you proceeded to Brgy. Pinyahan?

A: Yes, sir.

Q: And at Brgy. Pinyahan, you completed marking that's what you are saying?

A: Yes, sir.

Q: So Officer, the marking was made in two (2) places, correct?

A: Yes, sir.⁵⁴

The Court is baffled as to why the marking had to be done in installments. The explanation proffered by PO3 Pamittan that he only placed his initials "ENP" at the crime scene "because there were several persons in the area"⁵⁵ is unacceptable, lacking any allegation and proof about a commotion or threat to their security as to disrupt the marking. Even granting that there was a valid reason to continue the marking elsewhere, PO3 Pamittan did not testify on the precautions he took when he transported the seized sachet from the place of arrest to the barangay hall of Brgy. Pinyahan, Quezon City. This deviation raised a significant doubt as to the identity of the *corpus delicti*.

On this basis alone, the case for the prosecution has been irreversibly lost as a result of the weak first link irretrievably breaking away from the main chain. There would even be no need to proceed to evaluate the succeeding links or to determine the existence of the other elements of the charge against accused-appellant.⁵⁶

Another factor that militates against the finding of accused-appellant's guilt is the noncompliance by the police officers with the prescribed procedure in handling seized illegal drugs, as outlined in Section 21, paragraph 1, Article II

⁵² TSN, March 30, 2016, pp. 3-4.

⁵³ Id., November 12, 2015, p. 12.

⁵⁴ Id., May 5, 2016, pp. 8-9.

⁵⁵ Id. at 12.

⁵⁶ *People v. Arposeple*, supra note 48 at 368-369.

of R.A. No. 9165, as amended by R.A. No. 10640:⁵⁷

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 seizure and custody over said items.

From the afore-quoted provision, only three (3) places are authorized for the conduct of inventory and photograph taking of the seized items in warrantless seizures: (1) at the place of arrest; (2) at the nearest police station; or (3) at the nearest office of the apprehending officer/team, whichever is practicable.

Records show that the seized sachet was inventoried and photographed at the barangay hall of Brgy. Pinyahan. As already ruled by the Court in *People v. Sultan*,⁵⁸ the barangay hall is not an alternative to the places mentioned above, unless there is a justifiable reason,⁵⁹ which is wanting in this case.

More importantly, Section 21 mandates that, in addition to the accused, or his/her representative or counsel, the following persons should be present

⁵⁷ 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 on July 15, 2014.

⁵⁸ G.R. No. 225210, August 7, 2019.

⁵⁹ *Id.*; see also *People v. Abueva*, G.R. No. 243633, July 15, 2020.

during the physical inventory and photographing of the seized items: (a) an elected public official; and (b) a representative from the National Prosecution Service (NPS) or the media.⁶⁰ Here, while the inventory and taking of photographs of the seized sachet were done in the presence of accused-appellant, it was only witnessed by an elected public official, Kagawad Palma.

The procedure is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.⁶¹ Failure to comply with Section 21 implies a concomitant failure on the part of the prosecution to establish the identity of the *corpus delicti*,⁶² an essential element of the offense of Illegal Sale of Dangerous Drugs.

The Court is not unaware of the saving clause in Section 21 which articulates that failure of the apprehending team to strictly comply with the procedure does not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.⁶³

In *People v. Lim*,⁶⁴ the Court highlighted that these justifiable grounds must be alleged and proved. The Court particularly enumerated some of the acceptable reasons for not being able to secure the attendance of the witnesses to the physical inventory and photograph of the illegal drugs seized: (1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a Department of Justice (DOJ) or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.⁶⁵

None of these scenarios is applicable to the instant case. That “there [was] no [one] available at that time”⁶⁶ can hardly be considered as sufficient excuse for non-compliance with the strict requirements of the law regarding the disinterested witnesses. Neither is the Court convinced that genuine and earnest

⁶⁰ Since the buy-bust operation occurred on February 14, 2015, the amended version of the law applies.

⁶¹ *People v. Ramos*, G.R. No. 236455, February 19, 2020.

⁶² *Samia v. People*, G.R. No. 227217, February 12, 2020, citing *People v. Que*, 824 Phil. 882, 895 (2018).

⁶³ *People v. Año*, 828 Phil. 439, 450 (2018).

⁶⁴ G. R. No. 231989, September 4, 2018.

⁶⁵ *Id.*

⁶⁶ TSN, November 12, 2015, p. 19.

efforts were exerted by the police officers to secure the attendance of either a representative from the NPS or the media, as can be gleaned from PO3 Pamittan's testimony:

Q: Mr. witness, in your inventory there is no signature of DOJ representative and the media?

A: Yes, sir.

Q: And you don't know why?

A: There is no available at that time but PO3 Cagurungan contacted media and DOJ representatives but no one came to the office of the barangay, sir. [sic]

Q: It was not you who contacted?

A: Yes, sir.

Q: Isn't it not that the Hall of Justice is 500 meters away from Jollibee?

A: Yes, sir.

Q: And GMA 7 is may be 400 meters away from Jollibee?

A: Yes, sir.

Q: You did not try to go there to perhaps speak up a representative?

A: No, sir.

Q: And of course[,] nobody tried to hurt you in Jollibee?

A: Yes, sir.

Q: And despite nobody tried to hurt you or your team you decided to conduct your inventory in the barangay hall?

A: Yes, sir.⁶⁷

Additionally, the Court notes that the buy-bust operation was originally intended to be conducted on February 12, 2015, but was pushed back to two days later. Hence, the buy-bust team had ample time to prepare and contact the required witnesses.

In sum, the failure of the apprehending officers to immediately and completely mark the seized drugs at the place of arrest; the inventory and taking of photographs of the seized drugs at a place other than those authorized by law; the absence of one of the required witnesses; and the lack of any justification as to why the presence of such witness was not obtained, demonstrate their blatant disregard of the established procedures as well as destroy the presumption of regularity in their favor.⁶⁸

Proof beyond reasonable doubt, as a quantum of proof, does not require absolute certainty, but only demands that of moral certainty.⁶⁹ The prosecution failed to overcome this burden of proof. Perforce, accused-appellant must be acquitted.

⁶⁷ Id. at 19-20.

⁶⁸ *Valencia v. People*, 725 Phil. 268, 285-286 (2014).

⁶⁹ *People v. Royol*, G.R. No. 224297, February 13, 2019.

WHEREFORE, premises considered, the appeal is **GRANTED**. The Decision dated November 8, 2019 of the Court of Appeals in CA-G.R. CR-H.C. No. 10543 is **REVERSED** and **SET ASIDE**. Accused-appellant Farhena Jailani *y* Salham is **ACQUITTED** of the crime charged against her for failure of the prosecution to prove her guilt beyond reasonable doubt. She is **ORDERED IMMEDIATELY RELEASED** from detention, unless she is confined for some other lawful cause. Let entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Mandaluyong City for immediate implementation. The Director General is **ORDERED** to **REPORT** to this Court, within five (5) working days from receipt of this Resolution, the action he has taken.

SO ORDERED.”

By authority of the Court:

MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court

Special & Appealed Cases Service
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DOJ Agencies Building
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The Presiding Judge
REGIONAL TRIAL COURT
Branch 82, 1100 Quezon City
(Crim. Case No. R-QZN-15-01607-CR)

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The Superintendent
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