



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 8, 2023 which reads as follows:

“G.R. No. 248083 (*People of the Philippines v. Joey Cris Alcausen y Tolentino*).—This is an appeal¹ under Rule 124 of the Rules of Court, challenging the March 27, 2018 Decision² of the Court of Appeals in CA-G.R. CR HC No. 09580, which affirmed the November 28, 2016 Decision³ of the Regional Trial Court (RTC), Calamba City, Laguna, Branch 36, in Criminal Case Nos. 19144-2012-C and 19145-2012-C, finding accused-appellant Joey Cris Alcausen y Tolentino (Alcausen) guilty of the crimes of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, respectively.

Alcausen was accused of violating Sections 5 and 11, Article II of Republic Act No. 9165,⁴ otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The accusatory portions of the two Informations⁵ filed against him read as follows:

Re: Criminal Case No. 19144-2012-C (Illegal Sale of Dangerous Drugs):

That on or about 12:50 [a.m.] of 31 March 2012 at Brgy. Halang, Calamba City and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur buyer quantity of methamphetamine hydrochloride, a dangerous drug, weighing 0.05 grams.

CONTRARY TO LAW.⁶

¹ *Rollo*, pp. 24-27.

² *Id.* at 3-23. Penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Ma. Luisa Quijano-Padilla and Marie Christine Azcarraga-Jacob.

³ Records (Crim. Case No. 19144-2012-C, pp. 110-120).

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.” Approved: June 7, 2002.

⁵ Records (Crim. Case No. 19144-2012-C), p. 1; records (Crim. Case No. 19145-2012-C), p. 1.

⁶ Records (Crim. Case No. 19144-2012-C), p. 1.



Re: Criminal Case No. 19145-2012-C (Illegal Possession of Dangerous Drugs):

That on or about 12:50 a.m. [o]f 31 March 2012 at Brgy. Halang, Calamba City and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously possess quantities of methamphetamine hydrochloride, having a total weight of 0.07 gram/s, a dangerous drug, in violation of the aforementioned law.

CONTRARY TO LAW.⁷

The pertinent facts of the case, as summarized by lower courts are as follows:

On March 30, 2012, around 11:30 P.M., a confidential informant informed PO1 Alvin Santos of the Calamba City Police Station, Laguna about the illegal drug activities of accused-appellant Joey Cris Alcausen y Tolentino and a certain Jerome Arcival y Mariano “alias Jerome” at Purok 7, Barangay Halang, Calamba City, Laguna. Upon receiving the information from PO1 Alvin Santos, Police Chief Inspector Francisco Barcala planned a buy-bust operation. During the briefing, PO1 Alvin Santos was designated as poseur-buyer, with PO3 Norberto Corachea and SPO1 Miguel Lapitan, Jr. as PO1 Alvin Santos’ back-up. After coordinating with the Philippine Drug Enforcement Agency (PDEA), the team proceeded to the target area to conduct the buy-bust operation.

On March 31, 2012, around 12:40 A.M., the police officers arrived at Purok 7, Barangay Halang, Calamba City, Laguna. The confidential informant immediately pointed accused-appellant to PO1 Alvin Santos as the person standing outside at the house of Jerome Arcival y Mariano. PO1 Alvin Santos approached accused-appellant and told the latter that he wanted to buy one thousand pesos (Php 1,000.00) worth of *shabu*. Accused-appellant handed a small plastic sachet containing white crystalline substance to PO1 Alvin Santos who then gave him the marked money. PO1 Alvin Santos missed call his back up PO3 Norberto Corachea as a signal that the sale was consummated.

Upon seeing PO3 Norberto Corachea, PO1 Alvin Santos informed accused-appellant that he was a police officer. PO1 Alvin Santos also recovered from accused-appellant a small black leather pouch containing two (2) other plastic sachets containing white crystalline substance as well as the marked money consisting of two (2) pieces of five hundred peso bill.

PO1 Alvin Santos marked the 2 plastic sachets, found in accused-appellant’s possession as “Joey-1” and “Joey-2”, while the plastic sachet subject of the buy-bust operation was marked as “Joey-BB” by PO1 Alvin Santos. PO1 Alvin Santos read accused-appellant’s constitutional rights, and asked the latter to divulge his source of the drugs. Accused-appellant appeared texting on his mobile phone, and after a while[,] Jerome Arcival y Mariano went out of his house. The latter was also apprehended by the police officers.

⁷ Records (Crim. Case No. 19145-2012-C), p. 1.

Thereafter, the police team brought accused-appellant, “alias Jerome” and the seized items to the [Calamba City police station in Calamba City], Laguna. PO1 Alvin Santos turned over the seized items to police investigator “PO3 Saccalan” for inventory, photograph, booking and documentation which were all witnessed by Department of Justice representative Noemi Quiloy, media representative Zen Trinidad and barangay official Arturo Barceno. Police Superintendent Joel Cuaton Pernito prepared the request for laboratory examination of the marked plastic sachets containing white crystalline substance.

On the same day of March 31, 2012, PO1 Alvin Santos brought the request for laboratory examination and the marked plastic sachets to the Crime Laboratory in Camp Vicente Lim, Calamba City, Laguna. At the crime laboratory, a certain “SPO3 Mariano” received the items and turned them over to Police Chief Inspector Forensic Chemist Donna Villa Huelgas who examined the contents thereof. The examination was finished around 1:30 P.M. of March 31, 2012, and it was found that the items yielded positive results for methamphetamine hydrochloride or “*shabu*”, a dangerous drug.⁸

In his defense, Alcausen claimed that the buy-bust operation was an instigation, not a legal entrapment operation.⁹ He denied the charges and insisted that he was victim of police frame-up.¹⁰

The two cases against Alcausen were consolidated, and upon arraignment, he pleaded not guilty to both charges.¹¹

According to the pre-trial order dated June 20, 2012,¹² the following facts were stipulated: (1) identity of accused; and (2) jurisdiction of the court.

Thereafter, trial ensued and the prosecution presented the testimony of Police Officer 1 Alvin Santos (PO1 Santos), together with the relevant physical evidence.¹³ On September 14, 2015, the RTC issued an Order stating that the prosecution and the defense stipulated on the testimony of Forensic Chemist Donna Villa Huelgas (Forensic Chemist Huelgas), to wit:

3. Pursuant to the Request for Laboratory Examination, she examined the specimen and found the same to be positive for methamphetamine hydrochloride and prepared Chemistry Report No. D-242-12, indicating therewith the result of her examination, the due execution and authenticity of said Chemistry Report.

The defense counsel admitted and stipulated on those testimonial offer except that the specimen were not taken from the accused.¹⁴

⁸ *Rollo*, pp. 4-6.

⁹ *Id.* at 6.

¹⁰ *Id.*

¹¹ *Id.* at 5.

¹² *Id.* at 7.

¹³ *Id.*

¹⁴ *Id.* at 7-8.

For the defense, Alcausen himself was the lone witness presented.¹⁵

On November 28, 2016, a Decision¹⁶ was rendered by the RTC convicting Alcausen of the crimes charged against him. The dispositive portion of which reads:

WHEREFORE, guided by the foregoing mandates of Republic Act 9165, and the prosecution's evidence having established the guilt of accused JOEY CRIS ALCAUSEN y TOLENTINO beyond reasonable doubt in Criminal Case No. 19144-2012-C, the Court hereby sentences accused ALCAUSEN to suffer the penalty of LIFE IMPRISONMENT and a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00) with subsidiary imprisonment in case of insolvency.

In Criminal Case No. 19145-2012-C for violation of Section 11 of Republic Act 9165, for the aggregate weight of 0.07 grams of *methamphetamine hydrochloride*, this Court hereby sentences Alcausen to suffer imprisonment of TWELVE (12) YEARS and ONE (1) DAY to FIFTEEN (15) YEARS and to pay the fine of THREE HUNDRED THOUSAND PESOS (Php300,000.00) with subsidiary imprisonment in case of insolvency.

Let the confiscated *methamphetamine hydrochloride* (shabu) subject matter of this case be turned over to Region IV-A, Philippine Drug Enforcement Agency, Camp Vicente Lim, Canlubang, Calamba City destruction [sic] in accordance with law.

SO ORDERED.¹⁷

Aggrieved, Alcausen appealed¹⁸ his case with the CA.

On March 27, 2018, the CA denied Alcausen's appeal and affirmed the RTC Decision.¹⁹ The dispositive portion of the CA Decision reads:

WHEREFORE, the appealed Decision dated November 28, 2016 of the trial court is affirmed.

SO ORDERED.²⁰

Hence, the instant appeal.

Our Ruling

This appeal has no merit.

¹⁵ Id.

¹⁶ Records (Crim. Case No. 19144-2012-C), pp. 110-120.

¹⁷ CA *rollo*, pp. 59-60.

¹⁸ Id. at 15.

¹⁹ *Rollo*, pp. 3-23.

²⁰ Id. at 22-23.

It must be reiterated that the factual findings of the trial court, especially those which revolve around matters of credibility of witnesses deserve to be respected when no glaring errors bordering on a gross misapprehension of the facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings.²¹ The evaluation of the credibility of witnesses and their testimonies are best undertaken by the trial court because of its unique opportunity to observe the witnesses' deportment, demeanor, conduct and attitude under grueling examination.²² Such findings of the trial court are even more convincing when affirmed by the CA, as in this case.

Alcausen is basically claiming the following: that he was the victim of frame-up; that the buy-bust operation was invalid as the same was riddled with defects; that the integrity of the seized drugs was not preserved due to the prosecution's failure to account for each link in the chain of custody; and that the elements for the crimes of Illegal Sale and Possession of Dangerous Drugs charged were not proven by the prosecution.²³

Alcausen's defenses of denial and frame-up failed to overturn the presumption of regularity in the performance of the arresting officers' duties

Denial and frame up are a common defense ploy in dangerous drug cases,²⁴ and hence, the credibility of the witnesses for the defense must be scrutinized more strictly relative to the testimony of the arresting officers, who are presumed to have conducted their duties in a regular and ordinary manner. Thus, absent proof of ill intent on the part of the arresting officers to falsely impute the crime charged against the accused, the defense of denial and frame up must yield to the presumption of regularity in the performance of duty.²⁵

Alcausen's self-serving allegations without any other corroborating evidence cannot overcome the positive allegations of the arresting officers that were corroborated by the other evidence on record, such as the positive laboratory result as to the presence of shabu in the seized items from the buy-bust operation. This, coupled with the presumption of regularity on the part of the arresting officers, would lead this Court to believe that Alcausen's story of being a victim of a frame-up is nothing but a mere concoction.

²¹ *People v. Bayan*, 741 Phil. 716, 727 (2014).

²² *Id.*

²³ *Rollo*, p. 8.

²⁴ *People v. Tapugauy*, 753 Phil. 570, 577-578 (2015).

²⁵ *Id.* at 581.

Moreover, as will be discussed exhaustively later, the prosecution have sufficiently established that Alcausen was caught in a lawful buy-bust operation and is guilty of the crimes he is indicted for.

Alcausen was caught in a lawful buy-bust operation that happened on March 31, 2012

A buy-bust operation has long been held as an acceptable and valid means of arresting violators of RA 9165.²⁶ In such an operation, the violator is caught *in flagrante delicto* and the police officers involved are not only authorized, but are duty-bound to apprehend the violator and search him or her for anything that may have been part of or used in the commission of the crime.²⁷

In this case, Alcausen challenges the validity of his arrest by virtue of the buy-bust operation conducted on March 31, 2012, alleging that he was apprehended by the police officers through instigation, not entrapment. This holds no water.

In *People v. Casio*,²⁸ this Court reiterated that the difference between entrapment and instigation lies in the origin of criminal intent, to wit:

There is entrapment when law officers employ ruses and schemes to ensure the apprehension of the criminal while in the actual commission of the crime. There is instigation when the accused is induced to commit the crime. The difference in the nature of the two lies in the origin of the criminal intent. In entrapment, the *mens rea* originates from the mind of the criminal. The idea and the resolve to commit the crime comes from him [or her]. In instigation, the law officer conceives the commission of the crime and suggests to the accused who adopts the idea and carries it into execution.²⁹

Simply put, if the criminal intent originates from the criminal, then this is entrapment, which is the principle by which valid buy-bust operations are based upon. On the other hand, if the criminal intent is conceived by the officer/s involved and suggested to the criminal, who merely adopts and executes it, then this is instigation, which not only taints but invalidates the whole buy-bust operation.

Applying the foregoing to this case, Alcausen utterly failed to allege, much less prove, any act committed by the involved police officers that instigated him into selling the illegal drugs to the poseur-buyer, PO1 Santos. On the contrary, the records would show that while they were talking during

²⁶ *People v. Buenaventura*, 677 Phil. 230, 241 (2011).

²⁷ *Id.*

²⁸ 749 Phil. 458 (2014).

²⁹ *Id.* at 479, citing *Chang v. People*, 528 Phil. 740, 751 (2006).

their meet-up, Alcausen was the one who asked PO1 Santos how much shabu will he get and upon obtaining the latter's answer, the former gave a small plastic sachet containing the shabu. The *Pinagsamang Sinumpaang Salaysay* (Joint Sworn Statement) of PO1 Santos and PO3 Norberto B. Corachea (PO3 Corachea), which was stipulated by the prosecution and Alcausen's counsel to form part of PO1 Santos's direct testimony, reads:

Na, ang oras ay humigit kumulang 12:40 ng madaling araw sa nabanggit na petsa at araw, matapos makaposisyon ang akin[g] mga kasamahan, agad na itinuro sa aki[n] ng amin[g] Confidential Agent itong si JOEY na nak[a]tambay malapit sa bahay ni JEROME, agad ako[ng] (PO1 Santos) lumapit sa kanyang kinaroroonan at sa aming (PO1 Santos at Joey) pag uusap, do[o]n nalaman niya ang akin[g] pakay/sadya at tinanong nya ako, kung magkanong halaga ang akin[g] kukunin, nang malaman na nya ang halaga nang akin[g] kukunin do[o]n inabot niya sa akin (PO1 Santos) ang isang (1) pirasong maliit na plastic na naglalaman ng hinihinalang SHABU, kapalit ang dalawang (2) pirasong tig limang daan piso (Php 500.00) marked money ng hawak ni JOEY ang pera ay agad kung ibigay ng hudya sa akin mga kasamahan (MISSED CALL TO CELLPHONE OF PO3 CORACHEA) at nang makita ko ang paparating ang akin mga kasamahan ay agad ako (PO1 Santos) nagpakilalang pulis sabay hawak dito kay JOEY upang hindi makatakbo.³⁰

Clearly, Alcausen was willing and ready to sell the shabu, or else he would not have even asked PO1 Santos nor would he have the shabu in his immediate possession, which is a crime in and of itself.

Prior surveillance is not necessary in buy-bust operations

Aside from the abovementioned arguments, Alcausen maintains that the buy-bust operation was invalid because PO1 Santos admitted that he didn't know the identity of former, and no test-buy or prior surveillance was done.³¹ This argument has no legal basis.

Jurisprudence has held that the absence of prior surveillance does not affect the validity of an entrapment operation. In *People v. Lopez*,³² this Court expounded:

The Court has ruled that the absence of a prior surveillance does not affect the validity of an entrapment operation, much less result in the exoneration of the accused, especially in light of evidence establishing the elements of the crime. In *People v. Manlangit*, citing *Quinicot v. People*, the Court pronounced:

Settled is the rule that the absence of a prior surveillance or test buy does not affect the legality of the buy-bust operation. There is no textbook method of conducting buy-bust operations.

³⁰ Records (Crim. Case No. 19144-2012-C), p. 7.

³¹ Id. at 10.

³² *People v. Lopez*, G.R. No. 247974, July 13, 2020.

The Court has left to the discretion of police authorities the selection of effective means to apprehend drug dealers. A prior surveillance, much less a lengthy one, is not necessary, especially where the police operatives are accompanied by their informant during the entrapment. Flexibility is a trait of good police work. We have held that when time is of the essence, the police may dispense with the need for prior surveillance. In the instant case, having been accompanied by the informant to the person who was peddling the dangerous drugs, the policemen need not have conducted any prior surveillance before they undertook the buy-bust operation.³³

As applied in this case, the records show that the police officers were acting in an urgent manner because as soon as PO1 Santos received the confidential agent's information at 11:30 p.m. of March 30, 2012, they already started planning the entrapment operation, which was conducted a little more than an hour later at 12:40 a.m. of March 31, 2012.³⁴ Also, their confidential informant accompanied them to the meet-up place and identified Alcausen as the illegal drug dealer.³⁵ Given that the situation was one where time was of the essence, and the police officers were accompanied by their confidential informant, who identified Alcausen as their suspect, prior surveillance was not necessary and the absence thereof did not invalidate the buy-bust operation.

The chain of custody was not broken and the integrity of the *corpus delicti* was preserved

As correctly held by the lower courts, Alcausen's allegations that the prosecution failed to establish the links in the chain of custody is bereft of merit.

In cases for Illegal Sale of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.³⁶ To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.³⁷

As part of the chain of custody procedure, the law requires that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.³⁸ The law

³³ Id. Emphasis supplied.

³⁴ Records (Crim. Case No. 19144-2012-C), p. 10.

³⁵ Id.

³⁶ *Fuentes v. People*, G.R. No. 228718, January 7, 2019.

³⁷ Id.

³⁸ Id.

further requires that said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,³⁹ a representative from the media **and** the DOJ, and any elected public official; or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service **or** the media.⁴⁰ The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”⁴¹

In this case, the facts would reveal that the prosecution was able establish each link in the chain of custody. During the buy-bust operation on March 31, 2012, three sachets of shabu were recovered and marked by PO1 Santos as *JOEY-BB*, *JOEY-1*, and *JOEY-2*, respectively, at the place where Alcausen was arrested in Calamba City, Laguna.⁴² The police team then brought Alcausen and the seized items to the Calamba City police station.⁴³ On the same day, PO1 Santos turned over the seized items to PO3 Sacdalan for inventory, booking, and documentation, which were all witnessed by DOJ representative Noemi Quiloy, media representative Zen Trinidad, and barangay official Arturo Barcelo.⁴⁴ After Police Superintendent Joel Cuaton prepared the request for laboratory examination of the seized items, PO1 Santos brought the same to the Crime Laboratory in Camp Vicente Lim, Calamba City.⁴⁵ At the laboratory, a certain Senior Police Officer 3 Mariano received the items and turned them over to Forensic Chemist Huelgas for qualitative examination, which yielded positive results for the presence of methylamphetamine hydrochloride (shabu), an illegal drug.⁴⁶ The same seized items, as marked and examined, were then identified by PO1 Santos in court.⁴⁷

Given the above, this Court fails to see any gap in the chain of custody and thus, Alcausen’s arguments regarding the chain of custody must fail.

The prosecution was able to prove Alcausen’s guilt beyond reasonable doubt

³⁹ 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.

⁴⁰ *Fuentes v. People*, supra.

⁴¹ Id.

⁴² *Rollo*, p. 5.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id.

Sec. 5, Art. II of RA 9165 provides that to successfully prosecute the offense of Sale of Illegal Drugs, the following elements must be satisfied: “(1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and the payment therefor.”⁴⁸ As for the offense of Possession of Illegal Drugs, its elements are the following: (1) the accused is in possession of an item or an object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed said drug.⁴⁹

In a buy-bust operation, the receipt by the poseur-buyer of the dangerous drug and the corresponding receipt by the seller of the marked money consummate the illegal sale of dangerous drugs.⁵⁰ The charge of possession of dangerous drugs may be also pursued against the seller if, aside from the drugs involved in the illegal sale, there are additional dangerous drugs found on the person of the seller, which he or she freely and consciously possessed.

As applied in this case, all the elements of the Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs are present. The testimonies of the police officers, coupled with the documentary and object evidence, demonstrated that Alcausen was caught selling shabu to PO1 Santos who acted as the poseur-buyer. The poseur-buyer positively identified that the sale took place and that Alcausen was the seller. Alcausen’s receipt of the pre-marked cash consummated the sale of the illegal drug. Moreover, upon searching Alcausen, two more plastic sachets containing white crystalline substance, which later also tested positive for shabu, were recovered from his possession.

Hence, based on the evidence, the illegal sale was consummated and illegal drugs were found to be in the possession of Alcausen. The confiscated items, the *corpus delicti*, were presented in court to prove the same. With the prosecution’s establishment of the validity of the buy-bust operation and the preservation of the integrity of the evidence, there can be no other logical conclusion but to affirm the lower courts’ ruling to convict Alcausen of the felonies he is indicted for.

WHEREFORE, the appeal is **DISMISSED**. The assailed Court of Appeals Decision dated March 27, 2018 in CA-G.R. CR HC No. 09580 is **AFFIRMED**.

⁴⁸ *People v. Addin*, G.R. No. 223682, October 9, 2019.


⁴⁹ *People v. Bangcola*, G.R. No. 237802, March 18, 2019.

⁵⁰ *People v. Addin*, *supra*.



SO ORDERED.” *Rosario, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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FEB 17 2023

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Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 09580)

The Hon. Presiding Judge
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(Crim. Case Nos. 19144-2012-C & 19145-2012-C)

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