



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated June 14, 2023, which reads as follows:*

**“G.R. No. 257911 (*Anacito Muralla y Francisco @ “Butcho” v. People of the Philippines*).** — Before this Court is a Petition for Review on *Certiorari*<sup>1</sup> seeking to set aside the Decision<sup>2</sup> and the Resolution<sup>3</sup> of the Court of Appeals (CA), which affirmed with modification the judgment<sup>4</sup> finding Anacito Muralla y Francisco @ “Butcho” (petitioner) guilty beyond reasonable doubt of violation of Section 28, par. (e)(1) of Republic Act (RA) No. 10591<sup>5</sup>; and denied the motion for reconsideration<sup>6</sup> thereof, respectively, in CA-G.R. CR No. 42990.

Petitioner was indicted by virtue of the Information<sup>7</sup> dated March 21, 2017, the inculpatory portion of which reads—

That on or about the 19<sup>th</sup> of March, 2017, in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above named [petitioner] did then and there willfully, unlawfully and feloniously have in his possession, direct custody and control of one (1) Caliber 38 revolver without serial no. with three (3) pieces of live ammunition, which he carried outside of his residence, without first securing the necessary license and permit from the proper authorities.

CONTRARY TO LAW.

Upon arraignment, petitioner pled not guilty to the crime charged. Trial on the merits forthwith ensued.<sup>8</sup>

The prosecution endeavored to establish his culpability in this wise—

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<sup>1</sup> *Rollo*, pp. 12–34.

<sup>2</sup> *Id.* at 36–46. The December 14, 2020 Decision was penned by Associate Justice Carlito B. Calpatura, and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Maria Elisa Sempio Diy.

<sup>3</sup> *Id.* at 48–50. Dated October 26, 2021.

<sup>4</sup> *Id.* at 74–81. The February 20, 2019 Decision in Criminal Case No. 1020 was penned by Presiding Judge Mariam G. Bien of Branch 153 of the Regional Trial Court of Taguig City.

<sup>5</sup> AN ACT PROVIDING FOR A COMPREHENSIVE LAW ON FIREARMS AND AMMUNITION AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF, approved on May 29, 2013.

<sup>6</sup> *Rollo*, pp. 51–59.

<sup>7</sup> *Id.* at 74. RTC Decision dated February 20, 2019 in Criminal Case No. 1020.

<sup>8</sup> *Id.* at 74–75.

On March 19, 2017, at about 7:00 in the evening, a concerned citizen tipped off Police Officer 1 Ronel Popanes (PO1 Popanes), PO1 Rodel Piga (PO1 Piga), and PO1 Macario Esteban (PO1 Esteban), that petitioner was spotted having in his possession an illegal firearm while traversing Mulawin Street, *Barangay* New Lower Bicutan. Acting on the said tip, the police officers immediately proceeded to petitioner's location. As they were about to arrest him, he purportedly pulled out his firearm and attempted to run, prompting PO1 Piga to utter, "*huwag na [siyang] lumaban sa amin mas mabuti isuko nalang niya ang kanyang dalang baril para wala ng masamang mangyari sa kanya.*"<sup>9</sup>

Petitioner eventually surrendered and put his firearm on the ground. When asked to produce any document to show his authority to carry the said firearm, he replied in the negative. Subsequently, the police officers brought him to the police station, where PO1 Popanes marked the firearm, a white 0.38 caliber revolver, with "AMF-19-17," and the three pieces of ammunition with "AMF1-3-19-17," "AMF2-3-19-17," and "AMF3-3-19-17." The seized items were then turned over to PO2 Morced Lagensay, the Investigator-On-Case, who prepared a Request for Verification. The Initial Firearm Holder Verification Report issued by the Firearms and Explosives Office of Camp Crame confirmed that petitioner was not licensed to carry any kind and caliber of a firearm.<sup>10</sup>

Contrarily, petitioner denied the charge and averred that the subject firearm did not belong to him. He also avowed that on the evening of March 19, 2017, while plying along Mulawin Street aboard his motorcycle, he stopped to allow a police patrol car to pass. Suddenly, the car stopped, and three police officers alighted therefrom. Upon seeing that he had no helmet, the police officers asked for his driver's license and proof of registration of his motorcycle. When he was unable to present any, they immediately arrested him.<sup>11</sup>

After sifting through the discordant evidence of the prosecution and the defense, the trial court rendered the Decision<sup>12</sup> dated February 20, 2019, which convicted petitioner of violation of Section 28, par. (e)(1) of RA No. 10591, thusly—

Wherefore, foregoing considered, this court hereby finds accused **GUILTY** beyond reasonable doubt for the crime of Violation of Section 28, paragraph (a), in relation to paragraph (e)(1), of Republic Act 10591. Accordingly, accused Anacito Muralla y Francisco @ Butcho is hereby sentenced to suffer the penalty of imprisonment of eight (8) years, eight (8) months and one (1) day to nine (9) years and four (4) months of *prision mayor* in its maximum period, with preventive imprisonment credited in his

<sup>9</sup> Id. at 14 & 37–38. Petition for Review on *Certiorari* and CA Decision dated December 14, 2020.

<sup>10</sup> Id. at 38 & 75–76. Petition for Review on *Certiorari* and RTC Decision dated February 20, 2019 in Criminal Case No. 1020.

<sup>11</sup> Id. at 38. Petition for Review on *Certiorari*.

<sup>12</sup> Id. at 74–81.

favor.

The subject firearm and ammunitions are hereby CONFISCATED and FORFEITED in favor of the Government. Pursuant to Supreme Court Circular No. 47-98 and 45 of the Revised Penal Code, the Branch Clerk of Court is hereby directed to turn over the subject firearm and ammunitions to the Firearms and Explosives Office of the Philippine National Police, Camp Crame, Quezon City.

SO ORDERED.<sup>13</sup>

Aggrieved, petitioner sought refuge before the CA, which affirmed his conviction through the impugned Decision, disposing in this prose—

**WHEREFORE**, the appeal is **DENIED**. The *Decision* dated February 20, 2019 of the Regional Trial Court of Taguig City, Branch 153, finding [petitioner], guilty beyond reasonable doubt in Criminal Case No. 1020 for Violation of Section 28, par. (e)(1) of R.A. No. 10591 is **AFFIRMED with modification**. The [petitioner] is sentenced to suffer an indeterminate penalty of imprisonment from eight (8) years and one (1) day of *prision mayor* as minimum to eleven (11) years of *prision mayor* as maximum period, with preventive imprisonment credited in his favor.

SO ORDERED.<sup>14</sup>

The CA found that the prosecution sufficiently proved the elements of violation of Section 28, par. (e)(1) of RA No. 10591 or illegal possession of firearms. It likewise upheld the validity of petitioner's warrantless arrest pursuant to Section 5(a) of Rule 113 of the Rules of Court,<sup>15</sup> ratiocinating that he was caught *in flagrante delicto* of having in his possession an unlicensed firearm. Moreover, his plain denial could not overcome the presumption of regularity in the performance of official duty accorded to the police officers. Anent the penalty, the CA modified the trial court's imposition thereof in accordance with the Indeterminate Sentence Law.<sup>16</sup>

Petitioner's motion for reconsideration<sup>17</sup> having been denied by the CA in the assailed Resolution, he now comes before this Court *via* the present recourse, imputing error in his conviction owing to the prosecution's failure to prove all the elements of the crime. Likewise, he questions the validity of his warrantless arrest, since he was then "merely seen sitting on his idle motorcycle without performing anything illegal." He asserts that he did not commit any "overt act indicative of a felonious enterprise."<sup>18</sup>

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<sup>13</sup> Id. at 81.

<sup>14</sup> Id. at 45.

<sup>15</sup> *Arrest without warrant; when lawful*. – A peace officer or a private person may, without a warrant, arrest a person: (a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense;

<sup>16</sup> *Rollo*, pp. 40–45.

<sup>17</sup> Id. at 51–59.

<sup>18</sup> Id. at 22. Petition for Review on *Certiorari*.

*The Petition carries weight and conviction.*

At the outset, the factual findings of the trial court, especially when affirmed by the CA, are generally respected by this Court. However, this rule is subject to exceptions, such as when some facts or circumstances of weight were overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case, thereby warranting the Court's re-examination of said findings.<sup>19</sup>

Petitioner, who was supposedly caught by the authorities with an unlicensed firearm in his possession, is charged with violating Section 28, par. (e)(1) of RA No. 10591, which decrees:

*Unlawful Acquisition or Possession of Firearms and Ammunition.* – The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

x x x x

(e) The penalty of one (1) degree higher than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions:

(1) Loaded with ammunition or inserted with a loaded magazine;

The essential elements in the prosecution for the crime of illegal possession of firearms, including explosives, ammunitions, or incendiary devices, are: (a) the existence of subject firearm, and (b) the fact that the accused who possessed or owned the same does not have the corresponding license for it.<sup>20</sup> Prior to determining whether the prosecution was able to sufficiently prove these elements, the Court shall first look into the circumstances of petitioner's warrantless arrest.

The courts *a quo* held that his warrantless arrest was justified under Section 5(a), Rule 113 of the Rules of Court, which provides:

*Arrest without warrant; when lawful.* – A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense;

For a warrantless arrest of *in flagrante delicto* to be valid, two requisites must concur: *one*, the person to be arrested must execute an overt act

<sup>19</sup> See *De Guzman v. People*, G.R. No. 248907, April 26, 2021.

<sup>20</sup> See *People v. Olarte*, 848 Phil. 820, 847 (2019).

indicating that he or she has just committed, is actually committing or is attempting to commit a crime; and *two*, such overt act is done in the presence or within the view of the arresting officer. Failure to comply with this so-called “overt act test” renders an *in flagrante delicto* arrest constitutionally infirm.<sup>21</sup>

Here, the Court sees no such overt act, much less any other offense that would justify petitioner’s *in flagrante delicto* arrest. He was merely sitting on his motorcycle when the police officers proceeded to arrest him. On this score, PO1 Esteban’s sworn testimony is revelatory:

ATTY. BANATAO:

Q: Officer Esteban, prior to the apprehension of the accused, would you admit that he was merely sitting on a motorcycle?

PO1 ESTEBAN:

A: Yes, Ma’am.

Q: So since he was merely sitting on his motorcycle, would you confirm that at that time, **there was no crime plainly exposed to your view?**

A: **Yes, Ma’am.**<sup>22</sup>

PO1 Popanes also corroborated PO1 Esteban’s testimony, *viz.*:

Q: And so what happened after you arrived that place?

A: When we were about to approach the place, the informant secretly pointed to us the person who was the **only one sitting on the motorcycle that time, Ma’am.**<sup>23</sup>

In asserting that they had reasonable ground to arrest petitioner, the police officers recounted that as they were about to arrest him, he purportedly pulled out his firearm and attempted to run.<sup>24</sup>

This Court finds it difficult to lend credence to the police officers’ dubious account. When confronted by police officers, the ordinary reaction of a person who knows that he has in his possession a gun for which he has no license is to prevent it from being discovered.<sup>25</sup> It is inconceivable why petitioner would go the lengths of pulling out his firearm in front of the police officers, only to immediately surrender and voluntarily put the same on the ground. Such theory must be viewed with suspicion and reservation, especially in light of PO1 Esteban’s admission that at the time of the arrest, petitioner was not committing any crime in plain sight.<sup>26</sup>

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<sup>21</sup> See *Duropan v. People*, G.R. No. 230825, June 10, 2020.

<sup>22</sup> *Rollo*, p. 21. Petition for Review on *Certiorari*. Emphasis supplied.

<sup>23</sup> Temporary *Rollo*, p. 12. Comment of the Office of the Solicitor General. Emphasis supplied.

<sup>24</sup> *Rollo*, pp. 37–38. CA Decision dated December 14, 2020.

<sup>25</sup> See *Mendoza v. People*, 843 Phil. 881, 891 (2018).

<sup>26</sup> *Rollo*, p. 21. Petition for Review on *Certiorari*.

Assuming *arguendo* that the police officers apprehended petitioner for not wearing a helmet while aboard his motorcycle,<sup>27</sup> such infraction still did not justify his warrantless arrest. Significantly, Section 7, par. (a) of RA No. 10054<sup>28</sup> prescribes the imposition of a mere *fine* as a penalty for the non-wearing of a helmet, to wit:

*Penalties.* – (a) Any person caught not wearing the standard protective motorcycle helmet in violation of this Act **shall be punished with a fine** of One thousand five hundred pesos (Php1,500.00) for the first offense; Three thousand pesos (Php3,000.00) for the second offense; Five thousand pesos (Php5,000.00) for the third offense; and Ten thousand pesos (Php10,000.00) plus confiscation of the driver’s license for the fourth and succeeding offenses.<sup>29</sup>

Thence, even supposing that he was flagged down due to his failure to wear a helmet, he was not *ipso facto* arrested. Pertinently, the Court’s disquisitions in the landmark case of *Luz v. People*<sup>30</sup> are edifying—

*First*, there was no valid arrest of petitioner. When he was flagged down for committing a traffic violation, he was not, *ipso facto* and solely for this reason, arrested.

Arrest is the taking of a person into custody in order that he or she may be bound to answer for the commission of an offense. It is effected by an actual restraint of the person to be arrested or by that person’s voluntary submission to the custody of the one making the arrest. Neither the application of actual force, manual touching of the body or physical restraint, nor a formal declaration of arrest, is required. It is enough that there be an intention on the part of one of the parties to arrest the other, and that there be an intent on the part of the other to submit, under the belief and impression that submission is necessary.

Under R.A. 4136 or the Land Transportation and Traffic Code, the general procedure for dealing with a traffic violation is not the arrest of the offender, but the confiscation of the driver’s license of the latter[.]<sup>31</sup>

X X X X

It also appears that, according to City Ordinance No. 98-012, which was violated by petitioner, the failure to wear a crash helmet while riding a motorcycle is penalized by a fine only. **Under the Rules of Court, a warrant of arrest need not be issued if the information or charge was filed for an offense penalized by a fine only. It may be stated as a corollary that neither can a warrantless arrest be made for such an offense.**<sup>32</sup>

<sup>27</sup> Id. at 38. CA Decision dated December 14, 2020.

<sup>28</sup> AN ACT MANDATING ALL MOTORCYCLE RIDERS TO WEAR STANDARD PROTECTIVE MOTORCYCLE HELMETS WHILE DRIVING AND PROVIDING PENALTIES THEREFOR, approved on March 23, 2010.

<sup>29</sup> Emphasis supplied.

<sup>30</sup> 683 Phil. 399 (2012).

<sup>31</sup> Id. at 406.

<sup>32</sup> Id. at 409. Emphasis supplied.

Having established that petitioner's warrantless arrest was unlawful, it follows that any and all pieces of evidence purportedly seized from him are inadmissible in evidence. Concomitantly, the charge against him must crumble, given that the essential elements thereof could no longer be sufficiently proven. After all, well-ensconced is the legal precept that the overriding consideration in criminal prosecutions is not whether the court doubts the innocence of the accused, but whether there is a reasonable doubt as to his guilt, in which case the Court is under a long standing injunction to resolve the doubt in favor of the petitioner.<sup>33</sup> Where there is reasonable doubt, the Constitutionally enshrined presumption of innocence must be favored and the accused must be exonerated as a matter of right, even though his innocence may not have been established.<sup>34</sup>

Given the foregoing discourse, the Court is left with no alternative but to acquit petitioner of the crime charged against him.

**WHEREFORE**, the Petition for Review on *Certiorari* is hereby **GRANTED**. The Decision dated December 14, 2020 and the Resolution dated October 26, 2021 of the Court of Appeals in CA-G.R. CR No. 42990 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Anacito Muralla y Francisco @ "Butcho" is **ACQUITTED** on the ground of reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from detention unless he is confined for some other lawful cause.

The Director General of the Bureau of Corrections, Muntinlupa City is **DIRECTED** to **IMPLEMENT** this Resolution immediately and to **REPORT** to this Court the action taken hereon within five (5) days from receipt of this Resolution.

Let an entry of judgment be **ISSUED IMMEDIATELY**.

**SO ORDERED."**

By authority of the Court:

*MISAEL DOMINGO C. BATTUNG III*  
**MISAEL DOMINGO C. BATTUNG III**  
 Division Clerk of Court *06-2723*

<sup>33</sup> See *Mendoza v. People*, supra note 25 at 894.

<sup>34</sup> See *People v. Velasco*, G.R. No. 231787, August 19, 2019.

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