

SECOND DIVISION

[G.R. No. 121877, September 12, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ERLINDA GONZALES Y EVANGELISTA, ACCUSED-APPELLANT.**

DECISION

QUISUMBING, J.:

On appeal is the decision^[1] dated March 8, 1995, of the Regional Trial Court of Iloilo City, Branch 39, in Criminal Case No. 42441, which convicted appellant Erlinda Gonzales y Evangelista of violating Section 4, Article II^[2] of the Dangerous Drugs Act (R.A. No. 6425) and sentenced her to life imprisonment.

In an information dated December 23, 1993, the Provincial Prosecutor of Iloilo charged appellant with illegal transport of marijuana leaves and fruiting tops, allegedly committed as follows:

That on or about August 30, 1993, in the Municipality of Dueñas, Province of Iloilo, Philippines, and within the jurisdiction of this Court, the above-named accused, without any lawful purpose or justifiable motive, did then and there willfully, unlawfully and feloniously transport, deliver and/or distribute ten (10) kilos of marijuana leaves and fruiting tops (compressed in bricks) without being authorized by law to transport, deliver and/or distribute the same.

CONTRARY TO LAW.^[3]

On January 31, 1994, appellant was arraigned and with assistance of counsel pleaded not guilty to the charge. Trial on the merits ensued.

The prosecution presented two witnesses, namely, PO1 Reggie Pedroso and Angela Baldevieso, forensic chemist of the PNP. In addition, the prosecution presented the following object and documentary evidence: (1) ten bundles of dried marijuana leaves or fruiting tops, weighing 9.560 kilograms;^[4] (2) Physical Sciences Report No. D-087-93 issued by Angela Baldevieso, PNP forensic chemist;^[5] and (3) black traveling bag.^[6] On the other hand, the defense presented appellant herself and Isaac Lamera, the *trisikad* driver.

PO1 Reggie Pedroso narrated that in the evening of August 29, 1993, the Chief of Police of Dueñas, Iloilo and other policemen on duty including himself, received information that a woman with long hair, wearing *maong* pants and jacket, and Ray Ban sunglasses would be transporting marijuana along the national highway. According to the tipped information, the woman would bring a black traveling bag

and would ride a *trisikad*. Based on this information, the Chief of Police, that same evening, instructed his men to conduct mobile patrol at 5:00 A.M. in the morning of August 30, 1993, in the poblacion of Dueñas and along the national highway. Three teams were formed. One was assigned to cover the public market. Another was dispatched to Barangay Tinocuan. The third team, composed of PO1 Pedroso, PO3 Queque, and SPO2 Baculina, was assigned to the national highway in Barangay Poblacion A.

According to PO1 Pedroso, his team of policemen started patrolling at around 5:00 A.M. of August 30, 1993. They made the rounds on board a mobile car. At about 6:45 A.M., they passed by a woman who fitted the informer's description. She was standing along the national highway holding a black traveling bag in a *trisikad*. The law enforcers were one meter away from her when they spotted her. They alighted from their car and asked her who owns the traveling bag. The woman denied ownership of the bag. When PO1 Pedroso inquired from the *trisikad* driver, later identified as Isaac Lamera, about the ownership of the bag, the latter pointed to the woman as the owner of the said bag. The policemen then requested the woman to open the bag but she refused. When asked regarding the contents of the bag, Lamera answered he does not know. Believing that the bag contained marijuana per tipped information, the policemen brought appellant, Lamera and the bag to the police station. There, the Chief of Police forcibly opened the locked black bag as the woman alleged that the key to the lock was with her three companions who were at the public market. Inside the bag, they found wrapped in newspaper ten (10) bricks of dried marijuana leaves. Later on, the woman was asked about her personal circumstances. She identified herself as Erlinda Gonzales, herein appellant. Afterwards, she was detained.^[7]

On August 31, 1993, the bricks were brought to the Police Crime Laboratory in Camp Delgado, Iloilo City for chemistry analysis. Angela Baldevieso, a forensic chemist of the PNP, who later testified for the prosecution, confirmed in her physical evidence report (Exh. D) that the bricks of dried leaves (Exh. B to C-7, inclusive) were marijuana, weighing 9.560 kilograms.^[8] Subsequently, a complaint for violation of Section 4 of R.A. 6425 was filed against appellant.

Appellant denied her involvement in the drug transport. She claimed that at about 6:30 A.M. on August 30, 1993, she was standing along the national highway, having just come from a friend's house in Tacas, Dueñas. Just then, three policemen stepped out of a patrol car and asked her if she had a key to a black traveling bag they spotted in a *trisikad* which is about three arms length away from her. When she said "No", PO1 Pedroso invited her to the municipal hall where she was questioned. She said she never boarded the *trisikad*. Although she confirmed that there was a black bag in the *trisikad*, she denied ownership of said bag. She stated that the bag was closed and padlocked. She insisted that the black bag presented in court (Exh. E) was not the same black traveling bag taken from the *trisikad*.^[9]

Lamera, the *trisikad* driver, testified that at about 6:30 A.M. on August 30, 1993, he was driving his vehicle with a male passenger when the latter suddenly told him to stop, saying he had forgotten something. His passenger told him to wait for him at the national highway, leaving a bag on top of his *trisikad*. When he arrived at the highway, he saw appellant and parked some three arms length away from her. He then left his *trisikad* to answer a call of nature. As he did, a police car stopped and

three PNP members got off. They accosted him and asked who owned the bag. He replied that it belonged to his male passenger. When asked if appellant owned the bag, he answered "No." Lamera averred that appellant was not holding the handle of the bag when the policemen arrived. Nor was she wearing Ray Ban sunglasses. He claimed that he only learned about the contents of the bag when they were inside the police station. When a black traveling bag was shown him during the trial, Lamera stated that it was not the black traveling bag that was left in his *trisikad*. According to him, the bag presented in court was taller than the bag his male passenger left in his *trisikad*. He said the bag seized by the police was made of sackcloth, it had a zipper and wheels at the bottom.^[10]

The court found for the prosecution, disbelieved the defense, and convicted appellant, thus:

WHEREFORE, premises considered, the accused Erlinda Gonzales y Evangelista alias Linda Gonzales, is hereby found guilty beyond reasonable doubt of Violation of Sec. 4, Art. II of R.A. 6425 as amended, and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of P20,000.00 and the costs.

The nine kilos and 560 grams of compressed bricks of dried marijuana leaves and fruiting tops are ordered confiscated and forfeited in favor of the government and must be turned over to the Board through the National Bureau of Investigation, for proper disposition, pursuant to Sec. 20 of R.A. 6425, as amended.

The accused, who is detained, is credited with the number of days she spent under detention if she is qualified, otherwise, she shall be credited only with four-fifths (4/5) of her preventive imprisonment.

SO ORDERED.^[11]

Hence, this appeal, imputing the following errors to the trial court:

I

THAT THE HONORABLE LOWER COURT ERRED IN HOLDING THAT THE ACCUSED-APPELLANT WAS CAUGHT IN THE ACT OF TRANSPORTING NINE (9) KILOS AND 560 GRAMS OF DRIED MARIJUANA LEAVES AND FRUITING TOPS (COMPRESSED IN BRICKS) WHICH WERE PLACED IN A BLACK TRAVELLING BAG.

II

THE HONORABLE COURT ERRED IN NOT HOLDING THAT THE ARREST OF THE ACCUSED-APPELLANT WAS ILLEGAL AND THEREFORE THE MARIJUANA BRICKS ALLEGEDLY TAKEN FROM THE TRISIKAD IS

INADMISSIBLE IN EVIDENCE AS AGAINST HER.

III

THE HONORABLE LOWER COURT ERRED IN HOLDING THAT THE POLICE OFFICER WHEN THEY ARRESTED THE ACCUSED-APPELLANT WERE REGULARLY PERFORMING THEIR DUTIES.

IV

THE HONORABLE LOWER COURT ERRED IN NOT RECEIVING THE TESTIMONY OF THE ACCUSED-APPELLANT AND HER WITNESSES.

V

THE HONORABLE LOWER COURT ERRED IN NOT ACQUITTING THE ACCUSED.^[12]

In sum, the pertinent issues for our resolution are: (1) Were the testimonies of prosecution witnesses credible and sufficient to prove appellant's guilt beyond reasonable doubt? (2) Was appellant's warrantless arrest legal, thereby making the bricks of marijuana leaves allegedly seized from her admissible in evidence?

On the *first issue*, appellant states that she was not transporting marijuana in a black traveling bag aboard the *trisikad*. She denies being a passenger of the *trisikad*, or owning the black traveling bag containing marijuana. She claims she was not holding the bag's handle when the police accosted her. She asserts that it is unusual for her to hold on to something containing contraband in the presence of police officers. She argues that the prosecution simply alleged that she was holding the handle of the bag in order to justify an illegal arrest and to escape a charge of arbitrary detention. Next, appellant assails the credibility of PO1 Pedroso. She argues that the trial court erred in giving credence to his testimony on mere presumption that PO1 Pedroso had regularly performed his duty. Finally, appellant faults the lower court for not believing the testimony of Lamera, the *trisikad* driver. She insists that Lamera had no reason to lie as they do not know each other.

At the outset we note that, contrary to appellant's fourth assignment of error, she and her witness, Lamera, were heard and their testimonies recorded by the trial court. Unfortunately for appellant, their version was not believed by said court.

In essence, appellant now challenges the trial court's assessment of the testimonies of prosecution and defense witnesses. When credibility is in issue, this Court generally defers to the findings of the trial court considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their manner and deportment during the trial.^[13] Its findings on the credibility of witnesses will be sustained by appellate courts unless the trial court overlooked, misunderstood, or misapplied some facts or circumstances of weight

and substance which will alter the assailed decision or affect the result of the case.

[14] In this case, it appears plain to us that appellant failed to point to any fact or circumstance overlooked or ignored by the trial court to cast doubt on the credibility of the prosecution witnesses sufficiently.

Appellant's defense is bare denial. As held time and again, mere denial unsupported and unsubstantiated by clear and convincing evidence becomes negative and self-serving, deserves no weight in law and cannot be given greater evidentiary value over convincing, straightforward and probable testimonies on affirmative matters.

[15] Mere denial and allegations of frame-up have been invariably viewed by the courts with disfavor for these defenses are easily concocted. They are common and standard defenses in prosecutions involving violation of the dangerous drugs law.

[16]

Moreover, it appears far-fetched that the police and the prosecution would claim that appellant was holding the handle of the bag merely to justify her arrest and avoid a charge of arbitrary detention. PO1 Pedroso categorically declared that appellant was holding the black traveling bag in the *trisikad*. He was just one meter from appellant when he alighted from the patrol car and accosted the appellant who had in her possession, according to the eyewitness, the black traveling bag.

As pointed out by the Solicitor General, the positive testimony of the apprehending policeman outweighs appellant's negative testimony. Additionally, appellant presented no evidence to rebut the presumption that PO1 Pedroso had performed his task in a regular manner. We are thus constrained to agree with the trial court's finding that the police testimony here is worthy of credence.

In contrast, it plainly appears that defense witness Lamera flip-flopped in his testimony. On record, Lamera has two sworn statements. In the first affidavit dated August 30, 1993 executed before PO3 Gildo Peloperio, Lamera claimed that he was hired by four persons to deliver a black bag at the national highway, one of whom rode his *trisikad* while the other three followed. Upon reaching the national highway, policemen intercepted them and brought them to the municipal building.[17]

In his affidavit dated September 1, 1993, executed before Judge Inocentes de Ocampo, Lamera stated that on the day of the incident, four persons flagged down his *trisikad*. However, only one of them, a woman, who turned out to be appellant, got in his *trisikad* and rode to the national highway where she was apprehended by the PNP.[18]

But during the trial Lamera testified differently, varying his testimony from his earlier sworn statements. This time, he declared that the black bag in question belongs to a male passenger. His testimony on the witness stand on September 27, 1994, reads:

Q- About what time was that?

A- 6:30.

Q- And you said that man whom you claim, you did not know loaded a black travelling bag on your *trisikad*?

A- Yes, sir.

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