

FIRST DIVISION

[G.R. No. 197550, September 25, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARTURO ENRIQUEZ Y DE LOS REYES, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an appeal^[1] of the February 11, 2011 Decision^[2] of the Court of Appeals, in CA-G.R. CR.-H.C. No. 03430, which affirmed the Regional Trial Court's (RTC) February 28, 2008 Decision^[3] in Criminal Case Nos. DC 03-209 and DC 03-210, wherein accused-appellant **ARTURO ENRIQUEZ y DE LOS REYES** (Enriquez) was found guilty beyond reasonable doubt of violating **Sections 5 and 11, Article II of Republic Act No. 9165**.

In two separate Informations^[4] filed before Branch 57 of the RTC of Angeles City, Enriquez was charged with violating Sections 5 and 11, Article II of Republic Act No. 9165 or the "Comprehensive Dangerous Drugs Act of 2002." The pertinent portions of the Informations, both dated June 4, 2003, are hereby quoted as follows:

Criminal Case No. DC 03-209

That on or about the 3rd day of June, 2003, in [Brgy.] Manibaug Libutad, municipality of Porac, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ARTURO ENRIQUEZ y DELOS REYES, without any authority of law, did then and there wilfully, unlawfully and feloniously had in his possession, custody and control forty[-]five (45) small size heat-sealed transparent plastic sachets containing Methylamphetamine Hydrochloride (*shabu*) weighing TWO GRAMS AND SIX THOUSAND ONE TEN THOUSANDTHS (2.6001g) of a gram and one (1) pc. big size heat-sealed transparent plastic sachet containing Methylamphetamine Hydrochloride (*shabu*) weighing ONE THOUSAND TWO HUNDRED TWELVE TEN THOUSANDTHS (0.1212g) of a gram, a dangerous drug.^[5]

Criminal Case No. DC 03-210

That on or about the 3rd day of June, 2003, in Brgy. Manibaug Libutad, municipality of Porac, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, ARTURO ENRIQUEZ y DELOS REYES, without having been lawfully authorized, did then and there wilfully, unlawfully and feloniously, deliver and/or sell one (1) small size heat sealed transparent plastic sachet containing Methylamphetamine Hydrochloride (*shabu*) with an actual weight of

FOUR HUNDRED TWENTY[-]TWO TEN THOUSANDTH (0.0422g) of a gram, a dangerous drug.^[6]

Enriquez pleaded not guilty to both charges upon his arraignment^[7] on June 19, 2003.

Trial on the merits ensued after the termination of the pre-trial conference on September 25, 2003.^[8]

As culled from the records and transcript of stenographic notes, the contradictory versions of the prosecution and defense are as follows:

Prosecution's Version

Sometime in May 2003, Senior Police Officer (SPO) 2 Edilberto David, SPO2 Ernesto Divina, and SPO1 Saturnino Garung received reports from the *barangay* office and other concerned citizens of drug-dealing activities in the locality of Porac, Pampanga. They immediately conducted a casing and surveillance operation to verify the reports. About four operations were carried out, on a weekly basis, which confirmed that Enriquez was indeed dealing drugs among the truck drivers and helpers within the vicinity. After confirming the reports, SPO2 David, together with one civilian asset, conducted a test-buy on June 2, 2003.^[9] During the test-buy, SPO2 David's asset was able to buy P200.00 worth of *shabu*, which he confirmed to be so by burning it, contrary to standard police procedure.^[10]

After the test-buy, SPO2 David organized a team, composed of himself, SPO2 Divina, and SPO1 Garung, to conduct a buy-bust operation.^[11] On June 3, 2003, after SPO2 Divina coordinated with the Philippine Drug Enforcement Agency (PDEA) for their on-going narcotics operation,^[12] their Chief of Police Ricardo Erese briefed the team at Kababayan Center No. 2, at Barangay Sta. Cruz, Porac, Pampanga. At the briefing, SPO2 David was designated as the poseur-buyer, with the other two police officers as back-ups. To purchase the *shabu*, Chief of Police Erese gave SPO2 David a P100-peso bill and five P20-peso bills, which SPO2 David marked by placing a small bar on the lower right corner of the bills. The team thereafter proceeded to Brgy. Manibaug, Libutad in Porac, Pampanga. Upon arriving at the target area at around 11:00 a.m., SPO2 David approached Enriquez, whom they spotted sitting in a *sari-sari* store, while SPO2 Divina and SPO1 Garung hid behind a dump truck parked across the store. SPO2 David called the attention of Enriquez by saying "*dalawang (2) piso*"^[13] while handing him the P200.00. Without saying anything, Enriquez took the money and went to the back of the store. After one to two minutes, Enriquez emerged and handed SPO2 David a sachet of *shabu*. This prompted SPO2 David to put his hand at the back of his head, to signal his teammates that the sale had been consummated. Upon the execution of the pre-arranged signal, SPO2 Divina and SPO1 Garung approached the site of engagement, introduced themselves as police officers to Enriquez, and thereafter conducted a body search on him, which resulted to the discovery of a plastic game card containing one big and 45 small plastic sachets of white crystalline substance.^[14] SPO2 David prepared the Confiscation Receipt for the above-seized items, then subsequently brought Enriquez to the Porac Police Station, wherein the team prepared the papers necessary in filing a case against Enriquez.^[15]

As per Chemistry Report No. D-219-2003,^[16] prepared by Police Inspector and Forensic Chemical Officer Divina Mallare Dizon (P/Insp. Dizon), upon the request for laboratory examination^[17] submitted by Chief of Police Erese, the plastic sachets confiscated from Enriquez tested positive for methylamphetamine hydrochloride.

Defense's Version

The defense's version of the events, as quoted from Enriquez's own brief, are as follows:

In truth, Enriquez was alone, eating in an eatery in Manibaug, Porac, Pampanga, when three (3) men, all in civilian clothes, alighted from an owner-type jeep and approached him. One of the men, SPO2 David, then poked a gun at him. The former asked Enriquez if he knew a certain truck driver who is suspected of selling *shabu*. When he denied knowledge thereof, he was immediately handcuffed and was brought to the police station for further investigation. He was detained and was told that he is being suspected of selling *shabu*.

Nora Pangilinan, a 37-year old helper of the sari-sari store, corroborated [Enriquez]'s testimony. She saw how the apprehending team rudely approached and arrested [Enriquez].^[18] (Citations omitted.)

On February 28, 2008, the RTC convicted Enriquez in its Decision, the dispositive portion of which reads:

WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt in the two (2) cases, the Court finds accused ARTURO ENRIQUEZ Y DE LO[S] REYES **GUILTY** of the offense as charged and hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT** and **a fine of Php 500,000.00**, in Criminal Case No. DC 03-210 for violation of Section 5, Art. II of R.A. 9165. Accused Enriquez is also sentenced to suffer the penalty of imprisonment of **TWELVE YEARS (12) AND ONE (1) DAY**, as minimum, to **FOURTEEN (14) YEARS AND EIGHT (8) MONTHS**, as maximum, of **Reclusion Temporal** in Criminal Case No. DC 03-209 for violation of Section 11 of R.A. 9165 and **a fine of Php 300,000.00**.^[19]

Aggrieved, Enriquez appealed^[20] to the Court of Appeals, which, on February 11, 2011, affirmed the decision of the RTC.^[21]

Issues

Enriquez is now before this Court, assigning^[22] the same errors he presented before the Court of Appeals, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE IRREGULARITY OF THE BUY-

BUST OPERATION.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE WITH MORAL CERTAINTY THE IDENTITY OF THE *CORPUS DELICTI*.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE ARRESTING OFFICERS' NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER REPUBLIC ACT NO. 9165.^[23]

Enriquez questions the fact that despite a month-long surveillance and casing operation against him, the police operatives still opted to conduct a buy-bust operation instead of securing a warrant for his arrest.^[24] Moreover, Enriquez points out, the police officer, to test the substance they allegedly recovered from him during their test-buy operation, burned such substance instead of going through the proper testing procedures.^[25]

Aside from the foregoing procedural infractions, Enriquez finds it irregular that the police officers commuted to the target area instead of using their precinct's service mobile. Enriquez adds: "The lack of a service vehicle, therefore, is an irregularity that is too uncommon and virtually affects the preservation of the seized pieces of evidence."^[26]

Enriquez also claims that the prosecution was not able to prove with moral certainty the identity of the *corpus delicti* for failure of the police officers to comply with Section 21(a) of Republic Act No. 9165, on the custody and disposition of confiscated or seized dangerous drugs. He avers that there was neither physical inventory nor a photograph of the seized items. Moreover, Enriquez says, the markings on the confiscated items were not immediately made upon its seizure, at the place of the incident, nor were there any indication in the records that it was made in his presence. Enriquez points out that while "non-compliance x x x with Section 21 is not fatal, as police lapses, may at times occur, these errors, however, must be supported with justifiable grounds and the integrity and the evidentiary value of the seized items must be preserved."^[27]

Ruling of the Court

This Court has painstakingly reviewed the records of this case and after a thorough deliberation, resolves to **acquit** Enriquez for the prosecution's failure to prove his guilt beyond reasonable doubt. This Court finds that the prosecution was not able to establish with moral certainty that the integrity and evidentiary value of the items confiscated from Enriquez were preserved such that they could be used as basis for Enriquez's conviction.

The Constitution^[28] demands that an accused in a criminal case be presumed innocent until otherwise proven beyond reasonable doubt.

Likewise, Section 2, Rule 133 of the Rules of Court requires proof beyond reasonable doubt to justify a conviction; anything less than that entitles the accused to an acquittal.

Enriquez was charged and convicted for the sale and possession of methylamphetamine hydrochloride, more popularly known as *shabu*, in violation of Sections 5 and 11, Article II of Republic Act No. 9165, to wit:

Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

x x x x

Section 11. *Possession of Dangerous Drugs.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- (1) 10 grams or more of opium;
- (2) 10 grams or more of morphine;
- (3) 10 grams or more of heroin;
- (4) 10 grams or more of cocaine or cocaine hydrochloride;
- (5) 50 grams or more of methamphetamine hydrochloride or "*shabu*;"
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
- (7) 500 grams or more of marijuana; and