

THIRD DIVISION

[G.R. No. 193379, August 15, 2011]

**CESAR D. CASTRO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

R E S O L U T I O N

VELASCO JR., J.:

In this Petition for Review on Certiorari under Rule 45, accused-appellant Cesar D. Castro (Castro) assails the January 6, 2010 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 31793, as effectively reiterated in its August 10, 2010 Resolution, ^[2] which affirmed *in toto* the July 11, 2008 Decision^[3] of the Regional Trial Court (RTC), Branch 16 in Laoag City, in Criminal Case No. 10784-16. The RTC found Castro guilty of violating Sec. 11, Art. II of Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

Castro was charged with possession of *shabu* in an Information dated July 26, 2003, the inculpatory portion of which reads:

That on or about the 25th day of July 2003 in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the herein accused did then and there willfully, unlawfully and feloniously have in his possession, control and custody, Methamphetamine Hydrochloride, locally known as "shabu", a dangerous drug, contained in one (1) plastic sachet, weighing more or less 0.1 gram including the plastic sachet, without any license or authority, in violation of the aforecited law.

CONTRARY TO LAW.^[4]

When arraigned, Castro pleaded not guilty to the offense charged.

At the pre-trial conference, the prosecution and the defense jointly stipulated as to the identity of the accused, such that whenever the name Cesar Castro is mentioned, the reference is to the accused thus charged in the information. They likewise stipulated on the issue of whether or not the accused, when arrested on July 25, 2003, was in possession of *shabu* and, if so, whether he was authorized.

Trial on the merits then ensued.

The trial court summarized the state's evidence, as follows:

PO1 JONEL MANGAPIT testified that: On July 25, 2003, he was assigned in the Intelligence and Operation Section of Laoag City Police Station at

Barangay I, Laoag City. At about 4:45, SPO2 Nestor Felipe informed them that he received a phone call from a concerned citizen that a male person wearing green t-shirt and brown maong bought shabu near the Iglesia Ni Cristo. Police Superintendent Pagdilao dispatched a team of police officers composed of PO1 Inspector Aldos, SPO3 Lagundino, SPO2 Bal and himself to verify the veracity of the report. They rode on the black Toyota Corolla ... and proceeded to the place. (The Iglesia Ni Cristo is farther west of the Police station of Laoag City at Brgy. I, along Rizal Street). Upon reaching the Iglesia Ni Cristo church, they saw a male person with the green description. They know his person as one of the drug personalities. He was walking towards the east with his right hand placed on his pocket. They were about ten (10) meters away from the accused. They approached him. The accused panic upon recognizing them as policemen and brought something [out] from his pocket and threw it at his back. The things thrown by the accused were plastic sachets of shabu, lighter and a coin. They arrested the accused and he was informed of his constitutional rights. He could not answer when he was asked whether or not he had authority to possess illegal drug. They brought the accused to the police station and he was indorsed to Investigation Section. The plastic sachet of shabu was turned over to the Evidence Custodian, SPO2 Loreto Ancheta. x x x Police Officers Aldos and Bal also saw the accused threw something in the manner he described. It was SPO2 Bal who picked up the plastic sachet of shabu. The accused was facing east and their vehicle was facing west. The accused was walking. He took hold of the accused. The thing that was thrown was 1 meter away from the back of the accused. From his experience he knew that the content of the plastic sachet thrown by the accused was shabu. (TSN April 13, 2004, pp. 2-10) On additional examination, he confirmed that he saw the accused making a motion of bringing out from his front pants pocket his hands causing the dropping of an item. He likewise confirmed that the item dropped was a sachet of shabu and it is the same item that was picked up by SPO2 Bal. He received the sachet of shabu from Officer Bal and turned over the same to the evidence custodian five to ten minutes after the operation. SPO3 Lagundino and Senior Insp. Aldos were present when Officer Bal turned over the shabu to him. He cannot remember if there was a Post Operation Report. (TSN, January 13, 2006, pp. 13-17)

SPO2 ERNESTO BAL testified that: In the afternoon of July 25, 2003, the complaint desk officer received a telephone call informing that a male person wearing a green t-shirt and a brown maong pants had just bought a shabu at Brgy. I near the Iglesia Ni Cristo. The Chief of Police x x x dispatched them to verify the information. They rode in an unmarked vehicle x x x. When they were at the Rizal Street, they saw a male person that matched the description given coming from the house of the Valeriano family which is southwest of Iglesia Ni Cristo. From a distance of about ten (10) to twelve (12) meters, they saw the male person place his right hand into his right side pocket. When they got near the male person, they noticed him removing his right hand from his pocket and he threw something backward. They were more or less four (4) meters away from the accused. PO1 Mangapit alighted and took hold of the accused. He also alighted, went to PO1 Mangapit who told him to pick-up the thing

which the accused threw. He picked-up a plastic sachet which contained white crystalline substance. He asked the accused if he has license or permit to possess shabu. Accused Cesar Castro did not answer. They brought the accused together with the plastic sachet to the police station and they delivered the plastic sachet with crystalline substance to the evidence custodian. (TSN, December 2, 2004, pp. 2-7) On cross examination, [he stated that] x x x When he picked up the plastic sachet it was more or less half-meter from the accused. He heard PO1 Mangapit inform the accused of his constitutional rights. (ibid, pp. 11-24) The distance between the police station and the Iglesia Ni Cristo is more or less 200 meters. (TSN, March 17, 2006, p. 5) x x x He (the witness) did not mark the shabu. It was only the evidence custodian who marked it. (ibid, p. 16)

SPO2 LORETO ANCHETA, evidence custodian of the Laoag City, PNP testified that: In the afternoon of July 25, 2003, he received one (1) plastic sachet containing crystalline substance from Officer Ernesto Bal. Upon receipt of the specimen, he placed markings on the sachet of the crystalline substance. He prepared a request addressed to Chief of Hospital of the Laoag City General Hospital for physical and ocular examination of the specimen. The request was signed by P/Supt. Joel Pagdilao. He delivered the request and the specimen to Dr. Eliezer John Asuncion and waited for the result of the physical and ocular examination. Upon receipt of the result of the examination, he went back to the office and prepared another request for laboratory examination addressed to the Regional Chief Chemist PNP Crime Laboratory Service, Camp Brigidier General Oscar Florendo Parian, San Fernando, La Union. This was signed by P/Insp. Dominic Guerrero. He brought the specimen and the letter request to the PNP Crime Laboratory, Camp Juan, Laoag City. It was received by P/Insp. Valeriano Panem Laya II. (TSN, June 25, 2004, pp. 10-16)

P/INSP. VALERIANO PANEM LAYA II, testified that: As a Forensic Officer, x x x he also holds office at the PNP Crime Laboratory, Camp Juan, Laoag City. He remembered having received a specimen for examination with respect to a case against Cesar Castro from Officer Loreto Ancheta (When he was asked where the specimen was, he handed to the prosecutor the plastic sachet marked as Exhibit D). x x x The result of his examination was that the specimen was positive for the presence of [shabu]. This is contained in his Chemistry Report D-327-03. Exhibit E (TSN, February 18, 2005, pp. 10-12) On cross examination he testified that: he weighed the specimen at San Fernando, La Union. The weight was .08 gram and was indicated in his Report. He did not weigh the representative sample. (ibid, p. 29)^[5]

The defense presented in evidence the testimonies of accused Castro and one Rodolfo Bunnao. The RTC also summarized them, as follows:

CESAR CASTRO x x x testified that: In the afternoon of July 25, 2003, he was at the house of Crispin Valeriano to ask for the payment of his debt.

Because Crispin Valeriano has no money, he went home taking the southward direction to the national road west of the Iglesia Ni Cristo. He was about to cross towards the other side of the road when a car suddenly stopped in front of him and a policeman in the person of Ernesto Bal alighted x x x. Ernesto Bal called for him and when he went near him Ernesto Bal immediately searched his two (2) front pockets and x x x his back pockets but was not able to get anything. He asked Ernest Bal why x x x. Bal told him that somebody called them telling them that he went to the house of Crispin Valeriano to buy shabu. After he was searched he was invited by Officer Bal to the police station to make a statement x x x. He voluntarily went with them x x x. Officer Mangapit went out from the right side of the car and went behind him. When he alighted from the car, Officer Mangapit asked him, "What is this?" (holding something placed in a plastic) to which he answered, "I don't know." While inside their office, they undressed him and examined thoroughly even the sleeves of his shirt as well as his pants. He claimed that the plastic is inside and longer when Exhibit D was shown to him and that the same was 1/3 inch wider and longer. After he was dressed-up, they placed him at the prison cell, where he resisted. He did not see were PO Mangapit took the plastic sachet but the latter insisted that he took it from the seat where he was seated. On cross examination, he testified that Police Officers Bal and Mangapit were familiar to him x x x. After the police officers conducted the investigation and charged him of possession of shabu, they brought him to the Office of Mayor Roger Fariñas, a close relative of him. The policemen did not prepare any document stating that they did not hurt him and nothing was lost. He did not protest when they told him to strip. (TSN, August 24, 2007, pp. 3-14)

RODOLFO BUNNAO testified that: After eating at the kitchenette and went out, he saw Cesar Castro west of the Iglesia Ni Cristo standing when all of the sudden, a black car stopped and two (2) men alighted from the car, went near Cesar Castro and bodily searched him. He knew the accused x x x. About one (1) minute after the search, they brought him inside the car proceeding west. x x x On cross examination [he stated that] x x x [o]n July 25, 2003, there was a cockfight in Laoag City x x x. He took his lunch at the Modern Kitchenette after he borrowed cockfight money from Marcial Baracao east of the GSIS. Modern Kitchenette is further west from the most western fence of the Iglesia Ni Cristo. Two (2) men alighted from the black car one is the driver and the other one from the passenger's side. He knew for a fact that there is another man inside the car whom he does not know x x x. (TSN, February 15, 2008, pp. 3-6)^[6]

On the main finding that the *corpus delicti* has been established by the open court narrations of the People's witnesses and whose testimony bespoke of an unbroken chain of custody, the RTC, in its Decision of July 11, 2008, found Castro guilty beyond reasonable doubt of the crime charged, disposing as follows:

WHEREFORE, premises considered, and after weighing carefully the evidence presented by the prosecution and the defense, the Court finds