

## SECOND DIVISION

[ G.R. No. 130106, July 15, 2005 ]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. PERLITA J. TRIA-TIRONA, IN HER CAPACITY AS PRESIDING JUDGE, BRANCH 102, REGIONAL TRIAL COURT, QUEZON CITY AND CHIEF INSPECTOR RENATO A. MUYOT, RESPONDENTS.**

### DECISION

**CHICO-NAZARIO, J.:**

Can the government appeal from a judgment acquitting the accused after trial on the merits without violating the constitutional precept against double jeopardy?

Before us is a petition for review on *certiorari* seeking the annulment of the decision<sup>[1]</sup> of respondent Judge Perlita J. Tria-Tirona dated 11 August 1997 acquitting accused-private respondent Chief Inspector Renato A. Muyot and in lieu thereof a judgment be issued convicting the latter of the crime charged.

Armed with two search warrants,<sup>[2]</sup> members of the National Bureau of Investigation (NBI) Anti-Organized Crime Division, together with members of the NBI Special Investigation Division and the Presidential Intelligence and Counter-Intelligence Task Force Hammer Head serving as security, conducted a search on the house of accused-private respondent located on Banawe, Quezon City. The alleged finding of 498.1094 grams of methamphetamine hydrochloride (shabu) thereat led to the filing of an information charging private respondent with Violation of Section 16, Article III of Republic Act No. 6425,<sup>[3]</sup> as amended by Rep. Act No. 7659. The information<sup>[4]</sup> reads:

That on or about October 15, 1996 in Quezon City and within the jurisdiction of this Honorable Court, above-named accused did then and there knowingly have in his possession, custody and control Four Hundred Ninety-Eight point One Thousand Ninety-Four (498.1094) grams of methamphetamine hydroc(h)loride (shabu) a regulated drug without any license, permit, prescription or authority coming from any government office, bureau, agency, or department authorized to issue such license, permit, prescription or authority in blatant violation of the Dangerous Drugs Act of 1972 as amended by RA 7659.

The case was raffled to the sala of public respondent -- Branch 102 of the Regional Trial Court of Quezon City.

When arraigned on 27 November 1996, private respondent, assisted by a counsel *de parte*, pleaded not guilty to the crime charged.<sup>[5]</sup> After trial on the merits, public respondent rendered a decision<sup>[6]</sup> acquitting private respondent on ground of reasonable doubt.

The decision, more particularly the acquittal of private respondent, is being assailed *via* a petition for *certiorari* under Rule 65 of the Rules of Court. Petitioner contends that public respondent, in acquitting private respondent, committed grave abuse of discretion by ignoring material facts and evidence on record which, when considered, would lead to the inevitable conclusion of the latter's guilt beyond reasonable doubt. It added that the appealability of the trial court's decision of acquittal in the context of the constitutional guarantee against double jeopardy should be resolved since it has two pending petitions<sup>[7]</sup> before the court raising the same question.

Petitioner informs the Court that in its prior petition in *People v. Velasco*,<sup>[8]</sup> it has presented and extensively discussed the now settled constitutional doctrine in the United States that the Double Jeopardy Clause does permit a review of acquittals decreed by trial magistrates where, as in this case, no retrial will be required even if the judgment should be overturned. It thus argues that appealing the acquittal of private respondent would not be violative of the constitutional right of the accused against double jeopardy.

In a resolution dated 12 November 1997, the Court required private respondent to comment on the petition within ten days from notice.<sup>[9]</sup> On 8 January 1998, the latter filed his Comment.<sup>[10]</sup>

On 26 January 1998, the Court required petitioner to file its reply.<sup>[11]</sup> It did on 13 November 1998.<sup>[12]</sup>

On 13 September 2000, the Court promulgated its decision in *People v. Velasco*.<sup>[13]</sup> In said case, the government, by way of a petition for certiorari under Rule 65 of the Rules of Court, appealed the decision of Hon. Tirso D.C. Velasco acquitting accused Honorato Galvez of the charges of murder and double frustrated murder due to insufficiency of evidence, and of the charge of unauthorized carrying of firearm on the ground that the act charged was not a violation of law. This Court dismissed the petition. We ruled:

. . . Therefore, as mandated by our Constitution, statutes and cognate jurisprudence, an acquittal is final and unappealable on the ground of double jeopardy, whether it happens at the trial court level or before the Court of Appeals.

In general, the rule is that a remand to a trial court of a judgment of acquittal brought before the Supreme Court on certiorari cannot be had unless there is a finding of mistrial, as in *Galman v. Sandiganbayan*. . . .

. . .

Thus, the doctrine that "double jeopardy may not be invoked after trial" may apply only when the Court finds that the "*criminal trial was a sham because the prosecution representing the sovereign people in the criminal case was denied due process*."

. . .

. . . Thus, "emerging American consensus on jury acquittals" notwithstanding, on solid constitutional bedrock is well engraved our own doctrine that acquittals by judges on evidentiary considerations cannot be appealed by government. The jurisprudential metes and bounds of double jeopardy having been clearly defined by both constitution and statute, the issue of the effect of an appeal of a verdict of acquittal upon a determination of the evidence on the constitutionally guaranteed right of an accused against being twice placed in jeopardy should now be finally put to rest.

. . .

Philippine jurisprudence has been consistent in its application of the Double Jeopardy Clause such that it has viewed with suspicion, and not without good reason, applications for the extraordinary writ questioning decisions acquitting an accused on ground of grave abuse of discretion.

The petition at hand which seeks to nullify the decision of respondent judge acquitting the accused . . . goes deeply into the trial court's appreciation and evaluation *in esse* of the evidence adduced by the parties. A reading of the questioned decision shows that respondent judge considered the evidence received at trial . . . While the appreciation thereof may have resulted in possible lapses in evidence evaluation, it nevertheless does not detract from the fact that the evidence was considered and passed upon. This consequently exempts the act from the writ's limiting requirement of excess or lack of jurisdiction. As such, it becomes an improper object of and therefore non-reviewable by certiorari. To reiterate, errors of judgment are not to be confused with errors in the exercise of jurisdiction.

On 10 November 2004, the Court gave due course to the petition and required the parties to submit their respective memoranda.<sup>[14]</sup>

Private respondent Muyot filed his memorandum on 4 March 2005.<sup>[15]</sup> Invoking the Rule of Double Jeopardy, he prays that the petition be dismissed.

On 20 April 2005, petitioner filed its memorandum. It raised the following issues:

## I

WHETHER OR NOT THE DECISION OF RESPONDENT COURT ACQUITTING PRIVATE RESPONDENT CAN BE REVIEWED ON A PETITION FOR REVIEW ON CERTIORARI.

## II

WHETHER OR NOT PRIVATE RESPONDENT SHOULD BE CONVICTED FOR VIOLATION OF THE DANGEROUS DRUG ACT OF 1972 ON THE BASIS OF THE EVIDENCE PRESENTED BY THE PROSECUTION.

On the first issue, petitioner argues that notwithstanding our decision in *People v.*