

THIRD DIVISION

[G.R. No. 147348, September 24, 2002]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MICHAEL SY ALIAS
MICHAEL/DANIEL, APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

In prosecutions for violation of the Dangerous Drugs Law, frame-up is a common if not trite defense. At bottom, the case becomes a contest of credibility of the witnesses and their testimonies. In such a situation, this Court generally relies upon the assessment of the trial court, which had the distinct advantage of observing the conduct or demeanor of the witnesses while they were testifying.

The Case

For review before this Court is the Decision^[1] dated January 30, 2001, issued by the Regional Trial Court (RTC) of Caloocan City (Branch 127) in Criminal Case No. C-60283, finding Michael Sy alias Daniel, alias Shi Tian Sheng guilty of violating Section 16, Article III, RA 6425 (the Dangerous Drugs Act), and sentencing him to reclusion perpetua.

The Information^[2] dated July 21, 2000, reads as follows:

"That on or about the 20th day of July 2000, in Caloocan City and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there wilfully, unlawfully and feloniously have in his/her possession, custody and control METHYLAMPHETAMINE HYDROCHLORIDE (SHABU) weighing 246.29 grams, a regulated drug, under the provisions of the above-cited law."^[3]

During his arraignment on August 31, 2000, appellant^[4] pled not guilty.^[5] After trial in due course, the lower court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE[,] premises considered and the prosecution having proved beyond an iota of doubt the guilt of Accused MICHAEL SY a.k.a. SHI TIAN SHENG of Violation of Sec. 16, Art. III of RA 6425 as amended by RA 7659 this Court, in the absence of any modifying circumstance, hereby sentences the said Accused to suffer the lesser penalty of Reclusion Perpetua, and to pay the fine of P5,000,000.00 Philippine Currency and to pay the costs.

"The preventive imprisonment suffered by the Accused shall be credited in full in the service of his sentence in accordance with Art. 29 of the Revised Penal Code.

"The Accused being an alien, his deportation without further proceedings is hereby ordered after the service of his sentence pursuant to Sec. 22, Art. IV of R.A. 6425, as amended.

"Subject drug consisting of 246.29 grams of methylamphetamine hydrochloride [is] hereby declared confiscated and forfeited in favor of the government. In this connection and per Section 20, Article IV of same Act, the Deputy Sheriff of this sala is hereby directed to turn over the same to the Dangerous Drugs Board to be dealt with in accordance with the law."^[6]

The Facts

Prosecution's Version

In its Brief,^[7] the Office of the Solicitor General (OSG) presents the prosecution's version of the facts as follows:

"Acting on the information given by a confidential informant that the spouses Reynaldo and Maritess Santos were peddling *shabu*, the Valenzuela Police Station - Drug Enforcement Unit (VPS-DEU) conducted a surveillance on the residence of the said spouses at 2355 M. delos Reyes St., Gen. T. De Leon, Valenzuela City. After confirming the veracity of the information provided by the confidential informant, police operatives belonging to the VPS-DEU conducted on July 19, 2000, at around 7:30 p.m., a 'buy-bust' operation against the Santos spouses wherein the designated poseur-buyer, Police Officer 3 Nolasco Dabu, with the assistance of the confidential informant and other police officers, was able to entrap the said spouses while in the act of selling to him *shabu* contained in a plastic bag.

"The Santos spouses were apprehended by police operatives and brought to the [Valenzuela] Police Station where they were informed of their constitutional rights under custodial investigation. In the course of the investigation, Maritess Santos volunteered to cooperate with police investigators in apprehending her supplier of *shabu*. To enable her to contract her supplier, one of the police operatives lent his cell phone to Maritess. Maritess then called up somebody, who turned out to be the herein appellant, Michael Sy, and informed him that she would like to remit the proceeds of the sale of *shabu* she earlier sold because she would be going to the province and she disliked having to bring the money with her. Michael Sy declined Maritess Santos' request because it was already late. He suggested instead that they meet the following day in front of the Our Lady of Grace Church at 11th Avenue, Grace Park, Caloocan City.

"The following day, July 20, 2000, around 8:30 a.m., a police team led by P/Insp. Gordon brought the Santos spouses to the Valenzuela City Mayor's Office to inform Mayor Carlos about the arrest of the said spouses for violation of the Dangerous Drugs Law. While at the said office, Maritess reiterated her willingness to cooperate with the police in apprehending Michael Sy, her supplier of illegal drugs. Upon the suggestion of P/Insp. Gordon, the police formed a plan to entrap Michael

Sy. Under the plan, Maritess would contact Michael Sy and persuade him to meet her and her male companion at a certain place for the purpose of remitting money representing the proceeds of the *shabu* she earlier sold. After remitting the money, which would be provided by the police, Maritess would ask Michael Sy for a new supply of *shabu*. Thus, at around 9:00 a.m., Maritess contacted again Michael Sy by a cell phone to confirm their meeting at the Our Lady of Grace Church. Police Officer 2 Exequiel Sangco, who was standing near Maritess, heard her tell Michael Sy that she and a male companion will arrive at the designated meeting place aboard a maroon Lancer car. Michael Sy replied in broken Tagalog. 'Sige, kita tayo'.

"In accordance with the plan to entrap Michael Sy, a police team composed of P/Insp. Gordon, SPO1 Manuelito Isip, PO3 Nolasco Dabu and PO2 Exequiel Sangco went to the place where Maritess and Michael Sy agreed to meet. Police Officer 2 Sangco accompanied Maritess aboard a maroon Lancer provided by the Chief of Police, while the other members of the police team went to the designated place in separate vehicles. Maritess and PO2 Sangco arrived at the Our Lady of Grace Church at around 10:30 a.m. and parked their vehicle in front of the said church. The rest of the police team posted themselves in strategic positions within the vicinity of the church. For their part, P/Insp. Gordon, P/Supt. Neron and Valenzuela City Mayor Carlos stayed at the church's rear side, approximately 100 meters away from PO2 Sangco and Maritess.

"At around 1:30 p.m., Michael Sy arrived by his lonesome, driving a black Honda Civic car. He blew his car's horn and parked his car in front of the maroon Lancer. Upon seeing the car, Maritess uttered to PO2 Sangco, 'Siya Na. Heto na iyong Michael'. Maritess and PO2 Sangco then alighted from their car and approached Michael Sy who, in haltered Tagalog, asked, 'Sino yan?', referring to PO2 Sangco. Maritess replied, 'Wala yan.' Maritess then opened the car of Michael Sy and with PO2 Sangco, boarded the same. Once inside, Michael Sy asked Maritess, 'Nasan?'. In response, Maritess tapped the right pocket of her maong pants, showed a portion of the bundle of 'show money' to Michael Sy, and asked the latter in turn, 'Nasaan?'. Satisfied, Michael Sy opened the car's glove compartment and took out a plastic bag purportedly containing *shabu*. Forthwith, PO2 Sangco opened the car's door, which was not closed tightly, by kicking the same as a prearranged signal to his colleagues that the illegal transaction had been accomplished. Police Officer 2 Sangco then grabbed the car keys, introduced himself as police officer to Michael Sy, and seized the plastic bag from the glove compartment of the car. After informing Michael Sy of his constitutional rights, PO2 Sangco handcuffed him and presented him, as well as the confiscated *shabu* to P/Insp. Gordon who arrived at the scene of the crime.

"Thereafter, the police operatives returned to the Valenzuela Police Station together with Michael Sy, the confiscated *shabu* and the black Honda Civic. At the police station, police operatives turned over Michael Sy and the seized evidence to SPO3 Dexter Perez for investigation. SPO3 Perez likewise reduced the joint statement of the arresting officers into writing and prepared the 'Request For Laboratory Examination' dated 20

July 2000 to the NPD Crime Laboratory Office, Samson Road, Caloocan City for examination of the subject substance seized from appellant. The seized substance was received from PO3 Norman Pestejo by the assigned Forensic Chemist, P/Insp. Victor Calub Drapete. In P/Insp. Drapete's 'Physical Sciences Report No D-730-00; the following entries appear:

'SPECIMEN SUBMITTED:

'Four (4) heat-sealed transparent plastic bags, each containing white crystalline substance with the following markings and recorded net weights:

A - (ES-1) = 61.83 grams

B - (ES-2) = 60.29 grams

C - (ES-3) = 61.93 grams

D - (ES-4) = 62.24 grams

'PURPOSE OF LABORATORY EXAMINATION:

'To determine the presence of prohibited and/or regulated drug.

'FINDINGS:

"Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for Methamphetamine hydrochloride, a regulated drug.

"CONCLUSION:

"Specimen A through D contain Methamphetamine hydrochloride, a regulated drug.'

"Based on the above findings and joint affidavit of PO3 Nolasco Dabu, PO2 Exequiel Sangco and PO1 Manuelito Isip as well as the seized physical evidence, the case against Michael Sy was referred for inquest to the Office of the City Prosecutor, Caloocan City per 'Referral Slip' dated 21 July 2000 which resulted in the filing of an Information against Michael Sy for violation of Section 16, Article III of RA 6425, as amended."^[8] (Citations omitted)

Defense's Version

Appellant, on the other hand, posits a different version of the facts, as follows:

"[O]n the morning of 20 July 2000, Accused MICHAEL SY (Accused for short) went to Allied Bank, Asuncion Branch, Manila to withdraw P20,000.00 from his Savings Account No. 1610-01047-3 to pay his creditor. Returning to his car, he received a cellphone call from his boss, JOSE SY from whom he used to do some errands like delivering RTW items consisting of blouses, t-shirts and dresses to customers, asking him to proceed to the church (referring to Our Lady of Grace Park, Caloocan City to get the money in the amount of P200,000.00 to be given by his (JOSE SY's) mistress MARITESS SANTOS, who he (Accused) had seen several times getting some merchandise at the store of his boss in Tutuban Center. Being familiar to 11th Avenue, Grace Park, Caloocan

City since he used to pass there on his way to Valenzuela City to buy fruits for his relatives, he complied with the instruction of JOSE SY. Arriving thereat at around 11:00 a.m. and nearing Our Lady of Grace Church, he drove slowly due to the thick crowd when he saw the smiling MARITESS in the company of two (2) men. Suddenly several men in civilian clothes blocked his car, three of them at his left side and another three at his right and pointed their handguns at him and simultaneously beckoned him to come out. Terrified, he acceded thereto but no sooner had he alighted from the car than when he was handcuffed by the men, later identified as policemen from Valenzuela City Police Station. Thence he was made to board the car of the operatives. While inside the car the police officer at his side frisked him and got his newly withdrawn money of P20,000.00 including his other cash in the amount of around P15,000.00, two (2) rings valued at P30,000.00 and his belt as well as his passbook containing P3 million deposit. At the same time he was beaten by his captors to which he asked 'BAKIT, BAKIT'. His car was also taken by the group and brought to the Valenzuela City Police Station. While he was being accosted by the police, Accused saw MARITESS just standing and laughing at a distance of around 2-meters away from him. At the Valenzuela City Police Station, he was never informed by the police of the charge against him much less was he advised of his right to counsel nor provided with any Chinese interpreter. Thus, he was not able to understand what the policemen were talking about.

"Accused further stated that he first arrived in the Philippines in 1998 as a tourist but later he was issued a Special Return Certificate No. 113877 by the Bureau of Immigration which entitled him to a multiple exit and re-entry permit into the Philippines. However, he only went out of the country once when he visited [C]hina for 20 days in January 1999. It was his relative SHI CHING CHUAN who met him at the Manila [I]nternational [A]irport when he first arrived in Manila in 1998 and brought him in their house in Divisoria where he stayed for several months. Since SHI CHING CHUAN was engaged in the buy-and-sell of RTW garments, the latter initially accompanied the Accused in going to Baclaran and introduced him to his regular customers thereat until such time when the Accused learned his way in Baclaran. After 5 to 6 months accused was able to familiarize himself with the ins and outs of the garment business, thus, he went on his own, earning an average of P30,000.00 to P40,000.00 each month, which was subsequently increased upon the arrival of new and cheaper products from their factory in China. Being a licensed driver he was allowed to use his relatives' delivery van which he drove in connection with his business.

"As to his driven Honda Civic car with plate No. WJE-166, this car was just lent to him by his friend named CHERRY CHONG who before leaving for China allowed him to use it with option to purchase as soon as its installments shall have been fully paid.

"The Accused additionally testified that although his passbook contained P3 million deposit as of 20 July 2000 however while incarcerated he issued checks as payments for his creditors hence, the deposit was already withdrawn. Accused also explained that he brought-in 500.00 Chinese money or the equivalent of around P2,000,000.00 to