

FIRST DIVISION

[G.R. No. 133861, November 22, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROBERT SO Y CHUA, ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

Accused-appellant Robert So y Chua was charged before the Regional Trial Court of Manila with violation of Section 15 of R.A. 6425, as amended.^[1] The Information stated:

"That on or about March 15, 1993 in Manila and within the jurisdiction of this Honorable Court the above-named accused did then and there wilfully, unlawfully and feloniously, dispense, transport, distribute, sell and deliver to a buyer without authority of law approximately two (2) kilograms of methamphetamine hydrochloride, a regulated drug, popularly known as 'shabu'."^[2]

During the trial, the prosecution and the defense presented different versions of the circumstances leading to the apprehension and indictment of accused-appellant.

The evidence for the prosecution consisting of the testimonies of SPO2 Jeffrey Inciong and PO3 Danilo Solangon showed that accused-appellant was apprehended on March 15, 1993 by operatives of the Narcotics Branch of the Regional Police Intelligence Unit (RPIU) in a buy-bust operation. On March 12, 1993, the police's informant went to the RPIU headquarters and informed their Chief, Major Federico Laciste, that he had already met with the subjects, Jackson Dy and Danny Dy. Major Laciste formed a team to conduct the buy-bust operation against the subjects. The team was composed of team leader Lt. Leonardo Suan, SPO2 Jeffrey Inciong, SPO2 Laberde, SPO2 Quilala, SPO2 Agtay, PO3 Danilo Solangon, PO3 Roberto Samoy and SPO1 Rivaldo. Inciong was tasked to act as poseur-buyer, Solangon would be his companion, while the other members of the team would serve as back-up.^[3]

On March 13, 1993, at 3:00 in the afternoon, Inciong, Solangon and the informant went to Pizza Hut along Buendia Avenue, near the LRT station to meet with the subjects. They waited at the parking lot of Pizza Hut. Around 4:00 in the afternoon, two men alighted from a taxi cab. The informant told Inciong that they were Jackson Dy and Danny Dy. The informant approached them and introduced them to Inciong who invited them inside the restaurant. After ordering some food, they began to negotiate. Inciong asked Jackson Dy the price of one kilo of shabu. Jackson Dy replied that a kilo of shabu would cost P700,000.00. Inciong asked if the amount could still be reduced. Jackson Dy and Danny Dy conferred with each other in Chinese. Then they told him that if he would get one kilo or more, they would lower the price to P600,000.00. Inciong told them that he would order two kilos. Danny

Dy agreed and told them to prepare the money. Danny Dy whispered to the informant that they would call Inciong to inform him when the exchange would take place. After closing the deal, Jackson Dy and Danny Dy left. Inciong, Solangon and the informant returned to the headquarters around 5:00 in the afternoon and reported to Major Laciste what transpired between them and the subjects. Major Laciste instructed them to be alert for possible operation as the subjects might call anytime.^[4]

On March 15, 1993, the informant went to the headquarters past 10:00 in the morning and informed Major Laciste that the subjects have called to tell him that the shabu is already available. The members of the team then prepared the boodle money^[5] to be used in the buy-bust operation. Around 3:00 in the afternoon, the informant informed Major Laciste that Jackson Dy already had the stuff and was waiting at the Manila area. After coordinating with the Western Police District Command, the team proceeded to Salazar St., Binondo, Manila, in front of Fortune Hotel, where the transaction would be made. They arrived at the area around 4:00 in the afternoon. Inciong, the poseur-buyer, Solangon, his driver, and the informant parked their car near the entrance of Fortune Hotel. The other members of the team strategically positioned themselves nearby. Around 4:45 in the afternoon, Danny Dy arrived carrying a plastic bag. As he approached them, Inciong asked him if he had the stuff. Inciong then instructed him to get inside the car so that he could see the goods. They went to the back seat of the car and Danny Dy handed to him a plastic bag containing a box of Tide soap. Inciong opened the box and found one transparent plastic bag containing white crystalline substance suspected to be shabu. When he pulled out the transparent plastic bag, he found another plastic bag inside the carton which also contained the same white crystalline substance. After examining the contents of the box, Inciong told Solangon to get the money from the glove compartment. Solangon gave the boodle money to Inciong who handed it to Danny Dy. When Danny Dy examined the money, he was surprised to find out that it was not real. At that point, Solangon signaled to the other members of the team that the buy-bust has been consummated. Inciong then identified himself as a police officer and arrested Danny Dy. Solangon confiscated the buy-bust money from Danny Dy and the rest of the team closed in on them. Inciong asked Danny Dy of the whereabouts of Jackson Dy, but he remained silent.^[6]

Subsequently, the team brought Danny Dy and the confiscated evidence to the headquarters. They weighed the white crystalline substance and found that it was 2 kilos. Thereafter, Inciong placed his initials on the plastic bags and turned them over to their investigator.^[7]

Meanwhile, Lt. Suan, the team leader, interrogated Danny Dy on the whereabouts of Jackson Dy. The latter revealed that Jackson Dy could be found at Calumbid corner Anahaw St. in Quezon City. Major Laciste immediately dispatched the team to make a follow-up and to arrest Jackson Dy. They left the headquarters around 8:00 p.m. and reached the area past 10:00 in the evening. The place was totally dark because of power failure. After securing the area, the team, together with Danny Dy, went inside the residence of the subjects. They did not find Jackson Dy. Danny Dy, however, disclosed that the remaining shabu could be found under the bed. The team recovered three transparent plastic bags containing white crystalline substance suspected to be shabu and two empty boxes of Tide soap under the bed. The substance which weighed 3 kilos was brought to the headquarters for examination.

[8]

On March 16, 1993, the RPIU submitted the white crystalline substance to the Philippine National Police (PNP) Crime Laboratory and made a request to determine whether the confiscated substance was methamphetamine hydrochloride. On March 17, 1993, the PNP Crime Laboratory furnished the RPIU a copy of the Chemistry Report^[9] confirming that the substance was indeed methamphetamine hydrochloride.^[10]

After receipt of the report, Danny Dy was made to undergo an inquest investigation at the Department of Justice. During the investigation, it was revealed that the real name of Danny Dy was Robert So.^[11]

The defense, on the other hand, alleged that accused-appellant was only requested by a friend to bring a package to Rm. 380 of Fortune Hotel and was subsequently apprehended by police officers as the package was found to contain shabu.

The evidence for the defense showed that accused-appellant was employed in a t-shirt factory in Valenzuela, Metro Manila. In the morning of March 15, 1993, his friend, Edgar Chua, called him up and asked to meet with him at a canteen in Salazar St., Binondo, Manila. He acceded to the request.^[12]

Around 5:30 in the afternoon, on his way to the canteen, accused-appellant saw Mercedes Lo, the wife of his co-worker, and they had some small talk. As they were talking, Chua approached him and handed to him a plastic bag. Chua requested accused-appellant to bring the bag to Rm. 380 of Fortune Hotel. Accused-appellant then excused himself and went to Fortune Hotel.^[13]

As accused-appellant walked along the hallway looking for Rm. 380, somebody pulled him from one of the hotel rooms. Inside the room, he saw two Chinese-looking men with their hands tied at the back. Then, his belt was removed and used to tie his hands. The men who identified themselves as police officers asked him about a certain Jackson. He told them that he did not know Jackson. He was made to lie face down on the bed and was mauled. Thereafter, they untied his hands and fixed his collar. One of the men, whom he later identified as SPO2 Jeffrey Inciong, placed his hand over his shoulder and warned him, "*Huwag kang tatakbo, babarilin kita.*" They went out of the room and proceeded to a car waiting for them downstairs.^[14]

As he boarded the car, he was made to bow his head and was told not to look upward. They went to another place which looked like a hotel. He was brought inside a room where he was blindfolded and boxed. They made him sit, removed his shirt, tied his hands, and electrocuted him on the chest, back and shoulder. They also removed his pants and pounded his nails. They again questioned him on Jackson's whereabouts and threatened to kill him if he refused to tell them. He, however, insisted that he did not know where he was. The police also asked him who gave him the plastic bag containing the carton. He replied that it was Edgar Chua. When they asked him where they could find him, he replied that he could be found at the corner of Salazar and Ongpin Streets. One of the men said, "*Sayang hindi napuntahan.*" They then removed his blindfold and gave him some food. He ate a little but he threw up. One of the men kicked him and ordered him to clean the

mess.[15]

SPO2 Inciong asked accused-appellant where he was residing. He gave his address as 116-C Anahaw St., Project 7, Quezon City. Thereafter, they proceeded to RPIU in Camp Bagong Diwa, Bicutan, Taguig where he was detained in a small room. After half an hour, somebody came in and asked him some questions. Accused-appellant denied any knowledge about the four kilos of shabu allegedly recovered from his residence.[16]

Accused-appellant testified that while they were still at the hotel, the police officers urged him to call his relatives and seek their help so that he could be released. Accused-appellant tried to contact his uncle named Aolin but nobody answered the phone. When SPO2 Inciong asked him if he had other relatives, he replied in the negative. Accused-appellant was then brought to Bicutan. The following day, SPO2 Inciong again advised accused-appellant to borrow money from his friends to expedite his discharge. He offered to help him in exchange for monetary consideration.[17]

Accused-appellant further testified that on March 19, 1993, he withdrew from his bank account in Metrobank, Seafront Branch, Pasay City the amount of P650,000.00 which he gave to SPO2 Inciong. Not satisfied, the police asked for more. They asked for an additional P500,000.00. On March 22, 1993, he made another withdrawal in the amount of P310,000.00 which he also gave to SPO2 Inciong. As accused-appellant failed to produce the entire amount of P500,000.00, they told him that they would file a case against him for drug pushing.[18] Accused-appellant was detained in Bicutan for several months before he was transferred to the City Jail.[19]

Giving credence to the testimony of the principal witnesses, SPO2 Inciong and PO3 Solangon, the trial court found accused-appellant guilty of the charge. Although the trial court found that accused-appellant was a victim of a shake down by the police officers who arrested him, it nonetheless ruled that such fact did not affect the credibility of their testimonies. The trial court reasoned that there was no indication in the record that SPO2 Inciong or any member of the team which participated in the operation had attempted to extort money from accused-appellant before, during or immediately after his arrest. It was only after their discovery of accused-appellant's bank deposit that they pressed him to give them P960,000.00. The trial court thus sentenced accused-appellant to suffer the penalty of *reclusion perpetua* and to pay a fine of P30,000.00. The dispositive portion of the decision states:

"WHEREFORE, this Court finds the accused Robert So y Chua, guilty beyond reasonable doubt of the crime of Violation of Section 15 of R.A. 6425, as amended by R.A. 7659, involving two kilograms of shabu and is sentenced to suffer the penalty of *reclusion perpetua*.

SPO4 Olaveros Nesperos of the PNP Crime Laboratory, Camp Crame, Quezon City, to whom the shabu in question with a total weight of 5,900 grams was entrusted for safekeeping, is ordered to turn over the same to the Dangerous Drugs Board in Intramuros, Manila for proper disposition, and to submit to this Court proof of compliance herewith within three days from notice hereof.