

FIRST DIVISION

[G.R. No. 133568, July 24, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BETTY CUBA Y LUBON A.K.A. "BETTY," CESAR SANTOS Y LUCIA A.K.A. "CESAR," SALVACION CAPARAS Y DE CASTRO A.K.A. "CION," ACCUSED. SALVACION CAPARAS Y DE CASTRO A.K.A. "CION," ACCUSED-APPELLANT.

D E C I S I O N

DAVIDE JR., C.J.:

Accused-appellant Salvacion Caparas y De Castro *a.k.a.* "Cion" (hereafter CAPARAS) seeks the reversal of the 23 March 1998 decision^[1] of the Regional Trial Court (RTC) of Quezon City, Branch 95, in Criminal Case No. Q-97-70944, finding her guilty of the crime of illegally transporting and selling marijuana under Section 4, Art. II of R.A. No. 6425, otherwise known as The Dangerous Drugs Act of 1972, as amended. The other accused, Betty Cuba y Lubon *a.k.a.* "Betty" (hereafter BETTY) and Cesar Santos y Lucio *a.k.a.* "Cesar" (hereafter CESAR) were acquitted.

CAPARAS, BETTY and CESAR were indicted under an information^[2] filed on 2 May 1997, with the violation of Section 4, Art. II of R.A. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended. The accusatory portion of the information reads:

That on or about the 29th day of April 1997 in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another not having been authorized by law to sell, dispense, deliver, transport and distribute any prohibited drug, did then and there wilfully and feloniously transport, deliver, and offer for sale 39, 735.00 grams of marijuana fruiting tops, a prohibited drug to poseur-buyer SPOIII VENUSTO T. JAMISOLAMIN, in violation of said law.

CONTRARY TO LAW.

At their arraignment on 14 May 1997,^[3] each of the accused entered a plea of not guilty.

The prosecution presented police officers Venusto Jamisolamin and Joselito Dominguez. By virtue of the agreement and admissions during the pre-trial, the testimony of Forensic Chemist Alexis Guinanao was dispensed with.

The evidence for the defense consisted of the testimonies of the accused BETTY, CAPARAS, and CESAR.

The narration of facts and evidence presented by both the prosecution and defense as summarized by the trial court in its decision is hereby quoted *verbatim*:

EVIDENCE FOR THE PROSECUTION

On June 2, 1997, the prosecution and the accused stipulated on the subject matter of the testimony of the forensic analyst, Alexis Guinanao, to the effect that on April 30, 1997, he received a letter-request (Exh. "A") from a certain Supt. Pedro Ongsotto Alcantara addressed to the PNP Crime Laboratory Services stating therein the request for the examination of specimens marked as Exhs. "A", "B", & "C" which were duly received by the said laboratory. The parties further stipulated that the forensic analyst, upon receipt of the said specimens, conducted an examination and the result of which were stated down in his Initial Laboratory Report dated April 30, 1997 (Exhs. "B" to "B-4"). He likewise prepared his Physical Science Report No. D- 277-97 (Exh. "C" to "C-3") indicating his findings that the submitted specimens, namely: one (1) blue plastic bag labeled "DUTY FREE PHILIPPINES" containing fourteen (14) bricks of marijuana, which had a total weight of 15, 445.00 grams (Exhs. "D" to "D-14"); one (1) box labeled "LUCKY ME PANCIT CANTON" containing twelve (12) bricks of marijuana, with a total weight of 11, 880.00 grams (Exhs. "E" to "E-12"); and one (1) box labeled "MAGGI RICH MAMI" containing thirteen (13) bricks of marijuana, with a total weight of 12, 420.00 grams (Exhs. "F" to "F-12") were all found positive to the test for marijuana, a prohibited drug; that the specimens examined in the Initial Laboratory Report were the same specimens and results/findings in the Physical Science Report. Finally, the parties stipulated that the specimens submitted by the Chemist were each wrapped in newsprint and further placed inside big boxes labeled as MAGGI RICH MAMI and LUCKY ME PANCIT CANTON and a blue shopping bag labeled as DUTY-FREE PHILIPPINES.

Aside from the above stipulations, the prosecution presented SPO3 Venusto Jamisolamin and P/Insp. Joselito Dominguez, both from the Narcotics Group Command, Central Narcotics District at EDSA, Kamuning, Quezon City, whose testimonies may be summed up as follows:

After receiving and verifying the information from their civilian informant that a certain female supplier/courier is capable of delivering big bulks of marijuana in Metro Manila, P/Supt. Pedro Alcantara instructed Team Leader Bravo, P/Insp. Joselito Dominguez, to conduct a possible test-buying operation and surveillance which designated SPO3 Venusto Jamisolamin as the poseur-buyer. Thus, on April 18, 1997, P/Insp. Dominguez availed of a room at West Avenue Hotel in West Avenue, Quezon City, as evidenced by the Official Receipt dated April 18, 1997 (Exh. "H") in preparation to the initial meeting between the female supplier/courier accompanied by the civilian informant and Jamisolamin, the poseur-buyer. The following day at around 8:30 in the morning, the civilian informant and a certain woman by the name of Cion arrived and she was introduced to Jamisolamin. After the negotiation, Jamisolamin and Cion reached an agreement wherein Cion would deliver 30 to 50 kilos of dried marijuana fruiting tops within 10 days at P1,000.00 per kilogram. On April 27, 1997, sometime in the afternoon, the civilian informant called up P/Insp. Dominguez and informed him that Cion and a certain female supplier/owner will only be bringing around 41 kilos of marijuana stuff and that they will be coming from Baguio City. Since they

were scared of commuting by bus, P/Insp. Dominguez instructed the informant to use his white Nissan Sentra car for their transportation. Thus, P/Insp. Dominguez proceeded to Baguio City together with SPO3 Jamisolamin and PO3 Rolando Duazo using a red car. While in Baguio City, P/Insp. Dominguez was in constant communication with the civilian informant pertaining to the loading of the marijuana inside the white car. When informed that the car was already loaded with the stuff, P/Insp. Dominguez, in company with the other two police officers, started tailing the white car. From Baguio City to Quezon City, the team tailed the white car and with the woman, Cion, the supplier of drugs named Betty Cuba, her four-year old son, and the courier Cesar Santos as passengers. The white car arrived at the West Avenue Hotel at around 4:30 in the afternoon and they were met by SPO3 Jamisolamin. Cion alighted from the car and a short conversation took place between SPO3 Jamisolamin and Cion. Not long after, Cion opened the trunk of the car and showed the marijuana stuff to SPO3 Jamisolamin. Upon seeing and confirming that indeed there was marijuana stuff inside the trunk of the car placed in a shopping bag of Duty Free Philippines that contained 14 bricks of marijuana leaves (Exhs. "D" to "D-14") and in a big box labeled "Lucky Me Pancit Canton" that contained 12 bricks of marijuana leaves (Exhs. "E" to "E-12") and a second box labeled "Maggi Rich Mami" that contained 13 bricks of marijuana leaves (Exhs. "F" to "F-13"), SPO3 Jamisolamin immediately gave a pre-arranged signal to his team by lighting a cigarette. Heeding the signal, P/Insp. Dominguez and a certain PO3 Duazo approached the car and introduced themselves as NARCOM agents. After which, they effected an arrest on the persons of Salvacion Caparas alias "Cion", Betty Cuba and Cesar Santos for illegal possession of a prohibited drug. On the other hand, the little boy believed to be the child of Betty Cuba was freed for humanitarian reason. Thereafter, the police officers executed their affidavit of arrest (Exhs. "G" to "G-2").

EVIDENCE FOR THE ACCUSED

The defense presented accused Betty Cuba, the alleged supplier, accused Salvacion Caparas, the alleged middleman; and accused Cesar Santos, the alleged courier; to rebut the allegations thrown against them, and their testimonies may be summarized as follows:

On April 28, 1997, Cesar Santos met a neighbor named Soso at the market and the latter asked if he knew somebody who can sell cheap vegetables to him. Since Santos knew Salvacion Caparas or Aling Cion for short, Santos accompanied Soso to her. After the introduction and negotiation, they closed a deal. The following day at around 7:00 in the morning, Aling Cion visited the house of Betty Cuba, a vegetable and *tocino* vendor, to see the latter's sister Melba since they were intending to go to the Trading Post. However, since her sister Melba was not around Beta Cuba agreed to go with her since they would be passing by Tarlac. Thus, Betty and her son accompanied Salvacion. They boarded in a waiting car with three males who were unknown to Betty. The three male passengers were later identified as Cesar Santos, Soso and a certain Jessie. As they proceeded to Tarlac, an old maroon car suddenly crossed their path. Two unidentified men alighted from the old car and approached them. After a few conversations, Soso and Jessie stepped out