

FIRST DIVISION

[G.R. No. 121422, February 23, 1999]

NOEL CRUZ Y DIGMA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, THE COURT OF APPEALS AND THE REGIONAL TRIAL COURT BRANCH VI, MANILA, RESPONDENTS.

D E C I S I O N

PARDO, J.:

The case before us is a petition for review of the decision of the Court of Appeals^[1] denying for lack of merit the petition for *certiorari* filed by the accused to annul the following orders issued by the Regional Trial Court, Manila^[2] in Criminal Case No. 90-85059, to wit:

- (a) The order dated January 18, 1993, made in open court admitting the formal offer of evidence of the prosecution;
- (b) The order dated December 20, 1993, denying the petitioner's demurrer to evidence;
- (c) The order dated July 8, 1994, denying the petitioner's motion for reconsideration.

On June 19, 1990, police officers arrested petitioner without warrant for illegal possession of a .38 caliber revolver with six (6) rounds of ammunition while waiting outside the Manila Pavilion Hotel along U.N. Ave., Manila.

On June 25, 1990, Assistant Prosecutor Tranquil P. Salvador, Jr. filed with the Regional Trial Court, Manila, an information^[3] against the accused for violation of Presidential Decree No. 1866^[4], the accusatory portion of which reads:

"That on or about June 19, 1990, in the City of Manila, Philippines, the said accused did then and there willfully and unlawfully have in his possession and under his custody and control one (1) firearm .38 cal. Colt revolver bearing Serial Number 376420 with six (6) live ammunitions, without first having secured the necessary license or permit therefor from the proper authorities."

On June 26, 1990, before the arraignment of the accused, his parents, Timoteo and Ana Cruz, filed with the Regional Trial Court, Quezon City, a petition^[5] for *habeas corpus* in his behalf. Thereafter, the accused was arraigned in the Manila court and pleaded not guilty to the charge.

The trial court proceeded to try the case. After the prosecution presented and formally offered its evidence, the trial court issued an order^[6] dated January 18, 1993, admitting in evidence the gun and ammunition seized from the accused, over

his objections. After the prosecution had rested its case, petitioner, on motion and upon leave of court, filed a demurrer to evidence. On December 20, 1993, the trial court denied the demurrer, and ordered the accused to present his evidence.^[7] Instead, the petitioner filed a motion for reconsideration, which the trial court denied in an order^[8] dated July 8, 1994.

On October 27, 1994, petitioner filed with the Court of Appeals a petition for *certiorari* to annul the three (3) orders, namely: the order admitting the prosecution's formal offer of evidence; the order denying his demurrer to evidence; and the order denying petitioner's motion for reconsideration, for being issued capriciously, arbitrarily and whimsically, in utter disregard of controlling law and jurisprudence, and with grave abuse of discretion, amounting to lack or excess of jurisdiction.

On November 7, 1994, the Court of Appeals gave due course to the petition and ordered the trial court to temporarily refrain from further proceeding with the trial of Criminal Case No. 90-85059.

On August 8, 1995, the Court of Appeals rendered decision^[9] denying the petition for lack of merit. The Court of Appeals ruled that the assailed orders were interlocutory in nature and not reviewable by *certiorari*. Petitioner should wait until the trial court has decided the case on its merits and if aggrieved, appeal from his conviction. The Court of Appeals held that the trial court's order admitting the allegedly inadmissible evidence involved questions of facts, which are not reviewable in petitions for *certiorari*. There being no error in jurisdiction, whatever error in judgment committed by the trial court can not be corrected by *certiorari*.

Hence, this petition for review.

Petitioner avers that the Court of Appeals erred in upholding the trial court's order admitting in evidence the gun and ammunition, which are allegedly inadmissible for being the fruits of an illegal warrantless arrest and search. He further claims that the prosecution's evidence is insufficient to sustain a conviction. Petitioner contends that the questioned orders, while admittedly interlocutory in nature, are no longer subject to amendment or correction by the trial court, hence, a review thereof is warranted to prevent extreme prejudice to petitioner. Petitioner prays for a temporary restraining order (TRO) to restrain the trial court from proceeding with the criminal case pending this petition; a writ of preliminary injunction after the expiration of the TRO; and to reverse the questioned resolution of the Court of Appeals.

We resolve to deny the petition.

We find no reversible error in the decision of the Court of Appeals dismissing the petition for *certiorari*. The rulings of the trial court on procedural questions and on admissibility of evidence during the course of a trial are interlocutory in nature and may not be the subject of a separate appeal or review on *certiorari*, but may be assigned as errors and reviewed in the appeal properly taken from the decision rendered by the trial court on the merits of the case.^[10] When the court has jurisdiction over the case and person of the accused, any error in the application of the law and the appreciation of evidence committed by a court after it has acquired