

FIRST DIVISION

G.R. No. 236259 – PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*,
versus, EMILIANO BATERINA y CABADING, *accused-appellant*.

Promulgated:

SEP 16 2020

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CONCURRING OPINION

LOPEZ, J.:

I register my concurrence with the *ponencia* which affirmed the conviction of the accused for the crime of illegal transportation of dangerous drugs. Specifically, I agree that there is probable cause to justify the warrantless search.

Notably, probable cause refers to facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed, and that objects sought in connection with the offense are in the place sought to be searched. It must be shown by the best evidence that could be obtained under the circumstances. It demands more than bare suspicion and requires less than evidence which would justify conviction. Indeed, probable cause exists if a practical, common-sense evaluation of the facts and circumstances show a fair possibility that contrabands will be found in the asserted location.¹

Here, the facts established that the authorities received a text message from a concerned citizen that men and women on board a jeep will be transporting large volume of dried marijuana leaves. Immediately, the police officers set up a checkpoint. At 2:30 a.m. the following day, the authorities flagged down the accused's owner-type jeepney. Thereafter, one of the police officers smelled the distinctive odor of marijuana which prompted a thorough search and resulted in the confiscation of more than 48 kilograms of marijuana.

On that point, the police officers are left with no choice because letting a suspect pass without further investigation is a euphemism of allowing a crime to run. To hold that no criminal can, in any case, be arrested and searched for the evidence and tokens of his crime without a warrant, would be to leave society, to a large extent, at the mercy of the shrewdest, the most expert, and the most depraved of criminals, facilitating their escape in many instances.² On the other hand, the general allegation that the accused had been stopped and searched without a warrant at the checkpoint is insufficient to determine whether there was a violation of the right against unlawful search and seizure.³ The inherent right of the state to protect its existence and promote public welfare should prevail over an

¹ *SPO4 Laud (Ret.) v. People*, 747 Phil. 503, 521-522 (2014), citing *Santos v. Pryce Gases, Inc.*, 563 Phil. 781 (2007).

² *People v. Kagui Malasugui*, 63 Phil. 221, 228 (1936), citing *United States v. Snyder*, 278 Fed. 650.

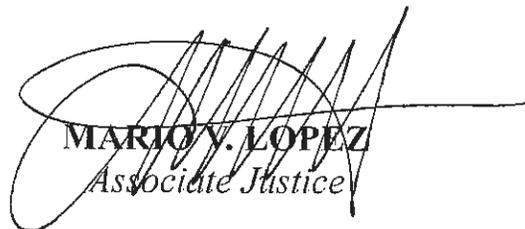
³ *Valmonte v. Gen. De Villa*, 258 Phil. 838 (1989).



individual's right against a warrantless search which is however reasonably conducted. Besides, warrantless searches and seizures at checkpoints are quite similar to searches and seizures accompanying warrantless arrests during the commission of a crime, or immediately thereafter.⁴

Finally, it must be emphasized that the police officers are duty bound to respond to any information involving illegal activities. Yet, the involution of intelligence materials obliges the authorities to be discerning and vigilant in scintillating truthful information from the false ones. Similarly, if the courts of justice are to be of understanding assistance to our law enforcement agencies, it is necessary to adopt a realistic appreciation of the physical and tactical problems, instead of critically viewing them from the placid and clinical environment of judicial chambers.⁵

FOR THESE REASONS, I vote to DENY the appeal.



MARIO V. LOPEZ
Associate Justice

⁴ *Id.*

⁵ *People v. Montilla*, 349 Phil. 640 (1998). See also Dissenting Opinion in *People v. Sapla*, G.R. No. 244045, June 16, 2020.