



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 12, 2021** which reads as follows:*

“G.R. No. 224625 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. MOHAMMAD NASSER y IKO and MAUNARA MAAMOR y SULTAN, accused; MAUNARA MAAMOR y SULTAN, accused-appellant). – This resolves the appeal¹ filed by accused-appellant Maunara Maamor y Sultan (Maamor) against the February 28, 2014 Decision² of the Court of Appeals (CA) in CA-G.R. CR HC No. 04732. The CA affirmed the February 9, 2010 Decision³ of the Regional Trial Court (RTC), Branch 9, Manila, in Criminal Case No. 07-251467, convicting him of violation of Section 5 of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

Antecedents

In an Information dated March 9, 2007, Maamor and Mohammad Nasser y Iko (Nasser) were charged with the illegal sale of dangerous drugs, as defined and penalized under Section 5, Article II, in relation to Section 26 of R.A. No. 9165, committed as follows:

That on or about February 28, 2007, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, not being been [sic] authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell two (2) heat sealed transparent plastic sachet containing zero point one one nine (0.119) and zero point one four zero (0.140) gram of white crystalline substance containing methamphetamine hydrochloride known as “SHABU”, which is a DANGEROUS drug.


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¹ *Rollo*, pp. 14-15.

² *Id.* at 3-12; penned by Associate Justice Elihu A. Ybañez, with Associate Justices Japar B. Dimaampao and Melchor Quirino C. Sadang, concurring.

³ *CA rollo*, pp. 19-28; rendered by Judge Amelia Tria-Infante.



CONTRARY TO LAW.⁴

On September 18, 2007, both accused pleaded not guilty to the charge.⁵

During the trial, the prosecution alleged that on February 28, 2007, Senior Police Officer 1 Cabacanagan (SPO1 Cabacanagan) received a tip from a confidential informant regarding the illegal drug activities of Maamor and Nasser. In turn, SPO1 Cabacanagan reported the information to Chief Superintendent Florencio T. Ortilla. Consequently, a buy-bust team was created. The buy-bust team prepared the pre-operation report, marked money, and coordinated with the Philippine Drug Enforcement Agency (PDEA). Police Officer 3 Eduardo David (PO3 David) was assigned to act as the poseur-buyer.⁶

Thereafter, the buy-bust team proceeded to Palanca Street, Sta. Cruz, Manila to meet the confidential informant. They arrived at the area at 8:00 o'clock in the evening. After around 30 minutes, Nasser and Maamor arrived. The confidential informant talked to Nasser and told him that PO3 David will buy *shabu*. Nasser asked PO3 David for the money. In response, PO3 David showed Nasser an envelope containing money. He told Nasser that he will only pay after he receives the *shabu*.

Then, Nasser went to Maamor. When Nasser returned, he gave PO3 David two plastic sachets suspected to contain *shabu*. In turn, PO3 David handed Nasser the marked money. Immediately thereafter, PO3 David arrested Nasser with the assistance of SPO1 Cabacanagan, while SPO2 Benitez and Borinaga arrested Maamor. PO3 David confiscated the marked money and *shabu* from Nasser.⁷ He marked the plastic sachets of *shabu* as "DAID" and "DAID-1".⁸

Subsequently, Nasser and Maamor were brought to the District Anti-Illegal Drugs (DAID). PO3 David turned over the two plastic sachets to the investigator. Afterwards, the two plastic sachets were forwarded to the Crime Laboratory of the Manila Police District for examination. The qualitative examination yielded a positive result for methamphetamine hydrochloride, a dangerous drug.

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⁴ Id. at 19.

⁵ Id. at 20.

⁶ Id. at 21.

⁷ Id. at 22.

⁸ *Rollo*, p. 6.

On the other hand, Nasser and Maamor vehemently denied the charge leveled against them. They claimed that they were not arrested on February 28, 2007 but at 3:30 in the afternoon of March 1, 2007. During that time, they were walking on their way home, when they were suddenly apprehended by three persons who forcibly brought them to the DAID precinct.⁹ The arresting officers asked them whether they knew someone in the Muslim Center who was selling drugs, to which they replied in the negative.¹⁰ They were not informed of the reason for their arrest, but were vaguely told that they were brought for inquest for violation of Section 5. They had no idea what that meant.

Ruling of the RTC

On February 9, 2010, the RTC rendered a Decision¹¹ convicting Nasser and Maamor for illegal sale of dangerous drugs. The RTC held that PO3 David positively identified the two accused as the persons arrested during the buy-bust operation.¹²

However, the RTC noted that Nasser was a minor at the time of the commission of the offense. Consequently, it applied Section 38 of R.A. No. 9344,¹³ which mandates the automatic suspension of the child offender's sentence. The RTC disposed of the case as follows:

WHEREFORE, this Court finds both accused MOHAMMAD NASSER Y IKO and MAUNARA MAAMOR Y SULTAN "GUILTY" beyond reasonable doubt of the crime charged; and considering that accused Mohammad Nasser y Iko is a minor, being sixteen (16) years of age at the time of the commission of the offense, is hereby ordered to suffer a suspended sentence of RECLUSION TEMPORAL and a fine of ONE HUNDRED THOUSAND PESOS (Php100,000.00) Philippine Currency and accused Maunara Maamor y Sultan is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to

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⁹ CA rollo, p. 24.

¹⁰ Id. at 50.

¹¹ Id. at 19-28.

¹² Id. at 26.

¹³ AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE JUSTICE AND WELFARE SYSTEM, CREATING THE JUVENILE JUSTICE AND WELFARE COUNCIL UNDER THE DEPARTMENT OF JUSTICE, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES.

SEC. 38. *Automatic Suspension of Sentence.* - Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: *Provided, however,* That suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.

pay the fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00) Philippine Currency.

Both accused shall be credited with the full period of their preventive imprisonment as provided for and mandated in Article 29 of The Revised Penal Code of the Philippines.

The Jail Warden of Manila City Jail is directed to transfer the custody of accused Mohammad Nasser y Iko to the National Training School for Boys, Sampaloc, Tanay, Rizal.

Let a Mittimus Order be issued to the Bureau of Corrections, Muntinlupa City for accused Maunara Maamor y Sultan.

The two (2) small heat sealed transparent plastic sachet containing zero point one one nine (0.119) and zero point one four zero (0.140) grams of methamphetamine hydrochloride known as "SHABU", are hereby ordered forfeited in favor of the government and the Branch Clerk of Court is hereby directed to surrender the same to the Dangerous Drugs Board for proper disposition.

Let this Decision be recorded in the Criminal Case Docket of this Court.

SO ORDERED."¹⁴

Aggrieved, Nasser and Maamor filed a Notice of Appeal with the RTC.¹⁵

On May 4, 2010, the RTC directed the elevation of the records to the CA.¹⁶

Ruling of the CA

On February 28, 2014, the CA rendered a Decision¹⁷ affirming with modification the conviction meted by the RTC. The CA opined that the prosecution established the guilt of the two accused beyond reasonable doubt.¹⁸ It held that the totality of evidence leads to an unbroken chain of custody of the seized items.¹⁹ It further ratiocinated that the absence of a physical inventory and photograph of the seized items did not affect their integrity and evidentiary value.²⁰ Finally, it

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¹⁴ CA *rollo*, pp. 27-28.

¹⁵ *Id.* at 33-34.

¹⁶ *Id.* at 34.

¹⁷ *Rollo*, pp. 3-12.

¹⁸ *Id.* at 9.

¹⁹ *Id.*

²⁰ *Id.*

applied the privileged mitigating circumstance of minority in favor of Nasser and reduced his penalty.

The dispositive portion of the CA ruling reads:

WHEREFORE, the Decision dated February 9, 2010, of the Regional Trial Court, Branch 9, Manila, in Crim. Case No. 07-251467 finding both accused-appellant guilty beyond reasonable doubt of the crime of Violation of Section 5, Article II in relation to Section 26 of Republic Act No. 6165, [sic] is hereby AFFIRMED with MODIFICATION that accused-appellant Mohammad Nasser y Iko is sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) day of prision mayor, as minimum, and fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum.

SO ORDERED.²¹

Dissatisfied with the ruling, Nasser and Maamor filed a Notice of Appeal with the CA on March 18, 2014.²² The CA gave due course to their Notice of Appeal in its Resolution dated March 27, 2014.²³

Meanwhile, Nasser filed with the CA a Manifestation with Motion to Withdraw Notice of Appeal²⁴ dated April 30, 2014. He stated that he is no longer interested in appealing his case before this Court.²⁵

The OSG filed a Comment (on the Motion to Withdraw Notice of Appeal) dated June 27, 2014, expressing no objection to said motion.²⁶

On August 7, 2014, the CA issued a Resolution²⁷ resolving to take no action on the Motion to Withdraw Notice of Appeal. It noted that Nasser's appeal before this Court had been perfected, thereby divesting it of any jurisdiction to act on the motion.

Nasser moved for a reconsideration, which was denied in the CA Resolution dated March 18, 2015.²⁸

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²¹ Id. at 11-12.

²² Id. at 14-15.

²³ Id. at 20.

²⁴ Id. at 19-22.

²⁵ Id. at 20.

²⁶ Id. at 33-34.

²⁷ Id. at 38-39.

²⁸ Id. at 21.

On August 22, 2016, this Court's First Division issued a Resolution²⁹ granting the manifestation with motion to withdraw the notice of appeal. Accordingly, it considered the case against Nasser closed and terminated.³⁰

Issues

Seeking exoneration from the charge, Maamor claims that the prosecution utterly failed to establish the existence of the *corpus delicti* of the crime charged.³¹ He alleges that the prosecution failed to comply with the chain of custody rule.³² The seized items were not marked in his and Nasser's presence.³³ Likewise, the prosecution failed to establish how the investigation officer received the seized items from PO3 David.³⁴ Neither was said investigation officer identified.³⁵ Moreover, there was no evidence on how the laboratory examination was conducted³⁶ or the circumstances surrounding the turnover and submission of the specimens.³⁷

Furthermore, Maamor accuses the arresting officers of blatantly violating the strict procedure laid down in Section 21 of R.A. No. 9165.³⁸ Particularly, he claims that the arresting officers did not prepare a physical inventory and take photographs of the seized items. The prosecution failed to give any justification for such transgressions.³⁹

On the other hand, the People, through the Office of the Solicitor General (OSG) counters that the prosecution witnesses proved all the elements for the crime of illegal sale of dangerous drugs.⁴⁰ Likewise, the prosecution duly established the chain of custody.⁴¹ Contrary to Maamor's claim, the seized items were marked by PO3 David in his and Nasser's presence at the place where they were arrested.⁴² The OSG urges that there is no rigid and textbook

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²⁹ CA rollo, p. 76.

³⁰ Id.

³¹ Id. at 51.

³² Id. at 54.

³³ Id. at 56.

³⁴ Id. at 56.

³⁵ Id. at 57.

³⁶ Id.

³⁷ Id. at 57-58.

³⁸ Id. at 52.

³⁹ Id.

⁴⁰ Id. at 95.

⁴¹ Id. at 91.

⁴² Id. at 101.

method of conducting buy-bust operations.⁴³ Maamor failed to prove any ill-motive on the part of the arresting officers.⁴⁴ Accordingly, they are presumed to have performed their duties in a regular manner.⁴⁵

The OSG further argues that there was substantial compliance with the requirements under R.A. No. 9165.⁴⁶ The failure to submit the required physical inventory and photograph will not discharge Maamor from his crime.⁴⁷ What matters is that the integrity and evidentiary value of the seized items were preserved.⁴⁸

Finally, the OSG posits that the area where Maamor and Nasser were apprehended is notoriously rampant for illegal drug dealings. As such, the arresting officers had to take extra care and immediate action in conducting their operation.⁴⁹

Ruling of the Court

The appeal is granted.

Proof of the identity and integrity of the dangerous drugs is crucial to sustain a conviction under R.A. No. 9165

Significantly, to sustain a conviction for illegal sale of dangerous drugs, the following elements must be proven beyond reasonable doubt: (i) the identity of the buyer and the seller; (ii) the object of the sale and its consideration; and the (iii) the delivery of the thing sold and the payment therefor.⁵⁰

Notably, the illegal drug constitutes the *corpus delicti* of the crime.⁵¹ As such, the prosecution must prove its identity with moral certainty.⁵² To achieve this end, the prosecution must show an unbroken chain of custody over the illegal drug. This chain of custody

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⁴³ Id. at 92.

⁴⁴ Id. at 93.

⁴⁵ Id. at 92-93.

⁴⁶ Id. at 97.

⁴⁷ Id. at 97-98.

⁴⁸ Id. at 98.

⁴⁹ Id. at 103.

⁵⁰ *People v. Ismael*, 806 Phil. 21, 29 (2017), citing *People v. Alberto*, 625 Phil. 545, 554 (2010) citing *People v. Dumlao*, 584 Phil. 732, 739 (2009).

⁵¹ *People v. Calates*, 829 Phil.262, 273 (2018).

⁵² Id.

pertains to the duly recorded authorized movements and custody of the seized drug from its seizure, receipt in the forensic laboratory, safekeeping, until its eventual presentation in court.⁵³

The four essential links in the chain of custody were enumerated in *People v. Maneclang*:⁵⁴

There are four links that must be established in the chain of custody, to wit: '1) the seizure and marking, if practicable, of the illegal drug confiscated from the accused by the apprehending officer; 2) the turnover of the seized drug by the apprehending officer to the investigating officer; 3) the turnover by the investigating officer of said item to the forensic chemist for examination; and, 4) the turnover and submission thereof from [the] forensic chemist to the court.'⁵⁵

Relatedly, the manner of establishing and proving the chain of custody was elucidated in *People v. Macud*:⁵⁶

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.⁵⁷

Regrettably, in the case at bar, the prosecution failed to establish an unbroken chain of custody. PO3 David related that he marked the seized items as "DAID" and "DAID-1" at the place of arrest. Thereafter, upon returning to the office, he turned over the seized items to the investigator. Then, the investigator prepared the letter referral. After which, the seized items were submitted to the crime laboratory.⁵⁸

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⁵³ *People v. Garcia*, G.R. No. 215344, June 10, 2019, citing *People v. Guzon*, 719 Phil. 441,451 (2013).

⁵⁴ G.R. No. 230337, June 17, 2019.

⁵⁵ *Id.*, citing *People v. Gajo*, 824 Phil. 140, 152 (2018).

⁵⁶ 822 Phil. 1016 (2017).

⁵⁷ *Id.* at 1038-1039, citing *Mallillin v. People*, 576 Phil. 576 (2008).

⁵⁸ *CA rollo*, p. 22.

The foregoing narration instantly reveals gaps in the first and second links of the chain of custody. Particularly, there was no clear proof that Nasser and Maamor personally witnessed the marking of the seized items. Rather, it was vaguely assumed that the latter witnessed the marking because it was made at the place of the arrest. It bears noting that the law requires the marking of the seized item to be done in the presence of the accused. This entails an assurance that the accused actually witnessed the marking of the seized item.

Moreover, PO3 David failed to identify the investigator to whom he turned over the seized items. The identity of the investigator is crucial considering that said investigator turned over the seized items to the crime laboratory. This lacuna engenders doubt on the identity and integrity of the seized items.

In *People v. Hementiza*,⁵⁹ this Court stressed that the identity of all officers who had custody of the drugs, even for momentary periods is essential. Thus, the failure of the prosecution witnesses to identify the investigating officer who handled the drug was regarded as a badge of doubt.⁶⁰ Similarly, in *People v. Nandi*,⁶¹ this Court ruled that the failure of the apprehending officer to identify the investigating officer to whom he turned over the seized items casts doubts on the integrity and evidentiary value of the seized drugs.⁶²

The arresting officers failed to comply with the procedural safeguards required in Section 21 of R.A. No. 9165

In view of the importance of preserving the identity and integrity of the seized items, R.A. No. 9165 (prior to its amendment under R.A. No. 10640),⁶³ and its Implementing Rules and Regulations, lays down the procedure for the proper custody and

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⁵⁹ *People v. Hementiza*, 807 Phil. 1017 (2017).

⁶⁰ *Id.* at 1026.

⁶¹ *People v. Nandi*, 639 Phil. 134 (2010).

⁶² *Id.* at 143-143.

⁶³ REPUBLIC ACT NO. 10640. AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002"

It bears noting that the confiscation of the seized items occurred in 2007, prior to the amendment of R.A. No. 9165. Hence, the arresting officers were bound to strictly abide by the procedure laid therein.

disposition of the seized dangerous drugs and paraphernalia.⁶⁴ Essentially, it is mandated that immediately after the seizure and confiscation of the dangerous drugs, the arresting officers must conduct a physical inventory of the seized items and photograph the same in the presence of the accused, or his representative or counsel, a representative from the media and the Department of Justice, and any elected public official. In turn, the witnesses shall be required to sign the copies of the inventory and shall be furnished copies of the same. Thereafter, the seized drugs must be turned over to the Philippine National Police Crime Laboratory within twenty-four (24 hours) from confiscation for proper examination.⁶⁵

A scrutiny of the records reveals that the arresting officers failed to comply with the inventory and photography requirements under Section 21 of R.A. No. 9165.

Time and again, this Court has stressed that the preparation of the inventory, as well as the photography of the seized drugs, are crucial procedures that ensure the preservation of the *corpus delicti*.

In *People v. Lumaya*,⁶⁶ it was explained that the obvious purpose of the inventory and photography requirements is to ensure that the identity of the drugs seized from the accused are the drugs for which he would be charged.⁶⁷ In the same vein, in *People v.*

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⁶⁴ SECTION 21. *Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/ Paraphernalia and/or Laboratory Equipment.* - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items;

x x x x

⁶⁵ *People v. Crispo, et al.*, 828 Phil. 416, 430 (2018).

⁶⁶ 827 Phil. 473 (2018).

⁶⁷ *Id.* at 487.

Nepomuceno,⁶⁸ it was declared that the inventory and photographs provide a catalog of the drugs and the related material recovered from the suspect.⁶⁹

Additionally, in *People v. Arposeple*,⁷⁰ it was underscored that the inventory and photographs serve as “as a safety precaution against potential abuses by law enforcement agents who might fail to appreciate the gravity of the penalties faced by those suspected to be involved in the sale, use or possession of illegal drugs.”⁷¹

Verily, in view of the importance of the procedural safeguards set forth in the law, this Court has regarded the failure of the arresting officers to prepare an inventory and take photographs of the confiscated drugs as a ground for acquittal. As strictly ruled in *People v. Pagaduan*:⁷²

In several cases, we have emphasized the importance of compliance with the prescribed procedure in the custody and disposition of the seized drugs. We have repeatedly declared that the deviation from the standard procedure dismally compromises the integrity of the evidence. In *People v. Morales*, we acquitted the accused for failure of the buy-bust team to photograph and inventory the seized items, without giving any justifiable ground for the non-observance of the required procedures. *People v. Garcia* likewise resulted in an acquittal because no physical inventory was ever made, and no photograph of the seized items was taken under the circumstances required by R.A. No. 9165 and its implementing rules. In *Bondad, Jr. v. People*, we also acquitted the accused for the failure of the police to conduct an inventory and to photograph the seized items, without justifiable grounds.

We had the same rulings in *People v. Gutierrez*, *People v. Denoman*, *People v. Partoza*, *People v. Robles*, and *People v. Dela Cruz*, where we emphasized the importance of complying with the required mandatory procedures under Section 21 of R.A. No. 9165.⁷³ (Citations omitted)

In addition to the copious jurisprudence cited in *Pagaduan*,⁷⁴ the same strict stance was likewise enforced in a long line of cases, including *Ramos v. People*,⁷⁵ *People v. Alagarme*,⁷⁶ *People v. Ismael*,⁷⁷

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⁶⁸ G.R. No. 216062, September 19, 2018.

⁶⁹ Id.

⁷⁰ 821 Phil. 340 (2017).

⁷¹ Id. at 368.

⁷² 641 Phil. 432 (2010).

⁷³ Id. at 445-446.

⁷⁴ Supra note 72.

⁷⁵ 826 Phil. 663 (2018).

⁷⁶ 754 Phil. 449 (2015).

⁷⁷ Supra note 50.

People v. Omamos,⁷⁸ and *People v. Calates*.⁷⁹ In the afore-mentioned cases, the failure of the arresting officers to prepare an inventory and take photographs cast doubt on the integrity of the seized items, and thus, resulted to an acquittal.

Applied to the case at bar, the failure of the arresting officers to comply with the procedural safeguards set forth in Section 21, coupled with their failure to establish an unbroken chain of custody, tarnish the identity and integrity of the seized items. Worse, the arresting officers failed to provide a valid excuse for their non-compliance with the mandated procedures.

It bears noting that in *People v. Libre*,⁸⁰ this Court charged the prosecution with the duties of adequately explaining the reasons behind the arresting officers' procedural lapses, and establishing the integrity and evidentiary value of the seized evidence.⁸¹ Unfortunately, in this case, the prosecution failed to discharge said tasks.

The Arresting Officers May Not Harp on the Presumption of Regularity, or Conveniently Claim Substantial Compliance with the Rules

The presumption of regularity enjoyed by the arresting officers shall not prevail over the constitutional right of the accused to be presumed innocent.⁸² In fact, in *People v. Garcia*⁸³ and *People v. Dela Cruz*,⁸⁴ this Court rejected blanket claims of presumption of regularity and declared that said presumption will not apply in case of a flagrant disregard of the rules.⁸⁵ The arresting officers' failure to explain their lapses casts grave doubt on the very identity of the corpus delicti, which is a fundamental element in proving the offense.⁸⁶

Furthermore, the gravity of the penalties involved in drugs cases demands more than a mere substantial compliance with the

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⁷⁸ G.R. No. 223036, July 10, 2019.

⁷⁹ Supra note 51.

⁸⁰ G.R. No. 235980, August 20, 2018.

⁸¹ Id., citing *People v. Almorfe*, 631 Phil.51 (2010).

⁸² *People v. Hementiza*, supra note 59 at 1033-1034.

⁸³ Supra note 53.

⁸⁴ G.R. No. 234151, December 5, 2018.

⁸⁵ *People v. Garcia*, supra note 53.

⁸⁶ *People v. Nepomuceno*, supra note 68.

rules. Certainly, a conviction cannot be secured simply on the prosecution's sweeping guarantees as to the identity and integrity of the seized drugs.⁸⁷

In the instant case, the prosecution failed to offer any valid excuse to justify their utter disregard of Section 21. They vaguely claimed that the area of arrest is notoriously rampant for illegal drug dealings, which thereby prompted the arresting officers to take extra care and immediate action to prevent the accused from escaping.⁸⁸ Moreover, the prosecution attacked Maamor's failure to prove actual tampering and ill-motive against the arresting officers.

The excuses offered by the prosecution are flimsy and uncorroborated. Their presumption that the accused might escape if the police officers did not act quickly is unfounded. Neither does it serve as an excuse to transgress the law's safeguards.

Furthermore, the accused need not prove actual tampering by the police officers to overturn the presumption of regularity. In *People v. Nepomuceno*, this Court rejected the general allegation that mere non-compliance, without proof of actual tampering, alteration or substitution, did not jeopardize the integrity of the confiscated drug. The safeguards established by the law were created precisely to prevent and eliminate the possibility of tampering, alteration or substitution, and to ensure that the substance presented in court was itself the drug confiscated at the time of the arrest. Accordingly, the rules should not be ignored.⁸⁹

All told, it is clear from the foregoing that the arresting officers disregarded the legal safeguards for the proper custody of the alleged dangerous drugs. They failed to mark the seized items in the presence of the accused; neglected to prepare an inventory and take photographs of the seized items; and failed to identify the investigating officer who received the seized items. Their inadvertence caused a break in the first and second links of the chain of custody, thereby creating serious doubt on the identity and integrity of the purported drugs. Without adequate proof of the *corpus delicti*, the conviction cannot stand. Accordingly, an acquittal must ensue.

Nasser is also acquitted of the charge

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⁸⁷ *People v. Hementiza*, supra note 59, citing *People v. Holgado*, 741 Phil. 78, 93-94 (2014).

⁸⁸ *CA rollo*, p. 103.

⁸⁹ *Supra* note 68.

It is settled that a favorable judgment shall likewise inure to the benefit of a co-accused who did not file an appeal. As clearly stated in Section 11, Rule 122 of the Rules of Criminal Procedure:

Section 11. Effect of appeal by any of several accused. —

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter,⁹⁰

x x x x

In *People v. Valdez, et al.*,⁹¹ this Court held that an accused who withdrew his appeal shall still be entitled to the same favorable judgment rendered in favor of his co-accused:

A literal interpretation of the phrase “*did not appeal*,” as espoused by private respondent, will not give justice to the purpose of the provision.

It should be read in its entirety and should not be myopically construed so as to defeat its reason, *i.e.*, to benefit an accused who did not join in the appeal of his co-accused in case where the appellate judgment is favorable. In fact, several cases rendered by the Court applied the foregoing provision without regard as to the filing or non-filing of an appeal by a co-accused, so long as the judgment was favorable to him.

In *People v. Artellero*, the Court extended the acquittal of Rodriguez’s co-accused to him despite the withdrawal of his appeal, applying the Rule 122, Section 11(a), and considering that the evidence against both are inextricably linked, to wit:

Although it is only appellant who persisted with the present appeal, the well-established rule is that an appeal in a criminal proceeding throws the whole case open for review of all its aspects, including those not raised by the parties. The records show that Rodriguez had withdrawn his appeal due to financial reasons. However, Section 11 (a) of Rule 122 of the Rules of Court provides that “an appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.” As we have elucidated, the evidence against and the conviction of both appellant and Rodriguez are inextricably linked. Hence, appellant’s acquittal, which is favorable and applicable to Rodriguez, should benefit the latter.⁹²

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⁹⁰ RULES ON CRIMINAL PROCEDURE, Rule 122, Section 11.

⁹¹ 703 Phil. 519 (2013).

⁹² *Id.* at 528-529, citing *Lim v. CA*, 524 Phil. 692 (2006) and *People v. Artellero*, 395 Phil. 876 (2000).

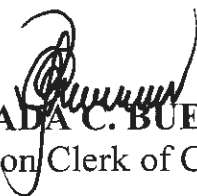
Accordingly, Nasser is likewise acquitted in view of Section 11(a) of Rule 122 of the Rules of Criminal Procedure.

WHEREFORE, the appeal is **GRANTED**. The assailed February 28, 2014 Decision of the Court of Appeals in CA-G.R. CR HC No. 04732 is **REVERSED and SET ASIDE**. Accordingly, accused-appellant Maunara Maamor y Sultan and his co-accused Mohammad Nasser y Iko are hereby **ACQUITTED** due to the failure of the prosecution to prove their guilt beyond reasonable doubt.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court, within five (5) days from receipt of this Resolution, the action he has taken. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
222-B

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 04732)

The Hon. Presiding Judge
Regional Trial Court, Branch 9
1000 Manila
(Crim. Case No. 07-251467)

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Mr. Mohammad I. Nasser (x)
Co-Accused
c/o The Department of Social Welfare
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A. NAF