



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated March 17, 2021, which reads as follows:*

**“G.R. No. 245249 (*People of the Philippines v. Nazroding Suba y Tawtir a.k.a. Kapitan/Tol*).** – Accused-appellant Nazroding Suba y Tawtir a.k.a. Kapitan/Tol assails the August 1, 2018 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-JIC No. 09044, which affirmed the November 17, 2016 Joint Decision<sup>2</sup> of the Regional Trial Court (RTC), Branch 41 of Dagupan City, in Criminal Case Nos. 2013-0238-D and 2013-0239-D finding him guilty beyond reasonable doubt of violating Section 5 and Section 11, respectively, of Republic Act No. 9165 (RA 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

**Factual Antecedents:**

Accused-appellant was charged with violating Sections 5 and 11, Article II of RA 9165, *viz.*:

**Criminal Case No. 2013-0238-D**

That on or about the 12<sup>th</sup> day [of] April 2013, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, NAZRODING SUBA Y TAWTIR aka KAPITAN/TOL, did then and there, willfully, unlawfully and criminally, sell and deliver to a poseur-buyer Methamphetamine Hydrochloride (Shabu) contained in one (1) heat sealed plastic sachet, weighing more or less 0.067 gram, in exchange of P300.00, without authority to do so.<sup>3</sup>

<sup>1</sup> *Rollo*, pp. 3-16; penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Japar B. Dimaampao and Joseph Y. Lopez (now a Member of this Court).

<sup>2</sup> *CA rollo*, pp. 57-69; penned by Judge Emma M. Torio.

<sup>3</sup> *Records* (Criminal Case No. 2013-0238-D), p. 1.

**Criminal Case No. 2013-0239-D**

That on or about the 12<sup>th</sup> day [of] April 2013, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, NAZRODING SUBA Y TAWTIR aka KAPITAN/TOI, did then and there, willfully, unlawfully and criminally have in his possession, custody and control Methamphetamine Hydrochloride (Shabu) contained in three (3) heat sealed plastic sachets, all weighing more or less 0.475 gram, without authority to possess the same.<sup>4</sup>

Accused-appellant was thereafter arraigned and pleaded not guilty to the charges. Joint trial on the merits then ensued.<sup>5</sup>

The prosecution presented Forensic Chemist Police Chief Inspector Emelda Roderos (PCI Roderos), poseur-buyer Police Officer 3 Lee Valdez (PO3 Valdez), Evidence Custodian Mercedita Velasco (Velasco), Senior Police Officer 4 Conrado Francisco, and Police Officer 3 Nashville Menceses (PO3 Menceses) of the Philippine National Police (PNP) Crime Laboratory. Accused-appellant, on the other hand, was the sole witness in his defense.<sup>6</sup>

**Version of the Prosecution:**

The combined testimonies of the prosecution witnesses show that at around 4:45 in the afternoon of April 12, 2013, a team of operatives from the Dagupan City Police Station conducted a buy-bust operation against Suba at his place of residence located at Sitio Silungan, Bonuan, Binloc, Dagupan City. The team consisted of Police Inspector Bernard C. Antolin as leader, PO3 Valdez as poseur-buyer, the confidential asset, and three other police officers as back-up operatives. During the pre-operation briefing, PO3 Valdez prepared three pieces of marked P100 bills as buy-bust money. They then proceeded to subject's place of residence.<sup>7</sup>

Upon their arrival at the target area, PO3 Valdez and the confidential asset positioned themselves outside the house of the accused-appellant, while the rest of the buy-bust team hid and posted themselves as perimeter security. The confidential asset then contacted Suba to arrange a drug deal. The accused-appellant stepped outside his house and proceeded to talk to PO3 Valdez. Both Suba and PO3 Valdez agreed that the latter will purchase from the former P300 worth of *shabu*. Suba then handed one plastic sachet of suspected *shabu* to PO3 Valdez who, in turn, gave three marked P100 bills to accused-appellant. At this point, PO3 Valdez executed the pre-arranged signal by raising his right hand, which prompted the buy-bust team to rush towards the crime scene. The team then proceeded to arrest accused-appellant and apprised him of his constitutional rights.<sup>8</sup>

<sup>4</sup> *Records* (Criminal Case No. 2013-0239-D), p. 1.

<sup>5</sup> *Id.*

<sup>6</sup> *CA rollo*, pp. 57-69.

<sup>7</sup> *Rollo*, p. 4.

<sup>8</sup> *Id.* at 6-7.

After further body search, PO3 Valdez recovered the buy-bust money from Suba, and confiscated from his right side pocket three more sachets of *shabu*. Immediately upon confiscation and in the presence of accused-appellant, PO3 Valdez marked the sachet which he bought from the accused with "LLV-1", and the three confiscated sachets with "LLV-2", "LLV-3", and "LLV-4". PO3 Valdez then placed the confiscated items in one plastic bag and put the same inside his left pocket. As several persons attempted to intervene with accused-appellant's arrest, the buy-bust team brought him to the police station where PO3 Valdez prepared a confiscation receipt in the presence of Robert R. Ramirez, a representative of the Department of Justice (DOJ). PO3 Valdez took pictures of the confiscated items, and indorsed the same to Duty Investigator Police Superintendent Christopher N. Abrahano (P/Supt. Abrahano).<sup>9</sup>

P/Supt. Abrahano then prepared a Request for Laboratory Examination and handed it to PO3 Valdez who personally delivered the request and the confiscated items to the PNP Crime Laboratory Office, which were received by PO3 Meneses. In turn, PO3 Meneses handed over the sachets to PCI Roderos whose forensic examination yielded a positive result for the presence of *methamphetamine hydrochloride* or *shabu*, a dangerous drug. PCI Roderos then handed over the confiscated drugs to Evidence Custodian Velasco.<sup>10</sup>

The confiscated drugs were later retrieved by Velasco from the evidence room, and were released to PCI Roderos, who brought the items to the RTC for presentation of evidence.<sup>11</sup>

#### **Version of the Defense:**

In his defense, the accused-appellant vehemently denied the allegations against him. He alleged that on April 12, 2013 at around 3:00 in the afternoon, he attended a religious gathering at the mosque in Sitio Silungan, Binloc. On his way home, two men approached him and inquired about several persons. He informed them that he did not know such persons. When he was about to leave, the men again asked if Suba knew the said persons, to which he again responded in the negative. When accused-appellant turned his back towards the men, one of them drew a gun, fired a warning shot, and directed him not to run. He was handcuffed and surrounded by about ten persons who arrived aboard five motorcycles. He was then placed in a police car and brought to an office with a red gate where he waited for three hours. Thereafter, he was brought to the police station where he was detained.<sup>12</sup>

---

<sup>9</sup> Id. at 7.

<sup>10</sup> Id. at 7 and 12.

<sup>11</sup> Id. at 12.

<sup>12</sup> Id. at 7-8.

**The Ruling of the Regional Trial Court:**

On November 17, 2016, the RTC rendered a Joint Decision<sup>13</sup> of conviction, the dispositive portion of which states:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused Nasroding Suba y Tawtir aka Kapitan/Tol **GUILTY** beyond reasonable doubt in Criminal Case No. 2013-0238-D for selling and delivering methamphetamine hydrochloride (shabu), a dangerous drug, contained in one (1) plastic sachet weighing 0.067 gram more or less, without authority to do so and in violation of Section 5, Article II of Republic Act 9165, and pursuant to law, he is sentenced to suffer the penalty of life imprisonment and fine of P500,000.00.

In Criminal Case No. 2013-0239-D, the court likewise finds the accused Nasroding Suba y Tawtir aka Kapitan/Tol **GUILTY** beyond reasonable doubt for possession of methamphetamine hydrochloride (shabu), a dangerous drug, contained in three (3) plastic sachets with a total weight of 0.475 gram, more or less, in violation of Section 11, Article II of Republic Act 9165, and pursuant thereto, he is sentenced to suffer the penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and fine in the amount of Three Hundred Thousand (P300,000.00).

The four (4) plastic sachets of shabu are hereby forfeited in favor of the government and to be disposed in accordance with the law.

The period during which the accused has undergone preventive imprisonment shall be credited to him in full in the service of his sentence if he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted persons.

SO ORDERED.<sup>14</sup>

In giving credence to the testimonies of the prosecution witnesses, the RTC held that all the elements of illegal sale and possession of dangerous drugs had been duly established, and that there was proper compliance with the chain of custody rule. The trial court noted that the prosecution gave a valid justification for preparing the confiscation receipt in the police station.<sup>15</sup> The trial court further emphasized that the integrity and evidentiary value of the seized items were not compromised because the crucial links in the chain of custody were established.<sup>16</sup>

<sup>13</sup> CA rollo, pp. 57-69.

<sup>14</sup> Id. at 68-69.

<sup>15</sup> During his direct examination, PO3 Lee Valdez stated that the accused-appellant's muslim brethren prevented him from apprehending accused-appellant, which thus constrained him to immediately leave the place of the arrest. See TSN, March 31, 2014, p. 12.

<sup>16</sup> CA rollo, pp. 65-66.

**Ruling of the Court of Appeals:**

Aggrieved, the accused-appellant appealed the judgment to the CA.<sup>17</sup>

The Office of the Solicitor General (OSG) filed a Motion for Extension<sup>18</sup> of time to file plaintiff-appellee's brief seeking an additional 30 days from June 27, 2018, or until July 27, 2018, within which to file the same, which the CA granted in a Resolution<sup>19</sup> dated July 3, 2018. On July 27, 2018, the OSG filed a second Motion for Extension<sup>20</sup> of time to file plaintiff-appellee's brief, praying for an extension of 60 days from July 27, 2018, or until September 25 2018, within which to file the same. However, it did not file the brief within the periods stated in its motions for extension.

Meanwhile, on August 1, 2018, the CA affirmed the accused-appellant's conviction. The dispositive portion of the CA Decision<sup>21</sup> states:

**WHEREFORE**, premises considered, the Joint Decision dated 17 November 2016 of the Regional Trial Court, Branch 41, Dagupan City is **AFFIRMED**.

**SO ORDERED.**<sup>22</sup>

The CA held that the prosecution was able to establish beyond reasonable doubt that the accused-appellant illegally sold and possessed dangerous drugs.<sup>23</sup> It emphasized that while the confiscation receipt was prepared at the police station, and not at the place of his arrest, such was necessary as the muslim brethren of Suba had already caused a commotion at the scene of the arrest, which thus placed the buy-bust team in a risky and precarious situation. The CA also found that the integrity of the seized drugs had been properly preserved, and that the prosecution successfully established all the links in the chain of custody – that the dangerous drugs were the same ones recovered from accused-appellant, submitted to the crime laboratory for testing, and subsequently, presented in court as evidence, as to remove any doubt on the integrity of the seized drugs.<sup>24</sup> Moreover, the CA rejected accused-appellant's defenses of denial and frame-up for lack of clear and convincing evidence to overturn the presumption that the buy-bust team had regularly performed their official functions.<sup>25</sup>

Accused-appellant now seeks affirmative relief from this Court and pleads for his acquittal.<sup>26</sup>

---

<sup>17</sup> *CA rollo*, p. 13-14.

<sup>18</sup> *Id.* at 70-71.

<sup>19</sup> *Id.* at 73.

<sup>20</sup> *Id.* at 87-88.

<sup>21</sup> *Rollo*, pp. 3-16.

<sup>22</sup> *Id.* at 13.

<sup>23</sup> *Id.* at 11.

<sup>24</sup> *Id.* at 10-11.

<sup>25</sup> *Id.* at 12.

<sup>26</sup> *Rollo*, pp. 15-16.

In Our April 8, 2019 Resolution,<sup>27</sup> We notified the parties that they may file their respective supplemental briefs, if they so desire. For the purpose of this appeal, both accused-appellant and the OSG manifested that in lieu of supplemental briefs, they were adopting their respective briefs filed before the CA.

It bears noting in this regard that a perusal of the records would show that the OSG has not filed the plaintiff-appellee's brief with the CA. In any event, this Court shall proceed with the resolution of the issues raised on the merits on the basis of the evidence on record and accused-appellant's brief.

### Issue

The sole issue for Our resolution is whether or not the chain of custody rule provided under Section 21 of RA 9165 was complied with.

### Our Ruling

The appeal is meritorious.

As basis for his acquittal, accused-appellant stresses the prosecution's unsuccessful attempt to establish an unbroken chain of custody of the seized drugs considering that the buy-bust team or apprehending officers allegedly deviated from the mandatory procedure under Section 21 of RA 9165. In particular, he raises the following errors:

*First*, the prosecution failed to describe the manner in which PO3 Valdez handled the seized drugs while these were in his possession and custody, that is, from the time of confiscation of the seized drugs until the same were handed over to the forensic chemist, and by which the drugs subject of the forensic examination were preserved and safeguarded from the time of receipt of the seized drugs for said examination until it was offered as evidence in Court.

*Second*, the apprehending team failed to secure the presence of the necessary witnesses at the time PO3 Valdez conducted the requisite inventory of the seized items. Despite this procedural lapse, the prosecution failed to provide an explanation and cite justifiable grounds therefor.

Anent the first error raised by accused-appellant, the Court finds the same untenable.

It is a settled rule that factual findings of the trial court, as affirmed by the appellate court, are binding on this Court, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable

---

<sup>27</sup> Id. at 20.

error.<sup>28</sup> Moreover, the trial court's calibration of the testimonies of witnesses, including its assessment of their credibility and probative value, are accorded great respect more so when their findings thereon have been affirmed by the appellate court<sup>29</sup> such as in this case. Since the accused-appellant failed to show any arbitrariness, palpable error, or capriciousness on the findings of fact of the RTC and the CA, these findings deserve great weight and are deemed conclusive and binding.

This notwithstanding, and as will be discussed hereunder, it appears that both the trial court and the appellate court manifestly overlooked an otherwise apparent unjustified deviation from the witness requirement under the chain of custody rule.

### **The four-witness rule under Section 21 of R.A. No. 9165.**

In cases of Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.<sup>30</sup>

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.<sup>31</sup> Chain of custody means the duly recorded, authorized movements, and custody of the seized drugs at each state, from the moment of confiscation to the receipt in the forensic laboratory for examination until it is presented to the court.<sup>32</sup> Accordingly, RA 9165 lays down the procedure on the custody and disposition of confiscated, seized, and/or surrendered drug and/or drug paraphernalia. This makes up the chain of custody rule.

Anent the witness requirement in the chain of custody rule, the law requires that the inventory and photography of the seized items or illegal drugs be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses.

In particular, Section 21 (1), Art. II of RA 9165 provides that:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and

<sup>28</sup> *People v. Bontuyan*, 742 Phil. 788, 798 (2014).

<sup>29</sup> *People v. Alia*, G.R. No. 202182 (Notice), July 23, 2014.

<sup>30</sup> *Matabilas v. People*, G.R. No. 243615, November 11, 2019.

<sup>31</sup> *People v. Tecson*, G.R. No. 243786, October 9, 2019.

<sup>32</sup> *People v. Bangcola*, G.R. No. 237802, March 18, 2019.

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[.] (Emphasis supplied) x x x

The above-quoted provision was further expounded under Sec. 21 (a), Art. II of the Implementing Rules and Regulations (IRR) of RA 9165:

(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; x x x (emphasis supplied)

Based on the foregoing recitals, the apprehending team is required, after seizure and confiscation of the illegal drugs, to immediately conduct a physical inventory and photograph of the seized items in the presence of the four witnesses, namely: “(1) the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) a representative from the media and (3) the DOJ, and (4) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.”<sup>33</sup>

This four-witness requirement, however, was amended by RA 10640<sup>34</sup> which took effect in 2014.<sup>35</sup> RA 10640 now “requires only three witnesses to be present during the inventory and taking of photographs of the seized evidence, namely: [1] the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, [2] an elected public official, and [3] a representative from the National Prosecution Service or the media.”<sup>36</sup>

The case of *Matabilas v. People*<sup>37</sup> is instructive on this point:

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640, a

<sup>33</sup> *People v. Balubal*, G.R. No. 234033, July 30, 2018.

<sup>34</sup> 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, Approved on July 15, 2014.

<sup>35</sup> In *Matabilas v. People*, supra note 30, the Court determined that RA 10640 became effective on August 7, 2014.

<sup>36</sup> *People v. Bangcola*, supra note 32.

<sup>37</sup> Supra note 30.



representative from the media AND the DOJ, and any elected public official; or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service OR the media. The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.

Considering that the alleged crimes were committed on April 12, 2013, the old law and its corresponding IRR shall apply. Thus, the four witnesses mandated by law to be present during the inventory and taking of photographs must be complied with.

It bears noting at this point that current state of laws even require the presence of the required witnesses not only during inventory of the seized items, but also during the actual buy-bust operation.<sup>38</sup> *People v. Tanes*<sup>39</sup> is instructive on this point, viz.:

Petitioner avers that the trial court gravely abused its discretion in granting the bail application based solely on the *Jehar Reyes* case. It maintains that R.A. 9165 only requires the presence of the three witnesses during the conduct of the inventory, and not during the actual buy-bust operation.

The argument is without merit.

For reference, the relevant portion of *Jehar Reyes* is quoted below:

**Thirdly, another substantial gap in the chain of custody concerned the absence of any representative of the media or of the Department of Justice (DOJ), and of the elected public official during the buy-bust operation and at the time of the confiscation of the dangerous drugs from the accused in the area of operation. x x x The objective of requiring their presence during the buy-bust operation and at the time of the recovery or confiscation of the dangerous drugs from the accused in the area of operation was to ensure against planting of evidence and frame up. It was clear that ignoring such objective was not an option for the buy-bust team if its members genuinely desired to protect the integrity of their operation. Their omission attached suspicion to the incrimination of the accused. The trial and appellate courts should not have tolerated the buy-bust team's lack of prudence in not complying with the procedures outlined in Section 21(1), *supra*, in light of the sufficient time for them to comply. (Emphasis and underscoring supplied in the original)**

x x x

x x x *Jehar Reyes* has even been cited by the Court in at least six cases subsequent to it, one of which is *People v. Sagana*, wherein the Court made similar findings regarding the three-witness rule. Citing *Jehar Reyes*, the Court therein held:

<sup>38</sup> *People v. Tanes*, G.R. No. 240596, April 3, 2019.

<sup>39</sup> *Id.*

Similarly, none of the required third-party representatives was present during the seizure and inventory of the dangerous articles. **Their presence in buy-bust operations and seizure of illicit articles in the place of operation would supposedly guarantee "against planting of evidence and frame-up."** In other words, they are "necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity."

x x x In this case, the records were bereft of any explanation why the third-party representatives were present only during the belated photographing of the confiscated articles. Hence, the very purpose of their mandated presence is defeated. (Emphasis and underscoring supplied in the original)

x x x

Also, the Court made similar pronouncements in *People v. Tomawis*, to wit:

**The presence of the three witnesses must be secured not only during the inventory but more importantly at the time of the warrantless arrest.** It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. x x x

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so and "calling them in" to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs "immediately after seizure and confiscation." (Emphasis and underscoring supplied in the original)

The foregoing notwithstanding, this Court is well-aware that strict compliance with the chain of custody procedure may not always be possible. In this regard, the IRR of RA 9165 provides a saving clause in case there is non-compliance with the chain of custody rule, viz.:

x x x 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[.]<sup>40</sup>

Thus, while it may be true that failure of the apprehending officers to strictly comply with the requirements set forth under Section 21 of RA 9165 does not *ipso facto* render the seizure and custody over the items as void and invalid,<sup>41</sup> it must be shown, however, that “earnest efforts were exerted by the [apprehending] officers involved to comply with the mandated procedure so as to convince the Court that the failure to comply was reasonable under the given circumstances.”<sup>42</sup> This Court, in *People v. Lim*<sup>43</sup> delineated several justifiable grounds for non-compliance of the witness requirement under RA 9165:

It must be alleged and proved that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.

In this case, the Court finds that the apprehending officers committed unjustified deviations from the prescribed chain of custody rule.

**Non-compliance with the witness rule requirement: no elected public official and media representative.**

An examination of the facts reveals that while the seized items were duly marked by PO3 Valdez immediately upon their confiscation at the place of arrest and in the presence of accused-appellant, the same was not done in the presence of any elected public official, as well as a representative from the media.

<sup>40</sup> Implementing Rules and Regulations of Republic Act No. 9165, IRR of RA 9165, August 30, 2002.

<sup>41</sup> *People v. Manansala*, 826 Phil. 578, 591 (2018).

<sup>42</sup> *Id.*

<sup>43</sup> G.R. No. 231989, September 4, 2018 citing *People v. Vicente Sipin y De Castro*, G.R. No. 224290, June 11, 2018.

Nor do the records reveal that the physical inventory of the seized items was made or that photographs of the same were taken in the presence of the required witnesses. This may be gleaned from the Confiscation Receipt<sup>44</sup> dated April 12, 2013, which only confirms the presence of a certain Robert R. Ramirez, a supposed representative of the DOJ. Such finding is further supported by the testimony of PO3 Valdez on direct examination, viz.:

Q: What else did you do after the arrest of the accused?

A: When we were already at the office I made the confiscation receipt.

x x x

Q: Showing to you the confiscation receipt attached to the record of this court, is this the same confiscation receipt that you prepared?

A: Yes, ma'am.

Q: There is a signature above the name Lee Valdez, whose signature was that?

A: This is my signature ma'am.

Q: There is also a signature above the name Robert R. Ramirez, DOJ, whose signature is that?

A: The representative of DOJ, sir Robert Ramirez, ma'am.

Q: How do you know that is his signature?

A: Because I was beside him when he signed it, ma'am.

x x x<sup>45</sup>

As mentioned above, it is incumbent upon the prosecution to present sufficient reasons or grounds which would exculpate the apprehending officers from the effects of their failure to strictly comply with the witness rule under Section 21 of RA 9165. The prosecution offered no justification as to the absence of a public official, and a representative of the media at the time of accused-appellant's arrest, and confiscation and inventory of the seized items. Worse still, the prosecution, including the RTC and CA, did not even acknowledge the apparent deviation from this requirement. Nor do the facts of the case show that the apprehending team exerted genuine and sufficient efforts to secure the presence of the absent witnesses.

As the Court sees it, the apprehending officers did not faithfully comply with the standards set forth by law, compounded by the prosecution's failure to justify non-compliance thereof. In view of the failure of the prosecution to provide a justifiable reason for the non-compliance with Section 21, Article II of RA 9165, which creates doubt as to the integrity and evidentiary value of the seized items, the Court is constrained to acquit the accused-appellant based on reasonable doubt.

---

<sup>44</sup> Records, p. 10.

<sup>45</sup> TSN, March 31, 2014, p. 12.

**WHEREFORE**, the appeal is **GRANTED**. The August 1, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 09044 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Nazroding Suba y Tawtir a.k.a. Kapitan/Tol is **ACQUITTED** of the crimes charged and ordered immediately **RELEASED** from custody, unless he is being held for some other lawful cause.

The Director General of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of accused-appellant Nazroding Suba y Tawtir a.k.a. Kapitan/Tol unless he is being held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued.

**SO ORDERED.**" (*Lopez, J. Y., no part due to prior action in the Court of Appeals; J. Gaerlan designated as additional Member per raffle dated February 17, 2021*)

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court *8/16/21*

Atty. Nico Carlo M. Crisologo  
PUBLIC ATTORNEY'S OFFICE  
Special & Appealed Cases Service  
DOJ Agencies Building  
East Avenue cor. NIA Road  
Diliman, 1104 Quezon City

OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street  
Legaspi Village, 1229 Makati City

COURT OF APPEALS  
CA G.R. CR HC No. 09044  
1000 Manila

The Director General  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

The Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

Mr. Nazroding T. Suba  
a.k.a. "Kapitan/Tol"  
Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 41, 2400 Dagupan City  
(Crim. Case No. 2013-0238-39-D)

PGEN. Guillermo Lorenzo T. Fleazar  
CHIEF, PHILIPPINE NATIONAL POLICE  
National Headquarters  
Camp Crame, Quezon City

The Director General  
PHILIPPINE DRUG ENFORCEMENT AGENCY  
PDEA Bldg., NIA Northside Road  
National Government Center  
Brgy. Pinyahan, Quezon City

The Chairman  
DANGEROUS DRUGS BOARD  
3<sup>rd</sup> Floor DDB-PDEA Bldg.,  
NIA Northside Road  
National Government Center  
Brgy. Pinyahan, Quezon City

PHILIPPINE JUDICIAL ACADEMY  
Research Publications and Linkages Office  
Supreme Court, Manila  
[research\_philja@yahoo.com]

PUBLIC INFORMATION OFFICE  
Supreme Court, Manila  
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES  
Supreme Court, Manila

Judgment Division  
JUDICIAL RECORDS OFFICE  
Supreme Court, Manila

**G.R. No. 245249**

2021

  
**(238)  
URES**



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

**G.R. No. 245249**

-versus-

NAZRODING SUBA y  
TAWIIR a.k.a. KAPITAN/TOL,  
Accused-Appellant.

\*-----/

**ORDER OF RELEASE**

**TO: The Director General**  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

Thru: **The Superintendent**  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

**GREETINGS:**

WHEREAS, the Supreme Court on March 17, 2021 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

“**WHEREFORE**, the appeal is **GRANTED**. The August 1,  
2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. ~~61~~”

-over-

09044 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Nazroding Suba y Tawtir a.k.a. Kapitan/Tol is **ACQUITTED** of the crimes charged and ordered immediately **RELEASED** from custody, unless he is being held for some other lawful cause.

The Director General of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of accused-appellant Nazroding Suba y Tawtir a.k.a. Kapitan/Tol unless he is being held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued.

**SO ORDERED.**" (*Lopez, J. Y., no part due to prior action in the Court of Appeals; J. Gaerlan designated as additional Member per raffle dated February 17, 2021*)

**NOW, THEREFORE**, you are hereby ordered to immediately release **Nazroding Suba y Tawtir a.k.a. Kapiyan/Tol**, unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

**GIVEN** by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **17<sup>th</sup>** day of **March 2021**.

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court *CS 8/16/21*

Atty. Nico Carlo M. Crisologo  
PUBLIC ATTORNEY'S OFFICE  
Special & Appealed Cases Service  
DOJ Agencies Building  
East Avenue cor. NIA Road  
Diliman, 1104 Quezon City



OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street  
Legaspi Village, 1229 Makati City

COURT OF APPEALS  
CA G.R. CR.HC No. 09044  
1000 Manila

Mr. Nazroding T. Suba  
a.k.a. "Kapitan/Tol"  
Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 41, 2400 Dagupan City  
(Crim. Case No. 2013-0238-39-D)

PGEN. Guillermo Lorenzo T. Eleazar  
CHIEF, PHILIPPINE NATIONAL POLICE  
National Headquarters  
Camp Crame, Quezon City

The Director General  
PHILIPPINE DRUG ENFORCEMENT AGENCY  
PDEA Bldg., NIA Northside Road  
National Government Center  
Brgy. Pinyahan, Quezon City

The Chairman  
DANGEROUS DRUGS BOARD  
3<sup>rd</sup> Floor DDB-PDEA Bldg.,  
NIA Northside Road  
National Government Center  
Brgy. Pinyahan, Quezon City

PUBLIC INFORMATION OFFICE  
Supreme Court, Manila

LIBRARY SERVICES  
Supreme Court, Manila

Judgment Division  
JUDICIAL RECORDS OFFICE  
Supreme Court, Manila