



Republic of the Philippines
Supreme Court
 Manila

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 SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

THE PEOPLE OF THE PHILIPPINES, G.R. No. 232161
 Plaintiff-Appellee,

Members:

CARPIO, J.,* *Chairperson,*
CAGUIOA,
J. REYES, JR.,
LAZARO-JAVIER, and
ZALAMEDA, JJ.

- versus -

Promulgated:

SHAGER LACDAN y PARTO,
 Accused-Appellant.

14 AUG 2019

HAR Cabalopolongto

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DECISION

LAZARO-JAVIER, J.:

The Case

This appeal seeks to reverse the Decision dated September 15, 2016¹ of the Court of Appeals in CA-G.R. CR-HC No. 07794, affirming the conviction of appellant Shager Parto Lacdan for violation of Section 5, Article II of Republic Act 9165 (RA 9165)² and imposing on him life imprisonment and Five Hundred Thousand Pesos (P500,000.00) fine.

* On official leave

¹ Penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Jane Aurora C. Lantion and Carmelita Salandanan Manahan, *CA rollo*, pp. 110-121.

² Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

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The Proceedings Before the Trial Court

Appellant Shager P. Lacdan was charged with violation of Section 5, Article II, RA 9165 under the following Information:

That on or about March 3, 2013, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously sell, pass and deliver to PO2 ALEXANDER GALLEGA, one (1) plastic sachet containing METHAMPHETAMINE HYDROCHLORIDE commonly known as "shabu", a dangerous drug, weighing zero point zero four (0.04) gram.

CONTRARY TO LAW.³

On arraignment, appellant pleaded not guilty.⁴ Trial ensued.

PO2 Alexander Gallega, PO2 Emeterio Vergara,⁵ and Forensic Chemist Donna Villa Huelgas testified for the prosecution. On the other hand, appellant alone testified for the defense.

Version of the Prosecution

On March 2, 2013, around 5 o'clock in the afternoon, PO2 Alexander Gallega received a report from a confidential informant that appellant Shager Lacdan was involved in illegal drug activities on Calle 11, Barangay Cuyab, San Pedro, Laguna. PO2 Gallega relayed this information to their team leader, P/Insp. Limuel Sigua. In turn, P/Insp. Sigua reported the information to P/Supt. Chito G. Bersaluna, who ordered PO2 Gallega to verify the report.⁶

PO2 Gallega did a surveillance and confirmed the reported illegal drug activities of appellant Shager Lacdan at Calle 11, Barangay Cuyab, San Pedro, Laguna. He reported his findings to P/Supt. Bersaluna, who formed a buy-bust team composed of PO2 Gallega as poseur buyer, PO2 Emeterio Vergara as arresting officer, and P/Insp. Sigua, SPO4 Dela Peña, and the rest of the team as back up. They also sent a coordination form and pre-operation report to the Philippine Drug Enforcement Agency (PDEA).⁷

Around 12:40 o'clock in the morning of March 3, 2013, the buy-bust team proceeded to Calle 11, Barangay Cuyab, San Pedro, Laguna where appellant resided. PO2 Gallega and the confidential informant saw appellant

³ Record, p. 1.

⁴ Record, p. 31.

⁵ Earlier referred in the records as "PO1" Emeterio Vergara.

⁶ TSN, February 26, 2014, pp. 3-4.

⁷ *Id.* at 5-7.

standing outside his residence. The confidential informant introduced PO2 Gallega to appellant and said “*Tol, dos lang.*” PO2 Gallega gave the marked money to appellant who, in turn, handed one plastic sachet of suspected *shabu* to PO2 Gallega. While the confidential informant and appellant were conversing, PO2 Gallega rang up PO2 Vergara to signal that the sale had been consummated.⁸

On signal, the back-up team immediately closed in. PO2 Gallega held appellant and introduced himself as a police officer. PO2 Vergara frisked appellant and recovered from the latter the buy-bust money. PO2 Gallega remained in possession of the plastic sachet, which he marked with “SL-B” (“Shager Lacdan – Buy[-B]ust”).⁹

The buy-bust team brought appellant and the seized items to the police station. There, the team conducted a physical inventory of the items in the presence of appellant and media representative. Photographs of the same were also taken. The team prepared a request for laboratory examination of the contents of the plastic sachet and request for appellant’s drug test. PO2 Gallega and PO2 Vergara personally brought appellant and the plastic sachet to the crime laboratory. PO2 Gallega handed the plastic sachet to the receiving clerk. Forensic Chemist Donna Villa Huelgas received the plastic sachet and appellant’s urine sample from the receiving clerk.¹⁰

Per Chemistry Report No. D-154-13, Forensic Chemist Huelgas found the specimens positive for methamphetamine hydrochloride (*shabu*), a dangerous drug.¹¹

The prosecution offered the following exhibits: Exhibits “A” to “A-1-A” – PO2 Gallega’s *Sinumpaang Salaysay* dated March 3, 2013¹²; Exhibits “B” to “B-1-A” – PO2 Emeterio Vergara’s *Sinumpaang Salaysay* dated March 3, 2013¹³; Exhibit “C” – Request for Laboratory Examination dated March 3, 2013¹⁴; Exhibit “D” – Chemistry Report No. D-154-13¹⁵; Exhibit “D-1” one heat sealed transparent plastic sachet containing white crystalline substance, marked “SL-B”; Exhibit “E” – Request for Drug Test dated March 3, 2013¹⁶; Exhibit “F” – Chemistry Report No. CRIMDT-277-13¹⁷; Exhibit “G” – Chain of Custody Form dated March 3, 2013¹⁸; Exhibit “H” – Pre-Operation Report March 2, 2013¹⁹; Exhibit “I” –

⁸ *Id.* at 6-8.

⁹ *Id.* at 8-9.

¹⁰ TSN, February 26, 2014, pp. 9 and 11-12; TSN, September 24, 2014, pp. 5-6; TSN, November 13, 2013, p. 4.

¹¹ TSN, November 13, 2013, pp. 3-5.

¹² Record, pp. 6-7.

¹³ *Id.* at 8-9.

¹⁴ *Id.* at 10.

¹⁵ *Id.* at 11.

¹⁶ *Id.* at 12.

¹⁷ *Id.* at 13.

¹⁸ *Id.* at 14.

¹⁹ *Id.* at 15.

Coordination Form March 2, 2013²⁰; Exhibit “J” – Certification of Inventory²¹; Exhibits “K” and “K-1” – Photographs²²; and Exhibit “L” to “L-1” – two marked P100.00 bills.²³

Version of the Defense

On March 3, 2013, around 6 o’clock in the evening, while seated outside his house on Calle 11, Barangay Cuyab, San Pedro, Laguna, he noticed a motorcycle roaming around the area, looking for a certain Jerome Dedala. One of the passengers, whom he later identified as PO2 Gallega, shouted to him “*tol wag kang aalis dyan.*” They also asked him on Jerome Dedala’s whereabouts. When he could not tell them, they handcuffed and brought him to the police station.²⁴

He did not execute any counter affidavit because he was prevented from doing so. He did not file any case against the police officers who arrested him. He did not know these police officers before he got arrested.²⁵

The defense did not offer any documentary evidence.

The Trial Court’s Ruling

By Judgment dated September 23, 2015,²⁶ the trial court found appellant guilty as charged, *viz*:

WHEREFORE, judgment is hereby rendered finding accused Shager Lacdan y Parto GUILTY beyond reasonable doubt of violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos without subsidiary imprisonment in case of insolvency.

The period of his preventive imprisonment should be given full credit.

Let the plastic sachet of shabu weighing 0.04 gram subject matter of this case be immediately forwarded to the Philippine Drug Enforcement Agency for its disposition as provided by law. The P200.00 buy-bust money is ordered forfeited in favour of the government and deposited in the National Treasury through the Office of the Clerk of Court.

SO ORDERED.²⁷

²⁰ *Id.* at 16.

²¹ *Id.* at 17.

²² *Id.* at 18.

²³ *Id.* at 19.

²⁴ TSN, March 24, 2015, pp. 3-7.

²⁵ *Id.* at 12-13.

²⁶ CA *rollo*, pp. 72-78; Record, pp. 94-100.

²⁷ CA *rollo*, p. 77; Record, p. 99.

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering the verdict of conviction. He essentially argued: (1) the prosecution failed to prove with moral certainty the identity and integrity of the alleged seized drugs because the arresting officers failed to properly comply with the chain of custody rule; (2) the inventory and photograph were done only at the police station sans the required witnesses; and (3) the certificate of inventory did not bear his signature.²⁸

For its part, the Office of the Solicitor General (OSG), through Assistant Solicitor General Renan E. Ramos and Associate Solicitor Gift S. Mohametano, countered, in the main: (a) the presumption of regularity in the performance of official duties in favor of the arresting officers can prevailed over appellant's unsubstantiated denial; (b) PO2 Gallega detailed the transaction during the buy bust operation; (c) the prosecution was able to establish the whereabouts of the seized item from the time it was confiscated until it was brought to the crime laboratory and eventually presented in court; and (d) strict compliance with Section 21 of the Implementing Rules and Regulation of RA 9165 is not necessary so long as the identity and integrity of the seized items were preserved.²⁹

The Court of Appeals' Ruling

By its assailed Decision dated September 15, 2016,³⁰ the Court of Appeals affirmed.

The Present Appeal

Appellant now seeks affirmative relief from the Court and pleads anew for his acquittal.

For the purpose of this appeal, both appellant and the OSG, manifested that in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.³¹

Issue

Was the chain of custody rule complied with?

²⁸ See Appellant's Brief dated April 13, 2016, *CA rollo*, pp. 53-70.

²⁹ See the People's Brief dated July 14, 2016, *CA rollo*, pp. 91-104.

³⁰ *CA rollo*, pp. 110-121.

³¹ *Rollo*, pp. 29-31 and 34-36.

Ruling

Appellant was charged with illegal sale of dangerous drugs allegedly committed on March 3, 2013. The applicable law is RA 9165 before its amendment in 2014.

Section 21 of RA 9165 prescribes the standard in preserving the *corpus delicti* in illegal drug cases, viz:

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:

1. The apprehending 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. (Emphasis supplied)

x x x

x x x

x x x

The IRR of RA 9165 further commands:

x x x

x x x

x x x

Section 21. (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: x x x 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; (Underscoring supplied)

x x x

x x x

x x x

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the

substance illegally possessed by the accused is the same substance presented in court.³²

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody. *People v. Gayoso*³³ enumerates the **links** in the chain of custody that must be shown for the successful prosecution of illegal sale of dangerous drugs, *i.e.* **first**, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; **second**, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; **third**, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and **fourth**, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.

This is the chain of custody rule. It came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.³⁴

The **first link** speaks of seizure and marking which should be done immediately at the place of arrest and seizure. It also includes the physical inventory and photograph of the seized or confiscated drugs which should be done in the presence of the accused, a media representative, a representative from the Department of Justice (DOJ), and an elected public official.

Here, PO2 Gallega testified:

x x x x x x x x x

Q65. Where were you when you put (the) markings on this item?

A. At the place of incident while Vergara was holding Shager Lacdan, sir.

Q66. What markings did you place?

A. "SL-B", sir.

Q67. What is the meaning of this "SL-B"?

A. Shager Lacdan-Buy bust, sir.

Q68. After you made the markings, what transpired next if any?

A. We immediately brought Shager Lacdan to the police station and informed his rights, sir.³⁵

x x x x x x x x x

Q78. Can you still recall what did you do, if any after you arrived at the police station?

³² *People v. Barte*, 806 Phil. 533, 542 (2017).

³³ See 808 Phil. 19, 31 (2017).

³⁴ See *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).

³⁵ TSN, February 26, 2014, p. 9.

- A. I prepared the request for crime laboratory, chain of custody form, and certification of inventory, sir.³⁶

X X X X X X X X X

Q80. What else did you(r) office do after you prepared those?

- A: We brought the item and the suspect to the crime laboratory for his urine and the item to be examined, sir.³⁷

X X X X X X X X X

PO2 Gallega's testimony, on its face, bears how the *first link* in the chain of custody had been breached. Only media representative Ding Bermudez was present during the inventory. But DOJ representative and an elected public official were not around.

PO2 Gallega also failed to explain why these two³ (2) representatives were not found during the inventory.

In *People v. Seguinte*,³⁸ the Court acquitted the accused because there was no showing at all that a representative from the DOJ was present during the inventory and photograph. The Court keenly noted that the prosecution failed to recognize this particular deficiency. The Court, thus, concluded that this lapse, among others, effectively produced serious doubts on the integrity and identity of the *corpus delicti* especially in the face of allegation of frame up.

In *People v. Rojas*,³⁹ the Court likewise acquitted the accused because the presence of representatives from the DOJ and the media was not obtained despite the fact that buy-bust operation on the accused was supposedly pre-planned. The prosecution, too, did not acknowledge, let alone, explain this deficiency.

Recently, in *People v. Vistro*,⁴⁰ the Court acquitted the accused in light of the arresting team's non-compliance with the three-witness rule during the physical inventory and photograph of dangerous drugs.

The *second link* pertains to the turnover of the illegal drug seized by the apprehending officer to the investigating officer.⁴¹ None of the prosecution witnesses testified to whom the seized items were turned over at the police station. PO2 Gallega and PO2 Vergara merely said that PO2 Gallega was in possession of the plastic sachet from the time it was seized.

³⁶ *Id.* at 11.

³⁷ *Id.*

³⁸ G.R. No. 218253, June 20, 2018.

³⁹ G.R. No. 222563, July 23, 2018.

⁴⁰ G.R. No. 225744, March 6, 2019.

⁴¹ See *People of the Philippines v. Myrna Gayoso*, supra note 33, at 32.

It was not clear whether the same was turned over to the investigating officer at all, if there was any. Surely, this is another breach of the chain of custody.

The **third link** pertains to the turnover by the investigating officer to the forensic chemist of the illegal drug for laboratory examination. PO2 Gallega testified:

Q88. While you were at the office, Mr. Witness who was in possession of the item you bought from the accused?

A. I, sir.

Q89. You mentioned that after the preparation of the document, you proceeded to the crime laboratory for examination of the item as well as the urine sample of the accused?

A. Yes, sir.

Q90. Who was in possession of the item while you were in transit going to the crime laboratory?

A. I, sir.

Q91. When you arrived at the crime laboratory who personally handed the request and the item to the receiving clerk of the crime laboratory?

A. I, sir.⁴²

PO2 Gallega testified that he turned over the plastic sachet to the receiving clerk of the crime laboratory, who, nonetheless, was never named, let alone presented in court. The utter lack of proof on how the seized drug was handled from receipt thereof by the clerk until it got retrieved by Forensic Chemist Huelgas for examination. Undeniably, the seized item was then again open to tampering and switching, for which reason, the integrity and identity of the seized item cannot be deemed to have been preserved.

In *People v. Gayoso*,⁴³ the Court acquitted appellant therein because of the absence of proof of how the seized drug was handled during the second and third links. The Court ruled that considering these series of intervening gaps, it cannot reasonably be concluded that the confiscated item was the same one presented for laboratory examination and eventually presented in court.

Lastly, the **fourth link** pertains to the turnover and submission of the seized item from the forensic chemist to the court. Here, after Forensic Chemist Huelgas examined the specimen, she claimed to have returned the same to the evidence custodian and later retrieved it from the latter for presentation in court.⁴⁴ It was not shown, however, how the evidence custodian handled and stored the seized item before the same was retrieved

⁴² TSN, February 26, 2014, p. 12.

⁴³ See supra note 33, at 33-34.

⁴⁴ TSN, November 13, 2013, p. 4.

for presentation in court. This indubitably is another breach of the chain of custody rule.

In the landmark case of *Mallillin v. People*,⁴⁵ the Court pronounced:

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.**⁴⁶ (Emphasis supplied)

In *People v. Año*,⁴⁷ the Court decreed that if the chain of custody procedure had not been complied with, or no justifiable reason exists for its non-compliance, then it is the Court's duty to overturn the verdict of conviction.

Indeed, the multiple violations of the chain of custody rule here cast serious uncertainty on the identity and integrity of the *corpus delicti*. The metaphorical chain did not link at all, albeit, it unjustly restrained appellant's right to liberty. Verily, therefore, a verdict of acquittal is in order.

ACCORDINGLY, the appeal is **GRANTED**. The Decision dated September 15, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07794 is **REVERSED AND SET ASIDE**. Appellant Shager Lacdan y Parto is **ACQUITTED** of violation of Section 5, Article II of Republic Act 9165.

The Court further **DIRECTS** the Director of the Bureau of Corrections, Muntinlupa City: (a) to cause the immediate release of Shager Lacdan y Parto from custody unless he is being held for some other lawful cause; and (b) to inform the Court of the action taken within five (5) days from notice.

Let entry of judgment immediately issue.

⁴⁵ *Mallillin v. People*, 576 Phil. 576 (2008).

⁴⁶ *Id.* at 587.

⁴⁷ *People v. Año*, G.R. No. 230070, March 14, 2018.

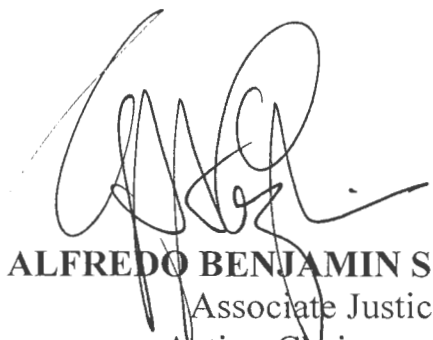
SO ORDERED.



AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

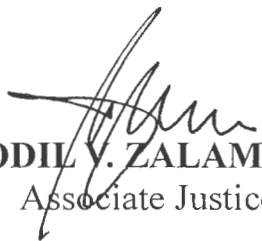
(On official leave)
ANTONIO T. CARPIO
Associate Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson



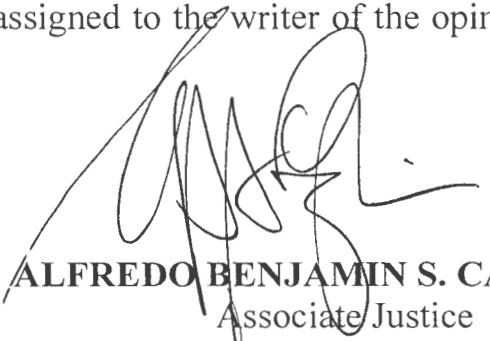
JOSE C. REYES, JR.
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice

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