



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 229205

- versus -

Present:

BERSAMIN, C.J.,
DEL CASTILLO,
JARDELEZA,
GESMUNDO, and
CARANDANG, JJ.

EDUARDO CATINGUEL y VIRAY,
Accused-Appellant.

Promulgated:
MAR 06 2019

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DECISION

DEL CASTILLO, J.:

This is an appeal¹ from the March 4, 2016 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07038 which affirmed the August 26, 2014 Decision³ of the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 69, in Criminal Case No. L-10004.

The Facts

Accused-appellant Eduardo Catinguel y Viray was charged with violation of Section 5,⁴ Article II of Republic Act (RA) No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 in an Information⁵ which reads:

¹ *Rollo*, pp. 13-14.

² *CA rollo*, pp. 83-93; penned by Associate Justice Carmelita Salandanan Manahan and concurred in by Associate Justices Japar B. Dimaampao and Franchito N. Diamante.

³ Records, pp. 64-73; penned by Presiding Judge Loreto S. Alog, Jr.

⁴ **Section 5. Sale x x x of Dangerous Drugs x x x** – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, x x x any dangerous drug, x x x regardless of the quantity and purity involved, x x x.

⁵ Records, p. 1.

That on or about 2:30 in the afternoon of March 3, 2014, in Navato St., Brgy. Poblacion, Bugallon, Pangasinan, and within the jurisdiction of the Honorable Court, the above-named accused, did, then and there, willfully, unlawfully and feloniously sell one (1) heat-sealed transparent plastic sachet containing marijuana leaves, a dangerous drug, to PO1 Adhedin C. Lamsen worth PHP100.00 without lawful authority to do so.

Contrary to Sec. 5, Article II of R.A. 9165.⁶

Arraignment pushed through and accused-appellant pleaded not guilty.⁷ Pretrial was conducted and terminated, after which trial ensued.⁸

Version of the Prosecution

The evidence for the prosecution included the testimony of Police Officer 1 (PO1) Adhedin C. Lamsen (Lamsen) who claimed that he was assigned at Bugallon Police Station, Bugallon, Pangasinan.⁹ On March 3, 2014, at 2:00 p.m., he received information that a certain Brazil was allegedly selling marijuana on Navato St.¹⁰ PO1 Lamsen was dispatched in a buy-bust operation as a poseur-buyer, along with PO3 Jonathan Rico (Rico) who served as the arresting officer, as well as the confidential informant.¹¹

When the team proceeded to the target area,¹² PO3 Rico positioned himself about three (3) to five (5) meters away, while PO1 Lamsen and the confidential informant approached accused-appellant.¹³ Upon being assured by the confidential informant that PO1 Lamsen was not a police asset, and having been informed that PO1 Lamsen wanted to buy marijuana, accused-appellant handed to PO1 Lamsen one (1) transparent heat-sealed plastic sachet who, in turn, handed the marked money¹⁴ – five 20-peso bills with serial numbers FR819295, KY533953, FP637402, NY808726, and AR673195 marked “ACL1” to “ACL5” on the rightmost top corner.¹⁵

After receipt of the plastic sachet from accused-appellant, PO1 Lamsen gave the pre-arranged signal to PO3 Rico who immediately rushed to their location. PO3 Rico introduced himself and PO1 Lamsen as police officers and informed the accused-appellant of his rights in the language known to him.

⁶ Id.

⁷ Id. at 22.

⁸ Id. at 31-32.

⁹ TSN, May 13, 2014, p. 3.

¹⁰ Id. at 4.

¹¹ Id. at 6.

¹² Id. at 8.

¹³ Id. at 9.

¹⁴ Id. at 10-11.

¹⁵ Records, p. 18.

Thereafter, PO3 Rico arrested accused-appellant and recovered from him the marked money.¹⁶

PO1 Lamsen kept the plastic sachet in his possession en route to the police station. Thereat, the plastic sachet and the marked money were marked, inventoried, and photographed, in the presence of accused-appellant, Emil Toledo (Toledo) and Orlando Peralta (Peralta), who were the representatives from the media and the Department of Justice (DOJ), respectively.¹⁷ PO1 Lamsen, PO3 Rico, Toledo, and Peralta thereafter signed the Receipt of Property Seized.¹⁸ PO1 Lamsen explained that he did not mark the seized items at the place of arrest since he feared that two or three of accused-appellant's friends who were in the area would cause trouble following the arrest of accused-appellant.¹⁹ On cross-examination, PO1 Lamsen further elaborated that he kept the plastic sachet for about an hour, from apprehension up to the time of arrival of the representatives from the media and DOJ at the police station.²⁰ He also stated that the intelligence operatives at the police station invited *barangay* officials during the briefing via telephone calls but nobody responded to their invitation.²¹

PO1 Lamsen, together with PO3 Rico and accused-appellant, brought the request²² for a laboratory examination, as prepared by Senior Police Officer 1 (SPO1) Jojit Ocromas (Ocromas) and signed by Police Chief Inspector (PCI) Dominick S. Poblete (Poblete), as well as the sachet containing white substance, to the Pangasinan Police Provincial Office in Lingayen, Pangasinan, which were both received by PO1 Emilson Daus*.²³

Forensic chemist, PCI Myrna C. Malojo-Todeño (PCI Todeño), on the other hand, claimed that she personally received the sachet containing white substance from PO1 Lamsen.²⁴ She conducted a qualitative examination on the item containing 2.304 grams of suspected dried marijuana which yielded a positive result for the presence of marijuana.²⁵ PCI Todeño later sealed the sachet with a masking tape, put markings thereon, and turned it over to the evidence custodian, Elmer G. Manuel (Manuel), who in turn received it and placed "EGM" thereon.²⁶ PCI Todeño thereafter issued Chemistry Report No. D-102-2014L²⁷ dated March 3, 2014.



¹⁶ TSN, May 13, 2014, pp. 12-14.

¹⁷ Id. at 15.

¹⁸ Records, p. 14.

¹⁹ TSN, May 13, 2014, pp. 21 and 28.

²⁰ TSN, July 3, 2014, pp. 6-7.

²¹ Id. at 7-8.

²² Records, p. 15.

* Also referred to as PO1 Daos in some parts of the records.

²³ TSN, May 13, 2014, pp. 18-19.

²⁴ TSN, April 15, 2014, p. 6.

²⁵ Id. at 3.

²⁶ Id. at 4-5.

²⁷ Records, p. 36.

The testimonies of SPO1 Ocromas and PO3 Rico were dispensed with in light of the stipulation that they would only corroborate the testimony of PO1 Lamsen.²⁸

Version of the Defense

The defense presented the lone testimony of accused-appellant who denied the allegation. He claimed that on that day, he was plying his route as a tricycle driver.²⁹ After his passenger got off on Navato St., two police officers in civilian attire approached him and invited him to the police station for questioning.³⁰ He voluntarily went with them thinking that it would only take a while.³¹ At the police station, accused-appellant was bodily searched and when nothing was found, the Chief of Police brought out marijuana and asserted that it belonged to accused-appellant.³²

Ruling of the Regional Trial Court

The trial court found accused-appellant guilty in a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the accused is hereby found guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 and is accordingly sentenced to suffer the penalty of life imprisonment, together with such accessory penalties provided for in the law, and to pay a fine of ₱500,000.00.

The sachet of marijuana subject of this case is confiscated in favor of the government to be dealt with as the law directs.

SO ORDERED.³³

Accused-appellant filed his appeal assailing his conviction.³⁴ In his Brief,³⁵ he imputed error on the trial court in finding him guilty despite failure of the prosecution to prove a valid buy-bust operation and of the police officers to comply with the requirements of RA 9165 and its Implementing Rules and Regulations (IRR).³⁶ He claimed that the marking of the seized item was not done at the place of arrest despite lack of proof that the people thereat posed a

²⁸ Id. at 48 (Order dated May 29, 2014) and 53 (Order dated June 17, 2014).

²⁹ TSN, July 24, 2014, p. 3.

³⁰ Id. at 4-5.

³¹ Id. at 6.

³² Id. at 6-8.

³³ Records, p. 73.

³⁴ CA rollo, p. 10.

³⁵ Id. at 23-37.

³⁶ Id. at 29.

threat to security.³⁷ Second, he assailed the absence of a local elected official during the marking, inventory, and taking of photographs.³⁸ Third, he argued that the chain of custody was not unbroken since PO1 Daus who received the seized item from PO1 Lamsen; Manuel, who received the seized item from the forensic chemist for safekeeping until it was presented in court; and the unidentified person who turned over the seized item to the court, were all not presented in court.³⁹ Finally, he bewailed that his denial was not given credence in light of the reality that in most cases, denial is the only plausible defense available to an innocent person.⁴⁰

The Office of the Solicitor General (OSG) filed the Plaintiff-Appellee's Brief⁴¹ for the People, insisting that the prosecution proved beyond reasonable doubt that accused-appellant was guilty of violating Section 5 of RA 9165.⁴² It argued that the integrity and evidentiary value of the seized item were properly preserved and there was no break in the chain of custody of the seized item.⁴³ It likewise claimed that the defense of denial cannot prevail over the positive testimonies of the prosecution witnesses.⁴⁴

Ruling of the Court of Appeals

The appellate court affirmed the ruling of the trial court.⁴⁵ It held that the prosecution was able to preserve the integrity and evidentiary value of the marijuana seized from accused-appellant and there was substantial compliance with the requirements of the law.

Hence, the present appeal.⁴⁶

After being required to file supplemental briefs if they so desired,⁴⁷ the parties instead submitted Manifestations⁴⁸ in which they stated that they were adopting their Briefs submitted earlier before the appellate court and were dispensing with the filing of Supplemental Briefs.



³⁷ Id. at 36.

³⁸ Id. at 35.

³⁹ CA *rollo*, pp. 32-33.

⁴⁰ Id. at 36.

⁴¹ Id. at 53-76.

⁴² Id. at 58.

⁴³ Id. at 58-59.

⁴⁴ Id. at 73.

⁴⁵ Id. at 83-93.

⁴⁶ Id. at 102-104.

⁴⁷ *Rollo*, pp. 18-19.

⁴⁸ Id. at 20-23 and 26-28.

Our Ruling

There is merit in the appeal.

The failure of the police officers to observe the rule on the chain of custody of the seized item compels this Court to reverse the assailed rulings and acquit accused-appellant and clear him from the charge.

*Mallillin v. People*⁴⁹ elaborates on the chain of custody in this wise:

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.⁵⁰

The four critical links that must be established in the chain of custody of the dangerous drugs are as follows: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and, (4) the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.⁵¹

Section 21 of RA 9165 provides:

SEC. 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:



⁴⁹ 576 Phil. 576 (2008).

⁵⁰ Id. at 587.

⁵¹ *People v. Macud*, G.R. No. 219175, December 14, 2017.

(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, 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

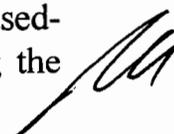
Section 21(a) of the IRR of the same law additionally prescribes as follows:

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

Evaluated against the abovementioned provisions, the evidence adduced by the prosecution instantly reveals discrepancies.

First, the marking of the seized item by the apprehending officer was not immediately done at the place of arrest. PO1 Lamsen explained that he did not mark the seized item at the place of arrest since he feared that accused-appellant's friends who were in the area would cause trouble following the



arrest of accused-appellant.⁵² This excuse, however, proved flimsy after further questioning by the court, as follows:

Q You said earlier Mr. Witness, that you did not [immediately mark] the seized item from the accused because you were afraid that trouble might [ensue], did you say that a while ago?

A Yes, [Y]our Honor.

Q What made you say so? x x x

A Because some of his friends, [Y]our Honor, [were] there.

Q How many of them?

A About two or three, [Y]our Honor.

Q Did they manifest any actuation for you to think that they would cause trouble?

A Yes, [Y]our Honor.

Q What?

A In their action, [Y]our Honor.

Q What actions did they manifest?

A [They were murmuring something], [Y]our Honor.

Q But you were with another [p]olice [o]fficer?

A Yes, [Y]our Honor.

Q [PO3] Rico?

A Yes, [Y]our Honor.

Q Did you have your service firearm that time?

A Yes, [Y]our Honor.

Q So [your] possession of your firearm [did not make you feel secure]?

A We have not [thought] of that, [Y]our Honor.⁵³

Another deviation from the rule involving the persons required by law to witness the taking of inventory and photographs was also apparent. On cross examination, counsel for accused-appellant elicited the following from PO1 Lamsen:

Q You x x x called for Emil Toledo, the media, only after the accused was arrested by your team?

A Yes, sir.

Q So, it was only when the accused was arrested and brought to the [p]olice [s]tation, that you called for the representative of the media x x x is that correct?

⁵² TSN, May 13, 2014, pp. 21 and 28.

⁵³ Id. at 28-29.

A Yes, sir.

Q That is also [true] for the representative of the DOJ x x x [he] came only after the accused was already brought to the [p]olice [s]tation?

A Yes, sir.

x x x x

Q You were able to invite x x x [a] representative of the media and [a] representative of the DOJ. But you did not invite any [member] of the *barangay* council of Poblacion, Aguilar, Pangasinan, is that correct?

A They were invited but none of them came/[arrived], sir.

Q Who invited the *barangay* officials, x x x?

A Our Intelligence Operatives, sir.

Q How did they invite them?

A Through a telephone call, sir.

Q And how did you know that he made such invitation to the *barangay* officials of Poblacion, Pangasinan?

A That was already taken [up] during the briefing.

Q You did not personally hear him [make] the call, you merely assumed that he made the call because that was delegated to him as his task during the briefing?

A Yes, sir.

Q But when no one from the *barangay* officials of Poblacion, Bugallon, Pangasinan arrived, you did not go directly to the office of the *barangay* captain of Poblacion, Pangasinan, despite [its] proximity to the [p]olice [s]tation, you did not do that anymore?

A No more, sir.⁵⁴

Meanwhile, the second link was similarly not complied with. The apprehending officer was supposed to turn over the seized item to the investigating officer. However, the item remained in the right hand of PO1 Lamsen.

Q Where was the subject item when you went to the [p]olice [s]tation together with the suspect?

A Still in my right hand, sir.

Q Still in your possession?

A Yes, sir, in my possession.⁵⁵

x x x x

Q Mr. [W]itness, what else was done or prepared at the [p]olice [s]tation?

⁵⁴ TSN, July 3, 2014, pp. 5-8.

⁵⁵ TSN, May 13, 2014, p. 15.



- A I turned over the marijuana to the Chief Investigator but still in my possession, sir.
- Q When you said turned over but still in your possession, what do you mean [by that]?
- A I'm still [holding] it, sir.
- Q How can you turn it over when you're still [holding] the item?
- A I'm still [holding] it, sir.
- Q So, what do you mean exactly when you said you turned it over? What did you do when you turn it over?
- A I told them, [Y]our Honor, that I have the plastic [heat-sealed] marijuana, [Y]our Honor.
- Q You [showed] it to the investigator?
- A Yes, [Y]our Honor, I showed it.
- Q But you [remained] in possession of the item?
- A Yes, [Y]our Honor.⁵⁶

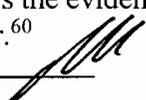
The failure of the apprehending officer to turn over the seized item to the investigating officer was elaborated upon on cross examination as follows:

- Q So, while waiting for Emil Toledo and Orlando Peralta, to whom did you indorse the pieces of evidence allegedly obtained from the accused?
- A It is in my hands but I [told] the [i]nvestigator if they can hold it, but they said "no". They refused to receive the evidence because they said, it's only me who will hold that.⁵⁷

Going further to the third link, PCI Todeño, the forensic chemist, claimed that she personally received the item from PO1 Lamsen.⁵⁸ However, PO1 Lamsen, who testified much later than PCI Todeño, declared that he gave the item for laboratory examination to PO1 Daus.⁵⁹ PO1 Lamsen recounted as follows:

- Q When you were at the Crime [L]aboratory what did you do with the letter request together with the plastic sachet of marijuana?
- A I handed it to PO1 Daos, sir.

x x x x

- Q Where is the evidence that it was this PO1 Daos who received it?
- A This, sir.⁶⁰ 

⁵⁶ Id. at 17-18.

⁵⁷ TSN, July 3, 2014, p. 8.

⁵⁸ TSN, April 15, 2014, p. 6.

⁵⁹ TSN, May 13, 2014, p. 19.

⁶⁰ Id. at 19.

The document referred to was the request for laboratory examination which was stamped received by "PCI Todeño/PO1 Daus."⁶¹

The fourth link was likewise not established. The turnover and submission of the seized item from the forensic chemist to the court was not clearly shown since the testimony of the evidence custodian was not presented. PCI Todeño testified as follows:

Q Madam Witness, after you have conducted the examination over the said plastic sachet of marijuana leaves, what did you do?

A After putting my markings I turned [it] over to the Evidence Custodian for safekeeping, sir.

Q Did you turn [it over] as it is when it was indorsed to you by PO1 Adhedin Lamsen?

A No, sir, the specimen was already sealed with masking tape bearing my markings and placed inside a paper envelope.

Q So you mean after examination, you [had] the said plastic sachet sealed with a masking tape and again you put [this] in this improvised envelope?

A Yes, sir, that is actually the container of the plastic sachet.

Q And after putting it here, what did you do afterwards?

A I turned [it] over to the Evidence Custodian for safekeeping after sealing the improvised paper envelope, sir.

Q You said you turned it over and there is a subpoena issued to you to bring the same plastic sachet of marijuana leaves, did you bring it here before this Honorable Court?

A Yes, sir.

Q From whom did you secure that since you have already indorsed that to your Evidence Custodian?

A [From] the same person, the Evidence Custodian, sir.

Q Is this the one you are saying?

A Yes, sir.

Q How sure are you that [the one that] you [had] indorsed x x x and [the one that was] turned over x x x again to you [was one and the same]?

A I have placed my markings in front of the paper, sir.

Q For what purpose is this [marking] or signature all about?

A The markings [pertain] to the case or the identity of the specimen and my signature serves as tamper proof sealed on the improvised envelope.

Q So that it will not be adulterated, is that what you are trying to say?

A Yes, sir.

⁶¹ Records, p. 16.

- Q And you said it was indorsed to your Custodian? Is there any proof that indeed it was indorsed to your Custodian?
- A Yes, sir. He put his initial[s] on the improvised envelope.
- Q What initials?
- A EGM, sir.
- Q Stands for?
- A Elmer G. Manuel.⁶²

PCI Todeño's testimony was clear that the evidence custodian took the item. However, the custodian's testimony was never offered in the course of the trial. There was also no stipulation that the evidence custodian preserved the integrity and evidentiary value of the seized item.

It bears restating that "[t]he illegal drugs being the *corpus delicti*, it is essential for the prosecution to establish with moral certainty and prove beyond reasonable doubt that the illegal drugs presented and offered in evidence before the trial court are the same illegal drugs lawfully seized from the accused, and tested and found to be positive for dangerous substance."⁶³ The prosecution was clearly amiss in showing that the chain of custody was complied with in the present case which gives this Court no other course of action but to reverse the assailed rulings and acquit accused-appellant.

WHEREFORE, the appeal is **GRANTED**. The March 4, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07038 which affirmed the August 26, 2014 Decision of the Regional Trial Court of Lingayen, Pangasinan, Branch 69, in Criminal Case No. L-10004, is **REVERSED and SET ASIDE**.

Accused-appellant Eduardo Catinguel y Viray is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City, 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 Decision on the action he has taken. Copies shall also be furnished to the Director General of Philippine National Police and the Director General of Philippine Drugs Enforcement Agency for their information.



⁶² TSN, April 15, 2014, pp. 4-5.

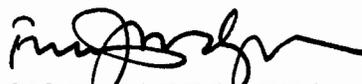
⁶³ *People v. Mola*, G.R. No. 226481, April 18, 2018.

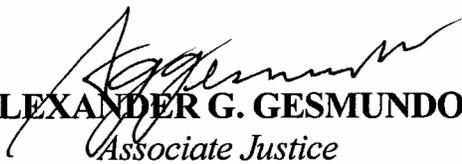
SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS F. BERSAMIN
Chief Justice


FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARIE D. CARANDANG
Associate Justice

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 F. BERSAMIN
Chief Justice