



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 5, 2020** which reads as follows:*

“G.R. No. 252437 - CONSTANTINO C. CAJIGAL, JR. v. PEOPLE OF THE PHILIPPINES - The petitioner’s motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

The Case

This petition for review on *certiorari* assails the Decision¹ dated October 15, 2019 and Resolution² dated June 5, 2020 of the Court of Appeals in CA-G.R. CR No. 40669 affirming petitioner’s conviction for violation of Section 11, Article II of Republic Act No. 9165 (RA 9165).

Proceedings Before the Trial Court

The Charge

By Information dated January 26, 2016, petitioner was charged with violation of Section 11 of RA 9165, *viz.*:

That on or about 11:30 in the morning of January 15, 2016, in the City of Laoag and within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully and feloniously have in his possession, control and custody one (1) small heat sealed transparent plastic sachet containing Methamphetamine Hydrochloride, otherwise known as Shabu, a

- over – ten (10) pages ...

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¹ Penned by Associate Justice Geraldine C. Fiel-Macaraig with concurrence of Associate Justice Japar B. Dimaampao, and Associate Justice Edwin D. Sorongon, *rollo*, pp. 32-53.

² *Id.* at 55-56.

dangerous drug, with an aggregate weight of 0.1111 gram, without any license or authority to possess the same, in violation of the aforesaid law.

On arraignment, petitioner pleaded not guilty. Trial on the merits ensued.

Prosecution's Version

The testimonies of Police Office 1 (PO1) Irving Lorenzo (PO1 Lorenzo) and PO3 Lawrence Ganir (PO3 Ganir) may be summarized, in this wise:

On January 14, 2016, around 11:30 in the morning, members of the Laoag City police station were dispatched to investigate a reported disturbance caused by petitioner in front of his house at Brgy. 44 Laoag City. There, they saw petitioner throwing potted plants, shouting at his neighbors, and challenging them to a fight. PO3 Ganir approached petitioner and introduced himself as a police officer in order to pacify the latter. Petitioner, however, attempted to run but the police officers were able to stop him. PO1 Lorenzo frisked petitioner and recovered the following items from his pocket: plastic sachet containing white crystalline substance, cellphone, disposable lighter, and Ninety Pesos (P90.00).

While still at the *situs criminis*, PO1 Lorenzo marked the plastic sachet while PO3 Ganir prepared the inventory of the confiscated items in the presence of petitioner, Barangay Chairman Elmer Lorenzo, and radio reporter Randy Yute. Photographs were taken during the marking and inventory.

The police officers returned to their station where the incident was entered in the blotter and requests for laboratory examination were prepared. PO1 Lorenzo brought the request and specimen to the crime laboratory which were received by Forensic Chemical Officer PSI Amiely Ann Navarro (PSI Navarro). After conducting a qualitative examination thereon, the specimen yielded positive for methamphetamine hydrochloride, a dangerous drug. Her findings were reflected in Chemistry Report No. D-009-2016-IN.

After she did the examination, Forensic Chemical Officer PSI Navarro secured the specimen inside a small transparent plastic bag, sealed it, wrote markings on it, and deposited it with the evidence

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custodian PO2 Surrel for safekeeping. Before appearing in court, she retrieved the same plastic bag from PO2 Surrel and submitted it to the court as evidence.

Defense's Version

Petitioner testified that on January 14, 2016, he was arguing with his father because the latter reneged on his promise to pay for the construction of his (petitioner) house and the birthday party of his child. While they were arguing, he heard his father telling someone on the phone "to come here because he started again." He interpreted such overheard conversation to mean that his father wanted to put him in jail. He explained there were prior incidents that he was also brought to the police station because he caused a commotion in the barangay while intoxicated.

Once he had calmed down, he went inside his house and watched television. After a few minutes, he went out to buy a cigarette from a nearby store. He noticed his father talking to four (4) police officers. Two (2) of the police officers approached him and held his hands while a third police officer held up a plastic sachet containing white crystalline substance and shoved it into his pocket. The police officers frisked him and got his cellphone, cash, lighter, and the same plastic sachet which they insisted was recovered from him. Thereafter, he was detained at the police station.

The Trial Court's Ruling

As borne by its Judgment³ dated September 28, 2017, the trial court rendered a verdict of conviction, *viz.*:

WHEREFORE, the accused CONSTANTINO C. CAJIGAL, JR. is found GUILTY beyond reasonable doubt of illegal possession of dangerous drugs penalized under Section 11 of Republic Act No. 9165 as amended and is hereby sentenced to an indeterminate penalty of imprisonment ranging from twelve (12) years and one (1) day as minimum to fourteen (14) years as maximum. He is also sentenced to pay a FINE of three hundred thousand pesos (P300,000.00).

x x x x

SO ORDERED.⁴

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³ *Id.* at 75-87.

⁴ *Id.* at 86-87.

The trial court found that petitioner was validly arrested without a warrant. Petitioner's acts of throwing potted plants and shouting at someone constitute an offense under paragraph 4, Article 155 of the Revised Penal Code, which penalizes "any person who, while intoxicated or otherwise, shall cause any disturbance or scandal in public places." Since he was committing an offense in their presence, the police officers had lawful basis to effect his warrantless arrest. Consequently, any search resulting from said lawful warrantless arrest was also valid.⁵

It also held that the prosecution was able to prove all the elements of illegal possession of dangerous drugs and found the chain of custody to have been duly established.⁶

Proceedings Before the Court of Appeals

On appeal, petitioner argued, in the main: the police officers have no probable cause to arrest him. Although, admittedly, he had a heated argument with his father, thirty (30) minutes had already passed when the police officers arrived and arrested him. He was then not actually committing or was attempting to commit a crime. Since his arrest was illegal, the plastic sachet containing shabu allegedly recovered from him was inadmissible in evidence as the fruit of a poisonous tree.

He further insisted that the prosecution failed to prove an unbroken chain of custody because there was no case investigator to whom the items should have been turned over.

The People, through the Office of the Solicitor General (OSG) riposted: the warrantless search was a valid incident to petitioner's arrest in *flagrante delicto*. The police officers testified that petitioner was causing a commotion in his barangay. When they approached and tried to pacify him, he attempted to flee. He was, however, prevented from escaping. Upon preventive search on his person, PO1 Lorenzo recovered among others, a plastic sachet containing shabu. His possession of shabu sans proper authority was sufficient to convict him of the crime charged.

Notwithstanding the absence of a case investigator, the apprehending officers was able to preserve the integrity of the seized drug. Records show PO1 Lorenzo had possession of the plastic sachet

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⁵ *Id.* at 81-83.

⁶ *Id.* at 83-86.

containing shabu starting from its seizure, to its marking, inventory, photographing, until its turn over to the crime laboratory for examination. All told, the absence of a case investigator was not fatal since the chain of custody had remained intact.

Ruling of the Court of Appeals

In its assailed Decision⁷ dated October 15, 2019, the Court of Appeals affirmed.

Petitioner's motion for reconsideration was denied under Resolution⁸ dated June 5, 2020.

The Present Petition

Petitioner now seeks affirmative relief from the Court and prays anew for his acquittal. He reiterates his argument before the Court of Appeals that the arrest and ensuing search conducted on his person were both unlawful. There being no valid arrest, the drug allegedly seized from him is inadmissible in evidence.

Core Issues

1. Was petitioner's warrantless arrest valid?
2. Were the items seized admissible in evidence?
3. Was the chain of custody complied with?

Ruling

On the first issue, petitioner's challenge against his warrantless arrest must fail. *Largo v. People*⁹ aptly held:

x x x A warrantless arrest is not a jurisdictional defect and any objection thereto is deemed waived when the person arrested submits to arraignment without raising this objection through an appropriate motion to quash.

Petitioner here voluntarily submitted to the trial court's jurisdiction, entered his plea, and actively participated during the trial. Before arraignment, petitioner did not question the legality of his arrest. Therefore, his belated objection thereto for the first time on appeal may no longer be entertained.¹⁰

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⁷ Penned by Associate Justice Geraldine C. Fiel-Macaraig with concurrence of Associate Justice Japar B. Dimaampao, and Associate Justice Edwin D. Sorongon, *rollo*, pp. 32-53.

⁸ *Id.* at 55-56.

⁹ *Largo v. People*, G.R. No. 201293, June 19, 2019.

¹⁰ *Mustafa v. People*, G.R. No. 234361, February 5, 2018.

Veridiano v. People,¹¹ however, ruled that failure to timely object to the illegality of an arrest does not preclude petitioner from questioning the admissibility of the evidence seized. For it is settled that a waiver of an illegal warrantless arrest does not carry with it a waiver of the inadmissibility of evidence seized during an illegal warrantless arrest. The jurisdiction over the person of an accused and the constitutional inadmissibility of evidence are separate and mutually exclusive consequences of an illegal arrest.

Thus, the next question: was the warrantless search which yielded the alleged shabu lawful?

Enshrined in the Constitution is the inviolable right of the people to be secure in their persons and properties against unreasonable searches and seizures, as defined under Section 2, Article III thereof, which reads:

Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

To protect the people from unreasonable searches and seizures, Section 3 (2), Article III of the 1987 Constitution provides that evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree. **In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding.**

Nevertheless, the constitutional proscription against warrantless searches and seizures is not absolute but admits of certain exceptions, namely: 1) warrantless search incidental to a lawful arrest; 2) search of evidence in plain view; 3) search of a moving vehicle; 4) consented warrantless search; 5) customs search; 6) stop and frisk; and 7) exigent and emergency circumstances.¹²

The prosecution alleges that petitioner was caught in *flagrante delicto*. For a valid in *flagrante delicto* warrantless arrest, two (2)

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¹¹ 810 Phil. 642, 654 (2017).

¹² *Dominguez v. People*, G.R. No. 235898, March 13, 2019.

requisites must concur: (i) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (ii) such overt act is done in the presence or within the view of the arresting officer.¹³ The officer's personal knowledge of the fact of the commission of an offense is absolutely required. The officer himself must witness the crime.¹⁴

These elements are all present here. Records show that the police officers responded to a reported public disturbance being caused by petitioner in front of his house at Brgy. 44, Laoag City. There, they saw petitioner throwing plotted plants, shouting at his neighbors, and challenging them to a fight. PO3 Ganir approached petitioner to try to pacify him. He introduced himself as a police officer but petitioner attempted to flee. Petitioner was, however, stopped from running away. PO1 Lorenzo went on to search petitioner's person, which purportedly yielded the drug seized from him. These circumstances justify the conduct of an *in flagrante delicto* arrest.

In *Santos v. People*, the Court found there was a valid *in flagrante delicto* arrest since petitioner was caught actually committing a crime when he got arrested. In that case, the police officers approached petitioner to *investigate* into what appeared to be suspicious actuations of the latter. Upon closer scrutiny, they discovered that he was actually holding a plastic sachet containing marijuana. Thus, the warrantless arrest effected immediately thereafter was clearly justified under Section 5 (a), Rule 113¹⁵ of the Rules of Court.¹⁶

Applying *Santos here*, the police officers likewise approached petitioner who from his actuations was actually committing in their presence the crime of alarms and scandal defined and penalized under Article 155 of the Revised Penal Code (RPC). He attempted to flee but he was prevented from doing so. A search on his person revealed that he had in his possession a plastic sachet containing white crystalline substance which later tested positive for *shabu*. Certainly, the warrantless arrest and consequent search of petitioner were valid.

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¹³ *People v. Comprado*, G.R. No. 213225, April 4, 2018.

¹⁴ *Dominguez v. People*, G.R. No. 235898, March 13, 2019.

¹⁵ Section 5, Rule 113 of the Rules of Court, *viz.*:

Section 5. *Arrest Without Warrant; When Lawful.* - A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

x x x x

¹⁶ G.R. No. 232950, August 13, 2018.

This brings to fore the third issue: Was the chain of custody complied with?

In drug cases, the State bears not only the burden of proving the elements, but also of proving the *corpus delicti* or the body of the crime. The drug itself constitutes the *corpus delicti* of the offense.¹⁷

To ensure the integrity of the confiscated drug, the prosecution has to show an unbroken chain of custody. This is to obviate any unnecessary doubts on its identity on account of switching, planting, or contamination of evidence.¹⁸ The prosecution, therefore, must be able to account for each link of the chain from the moment the drug is seized up to its presentation in court.¹⁹

As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photographing of the seized items be conducted immediately after seizure and confiscation of the same. The law further requires that the said inventory and photographing be done in the presence of the accused or the person 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 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.”²⁰

Here, the chain of custody was complied with. Petitioner was charged with illegal possession of dangerous drugs committed on January 14, 2016, thus, the witness requirement under RA 10640 applies. Records show that after petitioner’s arrest and while still at the *situs criminis*, PO1 Lorenzo marked the plastic sachet while PO3 Ganir prepared the inventory of the seized items in the presence of petitioner, Barangay Chairman Elmer Lorenzo, and radio reporter Randy Yute in conformity with RA 10640. Photographs were taken during the marking and inventory.

The police officers returned to the station where a report of the incident was entered in the blotter and requests for laboratory

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¹⁷ *People v. Dela Torre*, G.R. No. 225789, July 29, 2019.

¹⁸ *People v. Mamangon y Espiritu*, 824 Phil. 728, 736 (2018).

¹⁹ *People v. Martin*, G.R. No. 231007, July 1, 2019.

²⁰ *People v. Dela Cruz*, G.R. No. 238212, January 27, 2020.

examination were prepared. PO1 Lorenzo personally brought the request and specimen to the crime laboratory. The same was received by Forensic Chemical Officer PSI Navarro who conducted a qualitative examination thereon. Per Chemistry Report No. D-009-2016-IN, the specimen yielded positive for methamphetamine hydrochloride, a dangerous drug.

After she conducted the examination, Forensic Chemical Officer PSI Navarro secured the specimen in a small transparent plastic bag, sealed it, wrote markings on it, and deposited it to the evidence custodian PO2 Surrel for safekeeping. She retrieved the same plastic bag from PO2 Surrel and submitted it to the court as evidence.

Verily, the prosecution was able to establish the chain of custody of the seized dangerous drug from the time of seizure, to its marking, submission to the laboratory for testing, until its presentation in court.

Petitioner, nonetheless, argues that the prosecution failed to prove an unbroken chain of custody because there was no case investigator assigned to whom the items should have been turned over.

The argument fails. As *People v. Siaton*²¹ held, there was no break in the chain of custody since PO1 Ranile was both the investigating officer and apprehending officer in this case. In that case, PO1 Ranile, the poseur-buyer, took possession of the seized *shabu* and turned the seized substance over to the forensic laboratory for testing. In other words, the seized substance did not change hands. Thus, in this sense, it can be said that there was no break in chain of custody.

All told, the Court of Appeals did not err in affirming petitioner's conviction for violation of Section 11, Article II of RA 9165.

The penalty for illegal possession of dangerous drugs, is imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from ₱300,000.00 to ₱400,000.00, if the quantity of the dangerous drug is less than five (5) grams. Here, petitioner was found to have been in illegal possession of 0.1111 gram of *shabu*. Thus, applying the Indeterminate Sentence Law, he was

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²¹ *People v. Siaton*, 789 Phil. 87, 103 (2016).


properly meted the penalty ranging from twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum and a fine of Three Hundred Thousand Pesos (₱300,000.00).

WHEREFORE, the petition is **DENIED** and the assailed Decision dated October 15, 2019 and Resolution dated June 5, 2020, **AFFIRMED**.

Petitioner Constantino C. Cajigal, Jr. is found **GUILTY** beyond reasonable doubt of violation of Section 11, Article II of Republic Act 9165 and sentenced to an indeterminate penalty of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and a fine of Three Hundred Thousand Pesos (₱300,000.00).

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court m. 12/10

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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