



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 17 February 2021 which reads as follows:

“G.R. No. 250986 (*Asliah Sarip y Mamayamban v. People of the Philippines*) — The Court resolves to:

1) **GRANT** the **MOTION FOR EXTENSION OF TIME TO FILE COMMENT** on the petition filed by the Office of the Solicitor General; and

2) **NOTE aforesaid COMMENT** dated 25 January 2021 on the petition for review on *certiorari*.

We acquit.

In drug related cases, the State bears the burden not only of proving the elements of the offense but also the *corpus delicti* itself.¹ It is thus imperative for the prosecution to establish that drug items supposedly seized from petitioner are the very drug items offered in court in order to sustain a verdict of conviction. This is accomplished via compliance with the chain of custody rule.

Here, petitioner Asliah Sarip y Mamayamban was charged with Illegal Possession of Dangerous Drugs allegedly committed on September 29, 2015. The governing law, therefore, is Republic Act No. (RA) 9165, as amended by RA 10640. Section 21 thereof 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,*

¹ *People v. Calates*, 829 Phil. 262, 269 (2018).

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment **shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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, finally, That noncompliance of 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 and custody over said items. (Emphases supplied)

x x x x

The Implementing Rules and Regulations of RA 9165 further commands:

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: 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. (Emphases supplied)

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:² *first*, the seizure and marking 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 by the forensic chemist to the court.³

Here, records show that the arresting officers had breached the aforesaid requirements.

For one, there was no compliance with the two (2)-witness rule. While the prosecution and the defense stipulated on the presence of Barangay Kagawad Gerardo Gorayeb as witness to the inventory and photograph, the prosecution failed to justify the absence of a representative from the media or the National Prosecution Service (NPS).

To be sure, PO3 Jumer Petilo (PO3 Petilo) attested that media representative Jaime Santos (Santos), though present, refused to sign the inventory receipt. As it was, however, the prosecution did not even explain Santos' refusal. Too, PO3 Petilo admitted that there was no NPS representative present since the arrest was made after office hours. But without proof of earnest efforts in securing the presence of the NPS representative, such excuse is barely acceptable.

In *People v. Rodriguez*,⁴ the Court acquitted appellant for the prosecution's failure to comply with the same requirement during the inventory and photograph of the seized items, *viz.*:

[T]he physical inventory and the taking of photographs of the seized items were allegedly witnessed by the crew members of *Imbestigador* and Barangay *Tanods* Rodriguez and Caeg. Their presence, however, cannot be considered substantial compliance. To begin with, **although present during the physical inventory and taking of photographs, the crew members of *Imbestigador* did not sign the inventory sheet.** (Emphases added; N.B. The members of *Imbestigador* also inexplicably **refused** to sign.)

² As defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:

Section 1. x x x

x x x x

b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

x x x x

³ *Jacson v. People*, G.R. No. 199644, June 19, 2019, citing *People v. Dahil*, 750 Phil. 212, 231 (2015).

⁴ G.R. No. 233535, July 1, 2019.

Indeed, the law is clear and straightforward – all insulating witnesses **shall be required to sign the copies of the inventory and be given a copy thereof.** In *People v. Patacsil*,⁵ the Court emphasized the importance of the representatives' signatures on the inventory receipt. There, the prosecution claimed that the arresting officers "simply forgot to let the media representative sign" the inventory receipt. The Court considered this flimsy excuse unacceptable for purposes of justifying deviation from the witness requirement under Section 21 of RA 9165.

For another, PO3 Petilo violated the Philippine National Police's (PNP) own Manual on Anti-Illegal Drugs Operation and Investigation. For the seized items do not bear the date, time, and place of seizure, as required. The Manual commands:

2.35 The Seizing Officer must mark the evidence with his **initials** indicating therein **the date, time and place** where the evidence was found/recovered or seized.

Here, PO3 Petilo testified that he only marked the seized items with his initials, *viz.*:

Q How would you be able to identify the plastic sachet of suspected shabu which you said @Leah handed over to this Norie Mohammad?

A I put my markings on the item seized, ma'am.

Q What markings did you place on the plastic sachet which you saw accused Aliah Sarip handed over the Norie Mohammad?

A JSP, ma'am.

x x x x

Q What about the plastic sachet which you recovered from the possession of Leah when you asked them to empty their pocket, what was the markings that you placed therein?

A JSP-1, ma'am.

x x x x

In acquitting the appellant in *People v. Narvas*,⁶ the Court noted that the seized items only bore the initials of the apprehending officer without indicating the date, time, and place they were supposedly confiscated and considered this **highly irregular**. Indeed, such plain markings now fall short of the requirements of the PNP itself. As in *Narvas*, so too should petitioner here be acquitted.

Verily, the absence of the media representative's signature on the inventory receipt and the shortage of the markings on the seized items cast

⁵ G.R. No. 234052, August 6, 2018.

⁶ G.R. No. 241254, July 8, 2019.

reasonable doubt on the integrity and evidentiary value of the seized items. Perforce, petitioner must be acquitted and released from her restraints.

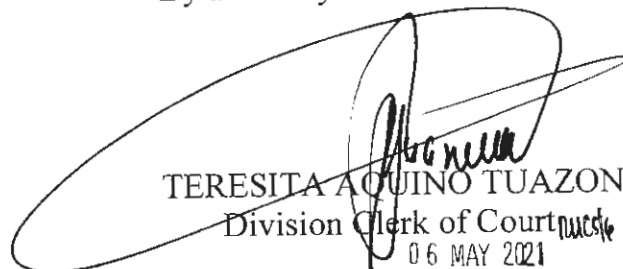
WHEREFORE, premises considered, the petition is **GRANTED**. The Decision of the Court of Appeals in CA-G.R. CR No. 42251 dated September 16, 2019⁷ and Resolution dated December 6, 2019,⁸ which affirmed the Decision dated August 14, 2018,⁹ of the Regional Trial Court (RTC)-Br. 68, Pasig City in Criminal Case No. 20761-D-SJ finding petitioner **ASLIAH SARIP y MAMAYAMBAN** guilty of violating Section 11, Article II of Republic Act No. 9165, is **REVERSED** and **SET ASIDE**. Petitioner **ASLIAH SARIP y MAMAYAMBAN** is **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt.

The Director of the Bureau of Corrections, Muntinlupa City, is **ORDERED** to **IMMEDIATELY RELEASE** petitioner **ASLIAH SARIP y MAMAYAMBAN** from custody, unless she is being held for some other lawful cause, and to inform the Court of the action taken within five (5) days from notice.

Let entry of judgment be issued immediately.

SO ORDERED.”

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court
06 MAY 2021

⁷ Penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Ramon A. Cruz and Germano Francisco D. Legaspi, *rollo*, pp. 40-63.

⁸ *Id.* at 68-69.

⁹ Penned by Presiding Judge Juvencio S. Gascon; *Id.* at 94-103.

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HON. PRESIDING JUDGE (reg)
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Please notify the Court of any change in your address.
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15/6