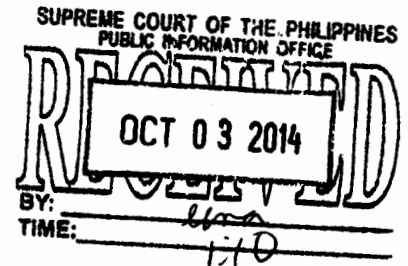




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **September 8, 2014** which reads as follows:*

“G.R. No. 194628 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. NHOR ISRA y UY ALIAS “OTENG”, Accused-Appellant.

Nhor Isra was criminally charged with illegally selling 0.07 gram of *methylamphetamine hydrochloride*, also known as *shabu*, in violation of Section 5, Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*).

The Prosecution showed that on August 29, 2006, a confidential informant reported to the police authorities that *alias* Oteng was peddling *shabu* at the Muslim Compound in Barangay Culiati, Quezon City; that a buy-bust team composed of PO1 John Gervacio, PO1 Guimar Nadera, SPO1 Hector Gubatina, SPO1 Edwin Harris and SPO1 Nelson Binala, as arresting officers, was then formed; that upon coordination with the Philippine Drug Enforcement Agency (PDEA) by means of a pre-operation report, the buy-bust team proceeded in two unmarked vehicles to the target area; that the informant contacted Oteng upon arrival at the target area to convince him to sell to them ₱500.00 worth of *shabu*; that PO1 Gervacio, designated as the poseur- buyer, and the informant approached Oteng at Al Salam Street; that the latter was then talking to his wife Maricel Isra; that the rest of the team stayed at a distance of from 10 to 15 meters away; that the informant introduced PO1 Gervacio as a prospective buyer of *shabu*, and which Oteng agreed to sell to them; that PO1 Gervacio then handed the ₱500 marked money; that Oteng received the marked money, and in exchange he handed to PO1 Gervacio a plastic sachet suspected of containing *shabu*; that upon receiving the plastic sachet, PO1 Gervacio signaled to the rest of the team; that PO1 Nadera arrested Oteng and introduced himself as a police officer, and recovered from his right hand the ₱500 marked money; that PO1 Gervacio also seized Maricel after another plastic sachet suspected of containing *shabu* was discovered in her

- over – six (6) pages

pocket; and that Oteng was later on identified as Nhor Isra, the accused herein.¹

Forensic Chemical Officer Ma. Shirleen Ballete conducted a laboratory examination of the contents of the plastic sachet seized from Isra, and the results confirmed that the contents were methylamphetamine hydrochloride, or *shabu*, a dangerous drug.²

Isra denied the accusation and claimed that he had been the victim of a frame-up. He averred that in the morning of August 28, 2006, the date of his actual arrest, he and his wife Maricel were in the house of his cousin Marilyn at Napocor Village, Barangay Tandang Sora, Quezon City because his cousin was then helping him secure a job in the Middle East; that when he and his wife were set to go home in the afternoon, Marilyn asked them to first go and buy food in the public market at the end of Visayas Avenue corner Tandang Sora Street in Quezon City; that as he and Maricel were about to cross the street to go to the public market, an unmarked car stopped in front of them, and two men in plainclothes alighted and accosted them; that Maricel asked: *Bakit po?*, but the men simply said: *Basta't sumama na lang kayo sa amin*; that they put handcuffs on his and Maricel's hands, and forced them to board the vehicle; that their constitutional rights were not recited to them; that they were not then shown any search warrant or warrant of arrest; that they were brought to Camp Karingal, Quezon City where they were bodily searched, interrogated and falsely accused of possessing *shabu*; that even if no *shabu* was found in their persons, the men who had arrested them had them photographed pointing to a piece of paper containing granules of *shabu*; that no representative of the Department of Justice (DOJ) or *barangay* official was present when their photographs were taken; and that at midnight of the same day, Marilyn received a phone call informing her that the accused and Maricel were in jail due to drug-related charges.³

On November 28, 2008, the Regional Trial Court (RTC), Branch 103, in Quezon City convicted him as charged,⁴ to wit:

ACCORDINGLY, judgment is rendered as follows:

1. In Q-06-142719 the accused NHOR ISRA Y UY is found GUILTY beyond reasonable doubt of the violation of Sec. 5 (drug-pushing) of R.A. 9165 as charged and he is hereby sentenced to suffer a jail term of LIFE IMPRISONMENT and to pay a fine of ₱500,000.00; and

- over -

115

¹ *Rollo*, pp. 3-6.

² *Id.* at 6.

³ *Id.* at 6-7.

⁴ *CA rollo*, pp. 49-53.



2. In Q-06-142720 the accused MARICEL ISRA Y CASTILLO is hereby ACQUITTED of the offense charged of violating Sec. 11 of R.A. 9165 on reasonable doubt.

The two (2) sachets of shabu involved in these two (2) cases are ordered transmitted to PDEA thru DDB for proper disposal as per R.A. 9165.

SO ORDERED.⁵

Through its decision promulgated on May 12, 2010, the Court of Appeals (CA) affirmed the conviction,⁶ thusly:

WHEREFORE, finding no reversible error in the appealed judgment, We **DENY** the appeal. The Decision dated November 28, 2008 of the Regional Trial Court, Branch 103 of Quezon City, is **AFFIRMED in toto**.

SO ORDERED.⁷

In this appeal, the accused insists that the CA erred in affirming the decision of the RTC.

Ruling

The appeal is without merit.

Conviction is proper in prosecutions involving the illegal sale of dangerous drugs if the following elements are established, namely: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment thereof. What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited or regulated drug. In this regard, the meaning of the term *corpus delicti* is the actual commission by the accused of the particular crime charged.⁸

After considering the evidence presented, the Court is satisfied that the Prosecution established all the elements of illegal sale of dangerous drugs beyond reasonable doubt.

- over -

115

⁵ Id. at 53.

⁶ *Rollo*, pp. 2-20; penned by Associate Justice Portia Aliño-Hormachuelos (retired) and concurred in by Associate Justice Japar B. Dimaampao and Associate Justice Danton Q. Bueser.

⁷ Id. at 20.

⁸ *People v. Sembrano*, G.R. No. 185848, August 16, 2010, 628 SCRA 328, 339.

To begin with, the accused was legally arrested. The buy-bust operation conducted against him was a form of valid entrapment to apprehend drug pushers. For the resulting arrest to be legally effective, a search warrant did not have to be secured, considering that the arrest was a legitimate warrantless arrest effected pursuant to the provisions of Rule 113, Section 5(a) of the *Rules of Court*, to wit:

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[.]

Secondly, poseur-buyer PO1 Gervacio positively identified Isra as the person from whom he had bought the *shabu* during the buy-bust operation.⁹ PO1 Nadera corroborated PO1 Gervacio's identification of Isra as the seller of the seized *shabu*.¹⁰ As such, the identification of Isra as the drug peddler was credible and unquestionable. In contrast, the denial and claim of frame-up by Isra was not credible, especially because he did not impute to and establish any ill motive on the part of the arresting officers to perjure themselves on identifying him as the culprit. Relevantly, the CA aptly observed:

In the case at bar, there is no evidence of any improper motive on the part of the police officers who apprehended accused-appellant Nhor Isra. Nhor's allegations that he was randomly arrested along Tandang Sora market on August 28, 2006 and then falsely accused at the police station are not supported by any proof. The testimony of defense witness Alicia Esmella failed to buttress accused-appellant's version of the story. If at all, it only showed that Nhor and his wife were at their cousin's house in the morning of August 28, 2006 but it did not corroborate accused-appellant's claim that he was randomly arrested along Tandang Sora market later that afternoon. The alibi of the defense failed to establish that Nhor could not have been at the scene of the buy-bust operation which happened on the evening of the following day, August 29, 2006. Also, Marilyn, accused-appellant's cousin, who was allegedly informed on the midnight of August 29, 2006 that Nhor Isra was illegally detained, was not even presented as a witness. Thus, the story of the defense is simply implausible which lends cogency to the conclusion that the alleged frame-up was merely concocted as a defense ploy.¹¹

- over -

115

⁹ *Rollo*, pp. 9-10.

¹⁰ *Id.* at 10-12.

¹¹ *Id.* at 14-15.

We further note that the courts have generally looked at the defenses of frame-up and denial with disdain due to their being easily concocted.¹²

Thirdly, the allegation of Isra on the non-compliance by the apprehending police officers with the requirements of Section 21 of RA No. 9165 did not exonerate him from criminal liability. Aside from such non-compliance not being timely raised during the trial, the CA discarded it, *viz*:

The totality of the testimonial, documentary and object evidence presented accounts for an unbroken chain of custody of the prohibited drug. From the moment of its seizure by PO1 Gervacio during the buy-bust operation, to the time it was brought to the police station for inventory until its submission to forensic chemist Ballete for laboratory examination, it was duly established that the substance tested by the forensic chemist, whose laboratory tests were well-documented, was the same as that taken from accused-appellant.

x x x x

The marked sachets presented by the prosecution in court and subject of the stipulation of facts made by the parties during pre-trial, clearly showed that Exhibit B is the sachet that poseur buyer PO1 Gervacio was able to buy from accused-appellant Nhor Isra. It bore the markings "JG-1-29-08-06" made by PO1 Gervacio and as well [as] the markings "MSB" made by Forensic Chemist Ballete when she received the same for laboratory examination. Ballete also certified in her Laboratory Examination Report that the specimen A of the sachets she received and tested for shabu had the same "JG-1-29-08-06" markings. The Court finds and so holds that the sachet marked "JG-1-29-08-06" submitted for laboratory examination and which was later found to be positive for shabu, was the same one in the possession of the accused-appellant during the buy-bust operation. Clearly, the identity of the prohibited drug in this case was safeguarded.¹³

As a result, the chain of custody was shown to have been properly preserved by the arresting police officers.

WHEREFORE, the Court **AFFIRMS** the decision of the Court of Appeals promulgated on May 12, 2010; and **ORDERS** the accused to pay the costs of suit.

- over -

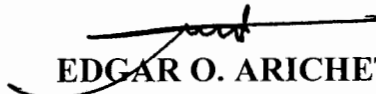
115

¹² *Ching v. People*, G.R. No. 177237, October 17, 2008, 569 SCRA 711, 733.

¹³ *Rollo*, pp. 17-19.

SO ORDERED.” SERENO, C.J., on leave; **VELASCO, JR., J.**, acting member per S.O. No. 1772 dated August 28, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
115

The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 03679)

The Director
Bureau of Corrections
1770 Muntinlupa City

The Hon. Presiding Judge
Regional Trial Court, Br. 103
1100 Quezon City
(Crim. Case Nos. Q-06-142719 and
Q-06-142720)

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

PUBLIC ATTORNEY’S OFFICE
Counsel for Accused-Appellant
DOJ Agencies Bldg.
1128 Diliman, Quezon City

Judgment Division (x)
Supreme Court

Mr. Nhor U. Isra
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

SR

