



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 190343

Present:

- versus -

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

SAIBEN LANGCUA y DAIMLA,
Accused-Appellant.

Promulgated:

FEB 06 2013 *W. Cabalo*

X ----- X

DECISION

PEREZ, J.:

For review through this appeal¹ is the decision² dated 16 October 2009 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03462 which affirmed the conviction of herein accused-appellant SAIBEN LANGCUA y DAIMLA (Langcua) of illegal sale of dangerous drugs in violation of Section 5, Article II³ of Republic Act (RA) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

¹ CA rollo, pp. 201-202. Via a notice of appeal, pursuant to Section 2 (c) of Rule 122 of the Rules of Court.

² Rollo, pp. 2-20. Penned by Associate Justice Andres B. Reyes, Jr. (now the Presiding Justice of the Court of Appeals) with Associate Justices Vicente S.E. Veloso and Marlene Gonzales-Sison, concurring.

³ Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten

R

The factual rendition of the prosecution follows:

The first witness presented by the prosecution was PO1 Jonie Domingo (PO1 Domingo). He testified that he has been a member of the Philippine National Police since 16 December 2003 and assigned at the Provincial Anti-Illegal Drugs Special Operations (PAID-SO) at Camp Valentin Juan, Laoag City on the day of the busy-bust operation on 4 October 2006.⁴

On the day of the buy-bust, at about 1:45 o'clock in the afternoon, one of their police informants came to their office and reported to their team leader Police Inspector Teddy Rosqueta (P/I Rosqueta) the selling of drugs by the accused Langcua. He was just beside P/I Rosqueta when the report was made.⁵ Thereupon, P/I Rosqueta instructed the informant to contact Langcua and place an order for ₱11,000.00-worth of *shabu*.

The informant did what he was told to do. Langcua agreed to deliver the ordered *shabu* at *Barangay* 7-B, Laoag City near City Employment Center.⁶

A team composed of P/I Rosqueta, PO3 Rousel Albano, PO3 Marlon Nicolas (PO3 Nicolas), PO2 Jonathan Pasamonte, PO1 Alizer Cabotage, PO1 Rona Gaoiran, PO1 Domingo and the informant was formed to conduct a buy-bust operation with PO1 Domingo as the poseur-buyer, and the other members of the team as back-up perimeter security. PO3 Nicolas recorded in the Police Blotter the pre-operation activity, including the marking of the buy-bust money and the circumstances leading to the report of the informant.⁷ The buy-bust money was eight (8) pieces of ₱1,000.00 bills and

million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) year and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

x x x x

⁴ TSN, 31 July 2007, pp. 7-8.

⁵ Id. at 9.

⁶ Id. at 11.

⁷ Id. at 12-13.

six (6) pieces of ₱500.00 bills⁸ all marked with letter “J” at the upper right portion by PO1 Domingo.⁹

PO1 Domingo and the informant proceeded to the agreed place of the transaction on board a motorcycle, while the rest of the team followed on board an unmarked vehicle.¹⁰ PO1 Domingo and the informant waited for Langcua¹¹ at the agreed place. After a few minutes, Langcua arrived on board a motorcycle and approached them. He then asked the informant “SINO NAMAN YONG KASAMA MO?”¹² The informant replied, “HUWAG KANG MAG-ALALA, KASAMA YAN.” Langcua then asked, “YONG BALANCE MO PA, KAILAN MO BABAYARAN?” to which the latter replied, “SA SUSUNOD NALANG.”¹³

Langcua initiated the sale by asking, “SAAN NA YONG PERA NYO?” PO1 Domingo replied, “HETO,” and handed the marked money to Langcua. Langcua put the money in his pocket and thereafter handed out to PO1 Domingo one (1) light blue colored folded paper coming from the right portion of his pants.¹⁴

Upon receipt, PO1 Domingo opened the folded paper and found one (1) big heat-sealed plastic sachet containing white crystalline substance. He then secured the plastic sachet and called the cellular phone of P/I Rosqueta. After the call, he then grabbed the right arm of Langcua who was already starting to accelerate his motorcycle but was stopped by the other police officers acting as back-up.¹⁵

He also testified that one of the members of the buy-bust team, PO3 Nicolas conducted a body search and recovered the buy-bust money, cellular phone and wallet from Langcua.¹⁶

In open court, PO1 Domingo identified the money recovered from Langcua as the same marked money used in the operation through the markings letter “J” on the upper right portion of the paper bills as well as their serial numbers recorded in the police blotter.¹⁷ He also identified the

⁸ Id. at 19.

⁹ Id. at 15.

¹⁰ Id. at 16.

¹¹ Id. at 17.

¹² Id.

¹³ Id. at 17-18.

¹⁴ Id. at 19.

¹⁵ Id. at 20.

¹⁶ Id. at 20-21.

¹⁷ Id. at 21.

white crystalline substance contained in the plastic sachet handed over by Langcua to him in the sale and pointed out the marking “JD” on one side and “SL” on the other side.¹⁸

Afterwards, PAID-SO made a letter request to the Provincial Crime Laboratory for the examination of the confiscated white crystalline substance.¹⁹

PO3 Nicolas and P/I Rosqueta corroborated the direct testimony of PO1 Domingo on materials points constituting the buy-bust operation conducted by them.²⁰

The presentation of evidence on the authenticity, genuineness and due execution of the initial laboratory report issued by Police Senior Inspector and Forensic Chemical Officer Mary Ann Cayabyab, (PSI Cayabyab), with regard to the specimen subjected for examination, was dispensed with following the agreement of the prosecution and defense as evidenced by the Pre-Trial Order.²¹

On the other hand, the factual version of the defense follows:

Langcua in his defense testified that on the date of the alleged sale of illegal drug on 4 October 2006, he just came from the mosque for his noon prayer.²² Upon returning home, he saw his wife already waiting for him. At around 12:30-1:00 o'clock in the afternoon she instructed him to buy medicines for their child who then had fever.²³

While he was setting his motorcycle, he saw Ombawa Ali (Ali) whom he asked to go with him.²⁴ Upon approaching Rizal corner Guerrero Streets, three male persons on board a car flagged them to stop. The three men introduced themselves as police officers and asked both of them if they were Muslims.²⁵ When Langcua answered in the affirmative, they asked him and Ali to move to the side of the street and go with them. When he asked the police officers what was their fault, they replied “*just come with us if you*

¹⁸ Id. at 26.

¹⁹ Id. at 27.

²⁰ TSNs, 12 September 2007, pp. 58-81 and 6 November 2007, pp. 96-133.

²¹ Records, pp. 52-54.

²² TSN, 20 November 2007, p. 154.

²³ Id. at 155-156.

²⁴ Id. at 156.

²⁵ Id. at 157.

don't want to get hurt."²⁶ He eventually complied with the police officers after one of them kicked his motorcycle and strangled him. Ali ran away when he saw this.²⁷

The police officers pulled him towards the direction of Guerrero Street where several armed men were already waiting for them. One of them boxed him and handcuffed his hands.²⁸ Upon boarding the car of the police officers, he saw a man he knew as Danny Domingo inside and both of them were brought to the police station.²⁹ He added that he was again physically maltreated inside the vehicle until they reached the station.³⁰

While inside the police station, the police officers frisked him and recovered his wallet containing money worth ₱11,000.00. When asked why he had such amount, he explained that he and his wife owned a carinderia and were saving to go home to Mindanao. A male person then showed a plastic sachet of *shabu* and claimed that it came from his motorcycle. He denied the allegation. The police officers maltreated him again.³¹ He also denied possession of the cellular phone recovered by the police officers.

His statements were corroborated by his wife Naimah Sultan and Ali.³²

Eventually, an Information³³ was filed by Laoag City Prosecutor Angel G. Rubio as follows:

That on or about the 4th day of October 2006, in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the [above] herein accused[,] did then and there[,] willfully, unlawfully and feloniously sell and deliver to a police officer who acted as poseur buyer one (1) big plastic sachet of Methamphetamine Hydrochloride, a dangerous drug popularly known as "shabu[,]" with net weight of 1.7257 gram, without any license or authority, in violation of the aforecited law.

CONTRARY TO LAW.

²⁶ Id. at 158-159.

²⁷ Id. at 159.

²⁸ Id. at 159-160.

²⁹ Id. at 160-161.

³⁰ Id. at 162.

³¹ Id. at 164-165.

³² TSNs, 13 November 2007, pp. 140-151 and 8 January 2008, pp. 187-201.

³³ Records, pp. 1-2.

Upon arraignment on 16 April 2007,³⁴ the accused-appellant, with the assistance of counsel, pleaded NOT GUILTY to the offense charged.

On 7 March 2008, the trial court found the accused-appellant GUILTY of violation of Section 5, Article II, of R.A. No. 9165 under Criminal Case No. 13295-13. The disposition reads:

WHEREFORE, judgment is hereby rendered finding the accused Saibern Langcua y Daimla GUILTY beyond reasonable doubt as charged of the offense of illegal sale of shabu and is therefore sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of P2,000, 000.00.

The shabu subject of this case consisting of 1.7257 grams is ordered confiscated, the same to be disposed of as the law prescribes.³⁵

On appeal to the CA, the accused-appellant argued that the trial court erred in holding that the buy-bust operation was sufficiently established; in finding credible the testimonies of the police officers; and in relying on the presumption of regularity of the performance of official duties. He argued that the *corpus delicti* of the crime was not established.³⁶

The CA affirmed the ruling of the trial court. The dispositive portion reads:

WHEREFORE, the Decision of the Regional Trial Court of Laoag City, Branch 13, in Criminal Case No. 132925-13 dated 7 March 2008 is hereby AFFIRMED.³⁷

In this appeal, accused-appellant adopted his arguments before the appellate court:

- I. THE APPELLATE COURT ERRED IN HOLDING THAT THE INITIAL CONTACT ON THE ALLEGED BUY-BUST OPERATION WAS SUFFICIENTLY ESTABLISHED.
- II. THE APPELLATE COURT ERRED IN GIVING CREDENCE TO THE TESTIMONIES OF THE

³⁴ Id. at 49.

³⁵ Id. at 132-146.

³⁶ CA *rollo*, p. 104. Brief of the Accused-appellant.

³⁷ *Rollo*, p. 20. CA Decision.

POLICE OFFICERS AND THE APPLICATION OF
PRESUMPTION OF REGULARITY IN THE
PERFORMANCE OF OFFICIAL DUTY.

III. THE APPELLATE COURT ERRED IN HOLDING
THAT THE CORPUS DELICTI OF THE CRIME
CHARGED HAS BEEN PROPERLY ESTABLISHED
BY THE PROSECUTION.

We do not agree.

On the first assigned error, the focus is on the alleged inconsistency of recollection of events of PO1 Domingo and PO3 Nicolas as compared to the statement of P/I Rosqueta. PO1 Domingo and PO3 Nicolas testified that the police informant relayed to them the telephone conversation regarding an illegal sale. On the other hand, P/I Rosqueta recalled that he himself heard the telephone conversation because he placed his ear on the cellular phone of the informant. This inconsistency, according to the defense, tainted the initial contact of the buy-bust operation.

The argument is misplaced.

What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of the *corpus delicti*.³⁸ The commission of illegal sale merely consummates the selling transaction, which happens the moment the buyer receives the drug from the seller. As long as the police officer went through the operation as a buyer, whose offer was accepted by seller, followed by the delivery of the dangerous drugs to the former, the crime is already consummated.³⁹

In this case, the prosecution has adequately proven all the elements constituting sale of illegal drug. This is evident from the testimony of PO1 Domingo, we quote:

x x x x

Q: And after that, what happened next?

³⁸ *People v. Unisa*, G.R. No. 185721, 28 September 2011, 658 SCRA 305, 324; *People v. Gaspar*, G.R. No. 192816, 6 July 2011, 653 SCRA 673, 686.

³⁹ *Id.* at 324-325.

A: And after that, Saiben Langcua asked: "SAN NA YUNG PERA NYO?" [(Where is your money then[?])]

x x x x

Q: What was your reply, if any?

A: "HETO," I answered, "here[.]"

Q: And after that, what next transpired?

A: I showed to the subject person the money and I handed it to him, sir.

Q: You said money, what money are you referring to that you handed to the subject person?

A: The buy-bust money used in the buy-bust operation, sir.

Q: What is that money in relation to the one that you have recorded in the police blotter?

A: It is the one to be used in the buy-bust operation, sir.

Q: And after handling the money, what next transpired?

A: Subject person Saiben Langcua accounted the peso bills and after he accounted the money, he immediately pocketed it in his left front pocket of his short pants, sir.

Q: By the way, Mr. Witness, what denominations are those money that were used in the buy-bust operation?

A: Eight (8) pieces of P1,000,000.00 bills and Six (6) pieces of P500.00 bills, sir.

Q: After pocketing them, what did the accused do, if any?

A: The accused brought out one (1) folded paper colored light blue from the right front of his short pants and he handed it to me, sir.

Q: And did you actually receive that?

A: Yes, sir.

Q: What did you with it after receiving the same?

A: I immediately opened the folded paper containing one (1) big heat-sealed plastic sachet containing white crystalline substance, sir.

Q: After determining that it is a big plastic sachet containing white crystalline substance, what did you do, if any?

A: I secured the plastic sachet containing alleged shabu and I immediately miss called the cell phone of Police Inspector Teddy Rosqueta, sir.⁴⁰ (Emphasis supplied)

X X X X

PO1 Domingo in open court identified the white crystalline substance contained in the plastic sachet as the one handed by Langcua to him during the buy-bust operation. The substance yielded positive result for methamphetamine hydrochloride, a dangerous drug, as evidenced by the Chemistry Report given by PSI Cayabyab.⁴¹

Further, the defense cited several inconsistencies on the part of the police officers. One instance was the disagreement on the name of the street where the accused-appellant came from when he approached the Employment Center. Another inconsistency was whether he was riding a motorcycle when he was arrested or was just standing near the same. A question on whether the cellular phone confiscated from him was operational or not was also put in issue. Further, the defense doubted the lower court's finding that there is no significance in the non-indication of the marking "J" in the buy-bust money in the pre-operation blotter and the absence of the confiscated cellular phone in the list of the Certificate of Seized Items.

We cannot subscribe to the arguments of the defense.

As held in the case of *People v. Gonzaga*,⁴² minor inconsistencies do not negate or dissolve the eyewitnesses' positive identification of the appellant as the perpetrator of the crime.⁴³ "[M]inor inconsistencies in the narration of witnesses do not detract from their essential credibility as long as their testimony on the whole is coherent and intrinsically believable. Inaccuracies may in fact suggest that the witnesses are telling the truth and have not been rehearsed. Witnesses are not expected to remember every single detail of an incident with perfect or total recall."⁴⁴ "[T]he witnesses' testimonies need only to corroborate one another on material details surrounding the actual commission of the crime."⁴⁵

⁴⁰ TSN, 31 July 2007, pp. 18-20.

⁴¹ Records, p. 57. Chemistry Report.

⁴² G.R. No. 184952, 11 October 2010, 632 SCRA 551, 570.

⁴³ *People v. Daen, Jr.*, 314 Phil. 280, 292 (1995).

⁴⁴ *People v. Alas*, 340 Phil. 423, 432 (1997).

⁴⁵ *People v. Cruz*, G.R. No. 185381, 16 December 2009, 608 SCRA 350, 364.

The inconsistencies in the recollection of facts of PO1 Domingo, PO3 Nicolas and P/I Rosqueta regarding the street where the accused came from, the position of the motorcycle as well as the operational condition of the cellular phone, are not material elements in establishing an illegal sale of dangerous drug. It is not irregular for police officers to have inconsistent statements in the narration of details of the buy-bust operation, as, indeed the inconsistency can indicate truthfulness. What is important is for them to recount the material facts constituting sale of dangerous drug such as the exchange of the illegal drug for buy-bust money and identification of the buyer, seller and illegal drug in court as the object of the sale. The three witnesses corroborated each other on material points which added to the confidence placed on their testimonies.

As last attempt to persuade this Court of his innocence, the accused-appellant relied on the allegation of broken chain of custody of evidence.

The contention of the defense suggests that the non-marking of the seized illegal drug at the place where the same was confiscated is enough to exonerate the accused-appellant. The reason is that this allegedly places in doubt the authenticity of the drug delivered to the crime laboratory for examination.

A review of the records and pleadings failed to convince us to overturn the ruling of conviction.

"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.⁴⁶

In the case of *People v. Kamad*,⁴⁷ the Court had the opportunity to enumerate the different links that the prosecution must prove in order to establish the chain of custody in a buy-bust operation, namely:

⁴⁶ Section 1(b) of the Dangerous Drug Board Regulation No. 1, Series of 2002.

⁴⁷ G.R. No. 174198, 19 January 2010, 610 SCRA 295, 307-308; *See also People v. Arriola*, G.R. No. 187736, 8 February 2012, 665 SCRA 581, 598.

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 by the forensic chemist to the court.⁴⁸

The Court finds that the different links to establish the chain of custody are sufficiently established.

PO1 Domingo in his testimony identified the confiscated white crystalline substance and its turnover to the crime laboratory for examination. We quote the portion of his testimony:

x x x x

Q: Now, Mr. Witness, with respect to the white crystalline substance contained in the plastic sachet that you claimed to have been handed to you by the accused Saiben Langcua, if shown to you again, Mr. Witness, would you be able to identify it?

A: Yes, sir.

Q: What could make you identify it?

A: I put markings, sir, my initial "JD" and the other is the initial of the accused, I put "SL" on the other side.

Q: I have here a plastic sachet with markings that corresponds to what you have just mentioned, Mr. Witness, kindly look over the same and tell what is the relation of that to that which was handed to you by the accused?

A: This is the plastic sachet handed to me by the accused, sir. (The witness identified the heat-sealed plastic sachet sealed with masking tape with markings containing white crystalline substance. On one side were the markings "JD." October 4, 2006 and the other side bearing the initial "SL,]" October 4, 2006).

⁴⁸

People v. Arriola, G.R. No. 187736, 8 February 2012, 665 SCRA 581, 598.

Q: After taking custody of that, after it was delivered to you by the accused, what did you do with it, if any?

A: We made a letter request to the crime laboratory and we delivered that heat-sealed plastic sachet containing alleged shabu to the Provincial Crime Laboratory for examination, sir.⁴⁹

X X X X

The Request for Laboratory Examination⁵⁰ dated 4 October 2006 also stated that PO1 Domingo delivered the heat-sealed plastic sachet, containing white crystalline substance with markings “JD” representing his initials and “SL” at the other side of the plastic sachets representing the initials of the arrested suspect Langcua, to PSI Cayabyab.

The laboratory examination yielded positive result for methamphetamine hydrochloride, an illegal drug.⁵¹ The testimony of PSI Cayabyab was dispensed with by both parties hence, the appreciation of the report was left to the sound discretion of the court for evaluation.

In his cross testimony, P/I Rosqueta explained why the marking was not made at the place of the buy-bust operation, we quote:

Q: And because there were other people in the area from the time that you were able to confiscate the items from the accused, you immediately ordered the accused to be brought to your office because you were afraid that the incident might invite commotion?

A: Yes, sir, because after the confiscation of the items, there were many people gathering near and they were shouting.

Q: And it was because of this reason that you did not longer (sic) order the marking of the confiscated items on the buybust?

A: Not anymore, sir, because after showing me the confiscated item. I told them to bring it to the camp and when were already at the camp, the shabu that was bought from Saiben is the same that was sold and that is also the same that was brought to the crime laboratory.⁵²

⁴⁹ TSN, 31 July 2007, pp. 26-27.

⁵⁰ Records, p. 55.

⁵¹ Id. at 57. Chemistry Report.

⁵² TSN, 6 November 2007, pp. 131-132.

The prosecution has properly established the continuous whereabouts of the exhibit at least from the time it came into possession of the police officers, during its testing in the laboratory to determine its composition and up to the time it was offered in evidence.

Be it granted that there was no strict observance of the procedure; the substantial compliance thereof is well sanctioned for in Section 21 (a) of the Implementing Rules and Regulations of R.A. No. 9165 which reads:

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 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 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 copy thereof. Provided, that the physical inventory and the photograph shall be conducted at the place where the search warrant is served; or at least 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 evidentiary value of the seized items are properly preserved by the apprehending team/officer, shall not render void and invalid such seizures of and custody over said items.** (Emphasis supplied)

The function of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed.⁵³ As long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending police officers, substantial compliance with the procedure to establish a chain of custody is sanctioned.

⁵³ *People v. Dela Rosa*, G.R. No. 185166, 26 January 2011, 640 SCRA 635, 653 citing *People v. Rosalda*, G.R. No. 188330, 25 August 2010, 629 SCRA 507, 521. *People v. Unisa*, supra note 38.

This Court in *People v. Lorena*⁵⁴ held that:

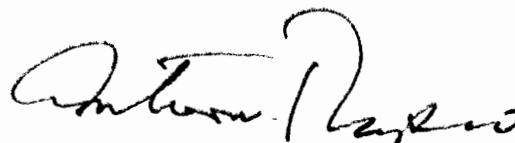
People v. Pringas teaches that non-compliance by the apprehending/buy-bust team with Section 21 is not necessarily fatal. Its non-compliance will not automatically render an accused's arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. We recognize that the strict compliance with the requirements of Section 21 may not always be possible under field conditions; the police operates under varied conditions, and cannot at all times attend to all the niceties of the procedures in the handling of confiscated evidence.⁵⁵


WHEREFORE, the instant appeal is **DENIED**. Accordingly, the decision of the Court of Appeals dated 16 October 2009 in CA-G.R. CR-H.C. No. 03462 is hereby **AFFIRMED**. No costs.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

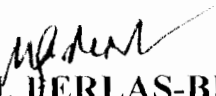

ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

⁵⁴ G.R. No. 184954, 10 January 2011, 639 SCRA 139.

⁵⁵ Id. at 151


ESTELA M. BERLAS-BERNABE
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.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice