



Republic of the Philippines  
Supreme Court  
Manila

SPECIAL FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special First Division, issued a Resolution dated **June 16, 2021** which reads as follows:*

**“G.R. No. 242302 (Ronald Mallari y Basillo v. People of the Philippines).** – Before Us is a Motion for Reconsideration<sup>1</sup> of Our Resolution<sup>2</sup> dated June 17, 2019 dismissing petitioner Ronald Mallari y Basillo’s (Mallari) appeal and affirming the Decision<sup>3</sup> dated May 8, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39604. The CA affirmed the Decision<sup>4</sup> dated January 25, 2017 of the Regional Trial Court (RTC) of Makati City, Branch 65, in Criminal Case Nos. R-MKT-16-02530-CR and R-MKT-16-02531-CR. The dispositive portion of the Decision of the RTC reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. R-MKT-16-02530-CR, the court finds the accused, Ronald Mallari y Basillo, GUILTY beyond reasonable doubt of the crime of violation of Section 11, Article II, R.A. No. 9165 and sentences him to suffer the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine of Three Hundred Thousand Pesos (P300,000.00).
2. In Criminal Case No. R-MKT-16-02531-CR, the court finds the same accused, GUILTY beyond reasonable doubt of the crime of violation of Section 12, Article II, RA No. 9165 and sentences

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<sup>1</sup> *Rollo*, pp. 140-147.

<sup>2</sup> *Id.* at 137-138.

<sup>3</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob, with the concurrence of Associate Justices Celia Librea-Leagogo and Samuel Gaerlan (now a Member of this Court); *id.* at 36-54.

<sup>4</sup> Penned by Judge Edgardo M. Caldonia; *id.* at 94-100.

him to suffer the penalty of imprisonment of six (6) months one (1) day to four (4) years and to pay a fine of Fifty Thousand Pesos (P50,000.00).

The period of detention of the accused should be given full credit.

Let the dangerous drug and drug paraphernalia subject matter of these cases be disposed of in the manner provided for by law.

SO ORDERED.<sup>5</sup>

Mallari was charged with violation of Sections 11 (illegal possession of dangerous drugs) and 12 (illegal possession of drug paraphernalia), Article II of Republic Act No. (R.A.) 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," in two separate Informations both dated October 21, 2016, *viz.*:

In Criminal Case No. R-MKT-16-02530-CR:

On October 21, 2016, in the City of Makati, the Philippines, accused, not being lawfully authorized by law and without the corresponding prescription, did then and there willfully, unlawfully and feloniously have in his possession, direct custody and control zero point zero three (0.03) gram of Methamphetamine Hydrochloride, a dangerous drug, in violation of the above cited law.

CONTRARY TO LAW.<sup>6</sup>

In Criminal Case No. R-MKT-16-02531-CR:

On October 21, 2016, in the City of Makati, the Philippines, accused, without being authorized by law to possess equipment, instrument, apparatus, and other paraphernalia fit or intended for smoking, administering or introducing any dangerous drug into the body, did then and there willfully, unlawfully, and feloniously have in his possession, direct custody and control one (1) piece tape sealed transparent plastic sachet, two (2) pieces glass water pipe, one (1) piece aluminum foil and one (1) violet disposable lighter, which are dangerous drug instruments/paraphernalia.

CONTRARY TO LAW.<sup>7</sup>

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<sup>5</sup> Id. at 99-100.

<sup>6</sup> Records, p.1.

<sup>7</sup> Id. at 26.

On November 9, 2016, Mallari separately entered a plea of not guilty to the two offenses charged.<sup>8</sup>

During the preliminary and pre-trial conferences, the prosecution and the defense stipulated on the subject matter of the testimonies of the following witnesses: (1) PO3 Michael Danao (PO3 Danao), the police investigator who prepared the investigation report, the request for laboratory examination of the items recovered and drug test on the person of the accused; (2) PCI Ofelia Lirio Vallejo (PCI Vallejo), the forensic chemist and the expert witness, who examined the confiscated items and prepared the Chemistry Report No. D-1921-2016 pursuant to the request for laboratory examination made by PO3 Danao; and (3) Barangay Kagawad Edgar Ordonio (Kgd. Ordonio), who acted as an independent witness during the inventory of the items allegedly seized from the accused such that he could identify his signature in the inventory form.<sup>9</sup>

During the trial, the prosecution presented PO3 Michel Marcos (PO3 Marcos) as its witness. The testimony of PO2 Jed Hernandez (PO2 Hernandez) was stipulated on by the parties being corroborative to that of PO3 Marcos since he acted as back-up of the latter during the anti-narcotics operation. The defense, meanwhile, presented Mallari as its lone witness.<sup>10</sup>

According to PO3 Marcos, on October 21, 2016, at around 12:55 a.m., SPO3 Dacoco, the Deputy Commander of the Police Community Precinct No. 8, received a report from a concerned citizen about a certain male individual allegedly using illegal drugs at No. 460-D Ipil St., Barangay Cembo, Makati City. This male individual was later identified as Mallari. PO3 Marcos and PO2 Hernandez, upon the instruction of SPO3 Dacoco, went to the target area to verify the report. There, one of the neighbors of Mallari led the police officers to the latter's house, which at that time was slightly open. PO3 Marcos peeked inside and saw Mallari holding a foil and lighting it with a lighter. He made a thumbs-up sign to PO2 Hernandez who accompanied him in rushing inside to arrest the accused. PO3 Marcos seized the foil and the disposable lighter. The police officers then informed Mallari of the nature of his arrest and of his constitutional rights. PO2 Hernandez frisked him and recovered from him one piece small heat-sealed transparent plastic sachet containing white crystalline substance, one piece of unsealed transparent plastic sachet with *shabu* residue, and two pieces glass water tooter pipe.<sup>11</sup>

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<sup>8</sup> *Rollo*, p. 95.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 38.

Mallari was brought to the barangay outpost of Bantay-Bayan, Barangay Cembo where an inventory of the confiscated items was conducted in the presence of Kgd. Ordonio. The seized items were turned over to PO3 Danao of the Station Anti-Illegal Drugs Special Operation Task Group Office who prepared the request for laboratory report, request for drug test, chain of custody, and request for medical examination. PO3 Hernandez turned over the confiscated items to the Southern Police District-Crime Laboratory for qualitative examination. PCI Vallejo conducted the examination, which revealed that the seized items were positive for methamphetamine hydrochloride or *shabu*.<sup>12</sup>

Mallari denied the allegations against him. He countered that he was arrested while he was outside his room. He had just woken up and was about to take a bath when a male individual in civilian clothing suddenly approached him and asked where he was hiding a certain person. When he denied knowledge of said person, he was arrested and brought to Precinct No. 8. He disclosed that it was PO2 Hernandez who arrested him and no one else.<sup>13</sup>

In its Decision<sup>14</sup> dated January 25, 2017, the RTC convicted Mallari of the crimes charged. For illegal possession of 0.03 gram of *shabu*, Mallari was sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine of ₱300,000.00. For illegal possession of drug paraphernalia, he was sentenced to suffer the penalty of imprisonment of six (6) months and one (1) day to four (4) years and to pay a fine of ₱50,000.00.<sup>15</sup>

The RTC held that the prosecution had proven all the elements of the crimes as well as established an unbroken chain of custody of the seized items. *First*, PO3 Marcos and PO2 Hernandez recovered and marked the sachet containing white crystalline substance as “HJA,” the unsealed plastic sachet containing *shabu* residue as “HJA-1,” the two glass tooter pipes as “HJA-2,” and the aluminum foil as “HJA-3.” *Second*, the seized items were presented to PO3 Danao who signed the request for laboratory examination. *Third*, the confiscated items were delivered by PO2 Hernandez to PCI Vallejo in the Southern Police District Crime Laboratory. *Fourth*, PCI Vallejo prepared a chemistry report, which revealed that the marked seized

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<sup>12</sup> Id. at 38-39; 96.

<sup>13</sup> Id. at 39.

<sup>14</sup> Supra note 4.

<sup>15</sup> *Rollo*, pp. 99-100.

items from the accused “were *shabu* with traces thereof on the aluminum foil as well as on the glass tooter pipes.” *Fifth*, the seized items were presented and identified in court by the chemist as Exhibits “O” to “O-3.”<sup>16</sup>

The RTC also ruled that the defense failed to present clear and convincing evidence to overcome the presumption of regularity in the performance of official duties accorded to the police officers. Mallari and the seizing officers did not know each other prior to the anti-narcotics operation. The latter could not have any ill-motive against the accused.<sup>17</sup>

Mallari appealed to the CA.<sup>18</sup>

In its Decision<sup>19</sup> dated May 8, 2018, the CA affirmed the RTC’s ruling *in toto* including the penalties and fines imposed upon the accused. It held that there is a seamless sequence in the custody of the confiscated items from the moment that they were recovered by the police at the crime scene until they were brought to the police station, then to the forensic chemist, and their subsequent presentation in court during trial.<sup>20</sup> It declared that there is an absolute lack of showing that the integrity and evidentiary value of the confiscated evidence have been impaired and compromised.<sup>21</sup> It rejected Mallari’s argument that there was non-compliance with Section 21 of R.A. 9165 as amended by R.A. 10640, particularly that the physical inventory was not immediately made after the seizure and that no representative from the media or the Department of Justice (DOJ) attended the inventory when it was conducted. It noted that while nowhere in the prosecution evidence does it show the justifiable ground that would have relieved the police officers of non-compliance with Section 21 and its Implementing Rules, such omission will not necessarily render the accused’s arrest illegal or the items seized inadmissible in evidence. Citing case law, it stated that as long as the chain of custody remains unbroken, even though the procedural requirements provided in Section 21 were not faithfully observed, the guilt of the accused will not be affected.<sup>22</sup>

The CA further stressed that Mallari did not assail the custody, disposition, and preservation of the seized drug and drug

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<sup>16</sup> Id. at 98.  
<sup>17</sup> Id. at 99.  
<sup>18</sup> CA *rollo*, p.9  
<sup>19</sup> *Supra* note 3.  
<sup>20</sup> *Rollo*, p. 43.  
<sup>21</sup> Id. at 45.  
<sup>22</sup> Id. at 45-48.

paraphernalia before the RTC. Neither did he raise any objection or reservation about the justifiable ground that would have relieved the police officers from non-compliance with Section 21. Thus, he is now precluded from questioning the evidentiary value and integrity of the seized items. The CA furthermore agreed with the RTC that the defense failed to overcome the presumption of regularity of performance of official duties of the police officers. Mallari failed to mention that he knows PO3 Marcos or PO2 Hernandez, thus negating any improper motive on the part of the latter.<sup>23</sup>

Mallari moved for reconsideration which the CA denied in its Resolution<sup>24</sup> dated September 27, 2018. Undaunted, he filed a Petition for Review on *Certiorari*<sup>25</sup> before this Court. He faulted the CA for:

(1) *Affirming his conviction despite the incredible and inconsistent testimonies of the prosecution witness – PO3 Marcos’ testimony on how he caught Mallari in the act of using illegal drugs is preposterous because it is unbelievable that the accused would have been so bold to leave his door open, knowing the government’s aggressive campaign against illegal drugs. Mallari theorized that PO3 Marcos fabricated his testimony.*<sup>26</sup>

(2) *Ruling that the prosecution was able to establish the unbroken chain of custody of the confiscated items – Mallari alleged that the second, third, and fourth links in the chain of custody are missing. From the testimony of PO3 Marcos, there was no mention of proper turnover of the seized items from the seizing officer to the investigating officer, and from the investigating officer to the forensic chemist. In fact, it was PO3 Marcos and PO2 Hernandez who brought the seized items to the crime laboratory and not the investigating officer. There was also no testimony or proof as to how the confiscated items were stored, preserved, labelled, and recorded after the chemical analysis by the forensic chemist. The testimony of the forensic chemist had been stipulated but only as to the fact that she “examined the items that were submitted relative to the*

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<sup>23</sup> Id. at 48.

<sup>24</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob, with the concurrence of Associate Justices Celia C. Librea-Leagogo and Samuel H. Gaerlan (now a Member of this Court); id. at 56-64.

<sup>25</sup> Id. at 11-31.

<sup>26</sup> Id. at 20-22.

instant criminal cases and prepared the corresponding Chemistry Report No. D-1921-2016 pursuant to the requests for laboratory examination that were prepared by PO2 Danao.”<sup>27</sup>

(3) *Not finding that there was non-compliance with Section 21 of R.A. 9165 as amended by R.A. 10640* – Mallari claimed that the inventory of the seized items was not done immediately after their confiscation. Also, Section 21 as amended requires the presence of at least two witnesses during the physical inventory and photographing of the seized items, who are an elected public official and a representative of the National Prosecution Service or the media. Here, only Kgd. Ordonio was present. The police officers failed to provide a justification for their non-compliance with Section 21.<sup>28</sup>

(4) *Not finding that the defense overturned the presumption of regularity in the performance of official duties* – Mallari alleged that the glaring irregularities and non-compliance with the procedural requirements of Section 21 overturned the presumption of regularity in the performance of official duties of the police officers.<sup>29</sup>

Additionally, Mallari argued that the gross disregard of the procedural safeguards prescribed in R.A. 9165, as amended, generates serious uncertainty about the identity of the seized items that the prosecution presented in evidence. Thus, he should accordingly be acquitted of violations of Sections 11 and 12, Article II of R.A. 9165, as amended.<sup>30</sup>

In Our Resolution<sup>31</sup> dated June 17, 2019, We adopted the findings of fact and the conclusions of law of the CA and affirmed the conviction of Mallari for illegal possession of dangerous drugs and illegal possession of drug paraphernalia.

Mallari filed a motion for reconsideration,<sup>32</sup> repleading and reiterating the same arguments that he raised in his petition for review.

The sole issue in this case is whether We should uphold Mallari’s conviction.

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<sup>27</sup> Id. at 22-26.

<sup>28</sup> Id. at 26-28.

<sup>29</sup> Id. at 29.

<sup>30</sup> Id. at 30.

<sup>31</sup> Id. at 137-138.

<sup>32</sup> Id. at 140-147.

**In light of recent jurisprudence<sup>33</sup> in so many cases decided by the High Court, which requires a stricter compliance with Section 21, Article II of R.A. 9165, We take a second look on the evidence on record and grant reconsideration.**

In cases of illegal possession of dangerous drugs and illegal possession of drug paraphernalia, the prohibited drug and the drug paraphernalia are the *corpus delicti* of the crimes. Any doubt in the identity and integrity of the *corpus delicti* warrants the acquittal of the accused.<sup>34</sup> To remove any unnecessary doubts on account of switching, planting, or contamination of the evidence, the prosecution must be able to account for each link in the chain of custody from the moment of the seizure of the dangerous drugs and drug paraphernalia up to their presentation in court.<sup>35</sup>

The four links in the chain of custody are: (1) the seizure and marking, if practicable, of the illegal drug and drug paraphernalia recovered from the accused by the apprehending officer; (2) the turnover of the seized items by the apprehending officer to the investigating officer; (3) the turnover of the confiscated items by the investigating officer to the forensic chemist for laboratory examination; and (4) the turnover and submission of the illegal drug from the forensic chemist to the court.<sup>36</sup>

With respect to the first link in the chain of custody, Section 21(1),<sup>37</sup> Article II of R.A. 9165 requires the apprehending team having

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<sup>33</sup> See *People v. Ruiz*, G.R. No. 243635, November 27, 2019; *People v. Antonio*, G.R. No. 243936, September 16, 2019; and *People v. Mamarinta*, G.R. No. 243589, September 9, 2019.

<sup>34</sup> *People v. Sultan*, G.R. No. 225210, August 7, 2019.

<sup>35</sup> *People v. Lumaya*, 827 Phil. 473, 484 (2018).

<sup>36</sup> *People v. Lim*, G.R. No. 231989, September 4, 2018.

<sup>37</sup> 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:

(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. xxx (Emphasis supplied).

initial custody and control of the dangerous drugs or drug paraphernalia to, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or other persons from whom such items were confiscated, or his/her representative or counsel, with the presence of two or three third-party witnesses depending on when the anti-narcotics operation was conducted. If *prior* to the amendment of R.A. 9165 by R.A. 10640,<sup>38</sup> three witnesses are required consisting of a representative from the media *and* the DOJ, and any elected public official. If *after* the amendment of R.A. 9165 by R.A. 10640, only two witnesses are necessary, which are an elected public official and a representative of the National Prosecution Service *or* the media.<sup>39</sup> R.A. 10640 took effect on July 23, 2014. The anti-narcotics operation in this case was conducted on October 21, 2016, hence the amendatory law governs. The inventory and photographing of the seized items must be made in the presence of two witnesses. Significantly, in *People v. Asaytuno, Jr.*,<sup>40</sup> We held that the third-party witnesses should also be present even at the time of apprehension of the accused.

Here, the Joint Affidavit of Arrest<sup>41</sup> and the Inventory Receipt<sup>42</sup> show that only Kgd. Ordonio was present as third-party witness during the arrest of Mallari as well as during the physical inventory and photographing of the confiscated items. The inventory also took place at the barangay outpost of Bantay-Bayan, Barangay Cembo and not at the nearest police station or at the nearest office of the apprehending team.

Further, the 2014 Revised Philippine National Police Manual on Anti-Illegal Drugs Operations and Investigation (Revised PNP Manual) provides the following procedure in the handling, custody, and disposition of drug and non-drug evidence:

2.33. During handling, custody, disposition of evidence, provisions of Section 21, RA 9165 and its IRR as amended by RA 10640 shall be strictly observed.

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<sup>38</sup> Republic Act No. 10640 or An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act Of 2002."

<sup>39</sup> *People v. Antonio*, G.R. No. 243936, September 16, 2019.

<sup>40</sup> *People v. Asaytuno, Jr.*, G.R. No. 245972, December 2, 2019, *citing People v. Tomawis*, 830 Phil. 385 (2018).

<sup>41</sup> RTC Records, pp. 24-25.

<sup>42</sup> RTC Records, p. 23.

2.34. Photographs of the pieces of evidence must be taken immediately upon discovery of such, without moving or altering its original position including the process of recording the inventory and the weighing of illegal drugs in the presence of required witnesses, as stipulated in Section 21, Art II, RA 9165, as amended by RA 10640.

**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.**

x x x x (Emphasis supplied)

In this case, the marking of the seized items was irregularly done. Only the initials of PO2 Jed Hernandez were indicated. The sachet containing white crystalline substance was marked as “HJA,” the unsealed plastic sachet containing *shabu* residue as “HJA-1,” the two glass tooter pipes as “HJA-2,” and the aluminum foil as “HJA-3.” The date, time, and place of the buy-bust operation were not inscribed on the confiscated items in violation of the Philippine National Police’s own rules.<sup>43</sup>

Notably, the abovementioned irregularities would not *ipso facto* render the seizure and custody of the seized items invalid provided that the prosecution shows that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved. This is the so-called saving clause found in the last sentence of paragraph 1, Section 21.<sup>44</sup> However, the police officers failed to satisfy both requisites. As noted in the CA’s Decision, the prosecution did not present evidence showing any justifiable ground for the police officers’ deviation from Section 21.<sup>45</sup>

The prosecution also failed to establish the second, third, and fourth links in the chain of custody. There was no proof of how the seized items were turned over by the apprehending officers, PO3 Marcos and PO2 Hernandez, to the investigating officer, PO3 Danao. It was also PO3 Marcos and PO2 Hernandez who brought the seized items to the forensic chemist and not PO3 Danao. During his cross-

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<sup>43</sup> See *People v. Manabat*, G.R. No. 242947, July 17, 2019.

<sup>44</sup> 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. x x x

<sup>45</sup> *Rollo*, p. 47.

examination in the RTC, PO3 Marcos stated that he did not know the name of the chemist who received the specimens, only that she is a female.<sup>46</sup> The Request for Laboratory Examination<sup>47</sup> and Chain of Custody Form<sup>48</sup> show that the confiscated items were received by PCI Vallejo who later brought the specimens in court. Nevertheless, PCI Vallejo was not presented as a witness. Her testimony was stipulated upon by the parties to the extent that she examined the items relative to the criminal cases and prepared a chemistry report pursuant to PO3 Danao's request for laboratory examination.<sup>49</sup>

In *People v. Ambrosio*,<sup>50</sup> We held that there is glaring gap in the fourth link in the chain of custody if the parties stipulate to dispense with the attendance and testimony of the forensic chemist, but such stipulation did not state that the forensic chemist would have testified that he/she took the precautionary steps required in order to preserve the integrity and evidentiary value of the seized item. Particularly, that: (1) forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he/she resealed it after examination of the content; and (3) that he/she placed his/her own marking on the same to ensure that it could not be tampered with pending trial.<sup>51</sup> In this case, the stipulation of the parties do not show that PCI Vallejo would have testified on the foregoing matters.

Meanwhile, We also observe that the amount of narcotics involved in the charge of illegal possession of dangerous drugs against Mallari is miniscule, only 0.03 gram of *shabu*. In *People v. Holgado*,<sup>52</sup> We declared that the miniscule amount of narcotics seized, while itself not a ground for acquittal, requires for a more exacting compliance with Section 21. This is because the likelihood of tampering, loss, or mistake with an exhibit is greatest when the exhibit is small and one that has a physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.<sup>53</sup>

In *People v. Alon-Alon*,<sup>54</sup> We acquitted the accused from illegal sale of 0.02 gram of dangerous drugs because of: (i) the prosecution's

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<sup>46</sup> Id. at 145.

<sup>47</sup> Records, p. 11.

<sup>48</sup> Id. at 12.

<sup>49</sup> *Rollo*, p. 95.

<sup>50</sup> G.R. No. 234051, November 27, 2019.

<sup>51</sup> *People v. Ambrosio*, G.R. No. 234051, November 27, 2019, citing *People v. Pajarin*, 654 Phil. 461, 466 (2011).

<sup>52</sup> 741 Phil. 78 (2014).

<sup>53</sup> Id. at 99, citing *Malilin v. People*, 576 Phil. 576 (2008).

<sup>54</sup> G.R. No. 237803, November 27, 2019.

failure to establish the four links in the chain of custody; (ii) the physical inventory and taking of photographs of the seized items were done in the presence of the accused and only one witness, a representative from the media; and (iii) the prosecution's failure to acknowledge and give a justifiable ground for non-compliance with Section 21.

All told, We acquit Mallari of violation of Sections 11 and 12, Article II of R.A. 9165, as amended, for failure of the prosecution to establish beyond reasonable doubt the *corpus delicti* of the crimes.

**WHEREFORE**, the motion is **GRANTED**. The Resolution dated June 17, 2019 of this Court affirming the Decision dated May 8, 2018 and the Resolution dated September 27, 2018 of the Court of Appeals in CA-G.R. CR No. 39604 is **REVERSED** and **SET ASIDE**. Petitioner Ronald Mallari y Basillo is **ACQUITTED** of the crimes charged against him and is **ORDERED** to be **IMMEDIATELY RELEASED**, unless he is being lawfully held in custody for any other reason. The Director General of the Bureau of Corrections is **DIRECTED** to inform this Court of the action taken hereon within five (5) days from receipt hereof.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR No. 39604)

The Solicitor General  
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The Hon. Presiding Judge  
Regional Trial Court, Branch 65  
1200 Makati City  
(Crim. Case Nos. R-MKT-16-02530-CR  
& R-MKT-16-02531-CR)

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