

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JOSE ALVIAR Y TUAZON, DEFENDANT AND APPELLANT.

G.R. No. L-32276. September 12, 1974

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

Appeal from the decision of the Court of First Instance of Pasig, Rizal, in its Criminal Case No. 15358 finding the accused Jose Alviar y Tuazon guilty of the crime of parricide, sentencing him to suffer the penalty of reclusion perpetua and to indemnify the heirs of the deceased Dolores Imson Alviar the sum of P12,000.00 and to pay the costs.

The undisputed facts follows:

On November 6, 1965 the body of an unknown woman was found by members of the Makati Police Department floating near the bank of the West Rainbow Area of the Pasig River. The corpse was brought to the morgue of the Funeraria Quiogue, Manila, for possible identification, claim of any relative or friend, and autopsy.

Nobody appeared to claim the body, and after the fingerprints of the deceased were taken, autopsy was performed by Dr. Ricardo G. Ibarrola, Jr., of the National Bureau of Investigation.

On November 7, 1965, the body was interred in the South Cemetery of Makati, Rizal. The body was later exhumed and transferred to the Pateros cemetery.

The fingerprints lifted from the cadaver were found identical with the fingerprints of Dolores Imson Alviar on file with the Election Registrar of Pateros, Rizal.

An information was later filed in the Court of First Instance of Pasig, Rizal, charging Jose Alviar Tuazon together with Antonio Cotas with parricide, which reads as follows:

"That on or about the 5th day of November, 1965, in the municipality of Pateros, province of Rizal, a place within the jurisdiction of this Honorable Court, the above-named accused, confederating and conspiring together did, then and there willfully, unlawfully and feloniously kill Dolores Alviar (lawfully wedded wife of Jose Alviar y Tuazon) by beating her to unconsciousness and then by throwing her unconscious body into the river, where she was later on fished out dead."

The evidence for the prosecution follows:

Crisanto B. Gonzales, first witness for the prosecution testified on direct examination that at about ten minutes to 1:00 o'clock a.m. of November 5, 1965, when he was going home walking from a gambling den at Pateros, Rizal,[1] he saw Dolores running in Tabacalera St. and her husband, the accused, Jose Alviar, was running after her; that when Jose Alviar overtook her, he pulled her hair, twisted her right arm behind her, and pushed her back to their house;[2] that he was able to identify Dolores and Jose because of a post that was brightly lighted in the place where he stayed.[3] On cross examination, he admitted that he had never told anybody, not even his wife

and nine children, about what he saw[4] before he was presented as witness.[5]

Loida Buenaventura, the second prosecution witness, testified on direct examination that at about 9:00 o'clock p.m. of November 4, 1965, she was at her house located at C. Sexon Street, Pateros, Rizal[6] and which was about 4 to 5 meters from the accused's house; that she heard the accused, Jose Alviar, and Dolores Imson Alviar quarreling in their house about an umbrella and notebook which Dolores claimed she left in the house[7]; that afterwards Dolores became jealous, and said that the umbrella and the notebook might be with Jose's girls[8]; that Dolores said she would leave and go to her mother's house, but Jose warned her not to go otherwise something would happen[9]; that Dolores cried, and then there was silence; that Jose later left the house and went alone to his parents's house which was just across the street[10]; that after a few moments, Jose returned to their house, and they continued quarreling, but she could not understand what they were saying[11], and that Dolores stopped talking, and there was silence; and that she (witness) went to bed and slept at about past 10:00 o'clock p.m.[12] that between 1:00 to 2:00 o'clock a.m. the following day, she was awakened by the rain entering the windows, so she got up to close the windows; that when she was to close one panel, she saw Dolores going out the street followed by Jose who was chasing her[13]; that after 10 minutes, they came back, Dolores' left arm being held by Jose[14]; that when they reached the door of their house, Jose pushed Dolores who fell in a prone position ("pasubsob") to the floor[15] that Jose later entered the house and closed the door, after which she heard a loud sound ("kalabog") as if a heavy object was thrown against the wall, and Dolores moaning "Ina ko po", and then there was silence[16]; that she then saw Jose going out of their house with Dolores' left hand over his shoulder and his right hand around Dolores' waist and Dolores' head was hanging ("nakalungayngay")[17]; that Jose happened to look at her window and saw her, so Jose returned to his house and closed the door; and that she left the window and remembered that Dolores told her that if they happened to quarrel again, she should keep watch[18]; that after Dolores was brought to the house, she did not hear any more sound and saw nothing more; that after the witness sat down on her trunk and did not sleep anymore[19]; that at about dawn of November 5, 1965, she went near the river to throw garbage, and she saw at about 16 yards from her Jose with a flash-light focused on the bank of the river[20]; that after throwing the garbage she went home; that between 6:00 to 7:00 o'clock a.m. also of November 5, 1965, Jose called up her house and asked her if she saw something at 3:00 o'clock a.m., because Jose said Dolores left at around 3:00 o'clock a.m., to which she answered that she saw nothing as she was already sleeping; that she said this because she did not want Jose to know that she knew what had happened[21]. On cross examination, witness Loida Buenaventura admitted that she never told what she saw to her children, or to her husband who went home at about 4:00 o'clock a.m. of November 5, 1965, or to the police[22]; that the first time she narrated the incident was when she went to the National Bureau of Investigation where she executed an affidavit[23]; that she could not remember what Jose was wearing or the color of the dress or pants of Jose, or if Jose had something on his feet that evening of November 4, 1965[24]; that she did not have a clock or wristwatch in her house; that she could not calculate how long an hour was; that she only calculated the time when she said that Jose Alviar left his house at about 9:00 o'clock p.m.[25]; that she did not notice the color of Dolores' dress when the latter left her house for the first time[26] and that her hair was not dishevelled and not completely groomed[27]; that almost every night Jose and Dolores quarrelled because of jealousy[28]; that she could not be sure of what Jose was wearing when she saw him with a flashlight[29], nor what Jose and Dolores were wearing the third time she saw them[30]; that on several occasions, she rode in the car of Mrs. Young[31].

Dr. Ricardo G. Ibarrola, medico-legal officer of the National Bureau of Investigation, and third prosecution witness, on direct examination, identified Exhibit "C", the Necropsy Report, and testified that he conducted the post-mortem examination at 3:00 o'clock p.m. of November 6, 1965[32]; that before said examination, the fingerprints were taken; that he was informed at about noon of November 6, 1965 that he was to perform an autopsy[33]; that the body, because of its foul smell, was buried immediately after the autopsy[34]; that the

clothing taken from the body was identified by one Asuncion Dayco; that pictures (Exhs. F and F-1) were taken before the autopsy[35]; that the body was in an advanced state of decomposition; that the woman must have died from 36 to 48 hours before the autopsy; that she died of drowning[36]; that there were no injuries in the bones[37]; and that it was dangerous to state whether there were external injuries[38]. On cross examination, he admitted that one of the purposes of the autopsy was to determine whether there was foul play[39]; that in the whole skeletal framework, including the skull, of the body, he did not find any injury[40]; that there were no open wounds on the body[41]; that the cause of death was asphyxia, which could be true also if a person committed suicide[42]. On redirect examination, he testified that it was dangerous to say, because of the decomposition, if there were any hematoma[43]; that there were no signs of ante mortem contusions or abrasions[44]; that his findings would also be true, if at the time the victim was submerged, she was conscious or unconscious[45]; that a person who knows how to swim can also kill himself by drowning[46]; that even if a person knows how to swim, the tendency of the body is to go down[47]; that the body was also wearing a panty, but he did not think she was wearing any brassieres[48]; that from the contents of the stomach, death must have occurred five hours after her last meal.[49]

Captain Federico Bautista, a Makati police officer, and fourth prosecution witness, testified that on or about 10:00 o'clock a.m. of November 6, 1965, they took pictures (Exhs. "H", "H-1" and "H-2") of the dead body of an unidentified woman floating at the river bank of West Rainbow area in Fort Bonifacio[50].

Ceferino Cuevas, fifth prosecution witness, testified on direct examination that at about 7:00 o'clock a.m. of November 6, 1965, while he and his wife were riding on a motor banca, coming from West Rainbow, they saw the body of a woman floating on the river; and that there was piece of cloth tied to the left wrist of the woman.[51]

Damaso Cruz, sixth prosecution witness, testified on direct examination that on his way home from the gambling place which he left between 1:00 and 1:15 o'clock a.m. of November 5, 1965, he noticed "kalabugan" inside the house of Jose Alviar[52] as if some persons were quarreling; that because he had stomach ache at that time, he entered the premises of Peping Garcia, went near the river, to move his bowels[53]; that while he was moving his bowels, he saw at the back of the house of Peping Alviar three persons, that is, a woman in the middle with her arms over the shoulders of two men[54]; that the woman was unconscious, and her head was hanging sideways, ("nakalungayngay")[55]; that he recognized the accused Jose Alviar, but did not recognize the other man or the woman[56]; that he saw them coming towards the river, but they turned back[57]; that he recognized Jose Alviar by the lighted post near the bank of the river[58]; that he saw only one banca at that time between the boundary of the premises of Peping Garcia and Jose Alviar[59]; that after he saw the three coming, he went home[60]. On cross examination he admitted that he never narrated or reported what he saw to the police[61]; that he was investigated in the National Bureau of Investigation[62] and in the Municipal Court of Pateros[63]; that the signature in Exh. "5" was his; that the banca was owned by Pepe Garcia[64]; that he could not remember what Jose Alviar and the woman were wearing[65]; and that he could not remember if he had a wristwatch at that time[66].

Asuncion Dayco Ymson, the prosecution's seventh witness testified on direct examination that Dolores was her daughter; that the relationship between Dolores and Jose was good before they begot children, but after they had children the relationship became different[67]; that she saw only once Jose boxing Dolores[68]; that the spouses Jose and Dolores had separated twice[69]; that on one occasion, Jose tried to make Dolores drink iodine[70] for which reason Dolores went to see Dr. Borja who advised her to go to the hospital[71]; that Dolores knew how to swim[72]; that the last time she saw Dolores alive was on a Thursday when she was fetched in a tricycle by Jose Alviar at night; that on the following Sunday, her brother-in-law informed her that a certain woman was found

dead in West Rainbow[73]; that she never saw Jose again except two days later, at 4:00 o'clock a.m. when she saw him inside her compound standing on top of the septic tank and trying to peep through the room where they used to sleep[74]; that she saw the body of Dolores when it was exhumed from the Makati cemetery[75]; and that she identified the clothing of Dolores at the National Bureau of Investigation[76]. On additional direct examination, she identified the clothing.[77]

On cross examination, she admitted that he hated Jose for harming her daughter[78]; that during all the time that Dolores and her children were in Mindanao, Jose Alviar used to send P60.00 a month[79]; that when they returned, Jose brought his wife and children to the Tuazon apartment in Herrera St., Pateros[80], where they lived until their house was constructed; that she inquired from her daughter why she was forced to take iodine and her daughter answered that that was her problem[81], and that after that incident, Jose brought Dolores to the Rizal Provincial Hospital[82] that sometime in July 1964, she chased her daughter Dolores who was knee-deep in the river[83]; that she was informed that if her daughter committed suicide, she would not get anything out of the deceased's insurance policy[84].

Virgilio Pabalan, the prosecution's eighth witness testified on direct examination that he was an autopsy attendant of the medico-legal division, National Bureau of Investigation; and identified the duster (Exh. "I-1") and a mutilated panty (Exh. "I-2") that was given to him by Dr. Ricardo Ibarrola.[85]

Generoso Dangca, fingerprint examiner of the National Bureau of Investigation, testified on direct examination that Dactiloscopic Report FP65-231 (Exhibit "D-1") was his report; that he took the fingerprints (Exh. "D-1-A") of the unknown cadaver, compared them with finger prints on file with the Election Registrar of Pateros, Rizal, and found it identical with those of Alviar, Dolores Dayco.

Ernesto Manalo[86], a tricycle driver, testified for the prosecution that he knew the spouses Jose and Dolores[87]; that early in the morning of November 5, 1965, at about 1:35 o'clock a.m. he went to the Pateros River to move his bowels; that while so doing he saw a woman, Dolores Alviar, being placed in a banca by two men whom he did not know[88]; that the woman was being forced to make steps and her hands were hanging downwards[89]; that the woman's right hand was resting on the shoulders of one of the men and the other was supporting her waistline[90]; that the men rode in the banca and paddled away[91], while Dolores was lying down[92]; that he was investigated by the National Bureau of Investigation in connection with the case[93]; that he was forced to give a statement to the NBI but it was Atty. Lasal who gave the answers in that statement[94]; that he was ordered to state in his previous statements that he recognized one of the men as Jose Alviar[95].

On cross examination, witness Ernesto Manalo admitted that he was taught in the house of Mr. Young what to testify[96]; that he was told to tell even lies to the NBI[97]; that it was Fiscal Sarmiento who forced him to identify Jose Alviar[98]; that he was always accompanied by a policeman or bodyguard paid by Mr. Young[99]; that he was also accompanied by that policeman to the National Bureau of Investigation[100]; that what he said before that he saw a woman placed in a banca by two men was not true and that he was told or taught only to say so[101], that the truth was that he did not see the woman[102] and that he lied to the court[103]; that he corrected what he said before because he could no longer bear the burden suffered by his conscience[104]; that Mr. Young paid all the witnesses[105], namely, Loida Buenaventura who was given money weekly by Mr. Young[106]; Damaso Cruz was paid P2,000.00[107], Crisanto Gonzales was paid P700.00[108]; that he was present when the money was given to them by Mr. Young[109]; that Mr. Young was the owner of Philippine Iron Works and married to a cousin of Dolores Alviar[110].

Emiterio Manalo, of the National Bureau of Investigation, and the prosecution's eleventh witness, testified on direct examination that he was the one who investigated Ernesto Manalo at the NBI on November 29, 1965; that

Ernesto gave a statement (Exh. "J") and the signature and thumbmark thereon were Ernesto Manalo's[111]; that he typed the questions; that he NBI agent Benjamin Antonio propounded the questions[112]; and that Atty. Lasal, who accompanied Ernesto Manalo, did not interfere with the investigation[113].

The evidence for the defense follows:

Lydia Castillo, first defense witness and employee of Rizal Provincial Hospital, identified Exhibit 6, "Temporary Medical Certificate[114] and Exhibit "9" "Outside Patient's Record Card" of Dolores Alviar.[115]

Perpetuo Garcia, another defense witness residing at G. Sexon-Street, Pateros, Rizal, testified on direct examination, that he knew Jose Alviar, Damaso Cruz, and Loida Buenaventura[116]; that his house was fenced, with a locked gate, and that he had a big dog which he did not hear barking between 1:00 and 2:00 a.m. of November 5, 1965[117]; that he did not remember having heard any noise in the house of Jose Alviar at about 1:00 o'clock a.m. of November 5, 1965[118]; that he slept 9:00 o'clock p.m. on November 4, 1965 and woke up at 12:30 o'clock in the morning of November 5, 1965[119]; that he slept again at about 2:00 o'clock a.m. and woke up at a bout 4:00 o'clock a.m.[120]; that he did not know anything about a post with electric bulb at the back of his house as testified to by Damaso Cruz[121]; that in December, 1965, Loida Buenaventura told him that she would testify against Jose Alviar and would be paid by a Chinaman who was the husband of a cousin of Dolores Alviar[122]. On cross examination, he said that he did not remember anything unusual that took place on November 5, 1965[123].

The appellant Jose Alviar Tuazon, testified on direct examination that the late Dolores Alviar was his wife[124]; that on May 22, 1964 he received a letter (Exhibit "10") from his wife; that in July 1964, his wife went down the river beside the apartment where they were residing, and was already knee-deep in the water when he caught up with her, and that after that he recalled the contents of Exhibit "10" that his wife intended to commit suicide[125]; that on August 27, 1964, he received from his wife another letter (Exhibit "11") wherein his wife charged him with having relations with another woman[126]; that in November, 1964, his wife went to Bambang Bridge, and when he found her, his wife told him, that she did not succeed in committing suicide because when she was about to slip, she saw a policeman and she became afraid[127]; that on February 21, 1965, he received another letter (Exhibit "12") from his wife and on March 6, 1965, his wife took iodine[128], because she was jealous[129]; that he brought his wife to the hospital where she was given emergency treatment[130]; that the attending physician advised him to submit his wife to physical therapy in the National Mental Hospital[131] and a medical certificate, Exhibit "6", was issued; that in the evening of November 4, 1965, he arrived at his home between 6:30 and 7:00 o'clock; that his wife, who was living with his mother-in-law, arrived at their house with a bowl of noodles; that his wife refused to dine with him; that later his wife began looking for a notebook and umbrella, which she was unable to find; that in the discussion then ensued, his wife accused him of living with another girl, which he denied; that after that she hang her clothes and went to sleep ; that at about 2:00 o'clock a.m. of November 5, 1965, his wife told him that she would go down for personal reasons, but he did not mind her and he continued to sleep; that thirty minutes later he found out that his wife was gone; that he looked for her in their room and downstairs[132]; that he never talked to Loida Buenaventura in the early morning of November 5, 1965; that there was no "kalabugan" in his house at 1:00 o'clock a.m. of November 5, 1965[133]; that he never hit his wife; that there was no light at the back of the house of Perpetuo Garcia; that he never went out of his house with a woman on that date[134]; that it was not true that on that night, Dolores left the house and he followed her[135]; that he was not able to locate his wife in the morning of November 5, 1965; that when he came from work the next day, he did not find his wife at home so he looked for her all around the place, and in the place of his mother-in-law[136]; that Mrs. Dayco saw him on November 5, 1965 standing on the septic tank at her house[137]; and that he did not go inside the house because he was not in good terms with his

mother-in-law[138].

On cross examination, the accused admitted that his wife knew how to swim a little[139]; that in May, 1953, his wife filed a case against him for slight physical injuries in the Municipal Court of Pateros to which he pleaded guilty (Exhs. K and K-1)[140]; that his wife filed a complaint against him for support when they were separated[141]; that on November 7, 1965 he went, on the advice of a relative, to the National Bureau of Investigation, to identify the body or the personal belongings of his wife, and he identified the dress[142]; that he was investigated by the National Bureau of Investigation before the case was filed against him[143]; that he informed the National Bureau of Investigation that his wife was missing[144]; that he was informed where the body was and he went to the cemetery where she was interred[145]; that he informed orally the caretaker of the cemetery that he intended to exhume the cadaver, but he was informed that there was another ahead of him and he found out that there was already a certificate for transfer of the remains[146]; that he reported that his wife was missing to the relatives of his wife, parents and the police of Pateros on November 6[147]; that he wanted to attend the funeral, but the Chief of Police prevented him.[148]

The trial court believed the prosecution's witnesses and having previously dismissed the case against the co-accused. Antonio Cotas, rendered its decision, finding appellant guilty of the crime of parricide, sentencing him to suffer the penalty of Reclusion Perpetua and to indemnify the heirs of the deceased in the sum of P12,000. From this decision, appeal was interposed to this Court.

In his brief, appellant assigned the following errors, to wit: that –

"I. The lower court erred in the appreciation and application of the rule on conspiracy, circumstantial evidence and procedure;

"II. The lower court erred in considering the testimony of the prosecution witness Ernesto Manalo as retraction and sentenced him to suffer thirty (30) days imprisonment for contempt; and

"III. The lower court erred in convicting the accused based on circumstantial evidence."

I. In support of his first assigned error, appellant argued that the information alleged confederation and conspiracy between him and his co-accused Antonio Cotas, in the commission of the crime charged, patently, due to the impossibility under the circumstances prevailing, for one man alone to commit the crime; that when the alleged co-conspirator was acquitted, the allegation of conspiracy necessarily failed, for the simple reason that there could be no conspiracy unless at least two are united in a criminal design[149]; that consequently appellant must also be acquitted.

The first assigned error that because conspiracy between appellant and his co-accused Cotas was alleged, the acquittal of his co-accused Cotas must necessarily result in the acquittal of the appellant cannot be seriously defended. It is to be noted that the two accused were not charged with conspiracy as a distinct and separate offense. Conspiracy was alleged in the information as one of the means in the commission of parricide. Evidence of conspiracy in the commission of the offense may be wanting, but, from that it does not necessarily follow that there cannot be sufficient evidence regarding the commission of the crime charged.

II. Appellant's second assignment of error was that the court erred in considering the testimony of prosecution witness Ernesto Manalo as retraction and in sentencing him to suffer 30 days imprisonment for contempt. We do not think that the trial court committed an error in finding Ernesto Manalo guilty of direct contempt, for he gave false testimony while acting as a witness, and his misbehavior was committed in the presence of or so near the judge or court, as to obstruct the proper administration of justice. The punishment meted against Ernesto Manalo of imprisonment for 30 days was, however, excessive for according to Section 1 of Rule 71 of the Rules of Court,

direct contempt is punishable by fine not exceeding two hundred pesos or imprisonment not exceeding ten (10) days, or both, if it be committed against a superior court or judge thereof; or by fine not exceeding ten pesos or imprisonment not exceeding one (1) day, or both, if committed against an inferior court.

III. Appellant complained in his third assignment of error that the trial court convicted him on the basis of circumstantial evidence and argued that the court erred in saying that the evidence for defense consisted merely of the denial of the accused; that the accused's theory of suicide was flimsy for the suicidal letters Exhs. 10, 11, and 12 were not theories but facts; that the three attempts of the deceased to commit suicide as borne by the evidence and admitted by the mother of the deceased, Asuncion Dayco Ymson, were neither mere theories but facts; that the appellant was made to answer for the crime by the mother-in-law because of her demonstrated loathe against him and her fear that she would not receive the proceeds of the insurance policy if the deceased committed suicide; and that there are many missing links in the circumstantial evidence presented by the prosecution.

Appellee contended that appellant's guilt of the crime charged had been sufficiently and satisfactorily established by the prosecution witnesses, as evidenced by the trial court's decision.

We believe that, candidly considering all the evidence presented by both the prosecution and the defense, appellant's guilt has not been proved beyond reasonable doubt. Our conclusion is based on the following reasons:

1. First, some facts and circumstances of weight and influence have been overlooked by the trial court; their significance has been misinterpreted; and the prosecution's evidence suffered from an inherent fatal weakness. We have noticed in the transcript of stenographic notes that the testimonies of the prosecution witnesses as to the vital incidents that constituted, according to the trial court, the chain of circumstantial evidence pointing to the accused as the perpetrator of the crime charged, are so surprisingly harmonious and fitting with one another, such that not even the slightest inconsistency can be detected in them. Such perfect dovetailing of the witnesses' testimonies cannot but generate a suspicion that the various material circumstances the prosecution witnesses testified to were integral parts and parcels of a well thought of and prefabricated story. The prosecution witnesses appear to have been willing pupils diligently instructed on how to make their several testimonies fit in with each other. In other words, the testimonies have the earmarks of a manufactured story which clearly appear upon scrutiny of the facts which the court held to have been proven by the prosecution. We quote hereunder the very words of the trial court, but with such insertions from the transcript and context that show how perfectly they fit each other, to wit:

"The accused and the victim had not been living harmoniously as husband and wife having quarreled on several occasions and even leading to separation and filing of a criminal case against the accused; x x x On November 4, 1965, at about 9:00 o'clock in the evening," (as testified to by Loida Buenaventura) "the accused and the victim quarreled and the latter threatened the former that she will go home to her mother's house but the accused dared her not to go saying 'huwag kang maka-alis-alis' with threats that should she go, something would happen. Between 1:00 and 2:00 (o'clock) in the early morning of November 5, 1965 the victim was seen (by Loida Buenaventura) "coming out of their gate going to the street and followed by the accused a minute later." (It so happened at that very moment) that "witness Crisanto D. Gonzales" (who was then going home from a gambling den which he left at about 1:00 a.m. of November 5, 1965) "saw the victim walking towards the direction of her mother's house but the accused caught up with her. The accused pulled the victim's hair and twisted her hand and forced her to go back to their house. Upon reaching home, the accused pushed the victim against the door causing the victim to fall in a prone position (pasubsub). The quarrel continued and a loud sound (kalabog) was heard followed by the moaning of the victim. [This "kalabog" or loud sound was also heard by Damaso Cruz on his way home from the gambling place which he left between 1:00 and 1:15 a.m., November 5, 1965] [Between 1:00 to 2:00 o'clock a.m., the following day as testified to by Loida Buenaventura] "the accused was seen coming out of their house with the victim on his shoulder but went back inside the house upon noticing Loida Buenaventura still

awake and was in her house. On the same early morning, witness Damaso Cruz [who, as said earlier left the gambling place between 1:00 and 1:15 o'clock a.m. of November 5, 1965, providentially and luckily had stomach ache, entered the premises of Peping Garcia, and went near the river to move his bowels] "saw the accused and another unidentified man carrying in-between them an apparently unconscious woman. He categorically identified the accused as one of the men referred to. He recognized the accused as they knew each other very well having lived together in the same locality and considering that there was an electric light at the time." [The other prosecution witness, Ernesto Manalo, providentially and coincidentally also went at about 1:35 o'clock a.m. of November 5, 1965 to the Pateros River to move his bowels and there saw two men carrying the deceased Dolores.] [At about dawn of November 5, 1965] "witness Loida Buenaventura, [who did not throw garbage on November 4, 1965 (TSN, January 16, 1967, p. 82)] while disposing of some human waste into the river, saw the accused near the bank with a flashlight focused at the bank. Bothered perhaps by his conscience and to be sure that the witness did not see him, the accused asked the witness [Loida Buenaventura] whether she noticed something at about 3:00 a.m. x x x"[150] After having read the above should we not at this juncture take stock that while circumstances cannot lie, they can be feigned, invented, distorted, half-stated, misapplied, mistaken or lied about with most infernal skill?

The times and occasions when the various prosecution witnesses entered the chain of events also surprisingly fitted one another. Loida Buenaventura admitted that she did not have a clock or even a wrist watch in her house[151]; that she could not exactly calculate one hour[152]; yet her guess as to the time when the quarrel of the spouse began, even her guess regarding the length of time she slept, her guess of the time Dolores went out to the street followed by the appellant, her guess of the time she heard the "kalabog" or loud sound, her guess as to the time that she allegedly saw the accused coming out of the house with the victim on his shoulder, so perfectly dovetailed with the witness Crisanto D. Gonzales' leaving the gambling den and reaching the appellant's house, and, with Damaso Cruz's leaving the gambling den and moving his bowels when he allegedly saw two men carrying the victim. The time pieces used by Crisanto and Damaso must have been perfectly synchronized with Loida's guesses. In this connection, it is enlightening to recall that "where a witness undertakes to swear positively from mere memory to the fraction of hours or to minutes, we may well distrust his testimony and doubt his sincerity." [153]

We also note that the prosecution witnesses had tenacious memories not only as to time, but also as to vital incidents constituting the chain of circumstantial evidence relied upon by the trial court, but were extraordinarily forgetful of, or inattentive to, incidental matters. This begets suspicion of veracity[154]. Thus the record shows that even if Loida Buenaventura claimed to have seen the appellant at least six times from 9:00 o'clock p.m. of November 4 to dawn of November 5, she could not remember what the appellant was wearing[155]; she did not notice the color his pants and dress[156]; she did not notice whether he was wearing pajamas or undershirt[157] or whether he had any footwear or not[158]. Loida likewise saw the deceased that night four times, but she was completely unobservant and/or forgetful of what Dolores was wearing. She testified that she did not notice what Dolores was wearing[159]; that she did not know the color of her dress[160]; and that she did not notice whether she had any footwear[161.] Loida did not even relate what she saw to her husband who arrived at 4:00 o'clock a.m. of November 5, 1965.

The timing of Crisanto B. Gonzales' role perfectly fitted with that of Loida Buenaventura. Crisanto B. Gonzales left the gambling place at 1:00 a.m.[162] of November 5, 1965; he walked for two minutes to cover a distance of only six or seven meters[163] to the place where he urinated[164]; then he started walking home reaching the neighborhood of appellant's house exactly in time to see Dolores running towards the house of her mother and followed by appellant. His timing was thus perfectly synchronized with that of Loida Buenaventura. He was very sure of the time he left the gambling house[165] even if he did not have a timepiece at that time[166]. He was

cocksure not only of the time but also of the incident he saw; but he did not notice whether the appellant was wearing footwear; he did not notice the color of his pants[167] and did not even remember the name of the street where the gambling house which he said he frequented everyday from its establishment was located[168]. He did not even know the name of the street where the appellant lived.[169]

Prosecution witness Damaso Cruz likewise fortunately left the gambling place between 1:00 o'clock 5 and 1:15 o'clock a.m. of November 5, 1965[170] and he already had stomach ache when he left[171]; he passed by the house of appellant just in time to hear the "kalabugan" testified to by Loida Buenaventura, and after hearing the loud noise, providentially desired, only at that time, to move his bowels, so he entered the premises of Peping Garcia, went near the river to move his bowels[172] and while doing so, what a coincidence again! he saw three persons, a woman in the middle to two men[173], and recognized the appellant as one of them[174] and after that he went home.

Again Damaso Cruz was very positive as to his testimony about the time, although he himself testified that he did not have a watch at that time.[175] He was also very positive as to the material incidents he testified to but very evasive, unobservant and forgetful of the incidental matters. He could not tell what the appellant and the other man he allegedly saw were wearing[176]; he did not notice whether they were wearing footwear[177]; he could not remember whether he narrated what he saw to his wife and children or to the police[178]; he could not even remember if that was the first time he entered Peping Garcia's premises[179]; and neither could he remember at what time he arrived at the gambling placer[180].

The other vital prosecution witness, Ernesto Manalo, at about 1:30 o'clock a.m. of November 5, 1965¹⁸¹ also answered the call of nature at the Pateros River just in time to see two men and Dolores Alviar¹⁸². Such a close and minute agreement of the testimonies of the witnesses for the prosecution induces suspicion of confederacy and fraud.[183]

Apropos of the prosecution witnesses having testified only to material facts and having been forgetful or non-committal with particulars and details having relation with the principal facts, it has been said that "it often happens with fabricated stories that minute particulars have not been thought of"[184] and "it is observed in courts of justice that witnesses who came to tell a concerted story are always reluctant to enter into particulars, and perpetually resort to shifts and evasions"[185]. It has also been said that "an honest witness, who has sufficient memory to state but one fact, and that fact a material one, cannot be safely relied upon as such weakness of memory not only leaves the case incomplete, but throws doubt upon the accuracy of the statements made. Such a witness may be honest, but his testimony is not reliable.[186]

2. Second, the testimonies of the prosecution witnesses are suspicious not only because of their absolute concurrence and dovetailing as to principal points and paucity of particulars and details, but also because there was evidence that said witnesses were paid and were taught what they should testify. Prosecution witness Ernesto Manalo testified that he was brought to the house of Mr. Young, together with Atty. Lasal and a Fiscal, that he was told that even if he did not know anything about the incident, he should make a statement or testify, and that he should tell what he was - taught to tell[187]. He also testified, upon the court's questioning, that he declared only that which he was taught to testify.[188] He furthermore testified in open court that Mr. Young paid all of the witnesses, Crisanto Gonzales, Damaso Cruz and Loida Buenaventura[189]; that Loida Buenaventura was given money weekly by Mr. Young; that Crisanto Gonzales was paid P700.00; and that Damaso Cruz was paid P2,000.00, and that he was present when the money was given to the witnesses[190]. Were these big amounts paid to the prosecution witnesses to make them testify to the truth, the whole truth, and nothing but the truth? That the witnesses were paid was corroborated by Perpetuo Garcia who testified that Loida Buenaventura told him in December 1965 that she would testify against the appellant and that for doing so she would be paid by a

Chinaman who was the husband of a cousin of the deceased Dolores Alviar[191]. Even Loida Buenaventura herself corroborated it when she admitted that on several occasions she rode in the car of Mrs. Young.[192] Prosecution witness Ernesto Manalo also testified that he was taught what to testify. Were not those big sums of money given also for that purpose, that said witnesses should testify what they were taught to? If not, how can the incredible dovetailing of the prosecution witnesses testimonies be explained? Noteworthy is the fact that the prosecution did not even make an attempt to rebut such payments to the witnesses.

3. Third, there is another fatal infirmity in the prosecution's evidence. The facts considered by the trial court as having proved appellant's guilt do not show that it was impossible that the deceased might have died because of accident or because she committed suicide.

From the results of the autopsy as testified to by Dr. Ibarrola, the deceased died from asphyxia caused by drowning. The results of the autopsy would not vary, according to Dr. Ibarrola, whether the deceased committed suicide, or she was drowned by another, and it may be added even if her death was due to an accident. Anent this matter it has been said that in case of grown-ups, medical evidence will not be able to tell whether a death which occurred by drowning was due to accident, suicide, or homicide.[193]

There is likewise no proof of the motive that might have impelled the appellant to commit the alleged parricide. Generally, proof of motive is not necessary to pin a crime on the accused if the commission of the crime has been proven and the evidence of identification is convincing; however, where the proof of identification is not convincing, the proof of motive is necessary[194].

4. Fourth appellant's theory and defense that the deceased committed suicide cannot be brushed aside, as the trial court did, as flimsy and improbable, for first, according to the results of the autopsy, there were no indications of foul play in the deceased's body there being no wounds and no injuries in the whole skeletal framework, and no ante mortem contusions or abrasions; and second, there are important facts and circumstances that tend to prove that the deceased's death might have been suicidal, namely: the presence of motivational factors, the suicidal notes, and the suicidal attempts.[195]

Disappointment in love as well as loss of money, mental depression and psychopathic tendencies, among others, may be sufficient motives for suicide.[196] It is undisputed, as testified to not only by the appellant but also by prosecution witness Loida Buenaventura[197], that the deceased Dolores was a very jealous wife. In fact the quarrel on that fateful night of November 4 was caused by jealousy, about an umbrella and notebook which Dolores claimed she left in their house[198], and not being able to locate them, Dolores said that the umbrella and notebook might be with Jose's girl[199] and Dolores accused Jose of living with another girl[200].

There are also suicidal notes and suicidal attempts. It should be noted at the outset that the methods of communicating suicidal ideas vary. There may be direct statement of an intent to commit suicide or a wish to die, or mere vague statements showing preoccupation with death, suicide, and methods of suicide. Any expression of defeat, despair, hopelessness, or a wish to disappear should serve as a warning of a suicidal risk.[201] Generally, a suicide note does not contain specific details of the suicidal act. The suicide seems more intent on other things such as provisions for the family and loved ones, instructions, requests and the like.[202]

Now to the suicidal notes and attempts. The first suicidal note on the record is Exhibit "10", a letter written on May 22, 1964 by the deceased to her husband, Jose, which reads in part as follows:

"Dear Peping,

As a wife it is my duty to give you happiness although it calls for life taking. I never deem that x x x you have another woman whom you can never part with. You valued her at the expense of my love for you. I know

before hand that I'm really worthless to you, but I tried to gamble my love for you with the hope that I can make you love me for the sake of the children. But that I have experienced only false forced love. So my hope is in vain.

Peping, from this time you are free x x x I know that you are tired seeing me, but only wait until I have enrolled Boy and see them go to school for a week. After this you will not see me in town.

I'll just part giving you complete happiness x x x Please don't forget only to give your care for Baby & Boy . x x x

Loleng"

The letter shows clearly the deceased's disappointment in her love for her husband, her jealousy, her defeat, hopelessness, a wish or threat to disappear, and a request that Jose love their children. These are various nuances of communicating suicidal ideas. What Dolores meant by "life taking", "not seeing her in town" in that letter of May 22, 1964 became clear in July 1964[203], when she attempted to commit suicide by going down the river beside the apartment where they were residing but was unable to consummate the suicide for her husband caught up with her. This attempt was testified to by the accused[204] and corroborated by Dolores' mother[205].

The second suicidal note was another letter dated August 27, 1964 (Exhibit "11") which reads in part thus:

"Dear Peping,

With my departure, I have come to know that you are ashamed of me in public, ... I'd like to help you give an ease to your situation. I don't like to be a hindrance to your happiness. In case you are really with another woman, who will really make you happy, just tell me the truth and you will not hear anything from me. I have sacrifice twelve years away from you and I think I can manage to carry and risk it yet. For if we shall stay together and your feeling is with another woman or your heart belongs to another, our life will only be in grief ...

P.S.

Although it is painful to part with you ... I'll try once to close my eyes just to make you happy ... Remember that I have tried to regain my love to you. I'll always love and care for you although I know that there is some one more precious to you.

Same
Loleng"

This letter shows the woman's defeat, disappointment and despair because her love has been unrequited, and shows her intention to ease the situation of the husband she loves.

What did Dolores intend to do to ease the situation of the husband? The record gives the answer. In November, 1964, Dolores went away from their house, and went to Bambang Bridge, in the northeast of Pateros, Rizal, and when the husband found her, she informed him that she did not succeed in committing suicide because she was afraid of a policeman who saw her.[206]

Again on February 21, 1965, Dolores wrote another letter (Exhibit "12") which in part reads thus:

"Dearest Peping,

I hope you will forgive me if my going to see you in Pampanga is a disturbance to you. I never thought that you will be embarrassed.

From this time on, you will never hear anything from me ... Just remember that I love you and it is my

happiness to see you happy with any body.

Here is only my pleadings. If time does not warrant my life, please don't forget to educate Baby and Boy. Please love them in spite that you don't love me. I'm sorry that I lack the virtue that you like to see and love another ladies.

My good luck for you & may God bless you. Cheer up with your happiness.

Love & regards to you,

Loleng"

Another suicidal note showing a desire to die, hopelessness, and making instructions and requests!

A few days later, that is on March 6, 1965, she gave the meaning by her overt acts to what she meant by "if time does not warrant her life" and "he would never hear anything from her again." How tragic jealousy can be? She drank iodine, but was saved by the timely intervention of the accused.[207] This incident was corroborated by the deceased's mother.[208]

If Dolores tried to commit suicide in those three instances because of jealousy, was it not then probable that she also could have tried to commit, and succeeded in committing it also because of jealousy, on November 5, 1965? Anent this matter it has been said that a decedent had made one or more previous suicidal attempts is often relied by courts to sustain a verdict of suicide.[209]

5. Fifth, We do not agree with the trial court's reason in disbelieving appellant's testimony and defense. One of those reasons was that appellant's acts after his wife was gone were unnatural and indicative of a bothered conscience. The trial court's conclusion would be plausible if it is assumed that appellant was guilty. But that was the factum probandum, and it could not and should not be assumed. Appellants's acts in fact could very well be consistent with his innocence. Assuming that he was innocent, and assuming that it was true that at dawn of November 5, 1965 he was at the river bank with a flashlight focussed at the river, it cannot be said unnatural for a husband to look for his wife who slipped away at 3:00 o'clock a.m. and who might have again gone to the river to commit suicide as she had done before. The trial court also considered strange the appellant's asking Loida if the latter noticed something at about 3:00.a.m. Assuming that to be true, was it not compatible with accused's innocence to look for his wife, to ask others, especially the neighbors, if the latter had seen her, she having slipped away at 3:00 o'clock? Is it strange for a husband to ask a neighbor such question? That the accused was seen sneaking into the house of his mother-in-law two days later could again be compatible with the accused's innocence. His wife was missing. He did not know where she was and he was looking for her. Was it strange then that appellant might have thought that she went home to her mother and might be hiding there? If this was not strange, why should it be strange that the appellant looked for her in that house?

Furthermore, the trial court could not believe that Dolores committed suicide because Dolores, according to the appellant, woke up appellant at 2:00 o'clock a.m. The trial court said that "if it is true as claimed by the accused and as the defense would have this Court to believe that the deceased committed suicide, the deceased would not have warned him, much more wake him up and ask for his permission to go downstairs for a while if her purpose then was really to give end to her life." It is to be noted that according to the record, at about 2:00 o'clock a.m. of November 5, 1965, Dolores told appellant that she would go down for personal reasons.[210] Dolores did not warn the accused that she would commit suicide – she said that she was going down for personal reasons. And even if the "personal reasons" meant "to commit suicide," still We find no improbability in a would be suicide to tell another her intention, perhaps in order to arouse the husband's sympathy.[211]

The trial court believed that the deceased was a victim of foul play. This opinion is not in accordance with the

findings of the National Bureau of Investigation's medico-legal officer Dr. Ibarrola who found no injury in the whole skeletal framework including the skull, and no signs of ante mortem contusions and abrasions.

Another reason advanced by the trial court for not believing that the deceased committed suicide was that she knew how to swim. But Dr. Ibarrola, when asked whether a person who knows how to swim may drown, categorically answered that such a person can also kill himself by drowning, that even if a person knows how to swim, the tendency of the body is to go down the water.

WHEREFORE, We conclude that the prosecution's evidence has not proved beyond reasonable doubt appellant's guilt of the crime charged. The decision, therefore, of the Court of First Instance of Rizal, dated October 8, 1969, in its Criminal Case No. 15358 is set aside, and the appellant is hereby acquitted of the crime charged. The bond filed for the provisional liberty of appellant is ordered cancelled. Costs de officio.

SO ORDERED.

Fernando, Barredo, Fernandez, and Aquino, JJ., concur.

Antonio, J., took no part.

[1] TSN, December 14, 1955, p. 5.

[2] Ibid., p. 8.

[3] Ibid.

[4] Ibid., pp. 27-28.

[5] Ibid., p. 28.

[6] TSN, January 16, 1967, p. 4.

[7] Ibid., pp. 9-10.

[8] Ibid., p. 12.

[9] Ibid., p. 14.

[10] Ibid., p. 15.

[11] Ibid., pp. 17-18.

[12] Ibid., pp. 18-19.

[13] Ibid., p. 20.

[14] Ibid., p. 22.

[15] Ibid., pp. 22-23.

[16] Ibid., pp. 24-25.

[17] Ibid., pp. 28-29.

[18] Ibid., p. 30.

[19] Ibid., pp. 32-33.

- [20] Ibid., pp. 33-34.
- [21] Ibid., pp. 38-39.
- [22] Ibid., pp. 51-53.
- [23] Ibid., pp. 53-55.
- [24] Ibid., pp. 56-57.
- [25] Ibid., pp. 60-61.
- [26] Ibid., p. 101.
- [27] Ibid., p. 101.
- [28] Ibid., p. 112.
- [29] Ibid., p. 119.
- [30] Ibid., pp. 122-123.
- [31] Ibid., pp. 143-144.
- [32] TSN, February 8, 1967, p. 11.
- [33] Ibid., pp. 14-15.
- [34] Ibid., p. 15.
- [35] Ibid., p. 25.
- [36] Ibid., p. 26.
- [37] Ibid., p. 30.
- [38] Ibid.,
- [39] Ibid., pp. 43-44.
- [40] Ibid., p. 46.
- [41] Ibid., p. 49.
- [42] Ibid., pp. 51-52.
- [43] Ibid., p. 62.
- [44] Ibid., p. 64.
- [45] Ibid., p. 65.
- [46] Ibid., pp. 67-68.
- [47] Ibid., pp. 69-70.
- [48] Ibid., p. 86.
- [49] Ibid., p. 89.
- [50] TSN, March 7, 1967, pp. 8-9.

- [51] TSN, March 7, 1967, p. 33.
- [52] TSN, March 7, 1967, p. 42.
- [53] Ibid., p. 45.
- [54] Ibid., p. 46.
- [55] Ibid., p. 47.
- [56] Ibid., p. 49.
- [57] Ibid., p. 50.
- [58] Ibid., p. 51.
- [59] Ibid., pp. 51-52.
- [60] Ibid., p. 52.
- [61] Ibid., p. 54.
- [62] Ibid.,
- [63] Ibid., p. 57.
- [64] Ibid., p. 68.
- [65] Ibid., pp. 69-70, 95.
- [66] Ibid., p. 72.
- [67] TSN, March 7, 1967, pp. 102-103.
- [68] Ibid., p. 105.
- [69] Ibid., p. 113.
- [70] Ibid., pp. 116-117.
- [71] Ibid., p. 118.
- [72] Ibid., p. 122.
- [73] Ibid., p. 124-126.
- [74] Ibid., p. 127.
- [75] Ibid., p. 129.
- [76] Ibid., p. 132.
- [77] TSN, April 18, 1967, p. 44.
- [78] TSN, May 24, 1967, p. 7.
- [79] Ibid., p. 14.
- [80] Ibid., p. 15.
- [81] Ibid., pp. 23-24.

[82] Ibid., p. 26.

[83] Ibid., p. 32-33.

[84] Ibid., p. 38.

[85] TSN, April 18, 1967.

[87] TSN, Sept. 12, 1967, p. 4.

[88] Ibid., pp. 8, 20.

[89] Ibid., p. 20.

[90] Ibid., p. 20.

[91] Ibid., p. 24.

[92] Ibid., p. 26.

[93] Ibid., p. 10.

[94] Ibid., pp. 18-19.

[95] Ibid., p. 33.

[96] TSN, October 16, 1967, pp. 3-4.

[97] Ibid., p. 4.

[98] Ibid., p. 4.

[99] Ibid., p. 5.

[100] Ibid., p. 6.

[101] Ibid., p. 8.

[102] Ibid., p. 8.

[103] Ibid., p. 9.

[104] Ibid., p. 9.

[105] Ibid., p. 9.

[106] Ibid., p. 10.

[107] Ibid., p. 10.

[108] Ibid., p. 10.

[109] Ibid., p. 9.

[110] Ibid., pp. 10-11.

[111] TSN, November 22, 1967, pp. 17-18. The trial court having observed the manner Ernesto Manalo testified noted his apparent mendacity, hence his testimony was entirely disregarded for being incredible and unbelievable. Exhibit "J" was rejected by the Court insofar as to the truth of what is stated therein, but admitted it as a part of the testimonies of Ernest Manalo and NBI agent Emitterio Manalo.

[112] Ibid., p. p. 10.

[113] Ibid., p. 15.

[114] TSN, September 2, 1968, p. 8.

[115] Ibid., p. 12.

[116] TSN, November 12, 1968, pp. 2-4.

[117] Ibid., p. 5-6.

[118] Ibid., pp. 7-9.

[119] Ibid., p. 11.

[120] Ibid., pp. 12-14.

[121] Ibid., p. 15.

[122] Ibid., pp. 17-21.

[123] Ibid., p. 38.

[124] TSN, December 18, 1968, p. 2.

[125] Ibid., pp. 6-11.

[126] Ibid., p. 15.

[127] Ibid., p. 16-18.

[128] Ibid., pp. 21-26.

[129] Ibid., p. 28.

[130] Ibid., p. 32.

[131] Ibid., pp. 33-34.

[132] Ibid., pp. 37-44.

[133] Ibid., pp. 45-46.

[134] Ibid., pp. 47-48.

[135] Ibid., pp. 49-50.

[136] Ibid., pp. 54-55

[137] Ibid., p. 65.

[138] Ibid.

[139] TSN, February 19, 1969, p. 32.

[140] Exhibits K & K-1 were rejected by the Court for being immaterial in the case in issue, TSN, Nov. 22, 1967, p. 57.

[141] TSN, February 19, 1969, pp. 42-43.

142 Ibid., pp. 49-56, 61-63, 78-82.

[143] Ibid., p. 60.

[144] Ibid., p. 63.

[145] Ibid., pp. 64-65.

[146] Ibid., pp. 68-69.

[147] Ibid., pp. 70-71.

[148] Ibid., pp. 75-76.

[149] Brief for the Appellant, pp. 7-12.

[150] Record, pp. 36-37.

[151] TSN, January 16, 1967, p. 60.

[152] Ibid., p. 60.

[153] Moore, A Treatise on Facts, Vol. III, p. 988.

[154] Moore, A Treatise on Facts, Vol. II, p. 1196.

[155] TSN, January 16, 1967, p. 56.

[156] Ibid., p. 56.

[157] Ibid., p. 105.

[158] Ibid., p. 57.

[159] TSN, January 16, 1987, p. 74.

[160] Ibid., pp. 101, 123.

[161] Ibid., p. 100.

[162] The records says 11:00 o'clock a.m., but the trial court puts it at 1:00 a.m., TSN, December 14, 1966, pp. 4, 8, 10, 16.

[163] TSN, December 14, 1966, p. 17.

[164] Ibid.

[165] Ibid., p. 12.

[166] Ibid., p. 11.

[167] Ibid., p. 50.

[168] Ibid., p. 18.

[169] Ibid., p. 5.

[170] TSN, March 7, 1967, p. 41.

[171] Ibid., p. 81.

- [172] Ibid., pp. 44-45.
- [173] Ibid., p. 47.
- [174] Ibid., p. 48.
- [175] Ibid., p. 72.
- [176] Ibid., pp. 69, 95.
- [177] Ibid., p. 70.
- [178] Ibid., p. 54.
- [179] Ibid., p. 98.
- [180] Ibid., p. 92.
- [181] TSN, Sept. 12, 1967, pp. 6, 7.
- [182] Ibid., p. 8, Ernesto Manalo's having seen the two men and Dolores was not considered by the trial court in its decision.
- [183] Wills on Circumstantial Evidence, 7th ed., p. 441.
- 184 Ibid., p. 441.
- [185] Ibid., pp. 438-439.
- [186] Francisco Trial Technique and Practice Court, 3rd ed., Vol. 3, pp. 302-303.
- [187] TSN, September 12, 1967, p. 14; TSN, October 16, 1967, pp. 3, 4.
- [188] TSN, October 16, 1967, pp. 7, 8.
- [189] Ibid., pp. 9-10.
- [190] TSN, October 16, 1967, pp. 9-10.
- [191] TSN, November 2, 1968, p. 21.
- [192] TSN, January 16, 1967, pp. 143-144.
- [193] Herzog Medical Jurisprudence, p. 227.
- [194] SCRA Quick Index-Digest, Vol. I, p. 862 and cases cited therein.
- [195] American Jurisprudence, Proof of Facts, Vol. 12, p. 234-235.
- [196] Gonzales, et al., Legal Medicine, Pathology and Toxicology, 2nd ed., pp. 13, 490.
- [197] TSN, January 16, 1967, p. 12.
- [198] Ibid., p. 10.
- [199] Ibid., p. 2.
- [200] TSN, December 18, 1968, p. 40.
- [201] American Jurisprudence, Proof of Facts, Vol. 12, p. 168.

[202] Ibid., p. 170.

[203] In a majority of cases, according to Proof of Facts, Vol. 12, p. 168, suicidal ideas are expressed during a period that does not exceed one year preceding the suicide, and in many cases the period does not exceed three months.

[204] TSN, December 18, 1968, pp. 6-11.

[205] TSN, May 24, 1967, pp. 32-33.

[206] TSN, December 18, 1968, pp. 17-18.

[207] TSN, December 18, 1968, pp. 25-28.

[208] TSN, May 24, 1967, pp. 23-26.

[209] American Jurisprudence, Proof of Facts, Vol. 12, p. 193.

[210] TSN, December 18, 1968, p. 41.

[211] In this connection it has been said that one of the most important facts to emerge from the statistical data concerning suicide has been disproof of the popular belief that persons who talk about committing suicide ready do so. That the opposite is true is shown by the fact that more than half of those who committed by attempt suicide in some manner communicate their suicidal ideas before they do so. American Jurisprudence, Proof of Facts, Vol. 12, p. 168.

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