

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RECTO SUBION, ACCUSED-APPELLANT.

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

Accused-appellant Recto Subion y Magno (or “appellant”) appeals[1] from the decision[2] dated January 30, 2002 of the Regional Trial Court of Virac, Catanduanes, Branch 42, in Criminal Case No. 2190, convicting him of the crime of rape and sentencing him to suffer the supreme penalty of death.

The Information[3] charging appellant with rape contains the following accusatory portion:

"That on or about the 30th day of September 1994 at around 2;00 o'clock in the morning in Brgy. Codon, Municipality of San Andres, province of Catanduanes, Philippines and within the Jurisdiction of the Honorable Court, the above-named accused, through force and intimidation, did then and there willfully and feloniously made sexual intercourse with Lorena Subion, her niece, 14 years old, against her will and consent to her damage and prejudice.

With the aggravating circumstance of relationship." Contrary to Law”

When arraigned on September 4, 1996, appellant pleaded not guilty to the crime charged.[4] Forthwith, trial on the merits ensued.

The FactsVersion of the Prosecution

The prosecution’s version of the facts is summarized by the OSG in its appellee’s brief as follows:

“On September 30, 1994, around 7:00 o’clock in the evening, Lorena Subion was alone at their house in barangay Codon, San Andres, Catanduanes. Since it was a barangay fiesta and they had no guests at their house, Lorena slept early in the evening.[5]

About 2:00 o’clock in the early morning of the following day, or on September 30, 1994, Lorena was awakened when she heard footsteps. She thus rose and saw appellant, her uncle, wearing only a T-shirt and brief, approaching. She then cried because she remembered what he told her in the morning of September 26, 1994 when he told her that he wanted to look at her pubic hair and like to touch her nipples.[6]

Appellant immediately told Lorena not to make any noise and covered her mouth. He then ordered her to lie face down. Thereafter, he removed her jeans and panty. After taking off his clothes, he separated Lorena’s legs and then placed himself on top of her. She felt pain on her sexual organ as if his penis were inside her vagina.[7] She begged him to stop and tried to repel his sexual aggression but to no avail. Thereafter, she rose and sat on the bed. At this juncture, appellant tried to convince her that he would do it slowly and told her to instead suck his penis while positioning it near her mouth. When she refused, appellant told her that he would like to touch her nipples. Unable to persuade Lorena, appellant stood up and told her not to tell anybody what he did to her, otherwise, he

would kill her and then left.[8]

Afraid and feeling helpless, Lorena kept crying until she was able to sleep again. She did not immediately report the horrifying ordeal she had in the hands of appellant because she felt embarrassed and ashamed to go out of their house. Finally, On October 2, 1994, after mustering enough courage, she told her classmate Eleanor Palmes and the latter's parents about the incident.

On October 4, 1994, Lorena was brought by her Aunt Medy Vargas to San Andres Hospital for medical examination.[9]

Dr. Rudy Tresvalles who conducted the physical examination on Lorena testified that she is negative for hymenal laceration, old or recent, and her vaginal introitus admits one (1) finger easily. He further testified that he did not conduct sperm cell determination because of the interval between the questioned incident and the date of examination.”[10]

Version of the Defense

Appellant Recto Subion denied the charge against him. Contending that the evidence failed to show any sexual congress between him and private complainant, he maintains that he is innocent of the charge and should be acquitted.

Appellant recounted that in the evening of September 29, 1994, he was at home drinking with his two brothers when Pepito Castillo arrived and joined them. Shortly thereafter, appellant and Castillo proceeded to the house of Castillo's father-in-law where they continued drinking until 11:00 o'clock in the evening. As appellant was already drunk and dizzy, he fell asleep. When he woke up at around 7:00 o'clock the next day, he was already inside the room of Castillo. Appellant then left and went home. He denied having entered the room of Lorena and raped her. He claimed that Lorena's family had an axe to grind against him because their father wanted their house to be given to him (appellant) after their father's death.[11]

The Trial Court's Ruling

On January 30, 2002, the trial court rendered a decision convicting appellant as charged, the dispositive portion of which reads:

“WHEREFORE, in view of all the foregoing, the prosecution having proved the guilt of the accused Recto Subion beyond reasonable doubt of the crime of Rape penalized under Article 335 of the Revised Penal Code in relation to R.A 7659, he is hereby sentenced to suffer the penalty of DEATH and to indemnify Lorena Subion the amount of P100,000.00.

SO ORDERED.”[12]

Hence, the instant appeal.

The Issues

In urging a reversal of the judgment of conviction, appellant contends that the trial court erred:

I

XXX IN NOT FINDING THAT THERE WAS APPARENT ABSENCE OF CARNAL KNOWLEDGE;

II

XXX IN NOT FINDING THAT THE PRIVATE COMPLAINANT HERSELF WAS NOT SURE THAT IT WAS THE PENIS OF THE ACCUSED OR HIS FINGER THAT WAS INSERTED INTO HER VAGINA;

III

XXX IN NOT FINDING THAT THERE WAS ABSENCE OF THE USE OF FORCE, OR INTIMIDATION AGAINST THE PRIVATE COMPLAINANT OR WAS SHE DEPRIVED OF REASON NOR WAS SHE UNDER 12 YEARS OF AGE AT THAT TIME;

IV

XXX IN NOT FINDING THAT THE PROSECUTION HAS PROVED (SIC) THE GUILT OF THE ACCUSED RECTO SUBION BEYOND REASONABLE DOUBT;

V

FINALLY XXX IN NOT FINDING THAT ALIBI AS A DEFENSE IN THIS CASE ASSUMES IMPORTANCE.

Insisting on his innocence, appellant posits that the prosecution failed to prove that he had carnal knowledge of the victim, Lorena Subion. He claims that the trial court erred in not taking into consideration Lorena's open court testimony that she was not certain whether appellant inserted his penis or only his finger into her private part, as well as Dr. Rudy Tresvalles' findings that she was "negative of hymenal laceration, old or recent". To further discredit the victim's credibility, appellant calls our attention to her failure to shout for help or run away and her initial silence about the incident.

The Court's Ruling

The appeal is not impressed with sufficient merit to warrant a total reversal of the appealed decision.

The gravamen of the offense of rape is carnal knowledge of a woman against her will or without her consent. To convict an accused of rape, the prosecution must prove that (1) the offender had carnal knowledge of a woman and that (2) he accomplished such act through force or intimidation, or when she is deprived of reason or otherwise unconscious, or when she is under 12 years of age or is demented. In this case, the prosecution was able to establish that appellant had carnal knowledge of the victim Lorena Subion through intimidation. Lorena categorically and positively testified that in the early morning of September 30, 1994, appellant, his paternal uncle, clad only in t-shirt and brief, entered her room and warned her not to make any noise. He then covered her mouth and made her lie face down, removed her pants and panty, then went on top of her back. The victim felt the private part of appellant inside her vagina and felt pain in the area.

Admittedly, Lorena did not offer tenacious resistance against the attack on her womanhood. Albeit, the settled rule is that even the lack of struggle by the victim does not necessarily negate the commission of rape, especially when the victim is intimidated by the offender into submission.[13] Being the brother of Lorena's father, appellant undoubtedly exercised moral ascendancy and influence over his niece-victim. Indeed, in rape committed by a close kin, moral ascendancy takes the place of violence and intimidation.[14]

In a prosecution for rape, the complainant's credibility becomes the most important issue for it is doctrinal that the lone testimony of the rape victim, if credible, is sufficient to support a conviction.[15] Thus, in reviewing rape

cases, three settled principles have traditionally guided the courts in determining the guilt or innocence of the accused, viz: 1) an accusation of rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; 2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and 3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence of the defense.[16]

Guided by the foregoing precepts, the trial court accorded full weight and credence to the victim's clear and positive account of her sexual defilement and her identification of appellant, her own uncle, as the person who ravished her in the early morning of September 30, 1994. The lechery appellant committed is detailed in the following narration of the victim on the witness stand.

Direct examination:

"PROSECUTOR AYO:

xxx xxx xxx

"Now, did you sleep well on the night of September 29, 1994?.

WITNESS LORENA SUBION:

A. Yes, sir.

Q. What time did you wake up?

A. I was awoken about 2:00 o'clock early in the morning, sir.

Q. So, it was September 30 already?

A. Yes, sir.

Q. When you woke up, what did you do?

A. I was awoken because I heard some foot falls, sir.

Q. When you heard somebody walking, what did you do?

A. I saw my uncle, sir.

Q. So it was your uncle who was walking?

A. Yes, sir.

Q. When you say uncle, to whom do you refer?

A. (Witness pointing to the accused Recto Subion)

Q. Now, what did you do when you saw him walking?

A. I cried, sir.

Q. Why did you cry?

A. I cried because I remember what he told me in the morning of September 26, when he came to our house telling me that he would look at my pubic hair and he would like to touch my nipples, sir.

Q. When you cried because you remember what he said on Sept. 26, what happened next, if any?

A. He approached me and told me not to make any noise, sir.

xxx xxx xxx

Q. When your uncle, the accused, told you not to make any noise, what next did he do to you?

A. xxx He covered my mouth, sir.

Q. When he covered your mouth, what did you do next?

A. I kept on crying, sir.

Q. By the way, why did he cover your mouth?

A. I do not know, probably he do not want me to make any noise, sir.

Q. When he was covering your mouth and you were crying, what happened next?

A. He made me lie face down.

Q. When you were face down, what did he do next?

A. He removed my pants and panty, sir.

Q. Meaning you were in jeans?

A. Yes, sir.

Q. Did he succeed in taking off your jeans and panty?

A. Yes, sir.

Q. You did not resist?

A. I was just crying, sir.

Q. When your jeans and panty were removed, what did he do next?

A. He tried to split my legs but I resisted, sir.

Q. When he was separating your legs, what happened?

A. He went on top of my back, sir.

Q. By the way, if you remember, what was his attire, when he entered your room?

A. He was wearing a blue shirt but had only his briefs, sir.

Q. While he was on top of you while you were facing down, what happened?

A. I felt pain on my sex organ and I said "huwag po, huwag po".

Q. What might have caused that pain in your vagina?

A. As if his sex organ was already inside my vagina, sir.

xxx xxx xxx

Q. When you felt pain in your vagina, what did you do next?

A. When I felt that pain, I tried to repel his acts, sir.

Q. What else did he do?

A. After that I get up and sat down and when I was already sitting down he approached me and told me he will do it slowly, sir.

Q. When he told you that, what did he do next?

A. He told me to suck his penis, sir.

Q. Did you do it?

A. I did not, I could not do it, although he was putting his penis near me, sir.

Q. What else did he do?

A. He told me he would like to hold my nipples but I did not agree, sir.

Q. So after that, what else did he do?

A. He stood up to leave and while he was leaving he told me not to tell my father, my grandmother, his wife or children about what he did or else he will kill me.”[17]

Utilizing the same settled legal precepts, we have ourselves meticulously scrutinized Lorena’s testimony and, like the trial court, found her story of defloration simple, candid, straightforward and unflawed by any inconsistency or contradiction. She narrated the details of the sexual assault in a manner only one who had undergone it could do. It is settled that when a rape victim’s testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies and contradictions in material points, the same must be given full faith and credence.[18] Moreover, when a woman, more so a minor, says that she had been raped, she says in effect all that is necessary to show that rape has been committed.[19] For no woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, suffer the humiliation of a public trial and endure the ordeal of recounting the details of her harrowing experience unless her purpose is to condemn an injustice and avenge her honor.[20] Certainly, Lorena would not tell a story of defloration and send her own paternal uncle to jail if she was not motivated by an honest desire to have the crime against her punished.

To further discredit Lorena’s credibility, appellant tries to make much of her open court admission that she was not sure whether appellant inserted his penis or only his finger inside her vagina.

We are not convinced.

Lorena’s credibility cannot be put to doubt simply because of her admission that she did not see appellant insert his organ inside her vagina. What is essential is that positive proof was presented to show that rape was consummated. Lorena’s candid and straightforward testimony to the effect that she felt appellant’s organ inside her private part and that she felt pain when appellant penetrated her suffices to support a conviction for the charge.[21] Concededly, at the time of her defilement, Lorena was an ingénue barely out of puberty who had not had any previous sexual encounter. Also worth noting was her position at the time appellant sexually abused her - Lorena was made to lie flat on her belly while appellant went on top of her back. Given the foregoing factual context, it is easy to understand why Lorena was unable to tell whether it was appellant’s penis that was inserted in her organ or just his finger. At all events, in finding that it was appellant’s penis, rather than his finger, that was inserted in the young girl’s private part, the trial court aptly explained that:

“The complaining witness was 13 years old when she was allegedly molested by the accused. The Court notes in her testimony that she could not be sure whether it was the penis or the finger of the accused that was inserted into her vagina before the alleged rape. But, the court noted and pictures the situation at the time of the commission of the alleged rape and takes into consideration of the age of the victim.

The accused pulled down the pants and panty of the complainant. He then pulled down his brief and placed himself on top of the complainant, whom he ordered to be flat on her belly. Naturally in that position, the complainant will not be able to see what was inserted in her vagina but the fact remains that she felt pain in her vagina when something was inserted into it by the accused. It is beyond human comprehension that the accused who have pulled down his brief will still use his finger in assaulting the victim. He could have used his finger without the need of taking off his brief.

Significantly, under clarificatory questioning by the trial judge, Lorena remained firm and unwavering in her assertion that she felt appellant’s penis inside her private part and felt pain when he penetrated her.

The questions and answers:

"COURT:

Q. When your uncle, the accused in this case, placed himself behind you, you felt pain in your vagina. Is that correct?

VICTIM LORENA SUBION:

A. Yes, sir.

Q. And you felt something penetrating your vagina, is that correct?

A. Yes, sir.

Q. And you also stated that you could not be sure that it was the penis of your uncle or his fingers that was inserted into your vagina because you said you were lying face down, you did not see it?

A. Yes, sir.

Q. So in other words, your are not sure and you could not ascertain that your uncle really place his penis into you vagina?

A. Yes, sir.

Q. And you could not be sure of that because that was the first time that you experienced pain because of something that was inserted into your vagina?

A. Yes, your honor.

Q. In fact, you did not experience any sexual intercourse before this incident?

A. Yes, I did not, sir.

Q. And have you .. or you have not experienced that somebody would insert a finger into you vagina also?

A. Yes, sir.

Q. By the way, when your uncle placed himself behind you on September 30, 1994, did you notice any movement that he made before you felt pain in your vagina?

A. I noticed, sir.

Q. What did you notice?

A. As if he was shaking me, sir.

Q. When your uncle was on top of you, did he try to caress you or kiss you?

A. He did not sir.

Q. Meaning that he just placed himself on top of you even without kissing you or touching other parts of your body?

A. Yes, sir. Because I have a burn on my abdomen, sir.

Q. When your uncle placed himself on top of you, did you feel his weight?

A. I felt, sir.

Q. In other words, when your uncle placed himself on top of you, your uncle was also lying flat on his belly on your back?

A. His body was touching my back, sir."[22]

Appellant scores the trial court for discounting the medical finding of Dr. Rudy Tresvalles regarding the absence of lacerations on the victims' vagina. This allegedly shows reasonable doubt as to the fact of sexual intercourse between him and Lorena.

We do not agree. For rape to be consummated, rupture of the hymen is not necessary, nor is it essential that the vagina sustains a laceration.[23] Research in medicine even points out that negative findings are of no significance, since the hymen may not be torn despite repeated coitus. In this case, noting that his examination of the victim was made

only three (3) days after the rape incident, Dr. Tresvalles admitted that "even if a penis visited the vagina 3 or 4 days before the examination, it is possible that he could find no laceration at all" and that "the victim's vagina easily admitted one finger, hence, it is possible that it would admit a penis easily".[24] Furthermore, jurisprudence holds that even without a medical examination, the accused may still be convicted of rape as long as the testimony of the complainant meets the test of credibility and resolutely points to the accused as the author of the crime.[25] In fact, a medical certificate is not indispensable to prove the commission of rape.

Also, contrary to appellant's contention, the fact that it took the victim four (4) days before she reported her defilement does not detract from her credibility, her hesitation being attributable to her age,[26] appellant's moral ascendancy and the threats appellant made against her.[27] Indeed, the victim's failure to promptly disclose her defilement to persons close to her or report the incident to the authorities does not warrant a conclusion that she was not raped and that the charges against appellant are baseless, untrue and fabricated.[28] At any rate, the fact remains that the victim did finally relate her ordeal to her classmate, Eleonor Palmes, two days after the incident or on October 2, 1994. On December 4, 1994, she submitted herself to a medical examination by Dr. Rudy Tresvalles. On December 10, 1994, she reported the incident to the police authorities and gave her sworn statement.

Significantly, no evidence was presented to convincingly show any ill motive on the part of Lorena to falsely impute a crime against her own paternal uncle other than to obtain redress for the wrong she suffered. As to appellant's claim that the charge against him was an offshoot of a bad blood between him and his own siblings who resented their father's wish that their ancestral home be given to him, the trial court rejected the same with the following pointed observation: "it was his brother, the father of Lorena, who forced her to sign an affidavit of desistance so that the case would be dismissed" and "it was the DSWD that took custody of Lorena who exerted efforts to give justice to her and not his siblings".

Finally, like the trial court, the Court gives short shrift to appellant's uncorroborated defense of denial and alibi. Consistently held to be inherently weak for being self-serving and negative evidence, the bare denial of appellant cannot prevail over the clear and positive testimony of the victim pointing to him as her ravisher.[29] Besides, for alibi to prosper, the accused must prove not only that he was at some other place at the time of the commission of the crime but that it was physically impossible for him to be at the locus criminis at the time of commission. The trial court aptly observed that, "it was not impossible for the accused to have woke up between those hours, went to the house of the complaining witness which is just 100 meters away from the house of the in-laws of Pepito, molested her and stealthily went back to the house and pretended to have slept up to 8:00 o'clock in the morning." [31] Appellant's alibi thus failed to meet the requirements of time and place.[32]

The applicable law on September 30, 1994 when the rape was committed was Article 335 of the Revised Penal Code, as amended by R.A. No. 7659. It prescribed the penalty of death when the rape victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree. The Information in this case alleges that the victim is appellant's niece. When coupled with the minority of the victim, the circumstance of relationship is a special qualifying circumstance

which makes mandatory the imposition of the death penalty in the consummated felony of rape.[33] However, they should both be alleged and proved with certainty, otherwise, the death penalty cannot be imposed.[34] The allegation in the information in the instant case that the victim is appellant's niece without stating that such relationship was within the third civil degree is not specific enough to satisfy the special qualifying circumstance.[35] "If the offender is merely a relation — not a parent, ascendant, step-parent, or guardian or common law spouse of the mother of the victim — it must be alleged in the information that he is "a relative by consanguinity or affinity (as the case may be) within the third civil degree".[36] And, even as the Information alleged that the victim was 14 years old, the prosecution failed to adduce in evidence her certificate of birth or other similar authenticated documents such as her baptismal certificate and school records.[37] Consequently, we find appellant guilty of simple rape only.

Article 335 of the Revised Penal Code, as amended by R. A. No. 7659[38] prescribed a single indivisible penalty of reclusion perpetua for simple rape. Where the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstance that may have attended the commission of the deed.[39]

As to appellant's liability for damages, we reduce the award of civil indemnity to P50,000.00 in line with current jurisprudence.[40] Moral damages of P50,000.00 is additionally awarded to the victim concomitant with and necessarily resulting from the commission of rape.[41] That the victim suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damages are too obvious to still require recital thereof.[42]

WHEREFORE, the appealed decision is AFFIRMED with MODIFICATIONS as follows:

- 1) Finding appellant guilty of SIMPLE RAPE only and sentencing him to suffer the penalty of reclusion perpetua; and
- 2) Ordering him to pay the victim P50,000.00 as civil indemnity and another P50,000.00 as moral damages.

No costs.

SO ORDERED.

REBECCA DE GUIA-SALVADOR
Associate Justice

WE CONCUR:

MAGDANGAL M. DE LEON
Associate Justice

RAMON R. GARCIA
Associate Justice

[1]Transferred to this Court by the Supreme Court pursuant its ruling in *People vs. Efren Mateo*, G.R. Nos. 147678-87, July 7, 2004 (modifying the pertinent provisions of the Rules on criminal Procedure more particularly Section 3 and Section 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 and any other rule insofar as they provide for direct appeals from the Regional Trial Court to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment.)

[2] Penned by Hon. Nilo B. Barsaga.

[3] Records, p. 45.

[4] Records, p. 62.

[5] TSN, December 3, 1996, p.3.

[6] TSN, December 3, 1996, p. 4.

[7] Ibid, pp. 5-6.

[8] Ibid, p. 7.

[9] ibid,, p. 10.

[10] TSN, December 4, 1996, p. 4.

[11] Appellant's Brief, pp. 4-6.

[12] Decision, p. 14-15.

[13] People vs. Arenas, 198 SCRA 172 (1991); People vs. Pasco, 181 SCRA 233 (1990); People vs. Viray, 164 SCRA 135 (1988); People vs. Monteverde, 142 SCRA 668 (1986); People vs. Malbad, 133 SCRA 392 (1984).

[14] People v. Serrano, G.R. No. 137480, 28 February 2001, 353 SCRA 161, 172 cited in People vs. Yatar, G.R. No. 150224, May 19, 2004; People vs. Aquino, G.R. Nos. 144340-42. April 17, 2002

[15] People vs. Buenaflor, G.R. No. 140001, June 6, 2001.

[16] People vs. Subido, 253 SCRA 196; People vs. Valdez, 421 SCRA 376 (2004); People vs. Gaufo, 425 SCRA 119 (2004); People vs. Santos, 426 SCRA 133 (2004).

[17] TSN, December 3, 1996, pp. 5-7.

[18] People vs. Toncayao, 433 SCRA 513.

[19] People vs. Escobar, 281 SCRA 498, November 6, 12997; People vs. Antipona, 2714 SCRA 328, June 189, 1997; People vs. Ramirez, 266 SCRA 335, January 20, 1997.

[20] People vs. Villafuerte, 428 SCRA 427 (2004).

[21] TSN, December 3, 1996, pp. 20-21.

[22] TSN, December 3, 1996, pp. 20-21.

[23] People vs. Cura, 240 SCRA 234.

[24] TSN, of Dr. Rudy Tresvalles, December 4, 1996, p. 9.

[25] People vs. Velasquez, G.R. Nos. 142561-62, February 15, 2002; People vs. Gutierrez, G.R. Nos. 147656-58, May 9, 2003.

[26] People vs. Ballester, G.R. 52279, January 20, 2004.

[27] TSN, December 3, 1996, p. 9, People v. Dio, 226 SCRA 176 (1993)

[28] People vs. Abendano, 242 SCRA 531.

[29] People vs. Gamboa, Jr, 145 SCRA; People vs. De Roxas, et al., G.R. 106783, February 15, 1995; People vs. Aliben, G.R. 140404, February 27, 2003

[30] People vs. Orilla, G.R. Nos. 148939-40, February 13, 2004; People s. Matito, G.R. Nos. 144405, February 24, 2004

[31] Ibid.

[32] People vs. Medina, 435 SCRA 611

[33] People vs. Maglente, April 30, 1999, G.R. 124559-66.

[34] People vs. Esperanza, G.R. Nos. 139217-24,. June 27, 2003.

[35] People vs. Ferolino, 329 SCRA 719 (2000).

[36] People vs. Minon, G.R. Nos. 148397-400, July 7, 2004.

[37] People vs. Operario G.R. 146590, July 17, 2003.

[38] People vs. Torio, G.R. Nos. 132216 & 133479, November 17, 1999.

[39] Article 63, Revised Penal Code; People vs. Miclat, Jr., 386 SCRA 518.

[40] People vs. Biong, G.R. No. 14445-47, April 30, 2003; People vs. Invencion, G.R. 131636, March 5, 2003.

[41] People vs. Pagsanjan, G.R. NO. 139694, December 27, 2002.

[42] People vs. Prades, 293 SCRA 411.

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