PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARCITO MAGDARAOG ALIAS “ARCIT”, DEFENDANT-APPELLANT.

G.R. No. L-40988. April 15, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal from the decision* rendered on 28 May 1975 by the Court of First Instance of Northern Samar in Criminal Case No. A-159, which found the appellant guilty of the crime of Forcible Abduction with Rape, and sentenced him to suffer the penalty of reclusion perpetua, to indemnify the offended party in the amount of P3,000.00 and her parents in the amount of P2,000.00 and to pay the costs[1].

The facts of the case, according to the prosecution, are as follows:

> "In the afternoon of May 28, 1972, the complainant Adelaida Vicario along with her betrothed bridegroom, Macario Castillo (now her husband), and the complainant's mother, went to the poblacion of Capul to have her wedding dress sewn. She and Macario Castillo were betrothed to be married on June 1, 1972. When they arrived at the poblacion of Capul, at about 5:00 o'clock in the afternoon, she stayed in the house of her bridegroom-to-be. There she met and conversed with Diena Castillo, the sister of Macario Castillo. She asked Diena who her seamstress was. Diena informed her that her seamstress was Marcelina Magloyoan and that she is the best seamstress there is. (pp. 16-22 T.S.N. December 18, 1973) Diena offered to accompany the complainant to her seamstress. Hence, at about 7:00 o'clock in the evening, Adelaida, Diena and Adelaida's small sister Greta, went to the house of Marcelina Magloyoan at Tando Street, in the poblacion of Capul, to have her wedding gown sewn. The houses on their way were closed and it was only the house of Marcelina Magloyoan which was lighted. The seamstress, Mrs. Magloyoan took the complainant's measurements, after which, she and her companions proceeded on their way home.
>
> "When they were about 20 meters away from the house of Mrs. Magloyoan, Adelaida saw the accused Arcito Magdaraog coming from the dark, running towards their direction. As he approached, the accused grabbed Adelaida's left hand and pointed his revolver at Diena. He said, 'This is mine this is not yours' referring to Adelaida' as his. Diena did not answer. She was afraid of the accused's revolver which was pointed at her. The accused Arcito pulled Adelaida to his side. Diena tried to pull Adelaida back to her side, but when Arcito pointed his gun at her, Diena released her hold on Adelaida. Then Arcito fired his gun. Diena was caught by surprise and could not talk.
>
> "The accused dragged Adelaida towards the seashore. She was at a sitting position, resisting, struggling and kicking. However, the accused was strong and he managed to pull her away. The accused told her 'I will bring you anywhere because you are mine'. Adelaida answered: 'Do not bring me anywhere as I do not like you'. The accused continued to drag her towards the seashore until they reached the gate of a fence. Adelaida rested on the gate sill. The accused saw Diena following them so he fired his gun once more. Then, the accused continued to drag Adelaida and when they reached the shore, he fired his gun again.
>
> "Adelaida was continuously struggling, using her fact, trying to hold on to something so she could not be brought farther away. From the seashore the accused brought her to the hills. As she resisted, the accused

pointed the revolver at her and said 'If you will not go with me I will shoot you'. She answered, 'Do not bring me somewhere because I do not like you.'

"Finally, she was brought to the house of Mrs. Maria Manaog. The accused knocked at the back of the house three times with his gun. Mrs. Manaog, the owner of the house, opened the door. Adelaida said to Mrs. Manaog, 'Let me go home because I do not like Arcito'. However, Mrs. Manaog did not answer. The accused then dragged her inside a room and once inside, the accused pushed her and closed the door. She stood up and tried to open the door of the room but could not do so as the accused closed the door. Then the accused held her two hands at the back. He lifted her, brought her to the mat, and made her lie down. Then the accused tried to remove her pants and bikini. She resisted but weakened by her long and continuous struggle, the accused overpowered her and succeeded in taking off her pants and bikini. Then he inserted his two fingers inside her vagina. She shouted because of the pain. Thereafter, the accused Arcito succeeded in having sexual intercourse with her. (T.S.N., pp. 36-37, December 19, 1973). Adelaida attempted to open the door of the room several times but she failed each time because Arcito Magdaraog blocked her way. In the morning, Adelaida heard the voice of her father looking for her. She hurriedly opened the door of the room. The accused did not block her path anymore. Then she ran to her father who was in the sala and embraced him. She told him, 'Let us go home now father as the rapist is inside the room'. Her mother who was also there went with them out of the house of Mrs. Manaog. As they walked out, the accused shouted from the gate of Mrs. Manaog's house saying, 'If you are going to accuse Adelaida, I will kill you all'. Adelaida turned around and answered: 'Even you will kill us, the whole family, still I will continue to accuse you'. (pp. 22-39, T.S.N. December 19, 1973).

"Immediately afterward, Adelaida and her parents proceeded to Landusan. Then her father took her to Allen for medical treatment. She was examined by Dr. Conchita O. Tomada as a victim of the crime of rape. The doctor issued her the medical certificate, Exhibit 'A', stating among other things, the following:

"x x x x x
FINDINGS:

Sustained: May 28, 1972 at 8:00 P.M.

Examined: May 29, 1972 at 7:30 P.M.

1. Internal examination, revealed:

a. Vagina - non-porous. Fresh laceration at 6 o'clock, 3 cm in length, superficial;

b. Hymen - Freshly lacerated at 3 o'clock and 7 o'clock

2. Abrasions and hematoma dorsal aspect of both feet.

x x x x x' "
The doctor also found her to be suffering from pains on her breast, back, shoulder, knees, legs and vagina. The pains she felt which she complained of to the doctor lasted for more than a month. (pp. 2-14, T.S.N. December 18, 1973)

"The following day, May 30, 1972, she immediately went to the Office of the Fiscal in Allen to complain. On May 31, 1972, she returned to the Office of the Fiscal and there executed her letter-complaint (Exhibit 'E'). The following day, June 1, 1972, she went to the Office of the Fiscal and there she took her oath on Exhibit 'B'. Diena Castillo also executed her affidavit (Exhibit '6') corroborating complainant's allegations in her complaint (pp. 39-46 T.S.N. December 19, 1973)."

The defendant-appellant admitted having sexual intercourse with the complainant on the occasion complained of. But, he denied using force. He claimed that he and the complainant were sweethearts and eloped in the evening of 28 May 1972. To prove their relationship, he presented in evidence a letter[2], written by the complainant and

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addressed to him some three (3) months before the incident, where she expressed her preference for him over her suitor, Max Castillo, who was preferred by her mother. He also declared that he and the complainant had previously agreed to elope on the eve of the barrio fiesta of Dalupirit on 26 May 1972, but that complainant changed her mind, saying: "It will be a great scandal if it will be known we eloped this time of the barrio fiesta. Besides, I am afraid mother might die. It is much better that we should do this in Capul. You intimidate my companions so that my mother would be freed from the same to the parents of Max". He allegedly insisted (on the elopement) since everything had been arranged, but relented when the complainant promised him that they would elope on 28 May 1972. She allegedly said: "It is up to you provided that on Sunday, the 28th day of this month, I will go to the house of Celing Magluyuan and there you force me to go with you while already on the street because I will go with you".[3]

So, in the evening of 28 May 1972, he (appellant) stood in front of the house of one Tomas Moya and waited for the complainant. At about 6:30 o'clock in the evening, the complainant and her sister, Greta, and Diena Castillo, younger sister of Max, passed by. But, he lost heart and could not do anything. However, he mustered courage and when the complainant and her companions returned, he immediately took hold of the arms of the complainant and told Diena, "this is mine this is not yours" and pulled the complainant, who did not resist, to his side. But Diena and Greta held on to the complainant. So, he used both hands in pulling the complainant.

Upon reaching the gate of a fence near the seashore, the complainant allegedly sat down and said: "I am not going with you", for the benefit of Diena and Greta, at the same time signalling the appellant to go ahead. They stepped over the stile and ran towards the schoolhouse. The complainant suggested that he fire his revolver to discourage pursuit. So, he fired his service pistol into the air. They went to the back of the schoolhouse where they found a hut in the coconut grove. There, they rested for a while and planned where to spend the night. At first, they decided to go to the house of the complainant at Landusan. But, the complainant changed her mind and they went back to the poblacion, to the house of Primitivo Manaog, Jr. When he asked Manaog permission to spend the night there, the latter replied: "Yes, because it has been rumored in the street that you eloped". They were given the room facing the coconut trees and a mat was laid for them on the floor. As they laid on the floor, he was able to remove the underwear of the complainant and had sexual intercourse with her.[4]

In the morning, according to appellant's declaration, his mother, Marcela, and Lorenzo Guardiano arrived. Upon seeing her, the complainant kissed the hand of Marcela. The latter inquired what happened and the complainant replied that it was their agreement. The complainant then suggested that Max Castillo should be reimbursed his expenses. Marcela asked, how much, and the complainant told her to arrange it with her father.[5]

Marcela then left, according to appellant's declaration, and later came back with the town mayor and the parents of the complainant. The latter kissed the hand of her father. But, when she and the appellant went to her mother, the latter refused to be kissed and left. The father of the complainant tried to placate them, promising to return at noontime.[6]

As promised, the parents of the complainant came back at noontime and informed them that Max Castillo had spent the amount of P1,100.00. Marcela asked for time, to which the father of the complainant replied: "If you can have that amount already you can just go to Landusan any time". Then, they (complainant's parents) went home. As they turned to go, they asked the complainant to go home with them. But, the complainant refused, saying: "I will not go anymore because it is already shameful to the town people as we were already known that we are living together as husband and wife". However, they were able to prevail upon the complainant to go home with them, leaving the appellant behind.[7]

On 1 June 1972, the appellant and the other policemen of Capul went to Laoang, Northern Samar, to take the

"agility test" scheduled on 2 and 3 June 1973. After the test, appellant went to his uncle in Catubig to ask for financial assistance. His uncle, Vicente Tan, gave him P500.00.[8]

On 5 June 1972, the appellant left for Capul. But, when appellant arrived at Allen, Northern Samar, he was informed that the complainant had gone to the hospital there for medical treatment of her vagina. So, he went to San Isidro from where he mailed his application for leave of absence as a policeman of Capul. Then, he went to Manila.[9]

In Manila, the appellant wrote a letter to the complainant instructing her to ask for money from his mother and to join him. But, he received no reply.[10]

Later, he (appellant) learned that the complainant and Max Castillo were living together as husband and wife. He also learned that a case had been filed against him, and so, he went home to Capul.[11]

The trial court, however, found that the defense "appears to be an elaborate, well-orchestrated scheme designed to exculpate the accused" and, consequently, gave it no credence and found him guilty as charged. Hence, the present appeal.

The defendant-appellant in this appeal, insists that there was consent from the complainant in the sexual act complained of, for the following reasons:

> - The complainant was not laid down on the ground, nor abused in the hut which they found under the coconut trees behind the schoolhouse;
>
> - The appellant had engaged in only one sexual act with the complainant in the house of Primitivo Manaog, Jr. despite the length of time they stayed there and the fact that appellant is young, healthy and capable of repeating the act;
>
> - Torn or soiled garments worn by the complainant were not presented in court; and
>
> - The medical certificate does not allege that the complainant had sustained injuries at the back despite her claim that she was pinned to the mat.

The reason why the appellant did not have sexual intercourse with the complainant on the ground, or in the hut under the coconut trees, or that the appellant had only one carnal act with the complainant in the house of Primitivo Manaog, Jr. is known to the appellant alone. The Court can only speculate. It may be that, as testified to by the complainant, the accused "was not able to do the act in the bushes because he was also afraid that there might be people who will follow us".[12] At any rate, these circumstances do not rule out the possibility that rape had been committed on the occasion complained of, in the manner testified to by the complainant.

The failure of the prosecution to present to the court the torn garment worn by the complainant was sufficiently explained by the prosecution. The complainant testified that the appellant forcibly removed her panty before she was abused.[13] However, when her parents arrived in the morning of 29 May 1972, she (complainant) did not bother to look for her panty. She only wanted to get away from the appellant. Her testimony is as follows:

> "Q
>
> Let us talk about the incident in that room to which to you were brought in, you told the court about a pantie or underwear which was taken by the accused, do you remember that?
>
> A

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I remember that.

Q Can you inform this Court of what material was your pantie made of, whether it was silk, cotton or linen?

A Jersey.

Q Jersey cloth is a thin one and soft one, is that correct?

A Yes, sir.

Q But that pantie which was taken from you was not destroyed, is it not?

A I do not know that because I did not mind anymore my pantie when I went out. I went out at once together with my parents. That was only my purpose.

Q Did you not ask for your pantie back after the intercourse?

A I did not mind anymore, as a matter of fact when I went home I have no more pantie"[14]

The absence of a statement in the medical certificate that the complainant had sustained injuries at her back, has also been satisfactorily explained by the physician who conducted the physical examination of the complainant. She testified:

"ATTY. REBADULLA

Q But when she went to you in that evening of May 29 she never complained to you about the pains on the back?

A There was already a pain but probably it was not so much; I did not put it into writing because anybody can complain pain.

COURT

Q You mean when she went to you in the evening of May 29, 1972 she was complaining already pain?

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A Yes, Your Honor".[15]

Counsel for the appellant also assails the trial court for not giving credence to the appellant's claim that the complainant actually planned her supposed abduction.

This claim, however, was vehemently denied by the complainant. She declared:

"Q Arcito Magdaraog also testified that his forcibly abducting you on the evening of May 28 was through your plan. What do you say to that statement?

A It is a lie, sir, of Arcito.

Q Why is it a lie?

A

It is a lie of Arcito because if it was really my plan why should I expose myself to shame before the public; no matter how much I love my parents as I had been already deflowered by him through my plan I will cling to Arcito even if I will be killed".[16]

It has long been held that no young Filipina of decent repute would publicly admit that she has been criminally abused and ravished unless that is the truth. It is her natural instinct to protect her honor.[17]

The appellant's claim is further belied by the conduct of the parties after the commission of the disputed sexual act.

The alleged elopement and sexual intercourse were consummated in the evening of 28 May 1972. The following morning of 29 May 1972, however, the complainant immediately went to Allen for a physical examination. She arrived in Allen at about 6:00 o'clock in the evening of the said day. She could have reached Allen earlier, but her father "was not able to secure at once a motorboat for they have no gasoline".[18] The complainant was examined at about 7:30 o'clock that evening. She told the examining physician that she was raped the night before and complained of aches and pains in her body. The physician found fresh lacerations on her vagina and the hymen was raptured at 3:00 o'clock and 7:00 o'clock. The lacerations on the hymen were, likewise, fresh. The physician also found abrasions and hematoma on complainant's feet. After the examination, the physician issued a medical certificate.[19]

The following day, 30 May 1972, the complainant went to the Fiscal's office to complain against the appellant. The Fiscal, however, told her to produce a witness. And so, she wrote to Diena Castillo asking her to come to Allen. On 31 May 1972, the complainant returned to the Fiscal's office and executed the letter-complaint.[20] Then, on 1 June 1972, she and Diena Castillo went to the Fiscal's office for the taking of Diena's affidavit.[21]

The fact that the complainant lost no time in denouncing the wrong done to her, negates appellant's submission of complainant's voluntary submission to the sexual intercourse.

The defendant-appellant, upon the other hand, who was then on his way home to Capul from Laoang, Northern Samar, where he and other policemen from Capul had undergone "police agility test", upon learning in Allen that the complainant had gone to the hospital in Allen for medical examination of her vagina, became scared and immediately went to San Isidro, about 18 kilometers south of Allen, where he prepared an application for an

indefinite leave of absence from his duties as policeman of Capul and sent the same to the chief of police by registered mail. In San Isidro, he also met his cousin, Lorenzo Guardiano, a municipal councilor of Capul, to whom ho entrusted his service pistol to be returned to the proper authorities in Capul. Then, he chartered a motorboat to Matnog, Sorsogon for which he paid P30.00 and then proceeded to Manila where he stayed for about one and a half years. The trial court said that the appellant would have spent very much less than P30.00 had he taken the usual mode of transport. The court said:

> "He knows that every morning motor-launch Maria Cristina leaves Allen for Matnog, from where one can take a bus for Legaspi or Manila. The fare in the launch was only P4.00 then. From San Isidro to Mawe, now Victoria, the fare then was only P1.00. From Victoria to Allen the fare then was also only P1.00. Hence, if from San Isidro he took a land transporation to Mawe and again land transporation to Allen, he would have spent only P2.00. x x x Then by taking the motor-launch from Allen to Matnog he would have paid only four pesos (P4.00), or he would have spent all in all P6.00".

But, why the haste and needless expense? The only logical inference that can be derived therefrom, as the trial court correctly said, is that the appellant was escaping. The trial court said:

> "To the court, the only logical inference that can be derived therefrom is that the accused knew then that a case was filed already by the complainant against him. In fact a subpoena was issued to him on June 1, 1972 and that the preliminary investigation was to be held on that June 6, 1972. The chief of police of Capul returned the subpoena on June 2, 1972. Hence, he was escaping. Says our bible more or less: The wicked fleeth even if no man pursueth, but the righteous is as bold as the lion".

The immediate flight and sojourn of the defendant-appellant in other places for about 18 months after the consummation of the sexual act complained of, are, in a sense, a silent admission of guilt and are incompatible with his claim that the carnal act complained of was voluntary and consented to by the complainant.[22]

Besides, it appears that the appellant, through his cousin, Lorenzo Guardiano, had attempted to pay the complainant a certain amount of money if she would drop this case. The unrebutted testimony of the complainant is as follows:

> "WITNESS:
>
> A
>
> Lorenzo said, 'we come here Adelaida for the purpose of, we are here, we are requested by Arcito and his parents to come to you if it would be possible that you will be just paid provided you will not continue the case.'
>
> ATTY. FRANCISCO, JR.:
>
> Q
>
> After these two persons, Lorenzo Guariano and Esquillo, have told you what you have just stated in Court, what did you answer?
>
> A I answered him saying that even how much money you will pay me I will not receive money but I will

proceed with the case for he had done wrong to me.

Q After you have answered him that way, what transpired further?

A

They went home".[23]

An offer of compromise by the accused in criminal cases which are not allowed by law to be compromised may be received in evidence as an implied admission of guilt.[24]

Counsel for the appellant further contends that the complainant had forgiven the appellant for the acts he had done to her when the complainant suggested to the mother of the appellant that the expenses incurred by Max Castillo be reimbursed; and when she refused to go back with her parents to Landusan because "the public had already known that she and Arcito had already lived as man and wife".

These allegations, however, were denied by the complainant. She said that she did not meet the mother of the appellant on 29 May, so that she could not have suggested that Max Castillo be reimbursed his expenses; and, besides, Max Castillo had not incurred any expense. Her testimony reads:

"Q

While you were in that room that morning, did you see the mother of Arcito Magdaraog and Councilor Guardiano entered that room?

A I did not see anybody.

Q From the time you went outside that room and thereafter the house of Primitivo Manaog, Jr., did you see the mother of Arcito Magdaraog in that house?

A I did not see her.

COURT

Q

Just a moment. But from the time you were allegedly brought inside that room by Arcito until you left that room of the house of Primitivo Manaog, Jr. the following morning, is it not a fact that the mother of Arcito Magdaraog went inside that room?

A

No, sir.

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ATTY. FRANCISCO

With the permission of this Honorable Court –

COURT

Proceed

Q

Accused Arcito Magdaraog and Councilor Guardiano also made almost the same statements when they said that while the mother of Arcito Magdaraog was there inside that room, you proposed to the mother of Arcito to reimburse the expenses to the parents of Mac. What do you say to these joint statements?

A It is a lie, sir.

Q Why is it a lie?

A

I did not propose any plan for reimbursement for the expenses of Mac because the parents of Mac did not incur any expenses during the marriage proposal. There was a drinking spree at that time and there was no feast as it was only a sort of talks between the parents".[25]

The pardon, to be effective, should be express, and not implied.[26]

Counsel for the appellant further claims that this case was instituted upon the instigation of Max Castillo. The immediacy with which this case was instituted shows that it was solely the complainant's desire for justice that impelled her to prosecute this case against the appellant. She filed this case almost immediately after the incident occurred and despite the threat of the appellant to kill them (complainant's family) if he should be accuse.[27] But, what is most expressive is complainant's statement that after this incident took place, she was not sure if Max Castillo would still marry her for having been deflowered by the appellant, and if Max should change his mind, she would, nevertheless, not marry the appellant. She said:

"COURT

Q

Arcito succeeded in having sexual intercourse with you, but Max has proposed already marriage to you. When at that time did you prefer to be married when, Arcito who succeeded in having sexual intercourse with you, or

> Mac who had proposed marriage to you?
>
> A
>
> I have no thoughts which of the two at the time. Arcito had deflowered me already, so I have in mind Max might not continue marrying me, but I would not marry Arcito because I do not love him".[28]

In the final analysis, the issues raised by the appellant boil down to one of credibility. We have repeatedly upheld the time-honored doctrine that the findings of feet of trial courts are entitled to great weight and respect and should not be disturbed on appeal unless it is shown that such findings are not supported by the evidence or that the court failed to consider material facts and circumstances in its evaluation of the case which, if considered, will alter the result.

In the instant case, we find no cogent reason to disturb the findings of the trial court that the appellant is guilty as charged, and hence, We affirm the same.

However, in fixing the penalty to be imposed upon the appellant, the trial court failed to consider the fact that the appellant is a policeman and committed the crime with the aid of a gun which he had been authorized to carry as a peace officer. Instead of upholding the law, the appellant broke the law; instead of using his service firearm for good, he used it for evil. Clearly, his crime is graver and his responsibility greater.[29] As stated by the Court in one case[30],

> "x x x The policeman who, taking advantage of his public position, maltreats a private citizen, merits no judicial leniency. The methods sanctioned by medieval practice are surely not appropriate for an enlightened democratic civilization. While the law protects the police officer in the proper discharge of his duties, it must at the same time just as effectively protect the individual from the abuse of the police".

It should be further noted that the offended party was forcibly abducted and dragged across trackless ground and thereafter violated only a few days before her wedding and she had to postpone her marriage to a very much later date because of the expenses her family had incurred in prosecuting this case. An increase in the indemnity to be paid to her will help to alleviate the physical and mental pains she has suffered in the hands of the accused-appellant.

WHEREFORE, the judgment appealed from is hereby AFFIRMED with the modification that the accused-appellant, Arcito Magdaraog alias Arcit, is ordered to indemnify the offended party in the amount of P30,000.00. With costs against the appellant.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

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[*] Written by Judge Juan Figueroa.

[1] The dispositive part of the decision reads, as follows:

> "WHEREFORE, the court finds accused Arcito Magdaraog alias Arcit guilty beyond reasonable doubt as principal of the crime of Forcible Abduction with Rape, as charged, and considering and appreciating in his favor the mitigating circumstances of voluntary surrender and passion and obfuscation and there being no aggravating circumstance present sentences him to suffer reclusion perpetua, indemnify Adelaide Vicario-Castillo by way of moral damages in the amount of Three Thousand Pesos (P3,000.00), pay Adelaida's

parents moral damages in the sum of Two Thousand Pesos (P2,000.00), with the accesory penalties provided by law and to pay the costs of this case.

"As shown by the records (p. 91) the accused has agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners during his detention. It is ordered that 'in the service of his sentence the accused should be credited in full with the detention imprisonment undergone by him".

[2] Exhibit 1 and its translation, Exhibit 1-A

[3] t.s.n. of March 27, 1974, pp. 18-19

[4] t.s.n. of March 28, 1974, pp. 70-87

[5] Id., pp. 88-90

[6] Id., pp. 91-92

[7] Id., pp. 93-95

[8] Id., pp. 95-96

[9] t.s.n. of March 29, 1974, pp. 22-24

[10] Id., p. 25

[11] Id., p. 25-26

[12] t.s.n. of April 2, 1975, p. 7

[13] t.s.n. of Dec. 19, 1973, p. 37

[14] t.s.n. of Jan. 17, 1973, p. 49

[15] t.s.n. of Dec. 18, 1973, p. 10

[16] t.s.n. of April 2, 1975, pp. 5-6

[17] People vs. Ramilo, G.R. NO. 52230, Dec. 15, 1986, 146 SCRA 256 and cases cited therein.

[18] t.s.n. of Dec. 19, 1973, p. 40

[19] Exhibit A

[20] Exhibit B

[21] Exhibit E

[22] People vs. Daing, Jr., L-40574, Nov, 29, 1984, 133 SCRA 448

[23] t.s.n. of Jan. 10, 1974, p. 57

[24] Sec. 24, Rule 130, Rules of Court

[25] t.s.n. of April 2, 1975, pp. 11-12

[26] Art. 344, par. 3, Revised Penal code

[27] t.s.n. of Dec. 19, 1974, p. 39

[28] t.s.n. of April 2, 1975, pp. 18-19

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[29] People vs. Reyes, G.R. No. L-33154, Feb. 27, 1976, 69 SCRA 474

[30] U.S. vs. Pabalan, 37 Phil. 352, 354

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