

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ADRIANO ARCIAGA, ET AL., DEFENDANTS. ADRIANO ARCIAGA AND
CRISPIN CUSTODIO, ACCUSED-APPELLANTS.**

G.R. No. L-38179. June 16, 1980

Ponente: GUERRERO, J.

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GUERRERO, J.:

Automatic appeal from the decision of the Court of First Instance of Pasig, Rizal, Branch XXVI in Criminal Case No. 19056 for forcible abduction and rape, entitled "People of the Philippines versus Adriano Arciaga, Boy Rivera, Marcelino Gonzales (Principals), Crispin Custodio and Ambrosia Magtipon (Accomplices)" under the following information:

"The undersigned Assistant Fiscal accuses Adriano Arciaga, Boy Rivera, Marcelino Gonzales. as Principals, Crispin Custodio and Ambrosio Magtipon as Accomplices, of the crime of Forcible Abduction with Rape, committed as follows:

That on or about the 5th day of September, 1968. in the Municipality of Muntinlupa, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Adriano Arciaga, Boy Rivera and Marcelino Gonzales, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously and forcibly take and carry away one Adoracion Hernandez y Arciaga from a tricycle she was riding and thereafter brought her to Morong, Rizal, and later to Sta. Maria, Laguna, where the accused Adriano Arciaga by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of said Adoracion Hernandez y Arciaga against her will and consent:

That the accused Crispin Custodio and Ambrosio Magtipon, without having participated as principals simultaneously cooperated in the commission of the crime, in that being fully aware that said Adoracion Hernandez y Arciaga was forcibly abducted against her will by the above-named principal accused, did then and there willfully, unlawfully and feloniously land and give The use of their respective houses where the crime of rape was committed;

That in the commission of the crime charged, the following aggravating circumstances were present:

- (1) The crime was committed with the use of motor vehicle; and
- (2) The accused took advantage of superior strength.

Contrary to law.

Pasig, Rizal, March 24. 1969.

(Sgd.)

JOSE P. SANTOS

Assistant Fiscal"

Since the accused Boy Rivera and Marcelino Gonzales remained at large up to the time of the rendition of the judgment while the accused Ambrosio Magtipon was just apprehended, only the accused Adriano Arciaga and Crispin Custodio were tried and convicted. The former was sentenced to suffer the penalty of death and to indemnify the complaining victim in the sum of Ten Thousand Pesos (P10,000.00) by way of actual and moral damages while the latter was sentenced to suffer an indeterminate penalty ranging from ten (10) years and one (1) day of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum and to pay subsidiarily the indemnity in case of insolvency of the principal.

The People's version of the facts of the case is as follows:[1]

"At about 5:30 o'clock in the morning of September 5, 1968, complainant Adoracion Hernandez was riding on a tricycle bound for the Poblacion from her residence at Muntinlupa, Rizal. It was her usual route before taking a bus ride to Manila, where she was attending school at Manuel Luis Quezon University (pp. 3-4, t.s.n.. March 24, 1970). The tricycle was driven by Buenaventura Tobias. On board the same tricycle was Armando Arciaga, himself a tricycle driver. Along the way, accused Marcelino (Celing) Gonzales blocked the road with outstretched arms. The tricycle had to stop. Thereupon, accused Adriano Arciaga appeared and with the assistance of Celing Gonzales, took hold of the complainant, dragged her out of the tricycle and bodily lifted her unto a waiting jeep driven by accused Boy Rivera. Complainant struggled hard to free herself from her abductors, and in the course thereof, was able to shout. "Tata Titra, puntahan ninyo ang lalay ko at sabihin ninyo" (Tata Tura. go and tell my father) (pp. 31-32; 35-37; 41-48, t.s.n, June 1, 1970. Exh. "E"). Arciaga instantly covered her mouth with a handkerchief while Rivera poked a gun at her side. She was taken to barrio Lagundi. Morong, Rizal on board the jeep by the three above-named accused, arriving at said place at around 7:00 o'clock that same morning. She was brought to a house owned by accused Crispin Custodio, to whom she cried and begged for help. The latter promised to help her, but he never returned afterwards. She never saw any member of the family of Crispin Custodio in the house (pp. 8-13, t.s.n., March 24, 1970).

She was dragged to the second floor and into a room. Once inside the room, accused Adriano Arciaga embraced and kissed her, and touched her private parts. Complainant struggled and resisted. Ail the while, accused Boy Rivera and Celing Gonzales stood guard just outside the room (pp. 34-20, t.s.n.. Ibid.).

When evening came, accused Mariano Arciaga forced the complainant to lie down on the floor. Boy Rivera pressed her hands to the floor stretched over her head, while Celing Gonzales held her legs apart. Meanwhile, Adriano Arciaga stood up and removed his pants, after which he forcibly removed complainant's dress and her panties. In so doing, the dress was torn. Complainant struggled, kicked and wriggled strongly until she .was boxed on her thighs which rendered her weak. Thereupon, Adriano Arciaga inserted his penis into the complainant's private part. Complainant felt terrible pain. She became unconscious. When she regained consciousness, she found herself naked, still lying on the floor, with a blanket over her body. She saw her dress stained with blood.

She was made to remain inside the room with its windows closed while Boy Rivera and Celing Gonzales stood guard outside. Food was brought to her by Adriano Arciaga (pp. 21 -29; 31-23, tsn., Ibid.).

In the evening of the second day, September 6, 1968, at about 9:00 o'clock, the complainant was dragged and loaded on a jeep (pp. 36-38, tsn., March 24, 1970). On board the vehicle, also driven by Boy Rivera, were Adriano Arciaga, Celing Gonzales and a certain "Ando" (pp. 36, tsn., Ibid.) She was brought to Sta. Maria,

Laguna, to a house owned by accused Ambrosio Magtipon. She was dragged to the second floor and into a room. What happened afterwards was but a re-enactment of what transpired the night before at Crispin Custodio's house in Morong, Rizal. Boy Rivera again held her hands while Celing Gonzales pressed her legs apart. Adriano Arciaga was able to consummate the sexual act on the complainant once more, despite the latter's struggle and resistance (pp. 39-40,42-45,48, Ibid.).

Meanwhile, Buenaventura Tobias reported the incident to barrio captain Hernandez of Muntinlupa, Rizal. The police authorities were duly apprised (p. 48,tsn., June 1, 1970). A police team was dispatched to Tanauan, Batangas, in search of the perpetrators and their victim (p. 7, tsn.,Jan. 18, 1971). The mission failed. On September 17, 1968, after having been tipped about the culprits' whereabouts, Patrolman Arturo Argana of the Muntinlupa Police Force in the company of another policeman and two PC officers finally collared Adriano Arciaga who was inside the room of Ambrosio Magtipon's house at Sta. Maria, Laguna, together with the complainant. Adriano Arciaga was thereafter haled back to Muntinlupa, Rizal where he remained under police custody (pp. 8-13, tsn., Jan. 18, 1971.)"

Prescinding from the foregoing, accused-appellants presented a different story. They claimed that Adriano Arciaga and Adoracion Hernandez were sweethearts. In order to free themselves from the restrictions of Adoracion's parents who had continuously and persistently disapproved of their relationship, they agreed to elope. The details of their version of the facts of the case are succinctly stated in the Brief for Appellant Crispin Custodio as follows:[2]

"The lovers hit up a plan of elopement, to be executed at a time when it would appear to have been part of the ordinary and routinely activities of Adoracion Hernandez. And this, to avoid suspicion and discovery by her ever vigilant opposing parents.

Thus, the meeting was set on September 5, 1968, in the early morning, while Adoracion goes out to attend school. They met about 5:30 a.m. that morning (Sept. 5) at the waiting shed at the poblacion of Muntinlupa, Rizal, where the tricycle trip ends from her house. She was met by accused Arciaga himself, together with his confidants, Celing Gonzales and Boy Rivera, from whom he (Arciaga) had secured assistance to insure that the elopement be carried out smoothly. As requested, Celing Gonzales and Boy Rivera provided the vehicle for the eloping couple. Neither accused Arciaga nor Adoracion knew exactly where and in what particular place they were going to go and stay. It was only Boy Rivera who knew somebody from Morong, Rizal and had suggested that they proceed to that place where they could seek accommodation while they await the parents of Adriano Arciaga. The eloping couple had so entrusted the whole activities to close friends; obviously, they were filled with excitement and anticipation as to what awaits them both.

From the poblacion of Muntinlupa, Rizal, the couple rode on the open owner jeep provided by his said friends for that purpose. The jeep passed through the towns of Pasig, Taguig, and Taytay, and then proceeded to Morong, Rizal. There they met and saw appellant Crispin Custodio at a waiting shed by the roadside. Boy Rivera asked appellant Custodio if it would be possible for him to accommodate the eloping couple and allow them to stay in his house where they were to wait for the parents of Arciaga. True to the traditional trait in the provinces, appellant Custodio to this request consented. He welcomed them to his house and instructed his sister-in-law to entertain them and to possibly give them whatever they might need. The couple was seen by numerous people, buyers and neighbors alike, since the house of appellant Custodio has a sari-sari store below. The couple was given and allowed to stay inside the room in the second floor which had only a doorway but no shutters. In front of the house of Custodio, at or about 6 to 8 meters away, is another busy store and a barber shop. The nearest neighbor is only 2 meters away with the windows of the rooms of appellant Custodio's house directly fronting the windows of the rooms of the neighboring house.

Appellant Custodio was able to stay with the eloping couple only for the briefest moment for he was then to go to Tanay, Rizal that very morning to get from his wife money for the purchase of a jeep.

Appellant Custodio returned in the afternoon of the following day, September 6, 1968, and found that the couple had already transferred to the house of his neighbor Fernando Austria, which is about 2 meters away from his house.

While in the house of appellant Custodio, as eloping couples normally do, Adriano Arciaga and Adoracion Hernandez had thrice made love. They were both happy. They ate their meals at the ground floor of the same house and Adoracion, in return of the hospitality extended to them by the family of Custodio, even helped in the household chores and played with Custodio's children. The couple stayed at the house of appellant Custodio for one day and one night and decided to transfer to the house of Fernando Austria the next day because of the presence of too many curious people both from the store at the house of Custodio itself and from the peeping toms, who have known that they had just eloped.

While in the house of Austria, again, as expected, complainant Adoracion Hernandez and accused Arciaga had carnal contact several times. During their stay in Morong, Rizal, they have both lived like ordinary man and wife and had no conducted their activities in the most normal and expected manner. Arciaga even had a haircut in the barber shop in front of the house of Custodio while Adoracion took time laundering their clothes. It was in this barber shop where Arciaga was able to talk with one "Ando" (Leonardo San Jose), whom he had requested for help so that he and Adoracion can get married. "Ando" acceded to his request and told him that he could take them to his godfather at Sta. Maria, Laguna, a councilor therein, whom they could easily approach and secure help for the intended marriage.

On September 7, 1968, at or about 4:00 o'clock in the afternoon, the couple, Arciaga and Adoracion, together with Leonardo San Jose ("Ando") and two other persons, went to Sta. Maria, Laguna, which they reached at or about 6:00 o'clock in the evening. They were there accommodated by Councilor Ambrosio Magtipon. The couple had numerous sexual intercourse in the house of Ambrosio Magtipon.

On September 15, 1968, the parents of Adoracion, together with some policemen from Muntinlupa, Rizal, arrived at the house of Ambrosio Magtipon. They found Adoracion in the most normal, good physical condition. There were no cries for help, no fear in her face, no signs of discomfort."

The main issue raised in this appeal therefore, hinges on credibility of witnesses as may be gleaned from these two sets of assignment of errors of accused-appellants:

ASSIGNMENT OF ERRORS OF ACCUSED-APPELLANT

ADRIANO ARCIAGA[3]

- I. The Court a quo erred when it denied accused-appellant due process of law.
- II. The Court a quo erred in concluding that the prosecution evidence strongly and sufficiently proved the commission of the crime charged, because it overlooked certain significant and material contradictions between complainant's version and the alleged corroborative evidence.
- III. The Court a quo erred in taking into consideration the alleged flight of the other co-accused and in taking the same against the appellants, persuaded and coloring its judgment thereby.
- IV. The Court a quo erred in its evaluation of the defense evidence, ascribing alleged weakness thereto due to its misinterpretation and/or misconception thereof.
- V. The Court a quo erred when given the opportunity to reconsider its decision and/or to grant the appellants a new trial in view of newly discovered evidence in the form of complainant's pardon or condonation in favor of Boy Rivera, Marcelino (Cecilio) Gonzales, it denied appellants' motion.
- VI. The Court a quo erred when, even granting, en gratia arguments, that Adriano Arciaga committed the crime charged, it imposed the supreme penalty on said appellant Adriano Arciaga.

VII. The Court a quo erred when it did not find that the crime charged was not proven beyond reasonable doubt, should have acquitted the accused-appellants.

ASSIGNMENT OF ERRORS OF ACCUSED-APPELLANT CRISPIN CUSTODIO[4]

I. The trial court erred in giving credence to the testimony of complainant Adoracion Hernandez and to the testimony of the other witnesses for the prosecution.

II. The trial court erred in finding the accused Crispin Custodio guilty as accomplice to the crime of abduction with rape herein charged.

III. The trial court erred in not acquitting appellant Crispin Custodio on reasonable doubt.

The rule is well-settled that "the trial court's findings will be sustained unless there appears in the record some fact or circumstance of weight and influence which has been overlooked or the significance of which has been misinterpreted." [5] This is so because the trial court is in a better position to decide the question of credibility, having seen and heard the witnesses themselves and having observed their behavior and manner of testifying. Where the judge who rendered the decision is not the judge who heard the case on the merits, as in the present case, the rule, however, need not be followed and the exception should be unhesitatingly applied when there are certain in dubitable facts favoring accused-appellants' innocence that were not taken into account.

Mention should be made first of all regarding the disparity in the versions of the prosecution witnesses as to how the alleged abduction was carried out. Complainant claimed that she struggled and cried for help when Gonzales and Arciaga pulled and dragged her to a jeep and that while she was struggling and crying, Arciaga covered her mouth with a handkerchief and Gonzales poked a gun covered with a handkerchief at her side. [6]

On the other hand, Buenaventura Tobias, the tricycle driver, failed to prove that complainant cried for help. While he stated in his affidavit [7] that complainant uttered these words: "Tata Tura, puntahan ninyo ang tatay ko at sabihin ninyo," he never mentioned this in the course of his testimony in court. Besides, on the assumption that there was such a statement, the same does not signify abduction or any criminal act. As correctly observed by the defense, it is an equivocal statement that could be equated with both the People's story as well as theirs. He likewise failed to corroborate complainant's testimony that she was gagged and a gun covered with a handkerchief was poked at her side since he even declared that he did not see Arciaga and Gonzales holding anything in their hands. [8]

Armando Arciaga, the other prosecution witness, was even less persuasive in proving forcible abduction for he emphatically declared in court that he did not hear complainant utter anything when she was abducted. [9] He likewise declared that he did not do anything to help the complainant and just left the scene immediately, [10] indicating that there was nothing unusual that occurred.

Instead of lending support to the prosecution's claim that complainant was forcibly abducted, these two prosecution witnesses put said claim to serious doubt for it is indeed surprising why they did not hear and see everything that complainant alleged to have happened despite the fact that they professed to have witnessed the incident. In cases such as this, where there are contradictory versions of what transpired, corroboration of material events must be supplied to overcome presumption of innocence.

A second point that is worthy of note is the fact that complainant was made to ride in an open owner type jeepney that passed through different busy towns of Rizal in broad daylight. If indeed she was gagged and that she struggled and hit Arciaga with her fists inside the jeep, these happenings could not have escaped unnoticed from a lot of people.

Worth emphasizing is also the fact that despite knowledge that she was going to be raped, she did nothing to protect her honor. It should be noted that complainant testified that she and her abductors arrived at Morong, Rizal at about 7:00 in the morning and she was not raped until 7:00 in the evening. Morning to nighttime is quite a long period of time to devise ways and means to preserve her virtue. But nowhere in the record does it show that she attempted to escape.

An ocular inspection of the place and location where the alleged first rape was committed reveals that she could have easily escaped. The first floor of the house of Custodio has a sari-sari store; the room where she was brought has a doorway but no shutter; the windows have no locks, and there are no grills, iron or wooden, to bar any of the same; the distance from the house up to the wall of the neighbor in front across the store, westward, is 6 meters and the distance from the outside portion of the southern wall of Custodio's house to the outside wall of the neighbor's house is only 2 meters.[11]

Thus, complainant could have easily run out of the lockless room. She could have easily opened the windows and attracted the attention of the neighbors by shouting for help or creating a commotion or scandal. But the records are silent as to whether she attempted any of the foregoing. Complainant had all the opportunity to cry for help and many would have come to her assistance if she did. But she did not ask for help.

At Sta. Maria, Laguna, where she was made to stay for eight continuous and successive days, complainant likewise did nothing about her predicament. Although the inside of the room at the second floor to which she was brought, like the house in Morong, Rizal, had windows and a doorway which had no shutters or locks, she chose to remain and wait indifferently instead of taking any positive action. The fact that she did not try to escape although she had all the opportunity to do so is an indication that she stayed voluntarily with the accused and voluntarily fornicated with him. In *People vs. Quiazon*, 78 SCRA 513, the concurring opinion of Justice Aquino, is very persuasive and strong on this point, thus:

"We have to assume that the complainant is endowed with some intelligence and resourcefulness. It is unbelievable that during the long period when she was allegedly forcibly detained by the accused she would have had no chances of escaping or obtaining help from other persons.

The fact that she did not try to escape or did not endeavor to make known her alleged predicament to other persons is an indication that she stayed voluntarily with the accused and voluntarily fornicated with him. (Compare with *People vs. Manguial and Sanqui*, 51 Phil. 406).

Hence, no crime of forcible abduction with rape can be imputed to the accused."

We note that the physical injuries found on the complainant by Dr. Dario C. Nalagan, the prosecution expert witness, consisted of the following:

"Contusions, greenish yellow thigh left upper third lateral aspect 4x2 cms., right lower third antero-medial aspect 2x 1.5 cms.

"Abrasion, healed, linear, pinkish white in color, forearm, left middle third anterior aspect 5.5 x 0.1 cms." [12]

We are not convinced that these physical injuries were sufficient to prove force and violence in the commission of the crime charged. We note that the doctor failed to tie the date of the commission of the alleged crime with the nature of the said physical injuries. While he admitted that "a contusion usually heals within a period often days," [13] he, however, declared that he found "greenish-yellow contusions" on the thigh of victim when he examined her on September 17, 1968. Consequently, those injuries were absolutely inflicted not on September 5, 1968, or twelve (12) days before, contrary to what the victim declared for if it were, they should have been healed after the lapse often (10) days.

As held in *U.S. vs. De Dios*, 8 Phil. 279, the force and violence must be proven by clear and conclusive evidence; otherwise, there is reason to suspect that the act was committed by consent. This is especially applicable in this case since Dr. Nalagan likewise admitted that the lacerations found on complainant's private parts could be caused even in a sexual intercourse done with consent.[14]

Moreover, in the Living Case Report No. MI-68-446 which Dr. Nalagan read in court, he wrote his interview with complainant where the latter admitted that she had three sexual intercourses with the accused Adriano Arciaga in Morong, Rizal on September 5, 1968. But in court, the complainant claimed that there was only one attack on her honor. There is inconsistency therefore, in what she declared in and out of court.

Another point that should not be ignored is the complainant's proclivity in giving false testimony. She claimed in court that her uniform and dress were torn and bloodstained.[15] The defense, however, presented them in court as Exhibits 8 and 8-A[16] and they were clean and untorn. Nowhere in the record can it be found that the People presented proof to the contrary. As held in *People vs. Sacabin*, 57 SCRA 707, physical evidence is of the highest order. It speaks more eloquently than a hundred witnesses. Besides, the absence of any torn apparel of the girl allegedly raped indicates absence of intimidation or force in the carnal relations between the two.[17]

The record discloses that a letter was written by complainant to her parents on September 15, 1968, requesting them not to worry as she was in good condition and asking pardon. While it is true that she disclaimed voluntariness in writing said letter, the same cannot be believed firstly because she could not exactly determine what force was employed on her. In her affidavit,[18] she declared that she was forced to write the letter because her abductors threatened her that they will let Arciaga rape her again. In her testimony at trial, however, she said that she was forced to write that letter because Celina Gonzales poked a gun at her and threatened to kill her. Secondly, when she was requested in court to write the following: "Mahal kong Itay at inay," the writing styles and characteristics of the penmanship in the letter handwritten in Sta. Maria, Laguna turned out to be legibly better than that written in court thereby indicating that it is very unlikely that threats were employed.

Complainant's conduct and appearance when she was "rescued" on September 15, 1968, after ten (10) days of "captivity" clearly belies her accusation of rape. Patrolman Argana testified that he found complainant in the most normal condition and in good physical shape. He saw her and the accused inside the bedroom conversing. He did not notice any signs that she had been crying. This confirms the defense theory that there was no force but consent in their being together and that there was no injury inflicted on complainant as she complained of none. In rape cases, the absence of any manifestation of outrage on the part of the party aggrieved demonstrates the dubiousness of the charge.

Finally, it should be pointed out that complainant executed a sworn statement only on September 25, 1968, or after ten (10) days from her rescue and filed her complaint in court only on November 21, 1968, or after 51 days from her rescue. This passive attitude is indicative of the lack of merit of the complaint.

Despite the disparity in the versions of the contending parties in this case, We find that the foregoing indubitable facts cannot be obscured. They cast a heavy pall of doubt on the prosecution's charge of forcible abduction and rape. Without accepting the version of the accused-appellants as true, We must set aside the judgment of conviction and allow the constitutional presumption of innocence to prevail.

This presumption cannot be overcome by the alleged flight of the three other accused, namely Boy Rivera, Celina Gonzales and Ambrosio Magtipon, nor by the neglect or refusal of the accused to disclose what they knew about the case, as erroneously ruled by the trial court.[19]

While it is true that the flight of an accused may be considered as a circumstance tending to establish his guilt,[20]

said rule applies only against the accused in flight. Besides, the alleged flight of the other accused still remains to be proved so it would be most unfair to consider it against the accused on trial.

No inference of guilt may also be drawn against an accused upon his failure to make a statement of any sort. The neglect or refusal of the accused to be a witness shall not in any manner prejudice or be used against him.[21] Most importantly, both under the 1935 and 1973 Constitutions, an accused has the right to remain silent.[22] Such silence cannot be used as presumption of his guilt. Only recently, in *People vs. Gargoles*, 83 SCRA 282, this Court held, citing *People vs. Esmundd*, 27 Phil. 554, that an accused has the right to decline to testify at the trial without having any inference of guilt drawn from his failure to go on the witness stand. We likewise held therein that a verdict of conviction on the basis solely or mainly, of the failure or refusal of the accused to take the witness stand to deny the charges against him is a judicial heresy which cannot be countenanced. Moreover, the foregoing is in consonance with the rule that an accused should be convicted on the strength of the evidence presented by the prosecution and not on the weakness of his defense,

With more reason, the accused in this case cannot be faulted merely for failure to give any statement before trial. Besides, the rules do not make it a condition precedent for a witness to give his affidavit before taking the witness stand. The procedure is simply adopted to safeguard the parties from recalcitrant witnesses.[23]

By way of conclusion, We reaffirm the rule that in crimes against chastity, the testimony of the injured should not be received with precipitate credulity. When the conviction depends on any vital point on her uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion.[24] The lone testimony of the woman must be clear and free from serious contradiction; her story must be impeccable and must ring true throughout or bear the stamp of absolute truth and candor.[25] This is because the crime of rape is of such nature that it can only be established by clear and positive evidence and cannot be made to depend upon inference or dubious circumstantial evidence.[26]

There being no clear and sufficient evidence as to the commission of the crime of forcible abduction and rape, there can be no accomplice. Thus, the charge against accused-appellant Crispin Custodio as an accomplice must likewise fail.

IN VIEW OF THE FOREGOING, judgment is hereby rendered acquitting both the accused-appellants Adriano Arciaga and Crispin Custodio. Costs de oficio.

SO ORDERED.

Fernando, C.J., Barredo, Makasiar, Aquino, Concepcion Jr., Fernandez, Abad Santos, and De Castro, JJ., concur.

Teehankee, J., in the result.

Melencio-Herrera, J., on leave.

[1] Brief for Appellee, pp. 3-6.

[2] pp. 4-9.

[3] Brief for Appellant Adriano Arciaga. pp. 1-3.

[4] Brief for Appellant Crispin Custodio. pp. 15-16.

[5] *People vs. Pascual*, 80 SCRA 1.

[6] T.s.n., March 24, 1970, pp. 6-8.

- [7] Exhibit "F".
- [8] T.s.n.. June 1. 1970. pp. 79-80.
- [9] Ibid., September 14. 1970. pp. 46-48.
- [10] Ibid., August 12, 1970. p. 26.
- [11] Ibid., February 6. 1971. pp. 8-12.
- [12] Exhibit "A".
- [13] T.s.n.. March 10. 1970. pp. 31-32.
- [14] Ibid., March 3. 1970. p. 55.
- [15] Ibid., March 24. 1970. pp. 32-34.
- [16] Ibid.. Feb. 28. 1972. p. 9; March 29. 1972. pp. 5-6.
- [17] People vs. Barbo, 56 SCRA 459.
- [18] Exhibit "D".
- [19] Decision, pp. 24: 26-27: Rollo, pp. 57: 59-60.
- [20] People vs. Sibavo, 31 SCRA 247.
- [21] Sec. I (d). Rule 115. Revised Rules of Court.
- [22] Sec. 18. Art. III. 1935 Constitution and Sec. 20. Art. IV. 1973 Constitution.
- [23] People vs. Morado, 4 SCRA 292.
- [24] People vs. Fausto, 51 Phil, 852.
- [25] People vs. Ariarte, 60 Phil. 326; People vs. Definado, 61 Phil. 694; People vs. Hebreros, 58 Phil. 903.
- [26] People vs. Fartin. I.-7392. August 1 !. 1955. 97 Phil. 983.

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