

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUCIANO JUMAMOY Y AÑORA, ALIAS “JUNIOR”; ACCUSED-APPELLANT.

G.R. No. 101584. April 07, 1993

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Two (2) separate informations for "Murder" and "Qualified Illegal Possession of Firearm and Ammunitions (sic)" were filed by the Office of the Provincial Fiscal of Bohol with the Regional Trial Court (RTC) of Tagbilaran City against accused Luciano Jumamoy y Añora, alias Junior; they were docketed as Criminal Case No. 5064 and Criminal Case No. 5065, respectively, and were raffled off to Branch 3 thereof.

The information for Murder reads:

"That on or about the 1st day of April, 1987, in barangay Poblacion, municipality of Inabanga, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused without justifiable cause or motive, with intent to kill, and with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault, and shoot with the use of an unlicensed firearm one Rolando Miel without giving opportunity to the latter to prepare for his defense, thereby inflicting upon the vital parts of the body of the latter, serious physical injuries which caused his instantaneous death; to the damage and prejudice of the heirs of the deceased.

Acts committed contrary to the provisions of Article 248 of the Revised Penal Code, with the aggravating circumstance of nighttime being purposely sought for or taken advantage of by the accused to facilitate the commission of the crime.

City of Tagbilaran, August 14, 1987."[1]

while that for Qualified Illegal Possession of Firearm and Ammunitions (sic) relates:

"That, on or about the 1st day of April, 1987, in barangay Poblacion, municipality of Inabanga, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, with intent to possess a firearm with ammunitions (sic), did then and there willfully, unlawfully and criminally keep, carry and have in his possession, custody and control a (sic) gun still, of unknown make and caliber, and at least three (3) rounds of live ammunitions (sic), without first obtaining the necessary permit or license to possess the said firearm and ammunitions (sic), or permit to carry the same from competent authorities, and which firearm was used by the said accused in committing the crime of murder wherein the victim was one Rolando Miel; to the damage and prejudice of the Republic of the Philippines.

Acts committed contrary to the provisions of Sec. 878 and 887 of the Administrative Code in relation to Sec. 2692, of the same Code as amended by Republic Act No. 4 and as further amended by PD No. 1866.

City of Tagbilaran, August 14, 1987."[2]

No bond was recommended in both cases for the temporary liberty of the accused.

Upon his arraignment on 10 December 1987, the accused entered a plea of not guilty in each case.[3]

Upon motion of the prosecution, the two (2) cases were consolidated and jointly heard.

The prosecution presented Dr. Hector Enriquez, Bonifacio Ayag, Lino Gudes, Jr., Artemio Panganiban, Jr. (Supervising Ballistician, NBI, Region VII), Alfredo Alforque, Sgt. Misericordio Sapon, Rodrigo Aparicio, Pfc. Segundo Requirme and Felisa Miel as witnesses for its evidence in chief, and Leandro Tirol and Luisito dela Torre for purposes of rebuttal. On the other hand, the defense presented the accused, Manuelito Cajes and Ramon Micutuan as its witnesses for its evidence in chief, and the accused himself in surrebuttal.

After trial, the court a quo promulgated on 18 July 1991 its judgment, dated 27 June 1991,[4] finding the accused guilty beyond reasonable doubt of the crimes charged. The dispositive portion of the decision reads:

"WHEREFORE, in view of the foregoing premises, this Court finds accused Luciano Jumamoy y Añora, alias Junior, guilty beyond reasonable doubt for (sic) the crimes of Murder and Qualified Illegal Possession of Firearm and Ammunitions (sic) in the foregoing Criminal Cases Nos. 5064 and 5065 and, consequently hereby imposes upon him the penalty of reclusion perpetua or life imprisonment in each of the aforesaid criminal cases.

He is further ordered to indemnify the heirs of the deceased Rolando Miel by way of actual civil indemnity in the amount of P7,800 (Exhibit C-1) and, further, the amount of P30,000 by way of moral damages.

Without pronouncement as to costs.

BE IT SO ORDERED."[5]

The evidence for the prosecution, upon which the trial court based its decision, is summarized in the People's Brief as follows:

"Appellant Luciano Jumamoy and the victim Rolando Miel were once friends and belonged to the same 'barkada' until sometime in 1970 when the former was stabbed by the latter on his left forearm. As a result, appellant's left arm was deformed, despite medical attendance, because the main vein of his left arm was severely cut. Since then the two had not met each other, as the victim avoided appellant (sic) (p. 2, tsn, April 3, 1989).

In the evening of April 1, 1987, the victim and his younger brother Edgar, together with three other companions, went to the Cultural Center of Inabanga, Bohol, where a 'disco' dance was being held in connection with the commencement exercises of St. Paul Academy. However, upon reaching the premises of the Center, the victim's brother and a companion stayed behind and sat on a concrete bench, as the victim and their other companions proceeded (p. 2, tsn, Nov. 11, 1988; p. 4, tsn, June 26, 1990).

Upon reaching the Center, the victim and his companions joined three other members of their 'barkada' watching the disco outside. The victim and three of his friends were leaning against a concrete post of the Center conversing and watching the 'disco,' when all of a sudden appellant appeared in front obliquely to the right of the victim and fired three (3) successive shots at the latter, who slumped and fell to the ground (pp. 2-7, tsn, July 6, 1988; pp. 2-5, tsn, Nov. 11, 1988).

Thereafter, the people inside and outside the Center scampered for safety (p. 7, tsn, July 6, 1988; p. 5, tsn, Nov. 11, 1988). However, on his way to escape, appellant passed by the victim's brother Edgardo and a companion who were then sitting on a bench about 60 meters away from the Center. When appellant got near the two, the former

poked his gun at the victim's brother, and uttered, 'Unsa, laban ka?' ('What now, are you taking sides?'). The two remained silent, as appellant ran behind a house and into the bushes when he saw the Mayor approaching (pp. 1-3, tsn, June 26, 1990).

Meanwhile, the victim's sister Zeny, who was then inside the Center, came to his (sic) brother's rescue. With the help of other people, she brought her brother to a hospital, but the latter expired before arrival thereat (p. 9, tsn, July 6, 1988; pp. 8-9, tsn, Nov. 11, 1988).

Dr. Hector Enriquez, who conducted an examination on the victim's cadaver, issued a Medico-Legal Report (Exhibit "A"), wherein he described the four (4) gunshot wounds sustained by the victim. Although he found four (4) gunshot wounds on the victim's body, Dr. Enriquez reported that it was possible that the victim was shot at only three (3) times since the 4th wound on the right forearm was through and through; hence, the same bullet may have also caused the 2nd wound which penetrated the 'subcostal margin, mid-clavicular line, right' (pp. 1-2, tsn, Feb. 24, 1978).

The doctor deduced that based in (sic) the locations of the wounds, the assailant must have been in front obliquely to the right of the victim when the former shot the latter. He also opined that since he did not notice the presence of powder burns on the victim and the downward trajectory of the bullets, the assailant must have been more than two (2) feet away from, and taller or stood on a higher level than the victim. Furthermore, of the four (4) wounds sustained by the victim, he considered wound No. 1 along the '7th ICS, anterior axillary line, right,' and wound No. 2 penetrating the 'subcostal margin, mid-clavicular line, right' as fatal, which caused the victim's death (pp. 2-3, Ibid.).

Dr. Enriquez also recovered from the victim's body one (1) slug (p. 3, Ibid.), which, when examined by the NBI Supervising Ballistician of Region VII stationed at Cebu, City, was found to have been fired from a .38-caliber firearm, probably a homemade (paltik) firearm, caliber .38 (pp. 1-3, tsn, August 23, 1988).

Upon request, Sgt. Misericordio Sapong of the Bohol PC Command issued a certification (Exhibit "E") that appellant was never issued a permit or license to possess or carry a firearm (p. 1, tsn, Nov. 11, 1988)."[6]

The trial court disregarded the accused's defense of alibi. The latter testified that he had left Inabanga, Bohol for Cebu City on 29 March 1987 to look for employment; he claims to have boarded a motor banca, the M/B Roxan, which left for Cebu City from Buenavista, Bohol at 9:00 o'clock in the morning of that date. The motor banca supposedly reached Cebu City at 11:00 o'clock on the same day. He recounts that he stayed in the house of a friend, Feliciano Cenita, in Pasil, Cebu City from 1 April to 4 April 1987. While in Cebu City, he drove, as a reserve driver, the passenger jeepney owned and driven by Cenita under the so-called boundary system. In the evening of 4 April 1987, Jumamoy avers that he took a boat, the M/V Sweet Roro, for Manila and stayed in the house of his brother Abundio in Mandaluyong, Metro Manila. He stayed there for seven (7) months and departed Inabanga only upon hearing that he had been named a suspect in the killing of Rolando Miel; he arrived in Inabanga on 9 November 1987.[7]

The accused did not, however, present Feliciano Cenita as a witness despite his (accused's) repeated manifestation of his intention to do so and the court's liberality in granting his request for postponement for the said purpose. Instead, "out of the blue, the accused ... presented one Ramon Micutuan ... to corroborate his claim that in the evening of April 1, 1987, he was in Cebu City driving a passenger jeepney." [8] Commenting on the accused's defense, the trial court declared:

"It is a well-settled rule that alibi as a defense is weak although the Courts should not take a negative attitude in some cases against the accused, if the defense of alibi reveals the truth. Alibi is also entitled to credit if the

accused is not positively identified by the prosecution witnesses. Moreover, the accused claiming alibi as a defense must prove that it was impossible for him to be at the place at the time of the commission because he was elsewhere during the incident.

The records in this case will show that at the time of the incident, at the time of the police investigation, during the preliminary investigation before the Municipal Circuit Trial Court of Inabanga-Buenavista as well as in the trial proper, the accused was positively identified by the prosecution witnesses.

It was established by the prosecution that the prosecution witnesses and the accused knew and were familiar with each other from the time they attained the age of reason because they lived in adjacent barangays located in the same municipality. It was also established by the prosecution that at the time of the incident there were several 'blinking' dancing lights at the cultural center because of the ongoing disco dance. In fact, there was another light -- an electric of 25 watts -- which was placed at the concrete post where the victim and some of the prosecution witnesses were then leaning against. That electric bulb was very near to the victim and the accused at the time of the incident.

During the hearing proper as well as during the investigation conducted by the police and before the municipal circuit trial court during the preliminary investigation, all the prosecution eyewitnesses pointed without hesitancy to the accused as the murderer of the victim, and during the trial before this Court there was not even one witness wavered of (sic) his identification of the accused as the author of the crime.

To the mind of the Court, the accused's evidence of alibi cannot be believed, the same being clearly an afterthought or afterwit because while the accused himself and his witness Manuelito Cajos positively declared during the presentation of the defense evidence in chief that it was on March 29, 1987 that they were on board MB Roxan together from Buenavista, Bohol, to Cebu City, the owner of the MB Roxan, Engr. Leandro Tirol, however, declared on rebuttal that it was impossible for the accused to have boarded on the said vessel on March 29, 1987, that date being a Sunday and that MB Roxan did not have any voyage from Buenavista, Bohol, to Cebu City on that date because it was not legally authorized to do so. So that on surrebuttal, the accused conveniently changed the date March 29, 1987 to probably March 30, 1987."[9]

Accused thus appeals the said judgment of conviction[10] and in his Appellant's Brief, claims that the trial court committed the following errors:

"I

THE LOWER COURT ERRED IN NOT FINDING THAT THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT IN THE TWO CASES.

II

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE TWO CRIMES OF MURDER AND QUALIFIED ILLEGAL POSSESSION OF FIREARM AND SENTENCING HIM THE (sic) PENALTY OF RECLUSION PERPTUA IN EACH OF THE SAID TWO CRIMES."[11]

The assigned errors were discussed in eight (8) short paragraphs, to wit:

"Let us try to assess the testimonies of the alleged eyewitnesses of the prosecution.

Originally there were six (6) alleged eyewitnesses for the prosecution. Surprisingly, only three (3) took the witness stand and testified. The suppression (sic) of the testimonies of the other three (3) alleged eyewitnesses raises some doubts that their testimonies would mixed (sic) up the evidence for the prosecution.

The testimonies of the three (3) alleged eyewitnesses who actually testified were inconsistent with each other. Each of the three witnesses presented different versions as to the source of light that lighted the place of the incident. They were not united as to whether the place was sufficiently lighted that enabled (sic) them to identify the accused.

The inconsistencies of the three witnesses only prove that they are not telling the truth. They wanted to hide the truth that the place of incident was dark, and they could not identify the person or persons who shot and killed the victim.

Another doubtful testimony is about the description of the firearm allegedly used by the assailant. One witness said that the firearm used by the accused was a short firearm, but on cross-examination the same witness declared that he did not actually see the firearm. What he saw was the sparkling lights that came out from the barrel of the firearm after it was fired (Page 4, TSN, August 24, 1988). If the witness saw the sparks, then the place must be dark.

Alfredo Alforque, one of the prosecution witnesses who claimed to have seen the shooting, made the following doubtful testimonies (sic):

Q While in that position, you said Luciano Jumamoy suddenly appeared. From what direction did he come?

A From behind us, passing our right side walking towards Rolando Miel (Page 7, TSN, Oct. 4, 1988).

However, on cross-examination, he changed his answer when he made the following answer:

Q you did not notice immediately the accused when (sic) he suddenly arrived?

A I noticed him because he suddenly arrived from behind. He was running (Page 9, TSN, Oct. 4, 1988).

The serious and material inconsistencies of the testimonies of prosecution witnesses only proves (sic) that said witnesses were lying. Their testimonies were all fabricated. They were planted witnesses. They have to testify falsely in order to help the family of their fallen close friend.

On the other hand, the firearm alleged to have been used by the accused in killing the victim was not presented in court during the trial. Its caliber and make was (sic) never established by sufficient evidence, so that there is no basis to convict the accused for illegal (sic) possession of firearm."

It is at once obvious that the instant appeal is bereft of any merit. The accused's failure to point out to this Court, with specific references to the transcripts of the stenographic notes of the testimonies of the witnesses, the so-called inconsistencies committed by the three (3) prosecution witnesses, and to make statements of facts, though he started the Appellant's Brief with the heading "Statement of Facts And of the Case,"[12] betrays an honest realization of the futility of this appeal and not merely the lack of diligence or zeal in the pursuit thereof which, incidentally, is likewise eloquently evidenced therein.

The instant appeal rests principally on the issue of the credibility of the witnesses for the prosecution and, to a lesser extent, on the alleged suppression of evidence and failure to present in evidence the firearm used by the accused.

It is settled that the issue of credibility is to be resolved primarily by the trial court because it is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying during the trial. Thus, its findings on the matter of the credibility of witnesses are entitled to the highest respect and will not be disturbed on appeal in the absence of any showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which would have affected the result of the case.[13]

We have carefully reviewed the records and the transcripts of the stenographic notes of the testimonies of the witnesses and find nothing therein to warrant a reversal of the findings of fact of the trial court. The meticulous care with which the court a quo summarized and analyzed, in its 31-page decision, the testimonies of the witnesses of both parties during the direct and cross examinations attests to its impartial disposition of the cases in the light of applicable jurisprudence. That the accused was positively identified by prosecution witnesses Lino Gudes, Alfredo Alforque and Rodrigo Aparicio is beyond dispute. These three had known the accused long before the incident; moreover, the place where the shooting took place, the cultural center, was sufficiently lighted. Nor was any motive ascribed by the accused to these witnesses to show why they would falsely testify against him. In the absence of evidence manifesting any ill motive on the part of the witnesses for the prosecution, it logically follows that no such improper motive could have existed and that, corollarily, their testimonies are worthy of full faith and credit.[14] Indeed, if an accused had nothing to do with the crime, it is against the natural order of events and of human nature and against the presumption of good faith that a prosecution witness would falsely testify against the former.[15]

The prosecution's failure to present the other witnesses listed in the information did not constitute, contrary to the contention of the accused, suppression of evidence. The prosecutor has the exclusive prerogative to determine the witnesses to be presented for the prosecution.[16] If the prosecution has several eyewitnesses, as in the instant case, the prosecutor need not present all of them but only as many as may be needed to meet the quantum of proof necessary to establish the guilt of the accused beyond reasonable doubt. The testimonies of the other witnesses may, therefore, be dispensed with for being merely corroborative in nature. This Court has ruled that the non-presentation of corroborative witnesses would not constitute suppression of evidence and would not be fatal to the prosecution's case.[17] Besides, there is no showing that the eyewitnesses who were not presented in court as witnesses were not available to the accused. We reiterate the rule that the adverse presumption from a suppression of evidence is not applicable when (1) the suppression is not wilful; (2) the evidence suppressed or withheld is merely corroborative or cumulative; (3) the evidence is at the disposal of both parties; and (4) the suppression is an exercise of a privilege.[18] Moreover, if the accused believed that the failure to present the other witnesses was because their testimonies would be unfavorable to the prosecution, he should have compelled their appearance, by compulsory process, to testify as his own witnesses or even as hostile witnesses.[19]

The claimed inconsistencies are on minor, if not inconsequential or trivial, matters. Settled is the rule that discrepancies on minor matters do not impair the essential integrity of the prosecution's evidence as a whole or detract from the witnesses' honesty. These inconsistencies, which may be caused by the natural fickleness of memory, even tend to strengthen rather than weaken the credibility of prosecution witnesses because they erase any suspicion of rehearsed testimony. What is important is that the testimonies agree on the essential facts and that the respective versions corroborate and substantially coincide with each other to make a consistent and coherent whole.[20]

Nor can We agree with the accused that it was indispensable for the prosecution to introduce and offer in evidence the firearm which was used in the killing of the victim. There is no law or rule of evidence which requires the prosecution to do so; there is also no law which prescribes that a ballistics examination be conducted to determine the source and trajectory of the bullets. For conviction to lie, it is enough that the prosecution establishes by proof beyond reasonable doubt that a crime was committed and that the accused is the author thereof. The production of the weapon used in the commission of the crime is not a condition sine qua non for the discharge of such a burden for the weapon may not have been recovered at all from the assailant. If the rule were to be as proposed by the accused, many criminals would go scot-free and much injustice would be caused to the victims of crimes, their families and society. In the instant case, it was established with moral certainty that the accused attacked, assaulted and shot the victim Rolando Miel with an unlicensed firearm, thereby inflicting upon the latter multiple

gunshot wounds which caused his death. Such proof was all that was needed for the conviction of the accused.

Against the overwhelming evidence consisting of his positive identification as the author of Rolando Miel's death, accused has nothing to offer but alibi. It is a fundamental judicial dictum that the defense of alibi cannot prevail over the positive identification of the accused.[21] Besides, his alibi is obviously fabricated. He was caught lying through his teeth when during rebuttal, it was shown through the testimony of Leandro Tirol, owner of the M/B Roxan, that he (Jumamoy) could not have left -- as he had vigorously insisted -- on board the said vessel for Cebu City on 29 March 1987 because the same was not authorized by its franchise to travel on that day, a Sunday. In an effort to dodge this fatal blow, the accused took the witness stand on surrebuttal to change the date of his supposed departure to 30 March 1987.[22] Moreover, despite his assurances that he would present as his witness Feliciano Cenita of Pasil, Cebu City -- in whose house he allegedly stayed from 1 April to 7 April 1987 -- for which reason the trial court accommodated his requests for postponements, accused never did so. No acceptable explanation had been offered to justify the failure of the said prospective witness to come to the rescue of the accused. Thus, the inevitable conclusion is that either this Cenita is a fictitious person or that, if he exists, he was unwilling to support the accused's claim of alibi. If the accused had gone to Cebu City at all, it must have been after the incident -- not to look for employment as he claimed, but to evade arrest. In fact, it appears that on 7 April 1987, he left for Manila.

The trial court correctly convicted the accused of Murder under Article 248 of the Revised Penal Code in Criminal Case No. 5064. The killing was indeed attended by the qualifying circumstance of treachery, which is duly alleged in the information. The mode, manner and means of attack adopted by the accused insured the accomplishment of his purpose, i.e., the killing of the victim without giving the latter any opportunity to defend himself or resist the attack. The firing of the gun at the victim was so sudden and unexpected that the latter, who was unarmed, was caught totally unprepared to defend himself or retaliate. There is treachery when the offender commits any of the crimes against persons employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[23]

Coming to the charge of illegal possession of firearms, Section 1 of P.D. No. 1866 penalizes, inter alia, the unlawful possession of firearms or ammunition with reclusion temporal in its maximum period to reclusion perpetua. However, under the second paragraph thereof, the penalty is increased to death if homicide or murder is committed with the use of an unlicensed firearm. It may thus be loosely said that homicide or murder qualifies the offense because both are circumstances which increase the penalty. It does not, however, follow that the homicide or murder is absorbed in the offense. If this were to be so, an anomalous absurdity would result whereby a more serious crime defined and penalized under the Revised Penal Code will be absorbed by a statutory offense, one which is merely *malum prohibitum*. Hence, the killing of a person with the use of an unlicensed firearm may give rise to separate prosecutions for (a) the violation of Section 1 of P.D. No. 1866 and (b) the violation of either Article 248 (Murder) or Article 249 (Homicide) of the Revised Penal Code. The accused cannot plead one to bar the other; stated otherwise, the rule against double jeopardy cannot be invoked as the first is punished by a special law while the second -- Murder or Homicide -- is punished by the Revised Penal Code.[24] Considering, however, that the imposition of the death penalty is prohibited by the Constitution, the proper imposable penalty would be the penalty next lower in degree, or reclusion perpetua.[25]

The trial court also correctly imposed the penalty of reclusion perpetua in Criminal Case No. 5065. However, the words "or life imprisonment" following "reclusion perpetua" in the dispositive portion of the decision should be deleted, for the latter is not the same as life imprisonment.[26]

In line with the prevailing jurisprudence, the indemnity awarded by the trial court should be increased from

P30,000.00 to P50,000.00.

WHEREFORE, the Decision of Branch 3 of the Regional Trial Court of Tagbilaran City in Criminal Case No. 5064 and Criminal Case No. 5065 finding the accused LUCIANO JUMAMOY y AÑORA, alias "JUNIOR," guilty of the crimes charged therein, is hereby AFFIRMED subject to the modification as to the indemnity which is increased from P30,000.00 to P50,000.00 and the deletion of the words "life imprisonment" from the dispositive portion thereof.

Costs against the accused.

SO ORDERED.

Feliciano, (Acting Chairman), Bidin, Romero, and Melo, JJ., concur.

* Associate Justice Hugo E. Gutierrez, Jr., Chairman, is on terminal leave

[1] Original Records (OR), Crim. Case No. 5064, 7.

[2] OR, Crim. Case No. 5065, 15-16.

[3] OR, Crim Case No. 5064, 10; Id., Crim. Case No. 5065, 19.

[4] Id., Crim. Case No. 5064, 55-85; Rollo, 21-51.

[5] OR, Crim. Case No. 5064, 85; Rollo, 51.

[6] Appellee's Brief, 3-7; Rollo, 75, et sec.

[7] TSN, 20 March 1989, 3-20.

[8] ?????

[9] OR, Crim. Case No. 5064, 80-81.

[10] ?????

[11] Appellant's Brief, 3; Rollo, 63, et seq.

[12] Section 7, Rule 124, in relation to Section 16, Rule 46 of the Revised Rules of Court requires that the Appellant's Brief should contain, among other things, a Statement of Facts which is a clear and concise statement, in a narrative form, of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the records.

[13] People vs. Garcia, 89 SCRA 440 [1979]; People vs. Bautista, 92 SCRA 465 [1979]; People vs. Abejuela, 92 SCRA 503 [1979]; People vs. Arciaga, 98 SCRA 1 [1980]; People vs. Marzan, 128 SCRA 203 [1984]; People vs. Alcid, 135 SCRA 280 [1985]; People vs. Sanchez, 199 SCRA 414 [1991]; People vs. Atilano, 204 SCRA 278 [1991].

[14] People vs. Macalindong, 76 Phil. 719 [1946]; People vs. Borpano, 76 Phil. 702 [1946]; People vs. Araja, 105 SCRA 133 [1981]; People vs. Campana, 124 SCRA 271 [1983]; People vs. Patog, 144 SCRA 429 [1986]; People vs. Simon, 209 SCRA 148 [1992].

[15] People vs. Balili, 92 SCRA 352 [1979].

[16] People vs. Ruedas, 194 SCRA 553 [1991]; People vs. Gadiana, 195 SCRA 211 [1991]; People vs. Mandapat,

196 SCRA 157 [1991].

[17] *People vs. Capulong*, 160 SCRA 533 [1983]; *People vs. Tangliben*, 184 SCRA 220 [1990].

[18] *People vs. De Jesus*, 205 SCRA 383, 391 [1992], citing 6 MORAN, *Comments on the Rules of Court*, 1980 ed., 41.

[19] *People vs. Fernandez*, 209 SCRA 1 [1992].

[20] *People vs. de Guzman*, 188 SCRA 407 [1990]; *People vs. Gadiana*, *supra.*; *People vs. Madriaga*, G.R. No. 82293, 23 July 1992.

[21] *People vs. Mercado*, 97 SCRA 232 [1980]; *People vs. Clores* 184 SCRA 638 [1990]; *People vs. Arceo*, 187 SCRA 265 [1990]; *People vs. Beringuel*, 192 SCRA 561 [1990].

[22] TSN, 9 July 1990, 1-2.

[23] Article 14(16), Revised Penal Code.

[24] *People vs. Tiozon*, 198 SCRA 368, 379 [1991], citing *People vs. Doriquez*, 24 SCRA 163 [1968].

[25] Section 19(1), Article III, 1987 Constitution.

[26] *People vs. Mobe*, 81 Phil. 58 [1948]; *People vs. Pilonas*, 84 SCRA 167 [1978]; *People vs. Baguio*, 196 SCRA 459 [1991]; *People vs. Penillos*, 205 SCRA 546 [1992].

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