

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO MENDOZA Y REYES AND JAIME REJALI Y LINA, DEFENDANTS-APPELLANTS.

G.R. No. 104461. February 23, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The main question answered in this case is whether the accused should be convicted of highway robbery with homicide punishable under Presidential Decree No. 532, or of robbery with homicide under Article 294 of the Revised Penal Code.

Appellants Romeo Mendoza and Jaime Rejali were charged on June 17, 1991 before the Regional Trial Court in Pasig, Metro Manila (Branch 156) of the crime of "ROBBERY HOLD-UP (sic) with HOMICIDE (P.D. No. 532, Anti-Piracy and Anti-Highwat (sic) Robbery Law of 1974)"[1] in an Information which reads as follows:

"That on or about the 29th day of May 1991, in the municipality of San Juan, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court the above- named accused, armed with gun and knives, conspiring and confederating together with one alias Jack whose true identity and present whereabouts is still unknown, and mutually helping and aiding one another with intent to gain and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously take, rob and divest one Glory Oropeo of cash money amounting to P3 0.00, while the said victim was aboard a passenger jeep, cruising along Aurora Blvd., San Juan, Metro Manila, which is a Philippine Highway, to the damage and prejudice of the owner thereof, in the aforementioned amount of P30.00; that on the occasion of said robbery (hold-up) and for the purpose of enabling them to take, rob and carry away personal belongings of all passengers in pursuance of their criminal act said accused, did then and there wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the passengers (sic) of said passenger jeep, one Ramilyn Zulueta by then and there hitting her head with a gun and kicked (sic) her out of the passenger jeep which caused her to fall in (sic) the pavement hitting her head on the ground, thereby inflicting upon the latter mortal injuries which directly caused her death, while Ma. Grace Zulueta, punching her face and hitting her head with a gun, as a result of which said Ma. Grace Zulueta sustained physical injuries which required medical attendance for a period of less than nine (9) days and incapacitated her from performing her customary labor for the same period of time.

"CONTRARY TO LAW."

The records show that both accused were assisted by their counsel de oficio, Atty. Fernando Fernandez of the Public Attorney's Office (PAO), when they pleaded not guilty to the charge upon arraignment on August 9, 1991.

Evidence for the Prosecution

The prosecution thereafter established that on May 29, 1991, at about 9:00 in the evening, 17-year-old Ma. Grace Zulueta and her elder sister, Ma. Ramilyn, were on their way home from their grandparents' house in Altura Ext., Sta. Mesa, Manila. They boarded a passenger jeepney bound for Cubao via Aurora Blvd. The jeepney was fully loaded with the driver, his wife and two children on the front seat and eight passengers on each of the two parallel

back seats.[2]

The Zulueta sisters were seated near the rear entrance of the jeepney[3] with accused Romeo Mendoza seated beside Grace.[4] It was through Mendoza that Grace handed over their fare to the driver as the jeepney passed by the SM complex.[5] Glory Oropeo (or Lory Europeo[6]), who boarded the same jeepney near the Stop and Shop Supermarket, was seated behind the driver. Accused Jaime Rejali was beside Glory while their companion named Jack, who has remained at large, was seated across her.[7]

When the jeepney reached the dark portion of Aurora Blvd. in San Juan, Metro Manila, near St. Paul's College, just after the bridge and before Broadway Centrum, someone announced a hold-up[8] Both Mendoza and Rejali had guns while Jack was armed with a knife. It was Rejali who fired his gun.[9] Jack told the Zulueta sisters that they would "bring" the sisters along. As the accused appeared drunk, the sisters ignored them. However, a male passenger jumped off the jeepney and a commotion ensued. Perplexed ("naguluhan") by this turn of events, the accused held Ramilyn who started kicking, trying to extricate herself from their grasp. This prompted Mendoza to hit her on the head with his gun. He boxed and kicked her, causing Ramilyn to fall out of the jeepney into the street where she rolled. [10]

Mendoza then held Grace by her right arm. As she struggled, Grace shouted, "bitawan mo ako, bitawan mo ako," in an attempt to call the attention of the drivers of the other vehicles on the road. One of the accused hit Grace on the head with a gun causing her to lose consciousness.[11] (She finally came to at the St. Luke's Hospital; she was confined there up to June 7, 1991.[12]) While all this was happening, Rejali poked his gun at the other passengers.[13]

From Glory, the accused were able to get the amount of P30.00. She handed it to the holdupper seated in front of her. When the commotion took place, the driver slowed down the jeepney but the holduppers told him to keep on moving. One of them ordered the driver to proceed to J. Ruiz St. and make several turns until, when they reached Paterno, the culprits alighted and made their escape.[14]

Ramon Zulueta, the father of Grace and Ramilyn, learned about the incident from his other daughter, Joralyn, who was informed that Grace was at the St. Luke's Hospital. Grace, who was then a student employed at the Pizza Hut for P3,000.00 a month, was confined in said hospital from May 30 to June 7, 1991 for head trauma; she had contusions and hematomas on the left temporal region and on the right occipito-parietal and anterior temporal regions, and abrasions on the supra orbital area as well as elbow.[15] Ramon Zulueta spent around P 19,000.00 for Grace's hospitalization.[16]

Upon learning from Grace that Ramilyn had been with her, Ramon Zulueta surmised that she might have been brought to the hospital nearer the place of the incident, the UERM hospital. When he got there, he learned that Ramilyn, 21 years old and a computer management student, had already died of severe, traumatic head injuries.[17] The Zulueta family spent around P 15,000.00 for her interment.[18]

Two days after the incident, Ramon Zulueta was informed that the jeepney driver and his wife had "surrendered" to the police station in San Juan. The following day, he went there but the driver was not around. He gave a statement to the police.[19]

By fluke of fate, it was Grace herself who brought about the apprehension of Mendoza. On the morning of June 12, 1991, Grace saw Mendoza selling ice cream along Altura St. She noticed Mendoza staring at her. When she stared back, Mendoza lowered his gaze and left immediately. That same afternoon, she saw him again. Considering her poor eyesight, she was instructed by her cousin to buy ice cream from Mendoza so that she could get near enough to be sure if he was indeed one of the holduppers. When she approached and asked Mendoza,

"Mama, kilala kita?", he could not look her in the eyes and seemed confused. Certain now that he was one of the holduppers, Grace announced to her brother and the other people present that Mendoza was one of the holduppers. Mendoza tried to make a run for it, but the people gave chase and overtook him.[20]

Mendoza was brought to the police station where he was identified by Grace in a line-up.[21] Rejali was apprehended that same night by police operatives. According to SPO1 Dalmacio Luces, Lucia Salinas, the wife of jeepney driver Virgilio Salinas, described one of the suspects to the NBI cartographer who came out with a sketch of his face.[22] However, Luces failed to get a statement from Lucia.[23]

Evidence for the Defense

Appellants interposed denial and alibi as defenses. Both of them admitted knowing each other as they were working as ice cream vendors at the Ana Maria Ice Cream Factory in 1045 Balic-balic, Sampaloc, Manila where they also lodged in rooms provided by their employer. Mendoza, 28 years old, swore that on that fateful day, he sold ice cream from 8:30 a.m. to about 4:00 p.m. From the factory, he went as far as V. Mapa St., passing under the bridge near the Stop and Shop Supermarket. By 5:30 in the afternoon, he was back at the factory. He spent the night of May 29, 1991 in his living quarters at the factory taking care of his child as his wife was pregnant. [24]

For his part, 27-year-old Rejali testified that he also sold ice cream on the date in question, from 7:30 a.m. to 4:00 p.m., along E. Tuazon St. near Balic-balic. He claimed that he had not gone to San Juan as he did not even know where San Juan was, being new in the vicinity. Once back in the factory, he prepared ice cream for sale the next day. Then he rested in his room.[25]

Myrna Balderama, who also stayed in the living quarters within the same ice cream factory, corroborated the testimonies of the two accused. According to her, she saw Mendoza enter the compound in the afternoon of May 29, 1991. From outside her room, she could see Mendoza's room; on the night in question, she saw him taking care of his child. As to Rejali, she knew that he did not leave the premises that evening as she had a conversation with him up to 10:00 p.m. while he was preparing ice cream.[26]

On March 10, 1992, the trial court[27] rendered the Decision subject of this appeal. Its dispositive portion reads as follows:

"WHEREFORE, premises considered, the Court finds both accused ROMEO MENDOZA y REYES and JAIME REJALI y LINA guilty beyond reasonable doubt of the crime of Violation of Presidential Decree No. 532 (Anti-Piracy and Anti-Highway Robbery Law of 1974) and hereby sentences each of them to suffer the penalty of reclusion perpetua with all its accessory penalties, to indemnify the heirs of Ramilyn Zulueta in the amount of FIFTY THOUSAND PESOS (P50,000.00), to pay the sum of P23,673.35 by way of reimbursement of the hospitalization, burial and other related expenses for Ramilyn Zulueta and the further sum of P30,000.00 by way of moral and exemplary damages; to pay Glory Oropeo the sum of P30.00 by way of reparation of the stolen cash money; to pay Ma. Grace Zulueta the sum of P6,400.00 by way of reimbursement of her hospitalization expenses, all without subsidiary imprisonment in case of insolvency and to pay the costs.

"In the service of their sentence, the accused shall be credited in full with the period of their preventive imprisonment.

"SO ORDERED."

In this appeal, appellants fault the trial court for giving credence to the "inconsistent, conflicting and contradictory testimonies" of prosecution witnesses Grace Zulueta and Glory Oropeo and for convicting them of the crime charged "despite the failure of the prosecution to prove their guilt beyond reasonable doubt. "[28]

Although not directly raised by the appellants, we find, - upon a thorough scrutiny of the facts - that there is yet

another question which is of concern to the bar and the bench: are the facts attendant to this case constitutive of the crime of highway robbery with homicide under Pres. Decree No. 532 or of the felony of robbery with homicide under Art. 294 of the Revised Penal Code?

The Court's Ruling

This appeal hinges primarily on the issue of credibility of witnesses. As this Court has ruled in innumerable cases, the trial court is best equipped to make the assessment on said issue and therefore, its factual findings are generally not disturbed on appeal unless the court a quo is perceived to have overlooked, misunderstood or misinterpreted certain facts or circumstances of weight, which, if properly considered, would affect the result of the case and warrant a reversal of the decision involved.[29] We do not find in the instant case any such reason to depart from said general principle. Nevertheless, in the interest of substantial justice, we shall confront the issues raised herein by the appellants.

Appellants allege the following "inconsistent" testimonies of the prosecution eyewitnesses: (a) Grace testified that it was Rejali who shouted "hold-up," pulled out a gun and fired, in contradiction to Glory's testimony that the man in front of her, referring to Jack, announced the hold-up, and (b) at the direct examination, Grace pointed out that she was struck behind her right ear but during cross-examination, she said that she was hit on the left ear.

The first inconsistency may be attributed to the difference in the relative positions of Grace and Glory inside the jeepney. Grace was seated near the rear entrance of the jeepney while Glory was behind the driver. Because Grace was far from both Jack and Rejali who were seated near Glory, this could have affected her perception of who announced the hold-up. At any rate, such disparity in their testimonies does not at all derail the sufficiently established fact that both appellants herein participated in the hold-up. As regards the injuries sustained by Grace, the certificate issued by her attending physician, Dr. Sosepatro Aguila, states that she sustained injuries on both sides of the head,[30] clearly showing no "contradictions" in her testimony with respect to where she was hit.

Be that as it may, these "inconsistencies" or "contradictions" are minor ones which do not have any material bearing on the culpability of the appellants as they do not in any way refute their positive identification by the two eyewitnesses as the perpetrators of the hold-up.[31] On the contrary, they reflect the truthfulness of the testimonies of Grace and Glory. As this Court said in *People vs. Retuta*:[32]

"The discrepancy signifies that the two witnesses did not deliberately pervert the truth in their narrations. The discordance in their testimonies on minor matters heightens their credibility and shows that their testimonies were not coached or rehearsed (*People v. Doria*, 55 SCRA 425). As this Honorable Court held in *People v. Agudu*, 137 SCRA 516 to wit:

'However, the variance, if any, is on a minor detail which would not destroy the effectiveness of their testimony. We cannot expect absolute uniformity in every detail because witnesses react differently to what they see and hear, depending upon their situation and state of mind. Complete uniformity in details is a badge of untruthfulness. The light contradictions, on the other hand, strengthens the sincerity of the testimony of the witnesses.'

"Thus, far from evidence of falsehood, the minor inconsistency between the testimonies could justifiably be regarded as a demonstration of their good faith."

The strongest part of the defense arguments concerns the identification of the appellants as the perpetrators of the crime considering the lighting condition inside the jeepney. Appellants believed that they could not have been recognized because both Grace and Glory admitted that the place was dark, and so surmised that it would have been darker inside the jeepney because the eyewitnesses failed to point out the source of light therein.[33] However, in trying to prove their allegation, appellants unwittingly brought out details via Grace's testimony which demolish their surmise. Thus:

"Q. Despite the darkness, you were able to identify the gun?

A. I did not say it was completely dark. I said in the jeepney it was quite lighted. I said it was dark outside but in the jeepney, it was quite lighted."[34] (Italics supplied.)

It seems, moreover, that appellants only quoted portions of the testimonies of Grace and Glory to suit their purpose. Had the appellants been candid enough, they would have retained portions of the same testimonies evidencing that it was the place where the jeepney was passing through that was dark but, inside the jeepney, it was "medium light." Grace had testified on cross-examination as follows:

"Q.

Will you mention again the exact location of the alleged incident?

A.

I am not familiar with the streets, sir. It was after a bridge. After UERM, sir.

Q.

What was the condition of the place at that time?

A.

It was moderately dark. Quite lighted. Medium.

Q.

How about inside the passenger jeepney? Was it lighted?

A.

Medium, sir. Since it was dark, you cannot have a complete light there.

Q.

It was quite dark?

A.

Yes, sir."[35]

For her part, Glory testified on cross-examination in this wise:

"Q.

Madam witness, will you mention again the exact location where you said you were allegedly held up?

A.

San Juan, H. Lozada and J. Ruiz St., sir.

Q.

What was the condition of that place at that time?

A.

It was dark because it was already nighttime.

Q.

You mean the exact place where you were held-up is a dark place?

A

Yes, sir."^[36] (Italics supplied.)

Visibility is an important factor in the identification of a criminal offender. However, its relative weight and significance depends largely on the attending circumstances and the discretion of the trial court.^[37] Another overriding consideration is the fact that the most natural reaction of victims of violence is to strive to see the appearance of the perpetrator of the crime and observe the manner in which the crime was being committed.^[38]

In the case before us, Grace's un rebutted testimony is that the jeepney was "quite lighted x x x medium." Even granting that the light was dim as most jeepneys have colored or low-wattage bulbs for the passenger area, the added illumination from the headlights of passing vehicles traveling the busy Aurora Boulevard would have been sufficient to permit positive identification of the appellants.^[39] Moreover, identification of the appellants as the hold-uppers was facilitated by their physical proximity to the said eyewitnesses. Grace was seated beside appellant Mendoza while Glory was beside Rejali. That Grace had poor eyesight does not affect her positive identification of Mendoza because she was wearing her eyeglasses when the hold-up took place.^[40] As stated above, because they were victims of violence, both Grace and Glory must have had the appellants' features indelibly imprinted in their minds.

In light of the positive identification of the appellants as the perpetrators of the crime, their alibis are worthless.^[41] Moreover, the defense failed to meet the requisites for alibi to be considered as a valid defense. It is not enough that the appellants were somewhere else when the crime transpired. They must likewise duly establish that they were so far away that it was not physically possible for them to be present at the crime scene or its immediate vicinity at or about the time of its commission.^[42] Balic-balic in Sampaloc, Manila and Aurora Boulevard in San Juan, Metro Manila are not very distant from each other considering the numerous public transportation facilities plying between said places.

But, while there is proof beyond reasonable doubt to lay culpability on the appellants for the killing of Ma. Ramilyn Zulueta, the physical injuries sustained by her sister Grace and the asportation of Glory Oropeo's thirty pesos, we do not agree with the trial court that the crime committed by appellants is covered by P.D. No. 532.

In its Decision, the trial court curtly said:

"The Court finds all the elements of the offense charged, namely, intent to gain, unlawful taking of property of another, (the P30.00 of Glory Oropeo) violence against or intimidation of any person, on a Philippine Highway and death of Ramilyn Zulueta and physical injuries upon Ma. Grace Zulueta, (Section 2, par. 3 and Section 3, par. b, Anti-Piracy and Anti-Highway Robbery Law of 1974, Pres. Decree No. 532) have been duly proved in the instant case."

Highway Robbery or Robbery with Homicide?

Conviction under P.D. No. 532 requires not only the above elements mentioned by the court a quo. Highway robbery or brigandage is defined by Section 2 of said decree as follows:

"e. Highway Robbery/Brigandage. - The seizure of any person for ransom, extortion or other unlawful purposes or the taking away of the property of another by means of violence against or intimidation of person or force upon things or other unlawful means, committed by any person on any Philippine highway."

In *People vs. Puno*,^[43] this Court, speaking through the learned Mr. Justice Florenz D. Regalado, explained the

purpose of brigandage as follows:

"In fine, the purpose of brigandage is inter alia, indiscriminate highway robbery. If the purpose is only a particular robbery, the crime is only robbery, or robbery in band if there are at least four armed participants. (citing U.S. vs. Feliciano, 3 Phil. 422 [1904]) x x x

"x x x Presidential Decree No. 532 punishes as highway robbery or brigandage only acts of robbery perpetrated by outlaws indiscriminately against any person or persons on Philippine highways as defined therein, and not acts of robbery committed against only a predetermined or particular victim, x x x"

Consistent with the above, to obtain a conviction for highway robbery, the prosecution should have proven that the accused, in the instant case, were organized for the purpose of committing robbery indiscriminately. There, however, was a total absence of such proof. There was also no evidence of any previous attempts at similar robberies by the accused - to show the "indiscriminate" commission thereof.

Incidentally, it would be relevant to add that the number of perpetrators is no longer an essential element of the crime of brigandage as defined by P.D. No. 532. Mr. Justice Regalado explained this in Puno:

"True, Presidential Decree No. 532 did introduce amendments to Articles 306 and 307 of the Revised Penal Code by increasing the penalties, albeit limiting its applicability to the offenses stated therein when committed on the highways and without prejudice to the liability for such acts if committed. Furthermore, the decree does not require that there be at least four armed persons forming a band of robbers; and the presumption in the Code that said accused are brigands if they use unlicensed firearms no longer obtains under the decree. x x x"[44]

Under the old doctrine, brigandage was committed by a "cuadrilla"[45] or by "more than three armed persons" per the definition of brigands in Article 306 of the Revised Penal Code.[46]

Even before the Puno holding, however, there had been cases[47] where less than four offenders were held guilty of highway robbery under P.D. No. 532, which just strengthens the view that the number of offenders is not an essential element in the crime of highway robbery.[48]

It is possible that since Aurora Boulevard is a highway within the purview of P.D. No 532,[49] the prosecutors deemed it proper to charge appellants with violation of said decree. In this regard, the Puno ruling is enlightening. This Court held:

x x x (i)t would be absurd to adopt a literal interpretation that any unlawful taking of property committed on our highways would be covered thereby. It is an elementary rule of statutory construction that the spirit or intent of the law should not be subordinated to the letter thereof. Trite as it may appear, we have perforce to stress the elementary caveat that he who considers merely the letter of an instrument goes but skin deep into its meaning, and the fundamental rule that criminal justice inclines in favor of the milder form of liability in case of doubt.

"If the mere fact that the offense charged was committed on a highway would be the determinant for the application of Presidential Decree No. 532, it would not be far-fetched to expect mischievous, if not absurd, effects on the corpus of our substantive criminal law. While we eschew resort to a *reductio ad absurdum* line of reasoning, we apprehend that the aforestated theory adopted by the trial court falls far short of the desideratum in the interpretation of laws, that is, to avoid absurdities and conflicts. For, if a motor vehicle, either stationary or moving on a highway, is forcibly taken at gunpoint by the accused who happened to take a fancy thereto, would the location of the vehicle at the time of the unlawful taking necessarily put the offense within the ambit of Presidential Decree No. 532, thus rendering nugatory the categorical provisions of the Anti-Carnapping Act of 1972? And, if the scenario is one where the subject matter of the unlawful asportation is large cattle which are incidentally being herded along and traversing the same highway and are impulsively set upon by the

accused, should we apply Presidential Decree No. 532 and completely disregard the explicit prescriptions in the Anti-Cattle Rustling Law of 1974?"[50]

Hence, in charging a crime under P.D. No. 532, it is important to consider whether or not the very purpose for which the law was promulgated has been transgressed. Citing the "whereas clauses" of P. D. No. 532[51] in Puno, the Court said:

"Indeed, it is hard to conceive of how a single act of robbery against a particular person chosen by the accused as their specific victim could be considered as committed on the 'innocent and defenseless inhabitants who travel from one place to another,' and which single act of depredation would be capable of 'stunting the economic and social progress of the people' as to be considered 'among the highest forms of lawlessness condemned by the penal statutes of all countries,' and would accordingly constitute an obstacle 'to the economic, social, educational and community progress of the people,' such that said isolated act would constitute the highway robbery or brigandage contemplated and punished in said decree. This would be an exaggeration bordering on the ridiculous."[52]

Petty robbery in public transport vehicles (with or without personal violence and death) committed against the middle and lower economic classes of society is as reprehensible as (if not more so than) large-scale robbery committed against the economically well-heeled. Nonetheless, the law must be interpreted not only to bring forth its aim and spirit but also in light of the basic principle that all doubts are to be resolved liberally in favor of the accused. As such, appellants may not be held liable under P.D. No. 532 but only under the provisions of the Revised Penal Code.

In the interpretation of an information, what controls is not the designation but the description of the offense charged.[53] Considering the allegations of the aforementioned Information, appellants herein should be liable for the special complex crime of robbery with homicide under Art. 294 of the Revised Penal Code, robbery having been duly established beyond reasonable doubt by the asportation of thirty pesos from Glory Oropeo. It is immaterial that Ramilyn Zulueta's death was accidental because it was produced by reason or on the occasion of the robbery.[54] The physical injuries inflicted upon Grace Zulueta during the commission of the crime are absorbed in the crime of robbery with homicide.[55]

Conspiracy was duly proven by the coordinated actions of the appellants and their companion[56] of depriving Glory of her money and injuring both Ramilyn and Grace which resulted in Ramilyn's accidental death. Since both appellants took part in the robbery, they shall be liable for the complex crime of robbery with homicide in the absence of proof that they endeavored to prevent the accidental killing of Ramilyn.[57] In view of the prohibition against the imposition of the death penalty when the crime was committed, the penalty of reclusion perpetua was then the single and indivisible penalty for robbery with homicide. It shall be imposed on each of the appellants regardless of the mitigating and aggravating circumstances attending the commission of the crime.[58]

WHEREFORE, the Decision of the Regional Trial Court of Pasig, Metro Manila (Branch 156) in Crim. Case No. 87218 is hereby MODIFIED. Appellants Romeo Mendoza y Reyes and Jaime Rejali y Lina are hereby found GUILTY beyond reasonable doubt of the special complex crime of robbery with homicide and accordingly, each of them is hereby sentenced to suffer the penalty of reclusion perpetua. The other portions of the trial court's decision, including the monetary awards imposed against them, are AFFIRMED. Costs against appellants.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Decision, p. 1; Rollo, p. 18.

[2] TSN, November 27, 1991, pp. 9-10.

[3] TSN, September 24, 1991, P. 7.

[4] Ibid., p. 8.

[5] TSN, September 11, 1991, p. 3.

[6] Exh. H-3; Records, p. 141.

[7] TSN, November 27, 1991, p. 4.

[8] According to Grace, it was Jaime Rejali who announced the hold-up (TSN, September 24, 1991, p. 10) but according to Glory, it was the man seated across her who did so (TSN, November 27, 1991, p. 5).

[9] TSN, September 11, 1991, pp. 3-6; TSN, November 27, 1991, p. 5-6.

[10] TSN, September 11, 1991, p. 3.

[11] Ibid., p.4.

[12] Ibid., p. 4; Exh. A, Records, p. 123.

[13] TSN, November 27, 1991, pp. 5-6.

[14] Ibid., pp. 6-10.

[15] Exh. A.

[16] TSN, December 4, 1991, p.4; Exhs. A-1 to A-4.

[17] Exh. C.

[18] TSN, December 4, 1991, p. 3.

[19] Ibid., p. 6.

[20] Exh. J; TSN, September 24, 1991, p. 9.

[21] TSN, September 24, 1991, p. 8.

[22] Exh G.

[23] TSN, November 8, 1991, pp. 5-6.

[24] TSN, January 8, 1992, pp. 4-7.

[25] TSN, February 10, 1992, pp. 3-4.

[26] TSN, February 10, 1992, pp. 9-12.

[27] Presided by Judge Martin S. Villarama, Jr.

[28] Appellants' Brief, p. 1; Rollo, p. 34.

[29] People vs. Nemeria, 242 SCRA 448 (March 20, 1995).

[30] Exh. A.

[31] People vs. Canceran, 229 SCRA 581 (January 31, 1994).

[32] 234 SCRA 645, 654 (August 2, 1994).

[33] Appellants' Brief, pp. 8-9.

[34] TSN, September 24, 1991, p. 10.

[35] *Ibid.*, p. 7.

[36] TSN, November 27, 1991, p. 9.

[37] This Court has held that the culprit was properly identified even if the witnesses were five (5) meters away from the tent where the crime was committed and the tent was lighted only by a kerosene lamp (*People vs. Sabado*, 168 SCRA 681 [December 22, 1988]); where the crime scene was lighted by a gasera aided by a shining moon (*People vs. Almenario*, 172 SCRA 268 [April 17, 1989]); where the eyewitness was able to recognize the culprit by the reflection of light from the nearby houses (*People vs. Juanga*, 189 SCRA August 30, 1990); where the assailants were six (6) meters away from the Meralco post and the witness was below a lighted Coleman petromax (*People vs. Riego*, 189 SCRA 445 [September 12, 1990]); and where the basketball court where the crime transpired was illuminated by a lamp post (*People vs. Eugenio*, 194 SCRA 578 [February 27, 1991]).

[38] *People vs. Apawan*, 235 SCRA 355 (August 16, 1994).

[39] *People vs. Parica*, 243 SCRA 557 (April 21, 1995).

[40] TSN, September 24, 1991, p. 11.

[41] *People vs. Miraday*, 242 SCRA 620 (March 23, 1995).

[42] *People vs. Escoto*, 244 SCRA 87 (May 11, 1995).

[43] 219 SCRA 85, at p. 97 (February 17, 1993).

[44] *Ibid.*, p. 98.

[45] Aquino, *The Revised Penal Code*, Vol. III, 1988 ed., p. 170.

[46] "Art. 306. Who are brigands - Penalty. - When more than three armed persons form a band of robbers for the purpose of committing robbery in the highway, or kidnapping persons for the purpose of extortion or to obtain ransom, or for any other purpose to be attained by means of force and violence, they shall be deemed highway robbers or brigands. x x x" (*italics supplied*).

[47] In *People vs. Chanas* (212 SCRA 65 [August 4, 1992]), two (2) persons were charged of said crime and only the one arrested was convicted thereof while in *People vs. Matilla* (105 SCRA 768 [July 24, 1981]), only one (1) accused was convicted thereof.

[48] See also *People vs. Ocimar* (212 SCRA 646 [August 17, 1992]), where the accused were six (6) in number, and *People vs. Nebreja* (203 SCRA 45 [October 17, 1991]), where they were five (5).

[49] This decree defines Philippine Highway as "any road, street, passage, highway, and bridges or other parts thereof, or railways or railroad within the Philippines used by persons, or vehicles, or locomotives or trains for the movement or circulation of persons or transportation of goods, articles, or property or both."

[50] *Supra*, at pp. 99-100.

[51] "WHEREAS reports from law-enforcement agencies reveal that lawless elements are still committing acts of depredation upon the persons and properties of innocent and defenseless inhabitants who travel from one place to

another, thereby disturbing the peace, order and tranquility of the nation and stunting the economic and social progress of the people;

"WHEREAS, such acts of depredations constitute either piracy or highway robbery/brigandage which are among the highest forms of lawlessness condemned by the penal statutes of all countries: and

"WHEREAS, it is imperative that said lawless elements be discouraged from perpetrating such acts of depredations by imposing heavy penalty on the offenders, with the end in view of eliminating all obstacles to the economic, social, educational and community progress of the people";

[52] *Supra*, at p. 98.

[53] *People vs. Aczon*, 225 SCRA 237 (August 10, 1993); *Avecilla vs. People*, 209 SCRA 466 (June 2, 1992).

[54] *Aquino*, *supra*, at pp. 115-116.

[55] *People vs. Pamintuan*, 222 SCRA 716, 722 (May 28, 1993).

[56] *People vs. Woolcock*, 244 SCRA 235 (May 22, 1995).

[57] *People vs. Escosio*, 220 SCRA 475 (March 25, 1993).

[58] *People vs. Yabut*, 226 SCRA 715, 721 (September 27, 1993)

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