PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRESENCIANO CANAGURAN, GRACIANO BOLIVAR, JOEL SOBERANO, RENATO BALBON AND DIOSDADO BARRION, ACCUSED, GRACIANO BOLIVAR, JOEL SO...

G.R. No. 108174. October 28, 1999

Ponente: GONZAGA_REYES, J.

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GONZAGA_REYES, J.:

Before us is an appeal from the decision[1] of the Regional Trial Court (RTC) of Iloilo City, Branch 36 finding accused-appellants Cresenciano Canaguran, Graciano Bolivar, Joel Soberano, Renato Balbon and Diosdado Barrion guilty beyond reasonable doubt of the complex crime of Murder with Frustrated Murder.

Cresenciano Canaguran (CANAGURAN), Graciano Bolivar (BOLIVAR), Joel Soberano (SOBERANO), Renato Balbon (BALBON) and Diosdado Barrion (BARRION) were charged with the complex crime of murder and frustrated murder in an information that reads:

> "That on or about the 14th day of February, 1987, in the Municipality of Barotac Viejo, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court the above-named accused, conspiring, confederating and mutually helping one another to better realize their purpose, with treachery and evident premeditation, with deliberate intent and decided purpose to kill, armed with unlicensed homemade firearms and without any justifiable cause or motive. Did then and there willfully, unlawfully and feloniously assault, attack, shoot and fire at Hugo Callao and Damaso Suelan, Jr., causing with a single shot, multiple pellet wounds on the different parts of the body of Hugo Callao which caused his immediate death and multiple pellet wounds on the right arm and shoulder of Damaso Suelan, Jr., thus performing all the acts of execution which would have produced the crime of murder as a consequence but which, nevertheless, did not produce it by reason of causes independent of the will of the accused, that is, the timely and able medical intervention given to said Damaso Suelan, Jr..
>
> CONTRARY TO LAW."[2]

On May 20, 1987, all the accused were arraigned and pleaded not guilty to the crime charged.[3]

The lower court summarized the facts as follows:

> "On February 14, 1987, at around 9:00 o'clock in the evening, Damaso Suelan, Jr., a "koredor" in the daily double, came home from the town of Barotac Viejo to Brgy. Vista Alegre along with a friend, Rolly Brendia aboard a tricycle.
>
> After the two alighted from the tricycle, they passed by the store of Rodney Balaito to buy some cigarettes before going home.
>
> Inside the store, present were Ramon Baretta and his father Lito Baretta, Rodney Balaito, the storeowner, and the victim, Hugo Callao, who invited Damaso Jr. and Rolly to drink a bottle of beer with him, to which

invitation, the two obliged.

Then, one of the accused, Joel Soberano, invited Rolly Brendia to drink beer at the back of the store where a small hut (payag-payag) also owned by Rodney Balaito, was situated. Rolly went with Joel. Damaso Jr. later followed in order to ask Rolly to go home with him but was prevailed upon by Rolly, who already bought half a case of beer, to drink with him together with the other persons already drinking inside the "payag-payag" namely, accused Renato Balbon, Graciano Bolivar, Joel Soberano, and Cresencio Canaguran.

While the group inside the hut was still drinking, a certain Quirino arrived carrying with him a .12 gauge pistolized firearm which he handed to accused Cresenciano Canaguran, after which, Quirino went home.

Then Rolly asked Damaso, Jr. to fetch the victim Hugo Callao who was drinking beer at the store. Damaso Jr. returned with Hugo who joined the group inside the hut. Meanwhile, Ramon and his father Lito Baretta left for home.

A little later, the accused Joel, Graciano, Renato and Cresencio asked permission to go home first. The said accused then left the "payag-payag" leaving Hugo, Damaso Jr. and Rolly behind. Renato Balbon even passed by the store to ask permission from Rodney that they are going home ahead.

Since there were no more customers at the store, Rodney Balaito and his wife, Gloria, later joined the group inside the "payag-payag" composed of Hugo, Damaso Jr., and Rolly.

Then, at around 11:30 P.M., the incident happened. Rodney's wife, Gloria, prompted Damaso Jr. about a person she has seen outside the bamboo slat-fence. Damaso Jr. looked over his back to find out who it was but resumed drinking saying not to mind the said person outside the fence since he might just be there urinating. Rolly Brendia stood up and also looked at the direction of the man outside the fence.

At this juncture, a shot burst and a spray of pellets hit Damaso Jr. on the shoulder and on the right forearm, while four of the said pellets found its mark on the different parts of the body of Hugo Callao causing massive hemorrhage resulting to the instantaneous death of the latter.

While Hugo slumped lifeless on the ground, Damaso Jr. asked Rolly to tie a handkerchief over his wounded arm. Damaso Jr. then asked Rolly to fetch a tricycle but the latter refused because of fear leaving Damaso Jr. with no other choice but to look for a tricycle by himself.

In the process, Damaso Jr. passed through the main gate of Rodney Balaito's premises, but while still there, he sat down and hid beside the fence when he saw four persons running away from the place where the shot came from. Damaso Jr. identified the four to be the accused Joel Soberano, Renato Balbon, Cresenciano Canaguran and Graciano Bolivar."[4]

Pinpointing BARRION as the mastermind, the lower court stated that:

"xxx This evil plan to kill Hugo Callao was allegedly hatched and masterminded by the accused, Diosdado Barrion. The prosecution discloses that a niece of the accused Diosdado Barrion by the name of Milan Barrion was impregnated by the son of the deceased, Hugo Callao by the name of Henry Callao, who, however, refused to marry Milan Barrion according to the terms of Diosdado Barrion apparently prompting the latter to negotiate for a way to exact vengeance against the Callao family, hence, the motive to kill Hugo Callao.

The full story behind the present case may be told through these excerpts extracted from the testimonies of the witnesses for the prosecution in this sequence, thus:

'Q: (Atty. Sampiano) Had there been an incident or occasion which involved your family and the accused Diosdado Barrion?

A: (Nelly Callao) Yes, sir, there was.

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Q: What was that incident?

x x x x x

A: That, last time he (Diosdado Barrion) called us to the Barangay Captain because he wanted his niece to be married to my son Henry Callao because my son got his niece pregnant.

x x x x x

Court: What happened to that incident which was brought to the attention of the Barangay Captain?

A: This matter was not settled by the Brgy. Captain because Diosdado Barrion is really forcing my son to marry Diosdado Barrion's niece x x x.

x x x x x

Q: Due to none settlement of the controversy between your husband and the accused Diosdado Barrion what further steps had your family undertaken?

A: My husband (Hugo Callao) answered to postpone the wedding because my son is still studying until March, however, on February 14, 1987, my husband was already dead.'
(Excerpts, TSN MOMasacote, August 4, 1987)

(names in parentheses supplied for emphasis)

With the abovecited excerpts, the prosecution attempts to disclose the substantial controversy, which was allegedly the root cause of the present case. The prosecution plods on:

'Q: (Atty. Sampiano) Do you know Nelly Barrion?

A: (Rodolfo Panaga) Yes, sir, I know her.

Q: Now, is she related to Diosdado Barrion?

A: She is the sister-in-law of Diosdado Barrion.

Q: Have you seen Nelly Barrion and Diosdado Barrion conversing with each other?

A: Yes, sir. I have seen them conversing with each other.

Q: Would you tell the Honorable Court they have made some conversation in December 1986?

A: Yes, sir. They have conversed because of the problem of Milan Barrion.

Q: Who is this Milan Barrion?

A: She is the daughter of Nelly Barrion.

Q: And Diosdado Barrion and Nelly Barrion were talking about this Milan Barrion, about what?

A: About the problem that Milan Barrion is pregnant.

Q: Now, would you kindly tell the Honorable Court what other conversation they had regarding this Milan Barrion?

A: Nelly Barrion asked for the help of Diosdado Barrion as to what he would advise in the case of Milan Barrion. Diosdado answered, "Let me take care of that. Just wait for a few days.'

x x x x x

In the foregoing segment, the prosecution attempts to put the accused, Diosdado Barrion, in the spot through the testimony of Rodolfo Panaga, a former employee/houseboy of the said accused, who continues:

'Court: Alright, on February 11, 1987, at 3:00 o'clock P.M. you said that you were staying, sitting there in the rice grinder at the public market of Barotac Viejo, Iloilo. Aside from you, were there other persons there?

A: No more, sir. I was alone because I was waiting for incoming customers.

x x x x x

Q: Now, after 3:00 o'clock of February 11, where were you?

A: I was still there in the rice grinder of Diosdado Barrion.

Q: Could you kindly tell the Honorable Court what were you doing that particular time?

x x x x

Court: He said he was just sitting there.

Q: Aside from sitting, what were you doing?

A: I was waiting for customers but since there were no customers, I was sitting beside the divider.

Q: While you were there at the divider, sitting near the divider, were there other persons?

A: There were persons sitting behind the divider because I was outside and I heard these persons talking.

Court: There was a divider. What was that divider, a wall?

A: Plywood which serves as a wall of the store of Diosdado Barrion because there was a table placed there for purposes of drinking.

x x x x x

Q: Now, could you identify the voice?

A: Yes, sir.

Q: Whose voice?

A: I stood up and looked to see who were those persons talking since the divider was not so high and then sat down. I saw Diosdado Barrion and a certain alias "Tig-ik" talking.

Q: Now, will you please tell the Honorable Court what was the conversation of Diosdado Barrion and alias "Tig-ik"?

A: Disodado Barrion was telling alias "Tig-ik" to try to kill Hugo Callao and alias "Tig-ik" answered, "Yes, I will try but I am not so sure when. But I will just try one of these days.'

(Excerpts, TSN, SVLopez, February 15, 1989)

In fine, the prosecution identifies the mastermind of the plot to kill Hugo Callao to be the accused, Diosdado Barrion."[5]

On January 24, 1992, the RTC rendered its decision finding all the accused guilty beyond reasonable doubt of the complex crime of murder with frustrated murder, the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing, this court hereby finds the accused DIOSDADO BARRION,

> JOEL SOBERANO, RENATO BALBON, GRACIANO BOLIVAR and CRESENCIANO CANAGURAN, GUILTY beyond reasonable doubt of the complex crime of Murder with Frustrated Murder committed by means of conspiracy against the victims, HUGO CALLAO (deceased) and Damaso Suelan, Jr., respectively, and hereby sentences the above named accused to suffer the penalty of Reclusion Perpetua. Let the period of detention of the accused Graciano Bolivar be deducted from his sentence.
>
> The aforenamed accused are also ordered to pay, jointly and severally, the heirs of Hugo Callao the sum of P50,000.00 for the latter's death, and the sum of P50,000.00 representing funeral and other expenses. Said accused are further ordered to pay, jointly and severally, Damaso Suelan, Jr., his heirs or assigns, the sum of P15,000.00 representing hospital and other expenses.
>
> In accordance with the Resolution of the Supreme Court in the case of People v. Ricardo C. Cortez, G.R. No. 92560, October 15, 1991 the bailbond for the provisional liberty of the above-named accused except Bolivar is hereby ordered cancelled and all the accused are hereby ordered taken into custody.
>
> SO ORDERED."[6]

Hence, this appeal where the accused-appellants assign the following errors:

> "I. THE TRIAL COURT ERRED IN FINDING APPELLANTS RENATO BALBON, JOEL SOBERANO AND GRACIANO BOLIVAR (deceased) IN CONSPIRACY (BY MEANS OF CIRCUMSTANTIAL EVIDENCE) WITH CRESENCIANO CANAGURAN (Assailant) IN KILLING HUGO CALLAO (Murder) AND WOUNDING DAMASO SUELAN (Frustrated Murder).
>
> II. THE TRIAL COURT ALSO ERRED IN HOLDING APPELLANT DIOSDADO BARRION AS THE INSTIGATOR AND BRAIN (in conspiracy with all the accused) IN THE KILLING OF HUGO CALLAO.
>
> III. THE TRIAL COURT FURTHER ERRED IN NOT CONSIDERING APPELLANTS' DEFENSE OF DENIAL OR ALIBI TO PREVAIL OVER THE INCONCLUSIVE AND UNRELIABLE CIRCUMSTANTIAL EVIDENCE OF CONSPIRACY."[7]

At the outset, we resolve to dismiss the criminal case against Graciano Bolivar who died of cardio-respiratory arrest on June 8, 1993[8] , in line with the ruling in the case of People vs. Bayotas[9] where this Court ruled that the death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon[10]

We also note that accused CANAGURAN alias "Tig-ik" is not included in this appeal since he jumped bail before promulgation of the lower court's decision and lost his right to appeal.[11] CANAGURAN was identified by two eyewitnesses, Rolly Brendia and Damaso Suelan, Jr. as the "hitman" who fired the fatal shot.

Accused-appellants claim that the lower court erred in convicting them based on conspiracy. They maintain that the following circumstances are not sufficient to prove beyond reasonable doubt that a conspiracy existed among them:

1. That CANAGURAN, BOLIVAR, SOBERANO and BALBON were drinking at the store of Balitao;
2. That while drinking, a certain Quirino handed CANAGURAN a 12 gauge pistol, then left;
3. CANAGURAN, BOLIVAR, SOBERANO and BALBON then left;
4. That CANAGURAN shot and killed Hugo Callao and wounded Damaso Suelan;
5. That CANAGURAN, BOLIVAR, SOBERANO and BALBON ran away; and
6. That BARRION and SOBERANO are related by consanguinity; BARRION and BALBON are related by

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affinity; SOBERANO and BALBON are in-laws; the brother of BOLIVAR is the brother-in-law of SOBERANO; and that BOLIVAR and CANAGURAN were townmates.[12]

Moreover, they also raise the defense of alibi and denial. While a denial and/or alibi are weak defenses in the light of a positive identification, BOLIVAR, SOBERANO and BALBON allege that none of the prosecution witnesses identified them as the assailants of Hugo Callao (CALLAO). Moreover, their mere presence at the store does not lead to a conclusion that they conspired in the shooting.

Accused BARRION, who was convicted based on the fact that he was the supposed instigator of the crime, denies that he was the mastermind in the plan to kill CALLAO. He maintains that the testimony of prosecution witnesses Nelly Callao with respect to his alleged motive for killing CALLAO i.e. CALLAO did not want his son, Henry to marry BARRION's pregnant niece, Milan, until after the graduation of Henry is not logical. He had no reason to kill CALLAO since the person involved with his niece was CALLAO's son, Henry, and the killing of CALLAO would not assuage the purported anger of BARRION in putting off the marriage of Henry to Milan. He likewise claims that the prosecution witness, Rodolfo Panaga (PANAGA) was also not credible and that his testimony to the effect that he saw BARRION and CANAGURAN talking about the plan to kill CALLAO is improbable; he claims that no one would talk openly about a plan to murder someone in a public place contrary to the claim of PANAGA.

We find merit in the appeal.

BARRION's conviction is based on the testimony of PANAGA implicating him as the mastermind of the plot to kill CALLAO. He allegedly induced CANAGURAN to kill CALLAO although he did not directly participate in the commission of the crime and neither was he present at the store of Balaito on the night of the shooting.

As quoted earlier, PANAGA testified that he heard Nelly Barrion asking BARRION's advice about Milan's problem, to which BARRION replied: "Let me take care of that. Just wait for a few days."

PANAGA also testified that he overheard BARRION telling "Tig-ik" (CANAGURAN) to "try to kill CALLAO" and Tig-ik responded that "Yes, I will try but I am not so sure when. But I will just try one of these days."

The testimony of PANAGA is clear only to show that BARRION wanted to help Nelly Barrion with her problem i.e. the pregnancy of Milan, and that BARRION solicited CANAGURAN's help to kill CALLAO. We do not believe however that his testimony is conclusive to prove beyond reasonable doubt that BARRION was a principal by inducement of the crime. The fact that he told Nelly Barrion that he would "take care" of the problem of Milan Barrion is ambiguous and does not necessarily lead to the conclusion that he plotted to kill CALLAO. Moreover, his conversation with CANAGURAN is also inconclusive. CANAGURAN did not give a definite answer as to whether or not he would in fact kill CALLAO. On the contrary, CANAGURAN's answer that "he will try" was equivocal. In court, CANAGURAN categorically denied that he knew BARRION.[13]

Even assuming that CANAGURAN agreed to kill CALLAO, the evidence of record is still insufficient to convict BARRION as a principal by inducement. Article 17 of the Revised Penal Code provides that principals are those who "directly force or induce others" to commit an offense. "One is induced to commit a crime either by a command (precepto) or for a consideration (pacto), or by any other similar act which constitutes the real and moving cause of the crime and which was done for the purpose of inducing such criminal act and was sufficient for that purpose.[14] Where the circumstances of force, fear, price, promise or reward are not present, the question that may arise is whether the command given by a person to the author of the crime amounts to a criminal inducement.[15] The inducement exists whenever the act performed by the physical author of the crime is determined by the influence of the inducer over the mind of him who commits the act whatever the source of such influence."[16] Thus, the inciting words must have great dominance and influence over the person who acts; they

ought to be direct and as efficacious, or powerful as physical or moral coercion or violence itself.[17]

In the case at bar, the only evidence adduced by the prosecution linking BARRION to the crime was PANAGA's testimony that he overheard BARRION telling CANAGURAN to try to kill CALLAO. No evidence of force, fear, price, promise or reward exerted over or offered to CANAGURAN by BARRION that impelled him to kill CALLAO was presented by the prosecution. It was therefore incumbent upon the prosecution to prove that BARRION had an influence over CANAGURAN so great that such inducement would be the determining cause of the commission of the crime by the material executor."[18] Records disclose that no evidence was presented to show that he in fact had moral ascendancy over CANAGURAN or that he possessed such a great dominance over CANAGURAN that CANAGURAN would be induced to kill CALLAO. It does not follow by necessary inference that the order of BARRION to CANAGURAN was effective and motivated CANAGURAN's shooting CALLAO. The conclusion would be speculative without further evidence that the plot was indeed pursued to its actual completion on the basis of the conversation that transpired in the public market. Since CANAGURAN denied that he knew BARRION, we can only surmise as to what CANAGURAN's real motive was for killing CALLAO.

The convictions of SOBERANO and BOLIVAR, on the other hand, are premised on the lower court's finding that a conspiracy existed among the accused. The lower court relied on several facts to prove the conspiracy as follows:

> "The four accused were seen drinking at the store of Rodney Balaito. While the said accused were drinking, a person by the name of Quirino handed a .12 gauge pistolized gun to Cresenciano Canaguran then left. The four accused then also left leaving the others behind, namely, Hugo Callao, Damaso Suelan, Jr., Rolly Brendia and the couple who owns the store. Then a shot was fired killing Hugo Callao and also wounding Damaso Suelan, Jr.. Damaso Suelan, Jr. and Rolly Brendia identified Cresenciano Canaguran alias "Tig-ik" as the person who fired the fatal shot. Thereafter, the four accused ran away towards the direction of crossing Gorriceta.
>
> With these pieces of circumstances put together, an almost finished picture puzzle is formed. The picture shows the four accused inebriated, perhaps to embolden themselves, executing the premeditated plan to kill the victim Hugo Callao with accused Cresenciano Canaguran as the hitman and the three others, Renato Balbon, Joel Soberano and Graciano Bolivar as abettors or moral support."[19]

With the above circumstantial evidence, the court found the presence of a conspiracy by rationalizing that:

> "Of the five accused, Diosdado Barrion, Joel Soberano and Renato Balbon are related. Graciano Bolivar and Cresenciano Canaguran are virtual strangers to the other three. However, with Agustin Bolivar being related to all the acused and is apparently the common link that could bind them, this Court not only suspects but also believes that all the accused have already met each other and, therefore, have knowledge about each other. This is so considering, moreover, that Brgy. Vista Alegre, the place of common residence or sojourn of the accused, is a small rural community with a presumably sparse population so that it is naturally expected that every new face or every new event does not escape the notice of the barangay folks living therein."[20]

x x x

> "All these facts, circumstances and observations taken as a whole create strong implications leading to the conclusion that, indeed, a conspiracy to kill Hugo Callao developing from a deadly family feud existed and that the five accused herein participated as principals of the same.
>
> This theory anent the conspiracy was induced by this Court, thus: To avoid the suspicion that the killing of Hugo Callao is feud oriented, Cresenciano Canaguran, who is not a relative and comes from a distant town, was deliberately picked as the hitman. Joel Soberano, through Agustin Bolivar, acted as the recruiting agent with Renato Balbon. Graciano Bolivar brought Cresenciano Canaguran to Brgy. Vista Alegre to be introduced

by Joel Soberano to Diosdado Barrion. The conspiracy was hatched."[21]

We disagree.

There is no question that a conspiracy may be deduced from the mode and manner by which the offense was perpetrated, however, a conspiracy must be established by positive and conclusive evidence[22] . It cannot be based on mere conjectures but must be established as a fact. Moreover, it must be shown to exist as clearly and convincingly as the commission of the offense itself.[23]

We have examined the evidence of record and find that there is nothing therein to show, or from which it may reasonably be deduced with moral certainty that a conspiracy in fact existed among the accused-appellants. The above-enumerated factors are circumstantial in nature, which even if taken collectively, do not reasonably lead to proof beyond reasonable doubt that a conspiracy existed. The only logical inference that can be deduced therefrom is that SOBERANO and BOLIVAR were drinking together in the evening in question with CANAGURAN, who was positively identified as the gunman, when the incident occurred; that they were seen running away together from the scene of the crime after the shots were fired. However, the mere presence of a person at the scene of a crime does not make him a conspirator.[24] A conspiracy transcends companionship.[25] We find that the conclusion of the court that the accused-appellants were "abettors or gave moral support" is not convincingly supported by the evidence and even if it were, does not establish conspiracy to commit a crime.

Moreover, the conclusion reached by the trial court with respect to the existence of a conspiracy based on the fact that CANAGURAN was deliberately picked as a hitman; that SOBERANO through Agustin Bolivar acted as the recruiting agents with BALBON; and that BOLIVAR brought CANAGURAN to Brgy. Vista Alegre to be introduced by SOBERANO to BARRION is also not established by the evidence. The lower court deduced this from the mere fact that most of the accused were related or were one way or another linked to each other considering that Brgy. Vista Alegre was a small town. However, the mere fact that some of the accused are related to each other by consanguinity or affinity does not prove conspiracy.[26] Certainly, the fact that Brgy. Vista Alegre was a small town does not justify such a conclusion.

Finally, the accused-appellant's denial that they were at the store of Balaito despite their being positively identified as present thereat does not lead to the conclusion that the denial was resorted to in order to cover up the conspiracy. It is but natural for a person to resort to any means to save himself. While we do not condone the giving of false testimony in criminal proceedings, we also cannot discharge the prosecution from its primary duty to prove the existence of the conspiracy beyond reasonable doubt.

In the absence of any other convincing and competent evidence to prove the conspiracy and that BARRION was a principal by inducement, we are constrained to reverse the decision of the lower court.

WHEREFORE, the decision of the Regional Trial Court of Iloilo City, Branch 36 is REVERSED and SET ASIDE. Accused-appellants Joel Soberano, Renato Balbon and Diosdado Barrion are hereby ACQUITTED based on reasonable doubt and are ordered released immediately from confinement unless they are held for some other lawful cause. The criminal case against Graciano Bolivar is hereby DISMISSED.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

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[1] Penned by Judge Quirico G. Defensor.

[2] Rollo, p.13.

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[3] Record, pp. 116.

[4] Decision, pp. 5-7; Rollo, pp. 39-41.

[5] Decision, pp. 2-5; Rollo, pp. 36-39.

[6] Decision, p. 20; Rollo, p. 54.

[7] Appellant's Brief, pp. 1-2.

[8] Letter of the Assistant Director, Bureau of Corrections, Rollo, p. 72.

[9] 236 SCRA 239.

[10] Ibid., at pp. 255-256.

[11] People vs. Court of Appeals, 242 SCRA 180 at p. 187[1995].

[12] Decision, pp. 50-53.

[13] TSN, December 13, 1989, p. 5.

[14] Ramon C. Aquino, Revised Penal Code, 1997 Ed., Vol. One, p. 483.

[15] Ibid., at p. 488.

[16] Ibid.

[17] People vs. Parungao, 265 SCRA 140 at pp. 148-149[1996].

[18] People vs. De La Cruz, 97 SCRA 385 at 398[1980].

[19] Decision, pp.12-13; Rollo, pp. 46-47.

[20] Decision p. 17; Rollo, p. 51.

[21] Decision, p. 18; Rollo, p. 52.

[22] People vs. Berroya, 283 SCRA 111 at p. 129[1997].

[23] Ibid.

[24] People vs. Ortiz, 266 SCRA 641 at p. 655[1997].

[25] People vs. Gomez, 270 SCRA 432 at p. 443[1997].

[26] People vs. Ballabare, 264 SCRA 350 at p. 368[1996].

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