

PEOPLE OF THE PHILIPPINES, plaintiff-appellee, vs. JAYSON DIADID y AGLUBAT, COZETTE ARAGON y TIMONEL, and RAINIER LISBOG y PAMPAG, accused, JAYSON DIADID y AGLUBAT, accused-appellee...

G.R. No. 110272. August 30, 1994

Ponente: PADILLA, J.

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PADILLA, J.:

In an information^[1] dated 14 August 1991, filed by Asst. Provincial Prosecutor Edwin D. Sorongon before the Regional Trial Court of Pasig, Metro Manila, four (4) minors, namely: Jayson Diadid, Rainier Lisbog, Cozette Aragon and Reyderick Lago were charged with the crime of Robbery with Homicide, allegedly committed as follows:

“That on or about the 24th day of July, 1991, in the municipality of Mandaluyong, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, conspiring and confederating together and mutually helping aiding each other, with intent of gain, by means of force upon things, did, then and there willfully, unlawfully and feloniously enter the house of Benjamin Raymundo y Sta. Teresa, by then and there removing one blade of the glass window jalousie near the door, and once inside the house, take, steal and carry away cash money and jewelries worth P92,000.00, belonging to said Benjamin Raymundo y Sta. Teresa, to the damage and prejudice of the latter; that on the occasion of the said robbery and for the purpose of enabling them to take, steal and carry away the said cash money and jewelries, in pursuance of their conspiracy and to insure the success of their criminal act, with intent to kill, did, then and there willfully, unlawfully and feloniously stab said Benjamin Raymundo y Sta. Teresa on the vital part of his body, thereby inflicting upon the latter stab wounds which directly caused his death.”

Upon arraignment, Jayson Diadid and Rainier Lisbog both pleaded not guilty. Cozette Aragon, assisted by his counsel, pleaded guilty to the crime of Robbery with Homicide but the court deferred the promulgation of his sentence pending evaluation of the entire evidence, to determine the presence of mitigating or aggravating circumstances. Accused Reyderick Lago, up to the present, has remained at large.

The prosecution’s version of the incident runs as follows:

At around 7:30 to 8:00 o’clock in the morning of 24 July 1991, Rosanna Capacillo, a neighbor of the victim who lived just across the street, was standing outside the front door of her house when she noticed a person carrying a bag coming out of the gate of Benjamin Raymundo’s house. She observed the said person for about five (5) minutes as the latter was standing in front of the gate. Thereafter, she went inside her house to call her husband as they were to leave for work. When she went outside again, the person whom she had observed earlier was no longer there. She remembered the face of the said person and identified him in court as Rainier Lisbog. She testified, however, that it was only late in the evening that she learned about the robbery and killing inside her neighbor’s house and that she recalled the unusual presence of Lisbog whom she saw in that place only for the first time.^[2]

Earlier in the day, at around 7:00 to 7:30 o'clock in morning Ramon Bernardo, a refrigerator/aircondition technician, went to the house of Benjamin Raymundo (the victim) to borrow a refrigerator gasket. At the gate leading to the compound of Benjamin Raymundo, he met a man leaving the compound clad in a white T-shirt and black pants, dark skinned and thin-faced with medium built and around sixteen (16) to twenty (20) years old. However, he was unable to remember the face of the said person.

Once inside the compound, Bernardo called out "Mang Ben, Mang Ben," after which someone opened the door halfway. Bernardo asked him if Mang Ben was inside the house. The man gestured with his hands, making a sign that Mang Ben was still asleep. Bernardo countered with a sign that he would just come back later, which he did at around 9:00 o'clock in the morning. By that time, he was informed by a relative of Mang Ben (Raymundo) that the latter was robbed and killed earlier that morning by unknown persons. On 24 July 1991 and 25 July 1991, respectively, Bernardo voluntarily gave his sworn statement[3] to the Mandaluyong Police to shed light on the incident.[4]

Elsa Raymundo, widow of the victim (Benjamin Raymundo), testified that she was in the public market attending to their business at around 8:30 in the morning of 24 July 1991 when her daughter-in-law arrived and informed her that her husband was stabbed inside their house. She hurriedly went home and found the lifeless body of her husband inside their room. She discovered that her drawers were ransacked and looted of cash and jewelries contained therein amounting to approximately P67,000.00. Thereafter, the police recovered part of the loot, and she readily identified the same as part of her missing jewelries.[5] She further testified that relative to the death of her husband, she incurred approximately P18,650 in funeral expenses. She also identified the knife[6] which the police recovered from the crime scene as the same knife they use in their kitchen.[7]

Dr. Alberto M. Reyes, NBI Supervising Medicolegal officer, examined the cadaver of the victim. The autopsy revealed that Raymundo suffered multiple stab wounds, fourteen (14) stab wounds in the back and seven (7) in front[8] varying in depths from 4.5 cm. to 14 cm. and inflicted on vital organs of the victim's body — the upper, middle and lower lobe of the right lung, the right lobe of the liver, the small and large intestines and the pancreas. He opined that based on the characteristics of the wounds, the murder weapon was probably sharp-pointed and single bladed, although not discounting the possibility that two (2) weapons may have been used. He stated that the victim died due to severe hemorrhage resulting from the stab wounds and estimated that the victim could have died between the hours of 6:30 to 7:30 in the morning of 24 July 1991.[9]

The police team which handled the investigation of the case leading to the arrest of the suspects and recovery of part of the stolen items, was led by P/Cpl. Nicolas Cabalar of the Mandaluyong Police. He testified that when they arrived at the crime scene, he noticed that a jalousie blade at the left side of the door was detached. They found the lifeless body of Raymundo with several stab wounds, lying on top of his bed. Beside him (Raymundo) were the drawers and jewelry boxes[10] emptied of their contents. Beside the headboard of Raymundo's bed, they also recovered a blood-stained kitchen knife wrapped in a blanket. In the course of the investigation, Cabalar learned from Mrs. Raymundo about two (2) previous robbery incidents in their house when they (Raymundos) caught their nephew Cozette Aragon in flagrante. However, Cozette was eventually pardoned by them and was not charged.

Cabalar referred this lead to a police follow-up unit which was assisted by Mr. Benny Aragon (father of Cozette Aragon) and Randy Raymundo. Through the help of one Roy Torres, a classmate of Cozette Aragon, they were able to persuade another classmate, Dennis Sison, to give a statement to the police on what he knew about the robbery.

Dennis Sison told the investigators of Cozette Aragon's plan, together with Rainier Lisbog and two (2) other

schoolmates, to rob the house of his uncle (Raymundo).

When Rainier Lisbog was arrested by the police, and positively identified by Ramon Bernardo at the police station as the person whom he saw at the door of Benjamin Raymundo's house, he (Lisbog) pointed to Dennis Sison as the one in possession of the stolen articles. Rainier Lisbog allegedly admitted his participation in the crime but claimed that he only acted as a look-out. Lisbog stated that his companions were Cozette Aragon, Jayson Diadid and Reyderick Lago but averred that he was only forced by Cozette Aragon to follow instructions.

Dennis Sison was invited for questioning at which he pointed to one Robert Yambao who, he claimed, had possession of the stolen jewelries. The articles were eventually recovered in the house of Robert Yambao.[11]

Cozette Aragon testified for the prosecution as an ordinary witness. He revealed that Dennis Sison was originally included as a member in his plan to rob his uncle as early as two (2) weeks before 24 July 1991. He admitted that, previously, he had robbed his uncle and that he was caught in flagrante.[12] Eventually, the group was narrowed down to himself (Aragon), Sison, Lisbog and Jayson Diadid. On 23 July 1991, Dennis Sison introduced Jayson Diadid to Cozette since Cozette needed somebody who had the "guts" to participate in the robbery. On the same day, they talked about Cozette's plan to which Jayson Diadid allegedly asked Cozette if he wanted his uncle killed. Cozette said "no," as he just wanted to rob his uncle. They resolved to carry out the plan the following day and agreed to meet at 6:00 a.m. at a nearby monument near their school (Jose Fabella School).

The following day, the group met at the agreed place at around 6:45 a.m. Forthwith, they boarded a jeep and arrived at Benjamin Raymundo's house at around 7:15 a.m. Cozette, with the use of a fan knife, detached a portion of the glass jalousie window to reach the inside knob of the front door lock.

Once inside the house, they first sat on the sofa. Jayson Diadid then asked Cozette the location of his uncle's room. Cozette pointed to the room of his uncle as he saw Diadid taking his uncle's wallet and three (3) packs of cigarettes on top of the refrigerator near the kitchen. Diadid then placed the three (3) packs of cigarettes in Lago's bag but kept the contents of the wallet. Then, Cozette and Diadid proceeded to the room of Raymundo. After verifying that Raymundo was asleep, Cozette returned to the sala with Diadid at his back, who was then carrying the short pants of Raymundo that he (Diadid) got from the hanger for used clothing beside Raymundo's room. Cozette also saw Diadid take the wallet from inside said short pants. All the while, Lago remained at the sala while Lisbog acted as look out beside the door of the house.

Cozette and Diadid then returned to Raymundo's room where Cozette's uncle was sleeping on his back. Cozette surreptitiously opened the drawers of her aunt and began taking the money and jewelries. Suddenly, he heard his uncle shouting and when he looked back, he saw Jayson Diadid stabbing his uncle.

According to Cozette, he shouted "Jayson, huwag, huwag" as he held the shoulders of his uncle to pull him away from Diadid. He and Diadid instinctively ran away from the room but Diadid allegedly went back afterwards to stab the victim anew. Cozette immediately followed suit to again pull his uncle away from Diadid, after which they both ran away as he saw his uncle fall down on the floor. When they went out of the room, Lago and Lisbog were no longer around.

Cozette proceeded back to school to see Dennis Sison and entrusted to the latter a clutchbag containing some of the stolen jewelries. Together with Rainier Lisbog, Dennis Sison and another classmate, they proceeded to Shoemart (SM City) to take lunch. Diadid and Lago were no longer with them as the two (2) did not show up at the designated store where they had previously agreed to meet.

The group left Dennis Sison in SM and the rest proceeded to Olongapo and stayed there for one night. When he

(Cozette) returned to Manila, he learned that Lisbog had been arrested. He decided to go back to Olongapo after which he went to hide in Bataan for two (2) months where he was subsequently arrested by policemen who were accompanied by his father.[13]

In their defense before the court a quo, Rainier Lisbog and Jason Diadid gave two (2) different versions of the incident.

Rainier Lisbog testified that he was about to attend his chemistry class when he was forced and threatened by Cozette Aragon to go with the group to get a certain “project” of Cozette in his uncle’s house. When they arrived at the house, he saw Cozette detach a jalousie blade from the window by using a fan knife. Cozette Aragon allegedly told him to stay outside the gate while Cozette, Jayson and Lago went inside the house.

Lisbog maintained that he never went inside the house and just stayed outside the gate for about fifteen (15) minutes or so until he finally got impatient and decided to go back to school.

In school, Lisbog looked for Dennis Sison to borrow the latter’s notes in Chemistry. Thereafter, Cozette arrived and invited him to SM City for lunch. Then they proceeded to the house of one Ronaldo Abarete whom Cozette invited to go with them to Olongapo City. Lisbog joined Cozette and Abarete in going to Olongapo City. Dennis Sison was left behind.[14]

Lisbog initially claimed that Cozette never told him about the robbery and killing of Benjamin Raymundo. Later, he admitted that while on their way to SM City on board a taxi, Cozette showed him bundles of money, approximately about two thousand pesos (P2,000.00), and told him what had happened inside the house.[15]

Jayson Diadid gave a slightly different version of the incident. He claimed that on 23 June 1991, Cozette approached him together with Reyderick Lago and asked him if he could accompany them to the house of Cozette’s uncle where Cozette was to get something important. He declined to go on that day because he had to attend class. One month after, or on 24 July 1991, he saw Cozette and Reyderick Lago at a nearby store just outside the Jose Fabella Memorial School. Again, Cozette and Lago persuaded him to go with them to the house of Cozette’s uncle, apparently to get something — that is to rob his uncle.[16] He (Diadid) agreed but allegedly told them that he would just stay in the sala.[17]

Diadid corroborated Cozette Aragon’s as well as Rainier Lisbog’s accounts of how they were able to enter the house but stated that Lisbog also entered the house and they (he and Lisbog) both sat on the sofa while Cozette went around inside the house with Reyderick Lago at his back. Diadid alleged that Cozette and Reyderick went inside the kitchen. When Cozette came out of the kitchen, he (Diadid) saw Cozette holding a knife as he (Cozette) walked towards his uncle’s room with Reyderick Lago behind him.[18]

It was at that moment that he (Diadid) allegedly became frightened that something wrong might happen; that he decided to leave the house leaving behind Lisbog who was still seated on the sofa. On his way out, he met a man who turned out to be Ramon Bernardo whose name he only learned during the trial. He denied all of Cozette Aragon’s allegations and declared that he voluntarily surrendered to their barangay captain who, together with his father, accompanied him to the police to prove his innocence.[19]

After trial, the court a quo rendered judgment, the dispositive part of which states:

“WHEREFORE, the Court finds the accused Jayson Diadid y Aglubat, Rainier Lisbog y Pampag and Cozette Aragon y Timonel guilty beyond reasonable doubt of the crime of Robbery with Homicide punishable under Art. 294 par. (1) of the Revised Penal Code and hereby sentences said accused to suffer the penalty of reclusion perpetua; to indemnify jointly and severally the heirs of the victim in the amount of FIFTY THOUSAND PESOS (P50,000.00); the sum of EIGHTEEN THOUSAND SIX HUNDRED PESOS

(P18,600.00) representing reimbursement of funeral expenses and SIXTY SEVEN THOUSAND PESOS (P67,000.00) the value of the stolen cash and articles; the sum of TEN THOUSAND PESOS (P10,000.00) as moral damages and TEN THOUSAND PESOS (P10,000.00) as exemplary damages and to pay the cost.

The accused are hereby committed to the Bureau of Corrections, Muntinlupa, Metro Manila.

This case is hereby ordered ARCHIVED against accused Reyderick Lago who has remained at large and to be revived upon the arrest of the said accused.”[20]

Rainier Lisbog did not appeal from the judgment. Instead, he jumped bail and went into hiding upon learning of said judgment and the order for his arrest.[21]

Only Jayson Diadid appealed his conviction to this Court and submits the following assignment of errors:

I

THE LOWER COURT ERRED GRAVELY IN ITS DECISION IN FINDING ACCUSED DIADID GUILTY OF THE CRIME CHARGED ON FACTS CONTRARY TO THE EVIDENCE INTRODUCED AND PROVED BY THE PROSECUTION IN COURT.

II

THE LOWER COURT ERRED IN CONVICTING ACCUSED JAYSON DIADID WITHOUT CONSIDERING IN FULL THE TESTIMONY OF RAMON BERNARDO TO THE EFFECT THAT ACCUSED JAYSON DIADID LEFT THE COMPOUND WHILE RAINIER LISBOG WAS STILL INSIDE THE HOUSE.[22]

Accused-appellant Diadid argues that the testimony of prosecution witness Ramon Bernardo is crucial to establish that he (Diadid) voluntarily desisted from the planned robbery, as he immediately left the victim’s house when he noticed that Cozette Aragon had a knife in his hands in going to Benjamin Raymundo’s room. He maintains that he was positively identified by Ramon Bernardo as the person he (Bernardo) met leaving the gate of Raymundo’s compound just before Bernardo called out Raymundo’s name, after which Rainier Lisbog opened the door and signalled to Bernardo that Raymundo was still asleep. He (Diadid) maintains that the presence of Lisbog at the front door of Raymundo’s house negates the testimony of Cozette Aragon that when he (Cozette) and Jayson Diadid left Raymundo’s house, they no longer noticed Lisbog nor Lago in the premises.

The necessary implication is, according to Diadid, that it was not he but Reyderick Lago who was the companion of Cozette Aragon in the robbery and in the killing of Raymundo, for he (Diadid) left earlier than Lisbog who was seen by Ramon Bernardo and identified by witness Rosanna Capacillo who stood outside the gate at around 7:30 to 8:00 a.m.

We are not persuaded by accused-appellant Diadid’s plea of voluntary desistance from the commission of the crime charged.

Contrary to his claim, accused-appellant Diadid was not positively identified by prosecution witness Ramon Bernardo. On cross-examination, Bernardo declared that:

Q.

Mr. Bernardo, this is your signature?

A.

Yes, sir.

Q.

Exhibit A-2?

A.

Yes, sir.

Q.

Will you please, read Question No. 12 and your answer please loud and clear? Will you please read it very loud so that everyone could hear?

A.

‘T: Iyon bang kasama ni Ranier Lisbog na nakita mong nasalubong sa iyo ng ikaw patungo sa bahay ni Mang Ben, Nakilala mo ba kapag makita mo siya uli? ‘S: Hindi ko po natandaan ang mukha.’

Q.

Would you affirm that statement to be the truth Question No. 12 and the answer you have just read a while ago?

A.

Yes, sir.

Q.

So the truth of the matter is you cannot remember the face of that individual you met?

A.

Yes, sir.

Q.

The records had grown so big, you are trying to reiterate that you saw Jayson Diadid? Why? When in truth and in fact you cannot remember the person of the man you met on the way?

A.

Because he was the one pointed to me by the policeman as the man I met while on my way and he was also pointed to by the suspect. That was told by the suspect. (Italics supplied)[23]

It is clear that while Ramon Bernardo indeed saw someone going out of the compound, he was not sure whether that person was Diadid or not. He only identified Diadid because the latter was pointed to him by the police as a possible suspect in the crime. No evidence was presented to prove whether Ramon Bernardo’s description of the man matched or closely resembled that of Diadid or Reyderick Lago. It may have been either of the two or some other person who lived in the same compound.

Accused-appellant Diadid offers no convincing evidence to show that he was never a part of the conspiracy to rob Raymundo, as hatched by Cozette Aragon. On the contrary, he had prior knowledge that they were going to rob Cozette’s uncle. He was present when Cozette detached the jalousie from the window with a fan-knife, which was definitely not the normal way of one who was only going to get something from a house where he did not live. The group (including Diadid) all entered the house with only one purpose and that was to rob. The evidence shows no motive on the part of Cozette Aragon nor Rainier Lisbog to falsely implicate Diadid. In fact, Diadid himself admitted that the two, namely: Cozette and Lisbog, are still his friends and that not one of them had any

long-standing grudge against each other.[24]

We, therefore, reject accused-appellant's plea of voluntary desistance, in the absence of any evidence leading thereto. Strangely, accused-appellant could have readily admitted that it was really he whom Ramon Bernardo saw leaving the gate at around 6:30-7:00 in the morning of 24 July 1991 but his counsel chose to cast the doubt on his identity as he obtained an admission from Bernardo that he was not sure whether he had really recognized his client. We have already ruled that:

“x x x One who joins a criminal conspiracy in effect adopts as his own the criminal designs of his co-conspirators; he merges his will into the common felonious intent. A person who embraces a criminal conspiracy is properly held to have cast his lot with his fellow conspirators and to have taken his chances that things may go awry and that the offended party may resist or third persons may get killed in the course of implementing the basic criminal design. To free himself from such criminal liability, the law requires overt act on the part of the conspirator, to seek to prevent commission of the second or related felony or to abandon or dissociate himself from the conspiracy to commit the initial felony. (People v. Salvador, 163 SCRA 574, 580-582 [1988]; People vs. Bazar, 162 SCRA 609, 617 [1988; People v. Escobar, 157 SCRA 541, 567 [1988]; People v. Pelagio, 20 SCRA 153, 159-160 [1967] (Italics supplied)”[25]

This, appellant was not able to prove. He can no longer repudiate the conspiracy after it had already materialized.[26]

The conspiracy was clearly established in this case from the testimony of Cozette Aragon against his co-conspirators. A co-accused in a criminal case is a competent witness for or against any of his co-accused.[27]

We also agree with the trial court's appreciation of the evidence when it concluded that:

“However, the Court cannot believe the claim of accused Aragon that it was only accused Diadid who stabbed his uncle. He testified that while his back was turned while emptying the drawers of cash and jewelries, he heard the shouts of his uncle. When he looked around, he saw accused Diadid stabbing his uncle successively. He stopped him and thereupon, pulled the shoulders of his uncle away from accused Diadid. Then, he and Diadid went out of the room but accused Diadid returned back to the room and stabbed his uncle again. He then pulled his uncle away from him (TSN, Hearing of December 11, 1991). It should be noted that when accused Aragon and co-accused Diadid were talking about their plan, the latter asked him (Aragon) if he wanted his uncle to be killed, to which Aragon replied in the negative. If indeed their plan was merely to rob the victim, why will accused Diadid stab him? Aragon's uncle Benjamin Raymundo, could have been awakened by the noise created in opening the drawers. Hence, the necessity to silence him. As testified to by their co-accused Lisbog, accused Aragon admitted to him that he (Aragon) embraced his uncle while accused Diadid was stabbing his uncle (Exh. M). Additionally, the victim suffered 14 stabbed wounds in the back portion of the body and 7 in the front portion thereof, which negates accused Aragon's assertion that he tried to stop accused Diadid from stabbing his uncle. He did not endeavor to prevent the unlawful killing but on the contrary, he held his uncle to eliminate an obstacle or prevent the latter from parrying the blow.

The rule is already well established that the testimony of a witness may be believed in part, depending upon the corroborative evidence and the probabilities and improbabilities of the case. The Court may accept such of the witness testimony as it may deem proper notwithstanding his false statements. If parts of a witness testimony is found true, it cannot be disregarded entirely (PP vs. Pacabes, 137 SCRA 158).”

x x x x x x x x

“The penalty for Robbery with Homicide under Article 294, par. (1) is reclusion perpetua to death. The prosecution was not able to prove any aggravating circumstance in the commission of the crime. However, there are mitigating circumstances adequately proven and should be considered in favor of the accused. These are the privileged mitigating of minority, having proven satisfactorily thru their birth certificates that accused

were over 15 years but less than 18 years old at the time of the commission of the crime. Accused Jayson Diadid is, likewise, entitled to the mitigating circumstance of voluntary surrender while for accused Cozette Aragon, the mitigating circumstance of voluntary plea of guilty having confessed his guilt before the Court prior to the presentation of the evidence for the prosecution. There being no aggravating circumstance to offset the aforementioned mitigating circumstances, the minimum penalty proved for under Article 194 par. (1) of the Revised Penal Code shall be imposed i.e., reclusion perpetua.”[28]

Taking into account that Jayson Diadid was over 15 years but less than 18 years at the time of the commission of the crime, the penalty next lower in degree to that prescribed by law should be imposed in its proper period.

The penalty for robbery with homicide being reclusion perpetua to death, one degree lower from the said penalty is reclusion temporal. (Art. 61, par. 2 and Art. 71, Scale No. 1 Revised Penal Code). Since the ordinary mitigating circumstance of voluntary surrender is also present in favor of accused-appellant Diadid, there being no aggravating circumstance to offset the same, the penalty to be imposed on Diadid would be reclusion temporal in its minimum period.

Applying the Indeterminate Sentence Law, Diadid should be sentenced to suffer the penalty of eight (8) years and one (1) day of prision mayor as minimum to fourteen (14) years and eight (8) months of reclusion temporal as maximum.

WHEREFORE, the judgment of conviction against accused-appellant Jayson Diadid y Aglubat is hereby AFFIRMED with the following modifications. He is hereby sentenced to suffer the penalty of from eight (8) years and one (1) day of prision mayor as minimum to fourteen (14) years and eight (8) months of reclusion temporal as maximum.

SO ORDERED.

Narvasa, C.J. (Chairman), Regalado, Puno, and Mendoza, JJ., concur.

[1] Rollo, pp. 3-4.

[2] TSN, 29 October 1991, pp. 7-16.

[3] Exhibit A to A-3.

[4] TSN, 29 October 1991, pp. 17-22.

[5] Exhibit G to G-2; Exhibit J.

[6] Exhibit I.

[7] TSN, 18 November 1991, pp. 15-20; 26 November 1991, pp. 23-24.

[8] Exhibit C, C-2 and C-3.

[9] TSN 18 November 1991, pp. 6-14.

[10] Exhibit H-2, H-3 and H-5.

[11] TSN, 26 November 1991, pp. 12-21.

[12] TSN, 11 December 1991, p. 13.

[13] TSN, 11 December 1991, pp. 4-12.

[14] TSN, 26 February 1992, pp. 5-16.

[15] TSN, 20 May 1992, p. 14.

[16] TSN, January 22, 1992, pp. 13, 20, & 21.

[17] TSN, 28 January 1992, pp. 9-13.

[18] Ibid., pp. 14-16.

[19] Ibid., pp. 22-24.

[20] Rollo, p. 28.

[21] Original Records, pp. 256-257.

[22] Rollo, p. 39.

[23] TSN, 29 October 1991, pp. 34-35.

[24] TSN, 11 February 1992, pp. 7-8.

[25] People vs. Punzalan, G.R. No. 78853, 8 November 1991, 203 SCRA 364.

[26] People vs. de los Reyes, G.R. No. L-44112, 22 October 1992, 215 SCRA 63.

[27] Rule 130, Sec. 27, Rules of Court. See also People vs. Serrano, G.R. No. L-7973, 27 April 1959, 105 Phil. 531; People vs. Nierra, G.R. No. L-32624, 12 February 1980, 96 SCRA 1; People vs. Atencio, 22 SCRA 88, G.R. No. L-22518; US vs. Grant, 18 Phil. 121, G.R. No. L-5786, 29 December 1910; People vs. Vizcarra, 115 SCRA 743; People vs. Bazar, 162 SCRA 609, G.R. No. L-41829, 27 June 1988.

[28] Rollo, pp. 26-28.

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