

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN SALVATIERRA, ENRIQUE CONSTANTINO, AGUSTIN TRINIDAD, WILLIE TRINIDAD, AND ALVIN SANTOS, ACCUSED, ENRIQUE CONSTANTINO, ACCU...*G.R. No. 111124. June 20, 1996*

Ponente: REGALADO, J.

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As the lone indictee who invoked this appellate review, accused-appellant Enrique Constantino seeks the reversal of the judgment of conviction[1] rendered by Regional Trial Court, Branch 56, of Makati, Metro Manila which found him guilty of the special complex crime of robbery with homicide together with another accused in the court a quo, Juan Salvatierra y Eguia, alias "Untoy." [2] Appellant's main defense is grounded on the exempting circumstance that he had acted under the impulse of uncontrollable fear since he was allegedly coerced by his co-accused into committing the criminal offense for which they were all charged. He further attributes reversible errors to the findings of the trial court on questions respecting the credibility of the prosecution witnesses.

In an amended information dated August 11, 1988, the prosecution initiated Criminal Case No. 359 in the court below charging Enrique Constantino; Agustin Trinidad, alias "Agos"; Willie Trinidad, alias "Willie"; Alvin Santos, alias "Alvin"; and Juan Salvatierra y Eguia, alias "Untoy," with the so-called offense of "Robbery in Band with Rape and Double Homicide and Attempted Homicide," under the following allegations:

That on or about the 15th day of May 1988, in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, while armed with handguns and knives, with intent to gain, entered the house of HICHIRO KUBOTA and ELIZABETH HAMMOND and once inside, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously take, steal and carry away the following, to wit:

- a) Assorted jewelries valued at P800,000.00
- b) 26,000.00 yen
- c) US \$2,400.00 and
- d) P7,000.00

belonging to said Hichiro Kubota and Elizabeth Hammond, to the damage and prejudice of the latter in the aforementioned amount(s) of P800,000.00; 26,000.00 yen; US\$2,400.00 and P7,000.00; that on the occasion of the said robbery, the said accused, conspiring and confederating together and mutually helping and aiding one another by means of force, threats and intimidation and one after the other, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of Hazel Arjona, Hichiro Kubota's maid, against her will and consent.

That on the occasion of the said robbery, the said accused, conspiring and confederating together and mutually

helping and aiding with (sic) one another with intent to kill with treachery, evident premeditation and abuse of superior strength did then and there willfully, unlawfully and feloniously stab with knives one Hichiro Kubota on the different parts of his body and stab one Hazel Arjona on her stomach, as a result (w)hereof, the said victims suffered mortal wounds which directly cause(d) their death, and also on the same occasion, with intent to kill, attacked, assaulted and stabbed with a knife one Marilyn Juguilon on the upper part of their right arm thereby commencing the commission of the crime of homicide directly by overt acts but (were) not able to perform all the acts of execution which should produce the felony by reason of some cause or accident other than their own spontaneous desistance and that the injuries sustained by her is not sufficient to cause her death.[3] (Corrections in parentheses supplied.)

At the trial of the case which commenced sometime in September, 1988, only three of the five accused were proceeded against, namely, Juan Salvatierra, Enrique Constantino and Agustin Trinidad. Willie Trinidad and Alvin Santos eluded arrest and have remained at large. As it was accused Juan Salvatierra who was initially apprehended, his arraignment was held ahead of the other two. He pleaded not guilty when arraigned on August 31, 1988 with the assistance of counsel de oficio.[4] Trial then proceeded as to him, with the prosecution presenting as witnesses Elizabeth Hammond, Diosa Hammond, Marilyn Juguilon, Dr. Bienvenido Muñoz, and Pfc. Leonardo Timtim. Salvatierra himself testified in his defense and one Fe Maderazo was presented to corroborate his alibi.

Accused Enrique Constantino and Agustin Trinidad, on the other hand, were arrested later and arraigned on March 15, 1990 and May 30, 1990, respectively, shortly after the prosecution had rested its case with regard to accused Juan Salvatierra. Both Constantino and Agustin likewise entered negative pleas with the assistance of their respective counsel.[5] The prosecution anchored its case against the duo mainly upon the testimonies of Elizabeth Hammond, Epifania Hammond, Diosa Hammond, and Atty. Isidro Hildawa. As in the case of Salvatierra, Constantino and Agustin were their own defense witnesses.

On January 22, 1993, the trial court pronounced a verdict of guilty as regards Enrique Constantino and Juan Salvatierra, and one of acquittal with respect to Agustin Trinidad, its judgment reading as follows:

WHEREFORE, finding accused Juan Salvatierra and Enrique Constantino guilty beyond reasonable doubt of the commission of robbery with homicide as defined and penalized under Art. 294, par. 1 of the Revised Penal Code, they are hereby sentenced to suffer the penalty of reclusion perpetua and to jointly and severally pay to the heirs of Hichiro Kubota the amounts of P50,000.00 for the loss of his life, P50,000.00 for moral damages, P807,000.00, 26,000 yen and US\$2,400.00 or their equivalent in pesos, corresponding to the stolen jewelries and cash money, and also to the heirs of Cecille (Hazel) Arjona the sum of P50,000.00 for the loss of her life and an additional sum of P30,000.00 for moral damages.

The preventive imprisonment accused Juan Salvatierra and Enrique Constantino have undertaken (sic) shall be deducted from the term of imprisonment imposed herein to its full extent if they signed an agreement to abide by the same rules upon convicted prisoners while in confinement and only fourth fifths (4/5) thereof if they have not signed agreement, pursuant to Art. 29 of the Revised Penal Code, as amended by Republic Act No. 6127.

For the failure of the prosecution to prove his guilt beyond reasonable doubt, accused Agustin Trinidad is hereby acquitted of the crime charged in the information.

The Municipal Warden of Makati is hereby ordered to release accused Agustin Trinidad from custody, unless he is being held or detained for any other cause.[6]

As borne out by the record, the residence of Hichiro Kubota, a Japanese national, and his Filipino common-law wife, Elizabeth Hammond, at 1668 Baler Street, Makati, Metro Manila was robbed in the evening of May 15,

1988 by five armed men. The robbery also resulted in the killing of Hichiro Kubota and one of the latter's housemaids, Hazel Arjona, both of whom died of fatal stab wounds. Another maid, Marilyn Juguilon, was attacked with a knife by one of the robbers during the incident but she luckily survived the assault. Elizabeth Hammond, her mother Epifania and sister Diosa escaped unhurt, as did the two young children of the Kubotas. A considerable amount of money and several pieces of jewelry were carted away by the robbers.

From the start, the evidence clearly pointed to appellant as one of the malefactors and not surprisingly, for Constantino was a former driver of Hichiro Kubota and Elizabeth Hammond. Appellant was, by reason thereof, well known to prosecution eyewitnesses Elizabeth Hammond, Diosa Hammond, Epifania Hammond and Marilyn Juguilon.[7]

By his own account, as herein summarized,[8] appellant admits having been with the group of Salvatierra which robbed the house of spouses Hichiro Kubota and Elizabeth Hammond in the evening of May 15, 1988. At the time of the incident, he was working as a driver for a Japanese friend of Kubota and it was in fact the latter who recommended him to that Japanese employer, a certain Kinawa. He recalls that he was invited by the group of Salvatierra for a drinking spree in Cubao in the afternoon of that day. Juan Salvatierra, Agustin Trinidad, Wilfredo Trinidad and Alvin Santos were in his acquaintances whom he had met a few months earlier at an auto repair shop. After consuming some bottles of liquor, Salvatierra approached appellant and asked whether the latter could help him find employment under Kubota. When appellant declined, Salvatierra lost his temper and drew a knife which he pointed at appellant, saying, "Tarantado ka, Eric. Marunong ka pa sa boss mo, basta samahan mo kami ngayon."

Fearing for his life, appellant acceded. They hailed a taxicab and all of them proceeded to the residence of Kubota, with Salvatierra all the while poking his knife at appellant who was then at the backseat along with Salvatierra, Agustin Trinidad and Alvin Santos. When they reached the place, it was appellant who rang the doorbell at the prodding of Salvatierra who continued to poke the knife at his back. Appellant talked to Elizabeth Hammond and thereafter he, Salvatierra and Santos went inside the house. He proceeded to Kubota's room upstairs and told him about Salvatierra wanting to get a job. They then went down and Kubota conversed with the group. At this juncture Santos stood up and instantly brandished a gun at Elizabeth Hammond. Salvatierra followed suit by pulling out a knife and directed that the couple be brought upstairs.

According to appellant, much as he wanted to prevent the robbery, he could not do anything supposedly by reason of extreme fear on his part. He had earlier heard Salvatierra utter these threatening words: "Pag kumilos ng masama si Eric, tirahin mo." Appellant nonetheless managed to plead with the three by saying, "Huwag naman kayong manakit ng tao dito sa bahay." This, however, drew an angry reaction from Salvatierra who threatened him once more with bodily harm.

Later, appellant saw Epifania Hammond, the mother of Elizabeth. Appellant tried to calm her down and led her back to her room when the old lady started to ask him what was going on. As soon as he got out of Epifania's room, he saw a bloodied Hichiro Kubota lying in the master's bedroom. Meanwhile, Salvatierra and Santos were already ransacking the place. After looting the house, Salvatierra ordered appellant to drive for them but Constantino replied that the vehicle was out of order.

At around 2:00 A.M., appellant noticed that he was alone by himself, Salvatierra and the others having apparently left the place. Appellant proceeded to the comfort room to relieve himself and it was there that he saw the naked body of a woman covered with blood. He then sought out Elizabeth Hammond and found the latter in her bedroom gagged and blindfolded. Appellant removed the cloth tied around her mouth and eyes and told her, "Ely, wala akong kinalaman sa pangyayari." Hammond told him not to worry. At around daybreak, the doorbell to the

house rang. It was Hammond's "comadre," who left shortly after conferring with the former for twenty minutes. At 6:00 A.M., appellant allowed the children of Hammond to go out with Epifania and Diosa Hammond so the children could play. He then attended to the wounded Marilyn Juguilon. At 7:00 A.M., he left the house and drove away in the car of Kubota.

Appellant recollected that he thereafter saw Elizabeth Hammond and her driver at the corner of Baler and Pililla Streets in Makati. He asked Hammond to join him and the latter complied. Inside the car, he again repeated to Hammond that he had nothing to do with the crime. Hammond reassured him, saying, "Eric, huwag kang mag-alaaala, hindi ka naman madadamay diyan," after which she alighted from the car and took a taxi. They crossed paths again along the South Superhighway, where he reiterated his innocence to Hammond and told her that he would just borrow her husband's car and leave it in a place where it could easily be recovered. Appellant then drove to the Quirino Highway towards Nagtahan Bridge and when he reached the Balic-Balic church in Sampaloc, Manila, he parked the car and left it there. He said that although he encountered a number of policemen along the way, he did not turn himself in for fear of his life.

Appellant now insists that the trial court erred in disbelieving his foregoing version and in affording more weight to that of the prosecution. The trouble with appellant's defense is that it is not only shot through with contradicted self-serving representations but it is inherently incredible. Verily, just as the court below refused to concede any evidentiary merit or probative value to such a defense, there could not by any way for his Court to accord credence to appellant's asseverations. The positive declarations of eyewitnesses Elizabeth Hammond, Epifania Hammond, Diosa Hammond and Marilyn Juguilon as to his participation in the incident all unerringly point to an active role on his part in the incident, sufficient to conclusively establish his complicity in the crime and belie his claim of having acted under duress.

For, in order that duress may be validly availed of by an accused as a defense, it should actually be anchored on a real, imminent or reasonable fear for one's own life or limb and should not be speculative, fanciful, or imagined.[9] It is based on the complete absence of freedom on the part of the accused and has its roots in the Latin maxim "Actus me invito factus non est meus actus," which translates to "An act done by me against my will is not my act." The compulsion employed upon the accused must have been of such character as to leave no opportunity for him to spring an escape or to himself foist any act of defense for self-preservation. Thus, duress has been held unavailing where the accused had every opportunity to run away if he has wanted to or to resist any possible aggression because he was also armed.[10]

Appellant's account of the supposed employment of duress upon him by his cohorts falls far short of the requirements under which the same could have substantial value in evidence. Appellant could well have dissociated himself from the criminal escapade considering that when the group flagged down a taxicab, it did not appear at that point that appellant was being threatened at all by Salvatierra. It was only when the group was already in the vehicle that appellant, as he claims, was once more subjected to intimidation by Salvatierra. Again, upon reaching the residence of the victims, appellant had all the opportunity to escape from the time when he rang the doorbell and when they were allowed by Elizabeth Hammond to go inside the house, and especially thereafter.

What is significant from the testimony of appellant is that, of his four co-accused, it was only Salvatierra who was actually armed with a knife and who had exhibited a threatening attitude towards him.[11] This fact should have sufficiently emboldened him to get hold of and rouse himself from the stupor of fear which supposedly gripped him. But he did not or, more plausibly, he chose not to do so. Appellant's defense is akin to a mere denial, a self-serving and negative device which judicial experience shows is conveniently conjured by felons to justify their participation in a crime. Hence, like a bare denial, it must fail if unsubstantiated by clear and convincing evidence and cannot be given greater evidentiary value than the testimony of credible witnesses who testify on

affirmative matters.

More worthy of acceptance, then, are the categorical and positive testimonies of the victims who survived the ordeal, particularly Elizabeth Hammond and Diosa Hammond, that appellant really had an active role in the criminal incident. Thus, to repeat, between the self-serving denial of appellant, on the one hand, and the categorical affirmation of the prosecution witnesses, on the other, the latter undoubtedly deserves greater credence.[12] Further, appellant has not shown by any satisfactory degree of proof that these witnesses were impelled to testify against him by reason of false or ill motives. A recognized tenet of long standing in this jurisdiction is that in the absence of proof of any intent on the part of prosecution witnesses to falsely impute such a serious crime against the accused, the presumption must be upheld that these witnesses were not actuated by any improper motive and their testimonies must accordingly be met with considerable, if not, conclusive favor under the rules of evidence.[13]

Accordingly, appellant's attempt to assail the credibility of Elizabeth Hammond must ineluctably fail, even assuming *arguendo* that the events he narrates and relies upon therefor did take place. Indeed, we cannot agree that it was absurd for Hammond to answer the call of her "comadre" at 4:00 A.M. of that day while appellant was still there, then latter take out her children at 6:00 A.M. for a brief walk; and, upon returning shortly thereafter, ask appellant as he was driving away in their car, what had happened to Kubota. Hammond had to face her "comadre" precisely because she was allowed to do so by appellant himself in order to dispel suspicion. Nonetheless, Hammond did the natural thing when she told her visitor that they had been robbed although she did not disclose that appellant was still inside the house, evidently because of fear.

As to her taking out her children for a walk which would have given her the chance to report the robbery, she must have labored under the fear that since appellant was close by, it would only invite harm upon her common-law husband and the rest of her family who were still inside the house and whose fate she did not yet know. She, in fact, made subsequent attempts to contract through the telephone a person whom felt could help them but she failed.[14] At any rate, the circumstance that really matters is that in her affidavit of May 17, 1988[15] and in her testimony in court, she unequivocally identified appellant and clearly established the details of his actual participation in the crime.

Parenthetically, the full affirmative measure extended to said court declarations of said witnesses by the court *quo* should, in this appeal, be confirmed particularly in view of the absence of any perceptible error committed by said court. Appellate courts would not be bound by said findings of the trial court and could deviate therefrom only when that court has predicated its findings wrongly as when it overlooked or misinterpreted some facts or circumstance of weight and substance which could affect the outcome of the trial.[16]

Now, as succinctly laid out by the lower court, appellant's guilt is borne out by the following proven circumstances:

As against accused Enrique Constantino, who was the former driver of Hichiro Kubota and Elizabeth Hammond, the established facts that implicate him are:

1. He admitted his presence in the house of the deceased Hichiro Kubota and Elizabeth Hammond at the time of the incident.
2. Elizabeth Hammond categorically declared the participations (sic) of Enrique Constantino as follows:
 - a. It was Enrique Constantino who rang the doorbell, pretended to have a message to Hichiro Kubota from a Japanese, and falsely introduced his companions as his cousins, so that they were allowed by Elizabeth Hammond to come into the house.

b. While Constantino and Hichiro Kubota were talking with each other at the sala, she went upstairs to their bedroom. Constantino and a companion followed her. Constantino's companion poked a knife at her and Constantino told her not to make any noise because they only needed money.

c. Constantino and one of his companions dragged her out of their bedroom and was instructed to seat (sic) beside her husband Hichiro Kubota at the top of the stairs.

d. The companions of Constantino searched the rooms, the bags and the drawers and they found inside her bag the money amounting to \$2,400.00, 26,000 yen and P7,000.00 which they took. Constantino was the one holding the bag.

e. While she was covered with a blanket and pillow inside the room where she was brought back by Constantino and his companions, she could hear Constantino talking with his companions and he said "Sige pare, gulayin ninyo." After that, she heard a very loud moaning coming from a man being hurt, supposedly her husband Hichiro Kubota.

f. When she when out of her room at dawn after she was able to free herself from being tied, she met Constantino who came from the comfort room upstairs holding a knife. Constantino brought her again inside the bedroom and he again tied her hands behind her back with the use of a handkerchief.

g. When she was on the street near the house the following morning, she saw Constantino driving their car. She asked him what happened to her husband and he answered, "Pinatay na namin ang mister mo, nadamay ang katulong ninyo." She cried and went back to her house and she saw her husband already dead. She saw their maid Hazel Arjona also dead inside the comfort room.

3. Diosa Hammond who was familiar with Eric Constantino testified in particular that she saw Constantino with one of his companions inside the room opening the drawer and putting something inside his pocket. She was transferred to another room by Constantino and in the course of which, he told her "Tumahimik ka diyan, kung ayaw mong mamatay." She was again blindfolded by Constantino. The following morning after her blindfold her loosened and she could see with one eye, she saw Constantino inside the room beside the comfort room cleaning a knife about 6 inches long with a handkerchief.

The foregoing acts performed by accused Enrique Constantino as narrated by the witnesses clearly indicate that he was in concert and in coordination with his other co-accused in the execution of their criminal design.[17]

Appellant's immediate flight to and his months of sojourn in Sorsogon after the incident are likewise indicative of his guilt. To make matters worse, he even assumed a different identity, as one "Aeron A. Cortez" with a passport to boot,[18] while staying in said province. It is but logical to conclude therefrom that he had precisely resorted to such a subterfuge in order to evade apprehension by the authorities. His assertion that he had to hide in Sorsogon due to threats to his life by his co-accused deserves no consideration. As pointedly noted by the Solicitor General, appellant never alluded to such a situation in his testimony at the trial and he obviously is raising it in this appellate review out of sheer desperation. Evidence to be believed, it should once again be stressed, must not only proceed from the mouth of a credible witness but must be credible in itself.[19]

Finally, appellant contends that the acquittal of one of his co-accused, Agustin Trinidad, had the salutary effect of rendering inconsequential the allegation of conspiracy, in which case the accused should be correspondingly punished only for the acts individually perpetrated by each of them. This is an erroneous non sequitur for, as correctly urged by People, the trial court should not have absolved Trinidad in this case. The evidence clearly shows that Trinidad was able to enter the residence of the Kubotas because he was introduced to Elizabeth Hammond by appellant as his cousin. However, it was in fact Agustin Trinidad and appellant who later opened the vault from where they took some valuables.[20] It would, therefore, be absurd for appellant to benefit from

that unfortunate mistake of the court below.

Conspiracy may be deduced from the acts of the appellants before, during, and after the commission of the crime which are indicative a joint purpose, concerted action, and concurrence of sentiments.[21] All the five accused arrived at the same time at the residence of the Kubotas. Two remained outside, apparently as lookouts, while appellant and the two others proceeded inside. Appellant's act of misrepresenting to Elizabeth Hammond that they were there to ask for something from Hichiro Kubota, and by reason of which they were allowed to enter the house, is revelatory of their duplicitous plan from the start. Their original and principal intention was undoubtedly to rob the Kubotas, as is evident from the testimony of Elizabeth Hammond that appellant told her they were there simply for the money. As conspiracy had been established, all the conspirators are liable as co-principals regardless of the manner and extent of their participation since, in point of law, the act of one would be the act of all.[22]

As the robbery resulted in the killing of Hichiro Kubota and Hazel Arjona,[23] the offense committed by the malefactors and for which they were properly pronounced guilty is the special complex crime of robbery with homicide punishable under Article 294 (1) of the Revised Penal Code, as amended. Said provision and the accepted jurisprudence thereon, dictate that whenever homicide is committed as a consequence or on the occasion of the robbery, all those who took apart as principals in the conspiracy are also guilty as principals in the special complex crime of robbery with homicide although they did not actually take part in the killing, unless proof is presented that they had endeavored to prevent the same.[24]

In the case of appellant, he was heard telling his co-conspirators to finish off their victims,[25] hence, his guilt is clear. Treachery, which thus absorbs abuse of superior strength, attended the killings as the victims were both hog-tied when stabbed repeatedly, but not all the elements of evident premeditation can be deduced from the evidence of the prosecution. No evidence was adduced showing when the accused hatched the murderous plan and the interval of time therefrom to its commission. The presence of *alevosia*, though, should not result in qualifying the offense to murder for the correct rule is that when it obtains in the special complex crime of robbery with homicide, such treachery is to be regarded as a generic aggravating circumstance, robbery with homicide being a case of a composite crime with its own definition and special penalty in the Revised Penal Code.[26]

The categorization by the prosecution of the crime as "Robbery in Band with Rape and Double Homicide and Attempted Homicide" is, however, erroneous. The presence of a band and the rape of Hazel Arjona were not duly established, but even if the same had been proved the indictable offense would still be robbery with homicide under the aforestated Article 294 (1) of the Code. The same is equally true even if there be multiple homicides or murders or attempts thereof, or physical injuries.[27] Band or *cuadrilla*, if present, would be considered as an aggravating circumstance.[28] In the case of rape on the occasion of the robbery, the rule at the time the crime subject of this case was committed was that when rape and homicide co-exist in the commission of robbery, it is Article 294 (1) which applies, the rape to be considered as an aggravating circumstance.[29]

In the instance wherein multiple killings are perpetrated con ocasion del robo, the rulings of the Court on the matter are that the composite crime of robo con homicidio is not be multiplied by the number of persons killed.[30] The legal concept of robbery with homicide, as enunciated in *People vs. Madrid*,[31] "does not limit the taking of human life to one single victim making the slaying of human beings in excess of that number punishable as separate, independent offense or offenses. All the homicides or murders are merged in the composite, integrated whole that is robbery with homicide so long as all the killings were perpetrated by reason or on the occasion of the robbery." In short, this special complex crime should not be multiplied and be made dependent on the number of persons killed. The multiplicity of victims slain, again, could only be appreciated as

an aggravating circumstance.[32] However, in the case at bar, the imposable penalty for herein appellant is still reclusion perpetua, as the imposition of the death penalty was then proscribed at the time of the commission of the crime.[33]

ACCORDINGLY, the judgment of the Regional Trial Court, Branch 56, of Makati, Metro Manila in Criminal Case No. 359 finding accused-appellant Enrique Constantino guilty of the special complex crime of robbery with homicide, and imposing on him the penalty of reclusion perpetua with the corresponding civil liability, is hereby AFFIRMED, with costs in both instances.

SO ORDERED.

Romero, Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] Per Judge Nemesio S. Felix.

[2] Accused Juan Salvatierra y Eguia filed with this Court an "Urgent Motion to Withdraw Appeal" dated February 26, 1996, with the indorsement of Superintendent IV Geriberto N. Navat that the legal effects thereof had been adequately explained to him and that the same was filed of his own free will. The records, however, do not indicate that the accused appealed from the judgment of the lower court.

[3] Original Record, 11-12.

[4] Ibid., 19.

[5] Ibid., 137-139, 175-177.

[6] Ibid., 413-414.

[7] TSN, June 6, 1990, 4-44; April 24, 1991, 5-6; November 22, 1990, 5-27; February 27, 1989, 2-23.

[8] Ibid., August 12, 1991, 3-70.

[9] People vs. Jesus, 88 Phil. 53 (1951); People vs. Borja, et al., L-22947, July 12, 1979, 91 SCRA 340.

[10] People vs. Palencia, et al., L-38957, April 30, 1976, 71 SCRA 679; People vs. Abanes, et al., L-30609, September 28, 1976, 73 SCRA 44; People vs. Petenia, et al., G.R. No. 51256, August 12, 1986, 143 SCRA 361.

[11] TSN, August 12, 1991, 17-24.

[12] People vs. Aurella, et al., G.R. No. 97565, March 23, 1994, 231 SCRA 394.

[13] People vs. Villafuerte, G.R. Nos. 93723-27, May 6, 1994, 232 SCRA 225; People vs. Genobia, G.R. No. 110058, August 3, 1994, 234 SCRA 699.

[14] TSN, September 4, 1990, 39-41.

[15] Exhibit L; Original Record, 328-329.

[16] People vs. Garcia, G.R. No. 105805, August 16, 1994, 235 SCRA 371; People vs. Constantino, G.R. No. 109119, August 16, 1994, 235 SCRA 384.

[17] Original Record, 408-411.

[18] Ibid., 272-275; Exhibit S.

[19] People vs. Villagonzalo, et al., G.R. No. 105388, November 18, 1994, 238 SCRA 215.

[20] TSN, June 6, 1990, 9-11, 22.

[21] *People vs. Bayrante*, G.R. No. 92508, August 4, 1994, 235 SCRA 19; *People vs. De Leon, et al.*, G.R. No. 110558, July 3, 1995, 245 SCRA 538.

[22] *People vs. Apawan, et al.*, G.R. No. 85329, August 16, 1994, 235 SCRA 355.

[23] Original Record, 346-352; Exhibits A, B, C, D, E, F and G. The Certificate of Post-Mortem Examination of Hazel Arjona, i.e., Exhibit F, states her name as "Cecille Arjona."

[24] *People vs. Baello*, G.R. No. 101314, July 1, 1993, 224 SCRA 218; *People vs. Calegan, et al.*, G.R. No. 93846, June 30, 1994, 233 SCRA 537; *People vs. Cayanana, et al.*, G.R. Nos. 73257-58, June 16, 1995, 245 SCRA 67.

[25] TSN, June 6, 1990, 30.

[26] *U.S. vs. Antonio*, 31 Phil. 205 (1915); *People vs. Repato, et al.*, L-23431, July 20, 1979, 91 SCRA 488.

[27] *People vs. Mateo, Jr.*, G.R. Nos. 53926-29, November 13, 1989, 179 SCRA 303; *People vs. Repuela, et al.*, G.R. No. 85178, March 15, 1990, 183 SCRA 244; *People vs. Nunag, et al.*, G.R. No. 92570, April 22, 1991, 196 SCRA 206; *People vs. Vivas*, G.R. No. 100914, May 6, 1994, 232 SCRA 238; *People vs. Pacapac, et al.*, G.R. No. 90623, September 7, 1995, 248 SCRA 77.

[28] *People vs. Pacapac, et al.*, *supra*.

[29] *People vs. Tapales, et al.*, L-35281, September 10, 1979, 93 SCRA 134.

[30] *People vs. Timple*, G.R. Nos. 100391-92, September 26, 1994, 237 SCRA 52; *People vs. Garraez*, G.R. Nos. 106083-84, March 29, 1996

[31] 88 Phil. 1 (1951).

[32] *People vs. Mabilangan, et al.*, L-48217, January 30, 1992, 111 SCRA 398; *People vs. Pedroso, et al.*, L-32997, July 30, 1992, 115 SCRA 599.

[33] *People vs. Jose, et al.*, G.R. No. 107106, November 24, 1995.

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