

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GENER DE GUZMAN Y SICO, ACCUSED-APPELLANT.

G.R. No. 117217. December 02, 1996

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

On 1 April 1992, complainant Gilda Ambray filed with the Municipal Trial Court (MTC) of Bacoor, Cavite, a complaint[1] charging accused Gener de Guzman y Sico with the crime of rape allegedly committed at 9:00 p.m. of 31 March 1992 in Meadow Wood, Executive Village, Barangay Panapaan, Bacoor, Cavite. On even date, Gener de Guzman was arrested and detained at the Municipal Jail of Bacoor, Cavite, but was released on 14 April 1992 upon the filing and approval of his bail bond.[2]

Gener de Guzman did not submit any counter-affidavit as required in the subpoena[3] issued by the MTC on 14 April 1992. Finding a prima facie case against him on the basis of the evidence for the prosecution, the MTC forwarded the record of the case to the Office of the Provincial Prosecutor for the filing of the necessary information with the appropriate court.[4]

On 14 July 1992, the Office of the Provincial Prosecutor of Cavite filed with the Regional Trial Court (RTC) of Bacoor, Cavite, Branch 19, an information[5] charging accused Gener de Guzman with the crime of rape, allegedly committed as follows:

That on or about the 31st day of March 1992 at around 9:00 o'clock in the evening at Meadow Wood Subd., Executive Village, Barangay Panapaan, Municipality of Bacoor, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force, violence and intimidation, did, then and there, wilfully, unlawfully and feloniously, have carnal knowledge of one Gilda B. Ambray, against her will and consent, to the damage and prejudice of said Gilda B. Ambray.

Contrary to law.

The case was docketed as Criminal Case No. B-92-216.

Upon arraignment on 10 August 1992, accused Gener de Guzman entered a plea of not guilty.[6] Trial on the merits thereafter ensued and the prosecution moved for the cancellation of the bail bond.

On 9 December 1992, after complainant Gilda Ambray, Police Officer Efren Bautista, and Dr. Valentin Bernaldes of the National Bureau of Investigation (NBI), completed their testimony as witnesses for the prosecution, the trial court cancelled the bail bond of Gener de Guzman on the ground that the evidence of his guilt was strong.[7] He was re-arrested, and on 22 January 1993, his motion for reconsideration[8] of the order cancelling his bail bond was denied by the trial court for lack of merit as he was charged with a capital offense punishable by reclusion perpetua and the evidence of his guilt was strong.[9]

Two other witnesses were presented by the prosecution, namely: Resurreccion Talub Quiocho, a kumadre of the accused, and Aquilino Flores Ambray, the husband of the complainant.

The testimonies of the witnesses for the prosecution established the following facts:

Homeward bound on 31 March 1992 from Anson Department Store where she worked as a sales clerk, complainant Gilda Ambray, the 32-year old wife of Aquilino Flores Ambray and a mother of two children, was at the gate of Meadow Wood Subdivision, Panapaan, Bacoor, Cavite, at about 8:45 p.m. waiting for a tricycle ride toward her residence. She waited for about ten minutes. When she noticed the accused, then wearing army pants, sitting at the guardhouse, she approached him and asked him some questions. He answered in a stammering manner. The complainant recognized the accused very well because it was summertime and the gate of the subdivision was well-lit.[10]

After Gilda started to walk, the accused mounted his tricycle, followed her and offered her a ride, to which she agreed. While on board the tricycle, Gilda noticed that the accused took a different route. She got scared but managed not to show it. The accused would once in a while stop the tricycle and tell her that it was not in good condition.[11] When they reached Phase II of the same subdivision near an unfinished house, the accused stopped and told Gilda to push the tricycle. She alighted from the tricycle and paid him P5.00, which he did not accept. Gilda then walked away, but after she had taken about ten steps, the accused embraced her from behind, covered her mouth and held her neck tightly. She tried to shout but the accused threatened her. The accused then dragged her to a vacant lot ten meters away from the unfinished house. She attempted to shout again, but he threatened to kill her if she made noise. She fought to free herself from his hold, but the accused pushed and slapped her. He tried to raise her T-shirt while holding her neck tightly. He shouted and commanded her to raise her T-shirt, which she obligingly followed because of fear. He removed her bra and kissed her breast. She shouted "Saklolo! Tulungan ninyo ako," but the accused covered her mouth and again held her neck that she could hardly breathe. He held her hand tightly and positioned himself on top of her. He unzipped her pants and pulled it down her knees. She struggled to liberate herself, but to no avail. The accused then tried to insert his penis into her, but failed to do so because she struggled and fought back, then slapped him while covering her vagina with her hand. When she tried to stand, he pushed her down and, in the process, was able to completely pull down her pants and underwear. She pleaded to him to have mercy on her and told him that she had two children. He warned her: "Huwag kang sisigaw, papatayin kita." The accused again tried to insert his penis into her, but she prevented him from doing so. The accused took her hand and let her hold his penis to make it stiff. As Gilda became too weak to struggle against the accused's sexual advances, the accused was able to finally consummate his dastardly desire. He then pulled out his penis and "fingered" her private organ for a short while. The accused then warned Gilda not to tell anybody, otherwise, he would kill her and all members of her family.[12] He told her that she was his third victim but the two did not complain. He then dressed up. Gilda picked up her pants and underwear and hurriedly ran toward her home, without looking back.[13]

When Gilda arrived home, she told her mother and her husband, Aquilino Flores Ambray, that she was raped by the accused. Aquilino got angry and wanted to retaliate but was prevailed upon not to by Gilda's mother.[14]

At almost midnight of 31 March 1992, Gilda and her mother reported the incident to one Tony Antonio, the President of the Homeowners' Association and President of the National Press Club. Antonio radioed the Bacoor Police Station to send an investigator. PO3 Efren Bautista and Sgt. Saguisame responded to the alarm immediately. Upon their arrival at the house of Antonio, PO3 Bautista saw Gilda with her mother. Gilda, who was crying, related to PO3 Bautista that she was raped and described to him her assailant as a tricycle driver, tall, strong, with curly hair and in army cut.[15] Gilda also gave PO3 Bautista a vivid description of the accused's tricycle, viz., blue in color with the name "Dimple" at the back.[16] The policemen left and went to the house of the accused. PO3 Bautista invited the accused to go with him because the Mayor wanted to talk to him. The accused, together with PO3 Bautista, went to the residence of Antonio. When the accused entered the house of

Antonio, Gilda Ambray cried hysterically while pointing to the accused as her rapist. The accused was then brought to the municipal jail.[17]

Gilda Ambray was medically examined at the Las Piñas Hospital and issued a medical certificate.[18] She then proceeded to the NBI for a medico-legal examination. Dr. Valentin Bernales, a medico-legal officer of the NBI, conducted the examination on Gilda. His findings, contained in his medico-legal report,[19] were as follows:

I. Physical Injuries:

Abrasion, brownish; lips, upper, left side, mucosal, 2.0 x 1.5 cm.; elbow, right, postero-lateral aspect, 2.0 x 1.5 cm. and postero-medial aspect, multi-linear, with brown scab formation, 3.0 x 1.0 cm. Contusion, reddish; back, right, scapular area, 7.0 x 5.0 cm. and left, 15.0 x 8.0 cm. Contused abrasion, reddish black, scapular area, left, medial aspect, 3.0 x 2.0 cm.

II. Genital Examination:

Pubic hair, fully grown, moderate. Labia majora, gaping. Labia minora, coaptated. Fourchette, lax. Vestibulae, pinkish, smooth. Hymen, reduced to carunculae myrtiformis. Vaginal orifice, admits a tube, 3.0 cm. in diameter. Vaginal wall, lax. Rugosities, obliterated.

III. Conclusions:

1. The above physical injuries were noted on the body of the subject at the time of the examination.
2. Medical evidence indicative of recent sexual intercourse with man on or about the alleged date of examination.

IV. Remarks:

Laboratory Report S-92-94[20] shows positive result for the presence of human spermatozoa.

Dr. Bernales opined that the physical injuries sustained by Gilda Ambray resulted from force applied to her,[21] while the presence of human spermatozoa in Gilda's genitals indicated recent sexual intercourse.[22]

On 3 April 1992, "Bebey" and Linda de Guzman, the parents of the accused, asked the help of Resurreccion Talub Quiocho, the accused's kumadre, to beg for Gilda's forgiveness for the accused's sake. The following day, Resurreccion accompanied the accused's parents, wife, children and sister-in-law to Gilda's house.[23] Gilda met them, but to their plea for forgiveness, she told them "that should not be tolerated." [24]

Gilda further testified that she suffered moral damages, had to resign from her job due to shame, and had spent P28,500.00 for attorney's fees.[25]

Gener de Guzman interposed the defense of alibi and presented Alfredo Fernandez and Teotimo Camagong as his witnesses.

According to Gener de Guzman, on 31 March 1992 at around 9:00 p.m., he was about to go home and was at the corner of Meadow Wood Subdivision coming from Justineville Subdivision. On his way home on his tricycle, he saw Gilda Ambray, who flagged him down and boarded his tricycle. After traveling about half a kilometer, his tricycle malfunctioned. He told her that she better walk home because her house was already near. He pushed his tricycle home, and on his way, one Alfredo Fernandez approached him and inquired what was wrong with his tricycle. Alfredo helped him push the tricycle towards his (accused's) home, and upon arrival thereat, he told Alfredo not to leave at once. At around 9:10 p.m., they started to drink liquor until 11:00 p.m., and after their drinking spree, he cleaned their mess and slept. Then at around 12:50 a.m. of 1 April 1992, PO3 Efren Bautista fetched and apprised him that he was accused of rape by a certain Gilda Ambray. Thereafter, an investigation was

conducted and he was brought to the Bacoor Police Station.

Alfredo L. Fernandez, 37 years old, jobless, and a resident of Justineville Subdivision, corroborated Gener's story about the malfunctioning tricycle and the drinking session.[26]

Teotimo Camagong testified that he was present when the accused was investigated at the residence of Tony Antonio and that the complainant did not pinpoint and identify the accused as her alleged molester.[27]

In its Decision[28] dated 30 June 1994 and promulgated on 25 July 1994, the trial court found the accused guilty beyond reasonable doubt of the crime of rape as charged, and rendered judgment as follows:

WHEREFORE, premises considered herein accused GENER SICO DE GUZMAN is hereby found GUILTY beyond reasonable doubt of the crime of rape punishable by Art. 335 of the Revised Penal Code. He should suffer the prison term of reclusion perpetua and indemnify herein private complainant Gilda Ambray the following: actual damages representing her lost monthly salary when she resigned from her office due to shame for being a rape victim, in the sum of P30,000.00, moral damages in the sum of P30,000.00, exemplary damages of P10,000.00, litigation expenses of P5,000.00, and attorney's fee[s] including appearance fees for the private prosecutor in the sum of P28,500.00.

It gave full weight to the testimony of Gilda Ambray because "[w]ithout doubt, the complainant had endured the rigors of recalling her harrowing ordeal and had vividly, credibly and candidly portrayed in detail how she was raped by the accused." [29]

As to whether sexual intercourse was consummated against the will or consent of the offended party, the trial court said:

No less than NBI Medico Legal Officer Dr. Valentin Bernales had corroborated the stance of herein private complainant that she was raped by the accused. The victim had sustained contusions and abrasions at her body that indicated that she struggled against the sexual advances of the accused. As a result of the doctor's examination on the victim, he confirmed the occurrence of a recent sexual intercourse and presence in her private part of human spermatozoa as denoted in his Medico Legal Report (Exh. F) and Laboratory Report (Exh. D).[30]

Likewise it ruled that since the accused was drunk, he was more aggressive and sexually capable.[31] Finally, it considered as evidence of the accused's guilt the plea of his parents, wife and relatives for forgiveness and compromise.[32]

The accused seasonably appealed from the trial court's judgment of conviction, and in urging us to acquit him, interposes the following assignment of errors in his Appellant's Brief:

1. THE COURT ERRED IN FINDING THAT ACCUSED HAS INDUBITABLY EMPLOYED FORCE AND INTIMIDATION IN THE RAPE OF THE VICTIM.
2. THE COURT ERRED IN FINDING THAT ACCUSED WAS POSITIVELY IDENTIFIED BY THE VICTIM.
3. THE COURT ERRED IN STRESSING THAT THE ACCUSED WAS DRUNK AT THE TIME OF THE COMMISSION OF RAPE.

In the Brief for the Appellee, the Office of the Solicitor General disagrees with the accused and prays that we affirm in toto the appealed decision.

The first and second assigned errors may be taken up together. The upshot of the accused's stance in these alleged errors is that he was not positively identified and that neither force nor intimidation was proven. As to the latter he

cites these facts: (a) Gilda's assailant had three acts of sexual intercourse with her; (b) the physical examination showed that she suffered injuries on the dorsal portion only, and none was found on her neck; (c) her personal belongings -- bra, pants, T-shirt and underwear -- were completely intact; and (d) no signs of physical violence were discernible on both the persons of the accused and Gilda Ambray.

Rape is essentially an offense of secrecy, not generally attempted except in dark or deserted and secluded places away from prying eyes, and the crime usually commences solely upon the word of the offended woman herself and conviction invariably turns upon her credibility, as the People's single witness of the actual occurrence.[33]

In the review of rape cases, therefore, this Court is guided by the following principles: (1) an accusation for rape can be made with facility: it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[34]

The resolution then of the first two assigned errors and the determination of the guilt of the accused depend primarily on the credibility of the complainant Gilda Ambray, since only she and the accused witnessed the incident when it happened. Her testimony alone, if credible, would render the accused's conviction inevitable.

A meticulous assessment of Gilda's testimony demonstrates beyond doubt the truthfulness of her story, which she narrated in a categorical, straightforward and candid manner. Further strengthening her credibility in recounting her ordeal at the hands of the accused was her conduct immediately after the sexual assault. She ran home without looking back, and upon her arrival she reported the rape to her husband and her mother at once. Immediately thereafter, she reported it to Tony Antonio, the President of the Homeowners' Association and President of the National Press Club, who then sought police assistance. When the policemen arrived at Antonio's residence in response to the latter's call, Gilda narrated the rape to the policemen and gave them the description of the assailant. When the policemen brought the accused to the residence of Antonio, Gilda forthwith pointed to the accused as the person who raped her. Gilda voluntarily submitted herself to a medical examination at the Las Piñas Hospital and then to an examination of her private parts by Dr. Bernales of the NBI. The following day she submitted herself to an investigation[35] by the PNP of Bacoar, Cavite, and filed on the same day a complaint for rape against the accused with the MTC of Bacoar, Cavite.

All the foregoing acts of Gilda were done within twenty-four hours after the commission of the crime. The quickness and spontaneity of these deeds manifested the natural reactions of a virtuous woman who had just undergone sexual molestation against herself,[36] and evinced nothing more than her instant resolve to denounce the beast who criminally abused and ravished her, and to protect her honor. Moreover, she rejected the plea for forgiveness sought by the accused's parents, wife, and children, then suffered the travails of a public trial which necessarily exposed her to humiliation and embarrassment by unraveling the details of the rape and enduring a cross-examination which sought to discredit her.

What Gilda endured could only come from one whose obsession was to bring to justice the person who had abused her and vindicate her honor, even if such vindication would never erase from her memory that excruciatingly painful chapter in her life which left her psychologically and emotionally scarred forever. This Court has repeatedly held that no complainant would admit that she has been raped, make public the offense, allow the examination of her private parts, undergo the troubles and humiliation of public trial and endure the ordeal of testifying to all its gory details if she had not in fact been raped.[37]

We likewise agree with the trial court that the accused used force and intimidation upon Gilda.

Another established rule in rape cases is that the force need not be irresistible; all that is necessary is that the force used by the accused is sufficient to consummate his evil purpose, or that it was successfully used. It need not be so great or of such character that it could not be repelled.[38] Intimidation, on the other hand, must be viewed in light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule; it is enough that it produces fear -- fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment, or even thereafter as when she is threatened with death if she would report the incident.[39]

In this case, the accused embraced Gilda from behind, held her neck tightly, and covered her mouth. As she struggled to free herself, she sustained her injuries. Dr. Bernales confirmed the use of force, and according to him, the abrasions and contusions on Gilda's body were due to force applied on her. Moreover, the accused also threatened Gilda with death if she would not yield to his bestial desires. The threat certainly constituted intimidation.

The accused's contention that it was highly incredible that there was force or intimidation since the assailant committed three acts of sexual intercourse with Gilda in three hours, deserves scant consideration. In the first place, Gilda explained in her re-direct examination that the three hours mentioned in her cross-examination referred to the time which elapsed from the moment she was at the gate of Meadow Wood Subdivision and until she reported the incident to Tony Antonio.[40] The principal object of re-direct examination is to prevent injustice to the witness and the party who has called him by affording an opportunity to the witness to explain the testimony given on cross-examination, and to explain any apparent contradiction or inconsistency in his statements, an opportunity which is ordinarily afforded to him during cross-examination. The re-direct examination serves the purpose of completing the answer of a witness, or of adding a new matter which has been omitted, or of correcting a possible misinterpretation of testimony.[41] In the second place, on direct examination, Gilda categorically declared that the accused tried to thrice insert his penis into her vagina. He failed in the first and second attempts because she struggled, but succeeded on the third because she was already weak. While it may be true that on cross-examination she testified that she was raped once, yet on re-direct examination she said that she was raped three times, no inconsistency at all may be deduced therefrom. There was merely confusion as to the legal qualifications of the three separate acts, i.e., Gilda's answers were conclusions of law. A witness is not permitted to testify as to a conclusion of law, among which, legal responsibility is one of the most conspicuous. A witness, no matter how skillful, is not to be asked or permitted to testify as to whether or not a party is responsible to the law. Law in the sense here used embraces whatever conclusions belonging properly to the court.[42]

What is clear to us is that there were, at least, two acts of attempted rape and one consummated rape, committed in light of the testimony of Gilda. The information, however, charged the accused with only one act of rape; hence, consistent with the constitutional right of the accused to be informed of the nature and cause of the accusation against him,[43] he cannot be held liable for more than what he was charged. There can only be one conviction for rape if the information charges only one offense, even if the evidence shows three separate acts of sexual intercourse.[44]

Neither are we persuaded by the claim that Gilda was not able to positively identify the accused. He was familiar to Gilda one or two weeks before the incident because she saw him driving a tricycle and had, in fact, been once a passenger of his. She saw him clearly at the guardhouse before the incident because the guardhouse was well-lit; she was his passenger that evening until he stopped his tricycle near the unfinished house; and she had ample opportunity to see and recognize him during the assault. Then, Gilda did not hesitate to point to and identify the accused as her rapist when the latter was brought by the policemen to the house of Tony Antonio.

The accused's defense of alibi, which is the weakest of all defenses for it is easy to concoct and fabricate, cannot prevail over his positive identification by Gilda.[45]

Moreover, any scintilla of doubt both as to the identification of the accused and as to his guilt was dissolved by the overtures of his parents, wife, children and sister-in-law on pleading for forgiveness from Gilda. The accused did not disown their acts, which were testified to by his kumadre, Resurreccion Talub Quiocho, and Gilda herself. He chose not to deny their testimony. Finally, despite the unequivocal pronouncement by the trial court that his guilt was "strongly established by the acts of his parents, wife and relatives, who had gone to the house of the victim to ask her forgiveness and to seek a compromise," the accused dared not assign that finding and conclusion as an error and his Appellant's Brief is conspicuously silent thereon. Indubitably then, the accused was a party to the decision to seek for forgiveness, or had prior knowledge of the plan to seek for it and consented to pursue it, or confirmed and ratified the act of his parents, wife, children and sister-in-law. A plea for forgiveness may be considered as analogous to an attempt to compromise. In criminal cases, except those involving quasi-offense (criminal negligence) or those allowed by law to be compromised, an offer of compromise by the accused may be received in evidence as an implied admission of guilt.[46] No one would ask for forgiveness unless he had committed some wrong, for to forgive means to absolve, to pardon, to cease to feel resentment against on account of wrong committed; give up claim to requital from or retribution upon (an offender).[47] In *People vs. Calimquim*,[48] we stated:

The fact that appellant's mother sought forgiveness for her son from Corazon's father is an indication of guilt. (See *People vs. Olmedillo*, L-42660, August 30, 1982, 116 SCRA 193).

The accused may be correct in the third assigned error because no testimony of a witness established that the accused was in a state of drunkenness when he sexually assaulted Gilda. The trial court may have formed its conclusion that the accused was drunk from his testimony that he and Alfredo Fernandez were drinking liquor in his house from 9:00 to 11:00 p.m. of 31 March 1992. In any event, that erroneous conclusion is innocuous.

We do not then hesitate to conclude that the accused, having had carnal knowledge of complainant Gilda Ambray through the use of force and intimidation, committed the crime of rape as defined and penalized in Article 335 of the Revised Penal Code, the prescribed penalty being reclusion perpetua.

The damages awarded by the trial court stand modification. No damage for loss of income due to Gilda's resignation from her employment should have been awarded, the resignation being unnecessary. Conformably however with the current jurisprudence, she is entitled to indemnity of P50,000.00. For her shame, as well as mental anguish, fright, serious anxiety, besmirched reputation, moral shock and social humiliation which rape necessarily brings to the offended party,[49] she is entitled to recover moral damages under Article 2219 in relation to Article 2217 of the Civil Code. However, since no aggravating circumstance had been proved, exemplary damages may not be awarded. In Article 2230 of the Civil Code, such damages may be awarded in criminal cases when the crime was committed with one or more aggravating circumstances.

WHEREFORE, the instant appeal is DISMISSED and the challenged decision of 30 June 1994 of Branch 19 of the Regional Trial Court of Bacoor, Cavite, in Criminal Case No. B-92-216 is AFFIRMED, subject to the modification on the civil liabilities, and as so modified, the awards of P30,000.00 as actual damages for loss of monthly salary and P10,000.00 as exemplary damages are deleted, and accused-appellant Gener de Guzman y Sico is further ordered to pay the complainant Gilda Ambray the sum of P50,000.00 as indemnity. The awards for moral damages, litigation expenses and attorney's fees stand.

Costs against the accused-appellant.

SO ORDERED.

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

[1] Docketed as Criminal Case No. 13953. Original Record (OR), 2; Rollo, 3.

[2] OR, 17.

[3] Id., 18.

[4] Id., 19.

[5] Id., 20.

[6] OR, 23.

[7] Id., 55.

[8] Id., 61.

[9] Id., 66.

[10] TSN, 25 August 1992, 6-9.

[11] TSN, 25 August 1992, 11.

[12] Id., 14.

[13] TSN, 1 September 1992, 5-16.

[14] Id., 17.

[15] Id., 17-19.

[16] TSN, 12 October 1992, 11; TSN, 2 March 1993, 10-15.

[17] TSN, 2 March 1993, 15.

[18] Exhibit "E"; OR, 7.

[19] Exhibit "F"; TSN, 12 October 1992, 5.

[20] Exhibit "J"; OR, 9.

[21] TSN, 19 October 1992, 15.

[22] Exhibit "J-1"; OR, 9.

[23] TSN, 1 February 1993, 6-10.

[24] TSN, 1 September 1992, 26.

[25] TSN, 2 March 1993, 3-7.

[26] TSN, 13 May 1993, 6-11.

[27] TSN, 17 May 1993, 13.

[28] OR, 224-233; Rollo, 15-24. Per Judge Edelwina C. Pastoral.

[29] OR, 231; Rollo, 22.

[30] Id.; Id.

[31] Citing *People v. Copro*, 126 SCRA 403 [1983].

[32] OR, 231; Rollo, 22.

[33] *People v. Domingo*, 226 SCRA 156, 166 [1993].

[34] *People v. de los Reyes*, 203 SCRA 707, 727 [1991]; *People v. Casinillo*, 213 SCRA 777, 788-789 [1992]; *People vs. Lucas*, 232 SCRA 537, 546 [1994].

[35] Exhibit "G", OR, 8.

[36] *People v. Jaca*, 229 SCRA 332, 337 [1994].

[37] *People v. Patilan*, 197 SCRA 354, 366 [1991]; *People v. Grefiel*, 215 SCRA 596, 609-610 [1992]; *People v. Alib*, 222 SCRA 517, 528-529 [1993].

[38] *People v. Grefiel*, supra, note 37; *People v. Matrimonio*, 215 SCRA 613,630 [1992]; *People v. Antonio* 233 SCRA 283, 299 [1994].

[39] *People v. Grefiel*, supra, note 37; *People vs. Matrimonio*, supra, note 38; *People v. Pamor*, 237 SCRA 462, 472 [1994].

[40] TSN, 24 September 1992, 6.

[41] RICARDO J. FRANCISCO, EVIDENCE, 464 [1984].

[42] Wharton's Criminal Evidence, 11th Ed., Section 1282.

[43] Section 19, Article VI, Constitution; see Section 1, Rule 115, Rules of Court.

[44] *People v. Joya*, 227 SCRA 9, 28 [1993].

[45] *People v. Kempis*, 221 SCRA 628, 642 [1993]; *People v. Kyamko*, 222 SCRA 183, 194 [1993]; *People v. Enciso*, 223 SCRA 675, 686 [1993].

[46] Second paragraph, Section 27, Rule 130, Rules of Court.

[47] Webster's Third New International Dictionary [1993], 891.

[48] 125 SCRA 499, 520 [1983].

[49] *People v. Saldivia*, 203 SCRA 461, 473 [1991]; *People v. Tismo*, 204 SCRA 535, 559 [1991].

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