

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.FIDEL LAGAO, JR., DEFENDANT-APPELLANT.

G.R. No. 118457. April 08, 1997

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

For the death of his wife, Gloria Castro Lagao, accused-appellant Fidel Lagao, Jr., was charged with the crime of PARRICIDE in Criminal Case No. G-2551 of Branch 53 of the Regional Trial Court in Guagua, Pampanga, under an information whose accusatory portion reads:

That on or about the 30th day of October, 1989 in the municipality of Lubao, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously, with intent to kill and with evident premeditation and treachery, kill Gloria Castro-Lagao with the use of a bladed or sharp weapon, hitting and stabbing her on the different parts of her body, the latter being his legitimate wife, thereby inflicting upon her fatal wounds which caused her death shortly thereafter.

All contrary to law.[1]

The accused entered a plea of not guilty upon his arraignment[2] on 12 March 1990. Trial on the merits ensued. The prosecution presented as its witnesses Florencia Tolentino vda. de Castro; Purita Manliclic; Eduarda Agapito; Ildefonso Carlos, Jr.; Romeo Mallari; Almario Panlaqui; Ernesto Angel, Jr.; Dr. Paz Lalic-Yap, Dr. Lilia Carlos; Leonardo Guevarra, Jr.; Pedro Velasco; Ruben Cabrera, Jr.; and Jesus Castro. The defense had only the accused and Rosita Lagao as witnesses.

The trial court summarized the evidence for the prosecution and the defense as follows:

Accused Fidel Lagao, Jr. was an overseas contract worker in Saudi Arabia when he and Gloria Tolentino Castro were married on May 1, 1983 (Exh. A). Fifteen days after the wedding, he left to resume work abroad. He returned home for good after two years. They had three children. They lived in a house of their own near his parents' house in Sta. Filomena, Betis, Guagua, Pampanga. The couple also owned a passenger jeepney plying the Guagua-Sasmuan route which defendant drove.

Their marriage, like other marriages, started happily but later foundered into a stormy one, punctuated by several violent and acrimonious quarrels due mostly to the obsessive jealousy of the defendant and ending with the wife leaving the husband and staying with her parents in their home in San Nicolas 1st, Sasmuan, Pampanga, after he has inflicted bodily harm on her and threatened to kill her by brandishing a knife at her. Usually their separations lasted a few days at most, after which they would kiss and make up until the next quarrel.

In one of their separations before the end of August 1989, Gloria confided to the barangay captain of San Nicolas 1st, who is the godfather of her oldest son, about the beating she was getting from the accused and the threats on her life made by him. He took it upon himself to see the accused together with some of his

councilmen and they were able to have the two reconcile and the wife returned to her husband.

On October 1, 1989, Gloria saw her brother Jesus Castro in San Matias, Sta. Rita, Pampanga and told him that she and her husband had quarreled again after an argument and he had boxed her and threatened to kill her. She was sporting a cut lip, hematoma on the right cheek and left arm and on the thighs. They reported the beating and the threat to the police station at Sta. Rita and the incident was entered in the police blotter (Exh. G). Because of this last quarrel, Gloria had bundled her three children, left her husband and went to her parents' house. There she told her mother, her married sister Purita Manliclic, and their barangay captain about the threat on her life made by the accused. This time, the barangay captain referred the matter to his counterpart in Sta. Filomena, Guagua who promised to help her. Apparently, the two barangay captains failed to patch up the quarrel for Gloria did not go back to their home but continued to stay with her parents.

At about 5 o'clock in the afternoon of October 30, 1989, Gloria told her mother that her husband had asked her to go with him somewhere. The mother tried to dissuade her from going out with him knowing only too well the several threats on her life that he had made. She was afraid for her, not knowing what might happen if they were alone together. But Gloria's mind apparently was made up and she went down the house into the street to wait for her husband.

She saw her sister Purita whose house was only down the street 15 meters from their parents' house. The two sisters talked. Gloria told her that she was waiting for her husband to pass by. Purita noticed that Gloria was wearing a white T-shirt and striped walking shorts. Presently, the jeepney driven by the accused arrived. It came from the direction of the town proper of Sasmuan going towards Guagua. There were passengers on board. Accused stopped the vehicle and beckoned to Gloria who got on board. At that precise moment, the jeepney driven by Jesus Castro, coming from Guagua toward the direction of Sasmuan also arrived and stopped at almost the same spot. He saw his sister Gloria board her husband's jeepney and his sister Purita on the side of the road. He recalled that Gloria was wearing a white T-shirt and a pedal (pusher?) with yellow stripes.

Later at around 6 to 6:30 o'clock that evening, Eduarda Agapito was standing on Pambansang Street, San Nicolas 1st, Sasmuan as is her wont waiting for her daughter who works in Guagua. Soon the passenger jeepney driven by the accused stopped in front of her. Three or four passengers which included her daughter got off, leaving other passengers in the jeepney. She saw the victim who was seated beside her daughter. Apparently, the accused had decided to take on passengers upon reaching Guagua and make a return trip to Sasmuan. Of the four who had seen Gloria that afternoon with the accused, in point of time, it was Eduarda Agapito who was the last to see her alive.

Gloria did not return home that night. The worried mother told her daughter Purita about it the first thing the following morning and the latter in turn lost no time in relaying it to her brother Jesus Castro. So later that morning, Jesus and his wife went to see the accused in his house to inquire about the whereabouts of Gloria. Accused was not home when they arrived at his house. His parents were however in their house. So they waited for him. He finally showed up at 8 o'clock in the evening. He asked them why they were looking for Gloria there when she was not with him. They then left him and went to fetch the barangay captain to enlist his help. But when they returned, they were told that the accused was already asleep. Jesus Castro then made a missing person report to the Guagua police informing that his sister Gloria Castro-Lagao was missing since October 30, 1989 and was last seen with the accused. After that he made the same missing person report to PFC Ernesto Angel, Jr., night shift investigator of the Sasmuan police station, which the latter entered in the police blotter (Exh. J). He advised Castro to return in the morning so that he may be informed of any new developments on the case that the police may get from other police stations.

The following morning, November 1, 1989, when Gloria still had not shown up, Jesus Castro and his brother went back to Sta. Filomena to see the accused. But first they passed by the house of the barangay captain to ask him to accompany them to the house of the accused. But when they saw the barangay captain, he told them that

their sister Gloria was found dead at Sto. Tomas, Lubao, Pampanga. Jesus Castro lost no time going to PFC Angel at the Sasmuan police station and reported to him what the barangay captain of Sta. Filomena had told him. PFC Angel had some of his men accompany Castro to Lubao in order to check on the report and to get the identity of the dead woman. They proceeded to the Sta. Monica Funeral Parlor in Sta. Cruz, Lubao where, upon viewing the dead woman, Castro identified her as his missing sister Gloria Castro-Lagao. She was still clad in the same clothes she had on when he saw her in the afternoon of October 30, 1989 on board the jeepney being driven by the accused.

It developed that at around 5:30 o'clock in the morning of October 31, 1989, barangay tanod Jesus Cordova of Sto. Tomas, Lubao saw the body of a dead woman near the irrigation ditch along the expressway in Barangay Sto. Tomas, Lubao which he reported to the police station at Lubao. Lubao policemen, led by Cpl. Romeo R. Mallari, night shift investigator, proceeded to the spot. They saw a dead female lying on the ground face upward. She had on a black bra and panty. Her dress -- white pants with yellow stripes and white T-shirt -- was torn. The pants was lowered almost to her knees. Her T-shirt was raised up to the chin exposing her breasts. Portions of the bra were ripped. The bra caps were raised to reveal the breasts. The body bore multiple stab wounds. The throat was slashed. After routine photographs of the body were taken, it was brought to the Escolastico Romero Hospital morgue in Lubao for autopsy. A report of the investigation that he conducted on the spot was prepared by Cpl. Mallari. No death weapon was recovered.

A post mortem examination was conducted on the body of the deceased by Dr. Paz Lalic Yap, Municipal Health Officer of Lubao at 10:35 o'clock in the morning of October 31, 1989. Her post mortem examination report (Exh. L) showed the following among other findings:

“Her throat is slashed and incised wound measures 7 1/2”

Multiple deep stab wounds over;

- a. right side of the body - 1;
- b. at level of 5th rib, left side & measures 1 1/2"
- c. below left clavicle - 3 1/2"
- d. left side of the back - 1 1/2"
- e. right side of the back
- f. at the mons pubis - 1"

lacerated wound below left eye and left eyebrow, another irregularly edged wound over right lower cheek.

The cause of death was cardio respiratory failure secondary to the slashed throat and the multiple stab wounds.

Back at the Sasmuan police station, the group reported what they found to PFC Angel and Cpl. Leonardo G. Guevarra, Jr., the chief investigator. Cpl. Guevarra instructed PFC Angel to get the statements of Jesus Castro as well as other witnesses. Based on the statements given by the witnesses and the previous report made by Castro, the police knew that they had a prime suspect in the husband of the deceased. The finger of suspicion pointed him. The police needed no expert sleuthing to tell them something that was very plain for all to see. Guevarra therefore, directed Angel and two policemen to proceed to Barangay Sta. Filomena, Guagua and to coordinate with the barangay captain of the place to bring the suspect in for investigation.

When the detachment returned to the station with the suspect in tow, he was taken to the investigation room for questioning. Accused however remained silent and refused to answer any question put to him by the investigators. In the course of their interrogation of the suspect, Cpl. Guevarra and PFC Angel noticed scratches on his hand and arm. They considered the scratches significant. They theorized that the victim must

have put up a struggle while being attacked and may have been able to claw at her attacker. They asked him to remove his T-shirt. The suspect did not object and readily complied with the request. The investigators saw a scratch on his right shoulder. They had photographs of the suspect taken to show the scratches (Exhs. O, P and Q). A report on the investigation that they conducted (Exh. I) was prepared by them. Thereafter, the corresponding criminal complaint for parricide against the accused was filed by the police before the Municipal Trial Court of Sasmuan.

After the interrogation, Cpl. Guevarra had the accused brought to the Pampanga Provincial Hospital for the examination and treatment of his wounds and scratches. He was examined by Dr. Lilia Carlos, resident physician. Her findings of the physical examination she made of the accused, as entered in the medico legal record (Exh. M) of the hospital which she produced in Court, showed that there were four (4) linear abrasions on the extremities of the right arm, a 1 1/2 cm abrasion on the left wrist, and linear abrasions on his back. Explaining how he got the abrasions, accused volunteered the information to the doctor that he was fixing something under his jeep the day before and he had to lie down to do it. When seen by the doctor, the abrasions were almost healed or starting to heal.

The accused presented only two witnesses -- himself and his mother Rosita Lagao. He put up the defense of denial. He denied that his marriage with the deceased had foundered and that their relationship was stormy and marked by frequent quarrels. On the contrary, he claimed that their marriage was harmonious. He denied inflicting injuries on his wife or ever having laid a hand on her. He denied having fetched his wife on October 30, 1989. He claimed that he did not drive out the jeep that day. He branded as false the testimonies of Jesus Castro, Purita Manliclic and Eduardo Agapito that Gloria was in the jeep with him in the late afternoon or early evening of that day. He claimed that his wife used to take frequent vacations at his parents' home. While he admitted that they were indeed living separately on October 30, 1989, he claimed that they were not separated and that she was merely vacationing with her parents and that she even sought his permission as well as his mother's to do so. Explaining the abrasions on his hand, arm and his back, he said that they were caused by the policemen during his custodial investigation when they were forcing him to admit killing his wife and when he refused they had forcibly pushed him inside a cell. They pushed him around several times and even poked their guns and knives at him.

On rebuttal, Jesus Castro declared that Gloria separated from the accused in October, 1989 and went to leave with their parents without the consent or permission of the accused or his mother because she was evading the accused who was obsessively jealous and was inflicting harm on her and even threatened to kill her several times.[3]

In its Decision[4] dated 4 November 1994, the trial court found the accused guilty beyond reasonable doubt of the crime of parricide, and sentenced him to suffer the penalty of reclusion perpetua and to pay the heirs of the deceased P50,000 as indemnity; P100,000 as moral damages; and P8,600 as attorney's fees.[5]

The trial court gave full credence to the prosecution's evidence; and although no eyewitness to the actual killing was presented, it ruled that the prosecution succeeded in proving the following "circumstances constituting an unbroken chain leading to only one reasonable conclusion -- that of the guilt of the accused -- to the exclusion of any other conclusion":

1. That the marriage between the victim and the accused was a failed marriage and/or on the verge of breaking up, if it had not in fact been already broken, and the spouses were estranged at the time that the victim was killed;
2. That their stormy relationship was marked by intermittent violent quarrels ending with the accused beating up his wife and threatening to kill her and the wife leaving the husband and staying with her parents;
3. That although the wife returned to their home after each separation which usually lasted for a few days at most, their last separation was unusually extended with the wife giving no indication of going back to her husband; and

4. That the victim was with the accused in his jeepney in the late afternoon and early evening of the day before her lifeless body bearing several stab wounds, slashed throat and other injuries was found near the expressway along Sto. Tomas, Lubao, Pampanga.[6]

The defense of denial was rejected because it “cannot prevail over the positive and straight-forward testimonies of the prosecution witnesses and their categorical declarations on the details” of the facts above summarized.[7]

The accused immediately filed a Notice of Appeal.[8]

In the Resolution of 29 March 1995, we accepted the appeal and ordered the respective parties to file their briefs.

In his Appellant’s Brief[9] of only six pages, the accused makes no specific assignment of errors in the manner it is to be done as prescribed in Section 2 of Rule 125 in relation to Section 7 of Rule 124 and Section 16 of Rule 46 of the Rules of Court.

His Brief starts off with six short paragraphs of some procedural antecedents, to wit:

1. On November 2, 1989 at 3:35 p.m. a criminal complaint for Parricide against the accused was filed with the M.T.C. Sasmuan by Leonardo Guevarra, Jr. INP of Sasmuan, Pampanga, docketed Criminal Case No. 1533, while the accused is being detained in the Municipal jail of Sasmuan without notice to the accused;
2. On November 9, 1989, a preliminary investigation was conducted by the M.T.C. judge, ex parte and without notice to the accused, while the accused was then in jail. Thereafter, an Order was issued for the issuance of the warrant of arrest and no bail was fix[ed] for the temporary liberty of the accused, although there is no mention in the Order that the evidence is strong, so as the accused remained in jail;
3. Said Order is too concise and mere conclusion and the preliminary investigation is a blatant violation of par. (a), (b) and (c) of Sec. 3 of Rule 112 of the 1985 Rules on Criminal Procedure, as amended, which deprived the accused of life, liberty, and property and denied equal protection of the law, without investigative due process;
4. The said criminal complaint is anchored on circumstantial evidence and the preliminary investigation findings emanates from the testimonies of Jesus Castro and Purita Castro brother and sister of the deceased, whose testimonies are hearsay and two (2) steps away from the alleged sources, thus, the findings of the MTC judge has no legal force and effect;
5. On November 20, 1989 a motion to quash the warrant of arrest and/or to dismiss the case for want of jurisdiction was filed by the accused assisted by counsel and the prosecution filed an opposition and the accused filed a Reply thereto, but said motion was denied in the Order dated December 6, 1989 and ordered in forwarding the record of the case to the provincial prosecutor of Pampanga and ordered the accused be transferred to the provincial jail at San Fernando, Pampanga, without giving a chance to the accused to file a motion for reconsideration to point out the errors committed;
6. On January 22, 1990 this instant Information was filed docketed Criminal Case No. G-2551 and the arraignment set on March 12, 1990 the accused pleaded not guilty to the offense charged;[10]

These are followed by a heading ANATOMY of EVIDENCE that consumes 2- 1/2 pages of (a) a conclusion that the testimonies of the prosecution witnesses “are all hearsay and inadmissible in evidence;” (b) quotations of some portions of the testimony of prosecution witness Florencia Tolentino Castro which the accused submits to be proof of harmonious relationship between him and the victim, and of those of prosecution witnesses Jesus Castro and Eduarda Agapito which, the accused further claims, prove an inconsistency.

The accused then ends his Appellant’s Brief with the following discussion under two headings, viz.,

ARGUMENT and RESUME:

ARGUMENT

The policemen of Sasmuan, when the accused was under custodial investigation in the process of forcing the accused to admit that he killed his wife they caused physical injuries upon him. Thus, to cover-up the physical caused by them and to link or connect to their theory in killing his wife on November 2, 1989, accused was brought to the district provincial hospital by four (4) policemen of Sasmuan by a police patrol vehicle, for physical examination. But Dra. Lilia Carlos testified in the hearing on November 8, 1990, that on November 1, 1989 at 4:15 p.m. she physically examined the accused in hand-cupped, which shows that the policemen were really bent in forcing the accused to admit the offense charged.

The allegations or claims of the policemen that the injuries and scratches on the body of the accused, were caused during the struggle in killing his wife, were belied by the testimony of Dra. Paz Lalic-Yap, on November 29, 1990 that the deceased (Gloria Castro Lagao) that she did not resist or struggle, because there was no abrasion on her body and her finger nails are clean.

As to the testimonies of the other prosecution witness, the record will show that they are hearsay and most of them are two (2) steps away from their alleged sources of their information, thus, inadmissible per se in evidence, thereby they do not deserve to discuss in this brief.

RESUME

Summing the above circumstances as borne by the evidences and considering the conflicting testimonies of the witnesses presented by the prosecution and the nature of their testimonies, being hearsay per se, and taking into account the straight forward testimonies of the accused and her mother Rosita Lagao it clearly shows that the prosecution failed to prove the guilt of the accused of the offense charged beyond reasonable doubt.

In this connection, it may be stated that the State prefer to see Ninety Nine (99) person guilty of a crime wondering around scat free, rather than to see one (1) person innocent of a crime logging in jail.[11]

In its Appellee's Brief, the Office of the Solicitor General initially observes that the Appellant's Brief does not comply with the prescribed form required by Section 7 of Rule 124 and Section 1 of Rule 125 of the Rules of Court. Nevertheless, it deduced therefrom the following to be the "assigned errors":

- (a) No bail was fixed for the temporary liberty of the accused;
- (b) Preliminary investigation was conducted ex-parte and without notice to the appellant;
- (c) Appellant was illegally arrested; and
- (d) Hearsay evidence was appreciated by the trial court.

The Office of the Solicitor General then submits that the "assigned errors" are without merit. As to the first, the accused should have invoked his right by filing the appropriate petition for bail with the trial court. As to the second and third, even assuming arguendo that he was illegally arrested and that irregularities were committed during the preliminary investigation, the accused was deemed to have waived his right to question the alleged illegal and irregular acts by submitting himself to the jurisdiction of the trial court, entering a plea of not guilty to the charge, and actively participating during the trial.[12] Anent the fourth, the testimonies of Jesus Castro and Purita Castro were admitted to prove the tenor and not the truth of the matter asserted. At any rate, the conviction was not solely based on their testimonies but on sufficient circumstantial evidence.

The above observations of the Office of the Solicitor General are correct. Nevertheless, something more need to be stressed.

We find nothing irregular in the conduct of the Municipal Trial Court of Sasmuan in Pampanga. Its issuance of a warrant of arrest was authorized under paragraph (b), Section 6 of Rule 112.[13] It was not required that since no bail was fixed in the warrant of arrest the court should state that the evidence of guilt was strong. There was no need to stress the obvious, and if accused honestly believed that the evidence of guilt was not strong he should have filed a petition for admission to bail.

The rules on preliminary investigation by Municipal Trial Courts do not require proof beyond reasonable doubt. That proceeding is only “for the purpose of determining whether there is sufficient ground to engender a well founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof, and should be held for trial.”[14] Except for his sweeping conclusions, the accused miserably failed to show that the Municipal Trial Court (MTC) of Sasmuan had no basis for its finding against him.

If he were unable to file a motion to reconsider the order denying his motion to quash the warrant of arrest and motion to dismiss the case for want of jurisdiction, he had none to blame but himself.

Indeed, even assuming that irregularities had tainted the conduct of the preliminary investigation by the MTC, the accused had effectively waived the irregularities by his failure (1) to question them before the Office of the Provincial Prosecutor after the MTC forwarded the record of the case, where he could have asked for a reinvestigation of the case before the filing of the information; or (2) to file any appropriate pleading with the Regional Trial Court after the filing of the Information for a positive relief against the perceived irregularities. Instead, after his counsel de parte entered his appearance on 7 February 1990,[15] only a motion to quash the search and seizure warrant was filed.[16] Thereafter, the accused voluntarily pleaded not guilty at his arraignment on 12 March 1990[17] and actively participated in the trial on the merits by cross-examining the several witnesses for the prosecution and presenting his own evidence. All of these indicated beyond cavil that the accused waived his right to question the irregularities, if any, which attended the preliminary investigation and is now in estoppel from asserting a forfeited or abandoned right. It is doctrinally settled that the right to preliminary investigation is not a fundamental right and may be waived expressly or by silence. Failure of an accused to invoke his right to a preliminary investigation constitutes a waiver of such right and any irregularity that attends it. The right may be forfeited by inaction and can no longer be invoked for the first time at the appellate level.[18]

And now on the sufficiency of the evidence.

No third party eyewitness was presented to testify on the gruesome killing of Gloria Castro Lagao. Under our rules on evidence, however, an accused can still be convicted even if no eyewitness is available provided that enough circumstantial evidence has been established by the prosecution to prove beyond reasonable doubt that the accused committed the crime. Section 4 of Rule 133 of the Rules of Court thus provides:

SEC. 4. Circumstantial evidence, when sufficient. -- Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven;
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[19]

As jurisprudentially formulated, a judgment of conviction based on circumstantial evidence can be upheld only if the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person, i.e., the circumstances proven must be consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other

hypothesis except that of guilty.[20]

We fully agree with the trial court that the following circumstances, duly established by the evidence for the prosecution which remained unripped by the feeble defense of denial, proved that the accused killed his wife and is guilty thereof beyond all reasonable doubt:

1. That the marriage between the victim and the accused was a failed marriage and/or on the verge of breaking up, if it had not in fact been already broken, and the spouses were estranged at the time that the victim was killed;
2. That their stormy relationship was marked by intermittent violent quarrels ending with the accused beating up his wife and threatening to kill her and the wife leaving the husband and staying with her parents;
3. That although the wife returned to their home after each separation which usually lasted for a few days at most, their last separation was unusually extended with the wife giving no indication of going back to her husband; and
4. That the victim was with the accused in his jeepney in the late afternoon and early evening of the day before her lifeless body bearing several stab wounds, slashed throat and other injuries was found near the expressway along Sto. Tomas, Lubao, Pampanga.

One more proven circumstance may be added to this list, viz., the physical examination of the accused conducted by Dr. Lilia Carlos, Resident Physician of the Pampanga Provincial Hospital, at 4:15 p.m. of 1 November 1989, disclosed that the accused had four linear abrasions at the extremities of the right arm, one 1-1/2 cm. abrasion at the left arm, and linear abrasions on the sub-scapular region, below the scapula.[21] We are convinced with moral certainty that these injuries were inflicted by the victim as she struggled to save her life against the attacks of her husband. The accused gave conflicting versions on how he sustained them. To Dr. Carlos he gave the following reason:

“A -If I may say it in the vernacular, he told me: “kasi, doctora, atin cung gagawan ketang dalam ning jeep, cailangan makakera, inia nagasgas cu.” (Because, Doctora, I was fixing something under my jeep, thereby I should lie down, that is why I suffered abrasion at the back).[22]

He did not volunteer to explain how he sustained the other abrasions. Then, when he was on the witness stand on 20 July 1993, he stated that the injuries were caused by the policemen at the Municipal Hall when they were forcing him to admit the killing of his wife.[23] This imputation is obviously a delayed afterthought. At no time before he gave his testimony did he complain to anyone of what he had suffered while in police custody. It took nearly four years before he opened his mouth to complain.

Accused's pretensions that he could not kill his wife because he had harmonious relations with her cannot shake the overwhelming evidence to the contrary.

Indeed, as the trial court correctly observed, the accused had the motive, the opportunity, and the means for committing the crime.

In light of the foregoing, we do not hesitate to affirm the challenged decision and to commend the trial judge, Hon. Cesar P. Javier, for a definitely well-written decision.

WHEREFORE, premises considered, the instant appeal is DISMISSED and the challenged decision of 4 November 1994 of the Regional Trial Court of Pampanga, Branch 49 at Guagua, in Criminal Case No. G-2551 is AFFIRMED in toto, with costs against the accused-appellant.

SO ORDERED.

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

[1] Original Record (OR), 2; Rollo, 8.

[2] Id., 11.

[3]OR, 273-277.

[4] Per Judge Cesar P. Javier, OR, 273-280; Rollo, 31-38.

[5] Id., 280; id., 38.

[6] OR, 278; Rollo, 36.

[7] Id.; id.

[8] Id., 283; id., 39.

[9] Rollo, 56-61.

[10] Rollo, 56-57.

[11]Rollo, 60-61.

[12] Citing *People v. Rabang*, 187 SCRA 682 [1990]; *People v. Monteverde*, 142 SCRA 668 [1986].

[13] It provides:

SEC. 6. When warrant of arrest may issue. --

(b) By the Municipal Trial Court. -- If the municipal trial judge conducting the preliminary investigation is satisfied after an examination in writing and under oath of the complainant and his witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice, he shall issue a warrant of arrest.

[14] Section 1, Rule 112, Rules of Court.

[15] OR, 5.

[16] Id., 7.

[17] Id., 11.

[18] *People v. Hubilo*, 220 SCRA 389 [1993]; *Pilapil v. Sandiganbayan*, 221 SCRA 349, 358 [1993]; *People v. Lapura*, 255 SCRA 85 [1996].

[19] See *People v. Alvero*, 224 SCRA 16 [1993]; *People v. De la Cruz*, 229 SCRA 754 [1994]; *People v. Lorenzo*, 240 SCRA 624 [1995].

[20] *People v. Tiozon*, 198 SCRA 368 [1991]; *People v. Genobia*, 234 SCRA 699 [1994].

[21] TSN, 29 November 1990, 5; Exhs. “M,” “M-1” to “M-3,” inclusive.

[22] Id., 7. Underscoring supplied.

[23] TSN, 20 July 1993, 10.

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