

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ORLANDO PALLARCO, ACCUSED-APPELLANT.

G.R. No. 119971. March 26, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

As a defense, alibi is inherently unreliable and easy to fabricate. It cannot prevail over the positive identification of the appellant by a credible eyewitness who has no ill motive to testify falsely.

[The Case]

The Court applies this principle in denying the appeal of Orlando Pallarco from the Decision[1] of the Regional Trial Court, Branch 15 of Ozamis City,[2] convicting him of murder and sentencing him to reclusion perpetua.

In an Information dated September 20, 1993, First Assistant Provincial Prosecutor Liben Go Medina of Ozamis City charged appellant as follows:

“That on or about the 30th day of July, 1993, at about 8:30 o’clock in the evening, more or less, in barangay Pan-ay, municipality of Clarin, province of Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a handgun revolver, with evident premeditation, taking advantage of the darkness of the night, did then and there, willfully, unlawfully, treacherously and suddenly shot [sic] the victim JESUS JERUSALEM, thereby inflicting upon the latter, gunshot wound on the head, which caused the instantaneous death of the said victim.”[3]

Assisted by his counsel de oficio, Graciano R. Bañosia of the Public Attorney’s Office (PAO), appellant entered a plea of not guilty.[4] After trial in due course, the lower court rendered the assailed Decision, the decretal portion of which reads:

“WHEREFORE, finding accused Orlando Pallarco guilty beyond reasonable doubt of murder qualified by treachery, without other modifying circumstances, this Court sentences him to reclusion perpetua and orders him to pay the heirs of Jesus Jerusalem death indemnity of P50,000.00. With costs against accused.”[5]

Hence, this appeal.[6]

[The Facts Version of the Prosecution]

The prosecution presented as witnesses (1) Apolonio Enomar Jr.[7] and (2) Diogenes[8] Salazar,[9] eyewitnesses who were with the victim at the time of the assault; and (3) Mrs. Evangelista Jerusalem,[10] the widow.[11] The antecedent facts, as summarized by the trial court and adopted by the solicitor general in the Appellee’s Brief,[12] are reproduced hereunder:

“2. Apolonio Enomar, Jr. - eyewitness, declared that on July 30, 1993 at 8:00 p.m., he was at home in Pan-ay, Clarin, Mis. Occ. with Diogenes Salazar and the victim Jesus Jerusalem, drinking beer in the kitchen; suddenly accused appeared at the door and shot Jerusalem three times on the head with a revolver, hitting him at the

nape; victim had his back to accused; victim died; accused has been [his] neighbor for 10 years.

3. Diogenes Salazar, eyewitness, declared that on July 30, 1993, he was at the house of Apolonio Enomar Jr. drinking beer with victim Jesus Jerusalem in the kitchen; the victim was shot by the accused who has been his friend and neighbor for 20 years; he saw accused shoot the victim - he was just one meter away; accused just came in through the kitchen door and shot the victim on the head with a short firearm; he fired three shots and ran away; there was a gas lamp in the kitchen; on cross, he admitted that he executed an affidavit to the effect that he did not know the assailant; that he complained to Atty. Alegria Cariño that his affidavit was not correct[,] so upon advice, he executed another affidavit before Pros. Daomilas in Ozamis City to the effect that he knows the assailant.

[4]. Evangelista Jerusalem, widow of the victim, declared that Apolonio Enomar Jr. told her at the wake of her husband that he and Diogenes Salazar witnessed the shooting of her husband so she went to Diogenes['] house to ask him to testify; accused and her husband Jesus Jerusalem had an earlier altercation at the weekly barangay market caused by accused's failure to pay her husband's winnings in a cockfight."[13]

[Version of the Defense]

Setting up alibi and denial, the defense presented 1) Vicente Siao,[14] barangay captain of Pan-ay where the killing took place; (2) Jose Roque,[15] who was allegedly with the appellant in a drinking spree at the time of the incident; and (3) appellant himself.[16]

Appellant presented in his Brief[17] his own version of the facts, as follows:

"x x x [I]n the afternoon of July 30, 1993, accused-appellant was selling his tomato harvest in the market place of Pan-ay, Clarin, Misamis Occidental, when he met Jose Roque, an acquaintance. Roque invited Pallarco to his house because he will butcher a dog. At about six in the evening, Jose Roque, Orlando Pallarco and one Meliton Batlag proceeded to the former's house. They prepared and cooked the dog's meat. Thereafter, they drank tuba and ate dog's meat. At about 8:30 o'clock in the evening, they heard three (3) gun shot[s] coming from the direction of the market place. A commotion followed shortly, prompting Pallarco and Batlag to verify. The duo went to the market place and notice[d] people milling around Apolonio Enomar's house. Curious, Pallarco entered Enomar's kitchen and saw Jesus Jerusalem dead on the floor. Some policemen were present at the crime scene. Policeman Calinga and Taylaran requested the appellant to turn the cadaver upside and to look for any identification or firearm. Thereafter, Batlag and Pallarco returned to Roque's house to resume their drinking session. They went home at ten in the evening. Accused-appellant denied killing Jesus Jerusalem. He never quarreled with Jerusalem but he once had an altercation with alleged eyewitness Apolonio Enomar, Jr. when he refused to give the latter a bottle of Tanduay rum.

"In the early morning after the shooting incident, Barangay Captain Vicente Siao of Pan-ay, Clarin, Misamis Occidental, went to the market place after he learned that somebody was killed there the night before. He proceeded to Enomar's house, the scene of the incident. He saw Enomar and Salazar and inquired from them who killed Jesus Jerusalem. The duo told the barangay captain that they failed to identify the gun man because it was very dark. Siao observed that Enomar's kitchen was lighted with a gas lamp and there was no other source of illumination outside the kitchen. (TSN, pp. 2-8, August 26, 1994; pp. 2-14, September 21, 1994; pp. 2-18, October 19, 1994)."[18]

[The Trial Court's Ruling]

While, on the one hand, the trial court belittled the testimony of Witness Diogenes Salazar as "not reliable [because] he flip-flopped from saying he identified the assailant to declaring he did not,"[19] on the other hand, it gave credence to Apolonio Enomar Jr. by declaring:

"Witness Enomar spoke with sincerity and conviction and positively identified accused. There appeared no

reason why he would falsely testify against him. [That] he had told defense witness Siao the morning after the shooting that he was not able to identify the assailant because it was dark is understandable. This Court takes judicial notice of the reluctance of witnesses to bandy about their knowledge of the identity of assailants especially when these assailants are still on the loose.”[20]

[Assignment of Error]

Appellant assails the trial court on this ground:

“The Court a quo gravely erred in finding that the guilt of the accused-appellant for the crime charged has been established beyond reasonable doubt.”[21]

In the main, appellant disputes the trial court’s assessment of the credibility of the witnesses and the sufficiency of the evidence of his guilt.

[This Court’s Ruling]

The appeal has no merit.

[Credibility of Prosecution Witness]

Appellant argues that the testimony of Prosecution Eyewitness Apolonio Enomar Jr. is not worthy of credence for the following reasons:

1. He failed to immediately report the identity of the assailant to the police and the widow.
2. Prosecution Witness Diogenes Salazar contradicted Enomar’s allegation that he recognized the attacker.
3. Corroborating Salazar, Defense Witness Siao alleged that both Enomar Jr. and Salazar admitted to him that they failed to recognize the gunman.
4. Enomar harbors an ill motive against the appellant.

We do not agree. Basic is the rule that appellate courts will not disturb the trial court’s assessment of the credibility of witnesses, in the absence of proof that some fact or circumstance of substance has been overlooked, or its significance misinterpreted which, if properly appreciated, would affect the disposition of the case. Having heard the witnesses and observed their deportment on the stand, the trial judge is in a better position to resolve such question.[22] We have examined the records and found no reason to depart from this well-settled rule.

Eyewitness Enomar’s testimony is straightforward, credible and candid. He narrated the incident thus:

“Q Mr. Apolonio Enomar, do you remember where were you on July 30, 1993 at around 8:30 o’clock in the evening?

A Yes, sir.

Q Where were you?

A In my house.

x x x x x x x x

Q Now, who were your companions in your house at that time?

A Deojenes Salazar and Jesus Jerusalem.

Q Now, what were you doing in your house at that time?

A We were drinking.

x x x x x x x x

Q Now, [was there] any significant thing that happened that evening?

A Yes, sir.

Q What was that?

A Jesus Jerusalem was shot.

Q [W]here is this Jesus Jerusalem now?

A Dead.

Q Now, who shoot [sic] Jesus Jerusalem?

A O[r]lando Pallar[c]o

Q Why do you say that it was Orlando Pallarco who shoot [sic] Jesus Jerusalem?

A Because I saw him.

Q How far were you from Orlando Pallarco when he shoot [sic] Jesus Jerusalem?

A One fathom sir.

Q Now, you mentioned that it was Olardo Pallar[c]o who shot Jesus Jerusalem, do you know Orlando Pallarco?

A Yes, sir.

Q Why do you know him?

A We are neighbors.

Q How long have you known Orlando Pallarco?

A Longtime [sic] ago sir.

Q Approximately how many years?

A Around ten years already.

x x x x x x x x

Q [W]hen the three of you while [sic] drinking, Orlando Pallarco suddenly appeared at the door of the kitchen.

A Yes, sir.

Q When he appeared, what did you do?

A He shot Jesus Pallarco.

Q What did he use to shoot Jesus Jerusalem?

A Revolver.

Q Is that a long firearm or short firearm?

[A] Short arm.

x x x x x x x x

Q How many shots did he make in shooting Jesus Jerusalem?

A Three times sir.

Q Where was Jesus Jerusalem hit?

A In his head.

x x x x x x x x

COURT What was the possession [sic] of the victim when he was shot by the accused?

A He was standing Your Honor.

Q He was facing the accused?

A His back.

Q What part of the head was hit?

A In the nape.

x x x x x x x x

Q It was night time when you were drinking, is that correct?

A 8:00 o'clock in the evening.

Q Now, considering that it was night time, it was already dark during that time?

A There was light.

Q What kind of light?

A Ours is kerosene lamp and outside is a fl[uo]rescent light.

Q The fl[uo]rescent is outside of your kitchen?

A Outside of my house near the other house fronting our house.

Q So the source of light that illumines your kitchen is only a gas lamp?

A Gas lamp and fl[uo]rescent light.

Q But you stated that the fl[uo]rescent is outside the kitchen near the other house?

A Because we have the same roof with that other house.

Q But you are using a gas lamp?

A In the kitchen because the fl[uo]rescent light is outside.

Q The question is, you are using a gas lamp in the kitchen because the fl[uo]rescent lamp is not enough in your kitchen?

A Yes, sir because we used that for our table only.

Q So you and your friends were drinking beer na beer around the table?

A Yes, we were facing each other.

Q And you are facing the two of your friends, these Salazar and Jerusalem?

A We were facing with [sic] Deojenes Salazar.

Q And to whom did Jesus Jerusalem seated? [sic]

A He sat beside me.

Q So the two of you, Jerusalem and you were sitting with your back at the door of your kitchen?

A Side view sir.

Q To which side of yours is the door on your kitchen, to your left or your right side?

A Left side.

Q And where was Jesus Jerusalem sitted [sic] beside your right or left?

A Jesus Jerusalem was standing on my left side sir.

Q So Jesus Jerusalem was not sitting beside you?

A No, sir.

Q And it was while Jesus Jerusalem was standing at your left that he was shot in the head?

A Yes, sir.

Q At the first time you noticed that he was shot, was when you heard shots?

A When it [sic] turned my head sir.

Court The first time you saw the accused was when you heard shot [sic]?

A Yes, Your Honor.

Court Proceed.

Q And there were three shots you heard according to you?

A Yes, sir.

Q It was a successive shots? [sic]

A Yes, sir.

Q What was your reaction at the first time you heard a shot?

A I only looked at the accused or gunman.

Q You mean to say you did not try to take cover to avoid being hit?

A No, sir.

Q And Jesus Jerusalem was shot while he was at your left side?

A Yes, sir.

Q And it was only a matter of second[s] when a person entered the kitchen and shot Jesus Jerusalem?

A Yes, sir.

Q Now, after shooting Jesus Jerusalem the person immediately went out?

A Yes, sir.

Q And because of that very brief span of time, you were not able to look exactly [at] Jesus Jerusalem?

A I have looked at him closely.

Q You mean to say you were able to look at the assailants [sic] closely to be able to recognize him?

A Yes, sir.

Q Now, what was the pants worn by the assailants [sic]?

A He was wearing a “purol” or short pants.

Q What about his shirt?

A T-shirt yellow sando, with black stripe, and a cloth covering his head.

Q Now, because the assailant was covering a portion of his head, you could not actually see his hair?

A I can see his hair.”[23]

Enomar positively identified the appellant as the person who shot Jesus Jerusalem. He saw the incident because the locus criminis was illuminated by a kerosene lamp, and such illumination has been held sufficient to permit the identification of a malefactor.[24] Moreover, the witness saw the face of the appellant when the latter shot the victim who was beside him at the time. He could not have failed to recognize the appellant, for they had known each other for almost ten years.

We do not subscribe to the argument of the defense that the testimony of Salazar contradicts that of Enomar Jr. It appears from the transcript of stenographic notes that Witness Salazar identified Appellant Pallarco as the assailant, and thereafter denied having seen Pallarco shoot the victim. At this point, the judge stopped the hearing and declared that the witness was a “liar.”[25] In her decision, she plainly labeled Salazar as “unreliable” and firmly rejected his testimony. Hence, the testimony of Salazar could not have contradicted that of Enomar Jr. or provided a basis for the conviction of appellant. Rather, Salazar contradicted only himself. In any event, we reiterate that the trial court’s evaluation of the credibility of a witness, as a rule, is accorded respect and finality by the appellate courts. And we see no error in its evaluation of Salazar.

Appellant also casts doubts on Enomar’s account because said witness allegedly delayed reporting the identity of the malefactor. Jurisprudence teaches that delay in revealing the identity of the perpetrators of a crime does not necessarily impair the credibility of a witness, especially where such witness gives a sufficient explanation.[26] The eyewitness in the present case did give such an explanation -- he was afraid of appellant.[27] This Court has already taken “judicial notice of the actuality that witnesses in this country are usually reluctant to volunteer information about a criminal case or are unwilling to be involved in or dragged into criminal investigations.”[28] That Enomar subsequently overcame his fear should not destroy his credibility. For the Court to unreasonably discredit Enomar’s account for the reason that it was delayed, as appellant bids, is to permanently seal the lips of reluctant and timorous witnesses.

We also dismiss the contention of Defense Witness Siao that, upon reaching the crime scene, he was informed by Enomar and Salazar that they were unable to identify the assailant because it was dark.[29] First, Enomar testified that he did not notice the presence of Siao.[30] Salazar likewise stated that he did not remember having talked to Siao.[31] Second, assuming that Enomar did see Siao at the time, the former’s reluctance to relate the incident to

Siao who was the barangay captain is explained by his subsequent admission that fear kept him from immediately reporting what he knew to the police or other persons in authority. As earlier observed, this delay does not lessen Enomar's credibility.

Appellant also claims that Witness Enomar bore a grudge against him because he once refused to give said witness a bottle of Tanduay Rhum. This argument scarcely deserves consideration. We find it incredible that a person will falsely testify against another, with the possibility of consigning him to prison for the rest of his life, just to spite him for refusing to give him a bottle of liquor. Ill motive cannot rest on such a flimsy excuse. In the absence of any evidence indicating that the principal witness for the prosecution was moved by any improper motive, the presumption is that he was not so moved, and his testimony is thus entitled to full faith and credit.[32]

[Alibi]

Nor can we accept the defense of alibi. For this defense to prosper, appellant must prove not only that he was somewhere else when the offense was committed but also that it was physically impossible for him to have been at the crime scene or its immediate vicinity.[33] Appellant utterly failed to demonstrate either one.

In his testimony, appellant merely stated that he was drinking with Roque when the crime was committed. He failed to specify, however, how far he was from the crime scene, or how long it would take to traverse the distance. Worse, his own witness, Jose Roque, alleged that they were only one hundred meters away from the locus criminis. We are not convinced by Roque's inconclusive and even evasive testimony, the pertinent parts of which are reproduced below:

“Q You also mentioned that you met Meliton Batlag, and Orlando Pallarco on what date was that when you went to your house and eat [sic] dog meat?

A July 30, 1993 Friday.

Q You mentioned also that it was only 100 meters [to] your house from the market[,] am I correct?

A Yes, sir.

Q And do you know the house of one Apolonio Enomar, Jr.?

A Yes, sir.

Q How far is it from the public market?

A Very near.

Q You mean to say your house and the house of Apolonio Enomar, Jr. is also very near?

A Yes, sir.

Court If this is your house, where is the house of Apolonio Enomar located? please point.

A From my seat to the national highway (Estimated to be 100 meters).

Court Proceed.

Q You mean to say from your house going to the house of Apolonio Enomar, Jr. if you are just in ordinary walk between the two distance it would only take four minutes? [sic]

A Yes, sir

Q Now, if one has to run from your house going to the house of Apolonio Enomar, Jr., would you say that it

would only take around one or two minutes to run?

A It depends sir, if you run fast or slow.

Q If you run slow how long would it take you?

A One or two minutes.

Q If fast?

A One minute.

Q Now you mentioned also that while you were drinking, eating the dog meat, the three of you heard sound of explosion, is that right?

A Yes, sir.

Q You would not know what kind of explosion was that because you were eating inside your house?

A Yes, sir.

Q In fact you suspected that it was a fire crackers [sic]?

A Yes, sir.

Q And it was sounded an explosion of a tire is that right? [sic]

A Maybe.

Q Now, after awhile, the three of you were in [a] state of commotion upon hearing that explosion, is that right?

A We were surprised.

x x x x x x x x

Q Now you heard also of a successive [sic] explosion, is that right?

A At first one gun burst followed by two gun burst [sic].

Q Now, it sounded also like a fire cracker, is that right?

A Yes, sir.

Q Now, would it be possible for one person eating in your house and then tell you that he will go out maybe to urinate run fast as he can to the house of Apolonio Enomar, Jr., and within one minute get inside your house and eat again with you? [sic]

A No, sir. It will not take one minute.

Q Why?

A It is quite far.

Q A few minute ago you testified that a person run [sic] very fast to the house.

Atty. Bañosa Objection Your Honor, misleading.

Court It cannot be done in one minute.

Court Could it be two minutes?

A I am not certain Your Honor, the distance is 100 meters.

Pros. Medina Would you be certain if he ask[s] you that it could be taken in three minutes?

A Maybe four minutes.

Court Did Orlando Pallarco at any time urinate that evening when he was with you?

A No, your Honor. We stayed inside.

Q What did you drink?

A Tuba.”[34]

Although Roque refused to make a categorical statement on how long it would take to reach the crime scene from his house, he did state that the distance was only one hundred meters. Clearly, appellant was in the immediate vicinity of the locus criminis.

Well-settled is the rule that alibi is a weak defense not only because it is inherently unreliable but also because it is easy to fabricate.[35] In the absence of strong and convincing evidence, as in this case, alibi cannot prevail over the positive identification of the appellant by an eyewitness who has no improper motive to testify falsely.[36] Such defense must necessarily fail.

[Murder]

The trial court correctly appreciated the qualifying circumstance of treachery or alevosia.[37] There is treachery “when the offender commits any of the crimes against the person employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.”[38] It is present when the attack comes without warning, is sudden and unexpected and the unsuspecting victim is not in a position to parry the assault.[39] In this case, the victim was drinking with his friends, unarmed and in no position to defend himself when the appellant suddenly appeared and shot him thrice. Clearly, treachery qualified the killing.

We cannot, however, appreciate the aggravating circumstances of evident premeditation and nighttime which were alleged in the Information. Evident premeditation must be proven with clear and convincing evidence.[40] That is, the prosecution must show the following: (1) the time when the accused determined to commit the crime, (2) an act manifestly indicating that the accused clung to his determination, and (3) a sufficient lapse of time between such a determination and its execution to allow him to reflect upon the consequences of his act.[41] The records do not show the presence of these three conditions or any attempt on the part of the prosecution to establish them.

Nor can the aggravating circumstance of nighttime be appreciated, for the prosecution failed to demonstrate (1) that the malefactor particularly sought or took advantage of the darkness to commit the offense or (2) that nighttime facilitated the commission of the crime.[42] In any event, the prosecution presented no evidence to establish the fact that nocturnity attended the killing. Nighttime cannot be considered if it is shown that the place was adequately lighted;[43] in this case, it was established that the place was sufficiently illuminated by a kerosene lamp.

Being consistent with current jurisprudence, the award of P50,000 as indemnity is affirmed.[44]

WHEREFORE, the appeal is DISMISSED and the assailed Decision is hereby AFFIRMED. Costs against the appellant.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug and Quisumbing, JJ., concur.

[1] Rollo, pp. 15-17.

[2] Presided by Judge Ma. Nimfa Penaco-Sitaca who penned the assailed Decision.

[3] Rollo, p. 7.

[4] Records, p. 22.

[5] Decision, p. 3; rollo, p. 17.

[6] This case was deemed submitted for decision on August 27, 1996 upon receipt by this Court of the Appellee's Brief. The filing of a reply brief was deemed waived.

[7] TSN, April 14, 1994, pp. 3-14.

[8] Spelled in the TSN as "Deojenes."

[9] TSN, April 14, 1994, pp. 14-27

[10] Sometimes spelled as "Jeruzalem" in the TSN.

[11] TSN, July 12, 1994, pp. 2-12.

[12] The Appellee's Brief was prepared by ASG Romeo C. de la Cruz and Solicitor Karl B. Miranda.

[13] Decision, pp. 1-2; rollo, pp. 15-16.

[14] TSN, August 26, 1994, pp. 2-7.

[15] TSN, September 21, 1994, pp. 2-14.

[16] TSN, October 19, 1994, pp. 3-18.

[17] The Appellant's Brief was signed by Public Attorney III Arceli Adan-Rubin and Public Attorney II Amelia C. Garchitorena.

[18] Appellant's Brief, pp. 4-5; rollo, pp. 37-38.

[19] Decision, p. 2; rollo, p. 16.

[20] Ibid., pp. 2-3; rollo, pp. 16-17.

[21] Appellant's Brief, p. 6; rollo, p. 39.

[22] People vs. Castillo, G.R. No. 116749, p. 9, June 2, 1997; People vs. Bundang, G.R. No. 101830, May 27, 1997; and People vs. Flores, 252 SCRA 31, 39, January 18, 1996.

[23] TSN, April 14, 1994, pp. 4-11.

[24] People vs. Fabrigas, Jr., 261 SCRA 426, 446, September 5, 1996 and People vs. Penillos, 205 SCRA 546, 556, January 30, 1992.

[25] TSN, April 14, 1994, p. 25.

[26] *People vs. Alberca*, 257 SCRA 613, 631, June 26, 1996 and *People vs. Alcantara*, 254 SCRA 384, 394, March 6, 1996.

[27] TSN, April 14, 1994, p. 12.

[28] *People vs. Landicho*, 258 SCRA 1, 37, per Davide, Jr. J.; *People vs. Castillo*, 261 SCRA 493, 501, September 6, 1996.

[29] TSN, August 26, 1993, pp. 3 and 5.

[30] TSN, April 14, 1995, p. 13.

[31] TSN, April 14, 1995, p. 22.

[32][] *People vs. Panganiban*, 241 SCRA 91, 100, February 6, 1995; *People vs. Tidong*, 225 SCRA 324, 332, August 13, 1993; and, *People vs. Belibet*, 199 SCRA 587, 593, July 25, 1991.

[33] *People vs. Anonuevo*, 262 SCRA 22, 36, September 18, 1996.

[34] TSN, September 21, 1994, pp. 6-9.

[35] *People vs. Palomar and Cerialles*, G.R. Nos. 108183 to 108185, August 21, 1997 and *People vs. Layno*, 264 SCRA 558, 574, November 21, 1996.

[36] *People vs. Dinglasan*, 267 SCRA 26, 43, January 28, 1997.

[37] See Art. 248, par. 1 of the Revised Penal Code.

[38] Par. 16 of Art. 14 of the said Code.

[39] *People vs. Isleta*, 264 SCRA 374, 383 and 387, November 19, 1996. See also *People vs. Sancholes*, G.R. Nos. 110999 and 111000, pp. 17-18, April 18, 1997.

[40] *People vs. Ganzagan, Jr.*, 247 SCRA 220, 236, August 11, 1995 and *People vs. Halili*, 245 SCRA 340, 352, June 27, 1995.

[41] *People vs. Silvestre*, 244 SCRA 479, 494, May 29, 1995; *People vs. De la Cruz*, 242 SCRA 129, 142, March 2, 1995.

[42] *People vs. Ronquillo*, 247 SCRA 793, 799, August 31, 1995 and *People vs. Dayson*, 242 SCRA 124, 128, March 2, 1995.

[43] *People vs. Rosario*, 246 SCRA 658, 670-671, July 18, 1995.

[44] *People vs. Sol*, G.R. No. 118504, May 7, 1997, pp. 18-19 and *People vs. Cayabyab*, G.R. No. 123073, June 19, 1997, p. 11.

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