

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARTURO LAGAO Y CACAYURAN, VIRGILIO LAGAO Y) CACAYURAN
AND) (AT LARGE) ARTURO CATHEZA,) ACCUSED-APPELLANTS.**

G.R. No. 120279. February 27, 1998

Ponente: MARTINEZ, J.

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MARTINEZ, J.:

This is an appeal from the decision[1] dated October 3, 1994, of the Regional Trial Court of La Union, Branch 31, in Criminal Case No. A-2359, convicting Arturo Lagao of murder and sentencing him to suffer the penalty of reclusion perpetua, with all accessory penalties provided by law.

The Information, dated March 5, 1992, charged the accused-appellant, together with Virgilio Lagao and Arturo Catheza, as follows:

“The undersigned 2nd Assistant Provincial Prosecutor accuses ARTURO LAGAO, VIRGILIO LAGAO, ARTURO CATHEZA and JOHN DOE of the crime of MURDER, committed as follows:

“That at about 1:00 o’clock in the very early morning of the 30th day of June, 1991, in the Municipality of Rosario, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and being then armed with a bladed weapon and wooden clubs, did then and there, conspiring and confederating together and mutually helping one another, and by means of treachery and taking advantage of their superior strength, willfully, unlawfully and feloniously stab with the said bladed weapon and club with the said wooden clubs one MARCOS DE LA CRUZ Y CALONGE who was not then in a position to defend himself, and thereby inflicting on the aforementioned victim mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of his heirs.

“CONTRARY TO Article 248 of the Revised Penal Code.”[2]

Only Arturo Lagao was arrested to face trial. When arraigned, he entered a plea of not guilty. The other two (2) accused, Virgilio Lagao and Arturo Catheza, have evaded arrest up to the time of trial.

The evidence for the prosecution tends to establish the following facts:

At about 1:00 o’clock in the morning of June 30, 1991, at Barangay Gumot, Rosario, La Union, Marcos dela Cruz was clubbed to death by Arturo Lagao, Virgilio Lagao and Arturo Catheza. The gory incident was witnessed by Alfredo Calonge and Enrique Calonge, the victim’s uncles.

Alfredo Calonge testified that he woke up at about 1:00 o’clock in the morning when he heard a noise outside his house. He went to the porch and saw Arturo Lagao repeatedly clubbing Marcos dela Cruz with a piece of wood and a lead pipe.[3] Then, the accused Virgilio Lagao hit Marcos several times (“around seven (7) times”) with a piece of wood.[4] Finally, Arturo Catheza clubbed Marcos five (5) times likewise with a piece of wood.[5] According to Alfredo, he and his wife witnessed the incident which lasted about an hour from a distance of about eight (8) meters.[6] However, they did not lift a finger to help their nephew because they were afraid.[7] He then

went down and saw Marcos sprawled on the ground in a fetus-like position.[8] He informed the barangay captain of the incident and both of them proceeded to the Rosario police station and with two policemen went to the town proper.[9] Thereafter, Alfredo and the police officers returned to the scene of the clubbing incident.[10] The police officers then interviewed him as to how Marcos was killed.[11]

During cross-examination, Alfredo testified that there were four assailants who were naked from the waist up and he was alone at his porch when he witnessed the clubbing, his wife being in another house.[12] The four assailants were carrying pipes about 1½ feet long and nothing else.[13] And, he did not count the number of times the assailants hit his nephew.[14] After the clubbing, the four left.[15]

Enrique Calonge, who is a neighbor of Alfredo Calonge, declared that in the early morning of June 30, 1991, he was awakened by his wife because of a commotion outside his house.[16] Curious, Enrique went to a window, opened it and saw Marcos lying on the ground about five (5) meters away.[17] He overheard Marcos pleading “Please pity me Manong, I do not have fault.”[18] According to Enrique, he saw Arturo Lagao holding a madre de cacao piece of wood and Virgilio Lagao also brandishing a piece of wood, club his nephew, Marcos, while Arturo Catheza kept watch on him.[19] He did not do anything except to tell the assailants to have pity on his nephew but they did not listen.[20] After being hit with the wooden clubs, Marcos fell into a precipice.[21] Arturo Lagao then ran away while Virgilio and Catheza stayed behind to make sure that Marcos was dead.[22] After confirming that Marcos was lifeless, the two (2) likewise fled.[23] Enrique further stated that he did not see Alfredo Calonge at the latter’s porch.[24]

On cross-examination, he testified that when he woke up at 1:00 o’clock in the morning, he saw Alfredo Calonge alone at his lighted porch.[25] After the incident, he went back to sleep and was awakened at about 4:00 o’clock in the morning of June 30, 1991, by the noise of people who went to view Marcos’ lifeless body.[26] He likewise went to look at his nephew’s cadaver.[27] When confronted with his sworn statement,[28] Enrique affirmed that when questioned by PFC Rolando Rivera as to the identities of Marcos dela Cruz’ assailants, he did not say anything.[29]

Dr. Bonifacio Sales of the Rosario Emergency Hospital conducted a post mortem examination of the cadaver of Marcos dela Cruz in the morning of June 30, 1991. He thereafter issued a post mortem certificate which shows that the cause of death was a stab wound.[30]

During the trial, Dr. Sales testified that the cause of death of the victim was a “stab wound penetrating 6 inches depth with the length of 1 ½ inches along the left mid-auxiliary fold.”[31] He further stated that when he examined the body of Marcos dela Cruz, he found only two wounds, i.e., a contusion and a stab wound.[32]

Appellant Arturo Lagao denies participation in the killing of Marcos dela Cruz. His defense is simply alibi. He claims that from May 1991 up to and until July 1991, he was working as a laborer during the construction of the house of one Erlinda Coroganan at Baguio City.[33] In the evening of June 29, 1991, he, together with Ben Acupanda and Eugene Norton had a drinking session at the latter’s house at Lower Cabinet Hill, Baguio City.[34] The group drank until 12:00 midnight.[35] Thereafter, having drunk too much liquor, he slept at Horton’s house.[36] In the morning of June 30, 1991, he worked at the construction site.[37] During the entire period of his stay in Baguio City, he stayed at the house of barangay captain Asterio Caccam located at Lower Cabinet Hill, Baguio City.[38]

Asterio Caccam and Eugene Horton corroborated appellant’s alibi.

The trial court, however, disbelieved appellant’s alibi. He was found guilty of the crime charged on the basis of the eyewitness accounts of the Calonges positively identifying him as one of the assailants.

In its decision dated October 3, 1994, the trial court convicted the appellant as follows:

“IN VIEW OF THE FOREGOING, the Court finds the accused ARTURO LAGAO y CACAYURAN guilty beyond reasonable doubt of the crime of MURDER and hereby sentences the accused ARTURO LAGAO to suffer the penalty of reclusion perpetua and to indemnify the offended party in the amount of FIFTY THOUSAND PESOS (P50,000.00) and expenses incurred by the complainant in the amount of EIGHTEEN THOUSAND PESOS (P18,000.00).

“Accused VIRGILIO LAGAO y CACAYURAN and ARTURO CATHEZA shall be tried as soon as they will be placed within the fold of the law. After the Promulgation of the Decision as against accused ARTURO C. LAGAO let the records of this case be placed in the ARCHIVES to be retrieved as soon as the said two (2) accused will be arrested.

“IT IS SO ORDERED.”

Hence, this appeal seeking the reversal of the court a quo’s decision, appellant raising as the lone assignment of error, viz:

“THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE IDENTITY OF THE ACCUSED-APPELLANT AS ONE OF THE AUTHORS OF THE CRIME CHARGED HAS BEEN ESTABLISHED BEYOND REASONABLE DOUBT.”

Appellant questions the credibility of eyewitnesses Alfredo Calonge and Enrique Calonge, who both positively identified him as one of Marcos dela Cruz’ assailants. He claims that the trial court failed to see the infirmities in the aforesaid witnesses testimonies which allegedly show that they were not present during the incident in question.

There is merit to the appeal.

A scrutiny of the prosecution’s evidence does not support the trial court’s conclusion that the appellant is guilty of the crime charged. There are blatant flaws in the testimonies of Alfredo Calonge and Enrique Calonge, the alleged eyewitnesses, which cast serious doubt on the positive identification of appellant.

We are well aware of the long settled rule that when the issue is one of the credibility of witnesses, appellate courts will generally not disturb the findings of the trial court.[39] This is so because the trial court is in a better position to decide the question having heard the witnesses and observed their deportment and manner of testifying, unless certain facts of substance and value have been overlooked which, if considered, might affect the result of the case.[40] However, the factual findings of the trial court may nonetheless be reversed if by the evidence on record or lack of it, it appears that the trial court erred.[41]

This is such a case. We find that the evidence of the prosecution lacks sufficient foundation for the trial court’s verdict of guilty beyond reasonable doubt.

At the outset, it is to be noted that the Information alleges that appellant and his co-accused, armed with a bladed weapon and wooden clubs “stabbed with the said bladed weapon and with the said wooden clubs (Marcos de la Cruz y Calonge) xxx xxx thereby inflicting on the aforesaid victim mortal wounds which were the direct and immediate cause of his death.” A meticulous reading of the testimonies of Enrique and Alfredo fail to support the allegation that the victim was stabbed by any of the assailants. These eyewitnesses categorically and positively declared that Marco dela Cruz was clubbed to death.

Alfredo Calonge gave a graphic description of how he witnessed the assault on Marcos dela Cruz, thus:

“ Q – What cause (sic) the death of Marcos dela Cruz, Mr. Witness, if you know?

“ A – He was clubbed by Arturo Lagao, Virgilio Lagao and Arturo Catheza, sir.

“ Q – Now, in what place did accused Arturo Lagao, Virgilio Lagao, and Arturo Catheza club your nephew Marcos dela Cruz?

“ A – It was near our house, sir.

“ Q – How far is your house from the place where Marcos dela Cruz was clubbed by the three (3) accused?

“ A – Around eight (8) meters away, sir.

“ Q – And how were you able to identify the three (3) accused who clubbed your nephew Marcos dela Cruz?

“ A – There was light and it was a moonlight night, sir.

x x x x x x x x

“ Q – Could you please tell the Honorable Court who among the three (3) accused clubbed your nephew first?

“ A – It was Arturo Lagao, sir (pointing to accused Arturo Lagao.)

“ Q – Could you describe to the Honorable Court what did Arturo Lagao use in clubbing your nephew?

“ A – A piece of wood, sir, and a lead pipe.

“ Q – Who among the three (3) accused clubbed your nephew with a lead pipe?

“ A -- It was Arturo Lagao, sir.

“ Q – What about the two (2) other accused, what kind of club they used in clubbing your nephew?

“ A – It was a piece of wood, sir.

“ Q – After Arturo Lagao clubbed your nephew with the lead pipe what did the two (2) other accused do?

“ A – They also clubbed him, sir, with a piece of wood.

“ Q – Could you please describe that piece of wood used by the two (2) other accused in clubbing your nephew?

“ A – As long as this one, sir (indicating a length of about two feet as agreed by both parties).

“ Q – How many times did Arturo Lagao club your nephew?

“ A – Around ten (10) times, sir.

“ Q – What about Arturo Catheza, how many times did he club your nephew?

“ A - Around five (5) times, sir.

“ Q – What about the other accused Virgilio Lagao, how many times did he club your nephew?

“ A – Around seven (7) times, sir.[42]

“ Q – So, after the three (3) accused stopped clubbing your nephew and you claimed that they ran away from that place, what did you do?

“ A – I lay down, sir.”[43]

Enrique Calonge echoed the testimony of Alfredo Calonge but declared that it was only the appellant and Virgilio Lagao who clubbed to death his nephew. His testimony reads as follows:

“ Q – You said that Marcos dela Cruz was being killed by Arturo Lagao, Virgilio Lagao and Arturo Catheza. Will you please tell the Honorable Court how Arturo Lagao participated in the killing of Marcos dela Cruz?

“ A- They clubbed him, sir.

“ Q – Who among the three (3) accused whom you mentioned clubbed Marcos dela Cruz?

“ A – It was the two (2) brothers, sir, Virgilio Lagao and Arturo Lagao.

“ Q – While Arturo Lagao and Virgilio Lagao were clubbing Marcos dela Cruz, what did Arturo Catheza do, if there was any?

“ A – He guarded me (at my part), sir.

“ Q – How long did Arturo Lagao and Virgilio Lagao clubbed (sic) Marcos dela Cruz?

“ A – In a short while, sir.

X X X X X X X X

“ Q – You said that you actually saw Arturo Lagao and Virgilio Lagao clubbed (sic) Marcos dela Cruz. How far were you while Arturo Lagao and Virgilio were clubbing Marcos dela Cruz?

“ A – Around five (5) meters away, sir.

“ Q – While they were clubbing Marcos dela Cruz, what did you do?

“ A – None, sir, I only told them to have pity Marcos dela Cruz because he has no fault.

“ Q – How did you say that to the three (3) accused?

“ A – When I was at the window, sir.

“ Q – Did you say that in the Ilocano dialect?

“ A – Yes, sir.”[44]

Alfredo and Enrique could not have been mistaken as to the weapons used by the assailants. Alfredo witnessed the gory episode from his front porch at a distance of about eight (8) meters. On the other hand, Enrique watched his nephew being clubbed from a distance of five (5) meters. And, the crime scene was bathed not only by moonlight but further illuminated by an incandescent bulb from the house of Alfredo.

However, it seems that Marcos dela Cruz was not clubbed to death. The cause of death was a single stab wound. Dr. Bonifacio Sales who conducted the post-mortem examination issued a certificate which shows the following injuries:

“Contusion, hematoma, lower lip.

Cause of death, stab wound penetrating six (6) inches depth and 1 ½ inches in length along the left mid-auxiliary fold.”[45]

Dr. Sales confirmed his findings when he testified during the trial. Quoted hereunder is the relevant testimony of Dr. Sales:

“Q - In your findings you stated that there was a contusion with hematoma on the lower lip, what could have caused your first finding?

“A - It could be a blow by a hard object on the lower lip, it could be a hard pressure exerted on the lower lip.

“Q - With respect to your second finding it is stated there was a stab wound penetrating 6 inches deep and 1 ½ inches in length along the mid auxiliary fold, what could have caused that injuries?

“A - It might have been caused by a bladed object or instrument.

“Q - And now doctor, what was the cause of the death of the victim?

“A - Stab wound penetrating 6 inches deep with the length of 1 ½ inches along the left mid auxiliary fold.

“Q - That caused the death of Marcos dela Cruz?

“A - Yes, sir.”[46]

The doctor further declared on the witness stand that he found only two wounds on the body of Marcos dela Cruz. Here is his testimony:

“Q - Doctor, we understand from you that you are the one who looked after the body of the victim, Marcos dela Cruz on that day of June 30, 1991?

“A - Yes, sir.

“Q - And that you looked at his wound and you found there are two wounds in the body?

“A - Yes, sir.

“Q - One stab wound and the other one, contusion?

“A - Yes, sir.

“Q - And according to you, the contusion is caused by a hard object?

“A - Yes, sir.

“Q - And the stab wound, there is one?

“A - Yes, sir.

“Q - And those were the only wounds found in the body of the victim?

“A - Yes, sir.”[47]

Under the circumstances, Dr. Sales’ testimony gives the distress signal to the alleged eyewitnesses’ accounts of Enrique and Alfredo Calonge. For, Dr. Sales, an expert witness, to whom no evil motive may be ascribed, apparently never found any wound or injury on the head or anatomy of Marcos dela Cruz which could be attributed to a severe clubbing. The contusion on the left lower lip of the victim, which the doctor said could have been caused by “a hard pressure exerted on the lower lip,” may have been, to our mind, the result of a fist blow, not a club. Moreover, the testimony of Enrique that his nephew was clubbed for one hour, is difficult to believe. If this was the case, then Marcos would have had his skull bashed wide-open or he would have been beaten to a pulp.

The trial court brushed aside the absence of evidence as to how the victim was stabbed as a minor inconsistency, reasoning that:

“xxx The minor inconsistency as to the club used and the fact that there was no testimony as to how the deceased was stabbed could be explained by the fact that the witness saw the incident at the later stage of the crime, said minor inconsistencies according to the long line of Decisions of the Supreme Court strengthens their testimonies rather than weaken them.”[48]

We do not agree. The inconsistency is not minor, as concluded by the trial court, but touches upon a material point relative to the identification of the assailant/s. It overlooked a substantial fact which is of value and which would affect the result of the case. For, the Information alleged that the victim was stabbed and clubbed. Absent any evidence that Marcos was stabbed, then the court's conclusion that the stabbing could have occurred at the early stage of the assault is mere conjecture on its part.

The trial court failed to take into account that Alfredo and Enrique categorically declared that the weapons used by the assailants were a tube (or iron) pipe and wooden clubs. Alfredo, on cross-examination, positively stated that all of the assailants were holding pipes. His testimony runs thus:

“Q - All those four (4) persons were holding pipes, is that your testimony?

“A - Yes, sir.

“Q - How long were these pipes that you saw those four (4) persons were holding?

“A - (Witness indicating the length about one and a half (1 ½) feet.

x x x x x x x x

“Q - You never saw anyone of them holding anything except those pipes?

“A - Yes, sir.

“Q - You remember that you are under oath, Mr. witness.

“A - Yes, sir.

“Q - And under oath you are saying that these four (4) persons were holding pipes only?

“A - Yes, sir.”[49]

It is to be noted that the aforequoted declaration of Alfredo clashes with his direct testimony that the assailants of Marcos dela Cruz wielded wooden clubs, except Arturo Lagao, who was armed with an iron pipe and a wooden club.

On the other hand, Enrique never mentioned on the witness stand that any of the assailants was armed with a knife.

Moreover, if one of the assailants stabbed Marcos with a bladed weapon at the early stages of the assault, as the trial court insinuates, then we see no reason why the appellant and the others would continue the attack by clubbing the victim. Since the intention was to kill, the quickest and surest way was by the use of a knife. Thus, we can only conclude that Enrique and Alfredo did not witness how Marcos dela Cruz was killed and there is doubt as to their identification of the appellant as one of the killers.

It is further disconcerting to find that during the preliminary examination conducted by the municipal trial judge of Rosario, La Union on July 5, 1991, Alfredo and Enrique gave conflicting statements. Alfredo declared that the appellant stabbed Marcos dela Cruz. Excerpts from his statement are quoted hereunder:

“ Q – Do you know what happened to Marcos dela Cruz on June 30, 1991, at 1:00 o'clock in the early dawn?

“ A- I know, sir.

“ Q – What happened to him?

“ A – He was killed, sir.

“ Q – Do you know who killed him?

“ A – I know, sir.

“Q – Who?

“A -- Arturo Lagao, Virgilio Lagao and Arturo Catheza.

“ Q – Did you actually witness the incident?

“ A – Yes, sir.

“ Q – How far were you from them when he was being mauled?

“ A – Eight (8) meters, sir.

“ Q – Now, what was the first thing that you saw?

“ A – Arturo Lagao, sir.

“ Q – What did Arturo Lagao do?

“ A – He stabbed the deceased, sir.

“ Q – How about Virgilio Lagao, what did he do?

“ A- Virgilio Lagao clubbed the deceased, sir.

“ Q – How about Arturo Catheza, what was his participation?

“ A – He clubbed the deceased, sir.”[50]

On the other hand, Enrique stated that appellant clubbed the deceased. His statement is quoted in part, thus:

“ Q – Do you know what happened to Marcos dela Cruz on June 30, 1991, at 1:00 o’ clock dawn?

“ A- Yes, sir.

“ Q – What happened to him?

“ A – He was clubbed, sir.

“ Q – Who clubbed him?

“ A – Arturo Lagao, Virgilio Lagao and Arturo Catheza.

“ Q – How do you know that he was clubbed by the three (3) accused?

“ A – I heard a sounds of clubbing and I look through the window.

“ Q – What did you see when you look through the window?

“ A – I saw Marcos dela Cruz was being clubbed.

“ Q – Who was clubbing him when you saw him?

“ A – Arturo Lagao and Virgilio Lagao.

“ Q – You did not see who stabbed him?

“ A – No, sir, because when I look through the window he was already lied prostrate to the ground he was being clubbed.

X X X X X X X X

“ Q – How far were you from them when you saw Marcos dela Cruz being clubbed?

“ A- Eight (8) meters, sir, from my house.

“ Q – Did you not hear any altercation before the stabbing?

“ A – None, sir.”[51]

However, during the trial, these eyewitnesses swore that Marcos dela Cruz was clubbed to death by appellant and his co-accused.

In the case of *People vs. Cruz*,[52] this Court said:

“ Jurisprudence teaches us that where the sworn statement given during the preliminary examination conflicts with that given during the trial, and the variance in the answers of the witness is greatly disturbing and irreconcilable, the testimony of the said witness should not be given in evidence, as the discrepancy in the witness’ statements shows that he was either lying when he executed it or he had simply forgotten what he truly witnessed. Simply stated, serious and inexplicable discrepancies between a previously executed sworn statement of a witness and his testimonial declarations as to the appellant’s participation in the commission of a crime raise a grave doubt on the veracity of his account.”

It is true that the findings of trial courts on the credibility of witnesses are entitled to great weight on appeal.[53] And, the rule is not changed simply because of some inconsequential inconsistencies that are discovered upon a faultfinding scrutiny of the records.[54] However, we have not embarked on a faultfinding expedition but to ferret out the truth. For, it is our sworn duty to mete out justice to every person who comes to this Court especially one accused of a grievous crime such as murder.

We have gone over the entire record with a fine-tooth comb, not with the intention of nitpicking, but to determine the truth. In so doing, we unearthed inconsistencies, though seemingly minor, but when taken into account with the above discussed flaws in the prosecution’s evidence, would bolster the finding that indeed the identification of appellant as one of the assailants is open to doubt.

Thus, we note that while Alfredo testified that accused-appellant and his co-accused took turns in clubbing the victim; Enrique declared that only accused-appellant and Virgilio Lagao clubbed his nephew, with Arturo Catheza keeping an eye on him. Then, while Alfredo declared that the clubbing lasted an hour; Enrique said it was only for a short time. According to Enrique, he and his wife witnessed the clubbing from their porch; but Alfredo said he did not see either of them at the porch.

Another aspect of the entire episode which defies logic is that after Enrique saw his nephew clubbed and fall into a precipice (could be a ditch) and after the assailants fled, he went back to bed. Note his testimony, thus:

“Q - The question Mr. witness, what time did you go and see the body of Marcos dela Cruz when you went. It is not 1:00 when you saw the body?

“A - At 4:00 o’clock, sir.

X X X X X X X X

“Q - What made you wake up at 4:00 that morning?

“A - I was surprised because of the noise of the people who went to succor the body of Marcos dela Cruz.

“Q - You are very sure that that was 4:00 o’clock in the morning that you went to see the body of Marcos dela

Cruz?

“A - Yes, sir.

“Q - And when you went there Marcos dela Cruz was already dead?

“A - Yes, sir.

X X X X X X X X

“Q - So, how many minutes (sic) did you wake up on that night of June 29, 1991?

“A - Twice, sir.

“Q - And the first time that you woke up, what did you do?

“A - I looked out through the window.

“Q - That is the first time and the second time was when you went to urinate?

“A - At 4:00 I went down.”[55]

To go back to sleep is not a normal reaction. The natural thing to do would have been to immediately investigate if his nephew was still alive and needed medical help.

Appellant has distanced himself from the killing declaring that he was in Baguio City on the date and time thereof. Alibi, it is said, is the weakest of all defenses. True. But, it is always the duty of the prosecution to prove the guilt of the accused upon the strength of its own evidence and not by the weakness of that of the accused.[56] While the defense of alibi can easily be fabricated, it is not always false and without merit and when coupled with the improbabilities and uncertainties of the prosecution’s evidence, the defense of alibi deserves merit.[57] We must take into consideration all the evidence on record, which after a conscientious scrutiny may be sufficient to acquit him.[58] We also take into account the constitutional presumption of innocence[59] which an accused need not prove.

In the light of the foregoing circumstances, it is our considered view that the appellant must be acquitted. This is not to say that the appellant could not have participated in the killing of Marcos dela Cruz. All that we do say is that the evidence of the prosecution does not prove the guilt of the accused-appellant beyond reasonable doubt. We are likewise aware that appellant’s co-accused, Virgilio Lagao and Arturo Catheza, are still at large. And, to free appellant would redound to their benefit. However, we are left with no choice. Considering the evidence on record, appellant must go free.

WHEREFORE, by reason of reasonable doubt, the judgment of the Regional Trial Court of La Union dated 3 October 1994 is SET ASIDE and appellant ARTURO LAGAO y CACAYURAN is hereby ACQUITTED. Appellant is hereby ordered released from detention unless he is detained for some other crime.

SO ORDERED.

Regalado, (Chairman), Melo, Puno, and Mendoza, JJ., concur.

[1] Penned by Hon. Marianito A. Licudan, p. 185 Rollo.

[2] RTC record, p. 47.

[3] TSN, August 11, 1994, pp. 4-6.

- [4] Ibid., p. 6.
- [5] Ibid.
- [6] Ibid., March 15, 1993, p. 6.
- [7] Ibid., August 11, 1994, p. 5.
- [8] Ibid., August 11, 1994, p. 6.
- [9] Ibid., pp. 6-7.
- [10] Ibid., p. 7.
- [11] Ibid.
- [12] Ibid., March 15, 1993, p. 7; June 1, 1993, pp. 2-6.
- [13] Ibid., June 1, 1993, pp. 6-7.
- [14] Ibid., p. 10.
- [15] Ibid.
- [16] Ibid., August 13, 1993, pp. 3-4.
- [17] Ibid., pp. 4-7.
- [18] Ibid., pp. 4-5.
- [19] Ibid., pp. 7-11.
- [20] Ibid., pp. 7-8.
- [21] Ibid., p. 7.
- [22] Ibid., pp. 7, 11-12.
- [23] Ibid.
- [24] Ibid., p. 9.
- [25] TSN, September 21, 1993, pp. 15-17.
- [26] Ibid., pp. 10-11, 13.
- [27] Ibid., p. 9.
- [28] Exhibit "B"
- [29] Ibid., pp. 24-25.
- [30] Exhibit "D"
- [31] p. 5, TSN; Sept. 21, 1993
- [32] p. 7, TSN; Ibid.
- [33] TSN, May 19, 1994, pp. 3-4.
- [34] Ibid., p. 5.

- [35] Ibid., p. 3.
- [36] Ibid., p. 5.
- [37] Ibid.
- [38] Ibid., p. 4; See also TSN, April 14, 1994, p. 4.
- [39] People vs. Estellar, Jr. 239 SCRA 235
- [40] People vs. Flores, 252 SCRA 31
- [41] Tabaco vs. Court of Appeals, 239 SCRA 485
- [42] TSN, Aug. 11, 1994, pp. 4-6.
- [43] pp. 4-6, TSN: Aug 11,1994
- [44] TSN, Aug 13,1993, pp. 6-8.
- [45] Exhibit "D".
- [46] TSN, Sept. 21, 1993, p. 5.
- [47] Ibid., p. 7.
- [48] Decision, p. 10; p. 185, RTC- Record.
- [49] TSN, June 1, 1993, pp. 6-7.
- [50] Exhibit "2"; RTC- Rec., p. 18.
- [51] Exhibit "C"; RTC record, pp.19-20.

[52] 231 SCRA 759, 770, 771.

- [53] People vs. Laquibol, 217 SCRA 575
- [54] People vs. Loto, 248 SCRA 67
- [55] TSN, Sept. 21, 1993, pp. 9, 11 and 13.
- [56] People vs. Torio, 126 SCRA 266
- [57] People vs. Del Mendo, 109 SCRA 350
- [58] People vs. Tabayoyong, 104 SCRA 753 citing People vs. Villacorte, i 55 SCRA 640, 655
- [59] Section 14(2), Article III, 1987 Constitution; Sec. 1(a), Rule 115, 1985 Rules On Criminal Procedure.

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