

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARTEMIO CALAYCA, ACCUSED-APPELLANT.

G.R. No. 121212. January 20, 1999

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

A daughter was again allegedly raped by her own father, herein appellant Artemio Calayca, who is now facing a death sentence after having been found guilty of said crime in a Decision[1] dated June 13, 1995, rendered by the Regional Trial Court (Branch 24) of Cagayan de Oro City in Criminal Case No. 95-129.

Hence, this automatic review.

A rape charge was initiated by Neddy Calayca through a sworn complaint[2] with supporting affidavits and documents[3] filed with the Municipal Circuit Trial Court of Balingasag, Misamis Oriental on January 9, 1995. MCTC Judge Alfredo Cain found sufficient ground to prosecute the appellant for the crime of rape. This was the same finding of the Office of the Provincial Prosecutor of Misamis Oriental upon examination of the records of the preliminary investigation forwarded to it. Consequently, on March 21, 1995, the corresponding Information[4] was filed with the Regional Trial Court reading as follows:

“INFORMATION

“The undersigned Assistant Provincial Prosecutor II, upon sworn complaint of the offended party, Neddy Calayca, accuses ARTEMIO CALAYCA of the crime of RAPE, committed as follows:

That on or about the 29th day of January, 1994 at about 1:00 o’clock in the morning, more or less, at Barangay Solo, Municipality of Balingasag, Province of Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously and by means of force and intimidation, succeeded in having carnal knowledge (sexual intercourse) with her(sic) own daughter, Neddy Calayca, against her will and consent.

“CONTRARY TO and in VIOLATION OF Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659.

“Cagayan de Oro City, Philippines, March 6, 1995.

(SGD.) ROBERTO S. CASIÑO

“Asst. Provincial Prosecutor II”

When arraigned under the above-quoted Information, the appellant entered a plea of “Not guilty” to the crime charged. Trial on the merits ensued thereafter.

The evidence for the prosecution was anchored mainly on the testimony of 16-year old Neddy Calayca who, on May 2, 1995, narrated that at about 1:00 o’clock in the morning of January 29, 1994, she was sound asleep inside their house at Barangay Solo, Balingasag, Misamis Oriental when she was awakened by the weight of her father,

herein appellant Artemio Calayca, who was already on top of her, naked and armed with a bolo. He forcibly undressed her, inserted his penis into her vagina and made a push and pull motion. Feeling the pain in her vagina, she resisted his onslaught by kicking and boxing him, telling him with bitter tears, "I wish you would die. You are a father without good morals." [5] But she was helpless to resist his lustful desire as he threatened her with a knife saying, "I will kill you if you will not agree." [6] After the sexual assault, she picked up her clothes, dressed up and was left weeping. She was then 15 years old when this incident happened. [7]

Neddy Calayca first thought of immediately filing a case against appellant but was prevented by his threat to kill her. She, however, reported her awful experience with the appellant to her relatives in Mambayaan. She informed them that even before the January 29, 1994 incident, appellant had sexually abused her many times. Her relatives, who were also afraid of appellant, merely advised her to sue him. She immediately went home in Solo because she feared her father. When she reached home, her eldest sister Betty Lani Calayca also arrived from Manila. Informed of the rape incident, Lani and Neddy decided to leave the appellant. The two then traveled to Don Carlos, Bukidnon and worked as servants of the mayor, thinking their father could no longer find them there. However, appellant was able to locate them. While in the house of the mayor, appellant harassed them, so Betty Lani had him arrested by the police. [8] While appellant was in jail, Neddy reported to the police authorities that he raped her. The police then took her sworn statement [9] on the rape incident. Thereafter, Neddy filed her complaint for rape against the appellant.

Betty Lani Calayca was 22 years old when she testified on May 18, 1995. She narrated that she was the eldest and Neddy was the second among the six (6) children of appellant. Their mother died when she was 9 and Neddy was 7. At 11, she left Balingasag for Manila where she stayed for 10 years. While in Manila, her aunt wrote that Neddy was sexually abused by the appellant and that she should come home. When she arrived home in Solo, she slept in the house of her father so she could observe him. That night, the appellant came to her and touched her body, but she quickly managed to get out of the house and stayed outdoors until morning. She then convinced Neddy to run away from home so they could avoid appellant. They went to Bukidnon to work, but their whereabouts was discovered by appellant, who then started to harass them. Undaunted by the appellant's threat, the two sisters reported to the authorities what Neddy suffered in the hands of appellant. Thus, his arrest.

The last witness for the prosecution was Dr. Angelita A. Enopia, a physician at the Balingasag Medicare Hospital, Misamis Oriental. She declared that on January 3, 1995 she conducted a pelvic examination [10] on the private complainant, who informed her that she was raped by her own father even when she was only seven (7) years old, and the last time was in January, 1994. Dr. Enopia noted that there were healed lacerations in the hymen of Neddy at 3, 4, 6, 7 and 9 o'clock positions. She likewise found that there was a thickening of the hymen which was indicative of frequent sexual intercourse. [11]

Appellant Artemio Calayca, on the other hand, did not deny the imputation of her daughter Neddy Calayca that he raped her in the early morning of January 29, 1994. All that he testified to was that he was a widower in 1998 and has six (6) children by his late wife, two of whom he identified as Neddy, the private complainant, and Betty Lani. He claimed that Neddy was only nine (9) years old when his wife died. The private complainant stayed with him together with his five other children, while Betty Lani stayed with his (appellant's) brother at San Juan, Misamis Oriental. Betty Lani and Neddy left his house on August 19, 1993. They took his savings from the proceeds of the sale of his pig in the amount of P5,000.00. He then looked for his two daughters and found them at Bocboc, Don Carlos, Bukidnon. When he asked them why they took his money, his two daughters did not say a word, forcing him to slap them. [12]

The defense did not present any other witness nor any documentary evidence.

A judgment convicting the appellant of the crime charged and imposing upon him the penalty of death was rendered by the trial court in a Decision dated June 13, 1995, the decretal portion of which states:

“WHEREFORE, premises considered, judgment is hereby rendered finding accused ARTEMIO CALAYCA guilty beyond reasonable doubt as principal of the offense of rape defined and penalized by Article 335 of the Revised Penal Code as amended by Section 11 of Republic Act 7659. Consequently, he is hereby sentenced to suffer the extreme penalty of death, the private offended party being below 18 years of age (as she was 15 years of age at the time of the incident) and the accused being her parent, the same to be executed by electrocution as the facilities for gas poisoning is not yet provided by the Bureau of Prisons. In addition, accused is hereby ordered to pay the private offended party, Neddy Calayca, the sum of P50,000.00.

“In view of the penalty imposed, let the whole record of the case including the evidence oral and documentary be forwarded to the Honorable Supreme Court, Manila, for automatic review. In addition, let the living body of the accused be committed to the New Bilibid Prison, Muntinlupa, Metro Manila.

“SO ORDERED.”

Appellant now assails the judgment of conviction claiming that –

“I

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT DESPITE ITS GLARING INCONSISTENCIES.

“II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED OF THE CRIME OF RAPE DESPITE THE INSUFFICIENCY OF THE PROSECUTION EVIDENCE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.”[13]

Appellant hammers on the alleged inconsistencies in private complainant’s testimony regarding the frequency of the commission of rape by appellant against her and the kind of weapon he used in forcing her to succumb to his bestial lust. More specifically, appellant pointed out that private complainant, at one instance, testified that he raped her for the first time on January 29, 1994,[14] and yet, she later declared that she was raped by him several times even before that date. Appellant further claims that private complainant likewise testified that he threatened her with a bolo when she tried to resist his bestial act on January 29, 1994,[15] but afterward she stated that it was a knife which appellant used to threaten her.[16]

These contradictory declarations by private complainant, appellant argues, “only cast doubts on her claim that she was raped by her father on January 29, 1994.”[17]

Appellant’s contention fails to persuade us.

We have ruled in numerous cases that an errorless recollection of a harrowing incident cannot be expected of a witness especially when she is recounting details of an experience so humiliating and so painful as rape.[18] Minor errors in the testimony of a rape victim tend to buttress, rather than weaken, her credibility since that would indicate that her testimony was not contrived.[19]

The alleged conflicting statements of private complainant is more imagined than real. Private complainant has made it clear in her testimony that even before the rape incident on January 29, 1994, appellant had raped her several times. Thus, she testified:

“Q –

Did you inform them (private complainant’s relatives) that your father will kill you if you will inform them?

“A – Yes.

“Q – What was their reaction?

“A – When I told them that my father raped me several times, they feel bad.

“COURT

Before January 29, 1994 your father used to have sexual intercourse with you?

“A – Yes, sir.

ATTY. FELICIA

What was the comment of your relatives when you told them that you were raped by your father several times?

“A – They commented that my father is a pig.”[20] [emphasis supplied]

But whether the rape committed on January 29, 1994 was the first or just one in the series of rapes is, to our mind, immaterial in the prosecution of appellant for the rape he committed on said date, although this particular telling circumstance of habitual sexual abuse convincingly shows the appellant’s perversity to commit the crime of rape.

Also, the seeming confusion by private complainant on the kind of weapon used by appellant to threaten her does not belie the fact of the commission of rape by him against her on January 29, 1994. Moreover, when the trial court clarified with private complainant what exactly was the weapon used by appellant, she made a definite declaration that it was a knife, not a bolo, thereby removing any confusion as to this matter, to wit:

“FISCAL KHO

“Q – After you saw the knife that your father was holding, what did you feel?

“A – I was afraid.

“COURT

“Q – We will clarify, was it a bolo or a knife?

“A - A knife.

“Q – Not a bolo?

“A – No, sir.

“FISCAL KHO

“Q – How long is that knife?

“A – About this long (witness demonstrated, counsels agreed to a 6 to 8 inches in length).

“Q – With that length, does that include the handle?

“A – Yes, including the handle.”[21] [emphasis supplied]

The inaccuracy in private complainant’s description of the weapon used is insignificant and understandable. To a young and naïve girl, there is not much difference between a bolo and a knife since both weapons are sharp and deadly. What is important to consider is that the weapon was effectively used by appellant to intimidate private complainant into submission to his dastardly act.

Notwithstanding these minor flaws in the testimony of private complainant, the latter remained consistent and firm in her denunciation of appellant, her very own father, as the person who sexually abused her on January 29, 1994. The records bear this out as she testified as follows:

“Private complainant on direct examination:

“Q – In what specific place at Solo, San Juan, Balingasag, Misamis Oriental where you were situated on January 29, 1994?

“A – Inside the house.

“Q – At about 1:00 at dawn, more or less, were you still in your house?

“A – I was asleep inside our house.

“Q – When you were asleep inside the house, was there any unusual incident?

“A – Yes, sir.

“Q – Will you please tell the Honorable Court, what it was all about?

“A – My father placed himself on top of me and made a push and pull motion.

“Q – Was he dressed or naked?

“A – He was naked.

“Q – How about you at that time?

“A – He undressed me.

“Q – What did you do, when your father made sexual intercourse with you?

ATTY. FELICIA

No basis, Your Honor.

FISCAL KHO

I will reform the question, Your Honor.

“Q – You said that your father undressed you and he placed himself on top of you and made a push and pull motion, was there anything that happened to you.

“A – Yes, there was.

“Q – And, you please tell the Court what it was all about?

“A – It was painful.

“Q – Why is it that you felt a pain?

“A – Because he made a push and pull motion.

“Q – What particular part of your body was painful?

“A – My vagina.

“Q – Why what happened to your vagina?

“A – It was inserted.

“Q – What was inserted?

“A – A penis.

“Q – The penis of whom that inserted your vagina?

“A – Of my father.

“Q – Is your father around in Court?

“A – Yes, sir.

“Q – Will you please point on him?

“A – Yes, sir, he is there. (witness pointing to a man, and upon asked of his name responded that he is ARTEMIO CALAYCA).

“Q – What did you do when your father inserted his penis into your vagina?

“A – I was lying down.

“Q – Did you agree that your father will have a sexual intercourse with you?

“A – I did not agree but I just followed him because he had a bolo with him.

“Q – What did he do with the bolo?

“A – He would hacked me if I will not agree.

x x x x x x x x

“COURT

“Q – How old have you been at that time?

“A – 15 years old.”[22]

The victim’s brief but candid and straightforward narration of how she was raped by appellant bears the earmarks of a credible witness.[23]

Indeed, the testimony of Dr. Enopia, the examining physician, corroborated private complainant’s claim that she was sexually abused. Dr. Enopia’s declaration that she found healed lacerations on the victim’s hymen at 3, 4, 6, 7 and 9 o’clock positions and that there was a thickening of her hymen, simply indicated a frequent coitus.

In his brief, appellant further made a vain attempt to impute ill-motive on the part of private complainant to falsely charge him with rape. Appellant suggested that private complainant had an axe to grind against him for having allegedly slapped her and her sister Betty Lani when he discovered that they took his savings of P5,000.00 which was the proceeds of the sale of his pig. This alleged incident, appellant argues, should have deserved credence as this was not rebutted by the prosecution.

We do not agree.

This supposed ill-motive of private complainant was not duly established by the defense. Hence, there was nothing for the prosecution to rebut. The elementary principle in the rules of evidence is that an affirmative allegation made by a party must be duly proved to merit acceptance by the court. Besides, this posture of

appellant was correctly rejected by the trial court when it ruled that –

“x x x . Although, this allegation was not rebutted as the trial prosecutor did not present again Neddy Calayca as a rebuttal witness, to the mind of the court, the fact of slapping is not enough reason on the part of private offended party to file such heinous case as rape against her own father. If it were true that Neddy Calayca got his money without his permission, she would not be slighted if slapped knowing that she got it and she deserved such punishment. This is in accord with human experience.”[24]

We believe that a teenage unmarried lass would not ordinarily file a rape charge against anybody, much less her own father, if it were not true.[25] For, it is unnatural for a young and innocent girl to concoct a story of defloration, allow an examination of her private parts, and thereafter subject herself to a public trial if she has not, in fact, been a victim of rape and deeply motivated by a sincere desire to have the culprit apprehended and punished.[26] The alleged slapping by appellant on private complainant over money in the amount of merely P5,000.00 is too frail a reason for a teenage daughter to falsely charge her own father with the heinous crime of rape that is punishable by death.

It is significant to note that, as likewise emphasized by the trial court, appellant did not deny the imputation of private complainant that he raped her on January 29, 1994 at his house in Solo, Balingasag, Misamis Oriental.[27] His silence on the evidence of rape against him is a mute but eloquent admission of the crime charged.[28]

We, therefore, affirm the finding of the trial court that the charge of rape against appellant has been proven beyond reasonable doubt.

However, while we agree that the penalty of death should be imposed on him, regrettably this is not in accord with the law and jurisprudence.

Although the matter of the proper imposition of the penalty is not assigned as an error by the appellant, nevertheless, it is a well-established rule in criminal procedure that an appeal in a criminal proceeding throws the whole case open for review and it becomes the duty of the appellate court to correct an error as may be found in the appealed judgment, whether it is made the subject of assignment of errors or not.[29]

The trial court imposed the death penalty on appellant because of the presence of the circumstance of minority of the victim (she was only 15 years old at the time she was raped on January 29, 1994) as well as the relationship of the offender (father) and the victim (daughter), pursuant to Section 11 of Republic Act No. 7659[30] which amended Article 335 of the Revised Penal Code.[31] Section 11 of R.A. 7659 reads:

“SEC. 11. Article 335 of the same Code (Revised Penal Code, as amended) is hereby amended to read as follows:

“ART. 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

“1. By using force or intimidation;

“2. When the woman is deprived of reason or otherwise unconscious; and

“3. When the woman is under twelve years of age or is demented.

“The crime of rape shall be punished by reclusion perpetua.

“Whenever the crime of rape is committed with the use of deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

“When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

“When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion perpetua to death.

“When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

“The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

“1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

“2. When the victim is under the custody of the police or military authorities.

“3. When the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.

“4. When the victim is a religious or a child below seven (7) years old.

“5. When the offender know that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.

“6. When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.

“7. When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation.”
[underscoring supplied]

The above-quoted Section 11 provides, inter alia, that where the victim of the crime of rape is under eighteen (18) years of age and the offender is a parent of the victim, the death penalty shall be imposed. This is among the seven (7) circumstances enumerated in Section 11 which, as we have held in the recent case of *People v. Garcia*,^[32] are considered special qualifying circumstances specifically applicable to the crime of rape. In *Garcia*, this Court en banc, speaking through Justice Florenz D. Regalado,^[33] declared that “although the crime is still denominated as rape, such (enumerated) circumstances have changed the nature of simple rape by producing a qualified form thereof punishable by the higher penalty of death.”^[34] We reiterated this ruling in subsequent en banc cases of *People v. Ramos*,^[35] *People v. Leopoldo Ilao*^[36] and *People v. Omar Medina*,^[37] with further pronouncement that these seven new attendant circumstances introduced in Section 11 of R.A. No. 7659 “partake of the nature of qualifying circumstances and not merely aggravating circumstances,” since the said qualifying circumstances are punishable by the single indivisible penalty of death and not by reclusion perpetua to death. A qualifying circumstance increases the penalty by degree, while an aggravating circumstance affects only the period of the penalty but does not increase it to a higher degree.^[38]

In the aforecited case of *People v. Ramos*, we explained that:

“While Republic Act No. 7659 did not give a legal designation to the crime of rape attended by any of the seven new circumstances introduced in Article 335 on December 31, 1993, this Court has referred to such crime as qualified rape in a number of its decisions. However, with or without a name for this kind of rape, the concurrence of the minority of the victim and her relationship with the offender give a different character to the rape defined in the first part of Article 335. They raise the imposable penalty upon a person accused of rape from reclusion perpetua to the higher and supreme penalty of death. Such an effect conjointly puts relationship and minority of the offended party into the nature of a special qualifying circumstance.” (Underscoring supplied)

A reading of the Information for rape filed against appellant in the present case reveals that he is merely charged with the crime of simple rape which warrants the imposition of the penalty of reclusion perpetua. This is so

because the fact of the minority of the victim, is not stated in the Information. What was alleged therein was only the relationship of the offender as the parent of the victim. Again, as we have emphasized in *People v. Ramos*, the elements of minority of the victim and her relationship to the offender must concur. As such, the charge of rape in the Information is not in its qualified form so as to fall under the special qualifying circumstances stated in Section 11 of R.A. 7659. Thus, the penalty of death prescribed in R.A. 7659 should not have been imposed against appellant. In the aforecited case of *People v. Garcia*, we ruled:

“x x x, it has long been the rule that qualifying circumstances must be properly pleaded in the indictment. If the same are not pleaded but proved, they shall be considered only as aggravating circumstances (*People v. Collado*, 60 Phil. [1934]; *People v. Jovellano, et al.*, 56 SCRA 156 [1974]; *People v. Fuertes*, 229 SCRA 289 [1994]; *People v. Rodico, et al.*, 249 SCRA 309 [1995]), since the latter admit of proof even if not pleaded (*U.S. v. Campo*, 23 Phil. 368 [1912]; *People v. Domondon*, 60 Phil. 729 [1934]; *People v. de Guzman*, 164 SCRA 215 [1988]). Indeed, it would be a denial of the right of the accused to be informed of the charges against him and, consequently, a denial of due process, if he is charged with simple rape and be convicted of its qualified form punishable with death, although the attendant circumstance qualifying the offense and resulting in the capital punishment was not alleged in the indictment on which he was arraigned.

“Recapitulating, the information filed against the appellant charged only the felony of simple rape and no attendant qualifying circumstance, specifically that of his being supposedly a guardian of the victim, was alleged. On this additional consideration, he cannot, therefore, be punished with the penalty of death even assuming arguendo that he is such a guardian. Neither can that fact be considered to aggravate his liability as the penalty for simple rape is the single indivisible penalty of reclusion perpetua (Article 63, Revised Penal Code).

“x x x. He must, x x x, be further held liable for the corresponding indemnity to the victim, as well as exemplary damages for each count of rape (*People v. Villanueva*, 254 SCRA 202 [1996]).” (underscoring supplied)

There being no allegation of the minority of the victim in the Information under which the appellant was arraigned, he cannot be convicted of qualified rape as he was not properly informed that he is being accused of qualified rape.[39] Appellant’s conviction of qualified rape violates his constitutional right to be properly informed of the nature and cause of accusation against him.[40] In a criminal prosecution, it is the fundamental rule that every element of the crime charged must be alleged in the Information. The main purpose of this constitutional requirement is to enable the accused to properly prepare his defense. He is presumed to have no independent knowledge of the facts that constitute the offense.[41]

Adopting our pronouncements in the aforecited cases of *People v. Garcia* and *People v. Ramos*, the failure to allege the fact of minority of the victim in the Information for rape is fatal and consequently bars the imposition of the death penalty. Having been informed only of the elements of simple rape, the appellant can be convicted only of such crime and be punished accordingly with reclusion perpetua.[42]

As regards the P50,000.00 which the trial court ordered the appellant to pay the private complainant, the assailed judgment does not specify what this amount is intended for. We believe, however, that the said amount is for payment of indemnity, which we find to be proper. In the recent case of *People v. Prades*,[43] it was ruled that the award of moral damages to the victim is proper even if there was no proof presented during the trial as basis therefor. The circumstance of relationship between the offender and the victim as an aggravating circumstance becomes necessary in the matter of awarding civil damages.[44] Thus, we find the appellant liable for P50,000.00 as moral damages and P25,000.00 as exemplary damages.

WHEREFORE, the judgment of the trial court convicting appellant ARTEMIO CALAYCA of qualified rape is

MODIFIED in the sense that appellant is declared guilty of simple rape and is hereby sentenced to suffer the penalty of reclusion perpetua and to pay Neddy Calayca the sum of P50,000.00 by way of indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

SO ORDERED.

Davide, Jr., C.J., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, and Reyes, JJ., concur.

[1] RTC record, pp. 76-86.

[2] RTC record, p. 3.

[3] Ibid., pp. 11-13.

[4] Ibid., p. 2.

[5] TSN, May 3, 1995, pp. 3-7.

[6] Ibid., p. 5.

[7] TSN, May 2, 1995, pp. 5-11; May 3, 1995, pp. 3-8.

[8] TSN, May 12, 1995, pp. 2-14.

[9] Exhibits "B" to "B-2," RTC record., pp. 12-13.

[10] Exhibit "A," RTC record, p. 11.

[11] TSN, April 25, 1995, pp. 1-8.

[12] TSN, June 8, 1995, pp. 1-8.

[13] Appellant's Brief, Rollo, p. 46.

[14] TSN, May 2, 1995, p. 9.

[15] Ibid.

[16] TSN, May 3, 1995, p. 4.

[17] Appellant's Brief, p. 10.

[18] *People v. Dado*, 244 SCRA 655 [1995]; *People v. Cura*, 240 SCRA 234 [1995]; *People v. Jimenez*, 250 SCRA 349 [1995].

[19] *People v. Ching*, 240 SCRA 267 [1995].

[20] TSN, May 12, 1995, pp. 8-9.

[21] TSN, p. 4, May 3, 1995.

[22] TSN, May 2, 1995, pp. 6-9.

[23] *People v. Umali*, 242 SCRA 17 [1995].

[24] RTC Decision, p. 84, RTC record.

[25] *People v. Lao*, 249 SCRA 137 [1995].

[26] *People v. Dado*, 244 SCRA 655 [1995]; *People v. Vitor*, 245 SCRA 392 [1995].

[27] RTC Decision, p. 82, RTC record.

[28] See *People v. Delovino*, 247 SCRA 637 [1995].

[29] See Section 11, Rule 124, Revised Rules of Court; *People v. Omar L. Medina*, G.R. No. 126575, Dec. 11, 1998; *People v. Garcia*, 281 SCRA 463, 484 [1997]; *People v. Correa, et.al.*, G.R. No. 119246 [Jan. 30, 1998], citing *People v. Olfindo, et.al.*, 47 Phil. 1; *People v. Borbano*, 76 Phil. 702, 708.

[30] This amendatory law, entitled “AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES,” took effect on December 31, 1993 (see *People v. Simon*, 234 SCRA 555, 569 [1994]).

[31] RTC Decision, p. 85, RTC record.

[32] 281 SCRA 463, 489 [Nov. 6, 1997].

[33] Retired as of October 12, 1998.

[34] *People v. Garcia*, supra, p. 486, citing Bicameral Conference Committee on Death Penalty, Alavazo III-1, September 6, 1993, 1-5.

[35] G.R. No. 129439, Sept. 25, 1998.

[36] G.R. No. 129529, Sept. 29, 1998.

[37] G.R. No. 126575, Dec. 11, 1998.

[38] *People v. Ramos*, G.R. No. 129439, September 25, 1998.

[39] *People v. Ramos*, supra.

[40] Section 14(2), Article III, Constitution.

[41] *People v. Ramos*, supra, citing *Balitaan v. CFI Batangas, Branch II, et al.*, 115 SCRA 729 [1982].

[42] *People v. Ramos*, supra.

[43] G.R. No. 127569, July 30, 1998.

[44] *People v. Ramos*, supra.

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