

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DOMINGO VASQUEZ Y PACHECO AND RAMON VASQUEZ Y PACHECO, ACCUSED.

G.R. No. 123939. May 28, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us on appeal is the Decision[1] of the Regional Trial Court of Kalookan City, Branch 121, convicting the appellant Domingo Vasquez y Pacheco of murder for the death of Geronimo Espinosa and sentencing him to suffer reclusion perpetua; and, of attempted homicide for which the appellant was sentenced to suffer an indeterminate penalty.

The appellant and his brother Ramon Vasquez were charged with murder and attempted murder under two Informations. The accusatory portion of each Information reads as follows:

CRIMINAL CASE NO. 48935(95)
(For Murder)

That on or about the 18th day of June 1995, Kalookan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any justifiable cause, with deliberate intent to kill, treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously hack with a bolo one GERONIMO ESPINOSA, hitting him on the vital parts of the body, thereby inflicting upon the latter serious physical injuries, which injuries caused his instantaneous death.

CONTRARY TO LAW.[2]

...

CRIMINAL CASE NO. 48936(95)
(For Attempted Murder)

That on or about the 18th day of June 1995 in Kalookan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any justifiable cause, with deliberate intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously, hit and bump by (sic) a motor vehicle one LUIS LUABLE y DESCA, thus, commencing directly by overt acts of the commission of the crime of Murder, however, said accused was not able to perform all the acts of execution which would produce said felony as a consequence, by reason of causes independent of the will of the herein accused, that is, the said complainant was able to evade the vehicle.

CONTRARY TO LAW.[3]

When arraigned, assisted by counsel, both accused entered their pleas of not guilty.

The Case for the Prosecution

Luis Luable, a twenty-seven-year-old employee of the Selecta Farms, testified that at 6.00 p.m. on June 18, 1995, he was conversing with his brother-in-law, Antonio Cortez, in front of his house at Ramvil 5, Robes Subdivision,

Kalookan City. Roel Pacheco, who lived only about seven meters away from their house, arrived and told Maria Theresa (Luis' wife) that his father, Pedro Pacheco, was stoning him. Before long, Pedro and his other son, Marlon, arrived. Marlon was armed with a two-foot long bolo. Luis intervened and asked Pedro, "Ano ba iyan?" Pedro resented this question and told him, "Bakit ka nakikialam sa away ng pamilya namin?" Luis told Pedro that if he and his son Roel were bent on stoning each other, they should do so in their house and not in the streets because there were plenty of children playing. Roel then grabbed the bolo from his brother Marlon and suddenly hacked Luis. Luis was able to parry the blow with his arm, but his index finger was hit. Luis moved backwards, but Roel picked up a stone about the size of a fist, and threw it at Luis, hitting the latter on the forehead. Luis then fled towards the direction of the Selecta Farms where the house of his half-brother, Geronimo Espinosa, was located, with Pedro and the latter's two sons in hot pursuit. The house was more than a kilometer away.

Luis arrived at the house of his brother, Geronimo, and told the latter that he was being chased and stoned by Pedro and his two sons. He asked to be accompanied back to his house. Geronimo agreed. Luis got home with Geronimo at about 7:00 p.m. After about five minutes, policemen arrived at his house and brought him and Geronimo to the Vicas police precinct. Pedro and Marlon were also brought to the police station so that their differences could be settled. Roel, however, was nowhere to be found. Policemen advised Luis to have his wound treated first and to return to the station later. As he did not bring any money for doctor's fees and medicine, he decided to go back home with Geronimo to get money.

Luis and Geronimo walked side by side on the right side of Lapu-Lapu Street at Urduja Village. With them were their cousins, Raymund Luable, Angelo Luable and Orlando Desca. As they were nearing a Meralco lamp post at the corner of Lapu-Lapu and Magat Salamat Streets,[4] he saw a blue-colored passenger jeep with a white-colored rear door and with its front lights on, driven by Roel's uncle, Domingo Vasquez, who was with Roel's brother, Ramon, and five others. The jeep, which was coming from the opposite direction, going towards the Vicas supermarket, sped towards them. They dived to the ground near a grassy area, to avoid being hit. The vehicle sped past Luis and Geronimo and stopped in front of the lamp post on the left side of the street. Domingo and Ramon Vasquez, each armed with a bolo, with five others, alighted from the jeepney and proceeded to where Luis and Geronimo were. Afraid for their lives, the two fled towards the direction of Mary Homes at North Olympus Street. Luis ran ahead, and when he looked back towards Geronimo, he saw the latter fleeing towards the direction of Sumakwel Street[5] with three persons, including Domingo and Ramon, in hot pursuit. By the time he reached Datu Puti Street, only one man was pursuing him. Luis finally arrived at their house. He then mounted his bicycle and pedaled to the police station to report the incident, only to learn that his half-brother, Geronimo, was already dead. He and some policemen proceeded to Bagong Silang Funeral Parlor where they saw Geronimo's body.

Debbie Dorado, a twenty-seven-year-old housewife, testified that between 10:00 p.m. and 11:00 p.m. on June 18, 1995, she and her cousins, Raymund, Orlando and Angelo, were walking along Lapu-Lapu Street, Urduja Village, Kalookan City. They were on their way home. Angelo and his cousins Luis and Geronimo were walking ahead of her, while Orlando and Raymund strolled behind. Suddenly, a passenger jeepney sped towards where her cousins Luis and Geronimo were walking. The two dived into the grassy portion of the road to avoid being hit.[6] They were near a Meralco lamp post at the corner of Lapu-Lapu and Sumakwel Streets, about ten to fifteen meters away from her. Three male persons alighted from the jeepney. One of them, who was armed with a fan knife, placed his left hand on her right shoulder and was about to stab her. Debbie shouted, "I am a woman!" Nonetheless, he held her by the neck and pushed her. The man then went back to the passenger jeepney.

Raymund and Orlando approached Debbie and inquired what the commotion was all about, "Manang, manang, ano yon?" Debbie replied, "Tayo yata ang hinahabol ng jeep, sige tumakbo na kayo." She hurriedly left the place,

but looked back towards the jeepney and saw that Luis and Geronimo were still in the grassy area. Instead of walking towards Lapu-Lapu Street, she walked towards Sumakwel Street because she saw a male person armed with a bolo who had alighted from the jeepney. She looked back at her cousins, Luis and Geronimo. She saw Luis fleeing towards Mary Homes at North Olympus Street. A man was chasing him. She also saw Geronimo walking slowly, going towards the direction of Lakandula Street, [7] and was being chased by three male persons, one of whom had a big stomach. The other man chasing Geronimo was Domingo Vasquez, who was short, had a moustache and short hair. The third man was Ramon Vasquez who had a jutting jaw (“babalu”). Domingo and Ramon were armed with bolos. She shouted to her cousins Orlando, Angelo and Raymund not to leave their cousin Geronimo alone. When she reached the corner of Lakandula Street, a tricycle arrived. She boarded the tricycle and told the driver to bring her to the Vicas police station.

At the station, Debbie told the policemen that men armed with bolos were chasing her cousins Luis and Geronimo. The policemen told her that they were going to the Tala hospital. She insisted that they investigate the matter, but the policemen ignored her. They even told her, “Mrs., why are you complaining, it’s just a simple matter, and you’re not telling the truth.”

Maria Luisa Abellanosa, a thirty-two-year-old housewife, testified that between 9:30 and 10:30 p.m. on June 18, 1995, she was walking with Debbie Dorado at the corner of Magat Salamat and Lapu-Lapu Streets, Kalookan City, coming from the Vicas police station. She saw Luis and Geronimo walking ahead of her. Suddenly, a blue-colored jeepney driven by Domingo Vasquez arrived and bumped Geronimo. The jeepney stopped at the corner of Magat Salamat Street, even as Geronimo fell to the ground. Ramil Gonzales alighted from the jeepney, poked his knife at Debbie and went towards Geronimo. Fearing for her life, she hid near the concrete wall underneath a nearby bush. Meanwhile, Geronimo stood up and fled towards the direction of Kalantiao Street, through Sumakwel Street. Ramil ran after Geronimo and hacked him on the back part of the head. Geronimo then fled for dear life. She saw her neighbors Marlon Pacheco, his brother Danny Pacheco, each armed with bolos. The two of them, along with Roel Pacheco Ramil Bartonico, Dodoy Bartonico and the appellant, were running to where Geronimo was. The appellant returned to the jeepney and drove it towards where his companions were. The men had ganged up on Geronimo and stabbed the latter. She heard the appellant say to his companions, “Sige patayin niyo na, patayin niyo na, at huwag niyong iwanang buhay!” The appellant forthwith drove the jeepney away. When Maria Luisa Abellanosa arrived home, she saw the Pacheco brothers and asked them how they were, and they replied, “Ayos na po.” She saw the front part of Dario Pacheco’s bloodied body.

Maria Teresa Luable, the wife of Luis, testified that between 6:00 and 7:00 p.m. on June 18, 1995, she was in front of their house. Roel Pacheco arrived and asked for her help. When she asked what had happened, he replied that his father had stoned him and that he was wounded. Luis asked his wife what was going on, and when apprised of Roel’s purpose, Luis told Roel that he and his father should stone each other in their house and not in the street because children might be hit. Roel got mad and hacked Luis, hitting the latter’s index finger. She ordered Luis to flee, but Roel picked up a stone and hit Luis with it. Roel even warned him, “Baka ikaw pa ang ipasok sa kabaong.” Luis then left his house and later returned in the company of Geronimo. At about 9:00 p.m., policemen arrived and brought Pedro Pacheco, Luis and Geronimo to the police station. She followed but failed to find them there. When told that Luis had himself treated for his wound, she proceeded to the San Lazaro Hospital but failed to locate him there. She went to the Vicas police precinct where she was told that a man had arrived and informed the policemen that he saw a person lying prostrate on Sumakwel Street. She then boarded a tricycle, returned to that street and saw Geronimo sprawled on the ground. She looked for her husband at the Tala Hospital, and went home when she failed to find him there.

PO3 Celerino del Rosario testified that at 8:00 p.m. on June 18, 1995, SPO4 Marvin Lardizabal informed him of a

stabbing incident in Sumakwel Street, Urduja Village, Kalookan City. He and three other policemen arrived at the scene to conduct an on-the-spot investigation, and saw Geronimo along Sumakwel Street sprawled on the ground near a Meralco lamp post with multiple stab wounds.[8] The policemen brought the cadaver to the funeral parlor for autopsy. Per police report, Domingo and Ramon Vasquez, and Pedro and Marlon Pacheco were identified as Geronimo's assailants.

Dr. Rosaline Cosidon, Medico-Legal Officer, performed an autopsy on the cadaver of Geronimo and submitted her report thereon which contained her findings, viz:

- A wound appearing and starting at the right portion of the forehead extending just above the ear up to the neck portion of the head. This type of wound could be caused by a heavy instrument like a bolo, saver (sic) or an axe. This wound was fatal;
- Injury located beside the left eye caused by friction with a rough surface. This injury was not fatal.
- The third injury was a hacked wound found below the left eye extending across the left ear to the back portion of the leftside (sic) of the head. This injury could be caused by a heavy cutting instrument like that in number 1. Said injury was, likewise, fatal.
- The fourth injury was an incised wound located below the left cheek which could have been caused by the sharp edge of a cutting instrument. This is not fatal.
- Multiple abrasions located at the back portion of the left shoulder above the scapular caused by friction with a hard, blunt object.
- An incised wound at the back of the body at the right side just above the waistline probably caused by the sharp edge of a cutting instrument.
- A hacked wound located at the right shoulder just above the right arm caused by a heavy cutting instrument. The wound was not fatal.
- An incised wound measuring 11.5 by 0.4 cms. found below the right elbow caused by a sharp-edged cutting instrument. And,
- A hacked wound measuring 11 by 2.5 cms. at the right arm at the back of the wrist probably caused by a heavy sharp linear-edged instrument.[9]

The Case for the Appellant

Domingo Vasquez denied killing Geronimo and attempting to kill Luis. He testified that Ramon Vasquez was his brother, while Roel and Marlon were his first cousins. On June 18, 1995, a Sunday, he was in his house at Lot 8-E, Block 8, Frontville-V, Kalookan City, repairing the windows.

At 11:00 p.m., his wife awakened him as his brother Ramon had arrived in his house with a policeman. The policeman and his companions brought Domingo to the Vicas police station where he was detained. He saw Pedro and Marlon Pacheco, who were also detained. When he asked why they were there, Pedro and Marlon replied that they arrived in the police station to report the incident and found themselves inside the detention cell. He saw two women seated on a bench near the cell with Luis, who turned out to be Debbie Dorado and Gemma Espinosa. A policeman asked Debbie, "Ito ba?" But Debbie replied, "Hindi po." When asked again, Debbie fell silent. When asked for the third time, Debbie replied, "Hindi po." Debbie was also asked to identify Ramon, Pedro and Marlon, but she refused to do so. Policemen also asked Luis to identify the appellant, but Luis replied, "No." A teenaged boy also arrived and was asked to identify him along with Ramon, Pedro and Marlon, and the boy

replied, “No.” The policemen brought the boy out of the police station, and when they returned, the boy pointed to him, Ramon, Pedro and Marlon, as the culprits. The Vasquez brothers, Pedro and his son Marlon were then brought to the office of the station commander where Luis finally identified the four of them as the culprits.

The policemen told Ramon and the appellant that they would be detained at the Hilcost police station to protect them from their enemies. The appellant’s wife confirmed that many people were waiting outside the police station.

Meanwhile, a policeman brought him on board a police car to his house, where he was asked to drive the blue-colored jeepney of his brother Ramon. He drove the jeepney to the police station. He had not driven any jeepney for the last three months or so.

Ramon Vasquez also denied killing Geronimo and attempting to kill Luis. He testified that his house was only 800 meters away from Urduja Village. He did not know Luis Luable and Geronimo Espinosa. On June 18, 1995, a Sunday, he was at home fixing the jalousy window of a blue, seven-seater jeepney owned by Jessie Gomez, which he used as a service jeep to bring children to and from school. He later used the jeep until 6:00 p.m. At 7:00 p.m., he went to sleep. Josefina Pacheco, Pedro’s wife, and the latter’s children, Roel and Dario, arrived to borrow the jeepney. Dario had apparently sustained a gunshot wound on the face. He agreed, provided that someone would drive the vehicle. Josefina replied that the jeepney would be driven by Roel. He gave the keys of the vehicle to Josefina and returned to bed.

At 11:00 p.m., Kagawad Ed Santos arrived with a policeman and told him that he and the appellant would be brought to the Vicas police station. He was told to sit on a bench while Ed, the policeman and the appellant, went out of the station. He and the appellant were then detained. A policeman asked a man and two women to identify him and the appellant, “Sila ba? But the three replied, “Hindi po.” The two of them were then brought to the police station at Hilcost, followed by the three witnesses. A policeman then asked the witnesses if he and the appellant were the assailants, and the witnesses replied that they were not the ones.

Vaselisa Vasquez, the appellant’s wife, corroborated his testimony.

After trial, the court rendered judgment acquitting Ramon, but convicting the appellant of murder for the killing of Geronimo, and attempted homicide for attempting to kill Luis. The decretal portion of the decision reads:

WHEREFORE, PREMISES CONSIDERED, the accused RAMON VASQUEZ is hereby ACQUITTED on reasonable doubt of the crimes of MURDER and ATTEMPTED MURDER. Accused DOMINGO VASQUEZ is hereby found by this Court to be guilty beyond reasonable doubt of the crimes of MURDER and ATTEMPTED HOMICIDE and is accordingly sentenced to suffer the penalty of RECLUSION PERPETUA for Murder; to suffer an imprisonment of SIX (6) MONTHS and ONE (1) DAY TO SIX (6) YEARS OF PRISION CORRECCIONAL for ATTEMPTED HOMICIDE; and to pay the heirs of the deceased Geronimo Espinosa P18,000.00 for funeral expenses; P1,500,000.00 by way of unrealized earnings; P50,000.00 by way of indemnity; P20,000.00 by way of moral damages; and to pay the costs of the suit.

SO ORDERED.[10]

The trial court gave credence to the testimony of Maria Luisa Abellanosa and concluded that the prosecution failed to prove the guilt of Ramon Vasquez beyond reasonable doubt of the crimes charged, viz:

On the other hand, another prosecution witness, Maria Luisa Abellanosa, identified the pursuers as Roel and Dario Pacheco and Ramil and Dodoy Bartonico. Due to the glaring flaws in Debbie Dorado’s testimony and considering further that Luis Luable’s testimony is mainly self-serving, the Court gives more faith to Abellanosa’s version of facts. This is especially so because there is nothing to show that Abellanosa’s testimony was tainted with impure motives. Indeed, it behooves the Court to point out that the prosecution’s

witnesses gave conflicting testimonies on points which are of utmost importance.

In the light of such conflicting testimonies, the Court firmly believes that the accused Ramon Vasquez was nowhere near the scene of the crimes on the night of June 18, 1995. The prosecution's eyewitnesses do not concur with respect to the presence of said accused on the scene of the crime. Evidently, the prosecution failed to establish with certainty the accused Ramon Vasquez's involvement in the two crimes described in the information. The only fact that was clearly established is that Ramon Vasquez drives the jeepney involved in this case when bringing children to and from school. The mere fact that he had the jeepney in his possession is not sufficient to connect him with the unlawful acts.

Domingo Vasquez, now the appellant, appealed the Decision contending that:

THE HONORABLE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH SUFFICIENT MOTIVE ON HIS PART TO COMMIT THE CRIMES CHARGED.

THE HONORABLE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE INCREDIBLE AND INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES IN THE IDENTIFICATION OF THE ACCUSED-APPELLANT AS ONE OF THE PERPETRATORS OF THE CRIMES CHARGED.

THE TRIAL COURT ERRED IN NOT APPRECIATING THE DEFENSE OF ALIBI POSED BY THE HEREIN ACCUSED-APPELLANT CONSIDERING THE FACT THAT THE EVIDENCE FOR THE PROSECUTION IS WEAK.

ASSUMING ARGUENDO THAT THE ACCUSED-APPELLANT WAS INDEED POSITIVELY IDENTIFIED TO BE THE DRIVER OF THE BLUE-COLORED JEEPNEY DURING THE INCIDENT IN QUESTION, THE TRIAL COURT, NONETHELESS ERRED IN FINDING HIM TO BE A CONSPIRATOR AND NOT A MERE ACCOMPLICE IN THE MURDER OF THE VICTIM GERONIMO ESPINOSA.[11]

As the assigned errors are interrelated, the Court shall delve into and resolve the same simultaneously.

The appellant avers that he and his brother Ramon were not involved in the quarrel between Luis Luable and Geronimo Espinosa, on the one hand, and Roel Pacheco, Marlon Pacheco and their father Pedro Pacheco, on the other. He and his brother Ramon, thus, had no motive to kill Geronimo. The appellant contends that the witnesses for the prosecution were not in agreement as to who killed Geronimo. While Luis Luable and Debbie Dorado testified that they saw the appellant stab Geronimo, Maria Luisa Abellanosa testified that Ramil Gonzales, Marlon Pacheco, Dario Pacheco, Roel Pacheco, Ramil Bartonico and Dodoy Bartonico were the ones who stabbed and killed the victim. The appellant noted that according to the testimony of Abellanosa, the appellant stayed in the jeepney and merely yelled to his companions who ganged up on Geronimo, "Sige patayin ninyo, patayin ninyo na, at huwag ninyong iwanang buhay!"

The appellant further posits that the prosecution witnesses were not even in accord as to where Geronimo was stabbed to death. He pointed out that Luis Luable testified that Geronimo was hacked to death at the corner of Lapu-Lapu and Sumakwel Streets, while Maria Luisa Abellanosa testified that Geronimo was killed at the corner of Lapu-Lapu and Magat Salamat Streets. Furthermore, Debbie Dorado was not certain where Geronimo was killed. The appellant asserts that the location of the killing is important because the Meralco lamp post which illuminated the place of the incident is located at the corner of Lapu-Lapu and Magat Salamat Streets, and not at the corner of Lapu-Lapu and Sumakwel Streets. The appellant argues that because of the inconsistencies in the testimonies of the witnesses of the prosecution, it failed to prove his guilt beyond reasonable doubt of the crimes charged. Hence, he should be acquitted of the said charges.

The Office of the Solicitor General, for its part, argues that there is no incongruence between the testimony of Abellanosa, on the one hand, and those of Domingo and Luable, on the other, as to the situs where Geronimo was killed. Moreover, whether the appellant is a principal by direct participation or a principal by inducement is immaterial. In conspiracy, all the conspirators are criminally liable for the death of the victim regardless of the degree of their participation in the crime. The inconsistencies in the testimonies of the witnesses of the prosecution are trivial. They do not affect the credibility of the said witnesses and the veracity of the substance of their testimonies.

The appeal has no merit.

Prefatorily, we will no longer delve into and revisit the factual and legal basis for the acquittal of Ramon Vasquez of the crimes charged. The decision of the trial court acquitting the said accused and its basis for the said acquittal can no longer be altered without placing the said accused in double jeopardy. Nonetheless, we are not precluded from delving into and reviewing the findings of facts of the trial court in resolving the issues involved in this case relating to the appellant's appeal from its decision.

The general rule is that the findings of fact of the trial court, its assessment of the credibility of witnesses and their testimonies, and the probative weight thereof, as well as its conclusions based on the said findings, are accorded by the appellate court high respect, if not conclusive effect, because of the unique advantage of the trial court in observing at close range the conduct and deportment of the said witnesses. However, the appellate court may set aside the findings of the trial court and its conclusions based on the said findings if it overlooked, ignored, misconstrued and misinterpreted cogent facts and circumstances which, if considered, would alter the outcome of the case.

The trial court rejected the testimonies of Luis Luable, Debbie Dorado and gave credence to the testimony of Maria Luisa Abellanosa, viz:

Luis Luable and Debbie Dorado testified that two of the three pursuers of the deceased, Geronimo Espinosa, were herein accused Domingo and Ramon Vasquez. Moreover, they have been pinpointed as the ones who wielded bolos. However, Debbie Dorado's credibility is seriously doubted by the Court on account of her failure to give the identities of the pursuers in her sworn statement and her failure to issue a supplemental statement later when she finally made her identification upon seeing the two accused. Additionally, it must be observed that she gave a detailed physical description of the deceased's pursuers despite the fact that during that time she was running away from the scene of ambush. Hence, even if she looked back from time to time, it could have been impossible for her to see the facial features of the pursuers because of two reasons, to wit: (1) the pursuers were running towards the opposite direction and necessarily only their backs could have been exposed to the witness, and (2) the surrounding darkness of night and the increasing distance between the witness and the deceased's pursuers could have made it very difficult if not impossible for the witness to pay attention to tiny details such as the moustache the former sported as well as the bone structure of the chin of accused Ramon Vasquez.

On the other hand, another prosecution witness, Maria Luisa Abellanosa, identified the pursuers as Roel and Dario Pacheco and Ramil and Dodoy Bartonico. Due to the glaring flaws in Debbie Dorado's testimony and considering further that Luis Luable's testimony is merely self-serving, the Court gives more faith to Abellanosa's version of facts. This is especially so because there is nothing to show that Abellanosa's testimony was tainted with impure motives. Indeed, it behooves the Court to point out that the prosecution's witnesses gave conflicting testimonies on points which are of utmost importance.[12]

We hold that the trial court erred in rejecting the testimonies of Luable and Dorado. The credibility and probative weight of the testimony of Dorado cannot be assailed by her failure to state the name of the appellant in her sworn

statement to the police investigator[13] as among those who ran after Geronimo and Luis. The well-entrenched principle is that sworn statements being ex parte are almost always incomplete and often inaccurate but do not really detract from the credibility of the affiants.[14]

The failure of a witness to disclose the name of the culprit does not necessarily impair the credibility of Dorado.[15] Moreover, as contended by the Office of the Solicitor General:

Debbie Dorado was recalled as witness, on a separate date. During the additional cross-examination, it was admitted by both parties that the pictures presented by the defendants were taken during daytime. She reiterated that there were three (3) persons chasing her cousin Geronimo. She identified two (2) of the three (3) as the Vasqueses. When confronted as to her failure to identify the accused when presented to her for identification as proven by the sworn statement she gave to the police investigator, she averred that her statement had already been taken, typewritten, and signed by her when she saw the accused and that it was only Luis Luable who was brought to the detention cell to identify the accused...[16]

The affiants may give the names of the culprits subsequent to the submission of their affidavits and even during the trial. It bears stressing that even in her sworn statement, Dorado declared that three persons pursued Luis and Geronimo when they fled from the place, where they were almost sideswiped by the appellant's jeepney. Dorado's declaration to the police investigator jibes with her testimony before the trial court.

The culprit may be identified not only by his name or nickname but also by his physical appearance, by his voice or by his gait.

The evidence on record shows that it was near Magat-Salamat Street corner Lapu-Lapu Street where Luis and Geronimo were sideswiped by the jeepney driven by the appellant. The place was lighted by a Meralco lamp post.[17] The appellant alighted from the jeepney along with other men. Luable and Geronimo were near the jeepney. Dorado was barely fifteen meters away from the place. Considering the lighting condition therein and the proximity of Luable, Dorado and Abellanosa to the place where the incident occurred, they saw and recognized the appellant and could, thus, identify him. When she testified, Dorado declared that the appellant was one of those who pursued Luis and Geronimo after the appellant had alighted from the jeepney:

Q

Would you again describe the other man who was armed with a bolo and who was chasing the victim?

A

The other man is short with a moustache and stout with short hair.

Q

Will you please look around the courtroom and if this person you have just described is presently inside the courtroom, will you please point him to the Honorable Court?

A Yes, he is here, Sir.

(At this juncture, the witness is pointing to a male person sitted (sic) inside the courtroom who gave his name as Domingo Vasquez)

ATTY. COPE:

The man just pointed by the witness is sporting a moustache and sporting a short hair.[18]

For his part, Luis Luable testified that the appellant was among those who pursued him and Geronimo, who, armed with a bolo, alighted from the jeepney.

Q

Now, after you jumped to the right side of the road, what did the jeep do, if any, Mr. Witness?

A

The jeep stopped in front of the post.

Q Where was this post, Mr. Witness?

A Is (sic) located at the left side of Lapu-Lapu St.

Q And after the jeep stopped near the post Mr. Witness, what happened next?

A The driver alighted from the jeep together with his companion.

Q Were you able to recognize this driver Mr. Witness and his companion who went down on the jeep?

A Yes, Sir.

Q And if you see them, would you be able to identify them?

A Yes, Sir.

Q Now, are those people inside the courtroom right now, Mr. Witness?

A Yes, Sir.

Q Now, can you point to them, Mr. Witness?

A Yes, Sir.

MS. DEL ROSARIO:

At this juncture, witness is pointing to a male person sitted (sic) inside the courtroom who gave their names as Domingo Vasquez and Ramon Vasquez.

ATTY. PAGUITON:

Q Now, of the two (2) people whom you are (sic) identified in court just right now, who was driving the jeep?

MS. DEL ROSARIO: Witness pointing to Domingo Vasquez.

ATTY. PAGUITON:

Q And what about Mr. Ramon Vasquez, where was he sitted (sic) in the jeep, Mr. Witness?

A Ramon Vasquez was sitted (sic) beside the driver.

Q Now, did you notice if there were other people who were inside the jeep, if any, Mr. Witness?

A Yes, Sir.

Q

Would you be able to say to this court how many people were there inside the jeep including the driver and the passenger who was sittid (sic) in front?

A Yes, Sir.

Q And how many people are these, Mr. Witness?

A More than seven (7) persons.

Q Now, you mentioned earlier that when the jeep stopped... did you notice if they were carrying anything, if any, Mr. Witness?

ATTY. SAMPAGA: Leading, Your Honor.

COURT: Sustained.

ATTY. PAGUITON:

Q When Domingo and Ramon Vasquez went down the jeep, what happened next?

A Domingo and Ramon chased me and my brother while they were holding a bolo.

Q Now, what were the other people who were inside the jeep doing when Ramon and Domingo chased you?

A They also alighted from the jeep and they also chased us.

Q Were these other people also armed, Mr. Witness?

ATTY. SAMPAGA: Leading, Your Honor.

COURT: Sustained.

ATTY. PAGUITON:

Q

Now, you mentioned earlier that you saw bolos, who were holding the bolos, Mr. Witness?

A Ramon Vasquez and Domingo Vasquez were the ones holding bolos.

Q What about the other people who alighted from the jeep, Mr. Witness?

A I did not notice whether they were armed because we already ran.

Q

Towards what direction did you run, Mr. Witness?

A

We ran towards the direction of North Olympus Street.[19]

In his sworn statement to the police investigator, Luable declared that the place where he and Geronimo were sideswiped was lighted:

30.

T:

Dati mo na bang kakilala itong si Domingo Vasquez at Ramon Vasquez?

S:

Hindo po.

31

.T:

Papaano mo silang (sic) nakilala?

S:

Nakilala ko sila dahil sa maliwanag sa lugar na iyon.

32.

T:

Saan nanggagaling ang liwanag ng iyong sinasabi?

S:

Sa ilaw ng poste.[20]

Luable and Dorado admitted that they did not see the appellant hack the victim. Neither did Abellanos. The latter testified that after failing to overtake Geronimo, the appellant returned to the passenger jeepney and drove it to where Geronimo was hacked. The appellant, while still in the jeepney ordered his cohorts, “Sige patayin niyo na, patayin niyo na, huwag niyong iwanang buhay.” She identified and pointed to the appellant in open court.

Q Who was this person who was bumped by this jeep on that date and time?

A Geronimo Espinosa, Sir.

Q What happened after Geronimo Espinosa was being (sic) bumped by the jeep?

A Geronimo Espinosa fell down, Sir.

Q Where did Geronimo Espinosa fall?

A At the corner of Magat Salamat, Sir.

Q What happened after that?

A And then I saw a male persons (sic) by the name of Ramil Gonzales alighted (sic) from the jeep, Sir.

Q What happened next?

A Then Ramil Gonzales poked 29 knife on the body of a female person, Sir.

Q Do you know this female person?

A Yes, Sir, I know.

Q What is her name?

A Her name is Debbie, Sir.

Q Do you know the family name of Debbie?

A I don't know her family name, Sir.

Q What happened after that?

A

And then Ramil Gonzales approached the person who fell down by the name of Geronimo and then when Geronimo stood up Ramil (sic) chased Geronimo, Sir.

Q What happened when Ramil chased Geronimo?

A Ramil hacked Geronimo, Sir.

Q What part of the body of Geronimo who (sic) was hacked?

A The back part of the head of Geronimo, Sir.

Q What happened after that?

A Geronimo run (sic) and then Ramil chased Geronimo, Sir.

Q Where did Geronimo go when he was (sic) chased?

A Geronimo was proceeding to the direction of Kalantiao Street, Sir.

Q Is this Kalantiao Street near Sumakwel Street?

ATTY. SAMPAGA:

Leading, Your Honor.

COURT:

Sustained.

ATTY. COPE:

Q What particular street did Geronimo passed (sic) while he was [being] chased?

ATTY. SAMPAGA:

Objection, Your Honor, already answered. He proceeded to Kalantiao Street.

ATTY. COPE:

Yes, Your Honor, proceeded to but this time the particular street he used when he was being chased.

COURT:

At the corner of Magat Salamat.

ATTY. COPE:

Q When he was running away, what street did Geronimo use when he was running away when he was being chased?

ATTY. SAMPAGA:

Objection, Your Honor, Geronimo proceeded to Kalantiao Street.

COURT:

Sustained.

ATTY. COPE:

I think, Your Honor, it is different, the incident happened at Magat Salamat and then when he was chased he run (sic) towards the direction of Kalantiao Street, now, we are asking the question on what particular street where he was ...

COURT:

He was at Magat Salamat, towards the direction of Kalantiao Street.

ATTY. COPE:

We submit, Your Honor.

Q What happened after Geronimo was chased?

A And the four (4) persons followed Ramil, and the persons who followed Ramil are two Pachecos and two Bartoneco (sic), Sir.

COURT:

Q Are they brothers?

A Yes, Your Honor.

ATTY. COPE:

Q Do you know the names of the Pachecos brothers (sic)?

A ...

Q What are their names?

A Luis Pacheco, Danny Pacheco and Dario Pacheco, Roel Pacheco, Sir.

Q How about the Bartonico brothers, do you know their names?

A Yes, Sir.

Q What are their names?

A Darwin Bartonico and Dodoy Bartonico, Sir.

Q What happened after that?

A They gunned (sic) up Geronimo Espinosa, Sir.

Q Who was the driver of the jeep you saw?

A Jun Vasquez, Sir.

Q What is the real name of June?

A Domingo Vasquez, Sir.

Q Where was this Domingo Vasquez when the person you mentioned was hacking Geronimo Espinosa?

A He was inside the jeep, Sir.

Q What was he doing?

A He was driving the jeep, Sir.

Q What did he say when he was inside the jeep?

A I heard Domingo Vasquez uttered the following words – “Sige patayin niyo na, patayin niyo na, huwag niyong iwanang buhay.”

COURT:

Q

How far where (sic) you from Domingo Vasquez when you heard the words uttered by him “sige patayin niyo na, patayin niyo na, huwag niyong iwanang buhay.”

A I am (sic) just near, Your Honor, about five arms’ length.

ATTY. COPE:

Q Where were you when Domingo Vasquez uttered those statements?

A I was at the concrete wall underneath the plants, Sir.

Q

How far was the jeep driven by accused Domingo Vasquez from where the persons you mentioned, the Bartonico brothers and Pacheco brothers who were hacking Geronimo Espinosa?

A Just near, Sir, just less than 10 arms’ length.

Q

Ms. Abellanosa, to whom was the accused Domingo Vasquez saying those statement “sige patayin niyo na, patayin niyo na, huwag niyong iwanang buhay?”

ATTY. SAMPAGA:

Objection, Your Honor, she is incompetent to answer.

COURT:

Overruled, witness may answer.

A He was not mentioning any names, he was just shouting Ma'am, and uttering those words.

ATTY. COPE:

Q Will you please repeat [the name of] the person who hacked Geronimo Espinosa?

ATTY. SAMPAGA:

Objection, Your Honor, already answered.

COURT:

Sustained.

ATTY. COPE:

Q

Why do you know these persons Roel Pacheco, Dario Pacheco, Ramil Bartonico, Dodoy Bartonico, Ramon Vasquez, Ramil Gonzales and Domingo Vasquez?

A Because they are my neighbors, Sir.

Q For how long have you been neighbors?

A For four (4) years, Sir.

Q

What happened Ms. Abellanosa after the person you mentioned hacked Geronimo Espinosa and Domingo Vasquez shouted "sige patayin niyo na, patayin niyo na, huwag niyong iwanang buhay."

A They already boarded the jeep and they proceeded in (sic) their house, Sir. [21]

The testimony of Abellanosa is corroborated by the autopsy report of Dr. Rosalyn Cosidon showing that the victim sustained multiple incised hacked wounds and abrasions. Even if there is no evidence that the appellant stabbed or hacked the victim, he is, nonetheless, criminally liable for the victim's death because he conspired with the principals by direct participation in the commission of the crime. As the trial court ruled:

Whether Domingo Vasquez chased the deceased with a bolo was averred by Luis Luable or whether the accused merely incited his companions in the jeepney to kill the deceased as averred by Luisa Abellanosa, is immaterial in the determination of his liability because a conspiracy among the occupants of the jeepney has been established.

In the case of *People vs. Cortez*, 57 SCRA 308 cited in *Luis B. Reyes Revised Penal Code with Annotations*, Book I, 12th edition, 1981, p. 493, it was clarified, "In order to hold an accused guilty as co-principal by reason of conspiracy, it must be established that he performed an overt act in furtherance of the conspiracy, either by actively participating in [the] actual commission of the crime, or by lending moral assistance to his co-conspirators by being present at the scene of the crime, or by exerting moral ascendancy over the rest of the conspirators as to move them to executing the conspiracy." (Underscoring supplied).

The Supreme Court, likewise, stressed in the case of *People vs. Bernardo*, 222 SCRA 502, "where there are

several accused and conspiracy has been established, the prosecution need not pinpoint who among the accused inflicted the fatal wound.”

And in the case of *People vs. Magalang*, 217 SCRA 571, it was held, “where conspiracy has been established, evidence as to who among the accused rendered the fatal blow is not necessary. All the conspirators are liable as co-principals regardless of the intent and character of their participation because the act of one is the act of all.”

Hence, accused Domingo Vasquez is found by the Court to be a co-principal in the attempted killing of Luis Luable as well as in the fatal hacking of Geronimo Espinosa.[22]

In *People vs. Bisda*,[23] we held that:

Article 8 of the Revised Penal Code provides that there is conspiracy when two or more person agree to commit a felony and decide to commit it. In *People vs. Pagalasan*, this Court held that conspiracy need not be proven by direct evidence. It may be inferred from the conduct of the accused before, during and after the commission of the crime, showing that they had acted with a common purpose and design. Conspiracy may be implied if it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent of each other were, in fact, connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment. Conspiracy once found, continues until the object of it has been accomplished and unless abandoned or broken up. To hold an accused guilty as a co-principal by reason of conspiracy, he must be shown to have performed an overt act in pursuance or furtherance of the complicity. There must be intentional participation in the transaction with a view to the furtherance of the common design and purpose.

We further ruled in the said case that:

Each conspirator is responsible for everything done by his confederates which follows incidentally in the execution of a common design as one of its probable and natural consequences even though it was not intended as part of the original design. Responsibility of a conspirator is not confined to the accomplishment of a particular purpose of conspiracy but extends to collateral acts and offenses incident to and growing out of the purpose intended. Conspirators are held to have intended the consequences of their acts and by purposely engaging in conspiracy which necessarily and directly produces a prohibited result, they are, in contemplation of law, chargeable with intending that result. Conspirators are necessarily liable for the acts of another conspirator unless such act differs radically and substantively from that which they intended to commit. As Judge Learned Hand put it in *Unites States vs. Andolscheck*, “when a conspirator embarks upon a criminal venture of indefinite outline, he takes his chances as to its content and membership, so be it that they fall within the common purposes as he understands them.”

In the case at bar, the appellant drove the passenger jeepney with his cohorts on board looking for Luable and Geronimo. When the appellant saw the two going in the opposite direction, the appellant drove the vehicle and sideswiped Geronimo. And when Geronimo fled, the appellant, armed with a bolo, pursued him. When the appellant failed to overtake the victim, he returned to the passenger jeepney and drove it to where his cohorts ganged up on the victim. The appellant urged them on to kill Geronimo. Thereafter, he left the scene along with his cohorts, leaving the hapless Geronimo mortally wounded. All the foregoing constitutes evidence beyond cavil of conspiracy between the appellant and the principals by direct participation. The appellant is, thus, criminally liable for the death of the victim, although there is no evidence that he did not actually stab the latter.

There is no evidence on record that Luable, Dorado and Abellanos nurtured any ill motive to point to the appellant and falsely implicate him in the killing of Geronimo. Luable, for one thing, did not know the appellant before the killing. Case law has it that in the absence of any improper motive, the testimonies of the witnesses are worthy of full faith and credit.[24]

The bare claim of the appellant that he has no motive to kill Geronimo is not a valid defense to the crime charged. Motive to commit a felony is not an element of the said crime; hence, the prosecution is not burdened to prove the same. As we held in *People vs. Delim*:^[25]

In murder, the specific intent is to kill the victim. In kidnapping, the specific intent is to deprive the victim of his/her liberty. If there is no motive for the crime, the accused cannot be convicted for kidnapping. In kidnapping for ransom, the motive is ransom. Where accused kills the victim to avenge the death of a loved one, the motive is revenge.

In this case, it is evident on the fact of the Information that the specific intent of the malefactors in barging into the house of Modesto was to kill him and that he was seized precisely to kill him with the attendant modifying circumstances. The act of the malefactors of abducting Modesto was merely incidental to their primary purpose of killing him. Moreover, there is no specific allegation in the information that the primary intent of the malefactors was to deprive Modesto of his freedom or liberty and that killing him was merely incidental to kidnapping. Irrefragably then, the crime charged in the Information is Murder under Article 248 of the Revised Penal Code and not Kidnapping under Article 268 thereof.

The threshold issue that now comes to fore is whether or not the prosecution mustered the requisite quantum of evidence to prove that Marlon, Ronald and Leon are guilty of murder.

In criminal prosecutions, the prosecution is burdened to prove the guilt of the accused beyond cavil of doubt. The prosecution must rely on the strength of its own evidence and not on the weakness of the evidence of the accused. The proof against the accused must survive the test of reason; the strongest suspicion must not be permitted to sway judgment.

In the case at bar, the prosecution was burdened to prove the corpus delicti which consists of two things: first, the criminal act and second, the defendant's agency in the commission of the act. Wharton says that corpus delicti includes two things: first, the objective; second, the subjective element of crimes. In homicide (by dolo) and in murder cases, the prosecution is burdened to prove: (a) the death of the party alleged to be dead; (b) that the death was produced by the criminal act of some other than the deceased and was not the result of accident, natural cause or suicide; and (c) that the defendant committed the criminal act or was in some way criminally responsible for the act which produced the death. To prove the felony of homicide or murder, there must be incontrovertible evidence, direct or circumstantial, that the victim was deliberately killed (with malice); in other words, that there was intent to kill. Such evidence may consist inter alia in the use of weapons by the malefactors, the nature, location and number of wounds sustained by the victim and the words uttered by the malefactors before, at the time or immediately after the killing of the victim. If the victim dies because of a deliberate act of the malefactor, intent to kill is conclusively presumed.

The prosecution is burdened to prove corpus delicti beyond reasonable doubt either by direct evidence or by circumstantial or presumptive evidence.

In the case at bar, the prosecution adduced the requisite quantum of proof of corpus delicti. Modesto sustained five (5) gunshot wounds. He also sustained seven (7) stab wounds, defensive in nature. The use by the malefactors of deadly weapons, more specifically handguns and knives, in the killing of the victim, as well as the nature, number and location of the wounds sustained by said victim are evidence of the intent by the malefactors to kill the victim with all the consequences flowing therefrom. As the State Supreme Court of Wisconsin held in *Cupps v. State*:

"This rule, that every person is presumed to contemplate the ordinary and natural consequences of his own acts, is applied even in capital cases. Because men generally act deliberately and by the determination of their own will, and not from the impulse of blind passion, the law presumes that every man always thus acts, until the contrary appears. Therefore, when one man is found to have killed another, if the circumstances of the homicide do not themselves show that it was not intended, but was accidental, it is presumed that the death of

the deceased was designed by the slayer; and the burden of proof is on him to show that it was otherwise.”

The prosecution did not present direct evidence to prove the authors of the killing of Modesto. It relied on circumstantial evidence to discharge its burden of proving the guilt of the accused-appellants of murder.[26]

On the other hand, we are inclined to believe that the appellant joined cause with his cousins, Roel Pacheco, Marlon Pacheco and Danny Pacheco in venting their ire on Geronimo and Luis for the altercation which earlier transpired between Roel and Marlon, on the one hand, and Luis Luable on the other. Geronimo was not involved in the altercation, but he was killed simply because he was with his half-brother, Luis Luable, when the appellant and his cohorts caught up with them.

The bare denial and alibi of the appellant cannot prevail over the collective testimonies of the witnesses of the prosecution corroborated by the physical evidence that the appellant conspired with the principals by direct participation to kill the victim. Denial and alibi are weak defenses. To merit approbation of his defense of alibi, the appellant is burdened to prove, with clear and convincing evidence that he was in a place other than the situs of the crime, such that it was physically impossible for him to be at the scene of the crime when it was committed. The appellant failed to do so. He relied merely on his bare testimony which is dubious in the first place.

The trial court convicted the appellant of murder qualified by treachery. However, the trial court failed to state in its decision the factual basis for such a finding. From all indications, the cohorts of the appellant managed to overtake Geronimo along Sumakwel Street, as he ran for dear life after being hit earlier by Ramil Gonzales on the head. Geronimo was, thus, aware of the peril to his life.[27] The assailants of Geronimo took advantage of their superior strength when they ganged up on him, armed with bolos and hacked him to death. However, the qualifying circumstance of abuse of superior strength is not alleged in the Information; hence, cannot qualify the crime to murder. The appellant is guilty only of homicide under Article 249 of the Revised Penal Code, punishable by reclusion temporal.

We, likewise, agree with the conviction of the appellant of attempted homicide in Criminal Case No. 48936(95). But we do not agree with the penalty meted on the appellant, six (6) months and one (1) day to six (6) years of prision correccional. The imposable penalty for attempted homicide is prision correccional which is two degrees lower than reclusion temporal. The maximum of the indeterminate penalty shall be taken from the imposable penalty of prision correccional, taking into account the modifying circumstances, if any. To determine the minimum of the indeterminate penalty, the penalty of prision correccional has to be reduced by one degree, which is arresto mayor. The minimum of the indeterminate penalty shall be taken from the full range of arresto mayor. Hence, the appellant may be sentenced to an indeterminate penalty from four (4) months of arresto mayor in its medium period, as minimum, to three (3) years of prision correccional, in its medium period, as maximum. Although the appellant used a vehicle to commit attempted homicide, the said circumstance was not alleged in the Information, as mandated by Section 8, Rule 110 of the Revised Rules of Criminal Procedure. The said Rule should be applied retroactively although the crime was committed before the effectivity of the same.

The trial court awarded P18,000 as actual damages for funeral expenses, P1,500 as unearned income of the victim and P20,000 as moral damages. The trial court did not award exemplary damages to Luis Luable. The decision of the trial court shall, thus, be modified.

In lieu of actual damages in the amount of P18,000.00, the heirs of the victim are entitled to P25,000.00 by way of temperate damages, conformably to current jurisprudence. The amount of P1,500,000.00 is deleted for failure of the prosecution to adduce any documentary and oral evidence to prove the factual basis of such amount.[28] The award of moral damages should be increased to P50,000.00 to conform to current jurisprudence. Luis Luable is entitled to P25,000.00 exemplary damages.[29]

IN LIGHT OF ALL THE FOREGOING, the decision of the Regional Trial Court of Kaloocan City, Branch 121, is AFFIRMED with MODIFICATIONS.

- In Criminal Case No. 48935(95), appellant Domingo Vasquez y Pacheco is found GUILTY beyond reasonable doubt of homicide under Article 249 of the Revised Penal Code, as amended, and there being no modifying circumstance in the commission of the crime, is hereby sentenced to suffer an indeterminate penalty from nine (9) years and four (4) months of prision mayor, in its medium period, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, in its medium period, as maximum. The said appellant is ORDERED to pay to the heirs of the victim Geronimo Espinosa P50,000.00 as civil indemnity; P50,000.00 as moral damages; P25,000.00 as temperate damages;

- In Criminal Case No. 48936(95), the appellant is found GUILTY of attempted homicide under Article 249 in relation to Article 6 of the Revised Penal Code and there being no modifying circumstances in the commission of the crime, is hereby sentenced to suffer an indeterminate penalty from four (4) months of arresto mayor, in its medium period, as minimum, to three (3) years of prision correccional in its medium period, as maximum. The said appellant is ORDERED to pay P25,000.00 to Luis Luable by way of exemplary damages. No costs.

SO ORDERED.

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.
Puno, (Chairman), J., on official leave.

[1] Penned by Judge Adoracion G. Angeles.

[2] Rollo, p. 109.

[3] Id. at 110.

[4] Exhibits “D,” “D-6” & “D-8.”

[5] Exhibit “D-4.”

[6] Exhibits “D,” “D-6,” & “D-8.”

[7] Exhibit “D-7.”

[8] Exhibits “D-1,” “D-3,” “D-9” & “D-10.”

[9] Rollo, p. 89.

[10] Rollo, pp. 36-37.

[11] Rollo, pp. 54-55.

[12] Rollo, pp. 93-94.

[13] Exhibit “2.”

[14] People vs. Silvano, 350 SCRA 650 (2001).

[15] People vs. Herbieto, 269 SCRA 472 (1997).

[16] Rollo, pp. 138-139.

[17] Exhibits “D” and “D-1.”

[18] TSN, 1 August 1995, pp. 8-9.

[19] TSN, 26 July 1995, pp. 10-11.

[20] Exhibit "C."

[21] TSN, 7 August 1995, pp. 25-30.

[22] Rollo, pp. 95-96.

[23] G.R. No. 140895, July 17, 2003.

[24] People vs. Lagarto, 326 SCRA 693 (2000).

[25] 396 SCRA 386 (2003).

[26] Ibid.

[27] People vs. Ereño, 326 SCRA 157 (2000).

[28] People vs. Maderas, 350 SCRA 504 (2001).

[29] People vs. Delos Santos, G.R. No. 135919, May 9, 2003.

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