

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS., ALIPIO SANTIANO, JOSE SANDIGAN, ARMENIA PILLUETA AND JOSE VICENTE (JOVY) CHANCO ACCUSED-APPELLANTS.

G.R. No. 123979. December 03, 1998

Ponente: VITUG, J.

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VITUG, J.:

Accused-appellants Alipio Santiano, Jose Sandigan, Armenia Pillueta and Jose Vicente (Jovy) Chanco were indicted for the kidnapping with murder of Ramon John Dy Kow, Jr., a detention prisoner at the Naga City Jail, in an amended Information, docketed Criminal Case No. P-2319, filed with the Regional Trial Court ("RTC) of Pili, Branch 32, Camarines Sur.

When arraigned, the four accused pleaded not guilty to the charge. The trial thereupon ensued.

The evidence submitted by the prosecution, disclosing its version of the case, is narrated by the Solicitor General in the People's brief.

"On May 13, 1993, the kidnap victim, Ramon John Dy Kow, Jr. and his live-in partner, Loida Navidad, were arrested by appellants Jose Sandigan and Armenia Pillueta and several other NARCOM agents for alleged illegal possession of marijuana (p. 32, TSN, April 20, 1994).

After the arrest, they were brought to the NARCOM Office situated at the compound of the Philippine National Police (PNP) Headquarters, Naga City (p. 32, *ibid.*). Thereat, they were at first warned by appellant Pillueta not to contact a lawyer (p. 35, *ibid.*). Appellant Pillueta likewise reminded them that it is only a matter of P10,000.00" (p. 35, *ibid.*).

"When Navidad's brother nonetheless arrived accompanied by a lawyer, appellant Pillueta got angry (p. 38, *ibid.*). At once, the victim and Navidad were dragged to the Naga City Jail situated at a distance of six (6) to seven (7) meters from the Narcom Office (pp. 10, 38-39, *ibid.*). Since their arrest, they were detained at the Naga City Jail (*ibid.*).

"Sometime in July 1993, appellant Alipio Santiano was detained at the Naga City Jail (pp. 4-5, *ibid.*). He was detained in the same cell occupied by the victim (p. 6, *ibid.*). When appellant Santiano was mauled by the inmates of Cell 3, the victim was one of those who participated in mauling him (p. 16, *ibid.*).

After the release of Santiano, he returned to the City Jail in November 1993 accompanied by one Lt. Dimaano (pp. 7-8, *ibid.*). Thereat, the victim was pointed to by appellant Santiano as the one who mastermind his mauling (*ibid.*).

On December 27, 1993, at about 6:00 o'clock in the evening, the victim asked permission from a jail trustee to allow him to buy viand outside the jail (pp. 7-9, *ibid.*). When he left, the victim was wearing a fatigue jacket and short pants (p. 9, *ibid.*).

"As the victim emerged from the PNP store, he was accosted by appellants Sandigan and Santiano (p. 7, TSN,

April 25, 1994). The two (2) appellants held the victim between them and thereafter hurriedly proceeded towards the NARCOM Office Situated at a distance of about twenty-five (25) meters away (pp. 7, 38-41, *ibid.*). Upon reaching the door of the NARCOM office, the victim was pushed inside (pp. 7-8, *ibid.*). Once the victim was already inside the NARCOM Office, appellant Sandigan proceeded to and took his place at Plaza Barlin facing the PNP Police Station (pp. 8-12, *ibid.*). The victim was made to sit and thereafter mauled by appellant Santiano (pp. 8-11, *ibid.*). Santiano got hold of a handkerchief, rolled it around his fists and continued to punch the victim for almost fifteen (15) minutes (p. 16, *ibid.*). As the victim was being mauled, appellant Pillueta stood by the door of the Narcom office, her both hands inside her pockets while looking to her right and left, acting as a lookout (*ibid.*).

"At this time, appellant Chanco who owned and drove his trimobile, parked it in front of the door of the NARCOM Office (pp. 15, 17, TSN, April 25, 1994). Thereafter, he proceeded inside the NARCOM Office (pp. 15, 17, *ibid.*).

"After a few minutes, appellant Chanco went out of the NARCOM Office and started the trimobile (p. 21, *ibid.*). His co-appellant Santiano and Pillueta followed him. Inside the trimobile, appellant Pillueta occupied the back seat (p. 21, *ibid.*). Santiano occupied the reversed seat in front of the passenger seat which was occupied by the victim (*ibid.*).

"As appellant Chanco was about to start his trimobile, appellant Sandigan, who was at Plaza Barlin, transferred to and stationed himself at the Century Fox in front of the GSIS building situated at the corner of General Luna and Arana Streets (. 23, *ibid.*).

"The trimobile proceeded towards the direction of San Francisco Church (p. 40, TSN, April 23, 1994). When it passed the Panganiban Drive, Naga City, on its way towards the direction of Palestina, Pili, Camarines Sur, the victim was still aboard the trimobile at the passenger seat nearest the driver (p. 4, TSN, May 24, 1994).

"When prosecution witness Rañola heard over the radio that a person was found dead at the canal in Palestina, Pili, Camarines Sur, he lost no time in informing a policeman Prila of the Pili Police Department that the descriptions of the dead person he heard over the radio fit not only the person he saw being hauled to and thereafter mauled at the NARCOM Office but likewise the same person who was on board the trimobile driven by the appellant Chanco (p. 13, TSN, May 6, 1994).

"Robert Dy Kow identified the man found dead in Palestina, Pili, Camarines Sur, as his brother Ramon John Dy Kow, Jr." [1]

The defense presented its own account of the facts hereunder expounded by it; viz:

"Accused-appellant Armenia Pillueta is an organic member of the NARCOM, Naga City, Command. Accused-appellant Jose Sandigan is a regular member of the PNP but, he was a former organic member of the NARCOM. On the other hand, Accused Alipio Santiano and Jose Vicente 'Jovi' Chanco are amongst the active Civilian Volunteer/Assists of the NARCOM.

"That at or about 5:00 o'clock P.M. of December 27, 1993, accused-appellant Sandigan was in front of the Advent theater; that while thereat, he saw accused-appellant Santiano and he invited the latter for a snack at the Mang Donald's a burger house, situated just beside the Advent theater; that after taking their snacks, they decided to go to the NARCOM office; that while on their way to the NARCOM office, they saw accused-appellant Chanco emerging from the Nehrus Department Store where the latter bought something; that this Nehrus Department Store is located in front of the Naga City Police Head Quarters which is also near the NARCOM office; that the three of them (Sandigan, Santiano and Chanco) proceeded to the NARCOM office; that when they arrived, accused-appellant Pillueta, SPO3 Lorna 'Onang' Fernandez, Tet Deniega and the NARCOM, District Commander P/INSP. Del Socorro were at the NARCOM office while accused-appellant Chanco's trimobile was parked in front of the NARCOM office; that while in the NARCOM office,

accused-appellant Santiano and Chanco were joking with each other, like kids, such that accused-appellants Santiano would sling accused-appellant Chanco with his handkerchief; that, as it was intermittently raining, accused-appellants Sandigan, Santiano and Chanco left the NARCOM office past 6:00 P.M. aboard the trimobile of accused-appellants Chanco, while accused-appellant Pillueta together with SPO3 Lorna Fernandez and Tet Deniega left the Narcom office at or about 8:00 P.M. and proceeded to the Sampaguita Music Lounge, to watch a lady band performing at the Sampaguita Music Lounge, leaving behind P/Insp. Nelson Del Socorro at the NARCOM office.

"That upon leaving the NARCOM office and while on board the trimobile accused-appellants Sandigan, Santiano and Chanco were deciding whether to see a movie or have a round of drink and, after failing to decide whether to see a movie or a round of drink, accused-appellants Sandigan and Chanco conducted accused-appellants Santiano to the jeepney terminal for Milaor, Camarines Sur and thereupon, accused-appellant Chanco also conducted accused-appellant Sandigan to the Philtranco terminal where the latter boarded a bus to Bato, Camarines Sur where he resides.

"That between 6:30 and 7:00 o'clock P.M. of the same date, accused-appellant Santiano was in Milaor, Camarines Sur, a Municipality less than four kilometers away from Naga City, and fetched Ms. Arcadia Paz, a traditional mid-wife (komadrone), from the latter's residence to conduct/perform a pre-natal therapy (hilot) upon his (Santiano) pregnant wife; that Ms. Paz and accused-appellant Santiano proceeded to and arrived at the latter's house in Naga City and about past 7:00 o'clock in the evening where Ms. Paz conducted a pre-natal therapy upon appellant Santiano's wife; that Ms. Paz finished the pre-natal therapy at or about 9:00 o'clock P.M.; that she (Paz) left the house of accused-appellant Santiano and was accompanied for home by latter at or about 10:00 o'clock of the same evening; that from past 7:00 o'clock when Paz and Santiano arrived at the latter's house until past 10:00 o'clock when they left Santiano's house, accused-appellant Santiano was all the time present at and never left his house.

"That on the other hand, SPO3 Fernandez, Deniega and accused-appellant Pillueta, upon leaving the NARCOM office, went directly to the Sampaguita Music lounge and watched the lady band perform thereat; that Roy Cabral, a common acquaintance of SPO3 Fernandez, Deniega and accused-appellant Pillueta, even saw and approached them at their table inside the Sampaguita Music Lounge; that the three of them (SPO3 Fernandez, Deniega and Pillueta) left the Sampaguita Music Lounge at or about 2:00 A.M. of December 28, 1993, and thereupon, they went to their respective homes.

"That on December 27, 1993, at any time of the day, the late Ramon John Dy Kow, Jr. was neither seen by the accused-appellants nor was he in the NARCOM office more specifically and particularly between 6:00 to 7:00 P.M. of the same date; that the late Ramon John Dy Kow, Jr. was known to SPO3 Fernandez and his (Dy Kow, Jr.) height and body built is almost the same or similarly the same as that of accused-appellant Chanco; that she (SPO3 Fernandez) also known William Rañola whom she usually see drunk/under the influence of liquor;

"That in the first week of January, 1994, during the investigation of the case conducted by the PNP Pili, Camarines Sur, SPO3 Fernandez was asked by major Ernesto Idian, chief of PNP Pili, Camarines Sur, of accused-appellant Pillueta's whereabouts in the night of December 27, 1993, where she (SPO3 Fernandez) told Major Idian that accused-appellant Pillueta was with her (SPO3 Fernandez) at the Sampaguita Music Lounge; that Major Idian did not ask her (SPO3 Fernandez) to execute an affidavit of what she told him instead, Major Idian requested her not to tell accused-appellant Pillueta about what he asked her.

"That on January 20, 1994, accused-appellants Pillueta, Santiano and Chanco, reported and submitted themselves to their superior officer, Col. Norberto Manaog, Deputy Director of the NARCOM at Camp Crame, Quezon City, wherein they reported that they were suspected of having killed Ramon John Dy Kow, Jr. and requested that they be placed under his custody; that Col. Manaog referred to them to the legal officer of the NARCOM, Major Acpal; that after being informed by accused-appellants Pillueta, Santiano and Chanco that they did not have any idea of whatever a warrant of arrest was already issued against them, Col. Manaog, in

consultation with Major Acpal, told them that there is no yet basis for them to be placed under the custody, so that, Col. Manaog instructed them just get in touch with him so that if a warrant of arrest comes out, the same could be served upon them; that Col. Manaog directed Major Acpal to proceed to Pili, Camarines Sur to determine the status of the investigation and to know whether a warrant of arrest was already issued; that on January 24, 1994, Major Acpal went to Pili, Camarines Sur and found out that a warrant of arrest against accused-appellants, Sandigan, who was already arrested, Pillueta and Santiano has been issued on January 21, 1994; that on January 25, 1994, Major Acpal, being a lawyer and the Legal officer of the NARCOM filed before the Municipal Trial Court, Pili, Camarines Sur, a motion to quash the warrant of arrest; that on January 23, 1994 accused-appellant Pillueta informed Col. Manaog that she was hospitalized due to a car accident and that she may be placed under his custody should a warrant for her arrest be issued; on January 26, 1994, she was placed under the custody of her superior, Col. Manaog of the NARCOM. On the other hand, accused-appellants, Santiano and Chanco were, from time to time, contacting Col. Manaog to determine whether a warrant of arrest was already issued but, since Col. Manaog was always out of his office, they were able to contact, via telephone facility, Col. Manaog only on April 16, 1994; and accused-appellants Chanco and Santiano went to the office of Narcom, Camp Crame, Quezon City, voluntarily surrendered, and Maj. Acpal placed them under the custody of the NARCOM and were detained at PNP NARCOM Cell, Camp Crame, Quezon City. The records of this case show that no warrant of arrest was issued against accused-appellant Chanco (Order dated Sept 5, 1994), however, he voluntarily surrendered and submitted to the custody of the NARCOM and to the trial court."[2]

Appellant Jovy Chanco had this further statement in his supplemental appeal brief; thus:

"On December 28, 1993, a cadaver of an unknown person was discovered somewhere in the vicinity of Barangay Palestina, Municipality of Pili, Province of Camarines, by Danilo Camba, the Barangay Captain of said locality. The corpse was later on identified by Robert Dy Kow as that one of his brother, Ramon John Dy Kow, Jr."[3]

Dr. Thomas S. Gonzales performed an autopsy on the cadaver of the victim. His findings revealed that Dy Kow, Jr., had fatally sustained the following injuries:

"Eye: Contusion, upper lid extending to the outer canthus, right;

"Ear: lacerated wound ripping off the lowest pole of the lobule, right; serrated border

"Sub-occipital region: lacerated wound, 0.9 cms. In length, centrally located;

"Neck: punctured wound, 3-4 mm deep, semi-circular with serrated border, base of neck at the sternomastoid border, right;

"Chest: Gunshot wound

point of entrance: 2nd ICS, sternal border, right, 12 mm in diameter

Bullet route: From the point of entrance extending backwards to the left, piercing the heart and left lung and lodging on the anterior aspect or surface of the sub scapular area, left.

"Point of exist: None

"Bullet slug: Recovered

"CAUSE OF DEATH: INTERNAL HEMORRHAGE SECONDARY TO GUNSHOT WOUND."[4]

Evaluating the evidence before it, the trial court found all four accused guilty beyond reasonable doubt of kidnapping, defined and penalized under Article 267 of the Revised Penal Code; the court adjudged:

"UPON THE FOREGOING CONSIDERATIONS, this Court FINDS FOR THE PEOPLE OF THE PHILIPPINES, and finds all of the accused, Jose Sandigan, Armenia, aka Armie Pillueta, Alipio Santiano, and Jose Vicente Chanco, aka Jovy, guilty beyond reasonable doubt of the crime of KIDNAPPING as defined and penalized under Art. 267 of the Revised Penal Code, and there being no mitigating or aggravating circumstances, hereby sentences each and all of them to suffer imprisonment, RECLUSION PERPETUA, with all the accessories of the penalty, and to indemnify the heirs of Ramon John Dy Kow, Jr. the sum of Fifty Thousand Pesos, and to pay the cost; they are credited in full for the preventive imprisonment.[5]

Accused-appellants filed the instant appeal.

Assailing the decision of the court a quo, appellants would insist that the amended information under which they were arraigned, tried and convicted, although so captioned as an indictment for the complex crime of kidnapping with murder, was, in reality, a mere indictment for murder. According to appellants, the use of the words "abducted" and "kidnapping" in the amended information was not in itself indicative of the crime of kidnapping being charged but that, from the averments of the information, it could be apparent that Ramon John Dy Kow, Jr., was "abducted or kidnapped" not for the purpose of detaining but of liquidating him. Hence, the defense theorized, the conviction for kidnapping had no legal ground to stand on.

Let it not be said that the contention lacks remarkableness; nevertheless, it is a legal proposition that can here hardly be accepted. The amended information reads:

"The undersigned 1st Assistant Provincial Prosecutor of Camarines Sur accuses JOSE SANDIGAN, ALIPIO SANTIANO, ARMIE PILLUETA and JOVY CHANCO of the crime of KIDNAPPING WITH MURDER, defined and penalized under Article 267 and Article 248 of the Revised Penal Code, committed as follows:

"That on or about the 27th day of December 1993 between 6:00 o'clock to 7:00 o'clock in the evening at Barangay Palestina, Municipality of Pili, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another with intent to kill, with treachery, superior strength and evident premeditation, did then and there, willfully, unlawfully and feloniously abduct, kidnap and bring into a secluded place at Palestina, Pili Camarines Sur, one RAMON JOHN DY KOW, JR. and while thereat attack and shoot with firearm the said Ramon John Dy Kow, Jr. for several times hitting him on the different parts of his body causing his instantaneous death.

"That as a consequence of the death of the victim Ramon John Dy Kow, Jr. his heirs suffered damages."[6]

The information is not so wanting as to render it legally inadequate for the purpose it has been intended by the prosecution. It should be sufficient for an information to distinctly state the statutory designation of the offense and the acts or omissions complained of as being constitutive of that offense.[7] A reading of the amended information readily reveals that the charge is for "kidnapping with murder, defined and penalized under Article 267 (Kidnapping and Serious Illegal Detention) and Article 248 (Murder) of the Revised Penal Code." Evidently, appellants have been properly apprised of the charges; the information did go on to state thus "

"That on or about the 27th day of December 1993 between 6:00 o'clock to 7:00 o'clock in the evening at Barangay Palestina, Municipality of Pili, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another with intent to kill, with treachery, superior strength and evident premeditation, did then and there, wilfully, unlawfully and feloniously abduct, kidnap and bring into a secluded place at Palestina, Pili, Camarines Sur, one RAMON JOHN DY KOW, JR. and while thereat attack and shoot with firearm the said Ramon John Dy Kow, Jr. for several times hitting him on the different parts of his body causing his instantaneous death."[8]

The accused have gone through trial without any objection thereover. Exceptions relative to the statement or recital of fact constituting the offense charged ought be presented before the trial court; if none is taken and the

defective or even omitted averments are supplied by competent proof, it would not be error for an appellate court to reject those exceptions on appeal.[9]

The issue is next posed: When a complex crime has been charged in an information and the evidence fails to support the charge on one of the component offenses, can the defendant still be separately convicted of the other offense? The question has long been answered in the affirmative. In *United States vs. Lahoylahoy and Madanlog*,[10] the Court has ruled to be legally feasible the conviction of an accused on one of the offenses included in a complex crime charged, when properly established, despite the failure of evidence to hold the accused of the other charge.

Article 267 of the Revised Penal Code, prior to its amendment by Section 8 of Republic Act 7659,[11] reads:

"Art. 267. Kidnapping and serious illegal detention.- Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death;

"1. If the kidnapping or detention shall have lasted more than five days.

"2. If it shall have been committed simulating public authority.

"3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.

"4. If the person kidnapped or detained shall be a minor, female, or a public officer.

"The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above mentioned were present in the commission of the offense."

The elements of the offense, here adequately shown, are (a) that the offender is a private individual; (b) that he kidnaps or detains another, or in any other manner deprives the latter of his liberty; (c) that the act of detention or kidnapping is illegal; and (d) that, in the commission of the offense, any of the following circumstances is present, i.e., (i) that the kidnapping or detention lasts for more than 5 days, or (ii) that it is committed simulating public authority, or (iii) that any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made, or (iv) that the person kidnapped or detained is a minor, female, or a public officer.[12]

Prosecution witness William Rañola testified that he had seen the victim being accosted, held and thereafter dragged to the NARCOM office by appellants Santiago and Sandigan. Inside the NARCOM office, the victim was mauled by Santiano. For several minutes, Santiano continued to batter him with punches while Pillueta stood by the door and so acted as the "lookout." The appellants then took the victim away on a trimobile owned and driven by Chanco. Rañola positively identified the fatigue jacket worn by the victim on the evening of his abduction on 27 December 1993 and when his lifeless body was found in the morning of 28 December 1993. Don Gumba corroborated Rañola's testimony. Gumba was positive that he had seen the victim at around eight o'clock in the evening of 27 December 1993 with appellants Santiano and Pillueta on Board the trimobile driven by appellant Chanco on its way towards the direction of Palestina, Pili, Camarines Sur, where, the following morning, the victim was found evidently after succumbing to several gunshot wounds.

Appellants have not shown any nefarious motive on the part of the witnesses that might have influenced them to declare falsely against appellants, the Court sees no justification to thereby deny faith and credit to their testimony.[13] The Court likewise shares the view of the Solicitor General in pointing out that -

"1. There is no question that the victim, who was on the date in question detained at the Naga City Jail, asked

permission from the jail trustee in order to buy viand outside. It was while he was emerging from the PNP store that he was accosted by appellants Santiano and Sandigan

"2. From the moment that the victim was accosted in Naga City, he was at first dragged to the NARCOM Office where he was mauled. This circumstance indicated the intention to deprive him of his liberty for sometime, an essential element of the crime of kidnapping.

"3. The victim did not only sustain serious physical injuries but likewise died as indicated in the autopsy report, thus, belying appellants' claim that none of the circumstances in Article 267 of the Revised Penal Code was present.

"4. Witness Don Gumba was positive when he declared that he saw the victim at about 8:00 o'clock in the evening of December 27, 1993 with appellants Santiano and Pillueta on board the trimobile driven by appellant Chanco on its way towards the direction of Palestina, Pili, Camarines Sur where the victim was found dead." [14]

The fact alone that appellant Pillueta is "an organic member of the NARCOM" and appellant Sandigan "a regular member of the PNP" would not exempt them from the criminal liability for kidnapping.[15] It is quite clear that in abducting and taking away the victim, appellants did so neither in furtherance of official function nor in the pursuit of authority vested in them. It is not, in fine, in relation to their office, but in purely private capacity, that they have acted in concert with their co-appellants Santiano and Chanco.

The crime of kidnapping cannot be here absorbed by the charge of murder since the detention of the victim is not shown to have been for the purpose of liquidating him. Appellants themselves, in fact, all deny having killed the victim. And while the evidence may have thus been found to be wanting by the trial court so as to equally hold appellants responsible for the death of the victim, the Court is convinced that the court a quo did not err in making them account for kidnapping. The circumstances heretofore recited indicate the attendance of conspiracy among the appellants thereby making them each liable for the offense.

The claim of appellants that they cannot be held liable for indemnity in the amount of P50,000.00 because the prosecution did not present evidence to prove damages is without merit. The indemnity awarded by the trial court clearly refers to the civil indemnity for the offense[16] and not for actual damages sustained.

WHEREFORE, the appealed decision of the trial court is AFFIRMED. Costs against appellants.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Bellosillo, Panganiban and Quisumbing, JJ., concur.

[1] Rollo, pp. 235-240.

[2] Rollo, pp. 109-113.

[3] Rollo, p. 171.

[4] Records, p. 20.

[5] Rollo, p. 226.

[6] Rollo, p. 16.

[7] Sta. Rita vs. Court of Appeals, 247 SCRA 484.

[8] Rollo, p. 16.

[9] See U.S. vs. Lampano, 13 Phil. 409, 413.

[10] 38 Phil. 330 see Francisco, Criminal Procedure, 1993 Ed., p. 56.

[11] The offense was committed prior to the effectivity of Republic Act No. 7659 (containing more onerous provisions than its prior counter-part) on 31 January 1994. This provision, following the amendment, now reads: ART. 267. Kidnapping and serious illegal detention. - Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death;

"1. If the kidnapping or detention shall have lasted more than three days.

"2. If it shall have been committed simulating public authority.

"3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained: or if threats to kill him shall have been made.

"4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.

"The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances abovementioned were present in the commission of the offense.

"When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed.

[12] See Luis B. Reyes. Revised Penal Code. Book Two, Twelfth Ed., pp. 513-514.

[13] See People vs. Gonzales, Jr., 182 SCRA 393.

[14] Rollo, pp. 254-255.

[15] Instead of arbitrary detention under Article 124 of the Revised Penal Code.

[16] See People vs. Gonzales, Jr., *supra*.

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