

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REY SUNGA, RAMIL LANSANG, INOCENCIO PASCUA, LITO OCTAC AND LOCIL CUI @ GINALYN CUYOS, ACCUSED, REY SUNGA, RAMIL LANSANG AND INOCENCIO PA...*G.R. No. 126029. March 27, 2003*

Ponente: CARPIO MORALES, J.

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The sole, uncorroborated testimony of an accused who turned state witness may suffice to convict his co-accused if it is given unhesitatingly and in a straightforward manner and is full of details which by their nature could not have been the result of deliberate afterthought;^[1] otherwise, it needs corroboration the presence or lack of which may ultimately decide the cause of the prosecution and the fate of the accused.

On July 12, 1994, the mutilated body of AAA (AAA), a minor and a high school student of Palawan Integrated National School, (PINS), was found at a coffee plantation in Jacana, Barangay Bancao-Bancao in Puerto Princesa City, Palawan.

The hunt for the possible killers of AAA was swift, several arrests having been made in a span of days, followed by the conduct of the requisite preliminary investigation by the Municipal Trial Court in Cities (MTCC) in Puerto Princesa City which culminated in the filing before the Regional Trial Court (RTC) of Puerto Princesa City of the information for rape with homicide against the suspects. The case was raffled to Branch 48 of the court.

Accused in the Information were Rey Sunga, Ramil Lansang, Inocencio Pascua, Jr., and Lito Octac as principals, and Locil Cui alias Ginalyn Cuyos as accomplice the accusatory portion of the information dated September 6, 1994 reads as follows:

XXX XXX XXX

That on or about June 29, 1994 in the afternoon, at Barangay Irawan, Puerto Princesa City, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring and confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously, by means of force, violence and intimidation, to wit: by pinning down one AAA, a minor, fifteen (15) years of age, succeeded in having carnal knowledge of her against her will and without her consent; that on the occasion of said rape and to enable them to conceal the commission of the crime, the herein accused in furtherance of the conspiracy together with LOCIL CUI, a minor, acting with discernment and who cooperated in the execution of the offense as ACCOMPLICE, did then and there wilfully, unlawfully and feloniously, taking advantage of their superior number and strength, with intent to kill, treacherously attack, assault, and use personal violence upon AAA by repeatedly stabbing and smashing a stone on her head, thereby inflicting upon her mortal wounds and multiple fractures on her skull which were the direct cause of her death shortly thereafter.

CONTRARY TO LAW.[2]

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The case was docketed as Criminal Case No. 11984.

Upon arraignment all the accused pleaded not guilty.

On September 26, 1994, the accused through counsel filed a petition for bail,[3] underscoring the weakness of the People's evidence, there being no direct evidence against them, a fact admitted by the City Prosecutor in his resolution[4] for their indictment. Hearings on the bail petition were conducted in the course of which the prosecution, after presenting several witnesses, filed on October 18, 1994 a motion to discharge[5] accused Locil Cui (Locil) to be a state witness, averring therein that the legal requisites for her discharge had been complied with, and submitting her sworn statement[6] which detailed how her co-accused carried out the crime. The respective counsels for the other accused opposed the motion, insisting that it could only be filed during trial on the merits and that Locil's testimony was not absolutely necessary.[7] By Order of October 20, 1994,[8] the trial court deferred the resolution of the bail petition until after the prosecution had rested its case, but it granted the motion to discharge Locil.

The accused assailed the discharge of Locil via a petition for certiorari and prohibition[9] before the Court of Appeals which issued a temporary restraining order (TRO) enjoining the trial court from proceeding with the trial of the case.[10] The TRO lapsed, however, without a preliminary injunction being issued, hence, the trial of the case resumed.

Through state witness Locil, then 14 years old and an elementary school dropout who had been living away from her parents and using the alias "Ginalyn Cuyos"[11] to evade, by her own account,[12] her mother and aunt who were looking for her after she got pregnant (the pregnancy was later aborted), the prosecution established the following version:

At about 2:00 p.m. of June 29, 1994, Locil boarded a tricycle bearing the marking "Ryan-Ryan" from the Social Security System (SSS) Office in Puerto Princesa City. Already on board the tricycle was a lesbian who had a birthmark on the right side of the face and who invited Locil for a joy ride.[13] Upon instruction of the lesbian, the tricycle driver, whom she did not know but whom she later identified and who answered to the name Rey Sunga (Sunga), repaired to the Mendoza Park.

At the Mendoza Park, the lesbian alighted and spoke to AAA, the victim, who was dressed in a PINS uniform. The lesbian, together with AAA, then joined Locil aboard the tricycle which was already driven by Inocencio Pascua (Pascua) vice Sunga who had in the meantime left. Still aboard the tricycle, the four of them proceeded to and reached Barangay Irawan, Puerto Princesa City and on reaching a forested area, AAA was met by Sunga who held her and by Ramil Lansang (Lansang) who wrapped his arm around her waist as they dragged her to a nearby "buho" clumps. There, AAA was made to lie down. Her skirt was raised and her panty was taken off by Lansang. As she lay face up with both her hands held by Sunga and Pascua, Lansang stripped naked, placed himself on top of AAA, inserted his penis into her vagina and "seemed to be pumping." [14]

After Lansang, Sunga took turn to have sexual intercourse with AAA as Lansang and one who was not known to Locil and whom the latter described as one who has "chinky" or "narrow eyes," later identified to be Pascua, kept AAA pinned down by her hands.[15]

Pascua too subsequently had carnal knowledge of AAA who all along struggled against her malefactors.[16]

After Pascua satisfied his lust, Sunga, with a sharp bladed weapon, stabbed the abdomen of the motionless AAA, drawing her to rise to a sitting position and clutch her abdomen. Sunga then passed on the bladed weapon to

Lansang who smashed AAA's head with an irregularly shaped stone, causing her to fall to the ground lifeless. Locil, who witnessed everything, was then pulled by the lesbian and led back into the tricycle where they awaited Lansang, Sunga and Pascua to ride with them. All five thereafter headed back to Puerto Princesa City proper, leaving AAA's body behind.[17]

When the five reached the Mendoza Park where Locil alighted, she heard the voice of someone from inside the tricycle warning her to keep mum about the incident, otherwise something would also happen to her. Locil then repaired to her boarding house. Until she was arrested following the discovery on July 12, 1994 of AAA's corpse, she did not report the incident to anyone.[18]

The other prosecution witnesses provided testimonies pertaining to circumstances after the fact.

Oscar Devilleres, a garbage truck driver, recalled that he was on his way home in Jacana, Barangay Bancao-Bancao at 12:30 a.m. of June 30, 1994, a day after the incident, when from a distance of about 30 meters, he saw Lansang walking back and forth and appearing restless near the coffee plantation in Jacana, Barangay Bancao-Bancao where AAA's body was later found on July 12, 1994. Although it was then nighttime, Devilleres had a good look at Lansang due to the illumination provided by the electric light post under which Lansang was situated.[19]

Igleceria Gabinete, a resident of Jacana, declared that she was among those who saw the mutilated body of AAA in the morning of July 12, 1994 at a coffee plantation near her place; that in the afternoon of that date and while tending her sari-sari store, a tricycle arrived with three men on board, one of whom, Lito Octac (Octac) alighted, leaving the two inside the tricycle who seemed to be hiding their faces; that one of those two men inside the tricycle inquired from her whether the discovered corpse, that of AAA, was from Barangay Caroray; that the following day, she reported to the police about the three suspicious looking men who went to her store; and that two days later, she was made to, as she did, identify Lansang at the police station as one of the men who went to her store in the afternoon of July 12, 1994 and inquired as to AAA's corpse.[20]

xxxx (xxx), AAA's father, recounted as follows: During the wake of his daughter at the Sampaton Funeral Parlor, at 1:30 a.m. of July 14, 1994 (15th) day following the incident), Lansang arrived and told him as follows: "Total tayo ay magkaisang barangay lang ay ayosin natin itong kaso at magtulungan na lang, mayroon na akong alam na makakapagturo kung sino and may kagagawan sa krimen. Huwag na lang nating sabihin sa mga polis." When he asked Lansang who he was referring to, Lansang replied that he would return. Lansang did not return, however, prompting xx to relay to law enforcers the statements of Lansang, his neighbor who was courting AAA at the time and with whose family his own family was in good terms.[21]

Testifying on the autopsy she conducted on AAA, Dr. Ma. Carla Gallego-Vigonte (Dr. Vigonte) affirmed the following findings in her report[22] dated July 12, 1994:

POST-MORTEM FINDINGS

- The cadaver was seen in advanced stage of decomposition.
- Depressed fracture noted at the frontal bone of the skull about 2 cm anterior to the bregma, measuring 2.5 cm in width and 3.5 cm in length, with a rounded hole at its right side with irregular edges measuring 4 cm x 5 cm in diameter; with a linear fracture about 2 cm in length extending from the depressed fracture up to the bregma; linear fracture about 3 cm in length along the coronal suture, right side, extending from the hole to the bregma.
- Multiple linear fracture with lengths ranging from 2 cm to 5 cm, noted at the lambdoid suture, about 2 cm right side of the lambda, extending to the right side of the occipital and parietal bones of the skull.

PROBABLE CAUSE OF DEATH. — Intracranial Hemorrhage secondary to multiple fractures of the skull.

Dr. Vigonte opined that a blunt object or instrument like a hard wood or a rock caused the injury noted in post-mortem finding no. 2 which was fatal, it being a deep wound in the skull affecting its inner organ and lacerating the tissues of the brain, thus causing hemorrhage; that for said fatal wound, the assailant was probably at AAA's left side; that for the injury in post-mortem finding no. 3, the attacker was at the back of AAA; and that in light of the multiple injuries, there were more than one perpetrator.[23] Dr. Vigonte was, however, unable to determine whether AAA was also raped.[24]

The prosecution adduced documentary evidence consisting mainly of two supposed extrajudicial confessions made by Sunga.

In a sworn statement (Exhibit "A") [25] dated July 18, 1994 which was executed before SPO2 Jose P. Janoras (SPO2 Janoras), Sunga made the following disclosures:

At about 10:00 a.m. of the day of the incident, June 29, 1994, as he was then at work as a tricycle dispatcher, Lansang arrived in a tricycle bearing the marking "Ryan-Ryan" and invited him to accompany him in fetching AAA at the PINS. He obliged and just before reaching their destination, Locil boarded the tricycle. At the gate of the school, Lansang talked to AAA who was then wearing the school uniform after which the two boarded the tricycle which he (Sunga) drove to a spot at the corner of Rizal Avenue and Lacao St. in the Puerto Princesa City proper where the four of them (Sunga, Lansang, Locil and AAA) transferred to an "owner's jeep" brought by Octac alias "Toto." The group then proceeded to and reached Barangay Irawan at around 10:30 a.m. and at a forested area in Sitio Tagaud, everyone alighted except for Octac. Lansang then forcibly undressed AAA and raped her while he (Sunga) and Locil watched. After consummating his carnal desire, Lansang hit AAA with a 2" x 2" piece of wood on her head and successively on different parts of her body. When AAA was already dead, Locil also whacked AAA's body many times. The group then headed back to the city proper, leaving AAA's remains at the scene of the crime.

In accordance with their previous agreement, he (Sunga), Lansang and Locil returned to Barangay Irawan aboard a jeep driven by Octac four days after June 29, 1994 and took AAA's body for the purpose of bringing it to Jacana in Barangay Bancao-Bancao in accordance with Lansang's wish. On their way to Bancao-Bancao, Locil inserted a cigarette into the corpse's mouth — ". . . pinasigarilyo ni [Locil] ang bangkay upang ikubli sa maaaring makakita ang tunay na kaanyuan ni AAA." [26] At Barangay Bancao-Bancao, he (Sunga), Lansang and Locil carried the victim's body and left the same at a coffee plantation fifty meters away from Jacana Road while Octac served as a lookout by the roadside. On their return to the city, the four parted ways at the corner of Rizal Avenue and Lacao Street. He (Sunga) then drove the tricycle with the marking "Ryan-Ryan" with Locil aboard while Lansang and Octac remained together at the jeep.[27]

The above sworn statement bears Sunga's signature and that of his assisting counsel, Atty. Agustin Rocamora (Atty. Rocamora), Puerto Princesa City Legal Officer.

Testifying as to the investigation he conducted upon Sunga, SPO2 Janoras recalled that he was on duty at the Puerto Princesa City police precinct in the morning of July 18, 1994 when SPO4 Boy Pantollano and patrolman Bolos arrived together with Sunga. The two brought Sunga inside a room and asked him questions pertaining to AAA's death and after about thirty minutes, Sunga was presented before him (SPO2 Janoras) for investigation. He initially asked Sunga whether he knew anything about AAA's death and Sunga replied affirmatively, prompting him to inform him of his rights under custodial interrogation. After Sunga signified his desire to avail of the services of a lawyer, Sunga chose Atty. Rocamora to be his counsel from among the names of lawyers mentioned by him (SPO2 Janoras). He thereupon fetched Atty. Rocamora from his residence. Atty. Rocamora

briefly conferred with Sunga, asking him if he wanted to give a confession and informing him of the consequences thereof. Thereafter, the investigation proceeded with Sunga voluntarily giving his answers to questions he (SPO2 Janoras) propounded at the end of which investigation Sunga and Atty. Rocamora affixed their respective signatures on the recorded statement.[28]

The execution of Exhibit “A” was, during the preliminary investigation before the Municipal Trial Court,[29] affirmed by Sunga. Apart from acknowledging its contents, Sunga answered the investigating judge’s other queries as he implicated Lansang, Locil and Octac in the killing of AAA. This time, however, he alleged that not only Lansang but also Octac raped AAA, adding that he merely held AAA’s hand.[30]

Subsequently or on August 3, 1994, Sunga executed another sworn statement (Exhibit “I”)[31] before Special Investigator Reynaldo O. Abordo of the Puerto Princesa office of the National Bureau of Investigation (NBI). Exhibit “I” varied in a number of respects from Exhibit “A.” In Exhibit “I,” Sunga declared that in the morning of June 28, 1994 he already had an agreement with Lansang to fetch AAA from her school on the following day; that at 8:00 a.m. of the following day, June 29, 1994, he, together with Lansang, Lito Octa (should be Octac) and a certain Jun left Mendoza Park and proceeded to Irawan after asking Locil, one Bing Manila, and a certain Josie to fetch AAA at her school; that Jun drove the tricycle back to the city proper and he transported their female companions including AAA to Irawan; that at Irawan, Lansang raped the struggling AAA whose hands were then held by Josie; that after Lansang and Jun raped AAA, Lansang smashed her head twice in accordance with his plan to kill her which plan was known to him (Sunga), Locil, Octac and Jun; that at 1:30 a.m. of June 30, 1994, Lansang, Sunga, Octa and Jun returned to Irawan, took AAA’s corpse and dumped it at a coffee plantation in Jacana Road; and that he did not take part in the rape or killing of AAA but merely joined the group due to Lansang’s promise to give him P500.00. Exhibit “I” embodied a waiver by Sunga of his right to counsel.[32]

The prosecution evidence with respect to AAA’s family’s incurring of the amount of P11,000.00 for AAA’s funeral expenses was admitted by the defense.[33]

Upon the other hand, all the accused proffered alibi.

Accused-appellant Sunga, who had previously been convicted for robbery with homicide, denied having anything to do with the rape and killing of AAA. He branded as false the testimony of Locil whom he claimed is a prostitute and a pimp and was always seen loitering at Mendoza Park. While he acknowledged knowing Octac and Pascua, he denied being in their company on June 29, 1994 or in Lansang’s.[34]

Confronted with his sworn statement-Exhibit “A,” Sunga explained the circumstances behind his execution thereof as follows: After having been arrested without a warrant by the police in the evening of July 15, 1994 at the corner of Rizal and Valencia streets while “picking up passengers,” he was brought to the police station where he was subjected to violence and intimidation by SPO2 Pantollano and a certain Ka Ronnie to coerce him to “pinpoint to anybody”, and he involuntarily did. After being mauled and kicked, he was made to appear before police investigator Janoras on that same night of July 15, 1994 during which he signed the second and third pages of a three paged affidavit embodying his questioned extrajudicial confession without the assistance of counsel and under threats and intimidation from SPO2 Pantollano. He was later brought on July 18, 1994 to the Capitol building where he signed the first page of his confession after which Atty. Agustin Rocamora also signed the same.[35]

As to his other sworn statement-Exhibit “I” executed before the NBI, Sunga initially affirmed having given the answers to questions propounded therein by the NBI Investigator and having executed the “confession” for the purpose of applying to become a state witness in the case.[36] He subsequently retracted his acknowledgement of Exhibit “I” as his own confession.[37] While he admitted having participated in the preliminary investigation at

the MTCC of Puerto Princesa City, he could not remember having given most of the statements he made therein.[38]

The defense presented other witnesses.

Joel Esquela Mayo (Mayo), an employee of Puerto Princesa City's crime watchdog "Bantay Puerto," declared that in the morning of July 14, 1994 he and a co-employee Miguel Abrina (Abrina) were at Jacana in Barangay Bancao-Bancao upon orders from their superior to be on the lookout for the possible return thereto of the perpetrators behind AAA's killing; seeing Locil uneasy as she alighted from a tricycle, they approached and asked her how she was related to AAA to which she replied that she was a friend; then Locil brought the two to the very spot where AAA's remains were found and while there she acted as if she was looking for something; Locil later commented that it was there that AAA and she had a fight; and Locil was subsequently apprehended by the police.[39]

Abrina substantially corroborated Mayo's story.[40]

Another witness, Orlando Lacsamana (Lacsamana), a detainee at the Puerto Princesa City jail, testified that while he was conversing with Locil, also a detainee, on August 15, 1994, they saw Lansang being brought inside. Lacsamana asked Locil if she knew Lansang but she denied having known Lansang or having been her companion.[41]

Detention prisoners John Pulga (Pulga) and Jerry Galgarin (Galgarin) as well as Bureau of Jail Management and Penology (BJMP) personnel Joel Rabanal (Rabanal) and SPO2 Conrado Guzman Rafael (SPO2 Rafael) testified as to Locil's failure to correctly identify Lansang on separate occasions.

Thus detention prisoner Pulga narrated that on July 21, 1994, he was made to form part of a police line-up together with three other detainees; and that when Locil was asked by the police to identify who among them was Lansang, she pointed to him (Pulga) whom she called Ramil Lansang.[42]

Corroborating Pulga's testimony was BJMP personnel Rabanal who brought out Pulga and the three others for the police line-up, he too alleging that Locil indeed pointed to Pulga as Lansang.[43]

Detention prisoner Galgarin, who was detained at the 263rd Mobile Post of the Philippine National Police on July 23, 1994, declared that he saw Locil arrive in a police car after which Lansang and three other detainees were made to stand in a police line-up; and that when Locil was asked to identify Lansang, she said he was not there.[44]

SPO2 Rafael testified that while he was on duty in the aforesaid PNP Mobile Post on August 23, 1994, Locil hesitated to identify Lansang even after the police assured her not to be afraid.[45]

Accused-appellant Pascua disclaimed knowledge of anyone of his co-accused prior to the June 29, 1994 incident. He denied having anything to do with the killing or rape of AAA and branded Locil's account as a lie. He claimed that he was staying with his uncle Victor de Felipe at 27 E. Burgos St., Puerto Princesa City from April to July 14, 1994; that while he was driving the tricycle with the marking "Ryan-Ryan" for a living, he returned it to its owner on June 27, 1994 due to engine trouble and never drove it again; that at about 8:00 a.m. of June 29, 1994, he, together with his uncle Victor De Felipe and a carpenter, went to San Pedro also in Puerto Princesa City where he helped in recovering materials from De Felipe's demolished house thereat for use in the latter's other residence at Burgos St.; and that he was at San Pedro until 4:00 p.m. of the same day.[46]

Continuing, Pascua declared that on July 14, 1994, he left for his stepfather's home at Barangay Burirao of the town of Narra where he was, on July 23, 1994, arrested without a warrant by the police on suspicion that he might

have been involved in the subject crime, he having driven for sometime the tricycle bearing the marking “Ryan-Ryan;” that the apprehending policemen sought his cooperation so he could be utilized as a witness against Lansang, even offering him a P100,000.00 reward and his exclusion from the criminal information, but he refused for he knew nothing about the crime; that inside a small room at the police station in the city, he again refused to obey SPO4 Pantollano’s order for him to say certain things about the crime, thereby infuriating Pantollano who threatened to implicate him; that while still under detention on July 24, 1994, he was brought before Locil for identification purposes but Locil denied knowing him; and that he did not go into hiding after June 29, 1994 for he took up a farming course at the Palawan National Agricultural College (PNAC).[47]

Victor De Felipe corroborated his accused nephew’s testimony as to his whereabouts on June 29, 1994 and his returning the tricycle two days before the incident.[48] Felix Mayor, De Felipe’s carpenter, confirmed Pascua’s being with him and De Felipe the whole day of June 29, 1994 at Barangay San Pedro to retrieve building materials from De Felipe’s demolished house in the said place.[49]

The testimony of witness Espiridion Labotoy was dispensed with when the prosecution admitted its corroboration of Pascua’s allegation that the latter returned the tricycle to its owner on June 27, 1994.[50]

Filomena Pascua-Tesorio also corroborated her nephew Pascua’s claim that Locil did not identify him as one of those who wronged AAA. And she added that during her visit to Pascua at the police station on July 24, 1994, she asked Locil if she was acquainted with Pascua and she replied in the negative, saying it was her first time to see Pascua.[51]

Cesar Batin (Batin), an instructor at PNAC, attested that Pascua was enrolled at PNAC Abo-Abo Center in Brooke’s point on July 18, 1994 but that he attended classes for only about a week and resumed his studies on August 16, 1994 until October 11, 1994. Batin affirmed the certification he issued as to Pascua’s school attendance.[52]

Pascua’s mother Teodora Española testified that she accompanied her arrested son when he was brought by the police to Puerto Princesa City on July 23, 1994 and confirmed that the policemen offered Pascua a reward in exchange for his admitting responsibility for the crime but that she rebuffed them.[53]

Lito Octac, also clinging to alibi, alleged that on the day of the incident he was working at Pambato Forwarder loading cargoes and pieces of baggage, in support of which he presented an entry (Exhibit “9”)[54] in his employer’s logbook showing that he reported for work from 1:00 to 5:00 p.m. of June 29, 1994.[55]

Lansang, who operated a pump boat that ferried passengers from Barangay Caruray, San Vicente, Palawan where his parents reside, to Barangay Bahile, Puerto Princesa City and vice-versa, declared as follows: At about 8:30 a.m. of June 29, 1994, he met his sister Gloria Negosa in her office at the Philippine Ports Authority for the purpose of borrowing from her P3,000.00 which he would use to buy pieces of plywood and paint for his boat. His sister, however, directed him to get the money from his mother who happened to be at her office at the time and who received two PCIB checks both dated June 29, 1994 payable to cash, one in the amount of two thousand (P2,000.00) pesos, and another in the amount of Nine Thousand Six Hundred Sixteen (P9,616.00) pesos from Gloria. Shortly after, he and his mother went to the PCI Bank where he, instead of his mother who did not have any identification card and Community Tax Certificate, did the encashing (at 9:53 a.m.) of the checks — (Exhibits “12” and “12-A”). The two left the bank and proceeded to the Palawan Poultry store from which they purchased fertilizer. Thereafter, they bought plywood and paint at the Unico Merchandising.[56] (An official receipt dated June 6, 1994 of P2,206 representing the purchase price of the goods was marked as Exhibit “11”).[57]

Continuing, Lansang declared that while his mother left to make her other purchases, he remained at the Unico

Merchandising until 12:00 noon when he went to the house of his brothers-in-law to pick up her mother's goods. At the said house, he briefly met a resident thereof named Ariel Bactad and then took his mother's goods. He loaded all their purchases in a jeep bound for Barangay Bahile from which point they were to be transported via a pump boat to his parent's home in Barangay Caruray. As his mother no longer showed up, he was constrained to accompany his cargo aboard the jeep which departed at 1:00 p.m. and reached Barangay Bahile at 3:00 p.m. of the same day, June 29, 1994. At Barangay Bahile, he loaded the goods into his boat with the help of the boat driver, Arnel Tulonghari. He then took lunch at the carinderia of a certain Jerry (or Jerico) Rufano where he waited in vain for two hours for his mother to come to Barangay Bahile. At 5:00 p.m. of June 29, 1994, Rufano drove him to Barangay Salvacion where he got a jeepney ride on his way home to the city proper, arriving there at about 8:30 p.m. still of the same day.[58]

Lansang further declared that he had never been to Barangay Irawan or to Jacana in Barangay Bancao-Bancao. While he admitted that he, together with one Joel Egaña, went to the Sampaton Funeral Parlor in the evening of July 13, 1994 to condole with the xxxx, he denied having told xxx that he (Lansang) knew somebody who could pinpoint those responsible for the crime. He likewise denied asking xxx to refrain from seeking the assistance of law enforcers, he having merely informed xxx that Sunga, with whom (he) Lansang got to be acquainted earlier that same evening, knew AAA. Finally, Lansang disclaimed having been AAA's suitor for he had a live-in partner named Mary Ann Dineros whom he intended to marry but could not do so due to his indictment in the case at bar.[59]

Witnesses Jerry Rufano, Arnel Tulonghari and Ariel Bactad corroborated pertinent parts of Lansang's testimony as to his whereabouts and activities on June 29, 1994.[60]

Joel Egaña also affirmed having accompanied Lansang to Sampaton Funeral parlor on the night of July 13, 1994.[61]

Melisa P. Mateo, on the other hand, testified that as a bank teller of PCI Bank, she received and processed for encashment the two checks (Exhibit "12") [62] from Lansang at almost 10:00 a.m. of June 29, 1994, which checks as well as Lansang's signatures and hers and other inscriptions thereon she identified.[63]

Edgardo Caisip declared that he was the driver of the jeepney which Lansang rode on together with his cargo for a trip from the city proper to Barangay Bahile from 1:00 to 3:00 p.m. of June 29, 1994. Caisip added that he already knew Lansang before that time, the Lansangs having been his usual passengers.[64]

Finally, Freddie Gallego, a barangay councilor of Barangay Caruray, claimed that Lansang was with him in the afternoon of July 12, 1994 on the occasion of a birthday party in the said barangay.[65]

By decision of March 7, 1996, the trial court convicted Sunga and Lansang as principals of the crime of Rape with Homicide and sentenced each to suffer the penalty of DEATH, and Pascua as principal in the crime of Rape. The dispositive portion of the decision reads, quoted verbatim:

WHEREFORE, premises considered, the Court finds accused REY SUNGA and RAMIL LANSANG GUILTY beyond reasonable doubt as principals of the crime charged and are sentenced to each suffer the penalty of DEATH. Accused INOCENCIO PASCUA, JR., is also found GUILTY as principal of the crime of Rape and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Accused RAMIL LANSANG, REY SUNGA and INOCENCIO PASCUA, JR. are jointly and severally liable to indemnify the heirs of AAA the sum of P150,000.00 as moral, actual and compensatory damages with all the accessory penalties provided for the law and to pay the costs.

For failure of the prosecution to prove the guilt of accused LITO OCTAC beyond reasonable doubt, he is hereby ACQUITTED of the crime charged.

It appearing that Lito Octac is detained and Locil Cui alias Ginalyn Cuyos is still under the custody of the PNP, Puerto Princesa City their release are hereby ordered unless held for other lawful cause or causes.

The City Jail Warden of Puerto Princesa City and Chief of Jimmy Carbonell of Puerto Princesa City, are hereby ordered to transfer immediately the bodies of accused REY SUNGA and RAMIL LANSANG to the New Bilibid Prison, Muntinlupa, Metro Manila pending review by the Supreme Court of this decision.

SO ORDERED.[66]

Hence, the automatic review of the case by this Court pursuant to Article 47 of the Revised Penal Code, as amended.

Sunga, Lansang and Pascua filed their respective appeal briefs.

In the Appellee's Brief, the Solicitor General prays for the affirmance of Sunga and Lansang's conviction and the modification of Pascua's conviction such that he be also convicted for rape with homicide and sentenced to suffer the penalty of death.

The issues in the case boil down to:

- (1) Whether the discharge by the lower court of Locil Cui as a state witness is in accordance with law; and
- (2) Whether the guilt of appellants has been proven beyond reasonable doubt.

After examining the record of the proceedings prior to the trial court's questioned issuance of the order discharging Locil to become, as she did, a state witness, this Court is satisfied that there was nothing irregular therewith. Her discharge was ordered in the course of what originally were hearings on the petition of the accused for bail and after the prosecution had presented several of its witnesses and submitted Locil's sworn statement. Contrary to accused's counsels' argument that a motion for discharge could only be filed during trial on the merits, it could be done at any stage of the proceedings, and discharge can be effected from the filing of the information to the time the defense starts to offer any evidence.[67]

From the records, it appears that the following conditions for Locil's discharge under Section 9, Rule 119 of the Revised Rules of Court were satisfied:

- the discharge must be with the consent of the accused sought to be a state witness;
- his testimony is absolutely necessary;
- no other direct evidence is available for the proper prosecution of the offense committed except his testimony;
- his testimony can be substantially corroborated in its material points;
- he does not appear to be the most guilty; and
- he has not at any time been convicted of any offense involving moral turpitude.

It is undisputed that at the start of the trial, the prosecution did not have direct evidence, testimonial or otherwise, to establish the culpability of the accused.

Based on Locil's sworn statement, she was the only person who saw what happened to AAA. Her testimony was thus indispensable. That she did not appear to be the most guilty among the accused and that she had not been convicted of an offense involving moral turpitude were shown, as was the susceptibility of material corroboration of her testimony at the time of her discharge in view of the other evidence in the hands of the prosecution.

That the trial court ordered Locil's discharge a day before the scheduled hearing on the motion for her discharge is of no moment. The requirement of "a hearing in support of the discharge" had been substantially complied with when the trial court, during the hearings on the bail petition, already received evidence from the prosecution including Locil's sworn statement and also heard in open court the defense's arguments in opposition thereto. A hearing did take place but interspersed with the hearings on the bail petition. So long as the trial court was able to receive evidence for and against the discharge, its subsequent order granting or denying the motion for discharge is in order notwithstanding the lack of actual hearing on said motion.[68]

In fine, even if Locil's discharge failed to comply with all the requirements embodied in Section 9, Rule 119 of the Rules of Court, her testimony would not, for that sole reason, be discarded or disregarded for, in the discharge of a co-defendant, the trial court may reasonably be expected to commit error which is not reversible, the underlying principle being that it does not affect the competency and quality of testimony of the discharged defendant.[69]

From the prosecution evidence, the testimony of the erstwhile accused-turned state witness Locil is the most pivotal, for it is an eyewitness' account of what transpired before and at the time of AAA's death. Her testimony is the only direct evidence identifying appellants and relating in detail their specific overt acts.

Yet like any other testimony, this Court may not readily accept Locil's statements hook, line and sinker because in the assessment of the testimony of a co-accused-turned state witness, the same must be received with great caution and must be carefully scrutinized.[70]

The rule in this jurisdiction is that the testimony of a self-confessed accomplice or co-conspirator imputing the blame to or implicating his co-accused cannot, by itself and without corroboration, be regarded as proof to a moral certainty that the latter committed or participated in the commission of the crime. The testimony must be substantially corroborated in its material points[71] by unimpeachable testimony and strong circumstances and must be to such an extent that its trustworthiness becomes manifest.[72]

Was Locil's testimony corroborated in its material points by the prosecution's other evidence? If in the affirmative, was the corroborative evidence unimpeachable testimony and strong circumstances to such an extent that Locil's trustworthiness becomes manifest?

Appellant Sunga's two extrajudicial confessions, which strictly speaking were admissions for they referred to statements of fact which did not directly involve an acknowledgement of guilt or of the criminal intent to commit the offense with which he was charged,[73] could have lent corroborative support to Locil's testimony, having likewise given details of how the crime took place. Contrary, however, to the trial court's ruling, this Court finds Sunga's admissions to be inadmissible in evidence not only against him but also against his co-accused appellants.

A person under investigation for the commission of an offense is guaranteed the following rights by the Constitution: (1) the right to remain silent; (2) the right to have competent and independent counsel of his own choice, and to be provided with one if he cannot afford the services of counsel; and (3) the right to be informed of these rights.[74]

The right to counsel was denied Sunga during his execution of Exhibit "A" — admission before the police on the ground that the counsel who assisted him, Atty. Agustin Rocamora, was the City Legal Officer of Puerto Princesa.

In *People v. Bandula*,[75] this Court made it sufficiently clear that the independent counsel for the accused in custodial investigations cannot be a special counsel, public or private prosecutor, counsel of the police, or a municipal attorney whose interest is admittedly adverse to the accused. A legal officer of the city, like Atty.

Rocamora, provides legal aid and support to the mayor and the city in carrying out the delivery of basic services to the people, which includes maintenance of peace and order and, as such, his office is akin to that of a prosecutor who unquestionably cannot represent the accused during custodial investigation due to conflict of interest.[76] That Sunga chose him to be his counsel, even if true, did not render his admission admissible. Being of a very low educational attainment,[77] Sunga could not have possibly known the ramifications of his choice of a city legal officer to be his counsel. The duty of law enforcers to inform him of his Constitutional rights during custodial interrogations to their full, proper and precise extent does not appear to have been discharged.

Notatu dignum is the fact that nothing in the records shows that Atty. Rocamora exerted efforts to safeguard Sunga's rights and interests, especially that of his right not to be a witness against himself. In fact, glaringly, Atty. Rocamora was not even made to testify so he could have related the extent of legal assistance he extended to Sunga at the police station. This Court is thus constrained to rely on the following verbatim testimony of SPO2 Janoras which described how Atty. Rocamora assisted Sunga during the investigation:

ATTY. ENRIQUEZ (Defense Counsel) —

Q:

Did not Atty. Rocamora warn you, as the investigator, that simply he is invoking his client's right to remain silent? Did not Atty. Rocamora first confer with the accused Rey Sunga prior to the investigation?

A:

They conversed.

Q:

You said a while ago that immediately upon your arrival you already started the investigation. And now you are claiming that they had a conversation first. Which is correct?

A:

They conversed for a very short while because everybody was already there. I was on my typewriter and they were seated just very near me (*Italics supplied.*)[78]

xxx xxx xxx

ATTY. CRUZAT (Defense Counsel) —

Q:

And you informed Atty. Rocamora that allegedly Mr. Rey Sunga wanted to confess his alleged participation in the commission of the offense, Mr. Witness?

A:

Yes, sir.

Q:

And so upon arrival at the police station it did not take Atty. Rocamora a long time to confer with Rey Sunga before the alleged investigation started, as you said 6:00 o'clock in the morning?

A:

Yes, sir. It did not take long because they were already ready (*Italics supplied.*)[79]

xxx xxx xxx

COURT —

Q:

Who propounded the questions to accused Rey Sunga?

A:

I was the one, Your Honor.

Q:

And who gave the answers?

A:

Rey Sunga was the one answering me, Your Honor.

Continue.

PROSECUTOR GONZALES —

Q:

And what, if any, did Atty. Agustin Rocamora do, if any, at the time these questions were being asked Rey Sunga?

A:

He instructed Rey Sunga to just answer the questions, sir (*Italics supplied.*)[80]

xxx xxx xxx

From the foregoing testimony of SPO2 Janoras, it can be gathered that Atty. Rocamora did not, if at all, fully apprise Sunga of his rights and options prior to giving his (Sunga's) admission. Evidently, Atty. Rocamora, without more, merely acted to facilitate the taking of the admission from Sunga.

Moreover, that Sunga was first questioned by SPO4 Pantollano and Patrolman Bolos before he was investigated by SPO2 Janoras does not escape the attention of this Court. Although Sunga failed to present evidence as to the maltreatment he claimed to have suffered in the hands of SPO4 Pantollano and Patrolman Bolos, he did not have any lawyer by his side at the time these two policemen started asking him questions about AAA's death. At that point, Sunga was already under custodial investigation without the assistance of counsel.

Custodial investigation is the stage "where the police investigation is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect taken into custody by the police who carry out a process of interrogation that lends itself to elicit incriminating statements (*Italics in the original.*).[81] Under such circumstances, this Court cannot but entertain serious misgivings as to the admission Sunga subsequently gave to SPO2 Janoras.

Like Exhibit "A," Sunga's second extrajudicial admission-Exhibit "I" is inadmissible, due to the absence of counsel to assist him when he executed it on August 3, 1994 before the NBI of Puerto Princesa City. Although Sunga declared in open court that he made such admission in connection with his desire to apply as state witness which admission he later repudiated, this does not make Exhibit "I" admissible. Sunga was at the time still under detention at the NBI office and had been languishing in jail since his arrest in mid-July 1994. His desire to regain

his freedom is not difficult to understand, he having lost it once due to his conviction for another crime. His admission which was done without the benefit of counsel consisted of answers to questions propounded by the investigating agent of the NBI and not of a unilateral declaration of his participation in the crime. To this Court, these conditions are constitutive of an atmosphere pervading that of a custodial investigation and necessitating the assistance of a competent and independent counsel of Sunga's choice as a matter of right but which he had none.

Any information or admission given by a person while in custody which may appear harmless or innocuous at the time without the competent assistance of an independent counsel must be struck down as inadmissible.[82] Even if the confession contains a grain of truth or even if it had been voluntarily given, if it was made without the assistance of counsel, it is inadmissible.[83]

The waiver by Sunga of his right to counsel as contained in his sworn statement-Exhibit "I" was not a valid waiver for, on its face, it was executed not in the presence of counsel, contrary to the express requirement of the Constitution.[84]

Sunga having had no counsel when he made his admission before the NBI and his waiver of the right to have one being invalid, his statement-Exhibit "I" is inadmissible.

The testimony of Sunga during the preliminary investigation before the Municipal Trial Court whereby he expressly acknowledged having executed Exhibit "A" and affirmed the contents thereof did not render his extrajudicial admission into a judicial one which could be used against him and his co-appellants. Neither could his other statements in such proceeding admitting his participation in the crime be utilized to establish his and the other appellants' guilt. For in that preliminary investigation, Sunga again was effectively denied of his essential right to counsel. Atty. Rocamora was appointed Sunga's counsel de officio but just like the assistance he extended during the execution of Exhibit "A," Atty. Rocamora utterly did nothing in defense of Sunga's cause. While Sunga was being asked by the judge a barrage of questions calling for answers which could and did incriminate him, Atty. Rocamora did not offer the slightest objection to shield his client from the damning nature thereof.

The right to counsel applies in certain pretrial proceedings that can be deemed "critical stages" in the criminal process.[85] The preliminary investigation can be no different from the in-custody interrogations by the police, for a suspect who takes part in a preliminary investigation will be subjected to no less than the State's processes, oftentimes intimidating and relentless, of pursuing those who might be liable for criminal prosecution. In the case at bar, Sunga was thrust into the preliminary investigation and while he did have a counsel, for the latter's lack of vigilance and commitment to Sunga's rights, he was virtually denied his right to counsel.

The right to counsel involves more than just the presence of a lawyer in the courtroom or the mere propounding of standard questions and objections; rather it means an efficient and decisive legal assistance and not a simple perfunctory representation.[86] As in *People v. Abano*[87] where the confession by the therein accused in the preliminary investigation was excluded as inadmissible due to the absence of her counsel, this Court will not admit Sunga's. This makes it unnecessary to discuss and emphasize the conflict on material points of Sunga's and Locil's accounts of the incident.

As for the rest of the prosecution evidence, it fails to corroborate Locil's testimony. The declarations of witnesses xxx, Devilleres and Gabinete can in no way enhance the veracity of the essential, material aspects of Locil's account for they relate not to the crime itself but to events thereafter.

xxx's testimony that Lansang informed him that he knew someone who could reveal the identity of AAA's assailants and that Lansang suggested to him to no longer report to the police does not at all constitute

incriminating evidence, for there was no admission, express or implied, by Lansang of any wrongdoing or criminal participation on his part. Besides, why would Lansang suggest to xx x not to report to the police when the police early on had its hands full in trying to solve the crime.

Dr. Vigonte's affirmation of her finding of a fatal injury on AAA's head is supportive only of the fact that the victim was hit with something on her head which caused her death, but this by no means is evidence that appellants inflicted said fatal injury.

As for the circumstances testified to by the other witnesses, they do not, by and in themselves, rise to the level of circumstantial evidence which warrant appellants' conviction.

In the appreciation of circumstantial evidence, there must be at least two proven circumstances which in complete sequence lead to no other logical conclusion than that of the guilt of the accused.[88] The circumstances that Lansang was seen on June 30, 1994, a day after the incident, walking back and forth and appearing restless near the place where AAA's body was eventually found; that Lansang was in the company of Octac and inquired, the day after AAA's body was discovered on July 12, 1994, if AAA was from Barangay Caruray; that Lansang told AAA's father that he knew someone who could pinpoint those responsible for the crime; and that AAA was fatally hit on the head by a blunt object are too fragile to lead to the inference that Lansang and his co-appellants are liable for AAA's rape and slaying. These circumstances in the scheme of things are not indubitable pieces of evidence of a person's commission of a crime for they are susceptible of explanations which do not necessarily speak of guilt or culpability.

Standing alone and uncorroborated, can Locil's testimony serve as a basis for appellants' conviction? As an exception to the general rule on the requirement of corroboration of the testimony of an accomplice or co-conspirator-turned state witness, her testimony may, even if uncorroborated, be sufficient as when it is shown to be sincere in itself because it is given unhesitatingly and in a straightforward manner and full of details which, by their nature, could not have been the result of deliberate afterthought.[89] An exhaustive review of the transcript of stenographic notes of Locil's testimony reveals, however, that the manner by which she related it was punctuated with marks of tentativeness, uncertainty and indecisiveness which the trial court unfortunately failed to take note of in its decision on review.

Consider the following portions of her testimony, quoted verbatim:

COURT:

Q

Do you know the name of the woman who died?

A

AAA

ATTY. GACOTT

[Private Prosecutor]:

Maybe we can use the sound system.

ATTY. GACOTT:

Q:

Miss Witness, you said that you are fourteen years old. How come that you are 14 years old?

A:

(Witness handing a document to counsel.)

(To the Court:)

Your Honor, the witness handed to me a birth certificate.

ATTY. CRUZAT

(Defense Counsel):

We are requesting for the witness to speak loud and not merely hand over certain documents.

COURT:

Instruct the witness to speak louder. (*Italics supplied.*)[90]

xxx xxx xxx

ATTY. GACOTT —

Q:

Miss Witness, how many times did you attain your Grade I schooling?

A:

Three times.

Q:

What about your Grade II schooling?

A:

Two year.

Q:

How about your Grade III schooling?

A:

One year.

ATTY. CRUZAT:

I am already tired of requesting this Honorable Court to instruct the witness to speak quite louder. She is just whispering to the interpreter.

COURT:

You speak louder (*Italics supplied.*)[91]

xxx xxx xxx

ATTY. GACOTT —

Q:

Now, Miss Witness, where were you last June 29, 1994 at around 2:00 o'clock in the afternoon?

A:

In Mendoza.

COURT —

Q:

What is that Mendoza?

A:

Mendoza Park.

ATTY. GACOTT —

Q:

During that date, do you remember any unusual thing that happened to you?

A:

Yes, sir.

Q:

Could you please relate to this Honorable Court what happened during that date?

A:

Yes, sir.

ATTY. CRUZAT:

I may be compelled to ask this Honorable Court for a coercive authority to declare her in contempt for repeatedly disobeying the instruction of the Court for her to speak louder.

COURT:

You speak louder, otherwise you will be cited in contempt of court.

WITNESS: Yes, Your Honor.[92]

xxx xxx xxx

ATTY. GACOTT —

Q:

You mean to say, Miss Witness, that this Tomboy that you are referring to went upstairs of Mendoza Park, and once there she talked to the woman sitting there?

A:

Yes, sir.

Q:

Do you know the name of that woman?

A:

No, sir.

Q:

After getting near to that woman, what did they do after that?

A:

They talked, sir.

Q:

Then what happened next?

ATTY. CRUZAT:

This woman does not speak quite loud, Your Honor.

COURT:

You talk louder (*Italics supplied.*)[93]

xxx xxx xxx

A scrutiny of her testimony likewise reveals a strain of improbability ingrained therein. To recapitulate, Locil claimed that on June 29, 1994 she boarded a tricycle bearing a lesbian who invited her for a joyride, proceeded to the Mendoza Park and picked up AAA, whom she was not acquainted with, then brought by the same tricycle to Irawan where the latter was raped and brutally murdered. In other words, she wanted to convey that she was deliberately brought by appellants with them on June 29, 1994 to the place where they were to carry out, which they did, their abominable acts against AAA. This strikes this Court as improbable if not bizarre. For it is contrary to human nature and experience for those who undertake the commission of a crime to bring a spectator thereof. A criminal would certainly take steps to evade detection or discovery of his criminal act, to keep it from being witnessed or known by others who might later turn against him. Yet, from Locil's testimony, appellants took the trouble of bringing her to the locus criminis so she could bear witness to a horrible crime which appellants carried out with evident secrecy in a remote, uninhabited place in Puerto Princesa City.

That appellants required Locil's presence at the time and place of the crime only to threaten her later against divulging what she had witnessed thus defies comprehension.

Evidence to be believed should not only proceed from the mouth of a credible witness but should also be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstances.[94]

This Court is not in fact prepared to accord Locil credibly as a witness. Who can trust one who, in her early teens, gets pregnant, flees home and stays in a boarding house albeit she has no visible means of income to pay therefor, and carries an alias name to evade being traced by her mother and aunt?

Locil's testimony on how appellants put her in a position to have direct knowledge of their malevolent acts despite taking measures to conceal their deeds fails to inspire belief and must, therefore, be discredited.

A serious question too abounds on Locil's identification of appellant Pascua as one of those who raped AAA. She described Pascua, the man who according to her raped the victim after appellants Lansang and Sunga did, as having, among other things, singkit (chinky) eyes. But as Pascua did not have singkit eyes, even the trial court was prompted to ask her if she was sure that the third person who raped AAA had singkit eyes.[95] Thus, with the

court's approval, the defense made it of record that Pascua did not have chinky eyes, contrary to Locil's description of him.[96]

The aforementioned observations pertaining to both the weak, incomprehensible voice with which Locil gave her testimony, the improbability with which she was precisely made by appellants to be a witness to their crime, and the failure of her description of Pascua's eyes to match the latter's actual physical feature cannot but engender serious doubts as to the reliability of her testimony against all appellants. This Court thus finds her uncorroborated account to have failed the jurisprudentially established touchstone for its credibility and sufficiency, that of straightforwardness and deliberateness, as evidence to warrant appellants' conviction.

In light of the weak evidence for the prosecution, the defense of alibi as well as of denial by appellants is accorded credence, for it is precisely when the prosecution's case is weak that the defense of alibi assumes importance and becomes crucial in negating criminal liability.[97] It bears noting that the alibi proffered by appellants, especially that by Lansang, had been corroborated.

In fine, regardless of the probative weight of appellants' alibi, the prosecution still has the onus of proving the guilt beyond reasonable doubt of the accused and cannot rely on the weakness of the defense evidence. The prosecution having failed to discharge its burden, appellants' presumed innocence remains and must thus be acquitted.

WHEREFORE, for failure of the prosecution to prove beyond reasonable doubt the guilt of appellants Rey Sunga, Ramil Lansang and Inocencio Pascua in Criminal Case No. 11984 the decision therein is hereby SET ASIDE and REVERSED and said appellants are hereby ACQUITTED of the crime charged.

The Director of the Bureau of Corrections is ORDERED to cause the IMMEDIATE RELEASE of the appellants from custody, unless they are being held for some other lawful cause, and to INFORM this Court within five (5) days from receipt of this Decision of the date appellants were actually released from confinement.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., and Azcuna, JJ., concur.
Ynares-Santiago, J., on leave.

[1] People v. Cuya, Jr., 141 SCRA 351 [1986].

[2] Records at 2-3.

[3] Id. at 33-36.

[4] Records at 308-312.

[5] Id. at 78-79.

[6] Id. at 10-13.

[7] TSN, October 18, 1994 at 5-6, 9.

[8] Records at 92-93.

[9] Records at 145-159.

- [10] Id. at 199-200.
- [11] The name of the sister of her boyfriend.
- [12] TSN, October 21, 1994 at 44-45.
- [13] TSN, October 21, 1994 at 17-18, 56-57.
- [14] Id. at 18-28.
- [15] TSN, October 21, 1994 at 28-31.
- [16] Id. at 31-32.
- [17] Id. at 33-38.
- [18] Id. at 39-40.
- [19] TSN, October 19, 1994 at 24-54.
- [20] Id. at 4-22.
- [21] TSN, October 17, 1994 at 12-31.
- [22] Records, Exhibit “B” at 97.
- [23] TSN, October 20, 1994 at 5-12.
- [24] Id. at 11.
- [25] Records at 94-96.
- [26] Records, Exhibit “A” at 95-96.
- [27] Records, Exhibit “A” at 96.
- [28] TSN, October 18, 1994 at 17-52.
- [29] Records, Exhibit “F” at 109-115.
- [30] Id. at 112-113.
- [31] Records at 316-320.
- [32] Records, Exhibit “I” at 316.
- [33] TSN, October 21, 1994 at 84.
- [34] TSN, November 18, 1994 at 3-16.
- [35] TSN, November 18, 1994 at 3-29.
- [36] Id. at 33-57.
- [37] TSN, June 7, 1995 at 2-6.
- [38] TSN, November 21, 1994 at 5-8.
- [39] TSN, August 16, 1995 at 3-16.
- [40] Id. at 17-23.

- [41] Id. at 24-39.
- [42] TSN, September 5, 1995 at 5-19.
- [43] TSN, September 6, 1995 at 14-25.
- [44] TSN, September 5, 1995 at 20-31.
- [45] TSN, September 19, 1995 at 2-9.
- [46] TSN, September 6, 1995 at 25-49.
- [47] TSN, September 6, 1995 at 25-49.
- [48] TSN, September 5, 1995 at 31-48.
- [49] TSN, September 19, 1995 at 9-15.
- [50] TSN, September 20, 1995 at 27.
- [51] TSN, September 6, 1995 at 4-13.
- [52] TSN, September 19, 1995 at 29-33.
- [53] TSN, September 20, 1995 at 12-17.
- [54] Records at 400.
- [55] TSN, September 19, 1995 at 15-29.
- [56] TSN, October 9, 1995 at 3-15.
- [57] Records at 403.
- [58] TSN, October 9, 1995 at 15-22.
- [59] TSN, October 9, 1995 at 22-47; October 10, 1995 at 2-32.
- [60] TSN, September 20, 1995 at 18-27, 28, 29-35.
- [61] Id. at 35-43.
- [62] Records at 493.
- [63] TSN, October 3, 1995 at 4-16.
- [64] TSN, October 3, 1995 at 16-23.
- [65] TSN, September 20, 1995 at 2-12.
- [66] Rollo at 27-74.
- [67] *People v. Aniñon*, 158 SCRA 701 [1988]; *Flores v. Sandiganbayan*, 124 SCRA 109 [1983].
- [68] *People v. Court of Appeals*, 223 SCRA 479 [1993].
- [69] *People v. Armada, Jr.*, 225 SCRA 644 [1993] quoting *People v. Jamero*, 24 SCRA 206 [1968].
- [70] *Ramos v. Sandiganbayan*, 191 SCRA 671 [1990].
- [71] *Barretto v. Sandiganbayan*, 144 SCRA 176 [1986] citing *People v. Tabayoyong*, 104 SCRA 724 [1981].

[72] United States v. Remigio, 37 Phil. 599 [1918]; People v. Riparip, 86 Phil. 526 [1950].

[73] People v. Maqueda, 242 SCRA 565 (1995).

[74] People v. Dano, 339 SCRA 515 [2000].

[75] 232 SCRA 566 [1994].

[76] People v. Espanola, 271 SCRA 689 [1997].

[77] TSN, June 7, 1995 at 3.

[78] TSN, October 18, 1994 at 38.

[79] Id. at 47.

[80] TSN, October 18, 1994 at 24.

[81] People v. Labtan, 320 SCRA 140, 154 [1999].

[82] People v. Bariquit, 341 SCRA 600 [2000].

[83] People v. Tan, 286 SCRA 207 [1998].

[84] Art. III, Sec. 12 (1), Constitution.

[85] People v. Espanola, 271 SCRA 689 [1997].

[86] People v. Bermas, 306 SCRA 135 [1999].

[87] 145 SCRA 555 [1986].

[88] People v. Bravo, 318 SCRA 812 [1999].

[89] People v. Ponce, 197 SCRA 746 [1991].

[90] TSN, October 21, 1994 at 13.

[91] TSN, October 21, 1994 at 15.

[92] TSN, October 21, 1994 at 16.

[93] TSN, October 21, 1994 at 19.

[94] People v. Capili, 333 SCRA 354 (2000).

[95] TSN, October 21, 1994 at 30.

[96] Id. at 31.

[97] People v. Perucho, 305 SCRA 770 [1999].

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