

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GODOFREDO TEVES Y LEMEN, ACCUSED-APPELLANT.

G.R. No. 128839. July 20, 1999

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

This case is before us on automatic review[1] of the decision[2] of 14 March 1997 of the Regional Trial Court of Imus, Cavite, Branch 20, in four (4) criminal cases, finding accused-appellant Godofredo Teves y Lemen (hereafter GODOFREDO) guilty of the crime of multiple rape and sentencing him to suffer the penalty of death and to pay the victim the amount of P50,000.00 as compensatory damages.

On the basis of a sworn statement[3] executed by Cherry Rose Teves (hereafter CHERRY), daughter of GODOFREDO, a criminal complaint[4] for multiple rape committed "since the year 1993 up to the 1st, 8th and 3rd day of January 1995," was filed against GODOFREDO before the Municipal Trial Court (MTC) of Kawit, Cavite. Although not clear from the record, GODOFREDO was somehow arrested and detained.

Despite due notice, GODOFREDO did not file his counter-affidavit with the MTC. After due proceedings, the MTC found a prima facie case against GODOFREDO and thus forwarded the record of the case to the Office of the Provincial Prosecutor of Cavite.[5]

On 4 July 1995, the Office of the Provincial Prosecutor of Cavite filed four (4) separate informations for rape against GODOFREDO with the Regional Trial Court of Cavite, Branch 20, in Imus. The informations were docketed as Criminal Cases Nos. 3872-95,[6] 3873-95,[7] 3874-95[8] and 3875-95,[9] respectively.

The accusatory portion of the information in Criminal Case No. 3872-95, denominated as one for multiple rape, reads as follows:

That sometimes [sic] in the year 1993, in the Municipality of Kawit, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of his superior strength over the person of his thirteen (13) year old daughter, by means of force, violence and intimidation and with lewd designs, did then and there, wilfully, unlawfully and feloniously, have repeated carnal knowledge of Cherry Rose Q. Teves, against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.

The accusatory portion of the information in Criminal Case No. 3873-95 reads as follows:

That on or about the 1st day of January 1995, in the Municipality of Kawit, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, with lewd designs and taking advantage of his superior strength over the person of his own daughter who is only thirteen years old, did, then and there, wilfully, unlawfully and feloniously, have carnal knowledge of Cherry Rose Q. Teves, against her will and consent, thereby causing her damage and prejudice.

CONTRARY TO LAW.

The accusatory portions of the informations in Criminal Case No. 3874-95 and Criminal Case No. 3875-95 are similarly worded as that in Criminal Case No. 3872-95, except as to the dates of the commission of the crimes, which were specified as 3 January 1995 and 8 January 1995, respectively.

The four cases were consolidated and jointly tried. At his arraignment on 9 October 1995, GODOFREDO entered a plea of not guilty in each case.^[10]

At trial on the merits, the prosecution presented the offended party, CHERRY, but dispensed with the testimonies of the social worker, Leonida Ramos, and of the Medico-Legal Officer, Dr. Owen Lebaquin, as the parties stipulated on the substance of their testimonies.

On his part, GODOFREDO relied solely on his testimony, raising the defenses of denial and alibi. He further imputed ill motive on the part of CHERRY in having filed the case.

The trial court gave full faith and credence to the testimony of CHERRY, having been "given spontaneously and in a straightforward manner" and which stood "unrebutted." On the other hand, the trial court considered GODOFREDO's claim of ill motive "hollow and totally unworthy of belief."

The trial court faithfully summarized the evidence for the prosecution and the defense, as follows:

Taking the witness stand, the victim Cherry Rose Teves narrated how she was raped by her father on several occasions. She claimed that sometime in 1994 when she was only thirteen (13) years old and while washing dishes, her father touched her breast. A day before New Year of 1995, her father told her not to leave their house; that in a little while, her father laid her down, removed her panty and shorts, touched her breast and inserted his sex thing into her organ; that after a week, while she was taking a bath, her father asked her to hand him the dipper; that when she obeyed, he suddenly entered the bathroom and again sexually abused her; that she even noticed blood coming out of her organ. Continuing, she elucidated that on January 1, 1995, she was instructed by her father to clean the house and to take care of her younger brothers and sisters after sending her twelve (12) year old brother [on] an errand to buy cigarettes; after her brother left, she was molested by her father. The assault on her virtue was always followed by a threat for her not to report the incident to her mother or else she [would] be killed; that during all those times that she was abused by her father, her mother who [was] a laundry woman, was out of the house.

When cross-examined, she declared that her father was then working as a carpenter and usually arrived home at around 5:00 o'clock in the afternoon or late in the evening. She, being the eldest among the six children in the family, was the one taking care of her little brothers and sisters because she already stopped schooling. Nobody knew of the abused [sic] heaped upon her by her father until she confided it to her friends who [resided] at Kaingin, Kawit, Cavite.

After presenting the victim, the parties entered into stipulations to wit:

- That Social Worker Leonida Ramos was the one who assisted and brought the complainant to the PC Crime Laboratory for examination resulting in the issuance of a medico-legal report;
- That said Social Worker knew the complainant because the latter came to see her and so, she brought her to the Kawit Police Station where her statement was taken.

In view of the above stipulations, the testimony of Social Worker Leonida Ramos was dispensed with.

Likewise, the testimony of Dr. Owen Lebaquin, Medico-Legal Officer of the PNP Crime Laboratory Service, was dispensed with after the defense admitted the findings of the said physician as contained in Medico-Legal Report No. M-0092-95 (Exh. "B"). As stated in the Report of the Medico-Legal Officer which was completed on January 31, 1995, the subject is in non-virgin state physically without external signs of application of violence.

Accused ... claimed that he knew of no reason why he was charged [with] rape, except that he did not approve of [his] daughter coming home late from her friend at the DSWD. And because of this, he maltreated her. He added that he only comes home on weekends, being a construction worker at the Arcontica on a "pakyawan" basis; that there were occasions that he and his daughter were the only ones left at their house.[11]

Applying Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act (R.A.) No. 7659, which imposes the death penalty in rape cases committed by a parent when the victim is under 18 years of age, the trial court then decreed:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Guilty of Multiple Rape. He is thus sentenced to death for the rape of his 13 year old daughter and to indemnify her of the sum of P50,000.00 as compensatory damages.

SO ORDERED.

In his Appellant's Brief, GODOFREDO's lone error is that the trial court erred in finding him guilty beyond reasonable doubt of the crime of rape.

GODOFREDO asserts that since his conviction rests on the uncorroborated testimony of the complainant, there must be a careful and painstaking scrutiny of the latter; it should not be easily accepted and believed with precipitate credulity.[12] GODOFREDO contends that CHERRY's testimony contained "uncertain and conflicting answers" and that the following circumstances warrant a reversal of the challenged judgment: (1) CHERRY's testimony was tainted with uncertainties and implausibilities as evidenced by inconsistencies and her failure to recall the number of times and the dates she was allegedly raped by her father, as well as of the details thereof; (2) CHERRY's testimony did not prove existence of force and intimidation; (3) the evidence for the prosecution was purely speculative and conjectural; and (4) the unreasonable delay of two years in the filing of the complaint.

In the Brief for the Appellee, the People maintain that the alleged inconsistencies in CHERRY's testimony are not sufficient to cast serious doubt upon her credibility since victims of rape cannot be expected to remember every grisly detail of the fact of the commission of the offense and thereafter "keep an accurate account of her traumatic experience." [13] At any rate, the inconsistencies were only on minor matters which, instead of weakening CHERRY's credibility, all the more strengthened it as they eradicated the suspicion of rehearsed testimony.[14] Moreover, the assessment of credibility of witnesses is best left to the trial court whose judgment thereon is entitled to the highest respect by appellate courts, it having had the unique opportunity to observe the demeanor of the witnesses. This, the People observe, is especially true in the instant case where CHERRY, a young and unschooled barrio lass, had no evil motive to charge her father with a grievous offense.

Anent the issue of force and intimidation, the People assert that it was of no moment that the prosecution failed to show its presence in the commission of the offense, since in a rape case committed by a father against his daughter, the moral ascendancy and influence of the latter over the former substitutes for the force and intimidation.[15]

As to the delay in reporting the rape incident, the People contend it is settled that such delay neither diminishes complainant's credibility nor undermines the charges of rape where the delay can be attributed to death threats of the assailant upon the complainant.[16] Be that as it may, GODOFREDO's contention that the charges of rape were made known only two years thereafter was baseless, for as a matter of fact, it did not take two years before CHERRY finally broke her silence: the first rape incident happened sometime in 1994 before New Year's day of 1995, and that on 25 January 1995, a complaint charging GODOFREDO with rape was filed before the Municipal Trial Court of Kawit, Cavite.

In reviewing rape cases we are guided by the following well-entrenched principles: (1) an accusation for rape can be made with facility: it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[17]

Basic in every prosecution for rape is the determination of the credibility of the offended party's testimony, for the lone testimony of the victim, if credible, is sufficient to sustain the verdict of conviction.[18] On this note, when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial.[19] The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied some facts or circumstance of weight and substance which could affect the result of the case.[20] We sustain the trial court's ruling as to the credibility of CHERRY and find that GODOFREDO miserably failed to demonstrate the existence of any of the exceptions aforementioned. Our review of CHERRY's testimony has us fully convinced of her sincerity, candor and truthfulness as to the fact of rape, to the extent that the only issue to be resolved is the number of times she was raped.

The following excerpt of CHERRY's testimony established with moral certainty GODOFREDO's guilt:

Q Do you remember when your father raped you?

A I cannot remember.

Q How many times were you raped by your father?

A Many times.

Q Miss Witness, how old were you when you were first raped by your father?

A 13 years old.

Q That would be sometime in 1994?

A

Yes, mam [sic].

Q Can you tell the court what happened on the first occasion when you were raped by your father?

A Yes, mam [sic].

Q

What were you doing on that day when you were first raped by your father?

A I was washing dishes.

Q Do you remember what time was it [sic]? Was it morning, afternoon or evening?

A I cannot recall. It happened quite some time.

Q

While you were washing dishes, what did your father do?

A He touched my breast.

Q After that what else did you do?

A Nothing happened anymore. On that day before New Year, my father told me not to go out of the house.

Q

After your father told you not to go out of the house, what happened?

A My father told me to lie on the floor. He laid me down.

Q After he laid you down, what did he do?

A

He inserted his organ into my organ.

Q Were you wearing a dress at that time?

A

Yes, mam [sic].

Q What were you wearing?

A T-shirt and short pants.

Q Before your father inserted his organ inside your organ, what if any, did he do with your short?

A He removed my shorts.

Q How about your pantie?

A He also removed my pantie.

Q After he removed your shorts and pantie what else did he do?

A He inserted his organ into my organ. He touched my breast. My mother was out of the house.

Q You said that your father inserted his organ into your organ, what did you feel?

A I felt pain.

Q What did you do?

A

I just bore the pain. "Tiniis ko na lang ang sakit."

Q After that, what else did your father do?

A None.

Q Did he leave the house?

A He felt [sic] asleep. He was drunk then.

Q You said awhile ago that you were raped several times by your father, after that first night when did your father rape you again, can you remember?

A

I cannot recall.

Q Could it be one week after?

A

After a week.

Q Can you tell the court how your father raped you on the second instance?

A I was taking a bath.

Q When you were taking a bath, what happened?

A My father asked me to give him the "tabo".

Q Where were you taking a bath at that time?

A Inside our bathroom.

Q Where is that bathroom located?

A Kaingin, Kawit, Cavite.

Q The first instance when you said your father raped you in what place where you then?

A At Kaingin, Kawit, Cavite.

Q You said that in the second instance your father asked you to hand him the "tabo" [dipper], what did you do when your father asked you to hand the dipper?

A I handed it to him.

Q What did you do after that?

A He suddenly entered in [sic] the bathroom.

Q After entering the bathroom, what did he do?

A He inserted his organ into my organ. I noticed blood came out of my organ.

Q You said that you were raped several times by your father, when was the last time your father raped you?

A January 23.

Q What year?

A January 23, 1995.

Q Where were you on Jan. 23, 1995?

A

I was cleaning our house.

Q While you were cleaning your house, what happened?

A My mother came and then [the] raped [sic] [did] not pushed [sic] through.

Q Madam Witness, in connection with this case, do you remember having executed an affidavit?

A Yes, mam [sic].

Q If you were shown that document will you be able to identify it?

A Yes, mam [sic].

Q

I am showing to you this document below is a signature above the typewritten name Cherry Rose Teves, will you please tell us if that is the statement which you said you executed?

A Yes, mam [sic].

Q Whose signature is this above the typewritten name cherry Rose Teves?

A Mine, mam [sic].

PROS. DE CASTRO

For purposes of identification, we request that this document be marked as Exh. A and the signature of the witness as Exh. A-1.

Q In this statement particularly par. 5 the question was "Kailan ka ni rape ng iyong tatay?" Ans: "Sa Kawit, Cavite."

Q Can you tell the Court what happened on Jan. 1, 1995?

A I went out of the house and then I went home.

Q What happened after you went home on that day?

A

My father called me.

Q What did you do after he called you?

A He asked my brother to buy cigarette[s].

Q After that, what happened?

A He asked me to clean our house and to take care my small brothers and sister.

Q What did you do?

A I cleaned our house.

Q After that what happened?

A

I was again "raped" by my father and it happened many times.

Q During all those times when you were being raped by our father, where was your mother?

A She was not around.

Q Where was she?

A She went somewhere else. Only my small brothers and sisters were around.

Q What was the occupation of your mother?

A Laundrywoman.

Q During those times when you were raped by your father, do you remember where your mother was?

A She was washing clothes.

Q Where?

A In the apartment a little bit near our house.

Q Why did you not tell you mother about what your father did to you the first time that you were raped?

A I was afraid.

Q Why were you afraid?

A I did not tell my mother because father told me not to tell her.

Q What else did your father tell you?

A Not to tell the matter to my mother because if I will tell my mother he will kill me.

Q Before you were raped by your father for the first time, did you love your father?

A Yes, mam [sic].

Q How about now how do you feel [sic] towards your father?

A I am mad at him.[21]

Respecting the charge that CHERRY's testimony consisted mainly of uncertain, conflicting, vague and inconsistent answers to specific questions propounded upon her during the direct and cross-examination, suffice it to state that her failure to remember and elaborate on every detail of her unfortunate experience was inconsequential. What must be borne in mind was that she was merely fourteen (14) years old when she testified; moreover, GODOFREDO did not object to her testimony as to the time of the commission of the crime.[22] It is settled that the precise time of the commission of rape is not an essential element of the crime.[23] Likewise, GODOFREDO's harping on CHERRY's failure to recall the exact number of times she was raped is not persuasive. We cannot reasonably expect her to recount in detail her humiliating experience since the accused is of her own flesh and blood. The natural vacillation of a daughter to publicly denounce her father and to testify in an unfamiliar and unfriendly environment on such a delicate matter very well explain the minor lapses in her testimony. More than anything else, the alleged inconsistencies and discrepancies in CHERRY's testimony referred only to minor and trivial matters and were, undoubtedly, insufficient to dilute the truthfulness and destroy the probative value of her testimony. We find no iota of evidence showing that CHERRY's account was a result of deliberate falsehood. Settled is the rule that discrepancies and inconsistencies on minor matters do not impair the essential integrity of the prosecution's evidence as a whole nor reflect on the witness' honesty. Such inconsistencies, which may be caused by the natural fickleness of the memory, even tend to strengthen rather than weaken the credibility of the witness because they erase any suspicion of rehearsed testimony.[24]

Neither can GODOFREDO be allowed to make much of the fact that the prosecution was unable to establish forcible carnal knowledge of CHERRY. In a rape committed by a father against his daughter, the moral dominance and parental influence that essentially flows from the reverence and respect a child has toward their parents which are ingrained and observed in the minds of the Filipino children, substitute for force and intimidation, which produce reasonable fear in the child.[25]

The delay in instituting the present criminal prosecution likewise does not engender doubt as to GODOFREDO's guilt, in light of the established fact that CHERRY kept silent about the incident because of GODOFREDO's death threat. CHERRY, a young barrio lass and with a simple and unsophisticated mind, cannot be expected to have the fortitude and courage of an adult, mature and experienced woman who may disregard the threat and, with promptitude, condemn in the open the shameful scandal wrought upon her by her very own father. It is not uncommon that young girls usually conceal for some time the assault upon their virtue because of the threats on their lives.[26]

Finally, there is absolutely no showing that CHERRY was actuated by a sinister motive to falsely charge and implicate her own father in a serious crime.[27] Briefly, if she did admit the ignominy she had undergone, allowed her private parts to be examined, exposed herself to the trouble and inconvenience of a public trial and

endure the embarrassments and humiliation which a public revelation of what ought to be kept secret, she had nothing in mind except to obtain justice.[28]

From the aforequoted testimony of CHERRY, it is clear to us that the rapes that were duly proved were those committed on: (a) New Year's day of 1995; (b) a week after said New Year's day; and (c) on 23 January 1995. That committed on New Year's day of 1995 is the subject of Criminal Case No. 3837-95, while that committed a week after New Year's day of 1995 is covered by the Information in Criminal Case No. 3875-95. There is no factual basis for the rapes charged in the information in Criminal Case No. 3872-95, allegedly committed "sometime in the year 1993," and in the information in Criminal Case No. 3874-95, on 3 January 1995. GODOFREDO has not been charged for the rape committed on 23 January 1995.

Concretely then, GODOFREDO might only be convicted of the crimes of rape charged in the informations in Criminal Case No. 3873-95 and in Criminal Case No. 3875-95. It was then error for the trial court to find him guilty of rape in the four (4) cases and, worse, impose upon him one penalty of death for multiple rape. In view of its findings, the court a quo should have imposed the death penalty in each of the four (4) cases.

At this point, however, we are compelled to inquire into the propriety of the imposition of capital punishment. To repeat, the trial court so imposed the death penalty, reasoning that under Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, the same was warranted in rape cases committed by a parent when the victim was under 18 years of age.

Initially, we note that the trial court found that R.A. No. 7659 "took effect in January 1994." However, in *People v. Simon*, [29] as reiterated in a multitude of cases since, we categorically held that said statute took effect on 31 December 1993.

Pursuant to Section 11 of the amendatory statute, the death penalty may be imposed in rape cases under the last paragraph of Article 335 of the Revised Penal Code, when the rape is committed with any of the following attendant circumstances:

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

- When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.
- When the victim is under the custody of the police or military authorities.
- When the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.
- When the victim is a religious or a child below seven (7) years old.
- When the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.
- When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.
- When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation. (As amended by Sec. 11, Ra 7659.)

These seven attendant circumstances, given that they alter the nature of the crime of rape and thus increase the degree of the penalty, are in the nature of qualifying circumstances. Plainly, these attendant circumstances added

by R.A. No. 7659 are not mere aggravating circumstances, which merely increase the period of the penalty. So we held in *People v. Ramos*,^[30] to the effect that a qualifying circumstance must be specifically pleaded in the information, thus:

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

As this qualifying circumstance was not pleaded in the information or in the complaint against appellant, he cannot be convicted of qualified rape because he was not properly informed that he is being accused of qualified rape. The Constitution guarantees the right of every person accused in a criminal prosecution to be informed of the nature and cause of accusation against him.^[31] This right finds amplification and implementation in the different provisions of the Rules of Court.^[32] Foremost among these enabling provisions is the office of an information.

Anent the Constitutional right afforded an accused to be informed of the nature and cause of an accusation against him, as implemented by the relevant provisions of the Rules on Criminal Procedure, Section 9 of Rule 110 provides:

Section 9. Cause of accusation. -- The acts or omissions complained of as constituting the offense must be stated in ordinary and concise language without repetition, not necessarily in the terms of the statute defining the offense, but in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged and enable the court to pronounce a judgment.

Pertinent to this case is the phrase of the current set of adjective rules: "a person of common understanding," which had its origins in this jurisdiction in the phrase: "a person of ordinary intelligence."^[33]

In this light, we hold that the informations in Criminal Cases Nos. 3873-95 and 3875-95 do not sufficiently allege the twin special qualifying circumstances of the victim's age and the relationship between the culprit and the victim. The informations in these two cases provide, respectively:

[A]nd taking advantage of his superior strength over the person of his own daughter who is only thirteen years old...

[T]aking advantage of his superior strength over the person of his thirteen (13) year old daughter...

What strikes us about the informations is that, as phrased, they unduly lay stress on the generic aggravating circumstance of "taking advantage of superior strength."^[34] Be it in terms of syntax or composition, the wording of the informations is unable to sufficiently notify the accused, a person of common understanding or ordinary intelligence, of the gravity or nature of the crime he had been charged with, especially considering that the generic aggravating circumstance of taking advantage of superior strength is not even an element of the attendant circumstances treated under number 1 of the last paragraph of Article 335. The aforequoted clauses in the informations can thus not be read nor understood as constituting a specific allegation of the special circumstances of relationship of father and daughter and that the daughter was less than 18 years of age at the time the crime of rape was committed.

All told, to impose upon GODOFREDO the penalty of death under these circumstances would be to deprive him of his constitutional right to be informed of the nature and cause of the accusation. The penalty should thus only

be for simple rape, in each of the two cases, which is punishable by reclusion perpetua under the second paragraph of Article 335 of the Revised Penal Code, as amended.

Finally, as regards the civil indemnity. The P50,000.00 compensatory damages awarded by the trial court shall represent indemnity in one case, but another P50,000.00 must be awarded in the second case. Moral damages of P50,000.00 in each case, must likewise be awarded, even in the absence of proof of mental and physical suffering of the victim, these being an inherent and necessary consequences of the crime of rape.[35]

WHEREFORE, the appealed joint decision of the Regional Trial Court (RTC) of Imus, Cavite, is REVERSED insofar as Criminal Cases Nos. 3872-95 and 3874-95 are concerned and accused-appellant GODOFREDO TEVES y LEMEN is ACQUITTED therein for lack of evidence, and MODIFIED as to Criminal Cases Nos. 3873-95 and 3875-95. As modified, said accused-appellant GODOFREDO TEVES y LEMEN is, in each of said cases, found GUILTY beyond reasonable doubt as principal of the crime of rape and hereby sentenced to suffer the penalty of reclusion perpetua, and ordered to pay complainant Cherry Rose Q. Teves indemnity of P50,000.00 and moral damages of P50,000.00.

Costs de officio.

SO ORDERED.

Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.
Panganiban, J., in the result.

[1] Pursuant to Article 47 of the Revised Penal code, as amended by Section 22 of R.A. No. 7659, entitled "An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as Amended, Other Special Penal Laws, and for Other Purposes, which took effect on 31 December 1993 (People v. Simon, 234 SCRA 555 [1994]).

[2] Original Record (OR), Criminal Cases Nos. 3872-95, 3873-95, 3874-95 and 3875-95, 54-57; Rollo, 16-19. Per Judge Lucenito N. Tagle.

[3] Exhibit "A," Folder of Exhibits, 1.

[4] OR, Criminal Case Nos. 3873-95, et al., 8.

[5] Id., 11.

[6] OR, Criminal Case No. 3872-95, 1-2.

[7] OR, Criminal Case Nos. 3873-95, et al., 1-2.

[8] Id., 3-4.

[9] Id., 5-6.

[10] OR, Criminal Case No. 3872-95, 7.

[11] OR, Criminal Case No. 3872-95, 55-56; Rollo, 17-18.

[12] Citing U.S. v. Ramos, 35 Phil. 671.

[13] Citing People v. Sabellina, 238 SCRA 492 [1994]; People v. Adlawan, 217 SCRA 489 [1993]; People v.

Feliciano, 195 SCRA 19 [1991].

[14] Citing *People v. Joya*, 227 SCRA 9 [1993].

[15] Citing *People v. Matrimonio*, 215 SCRA 613 [1992].

[16] Citing *People v. Talaboc*, 256 SCRA 441 [1996]; *People v. Dones*, 254 SCRA 696 [1996].

[17] *People v. de los Reyes*, 203 SCRA 707, 727 [1991]; *People v. Casinillo*, 213 SCRA 777, 788-789 [1992]; *People v. Lucas*, 232 SCRA 537, 546 [1994]; *People v. Excija*, 258 SCRA 424, 438-439 [1996].

[18] *People v. Tismo*, 204 SCRA 535, 553 [1991]; *People v. Lascuna*, 225 SCRA 386, 399 [1993]; *People v. Antonio*, 233 SCRA 283, 299 [1994]; *People v. Lao*, 249 SCRA 137, 145 [1995].

[19] *People v. Cristobal*, 252 SCRA 507, 515 [1996].

[20] *Id.*, 516.

[21] TSN, 18 December 1995, 3-8.

[22] Ricardo J. Francisco, *Criminal Procedure* 69 [1996].

[23] *People v. Alfeche*, G.R. No. 124213, 17 August 1998, citing *People v. Empleo*, 226 SCRA 454 [1993]; *People v. Bernaldez*, G.R. No. 109780, 17 August 1998.

[24] *People v. Cristobal*, 252 SCRA 507, 517 [1996]; *People v. Diaz*, 262 SCRA 723, 732 [1996]; *People v. Leoterio*, 264 SCRA 608, 617 [1996].

[25] *People v. Matrimonio*, 215 SCRA 613, 631 [1992]; *People v. Baculi*, 246 SCRA 756, 766-767 [1995].

[26] *People v. Bayani*, 262 SCRA 660, 683 [1996]; *People v. Leoterio*, 264 SCRA 608, 615 [1996].

[27] *People v. Malunes*, 247 SCRA 317, 326-327 [1995]; *People v. Excija*, 258 SCRA 424, 440 [1996]; *People v. Leoterio*, 264 SCRA 608, 618 [1996].

[28] *People v. Corpuz*, 222 SCRA 842, 858 [1993].

[29] *Supra* note 1.

[30] G.R. No. 129439, 25 September 1998, reiterated in *People v. Ilao*, G.R. No. 129529, 29 September 1998.

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

[32] Citing Section 1(b), Rule 115; Sections 3, 4, 6-14, Rule 110; Rule 116; Rule 117; Sections 3, 4, 5, 11, Rule 120.

[33] 2 Florenz D. Regalado, *Remedial Law Compendium* 250 (1995), citing *U.S. v. Gatmaitan*, 4 Phil. 265.

[34] Article 14(15), Revised Penal Code.

[35] *People v. Prades*, G.R. No. 127569, 30 July 1998; *People v. Fuertes*, G.R. No. 126285, 29 September 1998.

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