

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO SACAPAÑO, ACCUSED-APPELLANT.*G.R. No. 130525. September 03, 1999*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-130525/>**PER CURIAM:**

What is more deplorable and disgusting than a man who spills his seeds into the womb of a child spawned from his loins, and does so repeatedly and in such frequency that confounds the mind, without regard to the norms of a civilized society and basic concept of morality? A man who rapes his daughter submits merely to the demands of his flesh, and in doing so strips himself of the respect due a father, and sadly, that of a human being.

From his daughter's horrible tale of incestuous rape, accused-appellant Ernesto Sacapaño (hereinafter ERNESTO) is one father whose perverse libidinousness he cannot control. He was indicted for qualified rape committed eleven times on separate occasions on his fifteen-year old daughter, Mylene Sacapaño (hereinafter MYLENE) before the Regional Trial Court of Kalibo, Aklan, Branch 2, and was found guilty of ten (10) of them in the judgment of 22 April 1997. He was sentenced "to suffer the penalty of death for each count."^[1]

The judgment is now before us for automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Section 11 of R.A. No. 7659.^[2]

MYLENE'S parents separated when she was less than a year old. Fifteen years later, or sometime in May 1994, ERNESTO, the father whom MYLENE had not seen, much less known, suddenly showed up in Mindoro where she was living with her maternal grandmother to ask the latter's permission to take her to Boracay for a vacation. ERNESTO and daughter MYLENE arrived at the island on 4 June 1994 and stayed in the house of Apren, ERNESTO'S father. Two months later, or in August 1994, after an altercation over the property inheritance between him and his brother, ERNESTO and MYLENE moved to a house owned by Lumad, Apren's brother. ERNESTO and MYLENE were the only occupants of the house.

On 25 August 1994, the doting ERNESTO turned sexual predator. At about 7:00 p.m. after supper, when MYLENE had lain down to sleep, ERNESTO laid down beside her, poked an icepick at her side and told her not to shout as he would stab her if she did. He removed her shorts and panty then inserted his finger into her vagina. Shocked and repulsed, MYLENE asked ERNESTO why he was doing it to her. Instead of answering, he mounted her and inserted, though with much difficulty, his penis into her vagina. MYLENE's first sexual experience at the arms of her lewd father proved too much. She felt extreme pain. She cried and pleaded for mercy but they fell on deaf ears.^[3] ERNESTO even threatened to kill her should she reveal to anyone what happened. The following morning she discovered blood stains on her panty. Fearing his father's threat, she did not reveal to anyone the sexual molestation.^[4]

From 26 August 1994 to 15 September 1994, ERNESTO insisted that MYLENE sleep beside him, but he did not molest her.^[5]

On 16 September 1994, ERNESTO and MYLENE moved to a house the former built. About 7:00 p.m., after supper, MYLENE was already asleep when she felt something stuffed into her mouth. She awakened and realized

that a face towel was placed inside her mouth by her father and her hands were already tied with a yellow plastic cord round the bamboo floor slats behind her. ERNESTO then placed his lecherous body on top of MYLENE and sexually assaulted her. MYLENE tried to resist by kicking him, but she realized that a “gulok,” a local bolo about two (2) feet long was pointed at the side of her body.[6] ERNESTO’s libidinousness was not satisfied by that carnal union. He sexually ravished MYLENE again at about 3:00 a.m. in the early morning of the following day. MYLENE’s hands were no longer tied but the bolo was still pointed at her side. Again she pleaded for mercy, to no avail. ERNESTO’s consuming lust prevailed over paternal compassion.[7]

This pattern of sexual assaults was repeatedly executed by ERNESTO from 17 September 1994 to 24 September 1994. On these date, corresponding to eight (8) days, ERNESTO raped his daughter MYLENE at about 7:00 p.m., after supper, when the latter was already asleep and about 3:00 a.m. the following day. In other words, ERNESTO raped MYLENE twice a day, at 3:00 a.m. and then again at 7:00 p.m.[8] On these eight (8) days, ERNESTO no longer tied MYLENE’s hands but he threatened to kill her with the bolo. And on each occasion of rape, ERNESTO removed her daughter’s shorts and panty, placed himself on top of her and spilled his seeds inside his child’s womb. MYLENE cried and begged for the sexual abuse and molestation to end but her repeated pleas for mercy and compassion fell on ears rendered insensitive by animal lust. ERNESTO’s threats to kill MYLENE should she shout usually silenced her to hapless submission. MYLENE’s menstruation from 18 September 1994 to 23 September 1994 did not prevent ERNESTO from consummating the abominable incestuous coitus.[9]

MYLENE felt alone in the strange place. She was afraid of ERNESTO. His threats to kill and the beatings and other forms of maltreatment she received from him deterred and dissipated her resolution to expose his sexual perversion. She was ashamed to tell her cousins of the sexual abuses she suffered but was able to disclose the physical beatings. She did try to disclose to her grandfather Apren on 23 September 1994 the sexual molestations but ERNESTO followed her and listened to the conversation. ERNESTO burst into the scene in time to cut off the disclosure. ERNESTO was so angered that he went to Lumad’s house, inebriated himself then stoned his father’s house.[10]

On 25 September 1994, MYLENE was raped at 8:30 p.m. and at 3:00 a.m. on the following day.[11] When the sun was up on 26 September 1994, and her father was out at work, MYLENE gathered enough courage and escaped. She borrowed twenty pesos from a neighbor and went to the seashore to ride a boat going to Hambil, a neighboring island where she has relatives. Unfortunatly, the boat left already when she got there, so she wandered about until she met Noly Claud who gave information about the arrival and departure of the boat for the next trip to Hambil. In the meantime, Noly invited MYLENE to stay in his house while she waited for the boat. In the afternoon, her father arrived at Noly’s and ordered her to return home. MYLENE told him that she will only get her clothes but she escaped and hid in the hills. She came down at about an hour later, muddled and soiled, and tearfully related to Noly’s wife the violent beatings she suffered from the hands of ERNESTO. Noly then brought her to Barangay Captain Anselmo Casidsid of Yapak, Boracay Island to whom she tearfully narrated first the physical abuses and later the sexual molestations and perversions of her lascivious father ERNESTO.[12] The barangay captain referred her to the police authorities who conducted an investigation on the matter. The barangay captain and the police found marks of beating at her back and arm.[13] MYLENE was later subjected to a physical and medical examination.

As a result of the investigation and physical examination, eleven (11) complaints for rape corresponding to the eleven days MYLENE was sexually assaulted were subsequently filed against ERNESTO and then docketed as Criminal Cases Nos. 4370 to 4380, inclusive. The complaints were signed by MYLENE and Assistant Provincial Prosecutor Mirazol Avila- Legaspi. The complaint on Criminal Case No. 4370 reads as follows:

The undersigned offended party, MYLENE A. SACAPAÑO, assisted by the undersigned Third Assistant

Provincial Prosecutor of Aklan, hereby accuses ERNESTO SACAPANO of Sitio Pinaungon, Barangay Balabag, Malay, Aklan, of the crime of RAPE, committed as follows:

That on or about the 25th day of August, 1994, in the evening, in Sitio Bulabog, Barangay Balabag, Municipality of Malay, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with the offended party MYLENE A. SACAPANO, a woman, 16 year old minor and his own daughter, against her will and without her consent, thereby inflicting upon the latter physical injuries, to wit:

“PHYSICAL FINDINGS:

- hymen avascular, lax, no signs of hematoma nor laceration
- labia minora slightly gaping, fourchette retracted with rounded base
- vaginal speculum inserted with ease
- obliterated vaginal rugosities
- no lacerations nor active bleeding noted

IMPRESSION: Positive for defloration.”

as per the Physical Findings issued by Dr. Maria Celia I. Tabañar, Medical Officer III and Officer-In-Charge, Buruanga Medicare Community Hospital, Buruanga, Aklan, hereto attached as an integral part of this complaint.

That by reason of the criminal acts of the accused, the private offended party suffered actual and compensatory damages in the amount of FIFTY THOUSAND PESOS (P50,000.00)

CONTRARY TO LAW.

The other ten (10) informations were similarly worded except for the dates of rapes, to wit: 16 September 1994 in Criminal Case No. 4371; 17 September 1994 in Criminal Case No. 4372; 18 September 1994 in Criminal Case No. 4373; 19 September 1994 in Criminal Case No. 4374; 20 September 1994 in Criminal Case No. 4375; 21 September 1994 in Criminal Case No. 4376; 22 September 1994 in Criminal Case No. 4377; 23 September 1994 in Criminal Case No. 4378; 24 September 1994 Criminal Case No. 4379; and 25 September 1994 in Criminal Case No. 4380. The cases were consolidated with Branch 2 of the RTC of Kalibo, Aklan.

At his arraignment on 23 February 1995, ERNESTO pleaded not guilty to the charges. Trial thereafter ensued. The prosecution presented evidence tending to establish the above narration of facts which were drawn mainly from the testimony of the victim MYLENE. Barangay Captain Anselmo Casidsid and SPO1 Rodolfo Padilla corroborated the testimony of MYLENE on the facts surrounding her disclosure to them of the rape and the events leading to the filing of the criminal complaints against ERNESTO. Dr. Celia Tabañar, Medical Officer III of the Buruanga Community Hospital who conducted the physical examination confirmed the medical findings contained in her Medical Report.[14] She explained that MYLENE’s “obliterated vaginal rugosities” i.e., the disappearance of “corrugations” in the vaginal canal associated with physical virginity was in most likelihood caused by repeated penetrations of a hard object like the penis in the act of sexual intercourse or the insertion of a finger. She stressed that strenuous activities like horseback riding can only cause “hymenal relaxation” but not the “obliteration of the vaginal rugosities.”[15] Thus, she found MYLENE “positive for defloration.”[16]

The defense presented as its sole witness accused ERNESTO who simply denied the accusation leveled against him by his daughter. He claimed he could not have committed the abominable act of rape against his own daughter and posited that MYLENE filed the charges in retaliation for the beatings he inflicted upon her as she was stubborn and indolent. ERNESTO then insinuated that MYLENE could have lost her “virginity” to one Nicanor Abad, her boyfriend in Mindoro.[17]

The trial court however dismissed the theory of the defense. Against the baseless, self-serving and unsubstantiated testimony and evidence of the defense, the trial court gave full credence and faith to the testimony of MYLENE who, though still young, nevertheless delivered the same in a positive, direct, straightforward and spontaneous manner. In the face of a rigorous cross-examination, she remained consistent and steadfast in her declarations that she was raped twice almost daily by her father on the dates she mentioned. However, it was established in the trial that MYLENE was not raped in the evening of 23 September 1994 and in the early morning of 24 September 1994. She disclosed this fact with much candor as recalling the events, she realized that her father was drunk at that time after he aborted her confession to her grandfather Apren.[18] The trial court assessed the declaration as trustworthy which did not blemish, but on the contrary increased her credibility even more. Consequently, the trial court convicted ERNESTO in Criminal Cases Nos. 4370 to 4377, inclusive and Criminal Cases Nos. 4379 and 4380 of ten (10) counts of rape instead of the original eleven (11). The dispositive portion of the decision[19] reads as follows:

WHEREFORE, the Court finds the accused ERNESTO SACAPAÑO Guilty beyond reasonable doubt of ten (10) counts of rape as defined and penalized under Sec. 11, R.A. 7659, amending Art. 335 of the Revised Penal Code, and is hereby sentenced to suffer the penalty of death for each count.

The accused is, however, ACQUITTED of the charge under Criminal Case No. 4378.

In addition, the accused is hereby ordered to pay the offended party, Mylene Sacapaño, the sum of P50,000.00 as moral damages and P25,000.00 as exemplary damages in each of the 10 counts of rape to deter other sex perverts from sexually molesting or assaulting hapless and innocent girls, especially their own kins.

SO ORDERED.

Before us ERNESTO once again denies culpability for the alleged rape of his daughter MYLENE. In support thereof, he assails the finding of rape as well as the credibility of MYLENE on the grounds that (1) no semen was found at her vaginal canal at the time she was physically examined by Dr. Tabañar, (2) she did not tell anybody about the sexual abuses, and (3) she failed to inform Barangay Captain Anselmo Casidsid and Assistant Provincial Prosecutor Mirazol Avila-Legaspi that he (ERNESTO) raped her twice daily from 17 September to 25 September 1994. He further contends that the trial court failed to consider his candid and unrebutted testimony that MYLENE's cohabitation with one Nicanor Abad most probably caused her defloration.[20] He also claimed that a letter to him from MYLENE's grandmother evinced that MYLENE was hardheaded and a liar.

We reject ERNESTO's contentions for being absolutely devoid of merit.

Settled is the rule that the absence of spermatozoa cells in the genital organ does not negate rape[21] nor does it disprove the consummation of rape. To sustain a conviction for rape, the important consideration is not the emission of semen, but the penetration of the male organ.[22] Full penetration is not even required as proof of entrance or the slightest penetration of the male organ within the labia or pudendum of the female organ is sufficient.[23] MYLENE succinctly recounted, in between tears and sobs, how on each occasion of rape her father removed her shorts and undergarments and promptly inserted his penis into her vagina. The rapes were indeed consummated even brutally with ERNESTO seemingly following a savage ritual of carnality as he sexually assaulted his daughter MYLENE almost twice daily at 3:00 a.m. and at 7:00 p.m. There is no reason to doubt her tale of woe.

As the trial court correctly observed, MYLENE testified in a straightforward, candid and spontaneous manner. She asserted consistently and persistently, without evasion or equivocation, that her father raped her. And when a woman says she has been raped, she says in effect all that is necessary to show that rape has been committed, and that if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[24]

We thus affirm the full faith and credence afforded by the trial court to the testimony of MYLENE. As the main issue here is the credibility of witnesses, it is settled that findings of the trial court on this score are entitled to great weight on appeal unless cogent reasons are presented necessitating a reexamination if not the disturbance of the same; the reason being the former is in a better and unique position of hearing first hand the witnesses and observing their deportment, conduct and attitude.[25] Indeed, a victim's testimony is entitled to greater weight when the accusing words are directed against a close relative, especially the father.[26] Besides, MYLENE's positive and assiduous declarations of rape and positive identification of the offender definitely prevail over ERNESTO's inherently weak and uncorroborated defense of denial and imputation of lack of credibility on the former.[27] Further, a teen-age unmarried lass does not ordinarily file a rape complaint against anybody, much less her own father, if it is not true. Besides, other than a fervent desire to seek justice, the records are bereft of evidence indicating or suggesting malevolent intent on MYLENE's part which could have impelled her to file the rape charges.[28] True, ERNESTO had the effrontery to impute to her daughter revenge for the physical abuses she received from his hands as the motive for instituting the rape cases, but MYLENE did not even mind the maltreatments and the beatings; she deplored the sexual assaults, thus:

Q. When he is maltreating you did you also hate your father for that?

A. I did not mind that he was maltreating me, only that I hate that I was sexually abused.

Q. And what was the reason why you were maltreated by your father?

A. He was maltreating me if I do not follow what he would like me to do.[29]

ERNESTO's additional attempts to challenge the credibility of his daughter remain mere exercises at futility and frivolity. First, ERNESTO's alleged un rebutted testimony that MYLENE is a liar and a hard-headed girl who fooled several persons in Mindoro as evidenced by a letter he received purportedly from his mother-in-law lacks probative value, being hearsay evidence. The prosecution never presented MYLENE's grandmother to attest to the truth of the statements contained in the letter.[30] Testimonial or documentary evidence is hearsay if it is based not on the personal knowledge of the witness but on the knowledge of some other person not on the witness stand. Consequently, hearsay evidence whether objected to or not, has no probative value unless the proponent can show that the evidence falls within the exception to the hearsay evidence enumerated in the rules of court. It is precluded because the party against whom it is presented is deprived of his right and opportunity to cross-examine the person to whom the statements or writings are attributed.[31] Second, MYLENE's failure to disclose the sexual abuses to her cousins, grandparents and to anybody for that matter does not cast doubt on the truthfulness of her declarations of rape nor on her credibility. Like her father (whom she does not know for all of fifteen years and who one day just showed up), her paternal relatives in Boracay are veritable strangers. In fact, when ERNESTO first raped MYLENE on 25 August 1994, he bolstered his threats to kill her should she try to divulge his sordid deed with the chilly reminder that she does not know anyone in Boracay. She did try to inform her grandfather Apren, but her father followed and his presence terrified and prevented her from revealing her ordeal. Further, the threats to her life, the regular physical beatings inflicted upon her and her embarrassment of having thus suffered such sexual ignominy from her father potently precluded her endeavors at disclosure. For the same reasons, her initial failure to disclose to Barangay Captain Anselmo Casidsid and Assistant Provincial Prosecutor Mirazol Avila-Legaspi the sexual molestations she suffered was sufficiently justified.

Anyway, the allegation of non-disclosure is misleading as MYLENE did eventually reveal the sexual abuses but that there was delay in the reporting of the same. It is not uncommon for young girls to conceal for some time the assaults on their virtue because of the rapist's threats on their lives moreso if it is the father who issued the

threats. The delay in the report of the rape – due to death threats, and in addition, due to the virtual isolation of the victim from her relatives as in this case – is likewise justified.[32]

Finally ERNESTO's impudent averment that MYLENE's cohabitation with one Nicanor Abad could have caused her defloration is absolutely irrelevant. Any prior sexual encounter (other than that with the alleged rapist) which could have resulted in hymenal lacerations or in this case obliterations of the vaginal rugosities is entirely immaterial, for virginity is not an element of rape under Article 335 of the Revised Penal Code.[33]

The records disclosed that ERNESTO actually and indubitably committed nineteen (19) acts of rape.[34] It appears, however, that the ten (10) informations for qualified rape duly proven, only described the rapes committed "in the evening" of the dates specified herein. It seems that the informations considered the two (2) acts of sexual molestations perpetrated at 7:00 p.m. and 3:00 a.m. as one rape committed in the evening. Since the informations charged ERNESTO with only ten (10) counts of qualified rape, we can only affirm the trial court's judgment convicting him of said ten (10) counts of qualified rape.

Under Article 335 of the Revised Penal Code, as amended by Section 11 of R.A. 7659, simple rape is punishable by reclusion perpetua. However, the attendance of certain circumstances in the commission thereof may take the case out of the purview of simple rape such that the penalty of reclusion perpetua is increased one degree higher resulting in the imposition of the death penalty. The pertinent provisions of said law reads as follows:

The crime of rape shall be punished by reclusion perpetua.

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

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

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

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

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

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

In particular, the presence of any of the seven special qualifying circumstances as enumerated effectively qualifies simple rape to warrant the imposition of the death penalty[35] regardless of the presence of other aggravating or

mitigating circumstances.[36] Under item number one (1), the concurrence of minority of the victim and her relationship to the offender constitutes one special qualifying circumstance; both should be alleged and proved.[37] In the instant case, it was specifically alleged in the complaints and informations and indubitably proved during trial that MYLENE was under eighteen years of age, in fact only fifteen years old, when the rapes were committed and that the offender, ERNESTO, was her father. ERNESTO even admitted in open court his paternity and MYLENE's minority at the time of the commission of the felony.[38]

We thus affirm the trial court's imposition of the death penalty for each of the ten counts of rape. Four Justices of the Court have continued to maintain the unconstitutionality of Republic Act No. 7659 insofar as it prescribes the death penalty; nevertheless they submit to the ruling of the majority to the effect that the law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

The trial court erred, however, in not awarding indemnity which a wealth of jurisprudence had earlier fixed at P50,000 in rape cases. In fact, the indemnity had been increased to P75,000 for each count of rape in certain cases. In *People v. Victor*[39] and *People v. delos Santos*,[40] we ruled that the award of civil indemnity should be P75,000 if the crime of rape is committed or effectively qualified by any of the circumstances under which the death penalty is authorized by present law.[41]

The awards of moral damages in the amount of P50,000 in each count is in order. Moral damages in rape cases should be awarded without need of showing that the victim suffered the trauma of mental, physical and psychological sufferings which constitute the bases thereof. These are too obvious to still require their recital at the trial by the victim, since we even assume and acknowledge such agony as a gauge of her credibility.[42] We also commend that the award of exemplary damages by the trial court in the hope of deterring fathers with perverse tendencies and aberrant sexual behaviors from sexually abusing their daughters.[43]

WHEREFORE, judgment is hereby rendered AFFIRMING the decision promulgated by the Regional Trial Court of Kalibo, Aklan, Branch 2 convicting accused-appellant ERNESTO SACAPANÓ of ten counts of rape in Criminal Cases Nos. 4370 to 4377 inclusive and in Criminal Cases Nos. 4379 and 4380, sentencing him to suffer the death penalty in each case, with the modification that in addition to the awards of moral damages of P50,000 and exemplary damages of P25,000.00 in each case, said accused-appellant is further ordered to pay MYLENE SACAPANÓ indemnity of P75,000.00 in each case.

In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of Republic Act No. 7659, upon finality of this decision, let the records of the case be forthwith forwarded to the Office of the President for possible exercise of the power to pardon.

Cost de oficio.

SO ORDERED.

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

[1] Per Acting Presiding Judge Dean R. Telan.

[2] Entitled, An Act to Impose the Death Penalty on Heinous Crimes, Amending for the Purpose the Revised Penal Code, as Amended, Other Special Laws, and for Other Purposes. It took effect on 31 December 1993 (*People v. Simon*, 234 SCRA 555 [1994]).

[3] TSN, 3 July 1995, 3-8.

- [4] TSN 26 June 1995, 16.
- [5] Supra note 3, at 9.
- [6] Id., 11-12.
- [7] Id., 14.
- [8] Supra note 3, at 15-16.
- [9] TSN, 3 July 1995, 15-16; See also TSN, 5 July 1995, 5-24.
- [10] TSN, 3 July 1995, 19-20; See also TSN, 23 August 1995, 10.
- [11] TSN, 5 July 1995, 23-24.
- [12] TSN, 10 July 1995, 3-22; See TSN 19 June 1995, 5.
- [13] TSN, 19 June 1995, 20.
- [14] Exhibit "A."
- [15] Supra note 11, at 25-27.
- [16] See also supra note 14.
- [17] TSN, 18 July 1996, 3-14.
- [18] TSN, 3 July 1995, 23-24.
- [19] Rollo, 55.
- [20] Appellant's Brief, 16-18
- [21] See *People v. De Los Reyes*, 203 SCRA 707, 724 [1991]; *People v. Tismo*, 204 SCRA 535, 555-556 [1991].
- [22] See *People v. Fortes*, 223 SCRA 619, 635 [1993].
- [23] See *People v. Tismo*, supra note 21; *People v. Clopino*, 290 SCRA, 432, 442-443 [1998].
- [24] See *People v. Lao*, 249 SCRA 137, 145-146 [1995]; *People v. Cristobal*, 252 SCRA 507, 516 [1996]; *People v. Gagto*, 253 SCRA 455, 467 [1996].
- [25] See *People v. Landicho*, 258 SCRA 1 [1996]; *People v. Villaviray*, 262 SCRA 13, 18 [1996]; *People v. Leoterio*, 264 SCRA 608, 617 [1996].
- [26] See *People v. Lao*, supra note 24.
- [27] See *People v. Delovino*, 247 SCRA 637, 649 [1995]; *People v. Abangin*, G.R. Nos. 125939-40, 12 October 1998.
- [28] See *People v. Matrimonio*, 215 SCRA 613, 627 [1993]; *People v. Lao*, supra note 24; *People v. Tabugoca*, 285 SCRA 312, 328 [1998].
- [29] TSN, 23 August 1995, 16.
- [30] See TSN, 3 October 1996, 2-7.
- [31] *Philippine Home Assurance Corporation v. Court of Appeals and Eastern Shipping Lines*, 257 SCRA 468,

479-480 [1996]; *People v. Villaviray*, supra note 25, at 20; See also Section 36, Rule 130 of the Rules of Court.

[32]32 See *People v. Lagrosa, Jr.*, 230 SCRA 298 [1994]; *People v. Lucas*, 232 SCRA 537 [1994]; *People v. Bayani*, 262 SCRA 660, 683 [1996]; *People v. Tabugoca*, supra note 28, at 326.

[33] See *People v. Delovino*, supra note 27, at 650 citing *People v. Samillano*, 207 SCRA 50, 56 [1992] and *People v. Ferolino*, 221 SCRA 604, 610 [1993].

[34] These were committed at (1) 7:00 p.m. on 25 August 1994, (2) 7:00 p.m. on 16 September 1994, (3) 3:00 a.m. and (4) 7:00 p.m. on 17 September 1994, (5) 3:00 a.m. and (6) 7:00 p.m. on 18 September 1994, (7) 3:00 a.m. and (8) 7:00 p.m. on 19 September 1994, (9) 3:00 a.m. and (10) 7:00 p.m. on 20 September 1994, (11) 3:00 a.m. and (12) 7:00 p.m. on 21 September 1994, (13) 3:00 a.m. and (14) 7:00 p.m. on 22 September 1994, (15) 3:00 a.m. on 23 September 1994, (16) 7:00 p.m. on 24 September 1994, (17) 3:00 a.m. and (18) 8:30 p.m. on 25 September 1994, and finally, (19) 3:00 a.m. on 26 September 1994. Per TSN, 5 July 1995, 5-24 and TSN, 3 July 1995, 15-16.

[35] See *People v. Garcia*, 281 SCRA 463, 489 [1997]; *People v. Empante*, G.R. Nos. 130665 and 137996-97, 21 April 1999.

[36] *People v. Ponayo*, 261 SCRA 61, 67 [1996]; *People v. Mengote*, G.R. No. 129439, 25 September 1998; *People v. Empante*, id.

[37]37 See *People v. Cantos*, G.R. No. 129298, 14 April 1999; *People v. Magasin*, G.R. Nos. 130599-600, 21 April 1999; *People v. Maglente*, G.R. Nos. 124559-66, 30 April 1999.

[38] See TSN, 18 July 1996, 9.

[39]39 292 SCRA 186, 200 [1998].

[40] G.R. No. 121906, 17 September 1998.

[41]41 See also *People v. Ayo*, G.R. No. 123540, 30 March 1999.

[42] See *People v. Prades*, 293 SCRA 411, 431 [1998].

[43] See *People v. Matrimonio*, supra note 28, at 634.

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