

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO LAZARTE AND ROLAND BRETaña, ACCUSED, REYNALDO LAZARTE, ACCUSED-APPELLANT.

G.R. No. 130711. June 29, 2000

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

On 31 May 1991, accused-appellant Reynaldo Lazarte and Roland Bretaña were charged with the crime of murder before the Regional Trial Court of Iloilo, Branch 22, under Criminal Case No. 36148.[1] The information reads:

The undersigned 1st Assistant Provincial Prosecutor of the Subprovince of Guimaras, Iloilo, accuses Reynald C. Lazarte and Roland Britaña alias "Rolan" of the crime of murder, committed as follows:

That on or about the 25th day of March 1991, in the municipality of Jordan, Subprovince of Guimaras, Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with the use of superior strength, did then and there willfully, unlawfully and feloniously, with intent to kill and with treachery and use [of] personal violence upon one Dominador Dacones, by then and there shooting Dominador Dacones on his body with the use of firearm, thereby inflicting upon him mortal wound which was the direct and immediate cause of his death thereafter.

CONTRARY TO LAW.[2]

Upon being arraigned on 8 July 1991, accused-appellant and Roland Bretaña, assisted by counsel de officio, Atty. Lorna Garcia, pleaded "not guilty" to the offense charged.[3]

The prosecution presented six witnesses, namely: Ricardo Gadot, Jr. and Roger Gadot, the brothers-in-law and companions of the victim at the time the incident happened; Dr. Edgardo A. Jabasa, the Provincial Health Officer of Guimaras; Rosemarie Dacones, the wife of the victim; Ofelia Canja, the owner of the land where the victim used to reside and work as a tenant; and SPO4 Nemesio Elevecione, the officer on duty when the death of the victim was reported to the police.

Ricardo Gadot, Jr. testified that on 25 March 1991, at around six-thirty in the evening, he, together with his brother-in-law, Dominador Dacones, and his brothers, Roger Gadot and Roberto Gadot, went to a store in Sitio Bantayan to buy sugar and cigarettes.[4] The store is located at a distance of one (1) kilometer away from their house.[5] After reaching the store, they stayed there for some time since they talked with the people hanging around in the store.[6] They left at around a quarter to eight in the evening.[7] In going to and from the store, they had to pass through a barangay road which connects to a narrow path leading to their house.[8] The narrow path, located in the mango orchard owned by a certain Jose Hao,[9] is only two (2) feet in width with thorny trees, called "talongons," which stands six (6) feet in height, lining both of its sides.[10] Due to the narrowness of the path, they had to walk in a line formation.[11] The one in the lead was Dominador Dacones, followed by Roberto Gadot, Roger Gadot and the witness, in that order.[12] They were approximately an arm's length away from each

other while they were treading the path.[13] After walking along the narrow path for about 250 meters, a shot was heard coming from the right side of the group.[14] Dominador was hit and fell face down while the brothers of the witness hit the ground to avoid being shot.[15] However, because of shock, the witness remained standing.[16] Upon focusing his attention at the direction from where the shot came, he saw two men, accused-appellant and Roland Bretaña,[17] standing at an elevated position.[18] He saw accused-appellant holding a shotgun[19] while Roland Bretaña was holding a revolver.[20] After three (3) seconds from the first shot, another shot was fired.[21] This time, the witness also sprawled himself on the ground while his brothers ran away.[22] Accused-appellant and Roland Bretaña then ran away towards the direction of their house.[23] The witness crawled towards the house of his uncle which was thirty (30) meters away from where the incident happened.[24] Upon reaching his uncle's house, he asked for help.[25] His uncle, aunt and cousin then went down their house.[26] Since no more gunshots were fired, they went to the place where Dominador Dacones fell.[27] They then brought Dominador Dacones to the house of his cousin which is located near the barangay road.[28] At this point, Dominador Dacones was still breathing but could no longer talk.[29] They then waited for the witness' brother, Roger Gadot, who was then looking for a vehicle to be used in bringing Dominador Dacones to the hospital.[30] However, when the vehicle arrived, Dominador Dacones was already dead.[31] The witness then went to the barangay captain to seek the latter's help.[32] In the early morning of 26 March 1991, the witness and the barangay captain then went to the police station to report the incident.[33] Upon being asked as to how he was able to see their assailants despite the fact that it was evening, the witness explained that it was a moonlit night when the incident happened, thus, enabling him to see the faces of the assailants when he focused his attention towards the direction from where the shots came.[34] On further inquiry as to whether he knew their assailants, he stated that he had known Roland Bretaña three months prior to the incident.[35] With regard to accused-appellant, it was the first time that the witness saw him.[36] However, he was able to identify accused-appellant because the latter was wearing a security guard's uniform.[37]

Roger Gadot testified that on 25 March 1991, at around six o'clock in the evening, he together with his brothers, Ricardo Gadot and Roberto Gadot, and his brother-in-law, Dominador Dacones, went to a store in Sitio Bantayan, which was around a kilometer away from their house, to buy coffee and sugar.[38] In going to and from the store, they had to pass through a trail which connects to the barangay road.[39] The said trail, used as a pathway for carabao sleds, is situated between two rolling hills.[40] On their way back to their house, Dominador Dacones was at the head of the group, followed by Ricardo Gadot, the witness and Roberto Gadot.[41] While already near the house of their uncle, a certain Lucas Gadot, a shot was heard coming from somewhere above them, to their right.[42] He then saw Dominador fall to the ground.[43] He looked at the direction from where the shot came from and saw Roland Bretaña and a man wearing a blue uniform pointing their guns at them.[44] Upon being asked as to who the man in blue uniform was, the witness identified him as accused-appellant.[45] Roland Bretaña was holding a revolver while the man in blue uniform was holding a shotgun.[46] After seeing this, he then ran towards the barangay road.[47] While running, another shot was fired coming from the same direction.[48] After running a short distance, he hid behind a mango tree in order to see what was happening.[49] He saw the two assailants running towards the direction of the house of Jose Hao located in Barangay Aguilar.[50] He then proceeded to Barangay Aguilar to inform the barangay captain and the barangay councilors of what transpired.[51] Upon being apprised of the incident, the barangay captain, a certain Rogelio Talaban, and two barangay councilors went to look for a vehicle to use in going to Dominador Dacones in order to transport him to the hospital.[52] After finding a vehicle, they went to the place where Dominador Dacones had fallen.[53] However, it was too late since Dominador Dacones was already dead when they arrived.[54]

Dr. Edgardo Jabasa testified that on 26 March 1991, he conducted a post-mortem examination of the cadaver of Dominador Dacones in Funeraria Solibio.[55] The results of his examination are summarized in the following

report:

AUTOPSY REPORT

91-09

NAME: DOMINADOR DACONES Y EVANGELIO AGE: 39 Yrs. SEX: M SC.: M

ADDRESS: SITIO BANTAYAN, AGUILAR, JORDAN, GUIMARAS

OCCUPATION: FARMER

DATE; TIME; PLACE OF INCIDENT: March 25, 1991; Sitio Bantayan, Aguilar, Jordan, Guimaras at about 8:00 P.M.

DATE; TIME; PLACE OF EXAM.: March 26, 1991; Funeraria Solivio, Jordan, Guimaras; 10:35 A.M.

EXAMINATION REQUESTED BY: Stn. Comdr., PNP, Jordan, Guimaras

INFORMANT: Ricardo Gadot - Father-in-Law

POSTMORTEM FINDINGS

Body is in state of rigor mortis, measuring 170 cm in height, dressed in blue denim pants, printed T-shirt, white underwear and blue colored underwear with the following findings:

Wound, gunshot (pellets) entrance (sic) 5 in number, 0.5 in diameter surrounded by a contusio abraded colar (sic) 0.3 cm. widely scattered at the middle 3rd, lateral portion, right arm about 2-4 cm apart covering an area of about 14 cm. at its largest diameter thru and thru and hitting the right lateral portion of the body at the same level about 54 cm from the vortex of head entering the abdominal cavity hitting the liver thru and thru right kidney thru and thru and to the left side of the body (2) pellets recovered embedded at the left lateral abdominal wall, 3 pellet wound of exit irregular in shape and measures one to 1 1/2 cm. In diameter at the left lateral abdominal wall.

Hemoperitonium, 1,500 cc.

CAUSE OF DEATH:

Internal Hemorrhage due to laceration of liver and right Kidney as a direct result of gunshot (pellet) wounds.[56]

Based on his findings, Dr. Jabasa concluded that the assailant was on the right side of the victim and standing on a slightly higher elevation when the shot was fired. He based this conclusion from the fact that the gunshot injuries of Dominador Dacones were located on the side of the victim's body adjacent to the middle third portion of the right arm and in a downward direction.[57] He also observed that the assailant used a 12-gauge shotgun because of the size of the pellets recovered from the body of the victim. He recovered two pellets out of the five pellets which punctured the victim's body since the other three pellets exited the body of the victim.[58] He also stated that the pellets damaged the liver and right kidney of the victim, thus, causing his death.[59]

Rosemarie Dacones testified that her husband, Dominador Dacones, was buried on 10 April 1991.[60] She spent thirty-seven thousand three hundred twenty-five pesos (P37,325.00) on burial expenses.[61] When her husband was still alive, he worked as a farmer and as an employee of the Iloilo Medical Center.[62] As a farmer, he was earning forty (40) cavans of palay a year.[63] On the other hand, as an employee of the Iloilo Medical Center, he earned eighty pesos (P80.00) on regular days and one hundred fifty pesos (P150.00) during holidays.[64] Prior to his death, he was in a very good state of health.[65] He was thirty-seven (37) years old when he died.[66]

The testimony of Ofelia Canja was presented to shed light with regard to the presence of a security guard in the

mango orchard of Jose Hao. She testified that she and her relatives are the owners of the landholdings where Dominador Dacones and his family lived as tenants.[67] Their landholdings adjoin the mango orchard of Jose Hao. She had a disagreement with Jose Hao due to the latter's claim that her tenants were picking mangoes from his orchard without permission.[68] Because of this, Jose Hao fenced his orchard.[69] However, by fencing his property, the narrow path used by the witness' tenants in going to the barangay road was closed.[70] Although there are two paths which may be used by the witness' tenants in going to and from her landholdings, her tenants preferred the path through the orchard of Jose Hao since it has a shorter route.[71] Jose Hao also informed the witness that he will be placing a guard on his fenced orchard to protect his mangoes.[72]

Finally, the prosecution presented SPO4 Nemesio Elevecione. He testified that he was the police officer on duty when the crime was reported.[73] He identified the firearm allegedly used by the accused-appellant in shooting Dominador Dacones.[74] He also stated that the firearm was entrusted to him by accused-appellant himself.[75]

On the other hand, the defense presented two witnesses, namely: accused-appellant and Roland Bretaña. Accused-appellant admitted to killing Dominador Dacones but claimed self-defense. With regard to Roland Bretaña, he denied having any participation in the death of Dominador Dacones.

Accused-appellant testified that, prior to the incident, he had been working as a security guard in the orchard of Jose Hao for only three (3) days.[76] His task was to guard the orchard against trespassers.[77] On 25 March 1991, he was on duty in the orchard of Jose Hao.[78] During his tour of duty, Roland Bretaña accompanied him.[79] While patrolling at around 8:30 p.m., he noticed four (4) persons standing at the gate of the fence of the orchard.[80] The moon was bright on that night, thus, enabling him to see the faces of these four (4) persons.[81] He heard someone from the group say that they should be let inside.[82] Then another one said that they should crawl under the fence since it is the shortest way back to their house.[83] Then another one retorted, "Come what may, let's get inside" (Bahala na, sudlon ta)[84] When the group was already inside, accused-appellant accosted them and asked who they were.[85] Dominador Dacones then said, "It's me" and then drew a gun from his waist and gestured as if to shoot accused-appellant.[86] In response, accused-appellant, who was then standing five (5) meters away from Dominador Dacones,[87] fired his 12-gauge Birmingham shotgun at the latter.[88] Dominador Dacones was hit and, thus, lost his grip on his gun.[89] When the victim fell, he was still alive but he was already having a hard time breathing.[90] Accused-appellant then went to the overseer (kabo) of the orchard to inform the latter of what happened.[91] He told the overseer that he intended to surrender.[92] However, the overseer advised him not to surrender and to just wait for the police.[93] The following day, the police went to his house.[94] Upon being asked by the police if he was responsible for the death of Dominador Dacones, he responded in the negative.[95] The police did not arrest him on this visit since they did not have a warrant of arrest.[96] However, on the second visit of the police on 27 May 1991, they were already armed with a warrant by virtue of which they arrested accused-appellant.

Roland Bretaña testified that he was employed by Jose Hao[97] as the latter's caretaker of his mango trees.[98] He had been working for Jose Hao for six (6) months prior to the incident.[99] On 25 March 1991, at around 8:30 p.m., he was with accused-appellant watching over the mango trees in the orchard.[100] While going about their duties, they saw four (4) armed[101] men entering the fence of the orchard.[102] After gaining entrance, accused-appellant asked who they were.[103] One among the group said "I" and, thereafter, drew his firearm.[104] Upon seeing the firearm, the witness ran towards his house.[105] While running, he heard a shot fired.[106] He turned his head and saw accused-appellant holding his 12-gauge shotgun.[107] He then saw someone among the group fire back.[108] Upon reaching his house, accused-appellant arrived after fifteen (15) seconds.[109] Accused-appellant informed him that he shot somebody.[110] He then advised accused-appellant to inform their supervisor about the incident.[111] Upon being asked if he also carried a gun at the time of the

incident, he answered in the negative.[112] In this regard, he denied having shot Dominador Dacones.[113]

Due to the elevation of status of Guimaras into a province, it was provided with its own regional trial court. Thus, on 21 December 1994, the case was transferred to the Regional Trial Court of Guimaras, Branch 65, and re-docketed as Criminal Case No. 0137. In its Decision dated 2 May 1997, the trial court acquitted Roland Bretaña but found accused-appellant guilty of the crime of murder. The dispositive portion of the decision reads:

WHEREFORE, foregoing premises considered, judgment is hereby rendered finding the accused REYNALDO LAZARTE guilty beyond reasonable doubt of the crime of MURDER defined and penalized under Article 248 of the Revised Penal Code and is hereby sentenced to suffer a penalty of imprisonment of reclusion perpetua. The said accused is further directed to pay the heirs of Dominador Dacones P51,685.00 as actual damages; P100,000.00 as moral damages; P100,000.00 as exemplary damages; P20,000.00 as Attorney's fees and to pay the costs. The period of detention of accused Lazarte during the pendency of the case shall be deducted from his penalty.

Accused ROLAND BRETANA is hereby ACQUITTED of the crime charged for failure of the prosecution to prove his guilt beyond reasonable doubt. Said accused being detained is ordered released unless he is charged with some other offense or offenses which would warrant his further detention.

SO ORDERED.[114]

Accused-appellant is now before us raising the following assignment of errors:

I

THE COURT A QUO GRAVELY ERRED IN NOT GIVING WEIGHT AND CREDENCE TO ACCUSED APPELLANT'S PLEA OF SELF-DEFENSE.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In instances where an accused acknowledges full responsibility for the death of the victim but claims self-defense, the burden of evidence is transferred to the accused to prove that his taking of a life was justified and that he did not incur any criminal liability for the same.[115] In order that he may be acquitted, the accused must prove that three circumstances concur, namely: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the accused.[116] Among the three circumstances, unlawful aggression is the most important for without it, self-defense cannot exist.[117]

In the present case, accused-appellant claims that after asking Dominador Dacones about his identity, the latter instigated the aggression by drawing a revolver from his waist and gestured as if to fire the same at him.[118] Sensing a threat to his life, accused-appellant followed his natural instinct of self-preservation and responded by firing his shotgun at Dominador Dacones.[119] Thus, he claims self-defense. We are not convinced.

As accused-appellant was holding a 12-gauge shotgun, ready to fire at the intruders who entered into the fenced orchard he was guarding, it is highly improbable that the victim would be so foolhardy to still attempt to draw a tucked sidearm from his waist knowing that accused-appellant's finger was already on the trigger of the shotgun. Moreover, accused-appellant's claim that Dominador Dacones was armed with a revolver is very difficult to believe. The revolver supposedly used by the victim was never even presented in evidence. Accused-appellant conveniently explained that although he saw where the alleged revolver fell, he did not bother to get the firearm. If he really acted in self-defense, he should have taken possession of the gun as evidence in order to prove his

innocence.

Another factor which militates against accused-appellant's claim of self-defense is the fact that he did not voluntarily surrender to the proper authorities and opted to remain silent about the incident. A person claiming self-defense would have reported the incident to the police as he has nothing to hide. Accused-appellant's excuse that he was advised by the orchard's overseer to just await the police cannot merit credibility. In fact, the overseer was not even presented in court to corroborate accused-appellant's assertion that he was counseled not to surrender.

Since there was no unlawful aggression on the part of the victim, accused-appellant's claim of self-defense must fail.[120]

However, accused-appellant's appeal is not entirely in vain. We note that despite the fact that Judge Merlin Deloria penned a lengthy decision on the instant case, nowhere did he discuss the circumstances of treachery and abuse of superior strength which will qualify accused-appellant's act of killing Dominador Dacones into murder.

Treachery is present when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[121] To appreciate treachery, two conditions must be present, to wit: (1) the employment of means of execution that give the person attacked no opportunity to defend himself or retaliate; and (2) the means of execution were deliberately or consciously adopted.[122] On the other hand, there is abuse of superior strength when there is a notorious inequality of forces between the victim and the aggressor.[123] Like treachery, this qualifying circumstance can only be appreciated if it is clearly shown that there was a deliberate intent on the part of the aggressor to take advantage thereof.[124] If abuse of superior strength co-exists with treachery in the commission of the crime, the former is absorbed in the latter and, as such, only the latter aggravating circumstance will be appreciated.[125]

In the present case, after a careful review of the evidence on record, we find that treachery and abuse of superior strength did not attend the killing of Dominador Dacones.

The factual milieu of the present case does not sufficiently prove that accused-appellant employed means which would ensure the execution of the crime without risk to himself. When accused-appellant attacked the victim's group of four (4) individuals, he certainly took some risk because he was not in the position to assure himself that the persons attacked would not fight back, considering their numerical advantage. It was not conclusively proven from the testimonies of the eyewitnesses for the prosecution, Ricardo Gadot, Jr. and Roger Gadot, that accused-appellant pondered upon the mode or method to insure the killing of the victim.[126] As previously discussed, treachery can only be appreciated if the aggressor employed means, methods, or forms in the commission of the crime which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make.[127]

With regard to the aggravating circumstance of abuse of superior strength, this cannot, likewise, be appreciated against accused-appellant since the same was not adequately established. The prosecution did not present any direct proof that accused-appellant took advantage of his superior strength in inflicting harm upon his victim whose group outnumbered him, four to one.

The qualifying circumstance of treachery and abuse of superior strength having been ruled out in the commission of the felony, the crime for which accused-appellant should be made accountable must be modified from murder to homicide. Accordingly, the penalty of accused-appellant must be lowered to reclusion temporal. There being no aggravating or mitigating circumstance, the proper imposable penalty should be reclusion temporal in its medium

period. Applying the Indeterminate Sentence Law, the minimum term is anywhere within the range of prison mayor, or from 6 years and 1 day to twelve years, and the maximum within the range of reclusion temporal in its medium period, or from 14 years, 8 months and 1 day to 17 years and 4 months.

We now come to the civil liability of accused-appellant. The trial court had ordered accused-appellant to pay the heirs of Dominador Dacones the amount of P51,685.00 as actual damages, P100,000.00 as moral damages, P100,000.00 as exemplary damages, P20,000.00 as attorney's fees, and to pay the costs of the suit.

The monetary liabilities of a person accused and convicted of a crime are specified in Article 2206 of the Civil Code:

Art. 2206 The amount of damages for death caused by a crime or quasi-delict shall be at least three thousand pesos, even though there may have been mitigating circumstances. In addition:

(1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death;

(2) If the deceased was obliged to give support according to the provisions of Article 291, the recipient who is not an heir called to the decedent's inheritance by the law of testate or intestate succession, may demand support from the person causing the death, for a period not exceeding five years, the exact duration to be fixed by the court;

(3) The spouses, legitimate and illegitimate descendants and ascendants of the deceased may demand moral damages for mental anguish by reason of the death of the deceased.

Thus, aside from the ordinary indemnity for death which is currently set by case law at P50,000.00,[128] accused-appellant is obliged: (1) to compensate the heirs of Dominador Dacones for the latter's loss of earning capacity; and (2) to pay the heirs of Dominador Dacones moral damages for the mental anguish suffered by them. In the present case, it appears that the trial court lumped these monetary obligations into what it called "moral damages." This error must be corrected.

The variables that should be taken into account in determining the compensable amount of lost earnings are: (1) the number of years for which the victim would otherwise have lived; and (2) the rate of loss sustained by the heirs of the deceased. Jurisprudence provides that the first factor, i.e., life expectancy, is computed by applying the formula $(2/3 \times [80 - \text{age at death}])$ adopted in the American Expectancy Table of Mortality or the Actuarial Combined Experience Table of Mortality.[129] On the other hand, the second factor is arrived at by multiplying the life expectancy by the net earnings of the deceased, i.e., the total earnings less expenses necessary in the creation of such earnings or income less living and other incidental expenses.[130] Net earning is ordinarily computed at fifty percent (50%) of the gross earnings.[131]

Thus, considering that Rosemarie Dacones, the wife of the victim, testified that her 37-year old husband earned P80 a day in working for the Iloilo Medical Center, the following is the computation of the expected loss of her deceased husband's earning capacity:

$2/3 \times [80 - 37(\text{age at time of death})] = 28.66$ (expected years of life left)

$P80$ (daily wage) $\times 261$ (number of working days in a year) = P20,880.00 (gross annual salary)

$P20,880 \times .50$ (allocation for living expenses) = P10,440.00 (net annual salary)

$28.66 \times P10,440.00 = P299,210.40$ (loss of earning capacity)

With regard to the claim of Rosemarie Dacones that her husband earned forty (40) cavans of rice each year from working as a tenant in the land of witness Ofelia Canja, the same cannot be appreciated since the prosecution failed to show how much a cavan of rice costs. Thus, we cannot include the same in the computation of damages, in the form of lost earnings, due the heirs of Dominador Dacones.

On the aspect of the trial court's award of moral and exemplary damages and attorney's fees, the same must, likewise, be corrected. The award of the trial court of P100,000.00 as moral damages should be tempered and reduced to an amount of P50,000.00. On the other hand, the award of exemplary damages cannot be granted since no aggravating circumstance attended the commission of the crime.^[132] Likewise, since we have deleted the award of exemplary damages, Article 2208 of the Civil Code dictates that the award of attorney's fees must correspondingly be deleted.

Finally, Rosemarie Dacones testified that she incurred P37,325.00 for the burial expense of her husband. This testimony was supported by documentary evidence and was not rebutted by the defense. Thus, the said amount should be awarded to the heirs of Dominador Dacones.

WHEREFORE, in view of the foregoing, the Decision appealed from is MODIFIED and accused-appellant is hereby found GUILTY beyond reasonable doubt of the crime of HOMICIDE. Accused-appellant is hereby sentenced to an indeterminate sentence of 10 years and 1 day of prision mayor medium as minimum and to 14 years, 8 months and 1 day of reclusion temporal medium as maximum. Accused-appellant is ordered to pay the heirs of the victim P50,000.00 as civil indemnity, P299,210.40 for unearned income, P50,000.00 as moral damages and P37,325.00 for burial expenses.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

[1] Information, Records, p. 1.

[2] Ibid.

[3] Certificate of Arraignment, Records, p. 27.

[4] TSN dated 25 October 1991, p. 8.

[5] Ibid.

[6] Id.

[7] Id.

[8] TSN, 25 October 1991, p. 9.

[9] Id., at 15.

[10] Id., at 17.

[11] Id., at 9.

[12] Ibid.

[13] Id.

[14] Id., at 10.

[15] Id., at 13.

[16] Id.

[17] TSN, 25 October 1991, p. 10.

[18] Id., at 18.

[19] Id., at 12.

[20] Id., at 13.

[21] Id., at 10.

[22] Id., at 13.

[23] Id.

[24] TSN, 25 October 1995, p. 14.

[25] Ibid.

[26] Id.

[27] Id.

[28] Id.

[29] Id.

[30] Id.

[31] Id.

[32] Id.

[33] Id.

[34] TSN, 25 October 1995, p. 10.

[35] Id., at 11.

[36] Ibid.

[37] Id., at 12.

[38] TSN dated 21 January 1992, p. 3.

[39] Ibid.

[40] Id., at 4.

[41] Id.

[42] Id.

[43] Id.

[44] TSN, 21 January 1992, p. 5.

[45] Id., at 6.

- [46] Id.
- [47] Id.
- [48] Id.
- [49] Id., at 7.
- [50] Id.
- [51] Id.
- [52] TSN, 21 January 1992, p. 8.
- [53] Ibid.
- [54] Id.
- [55] TSN dated 25 October 1991, p. 3.
- [56] Exhibit "A."
- [57] TSN, dated 25 October 1991, p. 4.
- [58] Id., at 4-5.
- [59] Id., at 5.
- [60] TSN dated 17 July 1995, p. 4.
- [61] Id., at 5; Exhibit "D."
- [62] TSN dated 17 July 1995, p. 7.
- [63] Id., at 7.
- [64] Id.
- [65] TSN, 17 July 1995, p. 8.
- [66] Ibid.
- [67] TSN dated 26 October 1995, p. 3.
- [68] Id., at 7.
- [69] Id.
- [70] TSN, 26 October 1995, p. 6.
- [71] Id., at 10.
- [72] Id., at 7.
- [73] TSN dated 23 July 1996, p. 4.
- [74] Id., at 6; Exhibit "E."
- [75] Id., at 7.
- [76] TSN dated 1 October 1996, p. 15.

- [77] Id., at 15.
- [78] Id., at 4.
- [79] Id.
- [80] TSN, 1 October 1996, p. 5.
- [81] Id., at 4.
- [82] Id., at 5.
- [83] Id., at 6.
- [84] Id.
- [85] TSN, 1 October 1996, p. 7.
- [86] Ibid.
- [87] Id., at 15.
- [88] Id., at 29.
- [89] Id., at 7.
- [90] Id., at 21.
- [91] Id., at 8.
- [92] Id.
- [93] Id.
- [94] TSN, 1 October 1996, p. 23.
- [95] Id., at 24.
- [96] Id., at 23.
- [97] TSN dated 6 February 1997, p. 3.
- [98] Id., at 7.
- [99] Id., at 8.
- [100] Id., at 3.
- [101] Id., at 5.
- [102] Id., at 4.
- [103] Id.
- [104] Id.
- [105] Id.
- [106] Id.
- [107] TSN, 6 February 1997, pp. 4-5.

- [108] Id., at 5.
- [109] Id., at 18.
- [110] Id., at 7.
- [111] Id.
- [112] Id.
- [113] Id.
- [114] Decision, Records, p. 270.
- [115] People vs. Hubilla, 252 SCRA 471, 479 (1996); People vs. Rivero, 242 SCRA 354, 358 (1995)
- [116] Article 11(1), Revised Penal Code.
- [117] People vs. Curaraton, 224 SCRA 372, 376 (1993)
- [118] Appellant's Brief, Rollo, p. 68.
- [119] Ibid.
- [120] Article 11, Revised Penal Code.
- [121] People vs. Torrefiel, 256 SCRA 369, 378-379 (1996); People vs. Patrolla, Jr., 254 SCRA 467, 475 (1996); People vs. Parangan, 231 SCRA 682, 691 (1994)
- [122] People vs. Porras, 255 SCRA 514, 529 (1996); People vs. Ledesma, 250 SCRA 166, 172 (1995); People vs. Daquipil, 240 SCRA 314, 332 (1995)
- [123] People vs. Acuña, 248 SCRA 668, 677 (1995)
- [124] People vs. Escoto, 244 SCRA 87, 97-98 (1995)
- [125] People vs. Caritativo, 256 SCRA 1, 14 (1996)
- [126] People vs. Ocsimar, 253 SCRA 689, 698 (1996)
- [127] Supra, note 121.
- [128] People vs. Lopez, 302 SCRA 380, 401-402 (1999)
- [129] People vs. Villanueva, 302 SCRA 380, 401-402 (1999); People vs. Suitos, 220 SCRA 419, 431 (1993); People vs. Daniel, 136 SCRA 92, 104 (1985)
- [130] People vs. Reyes, G. R. No. 126042, 2 July 1999.
- [131] People vs. De Vera, Sr., 308 SCRA 75, 102 (1999)
- [132] Article 2230, Civil Code; People vs. Medina, 300 SCRA 98, 119 (1998); People vs. Bernaldez, 294 SCRA 317, 335 (1998)

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