PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BONIFACIO PUERTA Y RODRIGUEZ, ACCUSED-APPELLANT.

G.R. No. 131609. August 27, 2001

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PER CURIAM:

For automatic review before this Court is the decision[1] of the Regional Trial Court of San Jose, Camarines Sur, Branch 30, dated August 21, 1997, in Criminal Case No. T-1591, finding accused-appellant Bonifacio Puerta guilty of the crime of rape committed against his nine-year old daughter, Janet Puerta.

The information reads:

> "That on or about [the] 12[th] day of August, 1996 at about 3:00 o'clock in the afternoon at Barangay San Antonio, Municipality of Tigaon, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge with his daughter, Janet B. Puerta, an 8-year old girl against her will and to her damage and prejudice.
>
> "ACTS CONTRARY TO LAW."[2]

Upon arraignment, accused-appellant pleaded not guilty.[3] At the trial, the prosecution presented three (3) witnesses, namely: Janet Puerta, private complainant; Nieves Puerta, private complainant's mother; and Dr. Peñafrancia Villanueva, municipal health officer of the Tigaon (Camarines Sur) Rural Health Unit. The defense, on the other hand, presented the accused himself, Bonifacio Puerta.

The facts are as follows:

The private complainant[4] testified that on the day of the incident, August 12, 1996, she was nine (9) years old.[5] At around 3:00 p.m. of the same day, she was in their house at Cagayagayahan, San Antonio, Tigaon, Camarines Sur with her younger siblings Junjun,[6] Jennifer[7] and Jenalyn.[8] Accused-appellant attended the fiesta at Tigaon. When private complainant was asked by the prosecutor as to what happened then, the former did not answer. The trial judge observed that private complainant was about to cry and her hands were "pressed hard."[9] After a while, private complainant answered that when accused-appellant arrived, they approached him. They followed him when he entered their house. Thereafter, accused-appellant drank the San Miguel gin that he was carrying and lay down. Private complainant and her siblings were then on the bench when accused-appellant called her. Accused-appellant told her to massage his aching head. While at that task, accused-appellant pulled her hand and took off her panty. He then kissed her lips, pulled down his pants and briefs, and laid on top of her. Accused-appellant held his penis and inserted it inside her vagina.[10] Private complainant recounted that "it was painful"[11] and she was crying at that time.[12] Accused-appellant threatened her not to tell anyone about the incident; otherwise, he would kill them, including her mother and grandmother.[13] At the time of the sexual assault, private complainant's siblings were on the bench, which was located just inside their house. The sexual assault occurred in the sleeping area of the house. The said house had no bedroom. Afterwards, private complainant dressed up while accused-appellant slept. In addition, private complainant testified that while her

father was sexually molesting her, her mother arrived and saw them.[14] Her mother, with her younger sister Jenalyn, went to her grandmother's house.[15] Private complainant also testified that it was not the first time that accused-appellant sexually assaulted her but about the l0[th] time.[16] On cross-examination, she further testified that her birthday is on February 26, 1987, as told by her mother. She reaffirmed her testimony on direct examination that her siblings were around when her father sexually assaulted her. She also reiterated that when her father sexually assaulted her in the afternoon of August 12, 1996, he inserted his penis into her vagina.[17] She stated that there was ejaculation within her vagina.[18] When her mother arrived at their house, she heard her brother Junjun tell their mother that their father laid on top of her ("si Ate pigbabawan ni Papa").[19] Afterwards, her mother and younger sister Jenalyn went to her grandmother's house. Private complainant and her other siblings followed their mother to their grandmother's house. Her mother reported the incident to her grandmother. The following day, August 13, 1996, her grandmother brought her to the Regional Hospital in Naga where she was examined by Dr. Peñafrancia Villanueva.[20]

Nieves Puerta, private complainant's mother, testified that on August 12, 1996, the private complainant was nine (9) years old, having been born on February 26, 1987. At about 3:00 p.m. of the same day, she came from the house of a certain Ka Lorie located in Kagayagayahan, San Antonio, Tigaon, Camarines Sur and when she arrived at their house, she saw accused-appellant "doing the act on my daughter," "[h]e is doing a bad act on my daughter and he is above her," "he was having sexual act with my daughter."[21] She witnessed the incident from a distance of about 2-1/2 ft. as she entered the door of their house and saw the private complainant and accused-appellant in the sleeping area. After seeing them, she went to her mother's house and reported the incident to her mother.

Thereafter, she went back to their house and found accused-appellant already asleep. She fed her children and put them to sleep. She further recounted that private complainant and her other

children followed her to her mother's house. When she asked private complainant why she did not inform her of her ordeal, private complainant told her in tears that her father threatened to kill them if she informed anyone.[22] Private complainant told her that "[s]he did not report anything more because she is very frightened of her father ."[23] On cross-examination, Nieves reiterated her testimony on direct examination that she arrived at their house at about 3:00 p.m. on the day of the incident[24] and found accused-appellant "doing the sexual act" to private complainant;[25] that she went to her mother's house after witnessing the incident;[26] that she informed her mother of what she saw; and that she went back to their house and found accused-appellant asleep.[27] She disclosed that she registered the birth of private complainant in the local civil registry only in November 1996 because when the chief officer of the Department of Social Welfare and Development (DSWD), a certain Mrs. Portugal, asked for the birth certificate of private complainant, there was none.[28] She further revealed that on February 5, 1997, while outside the courtroom, accused-appellant asked forgiveness from private complainant[29] by saying, "please forgive me because I will reform."[30]

Dr. Peñafrancia Villanueva, municipal health officer of the Tigaon Rural Health Unit in Tigaon, Camarines Sur, physically examined the private complainant and made the following findings and conclusions in a medico legal report dated August 13, 1996:

> FINDINGS:
>
> "1. External Genitalia: Negative finding
>
> "2. Internal Genitalia: (+) hymenal lacerations, complete (sic) healed, at the 3,6,8 o'clock positions.
>
> "Erythematous base of the hymen at the 10 o'clock position. Admits index finger with ease."

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Dr. Villanueva explained that the healed hymenal lacerations could have been made more or less a month before the medical examination. She testified that there could be a slight penetration of the vagina without causing injury on the external genitalia,[31] that the hymenal lacerations could have been caused by a penis, and that there would be no rupture/laceration if there was no sexual intercourse."[32]

In his defense, accused-appellant testified that on August 12, 1996, he was at the peria in the town proper of Tigaon and went back to their house at about 6:30 p.m. of the same day.[33] Upon his arrival his wife, Nieves Puerta asked him for the things he bought but he replied that he lost the money at the peria. Nieves Puerta got angry with him, lambasted him, went berserk, threw his clothes outside their house, told him to get lost, quarreled and boxed him. He was not able to control himself, thus, he "hurt" her. Thereafter, she ran towards her mother's house. After a while, she returned to their house and he went to sleep. At around 9:00 p.m. of the same day, a policeman arrived and told him to get out of the house because there was a complaint made against him by his daughter, Janet Puerta. He then asked his wife why there was a policeman in their house but she did not say anything. He went out of the house and was handcuffed by the policeman. He was told that he must go with them to Tigaon. Accused-appellant claimed that he was not in good terms with his mother-in-law, Amparo Butial, because the latter did not give him the money sent by his wife while working in Batangas sometime in December 1985.[34] He asserted that his mother-in-law told him that he must separate with his wife[35] because he had no use to the family and it would be better if he were dead.[36] He also claimed that his wife was actuated by improper motive in testifying against him, in particular, she wanted them to separate.[37] He admitted having asked forgiveness from private complainant but not for the charge against him, but forgiveness for whipping her. On cross-examination, he testified that he went to the peria in Tigaon at 8:00 a.m. on August 12, 1996. According to him, it takes about 10 minutes for one to go to the town proper of Tigaon from their place in San Antonio.

On rebuttal, the prosecution recalled Nieves Puerta, private complainant's mother, who denied having been actuated by improper motive in testifying against accused-appellant.[38]

On October 22, 1997, the Regional Trial Court of San Jose, Camarines Sur, Branch 30, promulgated a decision dated August 21, 1997 finding accused-appellant guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the maximum penalty of death. The dispositive portion of the decision reads:

> "WHEREFORE, the accused Bonifacio Puerta is hereby sentenced to suffer the supreme penalty of death, to indemnify the offended party, Janet Puerta, the sum of Fifty Thousand Pesos (P50,000.00) Philippine Currency, as moral and exemplary" damages, and for him to pay the costs.
>
> "SO ORDERED."[39]

In this appeal, accused-appellant submits a lone assignment of error, to wit:

> "THE TRIAL COURT MANIFESTLY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT."[40]

Accused-appellant in the main questions the credibility of prosecution witnesses, Janet Puerta and Nieves Puerta. In particular, accused-appellant contends that the testimony of Nieves Puerta, private complainant's mother, "is full of loopholes which renders the same 'unworthy of credit and belief, "pointing out her "passive and lackadaisical attitude" at the time she came upon accused-appellant in the act of sexually assaulting private complainant, and her "quite unnatural" immediate reaction of doing nothing to stop the sexual assault and proceeding to her mother's house; and insists that "her inaction is not in accordance with human experience."[41] Accused- appellant also avers that, considering that the alleged incident occurred at daytime, it is "highly improbable" for accused-appellant to leave the door wide open, as testified by private complainant's mother, while

he was committing the alleged sexual assault. Accused-appellant also asserts that since his other children were also inside the house at the time of the alleged incident, their presence alone would have discouraged him from committing the alleged sexual assault. Likewise, he avers that their house is not isolated and he could not have openly exposed himself to his neighbors while allegedly sexually assaulting his daughter. He further points out that Nieves Puerta "...exhibited a passive stance by attending to her other children as if nothing unusual happened to her own daughter [referring to Janet]," upon her return to their house after coming from her mother's house. As further proof of his assertion that Nieves Puerta is not a credible witness, accused-appellant faults her for the "inconsistent entries" in private complainant's birth certificate, which was registered belatedly in the local civil registry.[42]

Accused-appellant likewise assails the credibility of private complainant's testimony that she was raped by the former, alleging that "[p]rivate complainant's failure to answer spontaneously the question about the challenged incident makes her an unreliable witness."[43] According to him, private complainant's initial lack of response when questioned about the alleged sexual assault, and her subsequent testimony only after repeated prodding, make her accusations doubtful and a mere afterthought.[44]

We find no merit in the appeal.

It is settled that the evaluation of the testimonies of witnesses by the trial court is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court plainly overlooked certain facts of substance or value which, if considered, might affect the result of the case.[45] Time and again we have ruled that the testimony of a rape victim is credible where she has no motive to falsely testify against the accused.[46] Courts usually give credence to the testimony of a girl who is a victim of sexual assault, particularly if it constitutes incestuous rape because, normally, no person would be willing to undergo the humiliation of a public trial and to testify on the details of her ordeal were it not to condemn an injustice. Needless to say, it is settled jurisprudence that testimonies of child-victims are given full weight and credit, since when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.[47]

In the instant case, the trial court found that the private complainant:

> "xxx xxx.
>
> ...testified in a natural, simple and straight-forward manner, except on the first question [on] how the sexual act was committed to (sic) her. This is an indication of sincerity, if not, of truthfulness bereft of any concoction, much less, influence from her mother Nieves Puerta including her grandmother Amparo Butial. She identified her father, the accused in this case. It is true that when the public prosecutor propounded the first question to her eliciting the details as to how the offense of rape was committed to (sic) her, she hesitated. This hesitation may, however, be attributed to her being practically a child and the accused is her own father, her own flesh and blood [from] whom she expects protection and care. And besides on the witness stand, even adults [were] gripped with tension due to the prevailing atmosphere. Later on, however, the court keenly observed that the offended party testified without hesitation, candid, categorical, consistent and free from any substantial contradiction particularly on how her father consummated the bestial and odious sexual assault on her person. And despite the lengthy cross-examination, her testimonies (sic) remain (sic) unshaken, another indication of the truthfulness of her testimony, more so, because the purpose of the cross-examination is to test the accuracy of her testimony. Such being the case, the testimonies (sic) of the offended party should be, as they are hereby accorded full faith and credence, being a child victim. Her power of observation and recall also makes her a best witness."[48] (Citations omitted. Emphasis supplied.)

A careful and thorough scrutiny of the evidence on record, particularly the testimonies of witnesses, shows that

private complainant's account of what transpired is straightforward and deserving of faith and credit despite her initial hesitation to recount the sexual assault on her person. Accused-appellant's attempt to discredit the testimony of private complainant for her failure or inability to immediately narrate in open court the dastardly act of rape committed against her, must fail. Faultless testimony cannot be expected of a rape victim of tender age for she may be trying not to recall in her mind, much less, recount in open court every ugly detail of the harrowing experience and appalling outrage she went through, as it is too painful to remember. Private complainant's initial reluctance to narrate the sexual assault upon her person does not detract from her credibility, her hesitation being attributable to her age, the moral ascendancy of accused-appellant and his threats against her and other members of her family. This Court has ruled that it is not proper to judge the actions of children who have undergone traumatic experiences by the norms of behavior expected under the circumstances from mature persons. The range of emotion shown by rape victims is yet to be captured even by the calculus. It is thus unrealistic to expect uniform reactions from rape victims.[49] We have consistently held that the workings of the human mind, placed under a great deal of emotional and psychological stress (such as during rape), are unpredictable, and different people react differently. There is no standard form of behavioral response when one is confronted with a strange, startling, frightful or traumatic experience -some may shout, some may faint, and some may be shocked into insensibility. A rape victim cannot be expected to constantly recount her experience. Because a victim would rather relegate the memory of her ravishment to the recesses of her mind, she is constantly engaged in an uphill battle to forget the torment of such a traumatic event.[50] The natural reluctance of a young girl to admit in public her having been raped is understandable,[51] especially considering that it was private complainant's father who sexually assaulted her. Nonetheless, it should be observed that private complainant was subsequently able to narrate the harrowing details of her ordeal, thus:

> "xxx xxx.
>
> "Q:
>
> While you were at your home at that specific time and place, tell us what happened, if any?
>
> "A:
>
> (No answer.)
>
> "PROS. SOLANO:
>
> "Your Honor, considering that this witness is of tender age, [may] we be allowed to profound (sic) leading questions, Your Honor.
>
> "COURT:
>
> "Q:
>
> Do you understand the question to you? (sic)
>
> "A:
>
> Yes, sir.
>
> "WITNESS:
>
> "A:
>
> There was.
>
> "PROS. SOLANO:

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"Your Honor, under the rule if the witness is a child of tender age, leading questions could be profounded (sic) to her.

"Q:

What was that? Tell us.

"ATTY BRIONES:

"May I placed (sic) on the record that the witness has no answer.

"PROS. SOLANO:

"May I request that this witness be just allowed to sit in front here on the table. Your Honor, as we can possibly attest, the witness is already crying and it was (sic) already 12:00 o'clock.

"ATTY BRIONES:

"I would manifest that there was no answer.

"PROS. SOLANO:

"This witness is already crying, Your Honor.

"COURT:

"To the question of the court whether she was hungry, she said no sir.

"Q:

Could you now answer the question?

"A:

(No answer.)

"The court observes from the witness that she is going to cry and the hands [are] pressed hard.

"ATTY. BRIONES:

"I will not object for (sic) a resetting provided that [that particular] question should not be asked [again].

"COURT:

"What is only lacking from the witness is the answer to the question.

"ATTY. BRIONES:

"Since there is (sic) no answer, another question should be asked.

"PROS. SOLANO:

"This witness arrived at 9:00 o'clock and we started our session at 11:00 o'clock, perhaps because of the agony of being in court...

"ATTY. BRIONES:

"I am vigorously objecting.

"COURT:

"To the querry (sic) of the court whether she could answer the question, the witness answered she could.

"ATTY. BRIONES:

"There was no answer.

"PROS. SOLANO:

"Your Honor, we are dealing with a [witness of] very tender age, not an ordinary witness.

"COURT:

"Q:

You said awhile ago that you could answer. Why are you not answering the question profounded (sic) to you? Tell us what happened?

"A:

When my father arrived, we approached him.

"PROS. SOLANO:

"Q:

After that, what happened?

"A:

He entered the house and we followed him.

"Q:

And what happened?

"A:

He drunk (sic) the wine, San Miguel gin, that he was carrying.

"Q:

And after the accused drunk the San Miguel gin, what happened next?

"A:

He lied down.

"Q:

And after that what happened next?

"A:

We were on the bench and he called for me.

"Q:

After calling you, what transpired next?

"A:

He requested me to massage his head and I did it because according to him it was aching.

"Q:

While you were massaging your father's head, what happened?

"A:

He was pulling my hand.

"Q:

And after pulling your hand, what happened?

"A:

He undressed me.

"Q:

What was undressed you? (sic)"

"A:

Only my panty.

"Q:

After undressing you of your panty, what happened next?

"A:

He kissed my lips.

"Q:

And after kissing your lips, what happened, if any?

"A:

He pulled down his pants.

"Q:

After pulling down his pants, what happened next?

"A:

He lied on top of me.

"Q:

You mean he was not wearing an underwear at that time?

"A:

When the pants was pulled, it was together with his brief.

"Q:

After pulling down his pants and his brief, what happened next?

"A:

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He lied on top of me.

"Q:

After lying on top of you, what happened next?

"A

: He held his penis.

"Q:

After that, what happened, if any?

"A:

He inserted it on (sic) my vagina.

"Q:

After inserting it, what happened next?

"A:

He was holding his penis.

"Q:

What did you feel, if any, when he inserted his penis [in]to your vagina?

"A:

It was painful.

"Q:

And at the time he was not uttering anything?

"A:

He was threatening me.

"Q:

Tell us, what was (sic) those threatening words he uttered to you?

" A:

That I must not report because he will kill us.

"xxx xxx."[52]

The defense also assails the credibility of the prosecution witness Nieves Puerta, by arguing that her "passive and lackadaisical attitude" at the time she came upon accused-appellant sexually assaulting the private complainant, is not in accord with human experience. We are not persuaded. We reiterate that different people react differently to a given situation or type of situation, and there is no standard form of human behavioral response where one is confronted with a strange or startling or frightful experience.[53] Hence, the fact that Nieves Puerta's reaction does not seem natural to some does not destroy her credibility.

With regard to the alleged "inconsistent entries" in the birth certificate of private complainant, suffice it to say that

the said irregularity has been adequately explained by Nieves Puerta. As we have repeatedly ruled, neither inconsistencies on trivial matters nor innocent lapses affect the credibility of a witness.[54]

Finally, accused-appellant's assertion that he could not have raped the private complainant since there were other occupants present in the house at the time of the incident and the door was left wide open, is not deserving of belief. Rape can be committed even in places where people congregate, in parks, along the roadside, within school premises, and even inside a house where there are other occupants. Lust is no respecter of time and place.[55] In the instant case, the other occupants of the house were private complainant's younger siblings with ages ranging from 2 to 5 years old. Considering the tender age, innocence and naivete of these children, one cannot expect anyone of them to put up a forbidding opposition to what was happening to their poor sister. It is therefore neither impossible nor incredible that accused-appellant could have raped his eldest daughter inside a room where her younger siblings were also present.

Accused-appellant's defenses of denial and alibi deserve scant consideration. Mere denial by an accused, particularly when not properly corroborated or substantiated by clear and convincing evidence, cannot prevail over the testimony of credible witnesses who testify on affirmative matters.[56] Likewise, alibi is a weak defense and cannot prevail over the positive identification of the accused.[57]

Verily, this Court is convinced beyond reasonable doubt that accused-appellant raped the private complainant on August 12, 1996, as charged.

Four Justices of the Court maintain their position that R. A. No. 7659 is unconstitutional insofar as it prescribes the death penalty. Nevertheless they submit to the ruling of the majority that the law is constitutional and the death penalty can be lawfully imposed in the case at bar.

WHEREFORE, the decision of the Regional Trial Court of San Jose, Camarines Sur, Branch 30, in Criminal Case No. T-1591, finding accused-appellant Bonifacio Puerta guilty of the crime of rape and sentencing him to suffer the penalty of death and to pay the costs, is AFFIRMED with the MODIFICATION that accused-appellant shall indemnify Janet Puerta the amount of P75,000.00 as indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

In accordance with Section 25 of Republic Act No. 7659, amending Article 83 of Revised Penal Code, upon finality of this decision. Let certified copies thereof, as well as the records of this case, be forwarded without delay to the Office of the President for possible exercise of executive clemency.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

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[1] Penned by Judge Alfredo A. Cabral, Rollo, pp. 17-26.

[2] Rollo, p. 8.

[3] Records, p. 29.

[4] Sometimes referred to as Jeanet Puerta in the transcript of stenographic notes.

[5] TSN, March 4,1997,p.12.

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[6] Junjun was five (5) years old.

[7] Jennifer was three (3) years old.

[8] TSN, March 4, 1997, p. 12. Jenalyn was two (2) years old.

[9] TSN, March 4, 1997, p. 14.

[10] TSN, March 4,1997,p.15.

[11] TSN, March 4, 1997, p. 15.

[12] TSN, March 4,1997,p.16.

[13] TSN, March 4,1997, p. 16.

[14] TSN, March 4,1997, p. 17.

[15] TSN, March 4,1997,p.17.

[16] TSN, March 4,1997, p. 17.

[17] TSN, April 28, 1997, p. 9.

[18] TSN, April 28,1997,p.12.

[19] TSN, April 28, 1997, p. 5.

[20] TSN, April 28, 1997, p. 12.

[21] TSN, February 19, 1997, p. 3.

[22] TSN, February 19, 1997, p. 4.

[23] TSN, February 19, 1997, p. 4.

[24] TSN, February 19, 1997, p. 9.

[25] TSN, February 19, 1997, p. 10.

[26] TSN, February 19, 1997,p.11.

[27] TSN, February 19, 1997, p. 12. "

[28] TSN, February 19, 1997, p. 13.

[29] TSN, February 19, 1997, pp. 18-19.

[30] TSN, February 19, 1997, p. 19.

[31] TSN, March 4, 1997, pp. 7-8.

[32] TSN, March 4, 1997, p. 8.

[33] TSN, June 30, 1997, p. 2.

[34] TSN, June 30, 1997, p. 4.

[35] TSN, June 30, 1997, p. 6.

[36] TSN, June 30, 1997, p. 7.

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[37] TSN, June 30, 1997, p. 7.

[38] TSN, June 30, 1997, pp. 15-16.

[39] Rollo, p. 26.

[40] Ibid. at p. 38.

[41] Ibid. at pp. 41-42.

[42] Ibid.

[43] Ibid. at p. 43.

[44] Ibid.

[45] People vs. Emmanuel Panique, G.R. No. 125763, October 13,1999, pp. 6-7.

[46] People vs. Escober, 281 SCRA 498, 508 (1997).

[47] People vs. Lusa, 288 SCRA 296, 303 (1998).

[48] Rollo, pp. 23-24.

[49] People vs. Sta. Ana 291 SCRA 188,209 (1998).

[50] People vs. Ba1moria, 287 SCRA 687, 705 (1998).

[51] People vs. Roncal, 272 SCRA 242, 249 (1997).

[52] TSN, March 4, 1997, pp. 13-16.

[53] People vs. Sta. Ana, 291 SCRA 188, 208 (1998).

[54] People vs. Alfeche, 294 SCRA 352, 371 (1998).

[55] People vs. Balmoria, 287 SCRA, 687, 706 (1998).

[56] People vs. Mahinay, 304 SCRA 767, 777 (1999).

[57] People vs. dela Cruz 304 SCRA 702, 709 (1999).

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