PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GREGORIO HERMOSA AND GABRIEL ABELINDE, ACCUSED-APPELLANTS.

G.R. No. 131805. September 07, 2001

Ponente: PUNO, J.

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PUNO, J.:

Accused GREGORIO HERMOSA and GABRIEL ABELINDE were meted the death penalty for the crime of murder. The crime was allegedly committed as follows:[1]

> "That sometime on January 11, 1995, at about 1:00 o'clock in (the) morning more or less, at Barangay Gahit, Municipality of Caitingan, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, conspiring and confederating and mutually helping one another, with evident premeditation, use of superior strength and noctornity (sic) as cover, treachery, did then and there willfully, unlawfully and feloniously, with the use of sharp and pointed bolo, assault, attack, hack and stab a woman named ELEONOR (sic) CONDE MALIPOT thereby hitting the latter at the different parts of her body which was the direct and logical (cause) of her instantaneous death.
>
> CONTRARY TO LAW."

Upon arraignment, both accused pled "not guilty" to the offense charged.[2] Trial ensued.

The prosecution presented the testimonies of Macuibelle Malipot, her siblings Marither and Elizalde, and Municipal Health Officer Allen Ching. For its part, the defense presented Bienvenido Habanez, policeman Raymundo Meliton and the accused, Gregorio Hermosa and Gabriel Abelinde.

The records show that in the early morning of January 11, 1995, the residents of Sitio Mayabas found the lifeless body of Eleanor Conde Malipot[3] near a creek, a few meters behind her house in Sitio Mayabas, Cataingan, Masbate. She was 43 years old. A widow, the deceased was survived by four (4) children, namely: Elizalde, 15 years old, Marither, 12 years old, Macuibelle, 8 years old, and Dexter (Nonoy), 4 years old.

The Medico-Legal Report[4] of Municipal Health Officer Allen Ching revealed that the victim sustained the following wounds:

> "1. Hacking wound, neck up to the cervical vertebra multiple.
> 2. Hacking wound, mouth.
> 3. Hacking wound, forehead, left superficial.
> 4. Hacking wound, maxilla left.
> 5. 5 cm. Lacerated wound, anterior arm right.
> 6. 6 cm. Lacerated wound, anterior hand around the base of the first finger left."

The victim died due to cardio-respiratory arrest, hypovolemia and multiple hack wounds on the neck. The doctor explained that the multiple hack wounds on the neck had cut the bone and one of the major arteries of the victim. With the said injuries, the victim had no chance of survival and had probably lived for about five (5) minutes.[5]

The victim's 8-year old daughter, Macuibelle, partially witnessed the tragic incident. She testified that at about 1 o'clock in the morning of January 11, 1995, she was roused by the victim's scream. She peeped through a hole in the wall of their room and saw the victim at the main door of their house, near the stairs.[6] The victim had a lamp in one hand, and a bolo in the other. The victim was shouting, "Zaldy, help!," referring to her eldest son, Elizalde. At that time, however, Elizalde and Marither had slept in the house of their respective friends.[7]

Macuibelle also saw the two accused: Gregorio Hermosa was standing in front of the victim while Gabriel Abelinde was at the front yard, clubbing the victim's carabao that was tied some four (4) meters away from the house.[8] Suddenly, Hermosa stabbed the victim. Thereafter, Hermosa and Abelinde forcibly took the victim from the house and dragged her towards the nearby creek. Macuibelle shouted for help. No one responded. Her only companion then was her 4-year old brother, Dexter. Afraid, she went back to sleep.[9]

The night before, there was a celebration in the house of the victim's neighbor, Bienvenido Habanez.[10] It was his son's birthday and a dance was being held in his place. The victim and her 12-year old daughter, Marither, set up a makeshift store in front of Habanez's house selling assorted merchandise such as cigarettes and liquor.[11]

Hermosa and Abelinde attended the party. They drank tuba near the makeshift store of the victim. Abelinde approached the victim and asked, on behalf of Hermosa, if the latter could buy liquor on credit. The victim refused as Hermosa still owed her money. Abelinde went back to Hermosa and they continued drinking the tuba. Slighted, Hermosa gave a dagger look at the victim.[12]

At around midnight, the victim and Marither packed up their things. The victim kept the unsold goods and the proceeds of the sale and headed for home. Marither was left behind to fetch Dexter as he had fallen asleep in the house of Habanez. Marither carried her brother on her way home. Her friend, Glenda, walked with her. As they approached the place where the two accused were seated, Hermosa tapped Abelinde and commented that the victim was on her way home. Hermosa stared at the victim until she disappeared behind the mango tree.[13]

When Marither reached their house, she put her brother in their room. At that time, Macuibelle was still awake. With the victim's permission, Marither walked her friend home and spent the night in her uncle's house. The victim and Macuibelle were praying when Marither left.[14]

Marither woke up at 5:00 a.m. on June 11, 1995. Moments later, she saw her aunt Elsie and uncle Payo running towards their house. A certain Rowena Lonido told her that the victim was killed and that their carabao had been stolen. Marither rushed to the crime scene and found the lifeless body of the victim beside the creek, about seven (7) meters from their house. She embraced the victim and cried.[15]

Elizalde corroborated the testimony of Marither that the accused tried to get liquor from the victim on credit, but the victim refused.

The two accused were arrested on the day the body of the victim was discovered. Policeman Raymundo Meliton investigated the incident. He proceeded to the house of the victim and talked to Macuibelle and Dexter. They did not immediately reveal the names of the accused as suspects. He then interviewed the people in the neighborhood and those in the house of Habanez. When policeman Meliton returned to the house of the victim a few hours later, Macuibelle revealed to him that the accused were the assailants. He learned that the accused got mad at the victim when she refused to sell liquor to them on credit. Policeman Meliton picked up the accused for investigation. They denied any participation in the killing.[16] Nonetheless, he prepared the affidavits of the prosecution witnesses and charged the accused.[17]

The defense proffered was denial and alibi.

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Gabriel Abelinde testified that he attended the birthday party of Habanez's son. His companions were his son, his father, and spouses Eulalio and Clementina Pagunsan. At 9:30 p.m., Hermosa joined his group. They engaged in a drinking spree. They consumed four (4) jars of tuba until 10:30 p.m.

Abelinde claimed that the victim participated in the dancing and in the drinking spree. Allegedly, the victim approached him and told him to look out for one Ludy Gonzales because the latter owed her money. Strangely, however, Abelinde insisted that the dance took place on the 11[th], not on the 10[th], day of January. The next day, January 12, he learned through his wife that the victim had been killed.

Abelinde averred that he went home at about 1:00 a.m. after the party. He slept in his house which is approximately 300 meters away from the victim's house. He was with his son, his wife and his father. Hermosa spent the night with him because Hermosa's house was more distant.

Abelinde denied any participation in the killing of the victim. He said he had no quarrel with her prior to the tragic incident. She was also a relative of his father.

Gregorio Hermosa also denied any participation in the crime. He claimed that after they left the house of Habanez, he passed the night in Abelinde's house. He woke up the next day at 7:00 a.m. and learned of the death of the victim. He went home to inform his mother of the incident. At 9:00 a.m., the policemen arrested him.

After the trial, the court a quo found the accused guilty of murder. The dispositive portion of the trial court's decision provides:[18]

> "ACCORDINGLY, the court finds the accused Gregorio Hermosa and Gabriel Abelinde guilty beyond reasonable doubt of the crime of MURDER and hereby imposes upon them the supreme penalty of DEATH, and shall indemnify the legal heirs (of the victim) the amount of P50,000.00 in solidum for the death of Eleonor Malipot and P20,000.00 as moral damages.
>
> With costs de oficio."

The records of the case were forwarded to this Court for automatic review.

It appears that the appellants were not imprisoned in the New Bilibid Prisons.[19] Appellants escaped from Matipuron Provincial Jail, Milagros, Masbate, on June 14, 1998.[20] They remain at large.

Pursuant to this Court's directive, the Public Attorney's Office and the Office of the Solicitor General filed their Briefs for the appellants and the appellee, respectively.

Appellants' counsel de oficio contends that:

> "I. THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDIT TO THE TESTIMONY OF PROSECUTION WITNESS MACUIBELLE MALIPOT.
>
> II. THE TRIAL COURT ERRED IN HOLDING THAT ACCUSED-APPELLANTS HAD MOTIVE TO KILL THE VICTIM, ELEONOR C. (sic) MALIPOT, AFTER SHE REFUSED TO ALLOW THEM TO PURCHASE LIQUOR ON CREDIT.
>
> III. THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANTS OF MURDER AND IN IMPOSING UPON THEM THE DEATH PENALTY."

We restate the rule that this Court is not precluded from reviewing the death sentence of an accused who is at large.[21] In line with the rule, we now determine the criminal and civil liabilities of the appellants.

We modify the judgment and hold that the appellants are liable for homicide, not murder.

The oft-repeated rule is that the trial court's evaluation of the testimony of a witness is accorded the highest respect because of its direct opportunity to observe the witnesses on the stand and to determine if they are telling the truth or not.[22] This opportunity enables the trial judge to detect better that thin line between fact and prevarication that will determine the guilt or innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court.[23] Thus, the trial judge's evaluation of the competence and credibility of a witness will not be disturbed on review, unless it is clear from the records that his judgment is erroneous.[24]

We have scrutinized the testimony of the lone eyewitness, Macuibelle Malipot. She candidly recounted the events surrounding the killing of the victim as follows:[25]

> "ATTY. NICOMEDES ROMAGOS
> ON CROSS-EXAMINATION:
>
> Q:
>
> Macuibelle Malipot, you have testified that you were only awaken(ed) by the shout of your mother, Eleonor Malipot, asking assistance from your brother Zaldy, am I correct?
>
> A:
>
> Yes, sir.
>
> Q:
>
> At what precise moment that you were awaken(ed)
>
> A:
>
> Nearing 1:00 o'clock.
>
> Q:
>
> Why were you awaken(ed)?
>
> A:
>
> Because my mother was shouting.
>
> Q:
>
> And because of that you stated that you also stood up and peeped at the hole of your house, am I correct, Macuibelle Malipot?
>
> A:
>
> Yes, sir.
>
> Q:
>
> And you have also testified at the time you saw your mother, she was already in (sic) the main door. Why is it Macuibelle Malipot that you peeped when your mother is on (sic) the main door?
>
> PROSECUTOR:
>
> The witness testified that she was at (sic) the room.
>
> WITNESS:

A: The door is located at (sic) a stair.

ATTY. ROMAGOS:

Q:

You mean to tell this Honorable Court Macuibelle, your door could not be seen when you are in the room?

WITNESS:

A: It could be seen.

(ATTY. ROMAGOS):

Q:

You said that your mother was carrying a lamp, may we know from you how big is its wick?

INTERPRETER:

Witness demonstrating a small lamp with a height of 6 inches.

COURT:

Q:

How did your mother handle the lamp?

A:

She was carrying it with her left hand and she was holding a bolo.

Q:

Do you know why your mother was holding a bolo? A: I do not know.

ATTY. ROMAGOS:

Q:

You did not know why your mother was carrying a bolo on that particular night. But how long was that bolo she was carrying on (sic) that moment?

INTERPRETER:

Witness demonstrates the length of the bolo which is about twenty (20) inches.

ATTY. ROMAGOS:

Q:

When your mother got that bolo Macuibelle, you said you were not still (sic) awaken(ed) but only when your mother shouted for help, do I get you right?

A:

Yes, sir.

COURT:

Q:

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How far is the creek from your house?

INTERPRETER:

Witness pointing from her seat to the door with a distance of about twenty (20) meters.

COURT:

Q:

Now from the creek you mentioned, where did you see accused Gregorio Hermosa stab your mother?

A:

Gregorio Hermosa stabbed my mother near the door of our house.

Q:

Do you know why the body of your mother was there at the creek near your house?

A:

Because she was dragged by Gregorio Hermosa and Gabriel Abelinde.

COURT:

Proceed.

ATTY. ROMAGOS:

Q:

You stated she was dragged but it was a very dark night, Macuibelle?

A:

But my mother has a lamp.

Q:

You mean to tell this Honorable Court that at the time she was dragged she was still holding the lamp?

A:

Yes, sir.

Q:

And you remained on that place where you were peeping inspite (sic) the fact that your mother was dragged?

A:

Yes, sir.

Q:

Did you not scream for help Macuibelle when your mother was dragged?

A:

I shouted but no one came up.

Q:

But on that particular moment, were you not frightened, Macuibelle?

A:

I was afraid.

Q:

Do you have a very close neighbor?

A:

We have neighbors but far." (emphases ours)

We give full faith and credit to her testimony. She was young and unschooled, but her narration of the incident was honest and sincere. It cannot be suspected as a concocted story, impressed upon her by other people.

We should not take Macuibelle's testimony lightly simply because she was a mere child when she witnessed the incident and when she gave her testimony in court. There is no showing that her mental maturity rendered her incapable of testifying and of relating the incident truthfully. Indeed, the time when we degrade a child witness testimony is now passé. In the new Child Witness Rule,[26] every child is presumed qualified to be a witness. To rebut this presumption, the burden of proof lies on the party challenging the child's competence. Only when substantial doubt exists regarding the ability of the child to perceive, remember, communicate, distinguish truth from falsehood, or appreciate the duty to tell the truth in court will the court, motu proprio or on motion of a party, conduct a competency examination of a child.[27]

Nonetheless, the appellants impugn the testimony of Macuibelle on the ground that she did not immediately tag them as the culprits when the investigating officer arrived at the scene. They also contend that it was improbable for the eyewitness to see the assailants of the victim because they would have put off the lamp she was carrying to avoid recognition.

We are not convinced. The alleged delay in identifying the appellants is more apparent than real. It is clear from the records that the appellants were identified by Macuibelle as the persons responsible for the death of the victim. She failed to mention their names when the police first arrived at the scene, but a few hours later, she told the police that the appellants were the assailants. In fact, the appellants were immediately arrested shortly after the discovery of the crime.[28]

Failure to immediately reveal the identity of the perpetrator of a felony will not necessarily impair the credibility of a witness.[29] Even adult witnesses sometimes would not reveal at once the killers of their loved ones for one reason or another.[30] Fear of the criminal is one such reason.[31]

We stress that the identity of the appellants was well established. Macuibelle positively identified them. The victim was then at the main door of their house when the appellants forcibly dragged her. She saw them from a distance of about six (6) meters. The lamp held by the victim provided the light that gave Macuibelle the chance to recognize the appellants.[32] She was also familiar with them because they were neighbors. The possibility that she was mistaken as to their identity is nil.

We note, too, that appellant Abelinde claimed that his father and the victim were relatives. If that were true, then it is more unlikely for Macuibelle and her siblings to impute a grievous offense against him unless they are certain as to his involvement in the crime. Even appellant Hermosa could not think of any reason why Macuibelle pointed to him as one of the perpetrators of the crime.[33] Her lack of ill motive bolsters her credibility.

The appellants also discredit Macuibelle because she went back to sleep after witnessing the stabbing of her mother. For the appellants, such behavior meant she did not witness the incident.

Again, we disagree. Macuibelle was only eight (8) years old when she witnessed the shocking incident. Despite her plea, no one came to help them when the appellants attacked the victim and dragged her from their house. She was helpless and afraid. She knew her brother Zaldy and sister Marither were not around to protect her. After the traumatic incident, it is difficult to fault her when she chose to go back to sleep and wait for her siblings to arrive the next day. Her behavior is not irrational.[34]

The appellants further insist that Macuibelle is not a credible witness because, contrary to her claim that the victim was stabbed on the chest, the medical report of Dr. Ching showed that the wounds of the victim were mostly located on the neck. Moreover, appellants suggest that the stabbing incident must have transpired first before the victim shouted for help, thus, when Macuibelle woke up later, she did not really see what happened to the victim.

The argument does not impress. The exact location of the victim's wounds does not destroy Macuibelle's testimony that appellant Hermosa was the one who stabbed the victim and, with Abelinde's help, dragged her to the nearby creek where they finally finished her off. The misdescription of where appellant Hermosa stabbed the victim does not mean the witness perjured herself. The violent incident happened fast. Macuibelle just woke up and witnessed the bloody assault. It was a traumatic experience for the eight-year old girl. She cannot be expected to have a perfect memory of an event she may even want to forget.

The appellants' defense of denial and alibi cannot prevail over their positive identification. Alibi is the weakest defense as it is easy to concoct. For alibi to prosper, an accused must not only prove that he was absent at the crime scene at the time of its commission, but also, that it was physically impossible for him to be so situated at said distance.[35]

In the case at bar, it was established that, at the time of the incident, appellant Abelinde was residing in San Pedro, a barangay adjacent to barangay Gahit (the locus criminis). The distance of his house from the victim's house was about three hundred (300) meters.[36] Appellant Hermosa himself admitted that, from the said distance, it would only take him five (5) minutes to reach the victim's place on foot.[37] Thus, even assuming that the appellants went to Abelinde's house after the dance, it was not impossible for them to go to the house of the victim and commit the crime.

Appellants' reliance on the alleged absence of bloodstains on the clothes they allegedly wore the night before the killing will not exculpate them. There is no proof that the clothes they wore at the dance were the same clothes they wore when they went to the victim's house to kill her.

Appellants cannot also capitalize on the testimony of policeman Meliton that he had another suspect. Meliton himself admitted that he had insufficient evidence against the third suspect.

Moreover, the conduct of appellant Abelinde on the day the slaying of the victim was discovered is inconsistent with his alleged innocence. Appellant Abelinde claimed that the victim was a relative, yet he was nonchalant when he learned of her violent death. He went to plow the field and plant his crops as if nothing unusual had happened.

We sustain the trial court's finding of conspiracy. Conspiracy does not require an agreement for an appreciable period prior to the commission of the crime. It exists when, at the time of the commission of the offense, the malefactors had the same purpose and were united in its execution.[38] Macuibelle testified that appellant Abelinde clubbed the victim's carabao. Thereafter, he joined appellant Hermosa who was then at the main door of

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the victim's house. They acted in unison in dragging the victim from her house to the creek where they finally finished her off. Their conduct clearly showed their mutual intent to kill the victim.

We now determine whether or not the qualifying and aggravating circumstances alleged in the information, to wit: evident premeditation, treachery, taking advantage of superior strength and nighttime, were established.

The trial court ruled as follows:[39]

> "The killing was qualified and characterized:
>
> 1) with evident premeditation because the killing was pre-planned (upon the victim's refusal to give liquor on credit at about ten o'clock in the evening, the accused roused with anger or showed signs of wrath followed by cool utterance or intention to follow the victim home, and finally after the lapse of about three hours or at one o'clock early dawn, they killed her--the accused had sufficient time to reflect dispassionately upon the consequences of their contemplated act); 2) with treachery because the malefactors took the defenseless victim at the main door of the house while on her way down and one of them thrust her with a knife and dragged (her) to the dark (sic) creek to finish her (off); 3) with abuse of superior strength because the victim (a woman) was attacked with a deadly weapon; and 4) by nocturnity because the accused took advantage of the darkness."

We hold that the trial court erred in appreciating the qualifying circumstance of evident premeditation. There is evident premeditation when the following requirements are proved: (a) the time when the appellant decided to commit the crime; (b) an overt act showing that the appellant clung to his determination to commit the crime; and (c) the lapse of sufficient period of time between the decision and the execution of the crime, to allow the appellant to reflect upon the consequences of the act. Evident premeditation must, like the crime itself, be proved beyond reasonable doubt.[40]

In the case at bar, the evidence shows that appellant Hermosa was slighted by the refusal of the victim to extend credit in his favor. He gave her a dagger look. However, such behavior by itself is insufficient to prove that the appellants had determined, at that time, to kill the victim.[41] At most, it only proved the motive for the killing.

We also rule that treachery was not established. The essence of treachery is that the attack is deliberate and without warning--done in a swift and unexpected manner, affording the hapless and unsuspecting victim no chance to resist or escape.[42] The prosecution did not prove the deliberateness of the attack. The evidence shows that Macuibelle peeped through the hole on the wall only after she heard the victim made an outcry. Appellant Hermosa was already at the main door and was then in the act of assaulting the victim. Macuibelle could not give the particulars on how the killing of the victim began and developed. Absent any particulars on how the aggression commenced or how the act which resulted in the victim's death unfolded, treachery cannot be appreciated.[43] We note, further, that the victim was aware of the danger on her life. She was holding a bolo when she was attacked. She was also able to shout for help. In light of these circumstances, treachery cannot be appreciated.

We also hold that the circumstance of nighttime did not aggravate the crime. There is no proof that the appellants purposely sought nighttime to facilitate the commission of the crime. The mere fact that the crime was committed at nighttime does not automatically make nocturnity an aggravating circumstance.[44]

Nor can we agree that the crime was committed with abuse of superior strength. This circumstance should be appreciated whenever there is a notorious inequality of forces between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor, selected or taken advantage of by him in the commission of the crime.[45] Mere superiority in number is not enough to constitute superior strength. There must be clear proof of deliberate intent to take advantage of the same. The prosecution did not adduce evidence on these factual issues.[46] It is unclear whether the appellants deliberately took advantage of their

combined strength to facilitate the commission of the crime. What Macuibelle saw was just the onset of the attack.

In the absence of any circumstance that would qualify the killing to murder, the appellants should only be held liable for homicide. Article 249 of the Revised Penal Code provides:

> "Article 249. Homicide.--Any person who, not falling within the provisions of Article 246 shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and punished by reclusion temporal."

Reclusion temporal has a range of 12 years and 1 day to 20 years of imprisonment. Applying the Indeterminate Sentence Law, there being no mitigating or aggravating circumstance, the maximum term of the penalty shall be imposed in the medium period[47] of reclusion temporal, ranging from 14 years, 8 months and 1 day to 17 years and 4 months. The minimum term of the penalty shall be taken from the penalty next lower in degree or prision mayor, in any of its periods, ranging from six (6) years and one (1) day to twelve (12) years.

As regards the civil indemnity, each of the appellants should be held liable to indemnify the heirs of the victim in the amount of P50,000.00.

IN VIEW WHEREOF, the decision appealed from is MODIFIED. Appellants GREGORIO HERMOSA and GABRIEL ABELINDE are declared guilty beyond reasonable doubt of Homicide for the death of ELEANOR CONDE MALIPOT and sentenced to suffer an indeterminate sentence of twelve (12) years of prision mayor as minimum, and seventeen (17) years and four (4) months of reclusion temporal medium as maximum, and to pay P50,000 each for civil indemnity. No special pronouncement as to costs.

SO ORDERED.

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

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[1] Information, Original Records, p. 1.

[2] Original Records, p.32.

[3] Referred to as Eleanor Malipot in the Medico-Legal Report (Exhibit "A") and Certificate of Death (Exhibit "B").

[4] Exhibit "A", Original Records, p. 8.

[5] TSN, Dr. Allen Ching, January 17, 1996, pp. 3-5.

[6] The hut was elevated from the ground by about 2 ½ feet.

[7] TSN, Macuibelle Malipot, March 20, 1997, p. 5.

[8] TSN, Macuibelle Malipot, March 11, 1997, p. 11.

[9] Id., March 20, 1996, pp. 13-14, 16, 17.

[10] His house is about 150 meters away from the victim's house.

[11] TSN, Marither Malipot, March 12, 1997, p. 5-6; TSN, Elizalde Malipot, May 7, 1997, pp. 5-6.

[12] Id., pp. 6-8.

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[13] Id., p. 10.

[14] Id., pp. 10-11, 21-22.

[15] Id., pp. 11-13.

[16] TSN, Raymundo Melito, September 9, 1997, pp. 3-5.

[17] Id., pp. 6-7, 10, 12.

[18] Original Records, pp. 176-193.

[19] Rollo, pp. 34-36.

[20] Id., pp. 112-118.

[21] People vs. Esparas, 260 SCRA 539 (1996); People vs. Prades, 293 SCRA 411 (1998); People vs. Cornelio, 39 SCRA 435 (1971); People vs. Daban, et al., 43 SCRA 185 (1972); People vs. Saliling, 69 SCRA 427 (1976); People vs. Buynay, et al., 128 SCRA 31 (1984).

[22] People vs. Virtucio, Jr., 326 SCRA 198 (2000).

[23] People vs. Cruz, G.R. Nos. 128346-48, August 14, 2000.

[24] Dulla vs. Court of Appeals, 326 SCRA 32 (2000).

[25] TSN, Macuibelle Malipot, March 20, 1996, pp. 11-14.

[26] The rule took effect on December 15, 2000.

[27] Section 6 and 6 (a), Rule on Examination of a Child Witness.

[28] TSN, Raymundo Meliton, September 9, 1997, pp. 11-12.

[29] People vs. Manegdeg, 316 SCRA 689 (1999).

[30] People vs. Zuniega, G.R. No. 126117, February 21, 2001; People vs. Hilot, et al., G.R. No. 129532, October 5, 2000.

[31] Id.

[32] TSN, Macuibelle Malipot, March 20, 1996, pp. 5-6.

[33] TSN, Gregorio Hermosa, July 9, 1997. p. 10.

[34] People vs. Mumar, 333 SCRA 221, 232 (2000).

[35] People vs. Toyco, Sr., G.R. No. 138609, January 17, 2001.

[36] TSN, Gabriel Abelinde, July 8, 1997, pp. 4-5.

[37] TSN, Gregorio Hermosa, July 9, 1997, p. 9.

[38] People vs. Martinez, et al., G.R. No. 128083, March 16, 2001; People vs. Mumar, supra at 34, p. 221; People vs. Pirame, 327 SCRA 552 (2000).

[39] Decision, October 21, 1997, pp. 15-16.

[40] People vs. Virtucio, Jr., supra at 32.

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[41] People vs. Timblor, 285 SCRA 64, 78 (1998); People vs. Penones, 200 SCRA 624 (1991).

[42] People vs. Costelo, 316 SCRA 895, 915 (1999).

[43] People vs. Albacin, G.R. No. 133918, September 13, 2000.

[44] People vs. Lomerio, 326 SCRA 530 (2000).

[45] People vs. Tambis, 311 SCRA 430 (1999).

[46] People vs. Galapin, 293 SCRA 474 (1998).

[47] Article 64, par. 1, Revised Penal Code.

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