

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE PECAYO SR., ACCUSED-APPELLANT.

G.R. No. 132047. December 14, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In incestuous rape, the death penalty may be imposed only if the age of the victim and her statutory relationship to the rapist are alleged in the information and proven beyond reasonable doubt during the trial.

The Case

Before us for automatic review is the Judgment[1] dated December 3, 1997, promulgated by the Regional Trial Court (Branch 3)[2] of Balanga, Bataan in Criminal Case Nos. 6595 and 6596, finding Felipe Pecayo Sr. guilty of raping his minor daughter Kristina[3] on two occasions, and imposing upon him the death penalty in each case.

In two Informations,[4] both dated July 21, 1997 and similarly worded except as to the date of the alleged commission of the offense, Second Assistant Provincial Prosecutor Angelito V. Lumabas charged accused-appellant as follows:

"That in or about the month of December 1996 at Brgy. Balut II, Pilar, Bataan, Philippines and within the jurisdiction of this Honorable Court, the said accused thru force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed to have sexual intercourse with the offended party, Kristina L. Pecayo, a 14 year old minor girl, who is his daughter, against the will and consent of the latter, to her damage and prejudice."

Appellant, duly assisted by Counsel Joey V. Saldaña, was arraigned on August 11, 1997. To both charges, he pleaded "not guilty." [5] On August 26, 1997, he waived his right to pretrial. [6] Trial proper thence proceeded with dispatch.

On December 9, 1997, the trial court promulgated its Decision, the dispositive portion of which reads: [7]

"WHEREFORE, the guilt of the accused having been established beyond reasonable doubt, he is sentenced in each of Criminal Cases Nos. 6595 and 6596 to the penalty of death and to indemnify the victim in the amount of P50,000.00, with costs."

The Facts

Version of the Prosecution

The solicitor general sums up the People's version of the facts as follows: [8]

"At about 3:00 a.m. of January, 1996, Cristina Pecayo, x x x was asleep in her room with her youngest sister (p. 7, supra). Suddenly, Cristina sensed that her father, Felipe Pecayo, entered the room, stripped off her clothes, her shorts and panty. Felipe then removed his shorts, went on top of Cristina and inserted his organ into hers. When Felipe saw her daughter's sex organ ble[e]d, he wiped it off and left (supra). Cristina did nothing as she was afraid of her father, Felipe, who, when drunk, always threatened to kill his family (supra).

Sometime in December, 1996, at about 3:00 a.m., Felipe again entered Cristina's room. After removing his shorts, Felipe stripped off Cristina's clothing then went on top of her and inserted his sex organ into Cristina's. When Cristina's sex organ bled, Felipe wiped off the blood and left. Cristina, aware that her father always carried a knife in his pocket, could only cry (p. 9, supra).

Dr. Marissa Mallari examined Cristina on June 20, 1997. The result of said examination which was reduced into writing (Exhibit A) showed a positive deep-healed hymenal laceration at 5:00 o'clock; x x x positive superficial healed hymenal lacerations at 2:00, 4:00 o'clock positions which hymenal lacerations could have been caused by penetration, masturbation, strenuous exercise [or] instrumentation (p. 3, tsn, August 26, 1997)."

Version of the Defense

The version of accused-appellant, the lone defense witness, is as follows:[9]

"When asked what could be the reason why Kristina charged him of raping her, he said that she resent[s] him because he gets angry with her everytime she comes home late from school. There was even a time when he spanked her in the presence of several persons.

During cross-examination, Felipe Pecayo, Sr., described himself as a good father and provider. According to him, however, his children do not want him to work anymore because he is already old. He affirmed that his daughter Maricris works in Mariveles starting at 5:00 a.m., prompting her to leave the house as early as 4:00 o'clock in the morning. Felipe, Jr., on the other hand, goes to sea and sometimes leaves at 4:00 o'clock in the morning and returns after two or three hours. As far as he knows, Kristina filed these cases against him because he spanked her prior to December 1996 and after January 1996. (TSN, November 11, 1997, pp. 2-10)."

Ruling of the Trial Court

Assessing the credibility of the private complainant as well as her testimony in open court, Judge Lorenzo R. Silva Jr. wrote as follows:[10]

"It is obvious that the testimony of Cristina that she was raped by her father in January and December, 1996 is positive, direct, straight forward and unadorned. The Presiding Judge was observing her while testifying and observed that she narrated the terrible ordeal she had to bear with anguished and pained sincerity coupled with dread of her defiler, her own father. There was no reason for the Court to doubt any whit her testimony given with a spat[e] of tears. The defense of the father was one of undiluted denial; innuendo that she filed the case out of revenge because he x x x scolded her several times and spanked her once after the first rape and before the second rape; and insinuat[ed] that he could not have raped her because she was sleeping with her siblings at least with Maricris, Angie and Rolly after Felipe, Jr. went to sea and Maricris left for work in Mariveles. On this score, the testimony of Cristina was clear that it was only the youngest, aged eleven who was near her when she was ravished. The Supreme Court has held that lust is no respecter of time and place and rape can be committed even in places where people congregate in parks, along the roadside, within school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping. (People vs. Cura, 240 SCRA 234) While there seem[ed] to be no resistance by the daughter when she was raped by her father, the Court is convinced that the lack of resistance was due to fear or to the novelty of a harrowing experience. Moreover, in rape committed by a father against his own daughter, the father's moral ascendancy and influence over the latter substitutes for violence and intimidation x x x. The cross-examination of the complainant did not dent any bit her credible testimony given in a forthright manner. The simple answers of this witness on the stand exude candor and sincerity. Since the complainant is of tender years and not exposed to the ways of the world, it is improbable that she would impute a crime as serious as rape to her own father if it were not true."

The lower court concluded that, without doubt, "the accused father had carnal knowledge of his daughter against her will[,] taking advantage of his moral ascendancy and influence."

Hence, this Court's automatic review of the judgment.[11]

Issues

In his Brief,[12] accused-appellant assigns the following errors to the court a quo:

"I

The trial court gravely erred in giving full weight and credence to the testimony of the private complainant and disregarding the theory of the defense.

II

The trial court erred in adopting the prosecution's theory which is incongruous and contradicts human experience and ordinary behavior of men.

III

The trial court gravely erred in holding the accused guilty beyond reasonable doubt in both charges."

In brief, these issues boil down to the sufficiency of the prosecution evidence to convict appellant.

The Court's Ruling

We affirm the conviction of appellant for two counts of rape, but reduce his penalty in each count to reclusion perpetua for failure of the prosecution to present sufficient proof of the victim's age.

Main Issue:

Sufficiency of the Prosecution Evidence

Appellant contends that the testimony of Kristina Pecayo has "too many loose ends, x x x resulting in the failure of her case to meet the test of moral certainty [in establishing the] guilt of the accused." First, it was allegedly improbable for the rapes to have taken place in an 8-by-12-foot room where the victim's siblings were also sleeping. Second, Kristina did not shout for help or awaken her siblings who were in the same room where she was being raped. Third, nearly a year passed between the alleged two instances of rape, during which the victim failed to report the matter to anyone. There was no showing, however, that in the interval, appellant continued to intimidate or instill fear in the victim. Finally, the uncorroborated testimony of the private complainant allegedly failed to support the conviction of appellant.

After a careful scrutiny of the evidence for both the prosecution and the defense, the Court finds that the objections raised by appellant are unworthy of belief. The testimony of Kristina Pecayo, as corroborated by the medical findings, are sufficient to establish beyond reasonable doubt the guilt of Felipe Pecayo Sr. Her testimony was straightforward, spontaneous and convincing, thereby manifesting truth. We quote it at length, as follows:

"PROS. MENDOZA:

Q.

You said that you were raped by your father at 3:00 a.m. of one day of January, 1996[;] will you please tell the Court how that rape happened?

WITNESS:

A.

Just after my sister working at Mariveles left the house, I felt that my father entered our room and then I felt that he stripped off my clothes, removing my shorts and panties; and then he put himself on top of me; he removed his shorts and then he inserted his sex organ [in]to mine; after that when he saw that I bled, he wiped the blood and left, sir.

Q.

Who was with you at that time that this rape incident happened?

A.

My youngest sibling, sir.

Q.

How old is your youngest sibling?

A.

10 or 11 years old, sir.

Q.

At that time that your father went on top of you, remov[ed] his shorts, and put his sex organ inside your organ, what were you doing?

A.

None, sir.

Q.

Why?

A.

I was afraid of him, sir.

Q.

Why were you afraid of him?

A.

Everytime he would get drunk, he would say, he would kill us all, sir.

PROS. MENDOZA:

May we make it of record, Your Honor, that the witness is crying while testifying.

Q.

You said that your father wiped the blood which he found on you[;] what part of your body bled?

A.

My sex organ, sir.

PROS. MENDOZA:

Q.

You said also that your father wiped the blood and then left you[;] where did he go?

WITNESS:

A.

He went outside because he slept outside, and then he slept there, sir.

Q.

In December, 1996, do you remember of any unusual incident that happened in a day of that month?

A.

Yes, sir.

Q.

What was that unusual incident?

A.

I was raped by my father again, sir.

Q.

Do you still remember what day was that in December, 1996 that you were again raped by your father?

A.

No, sir.

Q.

Do you still remember the time?

A.

At the same time about 3:00 a.m., sir.

Q.

Why do you remember that it was about 3:00 a.m.?

A.

It was again just after my sister working at Mariveles ha[d] left, and I have a brother who goes to the sea, sir.

Q.

At that time, in December, 1996, who was with you aside from your father?

A.

My youngest brother, sir.

Q.

What was he doing there?

A.

He was asleep, sir.

Q.

Will you please tell the Court how did that rape incident occur?

WITNESS:

On that particular day and time, my father appeared to be drunk, I felt him [enter] the room again, and then he was then already naked; he again stripped off my clothing and then put himself on top of me, inserted his penis [in]to my sex organ, sir.

PROS. MENDOZA:

Q.

What happened after your father inserted his penis into your vagina?

A.

He made an up and down motion, and then when I bled again, he wiped the blood and then he left, sir.

Q.

Did you do anything while this happened?

A.

I simply cried, sir.

Q.

Why did you just cry?

A.

I was afraid of him because it is his habit of possessing in his pocket a knife everywhere he goes, sir."[13]

The victim's clear, positive and forthright testimony, punctuated by her tears, could only spell truth. She vividly recounted her humiliating experiences at the hands of her own father. Even during cross-examination, she remained steadfast in her testimony. Unless she was telling the truth, she could not have admitted in public that she had been defiled by her own father, thereby compromising her own honor and dignity. Needless to state, it is undeniable that an incestuous sexual assault is a psychosocial deviance that inflicts a social stigma upon the victim and her family.[14]

It has also been oft said that a rape victim's testimony against her parent is entitled to great weight since, customarily, Filipino children revere and respect their elders. These values are so deeply ingrained in Filipino families[15] that it is unthinkable for a daughter to concoct brazenly a story of rape against her father, if such were not true.[16]

Indeed, no woman, especially one of tender age, would contrive a tale of defilement and undergo the humiliating ordeal and indignity of testifying on the sordid details of the crime, if she has not in fact been raped or been motivated by a desire to obtain justice and vindicate her honor.[17] When straightforward and unflawed by any material or significant inconsistency, her testimony deserves full faith and credit and can sustain a conviction.[18] Credibility is surely enhanced when the accusing words are directed against a close relative, especially the father

as in the present case.[19]

Well-settled is the rule that the lone testimony of the rape victim, if credible, is sufficient to support a conviction. This is so because, from the nature of the offense, oftentimes the only evidence that can be offered to establish the guilt of the appellant is the private complainant's testimony. Rape, by its very nature, is normally committed away from public view, without witnesses save for the perpetrator and the victim themselves.[20] Thus, the fact that Kristina was the only eyewitness presented in court and her testimony was therefore uncorroborated is not fatal to the prosecution's case. Credibility does not go with numbers. The faithful testimony of a single credible witness suffices.[21]

As the trial judge noted, the victim "narrated the terrible ordeal she had to bear with anguished and pained sincerity coupled with dread of her defiler, her own father. There was no reason for the [c]ourt to doubt any whit her testimony given with a spat[e] of tears."

We find no reason to deviate from the general rule that factual findings of trial courts should not be disturbed on appeal, unless they are found to be clearly arbitrary or unfounded; or some substantial fact or circumstance that could materially affect the disposition of the case was overlooked, misunderstood or misinterpreted.[22] This rule is rooted in the fact that a trial judge had the unique opportunity to observe the witnesses firsthand and to note their demeanor and manner of testifying under grilling examination. Undeniably, these factors are significant in evaluating a witness' honesty, sincerity and credibility. Having observed the entire proceedings, the trial court can be expected to have determined reasonably whose testimony to accept and which witness to disbelieve.[23] Conversely, the reviewing magistrate has none of the advantages peculiar to the trial judge's position and therefore relies only on the cold records of the case and on the trial judge's discretion.

Another time-honored doctrine is that lust is no respecter of time and place.[24] Rape can be committed even in places where people congregate, in parks, within school premises, inside a house where there are other occupants, and even in the same room where there are other members of the family who are sleeping. Thus, deserving scant consideration is appellant's allegation that it was improbable for the rape to have taken place in an 8-by-12-foot room where the victim's siblings were also sleeping.

Under the circumstances of the case, the victim's failure to shout for help while she was being ravished is of no moment. The aggressor was the victim's own father, who naturally had moral and physical ascendancy over her. He even threatened to kill not only her, but likewise her siblings. Kristina was also aware that her father had the habit of carrying a knife with him. Time and again, this Court has ruled that physical resistance need not be established in rape when intimidation is exercised upon the victim, who then submits herself against her will to the rapist's lust because of fear for her life.[25] Resistance on her part need not be carried to the point of inviting death or sustaining physical injuries in the hands of the rapist. It suffices that the offense is consummated against her will or that she yields because of a genuine fear of great harm.

It has been consistently held that no standard form of behavior has been observed when a person is confronted by a shocking or a harrowing and unexpected incident, for the workings of the human mind, when placed under emotional stress, are unpredictable. Some people may cry out, some may faint, some may be shocked into insensibility, while others may yet appear to yield to the intrusion.[26]

The moral ascendancy of appellant, coupled with his threats against the lives of the victim and her siblings, also adequately explain the delay in reporting the crime to the authorities.[27] The silence of a rape victim or her failure to disclose immediately her debasing ordeal does not prove that her charges are unfounded and fabricated. It is not uncommon for a young girl like Kristina to conceal for some time the beastly assault on her virtue. As earlier mentioned, rape is a traumatic experience, and the shock concomitant with it may linger for a while.[28]

Oftentimes, the victim would rather bear the ignominy and the pain in private than reveal her shame to the world or risk the rapist's making good the threat to harm her.[29]

In brief, the delay in reporting the rape incidents and the lack of strong resistance against the aggressor do not diminish the credibility of private complainant, who testified in a straightforward, clear, consistent and truthful manner.

Kristina's tale of defilement is corroborated by the medical findings[30] of Dra. Marissa Mallari, who examined her. The latter explained her findings as follows:

"Q -

Will you please tell us the result of your examination?

A -

On the physical examination, there [were] negative findings; [on the] genitalia: negative pubic hair, labia majora apposed, labia minora light brown, positive hymenal laceration deep healed at 5 o'clock, positive superficial healed laceration at 2, 4 o'clock position[s]; vagina admit[ted] 1 finger with ease, cervix - closed, uterus - small, and negative bleeding, sir.

Q -

What conclusion did you reach from this examination you conducted on the child Cristina Pecayo?

A -

There was hymenal laceration, sir.

Q -

What could have x x x caused this hymenal laceration?

A -

Penetration, masturbation, strenuous exercise, [or] instrumentation, sir."[31]

Defense of Denial Flimsy and Unworthy of Belief

On the other hand, appellant's defense was flimsy, shallow and unworthy of credit. He simplistically attested thus:

"ATTY. SALDAÑA:

Q

Mr. Witness, you are accused of having raped Cristina Pecayo in January, 1996 and in December of 1996 in your house[;] what can you say about that?

A.

I do not know that, sir.

Q.

And do you know of any reason why Cristina Pecayo would charge you [with] that offense?

A.

I do not know of any reason why they have to charge me with that serious offense. What I know is that, they

refrain [sic] me from going with my friends because according to them I [would] just get drunk, sir.

FISCAL MENDOZA:

We respectfully move for the striking out [from] the answer of the witness, the latter portion of the same. The witness is asked what could be the reason why Cristina charged him [with] the offense, but he is talking about some other persons, Your Honor.

COURT:

The complaint filed before the municipal circuit court [was] filed by Cristina only, in the person of the brother, Felipe Pecayo, Jr. But the complainant is only Cristina; the brother serves only as a witness.

Reform the question.

ATTY. SALDAÑA:

What could be the reason why Cristina Pecayo would accuse you of this serious offense of you raping her?

WITNESS:

A.

If you are going to ask me, they have several reasons because they are angry with me, especially with respect to her studies. When she [came] home late, there was a time when I spanked her, sir.

ATTY. SALDAÑA:

Q.

Do you still remember when that spanking occurred?

A.

Before I was accused of this crime, sir.

Q.

Where did the incident happen?

A.

In the artesian well in the presence of several persons. They do not want to obey me because they are angry with me, sir.

Q.

How many times did Cristina Pecayo come home late?

A.

Several times, sir.

Q.

And what did you tell her every time that she came late?

A.

I asked her why she came home late and she answered me that they did something in school, sir.

ATTY. SALDAÑA:

That will be all, Your Honor." [32]

Appellant's bare denial cannot overcome the categorical and positive testimony of the victim. Being unsubstantiated by clear and convincing evidence, his defense deserves no weight in law and cannot be given greater evidentiary value than the testimony of Kristina, who was a credible witness. [33]

Besides, appellant failed to show any plausible reason why his own daughter would impute to him a detestable, heinous charge. It is highly inconceivable that Kristina would claim to have been raped, just because her father usually got mad and spanked her for coming home late. Indeed, it is unthinkable that a young lady, inexperienced in the ways of the world, would concoct a tale of rape by no less than her father, simply to take revenge for the physical maltreatment inflicted upon her. [34]

Mere chastisement is not strong enough to make a daughter in a Filipino family invent a charge that would only bring shame and humiliation upon her and her family and make her the object of gossip among her peers and neighbors. [35] In fact, the consequences of filing a case of rape are so serious that an ordinary woman would have second thoughts about doing so. Much more is required of a provincial lass to devise such story, have her private parts examined, subject herself to the indignity of a public trial and endure a lifetime of shame. Even when consumed with a desire for revenge, it takes a certain amount of psychological depravity for a young woman to forge a story that would put the life of her own father at stake. [36]

In view of all the foregoing, the Court gives more credence to the complaining victim rather than to the appellant. A witness testifying candidly, trustworthily and consistently, without any ill motive, is surely more credible than an accused-appellant who simply denies the charge. We have therefore determined that, together with the other pieces of evidence on record, the victim's testimony establishes appellant's guilt beyond reasonable doubt.

Proper Penalty

Under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, the pertinent statutory provision prevailing at the time of the rape incidents, the death penalty is imposed "[w]hen the victim is under eighteen (18) years of age and the offender is a parent x x x of the victim."

To justify the imposition of death, however, proof of the victim's age must be indubitable. There must be sufficient and clear evidence proving her age, even if not denied by the accused. [37]

In *People v. Javier*, [38] the Court unanimously held:

"In a criminal prosecution especially of cases involving the extreme penalty of death, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime with which an accused is charged must be established by the prosecution in order for said penalty to be upheld. x x x. Verily, the minority of the victim must be proved with equal certainty and clearness as the crime itself. Otherwise, failure to sufficiently establish the victim's age is fatal and consequently bars conviction for rape in its qualified form."

A duly certified certificate of live birth accurately showing the complainant's age, or some other authentic document such as a baptismal certificate or a school record, has been recognized as competent evidence. [39]

In the case at bar, no documentary evidence whatsoever was offered in court to prove the age of the complaining victim. Kristina simply stated during the beginning of her direct examination that she was 14 years old, and that she was born on January 13, 1983. [40] In *People v. Vargas*, this Court held that the victim's casual testimony as to her age was not sufficient. [41]

The lack of denial on the part of appellant did not excuse the prosecution from discharging its burden.[42] As held in a recent case:

"[W]e cannot agree with the solicitor general that appellant's admission of his relationship with his victims would suffice. Elementary is the rule that the prosecution bears the burden of proving all the elements of a crime, including the qualifying circumstances." [43]

For the state's failure to discharge satisfactorily the burden of proving the victim's age, only reclusion perpetua, not death, can be imposed upon appellant.

In addition to indemnity, however, the complaining victim should be awarded moral damages. This Court has held many times that a rape victim's injury is inherently concomitant to and results from the odiousness of the crime.[44] Consistent with current jurisprudence, the award to private complainant of P50,000 as moral damages for each count of rape is proper.

WHEREFORE, the assailed Decision finding Felipe Pecayo Sr. guilty of rape on two counts, is hereby AFFIRMED with a modification as to penalty. For each count, appellant is SENTENCED to reclusion perpetua and ordered to PAY Kristina L. Pecayo an indemnity of P50,000 and moral damages of P50,000. Costs against appellant.

SO ORDERED.

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

[1] Rollo, pp. 17-21.

[2] Penned by Judge Lorenzo R. Silva Jr.

[3] Also spelled "Cristina."

[4] Rollo, pp. 9-12.

[5] Records, pp. 9 & 10.

[6] Ibid., p. 17.

[7] Rollo, p. 21.

[8] Brief for the Plaintiff-Appellee, pp. 2-3; rollo, pp. 65-66.

[9] Brief for the Accused-Appellant, pp. 5-6; rollo, pp. 35-36.

[10] Ibid., pp. 19-20.

[11] This case was deemed submitted for resolution on February 2, 1999, when the Court noted and allowed appellant's Manifestation that he deemed it "not wise to file a Reply Brief."

[12] Appellant's Brief, p. 10; rollo, p. 52. (All caps in the original.)

[13] TSN, August 26, 1997, pp. 7-9.

[14] *People v. Burce*, 269 SCRA 293, March 7, 1997.

[15] Ibid., p. 314.

- [16] *People v. Alvero*, GR Nos. 134536-38, April 5, 2000.
- [17] *People v. Abordo*, 258 SCRA 571, July 11, 1996; *People v. Corea*, 269 SCRA 76, March 3, 1997; *People v. Castromero*, 280 SCRA 421, October 9, 1997; *People v. Lacaba*, GR No. 130591, November 17, 1999.
- [18] *People v. Caratay*, 316 SCRA 251, October 5, 1999; *People v. Penaso*, GR No. 121980, February 23, 2000.
- [19] *People v. Alvero*, *supra*.
- [20] *People v. Apilo*, 263 SCRA 582, October 28, 1996; *People v. Pontilar Jr.*, 275 SCRA 338, July 11, 1997.
- [21] *People v. Dela Cruz*, 276 SCRA 191, July 24, 1997.
- [22] *People v. Bersabe*, 289 SCRA 685, April 27, 1998; *People v. Pili*, 289 SCRA 118, April 15, 1998; *People v. Albao*, 287 SCRA 129, March 6, 1998; *People v. Obello*, 284 SCRA 79, January 14, 1998; *People v. Siguin*, 299 SCRA 124, November 24, 1998; *People v. Sta. Ana*, 291 SCRA 188, June 26, 1998; *People v. Villamor*, 284 SCRA 184, January 16, 1998; *People v. Quinao*, 269 SCRA 495, March 13, 1997.
- [23] *People v. Arcilla*, 256 SCRA 757, May 15, 1996; *People v. Atuel*, 261 SCRA 339, September 3, 1996; *People v. Bragas*, 315 SCRA 217, September 24, 1999.
- [24] *People v. Bersabe*, 289 SCRA 685, April 27, 1998; *People v. Balmoria*, 287 SCRA 687, March 20, 1998; *People v. Garcia*, 288 SCRA 383, March 31, 1998; *People v. Cabillan*, 267 SCRA 256, January 30, 1997.
- [25] *People v. Gumahob*, 265 SCRA 84, November 28, 1996; *People v. Peñero*, 276 SCRA 565, July 31, 1997; *People v. Pili*, 289 SCRA 118, April 15, 1998.
- [26] *People v. Sagaysay*, 308 SCRA 455, June 17, 1999, citing *People v. Soberano*, 244 SCRA 467, May 29, 1995; *People v. Casao*, 220 SCRA 362, March 23, 1993; *People v. Abonada*, 169 SCRA 530, January 27, 1989; *People v. Malunes*, 247 SCRA 317, August 14, 1995; *People v. Mendoza*, 163 SCRA 569, July 26, 1988.
- [27] *People v. Talaboc*, 256 SCRA 441, April 23, 1996; *People v. Dones*, 254 SCRA 696, March 13, 1996; *People v. Padil*, GR No. 127566, November 22, 1999.
- [28] *People v. Malabago*, 271 SCRA 465, April 18, 1997.
- [29] *People v. Alvero*, *supra*; *People v. Padil*, *supra*.
- [30] Exh. A.
- [31] TSN, August 26, 1997, p. 3.
- [32] TSN, November 11, 1997, pp. 24-25.
- [33] *People v. Belga*, 258 SCRA 583, July 11, 1996; *People v. Amaguin*, 229 SCRA 166, 174-175, January 10, 1994.
- [34] *People v. Devilleres*, 269 SCRA 717, March 14, 1997; *People v. Managaytay*, 305 SCRA 316, March 25, 1999; *People v. Sacapaño*, 313 SCRA 650, September 3, 1999; *People v. Bernaldez*, 294 SCRA 317, August 17, 1998; *People v. Gayomma*, 315 SCRA 639, September 30, 1999.
- [35] *People v. Tabugoca*, 258 SCRA 312, January 28, 1998.
- [36] *Ibid*.
- [37] *People v. Cula*, GR No. 133146, March 28, 2000; *People v. Tipay*, GR No.131472, March 28, 2000; *People*

v. Brigildo, GR No. 124129, January 28, 2000; People v. Licanda, GR No. 134084, May 4, 2000; People v. Tabanggay, GR No. 130504, June 29, 2000.

[38] 311 SCRA 122, 141, July 26, 1999, per Melo, J. The rule was reiterated in People v. Cula, *ibid.*, and People v. Tipay, *ibid.*

[39] People v. Llamo, GR No. 132138, January 28, 2000; People v. Amban, GR No. 134286, March 1, 2000; People v. Balgos, GR No. 126115, January 26, 2000; People v. Magat, GR No. 130026, May 31, 2000; People v. Rebancos, 172 SCRA 425, April 18, 1989; People v. Vargas, 257 SCRA 603, 610-11, June 26, 1996.

[40] TSN, August 26, 1997, p. 6.

[41] *Supra*.

[42] People v. Tipay, *supra*.

[43] People v. Tabanggay, *supra*, per Panganiban, J. See also People v. Cula, *supra*.

[44] People v. Tabanggay, *ibid.*, citing People v. Mahinay, *supra*; People v. Prades, 293 SCRA 411, July 30, 1998.

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