

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANDRES LUBONG Y PAJE, ACCUSED-APPELLANT.

G.R. No. 132295. May 31, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Accused-appellant Andres Lubong y Paje was charged with Rape under Article 335, paragraph 3 of the Revised Penal Code and Sexual Abuse under Article III, Section 5(b) of Republic Act 7610,[1] before the Regional Trial Court, Third Judicial Region, Olongapo City, Branch 72[2] in the following two (2) separate Informations:

In Crim. Case No. 349-95, for Rape:

"The undersigned Provincial Prosecutor and Special Prosecutor of Violation of Republic Act 7610 and other related laws on Child Abuse, upon sworn complaint filed by the offended party, accuses Andres Lubong y Paje of the crime of Rape, defined and penalized under Article 335, Par. 3 of the Revised Penal Code, committed as follows:

"That on or about the 23rd day of May, 1995 at around 7:00 o'clock in the evening, at Brgy. La Paz, in the (M)unicipality of San Marcelino, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, intimidation and threats, did then and there willfully, unlawfully and feloniously have carnal knowledge of said Jennifer Mangcol, a girl of 17 years old, against her will and consent, to the damage and prejudice of the latter.

"CONTRARY TO LAW."[3]

In Crim. Case No. 350-95, for Sexual Abuse:

"The undersigned Provincial Prosecutor and Special Prosecutor of Violation of Republic Act 7610 and other related laws on Child Abuse, upon sworn complaint filed by the offended party, accuses Andres Lubong y Paje of Sexual Abuse, defined and penalized under Section 5(b), Article III of Republic Act 7610 (Special Protection of Children against Child Abuse, Exploitation and Discrimination Act), committed as follows:

"That on or about the 23rd day of May, 1995 at around 7:00 o'clock in the evening at Brgy. La Paz, in the Municipality of San Marcelino, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, and by means or employment of persuasion, inducement, enticement, coercion, intimidation and other consideration, did then and there willfully, unlawfully and feloniously commit the act of sexual intercourse with Jennifer Mangcol, a minor of 17 years old, against her will and consent, to the damage and prejudice of the latter.

"CONTRARY TO LAW."[4]

When arraigned, the accused pleaded not guilty to the commission of the crimes charged. Joint trial of the two cases ensued.

The prosecution presented the complainant Jennifer Mangcol and three other witnesses, namely: Elizabeth

"Auntie Beth" Ortiz, a missionary who runs the Southern Baptist Parish Family Center based in Zambales which, among other things, shelters and takes care of abandoned children, one of whom is herein complainant; Dr. Laila Patricio, who examined complainant on September 25, 1995 and found the "hymen with multiple healed lacerations";[5] and Dra. Aida Muncada, Physician-Psychiatrist of the National Center for Mental Health who also examined complainant and concluded that "she was seventeen (17) but her level of mental capacity is like that of a six (6) year old." [6]

The Office of the Solicitor General summarized the evidence for the prosecution as follows:

"The offended party, Jennifer Mangcol, a mental retardate, testified that she was then 18 years old per information from her Auntie Beth. She went to school and after Grade 1 stopped schooling a long time ago. She knew how to write her name only and did not know how to read. She did not know how to count and did not know how much is one plus one (1 + 1). It being obvious from the answers she gave to a lot of questions propounded to her that she was suffering from mental retardation, the prosecution was allowed by the court to conduct the examination of complaining witness by leading questions (t.s.n., February 5, 1996, pp. 3-12).

Complaining witness declared that she was a resident of Calbayog City in the Visayas before May 23, 1995. She was taken by her Auntie Beth to Manila where the latter was then staying and later brought to Barangay La Paz, San Marcelino, Zambales. At the latter place, complaining witness and her Auntie Beth lived in a house together with somebody whom complaining witness called "Kuya John" and regarded as a brother although not really such (t.s.n., February 5, 1996, pp. 12-15).

While staying at the house in La Paz, San Marcelino, Zambales, an unusual incident happened to complaining witness on May 23, 1995 when appellant entered the house to fetch water therefrom. Appellant introduced himself to complaining witness saying "I am Lubong" and told her not to be afraid of him. After fetching water, appellant told complaining witness that he will come back and did so. Appellant waited at the door for complaining witness who was then out to fetch water and entered the house when she was already inside the same. Appellant asked complaining witness where her room was located but she did not answer said query. Appellant went upstairs after complaining witness had gone thereat ahead of the former. Appellant took off his clothes consisting of a T-shirt and shorts. Appellant himself then removed the clothes of complaining witness who resisted, telling appellant not to touch her because her brother may arrive. Appellant just told complaining witness not to mind, continued undressing her and thereafter made her lay down then placed himself on the stomach or on top of complaining witness and inserted his penis into her sex organ for a long time, as a consequence of which she felt pain. Appellant also did the same thing to complaining witness while they were already in the latter's room. Appellant also inserted his penis into the mouth of complaining witness which made the latter feel awful and "was about to vomit" (t.s.n., February 5, 1996, pp. 15-26).

Physician-Psychiatrist Dr. Aida L. Muncada, a resident physician of the National Center for Mental Health, declared that she is involved in the evaluation and management of psychiatric patients, had pursued a fellowship in child and adolescent psychiatry for two (2) years at the UP-PGH and trained with the mental disorders of both children and adolescents, including retarded adolescents. She had written papers about "Drugs and Acute Psychotic Reaction" and specifically with regard to sexually abused children, she had co-authored "Perception of Sexually abused Among Seven to Fourteen Years Old Street Children." She had also written "Psycho Social Profile of Fourty Four Five to Sixteen Years Old As Sexually Abused Children in Metro Manila" and had presented said papers in major psychiatric conventions (t.s.n., March 25, 1996, pp. 2-8).

Dr. Muncada, who is also a consultant of the DSWD Lingap Center, examined the offended party. Jennifer Mangcol, who was brought thereat by the latter's guardian Elizabeth Ortiz who told her that Mangcol was raped by appellant sometime in May, 1995. Dr. Muncada prepared a report of her examination (Exh. "C") wherein she concluded thus:

Based on above history and mental status examination, patient Jennifer has been abused sexually. A diagnosis

of V Code V 61.21 by Diagnostic and Statistical Manual for Mental Disorder is being given which is Sexual Abuse of Child.

A concomitant diagnosis of Mental Retardation is also being made. The IQ of 35 falls under Moderate level. Patient would need supervision guide under mild social stress.

Dr. Muncada further stressed upon query of the court or presiding judge thereof that Mangcol "was seventeen (17) but her level of mental capacity is like that of six (6) years old" (t.s.n., March 25, 1996, pp. 2-13).

Dr. Laila Patricio, a resident physician of the James L. Gordon Medical Center at Olongapo City, examined the offended party, Jennifer Mangcol, who was accompanied by Rosario Sibricos of the Lingap Center, on September 25, 1995. Because she had difficulty communicating with Jennifer who is a retardate, Dr. Patricio just talked with Rosario Sinbricos concerning Jennifer. Upon examination of Jennifer at the hospital's delivery room, Dr. Patricio found out that her hymen has multiple healed lacerations which could have been caused by a foreign object inserted into her vagina, such as a penis, a finger, a vibrator or other object. She was able to insert her two fingers easily into the vagina of Jennifer. If Jennifer had a sexual intercourse with a man, the same could have resulted to said multiple healed lacerations. Dr. Patricio prepared the corresponding medico legal certificate (Exh. "D") regarding her examination of Jennifer Mangcol (t.s.n., September 2, 1996, pp. 2-11).[7]

On the other hand, the defense presented only appellant himself as witness who relied on denial and alibi. He testified that on May 23, 1995, he was working as a mason in the construction site of Mrs. Magalino where he started working at 7 o'clock in the morning up to 5 o'clock in the afternoon. After working he went home to his house at San Isidro, San Marcelino, Zambales and arrived thereat at 5:15 p.m. He cooked his food because he was living alone in the house. The following day, he reported for work at 7 o'clock in the morning. That afternoon, he was arrested and brought to the police station where the complainant accompanied by her guardian Elizabeth Ortiz and Kuya John was waiting for him.[8] In the appellant's brief, accused-appellant summed up his defense that "on the alleged date in question, appellant was hard at work as a mason in the Mangalino (sic) residence." [9] No one was presented to corroborate his story.

The court a quo found the accused guilty of Rape under the Revised Penal Code and acquitted him of "Sexual Abuse" under Article III, Section 5(b) of Republic Act 7610, viz :

"WHEREFORE, (THE) Court finds the accused Andres Lubong y Paje guilty beyond reasonable doubt of the crime of rape in Crim. Case No. 349-85 and is hereby sentenced to RECLUSION PERPETUA and to pay moral damages in the amount of One Hundred Thousand (P100,000.00) Pesos, and to pay the costs.

In Crim. Case No. 350-95, the accused is hereby ACQUITTED of the crime charged.

SO ORDERED." [10]

The appellant submits the following assigned errors in his brief:

I

THE LOWER COURT ERRED IN CONVICTING APPELLANT ON DOUBTFUL AND HEARSAY EVIDENCE

II

THE COURT A QUO DISREGARDED APPELLANT'S DEFENSE OF ALIBI WHEN THE IDENTITY OF SUSPECT IS DOUBTFUL

III

THE TRIAL COURT MISUNDERSTOOD, MISAPPLIED, OVERLOOKED MATERIAL FACTS OF SUBSTANCE WHICH IF CONSIDERED WILL EXONERATE APPELLANT [11]

which he jointly discussed, raising the following points:

1. The first time complainants saw appellant was in the police station when he was brought in for questioning; that there was never a police line-up to ascertain the identity of the culprit; and that he is merely a look-alike;
2. Considering the mental age of the complainant to be that of a six year old, she could be easily swayed by suggestion of the police officers who wanted a "fall guy" or "scapegoat" to solve the case to ensure reward or promotion;
3. The manner by which appellant escaped from the locus criminis is highly improbable considering that the house where the alleged rape occurred is an old pre-war edifice where the ceiling in the second floor is inaccessible and cannot be scaled for egress purposes; that it is a rarity that this house is empty; that the branches of the tree closest to the ceiling are not big enough to hold the weight of a well-built man such as appellant; and that the size and built of appellant would not allow him to crawl out of the hole in the fence as his means of escape.
4. The thrust of the court a quo's conviction is based on circumstantial evidence, the requisites of which have not been met.[12]

In sum, appellant questions (1) his improper identification as the culprit; (2) the sufficiency of the prosecution's evidence; and challenges the court a quo's Decision which he claims was based entirely on circumstantial evidence.

The appeal is without merit. A close and detailed examination of the entire record of the case at bar impels us to affirm. We shall no longer delve into the charge of Sexual Abuse under Republic Act 7610 on account of appellant's acquittal thereof.

We do not agree that there was improper identification of appellant as the culprit. Appellant's claim that Jennifer was merely swayed by the police or his identification was through improper suggestion by the police is without basis. True, appellant was never identified in a police line-up, however, in *People vs. Salguero*[13], the Court held that "(T)here is no law requiring a police line-up as essential to proper identification. Thus, even if there was no police line-up, there could still be proper identification as long as such identification was not suggested to the witnesses by the police." The records are bereft of any indication that the identification of appellant by Jennifer was suggested by the police. Of paramount importance in dispelling any doubts as to the proper identification of appellant is his positive identification in open court by the complainant. Jennifer identified and pointed to appellant as her rapist in court. We are satisfied that her testimony was by itself alone, sufficient identification of her rapist, quoted as follows:

Q: Now, while you were staying in that house of your auntie Beth at Barangay La Paz, San Marcelino, Zambales do you recall of any unusual incident that happened to you?

ATTY. ALINEA

No, sir. Hindi. Tumatango siya.

WITNESS

There was, sir.

PROSECUTOR FLORESTA

Q: What was that unusual incident that happened to your person?

A: (Witness is looking at the accused.)

COURT

Q: May nangyari ba sa iyo?

(Was there something that happened to you?)

A: Yes, sir.

Q: Are you afraid?

PROSECUTOR FLORESTA:

I notice that "napapahiya siya."

WITNESS

A: Yes, sir. (Answer to the question of the Honorable Court.)

COURT

Q: Why are you afraid? Natatakot?

A: Yes, sir.

PROSECUTOR FLORESTA

Q: Why are you afraid?

A: I saw him.

Q: Whom are you referring to?

A: (Witness looking at the direction of the accused Andres Lubong.)

COURT

Q: Would you like the Court to continue with the hearing by asking you another question?

A: Yes, sir.

COURT

You ask another question.

PROSECUTOR FLORESTA

Q: Now, if that person whom you said you are afraid of is inside the courtroom will you be able to point him out to the Court?

A: Yes, sir.

Q: Please point him out to the Court.

A: (Witness pointing the accused Andres Lubong, Jr.)

Q: Why are you afraid of Andres Lubong?

A: "Baka makatakas siya."

(He might be able to escape.)[14]

After identifying her assailant, she narrated her ordeal in the hands of the appellant in a plain and straightforward

manner, as follows:

Q: Was there anything wrong committed against you by Andres Lubong?

ATTY. ALINEA

Earlier we agreed for the Court to determine whether you can be allowed to ask leading questions. But we have to . . .

COURT

At this stage the Court perception is that the witness is in fact mentally retarded. The prosecution may ask leading questions now.

PROSECUTOR FLORESTA

Yes, sir.

COURT

You call the auntie so that she will not be afraid.

PROSECUTOR FLORESTA

At this stage the auntie was called in by the Court – now seated at the front seat. And the auntie is holding her head as a sign of encouragement to the victim.

COURT

Continue now.

PROSECUTOR FLORESTA

Yes, sir.

Q: Please tell this Honorable Court what did Lubong do to you while you were staying at Barangay La Paz, San Marcelino, Zambales in the house of your Auntie Beth?

A: He entered the house.

Q: Now, when . . . after he entered the house do you know what did Lubong do, if he did, anything?

A: He was about to fetch water.

Q: And was he able to fetch water?

A: Yes, sir.

He introduced himself to me first.

Q: And how did Lubong introduce himself to you?

A: He told me, "I am Lubong".

Q: And what else did he tell you if he told you anything?

A: He told me not to be afraid of him.

Q: And what was your reply to him?

A: I did not answer, sir.

Q: Then after that what did Lubong do?

A: He fetch water, sir.

Q: And after he fetched the water did he say anything to you?

A: Yes, sir.

Q: What did he tell you after he fetched water?

A: He told me that he will come back.

Q: And did he come back after he fetched water?

A: Yes, sir.

Q: And where were you at that time when he came back?

A: He was fetching water. I was about to fetch water.

Q: And what did Lubong did with you after he came back?

A: He waited for me at the door, sir.

Q: And was he able to wait for you at the door?

A: Yes, sir.

Q: And when you reached at the door what happened?

A: He entered, sir.

Q: And what about you?

A: I was also inside.

Q: And when you and Lubong were already inside what did Lubong do if he did anything?

A: He was asking me where is my room.

Q: And what did you say?

A: I did not answer, sir.

Q: When you did not answer what did Lubong do if he did anything?

A: He went upstairs, sir.

Q: What about you?

A: I went ahead of Lubong.

Q: When you and Lubong were already upstairs what happened?

A: He took off his clothes.

Q: And what was he wearing at the time?

A: T-shirt.

Q: What about on the waist what was he wearing?

A: Short.

Q: And after he removed his clothes what happened?

A: He himself removed my clothes.

Q: You did not resist?

A: I resisted. Lumaban ako.

Q: How did you resist?

A: I told him not to touch me because my brother may arrive.

Q: And when you said that your brother will arrive, to Lubong, what did Lubong do?

A: He told me not to mind.

Q: So what happened next?

A: He still continued.

Q: Continued what?

A: (Witness demonstrating.)

ATTY. ALINEA

We go on record that witness gestured a gyration of push and pull type of body action.

Q: And where was Lubong at the time in relation to you when he was making movement of his body.

A: At our sala, sir.

Q: Do you understand my question?

A: Yes, sir.

Q: You said that Andres Lubong was making movement of his body while you were already lying down, he removed your clothes, is that correct?

A: Yes, sir.

He was in the sala, sir.

COURT

Q: Did he make you lay down?

A: Yes, sir.

PROSECUTOR FLORESTA

Q: Where?

A: On our floor.

Q: And what did he do with you after you were lying down?

A: He lay down on my stomach.

COURT

Q: He was on top of you?

A: Yes, sir.

Q: Did he make any movement?

A: Yes, sir.

PROSECUTOR FLORESTA

Q: He was already naked?

A: Yes, sir.

Q: What did he do with his penis?

A: He inserted his penis to me.

Q: Was he able to insert it to you?

A: Yes, sir.

COURT

Q: What did you feel?

A: I felt pain, sir.

Q: How long did he do that to you?

A: Very long, sir.

Q: What happened to him while doing that?

A: He did that to me twice in my room.

Q: What did he try to do to you?

A: The same.

Q: Did he make you to do other thing?

A: Yes, sir.

Q: What is that?

A: He was inserting his penis to my mouth.

Q: Was he able to do that?

A: Yes, sir.

Q: What was your reaction to what he was doing to you?

A: I was about to vomit, sir."[15]

On re-direct examination, Jennifer identified again her assailant, as follows:

FISCAL

Q: Ms. Mangcol you stated that you were investigated by the police, what did you tell to the police upon your investigation?

A: When I was asked what happened to me, I told them that I was raped by Lubong sir.

Q: If he is inside the court room will you be able to point him out to the court?

(Witness pointing to a certain person who gave his name as Andres Lubong)[16]

The trial court found the testimony of Jennifer credible although she was a retardate with the mental capacity of a six year old and thus based appellant's conviction almost entirely on the credibility of Jennifer's testimony. The trial court ruled in part: "xxx. Although there is only one direct testimony as to how the rape was committed, it is a well settled rule that the testimony of a single witness with positive identification of the accused is sufficient to support a conviction (People vs. Alder, 184 SCRA). The Court finds the testimony of the complainant Jennifer Mangcol positive because aside from being a minor, her mental capacity is that of a six (6) years old, and she has no motive to falsify the truth (People vs. Gefere, 181 SCRA). There is no showing of any motive on the part of the complainant to pose liability to the person of the accused (Mamaril vs. Contrato, Jr., 193 SCRA 782). xxx." [17]

Time and again, this Court has said that we will not interfere with the judgment of the trial court in determining the credibility of witnesses, unless there appears in the record some fact or circumstance of weight and influence which the trial court overlooked, misunderstood or misappreciated and which, if properly considered, would have altered the results of the case.[18] The reason for this is that the trial judge enjoys the peculiar advantage of observing directly and at first-hand the witnesses' deportment and manner of testifying and is, therefore, in a better position to form accurate impressions and conclusions on the basis thereof.[19] In any event, our perusal of the records of the case, including the transcript of stenographic notes, convinces us that the court a quo correctly appreciated the victim's testimony.

We note that while appellant challenges the credibility of Jennifer, he does not question the latter's competency to be a witness and testify in court. The defense accepted the representation in court of the victim's mental retardation and did not object to her competency to testify. Indeed, we find no reason to doubt her competency. A mental retardate is not, by reason of such handicap alone, disqualified from testifying in court.[20] He or she can be a witness, depending on his or her ability to relate what he or she knows.[21] If the testimony of a mental retardate is coherent, the same is admissible in court.[22] Despite her mental retardation, we are convinced that Jennifer adequately showed she could convey her ideas by words and could give sufficiently intelligent answers to the questions propounded by the court and her counsel.

Appellant harps on the impossibility of his escaping from the room on the second floor of the house where the rape was committed by passing through a hole between the wall and the roof; climbing down a tree; and exiting through a whole in the fence. We are not persuaded by this argument to the extent of discrediting the declaration of Jennifer. This circumstance is not vital or significant and cannot affect Jennifer's credibility. This relates to an incident which does not detract from the main thrust of complainant's testimony that she was raped by appellant. Moreover, this manner of escaping was part of the testimony of Elizabeth Ortiz as supposedly related by Jennifer to her.

Appellant's defense of alibi which remains unsubstantiated and uncorroborated falls in the light of the positive and unequivocal declaration of Jennifer. It is an oft-quoted doctrine that positive identification prevails over denial and alibi.[23] Further, alibi must receive credible corroboration from disinterested witnesses.[24] There is absolutely none in this case. Going further, appellant did not even attempt to demonstrate that it was physically impossible for him to be present at the place of the crime at the time it was committed. It is well-settled that for the defense of alibi to prosper, the accused must prove, not only that he was at some other place at the time of the commission of the crime, but also that it was physically impossible for him to be at the locus delicti or within its

immediate vicinity.[25]

Based on the foregoing, appellant's submission that his conviction was based on insufficient circumstantial evidence is clearly untenable. Circumstantial evidence is characterized as that evidence which proves a fact or series of facts from which the facts in issue may be established by inference.[26] Appellant's conviction was based on the positive and direct testimony of the complainant Jennifer. Well-settled is the rule that the lone testimony of the victim in the crime of rape if credible is sufficient to sustain a conviction. This is so because from the nature of the offense the only evidence that can oftentimes be offered to establish the guilt of the accused is the complainant's testimony.[27] Additionally, when a victim says she was raped, she says in effect all that is necessary to show that rape was committed on her;[28] and if found credible, the lone declaration of facts given by the offended party would be sufficient to sustain a conviction.[29]

The trial court convicted the accused "[u]nder Article 335 of the Revised Penal Code", without specifying under which paragraph or mode the crime was committed. Under Article 335 of the Revised Penal Code, rape is committed thus:

"Art. 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented."

It is settled that sexual intercourse with a woman who is a mental retardate constitutes statutory rape, which does not require proof that the accused used force or intimidation in having carnal knowledge of the victim for conviction.[30] However, the fact of her mental retardation was not alleged in the information and, therefore, cannot be the basis for conviction.[31] Nevertheless, there is adequate evidence to show that appellant used force and intimidation in committing the crime of rape in this case, which mode of committing rape was alleged in the Information. Jennifer's testimony sufficiently demonstrated that the sexual act was forced on her as she declared that she resisted or "lumaban ako".[32] It has been held that "[b]ecause the mental faculties of a retardate with the mental age of a six-year old are different from those of a fully functioning adult, the degree of force needed to overwhelm her is less.[33]

We are cognizant of the fact that the Information accused appellant "of the crime of Rape, defined and penalized under Article 335, Par. 3 of the Revised Penal Code". Nonetheless, it is axiomatic that the nature and character of the crime charged are determined not by the designation of the specific crime but by the facts alleged in the Information.[34] Stated otherwise, in the interpretation of an information, what controls is not the designation but the description of the offense charged.[35] The facts set forth in the Information clearly charged appellant of having carnal knowledge with the complainant "by means of force, intimidation and threats."

In fine, the trial court correctly found accused guilty of rape, but we must clarify and specify that his conviction is based on paragraph 1, Article 335 of the Revised Penal Code which is punishable with the penalty of reclusion perpetua.

Finally, the trial court failed to order appellant to indemnify complainant although it did award moral damages. Thus, and in line with the pronouncement in *People vs. Victor*[36] appellant should be made to pay P50,000.00 as indemnification. The award of P100,000.00 granted by the trial court as and for moral damages is reduced to P50,000.00 following and adhering to current jurisprudence.[37]

WHEREFORE, finding the conviction of appellant supported by the evidence on record, the Court hereby AFFIRMS said judgment, with the modification that aside from the payment of FIFTY THOUSAND PESOS (P50,000.00) as moral damages to the victim, appellant is further ordered to indemnify private complainant in the amount of FIFTY THOUSAND PESOS (P50,000.00) as compensatory damages.

SO ORDERED.

Melo, (Chairman), Vitug, and Purisima, JJ., concur.

Panganiban, J., on leave.

[1] "Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse: Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period."

[2] Presided by Judge Eliodoro G. Ubiadas.

[3] Original Records (OR), p. 2.

[4] OR, p. 4.

[5] OR, p. 90, Exhibit "D": TSN dated September 2, 1996, pp. 7-11.

[6] OR, pp. 87-89, Exhibit "C"; TSN dated March 25, 1996, pp. 10-11.

[7] Rollo, 79-84.

[8] TSN dated September 30, 1996, pp. 3-12.

[9] Rollo, p. 50.

[10] Rollo, p. 25.

[11] Rollo, p. 49.

[12] Rollo, pp. 52-53.

[13] 198 SCRA 357 (1991)

[14] TSN dated February 5, 1996, pp. 16-18.

[15] TSN dated February 5, 1996, pp. 16-26.

[16] TSN dated September 29, 1996, pp. 14-15.

[17] Rollo, p. 24.

[18] People vs. Atop, 286 SCRA 157 (1998)

[19] People vs. Pili, 289 SCRA 118 (1998)

[20] People vs. Padilla, G.R. No. 126124, January 20, 1999, p. 4.

[21] Ibid.

[22] Ibid.

[23] People vs. Andres, 296 SCRA 318 (1998)

[24] People vs. Cabanela, 299 SCRA 153 (1998)

[25] People vs. Ballesteros, 285 SCRA 438 (1998)

[26] People vs. Songcuan, 176 SCRA 354 (1989)

[27] People vs. Apilo, 263 SCRA 582 (1996)

[28] People vs. Tumala, Jr. 284 SCRA 436 (1998)

[29] People vs. Gallo, 284 SCRA 590 (1998)

[30] People vs. Gallano, 108 SCRA 405 (1981); People vs. Padilla, G.R. No. 126124, January 20, 1999.

[31] People vs. Moreno, 294 SCRA 728 (1998); People vs. Padilla, G.R. No. 126124, January 20, 1999.

[32] TSN dated February 5, 1996, p. 23.

[33] People vs. Moreno, 294 SCRA 728 (1998)

[34] People vs. Salazar, 277 SCRA 67 (1997)

[35] People vs. Mendoza, 254 SCRA 61 (1996)

[36] G.R. No. 127903, July 9, 1998.

[37] People vs. Moreno, 294 SCRA 728 (1998); People vs. Almacin, G.R. No. 113253, February 19, 1999; People vs. Padilla, G.R. No. 126124, January 20, 1999.

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