PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO LALINGJAMAN, ACCUSED-APPELLANT.

G.R. No. 132714. September 06, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

To prevent thirteen-year old Florabe Abaño from leading the life of a waif, Normilita Abaño-Lalingjaman, the sister of Florabe's mother, took custody of her. Staying with her aunt, however, proved to be Florabe's undoing because little did she know that the very haven which was supposed to shelter her from the harshness of the elements would be the place of her ravishment in the hands of her uncle.

In a Complaint[1] she herself signed, Florabe Abaño charged herein accused-appellant Renato Lalingjaman with rape, alleging:

> That sometime in the first week of June 1994 and for sometime subsequent thereto, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused with deliberate intent and by means of violence, intimidation, did then and there unlawfully and feloniously have carnal knowledge of the undersigned, a minor, being 13 years of age, against her will.
>
> CONTRARY TO LAW.

Upon arraignment, accused-appellant, assisted by counsel, pleaded "not guilty" to the offense charged.[2] The case thereafter proceeded to trial. Subsequently, the Regional Trial Court of Cebu City, Branch XXIV rendered judgment convicting accused-appellant and imposing upon him the extreme penalty of death, thus:

> WHEREFORE, in view of the foregoing, the Court finds the accused Guilty beyond reasonable doubt of the crime of Rape and ordered him to suffer the death penalty. He is ordered to pay the private complainant the sum of P30,000.00 as moral damages.
>
> SO ORDERED.[3]

On automatic review before this Court, accused alleges that -

> I
>
> THE TRIAL COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE PROSECUTION WITNESSES.
>
> II
>
> THE TRIAL COURT ERRED IN FINDING THE EVIDENCE FOR THE PROSECUTION SUFFICIENT TO ESTABLISH BEYOND REASONABLE DOUBT THE GUILT OF THE ACCUSED.
>
> III
>
> THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED.

IV

THE TRIAL COURT ERRED IN IMPOSING THE DEATH PENALTY.

On the other hand, the Solicitor General recommends affirmance with the modifications that accused-appellant be: 1.] sentenced to suffer the penalty of Reclusion Perpetua; and 2.] made to pay private complainant the sum of: a.] Twenty Thousand Pesos (P20,000.00) as moral damages; b.] Seventy Five Thousand Pesos (P75,000.00) as civil indemnity and c.] Fifty Thousand Pesos (P50,000.00) as exemplary damages.

The prosecution's version of the incident is summarized thus in the People's brief:

> In the first week of June 1994, thirteen (13) year old Florabe Abaño, together with her brother and sister, was left by her mother to the care of her aunt Melet Lalingjaman and uncle Renato Lalingjaman (appellant), in Lawis, Pasil, Cebu City. Her mother was going to Manila.[4]
>
> One night, she was awakened when appellant raised her skirt, kissed her lips, pulled down her panty and kissed her vagina. Then, appellant mounted on top of her and forced his penis into her vagina. She resisted by moving and wriggling her body but she could not free herself from the clutches of appellant because he is big. Likewise, she was not able to shout because of fear.[5]
>
> After appellant satisfied his beastly desires, he warned Florabe not to report to anyone what happened to her, otherwise he would kill her.[6]
>
> Later, however, Florabe reported the incident to her aunt Melet (wife of appellant) but to no avail. Consequently, she told it to her father.[7]
>
> On July 1, 1994, Florabe was brought to Cebu City Hospital by her father to be examined by Dr. Cecile Aquino.[8]
>
> Dr. Aquino's examination yielded the following medical findings[9], viz:
>
> *Introitu - admits two fingers with ease
>
> *Old Healed lacerations in the hymen at 3:00 o'clock and 8:00 o'clock positions
>
> *Presence of spermatozoa - negative

For his part, accused-appellant avers:

> That he is 28 years old, married, and a resident of L. Flores St., Cebu City; that he was engaged in the business of selling spices at Carbon Market, that he know Florabe Abaño because her mother is the sister of his wife; that sometime in June 1994, his wife took Florabe Abaño and her brother and sister, to their house, because their parents had a serious quarrel and their mother left for Manila; that his wife took pity on Florabe because she did not stay in the house but kept on roaming around; that because of that the father of Florabe, Florentino Abaño, was mad at him and his wife, because he believed that they were instrumental in sending his wife, Virginia, to Manila; that Florentino Abaño warned him saying that "since you wrecked our marriage and our life, there is no measure for revenge"; that Virginia Abaño left for Manila sometime in the month of May 1994; that his house is a two (2) storey where they all sleep upstairs, and nobody sleeps downstairs which is the bodega of the spices they sell at Carbon Market; that Florabe, the two maids, the sister and brother of Florabe slept on the floor and he and his wife slept on a bed nearby; that Florabe's position was in the middle of the two maids and the two younger Abaño siblings; that in June 1994, he, his wife, his two maids, Florabe and her brother and sister slept in the sala upstairs; that the 40-watt fluorescent lamp is always on; that at every 2:00 o'clock in the morning he and his wife would go to Carbon market to sell spices; that it is not true that he raped Florabe Abaño in June 1994 while the latter was asleep; that it is impossible to commit the offense charged because the sala was small and the complainant was sleeping in the middle of the two maids and her brother

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and sister; that besides, the sala was well lighted with a 40-watt fluorescent lamp; that the reason why this case was filed was because of the hatred of Florentino Abaño to him; but he came to him in prison to ask for forgiveness.

Owing to the severity of the penalty imposed, the Court, in reviewing this case must be guided by the following principles: a.) an accusation for rape can be made with facility. While the commission of the crime may not be easy to prove, it becomes even more difficult for the person accused, although innocent, to disprove that he did not commit the crime; b.) in view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the complainant must be always be scrutinized with extreme caution; and c.) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence of the defense.[10] Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.[11]

The Court has meticulously scrutinized the testimony of complaining witness Florabe Abaño and ultimately reached the conclusion that the acts charged did in fact occur. Florabe's testimony on the act of rape perpetrated against her by accused-appellant is clear and could only have been narrated by a victim subjected to such a sexual assault. Accused-appellant's bestiality is detailed in the following narration of the victim at the witness stand:

Q

You mentioned that your mother left you at the residence of your uncle Renato and auntie Melet Lalingjaman in the first week of June, 1994, now will you please point to this Honorable Court your uncle whom you call to be Renato Lalingjaman?

A

Witness points to one of the person seated on the accused bench who when asked answered to be Renato Lalingjaman.

x x x x x x x x x

Q

What happened during your stay in the house of your uncle and auntie?

A

I was raped.

Q

Will you please tell this Court how you were raped?

x x x x x x x x x

A

I was then sleeping when I woke up to feel that my breast was being touched after he raised up my T-shirt and he kissed my vagina and then after that he put out his penis and then my vagina and his penis touched each other and he placed himself on top of me.

x x x x x x x x x

FISCAL BELARMINO:

Q

When the accused pulled up your T-shirt and you felt that he was touching your breast, kissed your lips, kissed your vagina and forced his penis to your vagina, what did you do?

A

I moved my body in resistance but I could not free myself because he was big.

x x x x x x x x x

Q

Since you were not able to move your body to resist the acts committed by the accused, how about your hands?

A

My arms were spread.

Q

When your arms were spread, what did the accused do?

A

While my hands were spread, his hands were also clutching my hands.

Q

Since you were not able to move in resisting the acts committed by the accused, was the accused successful in inserting his penis to your vagina?

A

Yes, ma'm.

Q

Aside from moving your body which you claim you were not successful since the accused was on top of you and he is big and you cannot also move your hands since he was holding your hands, how about your mouth, were you able to shout?

A

No ma'm.

Q

Why?

A

Because of fear.

Q

Since the accused succeeded in his beastly desire in committing the crime of rape, what did he say if any after he successfully inserted his penis to your vagina?

A

He said quote, "don't ever report this matter to anyone because if you will, I am going to kill you."

Q

At the time that you were raped, what were you wearing?

A

T-shirt on top of a skirt.

Q

Were you wearing panty at that time?

A

Yes.

Q

So, what did the accused do to your panty and to your skirt since you stated earlier that the accused touched your body, kissed your lips, touched your vagina, kissed your vagina, inserted his organ to your organ?

A

He removed them.[12]

Despite being subjected to grueling cross,[13] re-direct,[14] and re-cross examination,[15] private complainant remained resolute and unflinching in her account about what accused-appellant did to her. On review, the Court finds that her testimony bears the hallmarks of truth. It is consistent in all material points. The rule is that when a victim's testimony is straightforward, candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit.[16]

Established is the rule that testimonies of rape victims, especially child victims, are given full weight and credit.[17] It bears emphasis that the victim was barely thirteen when she was raped. In a litany of cases, this Court has applied the well-settled rule that when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed.[18] Youth and immaturity are generally badges of truth.[19] Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and to have the offender apprehended and punished.[20]

The embarrassment and stigma of allowing an examination of her private parts and testifying in open court on the painfully intimate details of her ravishment effectively rule out the possibility of a false accusation of rape by the private complainant.[21] Indeed, it would be most unnatural for a young and immature girl to fabricate a story of rape by her uncle; allow a medical examination of her genitalia, subject herself to a public trial and expose herself to public ridicule at the instigation of her father all because her father wanted to exact revenge against accused-appellant and his wife for allegedly causing the estrangement of the victim's father and mother.[22] Verily -

> . . . Ill motive is never an essential element of a crime. It becomes inconsequential where there are affirmative, nay, categorical declarations towards the accused-appellant's accountability for the felony.[23]

In stark contrast to the clear and categorical declarations of the private complainant, accused-appellant merely raised denial as his defense. However, such a defense is unavailing given the facts prevailing herein. The Court has consistently held that denial is an inherently weak defense and, unless supported by clear and convincing

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evidence, the same cannot prevail over the positive declarations of the victim who, in a simple and straightforward manner, convincingly identified the accused-appellant as the defiler of her chastity.[24] Accused-appellant's insistence that "it is impossible to commit the offense charged because the sala was small, the complainant was sleeping in the middle of two maids, her brother and her sister and that the sala was well-lighted by 40-watt fluorescent lamp"[25] fails to persuade because, as this Court aptly pointed out in People v. Ruel Baway y Aligan,[26] -

> It is common judicial experience that rapists are not deterred from committing their odious act by the presence of people nearby.[27] In People v. Fernando Watimar,[28] the Court pointedly said that "for rape to be committed, it is not necessary for the place to be ideal or the weather to be fine for rapists bear no respect for locale and time when they carry out their evil deed.[29] Rape may be committed even when the rapist and the victim are not alone, or while the rapist's wife was asleep or even in a small room where other family members also slept"[30] Indeed -
>
> . . . The Court has time and again held that "the evil in man has no conscience. The beast in him bears no respect for time and place, driving him to commit rape anywhere - even in places where people congregate such as parks, along the road side, within school premises, and inside a house where there are other occupants.[31] Rape does not necessarily have to be committed in an isolated place and can in fact be committed in places which to many would appear to be unlikely and high-risk venues for sexual advances.[32] Indeed, no one would think that rape would happen in a public place like the comfort room of a movie house in broad daylight.[33]

Verily, lust is no respecter of time and place.[34]

In the light of the positive testimony of the victim proving accused-appellant's criminal accountability, his bare denial must perforce fail. As between the categorical testimony that rings of truth on one hand and the bare denial on the other, the former must prevail. A mere denial like alibi is inherently a weak defense and constitutes self-serving negative evidence which can not be accorded greater evidentiary weight than the declaration of credible witnesses who testify on positive matters.[35]

At the risk of sounding trite, it must be borne in mind that the evaluation of the credibility of witnesses and their testimonies is a matter that is best undertaken by the trial court because of its unique opportunity to observe the witnesses and their demeanor, conduct and attitude, especially under cross-examination. Appellate courts are bound by the findings of the trial court in this respect, unless it is shown that it has overlooked, misunderstood or misappreciated certain facts and circumstances which if considered would have altered the outcome of the case.[36] The Court finds no reason to disturb the factual findings of the trial court in this case.

All told, the proffered denial of accused-appellant cannot stand against the positive identification by the private complainant that he is the defiler of her womanhood.

Nevertheless, all is not lost for accused-appellant. While his guilt was proved beyond reasonable doubt, the Court finds the imposition of the death penalty against him erroneous. The pertinent provisions of Article 335 of the Revised Penal Code, as amended by Section 11 of R.A. No. 7659, provides that:

> ART. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:
>
> x x x x x x x x x
>
> The death penalty shall also be imposed if the crime is committed with any of the following attendant circumstances:

> 1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

The Court has consistently declared that the circumstances under the amendatory provisions of Section 11, R.A. No. 7659, the attendance of which would mandate the imposition of the single indivisible penalty of death, are in the nature of qualifying circumstances which should be alleged in the information and proved at the trial.[37] Indeed, Rule 110, Section 8 and 9 of the Revised Rules of Criminal Procedure, which took effect on December 1, 2000, now specifically require both qualifying and aggravating circumstances to be alleged in the information.

The two circumstances of minority and relationship must concur; otherwise, if only one is proven during trial, even if the complaint or information alleged both, the death penalty cannot be imposed.[38] With regard to the qualifying circumstance of minority:

> This Court has always decreed that the burden to prove the minority age of the victim as of the date of the rape is on the prosecution. As minority age is a qualifying circumstance, it must be proved with equal certainty and clearness as the crime itself.[39] There must be independent evidence proving the age of the victim, other than the testimonies of the prosecution witnesses and the absence of denial by the accused.[40] Where there is no evidence at all of the minority age of the victim or where the evidence was weak and unreliable and insufficient, this Court was impelled not to impose the death penalty.[41]

In this case, while the complaint alleged that she was thirteen years old at the time of the commission of the offense, the prosecution did not present independent proof to substantiate the age of Florabe such as her birth certificate, some other official document such as a school record or other competent evidence to establish her minority.[42]

The same thing must be said of the qualifying circumstance of relationship.[43] The complaint is, likewise devoid, of any allegation that the accused-appellant is her relative by consanguinity or affinity within the third civil degree.

Consequently, accused-appellant cannot be convicted of qualified rape. It must be remembered in this regard that the requirement for complete allegations on the particulars of the indictment is based on the right of the accused to be fully informed of the nature of the charges against him so that he may prepare for his defense pursuant to the due process clause of the Constitution.[44] Viewed vis-à-vis the foregoing factual, statutory and jurisprudential scenario, accused can be convicted of simple rape only which is punishable by reclusion perpetua, an indivisible penalty. Under Article 63 of the Revised Penal Code, in all cases where the law prescribes a single indivisible penalty, said penalty shall be applied regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.[45]

Finally, the Court notes that while the trial court awarded moral damages, it did not award any civil indemnity which is actually in the nature of actual or compensatory damages and is mandatory upon a finding of rape.[46] Civil indemnity is distinct from and should not be denominated as moral damages as they are based on different jural foundations and assessed by the court in the exercise of sound discretion.[47] Current case law fixes indemnity ex delicto at P50,000.00.[48] Consistent with controlling jurisprudence,[49] the award of moral damages should likewise be increased to P50,000.00.

This is not the first time a young and guileless lass barely thirteen has been snatched from the cradle of innocence by some beast to sate its deviant sexual appetite. To curb this disturbing trend, accused-appellant should likewise be made to pay exemplary damages,[50] which in line with prevailing jurisprudence, is pegged at P25,000.00.[51]

WHEREFORE, the decision of the Regional Trial Court of Cebu City, Branch XXIV, in Criminal Case No.

37233, finding accused-appellant guilty beyond reasonable doubt of the crime of rape, is AFFIRMED with the MODIFICATIONS that the accused-appellant is hereby:

1.] sentenced to suffer the penalty of Reclusion Perpetua;

2.] ordered to pay the offended party:

a.] P50,000.00 as moral damages;

b.] P50,000.00 as indemnity ex delicto; and

c.] P25,000.00 as exemplary damages.

Costs de oficio.

SO ORDERED.

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

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[1] Rollo, p. 1.

[2] Record, p. 27.

[3] Rollo, p. 27; Criminal Case No. 37233, penned by Judge Priscila S. Agana.

[4] TSN, 4 July 1995, p. 5.

[5] Ibid., pp. 7-8.

[6] Id., p. 8.

[7] Id., p. 10.

[8] Id., pp. 10-11.

[9] Exhibit A.

[10] People v. Fernando Diasanta, G.R. No. 128108, 6 July 2000, 335 SCRA 218, citing People v. Balmoria, 287 SCRA 687 [1998]; People v. Julian, 270 SCRA 733 [1997]; People v. Perez, 270 SCRA 526; People v. Ramirez, 266 SCRA 335 [1997]; People v. Guamos, 241 SCRA 528 [1995]; People v. Casinillo, 213 SCRA 777 [1992]; see also People v. Mijano, 311 SCRA 81 [1999].

[11] People v. Babera, G.R. No. 130609, 30 May 2000, 332 SCRA 257, citing People v. Dacoba, 289 SCRA 265 [1998]; People v. Gagto, 253 SCRA 455 [1996].

[12] TSN, 4 July 1995, pp. 5-8.

[13] TSN, 12 July 1995, pp. 7-9; 21 August 1995, pp. 2-3.

[14] TSN, 21 August 1995, pp. 3-5.

[15] Ibid., pp. 6-7.

[16] People v. Caratay, 316 SCRA 251 [1999], citing People v. Bonghanoy, 308 SCRA 383 [1999], citing People v. Perez, 296 SCRA 17 [1998].

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[17] People v. Galimba, 253 SCRA 722, 728 [1996]; People v. Rosare, 264 SCRA 398, 412 [1996]; People v. Escober, 281 SCRA 498, 508 [1997]; People v. Lusa, 288 SCRA 296, 303 [1998].

[18] People v. Ramon Mariño y Mina, G.R. No. 132550, 19 February 2001, citing People v. Balmoria, 287 SCRA 687, 707-8 [1998]; People v. Tabugoca, 285 SCRA 312, 329 [1998]; People v. Tumala, Jr., 284 SCRA 436, 439 [1998].

[19] People v. Alfredo Nardo y Rosales, G.R. No. 133888, 1 March 2001, citing People v. Lusa, supra; People v. Gabayron, 278 SCRA 78 [1997]; People v. Correa, 269 SCRA 76 [1997]; People v. Vitor, 245 SCRA 392 [1995]; People v. Biendo, 216 SCRA 626 [1992]; People v. Malabago, 271 SCRA 464 [1997].

[20] People v. Adora, 275 SCRA 441, 467 [1997]; People v. Junio, 237 SCRA 826, 831 [1994]; People v. Lagrosa, Jr., 230 SCRA 298 [1994]; People v. Domingo, 226 SCRA 156, 174 [1993]; People v. Lusa, supra.

[21] People v. Pontilar, 275 SCRA 338, 350 [1997], citing People v. Ramirez, 266 SCRA 335 [1997]; People v. Dela Cruz, 251 SCRA 77, 85 [1995]; People v. Sanchez, 250 SCRA 14, 20 [1995].

[22] See People v. Manuel Perez y Magpantay, G.R. No. 113265, 5 March 2001.

[23] People v. Deolito Optana, 12 February 2001, citing People v. Segundo, 228 SCRA 691 [1993]

[24] People v. Mario Caldona y Llamas, G.R. No. 126019, 1 March 2001.

[25] Appellant's Brief, p. 8.

[26] G.R. No. 130406, 22 January 2001, pp. 13-14.

[27] People v. Camilo Villanueva, G.R. No. 135330, 31 August 2000; People v. Joselito Baltazar, G.R. No. 115990, 31 March 2000.

[28] G.R. Nos. 121651-52, 16 August 2000, p. 14.

[29] People v. Ildefonso Bayona, G.R. Nos. 133343-44, 2 March 2000.

[30] People v. Arteche Antonio y Payagan, G.R. No. 122473, 8 June 2000.

[31] People v. Agbayani, 284 SCRA 315 [1998].

[32] People v. Wilson Mitra, G.R. No. 130669, 27 March 2000; People v. David Silvano y Hayag, 309 SCRA 362 [1999].

[33] People v. Vicente Balora y Delantar, G.R. No. 124976, 31 May 2000.

[34] People v. Torio, G.R. Nos. 132216 & 133479, 17 November 1999, 318 SCRA 345, citing People v. Agbayani, 284 SCRA 315 [1998] and People v. Manuel, 236 SCRA 345 [1994]; People v. Ponado, 311 SCRA 529 [1999], citing People v. Limon, 257 SCRA 658 [1996]; People v. Dones, 254 SCRA 696 [1996].

[35] People v. Camilo Villanueva, G.R. No. 135330, 31 August 2000, citing People v. Alvero, G.R. Nos. 134536-38, 5 April 2000.

[36] People v. Faustino Campos @ Enot, G.R. Nos. 133373-77, 18 September 2000, citing People v. Bayona, G.R. Nos. 133343-44, 2 March 2000.

[37] People v. Reynaldo De Villa, G.R. No. 124639, 1 February 2001.

[38] People v. Efren Valez, G.R. No. 136738, 12 March 2001, citing People v. Ramos, 296 SCRA 559 [1998].

[39] People v. Javier, 311 SCRA 122, 140-141 [1999].

[40] People v. Tabanggay, G.R. No. 130333, 29 June 2000.

[41] People v. Alfredo Alipar y Alinsod, G.R. No. 137282, 16 March 2001, citing People v. Veloso, G.R. No. 130333, 12 April 2000; People v. Tipay, G.R. No. 131472, 28 March 2000; People v. Cula, G.R. No. 133146, 28 March 2000; People v. Brigildo, G.R. No. 124129, 28 January 2000; People v. Balgos, G.R. No. 126115, 26 January 2000.

[42] See People v. Tabanggay, supra.

[43] People v. De Villa, supra; People v. Efren Valez, supra.

[44] People v. Camilo Villanueva, supra.; People v. Mario Caldona y Llamas, supra.

[45] People v. Salvador Villar, G.R. No. 127572, 19 January 2000; People v. Ramos, 296 SCRA 559 [1998].

[46] People v. Bañago, 309 SCRA 417 [1999]; People v. Salvador Villar, supra.

[47] People v. Francisco Villanos y Tumamang, G.R. No. 126648, 1 August 2000, citing People v. Emocling, 297 SCRA 214 [1998]; People v. Ignacio, 294 SCRA 542 [1998] and People v. Adora, supra.

[48] People v. Segundo Cano, G.R. No. 130631, 30 August 2000; People v. Mamac, G.R. No. 130332, 31 May 2000; People v. Rafales, G.R. No. 133477, 21 January 2000; People v. Caballero, 258 SCRA 541 [1996]; People v. Abordo, 258 SCRA 571 [1996].

[49] People v. Anselmo Baring @ "Simoy", G.R. Nos. 130515 & 147090, 14 March 2001; People v. Perez, 307 SCRA 276 [1999]; People v. Prades, 293 SCRA 411 [1998]; People v. Willy Marquez, supra; People v. Reynaldo De Villa, supra; People v. Mario Caldona y Llamas, supra.

[50] People v. Gagto, supra.

[51] People v. Renato Puzon, y Juquiana, G.R. Nos. 123156-59, 29 August 2000, citing People v. Guiwan, G.R. No. 117324, 27 April 2000.

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