# PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN RAFALES, ACCUSED-APPELLANT.

*G.R. No. 133477. January 21, 2000*

Ponente: DAVIDE JR., C.J.

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**DAVIDE JR., C.J.:**

Accused-appellant Benjamin Rafales (hereafter BENJAMIN) appeals from the 16 May 1997 judgment[1] of the Regional Trial Court, Branch 2, of Balanga, Bataan, in Criminal Case No. 6115, which convicted him of statutory rape and sentenced him to suffer the penalty of reclusion perpetua with the accessory penalties, to pay the victim the amount of P40,000 as civil indemnity and to pay the costs.

The information that charged BENJAMIN with rape reads as follows:

> That in or about the month of November 1993 at Brgy. Gen. Lim, Orion, 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, Rochelle Gabriel y Abanador, 11 year old minor girl, against the will and consent of the latter, to her damage and prejudice.[2]

BENJAMIN pleaded not guilty upon his arraignment. Trial on the merits followed.

The prosecution first presented as witness the victim Rochelle Gabriel y Abanador (hereafter ROCHELLE). ROCHELLE testified that in 1993, her neighbor BENJAMIN thrice raped her. The first rape took place sometime in November. ROCHELLE was then at her home with her siblings while her parents were at the farm. BENJAMIN arrived, unceremoniously removed ROCHELLE's dress, laid her on the floor, undressed himself, placed himself on top of her and inserted his penis in her vagina. ROCHELLE felt pain. After the act was over, she saw a whitish substance on her vagina.[3]

The second incident of rape occurred three days after. It was mid-afternoon. ROCHELLE and playmate Gemma Benaro were playing in the latter's house. BENJAMIN appeared, ordered Gemma to leave, undressed ROCHELLE, laid her on the floor, undressed himself, placed himself on top of her and inserted his penis in her vagina. As before, ROCHELLE felt pain and noticed a white substance on her vagina.[4]

The third rape took place a few days after this incident. ROCHELLE and playmate Marissa Rafales were playing cards at the latter's house when BENJAMIN arrived and asked Marissa to leave. BENJAMIN removed ROCHELLE's dress and shorts. He laid her down, undressed himself, stayed on top of her and inserted his penis in her vagina. ROCHELLE again felt pain and saw a white substance on her vagina.[5] Testifying that she was born on 30 August 1983, ROCHELLE was ten (10) years old when these incidents took place.

ROCHELLE did not report or reveal to her parents or anyone else the sexual molestations.[6] BENJAMIN's threats to kill her and her family proved too much of a deterrence. Claiming that she had frequent quarrels with her siblings, ROCHELLE ran away from home. She took refuge in the streets and sought the company of

streetchildren.[7] The police finally found her and brought her to one Vicky Santos, an employee of the Department of Social Welfare and development.[8] ROCHELLE stayed with Vicky for four (4) months before she was turned over to the orphanage. Hence, it was only after two (2) years or in 1995 when ROCHELLE finally disclosed her sexual ignominy from BENJAMIN's lecherous arms.

Despite her fears that BENJAMIN would carry out his threats to kill her, ROCHELLE confessed the sexual molestations to Vicky when she confronted her (ROCHELLE) with stories of a child-rape victim. ROCHELLE learned that Vicky heard these stories from Gemma, Marissa, and BENJAMIN's two sisters. Thus, Vicky accompanied ROCHELLE to the police station where she executed a sworn statement[9] attesting to the incidents of the rape.

After ROCHELLE's testimony, the other witnesses of the prosecution took the witness stand. Pacita Abanador, ROCHELLE's mother, testified that ROCHELLE was born on 30 August 1983. She also identified BENJAMIN as their neighbor.[10]

SPO Rolando Bernabe claimed that he was the investigating police officer who took ROCHELLE and Pacita Abanador's sworn statements.

Dr. Jose Bernardo Gochoco, Jr. who physically examined ROCHELLE two years after the rape incidents affirmed his findings contained in a medico legal report[11] that ROCHELLE's hymenal ring and posterior fourchette were intact. He concluded that there was no physical penetration of ROCHELLE's labia majora.[12]

For its part, the defense presented its lone witness, accused BENJAMIN. His defense consisted mainly of denial. He denied having raped ROCHELE at any time. He denied the rape charge when he was interrogated at the police precint. He denied his lechery when a representative of the Department of Social Welfare and Development visited and allegedly urged him while in prison to confess to the crime. Yet he, knew of no reason why ROCHELLE would falsely accuse him of rape.[13]

In weighing the evidence thus proferred, the trial court found that the prosecution proved beyond reasonable doubt BENJAMIN's culpability. Affording full credence to ROCHELLE's positive testimony, the trial court disposed:

> It could be seen that there is direct testimony by the young victim that the accused laid on top of her and raped her. While there seems to be a variance on how she was raped - in her statement before the police, she was violated four (4) times and she was not sure whether there was penetration or not, but in her declaration in Court she said that she was raped three (3) times and that there was penetration and that she saw whitish substance in her genitali genitalia – the stubborn fact is that the victim declared that she felt pain when the penis of the accused was directed at her private parts. The Court holds that the variance between the out of Court statement and the declaration in Court does not serve to discredit the testimony of the complainant that the accused raped her. Affidavits are generally incomplete and discrepancies between the statements of the affiant and those made on the witness stand do not necessarily discredit the witness. (People vs. Soan, 243 SCRA 627)
>
> Neither could the fact that the victim only revealed her ordeal some four (4) months after she was taken custody by the DSWD sufficient reason to discredit totally her testimony. A young firl [sic] below twelve (12) years could not be expected to be as prompt and punctilious in denouncing those who violate her chastity as a woman of age would. She ran away from home after she was molested by the accused and was found by the police roaming at the town plaza of sufficient excuse for her delayed revelation of the dastardly act committed against her. Delay in the prosecuting. [sic] the rape is not an indication of fabricated charges. (People vs. Cabresos, 244 SCRA 362)


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> That the hymenal ring and fourchette of the victim were intact per the medico-legal certificate do not belie the testimony of the victim that she was raped. In the case of People vs. Castro, 196 SCRA 679, it was held that if the victim is of tender age, the penetration of the male organ could go only as deep as the labia. The visible effect had there been an immediate examination would have been swelling of the parts which suffered traumatic contact of the penis seeking entry. For rape to be committed entrance of the male organ within the labia or pudendum of the female organ is sufficient. Rupture of the hymen or laceration of the vagina ar not essential. Entry, to the least extent of the labia or lips of the female organ is sufficient. The victim remaining a virgin does not negate rape.
>
> The fact that the whitish substance was found at the pedendum [sic] is proof enough that the penis of the accused at least knocked at the door of the vagina. This is already considered rape.[14]

But while the prosecution proved that BENJAMIN thrice raped ROCHELLE, the information charged him with only one count of rape, thus the trial court held that BENJAMIN could only be convicted of one crime of rape. And since the rape was committed against a victim below twelve (12) years old without any attendant modifying circumstances, the trial court imposed the penalty of reclusion perpetua. The dispositive portion reads as follows:

> WHEREFORE, the guilt of the accused having been proved beyond reasonable doubt for statutory rape, the accused is sentenced to reclusion perpetua with the accessory penalties provided by law. The accused is also ordered to indemnify the victim the sum of P40,000.00 and to pay the costs.[15]

In his appeal, BENJAMIN contends that the prosecution failed to establish his guilt beyond reasonable doubt. He emphasizes that certain facts, ignored by the trial court, underscore his innocence and ROCHELLE's lack of credibility, viz.: (1) the delay in the reporting of the rape charge coupled by the probability that ROCHELLE's wanderings and constant company of streetchildren might have undermined the stability of her mind at the time of her testimony; (2) the ponente's admission that he did not personally observe the deportment of the witnesses; (3) ROCHELLE's observation that she found a whitish substance on her vagina, where if she was indeed raped, she should have discharged blood; and (4) the failure of ROCHELLE's mother to notice any change in her daughter's behavior, for ROCHELLE should have exhibited the consequent physical and emotional trauma evident in a rape victim.

Antithetic to BENJAMIN's disavowal is the Office of the Solicitor General's prayer (as contained in the Brief for the Appellee) for the affirmance of the challenged decision. Said Office maintains that there is moral certainty that BENJAMIN committed the crime charged. ROCHELLE positively identified BENJAMIN as her rapist. Her straightforward, candid and spontaneous testimony should dispel any doubt on her credibility or of the fact that the crime was actually perpetrated. Her sole testimony established BENJAMIN's conviction. Further, the inconsistencies between ROCHELLE's oral testimony and her affidavit were accurately noted and explained by the trial court. Significantly, BENJAMIN also failed to impute to ROCHELLE any ulterior motive why she would falsely testify against him. The only conclusion is that no such motive existed and that her testimony is worthy of full faith and credit.

The Office of the Solicitor General additionally asserts that BENJAMIN's denunciation of ROCHELLE's conduct after the rape is purely speculative. There is no proof of ROCHELLE's mental imbalance. Her mother's failure to observe any change in her behavior and the absence of a bloody discharge did not militate against the fact that she was ravished. Also inconsequential is ROCHELLE's unlacerated hymenal ring and fourchette, for they do not disprove rape. "A mere knocking at the doors of the pudenda" by the accused's penis suffices to constitute rape. What is important is that there be penetration, no matter how slight, of the male organ within the labia or the pudendum of the female organ.

Finally, the Office of the Solicitor General seeks to increase the civil indemnity from P40,000 to P75,000.

BENJAMIN chose not to file a Reply Brief.

We affirm the conviction of BENJAMIN.

In the review of rape cases, we are always guided by the following principles: (1) an accusation of rape can be made with facility since it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) by reason of the intrinsic nature of rape, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its merits and it cannot draw strength from the weakness of the evidence for the defense.[16]

We have meticulously reviewed the records of the case, particularly the transcripts of the stenographic notes of the witnesses and found that the trial court did not err in convicting accused BENJAMIN.

ROCHELLE's sincere, forthright and spontaneous declarations that she was raped by one whom she respectfully deferred to as "kuya"[17] proved with moral certainty BENJAMIN's guilt, thus:

Q

Why do you know Benjamin Rafales?

A

Because he is our neighbor.

Q

Beside that can you tell us why you know him?

A

He raped me three times.

Q

Now, will you go to the first time that according to you he raped you. Do you remember what month was that when according to you he first raped you?

A

November, 1993, sir.

Q

Where?

A

In our house.

Q

Where was your house at the time?

A

At Gen. Lim, Orion, Bataan .

Q


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You stated that he raped you for the first time in your house in 1993, what time was it?

A

1:00 P.M.

Q

How did he rape you in your house?

A

He came to our house and he removed my dress, sir.

Q

And what happened next?

A

He lay me down on the floor, and he went on top of me, sir.

Q

And when the accused on top of you, what did he do?

A

He inserted his penis in my vagina, sir.

Q

What did you feel when he inserted his penis in your vagina?

A

I was hurt. I felt pain.

xxx

Q

Did you notice something in your vagina after Benjamin Rafales stayed on top of you?

A

Yes, sir.

Q

What was the color?

A

White, sir.

COURT

Q

Why do you know that it is colored white?


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A

I saw it on my vagina, sir.

PROS. BERNARDO

Q

For how long did the accused stayed [sic] on top of you?

A

Less than an hour.

xxx

Q

Now, let us go to that time when according to you you were allegedly raped for the first time by Benjamin Rafales. You said that at the time your brother and sister were at your house, is that it?

A

Yes, sir.

xxx

Q

And yet when the accused went on top of you you did not cry for help?

xxx

A

I shouted.

Q

And the attentions of your brother and sister were called?

A

No, sir, because he immediately covered my mouth.

Q

But nonetheless you already shouted?

A

Yes, sir.

xxx

Q

Let us do [sic] in detail about this rape allegedly committed. Will you tell the court how the rape was

committed by the accused, he approached you, what did he do to you and what did he tell you?

A

He immediately removed my dress, sir.

Q

You mean to say that Benjamin Rafales approached you and without much ado he undressed you?

A

Yes, sir.

Q

And of course for you this is not ordinary for another person to undress you?

A

Yes, sir.

Q

And you did not tell Benjamin Rafales not to undress you?

A

I told him.

Q

And what was the reaction of Benjamin Rafales when you told him not to undress you?

A

He continued to remove my dress, sir.

COURT

Q

Was Benjamin Rafales at that time holding anything?

A

None, sir.

ATTY. AGUANTA

Q

And when you were already undressed, what happened?

A

He immediately lay me down on our papag.

COURT

Q


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And when you were already lying down what happened?

A

He immediately went on top of me, sir.

Q

Were you at that time wearing any panty?

A

Yes, Your Honor.

COURT

Q

What happened to your panty when according to you he lay you down?

A

He removed it.

Q

In other words he not only removed your dress but also your panty and you were totally naked?

A

Yes, sir.

Q

How about the accused did he also removed [sic] his clothing?

A

Yes, sir.

Q

All his clothings?

A

Yes, Your Honor, even his brief.[18]

The other two incidents of rape occurred some days after and in a similar manner.

ROCHELLE's credibility is therefore beyond dispute. Her candor in responding to queries relating to shameful details of that episode in her childhood is palpable. Her responses were clear and categorical, all earmarks of truth.

For the unassailable credence we grant to ROCHELLE's testimony, we reject BENJAMIN's proposition that certain facts evince his innocence and the improbability of the crime having been committed.

BENJAMIN assails ROCHELLE's failure to immediately disclose her alleged sexual molestations as a possible telltale mark of falsity or fabrication. But delay in the disclosure of a crime is not always an indication of prevarication. In rape cases, young girls usually conceal for sometime their ordeals due to the threats made by

their assailants.[19] In this case, ROCHELLE dared not tell anyone her ordeal because she actually feared BENJAMIN who threatened to kill her and her parents should she reveal his misdeed. Further, ROCHELLE had for quite sometime been deprived of the counsel of parents or other adults. She ran away from home, and explained this behavior as a consequence of her frequent quarrels and misunderstanding with her siblings. It was only during her stay at the orphanage when Vicky confronted her [ROCHELLE] with tales of a child-rape victim. ROCHELLE confessed to Vicky that she was the child-rape victim alluded to by her playmates Marissa, Gemma and the sisters of BENJAMIN. She revealed the details of the sexual violations quite hesitantly for she still feared BENJAMIN and his threats to kill her. These circumstances perforce satisfactorily explained and justified the two (2)-year delay in the disclosure of the crime. Besides, the prescriptive period for the filing of a rape charge is twenty years.[20]

BENJAMIN then posits that having roamed the streets and "having been in association with streetchildren, ROCHELLE may not have a stable mind when she testified in court." But as the Office of the Solicitor remarks, this is pure speculation. The defense failed to provide proof to support this hypothesis. Besides, this hypothesis is a ridiculous non-sequitur if not downright illogical; as if mere association with streetchildren necessarily undermines the stability of one’s mind.

BENJAMIN also deems as material the admission by the ponente of the assailed decision that he "did not hear the testimony of witnesses but only read their testimonies in cold print." The obvious import is the ponente could not have properly appreciated ROCHELLE’s testimony in view of its incongruity with first, the affidavit she executed before the police and second, the doctor’s medical certificate. BENJAMIN thus discloses another fallacy in his logic, for truth be told, he failed to produce evidence to buttress this allegation of unjust judgment. Besides, a judge who pens a decision is not immediately disqualified to render such judgment simply because another magistrate heard the case. Such fact does not necessarily render a ponente’s decision void, unjust[21] or reversible[22] considering that the full record of the case was available for his perusal.[23] Anyway, in such a case, the respect ordinarily accorded to the trial court’s findings of fact does not apply, hence (as already adverted to) our careful and thorough scrutiny of the records particularly the transcript of stenographic notes.[24] Having thus complied with this injunction, we are now more than convinced that the records bolster the judgment of the trial court. To be specific, the inconsistencies in the details of ROCHELLE’s testimony, on the one hand, and her affidavit and the medical certificate, on the other hand, were satisfactorily analyzed and explained by the ponente.

At any rate the first inconsistencies refer only to the manner of the commission of the rape, i.e., ROCHELLE in her testimony was certain that the rape was committed three times, there was penile penetration and that she noticed a whitish substance on her vagina; in her affidavit, ROCHELLE was not certain if there was indeed penetration, she did not mention the white substance but specified that she was raped four times with the second rape being witnessed by her playmates. But ROCHELLE’s steadfast claim of rape and that she felt pain during the time BENJAMIN was unleashing his lust on her trivialized these inconsistencies. It may even be reasonable to assume that at the time of the execution of her affidavit she had no idea that penile penetration in the vagina could be slight or full. It is also well settled that when a woman claims that she has been raped, she says in effect all that is necessary to show that she has been raped.[25] As to ROCHELLE’s failure to mention in her affidavit the presence of the white substance on her vagina, suffice it is to say that nothing in said affidavit indicated that SPO Bernabe ever addressed ROCHELLE any question on the topic. On BENJAMIN’s assertion that the medical findings did not prove the rape charge, we have already ruled that proof of injury is not an element of rape.[26] Even a medical examination is not required in the prosecution of rape cases.[27] Moreover, as the trial court noted, the physical examination took place two (2) years after the rape occurrences. Naturally, whatever injuries ROCHELLE might have sustained must have healed, leaving no traces thereof. Anyway, even the absence of hymenal lacerations does not negate rape.[28] We also deem the matter of Marissa and Gemma’s witnessing of


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the second rape as trifling for the lone testimony of the rape victim is indeed sufficient for a verdict of conviction.[29]

Attempting to additionally assail ROCHELLE's credibility or cast doubt on the fact of rape, BENJAMIN theorizes that she should have noticed blood "oozing" from her vagina rather than the "white substance." We reiterate the rule that rape is consummated with the slightest penile penetration of the labia or pudendum of a female.[30] Hence, blood or a whitish discharge of or on the vagina after the sexual act is not necessary to prove rape. In the words of the ponente of the challenged decision -- "the fact that the whitish substance was found at the pedendum [sic] is proof enough that the penis of the accused at least knocked at the door of the vagina. That is already considered rape."

Finally, we reject for being absolutely frivolous, BENJAMIN's accusation that ROCHELLE's failure to exhibit the emotional and physical trauma evident in a rape victim assayed to the falsity of her tale of rape. At any rate, BENJAMIN's sole defense of denial, already considered as inherently weak, appears flimsy, feeble and self-serving. It cannot therefore prevail over the positive and credible testimony of the complainant.[31]

To recapitulate, the prosecution has satisfactorily discharged its onus of proving that BENJAMIN thrice raped ROCHELLE when she was only ten years old. No birth certificate was presented to establish her age but ROCHELLE and her mother testified that she was born on 30 August 1983. The defense made no objection.[32] Thus, carnal knowledge of a woman below twelve (12) years of age is sufficient for conviction.[33] However, BENJAMIN can only be convicted of one count of rape since the information charged only one offense.[34] This is in compliance with the constitutional right of the accused to be informed of the nature and cause of accusation against him.

We cannot, however, approve the recommendation of the Office of the Solicitor General to increase the award of civil indemnity to P75,000. Said amount could only be awarded if the crime of rape was committed or effectively qualified by any of the circumstances under which the death penalty is authorized by the applicable amendatory laws.[35] But the trial court erred in awarding the amount of P40,000 as civil indemnity. We hereby increase the amount to P50,000 in accordance with current jurisprudence.[36] Also in order is an award of moral damages in the amount of P50,000 even without proof thereof. It is automatically awarded in rape cases, for it is assumed that the complainant has suffered moral injuries entitling her to such an award.[37]

WHEREFORE, the 16 May 1997 decision of the Regional Trial Court, Balanga, Bataan, Branch 2, in Criminal Case No. 6115 finding accused-appellant BENJAMIN RAFALES guilty beyond reasonable doubt of rape and sentencing him to suffer the penalty of reclusion perpetua is hereby AFFIRMED, with the modification that the indemnity awarded is increased from P40,000 to P50,000 and accused-appellant is further ordered to pay Rochelle Gabriel y Abanador the sum of P50,000 as moral damages.

No costs.

**SO ORDERED.**

Puno, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Original Record (OR), 205-210; Rollo, 21-26. Per Judge Lorenzo R. Silva, Jr.

**[2] OR, 1.**

[3] TSN, 23 January 1996, 3-4, 5.

[4] Id., 6-7, 9.

[5] Id., 7-8.

[6] Id., 9.

[7] TSN, 23 January 1996, 12-13.

[8] Id., 12, 13-14, 15, 16.

[9] Exhibit"A"; See also TSN, 14 November 1995, 6.

[10] TSN, 23 January 1996, 10-11.

[11] Exhibit "B."

[12] TSN, 14 November 1995, 10-13.

[13] TSN, 28 May 1996, 2-6.

[14] Rollo, 25.

[15] Id., 26.

[16] People v. Lucas, 232 SCRA 537, 546 [1994]; People v. Excija, 258 SCRA 424, 438-439 [1996]; People v. de Guzman, 265 SCRA 228, 241 [1996].

[17] TSN, 23 January 1996, 9.

[18] TSN, 23 January 1996, 3-4, 5, 18, 19-20.

[19] See People v. Alib, 222 SCRA 517, 529-530 [1993]; People v. Lagrosa, Jr., 230 SCRA 298, 307 [1994]. See also People v. Ramos, G.R. No. 131261-62, 10 August 1999; People v. Dizon, G.R. No. 128889, 20 August 1999; People v. Sacapaño, G.R. No. 130525, 3 September 1999.

[20] Article 90, Revised Penal Code.

[21] See People v. Espanola, 271 SCRA 689, 716 [1997]; People v. Rabutin, 272 SCRA 197, 205 [1997].

[22] See People v. Queleza, 279 SCRA 145, 155 [1997].

[23] See People v. Rabutin, supra note 21; See also People v. Sorrel, 278 SCRA 368, 377 [1997].

[24] See People v. Gutual, 254 SCRA 37, 43-44 [1996]; See People v. Sulit, 233 SCRA 117, 124 [1994]; and People v. Escalante, 238 SCRA 554, 563 [1994].

[25] See People v. Ramos, People v. Dizon, and People v. Sacapaño, supra note 19.

[26] See People v. Bantisil, 249 SCRA 367, 377-378 [1995]; People v. Gagto, 253 SCRA 455, 464 [1996].

[27] People v. Delovino, 247 SCRA 637, 650 [1995]; People v. Gagto, supra note 26, 463.

[28] See People v. Tismo, 204 SCRA 535, 556 [1991].

[29] See People v. Lao, 249 SCRA 137, 145-146 [1995]; People v. Cristobal, 252 SCRA 507, 517 [1996]; People


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v. Gagto, supra note 26, 467.

[30] See People v. Tismo, supra note 28; See also People v. Sacapaño, supra note 19.

[31] See People v. Antonio, 233 SCRA 283, 299[1994]; People v. Delovino, supra note 28, 649; See also People v. Ramos, supra note 19.

[32] TSN, 23 January 1996, 3; TSN 17 October 1995, 2. The information alleges that ROCHELLE was eleven (11) years old when the rapes were committed. Evidence on record reveals that she was only ten (10) years old. The disparity is immaterial considering that she was still below twelve (12) years old at the time of the commission of the crime.

[33] Article 335, Revised penal Code; People v. Lagrosa, Jr., supra note 19, 305; People v. Diaz, 262 SCRA 723, 730 [1996].

[34] People v. Robles, 170 SCRA 557, 562 [1989]; People v. Joya, 227 SCRA 9, 28 [1993]; People v. De Guzman, 265 SCRA 228, 244 [1996]

[35] People v. Victor, 292 SCRA 186, 200 [1998]; People v. Prades, 293 SCRA 411, 435 [1998].

[36] See People v. Malunes, 247 SCRA 317, 327 [1995].

[37] People v. Prades, supra note 35; People v. Fuertes, 296 SCRA 602, 614 [1998]; People v. Teves, G.R. No. 128839, 20 July 1999.

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