

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO ALIPAR Y ALINSOD, ACCUSED-APPELLANT.*G.R. No. 137282. March 16, 2001*

Ponente: DE LEON, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-137282/>**DE LEON, JR., J.:**

Before us on automatic review[1] is the Decision[2] dated December 29, 1998 of the Regional Trial Court of Santa Cruz, Laguna, Branch 28 in Criminal Case No. SC-6759 finding Alfredo Alipar y Alinsod guilty beyond reasonable doubt of the crime of rape committed against his own daughter, Twinkle F. Alipar, and sentencing him to suffer the supreme penalty of death.

In the early morning of January 23, 1998, Twinkle Alipar, then 13 years old was sleeping near her mother, Annalie Alipar, inside their house in Barangay Sabung, Pagsanjan, Laguna, when her father, herein accused-appellant, Alfredo Alipar, who was already naked, sneaked beside Twinkle and, after tying her hands with a rope and gagging her mouth with a handkerchief, started to remove Twinkle's panty and, while doing so, told her not to tell anybody about what he was doing because he would be incarcerated again. Thereafter, accused-appellant inserted his finger into, and licked Twinkle's vagina. Accused-appellant also embraced Twinkle, kissed her cheeks and inserted his penis into her vagina. Then, his beastly desires satisfied, accused-appellant pretended to be asleep. On the other hand, Twinkle, after freeing herself, arose and washed her vagina because it was sticky and she saw something whitish on it. Twinkle then told her mother, Annalie Alipar, about the rape incident. This prompted Annalie to get hold of a knife and confront accused-appellant. They cursed each other and quarreled over that matter.[3]

On that same day, Twinkle attended her class at Unson National High School and reported the rape incident to her class adviser, Nita P. Alvarado, who advised Twinkle to write, and she did, a letter[4] addressed to the principal, Evangeline Gonzaga. Thus, the latter, together with another teacher, Edwina Romero, accompanied Twinkle on January 30, 1998, upon the advice of the local office of the Department of Social Welfare and Development (DSWD), to the Pagsanjan Police Station where Twinkle executed, in the presence of Gonzaga and Romero, a sworn statement[5] regarding the rape incident.[6] The rape incident was also recorded in the police blotter.[7]

On the basis of the complaint[8] of Twinkle, assisted by school principal Evangeline Gonzaga, an information[9] for rape, was filed on February 10, 1998 against accused-appellant before the Regional Trial Court of Santa Cruz, Laguna. The information reads as follows:

That on or about January 23, 1998, in the municipality of Pagsanjan, province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, and with the use of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one TWINKLE F. ALIPAR, his eldest daughter, 13 years of age, against her will and consent and to her damage and prejudice.

CONTRARY TO LAW.

Accused-appellant, with the assistance of counsel de oficio, pleaded "Not guilty" upon arraignment on March 4, 1998.[10]

At the ensuing trial, the prosecution presented the victim, Twinkle Alipar, who testified on the above factual narration. She further testified that even before the said rape incident on January 23, 1998, she was sexually assaulted by accused-appellant on two (2) separate occasions in March and April 1997; but the complaints filed before the court were dismissed upon the statement/affidavit of desistance which she and her mother executed.[11]

Other prosecution witnesses presented were Edwina Romero, a school teacher of Twinkle in Unson National High School, who testified that she was informed by Twinkle that she was raped by accused-appellant;[12] Evangeline Gonzaga, the school principal of Unson National High School, who corroborated the testimony of Edwina Romero and testified that she assisted Twinkle in filing the complaint for rape against accused-appellant;[13] Dr. Joan Olivia Tobias, a physician at the Laguna Provincial Hospital, who testified on the medico-legal examination she performed on Twinkle on January 30, 1998, which revealed that Twinkle's hymen admitted one finger with ease and that it bore hymenal laceration at 3 and 6 o'clock positions which could have been caused by the insertion of a blunt object like a penis;[14] PO3 Roberto Binucal, a policeman who testified on Twinkle's complaint for rape allegedly committed on January 23, 1998, which was recorded in the Police Blotter, as well as on other entries in the Police Blotter of another complaint for rape allegedly committed on April 29, 1997, which was reported and filed by Twinkle, with the assistance of her mother, Annalie, against the accused-appellant;[15] and Annalie F. Alipar, the mother of Twinkle and wife of accused-appellant.[16]

Accused-appellant denied the accusations against him and offered nary an alibi to support his defense.[17] Instead, he claimed that somebody might have influenced Twinkle to revive the previous rape case which Twinkle had filed against him.[18] He added that the only reason he knew why his daughter filed the instant case against him was because she hated him since he used to scold Twinkle whenever she disobeyed the orders of her mother, Annalie Alipar.[19]

The trial court convicted accused-appellant in its Decision dated December 29, 1998,[20] the decretal portion of which reads:

WHEREFORE, this Court finds the accused ALFREDO ALIPAR y ALINSOD GUILTY BEYOND REASONABLE DOUBT AS PRINCIPAL OF CONSUMMATED RAPE defined and punished under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, otherwise known as the Death Penalty Law and hereby sentences him to suffer the SUPREME PENALTY OF DEATH and to pay the private offended party TWINKLE ALIPAR the following sums:

P50,000.00 - as civil indemnity;

50,000.00 - as moral damages and

50,000.00 - as exemplary damages.

The accused is further ordered to pay the cost of the instant suit.

SO ORDERED.[21]

Accused-appellant ascribes to the trial court a lone, albeit, encompassing error,[22] to wit:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY AS CHARGED AND IN IMPOSING THE DEATH PENALTY DESPITE THE INCREDIBLE TESTIMONY OF THE PRIVATE COMPLAINANT AND THE FAILURE OF THE PROSECUTION TO PROVE THE QUALIFYING

CIRCUMSTANCE OF FILIATION AND AGE.

Accused-appellant assails the testimony of Twinkle as incredible since it is allegedly improbable that the rape occurred without being noticed by the other house occupants, particularly the mother of Twinkle, Annalie, who was sleeping just an arm's length away from her. Besides, if indeed she was raped, Twinkle did not make enough noise to call the attention of her mother.[23] Moreover, since Twinkle testified that on January 1, 1998 there was an attempt of her father to molest her and the rape incident on January 23, 1998 was not the first attack against her womanhood, and that she filed, together with her mother, two (2) complaints for rape against her father in 1997 but those were withdrawn later, Twinkle was already forewarned of the impending attack of her father and she could have devised ways and means to avoid or repel any further assault upon her womanhood.[24]

Accused-appellant's assault on the credibility of Twinkle stands on tenuous grounds. When faced with the issue of credibility of the witnesses, this Court ordinarily defers to the factual assessment made by the trial court for the latter is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying on the witness stand. Absent any showing that such assessment is tainted with arbitrariness or oversight of some fact or circumstance of weight and influence, this Court will not depart from the factual conclusions of the trial court.[25] That is the jurisprudential rule. None appears in the record of the case at bar to warrant departure from the said rule.

From this Court's own meticulous review of the testimony of complainant Twinkle Alipar, it appears that the said testimony, with all the attendant emotional overtures, is plain, straightforward, to the point and unflawed by any material or significant inconsistency, very typical of that an innocent child whose virtue has been violated, and thus, deserves full faith and credit.[26] She testified, thus -

PROSECUTOR:

Q Twinkle Alipar, please tell us when you were born?

A August 26, 1984, sir.

Q Please tell us the name of your mother?

A Analyn Alipar, sir.

Q How about your father?

A Alfredo Alipar, sir.

Q Is this Alfredo Alipar now being charged for the crime of rape your father?

A Yes, sir.

Q Now, can you tell us Twinkle when you were raped by your father?

A On January 23, 1998, sir.

Q Please tell us where said incident happened?

A I was raped in the living room of our house in Brgy. Sabang, Pagsanjan, Laguna, sir.

Q Can you recall more or less what time you were raped on January 23, 1998?

A No, sir.

Q Was it morning or evening?

A It was nearing morning, sir.

Q Please tell us how you were raped by your father in the early morning of said date?

A I was sleeping near my mother when my father "kinuhit" me, sir.

Q After your father "kinuhit" you ...

COURT:

Let it be made of record that the complaining witness is crying.

PROSECUTOR:

Q What happened after your father "kinuhit" you?

A He tied me, thereafter, he undressed me (hinubuan).

Q You said your father tied you, what did he use in tying you?

A A rope and a big handkerchief, sir.

Q Where was that handkerchief placed?

A The handkerchief was tied on my mouth, sir.

Q How about that rope. Where did your father tie that rope?

A On my hands, sir.

Q

Could you please demonstrate to us your position when both of your hands were tied by that rope by your father?

A

I was lying down when my father tied both of my hands. (Witness demonstrating by putting up and clasping both her hands).

Q How about your mother, where was she at the time when your father tied both of your hands and mouth?

A My mother was on the bed in our house.

Q How far were you from your mother when your father tied your hands and mouth?

A I was on the side of the bed.

Q Was your mother sleeping or awake at the time when your father tied your hands and mouth?

A She was sleeping, sir.

Q What did your father do next after tying your hands and mouth?

A That was the point in time when he molested me.

Q Could you please tell us how he started molesting you?

A

He was already undressed when he started undressing me while uttering the words "don't tell to anybody

because I would be incarcerated again".

Q When he was able to take off your panty, what else did he do?

A

He was fingering my private part, sir. (finifinger po niya ako) (witness continuously crying while answering the question).

Q Was there a light at the time when your father was fingering your private part?

A Yes, sir.

Q What light?

A

A bulb.

COURT:

Q Inside or outside your house?

A Inside the house, Your Honor.

COURT:

Proceed.

PROSECUTOR:

Q Now, what else did he do to you aside from fingering your private part?

A He was licking my vagina, sir.

Q And what did you do when your father licked your vagina?

A I was "nakikiliti" but I could not fight back.

Q What else did your father do aside from fingering and licking your private part?

A He kissed my cheek and embraced me, sir.

Q Aside from that, what else did he do to you?

A Nothing more, sir.

Q Did you know if he inserted something in your vagina?

A His finger and penis, sir.

Q How did you come to know that he also inserted his penis into your vagina?

A I felt it was already inside my vagina.

Q What did you feel when the penis of your father was already inside your vagina?

A It was painful, sir.

Q What was he doing? Did he make any body movement while his penis was inside your vagina?

A Yes, sir.

Q Please tell us what kind of body movement did he do?

A Upward and downward motions, sir.

Q

What else did he do aside from that downward [and] upward movement of his body while his penis was inside your vagina?

A He was pushing it hard.

Q And after that what happened next?

A Thereafter I saw him pretending to be asleep.

Q What did you do when you noticed him pretending to be sleeping?

A I arose and washed my vagina, thereafter, I told the incident to my mother.

COURT:

Q Why did you wash your vagina?

A It was because my vagina was sticky and I saw something whitish on it.

Q Do you know where that substance came from?

A Yes, sir, it came from my father.[27]

That no audible noise was heard from Twinkle to awaken her mother is explained by the fact that her mouth was gagged and her hands were tied.[28] It is neither improbable for rape to be committed with Twinkle's mother sleeping just an arm's length away for this Court has long settled that rape can be committed even in a room where the members of the family are also sleeping, lust being no respecter of time or place.[29] There is no rule that rape can only be committed in seclusion. The nearby presence of people in a certain place is no guarantee that rape will not and cannot be committed.[30]

Accused-appellant's contention that, since the rape on January 23, 1998 was not the first sexual assault on Twinkle, she was forewarned that she may again be molested by accused-appellant is unacceptable. Victims of rape should not be judged by any norm of conduct or behavioral response for people react differently to emotional stress,[31] especially a child victim who has to cope with a harrowing experience of rape at the hands of her own father. Furthermore, since father-perpetrators of incestuous rape more often than not live with their victims in one abode, the moral and physical ascendancy of the father over his daughter-victim, which substitutes for violence and intimidation, unceasingly reinforces the fear which compels the daughter-victim to conceal her dishonor and suffer in silence. Thus, the moral ascendancy of the father is sufficient to cow the daughter into continuous submission to the father's bestial desires.[32]

All in all, there is no reason to entertain any doubt that complainant Twinkle was telling the truth for the imputed motive is too shallow and too trite to lend any weight and credit to the defense. Indeed, even when consumed with revenge, it takes a certain amount of psychological depravity for a young daughter to fabricate a sordid tale of such a serious crime as sexual molestation at the hands of her own father which would put her own father in jail for the most part of his remaining life, or worst, face death and drag herself and the rest of her family to a lifetime of shame.[33]

Thus, the trial court did not err in convicting the accused-appellant. Accused-appellant's denial is an intrinsically

weak defense. To merit credibility, it must be supported by strong evidence of non-culpability.[34] Weighed against the positive averments of Twinkle, which are supported by the medical evidence of her non-virgin state,[35] the bare denial of accused-appellant must fail and yield to the evidence of the prosecution which clearly establish his guilt beyond reasonable doubt and warrant the conviction of accused-appellant for incestuous rape.

Though the victim's minority is alleged in the information in the case at bar, the prosecution failed to prove adequately and clearly that the rape victim was under eighteen (18) years of age at the time of the rape. Hence, this Court stops short of affirming the imposition of the death penalty on the accused-appellant.

Greatest circumspection is exercised by the Court when faced with the imposition of the death penalty. Invariably, the Court has been strict in the interpretation and application of the Death Penalty Law for there is no stake higher and no penalty more severe than the termination of a human life. It has been said that life, once taken is like virginity, which once defiled can never be restored.[36]

Section 11 of Republic Act No. 7659, which took effect on December 31, 1993, provides that the death penalty shall be imposed if the crime of rape is committed with the following attendant circumstances:

xxx

- 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 spouses of the parent of the victim.
- When the victim is under the custody of the police or military authorities.
- When the rape is committed in view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.
- When the victim is a religious or a child below seven (7) years old.
- When the offender knows that he is afflicted with Acquired immune Deficiency Syndrome (AIDS) disease.
- When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.
- When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation.

The special circumstances prescribed by the law, which effectively qualify rape by increasing its penalty to death, must be specifically alleged in the Information and duly proved during the trial. The qualifying circumstances must be proved with equal certainty and clearness as the crime itself. Otherwise, failure to sufficiently establish the existence of such qualifying circumstance is fatal and consequently bars conviction for rape in its qualified form.

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.[37] There must be independent evidence proving the age of the victim, other than the testimonies of prosecution witnesses and the absence of denial by the accused.[38] Where there was no evidence at all of the minority age of the victim or where the evidence was weak, unreliable and insufficient, this Court was impelled not to impose the death penalty.[39]

In *People v. Vargas*[40] the victim was alleged to be 10 years old. The Court convicted the accused only for simple rape, and not statutory rape, since the prosecution failed to prove the minority of the victim. Neither the birth nor baptismal certificate of the victim was presented by the prosecution. Also there was no showing that the

said documents were lost or destroyed to justify their non-presentation. The testimony of the victim and her aunt were held as hearsay, and that it was not correct for the trial court to judge the age of the victim by her appearance.

In *People v. Javier*[41] the victim was alleged to be 16 years old. The Court noted that although the victim's age was not contested by the defense, the prosecution failed to present the birth certificate of the victim. Proof of age of the victim is particularly necessary in a case where the victim's age is just two years less than the majority age of 18. There is hardly any difference between a 16-year old girl and an 18-year old one insofar as physical features and attributes are concerned.

In *People v. Tipay*,[42] the victim was alleged to be 15 years old. The Court did not impose the death penalty since the record of the case was bereft of any independent evidence which would accurately show the victim's age. Neither a simple allegation in the information and/or complaint that the victim is under 16 years nor lack of denial on the part of accused is sufficient to excuse the prosecution from discharging its burden to prove clearly the age of the rape victim as of the date the rape was committed.

In *People v. Cula*,[43] the victim was alleged to be 16 years old. The Court did not impose the death penalty since the prosecution failed to discharge its burden to prove with certainty the fact of the age of the victim when the rape was committed. The record of the case is bereft of any independent evidence, such as the victim's duly certified Certificate of Live Birth, accurately showing the victim's age. The fact that accused did not rebut the allegation in the complaint that the victim was 16 years old when the crime was committed cannot make up for the failure of the prosecution to discharge its burden in this regard.

In *People v. Tabanggay*,[44] the victims were alleged to be 13 and 14 years old. The Court found as insufficient the bare testimonies of private complainants and their mother as to their ages. The victims' birth certificates which are mere photocopies were not also formally offered in evidence.

In *People v. Bawang*[45] the victim was alleged to be 14 years old, the death penalty was not imposed for failure of the prosecution to present the birth certificate to substantiate the testimony of the victim on her age.

In *People v. Tundag*,[46] the victim was alleged to be 13 years old. Death penalty was not imposed since the victim's age was not properly and sufficiently proved beyond reasonable doubt. While the victim claimed that she was 13 years old at the time of the rapes, she admitted that she did not know exactly when she was born because her mother did not tell her and no birth certificate was offered.

In the instant case, this Court cannot accept entirely or as adequate the testimony of Annalie F. Alipar, mother of the victim, Twinkle, as to the age of the victim. It is worthy to note that notwithstanding the reservation made in open court by the prosecution, upon inquiry by the trial court, that the prosecution would present the Certificate of Live Birth of Twinkle, the prosecution failed to do so and did not offer any valid explanation for its failure to make good its reservation. The pertinent portion of the record is hereunder quoted:

Q So, she is now 13 years old?

A Yes, sir.

Q Where was she born?

A At Cavinti, Laguna, sir.

COURT:

Q Can you produce a certified true copy of her birth certificate?

A None, Your Honor.

Q Can you obtain one?

A Yes, I can do so, Your Honor.

PROSECUTOR:

We are reserving the right to submit the said birth certificate, Your Honor.

COURT:

The reservation is granted.[47]

The trial court which was observing the appearance and deportment of the victim's mother on the witness stand, must have deemed it necessary to ask the said witness to produce or obtain the certificate of birth of Twinkle. The failure of the prosecution to present the Certificate of Live Birth of the rape victim, despite the reservation of the trial prosecutor to submit the same, should be taken in favor of accused-appellant considering that said failure created the presumption that if that document were presented, it would be adverse to the cause of the prosecution.

It cannot be gainsaid that the prosecution has the burden of clearly proving the allegations in the information especially in death penalty cases, as in the case at bar, where the life of a human being hangs in the balance. The death penalty cannot therefore be imposed in this case inasmuch as the alleged age of the rape victim which would have qualified the crime of rape was not proven by evidence independent of the testimonies of the victim and her mother. As often repeated, the evidence for the prosecution must stand or fall on its own merit, and it cannot be allowed to draw strength from the weakness of the evidence for the defense.[48] Thus, accused-appellant should only be held liable for simple rape, and, accordingly, sentenced to suffer the penalty of reclusion perpetua.

As to the amount of damages awarded, this Court reiterates that prevailing jurisprudence[49] sets the amount of the civil indemnity in rape cases to P50,000.00, when the penalty meted is reclusion perpetua. However, when rape is qualified and committed under any of the circumstances under which the death penalty is imposed, the amount of P75,000.00 is applicable.

Moral damages, which jurisprudence has set at P50,000.00 is granted in recognition of the victim's injury as being inherently concomitant with and necessarily resulting from the odious crime of rape,[50] especially when suffered by an innocent child whose life is forever tainted by a foul and traumatic experience.

Exemplary damages are awarded in the hope of deterring other fathers with perverse tendencies and aberrant sexual behavior from preying upon and sexually abusing their own young daughters.[51] However, in the case at bar, we reduce the award of exemplary damages to P25,000.00.

WHEREFORE, the appealed Decision dated December 29, 1998 of the Regional Trial Court of Santa Cruz, Laguna, Branch 28 in Criminal Case No. SC-6759 finding accused-appellant Alfredo Alipar y Alinsod guilty beyond reasonable doubt of incestuous rape, is hereby AFFIRMED with the MODIFICATION that the penalty is reduced to reclusion perpetua, and the accused-appellant is ordered to pay the victim, Twinkle F. Alipar, the sum of P25,000.00 as exemplary damages in addition to the sum of P50,000.00 by way of civil indemnity, and P50,000.00 as moral damages.

No pronouncement as to costs.

SO ORDERED.

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

[1] Pursuant to Article 47 of the Revised Penal Code, as amended by Section 22 of Republic Act No. 7659 entitled "An Act To Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Code, As Amended, Other Special Penal Laws, And For Other Purposes."

[2] Penned by Judge Fernando M. Paclibon, Jr., Rollo, pp. 16-26.

[3] TSN, March 19, 1998, pp. 3-6.

[4] Exhibit "A", Regional Trial Court (RTC), Rollo, p. 11.

[5] Exhibit "B", RTC Rollo, pp. 6-7.

[6] TSN, March 19, 1998, pp. 6-9; TSN, March 26, 1998, pp. 4-5, 12.

[7] TSN, June 3, 1998, pp. 2-5; Exhibit "G", RTC Rollo, p. 74.

[8] Exhibit "E", RTC Rollo, p. 5.

[9] Rollo, p. 8.

[10] RTC Rollo, p. 23.

[11] TSN, March 19, 1998, pp. 9-11; Exhibits "C", "D", "H", "I" and "J", RTC Rollo, pp. 71, 72, 75, 73 and 76, respectively.

[12] TSN, March 26, 1998, p. 3.

[13] TSN, March 26, 1998, pp. 9, 12.

[14] TSN, May 28, 1998, pp. 2-4; Exhibit "F", RTC Rollo, p. 8.

[15] TSN, June 3, 1998, pp. 3, 6-7; Exhibits "G" and "H", RTC Rollo, pp. 74-75.

[16] TSN, June 4, 1998.

[17] TSN, August 12, 1998, p. 3.

[18] TSN, August 12, 1998, p. 6.

[19] TSN, August 12, 1998, p. 4.

[20] See Note No. 2, *supra*.

[21] Rollo, p. 26.

[22] Rollo, p. 38.

[23] Rollo, p. 42.

[24] *Ibid*.

[25] *People v. Babera*, G.R. No. 130609, May 30, 2000, p. 10; *People v. Brigildo*, G.R. No. 124129, January 28, 2000, p. 10; *People v. Balgos*, G.R. No. 126115, January 26, 2000, pp. 8-9.

- [26] *People v. Balgos*, G.R. No. 126115, January 26, 2000, p. 15; *People v. Lopez*, 302 SCRA 669, 678 [1999].
- [27] TSN, March 19, 1998, pp. 3-6.
- [28] TSN, March 19, 1998, p. 3.
- [29] *People v. Nogar*, G.R. No. 133946, September 27, 2000, p. 12.
- [30] *People v. Balora*, G.R. No. 124976, May 31, 2000, p. 8; *People v. Sancha*, G.R. Nos. 131818-19, February 3, 2000, p. 19; *People v. Villar*, G.R. No. 127572, January 19, 2000, pp. 10-11.
- [31] *People v. Pedres*, 306 SCRA 579, 589 [1999]; *People v. Sagun*, 303 SCRA 382, 396 [1999].
- [32] *People v. Flores*, 320 SCRA 560, 571-572 [1999]; *People v. Sevilla*, 320 SCRA 107, 116 [1999]; *People v. Tabion*, 317 SCRA 126, 141 [1999].
- [33] *People v. Acala*, 307 SCRA 330, 332 [1999]; *People v. Sandico*, 307 SCRA 204, 213 [1999].
- [34] *People v. Brigildo*, G.R. No. 124129, January 28, 2000, p. 13.
- [35] See Note No. 14, *supra*.
- [36] *People v. Mahinay*, 302 SCRA 468 citing *People v. Galera*, 280 SCRA 492.
- [37] *People v. Javier*, 311 SCRA 122, 140-141 [1999].
- [38] *People v. Tabanggay*, G.R. No. 130504, June 29, 2000, p.28.
- [39] *People v. Veloso*, G.R. No. 130333, April 12, 2000; *People v. Tipay*, G.R. No. 131472, March 28, 2000; *People v. Cula*, G.R. No. 133146, March 28, 2000; *People v. Brigildo*, G.R. No. 124129, January 28, 2000; *People v. Balgos*, G.R. No. 126115, January 26, 2000.
- [40] *People v. Vargas*, 257 SCRA 603, 610-611 [1996].
- [41] *People v. Javier*, 311 SCRA 122, 140-141 [1999].
- [42] G.R. No. 131472, March 28, 2000, p. 31.
- [43] G.R. No. 133146, March 28, 2000, p. 13.
- [44] G.R. No. 130504, June 29, 2000, pp. 29-30.
- [45] G.R. No. 131942, October 5, 2000, p. 14.
- [46] G.R. Nos. 135695-96, October 12, 2000, pp. 12-13.
- [47] TSN, Analie F. Alipar, June 4, 1998, p. 3. (Underscoring supplied)
- [48] *People v. Gutierrez*, G.R. No. 132772, August 31, 2000, p. 9; *People v. Balacano*, G.R. No. 127156, June 31, 2000, p. 7.
- [49] *People v. Orio*, G.R. No. 128821, April 12, 2000, p. 13; *People v. Francisco*, G.R. No. 121682, April 12, 2000, p. 9; *People v. Monte*, G.R. No. 125332, March 2, 2000, p. 9; *People v. De los Reyes*, G.R. No. 124895, March 1, 2000, p. 15.
- [50] *People v. Nava*, G.R. Nos. 130509-12, June 19, 2000, p. 18; *People v. Cambi*, G.R. No. 127131, June 8, 2000, p. 12.

[51] People v. Alvero, G.R. Nos. 134536-38, April 5, 2000, p. 15; People v. Alama, G.R. Nos. 134122-27, February 7, 2000, p. 14.

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