PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROSAURO SIA Y DICHOSO, JOHNNY BALALIO Y DEZA, JIMMY PONCE Y TOL AND JOHN DOE @ PEDRO MUÑOZ (AT LARGE), ACCUSED-APPELLANTS.

G.R. No. 137457. November 21, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Christian Bermudez was beaten to death and the taxicab he was driving was taken by the assailants. His lifeless body, wrapped in a carton box, was recovered several days later in a fishpond in Meycauayan, Bulacan. For the felonies, the above-named accused were indicted for violation of R.A. 6539, otherwise known as the Anti-Carnapping Law, and Murder in two (2) separate Informations, to wit:

> Criminal Case No. Q-95-63962 for Violation of the Anti-Carnapping Law:
>
> That on or about August 23, 1995, in the City of Quezon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, herein accused, conspiring, confederating and mutually helping one another did then and there willfully, unlawfully and feloniously take, steal, and carry away one (1) motor vehicle described as Toyota Tamaraw FX; Motor No. 2C-2983302; Chassis No. CF50-0014375; Plate No. NYT-243, owned by BIENVENIDO CRUZ, killing the driver Christian Bermudez in the process, to the damage and prejudice of the registered owner thereof and the heirs of Christian Bermudez.
>
> CONTRARY TO LAW.[1]
>
> Criminal Case No. Q-95-63963 for Murder:
>
> That on or about 23 August 1995, in the City of Quezon, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill qualified by treachery, evident premeditation, taking advantage of superior strength, employing means to weaken the defense or of means of persons to insure or afford impunity, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously attack, assault and use violence upon the person of CHRISTIAN BERMUDEZ by beating him on the head and other parts of the body, thereby causing his death.
>
> CONTRARY TO LAW.[2]

At the arraignment, only Johnny Balalio y Deza and Jimmy Ponce y Tol appeared and pleaded "Not Guilty."[3] The third accused, Rosauro Sia y Dichoso, escaped from police custody while on the way to the hospital for treatment.[4] As a consequence, the two (2) cases were subsequently consolidated and jointly tried against accused Johnny Balalio and Jimmy Ponce only.

After trial, the court a quo rendered judgment against both accused imposing upon them the supreme penalty of Death, thus:

> WHEREFORE, premises considered, judgment is hereby rendered finding the accused Johnny Balalio and Jimmy Ponce GUILTY beyond reasonable doubt as principals by conspiracy of violation of R.A. No. 6539, as amended and hereby sentences them to suffer the penalty of DEATH.
>
> Accused are likewise adjudged jointly and severally [liable] to pay to Agripina Bermudez, the mother of the deceased Christian Bermudez the sums of:
>
> - P50,000.00 as compensatory damages for the death of Christian Bermudez;
>
> - P200,000.00 as burial and other expenses incurred in connection with the death of Christian; and
>
> - P3,307,199.60 (2/3 x [80-27] x 300 per day x 26 days (excluding Sundays) x 12 months) representing the loss of earning capacity of Christian Bermudez as taxi driver.
>
> Costs against accused.
>
> The cases of accused Rosauro Sia who escaped from custody before he was arraigned and as against Peter Doe who was never apprehended and whose identity has never been known are hereby ordered ARCHIVED, subject to activation when they are arrested and brought before the bar of justice.
>
> SO ORDERED.[5]

On automatic review before this Court, accused-appellants raised the lone assigned error that:

> THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANTS FOR VIOLATION OF RA 6539 (ANTI-CARNAPPING LAW) SOLELY ON THE BASIS OF THE EXTRA-JUDICIAL CONFESSIONS OF ACCUSED ROSAURO SIA AND JIMMY PONCE (EXHIBITS C AND D, RESPECTIVELY) WHICH ARE INADMISSIBLE IN EVIDENCE.[6]

The facts as summed up by the trial court are as follows:

> The vehicle claimed as carnapped is registered in the name of complainant Bienvenido C. Cruz of No. 1125 Primero de Mayo Street, Tondo, Manila[7] and operated as a taxi being Unit 2 of KIRBEE TAXI and bearing the following description:
>
> Make/Type
>
> :
>
> Toyota Tamaraw FX Wagon
>
> Motor Number
>
> :
>
> 2-C 2983302
>
> Chassis No.
>
> :
>
> CF 50-0014375
>
> Plate No.
>
> :
>
> NYT-243

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Color

:

Maroon

The said taxi was taken from the garage and driven by its regular driver, Christian Bermudez, the alleged murder victim at about 6:00 a.m. on August 23, 1995. The taxi was last seen at the vicinity of the Pegasus Night Club in Quezon City at about 10:30 p.m. on the said date with an unidentified passenger who surfaced later as the accused Rosauro Sia, whose true name is allegedly Antonio Labrador (Mang Tony) and who resides at San Francisco Del Monte. Accused Rosauro Sia appears to have gypped driver Christian Bermudez to service him the following day (August 24, 1995) in the morning and to be paid P150.00 per hour which was apparently accepted because Rosauro gave instructions to accused Johnny Balalio and Jimmy Ponce to wait for him (Christian) that following morning. When Christian returned to Sia's residence in San Francisco Del Monte that morning, he was told to come back in the afternoon because that was the instruction given him by accused Rosauro Sia. When Christian returned in the afternoon in the Sia residence, he was asked to get inside. As soon as he alighted from the Tamaraw FX taxi he was driving, his hands were tied by Johnny Balalio and was handed to a certain "Pedro", the accused Peter Doe who has not been arrested and who told Johnny Balalio and Johnny (sic) Ponce "Ako na'ng bahala dito". Christian was taken to accused Rosauro and shortly afterwards, the latter was seen lugging with him a big carton box from which blood was dripping. Accused Jimmy Ponce saw Rosauro hand the carton-wrapped lifeless body of Christian inside the carnapped FX taxi. Before leaving with the lifeless body of Christian loaded in the taxi, accused Sia gave P3,000.00 each to Jimmy Ponce, Johnny Balalio and "Pedro" and admonished them not to say anything about what happened. The ring taken from Christian[8] was given to accused Jimmy Ponce by Rosauro Sia.

On August 26, 1995, the lifeless body of Christian Bermudez was found and retrieved from a fishpond in Meycauayan, Bulacan. This fact was broadcast over the radio and, after hearing the same, Agripina Bermudez went to see the lifeless body retrieved from the fishpond and confirmed it to be that of Christian, whom she claims is her eldest son who was earning about P650.00 a day as a taxi driver.

Photographs were taken on the carton-wrapped body of Christian including one position which shows the latter's body.[9]

Dr. Benito Caballero, Medico Legal Officer of Bulacan, conducted a postmortem examination of the deceased body of Christian and found that the latter's death was due to shock caused by massive external and intracranial hemorrhage on account of multiple lacerations on the head and fracture of the skull due to use of hard object, possibly iron, for which he issued certificates of death and postmortem death certificate.[10]

In the meantime, Bienvenido Cruz, the owner of the carnapped vehicle, reported to the police authorities in Camp Crame the loss of his taxi.[11] On September 21, 1995, at about 10:30 p.m., the carnapped taxi was intercepted being driven by accused Rosauro Sia, who was immediately placed in custody of the anti-carnapping authorities. While in custody, Rosauro Sia managed to escape but he was recaptured on November 15, 1995 by the manhunt team created for that purpose. As accused Rosauro Sia claimed that he bought the hot car from his co-accused Johnny Balalio and Jimmy Ponce, the latter were picked up from their residence in Baseco, Isla Tawid, Port Area, Tondo, Manila and investigated. Sworn Statement of the accused Rosauro Sia and Jimmy Ponce were taken[12] narrating their respective participations such as Sia's instruction to Jimmy to guard his (Sia's) gate to deter passersby from snooping around and describing what transpired inside Sia's residence at San Francisco Del Monte when Christian was tied and killed. The Sworn Statement of Bienvenido Cruz, owner of the missing vehicle, was likewise taken. On the basis of the sworn statements of accused Rosauro Sia and Jimmy Ponce, Dr. Benito

Caballero, Provincial Health Officer of Bulacan, together with the Certificate of Registration of the FX Taxi and the Death and Postmortem Certificates mentioned heretofore, the Special Operations Unit, Traffic Management Command, PNP, Camp Crame, referred the matter to the authorities of the Department of Justice who, after finding probable cause in the preliminary investigation, filed these cases of Violation of R.A. 6539, as amended, and of Murder against the above-named accused which were consolidated together in this Branch for joint trial.[13]

In their lone assigned error, accused-appellants contend in sum that the extra-judicial confessions of accused Rosauro Sia and Johnny Balalio, which the trial court heavily relied upon, are inadmissible in evidence since they were executed in violation of their right to counsel. Specifically, accused-appellants argue that the said extra-judicial statements are inadmissible because they were obtained without compliance with the requirements of the law for their admissibility.[14]

The Solicitor General agrees, stating that during the custodial investigation, Ponce and Sia were not assisted by counsel as required by the Constitution. The trial court's finding that Sia and Ponce were assisted by Prosecutor Pormento when they executed their extrajudicial confessions did not meet the requirement of the law. The Solicitor General further contends that, during his testimony, Ponce vehemently denied having voluntarily executed his alleged statement; rather, he maintained that he was coerced to sign the same and that he did not even know its contents.

Extrajudicial confessions must conform to the requirements of the Constitution.[15] Indeed, a suspect's confession, whether verbal or non-verbal when taken without the assistance of counsel without a valid waiver of such assistance regardless of the absence of such coercion or the fact that it had been voluntarily given,[16] is inadmissible in evidence,[17] even if appellant's confession were gospel truth.[18]

Be that as it may, the inadmissibility of the extra-judicial statements of Sia and Ponce will not absolve accused-appellants from criminal liability because, as pointed out by the Solicitor General, there still is independent evidence to establish their authorship of the victim's killing on the occasion of the carnapping. The Solicitor General asserts that while there was no prosecution witness who positively identified accused-appellants as particeps criminis, their culpability was nonetheless proven through circumstantial evidence.

We agree.

Direct evidence of the commission of the crime is not the only matrix wherefrom a court may draw its conclusions and findings of guilt.[19] The rules on evidence[20] and case law sustain the conviction of the accused through circumstantial evidence when the following requisites concur: (1) there must be more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt of the guilt of the accused.[21]

A circumspect scrutiny of the testimonies of the witnesses of both prosecution and defense shows adequate evidentiary bases to establish the aforementioned circumstances.

First, when the police apprehended accused Rosauro Sia while he was in possession of the carnapped vehicle, he immediately pointed to accused-appellants as his accomplices in taking away the victim's vehicle.[22] Notably, accused-appellants claimed to have met Sia for the first time on August 24, 1995, when Sia supposedly passed by them looking for a certain person. They saw Sia for the second time on November 15, 1995, when Sia and some policemen came to their place to arrest them. If accused-appellants did not actually participate in the perpetration of the crime, it certainly defies reason why Sia would implicate them in so serious an offense when they were practically strangers to him. In this regard, it must be borne in mind that the fact that a witness may have been a

co-conspirator in the commission of the offense is not in itself sufficient to dilute the credibility of or, much less, be a ground to disregard altogether his testimony.[23] Indeed:

> By way of exception, the testimony of a co-conspirator may, even if uncorroborated, be sufficient as when it is shown to be sincere in itself, because given unhesitatingly and in a straightforward manner, and is full of details which by their nature could not have been the result of deliberate afterthought.[24]

Second, defense witness Porferio Fernando testified that accused-appellants were with Rosauro Sia from August 25-28, 1995.[25] When accused-appellants came back on August 28, 1995, they informed him that they were to guard a bodega owned by Sia, which contained a carnapped vehicle.[26] This testimony of Fernando confirms the fact that accused-appellants were in the company of Rosauro Sia during that critical period when the crime was perpetrated.

Third, upon his arrest, accused-appellant Jimmy Ponce voluntarily surrendered to the police authorities a ring,[27] admittedly belonging to the victim.[28] It is a well-settled rule that when a person is found in possession of a thing taken in the doing of a recent wrongful act, he is presumed to be the taker and doer of the whole act.[29] Thus, when property stolen is found in the possession of a person who is unable to give a satisfactory explanation of his possession thereof, he may be deemed to have committed the crime of theft of said property.[30] More apropos to the peculiar facts prevailing herein is the case of People v. Prado,[31] where we stated:

> In the absence of an explanation of how one has come into the possession of stolen effects belonging to a person wounded and treacherously killed, he must necessarily be considered the author of the aggression and death of the said person and of the robbery committed on him.

The application of this presumption validly applies to a case of carnapping for, indeed, the concept of unlawful taking in theft, robbery and carnapping is the same and, had it not been for the enactment of the Anti-Carnapping Act, the unlawful taking of the motor vehicle would certainly fall within the purview of either theft or robbery.[32]

All told, the Court finds no reason to reverse the ruling of the court a quo insofar as the crimes were committed. What remains to be determined is the propriety of the penalty imposed on accused-appellants.

In connection with the penalty imposed, the Solicitor General invites the Court's attention to the erroneous imposition by the trial court of death on the accused-appellants. He points out that while the sentence was meted upon a finding that the aggravating circumstances of treachery, abuse of superior strength and evident premeditation attended the commission of the crime, these were not duly established in the case at bar.

The observation is well-taken. Qualifying and aggravating circumstances which are taken into consideration for the purpose of increasing the degree of the penalty imposed must be proven with equal certainty as the commission of the act charged as criminal offense.[33]

With regard to alevosia, there is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[34] Treachery is considered present when: (1) there is employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the means or method of execution was deliberately or consciously adopted by the culprit.[35] For treachery to be appreciated, it must be present and seen by the witness right at the inception of the attack.[36] Where no particulars are known as to how the killing began, its perpetration with treachery cannot merely be supposed.[37]

In this case, there was neither a description of how the attack was commenced - whether it was sudden,

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unexpected and whether the victim was caught totally unaware - nor has there been a showing that the method of execution in the commission of the crime was consciously or deliberately adopted by the malefactors. To reiterate, alevosia cannot be established where no particulars are known regarding the manner in which the aggression was carried out or how it developed.[38] It must be based on positive or conclusive proof, not mere suppositions or speculations,[39] and must be proved as clearly and as convincingly as the killing itself.[40]

Similarly, the elements of evident premeditation must be established with equal certainty as the criminal act itself before it can be appreciated as a qualifying circumstance.[41] These elements are: (1) the time when the accused determined to commit the crime; (2) an overt act manifestly indicating that they clung to their determination to commit the crime; and (3) a sufficient lapse of time between the decision to commit the crime and the execution thereof to allow the accused to reflect upon the consequences of their act.[42] The essence of evident premeditation is that the execution of the criminal act is preceded by cool thought and reflection upon the resolution to carry out the criminal intent within a space of time sufficient to arrive at a calm judgment.[43]

In this case, there is no showing that the killing of Christian Bermudez was the product of cool thought and reflection. There is absolutely no showing how and when the plan was hatched or how long a time had elapsed before the crime was carried out. On the contrary, what appears very much evident is that he was killed on the occasion of the carnapping itself. Without such evidence, mere presumptions and inferences, no matter how logical and probable, will not suffice to warrant the appreciation of this qualifying circumstance of evident premeditation.[44]

Abuse of superior strength cannot likewise be appreciated. In People v. Flores,[45] this Court pointed out that this aggravating circumstance necessitates the showing of the relative disparity in physical characteristics, usually translating into the age, gender, the physical size and the strength of the aggressor and the victim. There is no proof that accused-appellant utilized any notorious inequality to his advantage. In other words, mere superiority in number is not enough to constitute superior strength.[46]

To be appreciated as a qualifying circumstance, what should be considered is not that there were three or more assailants of one victim, but whether the aggressors purposely took advantage of their combined strength in order to consummate the offense.[47] In this case, the prosecution did not present any direct proof that there was a deliberate intent on the part of accused-appellants to take advantage of the obvious inequality of force between them and the victim.

In the absence of any qualifying or aggravating circumstances which would merit the imposition of death, the proper imposable penalty should be reclusion perpetua, pursuant to Section 14 of R.A. No. 6539, viz:

> Penalty for Carnapping. - Any person who is found guilty of carnapping, as the term is defined in Section Two of this Act, shall, irrespective of the value of the motor vehicle taken, be punished by imprisonment of not less than fourteen years and eight months and not more than seventeen years and four months, when the carnapping is committed without violence or intimidation of persons, or force upon things; and by imprisonment for not less than seventeen years and four months and not more than thirty years, when the carnapping is committed by means of violence against or intimidation of any person, or force upon things; and the penalty of reclusion perpetua to death shall be imposed when the owner, driver or occupant of the carnapped motor vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof. (Underscoring ours)

On the other hand, Article 63 (2) of the Revised Penal Code states:

> Rules for the application of indivisible penalties. - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

> In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:
>
> x x x x x x x x x
>
> 2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

Anent the civil indemnity award, this Court finds the amount of P50,000.00 as death indemnity proper, following prevailing jurisprudence,[48] and in line with controlling policy.[49] The award of civil indemnity may be granted without any need of proof other than the death of the victim.[50] Though not awarded by the trial court, the victim's heirs are likewise entitled to moral damages, pegged at P50,000.00 by controlling case law,[51] taking into consideration the pain and anguish of the victim's family[52] brought about by his death.[53]

However, the award of P200,000.00 as burial and other expenses incurred in connection with the death of the victim must be deleted. The records are bereft of any receipt or voucher to justify the trial court's award of burial and other expenses incurred in connection with the victim's death. The rule is that every pecuniary loss must be established by credible evidence before it may be awarded.[54] Credence can be given only to claims which are duly supported by receipts or other credible evidence.[55]

The trial court was correct in awarding damages for loss of earning capacity despite the non-availability of documentary evidence.[56] Damages representing net earning capacity have been awarded by the Court based on testimony in several cases.[57] However, the amount of the trial court's award needs to be recomputed and modified accordingly.

In determining the amount of lost income, the following must be taken into account: (1) the number of years for which the victim would otherwise have lived; and (2) the rate of the loss sustained by the heirs of the deceased. The second variable is computed by multiplying the life expectancy by the net earnings of the deceased, meaning total earnings less expenses necessary in the creation of such earnings or income less living and other incidental expenses. Considering that there is no proof of living expenses of the deceased, net earnings are computed at fifty percent (50%) of the gross earnings.[58] The formula used by this Court in computing loss of earning capacity is:

> Net Earning Capacity =
>
> [2/3 x (80 - age at time of death) x (gross annual income - reasonable and necessary living expenses)][59]

In this case, the Court notes that the victim was 27 years old at the time of his death and his mother testified that as a driver of the Tamaraw FX taxi, he was earning P650.00 a day.[60] Hence, the damages payable for the loss of the victim's earning capacity is computed thus:

> Gross Annual Earnings
>
> =
>
> P650 x 261 working days in a year
>
> =
>
> P169,650.00

Net Earning Capacity

=

2/3 x (80-27) x [P169,650.00 - P84,825.00]

=

35.33 x 84,825.00

=

P2,996,867.20

Based on the foregoing computation, the award of the trial court with regard to lost income is thus modified accordingly.

WHEREFORE, the decision of the Regional Trial Court of Quezon City, Branch 85, in Criminal Cases No. Q-95-63963, finding accused-appellant guilty beyond reasonable doubt of violation of Republic Act No. 6539 (The Anti-Carnapping Law) is AFFIRMED with MODIFICATIONS. Accused-appellants are SENTENCED to suffer the penalty of reclusion perpetua; and are ORDERED, jointly and severally, to pay the heirs of the victim Christian Bermudez the sum of P50,000.00 as civil indemnity, the sum of P50,000.00 as moral damages, and the sum of P2,996,867.20 representing lost earnings. The award of P200,000.00 as burial and other expenses is DELETED for lack of substantial proof.

SO ORDERED.

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

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[1] Record, Vol. I, pp. 1-2.

[2] Record, Vol. II, pp. 1-2.

[3] Record, Vol. I, p. 77.

[4] Ibid., pp. 44-45.

[5] Rollo, p. 41; penned by Judge Pedro M. Areola.

[6] Ibid., p. 62.

[7] Exhibits E and F.

[8] Exhibit B.

[9] Exhibits I to I-3.

[10] Exhibits G and G-1.

[11] Exhibits F and F-1.

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[12] Exhibits C and D.

[13] Rollo, pp. 35-37.

[14] Appellant's Brief, pp. 8-10.

[15] Constitution, Article III, Section 123.

[16] People v. Agustin, 240 SCRA 541, 556-557 [1995].

[17] People v. Bonola, 274 SCRA 238, 249 [1997].

[18] People v. Dano, 339 SCRA 515, 527 [2000].

[19] People v. Fegidero, 337 SCRA 274, 282 [2000], citing People v. Botona, 304 SCRA 712, 728-729 [1999].

[20] Rules of Court, Rule 133, Section 4.

[21] People v. Ellasos, G.R. No. 139323, 6 June 2001, citing People v. Tiozon, 198 SCRA 368, 380-381 [1991]; People v. Alcantara, 163 SCRA 783, 786 [1988]; Rules of Court, Rule 133, Section 4; People v. Casingal, 337 SCRA 100, 110 [2000], citing People v. Dacibar, et al., 325 SCRA 725 [2000], citing People v. Solis, 291 SCRA 529, 539 [1998].

[22] TSN, 25 February 1997, pp. 5-6; 24 June 1997.

[23] People v. Quibido, et al., 338 SCRA 607, 617 [2000].

[24] People v. Quibido, et al., supra, citing People v. Cuya, supra.

[25] TSN, 17 December 1997, pp. 8-10, 17.

[26] Ibid., pp. 11-18.

[27] Exhibit B.

[28] TSN, 25 February 1997, pp. 9-10; 24 June 1997, pp. 7-8.

[29] Rules of Court, Rule 133, Section 3 [j].

[30] People v. Newman, 163 SCRA 496 [1988].

[31] 254 SCRA 531, 540 [1996], citing People v. Kagui Malasugui, 63 Phil. 221 [1936]. See also People v. Lorenzo, 200 SCRA 207 [1991]; U.S. v. Divino, 18 Phil. 425 [1911].

[32] People v. Santos, et al., 333 SCRA 319, 334 [2000], citing People v. Tan, 323 SCRA 30 [2000].

[33] People v. Latupan, G.R. Nos. 112453-56, 28 June 2001, citing People v. Piamonte, 303 SCRA 577, 588 [1999].

[34] People v. Agpawan, 339 SCRA 58, 63 [2000], citing Revised Penal Code, Article 15, par. (16).

[35] People v. Dumayan, G.R. No. 116280, 21 May 2001, citing People v. Serzo, Jr., 274 SCRA 553, 569 [1997] & People v. Mallari, 212 SCRA 777, 784 [1992]; Manuel Magayac, 330 SCRA 767 [2000].

[36] People v. Sambulan, 289 SCRA 500, 515 [1998]; People v. Amanmangpang, 291 SCRA 638, 653 [1998]; People v. Bautista, 312 SCRA 214, 235 [1999]; People v. Sioc, 319 SCRA 12, 22 [1999]; People v. Maldo, 307 SCRA 424, 440-441 [1999].

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[37] People v. Leal, G.R. No. 139313, 19 June 2001, citing People v. Borreros, 306 SCRA 680, 693 [1999]; People v. Silvestre, 307 SCRA 424, 440-441 [1999].

[38] People v. Bahenting, 303 SCRA 558 [1999]; People v. Mantung, 310 SCRA 819 [1999]; People v. Borreros, supra.

[39] People v. Tawas, 303 SCRA 86 [1999]; People v. Silva, 321 SCRA 647 [1999].

[40] People v. Edmundo Briones Aytalin, G.R. No. 134138, 21 June 2001, p. 18, citing People v. Eribal, 305 SCRA 341 [1999].

[41] People Reyes, 287 SCRA 229 [1998].

[42] People v. Galvez, G.R. No. 136790, 26 March 2001, citing People v. Orculla, 335 SCRA 129 [2000]; People v. Torres, G.R. No. 138046, 8 December 2000; People v. Magno, 322 SCRA 494 [2000]; People v. Tan, 314 SCRA 413 [1999]; People v. Silvestre, supra; People v. Gatchalian, 300 SCRA 1 [1998]; People v. Villamor, 292 SCRA 384 [1998]; People v. Timblor, 285 SCRA 64 [1998].

[43] People v. Uganap, et al., G.R. No. 130605, 19 June 2001, citing People v. Bibat, 290 SCRA 27 [1998].

[44] People v. Mahinay, 304 SCRA 767 [1999].

[45] G.R. No. 138841, 4 April 2001.

[46] People v. Tambis, 311 SCRA 430, 440 [1999]; People v. Rebamontan, 305 SCRA 609, 623 [1999].

[47] People v. Samudio, et al., G.R. No. 126168, 7 March 2001, citing People v. Buluran, 325 SCRA 476, 487-488, citing People v. Plantilla, 304 SCRA 339 [1999].

[48] People v. Amion, G.R. No. 140511, 1 March 2001; People v. Court of Appeals, et al., G.R. Nos. 103613 & 105830, 23 February 2001, citing People v. Ariel Pedroso y Ciabo, 336 SCRA 163 [2000]; People v. Nestor Go-od, 331 SCRA 612 [2000]; People v. Rosalino Flores, 328 SCRA 461 [2000].

[49] People v. Efren Mindanao y Gumabao, 335 SCRA 200 [2000]; People v. Quijon, 325 SCRA 453 [2000]; People v. Buluran, supra.

[50] People v. Concepcion, et al., G.R. No. 131477, 20 April 2001, citing People v. De Vera, 312 SCRA 640 [1999].

[51] People v. Pardua, et al., G.R. No. 110813, 28 June 2001, citing People v. Jabonero, G.R. No. 132247, 21 May 2001; People v. Ereneo, 326 SCRA 157 [2000].

[52] People v. Alba, et al., G.R. Nos. 130627 & 139477-78, 31 May 2001, citing People v. Ereneo, supra.

[53] People v. Langit, 337 SCRA 323 [2000]; People v. Mindanao, supra.

[54] People v. Bayang, G.R. No. 134402, 5 February 2001, citing People v. Enguito, 326 SCRA 508 [2000]; People v. Espina, 326 SCRA 753 [2000] & People v. Mindanao, supra; People v. Pardua, et al., supra.

[55] People v. Dulay, G.R. No. 127842, 15 December 2000.

[56] People v. Uganap, supra.

[57] People v. Bangcado, G.R. No. 132330, 28 November 2000; People v. Villorba, G.R. No. 132784, 10 October 2000; People v. Antonio, 335 SCRA 646 [2000]; People v. Dizon, 320 SCRA 513 [1999]; People v. Verde, 302 SCRA 690 [1999].

[58] People v. Librando, 335 SCRA 232 [2000]; People v. Lazarte, 334 SCRA 635 [2000]; People v. Cupino, 329 SCRA 581 [2000]; People v. Templo, supra.

[59] People v. dela Cruz, G.R. No. 128359, 6 December 2000; People v. Templo, G.R. No. 133569, 1 December 2000; People v. Sirad, 335 SCRA 114 [2000], People v. Arellano, 334 SCRA 775 [2000]; People v. Flores, supra; People v. Lazarte, supra.

[60] TSN, 12 August 1997, p. 6.

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