

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RUBEN CAÑETE (DECEASED), ALFREDO CAÑETE, SERGIO CAÑETE (DECEASED), TRINIDAD CAÑETE AND SOTERO CAÑETE (DECEASED), APPELLANTS.

G.R. No. 138366. September 11, 2003

Ponente: CORONA, J.

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CORONA, J.:

This is an appeal from the decision dated December 15, 1998 of the Regional Trial Court, Branch XXVIII, Mandaue City, in Criminal Case No. DU-5985, convicting the appellants of murder and sentencing them to reclusion perpetua.

Ruben, Alfredo, Sergio, Trinidad and their father, Sotero, all surnamed Cañete, were charged with murder in an Information dated June 27, 1997 which read:

That on the 24[th] day of May, 1997, at 10:20 o'clock in the morning, more or less, at Sitio Kanagahan, Barangay Tabla, Municipality of Liloan, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, conspiring, confederating and mutually helping with (sic) one another with abuse of superior strength and by means of treachery and evident premeditation, did then and there willfully, unlawfully and feloniously shoot Leonaldo Tanjay Tumayao, hitting him on the vital parts of his body which resulted in the death of the victim shortly thereafter.

CONTRARY TO LAW.[1]

Before his trial, on June 1, 1997, Ruben died in detention.[2] Sotero likewise died in detention on June 3, 1997.[3] The remaining accused (Alfredo, Trinidad and Sergio) separately pleaded not guilty during their arraignment. Trial on the merits ensued thereafter.

The prosecution's version of the incident follows.

On May 24, 1997, at about 10:20 a.m., in Sitio Canagahan, Barangay Tabla, Liloan, Cebu, Leonaldo Tumayao, Joel Quimod and Lilio Tundag were on their way home after attending a wedding party. Tumayao was walking ahead of Tundag and Quimod. As they passed by the houses of the accused, Quimod and Tundag heard successive gunshots. Quimod and Tundag immediately looked in the direction where the bursts of gunfire were coming from and saw Ruben, Alfredo, Sergio, Sotero and Trinidad shooting at Tumayao who slumped to the ground. Apparently not satisfied, all the accused approached the fallen Tumayao and continued shooting him. On order of his father Sotero, Alfredo shot Tumayao in the head. [4]

Quimod, who was ten meters behind the victim, ran and hid behind the bushes. As soon as the accused left, Quimod went home and narrated the incident to Tumayao's wife.[5]

On the other hand, Tundag, who was behind Tumayao, saw Ruben fire his gun at the victim. Tundag attempted to come to the aid of Tumayao but the latter shouted at him to flee. Thus, he ran back to the wedding party while hearing more gunshots. At the wedding party, Tundag informed the people about the ambush. Thereafter, he went

back to the crime scene where he saw Tumayao's lifeless body on the road. [6]

Vilma Tumayao, daughter of the victim, went to the crime scene after she was informed of the shooting. She saw all the accused near the dead body of her father. Vilma, however, could not approach him because Alfredo aimed his gun at her.[7] It was only after the arrival of the policemen that Vilma was finally able to get near the body of her father.

The policemen ordered the accused to come out of their houses and surrender. After an hour, Sergio, Sotero and Trinidad surrendered to the authorities while Ruben and Alfredo managed to escape.[8] But after learning they were included in the criminal complaint, they surrendered to the Talamban Police Station, Cebu City.

Dr. Jesus P. Cerna, medico-legal officer of the PNP, conducted an autopsy on Tumayao.[9] According to him, the victim sustained five wounds from a shotgun and one grazing wound which could have been caused either by a pellet or a cartridge of a shotgun, or by a bullet fired from a gun.[10] The cause of death of Tumayao was "shock, secondary to shotgun (pellet wounds) body and extremity." [11]

The defense had a different story.

On May 23, 1997, Ruben's wife, Teresita Cañete, was in Barangay Lanipga, Consolacion, Cebu, to help prepare food for the wedding of her husband's cousin. She stayed there overnight. At the wedding reception the following morning, Leonaldo Tumayao, alias Eduardo or Edit, approached Ruben who was then looking for a cold soft drink. Tumayao said "Here is something cold," and suddenly punched Ruben. Teresita summoned her husband and asked him to go home with her. The latter acquiesced. Before they left, however, Teresita saw Tundag give Tumayao what looked like a .45 caliber pistol.[12]

Seconds later, Tumayao, together with Quimod, Tundag and the latter's son followed Ruben to his house on a motorcycle or habal-habal. Tumayao alighted and thereafter shouted "This is now a combat" while firing a gun.[13]

Hearing the gunshots, Teresita brought her children to the safety of a neighbor's house. As she went back for her other child, Teresita saw her husband Ruben standing beside a coconut tree. Tumayao stood in front of the house of Alfredo who was shouting at him not to throw stones as he might hit the children.[14] At that point, Ruben shot Tumayao with a pugakhang, an improvised shotgun. Tumayao slumped to the ground.[15]

Quimod ran away when Tumayao began firing his gun. Tundag and his son also sped away on board the motorcycle. Tumayao was left alone.[16]

When the shooting erupted, Teresita also ran away. She did not see Alfredo approach Tumayao or fire at the latter's head. Moreover, she did not see Sotero, Trinidad and Sergio in the vicinity during the shooting incident.[17]

Alfredo declared that, during the shooting incident, he was in his house in Canagahan, Barangay Tabla, Liloan, Cebu. He and his wife saw Ruben shoot Tumayao. Alfredo then brought his wife to Tayud, Consolacion, as the latter was in a state of shock after witnessing the shooting incident.[18] He voluntarily surrendered to the police upon learning that he was implicated in the killing of Tumayao.[19]

For their part, Trinidad and Sergio declared that they were in the mango plantation of their aunt, Cirila Cañete, at Sitio Canagahan, Barangay Tabla, Liloan, Cebu from 6:00 to 11:30 a.m. on the day of the incident. Trinidad was spraying insecticide on the mango trees while Sergio was with him, fetching water from the creek to be mixed with the chemicals being used by Trinidad. Thereafter, Trinidad and Sergio went home and were surprised to see many people gathered in front of their house. They were told by their father, Sotero, that Ruben killed Tumayao

with a pugakhang.[20]

The police arrived at the scene of the crime at around 12 noon and immediately ordered the appellants to come out of their houses and surrender. Sotero, Trinidad and Sergio heeded the order. The policemen thereafter handcuffed them. When the appellants asked why they were being handcuffed, the policemen replied: "This is your obligation because he died in your land." [21]

The trial court found the three accused, appellants herein, guilty beyond reasonable doubt of the crime of murder for the killing of Leonaldo Tumayao:

WHEREFORE, finding the herein accused SERGIO, TRINIDAD and ALFREDO, all surnamed CAÑETE, GUILTY beyond reasonable doubt for the crime of MURDER, said accused are hereby sentenced to each undergo the penalty by imprisonment of reclusion perpetua, with the accessories of the law, to indemnify jointly and severally the legal heirs of the deceased Leonaldo Tumayao the following amounts:

(1) P10,000.00 after deducting from the total expenses of P52,000.00 the amount of P42,000.00, which the legal heirs of Leonaldo Tumayao received from (sic) the SSS as actual damages; and

(2) P50,000.00 by reason of the death of the deceased Leonaldo Tumayao, all without subsidiary imprisonment in case of insolvency; and to pay their proportionate share of the cost.

Accused being detention prisoners, shall be credited in (sic) the service of their sentence full time during which they have undergone preventive imprisonment.

SO ORDERED.[22]

Thus, the instant appeal with a lone assignment of error:

THE TRIAL COURT COMMITTED GRAVE REVERSIBLE ERROR IN CONVICTING ACCUSED SERGIO CAÑETE, TRINIDAD CAÑETE AND ALFREDO CAÑETE, PRINCIPALLY, ON THE BASIS OF THE EVIDENTLY BIASED AND HIGHLY INCREDIBLE TESTIMONY OF WITNESSES JOEL QUIMOD, LILIO TUNDAG AND VILMA TUMAYAO, MUCH LESS, FOR MURDER.[23]

During the pendency of the appeal, the Court was informed by Assistant Director Reinario F. Albano of the Bureau of Corrections that appellant Sergio Cañete died on May 11, 2003 of an undetermined cause at the New Bilibid Prison Hospital. On account thereof, Sergio's criminal liability was extinguished.

Appellants allege the existence of glaring inconsistencies and bias in the testimonies of prosecution witnesses Tundag, Quimod and Vilma Tumayao. Specifically, Quimod's testimony that Alfredo shot Tumayao in the head at close range contradicted that of Tundag and the findings of the medico-legal officer in the necropsy report which noted no gunshot wound in the head of the victim.

Likewise, Quimod's testimony was purportedly against the natural course of things since Tumayao's body should have been riddled with pellets and slugs had five armed men simultaneously fired at him at close range. All the police investigators recovered at the crime scene were one spent .45 caliber shell, three fired shotgun shells and one live shotgun round.

Appellants also claim that prosecution witnesses Tundag and Quimod were bedfellows of Tumayao who had an ax to grind against the appellants. At any rate, according to appellants, the killing was preceded by sufficient provocation on the part of the victim, hence, the crime committed, if any, was only simple homicide and not murder.

It is apparent that appellants' posture rests mainly on the credibility of the prosecution witnesses. The rule is

well-settled that the trial court's evaluation of the testimony of a witness and its factual findings are accorded not only the highest respect but also finality, unless some weighty circumstance has been ignored, overlooked or misunderstood which, if appreciated, would alter the result of the case. Given the direct opportunity to observe the witness on the stand, the trial judge is in a vantage position to assess his demeanor and determine if he is telling the truth or not.[24] In *People vs. De Guzman*, we held that -

In the resolution of the factual issues, the Court relies heavily on the trial court for its evaluation of the witnesses and their credibility. Having the opportunity to observe them on the stand, the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt or innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court. The record will not reveal those tell-tale signs that will affirm the truth or expose the contrivance, like the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply. The record will not show if the eyes have darted in evasion or looked down in confession or gazed steadily with a serenity that has nothing to distort or conceal. The record will not show if tears were shed in anger, or in shame, or in remembered pain, or in feigned innocence. Only the judge trying the case can see all these and on the basis of his observations arrive at an informed and reasoned verdict.[25] (underscoring ours)

We find no compelling reason to disturb the factual findings and conclusions of the trial court. Indeed, the prosecution witnesses proved credible during the trial. In fact, Tundag did not waver in his testimony regarding the details of the crime, whether on direct or on cross-examination, thus:

Q.

You could not have committed an error in describing the gun he was holding whether it was long or short?

A.

It was short. I could not be wrong.

Q.

I would show to your affidavit and in fact, I will read to you your affidavit, a portion of which says:

" x x x diha sa ibabaw sa buntud sa balay ilang amahan diha sa kilid sa batu nagpahipi nga nagdala gihapon sa iyang armas nga taas x x x"

Can you explain this very glaring discrepancy between your statement and your affidavit?

A.

What I saw was a short firearm. It was the police who stated that but what I saw was a short firearm but the police said it was long.

Q.

How about the place where he was hiding? Your affidavit says that he was hiding behind a rock but you testified that he was standing beside his house. Which is which now?

A.

What is correct is my statement here that he was standing beside his house. But the police insisted to state that it was behind the rock.

Q.

Did you not ask the police why it should be stated that way and not your way?

A.

But the police said that we will just go on with this and I also said that it is up to you.

x x x x x x x x

Q.

You said that you have read this affidavit before you signed it?

A.

I read it but those two facts reflected in my affidavit are wrong and I know that they are wrong.

Q.

Let us go to another point. You said that you were at the wedding place at 10:30 per your affidavit but then according to your statement now, you said that at 8:30 you already left the place. Which is true now?

A.

That is an estimate of the police because at that time I cannot really give the exact time because at that time I was scared.

Q.

You signed it before Judge Dagatan?

A.

Yes.

Q.

Did you not tell Judge Dagatan that there were so many things in this affidavit that were place (sic) by the policeman despite your objection?

A.

I told Judge Dagatan that some were inserted by the police.

Q.

What did Judge Dagatan do?

A.

He said that you will sign this in my presence, so you have to sign this and I told him "Judge there are insertions.[26]

Tundag's tenacious insistence on the minute details of what happened suggested nothing else except that he was telling the truth. We do not doubt his credibility.

The presence of spent shells of more than one caliber, i.e., .45 and shotgun ammunition, at the scene of the crime negated the version of the defense that it was only Ruben who shot and killed Tumayao. On cross-examination, Quimod even testified:

Q:

And let us talk of Sotero Cañete. Can you tell us what was the firearm he was holding, if it was a firearm?

A:

I do not know but he was holding his pistol and I do not know the caliber.

Q:

How did you know that it was a pistol?

A:

It was short.

x x x x x x x x

Q:

How far were you to (sic) Sotero when you saw him carrying that short thing, which you said is (sic) a firearm?

A:

Around 20 meters.

x x x x x x x x

Q:

How far were you from Ruben?

A:

A little more than 20 meters.

x x x x x x x x

Q:

So what was Ruben carrying then?

A:

Shotgun.[27]

Tundag also testified:

Q.

Whose house among the Cañetes would you be (sic) passing first?

A.

Alfredo.

Q.

Was there anything unusual that happened when you passed by the house of Alfredo Cañete?

A.

There was. Alfredo fired [his gun].

Q.

How far were you as well as Leonaldo Tumayao from Alfredo Cañete when you made mention earlier that he was firing his gun?

A.

Around two arms length more or less.

xx x x x x x x x x

Q.

When you saw Alfredo Cañete firing his gun to whom was it directed?

A.

To Leonaldo.

Q.

And aside from Alfredo Cañete whom you saw firing his gun aimed at Leonaldo Tumayao, were there other persons whom you saw?

A.

I saw Ruben Cañete who was carrying a long weapon.

COURT TO WITNESS:

Q:

Who else?

A:

Sotero Cañete.

x x x x x x x x

Q.

And were you able to see Sotero bringing anything?

A.

He was holding a short firearm.[28]

The perceived contradictions in the testimonies of Quimod and Tundag referred only to minor matters. There was no inconsistency as far as the principal occurrence and the positive identification of the assailants were concerned.[29] Minor discrepancies do not damage the essential integrity of the evidence in its material whole nor reflect adversely on the witnesses' credibility. [30] We have previously held, in fact, that minor inconsistencies, far from detracting from the veracity of the testimony, even enhance the credibility of witnesses for they remove any suspicion of a contrived or rehearsed testimony.[31]

Despite the absence of any wound in the head allegedly caused by a final shot by Alfredo, the shots fired at Tumayao by the appellants nevertheless resulted in his death. As established by the prosecution through the testimony of Dr. Jesus Cerna:

Q -

How do you consider these five pellet wounds, are they fatal?

A -

Yes, sir, because pellet wounds or the wound caused by the pellet in case of wound no. 2 was able to penetrate the abdominal cavity and perforated a portion of the small intestines. In wound no. 3, the pellet was able to penetrate the thoracic cavity and lacerated the upper and lower lobes of the right lung. In wound no. 4, the pellet was able to penetrate the right thoracic cavity and lacerated the lower lobe of the right lung. Of all the pellet wounds, three of them were fatal.

Q -

They are fatal in the sense that it would result to (sic) immediate death of the victim?

A -

Almost instantaneous death.

x x x x x x x x

Q -

If you were to be asked, doctor, what was the cause of death?

A -

The immediate cause of death was due to shock secondary to massive loss of blood, internal bleeding secondary to pellet wounds.[32]

In this case, the prosecution witnesses positively identified the appellants as the persons who fired their guns at Tumayao. It was of no moment who among the appellants actually hit and killed the victim. The fact that the witnesses' testimonies were consistent regarding the commission of the crime as well as the positive identification of the appellants as the perpetrators thereof, far outweighs the minor inconsistencies therein. [33] Thus:

So long as the witnesses' testimonies agree on substantial matters, the inconsequential inconsistencies and contradictions dilute neither the witnesses' credibility nor the verity of their testimonies. When the inconsistency is not an essential element of the crime, such inconsistency is insignificant and can not have any bearing on the essential fact testified to, that is, the killing of the victim.[34]

The time-tested rule is that, between the positive assertions of prosecution witnesses and the mere denials of the accused, the former undisputedly deserve more credence and are entitled to greater evidentiary value. [35] More so in this case where appellants failed to sufficiently explain why a shotgun was found at Sotero's hut or why Trinidad was found positive for gunpowder burns.

Neither could appellants' alibi prosper, since they failed to prove that they were at another place at the time of the commission of the crime and that it was physically impossible for them to be at the crime scene.[36] Appellants Sergio and Trinidad's claim that they were at the mango plantation, just one kilometer away from the scene of the crime, did not negate the possibility that they had gone home before the incident to commit the crime. Their alleged presence at the mango plantation was not even established by a positive declaration from an independent witness.

Moreover, the prosecution witnesses were not shown to have been driven by any ill will or false motive in testifying against appellants. The fact that there were pending civil and criminal cases between the prosecution witnesses and the Cañetes did not per se establish that the prosecution witnesses were improperly motivated to impute a very serious accusation against appellants for which the possible penalty could either be death or life imprisonment. The trial court did not perceive such motivation on the part of the prosecution witnesses as would make them falsely implicate appellants in the commission of the crime.

Our consistent ruling has been that the witness' testimony deserves full faith and credit where there exists no evidence to show any dubious reason or improper motive why he should testify falsely against the accused, or why he should implicate the accused in a serious offense.[37]

Appellants likewise assail the trial court's finding that conspiracy, treachery and evident premeditation attended the commission of the crime.

Conspiracy need not be established by direct evidence. It may be inferred from the acts of the accused before, during or after the commission of the crime which, when taken together, would be enough to reveal a community of criminal design.[38] Gleaned from the records is the following chain of events which proved that there was a community of design among the appellants: (1) appellants positioned themselves strategically before ambushing Tumayao; (2) Alfredo fired at Tumayao although there was no certainty that he hit the victim; (3) Ruben shot and hit the victim with his shotgun; (4) appellants fired their guns successively at Tumayao; (5) appellants, still

holding their firearms, surrounded Tumayao after he slumped to the ground; (6) Sotero was holding a pistol and he ordered Alfredo to deliver the coup de grace to the victim; (7) Alfredo obeyed Sotero's order by shooting Tumayao one last time; (8) Alfredo and Ruben escaped from the scene of the crime; (9) Sotero, Sergio and Trinidad hid inside the latter's house away from the crime scene until they were ordered by the police to come out and surrender.

Therefore, even presuming for the sake of argument that the wounds inflicted on Tumayao were the result of a single shot from a shotgun, appellants' presence and participation nonetheless made possible the execution of the crime. Accordingly, the appellants should all be held liable for the death of Tumayao for, in a conspiracy, the act of one is the act of all.

We likewise agree that treachery attended the commission of the crime. There is treachery when the offender commits any of the crimes against persons, employing means or methods in the execution thereof which tend directly and specially to insure its execution, without risk to the offender, arising from the defense which the offended party might make. The essence of treachery is the sudden and unexpected attack without the slightest provocation on the part of the person being attacked.[39] In this case, the events narrated by the eyewitnesses point to the fact that Tumayao could not have been aware that he would be attacked by appellants. There was no opportunity for Tumayao to defend himself as appellants, suddenly and without any provocation, fired their guns at him, one after the other.

However, the prosecution failed to establish beyond reasonable doubt the aggravating circumstance of evident premeditation. There was no proof that the appellants deliberately planned to liquidate the victim. On the contrary, the killing of the victim was the immediate impulsive reaction of appellants to Tumayao's act of punching Ruben. Moreover, the time that elapsed between the punching incident and the commission of the crime was not sufficient for Ruben and the rest of the appellants to reflect upon the consequences of their intended act. The elements of evident premeditation, namely: (1) the time when the offender appeared determined to commit the crime; (2) the act evidently indicating that the offender clung to his determination, and (3) sufficient lapse of time between the determination to commit the crime and the execution thereof during which the offender was able to reflect on the consequences of his act,[40] were wanting in this case.

We agree with the trial court that the mitigating circumstance of voluntary surrender should be appreciated in favor of Alfredo and the mitigating circumstance of immediate vindication of a grave offense conceded in favor of all the appellants. Saving the authorities the trouble and expense for his search and capture, and freely placing himself at their disposal, Alfredo should be given the favor of a mitigated penalty for his voluntary surrender. The mitigating circumstance of voluntary surrender, being personal however, can only be appreciated in favor of appellant Alfredo.

It must be recalled that, immediately prior to the incident, Tumayao punched Ruben in the presence of many people at the wedding party. Although the incident did not immediately precede the killing, its impact, by reason of its seriousness and the circumstances under which it was inflicted, festered till the commission of the crime.[41] The mitigating circumstance of immediate vindication of a grave offense must, therefore, be appreciated in favor of the appellants.

All told, we are convinced that appellants Alfredo and Trinidad are guilty beyond reasonable doubt of murder which carries the penalty of reclusion perpetua to death. Since the mitigating circumstances of voluntary surrender and immediate vindication of a grave offense were present in this case, the lesser penalty of reclusion perpetua was properly imposed by the trial court.

As regards damages, there is need to modify the award by the trial court. The prosecution was able to prove the

amount of P7,000 only as actual damages.[42] In *People vs. Villanueva*,[43] we declared that the legal heirs shall be entitled to temperate damages in the amount of P25,000 when the amount of actual damages proven is less than P25,000. However, the victim's daughter testified that she received P12,000 from the Social Security System as reimbursement for burial expenses.[44] This amount should be deducted from P25,000 and the victim's heirs awarded the balance of P13,000 as temperate damages.

WHEREFORE, the decision of the Regional Trial Court, Branch 27, Mandaue City, is hereby **AFFIRMED** with **MODIFICATION**. Appellants Trinidad Cañete and Alfredo Cañete are hereby found guilty of murder and sentenced to reclusion perpetua.

Appellants are also ordered to indemnify the heirs of the victim, Leonaldo Tumayao, P50,000 as civil indemnity and P13,000 as temperate damages.

SO ORDERED.

Panganiban, Sandoval-Gutierrez, and Carpio-Morales, JJ., concur.
Puno, (Chairman), J., on official leave.

[1] Rollo, pp. 8-9.

[2] Record, pp. 40-41; TSN, November 13, 1997, pp. 4-5.

[3] Record, p. 42; TSN, November 13, 1997, pp. 7-8.

[4] TSN, November 13, 1997, pp. 11-18; TSN, January 15, 1998, pp. 11-16.

[5] TSN, November 13, 1997, pp. 19-22.

[6] TSN, January 15, 1998, pp. 12-16.

[7] TSN, February 10, 1998, pp. 10-11.

[8] *Ibid.*, 17; TSN, March 6, 1998, pp. 10-11.

[9] TSN, March 31, 1998, pp. 3-11.

[10] TSN, March 31, 1998, pp. 4-7.

[11] Exhibit "Q"; Record, p. 94.

[12] TSN, July 15, 1998, pp. 10-13.

[13] *Ibid.*, pp. 13-15.

[14] *Ibid.*, pp. 15-18.

[15] *Ibid.*, pp. 18-19.

[16] *Ibid.*, pp. 19-20.

[17] *Ibid.*, pp. 22-23.

[18] TSN, September 16, 1998, pp. 6-10.

[19] *Ibid.*, pp. 13-14.

- [20] TSN, September 17, 1998, pp. 4-6; TSN, September 22, 1998, pp. 6-7.
- [21] TSN, September 17, 1998, pp. 7-8; TSN, September 22, 1998, pp. 7-8.
- [22] Rollo, pp. 27-72.
- [23] Rollo, p. 92; Brief for Accused-Appellants.
- [24] *People vs. Valla*, 323 SCRA 74 [2000], citing *Sumalpong vs. Court of Appeals*, 268 SCRA 764 [1997] and *People vs. Sison*, 189 SCRA 643 [1990]; *People vs. Fuensalida*, 281 SCRA 452 [1997].
- [25] 188 SCRA 407 [1990]; underscoring supplied; see also *People vs. Silvano*, G.R.Nos. 141105-11, March 8, 2002, *People vs. Estorco*, 331 SCRA 38 [2000] and *People vs. Cayabyab*, 27 SCRA 387 [1997].
- [26] TSN, January 15, 1998, pp. 27-29.
- [27] TSN, November 13, 1997, pp. 29, 33, 38.
- [28] TSN, January 15, 1998, pp. 13-15.
- [29] *People vs. Bato*, 325 SCRA 671 [2000].
- [30] *People vs. Mitra*, 328 SCRA 774 [2000].
- [31] *People vs. Pacificador*, G.R. No. 126515, February 6, 2002.
- [32] TSN, March 31, 1998, pp. 10-11.
- [33] *People vs. Appegu*, G.R. No. 130657, April 1, 2002.
- [34] *Ibid*; underscoring supplied.
- [35] *People vs. Monteron*, G.R. No. 130709, March 6, 2002; *Tecson vs. Sandiganbayan*, 318 SCRA 80 [1999].
- [36] *People vs Alvarado*, G.R. No. 145730, March 19, 2002.
- [37] *People vs. Lomerio*, 326 SCRA 530 (2000); *People vs. Merino*, 321 SCRA 199 [1999].
- [38] *People vs. Pacificador*, G.R. No. 126515, February 6, 2002 citing *People vs. Cañete*, 364 Phil. 423 [1999].
- [39] *People vs. Sindol*, G.R. No. 131734, March 7, 2002 citing *People vs Lascota*, 275 SCRA 591 [1997].
- [40] *People vs. Malansing*, G.R. Nos. 131736-37, March 11, 2001.
- [41] *People vs. Parana*, 64 Phil. 331 [1937].
- [42] Exhibit I, Records, p. 82.
- [43] G.R. No. 139777, August 11, 2003.
- [44] TSN, March 24, 1998, p. 9.

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