THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMSHAND THAMSEY Y CARIÑOSA, ACCUSED-APPELLANT.

G.R. No. 144179. July 19, 2001

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PER CURIAM:

This case was certified to this court for review pursuant to Rule 124, Section 13 of the 1988 Rules of Criminal Procedure in view of the decision,[1] dated August 15, 2000, of the Court of Appeals, modifying the decision of the Regional Trial Court, Branch 84 of Batangas City, which found accused-appellant guilty of attempted rape, and finding him guilty of rape instead and sentencing him to death.

The information against accused-appellant alleges:

"That sometime on the third week of November, 1994, at Sitio Pandayan, Barangay Poblacion I, Municipality of Bauan, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously lie with and have carnal knowledge with said Giselle Maris Bacalla, a five (5) year old minor, against her will and consent.

Contrary to law."[2]

As accused-appellant pleaded not guilty to the charge against him, he was tried.

The prosecution presented three witnesses, namely: Guadalupe Bacalla,[3] Giselle Maris Bacalla,[4] and Mateo Bacalla.[5] The gist of their testimonies is as follows:

Sometime in November 1993, the spouses Mateo and Guadalupe Bacalla moved to a rented house at 119 F. Mangobos St., Pandayan, Bauan, Batangas. Mateo was 39 years old and worked as a marine officer in a merchant ship. During the period of the alleged incident, he was on vacation from his work, but he attended classes on the use of satellite and techniques in Manila. He would leave early in the morning and return home at 8 o'clock in the evening. Guadalupe was also 39 years old and worked as a dentist. She maintained a clinic at home so that she could take care of their children. The clinic was adjacent to the sala of the main house which the Bacallas occupy and was connected to the sala by a small passageway. The clinic had two doors, one opening into the highway and another opening to an extension. In that extension, accused-appellant's sister, Delilah Dela Cruz, and her husband lived. Sometime in April 1994, accused-appellant Ramshand moved in his sister's quarters, while he was applying for a job.[6]

In the evening of November 24, 1994, while Guadalupe was watching television and her children were playing in the sala, she saw her three-year-old son, Gerald, remove his diaper, hug his sister Giselle, and press his private part against Giselle's. Giselle was five years old at that time (Exh. "A"). Guadalupe was surprised as she knew they never saw anything like it being done in the house nor in the movies. She asked Giselle why Gerald did it to her. Giselle cried and blurted out, "Gumaya lang yan kay Kuya Ramshand (accused-appellant)." Forthwith Guadalupe took her child upstairs and talked with her privately. Guadalupe lay Giselle on the floor and examined her private part. She found the vagina to be bleeding and reddish. When Guadalupe asked for an explanation, it

took Giselle time to answer as she was crying. When she was finally able to talk, Giselle told Guadalupe that because her brother Gerald went inside the extension occupied by accused-appellant and his sister, she followed to bring him home, but accused-appellant pulled her inside a room near the clinic, locked the door, lay her on a mat and inserted his penis inside her private part (Exh. "C").[7]

Guadalupe recalled that Giselle had a fever two or three days before their talk. She was always lying down and looking blankly in front of her. As Guadalupe was too busy attending to the household chores, since they had no maid at that time, she did not give much thought to her child's condition and simply gave her an analgesic, which Guadalupe usually does whenever her children have fever. Giselle complained to Guadalupe that she felt some pain in her vagina whenever she urinated. Guadalupe dismissed Giselle's complaint and chided her for urinating near the canal, which Guadalupe had forbidden her to do.[8]

On November 25, 1994, Guadalupe took Giselle to the Jose Reyes Hospital at San Lazaro, Sta. Cruz, Manila for an examination as she and her husband did not want anybody else to know what happened to their daughter. However, although they waited until late afternoon, Giselle was not seen by a doctor.[9]

The following day, November 26, Mateo went to the Bauan police station to report the matter and then proceeded to Bauan Community Hospital at about 9:00 a.m. where Giselle was examined. Dr. Violeta C. Ilagan,[10] the examining physician, issued a medical certificate (Exh. "B") containing the following findings:

> "RE: GISELLE MARIZ BACALLA
>
> TO WHOM IT MAY CONCERN:
>
> This is to certify that I have attended GISELLE MARIZ BACALLA 4 years of age, female, child filipino of Pandayan, Bauan, Batangas at about 9:00 A.M. November 26, 1994 with the following injuries sustained by her.
>
> FINDING:
>
> - Erythematous vulva with gaping labia minora.
>
> - Erythematous urethra.
>
> - Healed superficial laceration, hymen, 5 o'clock."[11]

Dr. Ilagan later testified in court. She said that the labia minora and the urethra of Giselle were reddish. According to her, in a child of about 4 years old, the opening of the vagina would normally be closed, but in Giselle's case, the vagina was gaping and the hymen had a superficial laceration, although there was no sign of congestion or bleeding. Dr. Ilagan opined that the injuries were caused by a plain or smooth object which was tried to be forcibly inserted inside the vagina of the victim, and were probably inflicted about 3 to 4 days (that is, November 22 or 23) prior to her examination.[12]

Giselle pointed to accused-appellant as the man who assaulted her. She testified that one morning, accused-appellant took her inside a room in an extension of the house where they were living and raped her. She said that accused-appellant's penis was big and caused her to scream in pain when accused-appellant forcibly inserted it into her vagina. No one heard her cry as her mother was inside the other part of the house while she was alone in the room with accused-appellant. Her brother Gerald was outside the room. After accused-appellant was through, her private part bled.[13]

After Giselle's physical examination, at about 5 o'clock in the afternoon of November 26, Guadalupe and Mateo brought Giselle to the police station of Bauan. Guadalupe and Giselle gave sworn statements in support of their

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complaint on the basis of which accused-appellant was taken into custody by the police for questioning.[14]

Accused-appellant, maintained that he could not have raped Giselle as he was training as a janitor at the Bauan Medicare Hospital for a week from November 22 to November 26, 1994, from 8:00 a.m. to 5 p.m. His sister Delilah testified that he would leave the house at 7:30 in the morning, come home for lunch at 11 a.m., leave again at 12:30 p.m., and come home in the afternoon between 5:30 p.m. to 6:00 p.m. In fact, accused-appellant was working on November 26, 1994 when he was picked up for questioning by the police.[15]

According to accused-appellant, the accusation of the Bacallas stemmed from an ill motive. He claims that complainant's family suspected accused-appellant's sister, Delilah, of having instigated complainant's maid to leave. Delilah testified that the maid complained that Guadalupe had been maltreating her and showed contusions on her arm. Because of what she saw, Delilah advised the maid to leave the Bacallas, which the latter did. As a result, the relationship between the Bacallas and Delilah turned sour.[16]

On rebuttal, Guadalupe Bacalla testified that from November 22 to 26, 1994, she saw accused-appellant hang around the premises of their house from 6 o'clock to 9 o'clock in the morning, before lunch and after lunch, then before 3 o'clock in the afternoon and in the evening. Her routine during that period was to wake up early at 6 o'clock and start washing clothes at 8 o'clock until noon, when she would start preparing lunch. While washing clothes, she would lock the door to the bathroom, where the washing machine was located, to prevent her son Gerald from bothering her. One day during that period, but prior to November 24, 1994, she saw accused-appellant at 9 o'clock in the morning and again just before lunch, standing near the door of her clinic. During that time, Giselle was watching television, running around afterward with her brother Gerald outside the house and in the garage. Accused-appellant was just standing there watching the passers-by. No one else was with him, as his sister Delilah was away at that time, and her husband, who was also a seaman, was out at sea. Later in the morning, Guadalupe noticed her daughter Giselle walking differently and complaining to her that she was having a strange feeling and that her body was aching all over. Giselle then had a fever, which Guadalupe treated with an analgesic, as was her habit when her children were sick.[17]

On rebuttal, Mateo Bacalla testified that the Bauan Medicare Hospital, where accused-appellant was allegedly training as a janitor, was only about 200 meters from their house.[18]

On January 10, 1996, the trial court rendered its decision, the dispositive part of which reads:

> "WHEREFORE, finding the accused RAMSHAND THAMSEY y CARINOSA guilty of the crime of Attempted Rape, he is hereby sentenced to serve imprisonment for a period of seventeen (17) years, as maximum, and twelve (12) years, as minimum, to be served by him at the National Penitentiary at Muntinlupa, Metro Manila, and to pay the offended party: P30,000.00 as indemnity, P20,000.00 as moral damages, and P10,000.00 as exemplary damages.
>
> SO ORDERED.[19]"

Accused-appellant appealed to the Court of Appeals, but later filed a plea to withdraw his appeal in a letter dated June 8, 1999, as he could not contact his lawyer and he was already qualified for conditional pardon.[20] The Court of Appeals denied his petition for lack of merit as the appellee's brief had already been filed earlier on March 19, 1999.[21]

On August 15, 2000, the Court of Appeals set aside the trial court's decision and found accused-appellant guilty of rape and sentenced him to suffer the penalty of death. Hence, this appeal.

The issues raised in this case are whether or not accused-appellant is guilty beyond reasonable doubt of the crime of rape and whether the penalty of death is the appropriate penalty.

I.

In the review of rape cases, this Court is guided by three principles: (1) An accusation for rape is easy to make, difficult to prove, and even more difficult for the person accused, though innocent, to disprove; (2) In view of the intrinsic nature of the crime of rape, where only two persons are usually involved, the testimony of the complainant must be scrutinized with the utmost caution; and (3) The evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence for the defense.[22]

As provided by the Revised Penal Code prior to the amendment by the Anti-Rape Law of 1997,[23] rape is committed by having carnal knowledge of a woman by means of force or intimidation, or when she is deprived of reason or otherwise unconscious, or when she is under twelve (12) years of age or is demented. Carnal knowledge, which requires at least the entrance of the male organ within the labia of the pudendum of the female organ, is an essential element in the crime and must be proven beyond reasonable doubt.[24] Proof beyond reasonable doubt does not require absolute certainty but merely moral certainty on each element essential to constitute the offense and on the responsibility of its author.[25] Our review of the evidence in this case convinces us that accused-appellant is guilty not only of attempted but consummated rape.

A. Giselle's testimony, taken together with the physical evidence, proves beyond reasonable doubt that accused-appellant inserted his penis inside her vagina, although there may not have been full penetration. Giselle testified as follows:

> "ATTY. DELGADO:
>
> The question was centered on November 21, Your Honor. Now, during the time on November 21, 1994, while you were in your residence in Bauan, Batangas, do you remember having seen the accused, 'Kuya Ramshand Thamsey?'
>
> WITNESS:
>
> Yes, Sir.
>
> Q:
>
> What was Ramshand doing then?
>
> A:
>
> In the house.
>
> Q:
>
> Can you tell the Court what was the incident that happened?
>
> WITNESS:
>
> 'Ipinasok ako sa kuwarto.'

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Q:

What happened if any to you and Ramshand when you were brought or when he entered your room?

WITNESS:

I was locked in the room. (Witness telling the word 'pipi'.)

ATTY. DELGADO, JR.:

When you were locked inside the room, did anything happened to you and 'Kuya Ramshand'?

WITNESS:

Yes, Sir.

Q:

What was that incident?

A:

The penis was inserted to my private part mentioning 'pipi'

Q:

Were you wearing a panty at that time?

A:

Yes, sir.

Q:

Now, did 'Kuya Ramshand' remove your panty?

ATTY. ILAO:

Your Honor, while we understand that the child ordinarily should be asked leading questions when it comes to matters that surround the suppose crime itself, I think Your Honor, leading questions should not be allowed anymore because it will not be the witness anymore who will be testifying it will be the private prosecutor.

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COURT:

Witness may answer.

WITNESS:

Yes, Sir.

ATTY. DELGADO, JR.:

Now, what did you feel when Kuya Ramshand inserted his penis to your vagina?

ATTY. ILAO:

We object Your Honor, the accused here will be defenseless.

ATTY. DELGADO, JR.:

According to the witness, Your Honor.

ATTY. ILAO:

It will be the counsel who were actually testifying it. The counsel Your Honor is putting words into the mouth of the witness.

What protection will the accused have, Your Honor.

COURT:

You can cross the witness. Witness may answer.

WITNESS:

Yes, sir.

ATTY. DELGADO, JR.:

What did you feel Giselle?

WITNESS:

Painful.[26]

When asked by the court, Giselle testified:

COURT:

The Court will ask further question to the witness.

'Giselle, sinabi mo na ipinasok ni Kuya Ramshand yung titi niya sa pipi mo. Malaki ba o maliit ang titi ni Kuya Ramshand. Malaki o maliit?

WITNESS:

Big, Your Honor.

COURT:

'Noong pagpasok ng titi ni Ramshand sa pipi mo, ang pangyayari noon, umaga ba yun ?'

WITNESS:

Yes, Your Honor.

COURT:

'May dugo ba sa pipi mo pagkatapos?'

WITNESS:

Yes, Your Honor.

COURT:

'Hindi ka sumigaw?'

WITNESS:

Sumigaw po. (I shout.)

COURT:

'Maliban sa iyo at kay Kuya Ramshand, sinong kasama ninyo sa kuwarto?'

WITNESS:

No other person, Your Honor.

COURT:

Nasaan ang kapatid mong si Gerald noong ipinasok ni Ramshand ang titi niya sa pipi mo?'

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WITNESS:

In the house, Your Honor.

COURT:

'Sa labas ng kuwarto mo?'

WITNESS:

Yes, Sir."[27]

Accused-appellant cites Giselle's testimony on cross- examination as her alleged admission that she had been taught what to say:

"Q:

Before you took that seat and before you were asked questions, you talked to the lawyer who was asking you questions a while ago, that is true?

A:

Yes, Sir.

ATTY. ILAO:

And you were told by that man, the lawyer, what to say in Court this morning, that is true?

ATTY. DELGADO, JR.:

That would be vague, Your Honor. The question will be vague considering the tender age of the child because the question implies so many aspect. It is a general statement or question that could admit several answers. So may we request that the counsel for the defense be profound with his questions specifically, Your Honor.

COURT:

What is the question again?

ATTY. ILAO:

I will reform the question Your Honor. Giselle, you were told by that man that to each and every question, you would answer `yes', that is correct?

ATTY. DELGADO, JR.:

Misleading Your Honor. Because there are questions which were found in very point that the answer of the witness was 'yes'.

ATTY. ILAO:

Precisely Your Honor. We are dealing here with a child of tender age and the defense will be virtually helpless if we will not be allowed to ask this kind of question.

COURT:

Witness will answer.

WITNESS:

Yes, Sir.

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ATTY. ILAO:

Before you came here this morning, you and your Mommy were talking with each other, that is correct?

WITNESS:

Yes, sir.

Q:

And you were told by your Mommy to say 'yes' to the questions here that will be asked of you, that is correct?

A:

Yes, sir.[28]

xxx xxx xxx

ATTY. ILAO:

Before you came here this morning, you talked with your mother or your mama, that is correct?

W:

Yes, sir.

Q:

And that your mama taught you what to say here?

W:

Yes, sir.

Q:

She taught you how to answer or what to answer to the questions that will be asked of you?

WITNESS:

Yes, sir."[29]

Giselle's cross-examination was conducted on two different dates. On the first day (April 5, 1995), the defense counsel ended by asking Giselle if she had been told to say "Yes" to the questions asked during her direct and cross-examination. Her cross-examination was continued on June 20, 1995, with the defense counsel asking the same question. If Giselle had been taught what to say, she could easily have said "No" to the questions asked, which were all leading questions, because she could have been coached in the intervening period. Indeed, Giselle could not have admitted she was lying, as she said that she knew that lying is wrong.[30] In all probability, she received instructions on what to expect during trial, which a lawyer usually gives to his witnesses to prepare them for the strange environment of the court and the trial. This was especially true of one as young as Giselle.

Indeed, Giselle did not always answer "Yes" to every question asked. On cross-examination, Giselle testified:

"Q:

You called Ramshand, 'Kuya Ramshand', that is correct?

A:

Yes, Sir.

Q:

You called him 'Kuya' because he has been kind to you, that is correct?

WITNESS:

No, Sir."[31]

It should also be remembered that the victim Giselle was only five years old at the time of the rape. At such a tender age, she could not have told a tale of sexual assault perpetrated on her by accused-appellant if this was not true.[32] If she had been taught what to say in court by her mother and the private prosecutor, she would have slipped when questioned by the court and by the defense counsel. However, on cross-examination and questioning by the Court, her answers were simple, direct, spontaneous and befitting a person her age. There was no sign of prevarication or dissimulation.

B. Accused-appellant invokes the defense of alibi. To be sure, alibi is the weakest of defenses as it is not only self-serving, but also easy to fabricate and difficult to disprove.[33] It cannot prevail over the positive identification of the accused by the victim.[34] In this case, as the foregoing testimony of Giselle clearly indicates, it was accused-appellant who had abused her.

For the defense of alibi to prosper, it is not sufficient that accused-appellant prove that he was somewhere else when the offense was committed. He must likewise show that it was physically impossible for him to be present at the place at the time of the commission of the crime.[35] In this case, it was not physically impossible for accused-appellant to have gone home as the Bauan Medicare Hospital, where he claimed to be undergoing training as a janitor, is only 200 meters away from their house. It was entirely possible for him to have gone home during his morning break. Indeed, Giselle's mother, Guadalupe, testified that she used to see accused-appellant at 9:00 a. m., at lunch, and at 3:00 p. m. near her clinic, which is adjacent to the extension in which accused-appellant was staying.

In support of his alibi, accused-appellant merely presented an identification card, which does not even show the duration of his training and his sister, who testified as to the time of his departure from and arrival at their home, to prove that he was on training as a janitor at the Bauan Medicare Hospital from November 22 to 26, 1994. This evidence does not show that it was physically impossible for accused-appellant to be in his dwelling place at the time of the commission of the offense. It does not even show how he actually spent his day from November 22 to 24 (the approximate time of the commission of the rape), as it only gave a general idea of his normal routine during that period. Nor could accused-appellant's sister have been able to account with any certainty for accused-appellant's whereabouts during the period in question as she also went out of the house during the day to attend to her business of buying and selling goods and collecting from her customers.

C. Accused-appellant's allegation of ill motive against the Bacallas is without basis. No parent would fabricate a horrible tale of rape committed against his or her daughter who in this case was only 5 years old, and expose her to the trauma of a public trial just to exact revenge against his or her enemy.[36] Moreover, even if Guadalupe Bacalla was moved by the desire for revenge against accused-appellant's sister, she would have directed it against accused-appellant's sister and not against accused-appellant.

D. Guadalupe's failure to examine Giselle's genitalia, in spite of her complaint that it was painful when she urinated, can be explained by the fact that during that period Guadalupe was busy and harassed from doing the household chores in addition to taking care of their four children and her clinic because the family had no maid at that time. As Giselle testified:

"Q:

It is your Mommy who is taking care of you in your house, that is correct?

A:

No, Sir.

Q:

Is it not that, it is your mommy who is giving you a bath every day before going to school?

A:

Yes, Sir.

Q:

Every night, she is also the one changing your dress including your panty before going to bed, is it not?

A:

No, Sir.

Q:

You mean you can change your own dress, you were taking care of yourself?

A:

Yes, Sir.

Q:

But every night before going to bed, you talked to your mommy, is it not?

A:

No, Sir.

Q:

You don't kiss your mommy goodnight?

A:

Yes, Sir.

Q:

You kiss your Mommy goodnight?

A:

Yes, Sir."[37]

When Giselle had a fever, Guadalupe did what she habitually does when anyone of her children is sick: she gave Giselle some analgesic.

From Guadalupe's testimony, it is clear that when Giselle complained about pain in her vagina, Guadalupe thought it was merely caused by Giselle's urinating near the canal, which she had forbidden her to do.

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E. Guadalupe's claim that she learned of Giselle's abuse only when she saw her son Gerald pressing his genitals against Giselle's does not contradict Giselle's testimony that Gerald was outside the room when the incident happened. Giselle did not really know where her brother was at the time of the incident. The last time she saw her brother was just before accused-appellant closed the door behind them. Giselle did not know if Gerald did not see through a window what accused-appellant was doing to her.

Indeed, what is important here is that it was Gerald's seeming imitation of what accused-appellant did to Giselle which startled his mother and led her to ask Giselle why Gerald was doing that to her. What is more, as already stated, Giselle positively identified accused-appellant as the person who raped her.

II.

The Court of Appeals was correct in imposing the death penalty. Art. 335 of the Revised Penal Code, as amended by Rep. Act No. 7659, which took effect on December 31, 1993,[38] imposes the penalty of death when the victim of rape is a child below seven years of age. In this case, as the age of Giselle, who was five years old at the time the rape was committed, was alleged in the information and proven during trial by the presentation of her birth certificate, the imposable penalty is death.

Four (4) members of the Court, although maintaining their adherence to the separate opinions expressed in People vs. Echegaray[39] that Rep. Act No. 7659, insofar as it prescribes the penalty of death, is unconstitutional, nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should accordingly be imposed.

The Court of Appeals, however, erred in not awarding civil indemnity and moral damages in favor of the victim. In People vs. Victor,[40] this Court ruled that if rape is committed or qualified by any of the circumstances which authorize the imposition of the death penalty, the civil indemnity shall be not less than P75,000.00. In addition to such indemnity, the victim is also entitled to recover moral damages pursuant to Art. 2219 of the Civil Code in such amount as the court deems just, without the necessity for pleading or proof of the basis thereof, other than the fact of the commission of the offense.[41] Thus, under the circumstances of the case, the victim is entitled to civil indemnity in the amount of P75,000.00 and to moral damages in the amount of P50,000.00.

WHEREFORE, the judgment of the Court of Appeals imposing the death penalty is AFFIRMED with the MODIFICATION that accused-appellant is ordered to pay the victim Giselle Maris Bacalla P75,000.00 as civil indemnity and moral damages in the amount of P50,000.00.

In accordance with Section 25 of Rep. Act 7659, amending Art. 83 of the Revised Penal Code, upon finality of this decision, let certified copies thereof, as well as the records of this case, be forwarded without delay to the Office of the President for possible exercise of executive clemency.

SO ORDERED.

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

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[1] Per Justice Conchita Carpio-Morales and concurred in by Justices Teodoro P. Regino and Renato C. Dacudao.

[2] Records, p. 1.

[3] TSN (Guadalupe Bacalla), March 28, 1995, pp. 6-49; TSN, May 11, 1995, pp. 15-68; TSN, June 21, 1995, pp.

2-16; TSN, Dec. 5, 1995, pp. 11-18.

[4] TSN (Giselle Bacalla), April 5, 1995, pp. 3-21; TSN, June 20, 1995, pp. 1-21.

[5] TSN (Mateo Bacalla), June 21, 1995, pp. 16-28; TSN, Dec. 5, 1995, pp. 5-11.

[6] TSN (Guadalupe Bacalla), March 28, 1995, p. 36; TSN, May 11, 1995, pp. 63-65; TSN, March 28, 1995, pp. 12-13; TSN (Delilah de la Cruz), Oct. 19, 1995, p. 6; TSN (Mateo Bacalla), June 21, 1995, pp. 16-18.

[7] TSN (Guadalupe Bacalla), March 28, 1995, pp. 17-23; Records, pp. 5, 7.

[8] TSN (Guadalupe Bacalla), May 11, 1995, pp. 39-45.

[9] TSN (Guadalupe Bacalla), March 28, 1995, pp. 24, 45.

[10] TSN (Guadalupe Bacalla), March 28, 1995, pp. 25-27.

[11] Records, p. 8.

[12] TSN (Dr. Violeta Ilagan), March 30, 1995, pp. 10-13, 16.

[13] TSN (Giselle Bacalla), April 5, 1995, pp. 6, 10-12, 19-20.

[14] TSN (Guadalupe Bacalla), May 11, 1995, p. 23; TSN, June 21, 1995, p. 9; TSN (Ramshand Thamsey), Nov. 22, 1995, p. 4.

[15] TSN (Ramshand Thamsey), Nov. 22, 1995, pp. 4-5, 7-9; TSN (Delilah de la Cruz), Oct. 19, 1995, pp.17-18.

[16] TSN (Delilah de la Cruz), Nov. 16, 1995, pp. 10-14.

[17] TSN (Guadalupe Bacalla), December 5, 1995, pp.13-18.

[18] TSN (Mateo Bacalla), September 5, 1995, pp. 10-11.

[19] Decision, pp. 3-4; Rollo, pp. 73-74.

[20] Rollo, p. 98.

[21] Id., pp.110-111.

[22] People vs. Gutierrez, G. R. No.132772, August 31, 2000; People vs. Abangin, 297 SCRA 655 (1998); People vs. Manansala, 273 SCRA 502 (1997).

[23] Rep. Act No. 8353.

[24] People vs. Masalihit, 300 SCRA 147 (1998).

[25] RULES OF COURT, Rule 133, Sec. 2; People vs. de la Cruz, G. R. No.133921, June 1, 2000; People vs. Magana, 259 SCRA 380 (1996).

[26] TSN (Giselle Bacalla), April 5, 1995, pp. 10-12.

[27] Id., pp. 19-20.

[28] TSN (Giselle Bacalla), April 5, 1995, pp. 13-14.

[29] TSN (Giselle Bacalla), June 20, 1995, pp. 8-9.

[30] TSN (Giselle Bacalla), April 5, 1995, p. 7.

[31] Id., pp. 14-15.

[32] People vs. Baygar, 318 SCRA 360 (1999).

[33] People vs. Geromo, 321 SCRA 355 (1999).

[34] People vs. Narido, 316 SCRA 131 (1999).

[35] Id.

[36] People vs. Geromo, 321 SCRA 355 (1999); People vs. Liquiran, 228 SCRA 62 (1993).

[37] TSN (Giselle Bacalla), April 5, 1995, p. 16.

[38] People vs. Midtomod, 283 SCRA 395. (1997).

[39] 267 SCRA 682 (1997).

[40] 292 SCRA 186 (1998).

[41] People vs. Silvano, 309 SCRA 362 (1999).

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