

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALBERTO ROMERO Y BARBACINA, AND PATROCINIO ROMERO Y NEO, APPELLANTS.

G.R. No. 145166. October 08, 2003

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before us is an appeal from the Decision of the Regional Trial Court, Branch 171, Valenzuela City, in Criminal Case No. 226-V-98, finding appellants Alberto Romero and Patrocinio[1] Romero guilty beyond reasonable doubt of the crime of murder.

The Information[2] filed against appellants reads:

That on or about April 17, 1998, in Valenzuela, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any justifiable cause, with treachery, evident premeditation and with deliberate intent to kill, did then and there willfully, unlawfully and feloniously attack, stab and struck (sic) one ERICK TRINIDAD, thereby inflicting upon the latter serious physical injuries which cause[d] his death.

When arraigned on May 15, 1998, appellants pleaded not guilty.[3] Trial ensued.

The Prosecution's Evidence

Eyewitness JEFFERSON TRINIDAD, 20 years old, a student, testified that on April 17, 1992, between 11:30 p.m. and midnight, [4] he was inside their house at Punturin, Valenzuela, Metro Manila, listening to the radio. Then he heard something hit the roof of their house. He went downstairs and saw his brother, Jayson, shouting at the driver of a truck to stop because he bumped the roof of their house. He joined Jayson in chasing the truck. They failed to catch up with the truck so they used a short cut. When they passed by a fair, they were joined by their friends, namely, Richard Fernandez, Allan Lining, Benjamin Valenzia and Bonifacio Valenzia. They caught up with the truck near the church in Lawang Bato, Valenzuela. They stopped the truck by standing in the middle of the road. When the truck stopped, Jefferson approached the driver, appellant Patrocinio Romero, and asked him why he ran away from his responsibility after he hit the roof of their house. Jefferson's brother, Jayson, was with him and they shouted at the driver to alight and talk with them. Patrocinio refused to go down, so Jefferson and Jayson kept on shouting at him to alight from the truck. Patrocinio then alighted from the truck carrying a lead pipe. Patrocinio ran after them, and was able to catch up with Jayson. Jefferson picked up a stone and would have thrown it at Patrocinio, but the helper of the truck, appellant Alberto Romero, suddenly approached him and stabbed him on the left arm with a knife.[5] Jefferson fell down. Alberto was about to stab him again, but Jefferson kicked him. Jefferson managed to run away about ten arms length from the front of the truck.[6]

Jefferson testified that while he was running, he saw his cousin Erick Trinidad driving an owner-type jeep. Erick stopped and Jayson talked to him. Erick asked Jayson what was happening. Jayson was not able to answer because appellant Alberto Romero arrived. Alberto was running towards Jayson and Erick. Jefferson shouted to warn Erick and Jayson, but Alberto was so near them. Jayson was facing Alberto, but he was not able to speak

because Alberto was fast approaching. At that time, their four companions ran away. Jefferson was about three (3) arms length away from Erick and Jayson. Then Jefferson saw Alberto stab Erick thrice at the back. Erick fell down. Thereafter, appellant Patrocinio Romero, who was beside Alberto, hit Erick with a lead pipe several times. Jefferson testified that he could not do anything because he was already injured. His brother, Jayson, ran away. The place of the incident was then illuminated by light coming from a Meralco post. [7]

Further, Jefferson testified that the assailants escaped. He sought help from a mobile car, which chased the assailants' truck. Jefferson was brought to the Lozada General Hospital in Malhacan, Meycauayan, Bulacan. Erick died before reaching the hospital. [8]

Jefferson executed a sworn statement[9] in connection with this case. He also identified the fan knife (Exhibit "G") which was used by appellant Alberto Romero in stabbing him and Erick Trinidad. [10]

OFELIA SANTIAGO, a friend of the victim Erick Trinidad, testified that at midnight of April 17, 1998, she was with Erick on board an owner-type jeep, with Erick driving. When they passed by Lawang Bato, Valenzuela, they witnessed a commotion involving about three or four persons, including Erick's cousin, Jayson Trinidad. Erick stopped the jeep about three (3) to four (4) arms length away from the front of a truck. Erick alighted, while Ofelia remained on the jeep. Erick talked with Jayson Trinidad. Ofelia could see only Erick's back from her position on the jeep. She heard Jayson asking help from Erick. Thereafter, Ofelia saw someone suddenly appear and hit Erick on the head with a lead pipe. Then another person appeared and stabbed Erick at the back. Ofelia was about three (3) to four (4) arms length away from them. The place was illuminated by light coming from a Meralco post. When Erick's assailants left, Ofelia approached Erick and noticed that he was still breathing. When a car passed by, Ofelia sought help. The driver brought Erick to the Lozada Hospital at Meycauayan, Bulacan. [11]

In the courtroom, Ofelia Santiago pointed at the person who hit the victim with a lead pipe, and he identified himself as Patrocinio Romero. She also pointed at the person who stabbed the victim, and he identified himself as Alberto Romero. [12]

SPO3 MARIO CAPANGYARIHAN, a member of the Valenzuela Police Station testified that at midnight of April 17, 1998, he was assigned as the lone sentinel of Block 1 situated at Paso de Blas. He received a call by radio from his Block Commander Tony Ng that a cargo truck with Plate No. UCU 257 was involved in a vehicular accident at Lawang Bato, Valenzuela, Metro Manila, and that its driver abandoned the owner-type jeep after hitting it. After the call, he saw said cargo truck with Plate No. UCU 257 on top of the bridge going to Balintawak, which was about 50 meters away from him. He signaled the truck to stop, but it did not stop. He ran to a checkpoint and asked a mobile car to chase the truck. The mobile car later returned with the driver of the truck and his companion, who were identified in court by SPO3 Capangyarihan as appellants Patrocinio Romero and Alberto Romero. Block Commander Tony Ng brought appellants to the headquarters. [13]

DR. MA. CRISTINA FREYRA, medico-legal officer of the Philippine National Police Crime Laboratory, EPDC Kababayan Center, Mandaluyong City, conducted the autopsy of the victim's body at the Candido Funeral Homes on April 17, 1998. She prepared an anatomical sketch[14] of the location of the victim's injuries and an autopsy report[15] with the following findings:

x x x x x x x x

POSTMORTEM FINDINGS:

x x x x x x x x

1)

Abrasion, right ear, measuring 5 x 3 cm.

2)

Contusion, right temporo-occipital region, measuring 10 x 7 cm, 10 cm from the posterior midline.

3)

Stab wound, left scapular region, measuring 2.3 x 0.5 cm, 25 cm from the posterior midline, 144 cm from the heel, 8 cm deep, directed anteriorwards, downwards and medialwards, fracturing the left scapula.

4)

Stab wound, left interscapular region, measuring 2.5 x 0.5 cm, 4.5 cm from the posterior midline, 125 cm from the heel, 10 cm deep, directed anteriorwards, downwards and lateralwards, piercing the lower lobe of the left lung and the left dome of the diaphragm.

5)

Stab wound, proximal 3[rd] left arm, measuring 7 x 5 cm, just medial to its posterior midline, 10 cm deep, directed anteriorwards, downwards and medialwards, passing thru the 3[rd] left intercostal space, piercing both lobes of the left lung.

6)

Abrasion, left elbow, measuring 10 x 4 cm, 4 cm lateral to its posterior midline.

7)

Linear abrasion, left elbow, measuring 8.5 cm long, 3 cm medial to its posterior midline.

8)

Abrasion, right elbow, measuring 1.1 x 0.5 cm, 7 cm medial to its posterior midline.

9)

Area of multiple abrasions, right knee, measuring 20 x 9 cm, bisected by its anterior midline.

10)

Area of the multiple abrasions, left knee, measuring 20 x 7 cm, bisected by its anterior midline.

There is subdural and subarachnoidal hemorrhage.

There is about 1,500 cc of blood and blood clots in the thoracic cavity. x x x

Dr. Freyra testified that the victim sustained three stab wounds at the back: (1) a stab wound at the left scapular region fracturing the left scapula; (2) a stab wound at the left interscapular region involving the lower lobe of the left lung and the left dome of the diaphragm; and (3) a stab wound on the proximal third left arm piercing both lobes of the left lung. The victim also sustained a contusion at the temple, abrasions at the left ear, at the left and right elbows, and at the left and right knees. [16]

According to Dr. Freyra, the cause of death is "traumatic injury on the head and stab wound on the trunk," which

is reflected in the death certificate[17] which she prepared. [18]

EMILIA TRINIDAD, wife of the victim, testified that she was at their residence at the time of the stabbing incident, and was merely informed about what happened. [19] She submitted in evidence receipts[20] totaling P156, 150, which represented the funeral, burial and other expenses incurred due to the victim's death as follows: coffin, P75,000; memorial garden lot, P26,000; rented tables and chairs, etc., P12, 875; concrete vault, P5,000; rented tables and chairs, etc., P2,450; four sows, P34,825.

The Defense's Evidence

Appellant PATROCINIO ROMERO (Patrocinio), 42 years old, married, denied that he and Alberto Romero conspired to assault, strike and stab Eric Trinidad on April 17, 1998 at about 12:30 a.m. at Lawang Bato, Valenzuela City. He also denied the allegation of prosecution witness Jefferson Trinidad that he struck Erick Trinidad with a lead pipe after Alberto Romero stabbed him. [21]

Patrocinio testified that he was a licensed professional driver. On April 17, 1998, he was driving a cargo truck with Plate No. UCU 257 from Punturin, Valenzuela City bound for Bicol. [22] While he was at Punturin, Valenzuela City, he heard something fall down at the rear of his truck. He stopped and went to the back of his truck to check. Suddenly three men stoned him and he was hit at the back once. The men were beside the street where they were having a drinking session at the right side of the truck. Patrocinio ran and boarded his truck and drove towards the direction of Lawang Bato, Valenzuela City. He woke up his two helpers, appellant Alberto Romero and Dandan Sambao, but they continued sleeping. Alberto was seated beside Patrocinio (at the latter's right side), while Dandan was seated at the back seat. [23]

Patrocinio testified that about ten minutes after he sped away towards Lawang Bato, an owner-type jeep blocked their way. The jeep stopped in front of his truck and he suddenly stopped about one arm length away from the jeep. There were about seven (7) passengers on board the jeep. The passengers carried bats and bladed weapons. Two of the passengers went up the stepping board and held on to the door of his side of the truck, while the driver of the jeep went up to the right side of the truck. The driver of the jeep was fat and tall, with dark brown complexion, and was one of those who on a drinking spree the first time he was stoned at Punturin, Valenzuela City. Patrocinio was not sure if the two men who went up to his side of the truck were among those who were having a drinking spree because he did not remember their faces. However, the two men were reeking of liquor at that time. They shouted, "Baba, baba, mga putang-ina n'yo." Patrocinio answered that he would not fight back. The two men pulled Patrocinio's left arm and he lost his watch. Patrocinio locked the door of the truck and the two men released him. At that time, Patrocinio's two helpers were awakened by the noise. One helper covered himself behind the seat of the truck, while the other remained seated on the truck. Meanwhile, the two men who accosted Patrocinio went in front of the truck and started stoning them. Consequently, the windshield of the truck was shattered. The subsequent stoning hit Patrocinio on the face, which made him dizzy. Patrocinio maintained that he did not alight from the truck; hence, he denied the allegation of prosecution witness Jefferson Trinidad that he chased them and that he hit Eric Trinidad with a lead pipe. [24]

Patrocinio further testified that after the stoning incident at Lawang Bato, Valenzuela City, he left for the toll gate at the North Expressway to find a policeman and report the incident. At the expressway, they saw a policeman. They voluntarily went with said policeman who accompanied them to the hospital. After their injuries were treated at the hospital, they were brought to the headquarters in Valenzuela where they were detained. [25] He executed a counter-affidavit[26] in connection with the case.

Patrocinio also testified that he had the incident blotted, but he did not file a complaint against the persons who stoned him because they were already detained. [27]

Patrocinio submitted a medical certificate, [28] pictures[29] of the injuries he sustained, and pictures[30] of the shattered windshield of the truck as evidence of the stoning incident. Said medical certificate[31] dated April 23, 1998 showed that Patrocinio Romero sustained a one-centimeter lacerated wound on the left eyebrow and contusion on the "peri-orbital area left and right," requiring less than nine (9) days of medical treatment.

Appellant ALBERTO ROMERO (Alberto), 26 years old, single, denied that he and Patrocinio Romero conspired to assault Eric Trinidad on April 17, 1998 at Lawang Bato, Valenzuela City. He also denied that he stabbed Eric Trinidad. [32]

Alberto testified that he was one of the truck helpers of a cargo truck with Plate No. UCU 257, which was owned by Roland Enterprises. The other truck helper was Dandan Sambahon. Their truck driver was appellant Patrocinio Romero. On April 17, 1998, between midnight and 1:00 a.m., they came from a factory of junk foods in Punturin and were on their way home to Bicol. Alberto admitted that he had no personal knowledge about the incident in Punturin, Valenzuela City. He did not know that Patrocinio alighted from the truck after hearing a thud, and that several persons ran towards their truck. Said facts were only relayed to him by Patrocinio.[33]

According to Alberto, when an owner-type jeep suddenly blocked their way, he remained seated, while the other truck helper was sleeping. When the jeep stopped, the passengers alighted holding lead pipes and bladed weapons and surrounded them. Two men went up the side of Patrocinio and insisted that he should go down. The other passengers of the jeep were standing and shouting, "Bumaba kayo diyan, mga putang-ina n'yo." Patrocinio told them that they had done no wrong and they would not fight. Unable to make Patrocinio go down, the two men went down the truck and stoned them. The truck's windshield was shattered. Alberto sustained a four-centimeter lacerated wound on the left temple due to the stoning incident as evidenced by pictures[34] and a medical certificate. [35]

Moreover, Alberto testified that somebody was able to open the door beside him and pulled him out. He claimed that he was mauled by four (4) persons who were carrying bladed weapons and lead pipes, but he did not suffer any injury. He declared that he was able to bring out his fan knife ("balisong") and aimlessly swung it at the persons mauling him. He did not notice hitting anybody because he was then afraid. When his assailants moved backward, he boarded the truck because he was afraid that they might attack him again. Patrocinio then drove away. [36] Alberto executed a counter-affidavit[37] in connection with this case.

DR. WILFREDO F. GUERRERO of the Valenzuela District Hospital testified that he treated appellants Patrocinio Romero and Alberto Romero on April 17, 1998 at the emergency room. Their medical record showed that Patrocinio Romero sustained a one-centimeter lacerated wound on the left eyebrow and a contusion on the peri-left and right orbital area. Dr. Guerrero declared that said injury was probably caused by a blunt instrument. Alberto Romero sustained a four-centimeter lacerated wound on the left temple and was found positive for alcoholic breath. The medical treatment of appellants was noted on pages 226 and 227 of the hospital's medico-legal logbook, which was presented by Dr. Guerrero in court. Dr. Guerrero also presented a copy of the medical certificates dated April 23, 1998 issued to appellants Patrocinio Romero and Alberto Romero.[38]

On August 18, 2000, the Regional Trial Court rendered a Decision,[39] the dispositive portion of which reads:

WHEREFORE, [finding] accused Patrocinio Romero y Neo and Alberto Romero Guilty beyond reasonable doubt of the crime charged, the Court hereby sentences each to suffer the penalty of Reclusion Perpetua.

Accused are hereby ordered to pay, jointly and severally, the heirs of the late Enrico "Erick" Trinidad the amount of P161,150.00 for actual expenses incurred on account of the death of the victim and the further sum of P50,000.00 as death indemnity with costs of suit.

SO ORDERED.[40]

The trial court found the testimonies of prosecution witnesses Jefferson Trinidad and Ofelia Santiago to be clear, straightforward and worthy of credence.[41] Said witnesses positively identified appellants as the perpetrators of the crime.[42] The trial court held that conspiracy was present in the commission of the crime.[43] It also ruled that the crime was attended by treachery, which qualified the killing to murder.[44]

Appellants contend that the trial court erred, thus:

a)

The trial court erred in finding the appellants guilty of MURDER (as qualified by treachery and evident premeditation);

b)

The trial court erred in finding the existence of CONSPIRACY between the appellants;

c)

The trial court erred in imposing the penalty of RECLUSION PERPETUA on the appellants;

d)

The trial court erred in finding the appellants to be civilly liable to the heirs of the deceased Enrico "Erick" Trinidad.[45]

The Court's Ruling

Credibility of the Prosecution Witnesses

Appellants question the credibility of prosecution witnesses Ofelia Santiago and Jefferson Trinidad who they claim are biased witnesses as Ofelia was an intimate friend of the victim and Jefferson was one of those who chased them at Punturin, Valenzuela City (and also the victim's cousin).

It is well-settled that mere relationship of a witness to the victim thus not impair the witness' credibility.[46] On the contrary, a witness' relationship to a victim of a crime would even make his or her testimony more credible as it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody other than the real culprit.[47] In the same manner, even if Ofelia Santiago is a close friend of the victim, such a relationship does not impair her credibility. Moreover, there is no evidence that prosecution witnesses Jefferson Trinidad and Ofelia Santiago were actuated by improper motive in testifying against appellants; hence, their testimonies are entitled to full faith and credit.[48]

Prosecution witness Jefferson Trinidad testified, thus:

X X X X X X X X

Q

And what happened after you saw Eric Trinidad driving on board an owner jeep coming?

COURT:

Was he driving or what?

FISCAL RAZON:

Q

Was he on board or driving?

A

Driving, sir.

Q

Now, what happened after that?

A

He stopped.

Q

And when he stopped what did he do next?

A

Jayson Trinidad talked to him.

Q

How far were you from the place when you saw Eric Trinidad talking to Jayson Trinidad?

A

Three (3) arms length away, sir.

Q

So when you saw Eric Trinidad talking to Jayson at a distance of three (3) arms length from the place where you were what happened next?

A

I saw Alberto stabbed Eric Trinidad while the latter's back was facing (sic).

Q

Who was with Alberto Romero?

A

Patrocinio, sir.

Q

Now, while Eric Trinidad was talking to Jayson Trinidad and Alberto stabbed the victim at his back where was this Patrocinio Romero?

A

He was beside Alberto.

Q

And what was he doing?

A

And when Eric Trinidad fell down . . .

ATTY. PADUA, JR:

Not responsive, Your Honor.

FISCAL RAZON:

Q

What happened to Eric Trinidad when he was stabbed by Alberto Romero?

A

He fell down.

Q

And after he fell down what happened next?

A

He was hit by Patrocinio.

Q

How many times was Eric Trinidad hit by Patrocinio Romero?

A

Several times, sir.

Q

And what thing did Patrocinio Romero use in hitting Eric?

A

A large piece of lead pipe.

x x x x x x x x

Q

So where was the accused Alberto Romero when he stabbed the victim?

A

He was at the back of Eric.

Q

And how many times was the victim stabbed?

A

Three (3) times, sir.[49]

The Medico-legal Report,[50] which showed that the victim suffered three stab wounds at the back, one contusion

at the temple, and six abrasion on the left ear, elbows and knees, support the testimonies of Jefferson Trinidad that the victim was stabbed three times by appellant Alberto Romero and was hit several times with a lead pipe by appellant Patrocinio Romero.

Notably, the trial court found the testimonies of prosecution eyewitnesses Ofelia Santiago and Jefferson Trinidad to be clear, straightforward and worthy of credence. [51] The trial court also correctly observed that although appellant Alberto Romero testified that four men with lead pipes and bladed weapons mauled him, it is surprising that he did not sustain any injury, except for the four-centimeter lacerated wound on his left temple which he attributed to the stoning incident.

It is a well-settled doctrine that findings of trial courts on the credibility of witnesses deserve a high degree of respect. Having observed the deportment of witnesses during the trial, the trial judge is in a better position to determine the issue of credibility; thus, his findings will not be disturbed on appeal in the absence of any clear showing that he overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that could have altered the conviction of appellants.[52] We have carefully reviewed the records of this case and found no reason to disturb the findings of the trial court.

Moreover, appellants' defense of denial is a negative, self-serving evidence that cannot be given evidentiary weight greater than that of credible witnesses who testify on affirmative matters.[53] Hence, the identification of appellants as the assailants of the victim must prevail over the bare denials of appellants.[54]

Presence of Conspiracy

Appellants also contend that the trial court erred in finding that conspiracy was present in the commission of the crime.

The contention is without merit.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[55] In the absence of direct proof of conspiracy, it may be deduced from the mode, method and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves when such acts point to a joint purpose and design, concerted action and community of interest.[56]

In the instant case, while Erick Trinidad and Jayson Trinidad were talking, appellant Alberto Romero approached Erick from behind and suddenly stabbed him thrice at the back. Then appellant Patrocinio Romero, who was beside Alberto, hit Erick with a lead pipe several times.[57] Appellants' combined action showed unity of purpose to kill Erick. Dr. Freyra testified that Erick died of "traumatic injury on the head and stab wound on the trunk." [58]

Presence of Treachery

Appellants also contend that the trial court erred in finding that treachery was present, which qualified the killing to murder.

We disagree.

There is treachery when the offender commits any of the crimes against the person, 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.[59] The essence of treachery is the sudden and unexpected attack by an aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby, ensuring its commission without risk to the aggressor.[60]

In this case, the trial court correctly found that treachery was present because appellant Alberto Romero approached the unarmed and unsuspecting victim from behind and stabbed him thrice at the back, after which appellant Patrocinio Romero hit the victim with a lead pipe several times such that the victim was in no position to flee, defend himself or retaliate. It has been held many times that "treachery exists when a defenseless victim was shot or stabbed from behind and this shows that the appellant had employed means of attack which offered no risk to himself from any defensive or retaliatory act which the victim might have taken." [61]

The attendant circumstance of treachery qualifies the killing to murder under Article 248 of the Revised Penal Code:

Art. 248. Murder.--Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity. x x x

The Penalty

Murder is punished by reclusion perpetua to death. In this case, absent the attendance of any mitigating or aggravating circumstances in the commission of the crime, the trial court correctly imposed the lesser penalty of reclusion perpetua.[62]

Damages

The trial court incorrectly awarded to the heirs of the victim actual damages in the amount of P161, 150 for the funeral, burial and other expenses incurred due to the death of the victim. The receipts on record showed expenses totaling only P156,150; hence, actual damages awarded should be reduced accordingly.

The trial court correctly awarded to the heirs of the victim civil indemnity in the amount of P50,000, which needs no proof other than that of the death of the victim. [63]

In addition, the heirs of the victim was entitled to exemplary damages in the amount of P25,000 given the presence of the qualifying circumstance of treachery as held in *People v. Alfon*. [64]

The heirs of the victim are also entitled to moral damages in the amount of P50,000. Moral damages is awarded without need of proof other than the death of the victim.[65]

WHEREFORE, the Decision of the Regional Trial Court, Branch 171, Valenzuela City, in Criminal Case No. 226-V-98, finding appellants Alberto Romero and Patrocinio Romero GUILTY beyond reasonable doubt of the crime of murder and sentencing them to suffer the penalty of reclusion perpetua is hereby AFFIRMED. Appellants are ordered jointly and severally to pay the heirs of the victim, Enrico "Erick" Trinidad civil indemnity in the amount of Fifty Thousand Pesos (P50,000), exemplary damages in the amount of Twenty Five Thousand Pesos (P25,000), moral damages in the amount of Fifty Thousand Pesos (P50,000), and actual damages in the amount of One Hundred Fifty-six Thousand One Hundred Fifty Pesos (P156,150). Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Ynares-Santiago, and Carpio, JJ., concur.

[1] Also named Patricio.

- [2] Records, p. 1.
- [3] Records, p. 15.
- [4] This was the subject of April 16/17, 1992.
- [5] Exhibit "Q," Folder of Prosecution's Formal Offer of Evidence.
- [6] TSN, March 15, 1999, pp. 4-9 July 19, 1999, pp. 6-28.
- [7] TSN, March 15, 1999, pp. 9-12, 15; July 19, 1999, pp. 29-36.
- [8] TSN, March 15, 1999, pp. 17-18.
- [9] Exhibit "P," Folder of Prosecution's Formal Offer of Evidence.
- [10] TSN, March 15, 1999, pp.18-19.
- [11] TSN, November 18, 1998, pp. 3-12, 24, 28, 30.
- [12] TSN, November 18, 1998, p. 9.
- [13] September 20, 1999, pp. 3-19.
- [14] Exhibit "M," Folder of Prosecution's Formal Offer of Evidence.
- [15] Exhibit "N," Folder of Prosecution's Formal Offer of Evidence.
- [16] TSN, January 27, 1999, pp. 7-11.
- [17] Exhibit, "O," Folder of Prosecution's Formal Offer of Evidence.
- [18] TSN, January 27, 1999, p. 12.
- [19] TSN, August 28, 1998, p. 4.
- [20] Exhibits "C " to "I," Folder of Prosecution's Formal Offer of Evidence.
- [21] TSN, November 8, 1999, p. 5.
- [22] TSN, November 8, 1999, pp. 5-9.
- [23] TSN, November 8, 1999, pp. 5-12, 18-19; January 11, 2000, pp. 5-7.
- [24] TSN, November 8, 1999, pp. 12-25; January 11, 2000, pp. 6-13.
- [25] TSN, December 6, 1999, pp. 4-6.
- [26] Exhibit "7," Folder of Defense's Formal Offer of Evidence.
- [27] TSN, January 11, 2000, pp. 14, 17.
- [28] Exhibits "2," Folder of Defense's Formal Offer of Evidence.
- [29] Exhibits "3-6," Folder of Defense's Formal Offer of Evidence.
- [30] Exhibit "3-3-A," Folder of Defense's Formal Offer of Evidence.
- [31] Exhibit "5," Folder of Defense's Formal Offer of Evidence.
- [32] TSN, February 1, 2000, pp. 4, 14.

- [33] TSN, February 1, 2000, pp. 5-7, 24.
- [34] Exhibits "3B-5B," Folder of Defense's Formal Offer of Evidence.
- [35] Exhibits "9," Folder of the Defense's Formal Offer of Evidence; TSN, February 1, 2000, pp. 8-13, 26-27.
- [36] TSN, February 1, 2000, pp. 14-16.
- [37] Exhibits "10-10-A," Folder of the Defense's Formal Offer of Evidence.
- [38] TSN, May 5, 2000, pp. 2-15.
- [39] Rollo, p. 24.
- [40] Rollo, p. 39.
- [41] Rollo, p. 37.
- [42] Ibid.
- [43] Rollo, p. 38.
- [44] Ibid.
- [45] Rollo, p. 93.
- [46] *People v. Godoy*, G.R. No. 140545, May 29, 2002; *People v. Loterono*, G.R. No. 146100, November 13, 2001.
- [47] Ibid.
- [48] *People v. Aliben, et al.*, G.R. No. 140404, February 27, 2003, citing *People v. Legaspi*, 331 SCRA 95, 115 (2000).
- [49] TSN, March 15, 1999, pp. 9-12, 14.
- [50] Exhibit "N," Folder of the Prosecution's Formal Offer of Evidence.
- [51] Rollo, p. 37.
- [52] *People v. Aliben, et al.*, supra, note 47, citing *Espano v. Court of Appeals*, 288 SCRA 558, 563 (1998).
- [53] *People v. Patoc*, G.R. No. 140217, February 21, 2003.
- [54] Id.
- [55] *People v. Aliben, et al.*, supra, note 47.
- [56] Ibid.
- [57] TSN, March 15, 1999, pp. 10-12.
- [58] TSN, January 27, 1999, p. 12.
- [59] Revised Penal Code, Article 14, paragraph 16.
- [60] *People v. Delada, Jr.*, G.R. No. 137406, March 26, 2003; *People v. Rubiso*, G.R. No. 128871, March 18, 2003.
- [61] *People v. Macuha, et al.*, 310 SCRA 14, 24 (1999), citing *People v. Apolonia*, 235 SCRA 124, 134 (1994).

[62] Revised Penal Code, Art. 63 (2). 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:

xxxx xxxx xxxx

- When there are neither mitigating or aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

[63] People v. Aliben, et al., supra, note 47.

[64] G.R. No. 126028, March 14, 2003.

[65] People v. Loreto, G.R. No. 137411-13, February 28, 2003.

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