

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOHNNY LOTERONO @ “JUN”, ACCUSED-APPELLANT.*G.R. No. 146100. November 13, 2002*

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-146100/>**YNARES-SANTIAGO, J.:**

Johnny Loterono, Eric Cacho, Esmar Dato-on, Jonel Daprinal, Larry Anota and Roie Babagonio, were stay-in construction workers at the Sarabia Manor Hotel and Convention Center in Iloilo City. In the early dawn of August 26, 1998, Roie Babagonio was repeatedly stabbed in the chest with a single-bladed weapon locally known as a pinute. Babagonio's cries for help roused Eric Cacho who slept in the same room as the victim but even as he saw the attacker assaulting Babagonio, he was forced to flee when the assailant turned on him. Esmar Dato-on and Larry Anota who were awakened by iron bars being unloaded later came upon the already dead victim lying face up in the stairway with multiple stab wounds on the chest.

For the killing of Roie Babagonio, Johnny Loterono @ “Jun” was charged with Murder. Upon being arraigned on October 7, 1998, accused with the aid of counsel entered a plea of “Not guilty.”[1] However, during the pre-trial conference on November 4, 1998, accused admitted stabbing the victim to death in self-defense. In view thereof, the pre-trial stage was declared terminated and the court a quo directed that the reverse order of trial shall be followed, setting the hearing of the defense on December 2, 9 and 16, 1998.[2]

During the scheduled hearing on December 2, 1998, counsel for accused manifested in open court the desire of his client to withdraw his former plea of not guilty and to enter a plea of guilty to the lesser offense of Homicide. On account thereof, the scheduled hearing was cancelled to give the private complainant time to consult his family on the matter.

On December 9, 1998, counsel for the accused manifested in open court the desire of accused to enter into a plea bargain of the offense from Murder to Homicide, to which private complainant and the public prosecutor expressed their conformity. The prosecutor favorably recommended the offer of accused to plead guilty to the lesser offense of Homicide to the City Prosecutor, who approved the same with the conformity of the parents of the victim.

Upon being re-arraigned on December 16, 1998, accused entered a plea of guilty to the crime of Homicide and the promulgation of the sentence was set for January 5, 1999. However, on January 4, 1999, the day before the scheduled promulgation, counsel for the accused filed a Motion to Withdraw Plea of Guilty. Consequently, accused entered a plea of “Not guilty” on January 22, 1999[3] to the charge of Murder in an Information[4] which alleges—

That on or about the 26[th] day of August 1998 in the City of Iloilo, Philippines and within the jurisdiction of this Honorable Court, herein accused, armed with a knife, with deliberate intent and without justifiable motive, with treachery, evident premeditation and with a decided purpose to kill, did then and there willfully, unlawfully and criminally stab, hit and wound Roie Babagonio with the said knife, which the said accused was

provided at the time, thereby causing upon said Roie Babagonio injuries on the vital parts of his body with caused his instantaneous death.

CONTRARY TO LAW.

The case, which was docketed as Criminal Case No. 49652, thereafter proceeded to trial. After trial, the court a quo rendered judgment imposing upon the accused the supreme penalty of death thus:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crime of Murder defined and penalized under Sec. 6 of Republic Act 7659 amending Art. 248 of the Revised Penal Code and with the qualifying circumstance of treachery and with evident premeditation attendant in the commission thereof, with the latter being considered a generic aggravating circumstance for purposes of determining the imposable penalty hereby sentences the accused Johnny Loterono to the supreme penalty of DEATH by lethal injection.

Let the entire records of this case be elevated to the Honorable Supreme Court for automatic review pursuant to Sec. 22 of Republic Act 7659 amending Art. 47 of the Revised Penal Code.

SO ORDERED.

On automatic review to this Court, accused-appellant alleges:

I

THAT THE TRIAL COURT ERRED IN GIVING FULL WEIGHT TO THE TESTIMONIES OF ERIC CACHO, JOENIL DAPRINAL, LARRY ANOTA AND ESMAR DATO-ON WHOSE TESTIMONIES ARE NOT ONLY CONTRARY TO HUMAN BEHAVIOR, EXPERIENCE COMING FROM BIASED SOURCES BUT ALSO HIGHLY IMPROBABLE.

II

THAT THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF OSCAR JARO WHO IS IMPARTIAL, DISINTERESTED AND HAS NO MOTIVE OR REASON TO TELL A LIE.

III

THAT THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF THE CRIME OF MURDER AND SENTENCING HIM [TO] THE SUPREME PENALTY OF DEATH BY LETHAL INJECTION.

IV

THAT THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED.

The prosecution's version of the incident narrates that on August 25, 1998 at around 10:00 p.m., Jonel Daprinal, a laborer at the Sta. Ana Construction Company located at Gen. Luna Street, Iloilo City, was at the company's compound together with his co-workers, herein accused-appellant and Rex Penduday. They were drinking liquor when two of their co-workers, Esmar Dato-on and Larry Anota, passed by. Accused-appellant asked Esmar and Larry to join them but the two declined saying they were going to sleep. Esmar and Larry then went to the second floor of the Sarabia Manor Hotel, a building project of Sta. Ana Construction.[5]

During the drinking session, Jonel heard accused-appellant say "I have a plan." He then took out a knife tucked in his waist and showed it to Jonel and Rex. They finished drinking around 11:00 p.m. Accused-appellant, Jonel and Rex then proceeded to the Sarabia Manor Hotel to sleep. Rex slept on the first floor while accused-appellant and Jonel went to their quarters on the third floor. When they were on the third floor, accused-appellant told Jonel he wanted to take a walk. Accused-appellant went to the fourth floor where Eric Cacho and the victim, Roie

Babagonio, were supposed to be sleeping.[6]

At 12:10 in the morning of August 26, 1998, Eric Cacho was awakened by the sound of a person crying for help. He rose from his bed and went to the other side of the floor where the shout was coming from. There, Eric saw accused-appellant stabbing the victim Roie Babagonio twice on the chest.[7]

Eric testified that he was about three (3) to four (4) meters away from accused-appellant, whom he recognized because the room was lighted. Eric saw the victim lying on his back on a makeshift bed while he was being stabbed by accused-appellant.[8] When Eric admonished accused-appellant, the latter turned upon him and chased him.[9] Out of fear, Eric ran home and narrated the whole incident to his wife.[10]

Meanwhile, Esmar and Larry, who earlier declined accused-appellant's invitation to drink, were awakened by the sound of iron bars being unloaded. Esmar saw accused-appellant with blood on his hands, shirt and short pants. Accused-appellant even wiped some of the blood on the building's wall and post. He hurriedly went down the building after telling Esmar that he was going home.[11]

Sensing foul play, Esmar and Larry rose from their bed to look for their cousin and co-laborer, Jonel. Esmar went to the third floor and saw Jonel sleeping. He then followed Larry upstairs to the fourth floor. Esmar saw Larry staring at the lifeless body of the victim lying at the middle of the stairs. Esmar and Larry went downstairs and reported the incident to the watchman, Voltaire. While Larry and Voltaire went upstairs, Esmar went to the main gate and saw accused-appellant with his shirt and short pants wet. It was then that Larry and Voltaire arrested accused-appellant. The security guards arrived later and one of them reported the incident to the police authorities.[12]

Two (2) police officers arrived and went directly to the crime scene where they recovered a scabbard,[13] which Esmar identified as belonging to accused-appellant, and a bloodstained knife.[14]

Medical examination revealed that the victim sustained ten (10) stab wounds, six (6) being fatal. The wounds were inflicted using a knife while the victim was lying on his back. The cause of death was hemorrhage due to multiple stab wounds.[15]

On the other hand, accused-appellant denied stabbing Roie Babagonio. According to him, Roie Babagonio was his friend, a fact admitted by the prosecution witnesses, and he had no reason to kill him;[16] that on August 26, 1998 at around 12:00 midnight, while he was sleeping on the fourth floor of the building that they were constructing, he was awakened by Oscar Jaro, a fellow laborer at the construction project because something happened near the stairs of the fourth floor. Oscar asked him to go to the place where there were many people and when they arrived there he saw the body of Roie Babagonio. Although there were many people, he never saw witness Eric Cacho.

He further testified that when he saw the body of Babagonio full of blood, he felt bad and so he looked for water to drink on the fourth floor. Finding none, he proceeded to the ground floor to look for drinking water. He used both hands in drinking.[17] It was after he drank water that a policeman arrested him. He tried to inquire why he was being arrested and was told that he would be investigated.

In his testimony, he denied that while he was drinking with Jonel Daprial, he revealed to the latter that he had a plan.[18] He averred that the knife with a scabbard wrapped in red and green electrical tape is owned by Eric Cacho because he saw it tucked on his waist. Accused-appellant further denied that while they were on the third floor, he was holding the knife with the scabbard.[19] He claimed that the wound on his left arm was caused by a G.I. sheet they carried.[20] He also explained that he entered a plea of guilty because at that time, he did not know the address of his witness and was advised by his lawyer to admit the killing of the victim, but later his father was

able to locate and contact his witness, Oscar Jaro. It was then that he changed his plea to that of “Not guilty.”[21]

The first and second assigned errors involve the credibility of the witnesses. In the first, accused-appellant claims in sum that the testimonial declaration of the prosecution witnesses is unworthy of belief while in the second he faults the trial court for not giving credence to the testimony of his lone witness.

With regard to the witnesses for the prosecution, he avers that Jonel Daprinal is the second cousin of the victim Roie Babagonio.[22] Witnesses Esmar Dato-on and Larry Anota are the second cousins of Jonel Daprinal[23] while Eric Cacho is the husband of Celina Aprong, who is also a second cousin of Jonel Daprinal.[24] In attacking the credibility of eyewitness Eric Cacho, he claims that Cacho’s testimony lacks sincerity because he failed to immediately report the stabbing incident to the police authorities. He also faults Cacho for failing to mention to his wife the victim’s name when he initially confided the incident to her. As to witnesses Daprinal, Dato-on and Anota, accused-appellant claims that as second cousins of the victim, “they have an inclination to put color and exaggerate their testimonies.”[25]

We disagree.

Contrary to accused-appellant’s claim that prosecution eyewitness Eric Cacho failed to mention the victim’s name to his wife, he in fact specifically told her that Roie, the victim, was stabbed.[26] His failure to immediately report the incident to the police was sufficiently explained. He was afraid.[27] It has been time and again held that fear of reprisal and death threats are accepted as adequate explanations for the delay in reporting crimes.[28]

The further allegation of accused-appellant that the testimonies of prosecution witnesses Esmar Dato-on, Larry Anota and Jonel Daprinal are biased because they are related to the victim and to each other is likewise unpersuasive. As we pointed out in *People v. Gallarde*,[29] “[m]ere relationship of a witness to a party, without more, cannot impair the witness’ credibility.[30] 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.[31] It is settled that in the absence of a showing of improper motive on the part of the witnesses, their testimonies are not affected by their relationship with the victim and must be accorded full faith and credit.”[32]

Eric Cacho was an eyewitness to the stabbing. He positively identified accused-appellant as the assailant who not only stabbed the victim but also turned upon him when he tried to intervene. The identification was rendered all the more positive by the lighted fifty-watt bulb inside the room where the incident happened, which was further augmented by light coming from the electric posts outside.[33] Accused-appellant was likewise seen shortly after the incident by Esmar Dato-on with bloodied hands, shirt and shorts wiping the blood at the cemented wall and post.[34] Dato-on’s account was corroborated by Larry Anota who was with him at the time.[35] Anota further testified that the next time they saw accused-appellant after informing the security guard of the incident, the latter was wet with little traces of blood, indicating that he tried to wash off the bloodstains.[36]

In contrast to the overwhelming evidence pointing to him as the person who killed Roie Babagonio, all accused-appellant could offer in his defense is a denial. However, as has often been said “[T]he defense of denial, like alibi, is considered with suspicion and always received with caution, not only because it is inherently weak and unreliable, but also because it can be fabricated easily.”[37] Suffice it to state in this regard that the positive identification of the accused, when categorical and consistent without any ill motive on the part of the prosecution witnesses, prevails over alibi and denial which are negative, self-serving and undeserving of weight in law.[38]

All told, the Court finds no reason to reverse the ruling of the court a quo insofar as the crime was committed. The core issue raised by accused-appellant centers on the credibility of witnesses. The doctrinal rule is that findings of

fact made by the trial court, which had the opportunity to directly observe the witnesses and to determine the probative value of the other testimonies are entitled to great weight and respect because the trial court is in a better position to assess the same, an opportunity not equally open to the appellate court.[39] What remains to be determined is the propriety of the penalty imposed on accused-appellant.

This brings us to the two (2) remaining errors assigned pertaining to the imposition of the death penalty upon the accused-appellant, upon a finding that the killing of the victim was qualified by treachery and aggravated by evident premeditation.

It must be borne in mind that 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.[40]

Murder is the unlawful killing of any person when qualified by any of the circumstances listed under Article 248 of the Revised Penal Code.[41] Treachery or *alevosia*, alleged in the information, is one such qualifying circumstance.

Given the prevailing facts of the case, the trial court erred in holding that the killing of Roie Babagonio was attended by *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.[42] The qualifying circumstance of treachery did not attend the killing as the two conditions for the same are not present, i.e. (1) that at the time of the attack, the victim was not in a position to defend himself, and (2) that the offender consciously adopted the particular means, method or form of attack employed by him.[43] The essence of treachery is the swift and unexpected attack on the unarmed victim without the slightest provocation on the part of the victim.”[44]

For treachery to be appreciated, it must be present and seen by the witness right at the inception of the attack.[45] Where no particulars are known as to how the killing began, its perpetration with treachery cannot merely be supposed.[46] In the case at bar, there was neither a description of how the attack was commenced – whether it was sudden, unexpected and whether the victim was caught totally unaware – nor a showing that the method of execution in the commission of the crime was consciously or deliberately adopted by the malefactor. Indeed, eyewitness Eric Cacho never saw the inception of the attack because he was fast asleep and roused from his slumber by the cries of the victim.[47] Verily -

It is a fundamental rule of long standing that for treachery to be appreciated, that circumstances must be present at the inception of the attack, and if absent and the attack is continuous, treachery, even if present at a subsequent stage is not to be considered.[48] That final fatal blows may have in truth been delivered under conditions exhibiting some features of treachery does not remedy the fact that the prosecution failed to prove the existence of treachery at the onset of the attack.[49]

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.[50] It must be based on positive or conclusive proof, not mere suppositions or speculations[51] and must be proved as clearly and as convincingly as the killing itself.[52] Any doubt as to the existence of treachery must be resolved in favor of the accused.[53] Contrary to the claims of the prosecution in this regard, there is evidence on record which tends to show that the victim was able to defend himself, namely a wound on the left wrist of accused-appellant which was bleeding at the time he met Dato-on and Anota.[54]

We likewise take exception to the finding of the trial court that the killing of Roie Babagonio was premeditated.

Like treachery, the elements of evident premeditation must be established with equal certainty as the criminal act itself[55] before it can be appreciated as a qualifying circumstance.[56] These elements are: 1.] the time when the accused determined to commit the crime; 2.] an overt act manifestly indicating that he clung to his 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 his act.[57] 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.[58]

Evident premeditation must be based on external facts which are evident, not merely suspected, which indicate deliberate planning.[59] There must be direct evidence showing a plan or preparation to kill, or proof that the accused meditated and reflected upon his decision to kill the victim.[60] As pointed out in *People v. Umayam*: [61] “[C]riminal intent must be evidenced by notorious outward acts evidencing a determination to commit the crime. In order to be considered an aggravation of the offense, the circumstance must not merely be ‘premeditation’ but must be ‘evident premeditation’.”[62]

Assayed vis-à-vis the foregoing legal yardsticks, none of the requisites of this aggravating circumstance can be inferred from the facts of this case. For one, the records do not show the time when accused-appellant resolved to commit the crime. The date and, if possible, the time when the malefactor determined to commit the crime is essential, because the lapse of time for the purpose of the third requisite is computed from date and time.[63]

The second requisite is likewise wanting. The fact that accused-appellant pulled out a knife tucked in his waist after saying “I have a plan” does not necessarily prove evident premeditation because aside from the statement’s inherent ambiguity, it is uncorroborated by independent evidence which would show that he planned to kill the victim and that he clung to his determination to commit the crime. Accused-appellant’s threats unsupported by evidence which would disclose his true criminal state of mind will only be construed as casual remarks naturally emanating from a feeling of rancor and not a resolution of the character involved in evident premeditation.[64]

Suffice it to state that without such evidence, mere presumptions and inferences, no matter how logical and probable they might be, would not be enough to sustain a finding of this aggravating circumstance.[65] In other words, the evidence falls short of proving evident premeditation.

In the absence of the qualifying circumstance of treachery or the aggravating circumstance of evident premeditation, the crime committed is homicide not murder,[66] with the penalty of Reclusion Temporal to be imposed in its medium period in the absence of any modifying circumstance to aggravate or to mitigate criminal liability.[67] Reclusion Temporal in its medium period has a range of fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months. Applying the Indeterminate Sentence Law, the imposable penalty shall range from ten (10) years and one (1) day of Prison Mayor, as minimum, to seventeen (17) years and four (4) months of Reclusion Temporal, as maximum.

On the issue of damages, following prevailing jurisprudence[68] and in line with controlling policy, the amount of P50,000.00 should be given as indemnity ex delicto for the death of the victim without any need of proof[69] other than the death of the victim.[70] Proper too is the entitlement of the victim’s heirs to moral damages pegged at P50,000.00 by controlling case law[71] taking into consideration the pain and anguish of the victim’s family[72] brought about by his death.[73]

An award of P19,180.00 must likewise be made representing the total amount proven by the victim’s mother to have been spent on account of her son’s death, broken down as follows: 1.] P9,500.00 for the coffin and funeral expenses;[74] 2.] P1,180.00 for the requiem mass;[75] 3.] P3,500.00 for the niche/tomb[76] and 4.] P5,000.00 for the funeral hearse.[77]

However, an award for loss of earning capacity cannot be given to the victim's heirs in the absence of competent proof thereof. A handwritten certification in a yellow pad^[78] indicating therein that the victim was paid P146.75 per day hardly suffices as proof to justify an award as it is, at best, self-serving. While there was additional testimonial evidence by the victim's mother on his income,^[79] the same can no longer serve as basis for lost earnings, in the light of our recent ruling in *People v. Panabang*,^[80] and reiterated in *People v. Cuenca*.^[81] There we held that indemnification for loss of earning capacity partakes of the nature of actual damages which must be duly proven; and a self-serving statement, being unreliable, is not enough. For lost income to be recovered, there must be an unbiased proof of the deceased's average, not just gross income.^[82]

WHEREFORE, the Decision of the Regional Trial Court of Iloilo City, Branch 23 is MODIFIED as follows:

1.] Accused-appellant is found GUILTY beyond reasonable doubt as principal of the crime of Homicide as defined and penalized in Article 249 of the Revised Penal Code and sentenced to suffer an indeterminate penalty of Ten (10) Years and One (1) Day of Prison Mayor, as minimum, to Seventeen (17) years, Four (4) Months of Reclusion Temporal, as maximum; and

2.] Accused-appellant is ordered to pay the heirs of Roie Babagonio the sums of:

a.] P19,180.00 representing actual damages;

b.] P50,000.00 as indemnity ex delicto;

c.] P50,000.00 as moral damages;

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.
Austria-Martinez, J., on leave.

[1] Record, p. 28.

[2] *Ibid.*, p. 38.

[3] *Id.*, p. 58.

[4] *Id.*, p. 1.

[5] TSN, 21 April 1999, p. 4; 8 April 1999, pp. 6-7.

[6] TSN, 21 April 1999, pp. 6-11.

[7] TSN, 17 March 1999, pp. 2-5.

[8] *Ibid.*, pp. 5-8.

[9] *Id.*, p. 8.

[10] *Id.*, p. 19.

[11] TSN, 8 April 1999, pp. 8-10.

[12] *Ibid.*, pp. 10-14.

[13] Exhibit C.

- [14] Exhibit B; TSN, 8 April 1999, pp. 14-15; 22 April 1999, p. 36.
- [15] TSN, 8 March 1999, pp. 19-31.
- [16] TSN, 17 March 1999, pp. 3-6.
- [17] TSN, 1 June 1999, pp. 9-11.
- [18] Ibid., p. 15.
- [19] Id., pp. 16, 17.
- [20] Id., p. 20.
- [21] Id., p. 21.
- [22] TSN, 21 April 1999, p. 11.
- [23] TSN, 8 April 1999, p. 10.
- [24] TSN, 21 April 1999, p. 18.
- [25] Appellant's Brief, p. 10.
- [26] TSN, 17 March 1999, p. 15.
- [27] Ibid., p. 20.
- [28] *People v. Tomas Coca, et al.*, G.R. No. 133739, 29 May 2002, citing *People v. Clariño*, 31 July 2002, citing *People v. Hilot*, 342 SCRA 128 [2000].
- [29] G.R. No. 137671, 18 April 2002.
- [30] *People v. Antonio*, 303 SCRA 414, 424 [1999].
- [31] *People v. Villanueva*, 302 SCRA 380, 398 [1999].
- [32] *People v. Guillermo*, 302 SCRA 257, 271 [1999].
- [33] TSN, 17 March 1999, pp. 8-9.
- [34] TSN, 8 April 1999, pp. 8-10, 25-27.
- [35] TSN, 22 April 1999, pp. 5-7, 29.
- [36] Ibid., pp. 11, 33; TSN, 8 April 1999, p. 13.
- [37] *People v. Reynaldo Viñalon y San Agustin, et al.* G.R. No. 135542, 18 July 2002, citing *People v. Batidor*, 303 SCRA 335, 390 [1999].
- [38] *People v. Roberto Mendoza Pacis*, G.R. No. 146309, 18 July 2002, citing *People v. Edgar Ayupan*, G.R. No. 140550, 13 February 2002.
- [39] *People v. PO3 Renato F. Villamor, et al.*, G.R. Nos. 140407-08 & 141908-09, 15 January 2002, citing *People v. Garcia*, G.R. No. 129216, 20 April 2001 and *People v. Celeste*, 348 SCRA 292 [2000].
- [40] *People v. Gerardo Latupan y Sibal @ Jerry*, G.R. Nos. 112453-56, 28 June 2001, citing *People v. Piamonte*, 303 SCRA 577, 588 [1999].

- [41] Reyes, Revised Penal Code, Book 2, 14[th] Revised Ed. (1998), p. 472.
- [42] *People v. Romeo Fernandez @ "Bong Dagis"*, G.R. No. 134762, 23 July 2002, citing *People v. Orio*, 330 SCRA 576, 586-587 [2000], citing *People v. Ybeas*, 213 SCRA 793 [1992] and Revised Penal Code, Article 14, par. 16.
- [43] *People v. Galam*, 325 SCRA 489 [2000].
- [44] *People v. Romeo Garcia*, G.R. No. 129216, 20 April 2001, citing *People v. Sumalpong*, 284 SCRA 464 [1998].
- [45] *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].
- [46] *People v. Florante Leal @ Burat*, 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].
- [47] TSN, 17 March 1999, pp. 3-6.
- [48] *People v. Magallanes*, 275 SCRA 222 [1997].
- [49] *People v. Angelo Zeta y Doloroso*, supra, citing *People v. Embarga*, 319 SCRA 304 [1999].
- [50] *People v. Bahenting*, 303 SCRA 558 [1999]; *People v. Mantung*, 310 SCRA 819 [1999]; *People v. Borreros*, supra.
- [51] *People v. Tawas*, 303 SCRA 86 [1999]; *People v. Silva*, 321 SCRA 647 [1999].
- [52] *People v. Edmundo Briones Aytalin*, G.R. No. 134138, 21 June 2001, citing *People v. Eribal*, 305 SCRA 341 [1999].
- [53] *People v. Santos*, 332 SCRA 394, 401 [2000], citing *People v. Bahenting*, supra.
- [54] TSN, 8 April 1999, pp. 24-25; 22 April 1999, pp. 32-33.
- [55] *People v. Moyong*, 344 SCRA 730 [2000]; *People v. Mendoza*, 332 SCRA 485 [2000].
- [56] *People v. Reyes*, 287 SCRA 229 [1998].
- [57] *People v. Rogelio Calago*, G.R. No. 141122, 22 April 2002; *People v. Manuel Galvez y Estanislao*, 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. Cortez*, 348 SCRA 663 [2000]; *People v. Baltar*, 347 SCRA 579 [2000]; *People v. Sabado*, 345 SCRA 269 [2000]; *People v. Cando*, 344 SCRA 330 [2000]; *People v. Rabor*, 338 SCRA 381 [2000]; *People v. Caingal*, 337 SCRA 100 [2000]; *People v. Dela Tongga*, 336 SCRA 687 [2000]; *People v. Jariolne*, 331 SCRA 674 [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].
- [58] *People v. Felix Uganap @ Kumander Matador, et al.*, G.R. No. 130605, 19 June 2001, citing *People v. Bibat*, 290 SCRA 27 [1998].
- [59] *People v. Mariano*, 347 SCRA 109, 125 [2000].
- [60] *People v. Gadin, Jr.*, 331 SCRA 345, 354 [2000], citing *People v. Asto*, 277 SCRA 697 [1997].

- [61] G.R. No. 134572, 18 April 2002.
- [62] Citing *People v. Valdez*, 304 SCRA 611, 626 [1999].
- [63] *Rabor v. People*, 338 SCRA 381, 389 [2000], citing *Reyes*, Revised Penal Code, Book One, 385, 13th ed. (1993).
- [64] *Rabor v. People*, *supra*, citing *People v. Fuentesuela*, 73 Phil. 553, 554 [1942].
- [65] *People v. Mariano*, 347 SCRA 109, 125-16 [2000], *People v. Buka*, 205 SCRA 567 [1992]; *People v. Mahinay*, 304 SCRA 767 [1999].
- [66] *People v. Romeo Fernandez @ Boy Dagis*, G.R. No. 134762, 23 July 2002.
- [67] Article 64 (1), Revised Penal Code.
- [68] *People v. Baltazar Amion y Dugaduga*, G.R. No. 140511, 1 March 2001; *People v. Court of Appeals and Eladio Tangan*, G.R. Nos. 103613 & 105830, 23 February 2001, citing *People v. Pedroso*, 336 SCRA 163 [2000]; *People v. Go-od*, 331 SCRA 612 [2000]; *People v. Flores*, 328 SCRA 461 [2000].
- [69] *People v. Mario Concepcion y Nonado, et al.*, G.R. No. 131477, 20 April 2001, citing *People v. De Vera*, 312 SCRA 640 [1999].
- [70] *People v. Mindanao*, 335 SCRA 200 [2000]; *People v. Quijon*, 325 SCRA 453 [2000]; *People v. Buluran*, *supra*.
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- [73] *People v. Norman Obordo y Bulalakaw*, G.R. No. 139528, 9 May 2002, citing *People v. Pardua, et al.*, G.R. No. 110813, 18 June 2001 and *People v. Herrera*, G.R. Nos. 140557-58, 5 December 2001 and *People v. Pardua*, *supra*; *People v. Langit*, 337 SCRA 323 [2000]; *People v. Mindanao*, *supra*.
- [74] Exhibit H.
- [75] Exhibit I.
- [76] Exhibit J.
- [77] Exhibit K.
- [78] Exhibit G.
- [79] TSN, 9 March 1999, pp. 39-41.
- [80] G.R. Nos. 137514-15, January 16, 2002.
- [81] G.R. No. 143819, January 29, 2002.
- [82] See also *People v. Bonnie Rabanal*, G.R. No. 146687, 22 August 2002.

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