

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. WILLY YANG, APPELLANT.

G.R. No. 148077. February 16, 2004

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For our automatic review is the judgment[1] of the Regional Trial Court of Manila, Branch 18, dated March 13, 2001, in Criminal Case No. 00-181180, the fallo of which reads:

WHEREFORE, the accused, Willy Yang (or Yang Yunghi) is hereby convicted of the crime of violation of Section 15,[2] Article III in relation to Section 21[3] of Article IV of R.A. 6425, as amended by R.A. 7659, involving 4.450 kilograms of shabu with the aggravating circumstance of the offense having been committed by an organized/syndicated crime group, and sentenced to suffer the penalty of death by lethal injection and to pay a fine of P30,000.00 plus the costs.

The 4.450 kilograms of shabu is forfeited in favor of the government and the NBI Forensic Chemistry Division is ordered to turn over the same to the Dangerous Drugs Board, for proper disposition and to submit to this court proof of compliance herewith within five days from notice hereof.

SO ORDERED.[4]

Appellant Willy Yang[5] (Yang Yung-hi) a.k.a. “Alex Yu,” “Yang Xing Li,” and “Willy Yeung” is a Chinese citizen, having been born in Xianmen, China. He claims to be a legitimate businessman engaged in the trading of dry goods and garments, in partnership with his Filipina common-law wife, one Gemma Cabad.[6] Operatives of the National Bureau of Investigation (NBI), however, believed that appellant was involved in drug trafficking. An entrapment operation was laid for the suspected malefactors. It went sour, the suspects escaped, and the NBI operatives were left holding 4.450 kilos of methamphetamine hydrochloride[7] or “shabu” in street parlance.

In an information dated March 9, 2000, the Assistant City Prosecutor of Manila charged appellant with violation of the Dangerous Drugs Law (R.A. No. 6425, as amended by R.A. No. 7659), allegedly committed as follows:

That on or about March 6, 2000, in the City of Manila, Philippines, the said accused not having been authorized by law to sell, dispense, delivered (sic), transport or distribute any regulated drug, did and there, willfully, unlawfully and knowingly sell or offer of sale, dispense, deliver, transport or distribute white crystalline substance contained in separate five (5) plastic bags —weight four point four five zero (4.450) kilograms of white crystalline substance known as “SHABU” containing methamphetamine hydrochloride, which is a regulated drug.

Contrary to law.[8]

When arraigned, appellant with the assistance of a Chinese interpreter pleaded not guilty[9] to the charge. Thereafter, trial ensued.

The prosecution’s evidence established that sometime in February 2000, the NBI received a tip from a

confidential informer that appellant Yang and one “Henry Yeung alias Yu Chi,” were dealing in prohibited drugs.[10] The NBI officers then asked their informer to make arrangements for the purchase of five (5) kilos of “shabu” worth P3.5 million to enable them to conduct a “buy-bust” operation. A deal was made and the suspects agreed to deliver the illicit drug at the Savory Restaurant, T.M. Kalaw St., Ermita, Manila on the afternoon of March 6, 2000. NBI Special Investigator Rodrigo Mapoy was to play the part of the poseur-buyer.[11]

At around 5:00 p.m. of March 6, 2000, several operatives of the NBI National Capital Region Office in Taft Avenue, Manila staked out Savory Restaurant. Inside were Mapoy and the confidential informer who were supposed to meet the suspected drug dealers. Shortly thereafter, appellant and an unidentified Chinese-looking, male companion arrived in a car, driven by another unidentified male. The informant then introduced appellant to Mapoy as “Henry Yu.”[12]

On appellant’s suggestion, the informant and Mapoy boarded his car. They then proceeded to the rear parking area of the Manila Doctors Hospital. Appellant then asked Mapoy to show him the cash payment for the “shabu.” Mapoy complied and showed him bundles of “boodle money” contained in a plastic bag. The bundles of “boodle money” were so arranged so each bundle had genuine P1,000 bills on top and at the bottom of each bundle.[13]

After seeing the bundles of cash, appellant and his unnamed companion alighted the car, with Mapoy and the informant following close behind. The suspects’ driver remained on board the vehicle.

All four of them walked to an unmanned black Kia “Sportage” van in the hospital’s parking lot. Appellant and his companion opened the right front door of the van and got a carton from the right front seat. They showed Mapoy its contents, which consisted of five (5) transparent plastic bags containing a powdery white substance, and a smaller sachet which contained a similar substance. Mapoy was still examining the plastic bags when a group of people unexpectedly came out of the back of the hospital. This caused appellant and his companion to run to their waiting car, which immediately sped away, leaving Mapoy and the informer behind. Since they had no vehicle, Mapoy could not give chase.[14]

Mapoy radioed NBI headquarters for instructions and his superiors directed the NBI team to bring the van to the NBI office in Taft Avenue. The law enforcers searched the van and among the items found inside were the carton containing the packets of “shabu” and an identification card issued by “Tri-Media Power of the Philippines” bearing appellant’s picture and the name “Alex R. Yu.”[15] The ID card gave appellant’s address as 29808 Lopez Compound, Karuhatan, Valenzuela City, Metro Manila. Immediately, an NBI team was dispatched to said address, but appellant was not found there. The NBI agents made inquiries in the neighborhood and learned that appellant had moved to No. 36-F Pag-asa St., Karuhatan, Valenzuela. The NBI operatives then went to the latter address and arrested him there at eight o’clock in the evening of March 6, 2000.[16]

Later that same evening, the five (5) bags of whitish substance which had been confiscated were turned over to NBI Forensic Chemist II Felicisima M. Francisco for laboratory examination. The haul, which amounted to 4.450 kilograms, were tested and confirmed to be methamphetamine hydrochloride, more popularly known as “shabu,” a regulated drug.[17]

At the trial, appellant raised the defenses of denial and alibi. He claimed that he was inside his apartment at Pag-asa St., Karuhatan, Valenzuela the whole day of March 6, 2000, until he was arrested by the NBI.[18] He admitted that the Tri-Media ID card was his,[19] but denied that he was “Alex R. Yu.”[20] He insisted that his adopted Filipino nickname was “Willy Yang.” He claimed that his common-law wife bought it for him so he could claim exemption from the “color coding” traffic scheme of the Metro Manila Development Authority.[21] He affirmed that the ID was indeed in the Kia van, but this van was owned by his common-law wife, Gemma Cabad, who had lent the vehicle to one of her friends, one Henry Yang, on March 5-6, 2000.[22]

Appellant's testimony was corroborated by Gemma Cabad, who testified that she and her common-law spouse were watching TV when the NBI raiding team arrived.[23] Gemma also declared that she acquired the media card for appellant, paying P1,500.00 for it.[24] She admitted ownership of the van impounded by the NBI, but insisted that she had lent it to one Henry Yang, a childhood friend of appellant.[25]

Appellant also presented one Cristy J. Leones[26] and Gemma's sister, Rendel E. Cabad,[27] both of whom testified that appellant was arrested without a warrant.[28] His trial counsel, Atty. Bonifacio Q. Manansala also took the stand to testify. He said that Special Investigator Rodrigo Mapoy had admitted that he was not sure if appellant was one of the three suspects who escaped during the failed drug bust.[29]

The trial court found the testimonies of the prosecution witnesses to be credible. It disbelieved appellant's bare denial and alibi. Accordingly, he was convicted as charged and sentenced to suffer the penalty of death.

Hence, this automatic review.

Appellant raises the following issues for our consideration:

I

WHETHER OR NOT THE COURT A QUO GROSSLY ERRED AND/OR COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT CONVICTED THE ACCUSED MAINLY ON THE BASIS OF NBI OFFICER SI RODRIGO MAPOY'S HAVING POSITIVELY IDENTIFIED THE ACCUSED IN COURT AND ON THE PRESUMPTION OF HIS HAVING REGULARLY PERFORMED HIS DUTY.

II

WHETHER OR NOT THE COURT A QUO GROSSLY ERRED AND/OR COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT IGNORED NUMEROUS IMPROBABILITIES AND INCONSISTENCIES IN THE PROSECUTION'S NARRATION OF FACTS

III

WHETHER OR NOT THE COURT A QUO GROSSLY ERRED AND/OR COMMITTED GRAVE ABUSE OF DISCRETION IN ITS APPRECIATION AND APPLICATION OF THE FACTS, EVIDENCE, AND LAW ON THE FOLLOWING POINTS, TO WIT:

A. THAT THE ACCUSED SOLD, DISPENSED, DELIVERED, TRANSPORTED, OR DISTRIBUTED REGULATED DRUGS;

B. THE APPLICATION OF THE AGGRAVATING CIRCUMSTANCE OF A CRIME BEING COMMITTED BY AN ORGANIZED OR SYNDICATED CRIME GROUP; AND

C. THE ACCUSED CONSPIRED TO COMMIT THE CRIME CHARGED.

While this case was pending before us, appellant's counsel withdrew his appearance after appellant engaged the services of another lawyer.[30] In his reply brief filed by substitute counsel, appellant likewise argues the following: (1) the prosecution failed to prove that appellant acted in conspiracy with or was a member of an organized or syndicated crime group; (2) the Information did not allege any of the qualifying and aggravating circumstances; (3) the NBI failed to comply with the mandatory requirements in the handling and examination of the allegedly confiscated illegal drug; (4) the NBI poseur-buyer failed to positively identify appellant as the suspect in the "buy-bust" operation; and (5) the validity of his arrest.

Basically, the issues raised by appellant may be reduced to only two:

(1) whether the evidence for the prosecution suffices to prove his guilt beyond reasonable doubt; and (2) whether

the death sentence was properly imposed upon appellant.

Appellant assails the credibility of the testimony by NBI Special Investigator Rodrigo Mapoy as an eyewitness for being rife with inconsistencies and improbabilities. One, appellant avers that it is highly incredible that a drug dealer would sell P3.5 million worth of shabu to a person he was meeting only for the first time. Two, he contends that it is likewise improbable that a vendor of illicit drugs would have left such a large amount of contraband drugs in an unguarded vehicle. Three, he argues that it is likewise improbable that a drug trafficker would leave his ID card inside a vehicle used to transport drugs. Four, he insists that it is even more improbable that a drug dealer and his companions would run away at the mere sight of people exiting the hospital.

For the appellee, the Office of the Solicitor General (OSG) submits that the trial court did not err in giving due weight and credence to Mapoy's testimony. The OSG points out that Mapoy testified in a forthright manner and his testimony was unblemished by any fabrication. According to the OSG, Mapoy categorically identified appellant as the person who was the subject of the "buy-bust" operation and who led him and the informer to a parked van where a box was placed, containing 4.450 kilograms of "shabu."

As to the improbabilities pointed out by appellant, the OSG states that the Court may take judicial notice of how dealings in illegal drugs are conducted. Thus, it was not Mapoy as poseur-buyer but the informant whom appellant trusted and hence, it was not unlikely that he would agree to sell to a person recommended to him by the informant. Nor is it improbable for persons to leave valuables or even illegal drugs inside a parked car, provided the parking area is guarded or secured. The OSG points out that since appellant had no idea that he would be the subject of a "buy-bust" operation, he did not bother to remove his ID card from the car. According to the OSG, the behavior of people cannot be stereotyped. Hence, it is not unlikely that the sight of people exiting the building could have instilled fear of possible arrest in the minds of appellant and his companion, enough to make them run away.

As a general rule, on questions of credibility of a witness, we must rely upon the assessment made by the trial court, for it had the unique advantage of having observed a witness' demeanor, conduct, and manner of testifying.[31] Unless it can be shown that the trial court overlooked, misapprehended or misapplied certain facts of weight and substance bearing on the elements of the offense, its factual findings are accorded respect and even finality.[32]

In the instant case, the trial court found NBI operative Mapoy's testimony credible. He positively identified appellant as one who had transacted with him for the sale of "shabu" in the afternoon of March 6, 2000 at the Savory Restaurant and parking lot of Manila Doctors Hospital. As an NBI officer, Mapoy had the presumption of regularity of performance of duty in his favor. Furthermore, the defense adduced no evidence whatsoever to show that he was improperly motivated to bear false witness against appellant.

We have minutely scrutinized Mapoy's testimony and we find no reason to depart from the finding of the trial court that it is credible. Mapoy categorically and positively testified as to the details of the "buy-bust" operation and positively identified appellant as one of the two persons who tried to sell to him a regulated drug at the parking lot of Manila Doctors Hospital.

There is nothing improbable about a drug dealer selling a huge amount of shabu to a stranger. Drug dealers are known to sell their wares even to strangers.[33] However, in this case, the poseur-buyer was with the NBI informer who introduced the former to appellant. Hence, it was not as if appellant was dealing with a stranger. He knew the informant beforehand. It was immaterial, in this instance, whether the appellant as vendor and Mapoy as the vendee had earlier known each other.

There is also nothing unusual that the aforementioned amount of regulated drugs would be stored in an unguarded vehicle. The van where the drugs were recovered was parked in a secured parking lot. Since the parking area was guarded, appellant most likely considered it a safe area to leave both the vehicle and its contents. As pointed out by the OSG, people do leave their valuables inside their parked vehicles, if they believe or feel the area is safe. As for the media ID card, appellant could have simply overlooked its presence inside the van. Said media ID was procured for and used by appellant to exempt him from the MMDA's traffic reduction scheme. It was definitely not improbable for it to be in the van where the drugs were found.

Appellant's act of running away when he saw a group of people emerge from the hospital is also not unthinkable. After all, fear of a possible entrapment and arrest always preys at the back of the mind of every drug pusher. When appellant saw a group of people suddenly exit the building, just as he and the poseur-buyer were in the very act of consummating the sale, appellant could have suspected a trap. His fear then took over, causing him to leave all of a sudden.

Appellant states that the alleged sale was not consummated as the poseur-buyer was still examining the alleged drugs when the suspects ran away and no money had been delivered to the seller. He adds that the prosecution did not present the money used in the "buy-bust" operation. Hence, according to him, there is nothing to show that a "buy-bust" operation indeed took place with appellant as target. As there was no consummated sale to speak of, he contends that he could not be convicted of selling, distributing, or dispensing a regulated drug without lawful authority.

Appellant's contention lacks merit. The Information charges appellant not only of selling but also of dispensing, delivering, transporting or distributing a regulated drug, namely methamphetamine hydrochloride or shabu. Under Article I, Sec. 2 (f) of the Dangerous Drugs Act, to deliver "refers to a person's act of knowingly passing a dangerous drug to another, personally or otherwise, and by any means, with or without consideration." In the instant case, appellant delivered the "shabu" to the poseur-buyer at the hospital parking area after seeing the "buy-bust" money in the hands of the poseur-buyer. The absence of actual or completed payment is irrelevant, for the law itself penalizes the very act of delivery of a dangerous drug, regardless of any consideration. Payment of consideration is likewise immaterial in the distribution of illicit drugs.[34]

Moreover, we are not persuaded that no illicit transaction took place. The offer to sell and then the sale itself arose when the poseur-buyer showed the money to appellant, which prompted the latter to show the contents of the carton, and hand it over to the poseur-buyer. Mere showing of the said regulated drug does not negate the existence of an offer to sell or an actual sale.[35] Before appellant and Mapoy met, the informant had already disclosed to appellant the intention of Mapoy to buy shabu. Thus, when appellant and Mapoy met, appellant's intention of selling "shabu" to Mapoy was undeniably manifest. The consummation of the crime charged herein may be sufficiently established even in the absence of an exchange of money.[36] After all, there is no fixed procedure for conducting a "buy-bust" operation. The crime of illegal sale is committed as soon as the sale transaction is consummated. The payment could precede or follow delivery of the drug sold.[37]

As to the non-presentation of the "buy-bust" money, neither law nor jurisprudence requires the presentation of any of the money used in a "buy-bust" operation.[38] It is sufficient to show that the illicit transaction did take place, coupled with the presentation in court of the corpus delicti in evidence.[39] These were done, and were proved by the prosecution's evidence.

Appellant would have us believe that assuming arguendo, he did sell, dispense, deliver, transport, or distribute a regulated drug, no evidence was presented to show that he was not authorized by law to do the same. He submits that the lack of authority to sell, dispense, deliver, transport, or distribute a dangerous drug is an essential element

of the offense, which must be proven by the prosecution.

On this point, the OSG counters that if appellant was indeed authorized to sell regulated drugs, then under prevailing jurisprudence, it was incumbent upon him to show such authority. No such authority was ever shown by appellant in the course of the trial.

With respect to this matter, we have ruled in another drug-related case that:

The general rule is that if a criminal charge is predicated on a negative allegation, or a negative averment is an essential element of the crime, the prosecution has the burden to prove the charge. However, this rule admits of exceptions. Where the negative of an issue does not permit of direct proof, or where the facts are more immediately within the knowledge of the accused, the onus probandi rests upon him. Stated otherwise, it is not incumbent upon the prosecution to adduce positive evidence to support a negative averment the truth of which is fairly indicated by established circumstances and which, if untrue, could readily be disproved by the production of documents or other evidence within the defendant's knowledge or control (*italics in the original*).^[40]

That appellant had neither license nor authority to sell or deliver regulated drugs could have been easily refuted by him by showing such authority before the court or the prosecutor's office. Indicative of his lack of authority or legitimacy to deal in drugs are the following established facts: (1) the sale of the "shabu" was initially set to take place in a restaurant, but the delivery of the drug to Mapoy took place in a hospital parking lot, not inside the hospital itself or its pharmacy, and (2) appellant dashed off, without by-your-leave upon seeing a group of people emerge from the hospital. These circumstances shifted the onus to appellant to prove his authority as legitimate drug seller or distributor. He could have disproved the allegation that he had no such authority by the mere presentation of a license or any document showing his authority to sell or distribute or deliver a regulated drug. He did no such thing at the trial or at any other time, for that matter.

Appellant claims that a hard look at the testimonies of the NBI operatives would show that he was actually instigated into committing the offense, i.e., the alleged drug sale was in fact encouraged by the law enforcers. He points to the testimony of NBI agent Antonio Suarez that they told their informant to "try to strike a deal with the accused." Appellant now insists that it would have been different had he been the one who offered to sell the drugs to Mapoy. But he adds the only person who could testify on this, the unnamed NBI informer, was not presented in court. Further, says appellant, there is no showing whatsoever that he had dealt in drugs prior to March 6, 2000.

Appellant's shift in the theory of his defense from alibi and outright denial to instigation or inducement does not aid his cause. This theory of instigation or inducement deserves scant consideration. Instigation or inducement is committed when law enforcers lure an accused into committing the offense in order to prosecute him.^[41] It is contrary to public policy and considered an absolutory cause.^[42] To substantiate such defense, however, the evidence must be clear and convincing. No such proof, however, was presented by the defense.

On record, the NBI received confidential information that appellant was engaged in drug dealing. NBI officers then tapped the services of the confidential informant, to enable the law enforcers to conduct a "buy-bust" operation. The NBI informer facilitated the meeting of NBI's Mapoy and the appellant. Neither the NBI nor the informer induced appellant to violate the Dangerous Drugs Law. The NBI merely utilized the "buy-bust" scheme to apprehend him in the act of selling and delivering "shabu." Appellant was already in that illicit business, but to arrest him in the act, the NBI used the police technique called a "busy-bust operation," which has received official approval similar to an authorized entrapment of criminals in flagrante delicto.

Appellant's insistence that he was illegally arrested and entitled to an acquittal is simply untenable. The proper

time for questioning the validity of his arrest should have been before arraignment. It is too late for appellant to complain about the warrantless arrest after a valid information had been filed, the accused arraigned, trial commenced and completed, and a judgment of conviction rendered.[43]

In sum, we find that appellant's guilt in selling, distributing, dispensing and transporting of regulated drugs has been proven with moral certainty. The prosecution eyewitness categorically and positively pointed to him as the suspect in the "buy-bust" operation, who fled the scene of the crime and was later apprehended in Valenzuela City. The laboratory report disclosed that the white crystalline powder amounting to 4.450 kilograms, which appellant delivered to the NBI poseur-buyer was "shabu." As against the positive identification and the physical evidence, all that appellant can show are bare denial and an alibi corroborated in the main by his common-law spouse and her sister. Before us, appellant then belatedly changed his theory of defense to instigation or inducement, an act which only reinforces our conviction that his previous defenses were mere concoctions.

As to the penalty, the trial court in imposing the death sentence found that appellant committed the offense as a member of an organized or syndicated crime group. Appellant vehemently denies and disputes this finding. On this point, appellant's denial is justified. There is no showing by the prosecution whatsoever that appellant was indeed a member of an organized or syndicated crime group. What was shown was that appellant had two companions when shabu was being delivered to Mapoy. This would not establish that he belonged to a syndicated or organized crime group.[44] Being a member of a syndicate or organized crime group should have been alleged in the Information, pursuant to Rule 110, Section 8[45] of the Revised Rules of Criminal Procedure, as a specific qualifying circumstance. Since the Information was silent as to the crime being committed by an organized or syndicated group or in conspiracy, then the same cannot be appreciated against appellant for purposes of determining the penalty to be imposed. Clearly, it was error for the trial court to take into account this circumstance in imposing the maximum penalty provided for by law. Hence, his sentence should be reduced to reclusion perpetua only.

The fine of P30,000.00 imposed on appellant is likewise not in accord with law. Under Article III, Section 15 of the Dangerous Drugs Law of 1972, as amended, the penalty of fine for its violation shall be from five hundred thousand (P500,000.00) to ten million pesos (P10,000,000.00). Accordingly, the said fine should be modified to bring it within the range of the fine decreed by the law.

WHEREFORE, the assailed judgment of the Regional Trial Court of Manila, Branch 18, dated March 13, 2001, finding appellant Willy Yang (Yang Yung-hi) guilty beyond reasonable doubt of violating Article III, Section 15, in relation to Article IV, Section 21 (b) of the Dangerous Drugs Act of 1972, as amended by Republic Act No. 7659 is AFFIRMED with MODIFICATION. The penalty imposed on appellant is hereby REDUCED TO RECLUSION PERPETUA. Further, appellant is ORDERED to pay a FINE of One Million Pesos (P1,000,000.00), pursuant to said law plus, the costs.

SO ORDERED.

Davide, C.J., Vitug, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna and Tinga, JJ., concur.

Puno, J., no part.

[1] Records, pp. 146-149.

[2] SEC. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. —

The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.

Notwithstanding the provisions of Section 20 of this Act to the contrary, if the victim of the offense is a minor, or should a regulated drug involved in any offense under this Section be the proximate cause of a victim thereof, the maximum penalty herein provided shall be imposed.

[3] SEC. 21. Attempt and conspiracy. — The same penalty prescribed by this Act for the commission of the offense shall be imposed in case of any attempt or conspiracy to commit the same in the following cases:

- (a) Importation of dangerous drugs;
- (b) Sale, administration, delivery, distribution and transportation of dangerous drugs;
- (c) Maintenance of a den, dive, or resort for prohibited drug users;
- (d) Manufacture of dangerous drugs; and
- (e) Cultivation or culture of plants, which are sources of prohibited drugs.

[4] Supra, note 1 at 149.

[5] Also erroneously spelled “Yeung” in much of the records. Appellant, however, insists the proper spelling is “Yang.” See TSN, 18 September 2000, pp. 4-5.

[6] Exh. “B,” Records, p. 2.

[7] Exh. “C,” Id. at 4.

[8] Records, p. 1.

[9] Id. at 21.

[10] Exh. “A,” Id. at 3.

[11] TSN, 6 July 2000, pp. 8-9.

[12] Id. at 9.

[13] Id. at 10-11.

[14] Id. at 12-14.

[15] Exh. “E,” Records, p. 7.

[16] TSN, 11 July 2000, pp. 9-11; TSN, 14 July 2000, pp. 12-16.

[17] Exh. “C,” Records, p. 4; Exh. “N,” Records, p. 23; TSN, 6 July 2000, p. 3.

[18] TSN, 18 September 2000, pp. 8-9.

[19] Id. at 12; TSN, 22 September 2000, pp. 4-5.

[20] TSN, 18 September 2000, p. 11; TSN, 22 September 2000, pp. 12-13.

[21] TSN, 18 Sept. 2000, pp. 12-13.

[22] TSN, 22 September 2000, pp. 10-12.

[23] TSN, 28 September 2000, p. 4.

[24] Id. at 6.

[25] Id. at 6, 8

[26] Also “Cristy L. Leonis” in some parts of the record.

[27] Also referred to in some portions of the record as “Rendell Ann” or “Rendell Anne.”

[28] See TSN, 6 September 2000 and Exh. “6,” Records, p. 113 (Leones) and TSN, 15 September 2000 and Exh. “7,” Records, pp. 114-115 (Cabad).

[29] TSN, 18 October 2000, p. 5.

[30] Appellant was initially represented by the law firm of Coluso Chica & Associates. Said law firm moved to withdraw its appearance on November 11, 2002, (Rollo, p. 102). The law firm of Puno & Associates entered its appearance as counsel of record on October 25, 2002 (Rollo, p. 80) and we noted the same in our resolution dated November 26, 2002.

[31] People v. Corpuz and Santos, G.R. No. 148919, 17 December 2002, pp. 10-11.

[32] People v. Astudillo, G.R. No. 140088, 13 November 2002, 391 SCRA 536, 546-547.

[33] People v. Rodriguez, G.R. No. 144399, 20 March 2002, 379 SCRA 607, 620.

[34] People v. Rodriguez, *supra*, at 614.

[35] People v. San Juan, G.R. No. 124525, 15 February 2002, 377 SCRA 13, 18-19.

[36] People v. Eugenio, G.R. No. 146805, 16 January 2003, p. 16 citing People v. Ganenas, 417 Phil. 53 (2001).

[37] See People v. Aspiras, G.R. Nos. 138382-84, 12 February 2002, 376 SCRA 546, 555-556.

[38] People v. Astudillo, *supra*, note 32 at 555.

[39] People v. Gonzales, G.R. No. 143805, 11 April 2002, 380 SCRA 689, 699.

[40] People v. Manalo, G.R. No. 107623, 23 February 1994, 230 SCRA 309, 318-319.

[41] People v. Valencia, G.R. No. 143032, 14 October 2002, 390 SCRA 696, 708-709.

[42] People v. Boco, 368 Phil. 341, 366 (1999).

[43] People v. Emoy, G.R. No. 109760, 27 September 2000, 341 SCRA 178, 190.

[44] See People v. Astudillo, G.R. No. 140088, 13 November 2002, 391 SCRA 536, 556.

[45] SEC. 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

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