

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FERNANDO ALLAWAN Y LANDEZA, EDGAR ATOS Y LICAWAN, RUDY HERMOGENES, JUN-JUN SASAN @ HUSEIN, AND REY LAURON, ACCUSED. VS. FERNANDO ALL...

G.R. No. 149887. February 13, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

The Case for the Prosecution[1]

Feliciano Sabroso, Sr., a resident of Sabroso Village, Kabacan, Ecoland, Davao City, was the head of the Peace and Order Council of Barangays 74 and 76-A, under the Office of the City Mayor of Davao City. His wife, Dessie Sabroso, was a member of the council. He had an office in his house, manned by Carmen dela Cruz, who was employed under the Office of the City Mayor and also served his household.

At about 6:00 a.m. on August 9, 2000, Sabroso, Sr. saw a male person about seven meters away from his house, catching crabs and picking shellfish in the nearby swampy area. It was Edgar Atos. Sabroso, Sr. ordered Joelfredo Cordova, who was then feeding his fighting cocks in front of the house, to tell Atos to leave. Cordova relayed the order to Atos, and went back to his chores. Atos grumbled but left the place. He, however, followed Cordova and asked for “a light” for his cigarette. Cordova took out a box of matches and handed it to Atos. Cordova noticed a male person standing nearby, but gave no importance to it. The person turned out to be Fernando Allawan.

Meanwhile, Sabroso, Sr., his wife Dessie, their daughter, Arma, and Carmen dela Cruz boarded the family-owned Toyota FX vehicle. Arma was on her way to school. Sabroso, Sr. drove the vehicle out of the garage and stopped in front of his office. He told Dela Cruz to fetch Boy Batalia, a driver-mechanic who lived only a few meters away. Dela Cruz alighted from the car and proceeded to the house of Batalia.

Momentarily, Allawan, armed with a .357 caliber revolver, suddenly approached the driver’s seat of the FX and aimed his gun at Sabroso, Sr.. Allawan broke the side mirror near the driver and shot Sabroso, Sr. on the abdomen. Shocked, Dessie alighted from the car and frantically shouted for help. She rushed to where Allawan was, picked up stones and threw them towards her husband’s assailant. The latter aimed his gun at Dessie and pulled the trigger twice, but the gun did not fire. Arma, who was also shocked at the sudden turn of events, frantically exited from the FX. When Dela Cruz saw the shooting, she shouted to Dessie, “Day, tago.” For his part, Cordova, who was behind the vehicle, rushed to Sabroso, Sr. Allawan also shot him, but missed. Fearing for his life, Cordova fled and hid under the coconut trees about 250 meters away from the crime scene.

In the meantime, Allawan moved back. Atos then approached the driver’s seat and shot Sabroso, Sr. twice with a .38 caliber gun. Allawan and Atos then fled together from the scene towards Times Beach. Cordova came out from his hiding place and rushed to the vehicle. He saw Sabroso, Sr. sprawled on the floor of the vehicle under the steering wheel, face down, already dead. Cordova then took Sabroso Sr.’s gun from the latter’s waist and ran after Atos and Allawan. Dela Cruz rushed to the FX and, with Dessie’s help, pulled out Sabroso, Sr. from the

vehicle so that the fallen victim could be brought to the hospital. Cordova exchanged shots with Allawan, but Cordova later lost sight of the two. As he ran in search of the assailants, a woman along the way told him that Atos had fled towards the beach, while Allawan had hidden under a cottage. Cordova waited for Allawan to come out. When he did, Cordova shot him.

When Civilian Armed Forces Geographical Units (CAFGUs) and civilian volunteers arrived, Allawan fled towards the beach and frantically waved to a waiting pumpboat about 400 meters away. The pumpboat moved away towards the open sea, leaving Allawan standing on the shore. The CAFGUs and civilian volunteers arrested Allawan. Residents mauled him before he could be brought to the police detachment.

At about 6:20 a.m., PO3 Monte Deramos reported to Police Precinct No. 3 at Matina, Davao City, that he received word of a shooting incident at Ecoland Village, Davao City.[2] A team of police officers, headed by the Deputy Station Commander, including SPO1 Rodolfo A×jasco, was dispatched to conduct a pursuit operation. The team received information from barangay policemen that one of the suspects was wearing black pants, a black T-shirt, and was armed with a gun. He was hiding behind a hut somewhere in Punta Dumalag I near the Times Beach, about a kilometer away from where Sabroso, Sr. was shot. They rushed to the place and found Atos hiding behind a cottage about five meters from the shore. He was wearing a pair of khaki pants and had reversed his shirt. The policemen secured the area and recovered from him a paltic .38 caliber Smith & Wesson gun with Serial No. 158374, with four live ammunitions and two empty shells. The policemen arrested Atos and brought him to the police station where Cordova later identified him as one of the killers of Sabroso, Sr.[3] The policemen turned over the gun, the live bullets and empty shells to the evidence custodian in the police station.

Allawan was brought to the Davao Medical Center in Bajada, Davao City, where he was treated for multiple injuries. SPO1 Semon V. Lagura thereafter brought him to the police station where he was detained.[4] When Dela Cruz saw Allawan at the police station, she identified him as one of the assailants of Sabroso, Sr.

Medico-Legal Officer Dr. Danilo P. Ledesma, performed an autopsy on the cadaver of Sabroso, Sr. and submitted a report containing his post-mortem findings, thus:

Pallor, marked, generalized
Body in rigor mortis

Wounds, gunshot, ovaloid in shapes, edges, clean-cut:

- 1.) ENTRANCE, 1.5 x 1.3 cms., located at the upper quadrant of the abdomen, left, 17.0 cms. from the anterior median line and 111.0 cms. above the left heel, directed backwards, upwards, medially crossing the median line from left to right, involving the skin and underlying soft tissues, into the peritoneal cavity, bullet lacerating the liver along its path, perforating the stomach, into the thoracic cavity, left, bullet lacerating the posterior mediastinum, into the right thoracic cavity, bullet penetrating the fourth rib, right side and was subsequently recovered.
2. ENTRANCE, 1.3 x 1.2 cms. located at the upper quadrant of the abdomen, left, 15.0 cms. from the anterior median line and 105.0 cms. from the left heel, directed backwards, upwards, medially crossing the midline from left to right, involving the skin and underlying soft tissues, into the peritoneal cavity, bullet lacerating the liver, into the pericardial cavity, lacerating the heart, into the thoracic cavity, right, fracturing the second rib, right, forming a slit-like EXIT, 2.6 cms. long at the anterior chest wall, right side, 13.0 cms. from the anterior median line and 139.0 cms. above the right heel.
3. ENTRANCE, 0.6 x 0.5 cm. located at the forearm, left, posterior aspect, superior third, 3.5 cms. from the elbow, directed anteriorly, upwards, medially, involving the skin and underlying soft tissues, forming an irregular EXIT, 2.0 x 1.5 cms. at the forearm, left, superior third, medial aspect, 2.0 cms. from the elbow.

4. ENTRANCE, 1.6 x 0.8 cm.; located at the thigh, left, superior third, central aspect, 83.0 cms. above the left heel directed downwards, laterally, involving the skin and underlying soft tissues, forming an irregular EXIT, 2.5 x 1.5 cms. at the thigh, left, superior third, 80.0 cms. above the left heel with a bridge of 5.5 cms.

Hemothorax, right, 1,200 liters

Hemothorax, left, 1 liter

Brain and visceral organs, pale

Stomach, empty

CAUSE OF DEATH: Gunshot wounds of the abdomen.[5]

The doctor recovered a deformed slug from the cadaver of the victim.

Chief Inspector Rommil Mercado Mitra of the Matina Police Precinct No. 3 requested the Regional Crime Laboratory Office to conduct a ballistic examination of fired cartridges of the .38 caliber gun bearing Serial No. 158374. Chief Inspector Mitra submitted the following findings:

1. One (1) home-made cal. rev .38 serial number 158374
2. Nine (9) empty shells of cal. rev .38
3. Four live bullets of cal. rev .38
4. One (1) empty shell of .45 cal. pistol
5. Two (2) slug badly deformed.[6]

On August 18, 2000, Firearm Examiner Alfonso L. Saligumba submitted Report No. FAIS-042-2000 with the following findings:

CONCLUSION:

1. The .38 cal. fired cartridge cases marked "RRG1" to "RRG9" inclusive, and the .38 caliber fired bullet marked "RRG" were fired from the above-mentioned firearm .38 caliber "Homemade rev with serial number 158374.

2. No conclusion can be made on the submitted specimen marked "RRG" due to lack of sufficient basis.

MARKS:

The original copy of this report together with the specimen submitted are retained in this Regional Crime Laboratory for future reference. Note: Four (4) submitted .38 cal. cartridges were utilized as standard for comparison.[7]

On April 14, 2000, an Information was filed in the Regional Trial Court, Davao City, charging Allawan and Atos with murder, the accusatory portion of which reads:

That on or about August 9, 2000, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, confederating together and mutually helping one another with intent to kill, evident premeditation, treachery and abuse of superior strength, with the use of handguns willfully, unlawfully and feloniously attacked and shot one Feliciano Sabroso, Sr. That the victim Feliciano Sabroso, Sr. sustained fatal injuries which caused his instantaneous death to the damage and prejudice of the heirs of Feliciano Sabroso, Sr.

Contrary to law.[8]

Upon being arraigned, with the assistance of counsel, Allawan and Atos entered their respective pleas of not guilty.

The Case for Edgar Atos

Appellant Atos testified that he and his uncle Jun Atos were picking up small sea crabs (kagang) at the beach when he heard several gunshots. He ran until he reached a vacant lot. Someone asked him why he was there, and he replied that he ran because he heard gunshots. The man told him to stay put. Shortly thereafter, another man on board a motorcycle arrived and brought him to the Talomo Police Station where he was investigated. He was brought to the scene of the shooting incident where he was made known to people as the supposed gunman by a Sgt. Pamplona. Later, he was brought back to the police station where the relatives of Sabroso, Sr. threw bottles at him. A certain woman pointed to him as the gunman. He denied having a gun in his possession when apprehended.

The appellant admitted that he executed an extra-judicial confession but claimed that he was coached by the police on what to say. He signed his confession because he was warned that unless he cooperated he would be hanged. He claimed that his confession in the police station was not translated to him in the Visayan dialect when he was brought to the office of Atty. Calatrava.[9] He was taught to write “Yes, sir” by the policeman in his affidavit/confession.

The Case for Fernando Allawan

Fernando Allawan testified that he was a rebel returnee. He had been a member of the New People’s Army since he was 11 years old, until he returned to the folds of the law in 1995. He was a platoon leader of its MRGU Front 52. He came to Davao City the day before the incident on August 9, 2000 to visit his childhood friend, a certain Neneng Duloc who lived in the Boulevard, and was also a rebel returnee. He denied shooting and killing the victim.

After trial, the court rendered judgment finding the accused guilty beyond reasonable doubt of murder. The decretal portion of the decision reads:

WHEREFORE, finding the guilt of the accused Fernando Allawan and Edgar Atos to have been duly established beyond reasonable doubt, they are hereby adjudged GUILTY of the crime of MURDER for the killing of FELICIANO SABROSO, [SR.].

Accordingly, there being no aggravating circumstance present independent of the qualifying circumstance of treachery, the accused FERNANDO ALLAWAN and EDGAR ATOS are hereby sentenced to suffer the indivisible penalty of RECLUSION PERPETUA with all the accessory penalties attendant thereto.

They are further ORDERED to pay the heirs of Feliciano Sabroso, [Sr.] the amount of P116,100.00 as actual damages; P50,000.00 as moral damages; P50,000.00 as indemnity for the death of Feliciano Sabroso, [Sr.]; and P60,000.00 as attorney’s fees and the additional sum of P1,000.00 for every appearance in court of the private counsel.

The immediate confinement of the accused Fernando Allawan and Edgar Atos in the national penitentiary is hereby ordered.

Costs de officio.[10]

On appeal, the appellants assail the decision of the trial court contending as follows:

I

THE LOWER COURT ERRED IN GIVING UNDUE WEIGHT AND CREDENCE TO THE TESTIMONY OF [THE] PROSECUTION’S ALLEGED EYEWITNESSES.

II

THE LOWER COURT ERRED IN APPRECIATING TREACHERY AS ATTENDANT IN THE KILLING OF FELICIANO SABROSO, [SR.].

II

THE LOWER COURT ERRED IN FINDING AND CONCLUDING THAT CONSPIRACY (SIC) EXISTED BETWEEN THE HEREIN ACCUSED-APPELLANTS FERNANDO ALLAWAN AND EDGAR ATOS.

IV

THE LOWER COURT ERRED IN FINDING ACCUSED-APPELLANT, FERNANDO ALLAWAN GUILTY OF MURDER WITHOUT HIS GUILT HAVING BEEN PROVED BEYOND REASONABLE DOUBT.

V

ASSUMING ARGUENDO THAT THE ACCUSED ARE GUILTY, THEY ARE GUILTY ONLY OF THE CRIME OF HOMICIDE FOR ALTHOUGH TREACHERY IS ALLEGED IN THE INFORMATION, IT IS NOT ALLEGED WITH SPECIFICITY, I.E., AS A “QUALIFYING CIRCUMSTANCE.”[11]

The appellants assert that the prosecution failed to prove their guilt for the crime charged beyond reasonable doubt. The testimonies of Dessie Sabroso and Carmen dela Cruz are barren of probative weight because Dela Cruz was a member of the victim’s household. Furthermore, despite their claim that they had a frightening experience as they witnessed the gruesome killing, Dela Cruz and Sabroso chose to remain at the situs criminis. The appellants contend that the failure of said witnesses to flee from the scene of the killing is contrary to ordinary human experience. As gleaned from Cordova’s testimony, he saw only one assailant – appellant Allawan. Cordova did not see appellant Atos shoot the victim. The trial court erred in not considering the testimony of Cordova and acquitting appellant Atos of the crime charged. Moreover, the appellant did not have a gun as evidenced by the fact that when he was arrested, no gun was found in his possession. Finally, according to the appellants, the trial court erred in finding that both appellants conspired to kill the victim.

The appellants’ contentions do not hold water. In denying having shot and killed the victim, the appellants thereby assailed the credibility of Sabroso, Dela Cruz and Cordova. The trial court gave credence and full probative weight to the testimonies of the witnesses of the prosecution. The legal aphorism is that the findings of facts of the trial court, its calibration of the testimonies of witnesses and the probative weight thereof and its conclusions based on the said findings are accorded by the appellate court high respect, if not conclusive effect, because of the unique advantage of the trial court of observing, at close range, the demeanor, conduct and deportment of the witnesses as they testify. If the trial court overlooked, ignored or misconstrued or misinterpreted cogent facts and circumstances which if considered would change the outcome of the case, the appellate court may formulate its own findings and conclusions.[12]

We have reviewed the records and find no justification to deviate from the findings of the trial court and its conclusion that the appellants conspired to shoot and kill the victim.

The prosecution relied on the collective testimonies of the two eyewitnesses: Dessie Sabroso, the victim’s widow, and Carmen dela Cruz. This was corroborated by another witness, Joelfredo Cordova, as well as the physical evidence on record. Dessie, who was seated beside her husband, saw appellant Allawan as the latter positioned himself beside the driver’s seat of the vehicle. Dessie saw him as he shot the victim twice with his handgun at close range. When she pelted Allawan with stones, the latter even aimed his gun at her and pulled the trigger. Fortunately, the gun did not fire.

Dela Cruz and Cordova did not see Allawan shoot the victim. Nonetheless, when they looked towards the

direction where the first volley of gunfire emanated from, they saw Allawan aiming his gun at Dessie, about to shoot the latter. Dela Cruz even shouted and urged the latter to flee. When Cordova rushed to help the victim, the appellant fired at him, but missed. Dessie Sabroso and Dela Cruz saw Allawan move back after shooting the victim and thereupon, appellant Atos took over and fired his .38 caliber paltik gun at the victim twice. Dessie was only two meters away from appellant Atos, while Dela Cruz was merely about ten meters away. The appellants forthwith fled from the scene towards Times Beach. Even as they did, appellant Allawan exchanged gunfire with Cordova as the latter pursued them, this time armed with a handgun which he took from the victim. The crime took place early in the morning, at about 6:00 a.m. Considering the proximity of the appellant to the witnesses of the prosecution and the time of day the crime was committed, there can be no doubt that, as testified to by them, the appellants were the assailants.

Appellant Atos cannot assail the credibility and probative weight of the testimony of Dela Cruz and Dessie Sabroso simply because Cordova did not see him shoot the victim. The records show that when Cordova heard the first volley of gunfire, he looked towards the direction of the victim, oblivious of appellant Atos' presence. Cordova focused his attention on the driver's seat of the vehicle where the victim lay. The fact that the appellants were in cahoots with each other never entered his mind at the time:

ATTY. CALIO (TO WITNESS)

Q When you heard the gunburst, you were facing the FX?

A I was standing when there was a gunburst. At the time of the gunburst, I was facing to that other person. At my side was Atos. When I heard the gunburst, I looked at the FX, I turned right towards the gunburst.

Q Immediately before the gunburst, you would like to impress us that your attention was focused to that other person?

A Yes, sir.

Q And you suddenly diverted your face and attention to the FX when there was a gunburst there?

A Yes, sir.

Q And you cannot immediately see the persons there at the FX because you were at the back of the FX?

ATTY. G. CAÑETE:

Q Your Honor, we object to that question, it is vague. Who is the person are we referring to at the FX. We would like to make that clear, Your Honor.

COURT:

Answer.

WITNESS:

A I saw the person.

ATTY. CALIO (TO WITNESS):

Q Where did you see the person?

A On the left side of the Tamaraw FX firing his gun this way. (Witness is demonstrating by showing a person as if holding with both hands a gun).

Q

You did not call the attention of Atos as regards that gunfire that you heard?

A No, sir.

Q You did not even notice if Atos was still there at your side?

A Not anymore, sir.

Q How many persons did you see at the FX when you heard the gunburst?

A There were two (2) persons, Mrs. Sabroso and Allawan.

Q Where was Mrs. Sabroso when you saw them?

A She alighted from the vehicle at the right side and went to the left side and said: "To, help!"[13]

Indeed, Cordova had no inkling that as appellant Allawan fled from the FX towards the coconut trees where he hid, appellant Atos himself shot the victim twice. By the time Cordova looked back towards the FX, the appellants had already shot the victim and were already fleeing towards Times Beach. In *Collins v. Jamesville*,^[14] the appellate court declared that courts take judicial notice that when several persons witness a violent occurrence and some time thereafter severally describe it, each intending to state truthfully just what occurred, they will differ very widely as to attendant matters while agreeing on the facts which impressed them at the time of the occurrence. In *People v. Lacbayan*,^[15] we held that it is perfectly natural for different witnesses testifying on the occurrence of a crime to give varying details as there may be more details which one witness may notice while the other may not observe or remember. Segments of a crime before, during and after its commission may have been seen or heard by a witness while other witnesses may have been oblivious thereof. It is entirely possible that the witnesses who saw the crime committed may be able to testify only as to certain segments of the crime which they saw. To ascertain the truth, the testimonies of all the witnesses of the prosecution must be considered in their entirety and not independently of one another. Cordova, Dela Cruz and Sabroso may have differed in their narration of the details in the commission of the crime; however, they did not waiver in their identification of the appellants as the assailants.

It is absurd for appellant Atos to disclaim criminal responsibility for the death of the victim simply because no

gun was found in his possession when he was arrested at Punta Dumalag I, a kilometer away from the situs criminis. The guns used by the appellants are merely corroborative of the corpus delicti. Even if the guns were not presented as evidence, the appellants may still be convicted for the crime charged solely on the evidence on record. Indeed, the physical evidence on record shows that the victim was shot four (4) times. This jibes with the testimonies of the witnesses of the prosecution that both appellants Allawan and Atos took turns in shooting the victim. Near the place where Atos was arrested, the policemen found a .38 caliber Smith & Wesson paltik revolver which contained 2 empty cartridges and four live bullets.

The appellants would like this Court to disbelieve the testimonies of Dessie Sabroso and Dela Cruz simply because they did not flee even as the appellants had shot the victim. The appellants assert that it is contrary to human nature for the two women to remain in the place of the crime while a gruesome and frightening crime was being perpetrated before their eyes.

We do not agree. In *People v. Monieva*,^[16] we held that two different people may react differently to a given stimulus or type of situation and there is no standard form of behavior and response when one is confronted with a shocking or a startling experience. Someone may be so stunned to immobility. Others may shout, fend off the malefactor and even fight him off. Still others may simply flee to a safe haven. In this case, Dessie Sabroso was so shocked and livid with anger at the appellant's sudden assault on her hapless husband that instead of fleeing, she alighted from the vehicle, frantically shouted for help, confronted appellant Allawan and hurled stones at him, even as the latter aimed his gun at her and pulled the trigger. Had the gun fired, she would have died, too. But Dessie Sabroso did not flee. She chose to stay with her husband. Dela Cruz, likewise, chose to stay put and give succor to the victim after the appellants had fled.

On the other hand, the appellants fled together from the situs criminis towards Times Beach. Appellant Allawan hid behind a cottage while appellant Atos hid near a cottage about a kilometer away from the scene of the shooting. The flight of the appellants is an implied admission of guilt.^[17]

The probative weight of the testimony of Dela Cruz, and even of Cordova's for that matter, is not diminished simply because they were under the victim's employ. It is but natural for these witnesses to see to it that only those responsible for the death of the victim should be charged, prosecuted and convicted for the said crime.

It would run counter to the natural order of events and of human nature, and to the presumption of good faith for a prosecution witness, even under the employ of the victim, to falsely testify if the appellants were indeed innocent.^[18] Dela Cruz, Sabroso and Cordova had no ill motive to falsely impute to the appellants the responsibility for the killing of the victim for which the latter could be sentenced to suffer reclusion perpetua or the death penalty. Hence, their testimonies are entitled to full probative weight.

We are convinced that based on the evidence on record, the appellants conspired to kill the victim. There is conspiracy when two or more persons agree to commit a crime and decide to commit it.^[19] Conspiracy may be proved either by direct evidence or by circumstantial evidence. It may be deduced from the acts of the malefactors before, during and after the commission of the crime which are indicative of a joint purpose, concerted acts and concurrence of sentiments.^[20] Once conspiracy is established, the act of one is deemed the act of all. In the eyes of the law, conspirators are one man, they breathe one breath, they speak one voice, they wield one arm; and the law says that the acts, words and declaration of each, while in pursuance of a common design are the acts, words and declaration of all.^[21]

In this case, the collective acts of the appellants before, during and after the shooting, evince no other conclusion than that they conspired to kill the victim. The appellants are principals by direct participation of the crime of murder, qualified by treachery. Although the attack was frontal and in broad daylight, it was sudden and

unexpected, giving the victim no opportunity to repel the same or offer any defense on his person.[22]

The Information alleges that the appellants used handguns. However, it does not allege that the appellants had no license to possess the firearms. The lack of license to possess the firearms is a negative averment, an essential element of the crime which, under Section 8, Rule 110 of the Revised Rules of Criminal Procedure, must be alleged in the Information.[23] Moreover, the prosecution failed to prove that the appellants had no such license to possess the firearms. Hence, the aggravating circumstance of use of unlicensed firearm to commit murder as provided for in Republic Act No. 8394 cannot be appreciated against the appellants.[24]

Under Article 248 of the Revised Penal Code, the imposable penalty for murder is reclusion perpetua to death. There being no modifying circumstances attendant to the crime, the appellants should be sentenced to suffer the penalty of reclusion perpetua, conformably to Article 63 of the Revised Penal Code.

The trial court failed to award exemplary damages to the heirs of the victim. Pursuant to current jurisprudence, they are entitled to an amount of P25,000.00 as exemplary damages.[25]

IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Davao City, Branch 33, is AFFIRMED WITH MODIFICATION. Appellants Fernando Allawan y Landeza and Edgar Atos y Licawan are found GUILTY beyond reasonable doubt of murder under Article 248 of the Revised Penal Code, qualified by treachery. There being no modifying circumstances attendant to the crime, the appellants are sentenced to suffer the penalty of reclusion perpetua. The said appellants are ordered to pay, jointly and severally, to the heirs of Feliciano Sabroso, Sr. the amounts of P116,000.00 as actual damages; P50,000.00 as civil indemnity; P50,000.00 as moral damages; and P25,000.00 as exemplary damages.

SO ORDERED.

Puno, J., (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] The prosecution presented Dessie Sabroso, Carmen dela Cruz, Joelfredo Cordova, Dr. Danilo Ledesma, SPO1 Rodolfo Añiasco, SPO1 Alfonso Lopez and SPO1 Victor Malicay.

[2] Exhibit "G."

[3] Ibid.

[4] Exhibit "R-5."

[5] Exhibit "O," Folder of Exhibits.

[6] Exhibit "G," Folder of Exhibits.

[7] Exhibit "H."

[8] Records, p. 1.

[9] TSN, 22 November, 2000, pp. 29-30.

[10] Rollo, pp. 114-115. The PAO filed a Brief for the appellants; The Ateneo Legal Service Office filed a Separate Appellants' Brief.

[11] Id. at. 78-79.

[12] People v. Garcia, G.R. No. 145505, March 14, 2003.

[13] TSN, 18 September 2000, pp. 45-47.

[14] 94 Northeastern Reporter 309.

[15] 339 SCRA 396 (2000)

[16] 333 SCRA 244 (2000).

[17] Rivera v. Court of Appeals, 332 SCRA 416 (2000).

[18] People v. Macaliag, 337 SCRA 502 (2000).

[19] Article 8, Revised Penal Code.

[20] People v. Delim, G.R. No. 142773, January 28, 2003.

[21] Ibid.

[22] People v. Avillana, 332 SCRA 19 (2000).

[23] 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.

[24] People v. Delim, *supra*.

[25] Ibid.

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