

PEOPLE OF THE PHILIPPINES, appellee, vs. JOEL YATAR alias “KAWIT”, appellant.

G.R. No. 150224. May 19, 2004

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PER CURIAM:

On automatic review is a Decision of the Regional Trial Court of Bulanao, Tabuk, Kalinga, Branch 25, sentencing appellant Joel Yatar alias “Kawit” to Death for the special complex crime of Rape with Homicide, and ordering him to pay the heirs of the victim, Kathylyn D. Uba, civil indemnity in the amount of P75,000.00, moral damages in the amount of P200,000.00, exemplary damages in the amount of P50,000.00, actual damages in the amount of P186,410.00, or total damages amounting to P511,410.00, and costs of litigation.[1]

Appellant was charged with Rape with Homicide under the following Information:

That on or about the afternoon of June 30, 1998 at Liwan West, Rizal, Kalinga, and within the jurisdiction of this Honorable Court, the accused, in order to have carnal knowledge of a certain KATHYLYN D. UBA, did then and there wilfully, unlawfully, and feloniously, and with use of a bladed weapon stab the latter inflicting upon her fatal injuries resulting in the death of the victim, and on the occasion or by reason thereof, accused, wilfully, unlawfully and feloniously, and by means of force and violence had carnal knowledge of said Kathylyn D. Uba against her will.

CONTRARY TO LAW.[2]

The facts are:

On June 30, 1998, at 8:30 a.m., Judilyn Pas-a and her first cousin, seventeen year old Kathylyn Uba, were on the ground floor of the house of their grandmother, Isabel Dawang, in Liwan West, Rizal, Kalinga. They were talking about the letter sent by their aunt, Luz Yatar, to her husband, appellant Joel Yatar, through Kathylyn’s friend, Cecil Casingan. Kathylyn handed the letter to appellant earlier that morning.[3]

At 9:00 a.m. of the same day, Judilyn and her husband, together with Isabel Dawang, left for their farm in Nagbitayan some two kilometers away. Before Judilyn and her husband departed, Kathylyn told Judilyn that she intended to go to Tuguegarao, but in the event she would not be able to leave, she would just stay home and wash her clothes or go to the house of their aunt, Anita Wania. Kathylyn was left alone in the house.[4]

Later, at 10:00 a.m., Anita Wania and fifteen year old Beverly Deneng stopped by the house of Isabel. They saw appellant at the back of the house. They went inside the house through the back door of the kitchen to have a drink of water. Anita asked appellant what he was doing there, and he replied that he was getting lumber to bring to the house of his mother.[5]

At 12:30 p.m., while Judilyn was on her way home from Nagbitayan, she saw appellant descend the ladder from the second floor of the house of Isabel Dawang and run towards the back of the house.[6] She later noticed appellant, who was wearing a white shirt with collar and black pants, pacing back and forth at the back of the house. She did not find this unusual as appellant and his wife used to live in the house of Isabel Dawang.[7]

At 1:30 p.m., Judilyn again saw appellant when he called her near her house. This time, he was wearing a black shirt without collar and blue pants. Appellant told her that he would not be getting the lumber he had stacked, and that Isabel could use it. She noticed that appellant's eyes were "reddish and sharp." Appellant asked her where her husband was as he had something important to tell him. Judilyn's husband then arrived and appellant immediately left and went towards the back of the house of Isabel.[8]

In the evening of the same day, Isabel Dawang arrived home and found that the lights in her house were off. She called out for her granddaughter, Kathylyn Uba. The door to the ground floor was open. She noticed that the water container she asked Kathylyn to fill up earlier that day was still empty. She went up the ladder to the second floor of the house to see if Kathylyn was upstairs. She found that the door was tied with a rope, so she went down to get a knife. While she groped in the dark, she felt a lifeless body that was cold and rigid.[9]

Isabel moved her hand throughout the entire body. She found out that it was the naked body of her granddaughter, Kathylyn. She called for help. Judilyn and her husband arrived. Isabel was given a flashlight by Judilyn. She focused the beam and saw Kathylyn sprawled on the floor naked, with her intestines protruding out of her stomach. Meanwhile, neighbors had arrived to offer assistance. A daughter of Isabel, Cion, called the police.[10]

At 9:00 that evening, SP04 Melchor Faniswa received a report that a dead woman was found in Isabel Dawang's house. Together with fellow police officers, Faniswa went to the house and found the naked body of Kathylyn Uba with multiple stab wounds.

The people in the vicinity informed the police officers that appellant was seen going down the ladder of the house of Isabel Dawang at approximately 12:30 p.m.

The police discovered the victim's panties, brassiere, denim pants, bag and sandals beside her naked cadaver at the scene of the crime, and they found a dirty white shirt splattered with blood within 50 meters from the house of Isabel.

When questioned by the police authorities, appellant denied any knowledge of Kathylyn's death,[11] however, he was placed under police custody.

On July 3, 1998, appellant asked the police officers if he could relieve himself. Police Officer Cesar Abagan accompanied him to the toilet around seven to ten meters away from the police station. They suddenly heard someone shout in the Ilocano dialect, "Nagtaray!" (He's running away!). Police Officer Orlando Manuel exited through the gate of the Police Station and saw appellant running away. Appellant was approximately 70 meters away from the station when Police Officer Abagan recaptured him.[12] He was charged with Rape with Homicide. When he was arraigned on July 21, 1998, appellant pleaded "not guilty."

After trial, appellant was convicted of the crime of Rape with Homicide, defined and penalized under Article 266-A of the Revised Penal Code, as amended by R.A. 8353, otherwise known as the Anti-Rape Law of 1997, and was accordingly, sentenced to Death.

Hence, this automatic review pursuant to Article 47 of the Revised Penal Code, as amended. In his Brief, appellant assigns the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING MUCH WEIGHT TO THE EVIDENCE PRESENTED BY THE PROSECUTION NOTWITHSTANDING THEIR DOUBTFULNESS.

II

THE TRIAL COURT SERIOUSLY ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT OF

THE SERIOUS CRIME CHARGED DUE TO REASONABLE DOUBT.

Appellant's contentions are unmeritorious.

The issue regarding the credibility of the prosecution witnesses should be resolved against appellant. This Court will not interfere with the judgment of the trial court in determining the credibility of witnesses unless there appears in the record some fact or circumstance of weight and influence which has been overlooked or the significance of which has been misinterpreted.[13] Well-entrenched is the rule that the findings of the trial court on credibility of witnesses are entitled to great weight on appeal unless cogent reasons are presented necessitating a reexamination if not the disturbance of the same; the reason being that the former is in a better and unique position of hearing first hand the witnesses and observing their deportment, conduct and attitude.[14] Absent any showing that the trial judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, the trial judge's assessment of credibility deserves the appellate court's highest respect.[15] Where there is nothing to show that the witnesses for the prosecution were actuated by improper motive, their testimonies are entitled to full faith and credit.[16]

The weight of the prosecution's evidence must be appreciated in light of the well-settled rule which provides that an accused can be convicted even if no eyewitness is available, as long as sufficient circumstantial evidence is presented by the prosecution to prove beyond doubt that the accused committed the crime.[17]

Reference to the records will show that a total of eleven (11) wounds, six (6) stab and five (5) incised, were found on the victim's abdomen and back, causing a portion of her small intestines to spill out of her body.[18] Rigor mortis of the victim's body was complete when Dr. Bartolo examined the victim at 9:00 a.m. on July 1, 1998. According to him, the time of death may be approximated from between nine (9) to twelve (12) hours prior to the completion of rigor mortis.[19] In other words, the estimated time of death was sometime between 9:00 a.m. to 12:00 p.m. on June 30, 1998. This was within the timeframe within which the lone presence of appellant lurking in the house of Isabel Dawang was testified to by witnesses.

It should also be noted that, although the Postmortem Report by the attending physician, Dr. Pej Evan C. Bartolo, indicates that no hymenal lacerations, contusions or hematoma were noted on the victim,[20] Dr. Bartolo discovered the presence of semen in the vaginal canal of the victim. During his testimony, Dr. Bartolo stated that the introduction of semen into the vaginal canal could only be done through sexual intercourse with the victim.[21] In addition, it is apparent from the pictures submitted by the prosecution that the sexual violation of the victim was manifested by a bruise and some swelling in her right forearm indicating resistance to the appellant's assault on her virtue.[22]

Significantly, subsequent testing showed that the Deoxyribonucleic acid (DNA) of the sperm specimen from the vagina of the victim was identical to the semen to be that of appellant's gene type.

DNA is a molecule that encodes the genetic information in all living organisms.[23] A person's DNA is the same in each cell and it does not change throughout a person's lifetime; the DNA in a person's blood is the same as the DNA found in his saliva, sweat, bone, the root and shaft of hair, earwax, mucus, urine, skin tissue, and vaginal and rectal cells.[24] Most importantly, because of polymorphisms in human genetic structure, no two individuals have the same DNA, with the notable exception of identical twins.[25]

DNA print or identification technology has been advanced as a uniquely effective means to link a suspect to a crime, or to exonerate a wrongly accused suspect, where biological evidence has been left. For purposes of criminal investigation, DNA identification is a fertile source of both inculpatory and exculpatory evidence. It can assist immensely in effecting a more accurate account of the crime committed, efficiently facilitating the

conviction of the guilty, securing the acquittal of the innocent, and ensuring the proper administration of justice in every case.

DNA evidence collected from a crime scene can link a suspect to a crime or eliminate one from suspicion in the same principle as fingerprints are used.[26] Incidents involving sexual assault would leave biological evidence such as hair, skin tissue, semen, blood, or saliva which can be left on the victim's body or at the crime scene. Hair and fiber from clothing, carpets, bedding, or furniture could also be transferred to the victim's body during the assault.[27] Forensic DNA evidence is helpful in proving that there was physical contact between an assailant and a victim. If properly collected from the victim, crime scene or assailant, DNA can be compared with known samples to place the suspect at the scene of the crime.[28]

The U.P. National Science Research Institute (NSRI), which conducted the DNA tests in this case, used the Polymerase chain reaction (PCR) amplification method by Short Tandem Repeat (STR) analysis. With PCR testing, tiny amounts of a specific DNA sequence can be copied exponentially within hours. Thus, getting sufficient DNA for analysis has become much easier since it became possible to reliably amplify small samples using the PCR method.

In assessing the probative value of DNA evidence, courts should consider, inter alia, the following factors: how the samples were collected, how they were handled, the possibility of contamination of the samples, the procedure followed in analyzing the samples, whether the proper standards and procedures were followed in conducting the tests, and the qualification of the analyst who conducted the tests.[29]

In the case at bar, Dr. Maria Corazon Abogado de Ungria was duly qualified by the prosecution as an expert witness on DNA print or identification techniques.[30] Based on Dr. de Ungria's testimony, it was determined that the gene type and DNA profile of appellant are identical to that of the extracts subject of examination.[31] The blood sample taken from the appellant showed that he was of the following gene types: vWA 15/19, TH01 7/8, DHFRP2 9/10 and CSF1PO 10/11, which are identical with semen taken from the victim's vaginal canal.[32] Verily, a DNA match exists between the semen found in the victim and the blood sample given by the appellant in open court during the course of the trial.

Admittedly, we are just beginning to integrate these advances in science and technology in the Philippine criminal justice system, so we must be cautious as we traverse these relatively uncharted waters. Fortunately, we can benefit from the wealth of persuasive jurisprudence that has developed in other jurisdictions. Specifically, the prevailing doctrine in the U.S. has proven instructive.

In *Daubert v. Merrell Dow*,[33] it was ruled that pertinent evidence based on scientifically valid principles could be used as long as it was relevant and reliable. Judges, under *Daubert*, were allowed greater discretion over which testimony they would allow at trial, including the introduction of new kinds of scientific techniques. DNA typing is one such novel procedure.

Under Philippine law, evidence is relevant when it relates directly to a fact in issue as to induce belief in its existence or non-existence.[34] Applying the *Daubert* test to the case at bar, the DNA evidence obtained through PCR testing and utilizing STR analysis, and which was appreciated by the court a quo is relevant and reliable since it is reasonably based on scientifically valid principles of human genetics and molecular biology.

Independently of the physical evidence of appellant's semen found in the victim's vaginal canal, the trial court appreciated the following circumstantial evidence as being sufficient to sustain a conviction beyond reasonable doubt: (1) Appellant and his wife were living in the house of Isabel Dawang together with the victim, Kathylyn Uba; (2) In June 1998, appellant's wife left the house because of their frequent quarrels; (3) Appellant received

from the victim, Kathylyn Uba, a letter from his estranged wife in the early morning on June 30, 1998; (4) Appellant was seen by Apolonia Wania and Beverly Denneng at 1:00 p.m. of June 30, 1998 near the kitchen of the house of Isabel Dawang, acting strangely and wearing a dirty white shirt with collar; (5) Judilyn Pas-a saw appellant going down the ladder of the house of Isabel at 12:30 p.m., wearing a dirty white shirt, and again at 1:30 p.m., this time wearing a black shirt; (6) Appellant hurriedly left when the husband of Judilyn Pas-a was approaching; (7) Salmalina Tandagan saw appellant in a dirty white shirt coming down the ladder of the house of Isabel on the day Kathylyn Uba was found dead; (8) The door leading to the second floor of the house of Isabel Dawang was tied by a rope; (9) The victim, Kathylyn Uba, lay naked in a pool of blood with her intestines protruding from her body on the second floor of the house of Isabel Dawang, with her stained pants, bra, underwear and shoes scattered along the periphery; (10) Laboratory examination revealed sperm in the victim's vagina (Exhibit "H" and "J"); (11) The stained or dirty white shirt found in the crime scene was found to be positive with blood; (12) DNA of slide, Exhibit "J" and "H", compared with the DNA profile of the appellant are identical; and (13) Appellant escaped two days after he was detained but was subsequently apprehended, such flight being indicative of guilt.[35]

Circumstantial evidence, to be sufficient to warrant a conviction, must form an unbroken chain which leads to a fair and reasonable conclusion that the accused, to the exclusion of others, is the perpetrator of the crime. To determine whether there is sufficient circumstantial evidence, three requisites must concur: (1) there is more than one circumstance; (2) facts on which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[36]

In an attempt to exclude the DNA evidence, the appellant contends that the blood sample taken from him as well as the DNA tests were conducted in violation of his right to remain silent as well as his right against self-incrimination under Secs. 12 and 17 of Art. III of the Constitution.

This contention is untenable. The kernel of the right is not against all compulsion, but against testimonial compulsion.[37] The right against self-incrimination is simply against the legal process of extracting from the lips of the accused an admission of guilt. It does not apply where the evidence sought to be excluded is not an incrimination but as part of object evidence.

We ruled in *People v. Rondero*[38] that although accused-appellant insisted that hair samples were forcibly taken from him and submitted to the National Bureau of Investigation for forensic examination, the hair samples may be admitted in evidence against him, for what is proscribed is the use of testimonial compulsion or any evidence communicative in nature acquired from the accused under duress.

Hence, a person may be compelled to submit to fingerprinting, photographing, paraffin, blood and DNA, as there is no testimonial compulsion involved. Under *People v. Gallarde*,[39] where immediately after the incident, the police authorities took pictures of the accused without the presence of counsel, we ruled that there was no violation of the right against self-incrimination. The accused may be compelled to submit to a physical examination to determine his involvement in an offense of which he is accused.

It must also be noted that appellant in this case submitted himself for blood sampling which was conducted in open court on March 30, 2000, in the presence of counsel.

Appellant further argues that the DNA tests conducted by the prosecution against him are unconstitutional on the ground that resort thereto is tantamount to the application of an ex-post facto law.

This argument is specious. No ex-post facto law is involved in the case at bar. The science of DNA typing involves the admissibility, relevance and reliability of the evidence obtained under the Rules of Court. Whereas an

ex-post facto law refers primarily to a question of law, DNA profiling requires a factual determination of the probative weight of the evidence presented.

Appellant's twin defense of denial and alibi cannot be sustained. The forensic DNA evidence and bloodied shirt, notwithstanding the eyewitness accounts of his presence at Isabel Dawang's house during the time when the crime was committed, undeniably link him to the June 30, 1998 incident. Appellant did not demonstrate with clear and convincing evidence an impossibility to be in two places at the same time, especially in this case where the two places are located in the same barangay.[40] He lives within a one hundred (100) meter radius from the scene of the crime, and requires a mere five minute walk to reach one house from the other. This fact severely weakens his alibi.

As to the second assignment of error, appellant asserts that the court a quo committed reversible error in convicting him of the crime charged. He alleges that he should be acquitted on reasonable doubt.

Appellant's assertion cannot be sustained.

Generally, courts should only consider and rely upon duly established evidence and never on mere conjectures or suppositions. The legal relevancy of evidence denotes "something more than a minimum of probative value," suggesting that such evidentiary relevance must contain a "plus value." [41] This may be necessary to preclude the trial court from being satisfied by matters of slight value, capable of being exaggerated by prejudice and hasty conclusions. Evidence without "plus value" may be logically relevant but not legally sufficient to convict. It is incumbent upon the trial court to balance the probative value of such evidence against the likely harm that would result from its admission.

The judgment in a criminal case can be upheld only when there is relevant evidence from which the court can properly find or infer that the accused is guilty beyond reasonable doubt. Proof beyond reasonable doubt requires moral certainty of guilt in order to sustain a conviction. Moral certainty is that degree of certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it. It is certainty beyond reasonable doubt.[42] This requires that the circumstances, taken together, should be of a conclusive nature and tendency; leading, on the whole, to a satisfactory conclusion that the accused, and no one else, committed the offense charged.[43] In view of the totality of evidence appreciated thus far, we rule that the present case passes the test of moral certainty.

However, as a matter of procedure, and for the purpose of meeting the requirement of proof beyond reasonable doubt, motive is essential for conviction when there is doubt as to the identity of the culprit.[44]

Pertinently, it must be noted that Judilyn Pas-a, first cousin of the victim, testified that she last saw the victim alive in the morning of June 30, 1998 at the house of Isabel Dawang.[45] She witnessed the appellant running down the stairs of Isabel's house and proceeding to the back of the same house.[46] She also testified that a few days before the victim was raped and killed, the latter revealed to her that "Joel Yatar attempted to rape her after she came from the school." [47] The victim told Judilyn about the incident or attempt of the appellant to rape her five days before her naked and violated body was found dead in her grandmother's house on June 25, 1998.[48] In addition, Judilyn also testified that when her auntie Luz Dawang Yatar, wife of appellant, separated from her husband, "this Joel Yatar threatened to kill our family." [49] According to Judilyn, who was personally present during an argument between her aunt and the appellant, the exact words uttered by appellant to his wife in the Ilocano dialect was, "If you leave me, I will kill all your family and your relatives x x x." [50] These statements were not contradicted by appellant.

Thus, appellant's motive to sexually assault and kill the victim was evident in the instant case. It is a rule in

criminal law that motive, being a state of mind, is established by the testimony of witnesses on the acts or statements of the accused before or immediately after the commission of the offense, deeds or words that may express it or from which his motive or reason for committing it may be inferred.[51]

Accordingly, we are convinced that the appellant is guilty beyond reasonable doubt of the special complex crime of rape with homicide. Appellant sexually assaulted Kathylyn Uba, and by reason or on the occasion thereof, in order to conceal his lustful deed, permanently sealed the victim's lips by stabbing her repeatedly, thereby causing her untimely demise.

The following are the elements constitutive of rape with homicide: (1) the appellant had carnal knowledge of a woman; (2) carnal knowledge of a woman was achieved by means of force, threat or intimidation; and (3) by reason or on the occasion of such carnal knowledge by means of force, threat or intimidation, appellant killed the woman.[52] However, in rape committed by close kin, such as the victim's father, step-father, uncle, or the common-law spouse of her mother, it is not necessary that actual force or intimidation be employed.[53] Moral influence or ascendancy takes the place of violence and intimidation.[54] The fact that the victim's hymen is intact does not negate a finding that rape was committed as mere entry by the penis into the lips of the female genital organ, even without rupture or laceration of the hymen, suffices for conviction of rape.[55] The strength and dilatability of the hymen are invariable; it may be so elastic as to stretch without laceration during intercourse. Absence of hymenal lacerations does not disprove sexual abuse especially when the victim is of tender age.[56]

In the case at bar, appellant is the husband of the victim's aunt. He is seven years older than the victim Kathylyn Uba. Before he and his wife separated, appellant lived in the house of his mother-in-law, together with the victim and his wife. After the separation, appellant moved to the house of his parents, approximately one hundred (100) meters from his mother-in-law's house. Being a relative by affinity within the third civil degree, he is deemed in legal contemplation to have moral ascendancy over the victim.

Under Article 266-B of the Revised Penal Code, the penalty of death is imposed when by reason or on the occasion of the rape, homicide is committed. Although three (3) Justices of this Court maintain their position that R.A. 7659 is unconstitutional insofar as it prescribes the death penalty, they nevertheless submit to the ruling of the majority that the law is not unconstitutional, and that the death penalty can be lawfully imposed in the case at bar.

As to damages, civil indemnity ex delicto of P100,000.00,[57] actual damages incurred by the family of the victim that have been proved at the trial amounting to P93,190.00,[58] and moral damages of P75,000.00[59] should be awarded in the light of prevailing law and jurisprudence. Exemplary damages cannot be awarded as part of the civil liability since the crime was not committed with one or more aggravating circumstances.[60]

WHEREFORE, in view of the foregoing, the Decision of the RTC of Bulanao, Tabuk, Kalinga, Branch 25 in Criminal Case No. 35-98, sentencing appellant Joel Yatar alias "Kawit" to Death for the special complex crime of Rape with Homicide is AFFIRMED with the MODIFICATION that he be ORDERED to pay the family of the victim Kathylyn Uba civil indemnity ex delicto in the amount of P100,000.00, P93,190.00 in actual damages and P75,000.00 in moral damages. The award of exemplary damages is DELETED.

Upon the finality of this Decision and in accordance with Art. 83 of the Revised Penal Code, as amended by Sec. 25 of Rep. Act No. 7659, let the records of this case be forthwith forwarded to the President of the Philippines for the possible exercise of the pardoning power.

Costs de officio.

SO ORDERED.

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

Davide, Jr., C.J., and Puno, J., on official leave.

[1] Decision penned by Judge Milnar T. Lammawin on 27 August 2001.

[2] Original Records, p. 1.

[3] TSN, Direct Examination of Isabel Dawang, 30 September 1998, pp. 296-306.

[4] Id. at 317-319.

[5] TSN, Direct Examination of Beverly Deneng, 27 January 1999, pp. 531-540, 568-576. See also Exhibit “W”, Joint Affidavit of Anita Wania and Beverly Deneng executed on 3 July 1998, Original Records, p. 17.

[6] TSN, Cross Examination of Judilyn Pas-a, 30 September 1998, p. 377.

[7] Id. at 275-324. See also TSN, *supra* note 7 at 356-358.

[8] Id. at 314-323, 339-344.

[9] Id. at 267-270.

[10] Id. at 271-273.

[11] TSN, Direct Examination of SPO4 Melchor Faniswa, 9 September 1998, pp. 9-20. See also TSN, Cross-Examination of SPO4 Melchor Faniswa, 9 September 1998, pp. 21-38.

[12] TSN, Cross-Examination and Re-Direct Examination of Police Officer Orlando Manuel, 9 September 1998, pp. 76-84. See also TSN, Direct and Cross-Examination of SPO1 Felix Turingan, 9 September 1998, pp. 88-96.

[13] *People v. Remudo*, G.R. No. 127905, 30 August 2001, 364 SCRA 71.

[14] *People v. Santos*, G.R. No. 137993, 11 April 2002, 380 SCRA 608, 613.

[15] Id.

[16] *People v. Payot*, G.R. No. 119352, 8 June 1999, 308 SCRA 43, 62-63.

[17] *People v. Cabug*, G.R. No. 123149, 27 March 2001, 355 SCRA 391.

[18] See TSN, Direct Examination of Dr. Pej Evan C. Bartolo, 16 September 1998, pp. 106-157.

[19] TSN, Direct Examination of Dr. Rey Evan C. Bartolo, 16 September 1998, pp. 116-118.

[20] See TSN, Direct Examination of Dr. Pej Evan C. Bartolo, 16 September 1998, pp. 266-304.

[21] Id. at 266-304.

[22] See Exhibits “F-1”, “G”, “H”, Original Records, pp. 6A-6C.

[23] Peter Sudbery, *Human Molecular Genetics* (2nd ed. 2002); 1999-2000 Pocket Part, p. 51.

[24] K.M. Turman, “Understanding DNA Evidence: A Guide for Victim Service Providers,” OVC Bulletin (U.S. Department of Justice, April 2001), p. 1.

[25] 84 ALR4th 313.

[26] Id.

[27] Id.

[28] Id. at 1-2.

[29] *People v. Vallejo*, G.R. No. 144656, 9 May 2002, 382 SCRA 192, 209.

[30] Dr. de Ungria is Head of the Genetic Engineering Laboratory, University of the Philippines, Assistant Supervisor of the DNA Analysis Laboratory, University of the Philippines, and Assistant Professor at the Ateneo de Manila University. In December 1999, Dr. de Ungria was a 1999 Jose Rizal Young Awardee for the Professional Sector for her participation in the identification of the body of a victim of the Paco fire. She commenced working as Assistant Supervisor of the U.P. DNA Laboratory in February 1999 after returning from Sydney, Australia. Prior to February 1999, she worked as a DNA Analyst. An alumna of the Philippine Science High School, Dr. de Ungria obtained a Bachelor of Science (Honours) degree in Biology at Macquarie University, and a Doctor of Philosophy degree in Molecular Microbiology at the University of New South Wales, in Australia. She is a member of the Philippine Society of Microbiology and an associate member of the National Research Council of the Philippines. See TSN, Direct Examination of Dr. Ma. Corazon Abogado de Ungria, 18 February 2000, pp. 739-743.

[31] TSN, 18 February 2000, pp. 789-790. See Exhibits “XX” and “YY-1”, Original Records, p. 144, 149-150. See also TSN, Continuation of Direct Examination of Dr. de Ungria, 18 April 2000, p. 842.

[32] TSN, 18 April 2000, p. 842. See also Exhibits “Z”, “ZZ” and “ZZ-1”, Original Records, pp. 152-154.

[33] 509 U.S. 579 (1993); 125 L.Ed. 2d 469.

[34] Rules of Court, Rule 128, sec. 4.

[35] Decision, pp. 46-48. See Rollo, pp. 300-302.

[36] Rules of Court, Rule 133, sec. 4.

[37] *Alih v. Castro*, G.R. No. 69401, 23 June 1987, 151 SCRA 279.

[38] G.R. No. 125687, 9 December 1999, 320 SCRA 383.

[39] G.R. No. 133025, 27 February 2000, 325 SCRA 835.

[40] See *People v. Manguera*, G.R. No. 139906, 5 March 2003.

[41] I Wigmore on Evidence §28, at 409-410.

[42] R.J. Francisco, *Evidence* (3d Ed., 1996), p. 577, citing Shaw, C.J., *Commonwealth v. Webster*, Benis’ Rep. Of the Trial, 469; Com. V. Costley, 118 Mass. 1.

[43] Words and Phrases, “Moral Certainty”, citing *Commonwealth v. Goodwin*, 80 Mass. (14 Gray) 55, 57.

[44] *People v. Verzo*, G.R. No. L-22517, 26 December 1967, 21 SCRA 1403.

[45] TSN, Cross Examination of Judilyn Pas-a, 30 September 1998, pp. 376-380.

[46] Id., p. 324.

[47] Id. at 332. See Exhibits “Q,” “Q-1” and “Q-2,” Original Records, pp. 13-14.

[48] Id. at 334.

[49] Id. at 333.

[50] Id. at 336-338.

[51] Barrioquinto v. Fernandez, 82 Phil. 642, 649 (1949).

[52] Articles 266-A and 266-B, Revised Penal Code.

[53] People v. Remudo, supra.

[54] People v. Serrano, G.R. No. 137480, 28 February 2001, 353 SCRA 161, 172.

[55] People v. Añonuevo, G.R. No. 137843, 12 October 2001, 367 SCRA 249.

[56] People v. Llanita, G.R. No. 134101, 5 September 2001, 364 SCRA 519.

[57] People v. Manguera, supra; People v. Seranilla, G.R. Nos. 113022-24, 15 December 2000, 348 SCRA 227; People v. Payot, G.R. No. 119352, 8 June 1999, 308 SCRA 43.

[58] Arts. 2199 and 2202, Civil Code, Art. 2199, states that “[e]xcept as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved.” Art. 2202 provides that “[i]n crimes and quasi-delicts, the defendant shall be liable for all damages which are the natural and probable consequences of the act or omission complained of. It is not necessary that such damages have been foreseen or could have reasonably been foreseen by the defendant.”

[59] People v. Magallanes, G.R. No. 136299, 29 August 2003.

[60] Article 2230, Civil Code.

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