

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CATALINO DUEÑAS, JR. APPELLANT.

G.R. No. 151286. March 31, 2004

Ponente: CORONA, J.

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CORONA, J.:

Before us on automatic review is the decision,[1] dated October 26, 2001, of the Regional Trial Court (RTC) of Baler, Aurora, Branch 96, in Criminal Case No. 2220 finding the appellant, Catalino Dueñas, Jr., guilty beyond reasonable doubt of the crime of murder qualified by evident premeditation and attended by the aggravating circumstance of recidivism. Appellant was sentenced to death.

On April 1, 1997, Provincial Prosecutor Charlaw W. Ronquillo filed with the RTC Baler, Aurora an information charging appellant with the crime of murder:

That at about 8:00 o'clock in the morning on November 29, 1996 at Gabgab Buhangin, Baler, Aurora and within the jurisdiction of this Honorable Court the said accused who was convicted of Murder on October 2, 1990, with intent to kill, evident premeditation, treachery and use of an unlicensed firearm, did then and there, attack, assault and use personal violence upon Elva Ramos-Jacob, also known as Elving Jacob, by shooting her at the head with a .38 caliber revolver that caused her death not long thereafter.

CONTRARY TO LAW.[2]

Upon arraignment, appellant entered a plea of not guilty.[3]

The following facts are uncontroverted.

Appellant was a convicted felon for the crime of homicide[4] in Criminal Case No. 1414 in the Regional Trial Court, Branch 66, Baler, Aurora. He was serving sentence in the Iwahig Prison Farm, Puerto Princesa City, Palawan, when he escaped from confinement on July 11, 1995.

On November 29, 1996, at around 8:00 a.m., Cesar Friginal was cutting grass in his rice field in Sitio Gabgab, Brgy. Buhangin, Baler, Aurora, when he heard two gunshots. He instinctively turned to the direction where he heard the shots and, from about a hundred meters away, saw a short man wearing green clothes running away. At first, he ignored the occurrence but when he saw people trooping to the vicinity, he joined the crowd and there saw a dead woman on the ground. The woman was later identified as his cousin and neighbor, Elva “Ka Elving” Ramos-Jacob.[5]

On December 6, 1996, Dr. Nenita S. Hernandez, municipal health officer of Baler, Aurora, conducted a post mortem examination on the victim. Her autopsy report showed the following:

I - Head:

- wound, gunshot, entrance, circular in shape about 1 cm. diameter at the right parieto-temporal area.

- wound, gunshot, exit, stollate in shape, edges everted about 1.5 cm. diameter with an exposed brain matter and fractured bone fragment located at the temporal area, right side.
- wound lacerated about 1.5 cm. long at the right parietal area.

II - Arm:

- wound lacerated 4 cm. long, lateral aspect, right wrist.

CAUSE OF DEATH:

The most probable cause of death was brain damage and hypovelmic shock due to gunshot wounds of the brain.[6]

In a manifestation, the Office of the Solicitor General (OSG) narrated what it viewed as the factual antecedents of the case:

On December 18, 1996, appellant tried to enter the house of one Benny Poblete in Brgy. Buhangin, Baler, Aurora, without permission. Benny and his father Harold Poblete tied appellant's hands until the police arrived. Police Officer Noel C. Palmero then apprehended and detained appellant at the Baler Police Station.

The next day, or on December 19, 1996, appellant sought voluntary confinement for "safekeeping" because there were threats upon his life brought about by his involvement in the aforementioned incident of theft against the Pobletes.

Right after his apprehension, appellant intimated to Police Officer Palmero that he has information regarding the death of Ka Elving. Police Officer Palmero then instructed appellant to think about it over (sic) first.

Four days after or on December 23, 1996, Police Officer Palmero asked the still detained appellant if he was ready to divulge the information regarding Ka Elving's death, to which appellant answered yes. Appellant was then informed of his constitutional rights, including the right to secure the services of a lawyer of his own choice. Police Officer Palmero told appellant that if he cannot afford the services of counsel, he would even be provided with one for free.

By eleven o'clock that same morning, Atty. Josefina S. Angara, upon the police's invitation, arrived at the Baler Police Station to talk to appellant. Atty. Angara spoke with appellant in private for about thirty (30) minutes. Appellant blamed Benny for kicking him and causing him to suffer chest pains. Atty. Angara asked appellant what really happened. Before long, appellant admitted that he was commissioned by Benny to kill the victim. Atty. Angara warned him of the seriousness of his implications but appellant was adamant in confessing to the murder of Ka Elving. The lawyer-client conference was briefly interrupted by lunchtime. By one-thirty in the afternoon, however, the inquisition resumed. Between the hours of three thirty and four o'clock in the afternoon, appellant completed his Sinumpaang Salaysay where he confessed to the killing of Ka Elving. The statement of appellant was initially written on pad paper, thereafter it was typewritten. However, by the time the Sinumpaang Salaysay was finalized, it was already past office hours such that the attestation before the municipal mayor was postponed until the following morning.

Afterwards, because of persistent chest pains, appellant was then brought to the Aurora Memorial Hospital to be medically examined. However, Police Officer Palmero did not inquire as to the results of the medical examination. The results of the medical examination were not offered in evidence.

The following morning, December 24, 1996, appellant, who was escorted by the police, was brought before the then Municipal Mayor of Baler, Aurora, Arturo S. Angara. Mayor Angara read the signed Sinumpaang Salaysay before administering the oath. He probed appellant if the signature appearing in the Sinumpaang Salaysay was his and whether he understood the contents of the said document. Subsequently, Mayor Angara affixed his signature on appellant's Sinumpaang Salaysay.

In substance, the contested Sinumpaang Salaysay states that Benny Poblete commissioned one Cesar to kill Ka Elving. Cesar, in turn, contacted appellant for the hit. For more than a week, appellant and Cesar, together with a certain Manny Gonzales, stalked the victim. On November 29, 1996, appellant acted as a lookout while his companions shot the victim.[7]

On the other hand, appellant testified that, before noon on December 14, 1996,[8] he went to the house of one Benny Poblete to see his brother-in-law, Erwin Bernardo, who was working for the Pobletes. Since his brother-in-law was not around, Harold, son of Benny Poblete, invited him to a drinking spree. While they were drinking, police officers Alfredo Miel and Amoranto Aquino arrived and arrested him. He was brought to the municipal hall where he was forced to admit the killing of Elving Jacob. For three consecutive nights, he was mauled. As a result, his eyes became swollen and his chest ached. Unable to endure the pain any longer, he owned up to the crime.[9]

On December 23, 1996, PO3 Noel C. Palmero, in the presence of Atty. Josefina Angara, took appellant's statement. Appellant claimed that neither investigating officer Palmero nor Atty. Josefina Angara apprised him of his constitutional rights during the custodial investigation. The following day, he was brought to Mayor Arturo Angara before whom he swore to his affidavit containing his confession.[10]

Dr. Roberto A. Correa of the Aurora Memorial Hospital testified that he conducted a medical examination of the appellant at around 2:00 p.m. on December 23, 1996. During the examination, he found a three-inch lacerated wound on appellant's right arm and a biositis tenderness (inflammation of the muscle) in his right scapular area. He further testified that the lesions were caused by a sharp instrument. Aside from these lesions, Dr. Correo did not notice any other injuries on the body of the appellant.[11]

On rebuttal, Atty. Angara belied the accusation of Dueñas. She testified that at past 10:00 a.m. on December 23, 1996, policemen came to her office and requested her to assist the appellant who was then under custodial investigation. She arrived at the police station at past 11:00 a.m. and was introduced to the appellant. During her private conversation with the appellant, she apprised him of his constitutional rights and told him that whatever he said could be used against him. She discouraged him from giving his confession but appellant was determined to do so. The questioning resumed at about 1:30 p.m. and lasted up to 4:00 p.m. While the investigation was going on, appellant complained of chest pains so she requested that appellant be brought to the hospital for medical attention.

PO3 Palmero was also presented as rebuttal witness. He disclaimed mauling the appellant. He admitted that appellant was indeed complaining of chest pains but it was allegedly the result of the kick by Harold Poblete. In contrast with his previous declaration that he fetched Atty. Angara at around 3:30 p.m. to assist appellant during the investigation, PO3 Palmero now claimed that the interrogation lasted about three hours, that is, from 1:00 p.m. up to about 4:00 p.m. on December 23, 1996. He also declared that appellant was given medical attention after the interrogation.[12]

Relying principally on the extrajudicial confession of the appellant on December 23, 1996 (which was later repudiated), the trial court rendered its decision convicting appellant of the crime charged:

WHEREFORE, premises considered, the Court finds accused Catalino Dueñas, Jr. GUILTY BEYOND REASONABLE DOUBT of the crime of Murder qualified by evident premeditation, and considering the presence of the aggravating circumstance of recidivism and in the absence of any mitigating circumstance, hereby sentences him to suffer the extreme penalty of DEATH and further orders him to indemnify the heirs of the victims in the amount of Fifty Thousand Pesos (P50,000.00) as moral damages and to pay the costs.

SO ORDERED.[13]

Hence, this automatic appeal.

According to appellant, the extrajudicial confession which the trial court relied on heavily for his conviction was infirm because the confession was secured through force and intimidation, a violation of his constitutional rights.

For the State, the OSG filed a manifestation and motion in lieu of appellee's brief, seeking the reversal of the challenged decision and the acquittal of Dueñas on the ground of involuntariness of his extrajudicial confession. The OSG underscored the fact that it was forced out of appellant by means of threats, violence and intimidation, thus violating his rights.

The appeal is meritorious.

In convicting the appellant, the court a quo reasoned as follows:

The extrajudicial confession of accused Dueñas, Jr. was freely and voluntarily given and that his retraction and claims of violence and coercion were merely belated contrivances and efforts of exculpation.

The statement (Exh. B-Stip.) itself reveals that there was compliance with the constitutional requirement on pre-interrogation advisories, thus:

PASUBALI:

Ikaw Catalino Dueñas, Jr., ipinagbibigay alam ko sa iyo, na ikaw ay inuusig sa isang kasalanan, pinapaalala ko sa iyo na sa ilalim ng ating Saligang Batas ay karapatan mo ang manahimik at hindi sumagot sa mga tanong ko sa iyo at magkaroon ng Abogado ng sarili mong pili, ito ba ay nauunawaan mo?

SAGOT:

Opo.

TANONG:

Alam mo ba at naipaliwanag ng iyong abogado na anumang salaysay mo sa pagsisiyasat na ito ay maaring gamitin laban sa iyo?

SAGOT:

Opo.

The Court finds no merit in the insinuation of the defense that Atty. Josefina Angara was not Dueñas' own choice as counsel for the interrogation (TSN, October 4, 2001, p. 4).

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In the present case, accused even admitted that he trusted Atty. Angara when he signed his sworn statement in the presence of the said counsel (TSN, November 23, 2000, p. 9).

Absent any showing that the lawyer who assisted the accused was remiss (sic) in her duties, it can be safely concluded that the custodial investigation of Dueñas was regularly conducted.

As could be observed, the confession is replete with details that could not have been concocted by the police authorities. According to Dueñas, he is one of those who killed Elva Jacob; that his companions were Manny Gonzales and one Cesar; that Benny Poblete contacted Cesar who in turn contacted him (accused) for the purpose of killing Elving Jacob because his (Benny Poblete's) daughter Rhea who died in September, 1996 might still be alive were it not for the witchcraft of Elving Jacob and her siblings; that he (accused) was

contacted by Cesar in November, 1996 at the market near the terminal of Baliwag Transit in Cabanatuan City; that he and Cesar were together when they went to Baler, Aurora and they just fetched Manny Gonzales at the gasoline station in Maria Aurora, Aurora; that they hatched the plan of executing Elving Jacob in the middle of November, 1996 at the house of Benny Poblete; that at that place and time, Cesar was given three thousand pesos (P3,000.00); that he (accused) did not know Cesar well but could describe the latter's distinctive features; that Cesar and Manny Gonzales were armed with a .38 cal. revolver; that they conducted a surveillance on Elving Jacob for more than a week to determine her movement in going to and from the ricefield she is working on at Sitio Gabgab, Brgy. Buhangin, Baler, Aurora; that on November 29, 1996, at about eight o'clock in the morning, they positioned themselves under a canal, feigning to be catching fish, until Elving Jacob passed by; that his two companions followed Elving Jacob, while he remained on top of the canal and acted as a look out; that, not long thereafter, he heard two gunshots; that they left the scene and reunited at Santiago's house in Brgy. Suklayin, Baler, Aurora; that on December 18, 1996, at around one o'clock in the afternoon, he was instructed by Cesar to go to the house of Benny Poblete to collect the balance of five thousand pesos (P5,000.00); and that he was arrested there by the police. "The confession is replete with details that only the confessant could have known and which, therefore, show that the confession was executed voluntarily (People vs. Jimenez, 105 SCRA 721)."

Also, the confession of the accused is exonerative in nature as it points to other member of the group as the triggerman. "The exculpatory tone of admission of the crime and the abundance of details negate violence and maltreatment in obtaining a confession. A guilty person seldom admits his guilt fully and completely. He has a tendency to explain away his conduct or minimize his fault or crime or shift the blame to others."

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The defense tried to impress to the Court that the policemen subjected the accused to cruel and painful punishment to extract his confession, thus:

ATTY. NOVERAS TO THE ACCUSED

Q

During the third time they mauled you and told you to admit responsibility for the death of Elving Jacob, what happened?

A

I already admit (sic) because I could not bear the pain anymore, Sir.

xxx xxx xxx

Q

What else, if there are any?

A

They could (sic) not allow me to sleep. They just throw water on me so I could not sleep or rest. (TSN, October 4, 2000, pp. 3-4).

But,

Q

You said you were forced and intimidated to give the confession in connection with the death of Mrs. Jacob, did you tell Atty. Angara about the fact?

A

I did not.

Q

Why?

A

HOW COULD I TELL THAT WHEN THE POLICE OFFICERS WERE THERE SURROUNDING ME?
(Emphasis ours) (Ibid, p. 6)

xxx xxx xxx

PROS. RONQUILLO TO THE ACCUSED

Q

Did you file any charge to (sic) the policemen who mauled you?

A

No, sir.

Q

Why?

A

BECAUSE I HAVE NO ONE TO TELL ON AND I AM AFRAID FOR THEM, SIR. (sic). (TSN, November 23, 2000, p.11)

A review of appellant's extrajudicial confession discloses certain facts and circumstances which put his culpability in doubt.

Under Article III, Section 12 of the 1987 Constitution, persons under custodial investigation have the following rights:

(1)

Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel, preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

(2)

No torture, force, violence, threat, intimidation or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

(3)

Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

(4) xxx xxx xxx

There are two kinds of involuntary or coerced confessions covered by this constitutional provision: (1) those resulting from third degree methods like torture, force, violence, threat and intimidation, and (2) those given without the benefit of the Miranda warnings.[14]

Viewed against this backdrop, certain circumstances in this case need to be carefully reviewed and considered.

On December 18, 1996,[15] appellant was arrested for theft on the request of a certain Benny Poblete. PO3 Palmero admitted that at the time of the arrest, appellant was not committing any crime. He was detained overnight without any charges. The following day, PO3 Palmero claimed that appellant supposedly sought “voluntary confinement for his own protection.” The police blotter entry, however, was not offered in evidence. Only a certification of such entry was presented, which certification was not even signed by appellant. Under the circumstances, the “voluntary confinement” tale appears to be an afterthought to cover up the appellant’s illegal arrest and detention. No person in his right mind, already behind bars, will still seek “voluntary confinement” when there are no charges against him.

Appellant executed his sworn statement on his alleged involvement in the killing of Ka Elving on December 23, 1996 or five days after his arrest. Immediately after accomplishing the affidavit, appellant sought medical attention, during which Dr. Correa found positive marks of violence on the latter’s body, an indication that physical coercion occurred at one point from the time of his arrest up to the execution of his extrajudicial confession. The only purpose of the maltreatment could have been to force him to admit guilt against his will. When confronted on this matter, rebuttal witness PO3 Palmero had nothing but evasive and unresponsive answers:

Q

Did you personally bring Dueñas to the hospital?

A

I could not remember, anymore, Sir. But he was brought to the hospital.

Q

Are you sure of that?

A

Yes, sir.

Q

If you could not remember anymore if you were the one who bring (sic) him to the hospital, do you know who was the police officer who brought him?

A

I do not know the jailer at the time.

Q

Were you still in the police station when he was brought back?

A

Maybe I was not there.

Q

Did you try to inquire what was the result of the examination being conducted upon Catalino Dueñas?

A

Not anymore, sir.

Q

Why?

A

Because I could not remember anymore the person who accompanied him.[16]

The trial court considered appellant's claim of maltreatment as but a lame excuse. It stated that the failure of the accused to complain to the swearing officer or to file charges against the person(s) who allegedly maltreated him, although he had the opportunity to do so, meant that the confession was voluntary. But appellant adequately explained why he did not tell anybody about the police brutality he had suffered. He testified:

Q

You said you were forced and intimidated to give the confession in connection with the death of Mrs. Jacob, did you tell Atty. Angara about that fact?

A

I did not.

Q

Why?

A

How could I tell that when the police officers were there surrounding me.[17]

On cross-examination, appellant made the following declaration:

PROS. RONQUILLO

Q

Did you file any charge to (sic) the policemen who mauled you?

A

No, sir.

Q

Why?

A

Because I have no one to tell on and I am afraid for them, sir. (sic)[18]

Furthermore, the trial court misapplied the rule that a confession is presumed voluntary where the same contains details and facts unknown to the investigator which could have been supplied only by the perpetrator of the crime. In *People vs. Abayon*,[19] we held:

It is a settled rule that where an alleged confession contains details and is replete with facts which could have possibly been supplied only by the perpetrator of the crime, and could not have been known to or invented by the investigators, the confession is considered to have been voluntarily given. This rule, however, was erroneously applied by the trial court in the case at bar.

The facts and details contained in at least three of the confessions, those of Reynaldo Abayon, Mariano Aragon and Jose Juarez, were already known to the PC investigators at the time the statements were allegedly signed by the said accused-appellants. The three confessions referred to all appear to have been executed after the body of the deceased Pedro Eslamado had been exhumed by the PC team on July 15, 1971. Abayon's statement is dated July 16, Aragon's statement, July 22, and Juarez' statement, July 23, 1971. On those dates, the PC would have known details and facts such as, that Pedro Eslamado was abducted and killed, where his remains were buried, that he was tied around the mouth by towels, that his hands were tied with shoe strings, all of which were stated in the confessions.

In this case, the police authorities already knew of the murder of Ka Elving. As succinctly pointed out by the Office of the Solicitor General:

xxx at the time of the execution of the extrajudicial confession, and even before appellant's arrest, the post

mortem examination was already available to the police. Data regarding the murder weapon, the wounds sustained by the victim, the whereabouts of the cadaver were properly within the knowledge of the investigating officers. The latter, then, could have easily filled up the details of the crime in the extrajudicial confession. It must be emphasized that the presumption of voluntariness of an extrajudicial confession arises only when the replete details could have been supplied by no other person but the perpetrator himself [*People vs. Base*, 105 SCRA 721 (1981)], which is not the case here.

Also worth mentioning is the belated appearance of Atty. Angara, incidentally not of appellant's choice, who assisted him in the execution of his extrajudicial confession. This fell terribly short of the standards demanded by the Constitution and Section 2 of RA 7438.[20] Appellant was arrested before noon on December 18, 1996. The extrajudicial confession was taken five days later, on December 23, 1996. Atty. Angara testified that policemen came to her office at past 10:00 a.m. on December 23, 1996 requesting her to assist a suspect under custodial investigation. She arrived at the police station at around 11:00 a.m. and conferred with the appellant for about 30 minutes. The interrogation resumed after lunch and lasted till 4:00 p.m.

From the foregoing, it is evident that appellant had already been in detention for five days before he came to be assisted by a lawyer, just before he was about to put his confession in writing. We entertain no doubt that the constitutional requirement was violated. In *People vs. Bolanos*,[21] we held that:

An accused who is on board the police vehicle on the way to the police station is already under custodial investigation and should therefore be accorded his rights under the Constitution.

Custodial investigation refers to the critical pre-trial stage when the investigation ceases to be a general inquiry into an unsolved crime but has begun to focus on a particular person as a suspect. According to PO3 Palmero, right after appellant's arrest, the latter already insinuated to him that he would confess his participation in the killing. As he testified on cross-examination:

Q

On December 18, 1996, when you arrested him what did he actually told (sic) you?

A

Before we put him in jail at the Baler Police Station he told us that he has (sic) to reveal something about the death of Elvira Jacob.

Q

So you already know that on December 18, 1996 that whatever Catalino Dueñas will reveal to you will give you lead in solving the investigation in connection with the death of Elvira Jacob, isn't it?

A

Yes, sir.

Q

So, you still waited until December 23, 1996 for that revelation, isn't it?

A

Yes, sir. That's all, your honor.[22]

Well-settled is the doctrine that the purpose of providing counsel to a person under custodial investigation is to curb the uncivilized practice of extracting a confession, even through the slightest coercion which might lead the accused to admit something untrue.[23] What is sought to be avoided is the “evil of extorting from the very mouth of the person undergoing interrogation for the commission of an offense, the very evidence with which to prosecute and thereafter convict him.”[24] These constitutional guarantees are meant to protect a person from the inherently coercive psychological, if not physical, atmosphere of such investigation.[25]

Finally, the court notes the material discrepancy between the testimony of PO3 Palmero and that of Atty. Angara. When PO3 Palmero was first put on the witness stand, he testified that he fetched Atty. Angara to assist appellant at about 3:30 p.m. on December 23, 1996. The interrogation lasted more or less an hour. However, on rebuttal, PO3 Palmero changed his story and declared that the interrogation of appellant lasted about three hours from about 1:00 p.m. to 4:00 p.m. The adjustment in the time cited may have been made to conform to the earlier testimony of rebuttal witness Atty. Angara who said that the interrogation of appellant lasted from about 1:30 p.m. up to about 4:00 p.m. But how could the interrogation of appellant have taken place within that time-frame when, according to Dr. Correo and the appellant’s medical record, the doctor conducted his medical examination of the appellant at around 2:00 p.m. on December 23, 1996?[26]

In view of the foregoing, since the extrajudicial confession of appellant was given in violation of the safeguards in Article III, Section 12 of the Constitution, we hold that the appellant’s extrajudicial confession dated December 23, 1996 was inadmissible as evidence. And with the exclusion thereof, the record is bereft of any substantial evidence to sustain the judgment of conviction. While it is true that one Cesar Friginal was presented as a witness by the prosecution, his testimony did not implicate the appellant in the murder of Elving Jacob, the witness having said only that he saw a short man in green clothes running away from the vicinity of the crime.

WHEREFORE, the decision of the Regional Trial Court of Baler, Aurora, Branch 96, in Criminal Case No. 2220, convicting appellant Catalino Dueñas, Jr., is hereby REVERSED and SET ASIDE. Appellant is ACQUITTED of the crime of murder and his immediate release is ordered unless there is reason to return him for confinement at the Iwahig Prison Farm in Puerto Princesa City or to detain him for some other valid cause. The Director of Prisons is directed to inform this Court of his compliance within ten days from receipt of this decision.

No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio Morales, Callejo, Sr., Azcuna and Tinga, JJ., concur.
Vitug, J., on official business.

[1] Penned by Acting Presiding Judge Armando A. Yanga; Rollo, pp. 21-30.

[2] Records, p. 1.

[3] Records, p. 30.

[4] There is a variance in the designation of the crime for which appellant was said to be previously convicted. The certification issued by the Bureau of Corrections specified that appellant escaped while serving sentence for homicide. However, in open court, appellant failed to object to the manifestation of the prosecution that he was previously convicted of the crime of murder.

[5] TSN, December 2, 1999, Records, pp. 250-263.

[6] Exhibit “A.”

[7] Rollo, pp. 78- 82.

[8] There appeared to be a confusion on the actual date of arrest. Appellant testified that he was arrested on December 14, 1996. On the other hand, the prosecution witnesses said that appellant was arrested on December 18, 1996. Nonetheless, as the OSG observed “But even with the conflicting versions of the parties that appellant was arrested since either December 19, 1996 or December 14, 1996, it remains clear that appellant was in police custody pending investigation for at least four (4) days before his counsel–assisted confession.”

[9] TSN, October 4, 2000, pp. 1-9, Records pp. 291-298.

[10] TSN, October 4, 2000, Records, pp. 290-298; TSN, November 23, 2000, Records, pp. 299-311.

[11] TSN, August 22, 2001, Records pp. 323-328.

[12] TSN, January 19, 2001, Records, pp. 317-321.

[13] Rollo, pp. 54-63.

[14] People vs. Obrero, 332 SCRA 190, 200 [2000].

[15] TSN, May 17, 2000, pp. 2-16, Records, pp. 265-279.

[16] TSN, January 19, 2001, Records, p. 318.

[17] TSN, October 4, 2000, Records, p. 295.

[18] TSN, November 23, 2000, Records, p. 309.

[19] 114 SCRA 197, 219-220 [1982].

[20] Sec. 2. Rights of Persons Arrested, Detained or Under Custodial Investigation; Duties of Public Officers.

- Any person arrested, detained or under custodial investigation shall at all times be assisted by counsel.

- Any public officer or employee, or anyone acting under his order or his place, who arrests, detains or investigates any person for the commission of an offense shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to have competent and independent counsel, preferably of his own choice, who shall at all times be allowed to confer privately with the person arrested, detained or under custodial investigation. If such person cannot afford the services of his own counsel, he must be provided with a competent and independent counsel by the investigating officer.

[21] 211 SCRA 262-265 [1992] cited in the case of People vs. Rodriguez, 341 SCRA 645, 653 [2000].

[22] TSN, May 17, 2000, Records, pp. 273.

[23] People vs. Olivares, Jr., 299 SCRA 635, 650 [1998]; People vs. Paulo, 330 Phil 373 [1996]; People vs. Andal, 279 SCRA 474 [1997] citing People vs. Layusa, 175 SCRA 47 [1989].

[24] People vs. Bonola 274 SCRA 238 [1997] citing Galman vs. Pamaran, Nos. L-71208-09, 138 SCRA 294 [1985]; People vs. Sandiganbayan, Nos. L-71212-13, 138 SCRA 294 [1985].

[25] Miranda vs. Arizona, 384 US 436, 16 L ed 694, 10 A.L.R. 3d, 1974.

[26] Supra, footnote 9.

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