

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDGARDO DIMAANO, APPELLANT.

G.R. No. 168168. September 14, 2005

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PER CURIAM:

On January 26, 1996, Maricar Dimaano charged her father, Edgardo Dimaano with two (2) counts of rape and one (1) count of attempted rape in the complaints which read as follows:

Criminal Case No. 96-125

That sometime in the year 1993 in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned complainant Maricar Dimaano y Victoria, who is his own daughter, a minor 10 years of age, against her will and consent.

CONTRARY TO LAW.[1]

Criminal Case No. 96-150

That on or about the 29[th] day of December 1995, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned complainant Maricar Dimaano y Victoria, who is his own daughter, a minor 12 years of age, against her will and consent.

CONTRARY TO LAW.[2]

Criminal Case No. 96-151

That on or about the 1[st] day of January 1996, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, try and attempt to rape one Maricar Dimaano y Victoria, thus commencing the commission of the crime of Rape, directly by overt acts, but nevertheless did not perform all the acts of execution which would produce it, as a consequence by reason of cause other than his spontaneous desistance that is due to the timely arrival of the complainant's mother.

CONTRARY TO LAW.[3]

Appellant pleaded not guilty to the charges.[4] Thereafter, trial on the merits ensued.

Complainant was born on August 26, 1983, and was 10 years old when she was first sexually abused in the morning of September 1993. While inside their house in Sucat, Parañaque, appellant entered her room and laid down beside her. He removed her clothes and asked her to lie face down then inserted his penis into her anus. Complainant cried and felt so much pain, but she kept the incident to herself as her father might hurt her.[5]

A few days later, appellant again ravished her. After removing his clothes, he asked her to lie on her side facing him and to place her thigh over his. While in that position, appellant inserted his penis into her vagina which

caused tremendous pain.[6] As in the first incident, complainant kept the ordeal to herself. It was only in November 1995 that she confided the sexual abuses to her mother.

On December 29, 1995, appellant again assaulted her daughter. While leaning on the kitchen sink, he raised her t-shirt, fondled and kissed her breasts. He then removed their shorts, fondled her vagina and inserted his penis, but when her brother Edwin went out of his room, appellant immediately asked her to dress up.[7]

The last sexual assault happened in the afternoon of January 1, 1996. Appellant laid complainant down on the sofa then placed himself on top of her and made pumping motion even with their shorts on. Appellant stopped only when he heard the arrival of his wife.[8]

On January 3, 1996, complainant and her mother visited a relative in Cainta, Rizal, who upon learning of the abuses done by the appellant, advised them to go to Camp Crame where they filed a complaint.[9] The Medico-Legal Officer at the PNP Crime Laboratory examined complainant and found her to have suffered deep healed hymenal lacerations and was in a non-virgin state.[10]

Appellant denied the accusations against him. He testified that he married Maria Loreto V. Dimaano on December 25, 1976 and begot three children with her, namely, Edwin, Eric, and Maricar. He alleged that he worked in several companies abroad[11] but admitted that he was in the Philippines in September 1993. He contended though that he could not have raped complainant because he was always in the office from 7:00 a.m. until 9:00 p.m. waiting to be dispatched to another assignment overseas.[12]

He claimed it was impossible for him to rape his daughter on December 29, 1995 or January 1, 1996 because there were other people in the house. He argued that had he raped complainant, then she would not have accompanied him to the Parañaque Police Station and Barangay Hall of San Antonio to apply for police clearance and barangay I.D., and to Uniwide Shopping Center at Sucat, Parañaque, where they applied for membership at the Video City Club.[13] He also maintained that the fact that his daughter was in a non-virgin state did not conclusively prove that he was responsible for it because it is also possible that his daughter had sexual intercourse with another man her age.[14]

The trial court found the testimony of complainant to be spontaneous and credible. She narrated the obscene details of her harrowing experience which no girl of tender age would have known unless she herself had experienced it. It found the delay in reporting the rape understandable due to the fear complainant had of her father who had moral ascendancy over her. Also, the quarrel between complainant's parents was not sufficient motive for the wife to lodge a serious charge of rape against appellant. It disregarded the Compromise Agreement and the Salaysay sa Pag-uurong ng Sumbong since complainant was not assisted by a lawyer when she signed the same. Besides, she testified in open court that she was pursuing the case against her father. The dispositive portion of the decision reads:

WHEREFORE, the accused Edgardo Dimaano is found guilty beyond reasonable doubt of the crimes of rape (2 counts) and the crime of attempted rape. For the rape committed in September 1993, he is sentenced to a penalty of reclusion perpetua. For the rape on December 29, 1995, he is imposed the supreme penalty of death. And for the crime of attempted rape, applying the Indeterminate Sentence Law (Act No. 4103 as amended), he is sentenced to a penalty of 4 years and 2 months of prision correccional medium to 10 years and 1 day to 12 years of prision mayor maximum. He is ordered to indemnify the victim the amount of P50,000.00 and to pay exemplary damages in the amount of P50,000.00.

SO ORDERED.[15]

The Court of Appeals affirmed with modifications the decision of the trial court, thus:

WHEREFORE, premises considered, the Decision dated 31 May 2000 of the Regional Trial Court of Parañaque City, Branch 257 convicting accused-appellant Edgardo Dimaano of the crime of rape is AFFIRMED with the following MODIFICATIONS:

In Criminal Case No. 96-125, the accused-appellant EDGARDO DIMAANO as found guilty of rape under Article 335 of the Revised Penal Code and sentenced to a penalty of reclusion perpetua is also ordered to pay the victim MARICAR DIMAANO Php50,000.00 as civil indemnity; Php50,000.00 as moral damages and Php25,000.00 as exemplary damages.

In Criminal Case No. 96-150, the accused-appellant EDGARDO DIMAANO, as found guilty of qualified rape under Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act 7659, and sentenced to death penalty, is also ordered to pay the victim MARICAR DIMAANO Php75,000.00 as civil indemnity; Php75,000.00 as moral damages and Php25,000.00 as exemplary damages.

In Criminal Case No. 96-151, the accused-appellant EDGARDO DIMAANO as found guilty of attempted rape under Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act 7659, is hereby sentenced to an indeterminate penalty of 4 years, 2 months and 1 day to 6 years of prision correccional as minimum to 8 years and 1 day to 10 years of prision mayor as maximum. Accused-appellant is also ordered to pay the victim MARICAR DIMAANO Php30,000.00 as civil indemnity, Php25,000.00 as moral damages, and Php10,000.00 as exemplary damages.

In accordance with Sec. 13, Rule 124 of the Amended Rules to Govern Review of Death Penalty Cases (A.M. No. 00-5-03-SC, effective 15 October 2004), this case is CERTIFIED to the Supreme Court for review.

Let the entire record of this case be elevated to the Supreme Court.

SO ORDERED.[16]

In his Brief, appellant raises the following issues:

- WHETHER OR NOT THE EVIDENCE ADDUCED BY THE PROSECUTION HAS OVERCOME THE PRESUMPTION OF INNOCENCE OF THE ACCUSED.
- WHETHER OR NOT THE VOLUNTARY AND DUE EXECUTION OF THE AFFIDAVIT OF DESISTANCE BY THE PRIVATE COMPLAINANT SHOULD HAVE BEEN DULY CONSIDERED AS A FACTOR WHICH PUT TO DOUBT THE REASONS BEHIND THE FILING OF THE CRIMINAL CHARGES OF RAPE AGAINST HEREIN ACCUSED.[17]

Appellant contends that if complainant's accusations were true, then she could have reported them to the authorities when she accompanied him to Parañaque Police Station and the Barangay Hall of San Antonio or to their relatives when she had the opportunity to do so. He also argues that had the trial court considered the Compromise Agreement and Sinumpaang Salaysay ng Pag-uurong ng Sumbong, it would have known that complainant was only pressured by her mother into filing the complaint.

We are not persuaded.

This credibility given by the trial court to the rape victim is an important aspect of evidence which appellate courts can rely on because of its unique opportunity to observe the witnesses, particularly their demeanor, conduct and attitude during direct and cross-examination by counsel.[18] 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, his assessment of credibility deserves the appellate court's highest respect.[19]

It is likewise well established that the testimony of a rape victim is generally given full weight and credit, more so if she is a minor. The revelation of an innocent child whose chastity has been abused deserves full credit, as her

willingness to undergo the trouble and the humiliation of a public trial is an eloquent testament to the truth of her complaint. In so testifying, she could only have been impelled to tell the truth, especially in the absence of proof of ill motive.[20]

In the case at bar, the trial court and the Court of Appeals gave credence to the testimony of the complainant who was only 12 years old when she narrated to the court the violations of her person as follows:

For rape committed in September 1993:

ATTY. AMBROSIO:

When was the first time that he committed sexual assault upon you?

A: September 1993.

COURT:

No specific date?

A: I cannot remember, Ma'am.

ATTY. AMBROSIO:

Can you remember how old were you at that time?

A: 10 years old, Ma'am.

...

Q: So, after he removed your T-shirt, bra and pan(t)y and shorts, what happened next, if anything happened?

A: He asked me to lie face down. Pinadapa po niya ako.

Q: After he asked you to lie face down, what happened next?

...

RECORD: The witness is crying.

A: He inserted in my anus – ipinasok niya ang titi niya sa puwet ko.

...

Q: Did you tell anybody about what happened to you?

A: No, Ma'am.

Q: Why not?

A: Because I was afraid of my father.

Q: Why are you afraid of your father?

A: Because he might hurt me.

Q: After that incident in September 1993, do you recall any other incident that occurred?

A: There is, Ma'am.

Q: When was it?

A: After a few days after the first incident.

...

Q: After he entered your room, what happened next?

A: He laid beside me and he removed my clothes.

...

Q: What did your father do with the clothes he was wearing?

A: He removed his clothes.

Q: After removing his clothes, what happened next, if any?

A: We were lying in my bed and he asked me to lie on my side – pinatagilid niya ako.

Q: After he asked you to lie down on your side, what happened next, if any?

A: He asked me to raise my right leg and placed it on his side because he was then lying on his side.

...

Q: After he asked you to place your right thigh over his left thigh, what happened next, if any?

A: He inserted his penis into my organ.[21]

For rape committed on December 29, 1995:

Q: On December 29, 1995, do you remember of any unusual incident that happened?

A: There was, Ma'am.

Q: What is that incident?

A: I was raped by my father on that day.

Q: Where were you on that day when you said he raped you?

A: I was then at the kitchen of our house.

...

Q: What were you doing at the kitchen at that time?

A: I was then sitting at our dining set.

Q: What about your father, what he doing?

A: He was cooking.

Q: What happened while sitting at the dining set, if any?

A: He told me to approach him.

...

Q: After you approached him, what happened next?

A: I was leaning then at the kitchen sink and he asked me to embrace him.

...

Q: What happened after you embraced him?

A: After that, he raised my T-shirt.

Q: After raising your T-shirt, what happened next?

A: He held my breast.

...

Q: After that, what happened next?

A: He kept kissing my breast.

Q: How many times did he kiss your breast?

A: Many times.

...

Q: What happened next after he kissed you breast?

A: He put my shorts down.

Q: After putting your shorts down, what happened next, if any?

A: He also put down my panty.

Q: After putting down your panty, what happened next, if any?

A: He held my organ.

...

ATTY. MALLARES:

At this juncture, Your Honor, may we request witness to be more specific with respect to organ.

ATTY. AMBROSIO:

When you say "organ", what do you mean?

A: Pekpek.

COURT: Proceed.

ANSWER:

After he held my vagina, he also put down his shorts and brief.

Q: After putting down his shorts and brief, what happened next?

A: He inserted his penis into my vagina.[22]

For Attempted rape committed on January 1, 1996:

Q: Do you recall of any incident that happened on Jan 1, 199[6] 3:00 to 4:00 P.M.?

A: We were in our sala on the sofa.

Q: When you say "we", who are those you are referring to?

A: Me and my father.

...

Q: While you and your father were in the living room and on the sofa, what happened?

A: While we were on the sofa, my father was then raising my T-shirt and kissing my breast.

Q: What were you wearing at that time?

A: Shorts, T-shirt, bra and panty.

Q: What did your father do with your shorts, T-shirt and bra?

A: He raised them.

Q: What about your father, how was he dressed at that time?

A: Shorts and T-shirt.

Q: After raising your bra and T-shirt, what happened next?

A: While he was kissing my breast, we were already lying on the sofa, then he went on top of me.

Q: After he went on top of you, what happened next, if any?

A: He was forcing to insert his penis while we were still wearing shorts.

Q: So, you mean to say, you were still wearing shorts at that time?

A: Yes, Ma'am.

Q: What happened next when he was forcing to push his penis into your vagina?

A: It did not push through because my mother suddenly arrived.[23]

The trial court believed the complainant and held that:

... The testimony of Maricar of her ignominious experience contains all the indicia of truth. It is spontaneous, direct and clear. It is vivid and complete with details. Her testimony is truthful and convincing. Her credibility is beyond question.

The Court believes that at her tender age, Maricar could not make public the offense, undergo the troubles and humiliation of public trial and endure the ordeal of testifying to all its gory details if she has not in fact been raped. The Court believes that a girl who is only twelve (12) years old would not ordinarily file a rape complaint against anybody, much less her own father, if it is not true.[24]

We have painstakingly reviewed the evidence on record and found no cogent reason to disturb the findings of the trial court and the appellate court.

Contrary to appellant's assertion, complainant's credibility was not diminished by her failure to report the sexual abuses to the authorities and her relatives despite opportunities to do so. Delay in reporting the rape incidents, especially in the face of threats of physical violence, cannot be taken against the victim, more so when the lecherous attacker is her own father. Strong apprehensions brought about by fear, stress, or anxiety can easily put the offended party to doubt or even distrust what should otherwise be a positive attitude of bringing the culprit to justice. The Court has thus considered justified the filing of complaints for rape months, even years, after the commission of the offense.[25]

In the case at bar, the delay of more than two years is not an indication that the charges were fabricated for complainant's reactions were consistent with reason. Her complete obedience to appellant, her lack of struggle and the studied silence she kept about her ordeal were all brought about by genuine fear posed by her own father against her.

Appellant's reliance on complainant's affidavit of desistance deserves scant consideration. A survey of our jurisprudence reveals that the court attaches no persuasive value to a desistance, especially when executed as an afterthought. The unreliable character of this document is shown by the fact that it is quite incredible that a victim, after going through the trouble of having the appellant arrested by the police, positively identifying him as the person who raped her, enduring the humiliation of a physical examination of her private parts, repeating her accusations in open court and recounting her anguish in detail, will suddenly turn around and declare that she is no longer interested in pursuing the case.[26]

Too, complainant repudiated the affidavit of desistance in open court by stating that no lawyer assisted her when she affixed her signature[27] and had shown her resolve to continue with the prosecution of the cases.[28] Besides, the trial court is not bound to dismiss the cases, as it is still within its discretion whether or not to proceed with the prosecution,[29] considering that the compromise agreement and the affidavit of desistance were executed long after the cases have been filed in court.

Moreover, a criminal offense is an outrage to the sovereign State and to the State belongs the power to prosecute and punish crimes.[30] By itself, an affidavit of desistance is not a ground for the dismissal of an action, once it

has been instituted in court. A private complainant loses the right or absolute privilege to decide whether the rape charge should proceed, because the case was already filed and must therefore continue to be heard by the trial court.[31]

In addition, a careful scrutiny of the affidavit of desistance reveals that complainant never retracted her allegation that she was raped by her father. Neither did she give any exculpatory fact that would raise doubts about the rape. All she stated in the affidavit was that she had decided to withdraw the complaints after the appellant agreed not to disturb the complainant; to consent to annul his marriage; allow his wife to solely manage the conjugal properties; and entrust the custody of his children to his wife. Rather than contradict, this affidavit reinforces complainant's testimony that appellant raped her on several occasions.

The gravamen of the offense of rape is sexual congress with a woman by force and without consent. If the woman is under 12 years of age, proof of force and consent becomes immaterial not only because force is not an element of statutory rape, but the absence of a free consent is presumed. Conviction will therefore lie, provided sexual intercourse is proven. But if the woman is 12 years of age or over at the time she was violated, sexual intercourse must be proven and also that it was done through force, violence, intimidation or threat.[32]

We have ruled that in incestuous rape of a minor, actual force or intimidation need not even be employed where the overpowering moral influence of appellant, who is private complainant's father, would suffice. The moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires.[33] The instant case is no exception. Appellant took advantage of his moral and physical ascendancy to unleash his lechery upon his daughter.

Hence, under the above circumstances, we affirm the trial court's conviction in Criminal Case Nos. 96-125 and 96-150 for the crimes of rape committed in September 1993 and on December 29, 1995. However, we acquit appellant in Criminal Case No. 96-151 for the crime of attempted rape for failure to allege in the complaint the specific acts constitutive of attempted rape.

The complaint for attempted rape in Criminal Case No. 96-151 is again quoted as follows:

That on or about the 1[st] day of January 1996, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, try and attempt to rape one Maricar Dimaano y Victoria, thus commencing the commission of the crime of Rape, directly by overt acts, but nevertheless did not perform all the acts of execution which would produce it, as a consequence by reason of cause other than his spontaneous desistance that is due to the timely arrival of the complainant's mother.

CONTRARY TO LAW.[34]

For complaint or information to be sufficient, it must state the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed.[35] What is controlling is not the title of the complaint, nor the designation of the offense charged or the particular law or part thereof allegedly violated, these being mere conclusions of law made by the prosecutor, but the description of the crime charged and the particular facts therein recited.[36] The acts or omissions complained of must be alleged in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged, and enable the court to pronounce proper judgment. No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged. Every element of the offense must be stated in the information. What facts and circumstances are necessary to be included therein must be determined by reference to the definitions and essentials of the specified crimes. The requirement of alleging the elements of a crime in the information is to inform the accused of the nature of the

accusation against him so as to enable him to suitably prepare his defense. The presumption is that the accused has no independent knowledge of the facts that constitute the offense.[37]

Notably, the above-cited complaint upon which the appellant was arraigned does not allege specific acts or omission constituting the elements of the crime of rape. Neither does it constitute sufficient allegation of elements for crimes other than rape, i.e., Acts of Lasciviousness. The allegation therein that the appellant "tr[ie]d and attempt[ed] to rape" the complainant does not satisfy the test of sufficiency of a complaint or information, but is merely a conclusion of law by the one who drafted the complaint. This insufficiency therefore prevents this Court from rendering a judgment of conviction; otherwise we would be violating the right of the appellant to be informed of the nature of the accusation against him.

The trial court correctly imposed the penalty of reclusion perpetua in Criminal Case No. 96-125 as the rape was committed in September 1993 prior to the effectivity of R.A. No. 7659, otherwise known as the Death Penalty Law, on December 31, 1993. Prior to R.A. No. 7659, Article 335 of the Revised Penal Code imposes the penalty of reclusion perpetua for the crime of rape, when committed against a woman who is under 12 years old or is demented. Anent the rape in Criminal Case No. 96-150 which was committed on December 29, 1995, Article 335, as amended by R.A. No. 7659, thus applies. It provides:

ART. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

...

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

...

In Criminal Case No. 96-150, appellant was correctly sentenced to death as the special qualifying circumstances of minority and relationship were properly alleged in the information and proved during trial by the testimonies of the complainant, her mother and the appellant himself; they were also supported by the photocopy of the marriage certificate and birth certificate, respectively.

In the case of *People v. Cayabyab*,[38] this Court, in affirming the death penalty, held that a photocopy of the birth certificate is admissible to prove the age of the victim, as the original thereof is a public record in the custody of a public officer. The admission of this secondary evidence is one of the exceptions to the "best evidence rule" under Section 3, Rule 130 of the Revised Rules on Evidence. Further, we held that production of the original may be dispensed with, in the trial court's discretion, whenever the opponent does not bona fide dispute the contents of the document and no other useful purpose will be served by requiring its production.

Indubitably, the marriage and birth certificates are public records in the custody of the local civil registrar who is a

public officer. The presentation, therefore of their photocopies is admissible as secondary evidence to prove their contents. It is also well to note that appellant did not dispute their contents when offered as evidence to prove relationship and minority. Having failed to raise a valid and timely objection against the presentation of this secondary evidence the same became a primary evidence, and deemed admitted and the other party is bound thereby.[39]

Anent the awards of damages, the Court of Appeals correctly modified the awards of civil indemnity and exemplary damages, which the trial court lumped together for all the crimes committed, by separately awarding the sums of P50,000.00[40] and P75,000.00[41] as civil indemnity in Criminal Case Nos. 96-125 and 96-150, respectively, and P25,000.00[42] as exemplary damages, for each count of rape, in line with the prevailing jurisprudence.

The award of civil indemnity, which is in the nature of actual or compensatory damages, is mandatory upon a conviction for rape.[43] On the other hand, exemplary damages is awarded when the commission of the offense is attended by an aggravating circumstance, whether ordinary or qualifying.[44]

Finally, the awards of P50,000.00[45] and P75,000.00[46] as moral damages in Criminal Case Nos. 96-125 and 96-150, respectively, by the Court of Appeals are also sustained in line with the prevailing jurisprudence. The award of moral damages is automatically granted in rape cases without need of further proof other than the commission of the crime because it is assumed that a rape victim has actually suffered moral injuries entitling her to such award. [47]

WHEREFORE, the decision of the Court of Appeals in CA-G.R. CR No.00263 affirming the decision of the Regional Trial Court of Parañaque City, Branch 257, in Criminal Cases Nos. 96-125 and 96-150, finding appellant Edgardo Dimaano GUILTY beyond reasonable doubt of the crime of rape committed against his own daughter, Maricar Dimaano, and sentencing him to reclusion perpetua and DEATH, respectively; and ordering him to pay the complainant in Criminal Case No. 96-125 the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages, and in Criminal Case No. 96-150 the amounts of 75,000.00 as civil indemnity, P75,000.00 as moral damages, and P25,000.00 as exemplary damages, is AFFIRMED. Appellant is however ACQUITTED for the crime of attempted rape in Criminal Case No. 96-151 for failure of the complaint to allege the specific acts or omissions constituting the offense.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Records, p. 1.

[2] Id. at 24.

[3] Id. at 30.

[4] Id. at 61.

[5] TSN, 11 February 1997, pp. 7-13.

[6] Id. at 14-21.

[7] Id. at 22-31.

- [8] Id. at 32-35.
- [9] Id. at 47-50.
- [10] Records, p. 216.
- [11] TSN, 15 January 1998, pp. 3-16.
- [12] TSN, 22 September 1998, pp. 14-16.
- [13] Rollo, p. 38.
- [14] Id. at 37.
- [15] Id. at 45-46.
- [16] Id. at 242-243.
- [17] Id. at 76.
- [18] *People v. Cayabyab*, G.R. No. 167147, 3 August 2005.
- [19] *People v. Yatar*, G.R. No. 150224, 19 May 2004, 428 SCRA 504, 513.
- [20] *People v. Cachapero*, G.R. No. 153008, 20 May 2004, 428 SCRA 744, 752-753.
- [21] TSN, 11 February 1997, pp. 7-20.
- [22] Id. at 22-29.
- [23] Id. at 32-35.
- [24] Rollo, p. 44, citations omitted.
- [25] *People v. Sandico*, 366 Phil. 663, 676 [1999].
- [26] *People v. Dela Cerna*, 439 Phil. 394, 405 [2002].
- [27] TSN, 11 February 1997, p. 60.
- [28] TSN, 10 April 1997, pp. 34-35.
- [29] *People v. Libo-on*, G.R. No. 136737, 23 May 2001, 358 SCRA 152, 171.
- [30] *People v. Benedictus*, 351 Phil. 560, 566 [1998].
- [31] *People v. Ramirez, Jr.*, G.R. Nos. 150079-80, 10 June 2004, 431 SCRA 666, 677.
- [32] *People v. Bernas*, 427 Phil. 649, 669 [2002].
- [33] *People v. Orillosa*, G.R. Nos. 148716-18, 7 July 2004, 433 SCRA 689, 698.
- [34] Records, p. 30.
- [35] Section 6, Rule 110 of the Revised Rules of Criminal Procedure.
- [36] *People v. Taño*, 387 Phil. 465, 487 [2000].
- [37] *Estrada v. Sandiganbayan*, 427 Phil. 820, 858-859 [2002].
- [38] *Supra*.

[39] Id.

[40] People v. Escultor, G.R. Nos. 149366-67, 27 May 2004, 429 SCRA 651, 668.

[41] People v. Gonzales, G.R. No. 141599, 29 June 2004, 433 SCRA 102, 117.

[42] Id.

[43] People v. Glodo, G.R. No. 136085, 7 July 2004, 433 SCRA 535, 549.

[44] People v. Catubig, 416 Phil. 102, 120.

[45] People v. Ebio, G.R. No. 147750, 29 September 2004, 439 SCRA 421, 438.

[46] People v. Cayabyab, *supra*.

[47] People v. Antonio, G.R. No. 157269, 3 June 2004, 430 SCRA 619, 627.

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