

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME CADAG JIMENEZ, ACCUSED-APPELLANT.

G.R. No. 170235. April 24, 2009

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

For review is the Decision[1] dated February 28, 2005 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00634 which affirmed the Consolidated Decision[2] dated July 28, 2000 of Branch 272, Regional Trial Court (RTC), Marikina City, convicting accused-appellant Jaime Cadag Jimenez of two counts of the crime of Rape defined and penalized under Article 335 of the Revised Penal Code, as amended, sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay the victim the amounts of P50,000.00 as civil indemnity and another P50,000.00 as moral damages on each count.

Consistent with our ruling in *People v. Cabalquinto*[3] and *People v. Guillermo*,[4] this Court withholds the real name of the private complainant and her immediate family members as well as such other personal circumstance or information tending to establish her identity. The initials AAA would represent the private complainant and the initials BBB would refer to the mother of the private complainant.

To quote, the pertinent portions of the criminal information in each case:

CRIMINAL CASE NO. 97-1578

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That in or about the last week of October, 1996, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, coercion, intimidation and with lewd design or intent to cause or gratify his sexual desire or abuse, humiliate, degrade complainant, did then and there willfully, unlawfully and feloniously have carnal knowledge with (sic) AAA, a 12-year old girl against her will and consent.

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CRIMINAL CASE NO. 97-1579

xxx xxx xxx

That on or about the 8[th] day of August, 1996, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, coercion, intimidation and with lewd design or intent to cause or gratify his sexual desire or abuse, humiliate, degrade complainant, did then and there willfully, unlawfully and feloniously have carnal knowledge with (sic) AAA, a 12-year old girl against her will and consent.

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Accused-appellant Jimenez pleaded not guilty upon arraignment.[5] The pre-trial conference followed and,

thereafter, trial ensued.

The prosecution presented the testimonies of AAA,[6] Dr. Dennis Bellin[7] (the medico-legal officer who physically examined the complainant), SPO1 Lucy Mae Robles[8] (the police officer who initially conducted the investigation), and Rowena Villegas[9] (the social worker who responded to the aid of AAA). The documentary evidence for the prosecution consisted of the Medico-Legal Report No. M-833-97 of Dr. Dennis Bellin,[10] the Voluntary Statements executed by AAA on February 27, 1998 before SPO1 Lucy Mae Robles,[11] and the Certificate of Live Birth of AAA.[12] The defense, on the other hand, presented the testimonies of BBB[13] and that of the accused-appellant.[14]

After trial, the RTC convicted the accused-appellant. The trial court found that the accused-appellant was the biological father of AAA and he started raping his own daughter when she was only eleven (11) years old. However, the accused-appellant was only held criminally liable for two counts of simple rape in view of the failure of the prosecution to allege in the informations the qualifying circumstance of relationship of the accused-appellant with AAA.

This case was directly appealed to this Court. The accused-appellant filed his Brief[15] dated February 12, 2002 and Reply Brief[16] dated November 7, 2002 while the plaintiff-appellee filed its Brief[17] dated June 18, 2002. In a Minute Resolution[18] dated August 25, 2004, we referred this case to the CA for appropriate action conformably with our ruling in *People v. Mateo*. [19]

In its assailed decision, the CA recapitulated the evidence for the prosecution as follows:

The testimony of complainant AAA was synthesized by the trial court as follows:

On direct examination, the witness testified:

That on August 1996, she was 11 years old, that Jaime Jimenez is her father (at this juncture, the witness positively identified the accused, Jaime Jimenez in the courtroom); that her father raped her during the month of August 1996; that her father crawled on top of her and did what a husband does to his wife "na nakapatong" according to the herein witness, that it was the accused, Jaime Jimenez who did it to her; that said incident took place in their own house at ... Marikina; that their house is a one-storey apartment; that they are five children in the family; that the name of her mother is BBB; that there is only one room in their house; that during the month of August 1996, they slept in the living room with her mother; that sometimes her father sleeps in the sala or in the room; that she could no longer remember what time in the evening the alleged rape incident happened; that one night in August 1996, her father touched her body and her breast and afterwards, undressed her; that the incident happened while her mother and siblings were sleeping; that the said incident happened inside their room; that she did not do anything because of fear; that her father after undressing her laid on top of her and started kissing her (the witness at this very moment was on the verge of crying); that according to the herein witness, she filed the case voluntarily and she knows that the person she is charging for rape is her own father; that after he father went on top of her, the former inserted his penis into her vagina; that the insertion of the penis into her vagina was so painful; that she did not tell her father anything since she was afraid that he might kill her; that the same incident happened around 5 to 6; that her father abused her again on November 1996 when she already had her period; that after her period, her father inserted again his finger into her vagina; that she cannot remember anymore how many times her father inserted his finger but she remembers that the last time her father inserted his finger into her vagina was around February of 1997; that she reported the incident of rape and act [of] lasciviousness to her classmate and to her religion teacher; that she could no longer remember how old was her classmate then; that she did not report the incident to her mother because of fear; that she finally gave her statement to the police sometime in February; that the said investigation (her statement) was reduced into writing and was signed by her (at this juncture, the herein victim witness identified said document in the court); that she was born on January 25, 1985 (at this point again, the

witness identified and recognized her birth certificate when shown to her by her counsel); that she could still remember having been examined by the doctor of the PNP Crime Laboratory; that it was the social worker of Bantay-Bata who got hold of the medico legal certificate (at this point, the witness identified the said document in open court).

On cross-examination, the witness further alleged:

That she is now in Marilac Hills, that she is not living with her mother at present because the latter is telling her to withdraw the case against her father; that she really wanted to file this case against her father; that before she did not want his father to be incarcerated; that nobody convinced her to file this case and let her father be incarcerated; that she does not know if she wants her father to be put to death; that she could no longer recall of the incident that happened in August is the same thing that his father inserted his finger into her private part; that what she could only remember was that the last time she was abused by her father was on February of 1997; that she knew that it was her father's penis which was inserted into her vagina because she was able to feel it; that the first time she has experience in sexual intercourse, as far as she can remember was in August of 1996 which was the very same incident that brought her to his court; that she was sure that his father's penis which was inserted into her vagina since her father even asked her to hold it but she refused in doing so; that the latest incident of sexual abuse was sometime in February 1997 when her father inserted his finger into her vagina; that that was the only time she filed this complaint."

Rowena Villegas said she is [a] social worker connected with ABS-CBN Foundation Bantay Bata 163 which initially took custody of AAA and assisted throughout the investigation and filing of this case. It was on February 28, 1997 when she was instructed by her immediate supervisor to bring her to the police station where she was investigated. On March 1, 1997 she accompanied AAA to the prosecutor's office for inquest which was conducted in the presence of her mother and [accused-appellant] himself. Though she asserted that she was raped by him, she cried and asked that her father be released.

SPO1 Lucy Mae Robles testified on the procedure and taking of the statement of AAA on February 28, 1997 on referral by Bantay Bata 163. Later she also took the statement of her mother BBB, and on her invitation [accused-appellant] was present at the investigation.

Dr. Dennis Bellin narrated that on February 28, 1997 he received a request from the Marikina police to conduct a medico legal examination on AAA who was there in the company of her mother. With their consent, he conducted an interview and the requested examination. AAA said she was sexually abused by her father on August 26, 1996, and he proceeded with his physical examination the findings and results of which are contained in his Medico Legal Report No. M-833-97 as follows:

FINDINGS:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with light brown areola and nipples from which no secretions could be pressed out. Abdomen is flat and soft.

GENITAL:

There is scanty growth of pubic hair. Labia majora are full, convex and coaptated with the pinkish brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with deep healed lacerations at 3, 6, and 7 o'clock positions. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

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CONCLUSION

Subject is non-virgin state physically.

There are no signs of application of any form of violence.

REMARKS

Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa.

TIME AND DATE COMPLETED: 1045h, 28 February 1997.[20]

The evidence for the defense, on the other hand, was summarized as follows:

BBB said that she knew and suspected nothing of the supposed rape until the teacher of AAA summoned her on February 27, 1997. AAA never complained to her about it and there was nothing out of the ordinary in her behaviour nor that of the accused-appellant. She was always home early, and the whole family slept together on the floor in their small sala.

The accused-appellant for his part denied that he ever raped AAA and that she charged him only because his wife BBB taught her to. At the time when the alleged rapes were supposed to have happened he was at work as a steelman at the Petron Mega Plaza. He could prove this by his daily time record, but which he could not produce because his wife did not get it as asked and his letter requests to the company have been unanswered. He could not go and get it himself as he is already detained in the national penitentiary because he has been convicted for child abuse in another case filed by AAA.[21]

The CA rejected the contention of the accused-appellant that the prosecution failed to prove his guilt beyond reasonable doubt of the crimes charged and affirmed his convictions. The appellate court denied the motion for reconsideration of the accused-appellant in a Resolution[22] dated April 5, 2005. Thereafter, the case was elevated to this Court.

In a Minute Resolution[23] dated April 26, 2006, we gave the parties the option to file their respective supplemental briefs within a definite period. Subsequently, the accused-appellant filed his Supplemental Brief[24] dated May 29, 2006 while the plaintiff-appellee manifested[25] that it will no longer file any supplemental brief.

In the present appeal, the accused-appellant asserts that the prosecution failed to establish the exact dates of the commission of the crimes charged and that the failure of AAA to recall these dates with certainty likewise clouds the veracity of her testimony. He points out that the criminal informations allege that the rape incidents occurred on or about August 8, 1996 and the last week of October 1996 but AAA merely testified that she was raped 5 to 6 times sometime in August to October 1996. The accused-appellant also claims that AAA's reactions after the alleged rape incidents are suspicious and contrary to human experience. He points out that AAA first related her accusations to her classmate and teacher in school without satisfactorily explaining the reason why she failed to talk about it with her mother or report the same to the police at the most opportune time. He further points out that AAA testified that she was raped in the room of their house at a time when her mother and four siblings were sleeping in the same room. Under such a scenario, it was allegedly implausible that none of the said family members woke from their sleep during the times the accused-appellant purportedly raped AAA.

On the other hand, the plaintiff-appellee, through the Solicitor General, contends that AAA sufficiently narrated in court the material details on how, when, and where she was raped by her father. The exact dates of the commission of the crimes charged are allegedly not necessary to convict the accused-appellant. The plaintiff-appellee argues that it suffices that the months and year of the rape incidents and sexual assaults had been established as alleged.

The plaintiff-appellee further points out that the trial court failed to award exemplary damages in favor of AAA in accordance with prevailing jurisprudence. Thus, the plaintiff-appellee prays for an additional amount of twenty-five thousand pesos (P25,000.00) in favor of AAA to set an example and deter fathers from sexually abusing their own daughters.

After a careful consideration of the issues raised in this appeal and the evidence on record, we affirm the conviction of the accused-appellant of the crimes charged and grant the exemplary damages prayed in favor of AAA.

It is elementary that the issue of credibility of witnesses is "a question best addressed to the province of the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts" and "[a]bsent any substantial reason which would justify the reversal of the trial court's assessments and conclusions, the reviewing court is generally bound by the former's findings, particularly when no significant facts and circumstances are shown to have been overlooked or disregarded which when considered would have affected the outcome of the case." [26] This Court even recognizes a more stringent application of the rule if the said findings of the trial court are sustained by the appellate court.

In the present case, we found no substantial reason to deviate from the findings of the trial and appellate courts.

The evidence for the prosecution supports the veracity of the testimony and credibility of AAA. In her Voluntary Statement[27] dated February 28, 1997, AAA vividly recounted to SPO1 Lucy Mae Robles the sexual ordeals that she suffered at the hands of her father as follows:

06.

T:

Ano naman itong kasalanan ng papa mo kung meron man?

S:

Dahil sa paggapang sa akin.

07.

T:

Paano ka ginapang ng papa mo?

S:

Hinahalikan po niya ako sa pisngi ko, tapos hinihimas niya po ang suso ko tapos po hinahalikan rin po ang suso ko tapos hinahalikan din po niya ang pekpek ko. Tapos pagtulog na po sina mama at mga kapatid ko binubuhat po niya ako sa kuartero at hindi po niya sinisindiha o binubuksan ang ilaw. Pagnakahiga na po kami sa sahig ng kuartero inaalas niya po isa-isa ang short ko tapos ang panty ko tapos po dinadaganan na po niya ako na parang ginagawa ng mag-asawa.

08.

T:

Ano ang pakakaunawa mo sa sinasabi mo na ginagaw ng mag-asawa?

S:

Pinapasok po ng papa ko ang titi niya sa pekpek ko.

09.

T:

Ano naman ang nararamdaman mo pagpinapasok ng papa mo ang titi niya sa pekpek mo?

S:

Masakit po.

10.

T:

Ilang beses na ba ito ginawa ng papa mo sa pagpasok ng titi niya sa pekpek mo?

S:

Simula po nuong August hanggang October 1996 mga lima o anim na beses po pinasok ni papa ang titi niya sa pekpek ko tapos simula naman po nuong niregla na ako ng November 5, 1996 daliri na lang po niya ang pinapasok niya sa pekpek ko hanggang Pebrero 12, 1997 mga alas siete (7) ng umaga.

AAA narrated again her unfortunate tale before the trial court and consistently testified to the material facts surrounding the rapes and sexual assaults committed by the accused-appellant against her, and unmistakably identified the offender as her own father (accused-appellant), thus:

Q:

AAA, in August 1996, how old were you?

A:

I was 11 years old, ma'am.

Q:

By the way, do you know the person by the name Jaime Jimenez?

A:

Yes, ma'am.

Q:

Why do you know the person by the name Jaime Jimenez?

A:

He is my father, ma'am.

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Q:

Miss witness, sometime during the month of August 1996, do you remember of (sic) any unusual incident that took place?

A:

Yes, ma'am.

Q:

What was that unusual incident that took place?

A:

He raped me, ma'am.

Q:

Miss witness, do you understand the meaning of the word "rape"?

A:

Yes, ma'am.

Q:

In the local language, what does it mean?

A:

He crawled on top of me, he did what the husband and wife do, ma'am. "Na magkapatong".

Q:

Who did this to you?

A:

Jaime Jimenez, ma'am.

Q:

You said Jaime Jimenez is your father?

A:

Yes, ma'am.

Q:

Where did this incident take place?

xxx xxx xxx

Q:

At your own house?

A:

Yes, ma'am.

Q:

How big is your house miss witness?

A:

It is an apartment, ma'am.

Q:

How many floors are there in that apartment?

A:

One storey apartment, ma'am.

Q:

How many children are you in the family miss witness?

A:

Five, ma'am.

xxx xxx xxx

Q:

How many rooms are there in your house?

A:

Only one, ma'am.

Q:

During the month of August 1996, do you remember where you slept?

xxx xxx xxx

A:

In the living room, ma'am.

Q:

Who was with you sleeping in the living room?

A:

We siblings and our mother, ma'am.

Q:

How about your father, where does he sleep?

A:

Sometimes he sleeps in the sala and sometimes in the room, ma'am.

Q:

This incident that you mentioned in August 1996, what time did it happen if you remember?

A:

I could not remember what time was that ma'am.

Q:

Was that morning or in the evening or in the afternoon?

A:

Night time, ma'am.

Q:

Will you please describe what happened on that particular date sometime in August 1996?

A:

One night in August 1996, he touched my body and my breast, ma'am.

Q:

What else did your father do to you?

A:

Afterwards he undressed me, ma'am.

xxx xxx xxx

Q:

Now during the time that your father touched and mashed your breasts and undressed you, where was your mother and your siblings?

A:

They were sleeping, ma'am.

Q:

Where in particular in the house your father kissed, mashed your breasts and undressed you?

A:

Inside the room, ma'am.

Q:

Now what did you do when your father undressed you?

A:

None, ma'am because I was afraid.

Q:

What about your father, what did he do after undressing you?

A:

He laid on top of me, ma'am.

xxx xxx xxx

Q:

Miss witness, you said that after your father undressed, he laid on top of you, then what happened next?

A:

He kissed me again, ma'am.

xxx xxx xxx

Q:

I will again repeat my question. Miss witness, you said a while ago that after your father undressed you, he laid on you. What did your father do when he laid on top of you?

A:

He inserted his penis into my vagina, ma'am.

Q:

What did you feel when your father inserted his penis into your vagina?

A:

It was painful, ma'am.

Q:

What did you tell your father when he was doing that to you?

A:

None, ma'am because I was afraid of him.

Q:

Why were you afraid of your father miss witness?

A:

Because he might kill me, ma'am.

Q:

Miss witness when was the second time . . . by the way, after that first incident of rape, what happened next?

A:

He did the same thing, ma'am.

Q:

How many times when you said, the same thing?

A:

Around 5 to 6 times, ma'am.

Q:

When was the last time that your father had inserted his penis into your private part?

A:

Because that was November because on November 5 I had already my period, ma'am.

Q:

After that period what happened next if any?

A:

He just inserted his fingers, ma'am.

xxx xxx xxx

Q:

When was the last time your father inserted his fingers into your private part?

A:

That was around February, ma'am.

Q:

Of what year?

A:

February 1997, ma'am.[28]

In addition, AAA identified in court her birth certificate[29] which proved that she was born on January 25, 1985 and corroborated her claim that she was only 11 years old at the time she was raped and sexually assaulted by the accused-appellant. The medico-legal report of Dr. Dennis Bellin proved that AAA sustained deeply healed hymenal lacerations which supported her claim that she was sexually abused.

The failure of the prosecution to prove the exact dates of the commission of the crimes charged is immaterial and would not warrant the reversal of accused-appellant's conviction. The exact time of the commission of the crime of rape is not a material ingredient of the said crime and it is sufficient if the acts complained of are alleged to have taken place as near to the actual date at which the offenses are committed as the information or complaint will permit.[30] The gravamen of the crime of rape is carnal knowledge of a woman through force, threat, or intimidation against her will or without her consent.[31] As the exact date of the commission of the rape is not the essence of the crime and it is sufficient to allege in the information a date as near to the actual date of the offense as the circumstances allow, the dates of the rapes committed by the accused-appellant need not be proven exactly as alleged in the criminal informations.

The failure of AAA to recall minor details and the exact dates of the incidents of rape and sexual assault likewise does not affect the veracity of her testimony. These lapses are understandable taking into account the nature of these crimes she suffered at her young age. As we have held in a number of rape cases involving minor victims, the Court cannot impose the burden of exactness, detailedness, and flawlessness on the victim's recollection of her harrowing experiences.[32]

Moreover, the credibility of AAA remains unaffected despite the purported lack of outward change in her behavior during and after the rape incidents and sexual assaults, which according to accused-appellant is contrary to human experience. It is well-settled that no standard form of behavior can be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult. [33] In *People v. Baun*, [34] we also held that the father's moral ascendancy and influence over his daughter

substitutes for violence and intimidation in rape cases, thus:

Settled is the rule that in incestuous rape, the father's moral ascendancy and influence over his daughter substitutes for violence and intimidation. The ascendancy or influence necessarily flows from the father's parental authority, which the constitution and the laws recognize, support and enhance, as well as from the children's duty to obey and observe reverence and respect towards their parents. Such reverence and respect are deeply ingrained in the minds of Filipino children and are recognized by law. Abuse of both by a father can subjugate his daughter's will, thereby forcing her to do whatever he wants.[35]

In this case, we take the fact that none of the other family members woke from their sleep whenever the accused-appellant sexually ravished AAA consistent with the latter's testimony that she actually did not fight back or resist out of fear of her father. Fear, confusion and shame would also explain why she did not immediately let anyone know of her father's dastardly acts against her. Indeed, that it took AAA several months to break free from her silence and disclose her unspeakable experiences was the proximate result of the accused-appellant's abuse of his moral ascendancy and influence over AAA as a father.

We have duly considered the evidence and arguments presented by the accused-appellant. However, we cannot give any weight to his bare denials and uncorroborated alibis. Our ruling in *People v. Nieto*[36] is in point:

It is an established jurisprudential rule that a mere denial, without any strong evidence to support it, can scarcely overcome the positive declaration by the victim of the identity and involvement of appellant in the crimes attributed to him. The defense of alibi is likewise unavailing. Firstly, alibi is the weakest of all defenses, because it is easy to concoct and difficult to disprove. Unless substantiated by clear and convincing proof, such defense is negative, self-serving, and undeserving of any weight in law. Secondly, alibi is unacceptable when there is a positive identification of the accused by a credible witness. Lastly, in order that alibi might prosper, it is not enough to prove that the accused has been somewhere else during the commission of the crime; it must also be shown that it would have been impossible for him to be anywhere within the vicinity of the crime scene.

In the case at bar, accused-appellant claims that at the times/dates of the rapes charged against him he was at his place of work. Yet he failed to present any witness or documentary evidence to confirm his defense of alibi.

In sum, we find that the conviction of the accused-appellant on two counts of simple rape to be in order. In view of the failure of the prosecution to allege in the criminal informations the aggravating/qualifying circumstance of parental relationship between AAA and the accused-appellant, he cannot be convicted of qualified rape for to do so would certainly be a denial of his right to be informed of the charges against him. However, this aggravating circumstance, which was duly proved during trial, may still be considered by the courts in the award of damages. Thus, the imposition of the penalty of reclusion perpetua, as well as the directive to accused-appellant to pay civil indemnity in the amount of Fifty Thousand Pesos (P50,000.00) and moral damages also in the amount of Fifty Thousand Pesos (P50,000.00), for each count of rape are all in accord with law and jurisprudence.

Moreover, the Court agrees with plaintiff-appellee that the accused-appellant should be similarly ordered to pay exemplary damages in the amount of Twenty-Five Thousand Pesos (P25,000.00) for each count of rape. Settled jurisprudence dictates that exemplary damages should be awarded in order to deter fathers with perverse tendencies and aberrant sexual behavior from preying upon their young daughters.[37]

WHEREFORE, in view of the foregoing, the Decision dated February 28, 2005 of the Court of Appeals in CA-G.R. CR-HC No. 00634 which affirmed the Consolidated Decision dated July 28, 2000 of Branch 272, Regional Trial Court, Marikina City, finding accused-appellant Jaime C. Jimenez guilty beyond reasonable doubt of two counts of simple rape and sentencing him to suffer the penalty of reclusion perpetua, as well as ordering him to pay the private complainant civil indemnity in the amount of Fifty Thousand Pesos (P50,000.00) and moral

damages also in the amount of Fifty Thousand Pesos (P50,000.00), for each count, is hereby **AFFIRMED** with the **MODIFICATION** that accused-appellant is further ordered to pay the private complainant exemplary damages in the amount of Twenty-Five Thousand Pesos (P25,000.00) for each count. No costs.

SO ORDERED.

Carpio[*], (Acting Chairperson), Austria-Martinez[**], Corona, and Velasco, Jr.[***], concur.

[*] Acting Chairperson as per Special Order No. 623.

[**] Additional Member in lieu of Associate Justice Lucas P. Bersamin as per Special Order No. 626.

[***] Additional Member in lieu of Chief Justice Reynato S. Puno as per Special Order No. 624.

[1] Penned by Associate Justice Roberto A. Barrios with Associate Justices Amelita G. Tolentino and Vicente S. E. Veloso, concurring. rollo, pp. 3-16.

[2] CA rollo, pp. 15- 30.

[3] G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] G.R. No. 173787, April 23, 2007, 521 SCRA 597, 599.

[5] Records, Folder 1, pp. 37-39.

[6] TSN dated February 3, 1999, pp. 3-26.

[7] TSN dated December 10, 1997, 3-12

[8] TSN dated March 29, 1999, 2-18.

[9] TSN dated April 14, 1999, pp. 2-18.

[10] Records, Folder 2, marked as Exhibit "C".

[11] Id., marked as Exhibit "D".

[12] Id., marked as Exhibit "E".

[13] TSN dated May 24, 1999, pp. 4-12.

[14] TSN dated February 2, 2000, pp. 3-7.

[15] CA rollo, pp. 43-59.

[16] Id. at 111-115.

[17] Id. at 88-108.

[18] Id. at 131.

[19] G.R. No. 147678-87, July 7, 2004, 433 SCRA 640.

[20] Supra note 1, at pp. 6-9.

[21] Id., at 9-10.

[22] CA rollo, pp. 168-169.

[23] Rollo, p. 17.

[24] Id. at 18-23.

[25] Id. at 27-29.

[26] People v. Nieto, G.R. No. 177756, March 3, 2008, 547 SCRA 511, 524.

[27] Supra note 11.

[28] Supra note 6, at pp. 4-10, 12-14

[29] Id. at 18-19.

[30] People v. Dimapilis, G.R. Nos. 128619-21, December 17, 1998, 300 SCRA 279.

[31] People v. Teczon, G.R. No. 174098, September 12, 2008, 565 SCRA 182, 188.

[32] People v. Almendral, G.R. No. 126025, July 6, 2004, 433 SCRA 440,448, citing People v. Villar, 322 SCRA 393, 402; and People v. Crespo, G.R. No. 180500, September 11, 2008, 564 SCRA 613, 636.

[33] People v. Crespo, supra note 32 at 637.

[34] People v. Baun, G.R. No. 167503, August 20, 2008, 562 SCRA 584.

[35] Id. at 598.

[36] Supra note 26.

[37] People v. Blancaflor, G.R. No. 130586, January 29, 2004, 421 SCRA 354, 366.

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