

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMMEL DELA CRUZ, ACCUSED-APPELLANT.

G.R. No. 175929. December 16, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

MURDER is one of the odious crimes a man can commit against another. It is no respecter of blood relations.

Accused-appellant Rommel dela Cruz seeks a reversal of his conviction by the Court of Appeals (CA)[1] and the Regional Trial Court (RTC)[2] for murder.

The Facts

Mario Pader, Manny Viscaya and Rafael Santarin are neighbors and friends.[3] Santarin and appellant Dela Cruz are first cousins.[4]

On August 7, 1995, at about 7:00 p.m., Santarin, Pader and Viscaya were conversing[5] near the barangay hall in Nadurata St., Caloocan City. Fronting the barangay hall is a street which was lighted by a fluorescent lamp.[6] Santarin was seated between Pader and Viscaya.[7] They were arms-length away of each other.[8] Appellant was standing behind them,[9] at a distance of about two (2) meters.[10]

Viscaya went to buy some cigarettes from a nearby store beside the barangay hall[11] and returned to the place where Santarin and Pader were.[12]

Suddenly, appellant came from behind and stabbed Santarin[13] once.[14] Santarin fell to the ground, chin first.[15] Pader and Viscaya were instantly shocked and were unable to move.[16]

Appellant immediately fled the scene.[17] Subsequently, people from the barangay hall arrived and brought Santarin to the nearest hospital.[18] He, however, succumbed to death due to the stab wound.[19]

Dr. Bienvenido Muñoz, a Medico-Legal Officer of the National Bureau of Investigation (NBI),[20] conducted an autopsy on the victim's body. According to his findings,[21] Santarin sustained one stab wound in the back[22] which was 15 centimeters deep.[23] The wound reached the left lung[24] causing his death.[25] According to Dr. Muñoz, the weapon used by the assailant was a sharp, pointed single-bladed instrument which could either be a kitchen knife or a balisong.[26]

On December 13, 1995, appellant was indicted for murder in an Information that read:

I N F O R M A T I O N

The undersigned Assistant City Prosecutor accuses ROMMEL DELA CRUZ of the crime of 'MURDER,' committed as follows:

That on or about the 7[th] day of August, 1995 in Kaloocan City, Metro-Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, with treachery

and evident premeditation and with deliberate intent to kill, did then and willfully, unlawfully and feloniously attack and stab with a bladed weapon on the back portion of the body one RAFAEL SANTARIN y DELA CRUZ, thereby inflicting upon the latter serious physical injuries which injuries caused his death upon arrival at the Ospital ng Kalookan, this city.

Contrary to law.

Kaloocan City, Metro Manila, December 6, 1995.

(SGD.) AFABLE E. CAJIGAL

Assistant City Prosecutor[27]

Appellant evaded arrest. The long arm of the law, however, caught up with him when he was arrested in Aliaga, Nueva Ecija.

When arraigned on June 7, 2000, appellant, assisted by Atty. Jimmy Edmund Batara, pleaded not guilty[28] to the Information. Trial on the merits ensued after.

The prosecution evidence, which portrayed the foregoing facts, was supplied by the combined testimonies of Viscaya and Dr. Muñoz.

Appellant's version of the events is premised on denial and alibi.[29] He claimed that on the night of August 7, 1995, at about 7:00 p.m., he went to collect his fees for electrical services rendered from neighbors.[30] It was about that time when he passed by the group of Viscaya who were seated in front of the barangay hall at Libis Nadurata, Caloocan City.[31]

Appellant did not join the group but went on his separate way. He went to the houses of his "clients" to collect his fees until 8:00 p.m.[32] He did not go home to his parent's house later that evening because he was angry with them and his siblings.[33] He slept in a parked passenger jeep that was half a kilometer away from his parent's house.[34] He woke up at 3:00 a.m.[35] and took a passenger jeep bound for the pier.[36] He took a boat to Cebu City, arriving there the following day at about 6:00 a.m.[37] He stayed in Cebu City for four years.[38] His family in Cebu City was surprised to see him when he got there.[39]

Sometime in 1999, appellant returned, his family in tow, to his parent's house in Caloocan City. His mother, however, refused to accept them for her fear of trouble because of his alleged involvement in the killing of his first cousin.[40] As a result, he and his family proceeded to the house of his sister at P. Zamora Street, Caloocan City.[41] His mother later allowed his wife and children to stay in her house at Libis, but not him.[42]

Appellant proceeded to Tabang, Plaridel Bulacan[43] and stayed there for eight (8) months.[44] He told his relatives there that his mother was keeping him away as his life was in danger.[45] He also feared for his life because he was accused of killing his first cousin.[46] Appellant later transferred to Aliaga, Nueva Ecija where he was arrested on June 7, 1999.[47]

According to appellant, Viscaya had ill-motives in testifying falsely against him. They had a misunderstanding sometime in 1989 after appellant meddled in a quarrel between Viscaya and a friend. Since then, Viscaya resented him.

Appellant insisted that he is innocent. When asked why he was charged for the killing of his first cousin, his reply was "hindi ko po alam sa kanila." [48]

RTC and CA Dispositions

On February 26, 2001, the trial court rendered a judgment of conviction, disposing as follows:

WHEREFORE, premises considered, this Court finds the accused ROMMEL DELA CRUZ guilty beyond reasonable doubt as principal of Murder, as defined and penalized under Article 248 of the Revised Penal Code, as amended by Section 6 of Rep. Act No. 7659. Accordingly, he shall serve the penalty of Reclusion Perpetua, with all the accessory penalties under the law and shall pay the costs.

Pursuant to Section 7, Rule 117 of the Revised Rules of Criminal Procedure, the accused shall be credited with the period of his preventive detention.

By way of death Indemnity, the accused shall pay the victim's heirs the amount of P50,000.00, without subsidiary imprisonment in case insolvency.

As funeral and related expenses, the accused shall also pay the victim's heirs the amount of P20,900.00 without subsidiary imprisonment in case of insolvency.

The Branch Clerk of this Court shall now issue the corresponding Commitment Order for the accused's confinement at the Bureau of Corrections, Muntinlupa City.[49]

By virtue of this Court's decision in *People v. Mateo*,^[50] the Court issued a resolution on September 6, 2004, transferring this case to the CA for appropriate action and disposition.

On July 28, 2006, the CA affirmed the trial court's disposition, with modification on the award of damages. The fallo of the CA decision reads:

UPON THE VIEW WE TAKE OF THESE CASES, THUS, the appealed Decision finding the accused-appellant Rommel Dela Cruz guilty beyond reasonable doubt of murder, and sentencing him to suffer the penalty of reclusion perpetua, is AFFIRMED with MODIFICATION. The civil aspect of the case of MODIFIED to read: the accused-appellant is hereby ORDERED to pay the heirs of the victim the amounts of P50,000.00 as civil indemnity, P20,900.00 as actual damages, P50,000.00 as moral damages, and P25,000.00 as exemplary damages. Costs shall also be assessed against the accused-appellant.

SO ORDERED.[51]

Undaunted, appellant took the present recourse.

Issues

In his final bid to seek reversal of his conviction, appellant imputes to the trial court the following errors, to wit:

I.

THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE INCREDIBLE ACCOUNT OF THE PROSECUTION WITNESS ANENT THE SUBJECT INCIDENT.

II.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN REASONABLE DOUBT.

III.

ON THE ASSUMPTION THAT THE ACCUSED-APPELLANT IS GUILTY, THE CRIME COMMITTED IS ONLY HOMICIDE.[52] (Underscoring supplied)

The first and second issues, being related, will be resolved jointly.

Our Ruling

I. The trial court did not err in convicting appellant. It did not also err in giving full faith and credence to the account of the prosecution witness. Positive identification prevails over denial and alibi. Flight is an indication of guilt.

In support of the first and second assigned errors, appellant claims that the testimony of Viscaya leaves much to be desired. According to him, there is a "gaping hole in Viscaya's testimony"[53] that seriously militates against his conviction. Although Viscaya testified about the presence of appellant at the scene of the crime, he, nonetheless, categorically admitted that he did not see the weapon used in stabbing the victim.[54]

The contention is untenable. The emphasis, gesture and inflection of the voice are potent aids in understanding the testimony of witnesses. The trial court has the opportunity and is presumed to take advantage of these aids in weighing the testimony of the witnesses. But as they cannot be incorporated into the record, this Court has no assistance in the examination of the testimony and must, therefore, rely upon the good judgment of the trial court.[55] Thus, in the absence of any showing that the trial court's calibration of credibility was flawed, We are bound by its assessment.[56]

More than that, a reading of the testimony of Viscaya would show that the trial court did not, in any way, err in calibrating the credibility of his testimony:

MANNY VISCAYA'S DIRECT EXAMINATION CONDUCTED
BY PUBLIC PROSECUTOR FILOMENO BAJAR

x x x x

Fiscal: On August 7, 1995 at around 7:00 o'clock in the evening, do you still remember your whereabouts?

Witness: I was there at the side of the barangay hall.

x x x x

Q:

Now, were you alone then or do you have companion with you on said place?

A:

Mario Pader was with me and we were talking.

Q:

Who else were there, if you know?

A:

We were 3 then, Rafael Santarin, Mario Pader and myself.

x x x x

Q:

While the 3 of you were conversing on August 7, 1995 at around 7:00 p.m., do you remember if any unusual incident that transpired?

A:

While we were conversing, I spotted Rommel dela Cruz on our back.

Q:

How far was Rommel dela Cruz from you when you saw him?

A:

He was about two (2) meters away from us.

Q:

What was he doing when you saw him for the first time in that distance for two (2) meters?

A:

He was standing there, Sir.

Q:

After seeing him, what happened?

A:

When I saw him coming from our back, he immediately attacked.

Q:

Whom did he attack?

A:

Rafael Santarin, Sir.

x x x x

Q:

So, when you said attack, what actually do you mean by that?

A:

Rafael Santarin was stabbed, Sir.

Q:

Before we go further, this Rommel dela Cruz who was your neighbor for 15 years, if he is in court, can you identify him?

A:

Yes, Sir.

Q:

Please point to him?

A:

That one, Sir.

Interpreter: The witness pointed to a person inside the courtroom who identified himself as Rommel dela Cruz?

Fiscal: How were you able to see the stabbing of the victim in this case by Rommel dela Cruz when according to you, your back was against him?

Witness: Because after I spotted Rommel dela Cruz from our back, I bought cigarette and after buying cigarette, that was the time that he stabbed the victim.

x x x x

Q:

When you saw the stabbing of the victim by Rommel dela Cruz, what was then your position in relation to Rommel and Rafael?

A:

My side was facing the two.

Q:

Were you still buying cigarette or, you have already bought cigarette when you saw them?

A:

I already bought cigarette, Sir.

Q:

Will you please demonstrate to us how Rommel dela Cruz stabbed the victim?

Interpreter: The witness is demonstrating a forward thrust using his right hand.

Fiscal: Were the two (2) protagonists facing each other?

Witness: No, Sir.

Q:

What was then the position of the victim in relation to the stabber?

A:

The back of the victim was against the accused.

Q:

Did you see the weapon that was used by the accused in stabbing the victim?

A:

I did not see it because the incident happened so fast.

Q:

How many times did he stab the victim?

Witness: Only one, Sir.

x x x x

Q:

When these people arrived and lifted the victim, where was then the accused?

A:

The accused ran away, Sir.

x x x x

Fiscal: What happened to the victim after he was stabbed by the accused?

A:

He fell on the ground.

x x x x

Q:

Were you investigated by the police in relation to the incident that you saw?

A:

Yes, Sir, at the District Office of the police.

Q:

What did you tell the police?

A:

I told them that I saw the incident.

Q:

Before the stabbing of your friend by the accused, was there any conversation that transpired between the two?

A:

None, Sir.[57](Emphasis ours)

No rule exists which requires a testimony to be corroborated to be adjudged credible.[58] Witnesses are to be weighed, not numbered.[59] Thus, it is not at all uncommon to reach a conclusion of guilt on the basis of the testimony of a single witness despite the lack of corroboration, where such testimony is found positive and credible by the trial court. In such a case, the lone testimony is sufficient to produce a conviction.[60] Although the number of witnesses may be considered a factor in the appreciation of evidence, preponderance is not necessarily with the greatest number.[61] Conviction can still be had on the basis of the credible and positive testimony of a single witness.[62]

That Viscaya did not see the weapon used does not impair his credibility. As he explained, he failed to see the weapon used to stab Santarin because the incident happened so fast.[63] There is neither jurisprudence nor rules of evidence that a witness' credibility is affected if there is failure to see the weapon used in the commission of the crime. To rule along the twisted logic of appellant could be absurd.

Viscaya was unrelenting in positively identifying appellant as the one who stabbed Santarin. Note that Viscaya and appellant were neighbors for about fifteen (15) years.[64] There could have been no mistake in Viscaya's identification of appellant as the assailant. It is settled that when conditions of visibility are favorable, and when the witnesses do not appear to be biased, their assertion as to the identity of the malefactor should normally be

accepted.[65] Absent any evidence showing any reason and motive for the witness to prevaricate, the logical conclusion is that no such improper motive exists, and the testimony is worthy of full faith and credit.[66]

Appellant has not presented any shred of evidence that Viscaya was impelled by an improper motive in identifying him as the assailant. When appellant was asked why he was charged with the killing of his first cousin, all he could say was "hindi ko po alam sa kanila." [67] Appellant's claim that Viscaya had an evil motive in testifying against him because they had a previous misunderstanding is too flimsy an excuse.

Appellant's denial and alibi are not worthy of belief. It is an oft-quoted doctrine that positive identification prevails over denial and alibi.[68] Alibi cannot prevail over the positive identification of the accused as the perpetrator of the crime.[69]

Furthermore, for the defense of alibi to prosper, appellant must establish that (a) he was in another place at the time of the commission of the offense; and (b) he was so far away that he could not have been physically present at the place of the crime, or its immediate vicinity, at the time of its commission.[70] Appellant does not dispute that he was near the scene of the crime on August 7, 1995. It was not also physically impossible for him to have been the author of the crime, and after, hide to avoid being prosecuted. In fact, during cross-examination, appellant explicitly admitted that the distance from where he slept and place of the stabbing incident was only for a short distance. Thus:

Q:

You claimed in your Affidavit that you are (sic) only sleeping in the parked jeep near the school and your distance is not even 20 meters walk from where you were sleeping to the place of the stabbing incident?

A:

Yes, Sir.

Q:

Less than?

A:

Yes, Sir, by mere walking, one would reach the place of the incident from the place where I used to sleep in front of the elementary school, Sir.[71]

Another circumstance which glaringly points to the guilt of appellant is his flight, not only from the scene of the crime, but also from the clutches of the authorities. Flight of an accused from the scene of the crime removes any remaining shred of doubt on his guilt.[72] Indeed, the wicked flee, when no man pursueth, but the innocent are bold as a lion.[73]

Consider the following:

First. On the night of the killing, appellant did not go home to his parent's house and instead slept inside a parked passenger jeep which was half a kilometer away from his parents' house. His reason was his alleged anger with his parents and siblings. He did not, however, explain what caused his anger for his parents and siblings which could have made his claim of not going home on that night believable.

Second. Appellant proceeded to the pier at 3:00 a.m. and took a boat for Cebu City where he admittedly stayed for 4 years.

Third. Although he and his family returned to Caloocan City in 1999, appellant opted not to stay in the city. He instead went to Tabang, Plaridel, Bulacan where he told his relatives that his mother was keeping him away as his life was in danger. He also told them that he feared for his life because he was accused of killing his first cousin.

Fourth. Continuing his flight, appellant finally sought sanctuary in the house of his relatives in Nueva Ecija where he was eventually caught.

Taken all together, these circumstances show that appellant entertained fear for what had happened to his first cousin. This could hardly be the conduct of an innocent man.

In his supplemental brief,[74] appellant also claims that the non-presentation of Pader as witness is "tantamount to suppression of evidence." [75]

If appellant felt that the prosecution was suppressing evidence, he should have asserted during trial his constitutional right "to have compulsory process to secure the attendance of witnesses and the production of evidence on his behalf." [76] This he did not do. Appellant cannot now be heard for the first time on appeal to complain that he could not secure the presence of witnesses at the trial. It does not appear that he made any effort to do so before or during the progress of the trial, or that he sought the aid of the court to compel the attendance of his witnesses, or objected to proceeding without them. [77]

Also, there was no necessity for the prosecution panel to present Pader as witness for the simple reason that his testimony would have merely been corroborative. As earlier mentioned, the testimony of Viscaya is credible of belief, thus, any testimony of Pader would have only been a superfluity.

The elements of murder are: (1) That a person is killed; (2) That the accused killed him; (3) That the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) The killing is not parricide or infanticide. [78]

Appellant claims that "there was no concrete evidence proving that, indeed, treachery was employed in committing the crime charged." [79] According to him, "the prosecution failed to present evidence that accused-appellant has resolved to commit the crime prior to the moment of killing. There was no proof that the death of the deceased was the result of meditation, calculation or reflection." [80]

Appellant is mistaken. There is treachery when a victim is set upon by the accused without warning; when the attack is sudden and unexpected and without the slightest provocation on the part of the victim; or is, in any event, so sudden and unexpected that the victim is unable to defend himself, thus insuring the execution of the criminal act without risk to the assailant. [81] In order to sustain a finding of treachery, two conditions must be present, to wit: (1) the employment of means of execution that give the person attacked not opportunity to defend himself or retaliate; and (2) the means of execution were deliberately or consciously adopted. [82]

Appellant's attack on Santarin was so sudden and launched from behind that the latter was caught off guard. Appellant gave the victim no opportunity to defend himself, as the latter was innocently conversing with Viscaya and Pader. Appellant's attack was swift, deliberate and unexpected. [83] There was no slightest provocation on the part of Santarin. Treachery is, without question, present.

It is clear from the records that appellant had pondered upon the mode or method of his attack to insure the killing of Santarin or remove or diminish any risk to himself that might arise from the defense that Santarin might make. Appellant suddenly stabbed Santarin at the back, even in the absence of provocation by the victim, to insure himself against the risk from any possible defense that Santarin might make.

Dr. Muñoz, who conducted the autopsy on Santarin's corpse, also found out that Santarin sustained one stab

wound at the back portion of his body, which caused his death. This corroborated the testimony of Viscaya that appellant stabbed the victim once at the back.

In one case, this Court ruled that treachery attended the killing of the victim "since the stabbing was sudden and unexpected, and the victim was not only unarmed, but was unable to defend himself." [84] In another case [85] where treachery was also appreciated, it was shown that the victims were totally unprepared for the sudden and unexpected attack of appellant.

II. Appellant was correctly convicted of murder. There was no violation of the right of appellant to be informed of the nature and cause of accusation against him.

Appellant contends that "while it is not disputed that treachery was stated in the information, nonetheless, the same was not specified therein as a qualifying circumstance" [86] "in an ordinary and concise language sufficient to enable a person of common understanding to know what were those qualifying circumstances." [87] Thus, assuming he is guilty, he could only be convicted of homicide, not murder.

Appellant is building castle on sand. It is true that in all criminal prosecutions, the accused shall be informed of the nature and cause of the accusation against him. [88] The Constitution uses the word "shall," hence, the same is mandatory. A violation of this right prevents the conviction of the accused with the crime charged in the Information.

The constitutional guaranty has a three-fold purpose: First. To furnish the accused with such a description of the charge against him as will enable him to make his defense; and second, to avail himself of his conviction or acquittal for protection against a further prosecution for the same cause; and third, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction. [89]

The en banc per curiam Resolution of this Court in *People v. Aquino* [90] provides for the proper way of making allegations of qualifying or aggravating circumstances in an Information as mandated by Sections 8 [91] and 9 [92] of Rule 110 of the Revised Rules on Criminal Procedure:

x x x the Court has repeatedly held even after the recent amendments to the Rules of Criminal Procedure, that qualifying circumstances need not be preceded by descriptive words such as "qualifying" or "qualified by" to properly qualify an offense. x x x

In the recent case of *People v. Lab-ao*, the appellant there questioned the decision of the lower court raising the killing to murder. The appellant there argued that he could only be convicted of homicide since the Information merely stated "that the aggravating circumstances of evident premeditation, treachery, abuse of superior strength and craft attended the commission of the offense." The appellant also asserted that since the circumstances were merely described as aggravating and not qualifying, he should only be convicted of the lesser crime of homicide. On this score, the Court ruled that -

The fact that the circumstances were described as "aggravating" instead of "qualifying" does not take the Information out of the purview of Article 248 of the Revised Penal Code. Article 248 does not use the word "qualifying" or "aggravating" in enumerating the circumstances that raise a killing to the category of murder. Article 248 merely refers to the enumerated circumstances as the "attendant circumstances."

x x x x

The use of the words "aggravating/qualifying circumstances" will not add any essential element to the crime. Neither will the use of such words further apprise the accused of the nature of the charge. The specific allegation of the attendant circumstance in the Information, coupled with the designation of the offense and a statement of the acts constituting the offense as required in Sections 8 and 9 of Rule 110, is sufficient to warn the accused x x x.

x x x The words "aggravating circumstances" include "qualifying circumstances." Qualifying circumstances are aggravating circumstances which, by express provision of law, change the nature of the crime to a higher category. The words "attendant circumstances," which still appear in Article 248 (raising homicide to murder), refer to qualifying circumstances - those aggravating circumstances that, by express provision of law, change the nature of the crime when present in the commission of the crime.

Section 9, Rule 110 of the Revised Rules of Criminal Procedure states that the -

"x x x qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know x x x (the) qualifying and aggravating circumstances x x x."

Thus, even the attendant circumstance itself, which is the essential element that raises the crime to a higher category, need not be stated in the language of the law. With more reason, the words "aggravating/qualifying circumstances" as used in the law need not appear in the Information, especially since these words are merely descriptive of the attendant circumstances and do not constitute an essential element of the crime. These words are also not necessary in informing the accused that he is charged of a qualified crime. What properly informs the accused of the nature of the crime charged is the specific allegation of the circumstances mentioned in the law that raise the crime to a higher category.

Section 8 of Rule 110 requires that the Information shall "state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances." Section 8 merely requires the Information to specify the circumstances. Section 8 does not require the use of the words "qualifying" or "qualified by" to refer to the circumstances which raise the category of an offense. It is not the use of the words "qualifying" or "qualified by" that raises a crime to a higher category, but the specific allegation of an attendant circumstance which adds the essential element raising the crime to a higher category.

x x x x

We therefore reiterate that Sections 8 and 9 of Rule 110 merely require that the Information allege, specify or enumerate the attendant circumstances mentioned in the law to qualify the offense. These circumstances need not be preceded by the words "aggravating/qualifying," "qualifying," or "qualified by" to be considered as qualifying circumstances. It is sufficient that these circumstances be specified in the Information to apprise the accused of the charges against him to enable him to prepare fully for his defense, thus precluding surprises during the trial. When the prosecution specifically alleges in the Information the circumstances mentioned in the law as qualifying the crime, and succeeds in proving them beyond reasonable doubt, the Court is constrained to impose the higher penalty mandated by law. This includes the death penalty in proper cases.

x x x x

To guide the bench and the bar, this Resolution clarifies and resolves the issue of how to allege or specify qualifying or aggravating circumstances in the Information. The words "aggravating/qualifying," "qualifying," "qualified by," "aggravating," or "aggravated by" need not be expressly stated as long as the particular attendant circumstances are specified in the Information. (Emphasis ours)

The Information in this case clearly forewarns appellant that "without any justifiable cause, with treachery and evident premeditation and with deliberate intent to kill," he "did then and willfully, unlawfully and feloniously attack and stab, with a bladed weapon, on the back portion of the body," Santarin, "thereby inflicting upon the latter serious physical injury which injury caused his death." [93] These allegations, once they were proven beyond reasonable doubt by the prosecution, qualify the killing of Santarin to murder.

WHEREFORE, the petition is DENIED and the appealed Court of Appeals Decision AFFIRMED.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Chico-Nazario and Nachura, JJ., concur.

[1] Rollo, pp. 3-19. Penned by Associate Justice Renato C. Dacudao, with Associate Justices Rosmari D. Carandang and Monina Arevalo-Zenarosa, concurring.

[2] Id. at 12-17. Penned by Judge Bayani S. Rivera.

[3] TSN, July 12, 2000, p. 4.

[4] Id. at 14.

[5] Id. at 3.

[6] Id. at 3-4.

[7] Id.

[8] Id.

[9] Id.

[10] Id. at 4.

[11] Id. at 11.

[12] Id. at 6.

[13] Id. at 4.

[14] Id. at 7.

[15] Id. at 15.

[16] Id. at 8.

[17] Id. at 7.

[18] Id.

[19] Id. at 8.

[20] TSN, September 14, 2000, p. 4.

[21] Exhibit "H." Autopsy Report No. N-95-1543.

[22] TSN, September 14, 2000, p. 4; Exhibit "I."

[23] Id.

[24] Id.

[25] Id. at 5; Exhibit "A."

[26] Id. at 4.

- [27] Records, p. 2.
- [28] Id. at 20.
- [29] TSN, December 7, 2000, pp. 3-13.
- [30] Id. at 4.
- [31] Id. at 4-5.
- [32] Id. at 5-6.
- [33] Id. at 7.
- [34] Id. at 6.
- [35] Id.
- [36] Id.
- [37] Id. at 7-8.
- [38] Id. at 9.
- [39] Id. at 8.
- [40] Id. at 14.
- [41] Id.
- [42] Id.
- [43] Id.
- [44] Id.
- [45] Id. at 15-16.
- [46] Id.
- [47] Id. at 10.
- [48] Id. at 12. "I don't know to them."
- [49] CA rollo, p. 17.
- [50] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [51] Rollo, p. 19.
- [52] Id. at 38.
- [53] Id. at 41.
- [54] Id. at 42.
- [55] *People v. Pamor*, G.R. No. 108599, October 7, 1994, 237 SCRA 462.
- [56] *People v. Taton*, G.R. Nos. 122757-61, November 28, 1997, 282 SCRA 300.
- [57] TSN, July 12, 2000, pp. 3-8.

[58] *People v. Rayray*, G.R. No. 90628, February 1, 1995, 241 SCRA 1, 6, citing *People v. Villalobos*, G.R. No. 71526, May 27, 1992, 209 SCRA 304, 315; *People v. Canada*, G.R. No. 63728, September 15, 1986, 144 SCRA 121, 126.

[59] *Id.*, citing *People v. Jumao-as*, G.R. No. 101334, February 14, 1994, 230 SCRA 70, 77.

[60] *Id.*, citing *People v. Abo*, G.R. No. 107235, March 2, 1994, 230 SCRA 612, 619; *People v. Gonzales*, G.R. No. 105689, February 3, 1994, 230 SCRA 291, 296; *People v. Amaguin*, G.R. Nos. 54344-45, January 10, 1994, 229 SCRA 166, 174; *People v. Cariño*, G.R. Nos. 92144-49, December 18, 1992, 216 SCRA 702, 713.

[61] *Id.*, citing RULES OF COURT, Rule 133, Sec. 1; *Sapu-an v. Court of Appeals*, G.R. No. 91869, October 19, 1992, 214 SCRA 701, 706.

[62] *Id.*

[63] TSN, July 5, 2000, p. 6.

[64] TSN, July 12, 2000, p. 5.

[65] *People v. Torrecampo*, 467 Phil. 918, 932 (2004), citing *People v. Ramirez*, G.R. No. 136094, April 20, 2001, 357 SCRA 222.

[66] *Id.*, citing *People v. Mallari*, G.R. No. 145993, June 17, 2003, 404 SCRA 170, citing *People v. Barnuevo*, G.R. No. 134928, September 28, 2001, 366 SCRA 243, and *People v. Fernandez*, G.R. No. 137647, February 1, 2001, 351 SCRA 80, 90.

[67] TSN, December 7, 2000, p. 12.

[68] *People v. Jackson*, G.R. No. 131842, June 10, 2003, 403 SCRA 500, citing *People v. Domingo*, G.R. No. 143660, June 5, 2002, 383 SCRA 43, 49.

[69] *People v. Mendoza*, 440 Phil. 755, 784 (2002), citing *People v. Taneo*, G.R. No. 117683, January 16, 1998, 284 SCRA 251; *People v. Dacibar*, G.R. No. 111286, February 17, 2000, 325 SCRA 725.

[70] *People v. Jackson*, *supra* note 68, citing *People v. Ferrer*, G.R. No. 139695, August 26, 2002, 388 SCRA 19.

[71] TSN, December 12, 2000, p. 15.

[72] *People v. Cahindo*, G.R. No. 121178, January 22, 1997, 266 SCRA 554, 559, citing *People v. Deunida*, G.R. Nos. 105199-200, March 28, 1994, 231 SCRA 520.

[73] *U.S. v. Alegado*, 25 Phil. 510 (1913).

[74] Rollo, pp. 25-26.

[75] *Id.* at 26.

[76] CONSTITUTION, Bill of Rights, Art. III, Sec. 14(2).

[77] *U.S. v. Garcia*, 10 Phil. 384 (1908).

[78] Reyes, L.B., *The Revised Penal Code*, Bk. II, 15th ed., rev. 2001, p. 463. "Although Art. 248 makes reference only to Art. 246, which defines and penalizes parricide, it is understood that the person killed should not be less than three days old; for, otherwise, the crime would be infanticide defined and penalized by Art. 255." *Id.*

[79] Rollo, p. 28.

[80] Id. at 29.

[81] *People v. Carpio*, G.R. No. 110031, November 27, 1997, 282 SCRA 23, citing *People v. Villanueva*, G.R. No. 98468, August 17, 1993, 225 SCRA 353.

[82] *People v. Azugue*, G.R. No. 110098, February 26, 1997, 268 SCRA 711, 725.

[83] Id.

[84] *People v. Sanchez*, G.R. No. 118423, June 16, 1999, 308 SCRA 264, 286.

[85] *People v. De Vera, Sr.*, G.R. Nos. 121462-63, June 9, 1999, 308 SCRA 75, 96.

[86] *Rollo*, p. 42.

[87] Id. at 31.

[88] CONSTITUTION, Bill of Rights, Art. III, Sec. 14(2).

[89] *U.S. v. Karelsen*, 3 Phil. 223, 226 (1904), citing *United States v. Cruikshank*, 92 US 542.

[90] 435 Phil. 417, 422-427 (2002).

[91] Revised Rules of Criminal Procedure, Sec. 8. Designation of the offense. – The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

[92] Id., Sec. 9. Cause of the accusation. – The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

[93] *Records*, p. 2.

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