

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO MIRANDA Y MICHAEL, ACCUSED-APPELLANT.

G.R. No. 176634. April 05, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Accused-appellant Romeo Miranda y Michael (Miranda) is before Us on automatic review of the Decision[1] dated October 31, 2006 of the Court of Appeals in CA-G.R. CR-HC No. 01953, which affirmed the Decision[2] dated February 13, 2004 of the Regional Trial Court (RTC) of Pasig City, Branch 261, in Criminal Case No. 118507-H, insofar as the trial court found Miranda guilty beyond reasonable doubt of the crime of Rape against his own daughter AAA[3] and awarded to AAA civil indemnity and exemplary damages in the amounts of P75,000.00 and P25,000.00, respectively. However, the Court of Appeals modified the same RTC judgment by reducing Miranda's sentence from the extreme penalty of death to reclusion perpetua and increasing the award of moral damages from P50,000.00 to P75,000.00.

The Information charging Miranda of the crime of Rape pertinently read:

On or about June 24, 2000 in Pateros, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his daughter AAA, a minor, seventeen (17) years of age, against her will and consent.[4]

Miranda pleaded "Not Guilty" when arraigned.[5] Prior to the commencement of trial, the prosecution and Miranda agreed upon the following stipulation of facts:

- a) Fact of identity of the accused;
- b) The case is within the jurisdiction of this court;
- c) The date of the commission of the crime;
- d) Fact of the minority of the offended party;
- e) The relationship of the accused and the complainant as father and daughter; [and]
- f) Existence of the medico-legal report.[6]

The prosecution called to the witness stand AAA, the victim; Police Senior Inspector (P/Sr. Insp.) Ruby Grace Sabino, the medico-legal officer who conducted the physical examination on AAA; and Senior Police Officer 4 Ramon Tagle, one of the arresting officers. The RTC summarized their testimonies as follows:

P/Insp. Ruby Grace Sabino, x x x testified that upon a letter-request from the Pateros Police Station, she conducted a physical examination of AAA on June 25, 2000, the findings of which she reduced into writing in Medico Legal Report No. M-2000-00, to wit:

Findings:

Hymen: elastic, fleshy type with deep fresh laceration at 6 o'clock position.

Conclusion:

Physical findings of the genitalia is definitive evidence of penetration. There is no external signs of application of any form of physical trauma.

She declared that the laceration was fresh because at the time of the examination, there was blood; that something has penetrated the vagina or the hymen, and, that there was seminal fluid on the vagina.

She prepared a document entitled Sexual Crime dated June 25, 2000, Manifestation of Consent in Case No. M-2000 dated June 25, 2000, which was signed by AAA and her mother and Initial Medico Legal Report in case No. M-2000-00 dated June 25, 2000.

Through the testimony of the offended party, AAA, it was established that she was born on May 27, 1983, as evidenced by her Birth Certificate, marked as Exh. "C", hence, she was 17 years old at the time of the commission of the instant charge. She declared that her father and mother have been separated for 14 years and are not in speaking terms with each other. She has been staying with her mother at x x x while her father, a jeepney driver, resides in x x x, in a two-storey house with an unfinished lower portion.

About noontime of June 23, 2000, while she was fetching water in a "poso" near their house in x x x, she came to learn that the live-in partner of her father died, hence, she went to her father's house in x x x to condole. Her father then told her to look after her half-brother, CCC, and [half]sister, BBB. She stayed at his house, cooked food and washed the dishes. She slept that night with her half-sister in the sala.

On the following day, June 24, 2000, her father left in the morning but returned at lunch time and stayed in the house for the rest of the day. She was, however, not feeling well because of a high fever and headache accompanied by vomiting spills which started at noontime of the same day.

After having dinner at 7:00 p.m. and while she was washing the dishes, her father came to know of her condition and he told his daughter, BBB to finish the dish washing. She then went to the room and after wearing a pajama over her shorts and panty, she put on the mosquito net. She then laid down and while preparing herself to rest and go to sleep, she watched TV from 8:00 p.m. to 10:00 p.m. with a "Good Morning" towel stuck on her mouth to prevent her from vomiting. When her father turned off the TV, she asked for the "Vicks Vaporub" placed at the side of the TV set. Accused then entered the mosquito net and volunteered to massage her head. While he was massaging her head, she felt that both his elbows were touching her breasts. She tried to evade his elbows saying she would be the one to do the massaging but he refused. Thereafter, he told her "dededehin niya po ang dede ko" and she replied that she will tell her mother about it which made him stop and instead, he massaged her hands.

In between sobs, AAA continued testifying that her father then kissed her on her neck while slowly lifting her T-shirt who thereafter sucked her breasts causing her to push him hard telling him not to do it to her. Only his two children were inside the house but both were already asleep at that time. After sucking her breasts, he used his left hand in slowly pulling down her pajama and thereafter her short and panty. He then held both her arms and with his head going down, he licked her vagina. She resisted and tried to kick the wall to create some noise to awaken her half-brother and sister but he did not stop. She did not shout for help out of fear of her father stating "baka saktan niya ako", whom she saw with red eyes for the first time. Thereafter, he removed his shorts with a garter and his brief and she turned her back to him but he embraced her to make her face him. He told her that he will insert his penis to her vagina "pero hinde raw po niya ipuputok yun para hindi daw po ako mabuntis." Then and there, he laid on top of her and inserted his penis into her vagina. She felt an entry into her vagina which she described to be painful. When her father removed his sex organ from hers, she felt something hot flowed from her vagina.

After the foregoing incident, he got dressed and wiped her vagina with the "good morning" towel. Her father also asked her if she wants to eat to which she replied in the negative. She then waited for him to sleep and seeing him asleep, she fixed herself and climbed the fence to get out from the house. She went to their house in x x x and because her mother was still sleeping, she proceeded to the Barangay Hall of x x x where she saw her uncle who accompanied her to x x x Police Station where she executed a sworn statement. She was also brought to Camp Crame for a physical and genital check-up.

On the questions propounded by the Court, she answered that it was before her father inserted his penis to her vagina that he said that he will insert his penis but will not "ipuputok" so that she will not get pregnant. She knows the meaning of "ipapuputok" because she was able to watch a rape movie; that when her father knew that "lalabasan siya, hinugot niya po, inalis niya `yong ari niya sa ari ko" and she was able to see something "parang sipon at tumapon malapit sa higaan ko."

SPO4 Ramon Tagle's testimony is confined to the fact of apprehension of the accused in the early morning of June 25, 2000. He declared that he, along with SPO3 Carmelito Dequino and SPO1 Alfredo Cardenas effected the arrest of the accused at his house at 1:15 a.m. of June 25, 2000 after his daughter, AAA, lodged a complaint of Rape against him. He further testified that the accused voluntarily went with them after he was pinpointed and positively identified by his daughter as the one who raped her. He identified his signature in the "Sinumpaang Salaysay," marked as Exh. "B" with submarkings.[7]

On the other hand, the defense presented as witnesses Miranda himself and the victim's half-sister, BBB. The RTC recounted their testimonies, thus:

BBB, 13 years old, single, [Grade] VI pupil, residing at x x x, testified that the accused is her father while the offended party is her [half] sister. In the evening of June 24, 2000, she was at their house sleeping. AAA was sleeping at her mother's bed while her father was at the other bed watching television. She noticed that AAA was vomiting who told her that she was feeling dizzy and so she slept ahead of her. She could see AAA from where she was because the room has no door. She identified the pictures of their house situated at x x x taken by her [half] sister, DDD. She slept beside her brother and father in a "papag." At that time, she heard "kalampag" outside the house. She and her brother slept ahead of their father.

Romeo Miranda, Sr., 53 years old, married, driver, residing at x x x, denied the accusation as he testified that at twelve o'clock midnight of June 25, 2000, he was sleeping with his children when they were awakened by policemen knocking at their window. He was told to go down by the policemen and after doing so, he was brought directly to the x x x Municipal Hall where he met his daughter AAA. It was only at that instance that he came to know that he was being accused of Rape by her. He then asked AAA, "ano bang problema mo?", but she did not respond. He declared that he was not pinpointed by AAA, but she simply said ... "ako raw", after which, he was detained in jail. He belied the accusation but did not tell the police of the falsity of the charge for fear that he might be hurt by them.

When asked if he knows of any reason why he was charged by his daughter of this grave offense, he replied "wala naman po. Lumaki sila na hindi ko binigyan ng pansin, dahil nga sa kanilang ina ay walang ginawa kundi magsugal, bingo, baraha, 41 x x x. Masama po ang loob nila dahil hindi ko sila sinuportahan, pinabayaan ko sila... sila pong magkakapatid, lima po sila."

He likewise testified that he and AAA seldom see each other since she was staying with her mother. As regards the rape charge that occurred at 11:00 p.m. on June 24, 2000, he stated that he was already sleeping side by side with his children, BBB and CCC from 9:00 to 10:00 p.m. and that AAA was also asleep in another room. He did not deny that before they went to sleep, he massaged AAA's aching forehead with efficascent from 9:00 to 9:30 p.m. as she was also feeling dizzy. He, however, vehemently denied having raped her asserting that after massaging her head AAA transferred to another room while he, together with his two (2) children,

remained in the room where they eventually slept. He further averred that before June 24, 2000, he had no misunderstanding with AAA neither did they quarrel before the subject incident.

He described that the materials separating his room from the room where AAA slept were made of carton and wood of good lumber and one can hear and see if someone is talking or doing anything in the other room as it has no door.[8]

On February 13, 2004, after trial, the RTC rendered its Decision finding Miranda guilty beyond reasonable doubt of the crime of rape. The court a quo gave credence to AAA's plain and straightforward testimony on how she was ravished by Miranda on June 24, 2000, as well as her positive identification of Miranda, her own father, as her assailant, thus, discrediting Miranda's defense of denial. The RTC decreed:

WHEREFORE, in light of the foregoing, the Prosecution having proved the guilt of the accused, ROMEO MIRANDA y MICHAEL, beyond reasonable doubt, he is hereby meted out the capital punishment of DEATH.

He is likewise hereby ordered to pay the offended party, AAA, the amount of Seventy-Five Thousand [Pesos] (PhP75,000.00) as civil indemnity and Fifty Thousand Pesos (PhP50,000.00) as moral damages, without the necessity of proving the same. An award of Twenty-Five Thousand Pesos (PhP25,000.00) to complainant as exemplary damages is also in order, to deter fathers with perverse behavior from sexually abusing their daughters.

The warden of the x x x Municipal Jail, xxx, is hereby directed to immediately transfer the accused to the Bureau of Corrections, New Bilibid Prisons, Muntinlupa City.[9]

The records of this case were originally transmitted to this Court on automatic review. However, pursuant to *People v. Mateo*,[10] the Court remanded the records to the Court of Appeals for appropriate action and disposition, whereat it was docketed as CA-G.R. CR-HC No. 01953.

In his brief,[11] Miranda made a lone assignment of error - that the RTC gravely erred in finding him guilty beyond reasonable doubt of the crime of rape.

In its Decision dated October 31, 2006, the Court of Appeals affirmed the Decision dated February 13, 2004 of the RTC with the modification that the death penalty imposed on Miranda for the crime of rape be reduced to reclusion perpetua in view of the abolition of the death penalty; and that the amount of moral damages awarded to AAA be increased from P50,000.00 to P75,000.00. The fallo of the Decision of the appellate court reads:

WHEREFORE, the trial court's Decision dated February 13, 2004 is affirmed, subject to the modification that in lieu of the death penalty, appellant is sentenced to suffer the penalty of reclusion perpetua and the amount of moral damages is increased from P50,000.00 to P75,000.00.[12]

On March 2, 2007, the records of the case were forwarded to this Court for automatic review.[13]

In the Resolution[14] dated March 28, 2007, the Court required the parties to file their respective supplemental briefs within thirty (30) days from notice, if they so desired.

In separate Manifestations, dated June 14, 2007[15] and June 15, 2007,[16] Miranda and the People, through the Office of the Solicitor General, respectively, both waived the filing of supplemental briefs and instead opted to stand by their respective briefs filed before the Court of Appeals.

Rape is committed by having carnal knowledge of a woman under any of the following instances: (1) when force or intimidation is used; (2) when the woman is deprived of reason or is otherwise unconscious; and (3) when she is under twelve (12) years of age.[17] Both the RTC and the Court of Appeals found that Miranda committed rape

under the first circumstance, i.e., by having sexual intercourse with his 17-year old daughter with the use of force and intimidation.

In the review of rape cases, the credibility of the private complainant is the single most important factor for consideration. The case of the prosecution stands or falls on the credibility of the victim. This rule is in accordance with the intrinsic nature of the crime of rape where only two parties, namely the victim and the accused, are usually involved. In this regard, the appellate court will generally not disturb the assessment of the trial court on matters of credibility owing to its unique opportunity to observe the deportment and manner of testifying of witnesses firsthand during the trial unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.[18]

In the instant case, there is no basis for this Court to overturn the finding of the RTC, as affirmed by the Court of Appeals, that the testimony of the victim, AAA, is credible. As the RTC observed, the testimony of AAA, in which she positively identified her father as the one who ravaged her, is straightforward, categorical, and spontaneous. AAA's account of her ordeal resonates with sincerity and truthfulness.

In answer to AAA's explicit declaration that she was sexually abused by Miranda, the latter merely interposes the defense of denial. As between a categorical testimony that rings of truth on one hand and a bare denial on the other, the former is generally held to prevail. A mere denial, like alibi, is inherently a weak defense and constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. As against the positive identification and credible testimony by the private complainant, mere denials of the accused cannot prevail to overcome conviction by the trial court.[19]

Miranda also proffers no credible explanation as to why his own daughter, AAA, would accuse him of raping her if it was not true. In fact, Miranda admits that he has no misunderstanding with AAA, thus, no improper motive could be attributed to AAA for charging her father with the commission of such an atrocious crime. AAA's testimony is worthy of full faith and credence because her only apparent motive is to bring her father to justice for raping her.

A rape victim's testimony against her father is entitled to greater weight since, ordinarily and customarily, Filipino children revere and respect their elders. This is too deeply ingrained in Filipino children and families and is even recognized by law. It is thus unthinkable, if not completely preposterous, that a daughter would audaciously concoct a story of rape against her father in wanton disregard of the unspeakable trauma and social stigma it may generate on her and the entire family. A teenage unmarried lass does not ordinarily file a rape complaint against anybody, much less her own father, if it is not true.[20]

Moreover, we have held that where a rape victim did not lose time in reporting her father's dastardly act and in seeking help as soon as she was able to escape, such spontaneous conduct was an eloquent attestation of her abhorrence and repugnance to her father's perversity.[21] That AAA immediately told her uncle and police officials about her hellish ordeal and that she willingly submitted herself to physical and genital examination evince the truthfulness of her charge of rape against Miranda.

During the trial before the RTC, AAA even broke down and cried while narrating how she was sexually abused by Miranda. This is an eloquent demonstration of the verity of her claim that she was raped. It has been ruled that the crying of the victim during her testimony is evidence of the credibility of the rape charge with the verity borne out of human nature and experience.[22]

It bears stressing that AAA's account of the rape is reinforced by physical evidence. The Medico-Legal Report

and testimony of P/Sr. Insp. Ruby Grace Sabino, who physically examined AAA on June 25, 2000, a day after the rape, established that AAA's hymen had a deep fresh laceration at 6 o'clock position, evidencing penetration of the genitalia; and that seminal fluid was present in AAA's vagina.

Aside from challenging AAA's credibility - which this Court already found in preceding paragraphs to be unassailable - Miranda also argues that the prosecution failed to prove that he used force and intimidation against AAA. He further calls attention to the condition of the place where the rape purportedly took place. While Miranda admits that AAA did sleep alone in the room where she was allegedly raped, Miranda claims that said room had no door and it was near the sala where his two other children were sleeping. Any noise coming from the room could have been easily heard by those in the sala. Miranda asserts that it would have been easy for AAA to struggle and create noise to arouse the attention of other people inside, as well as outside the house. Simply put, Miranda submits that AAA's failure to fight back or to cause any noise while supposedly being sexually abused is contrary to human experience. Miranda invokes the following part of AAA's testimony to prove that the latter did not put up any resistance at all during her alleged rape:

COURT:

What happened after that?

Witness:

He started to massage my head and then after that, I felt that both of his elbows was touching both my breast (sic).

Q

What did you do?

A

I was trying to remove it and I said that I will be the one to do but he refused.

Q

After his elbow was touching your breast, what did you do?

A

Sabi po niya na dededehin nya po an[g] dede ko.

Q

What was your reply?

A

I told him that I will tell it to my mother.

Q

Did he stop touching your breast with his elbow?

A

Tumigil po at pagkatapos ay hinilot niya ang mga kamay ko.

Q

What happened next?

(witness is crying)

A

Hinalikan niya po ang leeg ko at unti-unti niyang itinaas iyong t-shirt ko.

Q

What did you wear at that time?

A

Pajama po.

Q

So after trying to undress you or to lift your t-shirt, what happened next?

A

Dinede po niya ang suso ko at itinulak ko siya ng malakas.

Q

What was the position of your father when he was sucking your breast?

A

He was beside the Papag, nakatagilid at dinedede ang suso ko.

Q

When he was sucking your breast, what did you do?

A

Itinulak ko po siya at sabi kong huwag niyang gawin sa akin.

x x x x

Q

During that time that your father was sucking your breast, where was the two children?

A

They were sleeping in the living room ma'am.

Q

Where were you sleeping then?

A

In the room which has no door, ma'am.

Q

So you were in that room?

A

Yes, ma'am.

Q

After you said your father was trying to undress you and stopped in sucking your breast, what happened next?

A

Unti-unti po niyang ibinababa sa kanyang kaliwang kamay ang pajama ko.

x x x x

Q

And was it only the pajama that your father was trying to pull down in your buttock?

x x x x

A

He pulled out all my underwear.

Q

Anu-ano iyong hinila niya?

A

Pajama, short at panty, ma'am.

x x x x

Q

What happened next after he successfully pulled down all of these three underwear?

A

He held both my arms and his head went down . . .

Q

And would you please narrate to us what happened next?

A

He held my arms and leached (sic) my vagina.

Q

What happened, did you not offer any resistance?

A

Tumututol po.

Q

What action did you make if any?

A

Iyon pong dingding ay ginaganoon ko po.

Q

Why? Did you not try to make noise?

A

None, ma'am.

Q

You said you tried to kick the wall, what was your purpose in trying to kick the wall?

A

Para po tumigil siya at magising iyong mga kapatid ko.

Q

Did he stop?

A

No, ma'am.

Q

After leaking (sic) your vagina, your private parts, what happened next?

A

Hinubad po iyong short niya na may garter.

Q

Then what did you do after that?

A

Tumagilid po ako sa kanya, at pagkahubad ay niyakap niya akong muli.

x x x x

Q

When he was already naked, what did you do?

A

Iniharap po niya ako sa kanya at pumatong po sa akin.

Q

Was that the only ... at that time?

A

Pinatungan po niya ako at ipinasok ang ari niya sa ari ko.

Q

When you say that ipinasok ang ari niya sa ari mo, what do you mean by that?

A

Naramdaman ko pong may pumasok.

Q

What happened next?

A

Masakit po iyong pumasok, sa akin.

Q

After that, did he tell you anything, or after he inserted his penis on your vagina, did he tell you anything?

A

None, ma'am.[23]

Contrary to Miranda's averment, the aforequoted portion of AAA's testimony actually reveals several attempts by AAA to fight back at him. AAA threatened that she would tell her mother about what Miranda was doing to her, but it only deterred Miranda for awhile. AAA pushed Miranda away, but he continued to kiss her breasts and undress her. AAA kicked the wall to create noise but, unfortunately, it wasn't loud enough to disturb her half-siblings' sleep. AAA turned her body away but Miranda grabbed and hugged her. AAA repeatedly begged Miranda to stop but her pleas fell on deaf ears. Miranda overpowered all of AAA's resistance. Without doubt, Miranda gained carnal knowledge of AAA through force and intimidation.

Notably, the prosecution need not even prove the elements of force and intimidation in this case. Settled is the rule that in rape committed by a father or a person recognized by the victim as her father, the former's moral ascendancy and influence over the latter substitute for violence and intimidation.[24]

Having settled that Miranda is guilty beyond reasonable doubt of raping his own daughter, the Court proceeds with a review of the penalties imposed upon him by the Court of Appeals.

At the time of AAA's rape, the Revised Penal Code had been amended by Republic Act No. 8353 or the Anti-Rape Law of 1997. Republic Act No. 8353 already classified rape as a crime against persons. Among the amendments introduced by Republic Act No. 8353 to the Revised Penal Code are the following:

Article 266-A. Rape; When and How Committed. - Rape is committed -

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation; x x x.

Article 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

x x x x

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

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

Under Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, minority and relationship are special qualifying circumstances in the crime of rape that warrant the mandatory penalty of death. As such, they must both be specifically pleaded in the Information and proven during trial. These two circumstances, minority and relationship, must concur; otherwise, if only one is proven during trial, even if the Information alleged both, the death penalty cannot be imposed. And, as special qualifying circumstances, the same must be proven beyond reasonable doubt as the crime itself.[25]

The special qualifying circumstances of minority and relationship were properly alleged in the Information against Miranda and proven by competent evidence, specifically, AAA's Certificate of Live Birth, which was presented during the trial. Additionally, the parties stipulated and agreed during the pre-trial conference on the "fact of the minority of the offended party" and "the relationship of the accused and the complainant as father and daughter." The RTC, therefore, was correct in originally imposing the death penalty on Miranda.

Nevertheless, the Court of Appeals was also correct in modifying the penalty imposed upon Miranda because by June 24, 2006, Republic Act No. 9346, prohibiting the imposition of the death penalty, already took effect. Section 2 of Republic Act No. 9346 imposes the penalty of reclusion perpetua in lieu of death when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code, like Republic Act No. 8353 in this case. Miranda shall not be eligible for parole because Section 3 of Republic Act No. 9346 clearly provides that "persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua by reason of the law, shall not be eligible for parole."

Although the Court of Appeals already modified the award for damages of the RTC, the Court deems it necessary to again review the said award. While the Court affirms the award of: (1) civil indemnity in the amount of P75,000.00, inasmuch as Miranda was originally sentenced to death, and (2) moral damages in the amount of P75,000.00, as the same is awarded without need of pleading or proof of basis; the Court increases the award of exemplary damages from P25,000.00 to P30,000.00 in line with prevailing jurisprudence.[26]

WHEREFORE, the Court AFFIRMS WITH MODIFICATION the Decision dated October 31, 2006 of the Court of Appeals in CA-G.R. CR-HC No. 01953. Accused-appellant Romeo Miranda y Michael is found GUILTY beyond reasonable doubt of QUALIFIED RAPE and sentenced to reclusion perpetua, in lieu of death, without the possibility of parole. He is ORDERED to pay the victim, AAA, P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio Morales, Bersamin, and Villarama, Jr., JJ., concur.

[1] Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Bienvenido L. Reyes and Myrna Dimaranan-Vidal concurring; rollo, pp. 3-18.

[2] Penned by Judge Agnes Reyes-Carpio; CA rollo, pp. 17-24.

[3] The real name of the victim is withheld to protect her identity and privacy pursuant to Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC. See our ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

- [4] Records, p. 1.
- [5] Id. at 18.
- [6] Id. at 23.
- [7] Id. at 17-20.
- [8] CA rollo, pp. 20-21.
- [9] Id. at 23-24.
- [10] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [11] CA rollo, pp. 71-82.
- [12] Rollo, p. 17.
- [13] Id. at 1.
- [14] Id. at 19.
- [15] Id. at 20-21.
- [16] Id. at 23-24.
- [17] *People v. Erese*, 346 Phil. 307, 314 (1997).
- [18] *People v. Villanueva, Jr.*, 442 Phil. 293, 301 (2002).
- [19] *People v. Alvero*, 386 Phil. 181, 200 (2000).
- [20] Id. at 198.
- [21] *People v. Servano*, 454 Phil. 256, 282 (2003).
- [22] *People v. Agustin*, 418 Phil. 145, 155 (2001).
- [23] TSN, March 9, 2001, pp. 11-19.
- [24] *People v. Cesista*, 435 Phil. 250, 265 (2002).
- [25] *People v. Valez*, 406 Phil. 681, 699 (2001).
- [26] *People v. Oliva*, G.R. No. 187043, September 18, 2009; *People v. Mariano*, G.R. No. 168693, June 19, 2009, 590 SCRA 74, 94.

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