

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. POLICARPIO RAFANAN, JR., DEFENDANT-APPELLANT.

G.R. No. 54135. November 21, 1991

Ponente: FELICIANO, J.

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FELICIANO, J.:

Policarpio Rafanan, Jr. appeals from a decision of the then Court of First Instance of Pangasinan convicting him of the crime of rape and sentencing him to reclusion perpetua to indemnify complainant Estelita Ronaya in the amount of P10,000.00 by way of moral damages, and to pay the costs.

The facts were summarized by the trial court in the following manner:

"The prosecution's evidence shows that on February 27, 1976, complainant Estelita Ronaya who was then only fourteen years old was hired as a househelper by the mother of the accused, Ines Rafanan alias 'Baket Ines' with a salary of P30.00 a month.

The accused Policarpio Rafanan and his family lived with his mother in the same house at Barangay San Nicolas, Villasis, Pangasinan. Policarpio was then married and had two children.

On March 16, 1976, in the evening, after dinner, Estelita Ronaya was sent by the mother of the accused to help in their store which was located in front of their house about six (6) meters away. Attending to the store at the time was the accused. At 11:00 o'clock in the evening, the accused called the complainant to help him close the door of the store and as the latter complied and went near him, he suddenly pulled the complainant inside the store and said, 'Come, let us have sexual intercourse,' to which Estelita replied, 'I do not like,' and struggled to free herself and cried. The accused held a bolo measuring 1-1/2 feet including the handle which he pointed to the throat of the complainant threatening her with said bolo should she resist. Then, he forced her to lie down on a bamboo bed, removed her pants and after unfastening the zipper of his own pants, went on top of the complainant and succeeded having carnal knowledge of her inspite of her resistance and struggle. After the sexual intercourse, the accused cautioned the complainant not to report the matter to her mother or to anybody in the house, otherwise he would kill her.

Because of fear, the complainant did not immediately report the matter and did not leave the house of the accused that same evening. In fact, she slept in the house of the accused that evening and the following morning she scrubbed the floor and did her daily routine work in the house. She only left the house in the evening of March 17, 1976.

Somehow, in the evening of March 17, 1976, the family of the accused learned what happened the night before in the store between Policarpio and Estelita and a quarrel ensued among them prompting Estelita Ronaya to go back to her house. When Estelita's mother confronted her and asked her why she went home that evening, the complainant could not answer but cried and cried. It was only the following morning on March 18, 1976 that the complainant told her mother that she was raped by the accused. Upon knowing what happened to her daughter, the mother Alejandra Ronaya, immediately accompanied her to the house of Patrolman Bernardo Mairina of the Villasis Police Force who lives in Barrio San Nicolas, Villasis, Pangasinan. Patrolman Mairina is a cousin of the father of the complainant. He advised them to proceed to the municipal building while he

went to fetch the accused. The accused was later brought to the police headquarter with the bolo, Exhibit 'E', which the accused alleged-ly used in threatening the complainant."[1]

At arraignment, appellant entered a plea of not guilty. The case then proceeded to trial and in due course of time, the trial court, as already noted, convicted the appellant.

The instant appeal is anchored on the following

"Assignment of Errors

1. The lower court erred in basing its decision of conviction of appellant solely on the testimony of the complainant and her mother.
2. The lower court erred in considering the hearsay evidence for the prosecution, 'Exhibits B and C'.
3. The lower court erred in not believing the testimony of the expert witnesses, as to the mental condition of the accused-appellant at the time of the alleged commission of the crime of rape.
4. The lower court erred in convicting appellant who at the time of the alleged rape was suffering from insanity."[2]

Appellant first assails the credibility of complainant as well as of her mother whose testimonies he contends are contradictory. It is claimed by appellant that the testimony of complainant on direct examination that she immediately went home after the rape incident, is at variance with her testimony on cross examination to the effect that she had stayed in the house of appellant until the following day. Complainant, in saying that she left the house of appellant by herself, is also alleged to have contradicted her mother who stated that she (the mother) went to the store in the evening of 17 March 1979 and brought Estelita home.

The apparently inconsistent statements made by complainant were clarified by her on cross examination. In any case, the inconsistencies related to minor and inconsequential details which do not touch upon the manner in which the crime had been committed and therefore did not in any way impair the credibility of the complainant.[3]

The commission of the crime was not seriously disputed by appellant. The testimony of complainant in this respect is clear and convincing:

"Fiscal Guillermo:

Q: Now, we go back to that time when according to you the accused pulled you from the door and brought you inside the store after you helped him closed the store. Now, after the accused pulled you from the door and brought you inside the store what happened then?

A: 'You come and we will have sexual intercourse,' he said.

Q: And what did you say?

A: 'I do not like,' I said.

Q: And what did you do, if any, when you said you do not like to have sexual intercourse with him?

A: I struggled and cried.

Q: What did the accused do after that?

A: He got a knife and pointed it at my throat so I was frightened and he could do what he wanted to do. He was able to do what he wanted to do.

Q: This 'kutsilyo' you were referring to or knife, how big is that knife? Will you please demonstrate, if any?

A: This length, sir. (Which parties agreed to be about one and one-half [1-1/2] feet long.)

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Fiscal Guillermo:

Q: Now, you said that the accused was able to have sexual intercourse with you after he placed the bolo or that knife [at] your throat. Now, will you please tell the court what did the accused do immediately after placing that bolo at your throat and before having sexual intercourse with you?

A: He had sexual intercourse with me.

Q: What was your wearing apparel that evening?

A: I was wearing pants, sir.

Q: Aside from the pants, do you have any underwear?

A Yes, sir, I have a panty.

Q: Now, before the accused have sexual inter-course with you what, if any, did he do with respect to your pants and your panty?

A: He removed them, sir.

Q: Now, while he was removing your pants and your panty what, if any, did you do?

A: I continued to struggle so that he could not remove my pants but he was stronger that's why he succeeded.

Q: Now, after he had removed your panty and your pants or pantsuit what else happened?

A: He went on top of me, sir.

Q: At the time what was the accused wearing by way of apparel?

A: He was wearing pants.

Q: When you said he went on top of you after he has removed your pantsuit and your panty, was he still wearing his pants?

A: He unbuttoned his pants and unfastened the zipper of his pants.

Q: And after he unbuttoned and unfastened his pants what did you see which he opened?

A: I saw his penis.

Q: Now, you said that after the accused has unzipped his pants and brought out his penis which you saw, he went on top of you. When he was already on top of you what did you do, if any?

A: I struggled.

Q: Now, you said that you struggled. What happened then when you struggled against the accused when he was on top of you?

A: Since he was stronger, he succeeded doing what he wanted to get.

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COURT:

Alright, what do you mean by he was able to succeed in getting what he wanted to get?

Fiscal Guillermo:

Considering the condition of the witness, your honor, with tears, may we just be allowed to ask a leading question which is a follow-up question?

Witness:

A: He inserted his private part inside my vagina.

Fiscal Guillermo:

Q: Now, when he inserted his private parts inside your vagina what did you feel, if any?

A: I felt something that came out from his inside.

Q: Now, how long, if you remember, did the accused have his penis inside your vagina?

A: Around five (5) minutes maybe, sir.

Q: After that what happened then?

A: He removed it.

Q: After the accused has removed his penis from your vagina what else happened?

A: No more, sir, he sat down.

Q: What, if any, did he tell you?

A: There was, sir. He told me not to report the matter to my mother and to anybody in their house.

Q: What else did he tell you?

A: He told me that if I told anyone what happened, he will kill me.

Q: After that where did you go?

A: I went home already, sir."^[4]

The principal submission of appellant is that he was suffering from a mental aberration characterized as schizophrenia when he inflicted his violent intentions upon Estelita. At the urging of his counsel, the trial court suspended the trial and ordered appellant confined at the National Mental Hospital in Mandaluyong for observation and treatment. In the meantime, the case was archived. Appellant was admitted into the hospital on 29 December 1976 and stayed there until 26 June 1978.

During his confinement, the hospital prepared four (4) clinical reports on the mental and physical condition of the appellant, all signed by Dr. Simplicio N. Masikip and Dr. Arturo E. Nerit, physician-in-charge and chief, Forensic Psychiatry Service, respectively.

In the first report dated 27 January 1977, the following observations concerning appellant's mental condition were set forth:

"On admission he was sluggish in movements, indifferent to interview, would just look up whenever questioned but refused to answer.

On subsequent examinations and observations he was carelessly attired, with dishevelled hair, would stare vacuously through the window, or look at people around him. He was indifferent and when questioned, he would just smile inappropriately. He refused to verbalize, even when persuaded, and was emotionally dull and mentally inaccessible. He is generally seclusive, at times would pace the floor, seemingly in deep thought. Later on when questioned his frequent answers are 'Aywan ko, hindi ko alam.' His affect is dull, he claimed to hear strange voices 'parang ibon, tinig ng ibon,' but cannot elaborate. He is disoriented to 3 spheres and has no idea why he was brought here."

The report then concluded:

"In view of the foregoing examinations and observations, Policarpio Rafanan, Jr. y Gambawa is found suffering from a mental disorder called schizophrenia, manifested by carelessness in grooming, sluggishness in movements, staring vacuously, indifferen[ce], smiling inappropriately, refusal to verbalize, emotional dullness, mental inaccessibility, seclusiveness, preoccupation, disorientation, and perceptual aberrations of hearing strange sounds. He is psychotic or insane, hence cannot stand court trial. He needs further hospitalization and treatment." [5]

The second report, dated 21 June 1977, contained the following description of appellant's mental condition:

"At present he is still seclusive, undertalkative and retarded in his responses. There is dullness of his affect and he appeared preoccupied. He is observed to mumble alone by himself and would show periods of being irritable saying - 'oki naman' with nobody in particular. He claim he does not know whether or not he was placed in jail and does not know if he has a case in court. Said he does not remember having committed any wrong act"

and the following conclusions:

"In view of the foregoing examinations and observations Policarpio Rafanan, Jr. y Gambawa is at present time still psychotic or insane, manifested by periods of irritability - cursing nobody in particular, seclusive, underactive, undertalkative, retarded in his responses, dullness of his affect, mumbles alone by himself, preoccupied and lack of insight.

He is not yet in a condition to stand court trial. He needs further hospitalization and treatment." [6]

In the third report, dated 5 October 1977, appellant was described as having become "better behaved, responsive" and "neat in person," and "adequate in his emotional tone, in touch with his surroundings and x x x free from hallucinatory experiences." During the preceding period, appellant had been allowed to leave the hospital temporarily; he stayed with a relative in Manila while coming periodically to the hospital for check-ups. During this period, he was said to have been helpful in the doing of household chores, conversed and associated freely with other members of the household and slept well, although, occasionally, appellant smiled while alone. Appellant complained that at times he heard voices of small children, talking in a language he could not understand. The report concluded by saying that while appellant had improved in his mental condition, he was not yet in a position to stand trial since he needed further treatment, medication and check-ups. [7]

In the last report dated 26 June 1978, appellant was described as behaved, helpful in household chores and no longer talking while alone. He was said to be "fairly groomed" and "oriented" and as denying having hallucinations. The report concluded that he was in a "much improved condition" and "in a mental condition to stand court trial." [8]

Trial of the case thus resumed. The defense first presented Dr. Arturo Nerit who suggested that appellant was sick one or two years before his admission into the hospital, in effect implying that appellant was already suffering from schizophrenia when he raped complainant. [9] The defense next presented Dr. Raquel Jovellano, a

psychiatrist engaged in private practice, who testified that he had examined and treated the appellant.

Appellant's plea of insanity rests on Article 12 of the Revised Penal Code which provides:

"Art. 12. Circumstances which exempt from criminal liability. -- The following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

Where the imbecile or an insane person has committed an act which the law defines as a felony (delito), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.

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Although the Court has ruled many times in the past on the insanity defense, it was only in *People vs. Formigones*[10] that the Court elaborated on the required standards of legal insanity, quoting extensively from the Commentaries of Judge Guillermo Guevara on the Revised Penal Code, thus:

"The Supreme Court of Spain held that in order that this exempting circumstance may be taken into account, it is necessary that there be a complete deprivation of intelligence in committing the act, that is, that the accused be deprived of reason; that there be no responsibility for his own acts; that he acts without the least discernment; (Decision of the Supreme Court of Spain of November 21, 1891; 47 Jur. Crim. 413.) that there be a complete absence of the power to discern, (Decision of the Supreme Court of Spain of April 29, 1916; 96 Jur. Crim. 239) or that there be a total deprivation of freedom of the will. (Decision of the Supreme Court of Spain of April 9, 1872; 6 Jur. Crim. 239) For this reason, it was held that the imbecility or insanity at the time of the commission of the act should absolutely deprive a person of intelligence or freedom of will, because mere abnormality of his mental faculties does not exclude imputability. (Decision of the Supreme Court of Spain of April 20, 1911; 86 Jur. Crim. 94, 97.)

The Supreme Court of Spain likewise held that deaf-muteness cannot be [equated with] imbecility or insanity.

The allegation of insanity or imbecility must be clearly proved. Without positive evidence that the defendant had previously lost his reason or was demented, a few moments prior to or during the perpetration of the crime, it will be presumed that he was in a normal condition. Acts penalized by law are always reputed to be voluntary, and it is improper to conclude that a person acted unconsciously, in order to relieve him from liability, on the basis of his mental condition, unless his insanity and absence of will are proved." (Underscoring supplied.)

The standards set out in *Formigones* were commonly adopted in subsequent cases.[11] A linguistic or grammatical analysis of those standards suggests that *Formigones* established two (2) distinguishable tests: (a) the test of cognition -- "complete deprivation of intelligence in committing the [criminal] act," and (b) the test of volition -- "or that there be a total deprivation of freedom of the will." But our caselaw shows common reliance on the test of cognition rather than on a test relating to "freedom of the will;" examination of our caselaw has failed to turn up any case where this Court has exempted an accused on the sole ground that he was totally deprived of "freedom of the will," i.e., without an accompanying "complete deprivation of intelligence." This is perhaps to be expected since a person's volition naturally reaches out only towards that which is presented as desirable by his intelligence, whether that intelligence be diseased or healthy. In any case, where the accused failed to show complete impairment or loss of intelligence, the Court has recognized at most a mitigating, not an exempting, circumstance in accord with Article 13(9) of the Revised Penal Code: "Such illness of the offender as would diminish the exercise of the will-power of the offender without however depriving him of the consciousness of his acts." [12]

Schizophrenia pleaded by appellant has been described as a chronic mental disorder characterized by inability to distinguish between fantasy and reality, and often accompanied by hallucinations and delusions. Formerly called dementia praecox, it is said to be the most common form of psychosis and usually develops between the ages 15 and 30.[13] A standard textbook in psychiatry describes some of the symptoms of schizophrenia in the following manner:

"Eugen Bleuler later described three general primary symptoms of schizophrenia: a disturbance of association, a disturbance of affect, and a disturbance of activity. Bleuler also stressed the dereistic attitude of the schizophrenic -- that is, his detachment from reality and his consequent autism and the ambivalence that expresses itself in his uncertain effectivity and initiative. Thus, Bleuler's system of schizophrenia is often referred to as the four A's: association, affect, autism, and ambivalence.

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Kurt Schneider described a number of first-rank symptoms of schizophrenia that he considered in no way specific for the disease but of great pragmatic value in making a diagnosis. Schneider's first-rank symptoms include the hearing of one's thoughts spoken aloud, auditory hallucinations that comment on the patient's behavior, somatic hallucinations, the experience of having one's thoughts controlled, the spreading of one's thoughts to others, delusions, and the experience of having one's actions controlled or influenced from the outside.

Schizophrenia, Schneider pointed out, also can be diagnosed exclusively on the basis of second-rank symptoms, along with an otherwise typical clinical appearances. Second-rank symptoms include other forms of hallucination, perplexity, depressive and euphoric disorders of affect, and emotional blunting.

Perceptual Disorders

Various perceptual disorders occur in schizophrenia x x x.

Hallucinations. Sensory experiences or perceptions without corresponding external stimuli are common symptoms of schizophrenia. Most common are auditory hallucinations, or the hearing of voices. Most characteristically, two or more voices talk about the patient, discussing him in the third person. Frequently, the voices address the patient, comment on what he is doing and what is going on around him, or are threatening or obscene and very disturbing to the patient. Many schizophrenic patients experience the hearing of their own thoughts. When they are reading silently, for example, they may be quite disturbed by hearing every word they are reading clearly spoken to them.

Visual hallucinations occur less frequently than auditory hallucinations in schizophrenic patients, but they are not rare. Patients suffering from organic or affective psychoses experience visual hallucinations primarily at night or during limited periods of the day, but schizophrenic patients hallucinate as much during the day as they do during the night, sometimes almost continuously. They get relief only in sleep. When visual hallucinations occur in schizophrenia, they are usually seen nearby, clearly defined, in color, life size, in three dimensions, and moving. Visual hallucinations almost never occur by themselves but always in combination with hallucinations in one of the other sensory modalities.

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Cognitive Disorders

Delusions. By definition, delusions are false ideas that cannot be corrected by reasoning, and that are idiosyncratic for the patient -- that is, not part of his cultural environment. They are among the common symptoms of schizophrenia.

Most frequent are delusions of persecution, which are the key symptom in the paranoid type of schizophrenia.

The conviction of being controlled by some unseen mysterious power that exercises its influence from a distance is almost pathognomonic for schizophrenia. It occurs in most, if not all, schizophrenics at one time or another, and for many it is a daily experience. The modern schizophrenic whose delusions have kept up with the scientific times may be preoccupied with atomic power, X-rays, or spaceships that take control over his mind and body. Also typical for many schizophrenics are delusional fantasies about the destruction of the world."^[14]

In previous cases where schizophrenia was interposed as an exempting circumstance,^[15] it has mostly been rejected by the Court. In each of these cases, the evidence presented tended to show that if there was impairment of the mental faculties, such impairment was not so complete as to deprive the accused of intelligence or the consciousness of his acts.

The facts of the instant case exhibit much the same situation. Dr. Jovellano declared as follows:

"(Fiscal Guillermo:)

Q: Now, this condition of the accused schizo-phrenic as you found him, would you say doctor that he was completely devoid of any consciousness of whatever he did in connection with the incident in this case?

A: He is not completely devoid of consciousness.

Q: Would you say doctor, therefore, that he was conscious of threatening the victim at the time of the commission of the alleged rape?

A: Yes, he was conscious.

Q: And he was conscious of forcing the victim to lie down?

A: Yes.

Q: And he was also conscious of removing the panty of the victim at the time?

A: Yes.

Q: And he was also conscious and knows that the victim has a vagina upon which he will place his penis?

A: Yeah.

Q: And he was conscious enough to be competent and have an erection?

A: Yes.

Q: Would you say that those acts of a person no matter whether he is schizophrenic which you said, it deals (sic) some kind of intel-ligence and consciousness of some acts that is committed?

A: Yes, it involves the consciousness because the consciousness there in relation to the act is what we call primitive acts of any individual. The difference only in the act of an insane and a normal individual, a normal individual will use the power of reasoning and consciousness within the standard of society while an insane causes (sic) already devoid of the fact that he could no longer withstand himself in the ordinary environment, yet his acts are within the bound of insanity or psychosis.

Q: Now, Doctor, of course this person suffering that ailment which you said the accused here is suffering is capable of planning the commission of a rape?

A: Yes, they are also capable.

Q: He is capable of laying in wait in order to assault?

A: Yes.

Q: And would you say that condition that ability of a person to plan a rape and to perform all the acts preparatory to the actual intercourse could be done by an insane person?

A: Yes, it could be done.

Q: Now, you are talking of insanity in its broadest sense, is it not?

A: Yes, sir.

Q: Now, is this insane person also capable of knowing what is right and what is wrong?

A: Well, there is no weakness on that part of the individual. They may know what is wrong but yet there is no inhibition on the individual.

Q: Yes, but actually, they are mentally equipped with knowledge that an act they are going to commit is wrong?

A: Yeah, they are equipped but the difference is, there is what we call they lost the inhibition. The reasoning is weak and yet they understand but the volition is [not] there, the drive is [not] there." [16] (Underscoring supplied)

The above testimony, in substance, negates complete destruction of intelligence at the time of commission of the act charged which, in the current state of our caselaw, is critical if the defense of insanity is to be sustained. The fact that appellant Rafanan threatened complainant Estelita with death should she reveal she had been sexually assaulted by him, indicates, to the mind of the Court, that Rafanan was aware of the reprehensible moral quality of that assault. The defense sought to suggest, through Dr. Jovellano's last two (2) answers above, that a person suffering from schizophrenia sustains not only impairment of the mental faculties but also deprivation of the power of self-control. We do not believe that Dr. Jovellano's testimony, by itself, sufficiently demonstrated the truth of that proposition. In any case, as already pointed out, it is complete loss of intelligence which must be shown if the exempting circumstance of insanity is to be found.

The law presumes every man to be sane. A person accused of a crime has the burden of proving his affirmative allegation of insanity.[17] Here, appellant failed to present clear and convincing evidence regarding his state of mind immediately before and during the sexual assault on Estelita. It has been held that inquiry into the mental state of the accused should relate to the period immediately before or at the very moment the act is committed.[18] Appellant rested his case on the testimonies of the two (2) physicians (Dr. Jovellano and Dr. Nerit) which, however, did not purport to characterize his mental condition during that critical period of time. They did not specifically relate to circumstances occurring on or immediately before the day of the rape. Their testimonies consisted of broad state-ments based on general behavioral patterns of people afflicted with schizophrenia. Curiously, while it was Dr. Masikip who had actually observed and examined appellant during his confinement at the National Mental Hospital, the defense chose to present Dr. Nerit.

Accordingly, we must reject the insanity defense of appellant Rafanan.

In *People vs. Puno* (supra), the Court ruled that schizophrenic reaction, although not exempting because it does not completely deprive the offender of the consciousness of his acts, may be considered as a mitigating circumstance under Article 13(9) of the Revised Penal Code, i.e., as an illness which diminishes the exercise of the offender's will-power without, however, depriving him of the consciousness of his acts. Appellant should have been credited with this mitigating circumstance, although it would not have affected the penalty imposable upon him under Article 63 of the Revised Penal Code: "in all cases in which the law prescribes a single indivisible

penalty (reclusion perpetua in this case), it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed."

WHEREFORE, the Decision appealed from is hereby AFFIRMED, except that the amount of moral damages is increased to P30,000.00. Costs against appellant.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Decision, pp. 2-4.

[2] Brief for the Accused-Appellant, p. 12.

[3] *People vs. Veloso*, 148 SCRA 60 (1987); *People vs. Bautista*, 147 SCRA 500 (1987); *People vs. Polo*, 147 SCRA 551 (1987).

[4] TSN, 5 September 1978, pp. 10-15.

[5] Record, pp. 69-70.

[6] *Id.*, p. 83.

[7] *Id.*, pp. 93-94.

[8] *Id.*, pp. 90-91.

[9] TSN, 27 February 1979, pp. 21-23.

[10] 87 Phil. 658 (1950).

[11] See, e.g., *People v. Cruz*, 177 SCRA 451 (1989); *People vs. Aldemita*, 145 SCRA 451 (1986); *People vs. Ambal*, 100 SCRA 325 (1980); *People vs. Magallano*, 100 SCRA 570 (1980); *People vs. Renegado*, 57 SCRA 275 (1976).

[12] E.g., *People v. Amit*, 82 Phil. 820 (1949); *People v. Balneg*, 79 Phil. 805 (1948); *People v. Bonoan*, 64 Phil. 95 (1937).

[13] *Encyclopedia and Dictionary of Medicine and Nursing*, Miller-Keane, p. 860 (1972).

[14] *Modern Synopsis of Comprehensive Textbook of Psychiatry/III*, Kaplan and Sadock, M.D. (3rd ed., 1981), pp. 309-311.

[15] See *People vs. Aldemita*, 145 SCRA 451 (1986); *People vs. Puno*, 105 SCRA 151 (1981); *People vs. Fausto*, 113 Phil. 841 (1961).

[16] TSN, 28 March 1979, pp. 74-77.

[17] *People vs. Dungo*, G.R. No. 89420, 31 July 1991; *People vs. Morales*, 121 SCRA 426 (1983).

[18] *People vs. Aquino*, 186 SCRA 851 (1990); *People vs. Aldemita*, 145 SCRA 451 (1986).

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