

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO AGUIRRE Y MANAPING ALIAS “PALAKIT”;
DEPENDANT-APPELLANT.**

G.R. No. 70742. August 19, 1986

Ponente: NARVASA, J.

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NARVASA, J.:

On October 2, 1984, Ricardo Aguirre, a 23-year-old bachelor also known as "Palakit", was indicted in the Regional Trial Court at Tagudin, Ilocos Sur (First Judicial Region, Branch XXV) for the crime of rape with homicide. The indictment states:

"That on or about the 3rd day of June, 1984, in the municipality of Quirino, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one, Lolita Cabel, a married woman, against her will and consent, and by reason or on the occasion of the rape, and in order to accomplish his purpose, the said accused did then and there wilfully, unlawfully and feloniously assault, attack, box her ear and neck, and strike her head with a piece of stone, thereby inflicting upon the latter mortal physical injuries which caused her death a few hours later."[1]

He was arraigned on November 21, 1984; and, assisted by counsel de officio, pleaded guilty to the charge. What transpired is succinctly recorded in the Order of the Court of November 21, 1984.[2]

"When this case was called for arraignment, accused appeared assisted by his counsel de officio Atty. Aunario Lucero. After having been fully informed of the gravity of the offense committed and the penalty of the crime by his counsel, the information was read to the accused and translated into the Ilocano dialect which he fully understands and he voluntarily pleaded guilty to the crime charged against him.

Considering that the crime committed is a complex offense, the prosecuting Fiscal is hereby directed to adduce evidence to prove the commission of the crime.

Considering further that the accused is a detention prisoner, set this case alone for trial on January 24, 1984, morning and afternoon sessions of the Court, at Tagudin, Ilocos Sur.

Let the subpoena for all the prosecution witnesses listed in the information be directed to the Provincial Commander of Ilocos Sur for him to order the service of said subpoena to all prosecution witnesses and to see to it that all these witnesses should be available to testify before this Court on the scheduled date as this will be the only case set for that day so as to afford speedy trial for the accused who is a detention prisoner, and who is likewise ordered to be served subpoena despite his having been duly notified in open court."

As directed, the prosecution presented evidence "to prove the commission of the crime." The evidence consisted in the testimony of seven (7) witnesses,[3] and several documents, inclusive of two (2) extrajudicial confessions of Ricardo Aguirre.[4] This done, the Court promulgated judgment on March 20, 1985[5] pronouncing Aguirre guilty beyond reasonable doubt of the offense charged, and sentencing him -

"x x to suffer the penalty of death and to pay to the heirs of Lolita Cabel the following:

- TWELVE THOUSAND PESOS (P12,000.00) for raping the victim;
- TWELVE THOUSAND PESOS (P12,000.00) for killing the victim;
- SIX THOUSAND PESOS (P6,000.00) as reasonable expenses for the death of the victim.

and to pay costs."

In due course the case was brought up to this Court for automatic review.

In this Court, Ricardo Aguirre's counsel de officio argues that, upon the facts on record, as well as the revelations made to him by his client during "a long and exhaustive interview x x xat the New Bilibid Prison, Muntinlupa,"[6] it is evident that:

- 1) the accused did not fully understand the nature and consequences of his plea of Guilty;[7]
- 2) his extra judicial confessions should not have been admitted because "the correct and complete procedure for the custodial investigation of any person charged with the commission of an offense x x x laid down x x x in Morales vs. Ponce Enrile, 121 SCRA 538", had not been followed;[8]
- 3) the element of rape had not been proven beyond reasonable doubt; and
- 4) the penalty of death should properly be reduced because the appellant's "readiness to admit guilt shows redeeming moral attributes" and his "reason and self control" were impaired at the time of the commission of the crime.[9]

As regards the basic facts and the antecedents lead-ing to the apprehension of Ricardo Aguirre, there is no sig-nificant difference in the account thereof set out in the briefs of the appellant and the Solicitor General. The latter's narration is somewhat more comprehensive however, aside from being fully compatible with the record, and is therefore hereunder reproduced:

"Sometime in the afternoon of June 3, 1984, Gregorio Cabel, a barriomate of Ricardo Aguirre, was at the store of Pedring Pascua of Barangay Namitpit, Quirino, Ilocos Sur. Cabel together with Aguirre and one Ino Abella were then and there drinking San Miguel Gin and Beer Grande. They were able to drink 4 small bottles of gin and 4 bottles Beer Grande. They started drinking at about 10:00 o'clock in the morning of that day and finished at about 4:00 o'clock in the afternoon. After their drinking, Aguirre and Cabel slept in a nearby jeep parked near a Catholic chapel (pp. 3-8, tsn, January 24, 1985).

After their sleep, Cabel and Aguirre decided to go to the latter's house at Barangay Suagayan. However, on the way when they reached a ricefield at Barangay Tilek, they separated ways because according to Aguirre he would still have some drinks at the place of Lolita Cabel who was married to a cousin in law of Gregorio Cabel. Later while Gregorio Cabel was already at Barangay Bungbungian, he stopped to quence his thirst and he saw Aguirre together with Lolita walking towards Barangay Suagayan. Gregorio Cabel stayed to rest awhile and later on followed Aguirre and Lolita. Suddenly Aguirre was running back looking afraid and when Gregorio asked him why he was coming back, Aguirre told him he was going back to Barangay Nangawngawan because he bought 4 chupas of rice to cook. Gregorio Cabel then proceeded on his way home (pp. 8-16, 21, tsn, Id.).

When Gregorio Cabel was walking towards home, he saw a pair of slippers at the middle of the road at Sitio Kingdomcog and he picked up the slippers. Then he heard somebody moaning at the wester portion of the road and he followed the sound. When he came at the edge of a precipice, he saw Lolita lying flat on the back with a bloody head and with her dress lifted upward up to her breast. Her panties was also torn. Lolita's head was resting right on the edge of the precipice. Gregorio asked Lolita who harmed her and she answered by saying

the name "Palakit" (p. 5, Appellant's brief citing pp. 22, 37, tsn, January 24, 1985). "Palakit" was the nickname of Aguirre. Lolita also told Gregorio "Palakit" raped her. Gregorio Cabel then reported the incident to the family of Lolita and he was able to talk to her daughter Violy. Gregorio Cabel then returned to the place with Soriano Cabel, husband of Lolita, Pablo Aviso and Julie Cabel. Lolita's jeans was beside her head. She sustained five wounds on her head that resulted to a broken skull. Lolita was lifted from the ground and placed on a blanket. She was still breathing and was able to talk with her husband (pp. 16-20, 23-24, 37--41, 61, tsn, Id.).

Soriano Cabel asked his wife Lolita who harmed her and she whispered to him "Palakit". The body of Lolita was brought aboard a minibus to be taken to a hospital but when the bus was negotiating an uphill Barangay Namitpit, she died (pp. 56-58, tsn, Id.).

The authorities in the persons of Namitpit Barangay Captain Romeo Torres and Suagayan Barangay Captain Ponciano Dagwasa upon receiving reports of the incident gave orders to look for "Palakit". (pp. 59-60, tsn, Id.). The councilmen of Dagwase found Aguirre in a small hut in a field at Nangawngawan and they requested Torres to go to the place and arrest Aguirre. ***[10]

At the hut where he was found Aguirre was questioned by Barangay Captain Romeo Torres. How the questioning went is described in appellant's brief as follows:[11]

Q :

" x x x You are the suspect, you better tell the truth so that it is much better. x x x

A :

" x x x Yes, uncle, it is true that I was the one who did it. x x x

Q :

" x x x Why did you do that, son. x x x

A :

" x x x Yes, it is (I), I was unconscious of what I had done. x x x

Q :

" x x x How did you kill her? x x x

A :

" x x x I struck her head with a piece of stone three times. x x x"

Aguirre was arrested and brought to the house of Vice-Mayor Juan Patilao at sitio Lugacan, where Aguirre was again inter-rogated.

The investigation at the Vice-Mayor's house, conducted shortly after midnight, was an "informal" one. It was done in the presence of the Vice-Mayor, the two (2) barangay captains, Romeo Torres and Ponciano Dagwase, and the two (2) members of the CHDF who were with the arresting party, Zosimo Balbin and Espiritu Abongan.[12] The questioning was undertaken by Pat. Aurelio Bauding[13], after he had told Aguirre of his constitutional right "to remain silent and to seek the assistance of counsel." [14] Among other things, Pat. Bauding asked Aguirre, "Apay nga pinatay mo ni Lolita Cabel," (Why did you kill Lolita Cabel), and Aguirre's answer was, "Diak ammo ti inaramidko" (I was unconscious of what I had done). He also asked Aguirre, "Siksika laeng ti

nangpatay kenni Lolita Cabel wenno adda kaduam" (Were you alone when you killed Lolita Cabel or did you have a companion), and Aguirre's response was, "Wen, sir, siak laeng" (Yes, sir, I was the only one).[15] The accused briefly described how he had struck the victim's head after he had abused her.[16]

Afterwards, Aguirre, the Vice-Mayor and the other police and barangay officers proceeded to the scene of the crime at Kindomcog. Here, Pat. Amado Pascua drew a sketch[17], indicating among others the spot pointed to by Aguirre where he first grappled with Lolita Cabel and the place to which, after rendering Lolita unconscious with fist blows, he had pulled her, removed her panties and abused her.[18] According to the accused, after he had raped Lolita, he picked up a stone and "poked" her head with it.[19] He demonstrated how he had dragged the victim.[20] He also picked up the stone he had used to hit the head of Lolita Cabel and exhibited it to the officers.[21] The stone bore stains of blood.[22]

At the crime scene, too, Aguirre narrated what he had done to Lolita Cabel. According to Pat. Pascua[23], -

" x x x the accused stated that he first boxed the victim x x x (and) (w)hen the victim became un-conscious, the accused removed her pantie (s), raised up her skirt and then held up his zipper and did the sexual intercourse with her (sic) x x x After he raped the victim, then the victim became conscious and she told x x x the suspect that she will report what he had done to her x x x(whereupon) the accused took a stone and strike the head of the victim three (3) times (sic)."

This narration, according to the other investigator, Pat. Bauding, was made by Aguirre, not only at the crime scene, but "also at the house of the Vice-Mayor and when investigation was conducted." [24]

At the Office of the Sub-Station Commander at Quirino, Aguirre gave a written statement, on interrogation by the same Pat. Bauding, in the presence also of Vice-Mayor Patilao, the two (2) barangay captains earlier mentioned, and Pat. Pascua. The questions addressed to Aguirre, and his answers, were in the Ilocano dialect.[25]

Aguirre's written statement, dated June 4, 1984, discloses that prior to being interrogated "regarding the death of Lolita Cabel," three (3) preliminary questions were put to and answered by him. As translated, they read as follows:

"Foreword:

RICARDO AGUIRRE, you're invited here in the office of the Sub-Station Commander, regarding the death of Lolita Cabel, but before giving your state-ment, I'm reminding you of your constitutional rights here in the Philippines, that you have the right to remain silent, not to give your state-ment, as well as your right to get a lawyer of your own choice, to assist you before giving your statement. Did you understand it?

A

Yes, sir.

Q

This is to remind you that everything that you'll have to declare in this investigation may be used in favor or against you to any court in the Philippines. Is that understood?

A

Yes, Sir.

Q

Are you willing to give your statement or you still need the assistance of a lawyer?

A

I will give my statement and I do not need the assistance of a lawyer, Sir."

It should at once be evident that the investigator did not possess sufficient familiarity with the constitutional rights of an accused at custodial investigation. Ideally, the investigator should have followed the procedure laid down with some specificity in *Morales vs. Ponce Enrile*[26], to wit:

"7. At the time a person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must be shown the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative, or anyone he chooses by the most expedient means by telephone if possible or by letter or messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence.

Be this as it may, Aguirre answered all the questions put to him on that occasion. His confession of June 9, 1984 contains his story, in Ilocano, of "how x x x (he) met Lolita Cabel up to the time x x x (he) killed her," viz:

"First of all, Gregorio Cabel and I came from Barangay Namitpit at about 4:00 o'clock in the afternoon of June 3, 1984, and we were on our way home to Lugacan. When we reached on a field situated at Tilek, I saw Lolita Cabel in their small nipa hut (kalapaw) and requested Gregorio Cabel to go there in order to drink water at the place where Lolita was but he continued walking, in which case I dropped at the place where Lolita was, who was then pre-paring herself to go home. After drinking water, we went home together. While on our way, I thought that Gregorio Cabel, who was my companion already went ahead, that's why Lolita Cabel and I continued walking. Upon reaching on an uphill road at Kindomcog, I asked Lolita Cabel to have sexual intercourse with me and I immediately embraced her, but when she fought back, I first boxed her nape and ear, then forced her to lie down and after forcing her to lie down, I went on top of her, lowered her panty, raised her skirt, then unzipped my pants, then raped her once.

" xxx xxx xxx

"When I was raping her, all of a sudden she regained consciousness and pushed me and said that she will report the matter, that is why it came into my mind, to pick up a stone as big as my fist then struck her head on both sides, for three times. After striking her head three times, I thought that she's already dead that is why I pulled her down then dumped her on a creek down the road." [27]

After the interrogation, Bauding requested Aguirre to write, in his own hand and in the vernacular, an addendum to show that he had not been intimidated, and had given his statement freely and voluntarily. In response and without prompting, the accused wrote the following declaration at the foot of his statement: "I, Ricardo Aguirre, declare upon the truth that I was not intimidated or forced regarding this investigation of mine but to attest the truthfulness of my statement," which he thereafter signed. [28]

Nine (9) days later, or on June 13, 1984, another written statement was given by the accused in the same place, and again in the Ilocano dialect. The interrogation this time was conducted in the presence of the Sub-Station

Commander, Lt. Rogelio Calibuso, Mayor Primitivo Gatue, COMELEC Registrar Antonio Reynante, and Municipal Secretary Daniel Reynante. Questioning was done chiefly by Lt. Calibuso, but the Mayor and the COMELEC Registrar also addressed one or two questions to Aguirre.[29]

The statement reveals the same inadequacy of knowledge of the rights of suspects under custodial investigation, on the part of Lt. Calibuso as that exhibited by Pat. Bauding.[30] This second statement contains more details from Aguirre; but his account of the crime is substantially the same.

A month or so afterwards, or more precisely on July 11, 1984, Judge Irineo Tilan, of the Municipal Circuit Court of Cervantes-Quirino, went to Aguirre's place of detention at Quirino to talk with him, and "confront him" with his two (2) statements. The Judge conversed with Aguirre in Ilocano. The Judge asked Aguirre several times if the statements were his "true and correct confessions," and advised him that he was entitled to a lawyer, and could seek the services of the Citizens' Legal Assistance Office if he could not afford the services of private defense counsel. It was not until he had satisfied himself that both written statements were indeed "true and correct" that he administered the oath to Aguirre and affixed his signature on the documents to signify that the same had been sworn to before him.[31] Apparently, in further verification, at least of the confession of June 13, 1984[32], the Judge also spoke with the Mayor, the COMELEC Registrar, and the Municipal Secretary of Quirino.[33]

In the light of these antecedents, and the fact that, as set out in the Decision under review, "(p)revious to the arraignment, his (Aguirre's) counsel and the presiding Judge of the Court took turns in advising him that his plea of guilty will not in any way have the effect of lowering the penalty for the crime he has committed and that the penalty will be death," and Aguirre had answered "that there is nothing he can do because he did commit the offense as charged,"[34] the claim of de officio counsel that Aguirre did not fully understand the nature and consequences of his plea of guilt, must be rejected.

This is not to say that imperfections may not be singled out in the five (5) extrajudicial confessions, three (3) oral, and two (2) in writing, given by Aguirre on five (5) separate occasions. While the preliminary admonitions to the accused in relation to four (4) of these confessions appear to strictly adhere to the exact language of the Constitution, to wit, that said accused had "the right to remain silent and to counsel,"[35] there was nonetheless an omission of the other specific rights which, although not explicitly stated in the Constitution, have been declared by judicial pronouncement as necessary derivations therefrom or corollaries thereto and which have already been enumerated earlier in this opinion.[36] As postulated by Aguirre's counsel, there was a failure to observe the "correct and complete procedure x x x laid down x x x (in) Morales vs. Ponce-Enrile, 121 SCRA 538."

There is withal no indication in the record that the omission was deliberate, designed to preserve the intimidating and coercive pressure on the accused resulting from a so-called atmosphere of police domination, which is the mischief against which the constitutional provision in question is directed. The omission apparently resulted simply from the unfamiliarity of the police officers with said derived or corollary rights in custodial investigations, as these have been spelled out in several decisions of this Court. The omission does not negate the essentially voluntary character of Aguirre's acknowledgments of guilt, which appears evident under the peculiar circumstances of this case. It has not resulted in the extraction of a false confession. On no less than four (4) different occasions, Aguirre narrated substantially how he had raped and then slain Lolita Cabel; and in his first written confession, he acknowledged in his own handwriting that he had willingly given it. Moreover, his two (2) written confessions were confirmed by him before Judge Tilan as "true and correct," after the latter had advised him that he could, if he wished, avail of the services of the CLAO if he could not afford to retain counsel. The reiteration of the confessions, their substantial sameness, and the total absence of any proof or even claim of irregularity, or of violence, intimidation or other form of pressure attendant upon their utterance or execution, conduce to no other conclusion save that they were voluntarily and knowingly given and should thus be

admissible against the confessant. At the very least, they should be appreciated as circumstantial proof that Aguirre's sixth and last confession, his plea of guilty, had been entered knowingly, intelligently, and voluntarily.

Aguirre's counsel however insists that the Trial Court's failure to tell the accused "that a plea of guilty to the crime of rape with homicide would not lower the penalty prescribed by law, which is death," prevented Aguirre from fully understanding the nature and consequences of his plea.[37] The claim is belied by the record. The decision of the Court a quo states that "(p)revious to the arraignment, his (Aguirre's) counsel and the presiding Judge x x x took turns in advising him that his plea of guilty will not in any way have the effect of lowering the penalty for the crime he has committed and that the penalty will be death." [38] But counsel contends that it is not true that the accused was told of the inevitability of the imposition of the death penalty, as the decision declares, because the earlier Order of November 21, 1984, promulgated at the time of the arraignment, [39] recites merely that it was only Atty. Aunario, Aguirre's counsel de oficio, who had "fully informed (him) of the gravity of the offense committed and the penalty of the crime," and the death penalty was not specifically mentioned. In so arguing, counsel splits hairs. His argument must be given short shrift. It is immaterial that it is the Court itself, or defendant's counsel, at the behest or under the supervision of the Court, that informs and explains to the accused the nature and consequences of a plea of guilty; and it is specious to claim that there is a significant difference between the averment that an accused was told that he would be meted the death penalty for his crime and the allegation that he was simply informed of what the penalty would be for his crime, given the undeniable fact that the law prescribes the death penalty for the crime. Apart from this, the fact that the inconsistency is not irreconcilable, is more apparent than real, as well as the presumption of regularity in performance of official duty [40] divest the argument of merit.

Indeed, the record shows the punctilious observance by the Trial Court of the rules governing pleas of guilty. Not only did the Court try to make certain that Aguirre fully understood the nature of the charges preferred against him, the meaning of his plea of guilty and the import of an inevitable conviction, it required further the presentation of evidence by the prosecution in proof of the guilt of the accused and the circumstances attendant upon the commission of the crime. [41]

The evidence thus presented establishes Aguirre's guilt of the crime independently of his plea of guilt. Of this, this Court has satisfied itself. The evidence more than adequately proves the following facts:

- Gregorio Cabel had been drinking gin and beer with Aguirre and one other, in Namitpit. After their drinking session, Gregorio and Aguirre began to walk home together, but when Aguirre saw Lolita Cabel at Tilek, he left Gregorio and joined Lolita on the way home. Gregorio stayed behind, to rest for awhile in Bungbungian.
- On resuming his way homeward, Gregorio met Aguirre, who was running towards him "as if he was afraid." A few minutes later, Greg-orio saw a slipper on the road and heard a woman moaning. Moving towards the sound, he saw Lolita Cabel lying on the ground, some meters away from the road.
- Lolita Cabel's head was bloody, her jeans and panties had been stripped from her, the panties ripped, her dress lifted up to her breast. The place itself also exhibited signs of violence: a pool of blood, "disturbed" grass.
- This too was the sight beheld by Lolita's husband, Soriano, and the others who went with him to the site, on being told by Gregorio of the incident.
- In response to Gregorio's question, Lolita whispered that it was "Palakit" who had raped her and struck her head with a stone. She repeated her identification of "Palakit" as her assailant to her husband, upon his arrival at the scene.
- Lolita's skull was broken; she was bleeding from her wounds; the wounds were mortal, resulting in her death not

long afterwards. She was obviously very weak, and in a state of shock when she spoke to Gregorio, and then to her husband, identifying "Palakit" as her attacker.

- There was no person known as "Palakit" in that place except Ricardo Aguirre.

These facts leave no room to doubt the guilt of Aguirre alias "Palakit" of the crime charged, independently of his extra-judicial confessions. It but needs to point out that Lolita's statements identifying "Palakit" as her assailant are, in the premises, admissible if not precisely as a dying declaration,[42] at least as part of the *res gestae*.^[43]

Aguirre's counsel next argues that the "only crime that can be imputed to the accused is that of homicide," but not rape, since there is no evidence "conclusively" proving rape or the attempt to rape; and even "the last words of Lolita Cabel, as 'dying declaration' or 'res gestae', did not impute the commission or attempt of rape to the accused."^[44] The record establishes the contrary however. The evidence demonstrates beyond doubt that not only had Aguirre, as alleged by his counsel, made "advances on Lolita Cabel on the way to Suagayan," and had become enraged "after Lolita Cabel spurned his advances and slapped and boxed him on the ear,"^[45] but also had actually ravished her after rendering her unconscious. There can be no rational interpretation of the physical evidence except that rape was attempted or frustrated, at the very least, if not indeed consummated.^[46] In any case, even if the rape were held to be merely attempted, and not consummated, this would not alter Aguirre's liability. Article 335 of the Revised Penal Code, as amended, provides that even when "the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death."

WHEREFORE, the judgment of the Court *a quo* is affirmed, being entirely in accord with the facts and the law. However, for lack of the necessary votes, the sentence of death imposed on the accused is reduced to *reclusion perpetua*.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Fernan, Melencio-Herrera, Alampay, Gutierrez, Jr., and Paras, JJ., concur.
Cruz, J., see separate opinion.

[1] Rollo, p. 2

[2] RTC Record, pp. 38-39

[3] TSN, Jan. 24, 1985, pp. 1-135; TSN, March 20, 1985, pp. 1-70.

[4] The confessions are dated June 4, 1984 and June 13, 1984, and are respectively marked as Exhibits G (and E-1) and H (and H-1).

[5] Rollo, pp. 3-10.

[6] Rollo, p. 42

[7] Rollo, pp. 43 to 47

[8] Rollo, pp. 47 to 58

[9] Rollo, pp. 62 to 69

[10] Appellee's brief, pp. 3-7

[11] Rollo, p. 49

- [12] TSN, Jan. 24, 1985, pp. 85-86, 100, 102
- [13] TSN, id., pp. 86, 103
- [14] TSN, March 20, 1985, pp. 24-25
- [15] TSN, Jan. 24, 1985, p. 126; TSN, March 20, 1985, pp. 9-10
- [16] TSN, Jan. 24, 1985, p. 131
- [17] EXH. D, TSN, Jan. 24, 1985, pp. 105 et seq.
- [18] TSN, id., p. 108
- [19] TSN, id., p. 109
- [20] TSN, id., p. 112
- [21] TSN, id., pp. 126-127; TSN, March 20, 1985, pp. 10-11
- [22] TSN, id., p. 29
- [23] Testifying on cross-examination, TSN, Jan. 24, 1985, pp. 129-131
- [24] TSN, id., p. 131; see Footnote No. 16
- [25] Exhs. G and G-1; see Exhs. G and G-1-Translation
- [26] 121 SCRA 538, cited in *Peo. vs. Galit*, 135 SCRA 465, 472; See also *Peo. vs. Jimenez*, 71 SCRA 186, citing *Miranda vs. Arizona*, 384 U.S. 436, 16 L Ed. 2d 694; *Peo. vs. Caguioa*, 95 SCRA 2; *Peo. vs. Dilao*, 100 SCRA 358; *Peo. vs. Duero* 104 SCRA 379; *Peo. vs. Matilla*, 105 SCRA 768; *Peo. vs. Pascual* 109 SCRA 197; *Peo. vs. Inquito* 117 SCRA 641; *Peo. vs. Ramos* 122 SCRA 312; *Peo. vs. Sison*, GR No. 70906, May 30, 1986.
- [27] Exhs. G and G-1-Translation
- [28] Exh. G-3
- [29] Exhs. H, H-1, H-2; H-, H-1, and H-2-Translation
- [30] See Footnotes No. 23 and 24 and related text
- [31] TSN, March 20, 1985, pp. 55-61
- [32] Exhs. H, H-1
- [33] TSN, id., p. 61
- [34] Rollo, pp. 3-4
- [35] Sec. 20, Art. IV, Constitution
- [36] See Footnote No. 25 and related text
- [37] Rollo, p. 46
- [38] Rollo, p. 4
- [39] Rollo, p. 44
- [40] Sec. 5, Rule 131, Rules of Court

[41] Vide *Peo. vs. Apduhan*, 24 SCRA 789; *Peo vs. Solacito*, 29 SCRA 61; *Peo. vs. Alamada*, 52 SCRA 103; *Peo. vs. Andaya*, 52 SCRA 137; *Peo. vs. Ponong*, 52 SCRA 287; *Peo. vs. Duque*, 53 SCRA 132; *Peo. vs. Saligan*, 54 SCRA 190; *Peo. vs. Pascual*, 109 SCRA, SEC. 3 Rule 116 of the 1985 Rules on Criminal Procedure now explicitly requires that when the accused pleads guilty to a capital offense the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf. (5a, R-118)

[42] Sec. 31, Rule 130

[43] Sec. 36, Rule 130

[44] *Rollo*, p. 61

[45] *Id.*

[46] See pp. 5, 17, 18, *supra*

CONCURRING AND DISSENTING OPINION

CRUZ, J.:

I concur except where the opinion says that the confessions should be “admissible against the confessant” despite conceded non-compliance with Article IV, Section 20, of the 1973 Constitution. The provision is categorical and absolute: “Any confession obtained in violation of this section shall be inadmissible in evidence.”

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