

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICTOR TANEO Y CAÑADA, ALIAS OPAO, A CERTAIN BEBOT ESCOREAL AND A CERTAIN ROY CODILLA, ACCUSED. ROY CODILLA, ACCUSED-APPELLANT.

G.R. No. 87236. February 08, 1993

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

The above-named accused were charged with the crime of Robbery with Homicide by Assistant City Fiscal Salvador O. Solima of Cebu City in an Information[1] filed on 29 December 1986 with the Regional Trial Court (RTC) of Cebu, the accusatory portion of which reads:

"That on or about the 22nd day of December, 1986, at about 5:30 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping with one another, armed with bottle (sic) of beer grande and RC Cola, with deliberate intent and by means of force upon things, to wit: by entering the inhabited house of one Herminia Sia y Sy and once inside, with intent of gain and without the knowledge and consent of said Herminia Sia y Sy, the owner thereof, did then and there take, steal and carry away the following:

one (1) sharp cassette valued at	P3,500.00
one (1) Denonet Karaoke valued at.....	7,000.00
one (1) Sony cassette recorder	1,000.00
Fifty (50) pcs. of cassette tape.....	2,000.00
one (1) casio calculator.....	100.00
TOTAL	P13,600.00

valued in all (sic) at P13,600.00, belonging to said Herminia Sia y Sy, to the damage and prejudice of the latter in the amount of P13,300.00, Philippine Currency; and with intent to kill, did then and there attack, assault and use personal violence upon Linda (sic) Aglipa Robert, maid of Herminia Sia y Sy, owner of the said house, who was the only person inside the house at that time, by hacking said Linda (sic) Aglipa Robert with said bottle of beer grande and RC Cola at her head and face, thereby inflicting upon her the following physical injuries:

'CARDIO RESPIRATORY ARREST
MASSIVE PNEUMONIA BL
CEREBRAL CONTUSION
OPEN DEPRESSED COMMUNIATED FX FRONTAL
AREA (R) MULTIPLE LACERATIONS ON THE FACE'

as a consequence of which said Linda (sic) Aglipa Robert died instantaneously.

CONTRARY TO LAW."

Only accused Victor Taneo y Cañada and Roy Codilla were apprehended. Accused Bebot Escoreal has remained at large and an alias warrant for his arrest issued on 9 February 1987 had been returned unserved for the reason that he is not known in his given address.[2]

On 9 February 1987, Roy Codilla, assisted by counsel, entered a plea of not guilty while Victor Taneo voluntarily pleaded guilty.[3] In view thereof, the trial court[4] issued an Order finding the latter guilty as charged and sentencing him to suffer the penalty of reclusion perpetua. The dispositive portion of the order reads:

"WHEREFORE, finding accused Victor Taneo y Cañada guilty beyond reasonable doubt of the crime of Robbery with Homicide as charged and appreciating in his favor the mitigating circumstance of plea of guilty, he is hereby sentenced to suffer RECLUSION PERPETUA.

It appearing that the articles stolen were recovered, no pronouncement as to indemnity."[5]

Trial on the merits against Roy Codilla then ensued. The witnesses who testified for the prosecution were Dr. Herminia Sia, accused Victor Taneo, Pat. Enrico Ministerio and Dr. Jaime Perez, and those who testified for the defense were accused Roy Codilla, Police Cpl. Jovito Roa, Lolit Cabrana and Felicidad Pareño. The evidence for the parties is summarized by the trial court as follows:

"Dr. Herminia Sia, an Optometrist, is a resident of Saint Michael Village at Banilad, Cebu City. Her clinic is located at Junquera Street, Cebu City. Two years ago, sometime in 1984 when she lost two big cassette recorders in her residence, she decided to hire the services of a guard. A Sgt. Codinas and an armyman named Bros, recommended accused Roy Codilla to her.

Employed on a daily basis, accused Codilla spent most of his time in securing the Banilad residence. There are (sic) times though that he would guard the Junquera clinic for a few hours. On one occasion at the clinic, Codilla introduced to Dr. Sia Bebot Escoreal as his friend.

When Codilla started bringing his friends to the house of Dr. Sia, the latter felt peeved because Codilla's friends were of questionable and suspicious-looking characters (sic). She was told by Codilla that his companions were jeepney dispatchers in the downtown area. Not being at ease with such situation, she fired Codilla.

Almost two years later, at 5:30 o'clock in the afternoon of December 22, 1986, Dr. Sia's neighbors Nicky Padriga and Ricardo Ferrer went to her clinic and informed her that some persons who burglarized her house were apprehended by them and that they brought the injured maid, Landa, to a hospital.

At the Mabolo Police Station, she saw Victor Taneo, a young boy -- Arnel Go and Jose Robert -- her houseboy and brother of her maid, Landa Robert. She inquired from Jose why he was at the police station and the latter replied that after Taneo and Go were arrested, he was brought along by the police for questioning. Jose further disclosed that he was invited by Roy Codilla for a round of beer drinks at a small store behind Dr. Sia's residence and that when he returned to the house, his sister was already injured. The young boy, Arnel, explained that Roy invited him to go to Dr. Sia's house. Victor Taneo, claimed that it was Roy Codilla who told him to go along with him (Codilla) to the house of Dr. Sia to get some valuables, like cassette recorders. She saw blood-stains inside her house splattered in the kitchen, on a beer bottle and on the telephone set.

At the groundfloor of Perpetual Succour Hospital, the severely injured and bloody maid managed to reveal to her (Dr. Sia) in the presence of Corazon Gonzales and Patrolman Lopez, that Roy Codilla was the who (sic) struck her.

Co-accused Victor Taneo, alias Opao (Kalbo) testified that he is a jeepney dispatcher (barker). Bebot Escoreal, another accused herein who has remained at large, is his long-time friend who is also a barker at Juan Luna Street, Cebu City.

On December 22, 1986 at 11:00 o'clock in the morning, he saw Bebot Escoreal talking to a person. He approached Escoreal and the latter introduced him to the person who turned out to be Roy Codilla. After knowing each other, the conversation continued with Codilla saying that he (Codilla) planned to rob the house of his former employer, Dr. Sia, as his revenge. Codilla then told him (Taneo) to procure money to be used in entertaining Dr. Sia's houseboy, Jose Robert. They were briefed by Codilla that in the house of Dr. Sia are a maid and a houseboy. Codilla stated that after the robbery has been pulled (sic), Codilla will bring them to Manila. With his P20.00 they, Codilla, Arnel Go, Escoreal and himself, boarded a jeepney towards the place of Dr. Sia.

While houseboy Jose Robert and househelper Landa Robert were cleaning the yard, Codilla entered the Sia premises for the purpose of inviting Jose Robert outside. Codilla told his companions to stay behind at the corner street and to wait for his signal. Later, he saw Codilla placing his arm around the shoulder of Jose proceeding towards the store where the houseboy was offered some drinks. After the agreed signal of Codilla, placing his right hand on the right side of his head, they went inside the house of Dr. Sia. Leaving behind Jose at the store, Codilla joined them. Escoreal stayed outside as lookout. Once inside, Codilla boxed the maid hitting her in the midsection of the stomach. The maid fell on the floor and Codilla ordered them to finish her off as she can identify them. He and Codilla got coke bottles under the dining table and struck the maid on her forehead, head and mouth. They took from a room Sony (sic) Cassette Recorder, Sharp (sic) Cassette Recorder and some tapes, while Arnel Go in another room, gathered some calculators.

Outside the house with the loot, Codilla directed him and Arnel Go to pass out one way while Codilla and Escoreal will proceed to the main road. Along the way, he and Arnel were arrested and were brought back to the house of Dr. Sia. There they saw the neighbors carrying the body of the maid who was still alive and moaning. Later, the houseboy arrived.

In jail (BBRC) Codilla offered him P2,000.00 to save him (Codilla) because he has a wife and children.

At the outset he refused, but the wife of Codilla forced him to receive the money with her plea that I (sic) save her husband for the sake of their family. Every visit of the wife of Codilla to the jail, he was given money by Mrs. Codilla which totalled all in all P400.00. In Court, he pointed at the wife of Codilla. His mother paid Roy Codilla P400.00 because she bulked (sic) at the idea of saving Codilla. And even if he were given the promised sum of P2,000.00, he still would take the witness stand considering that he landed in jail because of Codilla.

Arresting officer Rico Ministerio declared that in response to a phone call, he and some police companions went to the house of Dr. Sia and took custody of Taneo and Arnel Go who were captured en (sic) flagrante by the civilians of St. Michael Village. The following day, they arrested Roy Codilla at the Duty Free Shop at Lahug, Cebu City.

Dr. Jaime Perez testified that on December 22, 1986 he treated Landa Robert for multiple lacerations in head (sic) and face caused by a blunt object. Five hours later, the patient died due to compression (sic) of vital brain centers. He issued the corresponding death certificate (Exh. "A").

For the Defense:

Police Cpl. Jovito Roa, a guard at BBRC testified that on November 23, 1987, he caught two persons digging a tunnel at BBRC and one of them was Victor Taneo. Upon inquiry, Taneo told him that actually Roy Codilla has nothing to do with the robbery-homicide in Dr. Sia's residence. He cannot recall, though, who the other inmate was. Neither can he recall until now the name of the BBRC investigator at that time. Taneo told him that the reason why he (Taneo) implicated Codilla was because the complainant (referring to Dr. Sia) promised him P300.00 but only P200.00 was given to him.

Accused Codilla, testified that in 1982 he was enlisted in the Philippine Army. He was discharged in 1984 fro (sic) having gone AWOL. In April, 1984, he was hired by Dr. Sia as security guard of her residence at St.

Michael Village, Banilad, Cebu City. On May, 1985, Dr. Sia terminated his services.

He denied the charge that he and Taneo committed robbery-homicide in Sia (sic) residence at 5:30 P.M. of December 22, 1986 because on that day he was in the house of Jose Robert, his friend, who just arrived from Manila and went home at 10:30 o'clock in the morning of said day, passing first in his aunt's house at Camp Lapulapu.

He came to know co-accused Taneo only after he was arrested by the police on December 25, 1986.

During his employment as guard, he sleeps (sic) in the bedroom of Dr. Sia since there are two beds -- one for her and the other for him. Dr. Sia used to call him whenever she counts (sic) her money and deposit (sic) them in the safe inside her room. There were two instances when she let him count a sizeable sum of money. He has never taken any valuable thing from the Sia residence.

Dr. Sia instigated Taneo to implicate him because at one time that Dr. Sia hired somebody to lob a grenade in the house of the wife of her boyfriend, he stopped her. (A picture of the alleged boyfriend Eliezer Magdales was produced by him in Court Exh. "1"). That is the only reason why Dr. Sia wanted him to be jailed.

On cross examination, he testified that while employed by Dr. Sia, he has (sic) good relations with her. Dr. Sia even at times gave him T-shirts aside from his pay. Living in the Sia house are the doctor herself, her four children, houseboy Jose Robert and maid Landa Robert. He was ordered by Dr. Sia to throw a handgrenade at the house of her (Sia's) boyfriend which (sic) he relented. As a result, she scolded him and then he left for Manila. In November, 1986, he returned to Cebu and went to the house of Dr. Sia but houseboy Jose told him that the doctor was not there. On December 22, 1986, at 10:00 A.M. he returned to Dr. Sia's house to say hello because it was Christmas time and besides, the houseboy invited him to a drinking spree. He found out that the persons in the Sia residence were only the houseboy Jose, maid Landa and Pableo, the water-gatherer. When he, Jose and Pableo went to the liquor store, only the maid was left in the house. After partaking one bottle of beer grande at 11:00 A.M. he proceeded to the house of his brother at Hipodromo where he stayed until 4:00 P.M. From there he went home to Camputhaw, Lahug.

He meet (sic) co-accused Taneo only at the prison cell at Mabolo Police Station. There Taneo told him that he (Taneo) does not know him. He only knew Bebot Escoreal. He was picked up by some policemen near his home. Before his arrest, he did not know the arresting officers, thus, he has no quarrel or misunderstanding with them.

Mrs. Lolit Cabriana, a volunteer worker in the jail ministry testified that she met Taneo in jail and he told her that he killed the maid of Dr. Sia in St. Michael's Village at Talisay, Cebu using an empty beer bottle. His companion at that time was only Bebot Escoreal. She knows Roy Codilla and she asked him why he was in jail and the latter answered that he was not in the house of Dr. Sia when the crime was committed. Codilla told her that he was then in his house at Lahug and in his brother's house at Mandaue City.

Later, on cross-examination, she declared that for the four years of her missionary work in BBRC jail she did not have an occasion to talk to Codilla because he is not under her bible class.

Felicidad Pareño of Camputhaw, Lahug, Cebu City testified that she is a neighbor of accused Codilla. Her house is two houses away. Her closeness to the mother of Codilla is such that they treat each other like sisters.

In the afternoon of December 22, 1986, she was in the Codilla residence for their prayer meeting and she saw for the first time accused Codilla at past 4:00 o'clock that afternoon viewing TV in the second floor of their house. She went home at about that time also and never saw Codilla anymore."^[6]

Giving full faith and credit to the prosecution's version of the incident, particularly to the testimonies of Dr. Sia, which it describes to be "straightforward, without hesitation and concise, "^[7] and that of Victor Taneo who "[V]ividly in detail, ... disclosed how he met Codilla" and how the latter "laid his plan to 'hit' the house of his

former employer for revenge,”[8] and considering the statement given by Landa to Dr. Sia at the hospital -- that she, Landa, was struck by Roy Codilla -- as part of the *res gestae*,[9] the trial court, in its Decision dated and promulgated on 14 December 1988,[10] found the accused Roy Codilla guilty beyond reasonable doubt of the crime charged. The dispositive portion of the decision reads:

"WHEREFORE, finding accused Roy Codilla guilty beyond reasonable doubt of the crime of robbery with homicide, he is hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify jointly and severally with accused Victor Taneo the heirs of the deceased Landa Robert the sum of P30,000.00, and to pay the costs.

The Sentence on accused Taneo contained in the Order dated February 9, 1987 insofar as indemnification is concerned is hereby modified."

SO ORDERED.”[11]

The trial court rejected Codilla's defense of alibi because his residence in barangay Camputhaw, the place where he claims to have been at the time of the robbery, "is only less than an hour by jeepney to the Sia residence in Banilad It was therefore not physically impossible for Codilla to be at the scene of the crime when the crime was committed.”[12] Moreover, Codilla was positively identified by Taneo who had no motive to perjure his testimony.

Accused Roy Codilla, hereafter referred to as the Appellant, seasonably filed his Notice of Appeal,[13] manifesting therein that he is appealing the decision to the Court of Appeals. In view of the penalty imposed, the appeal should have been elevated to this Court. On the other hand, for obvious reasons, accused Taneo did not interpose an appeal.

The records of the case were erroneously transmitted to the Court of Appeals which, however, forwarded them to this Court on 10 March 1989.[14] This Court accepted the appeal on 20 September 1989.[15]

In his Brief, the appellant, through his counsel de oficio[16] who were appointed as such by this Court due to the death of his counsel de parte,[17] submits the following assignment of errors:

I. The Trial Court erred in considering the alleged statement of the victim, Landa Roberts (sic), as part of *res gestae*.

II. The Trial Court erred in giving weight to the testimony of appellant's co-accused, Victor Taneo.

III. The Trial Court erred in declaring that accused-appellant's identity was established.”[18]

In support of the first assigned error, appellant claims that the alleged statement of Landa Robert could have been made at least four (4) hours after the occurrence of the incident -- a considerable lapse of time. Hence, per *People vs. Roca*,[19] it cannot be said that the declarant did not have the opportunity to concoct or contrive her statement. Neither can such statement qualify as a dying declaration because it does not concern the cause and surrounding circumstances of the declarant's death and that at the time it was made, the declarant was not under the consciousness of an impending death. As a matter of fact, it is doubtful if Landa did indeed make the statement considering that as testified to by the doctor who had treated her, she had impaired consciousness; besides, Mrs. Sia's companions, one Corazon Gonzales and a policeman named Lopez, were not presented to corroborate Sias testimony.

Anent the second assigned error, appellant contends that in view of the first error and the inadmissibility of the statement of Landa Robert, the prosecution was left with nothing save for the testimony of Victor Taneo which, however, is weak and does not constitute sufficient basis for the appellant's conviction. In the first place, Taneo admitted to Pat. Ministerio that he (Taneo) and Bebot Escoreal were the ones who manhandled the maid.

Secondly, Taneo's credibility as a witness is questionable; he had twice been apprehended for robbery under P.D. No. 532, and had twice been prosecuted therefor in Criminal Case No. CBU-5871 and Criminal Case No. CBU-5881 before Branches XVI and XIV of the Regional Trial Court of Cebu. Both cases, however, were dismissed on the ground of failure to prosecute. Appellant then pontificates: "From a hardened soul like Victor Taneo's, it is very difficult to elicit truth." [20] In addition thereto, appellant alleges that Taneo's testimony would indicate that the same was for sale as the latter claimed that he was asked by Roy Codilla to testify in his favor for the amount of P2,000.00, but that Codilla's wife could only raise P400.00.

The third assigned error is premised on the assumption that the appellant's conviction is based solely on the bare allegation of Mrs. Sia that the victim, Landa Robert, had identified Codilla as her mauler, and on the testimony of Victor Taneo which, as claimed in the first and second assigned errors, is inadmissible and weak. Appellant then faults the prosecution for not presenting Jose Robert who could have attested to the appellant's presence and participation in the crime or shed light on Taneo's claim that (a) the appellant went to the Sia house ahead of the rest to distract Jose Robert's attention by inviting him to a drinking spree and (b) the appellant left Jose at the sari-sari store and went back to Sia's house.

The appeal is devoid of merit.

At the outset, it is to be observed that at the bottom of the assigned errors is the issue of the credibility of witnesses Herminia Sia and Victor Taneo. Deeply embedded in our jurisprudence and amply supported by an impressive array of cases is the rule that when the issue of credibility of a witness is concerned, the appellate court will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question, having heard the witness himself and observed his deportment and manner of testifying during the trial, unless certain facts of substance and value had been plainly overlooked which, if considered, might affect the result of the case. [21]

We have painstakingly examined the records of this case and the transcripts of the stenographic notes of the testimonies of the witnesses and find no cogent reason to disregard the rule and give way to the exception. The full faith and credit given by the trial court to the testimonies of Herminia Sia and Victor Taneo are supported by the evidence. In fact, the tenor of the assigned errors and the arguments summoned to support them betray the appellant's realization of the infirmity of his stand. Were it not for the gravity of the offense charged and the penalty imposed, this conclusion could have written an early *finis* to the appeal. But then, We are called to squarely meet the issues raised by the assigned errors.

1. The court *a quo* correctly considered the statement given by the victim, Landa Robert, to Herminia Sia as part of the *res gestae*. Landa's declaration that it was the appellant who struck her was given while she was still at the ground floor of the Perpetual Succour Hospital awaiting to be admitted for treatment. She was rushed to the said hospital immediately after the incident in question and was operated on for four (4) hours starting at 8:00 o'clock that evening until 12:00 midnight. She died five (5) days later.

The following three (3) requisites must concur before evidence of the *res gestae* may be admitted: (1) the principal act, the *res gestae*, be a startling occurrence; (2) the statements were made before the declarant had time to contrive or devise; and (3) the statements must concern the occurrence in question and its immediately attending circumstances. [22]

In *People vs. Ner*, [23] this Court, speaking through Chief Justice Concepcion, held:

"x x x All that is required for the admissibility of a given statement as part of the *res gestae*, is that it be made under the influence of a startling event witnessed by the person who made the declaration [24] before he had time to think and make up a story, [25] or to concoct or contrive a falsehood, [26] or to fabricate an account, [27]

and without any undue influence in obtaining it,[28] aside from referring to the event in question or its immediate attending circumstances."[29]

The cases are not uniform as to the interval of time that should separate the occurrence of the startling event from the making of the declaration. What is important is that the declarations were voluntarily and spontaneously made "so nearly contemporaneous as to be in the presence of the transaction which they illustrate and explain, and were made under such circumstances as necessarily to exclude the idea of design or deliberation"[30]

In the instant case, We find the interval of time between the robbery and the infliction of the injuries upon Landa Robert, and her making of the statement, which the appellant claims to be four (4) hours or more, to be sufficient and adequate to bring such statement to be so nearly contemporaneous as to be in the presence of the transaction or occurrence which it illustrated or explained. Landa was brought to the hospital where she made the statement immediately after the commission of the crime. Given her condition at that time -- she was hovering between life and death -- she could have hardly been expected to conjure up a story or concoct and contrive a falsehood by falsely imputing upon the appellant responsibility for her injuries. There is as well no doubt that the principal act in question was a startling occurrence upon which Landa's statement about her assailant relates to. In short, all the requisites for the admission of such statement as part of the *res gestae* are present.

Appellant's claim that Landa could not have uttered the incriminatory words because she had "impaired consciousness," as testified to by the doctor, is pure speculation. She gave her statement while she was still awaiting treatment in the hospital. There is no evidence on record to show that at the time she did so, she was in no condition to speak, utter a word or answer questions. Moreover, appellant's counsel failed, on cross-examination, to extract from the doctor any admission that "impaired consciousness" would include inability to speak or answer a question, or that such a condition existed for some time before he had seen or examined the patient. Neither was expert testimony introduced to prove that the injuries sustained by Landa rendered her unconscious upon their infliction or sometime thereafter -- specifically, when she had reached the hospital.

As to the appellant's insinuation that Mrs. Sia may have fabricated her testimony regarding Landa's statement, suffice it to restate what We had said earlier: The full faith and credit accorded by the trial court to her testimony is supported by the evidence and its observation of her demeanor. Declared the lower court:

"The Court painstakingly scrutinized the testimonies of the witnesses of both sides including close examination of the demeanor of those who took the stand.

The testimony of Dr. Sia was straightforward, without hesitation and concise."[31]

While it may be true that Dr. Sia's companions, Corazon Gonzales and a policeman (a certain Lopez), could have been presented to corroborate her testimony, such non-presentation did not affect the probative value of such testimony for, as even the appellant candidly admits, the testimony of the companions could only be corroborative. As such, therefore, their testimonies were properly dispensed with and their non-presentation did not imply suppression of evidence and did not prove to be fatal to the prosecution's case.[32] Besides, if the appellant was honestly convinced of the falsity of Sia's testimony and the fact that none of her companions would corroborate her story, he should have availed of the compulsory process to have them produced as his own witnesses, or even as hostile witnesses.[33]

2. Appellant insists that Victor Taneo's credibility is questionable because the latter had earlier been charged in two (2) criminal cases for robbery; the former admits, however, that these cases were dismissed for failure to prosecute. Section 20, Rule 130 of the Rules of Court provides that except as provided for in the succeeding sections,[34] all persons who can perceive, and perceiving, can make known their perception to others, may be

witnesses. Religious or political belief, interest in the outcome of the case or conviction of a crime unless otherwise provided by law, shall not be a ground for disqualification. Clearly, the mere pendency of a criminal case against a person does not disqualify him from becoming a witness. As a matter of fact, conviction of a crime does not disqualify such person from being presented as a witness unless otherwise provided by law.[35] At his arraignment, Victor Taneo voluntarily pleaded guilty to an information which charges conspiracy. He was not discharged as a state witness -- a sure guarantee of acquittal[36] -- and he did not impute criminal responsibility solely on the appellant. Thus, if he were to testify falsely against the latter, he must have been moved by a strong, improper and ulterior motive. That motive must have been established; appellant failed to do so. In the absence of evidence to show any reason or motive why witnesses for the prosecution should have testified falsely, the logical conclusion is that no improper motive existed, and that their testimony is worthy of full faith and credit.[37]

3. Since the appellant had been identified, his defense of alibi must fail. It is a fundamental judicial dictum that the defense of alibi cannot prevail over the positive identification of the accused.[38]

The prosecution's failure to present Jose Robert -- a fact capitalized upon by the appellant in his third assigned error -- was not fatal. At best, Robert's testimony would have been merely corroborative.

Prescinding from all the foregoing, We find the appealed decision of the trial court to be in accordance with the facts and applicable laws and jurisprudence. Except for the indemnity which is hereby increased from P30,000.00 to P50,000.00 to conform with the present policy of this Court, the said decision must be affirmed.

WHEREFORE, the appealed decision of 14 December 1988 of Branch 10 of the Regional Trial Court of Cebu in Criminal Case No. CBU-10135 is hereby AFFIRMED, subject to the above modification on the indemnity. As modified, the indemnity is hereby increased to P50,000.00.

Costs against the appellant.

SO ORDERED.

Bidin, Romero, and Melo, JJ., concur.

Gutierrez, Jr., J., (Chairman), on leave.

[1] Original Records, 1-2; Rollo, 8-9.

[2] Original Records, 247.

[3] Original Records, 14.

[4] Per Judge Leonardo B. Cañares.

[5] Original Records, op. cit., 14-15.

[6] Original Records, 230-233; Rollo, 25-28.

[7] Id., 233.

[8] Original Records, 234.

[9] Id.

[10] Per Judge Leonardo B. Cañares; Id. 229-235; Rollo, 24-30.

[11] Id., 235; Id., 30.

[12] Id., 234.

[13] Original Records, 238.

[14] Rollo, 2.

[15] Id., 41.

[16] Atty. Vicente A. Torres and Atty. Mildred C. Duero.

[17] Rollo, op. cit., 56.

[18] Brief for Appellant, 4.

[19] 162 SCRA 696, 703 [1988].

[20] Brief for Appellant, 13.

[21] See, for instance, *People vs. Garcia*, 89 SCRA 440 [1979], Citing several cases; *People vs. Bautista*, 92 SCRA 465 [1979]; *People vs. Abejuela*, 92 SCRA 503 [1979]; *People vs. Arciaga*, 98 SCRA 1 [1980]; *People vs. Marzan*, 128 SCRA 203 [1984]; *People vs. Alcid*, 135 SCRA 280 [1985]; *People vs. Sanchez*, 199 SCRA 414 [1991]; and *People vs. Atilano*, 204 SCRA 278 [1991].

[22] *People vs. Ricaplaza*, 23 SCRA 374 [1968]; *Ilocos Norte Electric Co. vs. Court of Appeals*, 179 SCRA 5 [1989].

[23] 28 SCRA 1151, 1161-1162 [1969].

[24] Citing *People vs. Cuevas*, 97 Phil. 963 [1955]; *Air France vs. Carrascoso*, 18 SCRA 155 [1966].

[25] Citing *People vs. Avila*, 92 Phil. 805 [1953].

[26] Citing *People vs. Alban*, 1 SCRA 931 [1961].

[27] Citing *People vs. Ruzol*, 100 Phil. 537 [1956].

[28] Citing *People vs. Durante*, 53 Phil. 363, 371 [1929].

[29] Citing *People vs. Nartea*, 74 Phil. 8 [1942]; *People vs. Cuevas*, supra.; *People vs. Quianzon*, 62 Phil. 162 [1935]; *People vs. Portento*, 48 Phil. 971 [1924]; *U.S. Macuti*, 26 Phil. 170 [1913].

[30] *People vs. Ner*, supra., at page 1161, citing *Lousville N.A. & C.Ry. Co. vs. Buck*, 19 NE 453, 458.

[31] Decision, 5; Original Records, 233; Rollo, 28.

[32] *People vs. Capulong*, 160 SCRA 533 [1988]; *People vs. Tangliben*, 184 SCRA 220 [1990]; *People vs. Vocente*, 188 SCRA 100 [1990].

[33] *People vs. Fernandez*, 209 SCRA 1 [1992].

[34] Sections 21, 22, 23, 24 and 25, Rules of Court.

[35] In our jurisdiction, the law provides that a co-accused cannot be discharged as a state witness if, inter alia, he has at any time been convicted of any offense involving moral turpitude. (Section 9, Rule 119, Rules of Court).

[36] Section 10, Rule 119, Rules of Court.

[37] *People vs. Macalindong*, 76 Phil. 719 [1946]; *People vs. Borbano*, 76 Phil. 702 [1946]; *People vs. Simon*, 209 SCRA 148 [1992].

[38] *People vs. Mercado*, 97 SCRA 232 [1980], citing a long line of cases; *People vs. Clores*, 184 SCRA 638 [1990]; *People vs. Arceo*, 187 SCRA 265 [1990]; and *People vs. Beringuel*, 192 SCRA 561 [1990].

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