

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME SERDAN Y GAMAYON, ACCUSED-APPELLANT.

G.R. No. 87318. September 02, 1992

Ponente: REGALADO, J.

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REGALADO, J.:

Accused-appellant Jaime Serdan y Gamayon was charged on September 23, 1987 in Criminal Case No. 5630-MN of the Regional Trial Court of Malabon, Metro Manila, Branch 72, with the crime of murder and, on a plea of not guilty,[1] was tried therefor upon an information which alleges -

“That on or about the 14th day of September, 1987, in the Municipality of Malabon, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with four (4) John Does, whose true identities and present whereabouts are still ‘unknown and all of them mutually helping and aiding one another, armed with a .45 caliber gun and other guns of unknown caliber, with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault and shoot one Ricardo Sy y Co on the vital parts of his body, thereby inflicting upon the latter shot gun (sic) wounds which directly caused his death.”[2]

The prosecution's presentation of this case is closely in accord with the following findings of the court a quo:

“On September 14, 1987, at around 7:30 a.m., Fortunato Piquiz, a long time resident of Macopa Road, Potrero, Malabon, Metro Manila, was walking along the nearby Gov. Pascual Avenue in that place on his way to buy bread when all of a sudden he heard a gunshot. Piquiz stopped walking and saw a gray colored car being shot at by a man who turned out to be the herein accused Jaime Serdan. He later on saw two (2) other men firing at the car from the other side thereof. Two (2) other men in checkered shirts also appeared and began firing their guns at the car. Because the car did not stop when first fired at by Serdan, the latter moved as if to follow the car up to the middle of the Gov. Pascual Avenue. When the car slammed against a wall, Piquiz saw Serdan in a sitting position, writhing in pain. Two (2) of Serdan's companions approached him and took his gun which Piquiz did not know what kind it was. The two (2) then looked at the car and then left the place. Piquiz also left.

“Four (4) or five (5) days later, the police went to his place because they learned that he saw the incident. He was asked to be a witness in this case. His statement (Exh A) was taken by the police at the headquarters. After about four (4) or five (5) days more, the police again went to his place and brought him to the National Orthopedic Hospital to identify the accused, which he did by pointing to him. It was only shortly before he was brought to the hospital that he learned that the victim was one Mr. Sy (whom he first named as Mr. Lim) whom he never knew.

“Bernardita Tongco, a resident of Gov. Pascual St., also happened to be in the place when the shooting incident occurred. She had just bought ‘pan de sal.’ She heard shots and then saw a car slammed or ‘nakasadsad.’ Later, she saw two (2) men near the car holding guns. These two (2) men came from the corner of Atis Road or the canteen of Jam B. They talked to another man at the middle of the road who was shot in the leg. This man was in T-shirt and shorts and he had already been shot when she saw him. He turned out to be

accused Jaime Serdan after Tongco identified him in court. Tongco was, however, f(a)rther from the scene than Piquiz. She was a block away when she heard the shots.

“Tongco was investigated by the police and gave a statement. (Exh. B).

“Pfc. Daniel Cruz of the Malabon Police, together with other policemen, went to the scene of the shooting upon orders of the Station Commander to conduct an investigation.

“He found a man inside the car slumped on the driver's seat, already dead. The man turned out to be Ricardo Sy y Co. He sustained gunshot wounds. Pfc. Cruz also found three (3) slugs, 1 empty shell cal. 45, 1 empty shell, 9 MM and, in the grassy portion of the shoulder of the road, an ID card of one Jaime Serdan (Exh. I) whom he later learned was a dismissed employee of the P.I. Manufacturing.

“Through the police radio, Pfc. Cruz learned also that a man with a gunshot wound was at the MCU hospital. Cruz went there and found Serdan’ lying in a stretcher in the emergency room. Serdan told Cruz that he was at Atis Road-Gov. Pascual Avenue because he was going to a relative in Blumentritt.

“The security guard at the hospital told Cruz that a man who gave his name brought Serdan to the hospital. This man, however, immediately left the hospital.

“Pfc. Cruz further investigated the shooting incident and took the statements of witnesses, particularly Piquiz and Tongco. He was the one who brought Piquiz to the National Orthopedic Hospital for a confrontation with Serdan. Piquiz identified Serdan as one of those who shot and killed Sy.

“Technical witnesses in the persons of Dr. Prospero Cabanayan and Forensic Chemist Nicanor Cruz, both of the National Bureau of Investigation, were also presented by the prosecution.

“Dr. Cabanayan testified that he conducted an autopsy examination on the cadaver of the victim and found that he sustained five (5) gunshot wounds, four (4) of which exited from his body (Exhs. F, F-1 to F-10). The wound that did not have a point of exit was at the right side of the neck of the victim and from it he recovered a slug he referred to the ballisticsian of the NBI.

“Dr. Cabanayan prepared a report (Exh. E) containing his findings that the victim's death was due to the gunshot wounds he sustained (Exh. E-4). He also identified the reports of the NBI and PCCRL ballisticsians (regarding) recovered slug from the body of the victim and the recovered slugs and empty shells from the scene of the incident (Exhs. G and H).

“The forensic chemist, on the other hand, declared that the examination he conducted revealed that both hands of the accused were positive for nitrates (Exhs. C and C-2) which can be caused by firing a gun with both hands handling of fertilizer, lighting a firecracker or handling tobacco. He added that dorsal sides of both hands of the accused have nitrates (Exh. D).”[3]

The defense, in refutation, presented this version of the antecedent facts to and as related by the trial court:

“Accused Jaime Serdan, on the other hand, claimed that he was at the corner of Gov. Pascual and Atis Road waiting for a friend who was a co--worker at the P.I. Manufacturing, Inc. to borrow money. While waiting, he had his breakfast in an eatery thereat. When the friend did not pass by, Serdan decided to proceed to Blumentritt, to borrow money from a relative. As he was about to board a passenger jeep, Serdan heard gunshots. He felt he was hit. He fell down and felt pain in his right thigh. There was also numbness, as if he was electrocuted. He looked for the one who shot him - front and back - but all he could see were people running away. He could not recognize anyone because he was already dizzy. He could remember, however, that people approached him and boarded him on a car. He was brought to the MCU Hospital where he stayed for about six (6) hours.

“Policemen arrived and asked him his name, address, employment and from what province he was. Serdan was

then transferred to the National Orthopedic Hospital where he was confined for about two (2) weeks.

“At the NOH, Serdan talked to policemen/investigators - even to a Fiscal who asked him if he was willing to submit himself to an inquest investigation. An NBI paraffin expert also came. A policeman named Belloga arrived with an old man and two (2) photographers. Belloga stopped by his bed but the old man went on walking. This prompted Belloga to call for the old man by saying: ‘Oy, dito, iyan, ituro’. (W)hen the old man did not point to him, Belloga said once more: ‘Ituro mo, ituro mo.’ When the old man finally pointed at him, Belloga prodded the old man some more by adding: ‘Sige, ituro mong mabuti.’ Serdan asked Belloga why he was being photographed but Belloga even balked (sic) at him saying: ‘Keep quiet, this is our job.’ After Belloga, the old man and the photographers ha(d) left, Serdan asked the policeman guarding him why he was photographed and he was told: ‘Iyan ay testigo, Iyan ay matanda at ang matanda ay hindi marunong magsinungaling.’ Serdan was later transferred to the hospital at Camp Panopio allegedly for his own protection, upon orders of Gen. Aguirre. At the military hospital, he inquired if there is a warrant for his arrest because he thought he was being detained, but nothing was shown to him. On his last day at the orthopedic hospital, Col. San Diego visited him and he was asked about what really happened. After telling his story to San Diego, the latter remarked to him: ‘Tiisin mo na lang.’

“Serdan added that from the time he woke up, up to the time he was ‘shot he had already smoked three (3) sticks of cigarettes which he lighted with a match and that he learned the driver of the car that brought him to the MCU Hospital gave his name as Norberto Cruz y Cartela of 56 Tugatog Street.

“Drs. Santiago F. Cruz and Norman Garcia of the NOH and the MCU Hospital, respectively, testified that Serdan sustained a gunshot wound at the right leg in the area of the knee, whose point of entry was at the back and the point of exit in front with the latter four (4) inches higher than the former (Exhs. 5, 5-A, 7 and 9).

“Roger Laurente, a housemate of Serdan, testified that the latter was his co-worker at the P.I. Manufacturing, Inc. who was never suspended as such. Although Serdan ran for a position in the labor union thereat, he never attacked its manage-ment and had never even met the owner of the firm. Serdan, like him, resigned and was not dismissed from his work; Laurente added.

“Danilo Layug; a patient of the same/adjoining ward of the NOH at the time Serdan was confined thereat, testified that the old man who pointed at Serdan really passed the bed of Serdan without even recognizing him. When the old man was told: ‘O, dito na lang. Ituro mo na lang yan,’ the old man even replied, ‘Ah, hindi iyan.’ But the old man pointed to Serdan just the same. Serdan remarked when photos were taken: ‘Hindi ko kayo kilala, hindi ninyo ako kilala, bakit ninyo ako kukunan ng litrato.’ Layug added, however, that Serdan did not say anything when the old man pointed to him.

“Cpl. Leopoldo Belloga, the policeman who accompanied the ‘old man’ Piquiz when the latter identified Serdan at the NOH as the man who first shot at the car and who was in turn shot and fell at the road, was presented by the prosecution to rebut the testimony of Serdan and Layug on what the latter claimed had transpired during the confrontation between Piquiz and Serdan. Belloga claimed that Piquiz identified/pinpointed the suspect (Serdan) without any prodding.

“Accused Jaime Serdan was a former laborer at the P.I. Manufacturing, Inc. This is the reason he had an ID card issued by the firm to him. He said he placed it between the folds of his wallet and not inside the same. For this reason, it must have fallen when he fell after being shot or when he was being put on board a car. A policeman, Pfc. Daniel Cruz, later found it in the grassy area by the side of the road.”[4]

After trial, the court below promulgated its decision[5] dated February 10, 1989, finding the accused guilty of the crime charged, sentencing him to suffer the penalty of life imprisonment together with all its accessory penalties, and to pay to the heirs of the victim one-fifth (1/5) of P30,000.00 as his share of the indemnification for the loss of the victim's life and to pay the costs.[6]

Appellant now comes to us for the reversal of the aforequoted judgment, faulting the trial court (1) for giving credence to the testimony of the star witness for the prosecution, Fortunato Piquiz, and holding that his testimony is sufficient to render a judgment of conviction; (2) in not appreciating the evidence of the accused which directly contradicts the testimony of the prosecution witnesses and raises grave doubts on the prosecution's case; and (3) in not acquitting the accused on reasonable doubt.[7]

Again, as in most criminal cases, the controversy here is reduced to one essentially of credibility a weighing of the evidence of the prosecution against that of the defense. In this regard, the consistent teachings in our jurisdiction is that the findings of the trial court are given weight and the highest degree of respect by the appellate court.[8]

Long settled in criminal jurisprudence is the rule that when the issue is one of credibility of witnesses, appellate courts 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 witnesses themselves and observed their deportment and manner of testifying during the trial, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[9] The said exceptive circumstance, however, does not obtain in the instant case.

The testimonies of the prosecution witnesses are positive in character while that of appellant is negative, making the former prevail over the latter.[10] Besides, no improper motive had been imputed to any of the arresting officers who testified for the prosecution. They are, there-fore, presumed to have regularly performed their official duty in the absence of any evidence to the contrary.[11]

Insofar as prosecution star witness Fortunato Piquiz is concerned, no dubious or evil motive whatsoever has been proved which would cause or impel him to falsely testify against appellant. It is much a matter of judicial acceptance that witnesses would not falsely impute to an accused a serious criminal offense if it is not the untarnished truth,[12] especially where, as in this case, they did not even know any of the dramatis personae involved; in the crime. This is a truism which we recognize as correctly based on and confirmed by ordinary human behavior and experience.

What makes the case against appellant weightier is the fact that he had been positively identified by two prosecution witness, Piquiz and Tongco,[13] which categorical identification should be given full faith and credit, especially in the total absence of any ill motive, grudge or animosity on the part of the witnesses. Greater weight is given to the positive identification of the accused by the prosecution witnesses than to the accused's denial and explanation concerning the commission of the crime.[14] This positive identification establishes the guilt of appellant to a moral certainty.[15] Piquiz's testimony alone is sufficient to hold appellant criminally liable concordant with the rule that the testimony of one witness, if credible, positive and if it satisfies the court beyond reasonable doubt, is sufficient to convict.[16]

As observed by the Solicitor General, the defense charges that Piquiz had made inconsistent statements on the relative positions of the gunwielders and the victim. It also attempts to cast doubt on said witness' opportunity to recognize appellant in the course of the shooting incident. It now claims that these alleged inconsistencies should be viewed against appellant's evidence, directly contradicting that of the prosecution.[17] We reject these contentions of the defense.

Piquiz, who was only about seven (7) meters away from the scene of the crime,[18] was rather firm and sure of his account that appellant was on the left side of the victim at the time of the shooting incident.

“COURT:

You ask the question again but first ask where Jaime Serdan was.

x x x

A Jaime Serdan was (o)n the left side near the restaurant.” [19]

This is an explicit and forthright affirmation of what he stated when he was investigated in the Malabon Police Headquarters on September 21, 1987, a few days after the shooting of the victim:

“18. T: Ang tao pong itinuro ninyo sa National Orthopedic Ospital, saang gawi po ng kotse ninyo siya nakita?

S: Sa gawing kaliwa, doon sa may lugar ng driver x x x.”[20]

and which was clarified in the ocular inspection conducted by the trial court at the crime scene on January 15, 1988.[21]

We have carefully scrutinized the records and we are satisfied that in the instances when this witness stated that appellant was on the right side of the victim, the same were innocent errors due to confusion as to the particular positions referred to for lack of a clear point of reference, since the vehicle was moving and the questions did not specify the direction toward which appellant was facing at the particular moments involved. Such statements are mere minor inconsistencies which cannot destroy his credibility but, on the contrary, are indicative of his truthfulness and of the fact that he had not been coached or rehearsed.[22] Moreover, these contradictions could be attributable to the well-known fact that the atmosphere of the courtroom can affect the accuracy and manner of a witness in answering questions.[23]

The defense also attempts to discredit the testimony of Piquiz on the ground that the other eyewitness, Bernardita Tongco, was sure that appellant was not holding any gun while he was slumped in the middle of Atis Road; and neither did appellant pass on any gun to the two armed persons who approached and talked to him.[24]

We note, however, that Tongco herself admitted that she was standing a block away from appellant and his companions and that she witnessed only a part of the incident, thereby making her conclusions inaccurate for being incomplete, thus:

“Q: - When the shooting incident took place, did you see this person who was hit in the leg during the shooting incident?

A: - I just saw him after he was shot in the leg.

x x x

Q: - Mrs. Tongco, how far approximately, how far were you from the persons that you saw talking in the middle of the Atis Road?

A: - Around one block away.”[25]

Furthermore, appellant's version of the incident is highly improbable. We are, therefore, constrained to reiterate the cardinal rule in the law of evidence that to be believed, the testimony must not only proceed from the mouth of a credible witness; it must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstances.[26]

We cannot subscribe to the story of appellant that he merely happened to be in the vicinity where the victim was killed, and only because he was allegedly contemplating to go to his friend's house at Atis Road in order to borrow money. What is perplexing is the fact that he did not proceed to said house but, instead, he just decided to wait for him at a store near the corner of Atis Road and Gov. Pascual Street, where he ate his breakfast. What is more, when his friend did not pass by, he did not even think of proceeding to the factory where the latter works,

but thought of going to a relative instead.[27]

It is too much of a coincidence that he happened to be in the same place where the victim was shot. As the lower court observed, appellant unwittingly made his theory of defense harder to believe when he took the foregoing posturings. He had, however, no other alternative but to contrive that story, although it was evidently a lame excuse under the circumstances, since his identification card was found by policemen in the scene of the ambush slaying and because he was found soon thereafter in a hospital with a gunshot wound.[28]

It is also noteworthy that appellant was found positive for nitrates on the outer sides of both hands after the diphenylamine-paraffin test conducted by the Forensic Chemistry Section of the National Bureau of Investigation on September 14, 1987 at 2:30 P.M.,[29] the afternoon of the fatal day, which supports the prosecution's theory that he killed the victim by firing a gun with the use of both hands.[30]

Appellant likewise asserts that had he been one of the assailants, he could not have been shot at his “alak-alakan” with the bullet exiting in front about four (4) inches higher than the point of entry,[31] because he was about to board a passenger jeep or was actually boarding the same.[32] This pretension is readily explained and refuted.

In his aforesaid sworn statement, witness Piquiz pointed out that because the car did not stop when first fired at, appellant moved as if to follow the car up to the middle of Gov. Pascual Street, explaining it in this wise: “x x x pagputok nga ng baril niya sinundan pa niya ng tutok ang kotse, tapos marami na akong narinig na putok. x x x” [33]

It is highly reasonable to conclude, therefore, that logically it was at this point, when he was in pursuit of the victim's car, that appellant was hit at his “alak-alakan.” He was not, therefore, an innocent bystander victimized by a stray bullet but was actually one of the assailants. We quote with approval the lower court's analysis on the matter, and for which it should be duly given credit:

“Common experience in boarding a passenger jeep would place the area of ‘alak-alakan’ exposed to a gunshot of the trajectory taken by the bullet that hit Serdan above his right ‘alak-alakan’ only to a shot fired by one lying prone on his stomach slightly to the right of Serdan but no more than a foot in front and away from him. With Serdan's right foot resting or about to rest on the rear running board of the passenger jeep, which is at the exact rear middle portion of the jeep, the gunwielder must be somewhere after the right rear wheel of the jeep facing forward but under the body of the jeep already. This position of the gunman in relation to Serdan's position will necessitate the gunman's being first overrun by at least the right rear wheel, if not by both the right side wheels of the jeep, before he could fire his gun to hit Serdan where the bullet pierced his right leg so that said bullet can exit in front thereof four (4) inches higher than the point of entry.

“Even if we are to assume that these positions of Serdan and the gunman are possible; one other point must be considered - the flooring of the jeep will be in the way of the trajectory of the bullet - meaning the floor, made of metal, may have to be pierced first by the bullet before it could hit Serdan in the area of his right ‘alak-alakan’.”[34]

The defense also charges prosecution witness Pat. Belloga with having instructed or coached Piquiz to point to appellant at the National Orthopedic Hospital and the latter did so reluctantly.[35] Aside from appellant's declaration to this effect, the defense relies heavily on the testimony of one Danilo Layug, a co-patient of appellant at said hospital, who corroborated and confirmed this testimony of appellant.[36]

We find, however, that the very testimony of Layug is self-refuting. He testified in open court that appellant was in Room No. 2 while he was in Room No. 3, and that a divider separates the two rooms, in this manner:

“Q You said that when you were confined at the National Orthopedic Hospital you were in Room No. 3, Bed No. 6, is that correct?

A Yes, sir.

Q While Serdan was confined in Room 2, is that also correct?

A Yes, sir.

x x x

Q And when you said that it is a room, there is a partition between Room No. 2 and Room No. 3, am I correct?

A Yes, sir.”[37]

On these physical facts and arrangements, therefore, we hold that it is highly improbable for Layug to clearly hear the conversation among appellant, Pat. Belloga and Piquiz considering their relative positions, and especially since Layug would not have had a special reason to make extra efforts to listen in or eavesdrop on the conversation among said three persons.

Appellant, submits further that he had no motive to attack the victim. Be that as it may, such argument loses sight of the fact that motive is immaterial in this case because of the positive identification made by the two eyewitnesses.[38] Motive is essential where there is doubt as to the identity of the culprit and not where the accused has been positively identified as the assailant.[39]

The court below found that conspiracy, evident premeditation and treachery were attendant in the killing of the victim.[40] We agree, except with respect to the circumstance of evident premeditation since there is no substantial evidence as to when the assailants agreed on their murderous plan and the interval of time between such determination and the actual commission of their objective.

Conspiracy is nonetheless established by evidence of unity of purpose at the time of the commission of the offense and unity in its execution.[41] While proof of the agreement need not rest on direct evidence, the agreement itself may be inferred from the conduct of the parties, disclosing a common understanding among them with respect to the commission of the offense.[42]

In the case at bar, singularity of purpose, as well as unity in its execution, were evident when appellant and the four other assailants fired at the victim almost simultaneously resulting in the latter's death as found by the trial court and stated at the start of this opinion:

“x x x Piquiz stopped walking and saw a gray colored car being shot at by a man who turned out to be the herein accused Jaime Serdan. He later on saw two (2) other men firing at the car from the other side thereof. Two (2) other men in checkered shirts also appeared and began firing their guns at the car. x x x” [43]

It is undeniable that treachery was present in this case. Considering the mode of attack employed by the assailants in the instant case, the victim was rendered totally helpless and was in no position to defend himself. The attack was synchronal, sudden and unexpected. Moreover, in view of the fact that the victim was then on board his car while his assailants lay in wait, the inescapable conclusion is that the attack was coolly and deliberately adopted by the latter, their purpose being to deprive the victim of a chance to either fight or retreat.

With the weight of evidence strongly for the prosecution and the scales of justice tilting against and sufficient to overcome the presumption of innocence claimed by appellant, we are constrained to affirm the ruling of the court a quo, except that the proper penalty should be reclusion perpetua and the indemnity for the heirs should be P50,000.00 in accordance with the latest jurisprudential policy.[44]

Considering the recency of this case, we take this opportunity to once again remind the bench and the bar of the oft-repeated and long standing rule that in a judgment of conviction for a felony, the appropriate name of the

penalty should be specified inasmuch as under the scheme of penalties in the Revised Penal Code, the principal penalty for a felony has its own specific duration and corresponding accessory penalties.[45] Life imprisonment does not have any definite extent or duration nor does it carry accessory penalties. It is imposed as a penalty for serious offenses penalized by special laws. The crime of murder committed by appellant being penalized under the Revised Penal Code, the proper imposable penalty should, therefore, be reclusion perpetua instead of life imprisonment. It is imperative that the correct legal terminology be used in the imposition of penalties because of the aforementioned substantial differences.[46]

WHEREFORE, the judgment of the court a quo is hereby AFFIRMED, with the modification that the penalty imposed on accused-appellant be, as it is hereby, changed to reclusion perpetua; and he is hereby ORDERED to pay the heirs of the victim death indemnity in the amount of P50,000.00, and to further pay the costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Nocon, and Melo, JJ., concur.

[1] Rollo, 23.

[2] Original Record, 2.

[3] Rollo, 23-25.

[4] Ibid., 25-27.

[5] Per Judge Benjamin M. Aquino, Jr.

[6] Rollo, 29.

[7] Brief for the Appellant, 2; Rollo, 48.

[8] People vs. Caraig, 202 SCRA 357 (1991).

[9] People vs. Pascual, G.R. No. 88282, May 6, 1992; People vs. Simon, G.R. No. 56925, May 21, 1992; People vs. Blas, G.R. No. 97930, May 27, 1992.

[10] Bayasen vs. Court of Appeals, 103 SCRA 197 (1981).

[11] Section 5(m), Rule 131, Rules of Court.

[12] People vs. Caraig, supra, Fn. 8.

[13] Rollo, 28.

[14] People vs. De Mesa, 188 SCRA 48 (1990).

[15] People vs. Eswan, et al., 186 SCRA 174 (1990).

[16] People vs. Orzame, 17 SCRA 161 (1966).

[17] Brief for the Appellee, 7; Rollo, 78.

[18] TSN, January 6, 1988, 7.

[19] Ibid., id., 18-19.

[20] Original Record, 192.

- [21] TSN, January 15, 1988, 2-21.
- [22] *People vs. Bustos*, 17 SCRA 243 (1989).
- [23] *People vs. Como*, 202 SCRA 200 (1991).
- [24] Brief for the Appellant, 7; Rollo, 53.
- [25] TSN, February 15, 1988, 92-94.
- [26] *People vs. Nabayra*, 203 SCRA 75 (1991).
- [27] TSN, June 1, 1988, 4-7.
- [28] Rollo, 27.
- [29] Exh. C-2; Original Record, 194.
- [30] TSN, January 6, 1988, 35.
- [31] Brief for the Appellant, 9; Rollo, 47.
- [32] Rollo, 27.
- [33] Exh. A; Original Record, 192.
- [34] Rollo, 27-28.
- [35] *Ibid.*, 26.
- [36] Brief for the Appellant, 11; Rollo, 57.
- [37] TSN, November 28, 1988, 5.
- [38] Rollo, 28.
- [39] *People vs. Danico*, G.R. No. 95554, May 7, 1992.
- [40] Rollo, 29.
- [41] *People vs. Damaso, et al.*, 190 SCRA 595 (1990).
- [42] *People vs. De la Cruz*, 190 SCRA 328 (1990).
- [43] Rollo, 23-24.
- [44] *People vs. Aguiluz*, G.R. No. 91662, March 11, 1992.
- [45] *People vs. Aquino*, 186 SCRA 851 (1990).
- [46] *People vs. Literado*, G.R. No. 77114, May 27, 1992.

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