

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILLIAM FULINARA Y APUCADA AND ANTONIO BAUTISTA Y
NARIDO, DEFENDANTS-APPELLANTS.**

G.R. No. 88326. August 03, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

Accused-appellants William Fulinara y Apucada alias "Wally" and Antonio Bautista y Narido alias "Bong", alias "Tony", together with five other persons whose identities and whereabouts are still unknown, were charged with the crime of kidnapping with murder in Criminal Case No. C-16013(82) of the Regional Trial Court (RTC) of Kalookan City, Branch 121, under an Information[1] which reads:

"That on or about the 9th day of June, 1981, in Kalookan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, conspiring together and mutually helping one another, by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously take, kidnap and carry away one Sy Bun Tue and thereafter, said accused with deliberate intent to kill, treachery, evident premeditation and superior strength, did then and there wilfully, unlawfully and feloniously shoot with a gun on the left side of the head of said victim Sy Bun Tue, thereby inflicting upon the latter serious physical injuries which caused his death.

CONTRARY TO LAW."

Pleas of not guilty having been entered by both Fulinara and Bautista at arraignment,[2] trial ensued. The prosecution presented eleven (11) witnesses.[3]

The findings of fact were mainly based on the testimonies of Pedro Beltran, a security guard and Remedios Rasonabe, owner of a small carinderia located at the scene of the abduction.

It was gathered by the trial court that between 7:30 and 8:00 o'clock in the evening of June 9, 1981, Pedro Beltran was at his assigned post at the guardhouse above the main gate of Glacar Equipment Services located at No. 16, Tirad Pass St. corner E. Tirona St., Kalookan City. A light blue Toyota car stopped in front of said main gate and two men alighted. One was wearing a PC uniform and was described as stout with big stomach and armed with a .45 caliber nickel-plated gun, while the other was thin, wearing a jungle fatigue uniform, had long hair and was armed with an armalite. They were respectively identified during the trial by Pedro Beltran as accused-appellants Antonio Bautista and William Fulinara. Two other men in civilian clothes were inside the car.

After a while, Sy Bun Tue arrived driving an olive green Mitsubishi Lancer car. Accused-appellants stopped Sy Bun Tue and ordered the latter to alight from the car and transfer to the backseat. The accused-appellants then took Sy Bun Tue away in the latter's car.[4]

Pedro Beltran jotted down the plate number of the Toyota car on a piece of paper as "QM-730 or OM-730".[5]

The same incident was witnessed by Remedios Rasonabe, who was then tending her carinderia located at the

corner of Tirad Pass and Gen. Tirona Streets[6] across Glacar Equipment. She mainly corroborated Pedro Beltran's testimony.

At around 12:00 o'clock, Anita Sy, the victim's wife, received a call from a man who informed her that her husband had been kidnapped. She was warned not to tell anything to the police and was told to "prepare it (handamona)." [7]

On June 10, 1981, a dead body with its hands hogtied with an electric cord[8] was found in a ravine along the highway at Barrio Bangal, Dinalupihan, Bataan.[9] A post-mortem examination was performed by Dr. Maximo R. Sta. Maria, Municipal Health Officer of Dinalupihan, Bataan on the body. In his report,[10] he listed his findings, thus:

"Compressed fracture, compound comminuted at the left parietal (sic) region of the head.
Stabbed wound between the neck and left lower jaw.
Abrasion of the right chest and left abdomen.
Multiple occismsis at the right chest and abdomen.
Lacerated wound at the cantus of the left eye.
Lacerated wound at the left side of the mounth.
Hog tied both hands at the back."

and concluded that death was instant "due to skull fracture."

Sy Gui Tiak formally identified the dead body as his brother Sy Bun Tue.[11] An autopsy was conducted by NBI medico-legal officer Dr. Renato Bautista who found contusions and abrasions practically all over the body of the victim, as well as a gunshot wound at the left temporo parietal region of the head above the ear. A bullet was recovered in the posterior aspect of the head above the right side. Dr. Bautista listed the cause of death as "hemorrhage, profuse, secondary to gunshot wound, head, left side." [12]

On August 23, 1981, Sgt. Policarpio de los Reyes, a member of the Constabulary Highway Patrol Group (CHPG) assigned with the Criminal Investigation Service (CIS) at Camp Olivas, Pampanga, received reports about heavily armed men aboard a car in Barrio San Nicolas, San Fernando, Pampanga. Upon reaching the area, his suspicion was aroused by an olive green Lancer car which had no sticker on its windshield and whose plate number Y5-201 could hardly be seen because of the screen wire covering it.[13] He accosted the occupants who turned out to be Sgt. William Fulinara and C1C Antonio Bautista. Both of them were carrying firearms.[14] When questioned, they showed him their ID's, Mission Order and the firearms receipts. Sgt. Fulinara who was driving the car said that it was being used by their office.[15] Sgt. de los Reyes then borrowed the car for verification purposes.

Verification conducted by CIS Agent Exequiel Trinidad on the ownership of the car showed that the same belonged to Sy Bun Tue as its description, engine and chassis numbers tallied with those of Sy Bun Tue's car as recorded in Registration Certificate No. 0503908.[16] Plate number Y5-201 was issued to a Minica car which had been reported held up by unidentified men in San Fernando, Pampanga.[17]

Both Fulinara and Bautista denied knowledge and participation in the kidnapping and killing of Sy Bun Tue. Fulinara stated that the car was entrusted to him by a childhood friend, Reynaldo Baun.

In March 1982, Fulinara was subjected to a polygraph examination. He was found lying with respect to his statement that the car was merely entrusted to him by Ray Baun.[18]

Fulinara and Bautista were then referred to the then City Fiscal of Kalookan City for inquest[19] which resulted in the filing of the Information against them.

The defense, on the other hand, presented eight (8) witnesses[20] in support of accused-appellants' alibi. Sgt.

William Fulinara testified that on June 9, 1981, he was assigned to the R-2 division of Regional Command No. III, Camp Olivas, San Fernando, Pampanga.[21] On that date, he was at Muñoz, Nueva Ecija, gathering information on subversive elements. He stayed there up to June 14, 1981,[22] after which he returned to Camp Olivas.

As to the circumstances surrounding his possession of the apple green Lancer car, Sgt. Fulinara alleged that at around 8:00 o'clock in the evening of July 23, 1981, he met Reynaldo Baun, a childhood friend, in front of Camp Olivas gate driving an apple-green Lancer car. He asked Fulinara to go with him to Sto. Domingo, Pampanga,[23] for Fulinara to talk to Alex Baun, brother of Reynaldo. Fulinara claimed that Reynaldo lent him the car[24] which he used in his surveillance operations in Zambales.[25]

On August 23, 1981, at around 4:00 o'clock in the afternoon, he drove to the house of Antonio Bautista at San Nicolas, San Fernando, Pampanga[26] in the Lancer car after which they engaged in a drinking session.

Fulinara claimed that he brought Bautista home and it was at this juncture that someone who later identified himself as CIS agent de los Reyes approached him and asked him to get out of the car. He was asked to show his papers. In the meantime, Bautista returned to the car to give Fulinara the money he was borrowing. Both Fulinara and Bautista were taken to the house where the CIS agents were staying. There, Sgt. de los Reyes borrowed the car.[27]

The testimony of Fulinara on his whereabouts on June 9, 1981 was corroborated by Fulinara's then team leader PC soldier Angelito Nava[28] and co-team member Sgt. David Briones.[29] Both testified that Fulinara was with them in Muñoz, Nueva Ecija pursuant to Mission Order 383[30] covering the period June 8 to 14, 1981.

For his part, Antonio Bautista alleged that at the time of the commission of the crime on June 9, 1981, he was at Mariveles, Bataan as a member of the team sent to the area to monitor activities of suspected subversive elements under Mission Order No. 381 covering the period June 5-12, 1981.[31] On June 9, 1981, their team left their safe house at Quadruplex, EPZA Compound at around 9:00 o'clock in the morning for the police headquarters at Mariveles, Bataan, where they stayed until lunch time.[32] They then proceeded to the zone police headquarters, after which they went to the house of Pat. Nacu where they took their lunch.[33] At 3:00 o'clock in the afternoon, they went to Ford Enside Ltd., located inside the EPZA Compound where a strike was going on.[34] They left the place at 6:00 o'clock to return to their safehouse where they rested for a while, cooked their supper, and spent the whole night.[35] He stayed at Mariveles until the third week of August 1981, when they were returned to their mother unit at Camp Olivas, San Fernando, Pampanga.[36]

The testimony of Bautista on his whereabouts on June 9, 1981 was corroborated by the other members of his team: Staff Sgt. Daniel Guillermo[37], then acting team leader and members Staff Sgt. Obidio Barros[38] and Elpidio Ventura.[39] Bautista corroborated Fulinara's testimony regarding their possession of the car on August 23, 1981.[40]

On January 31, 1989, a decision[41] was rendered by Presiding Judge Adoracion G. Angeles finding the accused-appellants guilty beyond reasonable doubt of the crime charged and sentencing them to suffer a penalty of Reclusion Perpetua and to indemnify jointly and severally the heirs of the victim in the sum of One Hundred Thirty Thousand Pesos (P130,000.00) as funeral and burial expenses, and One Hundred Fifty Thousand Pesos (P150,000.00) as moral and compensatory damages with costs.

Insisting on their innocence, accused-appellants lodged the instant appeal based on the following assigned errors:[42]

"I

THE TRIAL COURT ERRED IN GIVING UNDUE WEIGHT AND CREDENCE TO THE ALLEGED EYEWITNESSES ACCOUNT GIVEN BY THE PROSECUTION WITNESSES IN RESPECT OF THE IDENTITY OF THE ACCUSED DESPITE GLARING INCONSISTENCIES AND INHERENT IMPROBABILITIES ATTENDING THE SAME; AND, ON THE OTHER HAND, IN DISREGARDING THE COHERENT, CONSISTENT AND CREDIBLE DEFENSE EVIDENCE -- ALL IN CONTRAVENTION OF THE RULES GOVERNING QUANTUM OF PROOF IN CRIMINAL CASE AND THE PRESUMPTION OF INNOCENCE EXISTING IN FAVOR OF PERSONS ACCUSED OF CRIME.

II

THE TRIAL COURT ERRED IN COMPLETELY DISREGARDING THE DEFENSE OF ALIBI INTERPOSED BY ACCUSED-APPELLANT(S) NOTWITHSTANDING THE INHERENT WEAKNESS OF THE PROSECUTION EVIDENCES (SIC).

III

THE LOWER COURT ERRED IN ENTERING A VERDICT OF CONVICTION INSTEAD OF ONE OF ACQUITTAL UNDER THE CIRCUMSTANCES OF THE CASE."

Accused-appellants aver that the general rule that findings of fact of the trial court on credibility of witnesses are accorded high respect cannot apply to the instant case as Judge Adoracion Angeles who rendered the decision did not hear the evidence in chief of both prosecution and defense. Hence, she could not have observed the demeanor of the witness on the witness stand.

The contention is devoid of merit. We have ruled in *People v. Sadiangabay*,^[43] that the circumstance alone that the judge who wrote the decision had not heard the testimonies of the prosecution witnesses would not taint his decision. After all, he had the full record before him, including the transcript of stenographic notes which he could study. The efficacy of a decision is not necessarily impaired by the fact that its writer only took over from a colleague who had earlier presided at the trial, unless there is a clear showing of a grave abuse of discretion in the factual findings reached by him.

There are no cogent reasons to disturb the trial court's factual findings. The detailed and meticulous manner in which the assailed decision was written indicates a thorough study of the records of the case, as well as the transcripts of stenographic notes which, to our mind, provided more than ample basis for the conclusion reached by the trial court on the credibility of witnesses, stemming from the extensive cross-examination of the prosecution witnesses allowed by Judges Romulo Quimbo and Salvador Baylen in view of the gravity of the crime charged against accused-appellants. We, therefore, uphold the factual findings of the trial court and in so doing, reject accused-appellants' corollary assertions that "the evidence of the prosecution is plagued with serious irreconcilable inconsistencies and inherent improbabilities that cast a heavy pall of doubt" on accused-appellants' guilt.^[44]

Accused-appellants' first assigned error focuses on their alleged flawed identification by prosecution witness Pedro Beltran due to: (a) his failure to mention the height of accused-appellants in his testimony in open court which would contradict the height of 5'6" given in his sworn statement and impair the veracity of his identification in light of accused-appellant Bautista's proven height of 5'2"; (b) the prior identification of accused-appellants by Beltran in the Kalookan City Jail which rendered the identification made in court anti-climactic as well as the failure of Sgt. Miranda to conduct a police line-up; (c) the inconsistency between Beltran's and Rasonabe's testimonies on the visibility condition; (d) the uncorroborated identification made by Beltran as Rasonabe never identified or pointed out in open court the persons of accused-appellants as the culprits; (e) the failure of Beltran to report to the authorities what he saw; (f) the unusual interest shown by

Beltran in the case and (g) admission of Sgt. Miranda that he did not include in Beltran's sworn statement all the descriptions of the suspects given by Beltran.

We see no inconsistency between Beltran's testimony in open court and his sworn statement with respect to accused-appellants' height, precisely because no mention was made of their height in court. No negative inference may be derived from the omission as it cannot be said to have been deliberately suppressed. The sworn statement was available to the defense and had it thought the height of accused-appellants stated therein material, it could have adopted the sworn statement as its own evidence or used the same to confront Beltran. At any rate, the alleged contradiction, if any there be, refers to a minor detail which can easily be explained by the fact that the height given was a mere estimate, for which a wider margin of error may be conceded in view of the elevated position of Beltran in relation to accused-appellants.

With respect to accused-appellants' identification at the Kalookan City Jail prior to the trial and the failure of Sgt. Miranda to conduct a police line-up, suffice it to say that nowhere is there a rule requiring that before a suspect can be identified as the culprit, he should first be placed in a line-up and then pinpointed by the victim.[45]

While there is testimony from Rasonabe that the place where the cars were parked was somewhat dark,[46] it is not disputed that there was a lighted electric post nearby. We are convinced that such illumination was sufficient for the proper identification of accused-appellants as even Rasonabe herself, despite the above-cited statement, was able to describe them. With more reason could Beltran do so, given his training and occupation as a security guard.

While it is true that never during the course of her testimony in court did Rasonabe point to accused-appellants as the persons who took Sy Bun Tue away, apparently an oversight on the part of the prosecution, her failure to do so did not in any way erode the identification made by Beltran. The rule adhered to is that a mere corroborative testimony of another eyewitness is dispensable, as the testimony of a single witness, if credible and positive and if it satisfies the court as to the guilt of the accused beyond reasonable doubt, is sufficient to convict.[47] In spite of her failure to connect accused-appellants to the crime under consideration, Rasonabe, nevertheless, corroborated Beltran's testimony in its material points, thereby adding strength and credence thereto.

Again, no negative inference may be derived from Beltran's failure to immediately report what he saw to the authorities or to Sy Bun Tue's company. It must be noted that the persons who took Sy Bun Tue were in military uniforms, thereby leading Beltran to think that they had a legitimate reason to take Sy Bun Tue in their custody, thus:

Q.

. . . did you sense that the life of Mr. Sy was in danger at the time when you saw him allegedly kidnapped by the two accused in the case?

A.

I did not think about it because they were persons in authority, sir.

Court:

Q.

To whom are you referring when you said "they were persons in authority"?

A.

Fulinara and Bautista, sir.[48]

x x x x x x x x

Fiscal:

Q.

You said they were persons in authority, why did you say that?

A.

Because they were in uniform, sir.

Q.

In what uniform was Bautista at the time?

A.

Khaki with red strap at the shoulder, sir.

Q.

How about Fulinara?

A.

A jungle fatigue, sir.[49]

We note that only eleven (11) days elapsed from the time of the incident until Beltran executed his sworn statement during the investigation conducted by Sgt. Miranda. We do not consider the delay so unreasonable as to render Beltran's testimony doubtful.

We consider the interest shown by Beltran in the case as natural and expected of a person who has been called upon to be a witness. In the absence of any competent proof that Beltran has perjured himself, it would be unfair to impute to Beltran improper motives in having attended the hearing on August 9, 1983.

Sgt. Miranda's admission that he did not include in Beltran's sworn statement all the descriptions given by the latter does not render accused-appellants' identification flawed. The identification of accused-appellants by Beltran in open court is clear, unequivocal and categorical. If at all, the omission complained of is further proof of what we have long taken judicial notice of, that since affidavits are usually taken ex-parte, they are always incomplete and often inaccurate, but they do not really detract from the credibility of witnesses.[50]

Prosecution eyewitness Pedro Beltran convincingly and satisfactorily described the abduction of Sy Bun Tue by four men, two (2) of them in military uniform. His testimony on the fact of abduction was corroborated in its material points by Remedios Rasonabe, another eyewitness. The question regarding the identities of these two (2) uniformed men was settled when Pedro Beltran categorically identified in open court accused-appellants William Fulinara and Antonio Bautista as the perpetrators of the crime.

Too well-entrenched in our jurisprudence to invite dispute, is the rule that alibi, being a relatively weak defense, cannot prevail over the positive identification of the accused.[51] Furthermore, for the defense of alibi to prosper, it is not enough that the accused-appellants are able to show that they were somewhere else when the crime was committed; they must likewise demonstrate that it was physically impossible for them to have been at the scene of the crime.[52]

Aside from the fact that accused-appellants' respective defenses of alibi were corroborated by their colleagues in

the military who remarkably remembered the minutest details of the alibi after more than four (4) years which perfect recall may not be a badge of candor but a ground for suspicion,[53] we agree with the observation of the trial court that it was not impossible for accused-appellants to be at the scene of the crime at the time of its occurrence. Thus:[54]

"Even assuming arguendo, that the two accused were on official mission on the date and time in question, this court cannot still believe their testimonies that they had nothing to do about the commission of the offense charged. The fact alone that they were in Mariveles, Bataan or Munoz, Nueva Ecija as the case may be will not be a sufficient reason to exonerate the herein accused from the responsibility, because the respective places where they had allegedly been at the time in question are not very far from the place where the victim was forcibly taken initially and killed thereafter. In fact, no less than Sgt. David Briones, a defense witness, testified that the travelling time from Nueva Ecija to Caloocan City was more or less two and a half hours only (TSN, p. 16, March 30, 1988). Undoubtedly, both accused could have immediately returned to their respective places of assignments after the commission of the crime, which they actually did in the instant case. Our Supreme Court held that for 'alibi' to be acceptable, it must be shown that the place where the accused was alleged to be when the offense was committed must be located at such a distance that it is well nigh impossible for him to be at the scene of the crime (Pp. vs. Tirol, 102 SCRA 558)."

Moreover, there is no showing that accused-appellants were prohibited from leaving their places of assignment, it having been admitted by defense witness Elpidio Ventura that they could go home during the mission.[55]

While the positive identification made by the key witness does not refer to the actual killing of the deceased, the circumstantial evidence on record constitute an unbroken chain which leads to a fair and reasonable conclusion that accused-appellants are indeed guilty of the offense charged. It is not only by direct evidence upon which guilt may be predicated.[56] The accused may also be convicted on circumstantial evidence.[57]

In the instant case, it has been duly proved that Sy Bun Tue was kidnapped by accused-appellants in the evening of June 9, 1981. On the following day, his dead body was found in a ravine along the highway in Barrio Bangal, Dinalupihan, Bataan. On August 23, 1981, accused-appellants were found by Sgt. de los Reyes in possession of the car belonging to Sy Bun Tue. No plausible explanation was given by either accused-appellant on their possession of Sy Bun Tue's car. Fulinara's proffered explanation that the car was lent to him by Reynaldo Baun is highly incredible and contradictory to his initial explanation to Sgt. de los Reyes that it was their office which authorized the use of the car.[58]

The alibi presented by accused-appellants having flown in the face of their positive identification by prosecution witness Pedro Beltran, and accused-appellants' having failed to overcome the presumption that a person found to be in possession of the effects belonging to a person robbed and killed is considered the author of the aggression, death of the person and the robbery committed,[59] the trial court did not err in finding accused-appellants guilty beyond reasonable doubt of the crime charged.

The lower court correctly considered treachery as a qualifying circumstance. Treachery exists when the offender adopts means, methods or forms in the execution of the felony without risk to himself arising from any defense which the offended party might make.[60] The operation used in kidnapping and eventually killing Sy Bun Tue was carefully planned and executed. The attack being sudden, the victim was defenseless and could not have been in a position to retaliate. Moreover, his arms were hogtied when he was killed.

The lower court correctly imposed the penalty of reclusion perpetua.[61] Civil indemnity for the death of Sy Bun Tue in the amount of P50,000.00 should be awarded to his heirs.[62] The funeral and burial expenses of P130,000.00 awarded by the trial court must be reduced to P8,000.00, the amount duly proved by Anita Sy, the

widow. The award of One Hundred Fifty Thousand Pesos (P150,000.00) as moral and compensatory damages is reasonable considering the suffering and mental anguish undergone by the victim's heirs, as well as the loss of earning capacity of the victim who was only 45 years old at the time of death, in good health and earning a monthly salary of P8,000 to P10,000.

WHEREFORE, the assailed decision is hereby **AFFIRMED** with the modification that accused-appellants are sentenced to indemnify jointly and severally the heirs of the victim in the following amounts:

- P50,000.00 as civil indemnity for the death of Sy Bun Tue;
- P8,000.00 for burial and funeral expenses;
- P150,000.00 as moral and compensatory damages;
- plus costs.

SO ORDERED.

Feliciano, (Chairman), Melo, and Vitug, JJ., concur.

[1] Original Records, p. 1.

[2] Ibid., p. 37.

[3] Namely: Pedro Beltran, a security guard of the Top Security Agency; George Uy, a cousin of the victim Sy Bun Tue; Sgt. Alfredo Miranda, an investigator of the Metrocom Intelligence Security Group (MISG), Camp Crame, Quezon City; Remedios Rasonabe, owner of a small carinderia located at No. 19 Gen. Tirona St., Bagong Barrio, Caloocan City; Sy Gui Tiak, brother of the victim; Anita Sy, wife of the victim; Dr. Renato C. Bautista, medico legal officer of the National Bureau of Investigation (NBI); Sgt. Policarpio de los Reyes, a PC soldier, member of the Constabulary Highway Patrol Group (CHPG); Exequiel Trinidad, CIS agent stationed at Camp Olivas, Pampanga; Dr. Maximo R. Sta. Maria, municipal health officer, Dinalupihan, Bataan and Maria Corazon Rodriguez, a polygraph examiner at the PC Crime Laboratory, Camp Crame, Quezon City.

[4] Ibid., pp. 8-9.

[5] TSN, July 19, 1982, pp. 20-21.

[6] TSN, August 8, 1983, p. 3.

[7] Ibid., pp. 45-46.

[8] Exh. "P".

[9] TSN, March 2, 1983, p. 15; May 30, 1984, pp. 7-8.

[10] Exh. "T", Folder of Exhibits for the Prosecution; TSN, May 30, 1984, pp. 11-13.

[11] Certification of Identification of Dead Body, Exh. "R", Folder of Exhibits for the Prosecution.

[12] TSN, February 28, 1983, pp. 12-13; Autopsy Report No. N-81-1316, Exh. "O", Folder of Exhibits for the Prosecution.

[13] TSN, March 5, 1984, pp. 10-11.

[14] Ibid., p. 13.

[15] Ibid., p. 10.

[16] Exh. "B", Folder of Exhibits for Prosecution; TSN, April 30, 1984, pp. 12-13:

[17] Exh. "F", Folder of Exhibits for the Prosecution.

[18] Polygraph Report No. P-016-82, Exh. "E", Folder of Exhibits for the Prosecution; TSN, July 20, 1984, p. 8.

[19] Exh. "F", Folder of Exhibits for the Prosecution.

[20] Namely: accused-appellants Fulinara and Bautista, Sgt. Daniel Guillermo, a soldier of the Philippine Constabulary assigned at the Narcotics Command; Sgt. Obidio Barros, PC soldier; Elpidio Ventura, an investigator of the U.S. Naval Base Facility; Col. Amado Espino, Jr., PC Colonel assigned with the 3rd Narcotics Regional Unit, Camp Olivas, San Fernando, Pampanga; Sgt. David Briones, also a member of the PC and Angelito Nava, soldier of the Philippine Constabulary, Metrodiscon Command based in Angeles City.

[21] TSN, June 4, 1985, p. 7.

[22] Ibid., p. 31.

[23] Ibid., pp. 10-14.

[24] Ibid., p. 17.

[25] Ibid., p. 20.

[26] Ibid., p. 23.

[27] Ibid., pp. 27-29.

[28] TSN, June 23, 1987, pp. 8-10.

[29] TSN, March 30, 1987, pp. 8-11.

[30] Exh. "8", Folder of Exhibits for William Fulinara.

[31] Exh. "2", Folder of Exhibits for Accused Antonio Bautista.

[32] TSN, August 14, 1985, p. 8.

[33] Ibid., p. 9.

[34] Ibid., p. 10.

[35] Ibid., pp. 11-12.

[36] TSN, August 14, 1985, p. 17.

[37] TSN, January 15, 1985, pp. 8-13.

[38] TSN, February 26, 1985, 11-16.

[39] TSN, March 6, 1985, pp. 44-48.

[40] Ibid., pp. 18-22.

[41] Rollo, pp. 45-65.

[42] Brief for Accused-Appellants, pp. 29-30, Rollo, p. 77.

- [43] G.R. No. 87214, March 30, 1993, 220 SCRA 551.
- [44] Accused-Appellants' Brief, p. 31, Rollo, p. 77.
- [45] *People v. Villagracia*, G.R. No. 94311, September 14, 1993, 226 SCRA 374.
- [46] TSN, August 8, 1983, p. 13.
- [47] *People v. Kyamko*, G.R. No. 103805, May 17, 1993, 222 SCRA 183.
- [48] TSN, February 21, 1983, p. 33.
- [49] *Ibid.*, pp. 36-37.
- [50] *People v. Padilla*, G.R. Nos. 97111-13, September 4, 1992, 213 SCRA 631
- [51] *People v. Escamillas*, G.R. Nos. 49863-71, May 7, 1992, 208 SCRA 441; *People v. Danico*, G.R. No. 95554, May 7, 1992, 208 SCRA 473; *People v. Rivera*, G.R. No. 94129, March 11, 1992, 207 SCRA 198; *People v. Bugho*, G.R. No. 91849, September 30, 1991, 202 SCRA 164; *People v. Camarao*, G.R. No. 78681, August 20, 1990, 188 SCRA 671; *People v. Repe*, G.R. No. 64935, July 19, 1989, 175 SCRA 423; *People v. Khan*, G.R. No. 71863, May 23, 1988, 161 SCRA 406.
- [52] *People v. Madrid*, G.R. No. 94298, June 22, 1992, 210 SCRA 196; *People v. Cruz*, G.R. No. 83811, May 5, 1992, 208 SCRA 327; *People v. Catubig*, G.R. No. 71626, March 22, 1991, 195 SCRA 505.
- [53] *People v. Sadiangabay*, *supra*.
- [54] Decision, p. 23, Rollo, p. 65.
- [55] TSN, March 28, 1985, p. 11.
- [56] *People v. Cagadas, Jr.*, G.R. No. 88044, January 23, 1991, 193 SCRA 216.
- [57] *People v. Torre*, G.R. no. 44905, April 25, 1990, 184 SCRA 525.
- [58] TSN, March 5, 1984, p. 27.
- [59] *People v. Lascuna*, G.R. No. 90626, August 18, 1993, 225 SCRA 386.
- [60] *People v. Batatucan*, G.R. Nos. 93805-6, February 7, 1992, 206 SCRA 81; *People v. Uy*, G.R. No. 84275, February 14, 1992, 206 SCRA 270; *People v. Cempron*, G.R. No. 66324, July 6, 1990, 187 SCRA 248.
- [61] Art. 267 and Art. 248, 64(3), Revised Penal Code.
- [62] *People v. Callao*, G.R. No. 94643, February 21, 1992, 206 SCRA 420; *People v. Sison*, G.R. no. 86455, September 14, 1990, 189 SCRA 643.

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