

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLAND MOLINA, ACCUSED-APPELLANT.

G.R. Nos. 134777-78. July 24, 2000

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PER CURIAM:

Before us on automatic review is the Decision[1] dated February 26, 1998 of the Regional Trial Court of Bangued, Abra, Branch 2, in Criminal Case No. 1757 finding Roland Molina guilty of murder for killing Joseph Bon-ao and sentencing him to suffer the supreme penalty of death. In Criminal Case No. 1758 which was tried jointly with Criminal Case No. 1757, the trial court found Molina likewise guilty of frustrated murder committed against Angelito Bon-ao.

The information for each crime reads as follows:

CRIMINAL CASE NO. 1757 for Murder

That on or about the 4[th] day of March, 1996, at around midnight, at Poblacion Lagangilang, Abra, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, with treachery and while armed with a sharp-pointed instrument (unrecovered), did, then and there, willfully, unlawfully and feloniously attack and stab one JOSEPH BON-AO, thereby inflicting a fatal stab wound at the back hitting the intercostal vessels, lacerating the right lung and severing the third right posterior rib which caused his instantaneous death; to the damage and prejudice of the victim and his heirs.

CONTRARY TO LAW.[2]

CRIMINAL CASE NO. 1758 for Frustrated Murder

That on or about the 4[th] day of March, 1996, at about 12:00 Midnight, at Poblacion, Municipality of Lagangilang, Province of Abra, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, with treachery and while armed with a sharp-pointed instrument (unrecovered), did, then and there, willfully, unlawfully and feloniously attack and stab one ANGELITO BON-AO, thereby inflicting stab wounds on the different parts of his body, thus performing all the acts of execution which would have produced the crime of MURDER as a consequence, but nevertheless did not produce it by reason of causes independent of his will, that is, by reason of the timely medical attendance rendered to the victim which prevented his death; to the damage and prejudice of the victim and his heirs.

CONTRARY TO LAW.[3]

At the arraignment, accused-appellant Molina, with the assistance of counsel, pleaded not guilty to the offenses charged.

Trial ensued with prosecution witnesses' Dr. Hubert L. Seares[4] testifying on the operation and treatment he performed on Angelito Bon-ao to save his life; SPO4 Mariano Rabaja[5] testifying on the statements made by Danny Vidal and Angelito Bon-ao upon investigation; Danny Vidal[6] and Angelito Bon-ao[7] testifying on the events that transpired before, during and after the crimes; and Dr. Maria Dickenson[8] testifying on the

post-mortem examination[9] she performed on Joseph Bon-ao.

The People's version of the events that lead to the crimes may be succinctly stated as follows:

Between the hours of 12 and 1 in the morning of March 4 and 5, 1996, brothers Joseph and Angelito Bon-ao, along with their cousin, Danny Vidal, were on their way home after having witnessed the town fiesta of Lagangilang.[10] They were on their way from the fair grounds to the gate of the Abra State Institute of Sciences and Technology (ASIST) to get a ride home when suddenly they heard somebody shout "Kuba", referring to Joseph Bon-ao, a hunchback.[11] Looking back, they asked a group of persons, with accused-appellant Roland Molina among them, who shouted "Kuba".[12] None of them answered back, though accused-appellant said in the local dialect "I am Roland Molina of Pagpagatpat, Tayum, across the river." [13] Joseph then said: "If no one among you said that, we will be on our way." [14] Accused-appellant even told Joseph and his companions "Do not fool Sleepy Molina of Pagpagatpat." [15]

As the three were about to turn around to go on their way, with Joseph the only one having made a full turn, accused-appellant Roland Molina rushed him and delivered a strong stabbing blow at the back of Joseph.[16] Angelito saw this happened since he has not yet made a full turn when accused-appellant stabbed his brother Joseph.[17] Angelito swiftly went to aid his brother but accused-appellant likewise stabbed him at the back.[18] Then, accused-appellant and his companions, among them Lorenzo Tejero, fled the scene.[19]

Danny carried Joseph, who was by that time slumped on the ground, to the edge of the road and likewise did the same for Angelito.[20] The police authorities were called and with their help the two brothers were brought to the Seares Family Clinic in Bangued, Abra, for treatment, but Joseph was declared dead on arrival while Angelito was saved only through the expert medical attendance of Dr. Hubert L. Seares.[21] Angelito Bon-ao sustained three (3) stab wounds, with one (1) fatal wound, 4 cms., located at the posterior chest wall, and two (2) non-fatal wounds located at the lumbar area. As testified to by Dr. Hubert L. Seares, Angelito was discharged from the clinic on March 14, 1996 though he was not yet completely healed. He was given medical treatment as an outpatient for more than a month.[22]

Dr. Maria L. Dickenson, Municipal Health Officer of Lagangilang, Abra conducted the post-mortem examination on the body of Joseph Bon-ao which revealed, (a) a stab wound which was 1.8 cm. in length located at the back just to the left side of the vertebral column, at the level of the third intercostal space, posteriorly, with the upper extremity sharp and the lower extremity blunt, directed inwards, medialwards and to the right, hitting the intercostal vessels, lacerating the upper lobe of the right lung, severing the third posterior rib, right; and (b) a deep abrasion on the left cheek. The cause of death was the massive, external and internal hemorrhage due to the stab wound at the back, left side.[23]

For his part, accused-appellant professed innocence. He denied the crimes imputed to him and attempted to put the blame upon somebody, an unknown unidentified person. Along with accused-appellant's testimony, the testimony of Jovito Nadarisay[24] was offered by the defense.

Accused-appellant's version of the incident is as follows:

Accused-appellant. and Lorenzo Tejero, residents of Pagpagatpat, Tayum, Abra, went to Lagangilang, Abra on that fateful night of March 4, 1996 to attend the town fiesta.[25] They watched a "zarzuela" at the ASIST amphitheater at 9:00 o'clock.[26] Between the hours of 10 and 12, they went on their way to the road where the public utility vehicles pass to get a ride for home.[27]

They met three drunk persons while descending an incline at the main gate of ASIST. When he told Tejero "Bumaba" (go down or going down) the three misheard what he said as "Kuba" (hunchback).[28] One of the

drunk men, Joseph Bon-ao, a hunchback, asked accused-appellant and his group whom among them said "Kuba".[29] He and Tejero denied they were the ones but the hunchback asked for their names and the accused gave his name as Roland "Sleepy" Molina from Pagpagatpat and he, in turn, asked who they are.[30] The Bon-aos and their companion did not answer, instead they surrounded Molina and Tejero and when Joseph tried to draw a bolo, he picked up a stone and threw the same at Joseph who was not hit.[31] Molina then ran away and after covering a distance of 10-15 meters, he was overtaken by a "taller" man who held him at the back of his collar.[32] Joseph got near this "taller" man and armed with a knife tried to stab Molina who stooped low to avoid the blow and was not hit.[33] A table belonging to a "balut" vendor was hit instead.[34] He shouted for help saying, "Bro, help me." By the time he called again Lorenzo Tejero for help, the "taller" man was not there anymore.[35] He did not recognize this "taller" man because he was stooping to avoid "kuba's" knife. He ran to the fair grounds where there is a big crowd.[36] He did not notice a third man. He learned just then that there was somebody hurt in the commotion where he and Tejero were before he ran to the fair ground.[37] Afterwards, he went home.[38]

In the course of the trial, it was discovered that accused-appellant was previously charged and convicted of attempted homicide in Criminal Case No. 1133 by the same Regional Trial Court in a decision dated October 9, 1996.[39] The dispositive portion of the said decision reads:

WHEREFORE, the Court finds accused Roland Molina and Pio Pataray guilty beyond reasonable doubt of the crime of attempted homicide, with the aggravating circumstances of dwelling and nighttime, defined and penalized under Article 249 of the Revised Penal Code, in relation to Articles 6, 51, and 64 of the same code, and hereby sentences him to the indeterminate penalty of six (6) months of arresto mayor to four (4) years of prision correccional as maximum.

Both accused are further ordered to indemnify the private complainant the sum of five thousand pesos (P5,000.00) representing actual damages and to pay the costs of this suit.

SO ORDERED.[40]

When confronted with this fact on the witness stand on December 18, 1997, accused-appellant interposed no objection and admitted the same.[41]

In a Decision dated February 26, 1998, the trial court convicted accused-appellant of the crimes for which he was charged, appreciating against him the aggravating circumstance of recidivism. The decretal portion of the decision reads:

WHEREFORE, premises considered, the Court finds the accused Roland Molina guilty beyond reasonable doubt of the crime of murder defined and penalized under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, with the aggravating circumstance of recidivism and no mitigating circumstance for the death of Joseph Bon-ao and sentences him to suffer the extreme penalty of death and to indemnify the heirs of the victim the amount of P75,000.00 in actual damages plus the amount of P50,000.00 for his death plus the amount of P500,000.00 in moral and exemplary damages and to pay the costs; likewise [sic], the Court finds the same accused guilty beyond reasonable doubt of the crime of frustrated murder defined under Article 248 of the Revised Penal Code as amended in relation to Article 6 of the same code with the aggravating circumstance of recidivism and no mitigating circumstance for the fatal wounding of Angelito Bon-ao and sentences him to suffer an indeterminate penalty of four (4) years, two (2) months and twenty-one (21) days of prision correccional as minimum to eight (8) years of prision mayor as maximum, to indemnify Angelito Bon-ao the amount of P50,000.00 in actual and compensatory damages plus P100,000.00 in moral and exemplary damages and to pay the costs.

SO ORDERED.[42]

Accused-appellant challenges the appreciation of facts by the trial court in totally disregarding the defense's version of the incident. He contends that the testimony of Nadarisay is not per se incredible and improbable. In a simple manner, he argues, 44-year-old Nadarisay narrated how the Bon-aos were stabbed by Lorenzo Tejero and not by accused-appellant himself. He professed that Nadarisay unequivocally identified Tejero as the real assailant of the Bon-aos. Furthermore, accused argues that the encounter between the accused-appellant and the victims was casual and the attack was done impulsively, hence the act done at the spur of the moment is not treacherous.[43]

We find accused-appellant's protestations to be untenable.

We see no reason to disturb the findings and evaluation made by the trial court. Issues of appreciation of evidence and credibility of witnesses are best left to the trial court for it is only the trial court that has the foremost opportunity to weigh and assess these matters. We have long declared that the Supreme Court will not interfere with the judgment of the trial court in passing upon the credibility of opposing witnesses, unless there appears in the record some facts or circumstances of weight and influence which have been overlooked and, if considered, would affect the result.[44]

Indeed, the testimony of the two eyewitnesses, Angelito Bon-ao and Danny Vidal, to the commission of the crime, is consistent, categorical and hardly suffers from grave inconsistencies.

Angelito Bon-ao testified thus:

DIRECT EXAMINATION (Atty. Pre)

Q: Where were you going with your companions?

A: We plan in going home here in Bangued because we have a service car near the gate of the ASIST sir and our arrangement to the driver around 12:00 o'clock we're going home in Bangued, Abra.

Q: And while you were walking with your cousin Danny Vidal and brother Joseph Bon-ao, is there anything unusual incident that happened?

A: Yes sir.

Q: What happened?

A: My brother sir was stabbed.

COURT:

Q: How about you?

A: I was also stabbed sir.

ATTY. PRE:

Q: When you said your brother was stabbed were there persons?

A: Yes sir.

Q: Who were these persons?

A: He is Mr. Sleepy Molina sir. Witness pointed to the accused who is sitting at the accused bench.

Q: Was he with some companions?

A: Yes sir but I can't recognize his companions.

Q: Did you know Roland Molina on that night?

A: On that spot sir he introduced himself sir.

COURT:

Q: How did he introduced himself?

A: When we were walking and about to meet the group of Roland Molina one of them shouted “kuba”, “kuba” my brother got angry because he is a hunchback and still they call him “kuba”, “kuba”. We consulted them.

ATTY. PRE:

Q: Who consulted them?

A: My brother and my cousin sir.

Q: What did they say when they confronted them?

A: Do not fool at Sleepy Molina who is from Pagpagatpat.

Q: Who is Sleepy Molina you are referring to?

A: The accused sir.

COURT:

Q: Do not fool at sleepy Molina who is from Pagpagatpat is that what he said?

A: Yes sir.

ATTY. PRE:

Q: When Roland Molina said that what followed next?

A: Then if you were not the one who shouted "kuba kuba" then it is alright with us.

Q: Who said that?

A: Danny and my brother sir.

Q: Then what happened next?

A: As soon as we turn our back that was the time Roland Molina stab my brother sir.

Q: What part of the body of your brother was stabbed by Roland Molina?

A: At his back sir.

Q: How many times?

A: Once sir.

Q: Did you see the stabbing of your brother?

A; Yes sir.

Q: And then what did you do when your brother was stab?

A: When my brother was stabbed I went to help him sir. When I went to the succor of my brother although I was not armed he stab me sir. I was stab here witness showing a scars at the right side of his back.

ATTY. PRE:

May we make it of record that the witness puts up his shirt, showed his body where there are several scars.

COURT:

Q: So, you are the second man who was stabbed of the two of you?

A: Yes Sir.

Q: And what happened when you were stabbed?

A: They ran away sir.

Q: And how about you, what did you do?

A: We asked for the help of the police authorities sir.

Q: Was there police who came?

A: Yes Sir.

Q: What did they do with your brother Joseph?

A: We were brought to the police car sir.

Q: Where did they bring him?

A: Seares Family Clinic, sir.

Q: Did your brother reach the hospital alive?

A: He was already dead when we reached the hospital sir.

Q: And you were the one who was treated?

A: Yes Sir.

Q: Do you know the doctor who treated you?

A: Yes Sir. Dr. Huber Seares sir.

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CROSS-EXAMINATION (Atty. Velasco)

Q: Did you see actually the stabbing of your brother?

A: Yes sir.

Q: Even from a distance of about 3 to 4 meters away ahead with your back against your brother and the accused?

A: Yes sir because I turn my head towards them (tinalliaw).[45]

Thus, Angelito Bon-ao categorically and consistently pointed out accused-appellant as the person who inflicted the fatal wound on his brother Joseph and likewise administered the fatal injuries on Angelito himself. Where it not for the timely medical assistance of Dr. Suares[46], Angelito would have succumbed to death.

The other eyewitness to the incident, Danny Vidal, likewise gave a credible testimony. His declaration at the

witness stand:

DIRECT EXAMINATION (Atty. Pre)

Q: Will you narrate how the incident happened on that night?

A: While we were walking we met several persons one of them shouted "kuba".

COURT:

Q: Kuba is kubbo in ilocano dialect is that correct?

A: Yes, sir.

Q: Is there any "kuba" among the three of you?

A: Yes sir.

Q: Who?

A: Joseph Bon-ao sir.

ATTY. PRE:

Q: When somebody said "Kuba" what followed next?

A: We asked who among them shouted "kuba" and they answered none.

Q: Who answered?

A: Roland Molina Sir.

Q: Is that Roland Molina you are referring to inside the courtroom?

A: Yes Sir.

Q: Will you point at him?

A: Witness pointed to the accused who is sitted [sic] at the accused bench.

Q: And when Roland Molina said "none", what followed next?

A: After that we told them if nobody shouted that, we better go. But when we proceeded walking that was the time Roland Molina stabbed Joseph Bon-ao Sir.

Q: How far were you from Joseph Bon-ao, when he was stabbed by Roland Molina?

A: Two (2) meters sir.

COURT:

Q: Who of them was stabbed first?

A: Joseph Sir.

Q: What part of Joseph was hit? At his back?

A: Yes Sir.

Q: How many times did Molina stab Joseph?

A: Once Sir.

COURT:

Continue.

ATTY. PRE:

Q: What happened when Joseph was stabbed?

A: When he was stabbed his brother came to his succor but he again stab the younger brother of Joseph sir.

Q: You are referring to Angelito Bon-ao?

A: Yes Sir.

Q: How many times did Roland Molina stab Angelito Bon-ao when he came to succor his brother?

A: I cannot recall sir.

COURT:

Q: What happened after Roland Molina stab Angelito Bon-ao?

A: They ran away sir.

Q: When you say they, the group of Molina or your group?

A: Group of Roland Molina sir.

Q: Where did they go?

A: I do not know sir.

Q: How many people were there in the group of Molina?

A: There were 3 of them sir.

Q: What did you do after the stabbing of your cousins?

A: When Joseph Bon-ao slogged down to the ground I went to carry him sir.

Q: Where did you bring him?

A: I brought him at the edge of the road sir.

Q: How about Angelito Bon-ao, what did you do to him?

A: After bringing Joseph Bon-ao at the edge of the road I also went to get Angelito Bon-ao sir.

Q: Where did you bring him?

A: I brought him to the police car sir.

Q: How about Joseph, where did you bring him?

A: I also brought him to the police car sir.

COURT:

Continue.

ATTY. PRE:

Q: And when they were brought to the police car where did you bring them?

A: We brought to the Seares Family Clinic sir.

Q: Who were the policemen who help you bring the Bon-ao brothers to the Seares Clinic?

A: I cannot recall anymore sir.

COURT:

Q: Was Joseph still alive when you reach Seares Family Clinic?

A: No more sir.

Q: So, he is dead already?

A: Yes sir.[47]

Danny Vidal was unwavering in his positive identification of accused-appellant as the malefactor of the crimes for which he was charged. Thus, Danny further buttressed Angelito Bon-ao's testimony.

As weighed against the positive identification of accused-appellant by one of his victims, Angelito Bon-ao, which was further corroborated by an eyewitness to the scene, Danny Vidal, and the absence of any showing of ill-motive on their part other than their quest for justice, accused-appellant's denial of commission of the crime and imputation of the same to another person is demolished to obscurity.[48] Besides, accused-appellant's imputation of the crime to another malefactor was heard of only during his testimony[49] and was never raised before the police authorities during the investigation. Clearly, his bare denial amounts to nothing more than negative and self-serving evidence undeserving of weight in law.[50]

With respect to treachery, it is our view that the prosecution has convincingly established the same. Jurisprudence has required that treachery must be proved by clear and convincing evidence, or as conclusively as the killing itself.[51] For treachery to be appreciated as a qualifying circumstance, two (2) conditions must concur, to wit: (a) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (b) that said means of execution be deliberately and consciously adopted.[52]

In the case under review, the concurrence of the said conditions is firmly anchored on the declarations of the prosecution eyewitnesses', Danny Vidal and Angelito Bon-ao. Both Vidal and Bon-ao witnessed that, for no apparent reason, after they started to leave the presence of Molina's group, the latter stabbed Joseph Bon-ao at his back. The sudden and unanticipated killing of Joseph Bon-ao reinforced the trial court's finding of treachery, bolstered by the fact that the striking blow was at the back of the victims.[53] The same holds true to Angelito who was completely caught off guard as he was stabbed three (3) times when he chose to aid his brother Joseph. The Bon-aos had no inkling that Joseph's inquiry on who shouted "kuba" would foreshadow the untimely demise of Joseph and the near death of Angelito. As consistently held by this Court, an unexpected and sudden attack under circumstances which render the victim unable and unprepared to defend himself by reason of the suddenness and severity of the attack constitutes *alevosia* or treachery.[54] Its essence lies in the adoption of ways that minimize or neutralize any resistance which may be put up by the unsuspecting victim.[55]

On the aggravating circumstance of recidivism, the trial court properly appreciated the same though not alleged in the information. Article 14(9) of the Revised Penal Code defines a recidivist as "one who, at the time of his trial for one crime shall have been previously convicted by final judgment of another crime embraced in the same title of this Code." To prove recidivism, it is necessary to allege the same in the information and to attach thereto certified copies of the sentences rendered against the accused. Nonetheless, the trial court may still give such

aggravating circumstance credence if the accused does not object to the presentation of evidence on the fact of recidivism.[56]

In the case at bar, the accused-appellant never voiced out any objection when confronted with the fact of his previous conviction for attempted homicide in a decision dated October 9, 1996 in Criminal Case No. 1133.[57] Neither does it appear that accused-appellant appealed from the said decision of conviction for attempted homicide, claiming he became aware of the promulgation of the decision in that case only at the provincial jail during the pendency of his case for murder and frustrated murder.[58] Thus, at the time of his trial for murder and frustrated murder, the decision in Criminal Case No. 1133 for attempted homicide has long been final.

All the foregoing considered, the trial court did not err in convicting the accused-appellant for the crimes of murder and frustrated murder. Article 248 of the Revised Penal Code, as amended, prescribes the penalty of reclusion perpetua to death for the crime of murder. Article 63, second par. of the Revised Penal Code, provides that "[i]n all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof: 1. [w]hen in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied." Thus, the impossible penalty, in view of the presence of the aggravating circumstance of recidivism, shall be the supreme penalty of death for the killing of Joseph Bon-ao.

As regards the frustrated murder of Angelito Bon-ao, the penalty one degree lower than reclusion perpetua to death, which is reclusion temporal, shall be imposed pursuant to Art. 248 of the Revised Penal Code in relation to Art. 50 thereof. Applying the Indeterminate Sentence Law and in the presence of the modifying circumstance of recidivism, the maximum penalty to be imposed shall be taken from the maximum period of the impossible penalty which is reclusion temporal maximum, the range of which is seventeen (17) years, four (4) months and one (1) day to twenty (20) years, while the minimum shall be taken from the penalty next lower in degree which is prision mayor in any of its periods, the range of which is six (6) years and one (1) day to twelve (12) years.

As to the amount of damages, prevailing jurisprudence[59] sets the civil indemnity for death in the amount of P50,000.00, which can be awarded without need of further proof other than the death of the victim. With respect to the award of actual damages in both cases, the same is deleted considering that there is nothing in the record to justify the said award. The Court can only grant such amount for expenses if they are supported by receipts.[60] Moral damages may be recovered in criminal offenses resulting in physical injuries but there must be a factual basis for the award. None appears in this case.[61] As to exemplary damages, there being one aggravating circumstance, exemplary damages in the amount of P30,000.00[62] may be awarded in both cases, pursuant to Article 2230 of the New Civil Code.

Four (4) Justices of the Court however continue to maintain the unconstitutionality of RA No. 7659 insofar as it, prescribes the death penalty; nevertheless, they submit to the ruling of the majority to the effect that the law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

WHEREFORE, the appealed decision dated February 26, 1998 of the Regional Trial Court of Bangued, Abra, Branch 2 in Criminal Case Nos. 1757 imposing the death penalty on the accused-appellant ROLAND MOLINA for the crime of murder is hereby **AFFIRMED** with the **MODIFICATION** that accused-appellant is ordered to pay the heirs of the victim, Joseph Bon-ao, in the amount of P50,000.00 as civil indemnity and P30,000.00 as exemplary damages. In Criminal Case No. 1758, the appealed decision finding accused-appellant ROLAND MOLINA guilty of frustrated murder is likewise **AFFIRMED** with the **MODIFICATION** that he is hereby sentenced to an indeterminate penalty of six (6) years and one (1) day of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum, and to pay the victim, Angelito Bon-ao, the amount of P30, 000.00

as exemplary damages. The awards of actual and moral damages in both cases are DELETED.

In accordance with Sec. 25 of the RA 7659, amending Art. 83 of the Revised Penal Code, upon the finality of this Decision, let the records of Criminal Case No. 1757 be forthwith forwarded to His Excellency, the President of the Philippines, for the possible exercise of his pardoning power. Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

- [1] Penned by Judge Benjamin A. Boñgolan, Rollo, pp. 18-26.
- [2] Record, Criminal Case No. 1757, pp. 1-2.
- [3] Record, Criminal Case No. 1758, pp. 1-2.
- [4] TSN, March 6, 1997, pp. 3-12.
- [5] Id., pp. 13-26.
- [6] Id., pp. 26-38.
- [7] Id., pp. 39-48.
- [8] TSN, March 24, 1997, pp. 2-8.
- [9] Record, Criminal Case No. 1757, p. 6.
- [10] TSN, March 6, 1997, pp. 27-29, 40.
- [11] Id., pp. 29, 40-41.
- [12] Id., p. 30, 41.
- [13] Id., p. 35.
- [14] Id., p. 30.
- [15] Id., p. 41.
- [16] Id., pp. 30, 40, 42-43.
- [17] Id., p. 48.
- [18] Id., pp. 31, 37-38, 40, 43.
- [19] Id., pp. 31, 43.
- [20] Id., p. 32.
- [21] Id., pp. 32, 33, 43-44.
- [22] Id., pp. 5-9; Record, Criminal Case No. 1757, p. 49.
- [23] TSN, March 24, 1997, pp. 4-6; Record, Criminal Case No. 1757, p. 6.
- [24] TSN, January 22, 1998, pp. 2-14.

[25] TSN, December 18, 1997, pp. 3-4.

[26] Id., pp. 3-4.

[27] Id., p. 5.

[28] Id., pp. 5-6.

[29] Id., p. 6.

[30] Id., p. 7.

[31] Id., pp. 7-8.

[32] Id., p. 8.

[33] Id., p. 9.

[34] Id., p. 10.

[35] Id., pp. 10-11.

[36] Id., pp. 11-12.

[37] Id., p. 12.

[38] Id., p. 12.

[39] Decision dated October 9, 1996 in Criminal Case No. 1133, Regional Trial Court of Bangued, Abra, Branch 2, penned by the same judge, Judge Benjamin A. Bongolan, Record, Criminal Case No. 1757, pp. 28-30.

[40] Id., pp. 29-30.

[41] TSN, December 18, 1997, pp. 21-24.

[42] Rollo, p. 26.

[43] Rollo, p. 33.

[44] People v. Tanoy, G.R. No. 115692, May 12, 2000, p. 6; People v. Repollo, G.R. No. 134631, May 4, 2000, p. 9; People v. Galido, G.R. No. 128883, February 22, 2000, p. 8.

[45] TSN, March 6, 1997, pp. 40-44, 47-48.

[46] Id., p. 9.

[47] TSN, March 6, 1997, pp. 40-44, 47-48.

[48] People v. Estorco, G.R. No. 111941, April 27, 2000, p. 17; People v. Galido, *supra.*; People v. Larena, 309 SCRA 305, 317 [1999].

[49] TSN, December 18, 1997, pp. 18-19.

[50] People v. Gallarde, G.R. No. 133025, February 17, 2000, p. 13.

[51] People v. Elijorde, 306 SCRA 188, 198 [1999].

[52] Article 14, par. 16, Revised Penal Code; People v. Galano, G.R. No. 111806, March 9, 2000, p. 12.

[53] People v. Flores, G.R. No. 129284, March 17, 2000, p. 12.

[54] *People v. Base*, G.R. No. 109773, March 30, 2000, p. 39-40.

[55] *People v. Bermas*, 309 SCRA 741, 778 [1999]; *People v. Adoviso*, 309 SCRA 1, 16 [1999]; *People v. Rada*, 308 SCRA 191, 204 [1999]; *People v. Borreros*, 306 SCRA 680, 692-693 [1999].

[56] *People v. Chua*, 297 SCRA 229, 243 [1998]; *People v. Martinada*, 194 SCRA 36, 45, [1991]; *People v. Monteverde*, 142 SCRA 668 [1986]; *People v. Perez*, 106 SCRA 437, 442 [1981].

[57] TSN, December 18, 1997, pp. 21-24; Record, Criminal Case No. 1757, pp. 28-30.

[58] TSN, December 18, 1997, p. 23.

[59] *People v. Orio*, G.R. No. 128821, April 12, 2000, p. 13; *People v. Francisco*, G.R. No. 121682, April 12, 2000, p. 9; *People v. Monte*, G.R. No. 125332, March 2, 2000, p. 9; *People v. Gallardo*, G.R. No. 113684, p. 11.

[60] *People v. Avillana*, G.R. No. 119621, May 12, 2000, p. 7; *People v. Bautista*, G.R. Nos. 96618-19, August 11, 1999.

[61] *People v. Ereño*, February 22, 2000, p. 10; *People v. Bautista*, *supra*.

[62] *People v. Chua*, *supra*. at 245 citing *People v. Bergante*, 286 SCRA 629, 646 [1998].

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