PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO GALVEZ Y JEREZ, ACCUSED-APPELLANT.

G.R. Nos. 136867-68. September 24, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Of all the so-called heinous crimes, none perhaps more deeply provokes feelings of outrage, detestation and disgust than incestuous rape.[1] This case is a revolting example.

For twice ravishing and thereafter impregnating his 14-year old daughter, Rodrigo Galvez y Jerez was charged with two (2) counts of Rape committed on April 30, 1993 and June 30, 1994.[2] The two (2) Informations similarly worded except for the dates and times of commission of the offenses aver -

> That on or about [the] midnight of April 30, 1993, at Barangay Itomang, Municipality of Talisay, Camarines Norte and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his own daughter, one Venus Galvez y Estacion, [a] 14 year old girl, and against her will.
>
> CONTRARY TO LAW.[3]

Upon arraignment in both cases, accused-appellant entered a plea of "not guilty".[4] The cases thereafter proceeded to trial. By agreement of the prosecution and the defense, the hearing of the two cases were held jointly.

After trial, the Regional Trial Court of Daet, Camarines, Norte, Branch 40, found accused guilty beyond reasonable doubt of the crimes charged in both cases and rendered judgment against him thus:

> IN THE CIRCUMSTANCES, the court finds the accused Rodrigo Galvez y Jerez guilty beyond reasonable doubt of the crimes of rape in both cases and in Criminal Case No. 8386 is hereby sentenced to suffer a penalty of imprisonment of Reclusion Perpetua and in Criminal Case No. 8387 to suffer the supreme penalty of death.
>
> Accordingly, the accused is hereby condemned to pay the offended party Venus Galvez the sum of Fifty Thousand (P50,000.00) in each case as moral damages. With costs.
>
> IT IS SO ORDERED.

On automatic review before the Court, accused-appellant alleges that:

> I
>
> THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.
>
> II
>
> THE COURT A QUO ERRED IN NOT CONSIDERING THE ACCUSED-APPELLANT'S ALIBI.

The Prosecution's version of the sexual assaults on private complainant's chastity is summed thus in the People's Brief:

> Accused-appellant and Virginia Galvez are husband and wife with four (4) children, the eldest of which is the victim, Venus, who, at the time of the incident in Criminal Case No. 8386 was only thirteen (13) years old and fourteen (14) years old when the incident in Criminal Case No. 8387 occurred. She has three (3) brothers, Erwin, Richard and Jerryglen, aged 9, 7, and 6 years old, respectively.[5]
>
> In 1993, accused-appellant, Venus and her three (3) brothers were living at Barangay Itomang, Talisay, Camarines Norte in a one-room house. Virginia was then in Manila working as a babysitter since February 1, 1993.[6]
>
> At midnight of April 30, 1993, while Venus was sleeping at their house together with her brothers, she was awakened by accused-appellant, just arrived from a drinking spree, who told her to prepare food for him. After she prepared his food, she went to sleep again. However, she was awakened because she felt her father on top of her. She noticed that the latter was removing or pulling down her panty. She resisted but accused-appellant succeeded in removing her panty. Thereafter, he inserted his penis inside her vagina. She felt pain and in the morning, she noticed that there was blood in her genital organ.[7]
>
> On June 25, 1994, her mother arrived from Manila. However, her youngest brother met an accident and was treated first at Daet Provincial Hospital but later transferred to Naga City. On June 30, 1994, while her mother was at Naga City attending to her injured brother, Venus was left at their house with her two (2) brothers and accused-appellant. At around 10:00 o'clock that evening, she was again awakened from her sleep when she felt her father on top of her. By then, she noticed that her panty was already removed and he inserted his penis inside her vagina. She resisted and felt pain all over her body because of her resistance. She even tried to reach out to her brothers who were sleeping nearby. Accused-appellant then took hold of her two (2) hands and told her to keep quiet because somebody might hear the noise. He further threatened her not to report what happened to anybody, especially to her mother and neighbors, otherwise, something bad will happen to her and to those who will be told.[8]
>
> Virginia Galvez confirmed that on July 30, 1994, she was at Bicol Regional Hospital at Naga City watching over her son, Gerryglen (sic), who sustained injuries in an accident. Meanwhile, Venus was left at their house with accused-appellant and her two (2) other sons. She stayed at the hospital with Gerryglen for fifteen (15) days.[9] Sometime in August 1994, Virginia noticed that Venus' monthly periods had stopped coming and she was becoming "healthy". Virginia then confronted her daughter and the latter revealed that it was accused-appellant who raped her several times. She immediately confronted her husband who admitted the rape. Undecided whether to take any action against her husband at first, considering that it was her family's reputation at stake, Virginia finally summoned the courage to report to the Police Station at Talisay where she and Venus executed Sworn Statements which led to the filing of the Complaint against accused-appellant.[10]
>
> On September 17, 1994, Venus was examined by Dr. Marcelito Abas at Camarines Norte Provincial Hospital. The findings, as evidenced by the Medical Certificate,[11] revealed the following:
>
> Genital Examination:
>
> -Admits middle finger easily
>
> -Multiple Healed Lacerations, hymen;
>
> Laboratory Result: Pregnancy Test - Positive.
>
> Dr. Abas confirmed in open court that the multiple healed lacerations of the victim's hymen was caused by the entry of the penis or the result of various sexual intercourses that the victim had experienced.[12]

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> At the time of the medical examination, the victim was already three (3) months on the family way. She gave birth to a baby girl on April 3, 1995, whose fact of birth was registered with the Local Civil Registrar's Office.[13]

Accused-appellant vehemently denied that he sexually abused the victim. Insisting that he is innocent, he disclaims committing the first rape because at the time of its commission, his wife was employed as a baby sitter in Manila[14] having started to work therein on January 2, 1992, accompanied by the victim,[15] and they returned to the family residence only on March 4, 1994.[16] Likewise claiming innocence on the second sexual assault on the private complainant, he testified that on June 27, 1994, his son Jerry Glen was bumped by an "owner type" jeep and fractured his right ankle.[17] Jerry Glen was then brought to the Provincial Hospital in Daet and was later transferred to the Bicol Regional Hospital in Naga in the evening of June 27, 1994.[18] According to him, he could not have raped the victim on June 30, 1994 because he was with his wife and the private complainant at the Bicol Regional Hospital the whole day and evening of said date tending to their injured son.[19]

The Court has ruled that in reviewing rape cases, it will be guided by the settled realities that an accusation for rape can be made with facility. While the commission of the crime may not be easy to prove, it becomes even more difficult for the person accused, although innocent, to disprove that he did not commit the crime. In view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the complainant must always be scrutinized with great caution.[20] Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.[21]

Guided by the foregoing principles, the Court has assiduously scrutinized the testimony of fourteen-year old Venus Galvez and has reached the opinion that her testimony on the acts of rape perpetrated by her father is clear and could have only been narrated by a victim subjected to such sexual assaults. Thus:

> FISCAL PANTE:
>
> Q
>
> Now, sometime on April 30, 1993 at midnight while you were in your house in Barangay Itomang, Talisay, Camarines Norte staying and living under the parental care and love of your father, Rodrigo Galvez, did you come to know of any unusual incident that happened to you?
>
> A
>
> There was, sir.
>
> Q
>
> What was that incident about? Can you tell the court what it is? I withdraw that question.
>
> On the night of April 30 or at midnight of April 30, 1993 while you were in your house, what were you doing at that time?
>
> A
>
> I was asleep.
>
> Q
>
> While sleeping, did you intend to wake up?
>
> A

Yes, sir.

Q

What awakened you?

A

My father woke me up since he just came from a drinking spree and told me to prepare food for him.

Q

Did you prepare the food for your father, the accused, Rodrigo Galvez?

A

Yes, sir.

Q

After you prepared the food and gave it to your father, the herein accused, what happened next?

A

I slept.

Q

And then, you were awakened?

A

Yes, sir.

Q

What awakened you?

A

I was awakened because my father was already on top of me.

Q

When you noticed that he was already on top of you, what did you do?

A

I resisted, sir.

Q

Why, what was your father doing to you? That compelled you to resist?

A

Because he was removing my panty.

Q

Was your father able to remove your panty?

A

Yes, sir.

Q

After your father removed your panty, what did your father do to you?

A

He inserted his penis on my vagina.

Q

Was he able to enter his penis to your vagina?

A

Yes, sir.

Q

What did you feel when the penis of your father enter your vagina?

A

I felt pain.

FISCAL PANTE:

Q

How many times did your father enter his penis your vagina?

A

Only once.

Q

Did you notice any blood from your genital organ?

A

I noticed the blood on the morning already.

Q

Now, after your father had sexual intercourse with you, did your father say anything against you?

A

He did not say anything.

Q

Until the following morning, he did not say anything?

A

No, sir.

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Q

At that time according to you, your mother was in Manila, do you have any other relative close to you who was in Barangay Itomang aside from your father and your sister and brothers?

A

None, sir.

Q

Now, you said that your father sexually abused you on April 30, 1993. Sometime on June 30, 1993 at around 10:00 in the evening, where were you residing then at that time?

A

Still in Itomang.

FISCAL PANTE:

Q

Where was your mother at that time?

A

She was in the hospital because she brought our youngest brother who was sick for treatment.

Q

And who was left in your house that night on June 30, 1993?

A

When my mother was at the hospital, the only person left in the house were the four of us, my brothers, and sister, my father went home in the afternoon already and came back in the evening.

Q

What time did he go back?

A

Our father came back at around 8:30 in the evening.

Q

What was his condition at that time when he came back at your house?

A

It seems to me he was drunk.

Q

At around 10:00 o'clock in the evening on June 30, 1993, what were you doing then at that time at your house at Barangay Itomang, Talisay, Camarines Norte?

A

I was already asleep.

FISCAL PANTE:

Q

While you were sleeping, did you have an occasion to wake up?

A

Yes, sir.

Q

Why were you awakened?

A

I was awakened at around 10:00 that evening because my father was on top of me. My panty was already removed.

x x x x x x x x x

FISCAL PANTE:

Q

What was your father doing on top of you when you noticed him?

A

When I was awakened that 10:00 o'clock I noticed that my father was already on top of me and my panty was removed. I was again sexually abused and I resisted and I even cried because it was painful. Then my father took hold of my arm.

Q

After your father took hold of your both hands, what more did your father do to you?

A

After my father took hold both of my arms, he told me to keep quiet because somebody might hear the noise or the commotion and he further threatened me not to report or tell anybody about what had happened specially my mother and our neighbors because if I do that, something bad will happen to me.

FISCAL PANTE:

Q

You said that you resisted your father in having sexual intercourse with you because you felt pain, on what part of your body did you feel pain?

A

I felt pain on my sexual organ and also on my whole body because I have been resisting him.

Q

Why, was the penis of your father able to penetrate on your vagina that caused pain?

A

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Yes, sir.

x x x x x x x x x

Q

Now, you said that the accused, your own father, sexually abused you on June 30, 1993, (sic) did you get pregnant because of what your father did to you?

A

Yes, sir.

Q

What happened to your pregnancy that you suffered from the hands of your own father?

A

I gave birth to a child.

Q

When did you give birth?

A

I gave birth last April 3, 1995.

Q

Is the child a girl or a boy?

A

It was a girl.

Q

Who is the father of that offspring?

A

My father, sir.[22]

Venus remained resolute and unflinching in her account that she was ravished by accused-appellant and got pregnant as a result of the sexual assaults on her, despite attempts by the defense counsel to throw her off track on cross-examination.[23] The questioning of defense counsel, in fact, only succeeded in revealing that even before June 30, 1994, there were several other occasions when she was sexually abused by accused-appellant but she filed only two (2) cases against him.[24]

In stark contrast to the clear and categorical declarations of the private complainant, accused-appellant merely raised alibi as his defense. However, such a defense is unavailing given the facts prevailing herein. The Court has consistently looked upon the defense of alibi with suspicion and received it with caution not only because it is inherently weak and unreliable but also because it can be easily fabricated.[25] Unless supported by clear and convincing evidence, the same cannot prevail over the positive declarations of the victim who, in a simple and straightforward manner, convincingly identified the accused-appellant as the defiler of her chastity.[26]

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Established is the rule that testimonies of rape victims, especially child victims, are given full weight and credit.[27] It bears emphasis that the victim was barely thirteen when she was raped. In a litany of cases, this Court has applied the well settled rule that when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed.[28] Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and putting up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and to have the offender apprehended and punished.[29]

The embarrassment and stigma of allowing an examination of her private parts and testifying in open court on the painfully intimate details of her ravishment effectively rule out the possibility of a false accusation of rape[30] by the private complainant. Indeed, it would be most unnatural for a young and immature girl to fabricate a story of rape by her father; allow a medical examination of her genitalia, subject herself to a public trial and expose herself to public ridicule all because she wanted to exact revenge against accused-appellant for allegedly inflicting upon her physical injuries because she purportedly came home late.[31] Verily -

> Well settled is the rule that no woman would concoct a story of defloration, allow an examination of her private parts and submit herself to public humiliation and scrutiny via a public trial if her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished.[32] A young girl's revelation that she has been raped coupled with her voluntary submission to medical examination and her willingness to undergo pubic trial where she would be compelled to give out the details of an assault on her dignity by, as in this case, her own father, cannot be so easily dismissed as a mere concoction.[33] Courts usually give credence to the testimony of a girl who is a victim of sexual assault particularly if it constitutes incestuous rape because, normally, no person would be willing to undergo the humiliation of a public trial and to testify on the details of her ordeal were it not to condemn an injustice. Needless to say, it is settled jurisprudence that testimonies of child victims are given full weight and credit, since when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.[34]

Furthermore, it would not be remiss to point out that ill motive is never an essential element of a crime. It becomes inconsequential where there are affirmative, nay, categorical declarations towards the accused-appellant's accountability for the felony.[35]

In the light of the positive testimony of the victim proving accused-appellant's criminal accountability, his alibi must perforce fail. As between the categorical testimony that rings of truth on one hand and the bare alibi on the other, the former must prevail. A mere denial like alibi is inherently a weak defense and constitutes self-serving negative evidence which can not be accorded greater evidentiary weight than the declaration of credible witnesses who testify on positive matters.[36]

Inasmuch as the Court finds no reason to reverse the ruling of the trial court insofar as the rapes were committed, all that remains to be determined is the propriety of the penalties imposed upon accused-appellant.

The penalty of reclusion perpetua was correctly imposed on accused-appellant with regard to the sexual assault committed on April 30, 1993, as alleged in the Information in Criminal Case No. 8386, considering that R.A. No. 7659 which restored the death penalty took effect only on December 31, 1993.[37] Nevertheless, while accused-appellant's guilt was likewise proved beyond reasonable doubt in Criminal Case No. 8387, the Court finds the imposition of the death penalty against him unwarranted. The pertinent provisions of Article 335 of the Revised Penal Code, as amended by Section 11, R.A. No. 7659 provides that:

> ART. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman

> under any of the following circumstances:
>
> x x x x x x x x x
>
> The death penalty shall also be imposed if the crime is committed with any of the following attendant circumstances:
>
> 1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

The two circumstances of minority and relationship must concur; otherwise, if only one is proven during trial, even if the complaint or information alleged both, the death penalty cannot be imposed.[38]

In this case, while the complaint alleged that she was thirteen years old at the time of the commission of the offense, the prosecution did not present independent proof to substantiate the age of Venus such as her birth certificate, school record or other competent evidence to establish her minority.[39] Viewed vis-à-vis the foregoing statutory and jurisprudential standards, accused-appellant can only be convicted of simple rape which is punishable with reclusion perpetua.

The Court notes that while the trial court awarded moral damages, it did not award any civil indemnity which is mandatory upon the finding of rape.[40] Civil indemnity is distinct from and should not be denominated as moral damages which are based on different jural foundations and assessed by the court in the exercise of sound discretion.[41] Current case law fixes indemnity ex delicto in case of simple rape at P50,000.00.[42]

Given the prevailing facts of this case, exemplary damages in each case of rape,[43] pegged at P25,000.00 in line with controlling case law[44] and recently reiterated in People v. Catubig,[45] must likewise be awarded to deter other fathers with perverse tendencies and aberrant sexual behavior from preying upon and sexually abusing their daughters.[46]

WHEREFORE, the Joint Decision of the Regional Trial Court of Daet, Camarines Norte, Branch 40, finding accused-appellant guilty beyond reasonable doubt of two counts of rape in Criminal Cases Nos. 8386 and 8387, is AFFIRMED with the MODIFICATIONS that the accused-appellant is hereby:

1.] sentenced to two counts of Reclusion Perpetua in Criminal Cases Nos. 8386 and 8387;

2.] ordered to pay Venus Galvez, for each count of rape, the amounts of:

> a.] P50,000.00 as moral damages;
>
> b.] P50,000.00 as indemnity ex delicto;
>
> c.] P25,000.00 as exemplary damages; and

Costs de oficio.

SO ORDERED.

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

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[1] People v. Baculi, 246 SCRA 756 [1995].

[2] Criminal Cases Nos. 8386 and 8387, Rollo, pp. 6-7.

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[3] In Criminal Case No. 8387, the Information alleges that the second offense occurred on June 30, 1994 at 10:00 p.m.

[4] Record, p. 8.

[5] TSN, 4 May 1995, pp. 17-18.

[6] Ibid.

[7] Id., pp. 19-21.

[8] Id., pp. 21-25.

[9] TSN, 23 September 1996, pp. 7-8.

[10] Ibid., pp. 9-10.

[11] Exhibit A.

[12] TSN, 23 September 1996, pp. 7-8.

[13] Exhibit B.

[14] TSN, 12 February 1998, pp. 4-5.

[15] Ibid., pp. 5-6.

[16] Id., p. 5.

[17] Id., pp. 6-7.

[18] Id., p. 7.

[19] Id., pp. 8-10.

[20] People v. Jimmy Mijano y Tamora, G.R. No. 129112, 23 July 1999, 311 SCRA 81.

[21] People v. Emil Babera y Rabanera, G.R. No. 130609, 30 May 2000, p. 8, citing People v. Dacoba, 289 SCRA 265 [1998] and People v. Gagto, 253 SCRA 455 [1996].

[22] TSN, 4 May 1995, pp. 19-23, 25-26, 27.

[23] Ibid., pp. 33-41.

[24] Id., p. 36.

[25] People v. Fernando Diasanta, G.R. No. 128108, 6 July 2000, 335 SCRA 218, 229; People v. Felipe Hofileña y Taala, G.R. No. 134772, 22 June 2000, 334 SCRA 214, 227, citing People v. Penaso, G.R. No. 121980, 23 February 2000.

[26] People v. Mario Caldona y Llamas, G.R. No. 126019, 1 March 2001, p. 14.

[27] People v. Galimba, 253 SCRA 722, 728 [1996]; People v. Rosare, 264 SCRA 398, 412 [1996]; People v. Escober, 281 SCRA 498, 508 [1997], People v. Lusa, 288 SCRA 296, 303 [1998].

[28] People v. Ramon Mariño y Mina, G.R. No. 132550, 19 February 2001, p. 1, citing People v. Balmoria, 287 SCRA 687, 707-708 [1998]; People v. Tabugoca, 285 SCRA 312, 329 [1998]; People v. Tumala, Jr., 284 SCRA 436, 439 [1998].

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[29] People v. Adora, 275 SCRA 441, 467 [1997]; People v. Junio, 237 SCRA 826, 831 [1994]; People v. Lagrosa, Jr., 230 SCRA 298 [1994]; People v. Domingo, 226 SCRA 156, 174 [1993]; People v. Lusa, supra.

[30] People v. Pontilar, 275 SCRA 338, 350 [1997], citing People v. Ramirez, 266 SCRA 335 [1997]; People v. Dela Cruz, 251 SCRA 77, 85 [1995]; People v. Sanchez, 250 SCRA 14, 20 [1995].

[31] TSN, 12 February 1998, p. 11

[32] People v. Taño, G.R. No. 133872, 4 May 2000; People v. Amigable, G.R. No. 133857, 31 March 2000; People v. Sampior, G.R. No. 117691, 1 March 2000.

[33] People v. Antipona, 274 SCRA 328, 335 [1997].

[34] People v. Alfredo Nardo y Rosales, G.R. No. 133888, 1 March 2001, p. 15, citing People v. Lusa, 288 SCRA 296 [1998].

[35] People v. Deolito Optana, 12 February 2001, p. 29, citing People v. Segundo, 228 SCRA 691 [1993].

[36] People v. Camilo Villanueva, G.R. No. 135330, 31 August 2000, p. 13, citing People v. Alvero, G.R. Nos. 134536-38, 5 April 2000.

[37] People v. Manuel Perez y Magpantay, G.R. No. 113265, 5 March 2001, p. 10.

[38] People v. Efren Valez, G.R. No. 136738, 12 March 2001, p. 23, citing People v. Ramos, 296 SCRA 559 [1998].

[39] See People v. Tabanggay, supra.

[40] Id.

[41] People v. Florante Aguiluz y Nuque, G.R. No. 133480, 15 March 2001, pp. 11-12; People v. Francisco Villanos y Tumamang, G.R. No. 126648, 1 August 2000, citing People v. Emocling, 297 SCRA 214 [1998]; People v. Ignacio, 294 SCRA 542 [1998] and People v. Adora, 275 SCRA 441 [1997].

[42] People v. Segundo Cano, G.R. No. 130631, 30 August 2000; People v. Mamac, G.R. No. 130332, 31 May 2000; People v. Orio, G.R. No. 128821, 12 April 2000; Rafales, G.R. No. 133447, 21 January 2000; People v. Caballero, 258 SCRA 541 [1996]; People v. Abordo, 258 SCRA 571 [1996].

[43] People v. Nilo Ardon, G.R. Nos. 137753-56, 16 March 2001, p. 15.

[44] People v. Jose Elpedes y Sunas, G.R. Nos. 137106-07, 31 January 2001, p. 12, citing People v. Arillas, G.R. No. 130593, 19 June 2000; People v. Renato Puzon y Juquiana, G.R. Nos. 123156-59, 29 August 2000, p. 6, citing People v. Guiwan, G.R. No. 117324, 27 April 2000.

[45] G.R. No. 137842, 23 August 2001.

[46] People v. Reynaldo Freta y Cuevas, G.R. Nos. 134451-52, 14 March 2001, pp. 11-12, citing People v. Sayao, G.R. No. 124297, 21 February 2001; People v. Bawang, G.R. No. 131942, 5 October 2000; People v. Santos, G.R. Nos. 131103 & 143472, 29 June 2000; People v. Docena, 322 SCRA 820 [2000]; People v. Teves, 310 SCRA 783 [1999]; People v. Alfredo Alipar y Alinsod, G.R. No. 137282, 16 March 2001; People v. Nilo Ardon, supra.

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