

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ILADIO CARALIPIO, APPELLANT.

G.R. Nos. 137766-67. November 27, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Once again, the Court is faced with a death penalty improvidently imposed by the trial court, because of its utter failure to apply the well-settled rule that in prosecutions for incestuous rapes, the minority of the victim must not only be alleged in the information but also be proven beyond reasonable doubt. Thus, this Court again exhorts trial judges to be more careful and prudent in imposing the death sentence.

The Case

For automatic review before this Court is the January 21, 1999 Decision[1] of the Regional Trial Court (RTC) of Bauang, La Union (Branch 67) in Criminal Cases Nos. 2030 and 2031, convicting Iladio Caralipio of two (2) counts of qualified rape and imposing upon him the penalty of death. The dispositive portion of the appealed Decision reads as follows:

“WHEREFORE, judgment is hereby rendered finding the accused ILADIO CARILIPIO guilty beyond reasonable doubt of the crime of RAPE as charged in both Information (Criminal Cases Nos. 2030 and 2031), aggravated by the fact that the same was committed by the accused who is the father of the complainant, he is hereby sentenced to suffer the supreme penalty of DEATH in each count, as provided for under R.A. No. 7659; to pay the complainant Salome Caralipio the sum of P100,000.00 as damages, plus all the accessory penalties provided by law, without subsidiary imprisonment in case of insolvency and to pay the cost.

SO ORDERED.”[2]

In two (2) separate Informations both dated August 6, 1997, appellant was accused of raping his daughter as follows:

Criminal Case No. 2030

“That sometime in the middle part of the year 1995, in the Municipality of Bauang, Province of La Union, Philippines, 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 sexual intercourse with his daughter SALOME C. CARALIPIO then 13 years old, against the latter’s will and consent, to the damage and prejudice of said offended party.”[3]

Criminal Case No. 2031

“That on or about the 15[th] day of March 1997, in the Municipality of Bauang, Province of La Union, Philippines, 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 sexual intercourse with his daughter, SALOME C. CARALIPIO, sixteen (16) years old, against the latter’s will and consent, to the

damage and prejudice of said offended party.”[4]

During his arraignment on May 13, 1998, appellant, with the assistance of his counsel de oficio,[5] pled not guilty. After trial on the merits, the RTC rendered the assailed Decision.

The Facts

Version of the prosecution

The Office of the Solicitor General (OSG) narrated the alleged sexual transgressions against the victim as follows:

“A. The rape in the night of May 1995:

“1. Complainant Salome Caralipio, then fourteen years old, lived in a small hut in a mountainous area located at Barangay Guerrero, Bauang, La Union. She lived with her parents, appellant Iladio Caralipio and Estrellita Caralipio, and her three younger brothers. At night, it was customary for them to sleep in a row side by side, thus: appellant placed himself at one end of the row, beside him was his wife Estrellita, then Salome’s youngest brother, Salome herself, and next to her, her two other brothers.”

“2. Sometime in the month of May 1995, the sleeping arrangement was altered. Though the family members continued to sleep beside each other, Salome no longer slept between her brothers but found herself occupying the space at the other end of the row previously occupied by her two brothers. The new sleeping arrangement was as follows: appellant occupied one end of the row, then his wife Estrellita, Salome’s three brothers, and, on the other end, Salome herself.

“3. One night in May 1995, Salome was roused from sleep as her body was aching. Upon opening her eyes, she saw her father, appellant Iladio Caralipio, lying beside her. He was totally naked and, with a bolo poked at Salome, was mashing her. Salome saw that she was no longer wearing her panty and, upon touching her sex organ, found it was bloodied.

“4. While appellant continuously mashed Salome, the latter cried. Her mother Estrellita heard her cries and asked her why he was crying. Appellant replied that he had kicked Salome. Apparently satisfied by appellant’s answer, Estrellita went back to sleep. He threatened Salome that he will kill her, her mother and her siblings if she did not keep silent about the whole incident. Salome, terrified by her father’s threats, did not report the sexual abuse.

“5. The following day, Salome was again abused by appellant. Estrellita was not in the hut at the time because she was ordered by appellant to sleep in the house of Salome’s grandmother. The sexual abuse continued for some time, especially during those times when Estrellita was in Manila to take care of her grandchildren. On several occasions, appellant made Salome drink ‘cortal and bitter medicines’ because he did not want her to get pregnant.

“B. The rape of March 15, 1997:

“1. In March 1997, Salome’s older sister Veronica, who had been working and living in Manila since 1995, was staying in her parents’ hut at Barangay Guerrero, Bauang, La Union. She came home as she had completed her employment contract in Manila as an electronic production operator and she had to accompany her nephew to Bauang. Moreover, she had to attend Salome’s graduation from high school.

“2. On the night of March 14, 1997, Veronica, Salome, their three brothers, and Veronica’s niece and nephew slept side by side. Appellant slept in the kitchen which was adjacent to the sleeping area. At around two o’clock in the early morning of March 15, 1997, Salome was awakened when she felt a bolo poked at her neck. It was appellant. He told her to keep quiet or he would kill her. Appellant removed Salome’s panty and then took off his brief. Appellant inserted his penis into her vagina. While he was inside her, appellant made ‘pumping’ movements, mashed and kissed Salome’s breasts and kissed her on the lips and neck. Salome felt

excruciating pain in her vagina and breasts. Salome cried.

“3. All the while, Veronica was awake because she could not sleep and, at about two o’clock in the morning, she saw appellant taking off his pants and shirt in the kitchen. Then, she saw him focus a flashlight on them. Appellant went near Salome, took off her panty and mounted her. Veronica closed her eyes. She felt something moving at her right side and heard Salome crying. She felt Salome kick her but Veronica did not help her sister. Veronica cried helplessly. Ten minutes later, she fell asleep.

“4. Veronica spoke to Salome about what appellant did. Salome admitted to Veronica that appellant had been sexually abusing her. Veronica went back to Manila to report everything to their mother. After Salome’s graduation on April 2, 1997, they reported the incident to the police.

“5. Salome was examined by Dr. Parado, the Municipal Health Officer of Bauang, La Union. Dr. Parado found that Salome’s vagina had old healed lacerations at the three o’clock and six o’clock positions and that Salome was no longer a virgin. He testified that said lacerations could have been caused by a blunt instrument like an erect penis.”[6] (Citations omitted)

Version of the Defense

For his part, appellant wrote his version of the facts in this manner:

“The accused denied the accusations against him and claimed that he could not have raped his daughter since he was no longer capable of erection as a result of the medications he was taking for his tuberculosis. At the time he was arrested until five months thereafter, he did not fully understand the accusations and charges against him since these were not explained to him by his counsel. It was also the tenor of his testimony that he was not allowed to have a counsel of his own choice in violation of his constitutional rights. Finally, Iladio alleged that the false accusations filed against him could ha[ve] been instigated by his in-laws and may ha[ve] been motivated by the desire of his family to get back at him for having hurt them on certain occasions.

“The second witness for the defense was Dr. Emilio Figueroa who testified that his physical examinations of the accused’s genitals revealed that it was normal but recommended further tests which were not conducted.”[7] (Citations omitted)

Ruling of the Trial Court

The trial court believed the testimony of the victim and ruled that “the evidence of the prosecution invites acceptance and credence. The records furnish no indication which would justify a contrary reception. The demeanor of the victim and her witnesses exhibited adherence to the truth even under the searching examination of the counsel for the defense. x x x.” It added “that the testimony of a rape victim is credible where she has no [improper] motive to testify against the accused.”

Further, it observed that “the testimony of the accused suffer[s] from suspicions and doubts as to probability and probity. Apparently, as a last glimpse of hope to save himself, accused claims that he [was] incapable of erection at the time of the alleged commission of th[ose] incestuous acts. The physical examination conducted by the doctors of the Ilocos Regional and Medical Center belies this allegation. His wife[’s] testimony on rebuttal clearly convinced the [c]ourt that definitely this claim of impotency belied his pretenses of sainthood. His demeanor and actuation at the start of the trial of these cases up to its termination was clearly observed by the [c]ourt. It deserves no credence and credibility.”[8]

Hence, this automatic review.[9]

The Issues

Appellant submits the following assignment of errors for the consideration of this Court:

“I

The court a quo erred in convicting the accused notwithstanding the failure of the prosecution to prove his guilt beyond reasonable doubt.

“II

The court a quo erred in giving credence to the incredulous and unbelievable testimony of the alleged victim.

“III

The court a quo erred in not allowing the accused an opportunity of availing a counsel of his own choice.

“IV

The court a quo erred in convicting the accused in Criminal Case No. 2030 notwithstanding the failure of the prosecution to allege the approximate date of the rape.”[10]

In fine, the alleged errors may be classified into three: (1) sufficiency of the prosecution’s evidence, (2) violation of the right of appellant to choose his own counsel, and (3) failure to allege the exact date of the rape. The fourth issue that shall be discussed by this court motu proprio is the propriety of the penalty imposed.

The Court’s Ruling

The appeal is partly meritorious.

First Issue:

Sufficiency of the Prosecution’s Evidence

The First Rape Charge

(Crim. Case No. 2030)

Appellant argues that the prosecution failed to prove the act of sexual intercourse insofar as the first charge is concerned (Crim. Case No. 2030). He maintains that the victim could not have possibly known what was actually done to her, considering that she was asleep at the time of the alleged rape incident. If at all, her testimony merely established that appellant had mashed her body and nothing more.

We agree. The testimony of complainant with respect to the May 1995 charge was insufficient to establish beyond reasonable doubt any actual sexual intercourse. She testified that when she woke up, her father was already mashing her breasts, and her vagina was bloodied and aching. She suspected that he had had carnal knowledge of her. However, she could not have known for sure if he had raped her because, by her own testimony, she was not awake at the time of the alleged sexual defilement. She testified as follows:

“Q:

Now, that night of May, 1995, while you were sleeping, will you please tell the Court if there was unusual incident that happened?

A:

I was sleeping then I woke up because I felt pain over my body then I found out that my father was lying beside me.

Q: What else did you notice?

A:

I noticed that I have no more panty and when I touched my vagina I found out there was blood.

Q:

Now, you said that your father was beside you. When you were awoken[ed], will you please tell the Court what was your father doing?

A: He was mashing my body, sir.

Q: You said you felt pain in your body..... Then what did you do when he was mashing your body.

A: I cried, sir.

Q: So when you cried, what did your father do?

A: He was mashing my body with the bolo pointed at me, sir.

Q:

So when that bolo as you said was pointed at you and he was mashing your body, what did you do then?

A: I cried, sir.

Q: And what happened when you cried?

A:

My mother heard it, sir, and then she asked me why I was crying and he was the one who answered immediately.

Q: And what did you father say?

A: ['I had kicked her only.[']

Q: After that, what transpired?

A: My mother had slept again and my father told me that I should keep silent because he will kill us all.

x x x x x x x x

Q:

Now, you said a while ago that you felt pain over your body. What particular part of your body was painful?

A: My vagina, sir.

Q:

And because of the pain of your vagina and you have said when you touched it, there is blood. What did you ever suspect of anything?

A: Yes, sir.

Q: What was that?

A: That I was raped by my father, sir.

Q: Now, after that incident.....

Court:

Why did you suspect.....

Q: Why did you suspect that you were raped by your father?

A: Because he was already beside me touching me, sir.

Q: And what else made you suspect that your father raped you that moment?

Atty. Badecao:

Already answered, your honor.

Court:

No. Answer witness.

Witness:

A:

Because he was touching me, sir. It is not touching my body that I mean but because he sexually abused me.

Q: Yes, but what I am asking you is what made you tell that your father raped you at that time?

A:

Because when I woke up he was already beside me and my panty slip off and he was mashing my body, sir.”[11]

In *People v. Padoa*,^[12] this Court ruled that the essential element of carnal knowledge had not been sufficiently established despite the testimony of the victim that when she woke up, her father was already lying naked beside her, her underwear missing and her private part aching. In reversing the RTC’s finding of guilt, it emphasized the importance of establishing carnal knowledge as an essential element of rape. It cited its specific rulings on the matter as follows:

“In *People v. Tayag*, the accused, who was armed with a bolo, abducted the victim and tied her to a coconut tree. There he pressed the bolo against her legs, then kissed and bit her on the lips. Thereafter, he hit her on the stomach and she lost consciousness. When she came to, she noticed that her panty had been removed and her private part was aching. This notwithstanding, the Court declared that ‘the removal of underwear, a reddening hymen, an aching private part and blood on the underwear’ did not necessarily prove carnal knowledge. Likewise, in *People v. Daganta*, the Court found the complainant’s testimony insufficient to prove that the accused had raped her as defined in the Revised Penal Code, even when it was sufficiently shown that the accused had already been kissing her before she lost consciousness.”^[13] (Italics supplied)

Rape is forced sexual congress with a woman.^[14] Absent any showing of the slightest penetration of the female organ -- the touching of either the labia or the pudendum by the penis -- there can be no consummated rape. At most, it can only be attempted rape, if not acts of lasciviousness.^[15]

Indubitably, not every form of sexual molestation constitutes carnal knowledge. It has been held that consummated rape requires the touching of the labia of the pudendum of a woman by the male organ; or the latter’s introduction into the former and such penile intrusion must itself be proven beyond reasonable doubt.^[16]

At best, appellant can be held criminally liable only for acts of lasciviousness. This latter crime is considered an offense included or subsumed in the rape charge.^[17]

The elements of acts of lasciviousness are: (1) the offender commits any act of lasciviousness or lewdness; (2) the act is done under any of the following circumstances -- (a) when force or intimidation is used, or (b) when the offended party is deprived of reason or is otherwise unconscious, or (c) when the offended party is under 12 years of age, or (3) when the offended party is another person of either sex.^[18] Undeniably, the evidence shows that appellant committed lewd acts against the victim with the use of force and intimidation when he mashed her body while pointing a bolo at her. Although the Information filed was for the crime of rape, he may be convicted of acts of lasciviousness only. To repeat, the latter is necessarily included in a charge of rape through force.^[19]

The Second Rape Charge
(Crim. Case No. 2031)

As regards the offense committed on March 14, 1997, complainant described the horrendous ordeal she had suffered in the hands of her own father as follows:

“Q: Now, who were your companions in your house that sle[pt] that night of March 14, 1997?

A: My three (3) brothers, my sister and my father, sir.

Q: Now will you please tell us your sleeping arrangement that night?

A: On the left side was my sister then myself then my three (3) brothers and my father, sir.

Q: Now while you were sleeping, will you please tell us if there was..... I withdraw.

Q: What happened when you were sleeping?

A: He again sexually abused me, sir.

Q: Now you were sleeping beside your sister, is that correct?

A: Yes, sir.

Q: Will you please tell us how did your father manage to abuse you?

A: We were sleeping and then he was holding again his bolo, he pointed to me and then he sexually abuse[d] me, sir.

x x x x x x x x

Q: And what did you do when your father abused you?

A: None, sir.

Q:

Why did you not do anything when your sister was just beside you while you were being abused and your sister was just beside you?

Court:

Q: By the way, what did he do with that bolo he was holding?

A: He poked it at my neck, sir.

Q: And did he say anything before while poking that bolo at your neck?

A: Yes, sir.

Q: What did he say?

A: 'You keep silent because I will kill you.' I should keep quiet otherwise he will kill us, sir.

Q: What happened after that?

x x x x x x x x

A: He poked the bolo at my neck and then he mashed the parts of my body and then he abused me.

Q: Now, you said that he mashed your breast and he abused you. What do you mean when you said that he abused you?

A: He sexually abused me, sir.

Q: So what did you do?

A: I just cried, sir.

x x x x x x x x

Q:

Now, you said a while ago that your father poked the bolo in your neck and told you to keep quiet otherwise he will kill you all. Now, after your father said that, what did he do?

A: He removed my panty, he removed also his brief and then he went on top of me, sir.

Q: And?

A: And he sexually abused me, sir.

Q: How long was your father on top of you at that time?

A: Around thirty (30) minutes, sir.

Q: And throughout those thirty (30) minutes, what did you do?

A: None, sir. I just cried.

x x x x x x x x

Court:

Q: How about your father, what was he doing on top of you?

A: He was sexually abusing me, sir.

Q: Meaning his penis was inside your vagina?

A: Yes, sir.

Pros. Datlag:

Direct examination:

Continuance:

Q: Now while his penis was inside your vagina, what was he doing?

A: He was pumping, sir, and at the same time he was mashing my breast.

x x x x x x x x

Court:

Q: What else did he do while he was on top of you aside from mashing your breast?

A: He was kissing me, sir.

Q: What part of your body was he kissing?

A: My lips and other parts of my body, sir.

Q: Your neck?

A: Yes, sir. My neck including my breast, sir.

Q: And what did you do while he was doing these?

A: I just keep on crying, sir.

x x x x x x x x

Pros. Datlag:

Direct examination:

Continuance:

Q:

Now, while his penis was inside your vagina and he was pumping and at the same time kissing your lips and different parts of your body, how do you feel?

A: It was painful, sir.

Court:

Q: What is painful?

A: My breast and my vagina, sir.

Q: By the way, why are you crying while he was doing this?

A: Because I do not like him to do that to me, sir.

Q: But you said that your brothers and your sister was just beside you, is that correct?

A: Yes, sir.

Q: You did not shout?

A: No, sir.

x x x x x x x x

Pros. Datlag:

Direct examination:

Continuance:

Q: Why did you not shout?

A: Because I was afraid, sir.

Q: What are you afraid of?

A: Because the bolo was poked at me and he said that he is going to kill us, sir.”[20] (*Italics supplied*)

Clearly, not only did appellant use his moral ascendancy over his own daughter, but he also employed actual physical force and violence in advancing his libidinous pursuit. While pointing a bolo at her, he succeeded in perpetrating the rape.

Credibility of the Victim’s Testimony

Appellant alleges inconsistencies that supposedly rendered the testimony of the victim highly incredulous. We have examined the records of the case, but found none in the testimony of Salome. The supposed contradictions in her testimony refer to minor details that do not in any way affect or obscure the otherwise explicit finding of rape. To be sure, inconsistencies in the testimonies of complainants are inconsequential when they refer to minor details that have nothing to do with the essential fact of the commission of the crime – carnal knowledge through force or intimidation.[21]

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 constitute the commission of the crime.[22] No young woman would recklessly accuse her own father of so grave a crime as rape unless she has been truly aggrieved.[23] When a rape victim’s testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, it must be given full faith and credit.[24] In rape cases, the accused may be convicted solely on the testimony of the victim as long as it is credible, natural, convincing and consistent with human nature and the normal course of things.[25]

Second Issue:

Right to Choose Own Counsel

Appellant claims that he was denied his right to avail himself of a counsel of his own choice, because the RTC forced him to accept the services of a lawyer from the Public Attorney’s Office (PAO).

We disagree. While the Constitution recognizes the right of the accused to competent and independent counsel of

their own choice, their option to secure the services of a private counsel is not absolute.[26] The insistence of herein appellant on acquiring the services of a counsel de parte was merely a strategy to prolong the proceedings of the case. As pointed out by the Office of the Solicitor General (OSG), the RTC gave him the chance to secure the services of a private counsel, but the continued non-appearance of his lawyer unreasonably delayed the prosecution of the case. The OSG explained as follows:

“Contrary to appellant’s claim, the trial court afforded him the opportunity to secure counsel of his own choice, but appellant failed to obtain the services of a private lawyer during the period given him by the court. Moreover, the trial of appellant’s cases was spread over a period of seven months. However, for about three months from the date of the first hearing, appellant continued to rely on his counsel de oficio, Atty. Eduardo Badecao of the Public Attorney’s Office (PAO), who ably represented him, and did not produce the private lawyer whose services he was insisting on.

“It must be pointed out that pre-trial and trial were set by the trial court on May 19, 1998. However, on this date, the scheduled pre-trial and trial of the cases were cancelled because Atty. Badecao manifested that appellant intended ‘to hire the services of a lawyer of his own choice x x x.’ The prosecution did not object to the cancellation of the scheduled hearing ‘(o)n the condition that if and when the accused will not finally be able to get a lawyer of his own choice and that Atty. Badecao will continue as counsel for the accused.’ The pre-trial and trial were re-set on June 9, 1998 and June 10, 1998.

“On June 9, 1998, the scheduled pre-trial and trial were cancelled for the same reason. x x x

“[O]n June 10, 1998, the scheduled pre-trial and trial were again cancelled. x x x

“However, despite the postponement of the trial for almost two (2) weeks, appellant, on June 23, 1998, still ‘failed to produce and/or bring with him the counsel he promised to represent him.’ The trial court thus correctly ordered the scheduled pre-trial and trial to proceed with the PAO lawyer assisting appellant during the representation of the evidence for the prosecution.”[27] (Citations omitted)

Verily, the accused cannot be allowed to delay the proceedings arbitrarily by his repeated invocation of his right to counsel of his own choice. The trial court cannot be held hostage to such unreasonable demand. We cannot allow the pace of a criminal prosecution to be entirely dictated by the accused to the detriment of the equal right of the State and the offended party to speedy justice.[28]

Third Issue:

Failure to Allege the Exact Date of the Rape

Appellant points out that the Information in Criminal Case No. 2030 failed to specify the approximate time when the alleged rape had been committed. He avers that this failure violated his constitutional right to be informed of the offense charged against him. However, considering that he is no longer being held liable for rape in Criminal Case No. 2030 for reasons discussed above, this issue has been rendered moot and academic.

In any case, the general rule is that the allegation of the exact time and date of the commission of the crime is not important in a prosecution for rape.[29] The precise date when the complainant was sexually abused is not an essential element of the offense.[30] Verily, the actual date is normally not required to establish the crime itself.[31]

Fourth Issue:

Proper Penalty

As earlier stated, appellant is guilty of acts of lasciviousness, not rape, in Criminal Case No. 2030, for which the penalty prescribed by law is prision correccional. He is, however, entitled to the benefits of the Indeterminate

Sentence Law.

Although the RTC correctly found appellant guilty of raping his own daughter in Criminal Case No. 2031, we believe that it erred in imposing the death penalty.

Well-settled is the rule that in incestuous rapes, as in the present case, the prosecution must establish beyond reasonable doubt the age of the victim. To warrant the imposition of death, proof of her age must be indubitable. A duly certified certificate of live birth accurately showing it, or some other authentic document such as a baptismal certificate or school record, may be considered competent evidence. The victim's casual testimony as to her age is not sufficient.[32]

Indeed, the minority of the victim must be proven with equal certainty as the crime itself in order to justify a conviction of rape in its qualified form. Her minority must not only be specifically alleged in the information, but must likewise be established beyond reasonable doubt during trial.[33]

In the instant case, no certificate of live birth or any similar authentic document showing the age of the victim was presented by the prosecution. Neither was it shown that the birth certificate or other similar authentic documents were lost, destroyed or otherwise unavailable at that time. Furthermore, no testimony was given by the victim's mother or any member of her family with respect to her age at the time of the commission of the rape. In fact, insofar as Criminal Case No. 2031 is concerned, even the victim herself did not testify as to her age. Finally, it bears noting that the trial court did not make a clear and categorical finding as to the actual age of the victim.

For the failure of the prosecution to prove the age of the victim in Criminal Case No. 2031, the penalty should be reduced to reclusion perpetua.

WHEREFORE, the automatically appealed Decision in Criminal Case No. 2031 is hereby AFFIRMED with the MODIFICATION that the penalty shall be reclusion perpetua, not death. In addition, in accordance with prevailing jurisprudence, the victim is entitled to indemnity ex-delicto of P50,000, moral damages of P50,000 and, in view of the allegation and the proof of relationship, P25,000 as exemplary damages.[34]

As to Criminal Case No. 2030, appellant is hereby CONVICTED of acts of lasciviousness. Applying the Indeterminate Sentence Law and considering the presence of the aggravating circumstance of relationship, appellant is sentenced to the indeterminate penalty of six (6) months of arresto mayor as minimum to six (6) years of prision correccional as maximum.

No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Acting Chief Justice), Vitug, Mendoza, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

Davide, Jr., C.J., and Puno, J., abroad on official business.

[1] Rollo, pp. 16-34; records, Vol. 1, pp. 397-415; records, Vol. 2, pp. 101-119. The Decision was penned by Judge Jose G. Paneda.

[2] RTC Decision, p. 19; rollo, p. 34; records, Vol. 1, p. 415; records, Vol. 2, p. 119.

[3] Rollo, p. 6; records, Vol. 1, p. 1; signed by 3[rd] Asst. Prov. Pros. Abraham F. Datlag.

[4] Id., pp. 7 & 32; records, Vol. 2, p. 21; also signed by Pros. Datlag.

- [5] Atty. Eduardo Badecao.
- [6] Appellee's Brief, pp. 5-8; rollo, pp. 99-102; signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Antonio L. Villamor and Solicitor Vida G. San Vicente.
- [7] Appellant's Brief, pp. 5-6; rollo, pp. 55-56; signed by Attys. Arceli A. Rubin, Amelia C. Garchitorena and Ferdinand C. Baylon of the Public Attorney's Office (PAO).
- [8] Decision, pp. 15-18; rollo, pp. 30-33; records, Vol. 1, pp. 411-414; records, Vol. 2, pp. 115-118.
- [9] This case was deemed submitted for resolution on June 2, 2002, upon receipt by this Court of appellee's Comment (on appellant's Motion for medical examination to determine his "turgidity.")
- [10] Appellant's Brief, pp. 1-2; rollo, pp. 51-52. Original in upper case.
- [11] TSN, June 23, 1998, pp. 12-15.
- [12] GR Nos. 140734-35, September 11, 2002.
- [13] Id., pp. 17-18, per Panganiban, J.
- [14] People v. Yparraguirre, 335 SCRA 69, July 5, 2000; People v. Docena, 322 SCRA 820, January 20, 2000.
- [15] People v. Campuhan, 329 SCRA 270, March 30, 2000.
- [16] People v. Miasco, GR Nos. 132548-49, August 31, 2001.
- [17] People v. Sagarino, GR Nos. 135356-58, September 4, 2001.
- [18] People v. Contreras, 338 SCRA 622, August 23, 2000.
- [19] People v. Laguerta, 344 SCRA 453, October 30, 2000.
- [20] TSN, June 23, 1998, pp. 21-27
- [21] People v. Cula, 329 SCRA 101, March 28, 2000.
- [22] People v. De los Reyes, 327 SCRA 56, March 1, 2000.
- [23] People v. Mangila, 325 SCRA 586, February 15, 2000.
- [24] People v. Gopio, 346 SCRA 408, November 29, 2000.
- [25] People v. Flores, 322 SCRA 779, January 20, 2000.
- [26] People v. Rivera, GR No. 139180, July 31, 2001; People v. Base, 329 SCRA 158, March 30, 2000.
- [27] Appellee's Brief, pp. 25-27; rollo, pp. 119-121.
- [28] Amion v. Chiongson, 301 SCRA 614, January 22, 1999.
- [29] People v. Alvero, 329 SCRA 737, April 5, 2000.
- [30] People v. Trelles, 340 SCRA 652, September 19, 2000.
- [31] People v. Magtrayo, 342 SCRA 73, October 4, 2000.
- [32] People v. Pecayo Sr., 348 SCRA 95, December 14, 2000.
- [33] People v. Liban, 345 SCRA 453; November 22, 2000.

[34] People v. Catubig, GR No. 137842, August 23, 2001.

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