

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ABSOLON YONTO Y UTOM, ACCUSED-APPELLANT.

G.R. Nos. 148917-18. November 21, 2002

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an automatic review of the decision[1] of the Regional Trial Court, Branch 170, Malabon City, finding accused-appellant Absolon Yonto y Utom guilty beyond reasonable doubt of two counts of rape and sentencing him in each case to suffer the penalty of death and to pay the offended party, Jennibeth Cristal y Villarimo, the total amount of P150,000.00 as civil indemnity and P100,000.00 as moral damages and the costs.

In Criminal Case No. 20550-MN, the information alleged:

“That on or about [the] 19th day of July 1998, in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of the Honorable Court, the abovenamed accused, being the stepfather of Jennibeth Cristal y Villarimo, a minor 14 years [of] age, while armed with a bolo, with lewd design and exercising ascendancy over said Jennibeth Cristal y Villarimo and by means of force, violence, and intimidation, wilfully, unlawfully, and feloniously, did then and there have sexual intercourse with Jennibeth Cristal y Villarimo against her will and without her consent.

“CONTRARY TO LAW.”[2]

In Criminal Case No. 20551-MN, the information alleged:

“That on or about [the] 13th day of June 1998 in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of the Honorable Court, the abovenamed accused, being the stepfather of Jennibeth Cristal y Villarimo, a minor 14 years [of] age, while armed with a bolo, with lewd design and exercising ascendancy over said Jennibeth Cristal y Villarimo and by means of force, violence, and intimidation, wilfully, unlawfully, and feloniously, did then and there have sexual intercourse with Jennibeth Cristal y Villarimo against her will and without her consent.

“CONTRARY TO LAW.”[3]

Upon being arraigned, accused-appellant pleaded not guilty, whereupon the cases were jointly tried.

The prosecution presented two witnesses whose testimonies are as follows:

Complainant Jennibeth Cristal y Villarimo, 15 years old at the time she took the witness stand, testified that she was born on May 12, 1984. Her testimony is corroborated by the Certification of the Office of the Municipal Civil Registrar of the Province of Pangasinan.[4] As her parents were separated, Jennibeth stayed with her mother Elma Villarimo, who lived in common-law relationship with accused-appellant. At the time material to this case, Jennibeth’s mother was working as a domestic helper in Taiwan, while her father worked “on board a ship.” Complainant stayed with accused-appellant and the latter’s two children, Arlene and Amy, by Jennibeth’s mother at 203 Block 1, Hernandez Street, Barangay Catmon, Malabon, Metro Manila.

Jennibeth testified that at about 3:00 a.m. of June 13, 1998, while she was asleep on the floor with Arlene and Amy, she was awakened by accused-appellant who was undressing her. Accused-appellant poked a bolo (itak) at her neck, threatening to kill her if she made any noise. He fondled her private parts, mashed and sucked her breasts and then forced his penis into her vagina. Jennibeth resisted by moving her body and kicking him, but accused-appellant pinned her legs down. After accused-appellant had consummated the act, Jennibeth felt something wet and slippery coming from his penis. Thereafter, accused-appellant stood up and went in front of the house.

At about 1:00 a.m. of July 19, 1998, Jennibeth said she was again awakened as she felt accused-appellant removing her shorts and panty. As before, accused-appellant pointed a bolo at her neck and threatened to kill her if she did not submit to his desire. He raised Jennibeth's brassiere and sucked her breasts. He then pushed his penis into her vagina and performed the sexual act. Jennibeth resisted by kicking accused-appellant, but he proved too strong for her. Accused-appellant threatened to kill Jennibeth and her mother and other relatives if she told anyone what had been done to her.

In February 1999, Jennibeth said, she mustered enough courage to tell her maternal aunt, Jonelyn Balbuena, what had happened to her. On February 22, 1999, she went to the barangay hall of Catmon, Malabon, where they made a report, and then proceeded to Camp Crame, Quezon City, for medical examination. The next day, February 23, 1999, they went to the Malabon Police Station and there gave a sworn statement.[5]

Dr. Emmanuel N. Reyes of the Crime Laboratory of Camp Crame, Quezon City examined the complainant and thereafter issued a report, which reads as follows:

“FINDINGS:

general and extragenital:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with brownish areola and nipples from which no secretions could be pressed out. Abdomen is flat and soft.

genital:

There is moderate growth of pubic hair. Labia majora [is] full, convex and coaptated with the brownish labia minora presenting in between. On separating, the same disclosed an elastic, fleshy-type hymen with shallow healed lacerations at 3, 4 and 9 o'clock positions. External vaginal orifice offers moderate resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of physical trauma.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa.”[6]

Dr. Reyes testified that the complainant was a non-virgin and that the healed hymenal lacerations she sustained could have been caused by forcible sexual intercourse.[7]

For its part, the defense presented accused-appellant Absolon Yonto and his sister Trinidad Maglahos.

Accused-appellant Absolon Yonto y Utom, 38 years old, is the common-law spouse of Elma Villarimo,

complainant's mother. He claimed that he was lawfully married to Elma, by whom he had three children: Arlene, Amy, and another one who died in infancy. He said that Elma left for Taiwan in 1996 and returned to the country on August 27, 1997. In November 1997, she left for the second time for Taiwan and returned in October 1999.

Accused-appellant's defense is alibi. He claimed that on the dates in question, he was at the Carvic Motors, a taxi service company, located at 890 G. Araneta Street, Quezon City, where he worked as a mechanic from Monday through Sunday, his shift being from 10:00 p.m. to 6:00 a.m. of the following day; that he had three companions during his shift, namely, Zoilo Dicdican, Jess Dicdican, and Pedring Karen; and that his presence in the work place was recorded in an attendance logbook kept by the company. He maintained that it was impossible for him to have raped complainant considering that his house had an area of only 4 x 8 meters, was without any room or partition and accommodated 16 persons, including himself, sleeping together therein. The occupants of the house, aside from him, were the following: his brother, his sister-in-law Susan Villarimo and husband Allan Panghinahon and their son Hermis, Pilar Villarimo, who is the wife of his brother-in-law, his sister Trinidad Maglahos, his cousin Sammy Utom, his two children by Elma Villarimo (Arlene and Amy), his "stepdaughter" Jennibeth (herein complainant), his brother-in-law Boboy Maglahos, a guest named Rizal Biyal, his niece Mylene Maglahos, his sister-in-law Jonas Maglahos and his nephew Ponpon Maglahos.

Accused-appellant likewise alleged that the complaints in these cases were filed by his wife Elma because she resented the fact that he kept for himself the P3,000.00 remittance she sent every month, without giving any part of it to their children and other relatives. He also said that Elma wrote him a letter telling him that she was angry over what had happened and wanted to leave him for another man. He said that in fact it was Elma's cousin, Mario Delyenos, who had molested complainant. According to accused-appellant, he learned about the rape of complainant by Delyenos from his 10-year old daughter, Arlene, when the latter visited him in Malabon. He added that Arlene was prevented from testifying in court on this matter because Elma took her to Iloilo.[8]

Trinidad Maglahos, sister of accused-appellant, testified that complainant Jennibeth lived in the house of accused-appellant because she was the latter's stepdaughter. She claimed that her brother was married to complainant's mother. In June and July of 1998, Trinidad said she lived in an extension of accused-appellant's house located at a dumpsite in Pilapil, Catmon, Malabon. Her brother's house had an area of only about 4 x 5 meters, while her house, which could accommodate six persons, was about one-third the size of accused-appellant's house. According to her, their houses were made of wooden patches (tagpi-tagpi) and were separated only by a piece of plywood board which allowed conversation from the other side to be overheard. She said that nine persons stayed in accused-appellant's house. At night, complainant slept between accused-appellant's children, Arlene and Amy, while her sister Delia Pialan slept beside Amy.

Trinidad stated that in the early morning of July 19, 1998, when the second rape was allegedly committed, she heard no noise from accused-appellant's house. She said that Arlene appeared before the trial court on May 18, 2000 presumably to testify in favor of accused-appellant, but the hearing was postponed due to floods and that Arlene never had the chance to testify thereafter because Elma took her to Iloilo.[9]

On June 25, 2001, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, the Court finds accused Absolon Yonto y Utom guilty beyond reasonable doubt of two (2) counts of RAPE and hereby sentences him to suffer the penalty of DEATH in each of the cases and to pay Jennibeth V. Cristal the total amount of P150,000.00 as civil indemnity, P100,000.00 as moral damages and [the] costs of suit.

"SO ORDERED." [10]

Hence, this appeal.

First. Conviction or acquittal in a rape case more often than not depends almost entirely on the credibility of the complainant's testimony because, by the very nature of this crime, it is usually only the victim who can testify as to its occurrence.[11] It is settled that the lone testimony of the complainant herself is competent to establish guilt if it is credible, convincing and consistent with human nature and the normal course of things.[12] In these cases, complainant's testimony was straightforward, frank, categorical and spontaneous. She said:

Pros. Aliposa (witness)

Q At 3:00 o'clock in the early morning of June 13, 1998, what were you doing?

A I was sleeping, sir.

Q What happened while you were sleeping?

A I was sleeping when I felt my shorts and my panty were being removed, sir.

Q When you felt your panty and shorts were being removed, what was your reaction?

A I [was] awakened, sir.

Q When you were awakened, what did you observe, if any?

A When I was awakened, my stepfather poked a bolo [at] my neck, sir.

Q What did your stepfather do when you were poked a bolo at your neck?

A After he pointed the bolo at my neck, he told me not to report the matter, otherwise, he will kill my other sisters and my relatives, sir.

Q When he uttered this threat, was your panty and shorts removed?

A Yes, sir.

Q What happened next after he uttered those words?

A He put down the bolo and he took off his shorts and brief, sir.

Q What did he do after he removed his shorts and brief?

A After that, he fingered me, then he mashed my breast and sucked it, sir.

Q By the way, what was fingered?

A My sex organ, sir.

Q And what did he do next after he fingered you, and mashed your breast?

A Then he inserted his organ to my sex organ, sir.

Q Was he able to penetrate his organ right away?

A Not immediately, sir.

Q Why?

A Because at that time, I was still a virgin, sir.

Q What did he do when he was not able to penetrate his penis [into] your vagina?

A He was forcing to penetrate his organ, sir.

Q What was your reaction when he was trying to penetrate his organ into your vagina?

A I was trying to stop him but he [did] not want to listen to me, he insisted on what he was doing, sir.

Q How did you try to prevent him [from] penetrat[ing] your vagina?

A I was kicking, I was resisting by kicking but he pinned my legs, sir.

Q Was your resistance [by] kicking successful?

A No, sir. I was not able to stop him, sir.

Q What was he able to do when you resisted?

A He was able to penetrate his organ [in]to my organ, sir.

Q After he penetrated into your vagina, what did he do next?

A The rape against me was finished, sir.

Court (witness)

Q What did he do after he penetrated his penis into your vagina?

A He pushed and pulled his organ into my vagina, Your Honor.

Court

Proceed.

Pros. Aliposa (witness)

Q While he was [doing] this movement, push and pull, where were his hands?

A His two hands were both on my hands, sir.

Q While he was having sexual intercourse [with] you, can you recall if he was talking to you?

A Yes, sir, he was threatening me.

Q What was his threat while he was having sexual intercourse with you?

A He told me not to report the matter, otherwise, he will kill us, sir.

Q Can you recall how long this sexual intercourse lasted?

A About thirty minutes/half an hour, sir.

Q Did you observe if there was ejaculation on the part of the accused?

A I observed that it is wet and slippery, sir.

Q What happened after accused had sexual intercourse with you?

A After that, he went in front of our house, he did not sleep anymore, he was watching me, sir.

Q By the way, while accused was having sexual intercourse with you, where were your other two sisters?

A They were sleeping, sir.

Court (witness)

Q In what portion of your house did this rape take place?

A In the room, it was on the floor of that room but I was at a distance from my sisters, Your Honor.

Q How far are you from your sisters?

A My sisters were lying together and they were about one meter away from me, Your Honor.

Q Did you notice whether they were awakened?

A No, Your Honor.

Court

Proceed.

Pros. Aliposa (witness)

Q Was this sexual assault repeated?

A Yes, sir.

Q When?

A July 19, sir.

Q What year?

A 1998, sir.

Q What time was that?

A 1:00 o'clock in the morning, sir.

Q What happened at that 1:00 o'clock in the early morning of July 19, 1998?

A I was then sleeping, sir.

Court (witness)

Q Same place?

A Yes, Your Honor, I was also sleeping at that time, in the same house, same place, Your Honor.

Q While sleeping, what happened?

A I was sleeping at that time when he took off my shorts and panty and I [was] awakened, Your Honor. After that, he again pointed a bolo [at] my neck and threatened me not to report the matter and if he learned that I reported it, he would kill me, Your Honor.

Court

Proceed.

Pros. Aliposa (witness)

Q After uttering those words, what did he do next?

A He raised my bra and sucked my breast, sir.

Q What else did he do while sucking your breast?

A After that, he inserted his organ and made push and pull movements, sir.

Q While accused was having sexual intercourse with you, was he conversing with you?

A He was repeating his threats, sir.

Q What threat was he uttering?

A He told me not to report to [anyone], otherwise, he will kill me, sir. He threatened to kill my mother and relatives also, sir.

Court (witness)

Q What did you do this time?

A I was trying to stop him by kicking him but I was not successful because he is no match for me (sic), Your Honor.[13]

Despite rigorous cross-examination, complainant stood pat on her claim that she had been raped by accused-appellant.[14] She positively identified accused-appellant as the one who had raped her.[15] Police officers SPO1 Ronald Payawal and PO3 Henry Terrano, in their joint sworn statement, also declared that complainant pointed to accused-appellant without hesitation as her assailant during a confrontation in the Malabon Police Station on February 22, 1999.[16]

In contrast, the bare and self-serving statements of accused-appellant suffer from the following flaws:

(1) Accused-appellant testified that he was in Quezon City on the dates in question working at the Carvic Motors in the graveyard shift from 10:00 p.m. to 6:00 a.m. of the following day and that his presence in his work place was recorded in a logbook kept by the company. He said the logbook could be shown to the court by issuing a subpoena to the manager of Carvic Motors, Ruben Ebuén. However, Ruben Ebuén was not presented by the defense to corroborate his story. The logbook, which could probably have substantiated accused-appellant's claim, was never presented before the court despite the opportunity of the defense to do so. Nor were accused-appellant's co-workers in the night shift presented to corroborate his alibi. To the contrary, the positive identification by complainant of accused-appellant as the perpetrator of the crime effectively negates his uncorroborated defenses of denial and alibi.[17] Unless substantiated by clear and convincing proof, these defenses are deemed to be negative, self-serving and undeserving of any weight in law.[18] Nor was there proof that it was impossible for accused-appellant to negotiate the distance from his work place in Quezon City to his house in Malabon where the rapes happened. To successfully establish an alibi, not only must accused-appellant prove that he was in another place at the time of the commission of the crime, but also that it was impossible for him to be at the crime scene at the appointed time. This, accused-appellant failed to prove. Essentially a weak defense for being easily susceptible of concoction, an alibi becomes weaker when the same is not corroborated.[19]

Denial, like alibi, is likewise an intrinsically weak defense which must be buttressed by strong evidence of non-culpability in order to merit credibility.[20] Between the positive declarations of a prosecution witness and the negative statements of the accused, the former deserves more credence.[21]

(2) Trinidad Maglahos testified that she knew the sleeping arrangements of the nine persons who lived in accused-appellant's house. She said complainant slept between Arlene and Amy (daughters of the accused-appellant), while her sister, Delia Pialan, slept beside Amy. She said that considering the proximity of the place where she was sleeping and the place where the accused-appellant and the complainant were sleeping, she could have heard some noise from accused-appellant's house if anything unusual had happened.

But complainant was silenced by accused-appellant's threat. Accused-appellant had a bolo which he used to cow complainant into submission. Complainant was rendered helpless. Her mother was in Taiwan, while Arlene, 10, and Amy, 11, were fast asleep, not to mention the fact that they were too young to be even aware of what their father had been doing to complainant.

Second. Accused-appellant claims that the small area of his house (4 x 8 meters) and the number of persons (16) occupying the same at the time of the alleged incidents rendered it impossible for him to have raped complainant in their house without being detected. He avers that the prosecution should have presented "the complainant's siblings who are potential eyewitnesses" to prove its accusations.

The contention has no merit. True, the complainant was sleeping between Arlene and Amy, the daughters of accused-appellant, whom he referred to as "complainant's siblings." Their testimonies, however, would be surplusage as complainant's testimony that accused-appellant had raped her was corroborated by the medical findings concerning her hymenal lacerations. Indeed, even if the two children said the rapes did not occur, their testimonies could not prevail over that of complainant, who said that she made no outcry when she was being raped because accused-appellant poked a bolo at her.

Indeed, we have disregarded an accused-appellant's defense of impossibility of the commission of rape because of the presence of other family members sleeping side by side at the time of its commission. The members of the family may not even be awakened by a sexual assault happening in their midst because they are accustomed to having several persons beside them who move and change positions while asleep. Lust is no respecter of time and place; it can be committed even in unlikely places where people congregate, in parks, along the roadsides, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping, and even in places which to many would appear unlikely or high risk venues for its commission.[22]

Third. Accused-appellant contends that the hymenal lacerations shown in the medical report do not prove that he was the person with whom complainant had sexual intercourse.

We find no merit in this contention. The trial court found the testimony of complainant to be credible. Indeed, its finding is corroborated by the medical report showing that complainant sustained healed hymenal lacerations on her private parts. We have held that a medical finding that complainant sustained lacerations on her hymen, when taken together with the finding of credibility on the part of the complainant, is more than sufficient to establish the essential requisite of carnal knowledge in rape.[23]

Fourth. Accused-appellant argues that the filing of criminal charges in these cases were instigated by his wife's family who resented the fact that he had kept the money which his wife had been sending to him every month. In fact, accused-appellant claimed, his wife Elma wanted to separate from him because of what she had heard from her relatives.

This contention has no basis. On cross-examination, accused-appellant admitted that, after all, there was no letter from his wife, complainant's mother, threatening to separate from him.[24] Indeed, a young girl, like complainant, is not likely to bring false charges of rape against a parent, or someone treated as such, and go through the shame and scandal of a public trial, unless out of a desire to vindicate her honor.[25] Nor would complainant's mother, Elma, likely induce her daughter to file baseless charges against her husband merely because he had been keeping the money she had been sending for himself alone.

Fifth. Accused-appellant argues that the trial court erred in imposing upon him the death penalty despite the failure of the prosecution to prove the allegation in the information that he is the stepfather of complainant in the

sense that he and complainant's mother were legally married.

The Solicitor General recommends the affirmance of the trial court's decision and the imposition of the death penalty on accused-appellant on the ground that the qualifying circumstance of relationship, i.e., that accused-appellant is the stepfather of the complainant, was sufficiently proven by the testimony of accused-appellant as well as that of his sister, Trinidad Maglahos. He contends that accused-appellant's admission that he and the complainant's mother were lawfully married met the required quantum of proof and that, in fact, even complainant referred to him as her "stepfather" and "the second husband of her mother."

Accused-appellant replies that there is no documentary evidence to show that he and complainant's mother are legally married.

Under Article 266-B of the Revised Penal Code, if the crime of rape is committed with the following aggravating/qualifying circumstances, i.e., 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 penalty shall be death. The circumstances of minority of the victim and her relationship to the offender must be alleged in the information and duly proven during the trial to warrant the imposition of the death penalty, otherwise, the crime shall be considered simple rape and the penalty shall be reclusion perpetua.[26]

In these cases, the qualifying circumstance of minority was alleged in the two informations and proven during the trial. The fact that the complainant was then 14 years old when she was raped by the accused-appellant on the dates in question was sufficiently established by her testimony that she was born on May 12, 1984 and by the Certification from the Office of the Municipal Civil Registrar of Pangasinan, indicating that her date of birth was May 12, 1984.[27] In rape cases, the complainant's testimony as to her date of birth is sufficient evidence to establish the qualifying circumstance of minority.[28] In some cases,[29] aside from the complainant's testimony, the Court also considered the testimony of the complainant's mother and, in another case,[30] the half-sister of the complainant. In other cases,[31] the proof of the complainant's minority was based only on the testimony of her mother. These testimonies meet the requisite quantum of evidence even if no other documentary evidence was presented. The birth certificate, baptismal certificate, or, as in these cases, the Certification from the Office of the Municipal Civil Registrar of Pangasinan, which constituted independent proofs of the minority of the complainant, serve no other purpose than to corroborate the testimonies of the competent witnesses and the categorical finding of the trial court concerning complainant's age.[32]

But the alleged relationship of accused-appellant and complainant has not been proven. A stepfather-stepdaughter relationship presupposes a valid marriage between the complainant's mother and the accused.[33] In these cases, the evidence shows that accused-appellant and complainant's mother are not legally married but only live together in a common-law relationship. That complainant referred to accused-appellant as her "stepfather" and "the second husband of her mother," or that accused-appellant himself admitted that he and complainant's mother were "married" and that the complainant is his "stepdaughter"[34] did not conclusively prove his marriage to the complainant's mother. The prosecution should have presented the certificate of marriage to prove the existence of a valid marriage between accused-appellant and the complainant's mother.[35]

The informations in Criminal Case Nos. 20550-MN and 20551-MN alleged that the accused-appellant committed the rape "while armed with a bolo." The evidence shows that on June 13, 1998 and July 19, 1998, accused-appellant threatened to kill complainant with a bolo if she did not submit to his sexual desire. Under Article 266-B of the Revised Penal Code, when the rape is committed with the use of a deadly weapon, the imposable penalty is reclusion perpetua to death. Article 63 of the Penal Code provides that where the penalty

prescribed by law is composed of two indivisible penalties and there are neither mitigating nor aggravating circumstances in the commission of the crime, the lesser penalty shall be imposed. Hence, the penalty to be imposed on the accused-appellant should be reclusion perpetua since there are neither mitigating nor aggravating circumstances.

Sixth. The trial court awarded to complainant the amount of P150,000.00 as civil indemnity and P100,000.00 as moral damages in view of the imposition of the death penalty for the two counts of rape.

As the imposed penalty was reduced to reclusion perpetua, accordingly, the amount of civil indemnity for the two counts of rape awarded to the complainant should be reduced from P75,000.00 to P50,000.00 for each count of rape or the total of P100,000.00. [36]

The amount of P50,000.00 for each count of rape, or a total amount of P100,000.00, as moral damages was correctly awarded by the trial court. This award is to be given even if there is neither allegation nor evidence of the trauma constituting the basis of such award as the same is necessarily included in a charge of rape.[37]

Moreover, exemplary damages should be awarded pursuant to our ruling in *People vs. Catubig*[38] that the said damages are justified pursuant to Art. 2230 of the Civil code if there is an aggravating circumstance, whether ordinary or qualifying. Since the qualifying circumstance of the use of a deadly weapon was present in the commission of the rapes subject of these cases, exemplary damages may be awarded to the offended party. Thus, an award of P25,000.00 in each case, or the total amount of P50,000.00, as exemplary damages should also be given to the complainant.

WHEREFORE, the decision of the Regional Trial Court, Branch 170, Malabon, Metro Manila, insofar as it finds accused-appellant Absolon Yonto y Utom guilty beyond reasonable doubt of two counts of rape, is **AFFIRMED** with the **MODIFICATION** that the death sentences imposed by the trial court are reduced to reclusion perpetua. In addition, accused-appellant is ordered to pay the offended party, Jennibeth Cristal y Villarimo, the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P50,000.00 as exemplary damages for the two counts of rape.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Morales, Callejo, Sr., and Azcuna, JJ., concur.
Corona, J., on official leave.

[1] Per Judge Benjamin T. Antonio.

[2] RTC Records, p. 1.

[3] *Id.*, p. 5.

[4] Exh. E; RTC Records, p. 47.

[5] TSN (Jennibeth Cristal), pp. 2-13, July 15, 1999; Salaysay of Jennibeth Cristal, dated February 23, 1998, Exh. A; RTC Records, p. 37.

[6] Exh. C; RTC Records, p. 41.

[7] TSN (Dr. Emmanuel Reyes), pp. 2-4, November 11, 1999.

[8] TSN (Absolon Yonto y Utom), pp. 3-15, January 24, 2000.

[9] TSN (Trinidad Maglahos), pp.2-8, July 18, 2000.

[10] Rollo, p. 15; RTC Decision, p.6.

[11] People v. Padilla, 355 SCRA 741 (2001); People v. Burlat, 352 SCRA 566 (2001); People v. Pecayo, Sr., 348 SCRA 95 (2000).

[12] People v. Velasquez, G.R. Nos. 142561-62, February 15, 2002; People v. Bulos, G.R. No. 123542, June 26, 2001; People v. Panganiban, G.R. Nos. 138439-41, June 25, 2001; People v. Dela Peña, 354 SCRA 186 (2001); People v. Navida, 346 SCRA 821 (2000); People v. Tagaylo, 345 SCRA 284 (2000); People v. Turco, Jr., 337 SCRA 714 (2000); People v. Geromo, 321 SCRA 355 (1999); People v. Villaraza, 339 SCRA 666 (2000).

[13] TSN (Jennibeth Cristal), pp. 4-9, July 15, 1999.

[14] Id., pp. 12-13.

[15] Id., p. 11.

[16] Pinagsamang Salaysay of SPO1 Ronald Payawal and PO3 Henry Terrano, dated February 23, 1999, Exh. D; RTC Records, p. 42.

[17] People v. Tagaylo, 345 SCRA 284 (2000); People v. Quiñanola, 306 SCRA 710 (1999); People v. Bajar, 281 SCRA 262 (1997).

[18] People v. Gonzales, G.R. No. 140676, July 31, 2002; People v. Salvador, G.R. No. 142873, July 9, 2002.

[19] People v. Soriano, G.R. No. 135027, July 3, 2002; People v. Alvarado, G.R. No. 145730, March 19, 2002; People v. Villaraza, 339 SCRA 666 (2000); People v. Baid, 336 SCRA 656 (2000).

[20] People v. Napiot, 311 SCRA 772 (1999).

[21] People v. Brondial, 343 SCRA 600 (2000); People v. Acala, 307 SCRA 330 (1999).

[22] People v. Serrano, 353 SCRA 161 (2001); People v. Brondial, 343 SCRA 600 (2000); People v. Mendez, 335 SCRA 147 (2000); People v. Sancha, 324 SCRA 646 (2000); People v. Geromo, 321 SCRA 355 (1999); People v. Ramos, 296 SCRA 559 (1998).

[23] People v. Nicolas, 324 SCRA 748 (2000).

[24] TSN, January 24, 2000, p. 14.

[25] People v. Matugas, G.R. Nos. 139698-726, February 20, 2002; People v. Pajo, 348 SCRA 492 (2000); People v. Batoon, 317 SCRA 545 (1999); People v. Marabillas, 303 SCRA 352 (1999).

[26] People v. Ariola, G.R. Nos. 142602-05, October 3, 2001; People v. Fraga, 330 SCRA 669 (2000); People v. Panique, 316 SCRA 757 (1999); People v. Lim, 312 SCRA 550 (1999); People v. Acala, 307 SCRA 330 (1999); People v. Maglente, 306 SCRA 546 (1999).

[27] Exh. E.

[28] People v. Llanita, G.R. No. 134101, September 5, 2001; People v. Velasco, 353 SCRA 138 (2001); People v. Silvano, 309 SCRA 362 (1999).

[29] People v. Soriano, G.R. No. 135027, July 3, 2002; People v. Padilla, 355 SCRA 741 (2001); People v. Pagdayawon, 351 SCRA 643 (2001).

[30] *People v. Bali-Balita*, 340 SCRA 450 (2000).

[31] *People v. Canon*, G.R. No. 141123, July 23, 2002; *People v. Daganio*, G.R. No. 137385, January 23, 2002; *People v. Dela Cruz*, 338 SCRA 582 (2000).

[32] *People v. Manlod*, G.R. Nos. 142901-02, July 23, 2002; *People v. Capili*, G.R. No. 142747, March 12, 2002; *People v. Pagdayawon*, 351 SCRA 643 (2001); *People v. Balgos*, 323 SCRA 372 (2000); *People v. Silvano*, 309 SCRA 362 (1999).

[33] *People v. Alcoreza*, G.R. Nos. 135452-53, October 5, 2001; *People v. Evangelista*, G.R. No. 132044, October 5, 2001; *People v. Villaraza*, 339 SCRA 666 (2000).

[34] TSN, pp. 7-8, January 24, 2000.

[35] *People v. Alcoreza*, G.R. Nos. 135452-53, October 5, 2001.

[36] *People v. Fraga*, 330 SCRA 669 (2000); *People v. Panique*, 316 SCRA 757 (1999); *People v. Acala*, 307 SCRA 330 (1999); *People v. Maglente*, 306 SCRA 546 (1999); *People v. Manggasin*, 306 SCRA 228 (1999).

[37] *People v. Prades*, 293 SCRA 411 (1998); *People v. Fraga*, 330 SCRA 669 (2000).

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

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