

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CELESTINO ABAPO, DEFENDANT-APPELLANT.

G.R. Nos. 93632-33. December 28, 1994

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Before us is an appeal from the Joint Decision[1] rendered by the Regional Trial Court of Pasig, Metro Manila, Branch 164 on February 26, 1990 in Criminal Cases Nos. 64831 and 78198 convicting Celestino Abapo of two (2) counts of murder. The dispositive portion reads:

ACCORDINGLY, the Court finds the herein accused Celestino Abapo GUILTY beyond reasonable doubt of murder on two counts as charged in Criminal Case No. 64831 and Criminal Case No. 78198; and therefore, hereby imposes upon him the penalty of life imprisonment for the death of Edgardo Bondoc in Criminal Case No. 64831; and likewise imposes upon him another penalty of life imprisonment for the death of Alfredo Raranga in Criminal Case No. 78193; as well as to indemnify the heirs of Edgardo Bondoc and Alfredo Raranga the sum of P30,000.00 for each; and to pay the costs of both suits.

SO ORDERED.[2]

On October 29, 1985, Celestino Abapo was charged with murder by Assistant Fiscal Mariano M. Mendieta for the death of Edgardo Bondoc in an information which reads as follows:

That on or about the 13th of September, 1985, in the municipality of Mandaluyong, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously shoot one Edgardo Bondoc on the vital parts of his body, thereby inflicting upon the latter gunshot wounds which directly caused his death.

Contrary to law.[3]

The information was docketed as Criminal Case No. 64831. On November 20, 1985, Judge Vicente R. Campos issued a warrant for the arrest of Abapo.[4] Since he could not be arrested, the case was ordered archived on March 31, 1986.[5]

On May 25, 1989, Abapo was apprehended at the Spoon Burger Restaurant in Shaw Blvd., Mandaluyong, Metro Manila.[6] On June 20, 1989, his counsel filed a motion to indefinitely postpone the arraignment set on June 23, 1989[7] in view of the pendency of his petition for reinvestigation before the Office of the Provincial Fiscal of Pasig.[8] On June 23, 1989, the trial court denied the motion to postpone the arraignment but reset it to June 30, 1989 because of the accused's non--appearance.[9] The petition for reinvestigation was denied by Provincial Fiscal Mauro M. Castro on June 26, 1989.[10]

After his arrest under Criminal Case No. 64831, another information for murder, docketed as Criminal Case No. 78198, was filed against Celestino Abapo for the death of Alfredo Raranga. It reads:

That on or about the 8th day of August, 1985 in the municipality of Mandaluyong, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, armed with Pistol Caliber Super .38, with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously shoot one Alfredo Raranga y Berbo between his eyes with the said gun, thereby inflicting upon him mortal wounds which directly caused his death.

Contrary to law.[11]

On June 30, 1989, appellant entered a plea of not guilty in both cases.[12] Since the cases involved the same accused and both charges were for murder although committed against different persons on different dates and places, trial was conducted jointly without objections from either the prosecution or the defense. In this appeal, however, we shall discuss the cases separately for clearer appreciation of the facts.

Criminal Case No. 64831

Feliciana Bondoc Tagubanza, mother of victim Edgardo Bondoc, testified that at about 1:30 in the afternoon of September 13, 1985, her son asked for some loose change as he was going to see Pepito Reyes alias Totoy Mata regarding a gun he had mortgaged to Pepito who had shown interest in it. Ever protective of her only son, Feliciana Tagubanza followed him. After seeing him talk with Pepito, she went home. Later, somebody came to their house and informed her that her son had been killed. She went to the scene of the crime and found the employees of Funeraria Quiogue carrying the body of her son. According to Feliciana Tagubanza, before his death, Edgardo told her that Celestino Abapo had confronted him in Ubak, a place near their residence, and accused him (Edgardo) of killing his (appellant) brother-in-law.[13]

Pepito Reyes, a "controller"[14] of the jeepneys plying the Binangonan-Taytay route with terminal at the Petron gas station in front of the Jose Rizal College in Shaw Blvd., Mandaluyong, testified that Celestino Abapo shot Edgardo Bondoc. He declared that:

FISCAL:

Q: Who shot at Edgardo Tagubanza or Boy?

A: Celestino Abapo, sir (witness pointing to a man in blue t-shirt whom he claims is Celestino Abapo and who when ask gave his name as Celestino Reyes Abapo, accused in this case).

Q: Now, will you please tell the Honorable Court briefly the details immediately before and during the time that the accused fired at Boy or Edgardo Tagubanza?

A: On September 13, that was a Friday, at around 9:00 o'clock in the morning, Edgardo Tagubanza came to see me in my house.

Q: Why did he go to your house?

A: At the time, sir, he came to see me to borrow some money because allegedly he misappropriated the money collection for the dead (abuloy).

Q: Did you give him the money he was requesting from you?

A: No, sir, I didn't. I was not able to give him the money.

Q: What happened after that, when you could not give him the money?

A: He made (sic) permission to leave and left, sir.

Q: What happened next after that?

A: At about 12:00 o'clock noon, I went to my place of work.

Q: Now, while there what happened?

A: I started my work upon arrival at the place and at about 3:00 o'clock in the afternoon, this Boy Tagubanza again came.

Q: Why did he go to you?

A: He came for the same reason as the first time he came to see me because he has misappropriated this collection of money for the dead.

Q: What happened after that?

A: What I did was to lend him my necklace.

Q: For what purpose?

A: I lent him my necklace so that he could do something about it and so he could replace the money which he misappropriated.

Q: After giving this necklace, what happened?

A: Tino suddenly appeared on the scene, sir.

Q: Whereat specifically?

A: Right there at the Petron gasoline station, sir.

Q: When this Tino, the accused, suddenly appeared, what happened?

A: He shot Edgardo Tagubanza, sir.

Q: Were you standing or sitting when you saw the accused fired at Tagubanza?

A: I was standing, sir.

Q: From where you were standing, just recall, will you please tell the Honorable Court where was Edgardo Tagubanza?

A: At the time, Edgardo Tagubanza was also standing very near me (and at this juncture, witness pointing to a distance of about one and a half meters from his place on the witness stand).

Q: Edgardo Tagubanza was facing whom and what direction?

A: He was facing me, sir.

Q: You said a while ago that suddenly the accused appeared and fired at Tagubanza. Now, from your position as you demonstrated to the Honorable Court and the position of Tagubanza, where did the accused suddenly appear?

A: He came from just behind me, sir.

Q: And then you said he fired?

A: Edgardo Tagubanza first shouted 'Brod, hindi tayo talo' (at this juncture, witness raised his right hand as if in a motion of stopping somebody).

COURT:

Q: Who raised his right hand?

A: Tagubanza, sir, the one who was shot raised his right hand as if to stop somebody before uttering the words 'Brod, hindi tayo talo (Brod, we are not at odds).

FISCAL:

Q: After you heard that shout, what happened?

A: Tino shot him, sir.

Q: After the shot, what happened?

A: What I did was to lie or duck on the ground because the bullet whiz passed me (Humaging and bala sa akin).

Q: After you ducked, what happened next?

A: He again shot him (witness pointing to the direction where the accused is presently seated).

Q: Recall again, Mr. Witness. After the first shot, what happened to Boy Tagubanza?

A: Before the first shot, Edgardo Tagubanza tried to run away and when he had his back turned towards the accused, this Tino shot him or fired at him.

Q: That was the first shot?

A: Yes, sir and he was hit here on the buttocks.

Q: What happened to Tagubanza when he was hit by the first gunshot?

A: He was able to run away, sir.

Q: And then you testified that the accused still fired at Tagubanza while running?

A: Yes, sir, but his gun did not fire on the second occasion.

Q: When it did not fire, what happened?

A: He cocked his gun and one of the bullets was ejected from the barrel.

Q: What happened after that?

A: Tino chased Tagubanza until as far as Apex but I did not know anymore what happened after that.

COURT:

Q: What is Apex?

A: Apex Motor, sir.

FISCAL:

Q: While the accused was chasing Tagubanza until you said that place near Apex Motor, did you hear any gunshot?

A: Yes, sir.

Q: More or less how many?

A: More or less about three (3) shots, sir.

Q: Coming from what direction?

A: Near the corner of Apex although I was not there.

COURT:

Q: You did not see who fired the shots?

A: I do not know, Your Honor, who fired those shots. All I could say was that it was Tino who fired the first shot right there where I was and he was also the one who chased Tagubanza.

FISCAL:

Q: Do you know what happened to this Edgardo Tagubanza after the several shots that you heard?

A: I went to the place where the Apex Motor was and it was there that saw Edgardo Tagubanza already sprawled on the ground lying face down with arms stretched on his sides.

Q: Around what time was that when the accused first fired at Tagubanza?

A: More or less maybe about 2:00.

Q: 2:00 in the?

A: In the afternoon, sir.

Q: Before this firing incident or before this shooting, did you know or were you already acquainted with the accused?

A: Yes, sir.

Q: How did you know him?

A: Because you see, sir, my house and the house of the accused were only opposite each other along Libertad Street.[15] (Underscoring ours).

Pfc. Arnaldo Tarroyo, criminal investigator of the Mandaluyong Police Force, testified that he went to the scene of the crime and caused the taking of three (3) photographs showing the victim[16] and another showing the three (3) empty shells recovered thereat.[17] He then requested the assistance of the employees of the Quiogue Funeral Parlor in taking the cadaver to the PC/INP Crime Laboratory for autopsy. On September 25, 1985, he took the statement of witness Pepito Reyes[18] during a follow-up investigation.[19]

As shown by Medico-Legal Report No. M-2815-85[20] and testified to by P/Lt. Filipinas Papa, medical technologist of the PC/INP Crime Laboratory Services, Edgardo sustained five (5) gunshot wounds and two (2) lacerated wounds. The wounds which proved fatal were the gunshot wound in the head which lacerated his brain and the gunshot wound in the right scapular region which lacerated an important artery. The death certificate[21] shows that Edgardo died of "cardio-respiratory arrest due to shock and hemorrhage secondary to gunshot wounds of the head and trunk."

On his part, appellant swore that he was at home on September 13, 1985, stricken with influenza and diarrhea. He was alone as his mother had gone to Taytay, his father-in-law and his wife were at work and his children were in school. At around 12:45 in the afternoon, Ruel Andrade (or Ondrade) came to inquire whether or not the scheduled basketball game would push through. Appellant answered in the negative and asked Ruel to bring his letter to Sonny Pangan, president of the JRC-Binangonan-Tanay Jeepney Drivers' Association, requesting for a loan so that he could buy medicine. Andrade did as requested and came back at about 2:00 o'clock in the

afternoon with the medicine. Andrade kept him company until appellant's father-in-law arrived at about 6:00 o'clock in the evening.[22] Appellant's alibi was corroborated by Ruel Andrade.[23]

In this appeal, appellant contends that the trial court erred in: (a) convicting him on the basis of "conjecture and speculation without certainty"; (b) believing the testimony of Pepito Reyes notwithstanding the sworn statement of the victim's mother implicating Pepito in the killing of her son; (c) convicting him of the crime of murder "without the qualifying circumstances to aggravate the evil act", and (d) not absolving him of the crime charged inspite of the failure of the prosecution to establish his guilt beyond reasonable doubt.

This appeal is anchored on appellant's allegation that Pepito Reyes, who was last seen by the victim's mother talking to her son, was the most probable culprit. The victim allegedly had mortgaged a gun to Pepito who, upon learning that the victim was about to get the gun, got a bodyguard in the person of Joe Bag. To beef up this allegation, appellant relies heavily on the sworn statement of Felician Tagubanza[24] that Pepito and one alias Joe Bag had "something to do" with the killing of her son ("may hinala po ako na iyong si Pepito Reyes alias Totoy Mata at si alias Joe Bag ay may kinalaman sa pagkamatay ng aking anak")[25] and that when Pepito learned that Felician Tagubanza was linking him to the death of her son, he created his own story and tagged appellant as the killer.[26]

Appellant's theory deserves scant consideration as he did not present any evidence to prove it in court. Felician Tagubanza in fact testified that while she had some suspects for the killing of her son, she knew that actually it was appellant ("Super Tino") who should be held responsible for the crime.[27]

On the other hand, the principal prosecution witness, Pepito Reyes, remained steadfast in his testimony that he witnessed how appellant suddenly appeared while he was conversing with the victim and that, even as the victim fled, appellant shot him from behind. Pepito could not have been mistaken as to the identity of appellant as the assailant because he knew him and the victim even before the incident.[28] At the witness stand, he positively identified appellant as Edgardo's assailant.[29] Such positive identification demolished appellant's alibi that he was home afflicted with influenza and diarrhea when the crime transpired.[30]

The fact that Pepito was the sole eyewitness does not weaken the strength of the prosecution's evidence. The testimony of a single witness, free from any signs of impropriety or falsehood, is sufficient to convict an accused, even if uncorroborated.[31] Appellant's attack on the credibility of Pepito as a witness and the evidentiary value of his testimony notwithstanding, such testimony has sealed appellant's fate. The judgment of the trial court on the issue of credibility cannot be interfered with by this Court unless there appears on the record some fact or circumstance of weight which has been overlooked or the significance of which has been misinterpreted. The reason for this is that the trial court is in a better position to decide the question of credibility having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[32] The defense has failed to prove that Pepito and his testimony are unworthy of credence.

Contrary to appellant's claim, the trial court has proven that treachery qualified the killing to murder. The prosecution proved beyond reasonable doubt that the victim was not armed when he was attacked. The sudden appearance of the accused, armed with a gun, did not give the victim any opportunity to defend himself. The essence of treachery is the sudden and unexpected attack without the slightest provocation on the part of the person being attacked.[33] The fact that the victim apparently saw appellant and perceived his malevolent intent when he cried, "Brod, hindi tayo talo!" does not rule out the presence of treachery. Even a frontal attack can be treacherous when it is sudden and unexpected and the victim was unarmed.[34] In this case, the unarmed victim was engaged in conversation with Pepito Reyes when appellant suddenly appeared with a gun. Although the victim tried to flee, there was no confrontation between him and the appellant as to put the victim on guard for the

attack.[35]

Hence, the trial court correctly considered the killing as murder qualified by treachery under Art. 248 of the Revised Penal Code. In the absence of any aggravating or mitigating circumstance, the proper penalty is the medium period of reclusion temporal maximum to death which is reclusion perpetua.[36]

Criminal Case No. 78198

At around 5:30 o'clock in the afternoon of August 8, 1985, Mrs. Evelvie Gavina was at the Producers' Market in Mandaluyong, Metro Manila waiting for her change after buying something when she heard a gunshot. Turning her head to the right, she saw a man who was having a manicure slump on his seat. At the same time, she saw from a distance of two meters, a person with a gun standing one foot away from the victim. The person who shot the man then passed in front of her and boarded a tricycle which already had a passenger. It was the first time that Evelvie saw the gun wielder but later, she learned that he was the appellant and that his victim was Alfredo Raranga.[37] Evelvie singled out appellant in a police line-up on June 6, 1989 at the office of the Special Operations Group, Criminal Investigation Service at Camp Crame.[38]

The victim was autopsied by Dr. Abelardo Lucero upon the request of the Mandaluyong Police.[39] He found out from the wound of the victim that the assailant was on a higher plane or in a standing position while the victim was on a lower plane or sitting position and that the two were facing each other.[40] He signed the death certificate showing that Alfredo Raranga, who had tattoos at the back of his torso and on his front legs,[41] died of "shock traumatic due to a gunshot wound lacerating brain."[42]

In his defense, appellant testified that at about 10:30 in the morning of August 8, 1985, he left his house in Mandaluyong with Ronnie, Jayson and Caloy to attend a fiesta in Camp Crame, particularly at the house of a certain Bobby Langkawon. They had a drinking session which lasted until about midnight.[43] Carlos Ydel corroborated appellant's alibi swearing that no one in their group left Camp Crame from the moment of their arrival until midnight.[44]

The defense presented another witness, Luisa Caraquel, who testified that at the time of the incident, she was selling "balut" in front of the Antoinette Carinderia and the Sheryl Beauty Parlor at the Producers' Market in Mandaluyong, Metro Manila. She was certain that appellant was not the killer as she was able to take a good look at the assailant who had inquired from her the price of the "balut" she was selling. She noticed that the assailant kept on turning his head. Without buying any "balut", he walked away while taking out something from his jacket. She later heard a gunshot and saw the victim slumped on his chair. She saw the man run away and, in her panic, she ran inside the Antoinette Carinderia. Afraid that the assailant might go after her, she left Mandaluyong the following day and settled in Caloocan City.

About the time appellant was arrested and detained at the Mandaluyong Police Station, Luisa met an acquaintance in Balintawak who informed her that the assailant in the August 8, 1985 incident had been arrested. Out of curiosity, she went to the Mandaluyong jail to see if it was the same man she saw at the Producers' Market on August 8, 1985. As she was sure that it was a different man, she told the relatives of the appellant about it and they persuaded her to testify in court.[45]

In this appeal, appellant contends that his witness, Luisa Caraquel, was in a "better position" to identify the assailant than prosecution witness Evelvie Gavina; that the trial court erred in "creating an evidence" inexistent at the time of the incident; that the testimony of the doctor who autopsied the victim was not a proper basis for pinpointing responsibility on him; that there was no aggravating circumstance to qualify the killing as murder, and that his criminal liability had not been proven beyond reasonable doubt.[46]

As we have said, the issue of credibility of a witness is addressed to the trial court which has the opportunity to observe him or her at the witness stand. In the case at bar, the trial court cannot be faulted for rejecting the testimony of defense witness Luisa Caraquel. In the first place, if Luisa were indeed as civic-minded as she pictured herself to be, she should not have waited for around four (4) years to volunteer as a witness. Secondly, if she was really afraid of the assailant she would have distanced herself from the case.

On the other hand, the defense failed to dent Evelvie's credibility as a witness. No evil motive was attributed to her for implicating appellant in the crime. It is settled that where there is no evidence to indicate that the witness was actuated by any improper motive, the presumption is that he or she was not so actuated and that his or her testimony is entitled to full faith and credit.[47] Appellant's testimony that Evelvie was not the same woman who pinpointed him at the police line-up as the culprit does not hold any evidentiary value. Uncorroborated, it is no more than a self-serving statement designed to extricate himself from liability.

With respect to the testimonies of Dr. Lucero and Marieta Raranga, the victim's wife, the same are at most corroborative and not the principal bases for appellant's conviction.

Appellant's contention that no qualifying circumstance was proven is misleading. The trial court clearly ruled out the existence of evident premeditation which, although alleged in the informations in both this case and in Criminal Case No. 64831, had not been proved beyond reasonable doubt by the prosecution. However, the trial court did prove that treachery attended the killing. In this case, the victim was having himself manicured when out of nowhere, appellant shot him in the head. Appellant gave the victim practically no chance to defend himself or to repel the assault against him in view of the sudden and unexpected attack on his person which ensured its accomplishment.[48]

Hence, the appellant should be held liable for murder and there being no aggravating or mitigating circumstances, he should be meted the penalty of reclusion perpetua.[49]

In both cases, appellant has been proven beyond reasonable doubt to have cold-bloodedly committed the murders of Edgardo Bondoc Tagubanza and Alfredo Raranga.[50] He should therefore be dealt with with the full force of the law. However, the trial court committed a mistake in imposing the penalty of "life imprisonment" apparently on the belief that it is the English version of reclusion perpetua. At this point, therefore we wish to reiterate our ruling in *People v. Ruelan*[51] where we enumerated the distinctions between the two penalties, thus:

As noted from the dispositive portion of the assailed decision, the trial court imposed the penalty of 'life imprisonment' for the crime of murder. Evidently, the said court failed to appreciate the substantial difference between Reclusion Perpetua under the Revised Penal Code and Life Imprisonment when imposed as a penalty by special law. These two penalties are different and distinct from each other. Hence, we would like to reiterate our admonition in the case of *People vs. Penillos* (205 SCRA 546, 565--566), likewise quoted under Administrative Circular No. 6-92 dated October 12, 1992 re: the correct application of the penalties of reclusion perpetua and life imprisonment, thus:

As noted from the dispositive portion of the challenged decision, the trial court imposed the penalty of 'reclusion perpetua or life imprisonment'. Evidently, it considered the latter as the English translation of the former, which is not the case. Both are different and distinct penalties. In the recent case of *People vs. Baguio* (196 SCRA 459, 469), this Court held:

The Code does not prescribe the penalty of 'life imprisonment' for any of the felonies therein defined, that penalty being invariably imposed for serious offenses penalized not by the Revised Penal Code but by special laws. Reclusion perpetua entails imprisonment for at least thirty (30) years after which the convict becomes eligible for pardon, it also carries with it accessory penalties, namely: perpetual special disqualification, etc. It is

not the same as 'life imprisonment' which, for one thing, does not carry with it any accessory penalty, and for another, does not appear to have any definite extent or duration.'

As early as 1948, in *People vs. Mobe*, reiterated in *People vs. Pilonos*, and in the concurring opinion of Justice Ramon Aquino in *People vs. Sumadic*, this Court already made it clear that reclusion perpetua, is not the same as imprisonment for life or life imprisonment. Every judge should take note of the distinction and this Court expects that, henceforth, no trial judge should mistake one for the other.

Accordingly, appellant should be meted the proper penalty of reclusion perpetua for each of the two crimes he committed, the same being punishable under the Revised Penal Code. With respect to the indemnity payable to the heirs of Edgardo Bondoc Tagubanza and Alfredo Raranga, the same is increased to P50,000 each in accordance with recent jurisprudence.[52]

WHEREFORE, the Joint Decision appealed from is hereby AFFIRMED subject to the modification that appellant Celestino Abapo is hereby imposed the penalty of two reclusion perpetuas and the payment of indemnity of P50,000 to each set of heirs of the victims Edgardo Bondoc Tagubanza and Alfredo Raranga. Costs against the appellant.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Quiason, JJ., concur.

[1] Penned by Judge Apolonio R. Chavez, Jr.

[2] Decision, p. 25; Original Records of Criminal Case No. 64831, p. 157.

[3] Id., at p.1.

[4] Id., at p. 5.

[5] Id., at p. 6.

[6] Id., at p. 7.

[7] Id., at pp. 18-19.

[8] Id., at pp. 20-22.

[9] Id., at p. 24.

[10] Id., at p. 26.

[11] Original Records of Criminal Case No. 78198, p. 1.

[12] See Note 2, *supra*, p. 30.

[13] TSN, September 22, 1989, pp. 12-17.

[14] A "controller" lists down the plate numbers of the jeepneys plying in a particular route and sees to it that the jeepneys are so arranged in a line on a terminal that the last one to disgorge passengers shall take the last spot in the jeepney line (TSN, August 11, 1989, p. 3).

[15] TSN, August 11, 1989, pp. 3-7.

[16] Exhibits "B", "B-1" and "B-2"; See Note 2, *supra*, pp. 119-120.

- [17] Exhibit "B-3"; Id., at p. 120.
- [18] Exhibit "A"; Id., at pp. 121-121-A.
- [19] TSN, September 20, 1989, pp. 4-5.
- [20] Exhibits "G", "H" and "I"; See Note 15, *supra*, pp. 113-115.
- [21] Exhibits "J" and "J-1"; Id., at p. 112.
- [22] TSN, December 21, 1989, pp. 5-6.
- [23] TSN, November 6, 1989, pp. 4-6.
- [24] A xerox copy of this sworn statement in Tagalog which was taken before the police of Mandaluyong is attached to the inside back cover of the record in Criminal Case No. 78198.
- [25] Appellant's Brief in Criminal Case No. 64831, p. 5; Rollo, p. 73.
- [26] *Ibid.*, at pp. 17-18.
- [27] TSN, September 22, 1989, p. 10.
- [28] TSN, August 11, 1989, p. 7.
- [29] *Ibid.*, at pp. 3-4.
- [30] *People v. Villanueva*, G.R. No. 98468, August 17, 1993, 225 SCRA 353; *People v. Armada, Jr.*, G.R. No. 100592, August 26, 1993, 225 SCRA 644.
- [31] *People v. Magpayo*, G.R. Nos. 92961-64, September 1, 1993, 226 SCRA 13, 25.
- [32] *People v. Enciso*, G.R. No. 105361, June 25, 1993, 223 SCRA 675.
- [33] *People v. Jacolo*, G.R. No. 94470, December 16, 1992, 216 SCRA 631, 636 citing *People v. Alcantara*, G.R. No. 95957, February 28, 1992, 206 SCRA 662.
- [34] *People v. Javar*, G.R. No. 82769, September 6, 1993, 226 SCRA 103 citing *People v. Cruz*, G.R. No. 94375, September 4, 1992, 213 SCRA 611.
- [35] See: *People v. Calijan*, G.R. No. 94592, September 28, 1993, 226 SCRA 792, 798.
- [36] Art. 64 (1) and Art. 248, Revised Penal Code.
- [37] TSN, September 20, 1989, pp. 9-20.
- [38] Exhibit "B"; See Note 2, *supra*, pp. 124-125.
- [39] Exhibit "F"; Id., at p. 129.
- [40] TSN, October 27, 1989, pp. 5-8.
- [41] Exhibit "G"; See Note 2, *supra*, p. 130.
- [42] Exhibit "D"; Id., at p. 127.
- [43] TSN, December 21, 1989, pp. 3-4.
- [44] TSN, November 13, 1989, pp. 2-11.

[45] TSN, November 28, 1989, pp. 2-6.

[46] Appellant's Brief for Criminal Case No. 98198, pp. 1-2; Rollo, p. 73.

[47] *People v. Ramos*, G.R. Nos. 101804-07, May 25, 1993, 222 SCRA 557.

[48] *People v. Villagrancia*, G.R. Nos. 82727-28, April 7, 1993, 221 SCRA 136, 144.

[49] See Note 36, *supra*.

[50] Attached to the record is a confidential report of the Special Operations Group of the Criminal Investigation Service naming appellant Celestino Abapo as one of the "notorious killers who are being hired to kill with (sic) a fee" (Exhibits "H", "H-5").

[51] G.R. No. 106152, April 19, 1994.

[52] *People v. Baguio*, *supra* at p. 468.

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