



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 14, 2020** which reads as follows:*

“G.R. No. 224922 – PEOPLE OF THE PHILIPPINES vs. LOLOY SPINILLA or LOLOY SOINILA(Accused-at-Large), a.k.a. SAMAD (Accused-at-Large) and ROLANDO LUNTAD (Accused-Appellant)

Facts

The Charge

By Information dated June 11, 2004, appellant Rolando Luntad, Loloy Spinilla or Loloy Soinilla, and a certain “Samad” were charged with the crime of robbery with rape, viz.:

That on July 20, 2003, at 12:00 o’clock in the evening, more or less, at Maandig Beach [REDACTED] Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another and armed with deadly weapon, to wit: knives or bladed instrument, with intent to gain and by means of violence and intimidation, did then and there willfully, unlawfully, and feloniously take from the herein complainant AAA her Radio-Casette Deskman (sic) and small wallet containing undetermined cash who were at that time was strolling at Maandig Beach, [REDACTED] and by means of intimidation, violence and threats, did then and there willfully, unlawfully, and feloniously, one after the other, have carnal intercourse with the complainant, AAA, against her will.

Contrary to Article 294 par. 2 of the Revised Penal Code.¹

- over – fourteen (14) pages ...

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¹ CA rollo, pp. 23-24.

The case was raffled to the Regional Trial Court (RTC) - Branch 18, Cagayan de Oro City. On arraignment, appellant Rolando Luntad pleaded not guilty.² Loloy Spinilla and “a.k.a. Samad” remained at large. Trial on the merits ensued.

Proceedings before the Trial Court

Prosecution’s Version

On July 20, 2003, about 11 o’clock in the evening, the victim AAA and her co-workers went to Maandig Beach Resort [REDACTED] to attend a birthday party. While food was being prepared, she and her new male friend, BBB, went for a stroll along the seashore. They eventually sat down somewhere on the seashore and talked. Appellant and his co-accused approached them. Appellant pointed a knife at the victim and one of his co-accused took her discman and money. Meanwhile, the other co-accused of appellant mauled BBB. Appellant then removed her pants and panty while his two co-accused restrained her. Appellant inserted his fist into her vagina. Thereafter, appellant attempted to stab her with the knife but his companions stopped him. She tried to get away but was held by all three men.³

She was brought to Bayabas Beach where appellant inserted his penis into her vagina. After appellant was done, one of his companions, who was holding her, inserted a finger into her vagina and also had intercourse with her. Thereafter, they left her unconscious on the shore. It was only then that BBB went to her. A man and a woman later helped them to return to their cottage in Maandig Beach. When the victim’s friends learned what happened, they called for police assistance. The police officers shortly arrived and started searching for the three (3) malefactors, but it was in vain. The victim went with the police officers to file a report at the Carmen police station. When she scanned the photo album at the station, she recognized appellant.⁴

The next morning, she underwent a physical examination at the Provincial Hospital. It was Dr. Greshela M. Casalta who personally examined her and issued the following findings:

General Physical Examination

Breast – Tanner 4

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² *Id.* at 33.

³ *Id.* at 69-70.

⁴ *Id.* at 70.

RJ

Genital Examination:**Genitalia – Tanner 5**

Hymen – fresh laceration at 5, 6, & 9 o'clock positions; with 2 cm laceration at posterior fourchette extending to the perineum.⁵

According to Dr. Casalta, her findings suggest forcible penetration of a blunt object inside the victim's genitalia.⁶

Appellant's Version

Appellant Rolando Luntad denied the charge. He testified that in the evening of July 20, 2003, he was with his wife, Maricel Luntad, in one of the cottages in Maandig Beach. Suddenly, three (3) persons approached them. Appellant identified two (2) of the three (3) persons as his co-accused Loloy Spinilla and an alias Samad. Loloy Spinilla pointed a .38 caliber gun at him and declared a "Hold up". He recognized Loloy Spinilla who in turn also recognized him. Loloy Spinilla then told his companions to desist and the three (3) men walked away.⁷

Appellant further testified that he saw a man and a woman near their cottage at that time. He also saw the three perpetrators approach the couple. Because of fear that the men would come back for him and his wife, they left the beach and went home to sleep. The next day, appellant heard the news about a robbery with rape incident which happened in Maandig Beach.⁸

Maricel Luntad corroborated her husband's *alibi*. She confirmed that after they went home, she and appellant went to sleep. They were together the whole night so it was impossible for her husband to have been out of the house at that time.⁹

The Trial Court's Ruling

By Decision¹⁰ dated October 29, 2012, the trial court found appellant guilty of robbery with rape. It gave credence to the victim's positive identification of appellant as one of the three perpetrators who robbed and sexually ravished her. Appellant's twin defenses of

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⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 71.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 33-41.

alibi and denial were considered weak. The trial court also noted appellant's admission that his house was very near the *situs criminis* and he had not sufficiently proven that it was impossible for him to be present at the scene of the crime. To compensate for the victim's lost discman and hospital treatment, she was awarded ₱25,000.00 as temperate damages in lieu of actual damages because she failed to present receipts. Thus:

WHEREFORE, premises considered, this Court finds accused Rolando Luntad guilty beyond reasonable doubt of the crime of Robbery with Rape as charged, and he is hereby sentenced the penalty of *Reclusion Perpetua* without eligibility for parole and to pay offended party AAA, PhP75,000.00 as civil indemnity, PhP75,000.00 as moral damages, PhP25,000.00 as temperate damages and PhP30,000.00 as exemplary damages, plus 6% interest per annum on all damages from the date of finality of this judgment until fully paid.

Let Warrant of Arrest issue against accused Loloy Spinilla or Loloy Soinilla and accused 'a.k.a. Samad', who to date remain at large.

Let the instant case be archived as against accused Loloy Spinilla or Loloy Soinilla and accused 'a.k.a. Samad'.

SO ORDERED.¹¹

Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering the verdict of conviction. In the main, he argues that other than the victim's inconsistent and implausible testimony, there was no other evidence to prove his guilt. The reason why the victim was able to point to him as one of the perpetrators was because everyone else not privy to the case was not allowed inside the court. Second, the victim's identification of him was a result of the police officers' suggestion. He insisted that he was an innocent man.¹²

The Office of the Solicitor General (OSG), through Assistant Solicitor General Reynaldo Saludaes and State Solicitor Donalita Lazo countered that all the elements of robbery with rape were duly proven beyond reasonable doubt by the prosecution. Appellant pointed a knife at the victim, and together with his two co-accused, took her discman and money. Further, two types of rape were committed against the victim: the first was by sexual assault when he

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¹¹ *Id.* at 41.

¹² *Id.* at 21-32.

inserted his fist into the victim's vagina, and the second was by sexual intercourse when he inserted his penis into her vagina. The victim has positively identified appellant as one of the three perpetrators who robbed and raped her.¹³

The Ruling of the Court of Appeals

By its assailed Decision¹⁴ dated January 28, 2015, the Court of Appeals affirmed.

Appellant sought a reconsideration,¹⁵ which the Court of Appeals denied through its assailed Resolution¹⁶ dated March 28, 2016.

The Present Appeal

Appellant now seeks anew a verdict of acquittal. Both appellant¹⁷ and the OSG¹⁸ manifested that, in lieu of their supplemental briefs, they were adopting their respective briefs in the Court of Appeals.

Issue

Did the Court of Appeals err in convicting appellant of robbery with rape?

Ruling

The elements of robbery with rape was duly proved

The elements of robbery with rape are : (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is characterized by intent to gain or *animus lucrandi*; and (4) the robbery is accompanied by rape.¹⁹ All these elements are present in this case. Consider AAA's testimony:

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¹³ *Id.* at 49-64.

¹⁴ Penned by Associate Justice Edgardo A. Camello and concurred in by Associate Justice Henri Jean Paul B. Inting (now a member of this Court) and Associate Justice Pablito A. Perez, all members of the Twenty-Second Division, *id.* at 68-75.

¹⁵ *Id.* at 79-84.

¹⁶ *Id.* at 95-96.

¹⁷ *Rollo*, pp. 22-23.

¹⁸ *Id.* at 18-20.

¹⁹ *People v. Evangelio*, 672 Phil. 229, 242 (2011).

ATTY. G.L. NADUMA:

Same question.

COURT:

Answer.

A We sat around the seashore and while we are sitting, three persons approached us and one of them pointed a knife on my side.

ACP R.T. MALANOG: (Continuing to the Witness)

Q Now, what happened next?

A He got my discman and he inspected if I had money, and then he removed my pants and my panty.

Q You said there were three men who approached you and one of them pointed a knife at you. Now, who among the three did that to you?

NOTE: Witness pointed to the accused who, when asked of his name, he identified himself as Rolando Luntad.

x x x

ACP R.T. MALANOG: (Continuing to the Witness)

Q You said that one of the three, there was also a man who took your discman and inspected your pocket if there was money. Who was that person among the three?

A I do not know his name but I can describe him.

Q Will you please describe him?

A He is somewhat a fat man, black skinned.

Q If you can see him, can you identify him?

A Yes.

Q You said somebody removed your pants and your panty. Among the three, who was that person who did that to you?

A Rolando Luntad.

Q Now, after Rolando Luntad took off your pants and your panty, please tell us what transpired next, if any?

A He inserted his fist into my vagina.

Q What else did he do?

A He pushed his fist to my vagina.

Q Then what else happened, if any?

A He attempted to stab me with a knife but he was stopped by the fat man and he said 'do not do it because she is looy (pitiful)'.

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Q Then what else happened if any, after that?

A At that time I tried to get away. There was even one man who saw what happened, and the other accused, the fat man, attempted to stab that man who saw, and that man ran away and after that, we were brought to Bayabas Beach.

Q Who brought you to Bayabas Beach?

A The three persons.

Q The three accused in this case?

A Yes.

Q Now, you said you had a companion. Where was your companion at that time?

A He was mauled by the other person, the other accused.

Q That person who mauled your companion named BBB, was he the same person, the fat man you previously described?

x x x

A No, the other accused.

ACP R.T. MALANOG: (Continuing to the Witness)

Q Now, when you arrived at the Bayabas Beach, please tell this Court what happened next, if any?

A Then we were at the beach, they lifted me. One of the accused was already naked and he inserted his penis into my vagina.

Q You said that one of the accused was already naked and inserted his penis into your vagina. Who among the three did that to you?

A Rolando Luntad.

Q Aside from inserting his penis into your vagina what else Rolando Luntad do to you, if any?

A The fat man, one of the accused, inserted his finger into my vagina and then he took over.

Q You mean he did that at the same time when Rolando Luntad inserted his penis into your vagina?

A Yes, ma'am.

Q And you said that after Rolando Luntad had sex with you, the fat man took over. Will you please be specific on what the fat man did to you?

A The same as what Rolando Luntad did to me and he is already naked.

Q What about the other accused, because there were three accused in this case, what did he do to you, if any?

A He was the one guarding them.

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Q Did he have sex with you also?

A No, ma'am.

Q Now, while Rolando Luntad was having sex with you against your will, what was the other accused, the fat man, doing?

A He was guarding if ever there might be witnesses.

Q Did you not shout?

A I cannot shout because he covered my mouth.

Q Who covered your mouth?

A The fat man.

Q While he was covering your mouth, what was Rolando Luntad doing, if any?

A He removed my blouse.

Q What else, if any?

A The fat man mashed my breast. (Emphasis supplied)²⁰

First. The intent to rob must precede the rape. In robbery with rape, the intention of the felony is to rob and the felony is accompanied by rape.²¹ Intent to gain, as an element of the crime of robbery, is an internal act; hence, presumed from the unlawful taking of things.²² Here, AAA categorically testified that while she and BBB were sitting on the seashore, appellant, accompanied by his two (2) cohorts, pointed a knife at her, took her discman and money, and then looked into her pocket for more money. The first three (3) elements of robbery with rape, therefore, were duly established here.

Second. In robbery with rape to stand, it must be shown that the rape was committed by reason of or on the occasion of robbery and not the other way around. This special complex crime contemplates a situation where the original intent of the accused was to take, with intent to gain, personal property belonging to another and rape is committed on the occasion thereof or as an accompanying crime.²³

Here, AAA testified that it was only after she was robbed of her discman and money that she experienced sexual ravishment in the hands of appellant and his co-accused. Rape by sexual assault was first committed when appellant inserted his fist into her vagina at Maandig Beach. When she was brought to Bayabas Beach, appellant

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²⁰ CA rollo, pp. 36-37.

²¹ *People v. Suyu*, 530 Phil. 569, 596 (2006).

²² *People v. Llamera*, G.R. No. 218703, April 23, 2018, 862 SCRA 341, 350.

²³ *People v. Bongos*, 824 Phil. 1004, 1012 (2018).

raped her by sexual intercourse. Also there, one of the accused inserted his finger into her vagina and later on had sexual intercourse with her too against her will.

The spontaneity and consistency by which AAA had detailed out the incident dispel any insinuation of a rehearsed testimony. Her eloquent testimony should be enough to confirm the veracity of the charge of rape against appellant.²⁴ After all, the nature of the crime of rape entails reliance on the lone, yet clear, convincing and consistent testimony²⁵ of the victim herself. Additionally, the medical evidence corroborated her rape narrative. Dr. Greshela Casalta testified that AAA sustained fresh hymenal lacerations at 5, 6, & 9 o'clock positions. Where the victim's testimony is corroborated by physical findings of penetration, there is sufficient basis for concluding that sexual intercourse did take place.²⁶

Third. Appellant claims that AAA's identification of him was uncertain. He insists that she was merely urged by the police to point to him. This is farthest from the truth. AAA testified:

Q: Miss Witness, please look at Mr. Rolando Luntad. Why are [you] so sure that he is the same person who raped you that night?

A: I cannot forget his face, I am very sure.

Q: Why? Why are you so sure? Do you know that in the event that you mistakenly identified this person you are going to send this person to jail?

A: He is really the one.

Q: Why were you able to see his face that night?

A: Yes, ma'am.

Q: Why?

A: There was a light at that time while they were doing it to me.

Q: Where did this light come from?

A: There was a post nearby, I can see him.

x x x

Q: That place where you were subsequently brought, was there a light post also?

A: None but at that time it was not really dark.

Q: Why do you say that? Was there a moon at that time?

A: Yes.

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²⁴ *People v. Padilla*, 666 Phil. 565 (2011).

²⁵ See *People v. Ronquillo*, 818 Phil. 641 (2017).

²⁶ *People v. ZZZ*, G.R. No. 224584, September 04, 2019.

Q: Why are you so sure that it was Rolando Luntad among the three or among the two who molested you that night?

A: I can clearly see his face. It was really his face.

x x x

Q: (cont'd) Now take a look to the accused in order for you not to be mistaken xxx. What is your answer?

A: That is really the face.(Emphasis supplied)²⁷

A categorical and consistent positive identification without any showing of ill motive on the part of the eyewitness testifying on the matter prevails over a denial²⁸ or *alibi*. Also, a truism founded on ordinary experience is that victims of criminal violence often strive hard to recognize their assailants. A victim has a natural knack in remembering the face of an assailant for she, more than anybody else, would be interested in bringing the malefactor to justice. On the other hand, it would be unnatural for someone who is interested in vindicating the crime to accuse somebody other than the real culprit.²⁹

Appellant conspired with his two (2) co-accused in committing robbery with rape

Under Article 8 of the Revised Penal Code, there is conspiracy when two or more persons come to an agreement concerning a felony and decide to commit it. It may be inferred from the acts of the accused before, during or after the commission of the crime which, when taken together, would be enough to reveal a community of criminal design, as the proof of conspiracy is frequently made by evidence of a chain of circumstances. To be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act or need not even know the exact part to be performed by the others in the execution of the conspiracy. Each conspirator may be assigned separate and different tasks which may appear unrelated to one another but, in fact, constitute a whole collective effort to achieve their common criminal objective. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.³⁰

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²⁷ CA rollo, pp. 58-61.

²⁸ *People v. Espia*, 792 Phil. 794, 805 (2016).

²⁹ *People v. Naag*, 404 Phil. 542, 551 (2001).

³⁰ *Supra*, note 19 at 246.

Here, appellant pointed the knife at complainant. A dark-skinned and fat man took her discman and money and also inspected her pockets if she had more money. One of the perpetrators also mauled BBB. The three (3) perpetrators lifted her and brought her to Bayabas Beach. Appellant and the fat man sexually ravished her while the third perpetrator stood guard. Verily, appellant and his two (2) cohorts acted in concert in committing robbery with rape. The rule in this jurisdiction is that whenever a rape is committed as a consequence, or on the occasion of a robbery, all those who took part therein are liable as principals of the crime of robbery with rape, although not all of them took part in the rape.³¹

Defenses of denial and alibi are devoid of merit

Against AAA's positive identification of appellant as one of the three (3) perpetrators who robbed and raped her, appellant merely interposed *alibi* and denial. Denial and *alibi* are the weakest of all defenses. They easily crumble in the face of positive identification of the accused as the perpetrator of the crime.³² Also, for *alibi* to prosper, it is not enough for the accused to prove that he was in another place when the crime was committed as he must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission.³³ As it was, appellant failed to convincingly substantiate his *alibi*. The trial court aptly ruled:

The Court cannot sustain the defense of alibi interposed by Rolando who claimed that he and his wife returned to their house and slept after they were approached by three armed men at the cottage. It bears stressing that the house of Rolando is located just at the back of Maandig Beach so that it is not physically impossible for him to be present in the area at the time of the commission of the crime. Moreover, he was positively identified by AAA.³⁴

Imposable Penalties and Damages

The crime of robbery with rape is penalized under Article 294 of the Revised Penal Code. Article 294 provides for the penalty of *reclusion perpetua* to death, *viz.*:

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³¹ *People v. Verceles*, 437 Phil. 323, 333 (2002).

³² *People v. Glino*, 564 Phil. 396, 420 (2007).

³³ *People v. Apattad*, 671 Phil. 95, 111 (2011).

³⁴ CA rollo, p. 38.



Art. 294. Robbery with violence against or intimidation of persons; Penalties. - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death when by reason or on occasion of the robbery, the crime of homicide shall have been committed; or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

Since the penalty of *reclusion perpetua* to death includes two (2) indivisible penalties, Article 63 of the RPC finds application such that when there are neither mitigating nor aggravating circumstances, the lesser penalty, which is *reclusion perpetua*, shall be applied.³⁵ Further, the aggravating circumstances that warrant the imposition of the death penalty should be those under Article 14 of the RPC.³⁶ Here, since there is no aggravating circumstance, the imposable penalty is *reclusion perpetua*. Too, pursuant to A.M. No. 15-08-02-SC,³⁷ the phrase “without eligibility for parole” need not be borne in the decision to qualify the penalty imposed.

The three incidents of rape committed by appellant, in conspiracy with his two (2) cohorts, cannot be appreciated independently nor alter the imposable penalty. For there is only one single and indivisible felony of robbery with rape and any crimes committed on the occasion or by reason of the robbery are merged and integrated into a single and indivisible felony of robbery with rape.³⁸

On the awards of civil indemnity and damages, prevailing

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³⁵ See *People v. Condes*, 659 Phil. 375, 398 (2011).

³⁶ See *People v. Lamberte*, 226 Phil. 581 (1986), citing *People vs. Garcia*, 192 Phil. 311 (1981).

³⁷ *Guidelines for the Proper Use of the Phrase “Without Eligibility for Parole” in Indivisible Penalties*:

x x x

The following guidelines shall be observed in the imposition of penalties and in the use of the phrase “without eligibility for parole”:

(1) In cases where the death penalty is not warranted, there is no need to use the phrase “without eligibility for parole” to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and (2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. No. 9346, the qualification of “without eligibility for parole” shall be used in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9364.

x x x

³⁸ *Supra*, note 21 at 597.

jurisprudence³⁹ ordains the grant of the following: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱75,000.00 as exemplary damages.

We affirm the trial court's award of ₱25,000.00 as temperate damages to compensate for complainant's lost discman and her hospital treatment. For temperate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be provided with certainty.⁴⁰

These amounts shall also earn six percent (6%) interest *per annum* from finality of this resolution until fully paid.

WHEREFORE, the appeal is **DISMISSED**. The assailed Decision dated January 28, 2015 and Resolution dated March 28, 2016 in CA-G.R. CR HC No. 01129-MIN of the Court of Appeals are **AFFIRMED** with **MODIFICATION**.

Appellant **ROLANDO LUNTAD** is found **GUILTY** of **ROBBERY WITH RAPE** and sentenced to *reclusion perpetua*. He is directed **TO PAY AAA ₱75,000.00** as civil indemnity, ₱75,000.00 as moral damages, ₱75,000.00 as exemplary damages, and ₱25,000.00 as temperate damages.

All monetary awards are subject to six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

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³⁹ *People v. Jugueta*, 783 Phil. 806, 850-851 (2016).

IV. For Special Complex Crimes like Robbery with Homicide, Robbery with Rape, Robbery with Intentional Mutilation, Robbery with Arson, Rape with Homicide, Kidnapping with Murder, Carnapping with Homicide or Carnapping with Rape, Highway Robbery with Homicide, Qualified Piracy, Arson with Homicide, Hazing with Death, Rape, Sodomy or Mutilation and other crimes with death, injuries, and sexual abuse as the composite crimes, where the penalty consists of indivisible penalties:

x x x

2.1 Where the penalty imposed is *reclusion perpetua*, other than the above-mentioned:

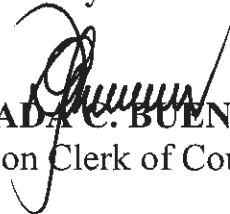
a. Civil indemnity - P75,000.00 Moral damages - P75,000.00

Exemplary damages - P75,000.00

⁴⁰ Article 2224, New Civil Code of the Philippines.

SO ORDERED.” *Rosario, J., designated Member per Special Order No. 2794 dated October 9, 2020.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *m.v./lc*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Court of Appeals
9000 Cagayan de Oro City
(CA-G.R. CR HC No. 01129-MIN)

The Hon. Presiding Judge
Regional Trial Court, Branch 18
9000 Cagayan de Oro City
(Crim. Case No. 2004-448)

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