**FUNDAMENTAL PRINCIPLES**

**CONSTITUTIONAL LIMITATIONS ON THE POWER OF CONGRESS TO ENACT PENAL LAWS**

Although courts must not remain indifferent to public sentiments, in this case the general condemnation of a hazing-related death, they are still bound to observe a fundamental principle in our criminal justice system. No act constitutes a crime unless it is made so by law. Nullum crimen, nulla poena sine lege. Even if an act is viewed by a large section of the populace as immoral or injurious, it cannot be considered a crime, absent any law prohibiting its commission. Had the Anti-Hazing Law been in effect then, these five accused fraternity members would have all been convicted of the crime of hazing punishable by reclusion perpetua (life imprisonment). The absence of malicious intent does not automatically mean, however, that the accused fraternity members are ultimately devoid of criminal liability. The Revised Penal Code also punishes felonies that are committed by means of fault (culpa). **ARTEMIO VILLAREAL vs. PEOPLE OF THE PHILIPPINES, G.R. No. 151258, February 1, 2012, CJ. Sereno**

**FELONIES**

**CONSPIRACY AND PROPOSAL**

Jurisprudence requires that conspiracy must be proven as the crime itself. Conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it. Proof of the agreement need not rest on direct evidence, as the same may be inferred from the conduct of the parties indicating a common understanding among them with respect to the commission of the offense. It is not necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or the details by which an illegal objective is to be carried out. The rule is that conviction is proper upon proof that the accused acted in concert, each of them doing his part to fulfill the common design to kill the victim. There is no clear evidence that accused-appellants had a common design to kill Maximillian. To recall, Maximillian's group and accused-appellants' group completely met by chance that fateful early morning of April 29, 2006 near Gaisano Mall. They did not know each other before this meeting. The events swiftly happened, in a matter of minutes, from the meeting of the two groups, to Maximillian's insulting remark to Jenny, to the scuffle between Maximillian and accused-appellant Arnel, and to accused-appellant Arnel's stabbing of Maximillian. The scuffle between Maximillian and accused-appellant Arnel broke out because the former tried to grab the latter's arm. It was at this point that prosecution witnesses saw accused-appellant Randy block Maximillian's way and hold Maximillian's hand/s. Josephine testified that accused-appellant Randy held only Maximillian's left hand, and Frederick narrated that accused-appellant Randy held both of Maximillian's hands; but neither of these witnesses was able to describe the extent that Maximillian's ability to defend himself or flee was impaired by accused-appellant Randy's hold on his hand/s. Given the circumstances, the Court has serious doubts that accused-appellant Randy so acted to ensure that accused-appellant Arnel would be able to stab and kill Maximillian.  It is completely reasonable and plausible that accused-appellant Randy was merely stepping in to stop Maximillian from further attacking his cousin accused-appellant Arnel. There was no proof that accused-appellant Randy had prior knowledge that accused-appellant Arnel carried a sharp weapon with him or that accused-appellant Arnel intended to stab Maximillian. **PEOPLE OF THE PHILIPPINES vs. ARNEL VILLALBA AND RANDY VILLALBA, G.R. No. 207629, October 22, 2014, J. Leonardo-De Castro**

Conspiracy must be proven with evidence that can convince a trial court of its existence beyond reasonable doubt. Hence, when the co-accused stated in open court that her fellow co-accused had no participation in the crime of estafa, such statement was an admission against her interest. The statement negated the alleged “common design or purpose”of conspiracy between her and Benito. It alsomeans that she admitted that her companion’s acts can never be attributed to her. **ANGELITA CRUZ BENITO vs. PEOPLE OF THE PHILIPPINES, GR. No. 204644, February 11, 2015, J. Leonen**

**CIRCUMSTANCES AFFECTING CRIMINAL LIABILITY**

**JUSTIFYING CIRCUMSTANCES**

To avail of self-defense as a justifying circumstance so as not to incur any criminal liability, it must be proved with certainty by satisfactory and convincing evidence which excludes any vestige of criminal aggression on the part of the person invoking it. It cannot be entertained where it is not only uncorroborated by any separate competent evidence but is also doubtful. Thus, the claim of an accused that he stabbed the victim at the back portion of the latter’s body (Lumbar area) while the former was lying down is not only uncorroborated by any other evidence but it is improbable and contrary to the physical evidence especially when the vicitm was lying on the ground while the accused was on top and at the same time choking him, making the plea of self-defense dubious. **PEOPLE OF THE PHILIPPINES vs. ERWIN LALOG, ROOSEVELT CONCEPCION, EDWIN RAMIREZ, and RICKY LITADA, G.R. No. 196753, April 21, 2014, J. Del Castillo**

Self-defense, to be successfully invoked, must be proven by clear and convincing evidence that excludes any vestige of criminal aggression on the part of the person invoking it. Bosito failed to present adequate evidence to prove otherwise. Thus, his claim of self-defense cannot stand. **PEOPLE OF THE PHILIPPINES vs. ARNALDO BOSITO Y** **CHAVENIA, G.R. No. 209346, January 12, 2015, J. Carpio**

The accused failed to prove any unlawful aggression on the part of either Joel or Eligio, which is a condition sine qua non for the justifying circumstance of self-defense to obtain. As case law puts it, there can be no self-defense unless the victim committed unlawful aggression against the person who resorted to self-defense. As shown by the records, it was Casas who was actually the aggressor, as he was the one who wielded a knife, brought it to bear on Eligio, then on Joel as he lay prostrate, and again on Eligio as he was fleeing. Being the party initiating the attack, and overbearing with a deadly weapon, Casas cannot successfully claim that there was unlawful aggression. Verily, for unlawful aggression to be appreciated, there must be an actual, sudden and unexpected attack or imminent danger thereof, not merely a threatening or intimidating attitude,as against the one claiming self-defense. Evidently, the contrary happened in this case.

However, the Court disagrees that the accused should be convicted of the crime of Murder with respect to the death of Joel, considering the prosecution’s failure to prove the existence of treachery. In order to appreciate treachery, the victim must not have known the peril he was exposed to at the moment of the attack. Should it appear, however, that the victim was forewarned of the danger he was in, and, instead of fleeing from it he met it and was killed as a result, then the qualifying circumstance of treachery cannot be appreciated.

In this case, Joel knew that Casas was armed with a knife and had just used the same on Eligio. Joel elected to intervene, and even armed himself with a bamboo pole. Accordingly, it is rather obvious that Joel was aware of the danger to his life. Further, acting in the heat of the moment, and there being no showing that no appreciable interval of time had elapsed from Joel’s mishap to his stabbing so as to allow for the assailant’s careful reflection, it does not equally appear that Casas deliberately adopted means in order to ensure that Joel had no opportunity to defend himself or retaliate. Evidently, this lack of deliberation on the part of Casas, as well as Joel’s obvious awareness of the danger to his life, prompts this Court to discount treachery as a qualifying circumstance. **PEOPLE OF THE PHILIPPINES vs.** **BENJAMIN CASAS Y VINTULAN, G.R. No. 212565, February 25, 2015, J. Perlas-Bernabe**

The essential requisites of self-defense are the following: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense. Other than Dela Cruz’s testimony, the defense did not adduce evidence to show that Jeffrey condescendingly responded to Dela Cruz’s questions or initiated the confrontation before the shooting incident; that Jeffrey pulled a gun from his chair and tried to shoot petitioner but failed — an assault which may have caused Dela Cruz to fear for his life. Even assuming that the aggression with use of the gun initially came from the victim, the fact remains that it ceased when the gun was wrested away by the accused from the victim. It is settled that when unlawful aggression ceases, the defender no longer has any right to kill or wound the former aggressor, otherwise, retaliation and not self-defense is committed .A person making a defense has no more right to attack an aggressor when the unlawful aggression has ceased. **SHERWIN DELA CRUZ vs. PEOPLE OF THE PHILIPPINES, et al., G.R. No. 189405, November 19, 2014, J. Peralta**

**QUALIFYING CIRCUMSTANCES**

The special qualifying circumstance such as the minority of the victim and relationship with the offender must be alleged in the criminal complaint or information and must be proved conclusively and indubitably as the crime itself. Although it was shown during the trial that Barcela was the common law spouse or live-in partner of the mother of victims AAA and BBB, this fact would not alter the crimes in their qualified form inasmuch as the two separate informations did not specifically allege such relationship as aqualifying circumstance. Otherwise, he would be deprived of his right to be informed of the charge lodged against him. The relationship alleged in the information is different from that actually proven. **PEOPLE OF THEPHILIPPINES vs. FLORO BUBAN BARCELA, G.R. No. 208760, April 23, 2014, J. Mendoza**

Without any evidence to appreciate the aggravating circumstance of treachery in the killing of Calim, respondent can only be held liable as principal for the crime of homicide. For treachery to be considered, it must be present and seen by the witness right at the inception of the attack. Where no particulars are known as to how the killing began, the perpetration of an attack with treachery cannot be presumed. Furthermore, Watamama’s theory of mistaken identity is not persuasive; witnesses need not know the names of the assailants, as long as they recognize the latter’s faces. **PEOPLE OF THE PHILIPPINES vs. MATIMANAY WATAMAMA a.k.a. AKMAD SALIPADA, TENG MIDTIMBANG, G.R. No. 188710, June 2, 2014, CJ. Sereno**

Jenny stabbed the victim out of the blue during town festivities. A sudden attack which is not preconceived by the accused belies the holding of treachery. When the victim is merely a bystander in an altercation, when suddenly the accused stabs him, absent any other qualifying circumstance, the accused is only liable for homicide. **PEOPLE OF THE PHILIPPINES vs. JENNY LIKIRAN alias “Loloy”, G.R. No. 201858, June 4, 2014, J. Reyes**

Treachery as a qualifying circumstance must be deliberately sought to ensure the safety of the accused from the defensive acts of the victim. The unexpectedness of an attack cannot be the sole basis of a finding of treachery even if the attack was intended to kill another as long as the victim’s position was merely accidental. A finding of the existence of treachery should be based on “clear and convincing evidence.” Such evidence must be as conclusive as the fact of killing itself. In this case, no evidence was presented to show that petitioner consciously adopted or reflected on the means, method, or form of attack to secure his unfair advantage. **MIGUEL CIRERA y USTELO, vs. PEOPLE OF THE PHILIPPINES, G.R. No. 181843, July 14, 2014, J. Leonen**

The accused who was charged and convicted with the crime of murder contends that the trial court and the CA erred in appreciating the qualifying circumstance of treachery. The SC ruled that the appellant’s sudden attack on the victim amply demonstrates that treachery was employed in the commission of the crime. It further held that It is of no consequence that appellant was in front of the victim when he thrust the knife to his torso for even a frontal attack could be treacherous when unexpected and on an unarmed victim who would be in no position to repel the attack or avoid it. **PEOPLE OF THE PHILIPPINES vs. VIRGILIO AMORA y VISCARRA, G.R. No. 190322, November 26, 2014, J. Del Castillo**

Abuse of superior strength is present whenever there is a notorious inequality of forces between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor selected or taken advantage of by him in the commission of the crime. The fact that there were two persons who attacked the victim does not per se establish that the crime was committed with abuse of superior strength, there being no proof of the relative strength of the aggressors and the victim. The evidence must establish that the assailants purposely sought the advantage, or that they had the deliberate intent to use this advantage. To take advantage of superior strength means to purposely use excessive force out of proportion to the means of defense available to the person attacked. The appreciation of this aggravating circumstance depends on the age, size, and strength of the parties. **GARY FANTASTICO AND ROLANDO VILLANUEVA vs.** **ELPIDIO MALICSE, SR. AND PEOPLE OF THE PHILIPPINES, G.R. No. 190912, January 12, 2015, J. Peralta**

In convicted the accused of the crime of murder, the RTC appreciated the use of firearm as an special aggravating circumstance. The Supreme Court affirmed such ruling by citing Presidential Decree No. (PD) 1866, as amended by Republic Act No. (RA) 8294, which treats the unauthorized use of a licensed firearm in the commission of the crimes of homicide or murder as a special aggravating circumstance. **PEOPLE OF THE PHILIPPINES vs. DANIEL VILLA MATIBAG y DE @ "DANI" "DANILO," G.R. No. 206381, March 25, 2015, J. Perlas-Bernabe**

**PENALTIES**

**APPLICATION**

The CA modified the felony committed by Mariano from frustrated homicide to reckless imprudence resulting in serious physical injuries. The court ruled that CA incorrectly considered the Mariano's act as a grave felony had it been intentional, and should not have imposed the penalty at arresto mayor in its maximum period to prision correccional in its medium period. Instead, the accused's act that caused the serious physical injuries, had it been intentional, would be a less grave felony under Article 25 of the Revised Penal Code. **REYNALDO S. MARIANO vs.  PEOPLE OF THE PHILIPPINES, G.R. No. 178145, July 7, 2014, J. Bersamin**

At any rate, even if it were assumed that the findings by the CA warranted his being guilty only of malversation through negligence, the Court would not be barred from holding him liable for the intentional crime of malversation of public funds through falsification of public documents because his appealing the convictions kept the door ajar for an increase in his liability. It is axiomatic that by appealing he waived the constitutional protection against double jeopardy, leaving him open to being convicted of whatever crimes the Court would ultimately conclude from the records to have been actually committed by him within the terms of the allegations in the informations under which he had been arraigned. **MANOLITO GIL ZAFRA vs. PEOPLE OF THE PHILIPPINES, G.R. No. 176317, July 23, 2014, J. Bersamin**

**INDETERMINATE SENTENCE LAW**

Baraga allegedly raped his own daughter 2 times and committed acts of lasciviousness twice. He was convicted by both the RTC and the CA. The decisions differ as to the penalty imposable. The Court reconciled the different impositions by stating that in applying the Indeterminate Sentence Law, the crime as alleged in the criminal complaint must be followed. The Court cannot interchange the law applicable just on the basis of the victim’s age. The fact that the victim is beyond 12 years old when the act of lasciviousness occurred, such fact does not exclude it from the application of the Anti-Child Abuse Law. **PEOPLE OF THE PHILIPPINES vs. ROLANDO BARAGA y ARCILLA, G.R. No. 208781, June 4, 2014, J. Reyes**

**MODIFICATION AND EXTINCTION OF CRIMINAL LIABILITY**

The criminal and civil liability ex delicto of a person convicted for murder who moved for reconsideration of his conviction and died pending resolution, will be extinguished. **PEOPLE OF THE PHILIPPINES vs. BENJIE CONSORTE y FRANCO, G.R. No. 194068, November 26, 2014, J. Reyes**

**PRESCRIPTION OF CRIME**

Rivera was resigned from work. However, her separation pay and other benefits were withheld. She sent several text messages to the account manager of her former company. The President of the said company instituted a criminal action for libel due to the contents of the text messages. Rivera alleged that libel can no longer prosper due to prescription. "Although the general rule is that the defense of prescription is not available unless expressly set up in the lower court, as in that case it is presumed to have been waived and cannot be taken advantage of thereafter, yet this rule is not always of absolute application in criminal cases, such as that in which prescription of the crime is expressly provided by law, for the State not having then the right to prosecute, or continue prosecuting, nor to punish, or continue punishing, the offense, or to continue holding the defendant subject to its action through the imposition of the penalty, the court must so declare. **RAMON A. SYHUNLIONG vs. TERESITA D. RIVERA, G.R. No. 200148, June 4, 2014, J. Reyes**

**CIVIL LIABILITY**

Considering that the crime of illegal recruitment, when it involves the transfer of funds from the victims to the accused, is inherently in fraud of the former, civil liability should include the return of the amounts paid as placement, training and processing fees. Hence, Inovero and her co-accused were liable to indemnify the complainants for all the sums paid. The nature of the obligation of the co-conspirators in the commission of the crime requires solidarity, and each debtor may be compelled to pay the entire obligation. As a co-conspirator, then, Inovero’s civil liability was similar to that of a joint tortfeasor under the rules of the civil law. **PEOPLE OF THE PHILIPPINES vs. MA. HARLETA VELASCO y BRIONES, MARICAR B. INOVERO, MARISSA DIALA, and BERNA M. PAULINO, G.R. No. 195668, June 25, 2014, J. Bersamin**

**PROBATION LAW**

Suyan has been apprehended twice for drug possession while on probation. The court held that as probation is a mere discretionary grant, Suyan was bound to observe full obedience to the terms and conditions pertaining to the probation order or run the risk of revocation of this privilege. The Court's discretion to grant probation is to be exercised primarily for the benefit of organized society and only incidentally for the benefit of the accused. Having the power to grant probation, it follows that the trial court also has the power to order its revocation in a proper case and under appropriate circumstances. **NEIL E. SUYAN vs. PEOPLE OF THE PHILIPPINES AND THE CHIEF PROBATION AND PAROLE OFFICER, DAGUPAN CITY, G.R. No. 189644, July 02, 2014, C.J. Sereno**

**BOOK II, RPC AND SPECIAL LAWS**

**CRIMES AGAINST PUBLIC ORDER**

**RESISTANCE AND DISOBEDIENCE TO A PERSON IN AUTHORITY OR AGENTS OF SUCH PERSON**

The two key elements of resistance and serious disobedience punished under Art. 151 of the RPC are: (1) That a person in authority or his agent is engaged in the performance of official duty or gives a lawful order to the offender; and (2) That the offender resists or seriously disobeys such person or his agent. There can be no quibble that P/Insp. Aguilar and his apprehending team are persons in authority or agents of a person in authority manning a legal checkpoint. But surely Sydeco’s act of exercising one’s right against unreasonable searches to be conducted in the middle of the night cannot, in context, be equated to disobedience let alone resisting a lawful order in contemplation of Art. 151 of the RPC. **EDMUND SYDECO vs. PEOPLE OF THE PHILIPPINES, G.R. No. 202692, November 12, 2014, J. Velasco**

**ILLEGAL POSSESSION OF FIREARMS (R.A. 8294)**

Once the prosecution evidence indubitably points to possession without the requisite authority or license, coupled with animus possidendi or intent to possess on the part of the accused, conviction for violation of the said law must follow. Animus possidendi is a state of mind, the presence or determination of which is largely dependent on attendant events in each case. It may be inferred from the prior or contemporaneous acts of the accused, as well as the surrounding circumstances.

Here, the prosecution had proved the essential elements of the crime charged under PD 1866 as amended by R.A. No. 8294. The existence of the seized firearm and the ammunitions was established through the testimony of PO3 Sarte. There was an inventory of the items seized which was made in the presence of the petitioner and the three barangay tanods who all voluntarily signed the inventory receipt. PO3 Sarte identified all the seized items in open court. **ARNULFO A.K.A. ARNOLD JACABAN vs. PEOPLE OF THE PHILIPPINES, G.R. No. 184355, March 23, 2015, J. Peralta**

**CRIMES AGAINST PUBLIC INTEREST**

**FALSIFICATION BY PUBLIC OFFICER**

Sevilla’s claim that his constitutional right to be informed of the nature and cause of the accusation against him was violated when the Sandiganbayan convicted him of reckless imprudence resulting to falsification of public documents, when the Information only charged the intentional felony of falsification of public documents, is untenable. Reckless imprudence resulting to falsification of public documents is an offense that is necessarily included in the willful act of falsification of public documents, the latter being the greater offense. While a criminal negligent act is not a simple modality of a willful crime, but a distinct crime in itself, designated as a quasi-offense, in [the RPC], it may however be said that a conviction for the former can be had under an information exclusively charging the commission of a willful offense, upon the theory that the greater includes the lesser offense. **VENANCIO M. SEVILLA vs. PEOPLE OF THE PHILIPPINES, G.R. No. 194390, August 13, 2014, J. Reyes**

The absence of such allotment not only renders invalid the release of funds therefor but also taints the legality of the project’s appropriation as well as the Province’s contract with a contractor. **GOVERNOR ENRIQUE T. GARCIA, JR. vs. OFFICE OF THE OMBUDSMAN, LEONARDO B. ROMAN, ROMEO L. MENDIOLA, PASTOR P. VICHUACO, AURORA J. TIAMBENG, AND NUMERIANO G. MEDINA, G.R. No. 197567, November 19, 2014, J. Perlas-Bernabe**

**FALSIFICATION BY PRIVATE INDIVIDUAL**

Falsification of documents under par. 1, Art. 172 in relation to Art. 171 of the RPC refers to falsification by a private individual, or a public officer or employee who did not take advantage of his official position, of public, private, or commercial documents. In the case at bar, David made the untruthful statement in the Miscellaneous Lease Application, a public document, that he is a Filipino citizen at the time of the filing of said application, when in fact he was then still a Canadian citizen. The MTC therefore did not err in finding probable cause for falsification of public document under Art. 172, par. 1. **RENATO M. DAVID vs. EDITHA A. AGBAY AND PEOPLE OF THE PHILIPPINES, G.R. No. 199113, March 18, 2015, J. Villarama**

**CRIMES RELATIVE TO OPIUM AND OTHER PROHIBITED DRUGS**

Firmly established in our jurisprudence is the rule that in the prosecution for illegal sale of dangerous drugs, the following essential elements must be proven: (1) that the transaction or sale took place; (2) the corpus delicti or the illicit drug was presented as evidence; and (3) that the buyer and seller were identified. Implicit in all these is the need for proof that the transaction or sale actually took place, coupled with the presentation in court of the confiscated prohibited or regulated drug as evidence. What determines if there was, indeed, a sale of dangerous drugs in a buy-bust operation is proof of the concurrence of all the elements of the offense, to wit: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. **PEOPLE OF THE PHILIPPINES vs. MARCO ALEJANDRO, G.R. No. 205227, April 7, 2014, J. Villarama Jr.**

The fact that the marking on the seized item was done at the police station, and not at alleged crime scene, did not compromise the integrity of the seized evidence. As ruled by this Court in Marquez v. People, the phrase “marking upon immediate confiscation” contemplates even marking at the nearest police station or office of the apprehending team. What is important is that the seized item marked at the police station is identified as the same item produced in court. As correctly ruled by the CA, the prosecution was able to establish the integrity of corpus delicti and the unbroken chain of custody. PO1 Vargas identified in open court the sachet of shabu that was offered in evidence against Gerry as the same one she seized from the latter and marked immediately thereafter in the presence of the police investigator. Furthermore, this Court has consistently ruled that even in instances where the arresting officers failed to take a photograph of the seized drugs as required under Section 21 of R.A. No. 9165, such procedural lapse is not fatal and will not render the items seized inadmissible in evidence. What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. **PEOPLE OF THE PHILIPPINES vs. GERRY YABLE y USMAN, G.R. No. 200358, April 7, 2014, J. Perez**

When there is variation of the supposed marked item from the one actually presented in court for identification, the Court shall conclude that there may have been switching of evidence in the selling charge. Guilt in that charge has not, therefore, been proved beyond reasonable doubt.

This is true as in a prosecution for the sale and possession of the prohibited drugs known as shabu, the State does not only carry the heavy burden of proving the elements of the offense. It also bears the obligation to prove the corpus delicti, failing in which the State would not have proved the guilt of the accused beyond reasonable doubt. And, to prove the corpus delicti, it is indispensable for the prosecution to show that the dangerous drugs subject of the sale and examined in the police laboratory are the same drugs presented in court as evidence. **PEOPLE OF THE PHILIPPINES vs. SUKARNO JUNAIDE Y AGGA, G.R. No. 193856, April 21, 2014, J. Abad**

The chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness’ possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. Thus, if the prosecution failed to present the testimony of a police inspector who had the only keys to the evidence locker where the sachet of shabu, the unbroken chain of custody was not established and the accused must be acquitted. **PEOPLE OF THE PHILIPPINES vs. MARLON ABETONG y ENDRADO, G.R. No. 209785, June 4, 2014, J. Velasco, Jr.**

Illegal sale of prohibited drugs is consummated at the moment the buyer receives the drug from the seller. In a buy-bust operation, the crime is consummated when the police officer makes an offer to buy that is accepted by the accused, and there is an ensuing exchange between them involving the delivery of the dangerous drugs to the police officer.

In order to successfully prosecute the offense, proof beyond reasonable doubt of two elements must be satisfied by the prosecution, viz: (a) the identity of the buyer and the seller, the identity of the object and the consideration of the sale; and (b) the delivery of the thing sold and of the payment for the thing.

As correctly ruled by the courts a quo in this case, the presence of both requisites was clearly established by the testimony of the poseur-buyer himself, PO2 Aseboque, who positively testified that the illegal sale took place when he gave the~~P~~500.00 marked money to the accused-appellant in exchange for the shabu. **PEOPLE OF THE PHILIPPINES vs. NENITA GAMATA y VALDEZ, G.R. No. 205202, June 9, 2014, J. Reyes**

To discharge its duty of establishing the guilt of the accused beyond reasonable doubt, the Prosecution must prove the corpus delicti. The Prosecution does not comply with the indispensable requirement of proving the violation of Section 5 of Republic Act No. 9165 when the dangerous drugs are missing but also when there are substantial gaps in the chain of custody of the seized dangerous drugs. **PEOPLE OF THE PHILIPPINES vs. LARRY MENDOZA y ESTRADA, G.R. No. 192432, June 23, 2014, J. Bersamin**

A buy-bust operation was conducted wherein accused was caught selling illegal drugs. The accused argued that there was there was lack of inventory, and the marking of the items was not done in his presence, a representative of media, the Department of Justice and an elected official. The Court affirmed his conviction and ruled that substantial compliance with the legal requirements on the handling of the seized item” is sufficient. Such procedural lapse is not fatal and will not render the items seized inadmissible in evidence. What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. **PEOPLE OF THE PHILIPPINES vs. RAMIE ORTEGA y KALBI, a.k.a AY-AY, G.R. No. 207392, July 2, 2014, J. Perez**

A person apprehended or arrested who are to be subject of confirmatory drug test cannot literally mean any person apprehended or arrested for any crime. The phrase must be read in context and understood in consonance with R.A. 9165. Section 15 comprehends persons arrested or apprehended for unlawful acts listed under Article II of the law. In this case, the accused appellant was arrested in the alleged act of extortion, hence, the drug test conducted to him despite his objection is rendered illegal and is therefore inadmissible. Since the drug test was the only basis for his conviction, the Court ordered the acquittal of the accused. **JAIME D. DELA CRUZ vs. PEOPLE OF THE PHILIPPINES, G.R. No. 200748, July 23, 2014, C.J. Sereno**

As a mode of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. In context, this would ideally include testimony about every link in the chain, from the seizure of the prohibited drug up to the time it is offered into evidence, in such a way that everyone who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness’ possession, the condition in which it was received, and the condition in which it was delivered to the next link in the chain.

While non-compliance with the prescribed procedural requirements will not automatically render the seizure and custody of the items void and invalid, this is true only when (a) there is a justifiable ground for such noncompliance, and (b) the integrity and evidentiary value of the seized items are properly preserved. Hence, any divergence from the prescribed procedure must be justified and should not affect the integrity and evidentiary value of the confiscated items.

A punctilious examination of the records in this case shows that the prosecution failed to establish the identity of the substance allegedly confiscated from the accused-appellants, militating against a finding of guilt beyond reasonable doubt. **PEOPLE OF THE PHILIPPINES vs.** **MARCELINO VITERBO y REALUBIT and RONALD VITERBO y REALUBIT, G.R. No. 203434, July 23, 2014, J. Perlas-Bernabe**

In every prosecution for illegal sale of shabu, the following elements must be sufficiently proved: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor. Indeed, all these elements were duly established. Pertinently, it is the preservation of the integrity and evidentiary value of the seized items which must be proven to establish the corpus delicti. The mere fact that the drugs obtained were more, had no bearing on the crime charged. This is because liability under Section 5 of Republic Act No. 9165 is without regard to the quantity of the drugs seized. The prosecution herein was able to preserve the integrity and evidentiary value of the said illegal drugs. The concurrence of all elements of the illegal sale of shabu was proven by the prosecution. **PEOPLE OF THE PHILIPPINES vs.** **PETER FANG y GAMBOA a.k.a. "Fritz,” G.R. No. 199874, July 23, 2014**, **J. Perez**

To secure a conviction for illegal sale of shabu, the following essential elements must be established: (1) the identities of the buyer and the seller, the object of the sale, and the consideration for the sale; and (2) the delivery of the thing sold and the payment therefor. What is material in the prosecution of an illegal sale of dangerous drugs is proof that the transaction or sale actually took place, coupled with the presentation of the corpus delicti in court as evidence.

The commission of illegal sale merely requires the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller. As long as a police officer or civilian asset went through the operation as a buyer, whose offer was accepted by the appellant, followed by the delivery of the dangerous drugs to the former, the crime is already consummated. In the case at bar, the prosecution has amply proven all the elements of the drug sale with moral certainty.

The records show that appellant was arrested in a legitimate buy-bust operation conducted after a week of surveillance. The police officers comprising the buy-bust team positively identified appellant as the one who sold the plastic sachet of shabu to their civilian asset who, in turn, handed the marked money to appellant. Both the sachet of shabuand the marked money were presented as evidence in court. **PEOPLE OF THE PHILIPPINES vs.** **REYMAN ENDAYA y LAIG, G.R. No. 205741, July 23, 2014**, **J. Perez**

The elements necessary for the prosecution of the illegal sale of drugs are as follows: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and payment therefor. The prosecution, to prove guilt beyond reasonable doubt, must present in evidence the corpus delicti of the case. The corpus delicti is the seized illegal drugs. This Court is convinced that the prosecution has sufficiently discharged its burden to establish the elements in the illegal sale of shabu. The prosecution was able to establish the (1) identity of accused-appellants as the sellers, and the buyer, Dujon; and (2) the object of the transaction, which is the jumbo sachet of shabu, weighing 46.4490 grams; and the delivery of the sold illegal shabu to Dujon, the poseur-buyer. **PEOPLE OF THE PHILIPPINES vs. MANUELITA AMPATUAN y GONZALES, et al., G.R. No. 188707, July 30, 2014, J. Perez**

The Court of Appeals affirmed the decision of the RTC and convicted the accused for the violation of RA 9165. The Basman and Mangtoma contend that they cannot be convicted of the crime charged due to the failure to the procedure of the chain of custody rule. The Supreme Court ruled that failure to strictly comply with the prescribed procedures in the inventory of seized drugs does not render the arrest of the accused-appellants illegal or the item seized/confiscated from them inadmissible. The essential thing to consider is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused." **THE PEOPLE OF THE PHILIPPINES vs. MIKE STEVE y BASMAN and RASHID MANGTOMA y NONI, G.R. No. 204911, August 6, 2014, J. Perez**

By failing to establish identity of corpus delicti, non-compliance with Section 21 indicates a failure to establish an element of the offense of illegal sale of dangerous drugs. It follows that this non-compliance suffices as a ground for acquittal. The integrity of three (3) of the four (4) links (i.e., seizure and marking, turnover by the apprehending officer to the investigating officer, and turnover by the investigating officer to the forensic chemist) has been cast in doubt. This doubt must be resolved in favor of accused-appellants Holgado. Law enforcers should not trifle with the legal requirement to ensure integrity in the chain of custody of seized dangerous drugs and drug paraphernalia. This is especially true when only a miniscule amount of dangerous drugs is alleged to have been taken from the accused. **PEOPLE OF THE PHILIPPINES vs. ROBERTO HOLGADO y DELA CRUZ, et al., G.R. No. 207992, August 11, 2014, J. Leonen**

In every prosecution for illegal sale of shabu, the following elements must be sufficiently proved: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor. All these elements were duly established. Appellant was caught in flagrante delicto selling shabu through a buy bust operation conducted by members of the Malabon Drug Enforcement Unit. The poseur-buyer, PO1 Fernandez, positively testified that the sale took place and appellant was one of the authors of the illegal sale of drugs. **PEOPLE OF THE PHILIPPINES vs. RUSTY BALA, G.R. No. 203048, August 13, 2014, J. Perez**

Coordination with the PDEA is not an indispensable requirement before police authorities may carry out a buy-bust operation. While it is true that Section 8615 of Republic Act No. 9165 requires the National Bureau of Investigation, PNP and the Bureau of Customs to maintain "close coordination with the PDEA on all drug related matters," the provision does not, make PDEA’s participation a condition sine qua non for every buy-bust operation. A buy-bust is just a form of an in flagrante arrest sanctioned by Section 5, Rule 113 of the Rules of the Court, which police authorities may rightfully resort to in apprehending violators of Republic Act No. 9165 in support of the PDEA. A buy-bust operation is not invalidated by mere non-coordination with the PDEA. The conduct of the buy-bust operation was already established by the testimonies of PO3 Espiritu and SPO1 Daraman who were the very participants of such operation. Balderama’s qualm regarding the absence of coordination between the Camiling PNP and the PDEA is also immaterial. **PEOPLE OF THE PHILIPPINES vs. EDUARDO BALAQUIOT y BALDERAMA, G.R. No. 206366, August 13, 2014, J. Perez**

In a prosecution for illegal sale of shabu, the following elements must concur: "(1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. x x x What is material in a prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti" or the illicit drug in evidence. In this case, the prosecution successfully proved the existence of all the essential elements of the illegal sale of shabu. **PEOPLE OF THE PHILIPPINES vs. MARISSA MARCELO, G.R. No. 181541, August 18, 2014, J. Del Castillo**

A buy-bust operation was conducted by police operatives based on a tip. The accused alleges that the prosecution failed to proof that the money presented during trial is the money he allegedly received in exchange for drugs. The Court ruled that the failure to present the buy-bust money is not fatal to the prosecution’s cause. It is not indispensable in drug cases since it is merely corroborative evidence, and the absence thereof does not create a hiatus in the evidence for the prosecution provided the sale of dangerous drugs is adequately proven and the drug subject of the transaction is presented before the court. Neither law nor jurisprudence requires the presentation of any money used in the buy-bust operation. **PEOPLE OF THE PHILIPPINES vs. RONALDO BAYAN y NERI, G.R. No. 200987, August 20, 2014, J. Perez**

Arguing that the failure of the buy-bust team to comply with the procedure governing the handling, custody and disposition of the illegal drugs resulted to the failure of the prosecution to establish the corpus delicti, the appellant contends that the RTC and the CA erred in finding him guilty of violating Section 5, Article II of RA No. 9165. The SC found no hiatus or confusion in the confiscation, handling, custody and examination of the shabu. The illegal drug that was inventoried at the PDEA office, subjected to qualitative examination at the crime laboratory, and finally introduced in evidence against appellant was the same illegal drug that was confiscated from him when he was caught inflagrante delicto selling the same. No apparent irregularity is sufficiently shown to have attended the chain of custody of the shabu. Its identity, integrity and probative value were preserved and kept intact by the police officers. Besides, the failure of the police officers to comply strictly with the chain of custody rule is not fatal. It will not render the arrest of appellant illegal or the items seized or confiscated from him inadmissible. "What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused." **PEOPLE OF THE PHILIPPINE vs. REYNALDO BATURI, G.R No. 189812, September 1, 2014, J. Del Castillo**

The finding of illicit drugs and paraphernalia in a house or building owned or occupied by a particular person raises the presumption of knowledge and possession thereof which, standing alone, is sufficient to convict. Here, Trinidad failed to present any evidence to overcome such presumption. He merely insisted that he was framed and had no knowledge of where the prohibited drugs came from. In the absence of any contrary evidence, he is deemed to be in full control and dominion of the drugs found in his house. Thus, he must be convicted for possession of illegal drugs.

Non-compliance with the requirements for the custody and handling of seized dangerous drugs is permitted under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items. Thus, if the police were accompanied by the witnesses who were present since the briefing for the execution of the search warrant, in its execution and arrest of Trinidad, and the inventory of the seized marijuana; and when the witnesses also signed the bags where the marijuana were placed, the chain of custody is preserved. **PEOPLE OF THE PHILIPPINES vs. LEO DE LA TRINIDAD y OBALLES, G.R. No. 199898, September 3, 2014, J. Perez**

When there are doubts on whether the seized substance was the same substance examined and established to be the prohibited drug, there can be no crime of illegal possession or illegal sale of a prohibited drug. Such is the case at bar. Failure to prove that the specimen allegedly seized from the accused was the same one presented in court is fatal to the prosecution’s case. Besides its failure to identify the corpus delicti with moral certainty, the prosecution also failed to establish an unbroken chain of custody. The chain of evidence is constructed by proper exhibit handling, storage, labelling and recording, and must exist from the time the evidence is found until the time it is offered in evidence. **PEOPLE OF THE PHILIPPINES vs. EDILBERTO BALIBAY y LABIS and MARICEL BALIBAY BIJA-AN, G.R. No. 202701, September 10, 2014**, **J. Perez**

In illegal sale of dangerous drugs, the prosecution must establish the identity of the buyer and the seller, the object and consideration of the sale and the delivery of the thing sold and the payment therefor. Hence, to establish a concrete case, it is an utmost importance to prove the identity of the narcotic substance itself as it constitutes the very corpus delicti of the offense and the fact of its existence is vital to sustain a judgment of conviction. It is therefore imperative for the prosecution to first establish beyond reasonable doubt the identity of the dangerous drug before asserting other arguments.

In this case, the prosecution failed to prove that each and every element that constitutes an illegal sale of dangerous drug was present to convict the accused. Upon evaluation of the testimonies of PO1 Familara and PO1 Mendoza, it is apparent that there is an inconsistency on the identity and number of plastic sachets bought from the accused. In his statement, PO1 Familara recalled that upon arrival at the place of arrest, PO1 Mendoza told him that he was able to buy one plastic sachet of shabu from Guinto. On the other hand, PO1 Mendoza recalled that he was able to buy two plastic sachets instead of one. The pointed inconsistency is not a minor one that can be brushed aside as the discrepancy taints the very corpus deliciti of the crime of illegal sale. A vital point of contention, the prosecution’s evidence places in reasonable doubt the identification of the dangerous drug that was presented in court. **PEOPLE OF THE PHILIPPINES vs. RICHARD GUINTO, G.R. No. 198314, September 24, 2014, J. Perez**

Dangerous drugs: In illegal sale of dangerous drugs, the prosecution must establish the identity of the buyer and the seller, the object and consideration of the sale and the delivery of the thing sold and the payment therefor. Hence, to establish a concrete case, it is an utmost importance to prove the identity of the narcotic substance itself as it constitutes the very corpus delicti of the offense and the fact of its existence is vital to sustain a judgment of conviction. It is therefore imperative for the prosecution to first establish beyond reasonable doubt the identity of the dangerous drug before asserting other arguments.

Credibility of witness: One of the means used by the Court in determining the credibility of the prosecution witnesses is the objective test. Following this test, in order to establish the credibility of prosecution witnesses regarding the conduct of buy-bust operation, prosecution must be able to present a complete picture detailing the buy-bust operation—from the initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration, until the consummation of the sale by the delivery of the illegal subject of sale. The manner by which the initial contact was made, the offer to purchase the drug, the payment of the buy-bust money, and the delivery of the illegal drug must be the subject of strict scrutiny by courts to insure that law-abiding citizens are not unlawfully induced to commit an offense. **PEOPLE OF THE PHILIPPINES** **vs.** **RICHARD GUINTO Y SAN ANDRES, G.R. No. 198314, September 24, 2014, J. Perez**

Apart from the blatantly irregular handling by PO1 Bobon of the seven (7) sachets, it is also admitted that no physical inventory and taking of photographs in the presence of Dela Cruz or of any of the other persons specified by Section 21 were conducted. The significance of complying with Section 21’s requirements cannot be overemphasized. Non-compliance is tantamount to failure in establishing identity of corpus delicti, an essential element of the offenses of illegal sale and illegal possession of dangerous drugs. By failing to establish an element of these offenses, non-compliance will, thus, engender the acquittal of an accused. **PEOPLE OF THE PHILIPPINES vs. GARRY DELA CRUZ y DE GUZMAN, G.R. No. 205821, October 1, 2014, J. Leonen**

The non-presentation of the confidential informant as a witness does not ordinarily weaken the State's case against the accused. However, if the arresting lawmen arrested the accused based on the pre-arranged signal from the confidential informant who acted as the poseur buyer, his non-presentation must be credibly explained and the transaction established by other ways in order to satisfy the quantum of proof beyond reasonable doubt because the arresting lawmen did not themselves participate in the buy-bust transaction with the accused. **PEOPLE OF THE PHILIPPINES vs. PABLITO ANDAYA y REANO, G.R. No. 183700, October 13, 2014, J. Bersamin**

When an accused raises the issue of non-compliance by the police officers with Sec. 21 of the IRR of R.A. No. 9165 particularly the lack of physical inventory of the seized specimen and the non-taking of photograph thereof on appeal after the CA rendered a decision, the Court must uphold his conviction. Cabrera should have raised the said issue before the trial court. Truly, objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of an objection. Without such objection, he cannot raise the question for the first time on appeal. **PEOPLE OF THE PHILIPPINES vs. EDWIN CABRERA, G.R. No. 190175, November 12, 2014, J. Del Castillo**

In this case, the prosecution failed to account for each and every link in the chain of custody of the shabu, from the moment it was allegedly confiscated up to the time it was presented before the court as proof of the corpus delicti. The Court entertains doubts whether the shabu allegedly seized from Sanchez was the very same item presented during the trial of this case. The Court notes that there were several lapses in the law enforcers’ handling of the seized item which, when taken collectively, render the standards of chain of custody seriously breached. Thus, the chain of custody requirement has a two-fold purpose: (1) the preservation of the integrity and evidentiary value of the seized items, and (2) the removal of unnecessary doubts as to the identity of the evidence. **RIZALDY SANCHEZ Y CAJILI vs. PEOPLE OF THE PHILIPPINES, G.R. No. 204589, November 19, 2014, J. Mendoza**

In a prosecution for the illegal sale of a prohibited drug under Section 5 of R.A. No. 9165, the prosecution must prove the following elements: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. To remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from Casabuena; otherwise, the prosecution for possession or for drug pushing under R.A. No. 9165 fails. The testimonies of SPO1 Balolong, SPO2 Ancheta, and Armando all showed that the police did not inventory or photograph the seized shabu either at the place where it was seized or at the police station. No photographs or certificate of inventory of the confiscated items appear in the records. **PEOPLE OF THE PHILIPPINES vs. ROSALINDA CASABUENA, G.R. No. 186455, November 19, 2014, J. Brion**

The presentation of the dangerous drugs as evidence in court is material if not indispensable in every prosecution for the illegal sale and possession of dangerous drugs. As such, the identity of the dangerous drugs should be established beyond doubt by showing that the items offered in court were the same substances bought during the buy-bust operation. This rigorous requirement, known under R.A. No. 9165 as the chain of custody, performs the function of ensuring that unnecessary doubts concerning the identity of the evidence are removed. **PEOPLE OF THE PHILIPPINES vs. RAMIL DORIA DAHIL AND ROMMEL CASTRO y CARLOS, G.R. No. 212196, January 12, 2015, J. Mendoza**

For the violation of Section 5, the prosecution satisfactorily established the following elements:  (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.  What is material in a prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti or the illicit drug in evidence. **PEOPLE OF THE PHILIPPINES** **vs.** **MANOLITO OPIANA Y TANAEL, G.R. No. 200797, January 12, 2015, J. Del Castillo**

The Court gives full faith and credence to the testimonies of the police officers and upholds the presumption of regularity in the apprehending officers’ performance of official duty.  It is a settled rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. **PEOPLE OF THE PHILIPPINES vs. RAKIM MINANGA y DUMANSAL, G.R. No. 202837, January 21, 2015, J. Villarama, Jr.**

Charging appellants with illegal possession when the information filed against them charges the crime of importation does not violate their constitutional right to be informed of the nature and cause of the accusation brought against them. The rule is that when there is a variance between the offense charged in the complaint or information, and that proved or established by the evidence, and the offense as charged necessarily includes the offense proved, the accused shall be convicted of the offense proved included in that which is charged. An offense charged necessarily includes that which is proved, when some of the essential elements or ingredients of the former, as this is alleged in the complaint or information, constitute the latter. **PEOPLE OF THE PHILIPPINES vs. CHI CHAN LIU A. K. A. CHAN QUE AND HUI LAO CHUNG A.K.A. LEOFE SENGLAO, G.R. No. 189272, January 21, 2015, J. Peralta**

It is settled that in prosecutions for illegal sale of dangerous drug, not only must the essential elements of the offense be proved beyond reasonable doubt, but likewise the identity of the prohibited drug. The dangerous drug itself constitutes the corpus delicti of the offense and the fact of its existence is vital to a judgment of conviction. Hence, the prosecution failed to sufficiently establish who had custody of the illegal drug from the moment it was allegedly transmitted to the Batangas Provincial Crime Laboratory on 27 May 2004 until it was allegedly delivered to the Regional Crime Laboratory on 4 June 2004, it is just right for the Court to acquit the appellant.

While appellant admitted during the pre-trial the authenticity and due execution of the Chemistry Report, prepared by Police Inspector and Forensic Chemist, this admission merely affirms the existence of the specimen and the request for laboratory examination and the results thereof. **PEOPLE OF THE PHILIPPINES vs. GERARDO ENUMERABLE y DE VILLA, G.R. No. 207993, January 21, 2015, J. CARPIO**

It is a well-entrenched rule that full faith and credence are given to the narration of police officers who testify for the prosecution on the entrapment or buy-bust operation, because as police officers, they are presumed to have regularly performed their duties. This presumption is overturned only if there is clear and convincing evidence that the officers were not properly performing their duty or that they were inspired by improper motive. The foregoing principle applies with equal, if not greater, force in prosecutions involving violations of [R.A. No.] 9165, especially those originating from buy-bust operations. In this case, while the defense denied having violated [R.A. No. 9165], it offered no evidence that the arresting officers had been improperly or maliciously motivated in effecting the arrest of appellants. With nothing to substantiate appellants’ malicious accusation that the police officers were improperly motivated, credence shall be given to the narration of the incident by the prosecution witnesses. **PEOPLE OF THE PHILIPPINES** **vs**. **NATHANIEL PASION Y DELA CRUZ A.K.A. “ATHAN” AND DENNIS MICHAEL PAZ Y SIBAYAN, G.R. No. 203026, January 28, 2015, J. Perez**

When there was delay in the turn-over of the corpus delicti to the PNP Crime Laboratory as it was alleged that the date the illegal sachet was seized falls on a Friday and therefore the PNP Crime Laboratory was closed but it appears that said date falls on a Wednesday, not on a Friday, conviction must be immediately set aside. It must be emphasized that in criminal prosecutions involving illegal drugs, the presentation of the drugs which constitute the corpus delicti of the crime calls for the necessity of proving with moral certainty that they are the same seized items. **PEOPLE OF THE PHILIPPINES vs. DENNIS SUMILI, G.R. No. 212160, February 4, 2015, J. Perlas-Bernabe**

In the prosecution of illegal sale, what is essential is to prove that the transaction or sale actually took place, coupled with the presentation in court of evidence of the corpus delicti. The consummation of sale is perfected the moment the buyer receives the drug from the seller. In this case, the prosecution failed to prove that the four sachets which tested positive for shabu and eventually presented in court were the same ones confiscated by the police officers due to its non-marking at the place where the buy-bust operation was committed at the police station. This non- marking violated the measures defined under Section 21(1) of Republic Act No. 9165 and Section 21(a) of the Implementing Rules and Regulations (IRR) of Republic Act No. 9165 which are also known as the Rule on Chain of Custody. **PEOPLE OF THE PHILIPPINES vs.** **SANDER DACUMA y LUNSOD, G.R. No. 205889, February 04, 2015, J. Perez**

A buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors. Since accused-appellant was caught by the buy-bust team in flagrante delicto, his immediate arrest was also validly made. Accused-appellant’s arrest being valid, we also hold that the subsequent warrantless seizure of the illegal drugs from his person is equally valid. **PEOPLE OF THE PHILIPINES vs. MHODS USMAN y GOGO, G.R. No. 201100, February 4, 2015, J. Perez**

The prosecution’s failure to submit in evidence the physical inventory and photograph of the seized drugs as required under Article 21 of R. A. No. 9165, will not render the accused’s arrest illegal or the items seized from him inadmissible. Clearly, the chain of custody is not established solely by compliance with the prescribed physical inventory and photographing of the seized drugs in the presence of the enumerated persons.

However, the exoneration of an accused from the charge of illegal sale of dangerous or prohibited drugs, does not spell freedom from all criminal liability as she may still be convicted for illegal possession of dangerous or prohibited drugs. It is settled that possession is necessarily included in the sale of dangerous or prohibited drugs. **PEOPLE OF THE PHILIPPINES vs. AMY DASIGAN y OLIVA, G.R. No. 206229, February 04, 2015, J. Perez**

**The respondent was convicted both by the RTC and Court of Appeals for violation of Section 5 of RA 9165(illegal sale of dangerous drugs).The respondents denies the accusations against her and asserts that she should not be convicted of the crime charged. The Supreme Court ruled that the defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecution for violation of the Dangerous Drugs Act. PEOPLE OF THE PHILIPPINES vs.** **ROWENA TAPUGAY y VENTURA, G.R. No. 200336, February 11, 2015, J. Perez**

The prosecution convincingly proved that the police operatives indeed complied with the required unbroken chain in the custody of the subject illegal drugs. It bears stressing that the SC has already brushed aside an accused’s belated contention that the illegal drugs confiscated from his person is inadmissible for failure of the arresting officers to comply with Section 21 of R.A. 9165. This is considering that whatever justifiable grounds may excuse the police officers from literally complying with Section 21 will remain unknown, because Gabuya did not question during trial the safekeeping of the items seized from him. Objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of an objection. **PEOPLE OF THE PHILIPPINES vs. JIMMY GABUYA y ADLAWAN, G.R. No. 195245, February 16, 2015, J. Del Castillo**

To sustain a conviction under Section 5, Article II of R.A. 9165, all that is needed for the prosecution to establish are (1) the identity of the buyer, seller, object and consideration; and (2) the delivery of the thing sold and the payment therefor. In illegal possession of dangerous drugs, on the other hand, it is necessary to prove that: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and, (3) the accused freely and consciously possessed the drug. In his testimony, PO2 Salonga, the poseur-buyer, positively identified Abola as the seller of the plastic sachet containing white crystalline substance which was later identified by the PNP Forensic Chemist to be positive for methamphetamine hydrochloride or shabu. The same sachet and substance was identified in court by PO2 Salonga as the shabu sold to him by Abola for the sum of P200.00. Therefore, all the elements of the offense of illegal sale of shabu are obtaining in this case. In the same vein, Abola, upon being frisked after his apprehension, was found possessing another plastic sachet containing 0.15 gram of methamphetamine hydrochloride or shabu. There is no evidence on record showing that he was legally authorized to possess the same. Neither was there any explanation that he did not freely or consciously possess the said illegal drug. Settled is the rule that “possession of dangerous drugs constitutes prima facie evidence of knowledge or animus possidendi, which is sufficient to convict an accused in the absence of a satisfactory explanation of such possession.” Clearly, all the elements of the offense of illegal possession of dangerous drugs are likewise present in this case. **PEOPLE OF THE PHILIPPINES vs. ABOLA BIO y PANAYANGAN, G.R. No. 195850, February 16, 2015, J. Del Castillo**

Equally important in every prosecution for illegal sale of dangerous or prohibited drugs is the presentation of evidence of the seized drug as the corpus delicti. The identity of the prohibited drug must be proved with moral certainty. It must also be established with the same degree of certitude that the substance bought or seized during the buy-bust operation is the same item offered in court as exhibit.In the case at bar, after the sale was consummated, the confidential informant gave the seized item to SPO4 Larot who placed tape on the sachet and marked it “Exhibit A.” Upon reaching the police station, SPO4 Larot executed the Certificate of Inventory, as well as the request for laboratory examination. The request, the specimen, as well as the marked money and Rosauro were then brought to the PNP Crime Laboratory for examination. They were received by SPO2 Ricardo Maisog, the Receiving Clerk of the PNP Crime Laboratory Office, who then forwarded them to Police Inspector Ma. Leocy Jabonillo Mag-abo, the Forensic Chemical Officer of the PNP Crime Laboratory. Moreover, the seized item was duly identified by SPO4 Larot in open court as the same item seized from Rosauro. Hence, the prosecution was able to prove the corpus delicti. **PEOPLE OF THE PHILIPPINES vs. ERIC ROSAURO y BONGCAWIL, G.R. No. 209588, February 18, 2015, J. Perez**

In the prosecution of a case for violation of R.A. 9165, both for illegal sale and illegal possession of dangerous drugs, the primary consideration is to ensure that the identity and integrity of the seized drugs have been preserved from the time they were confiscated from the accused until their presentation as evidence in court. The prosecution must establish with moral certainty that the specimen submitted to the crime laboratory and found positive for dangerous drugs, and finally introduced in evidence against the accused was the same illegal drug that was confiscated from him. All the elements of the crimes of illegal sale and illegal possession of shabu, a dangerous drug, were clearly proven by the prosecution through the credible testimony of IO1 Kintanar. **PEOPLE OF THE PHILIPPINES vs. DANTE DELA PEÑA and DENNIS DELIMA, G.R. No. 207635, February 18, 2015, J. Villarama, Jr.**

In a successful prosecution for illegal sale of shabu, the following elements must concur (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. In this case, the prosecution successfully proved the existence of all the essential elements of illegal sale of shabu. Perondo was positively identified by the police officers who conducted the buy-bust operation as the person who sold the shabu to the poseur buyer. The Court is not impressed with Perondo’s insistence that the failure to present the poseur-buyer is fatal to the prosecution. The Court finds no reason to doubt the credibility of the prosecution witnesses and their testimonies.  The RTC and the CA are one in finding that their testimonies were direct, definite, and consistent with one another in relevant points and also with the physical evidence. **PEOPLE OF THE PHILIPPINES vs. VIRGILIO LARGO PERONDO, G.R. No. 193855, February 18, 2015, J. Del Castillo**

The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction. In this case, SPO1 Acosta positively identified Santos as the person he transacted with and who handed to him the two sachets of shabu presented in court, however, the prosecution was unable to discharge its burden of establishing the element of consideration or payment for the sachets of shabu. The charge against him was not confined to the sale of shabu. To deliver a dangerous drug is an act that is also punishable under the same Section 5, Article II of R.A. 9165. During the buy bust operation, SPO1 Acosta asked Santos for the shabu and Santos responded by taking out from his pocket the shabu and handing over its possession to SPO1 Acosta without receiving any payment thereto. **PEOPLE OF THE PHILIPPINES vs. ALFREDO REYES y SANTOS, G.R. No. 194606, February 18, 2015, J. Del Castillo**

A buy-bust operation was conducted by the police to apprehend Larry Basilio. Basilio was successfully apprehended by the police after he sold shabu to a police acting as poseur-buyer. The RTC and CA convicted the accused. Basilio questions the chain of custody of the drug. Marking the subject item at the police station did not dent the prosecution's case. While R.A. No. 9165 provides for the immediate marking of the seized item, it does not specify a time frame when and where said marking should be done. **PEOPLE OF THE PHILIPPINES vs. LARRY BASILIO y HERNANDEZ, G.R. No. 185774, February 23, 2015, J. Del Castillo**

Prosecution of cases involving illegal drugs depends largely on the credibility of the police officers who conducted the buy-bust operation. It is fundamental that the factual findings of the trial court and those involving credibility of witnesses are accorded respect when no glaring errors, gross misapprehension of facts, or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the CA. thus, if the testimony of the police who was the poseur-buyer and who marked the sachets of shabu are supported by documents such as the marked buy-bust money, chemistry report, affidavit of arrest, among others, which all clearly attest to the fact that a sale of shabu took place between him and Diaz, the conviction will be upheld.

In addition, an accused may still be found guilty, despite the failure to faithfully observe the requirements provided under Section 21 of R.A. No. 9165, for as long as the chain of custody remains unbroken. Here, it is beyond cavil that the prosecution was able to establish the necessary links in the chain of custody of the subject specimen from the moment it was seized from Diaz up to the time it was presented during trial as proof of the corpus delicti. **PEOPLE OF THE PHILIPPINES vs. ALLAN DIAZ y ROXAS, G.R. No. 197818, February 25, 2015, J. Del Castillo**

Accused was charged of illegal possession of dangerous drugs. He argued that no physical inventory was conducted, or photograph of the drugs taken, immediately upon seizure, in violation of the procedures provided by law. The Court ruled that the failure of the arresting officers to strictly comply with the law is not fatal and will not render an accused’s arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items. **ALEX TIONCO y ORTEGA vs. PEOPLE OF THE PHILIPPINES, G.R. No.192284, March 11, 2015, J. Del Castillo**

The Court has consistently ruled that for the successful prosecution of offenses involving the illegal sale of drugs under Sec. 5, Article II of R.A. No. 9165, the following elements must be proven: (1) the identity of the buyer and seller, the object and consideration; and (2) the delivery of the nothing sold and the payment therefor. In other words, there is a need to establish beyond reasonable doubt that the accused actually sold and delivered a prohibited drug to another, and that the former indeed knew that what he had sold and delivered to the latter was a prohibited drug. To reiterate, what is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, plus the presentation in court of corpus delicti as evidence. On the other hand, [the Court] have adhered to the time-honored principle that for illegal possession of regulated or prohibited drugs under Sec. 11 of the same law, the prosecution must establish the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug. **PEOPLE OF THE PHILIPPINES vs. BRIAN MERCADO, G.R. No. 207988, March 11, 2015, J. Perez**

A person carrying an illegal drug without authorization to do so shall be liable for violation of RA 9165 for possession of dangerous drug. Mere possession of the same shall be prima facie evidence of possession. On the other hand, if the person sells the drug, the prosecution must prove the following: (1) the identity of the buyer and seller, the object and consideration; (2) actual delivery of the thing sold and payment thereof. **PEOPLE OF THE PHILIPPINES vs. BRIAN MERCADO y SARMIENTO, G.R. No. 207988, March 11, 2015, J. Perez**

Randy avers that the police officers failed to strictly abide by the procedures for the custody and disposition of the confiscated drugs as provided in Section 21 of Republic Act No. 9165. The Court held that absent any missing link in the chain of custody of the seized drug items and absent any showing that substantial or relevant facts bearing on the elements of the crime have been misapplied or overlooked, the Court can only accord full credence to such factual assessment of the Regional Trial Court which had the distinct advantage of observing the demeanor and conduct of the witnesses at the trial. **PEOPLE OF THE PHILIPPINES vs. RANDY ROLLO y LAGASCA, G.R. No. 211199, March 25, 2015, J. Perez**

The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus, preventing switching, planting, or contamination of evidence. Hence, the Court should acquit the accused on the ground of failure to mark the plastic sachets confiscated during the buy-bust operation. **PEOPLE OF THE PHILIPPINES vs. CHARLIE SORIN y TAGAYLO, G.R. No. 212635, March 25, 2015, J. Perlas-Bernabe**

**CRIMES COMMITTED BY PUBLIC OFFICERS**

**UNJUST INTERLOCUTORY ORDER**

Specifically for the charge of violation of Art. 206 of the RPC which penalizes the issuance of unjust interlocutory orders, it was necessary to show that; (1) the orders issued by the respondents to his complaint were unjust, and (2) the said orders were knowingly rendered or rendered through inexcusable negligence or ignorance. On this matter, the Ombudsman correctly held that LA’s order for the quashal of the writ of execution, and the NLRC’s resolution affirming it, were not unjust, for being in accordance with law and the rules of the NLRC. **ROMEO R. ARAULLO vs. OFFICE OF THE OMBUDSMAN, et al., G.R. No. 194157, July 30, 2014, J. Reyes**

**ANTI-GRAFT AND CORRUPT PRACTICES ACT**

The following are the essential elements of violation of Sec. 3(e) of R.A. No. 3019: 1. the accused must be a public officer discharging administrative, judicial or official functions; 2. he must have acted with manifest partiality, evident bad faith or inexcusable negligence; and 3. that his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.

There is no doubt that Consigna, being a municipal treasurer, was a public officer discharging official functions when she misused such position to be able to take out a loan from Moleta, who was misled into the belief that she, as municipal treasurer, was acting on behalf of the municipality. **SILVERINA E. CONSIGNA vs. PEOPLE OF THE PHILIPPINES, THE HON. SANDIGANBAYAN (THIRD DIVISION), and EMERLINA MOLETA, G.R. Nos. 175750-51, April 2, 2014, J. Perez**

The accused was charged for having allegedly utilized the cash advance for a purpose other than for which it was obtained. He alleged that he was neither informed nor did he receive any demand from COA to liquidate his cash advances. The Supreme Court reiterated the rule that a prior notice or demand for liquidation of cash advances is not a condition sine qua non before an accountable public officer may be held liable under Article 218 of the Revised Penal Code. **ALOYSIUS DAIT LUMAUIG vs. PEOPLE OF THE PHILIPPINES, G.R. No.166680, July 07, 2014, J. Del Castillo**

Violation of Sec. 3(e) of R.A. No. 3019 has the following elements: (1) the accused must be a public officer discharging administrative, judicial or official functions; (2) he must have acted with manifest partiality, evident bad faith or inexcusable negligence; and (3) that his action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.

Applying the foregoing elements, the Ombudsman, in granting the motion to quash, did not violate the said law considering that there could have been no undue injury suffered by Araullo notwith-standing the labor officials’ rulings as he was not left without any remedy to enforce the final judgment in his favor. The NLRC’s endorsement of his case to the arbitration branch of origin was merely for the resolution of pending incidents in the case; to hear these matters first in order to ensure that all the parties to the case were afforded due process. **ROMEO R. ARAULLO vs. OFFICE OF THE OMBUDSMAN, et al., G.R. No. 194157, July 30, 2014, J. Reyes**

Anent the third element of violation of Sec. 3(e) of R.A. No. 3019, the Sandiganbayan aptly explained: By making himself a signatory to the current accounts and presenting a cost estimate significantly higher than that submitted by Engineer Vacnot, the accused also caused undue injury to the PPSC when the latter lost control of the funds for RTS 9, and only the authorized signatories could enter into transactions with regard to the project. In this case, the Prosecution was able to prove the existence of undue injury by giving a detailed background of the estimate for facilities and materials for the construction of the project. The substantial difference between the cost estimate given by the accused and that of Engineer Vacnot caused injury to the government in the amount of approximately PhP2,500,00000 becomes more evident in light of the fact that the fifty capacity barracks have not been constructed. **DIONISIO B. COLOMA, JR. vs. HON. SANDIGANBAYAN (THIRD DIVISION) and PEOPLE OF THE PHILIPPINES, G.R. No. 205561, September 24, 2014, J. Mendoza**

In Cabrera vs. Sandiganbayan, the Court explained that there are two ways for a public official to violate this provision in the performance of his functions, namely: (a) by causing undue injury to any party, including the government; or (b) by giving any private party any unwarranted benefits, advantage, or preference. In that case, [the Court] enumerated the essential elements of the offense, viz.: 1. [t]he accused must be a public officer discharging administrative, judicial, or official functions; 2. [h]e must have acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and 3. [h]is action caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his functions. It bears emphasis that the charge against Luspo’s co-accused Domondon consisted of the same omissions. Both offered similar documentary and testimonial pieces of evidence for their exoneration, but the same were appreciated only in Domondon’s favor. The Sandiganbayan shelved Luspo’s claim that he was authorized by Domondon to sign the ASAs in the former’s behalf, and tagged the same as self-serving and unsubstantiated. In its consolidated comment, respondent People of the Philippines, represented by the OMB through the OSP, harks back to the Sandiganbayan’s conclusion and lobbies for its affirmation. The Court disagrees with the Sandiganbayan. A perusal of the records… the Sandiganbayan’s wherewithal reveals the contrary and had the trial court expanded the range of its probing, it would not have arrived at divergent conclusions regarding the two accused. **VAN D. LUSPO vs. PEOPLE OF THE PHILIPPINES/SUPT. ARTURO H. MONTANO vs. PEOPLE OF THE PHILIPPINES/C/INSP. SALLVADOR S. CURAN vs. PEOPLE OF THE PHILIPPINES, G.R. No. 188487 (consolidated), October 22, 2014, J. Nachura**

R.A. No. 3019, Sec. 11 provides that all offenses punishable under said law shall prescribe in ten (10) years. This period was later increased to fifteen (15) years with the passage of [BP Blg. 195], which took effect on March 16, 1982. This does not mean, however, that the longer prescriptive period shall apply to all violations of [R.A. No. 3019]. Following the Court’s pronouncements in People vs. Pacificador, the rule is that “in the interpretation of the law on prescription of crimes, that which is more favorable to the accused is to be adopted.” As such, the longer prescriptive period of 15 years pursuant to BP Blg. 195 cannot be applied to crimes committed prior to the effectivity of the said amending law on March 16, 1982. Considering that the crimes were committed in 1969, 1970, 1973, 1975, and 1977, the applicable prescriptive period thereon is the ten-year period set in R.A. No. 3019, the law in force at that time. Moreover, the prescriptive period commences to run at the time of the discovery of the offense. **PRESIDENTIAL COMMISISON ON GOOD GOVERNMENT (PCGG) vs. THE HONORABLE OMBUDSMAN CONCHITA CARPIO-MORALES, et al., G.R. No. 206357, November 12, 2014, J. Velasco, Jr.**

The Court held that there are two ways by which a public official violates Sec. 3(e) of R.A. No. 3019 in the performance of his functions, namely: by causing undue injury to any party, including the Government; or by giving any private party any unwarranted benefit, advantage or preference. The Court found that the petitioners committed undue injury to the government and gave unwarranted benefits to PAL Boat through manifest partiality. The manifest reluctance to hold a public bidding and award the contract to the winning bidder indicates of favoritism and partiality toward PAL Boat. Petitioners pre-qualified PAL Boat despite its financial inability to undertake the project. They also did not impose retention money and taxes against PAL Boat, to the detriment of the government. The government was obligated to use more funds and effort to rehabilitate the vessels. **ALEJANDRO C. RIVERA vs. PEOPLE OF THE PHILIPPINES, G.R. No. 156577 (consolidated), December 03, 2014, J. Mendoza**

The Court agrees with the Sandiganbayan in finding Valencerina guilty of violating Sec. 3(e) of R.A. No. 3019 based upon the pieces of evidence presented by the prosecution. In finding Valencerina guilty of giving undue advantage or preference to Ecobel, in violation of Sec. 3(e) of the Anti Graft and Corrupt Practices Act, the Sandiganbayan was convinced that the elements of the crime were duly established.

In this case, Valencerina clearly extended, with evident bad faith, undue advantage to Ecobel in the process of issuing and negotiating the subject bond. His act of endorsing Ecobel’s application to the PGM despite his knowledge that the obligee of the loan was not PVB but a foreign lender, clearly shows his disregard for the policy of GSIS requiring the existence of governmental interest in the transaction. In the observation of the GSIS audit team, as it appeared in a report before the Sandiganbayan, PVB was merely used to show that GSIS has an insurable interest in the loan. The truth, however, is that BSIL was the funder and obligee of the credit sought to be guaranteed by the bond. **ALEX M. VALENCERINA vs. PEOPLE OF THE PHILIPPINES, G.R. No. 206162, December 10, 2014, J. Mendoza**

**CRIMES AGAINST PERSONS**

**PARRICIDE**

Parricide is committed when: (1) a person is killed; (2) the deceased is killed by the accused; (3) the deceased is the father, mother, or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the legitimate spouse of the accused. In this case, the prosecution was able to satisfactorily establish that the victim, who is the legitimate spouse of Roy San Gaspar, was shot and killed by the latter based on the eyewitnesses’ account, there being no showing that said eyewitnesses were impelled by any ill motive to testify against him. **PEOPLE OF THE PHILIPPINES vs. ROY SAN GASPAR, G.R. No. 180496, April 2, 2014, J. Del Castillo**

In the crime of parricide, only the following elements need to be satisfactorily established: (1) the death of the deceased; (2) that he or she was killed by the accused; and (3) that the deceased was a legitimate ascendant or descendant, or the legitimate spouse of the accused. In this case, all these elements have been proven beyond doubt. Moreover, there is no doubt that the accused George Zapata intentionally killed his wife; the shooting was not accidental. Both the trial court and the appellate court correctly found him guilty beyond reasonable doubt of the crime of parricide. His claim that he accidentally pulled the trigger while attempting to catch the same when it fell from the cabinet is incredible. **PEOPLE OF THE PHILIPPINES vs. GEORGE ZAPATA y VIANA, G.R. No. 197046, July 21, 2014, J. Del Castillo**

**MURDER/HOMICIDE**

For the defense of alibi to prosper, the accused must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission. Hence, when the accused was not able to prove that he was in a certain place when the crime was committed, and the witness positively identified him as the assailant, the denial and alibi are weak defenses, which cannot prevail against positive identification. **PEOPLE OF THE PHILIPPINES vs. DANTE DULAY, G.R. No. 194629, April 21, 2014, J. Reyes**

For treachery to be considered, two elements must concur: (1) the employment of means of execution that gives the persons attacked no opportunity to defend themselves or retaliate; and (2) the means of execution were deliberately or consciously adopted. The victims in this case were eating lunch on campus. They were not at a place where they would be reasonably expected to be on guard for any sudden attack by rival fraternity men. The victims, who were unarmed, were also attacked with lead pipes and baseball bats. The only way they could parry the blows was with their arms. In a situation where they were unnamed and outnumbered, it would be impossible for them to fight back against the attackers. The attack also happened in less than a minute, which would preclude any possibility of the bystanders being able to help them until after the incident. The swiftness and the suddenness of the attack gave no opportunity for the victims to retaliate or even to defend themselves. Treachery, therefore, was present in this case. **PEOPLE OF THE PHILIPPINES vs. DANILO FELICIANO, JR., et al., G.R. No. 196735, May 5, 2014, J. Leonen**

The defense of insanity is in the nature of confession and avoidance because an accused invoking the same admits to have committed the crime but claims that he or she is not guilty because of such insanity. Minor children, who by reason of their tender years, cannot be expected to put up a defense. Thus, when an adult person illegally attacks a minor, treachery exists.

Two (2) conditions must concur for treachery to be appreciated: first, the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and, second, the means of execution was deliberate or consciously adopted

The Court agrees in this case with the findings of the RTC and the CA that treachery was attendant in the killing of Maureen. The facts of this case show that Umawid suddenly appeared at the terrace of Vicente’s house and started attacking Vicente with panabas. However, the latter was able to evade Umawid’s attacks, resulting in Maureen being inadvertently hit and killed in the process. While it was not shown that Umawid consciously employed treachery so as to insure the death of Maureen, who was then just two (2) years old at the time, it is well to reiterate that the killing by an adult of a minor child is treacherous, and thus, qualifies Maureen’s killing to Murder. **PEOPLE OF THE PHILIPPINES** **vs.** **ROGER RINGOR UMAWID, G.R. No. 208719, June 9, 2014, J. Perlas-Bernabe**

The accused shot the victim in the head, which was found to be the direct cause of his death. The accused was found guilty of murder. It was not a case of self-defense since there was no unlawful aggression from the victim. It is settled that not every form or degree of aggression justifies a claim of self-defense. The Court ruled that there was treachery since the sudden attack of the accused upon the victim was clearly without warning and unexpected on the part of the victim, giving him no chance for defense. **PEOPLE OF THE PHILIPPINES vs. JEFFERSON WARRINER y NICDAO, G.R. No. 208678, June 16, 2014, J. Reyes**

Unlawful aggression on the part of the victim is the primordial element of the justifying circumstance of self-defense. Without it, there can be no self-defense, whether complete or incomplete, that can validly be invoked. "There is an unlawful aggression on the part of the victim when he puts in actual or imminent danger the life, limb, or right of the person invoking self-defense. There must be actual physical force or actual use of a weapon." "It is present only when the one attacked faces real and immediate threat to one’s life."

It has been repeatedly ruled that the nature, number and location of the wounds sustained by the victim disprove a plea of self-defense.

The essence of treachery lies in the attack that comes without warning, and the attack is swift, deliberate and unexpected, and affords the hapless, unarmed and unsuspecting victim no chance to resist or escape, thereby ensuring its accomplishment without the risk to the aggressor, without the slightest provocation on the part of the victim. What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate. **PEOPLE OF THE PHILIPPINES vs. ALEX DE LOS SANTOS, G.R. No. 207818, July 23, 2014, J. Reyes**

To successfully prosecute the crime of murder, the following elements must be established: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248of the Revised Penal Code; and (4) that the killing is not parricide or infanticide. The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape.

In this case, the prosecution was able to clearly establish that (1) Edgardo, Benjamin and Carlito were shot and killed; (2) the accused appellants were three of the eight perpetrators who killed them; (3) Edgardo, Benjamin and Carlito’s killing was attended by the qualifying circumstance of treachery as testified to by prosecution eyewitness, Roger; and (4) the killing of Edgardo, Benjamin and Carlito were neither parricide nor infanticide.

In conspiracy, the act of one is the act of all. It does not need to be proven by direct evidence and may be inferred from the conduct – before, during, and after the commission of the crime – indicative of a joint purpose, concerted action, and concurrence of sentiments as in conspiracy.

In this case, all the accused/accused-appellants were convincingly shown to have acted in concert to achieve a common purpose of assaulting their unarmed victims with their guns. Their acting in concert was manifest not only from their going together to the fishpen located offshore on board the same boat, but also from their joint attack commenced simultaneously, firing successive shots at the four victims and immediately followed by clambering up the platform and resuming their shooting of Roger, Edgardo, Benjamin and Carlito. **PEOPLE OF THE PHILIPPINES,** **vs. ROLANDO LAS PIÑAS, JIMMY DELIZO AND MERWIN LAS PIÑAS, G.R. No. 191723, July 23, 2014**, **J. Leonardo-De Casto**

To escape liability, the accused must show by sufficient, satisfactory and convincing evidence that: (a) the victim committed unlawful aggression amounting to an actual or imminent threat to the life and limb of the accused claiming self-defense; (b) there was reasonable necessity in the means employed to prevent or repel the unlawful aggression; and (c) there was lack of sufficient provocation on the part of the accused claiming self-defense or at least any provocation executed by the accused claiming self-defense was not the proximate and immediate cause of the victim’s aggression.

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.

In this case, the Court is not persuaded in the allegations of the petitioner Leopoldo that his conviction was not supported by proof of guilt beyond reasonable doubt. His argument revolves mainly on self-defense, defense of relatives and absence of conspiracy. The records of this case show that the prosecution witnesses Eduardo Oyando, Robert dela Cruz and Felomina dela Cruz positively and consistently identified the accused and relayed the sequence of events. **LEOPOLDO QUINTOS y DELAMOR vs. PEOPLE OF THE PHILIPPINES, G.R. No. 205298, September 10, 2014, Acting C.J. Carpio**

Appellants were charged in conspiracy with others for murder of two jail guards and for carnapping. They alleged however, that the prosecution has failed to prove their guilt beyond reasonable doubt and that they denied such allegation. There is treachery when the following essential elements are present, viz: (a) at the time of the attack, the victim was not in a position to defend himself; and (b) the accused consciously and deliberately adopted the particular means, method or form of attack employed by him. The essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring its commission withour risk of himself. In the instant case, despite being armed, the jail officers were not afforded any chance of defending themselves. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy can be inferred from and established by the acts of the accused themselves when said acts point to a joint purpose and design, concerted action and community of interest. Once conspiracy is shown the act of one is the act of all the conspirators. Carnapping is the taking, with intent to gain, of a motor vehicle belonging to another without consent, or by means of violence against or intimidation of persons, or by using force upon things. The elements of the crime of carnapping are that: (1) there is an actual taking of the vehicle; (2) the offender intends to gain from the taking of the vehicle; (3) the vehicle belongs to a person other than the offender himself; and (4) the taking is without the consent of the owner thereof, or it was committed by means of violence against or intimidation of persons, or by using force upon things. All the elements of carnapping are present in this case. Both appellants admitted that they boarded the Tamaraw jeep and drove away in it. The owner of the vehicle, Benjamin Bauzon, testified that he did not consent to the taking of his vehicle by appellants. **PEOPLE OF THE PHILIPPINES vs.** **CHARLIE FIELDAD, RYAN CORNISTA, and EDGAR PIMENTEL, G.R. No. 196005, October 1, 2014, C.J. Carpio**

Frustrated homicide requires intent to kill on the part of the offender. Without proof of such intent, the felony may only be serious physical injuries. Intent to kill may be established through the overt and external acts and conduct of the offender before, during and after the assault, or by the nature, location and number of the wounds inflicted on the victim.

Here, both the trial and the appellate court agreed that intent to kill was present. Supreme Court concurs with them. Contrary to the Alfredo’s submission, the wounds sustained by Alexander were not mere scuffmarks inflicted in the heat of anger or as the result of a fistfight between them. Alfredo wielded and used a knife in his assault on Alexander. The medical records indicate, indeed, that Alexander sustained two stab wounds, specifically, one on his upper left chest and the other on the left side of his face. There is also to be no doubt about the wound on Alexander’s chest being sufficient to result into his death were it not for the timely medical intervention. **ALFREDO DE GUZMAN, JR.** **vs.** **PEOPLE OF THE PHILIPPINES, G.R. No. 178512, November 26, 2014, J. Bersamin**

In order to establish a motorist’s liability for the negligent operation of a vehicle, it must be shown that there was a direct causal connection between such negligence and the injuries or damages complained of. To constitute the offense of reckless driving, the act must be something more than a mere negligence in the operation of a motor vehicle – a willful and wanton disregard of the consequences is required. Willful, wanton or reckless disregard for the safety of others within the meaning of reckless driving statutes has been held to involve a conscious choice of a course of action which injures another, either with knowledge of serious danger to others involved, or with knowledge of facts which would disclose the danger to any reasonable person. **ROGELIO J. GONZAGA vs. PEOPLE OF THE PHILIPPINES, G.R. No. 195671, January 21, 2015, J. Perlas-Bernabe**

The records show that there was direct proof identifying the accused as the perpetrator of the crime, thus, belying the claim of the accused. Furthermore, the testimonies of prosecution witnesses established without a shadow of doubt that it was accused who mercilessly killed his brother. **PEOPLE OF THE PHILIPPINES vs. DOMINGO DILLA y PAULAR, G.R. No. 200333, January 21, 2015, J. Del Castillo**

The fatal shooting of Agon was attended by treachery, a qualifying circumstance listed under Article 248 and notably, alleged in the Information. For treachery to be properly appreciated, two conditions must be present: (1) at the time of the assault, the victim was not in a position to defend himself; and (2) the offender consciously adopted the particular means, methods, or forms of attack employed by him. These conditions were present in the killing of Agon. The assault upon Agon was deliberate, swift and sudden, denying him the opportunity to protect or defendhimself. He was unarmed and unaware of the plot of appellants to kill him. Moreover, the means, method or manner of execution of the attack was deliberately and consciously adopted by appellants, the same being in accordance with their group’s plan to liquidate Agon.

There is conspiracy "when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. It arises on the very instant the plotters agree, expressly or impliedly, to commit the felony and forthwith decide to pursue it."  Here, the evidence is sufficient to prove that appellants conspired to murder Agon. In this case, upon their arrival thereat, the members of the group which included appellants positioned themselves according to their plan and waited for Agon to leave. Later on, Caballero signaled Vitan and the other alleged gunman, accused Theo (Theo), that the target had left the arena and that his vehicle was already approaching their position. When Agon’s vehicle came, Vitan and Theo fired at him. Vitan, Caballero, Alvarez, who acted as one of the back-ups, and the rest of the group then fled the scene of the crime. **PEOPLE OF THE PHILIPPINES** **vs. TOMAS DIMACUHA, JR., et al., G.R. No. 191060, February 2, 2015,** **J. Mariano C. Del Castillo**

The Court of Appeals affirmed the decision of the Regional Trial Court convicting the accused of the crime of murder for stabbing his victim seven times in the body. The accused contends that the act was merely for self-dense. The Supreme Court ruled that it is not persuaded by the appellant’s defense of denial as this cannot prevail over the eyewitnesses’ positive identification of him as the perpetrator of the crime. Denial, like alibi, if not substantiated by clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law. **PEOPLE OF THE PHILIPPINES** **vs.** **OSCAR SEVILLANO y RETANAL, G.R. No. 200800, February 09, 2015, J. Perez**

There is passional obfuscation when the crime was committed due to an uncontrollable burst of passion provoked by prior unjust or improper acts, or due to a legitimate stimulus so powerful as to overcome reason. On the other hand, a sudden attack by the assailant, whether frontally or from behind, is treachery if such mode of attack was coolly and deliberately adopted by him with the purpose of depriving the victim of a chance to either fight or retreat. The rule does not apply, however, where the attack was not preconceived and deliberately adopted but was just triggered by the sudden infuriation on the part of the accused because of the provocative act of the victim. The attack, while sudden, cannot be said to have been unexpected or unprovoked. Accused-appellant alleged that before the attack, Gulane had been insulting him and mocking him in a loud voice, "How many times did you have sexual intercourse with your mother?" This utterance, along with testimonies of Gulane's previous insults, would have been sufficient provocation for accused-appellant to stab him. **PEOPLE OF THE PHILIPPINES vs. MARCELINO OLOVERIO, G.R. No. 211159, March 18, 2015, J. Leonen**

**PHYSICAL INJURIES**

Since the accused alleges self-defense, he carries the burden of evidence to prove that he satisfied the elements required by law; he who alleges must prove. By admitting the commission of the act charged and pleading avoidance based on the law, he must rely on the strength of his own evidence to prove that the facts that the legal avoidance requires are present; the weakness of the prosecution’s evidence is immaterial after he admitted the commission of the act charged. As pointed out, Sabay failed to substantiate his claimed self-defense because he did not even present any medical certificate as supporting evidence, notwithstanding his claim that he consulted a doctor. Nor did he ever present the doctor he allegedly consulted. His contention, too, that he was attacked by Godofredo and was shot with a .38 caliber gun by Jessie was refuted by the prosecution eyewitnesses – Rodolfo and Dina – who both testified that it was the petitioner who had attacked Godofredo. **FEDERICO SABAY vs. PEOPLE OF THE PHILIPPINES, G.R. No. 192150, October 01, 2014, J. Brion**

**RAPE**

The elements of statutory rape are: (1) that the accused had carnal knowledge of a woman; and (2) that the woman is below 12 years of age x x x. In this case, although the Informations alleged that “AAA” was 11 years of age when the rape incidents transpired, she was actually 13 years of age when the rape incidents transpired on December 25, 2004 and January 21, 2005, as her Certificate of Birth showed that she was born on March 10, 1991. Thus, Santiago is guilty only of simple, not statutory rape. **PEOPLE OF THE PHILIPPINES vs. RENE SANTIAGO, G.R. No. 196970, April 2, 2014, J. Del Castillo**

In adopting the sweetheart theory as a defense, the accused necessarily admitted carnal knowledge of ABC, the first element of rape. This admission makes the sweetheart theory more difficult to defend, for it is not only an affirmative defense that needs convincing proof, but also after the prosecution has successfully established a prima facie case, the burden of evidence is shifted to the accused, who has to adduce evidence that the intercourse was consensual. **THE PEOPLE OF THE PHILIPPINES vs. JOEL DIOQUINO y GARBIN, G.R. No. 191390, April 2, 2014, J. Villarama, Jr.**

Impregnation of a woman is not an element of rape. **PEOPLE OF THE PHILIPPINES vs. JOEL ABAT y COMETA, G.R. No. 202704, April 2, 2014, J. Leonardo-De Castro**

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed.

In statutory rape, there must be independent evidence proving the age of the victim, other than the testimonies of prosecution witnesses and the absence of denial by the accused. **PEOPLE OF THE PHILIPPINES vs. MAURICIO HALLARTE y MENDOZA, G.R. No.205382, April 02, 2014, J. Perlas-Bernabe**

Statutory rape is committed when (1) the offended party is under 12 years of age and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation; whether the victim was deprived of reason or consciousness; or whether it was done through fraud or grave abuse of authority. It is enough that the age of the victim is proven and that there was sexual intercourse. **PEOPLE OF THE PHILIPPINES vs. RODRIGO GUTIEREZ y ROBLES ALIAS ROD AND JOHN LENNON, G.R. No. 208007, April 2, 2014, J. Leonen**

Under Section 3(b), Article I of Republic Act No. 7610, the term "child abuse" is defined as the maltreatment of a child, whether habitual or not, which includes the physical abuse of a child, among other acts. In this case, AAA positively identified Delen as the person who kicked her in the buttocks, hit her head with a hammer, and smashed her head on the wall on. Furthermore, the Court finds no cogent reason to disbelieve AAA’s testimony, which was corroborated by the medical findings of Dr. Rivamonte and Dr. Arellano that the victim’s hymen had "complete healed lacerations at 1, 3, 6, 9 o’clock positions." Jurisprudence provides that the eloquent testimony of the victim, coupled with the medical findings attesting to her non-virgin state, should be enough to confirm the truth of her charges of rape. **PEOPLE OF THE PHILIPPINES** **vs. HERMENIGILDO DELEN y ESCOBILLA, G.R. No. 194446, April 21, 2014, J. Leonardo-De Castro**

Clearly, it is now acknowledged that rape, as a form of sexual violence, exists within marriage. A man who penetrates her wife without her consent or against her will commits sexual violence upon her, and the Philippines, as a State Party to the CEDAW and its accompanying Declaration, defines and penalizes the act as rape under R.A. No. 8353. It is true that the Family Code, obligates the spouses to love one another but this rule sanctions affection and sexual intimacy, as expressions of love, that are both spontaneous and mutual and not the kind which is unilaterally exacted by force or coercion. The definition of rape in Sec. 1 of R.A. No. 8353 pertains to: (a) rape, as traditionally known; (b) sexual assault; and (c) marital rape or that where the victim is the perpetrator's own spouse. The single definition for all three forms of the crime shows that the law does not distinguish between rape committed in wedlock and those committed without a marriage. **PEOPLE OF THE PHILIPPINES vs. EDGAR JUMAWAN, G.R. No. 187495, April 21, 2014, J. Reyes**

AAA was only ten (10) years old when Traigo raped her in September 2004. The minority of the victim and her relationship to Traigo, however, raised the crime from statutory rape to qualified rape. Simply put, qualified rape is statutory rape in its qualified form. The also evidence showed that the she was 12 years old when she was raped on March 2006, as evidenced by her Certificate of Live Birth showing that she was born on November, 18, 1993. The evidence also established that the Traigo was the common-law spouse of BBB. Under Article 266-B of the Revised Penal Code, the death penalty shall be imposed when the victim is below 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 SC cannot, however, impose the death penalty in view of Republic Act No. 9346, entitled “An Act Prohibiting the imposition of the Death Penalty in the Philippines.” **PEOPLE OF THE PHILIPPINES vs. FRED TRAIGO, G.R. No. 199096, June 02, 2014, J. Brion**

The modification of the crime committed by the Valentin Sabal from statutory rape to qualified rape is proper. The evidence also established that the appellant was the brother of the victims' father. The minority of the victims and their relationship to the appellant in the present case raised the crime from statutory rape to qualified rape. **PEOPLE OF THE PHILIPPINES vs. VALENTIN SABAL y PARBA, JR., G.R. No. 201861, June 2, 2014, J. Brion**

Pregnancy is not an essential element of rape. Whether the child which the rape victim bore was fathered by the accused, or by some unknown individual, is of no moment. What is important and decisive is that the accused had carnal knowledge of the victim against the latter's will or without her consent, and such fact was testified to by the victim in a truthful manner. Thus, when the victim, a 17-year old girl who was the house helper of the sister of the accused, categorically and consistently testified that the accused had carnal knowledge of her while pointing a gun in her mouth, the courts will give credence to her testimony and convict the accused regardless of the pregnancy of the victim. **PEOPLE OF THE PHILIPPINES vs. DEMOCRITO PARAS, G.R. No. 192912, June 4, 2014, J. Leonardo-De Castro**

Inconsistencies and discrepancies in details which are irrelevant to the elements of the crime are not grounds for acquittal. As long as the inaccuracies concern only minor matters, the same do not affect the credibility of witnesses. Truth-telling witnesses are not always expected to give error-free testimonies considering the lapse of time and treachery of human memory. Inaccuracies may even suggest that the witnesses are telling the truth and have not been rehearsed.

Authorities in forensic medicine agree that the determination of the exact date of fertilization is problematic. The exact date thereof is unknown; thus, the difficulty in determining the actual normal duration of pregnancy. Pregnancy is not an essential element of the crime of rape. Whether the child which the rape victim bore was fathered by the accused, or by some unknown individual, is of no moment. What is important and decisive is that the accused had carnal knowledge of the victim against the latter's will or without her consent, and such fact was testified to by the victim in a truthful manner. **PEOPLE OF THE PHILIPPINES vs.** **DEMOCRITO PARAS, G.R. No. 192912, June 4, 2014 , J. Leonardo-De Castro**

To convict an accused for statutory rape, two elements must be proven: 1.) the victim is a female under 12 years of age or is demented; and the offender has carnal knowledge of the victim. Thus, where the prosecution was able to present a 7-year old girl’s credible, positive and categorical testimony relative to the circumstances surrounding her rape; and the physical evidence consistent with AAA’s assertion that she was raped, the accused must be held guilty of statutory rape. **PEOPLE OF THE PHILIPPINES vs. RENATO BESMONTE, G.R. No. 196228, June 4, 2014, J. Leonardo-De Castro**

When a de facto foster father was alleged to have raped his de facto minor adopted child, and the victim had clearly and categorically testified that he had penetrated her vagina, the absence of hymenal laceration does not preclude rape, because it is possible for a woman’s hymen to remain intact even after having been raped if it is lax, thick and elastic. Carnal knowledge is the element of rape, not hymenal laceration. Further, delays in the reporting of the rape does not destroy the credibility of the rape victim, especially when the accused had performed acts of violence on the victim, which are enough to cow the 13-year old victim into silence. **PEOPLE OF THE PHILIPPINES vs. ELIAS BUENVINOTO y PAGLINAWAN, G.R. No. 207990, June 9, 2014, J. Reyes**

No sane girl would concoct a story of defloration, allow an examination of her private parts and subject herself to public trial or ridicule if she has not in truth, been a victim of rape and impelled to seek justice for the wrong done to her. Youth and immaturity are generally badges of truth and sincerity.

The Court has time and time again ruled that denial and alibi are inherently weak defenses as these are self-serving. The absence of fresh lacerations in the hymen cannot be a firm indication that the complainant was not raped. It is settled that hymenal lacerations are not an element of rape**.**

After a thorough perusal of the records of this case, the Court finds that the prosecution was able to establish beyond reasonable doubt all the elements of rape under Article 266-A of the RPC. AAA, who was then only 13 years old, testified that Esteban succeeded in having carnal knowledge with her and, thus, being AAA’s father, is presumed to have employed force and/or intimidation. Both the lower courts found AAA’s testimony in this matter clear, convincing and credible. **PEOPLE OF THE PHILIPPINES vs. JERUSALEM ESTEBAN y BALLESTEROS, G.R. No. 200920, June 9, 2014, J. Reyes**

The term statutory rape should only be confined to situations where the victim of rape is a person less than 12 years of age. If the victim of rape is a person with mental abnormality, deficiency, or retardation, the crime committed is simple rape under Article 266-A, paragraph (1) (b) as she is considered "deprived of reason" notwithstanding that her mental age is equivalent to that of a person under 12. In short, carnal knowledge with a mental retardate whose mental age is that of a person below 12 years, while akin to statutory rape under Article 266-A, paragraph 1(d), should still be designated as simple rape under paragraph 1(b). **PEOPLE OF THE PHILIPPINES vs.** **JOSE DALAN y PALDINGAN, G.R. No. 203086, June 11, 2014, J. Brion**

Accused, the biological father of the 15-year-old victim, committed rape twice. Medical examination results indicate that the victim did not suffer injuries. The Court held that the foremost consideration in a rape case is the victim’s testimony which, in this case, was candid and straightforward. It is doctrinally settled that the factual findings of the trial court, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed. Absence of physical evidence does not necessarily negate commission of rape. **PEOPLE OF THE PHILIPPINES vs. OLIVER A. BUCLAO, G.R. No. 208173, June 11, 2014, J. Leonen**

Accused was charged of raping the 7-year-old victim. The victim’s testimony was found credible and it sufficiently established the guilt of the accused. The Court ruled that testimonies of victims of tender age are credible, more so if they are without any motive to falsely against their offender. **PEOPLE OF THE PHILIPPINES vs. BRICCIO BACULANTA, G.R. No. 207513, June 16, 2014, J. Reyes**

Rape is essentially committed in relative isolation or even secrecy. As such, it is usually only the victim who can testify with regard to the fact of the forced coitus. In its prosecution, therefore, the credibility of the victim is almost always the single and most important issue to deal with. **PEOPLE OF THE PHILIPPINES vs. HERMNIGILDO T. ABAYAN, G.R. No. 190620, June 18, 2014, J. Perez**

Delay in revealing the commission of a crime such as rape does not necessarily render such charge unworthy of belief. This is because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny. Only when the delay is unreasonable or unexplained may it work to discredit the complainant. **PEOPLE OF THE PHILIPPINES vs. CARLOS ALHAMBRA, G.R. No. 207774, June 30, 2014, J. Reyes**

It has been held that when the victim’s testimony is corroborated by the physician’s finding of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge; that laceration, whether healed or fresh, is the best physical evidence of forcible defloration. The Court, however, finds no physical evidence of sexual penetration and no corroboration of other vital details in AAA’s narration of the rape. when the victim says that the accused inserted his penis into her vagina and pushed and pulled inside her "for a long time," and she felt pain and blood oozed from her organ, the stark absence of any vaginal tear or laceration will have to be medically explained, or else, the Court is left with no inference other than that the charge of rape may have been a mere fabrication. **PEOPLE OF THE PHILIPPINES vs. ROLANDO RONDINA, G.R. No. 207763, June 30, 2014, J. Reyes**

The elements of the crime of forcible abduction, as defined in Article 342 of the Revised Penal Code, are: (1) that the person abducted is any woman, regardless of her age, civil status, or reputation; (2) that she is taken against her will; and (3) that the abduction is with lewd designs. On the other hand, rape under Article 266­A is committed by having carnal knowledge of a woman by: (1) force or intimidation, or (2) when the woman is deprived of reason or is unconscious, or (3) when she is under twelve years of age. The prosecution was able to prove all these elements in this case. **PEOPLE OF THE PHILIPPINES vs. ROSENDO AMARO, G.R. No. 199100, July 18, 2014, J. Perez**

Jurisprudence strictly dictates that the guardian must be a person who has a legal relationship with his ward, which does not obtain in this case. Ineluctably, guardianship cannot be considered as a qualifying circumstance and the accused-appellant can only be convicted of simple rape. **PEOPLE OF THE PHILIPPINES vs. VIRGILIO ANTONIO y RIVERA, G.R. No. 208623, July 23, 2014, J. Reyes**

Rape may be committed by a man having carnal knowledge of a woman through threat or intimidation. According to "AAA," every time Juan will have sexual intercourse with her, he would issue threats that he would kill her, her mother and grandmother

Although "AAA’s" minority was alleged, the same was not proved during trial; neither was her Birth Certificate submitted in evidence. Her relationship with the Juan was likewise not established. Although the Information alleged that Juan is an uncle of "AAA," such relationship was not proved during trial. Based on Juan’s testimony, he was never married to "AAA’s" relative. **PEOPLE OF THE PHILIPPINES vs. STANLEY BUNAGAN y JUAN, G.R. No. 196786, July 23, 2014**, **J. Del Castillo**

Under the Revised Penal Code, as amended, rape is committed when: (1) the offender had carnal knowledge of a woman; and (b) that the same was committed by using force and intimidation. Despite her low mentality, AAA was able to narrate her harrowing experience in the hands of the two accused, who took turns in raping her. The SC ruled that a victim who cries rape, more so if she is a minor, almost always says all that is needed to signify that the crime has been committed, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof. **PEOPLE OF THE PHILIPPINES vs. LEONARDO BATTAD, et al., G.R. No. 206368, August 6, 2014, J. Reyes**

The precise date or time of the commission of the rape is not an essential element of the crime of rape. Hence, the fact that the victim could not remember the exact dates when each of other rapes occurred will not affect the conviction of the accused. **PEOPLE OF THE PHILIPPINES vs. ROMEO CLOSA Y LUALHATI, G.R. No. 211049, August 6, 2014, J. Reyes**

"For conviction to be had in the crime of rape, the following elements must be proven beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is twelve years of age, or is demented." In the instant appeal, the RTC and the CA both found AAA’s testimony that she was raped in 2005 as credible. AAA did not specifically refer to an exact month and date when the sordid act was committed. Her testimony that the he threatened to kill her, pushed her to the wall and inserted his penis in her vagina, while she was alone washing dishes at home, was positive, clear and categorical. **PEOPLE OF THE PHILIPPINES vs. SAMUEL "TIW-TIW" SANICO, G.R. No. 208469, August 13, 2014, J. Reyes**

AAA while going home, was suddenly abducted by Edison and dragged into a dark portion. In the said area, Wendel through force and intimidation, committed rape against AAA while Dante and Edison held her and pointed a knife at her. Wendel posited the sweetheart defense. In disregarding the said defense, the Court ruled that the "sweetheart theory" is an admission of carnal knowledge of the victim and consequently places on the accused the burden of proving the supposed relationship by substantial evidence. Otherwise called as the "sweetheart defense," it is an oft-abused justification that rashly derides the intelligence of this Court and sorely tests the Court’s patience. The defense cannot just present testimonial evidence in support of the theory, as in the instant case. Independent proof is required – such as tokens, mementos, and photographs. Appellant presented no such evidence to substantiate his claim. **PEOPLE OF THE PHILIPPINES vs. WENDEL OCDOL y MENDOVA, EDISON TABIANAN, AND DANTE BORINAGA, G.R. No. 200645, August 20, 2014, J. Perez**

A minor was allegedly raped by the common law husband of her mother two times. The Court upheld the conviction of the lower courts and stated that statutory rape is committed by sexual intercourse with a woman below 12 years of age regardless of her consent, or the lack of it, to the sexual act. Proof of force, intimidation or consent is unnecessary as they are not elements of statutory rape, considering that the absence of free consent is conclusively presumed when the victim is below the age of 12. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act. Thus, to convict an accused of the crime of statutory rape, the prosecution carries the burden of proving: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant. **PEOPLE OF THE PHILIPPINES vs. CHARLES REYES y MARASIGAN, G.R. No. 210619, August 20, 2014, J. Reyes**

When the rape victim had testified in a straightforward and categorical manner that the accused had used force and intimidation to insert his penis into her vagina, and the trial court gave credence to her testimony, such findings are binding upon the Supreme Court. In addition, the sweetheart theory, absent any substantial evidence as proof of a relationship between the victim and the accused, will not be a sufficient defense for rape. Besides, the fact that both parties are sweethearts does not negate rape. **PEOPLE OF THE PHILIPPINES vs. ECO YABA y BASA a.k.a. “Plok,” G.R. No. 194946, September 3, 2014, J. Perez**

According to Article 266-A (1) (a), Revised Penal Code, rape is committed: 1) by a man who have carnal knowledge of a woman under any of the following circumstances: a) through force, threat or intimidation.

In the instant case, according to AAA, Belgar poked a knife at her neck, forced her to get up from her sleep, and dragged her outside of the house. She resisted and would have shouted but he warned her against shouting, and threatened to stab her and her sleeping sisters. Once they were outside, he injected a substance into her belly, thereby causing her to lose consciousness. Upon regaining her consciousness, she was already naked and had blood in her vagina. Belgar employed force, threat and intimidation in order to commit carnal knowledge of AAA.

The commission of the rape was competently established although AAA had been unconscious during the commission of the act. Proof of the commission of the crime need not always be by direct evidence, for circumstantial evidence could also sufficiently and competently establish the crime beyond reasonable doubt. Indeed, the Court affirmed convictions for rape based on circumstantial evidence. **PEOPLE OF THE PHILIPPINES vs. BOBBY BELGAR, G.R. No. 182794, September 8, 2014, J. Bersamin**

The behavior of a rape victim in reacting to the incidents of rape after the offense varies from one victim to another. The act of the victim of going back to the place where the crime was committed does not ipso facto make the sexual intercourse consensual. **PEOPLE OF THE PHILIPPINES vs. ADEL RAMOS y ABELLANA, G.R. No. 200077, September 17, 2014, J. Perez**

Japson was charged of the crime of raping AAA, who admitted she had a relationship with the him. Japson claimed it was a consensual act. The Court held that the invocation of the sweetheart theory cannot stand. To be credible, the sweetheart defense should be substantiated by some documentary or other evidence of relationship such as notes, gifts, pictures, mementos, and the like. **PEOPLE OF THE PHILIPPINES vs. PRIMO P. JAPSON alias "Longlong," G.R. No. 210658, September 17, 2014, J. Reyes**

The Court ruled that as to the first incident, accused is guilty of rape. Despite the absence in AAA’s testimony that there was actual carnal knowledge considering that she lost consciousness before that, circumstances indicate that the bloodied vagina was a result of insertion of the accused’s penis to the vagina of the victim. Even without direct evidence, the accused may be convicted on the basis of circumstantial evidence, provided the proven circumstances constitute an unbroken chain leading to one fair reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person. The Court held that there was only an act of lasciviousness on the second incident. Accused mounted himself on top of AAA, touched and sucked her nipple and kissed her on her lips. Lascivious conduct is the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, with the intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person. **PEOPLE OF THE PHILIPPINES vs. JULITO GERANDOY, G.R. No. 202838, September 17, 2014, J. Perez**

Rape is committed by a man who shall have carnal knowledge of a woman under any of the following circumstances: a) Through force, threat or intimidation; b) When the offended party is deprived of reason or is otherwise unconscious; c) By means of fraudulent machination or grave abuse of authority; and d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present. In the case at bar, AAA positively identified her father Lumaho as the person who had carnal knowledge of her in his shanty. She narrated that when she visited her father, he brought her to a shanty and while inside, he removed all her pieces of clothing, from her shirt up to her panty. He then successfully had a carnal knowledge of her by inserting his penis into her vagina. **PEOPLE OF THE PHILIPPINES vs. ELADIO B. LUMAHO alias "ATTUMPANG,” G.R. No. 208716, September 24, 2014, J. Perez**

The intent of the offender to lie with the female defines the distinction between attempted rape and acts of lasciviousness. The felony of attempted rape requires such intent; the felony of acts of lasciviousness does not. Only the direct overt acts of the offender establish the intent to lie with the female. However, merely climbing on top of a naked female does not constitute attempted rape without proof of his erectile penis being in a position to penetrate the female's vagina. **NORBERTO CRUZ y BARTOLOME vs.** **PEOPLE OF THE PHILIPPINES, G.R. No. 166441, October 8, 2014, J. Bersamin**

The Court differentiated the terms "deprived of reason" and "demented," as follows, the term demented refers to a person who has dementia, which is a condition of deteriorated mentality, characterized by marked decline from the individual's former intellectual level and often by emotional apathy, madness, or insanity. On the other hand, the phrase deprived of reason under paragraph 1 (b) has been interpreted to include those suffering from mental abnormality, deficiency, or retardation. Thus, AAA, who was clinically diagnosed to be a mental retardate, can be properly classified as a person who is "deprived of reason," and not one who is "demented." **PEOPLE OF THE PHILIPPINES** **vs.** **LEONARDO CATAYTAY y SILVANO, G.R. No. 196315, October 22, 2014, J. Leonardo-De Castr**

The accused was charged for raping an intellectually challenged girl. The Supreme Court convicted the accused and ruled that a person commits rape when he sexually assaults another who does not consent or is incapable of giving consent to a sexual act. Children, either in chronological or mental age, are incapable of giving consent to a sexual act. **PEOPLE OF THE PHILIPPINES vs.** **ENRIQUE QUINTOS** **Y** **BADILLA, G.R. No. 199402, November 12, 2014, J. Leonen**

It is well-settled rule that when a woman, more so if she is a minor, says she has been raped, she says in effect, all that is necessary to prove that rape was committed. Courts give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, for it is most unnatural for a young and immature girl to fabricate a story as sordid as her own defilement, allow a medical examination of her genitalia, subject herself to a public trial and expose herself to public ridicule for no reason other than her thirst for justice. Based on the foregoing guiding principle, the Court upholds the RTC in giving full faith and credence to AAA’s testimony rather than the mere denial and alibi of Ducay. AAA’s clear, straightforward and candid narration sufficiently established the fact of rape and the identity of Ducay as the perpetrator. **PEOPLE OF THE PHILIPPINES vs. GABRIEL DUCAY y BALAN, G.R. No. 209590, November 19, 2014, J. Reyes**

What is clear in this case is that the nine-year old victim, candidly and spontaneously testified that she was raped by Sato. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity. Both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimonies of the prosecution witnesses that Sato committed the crime. For alibi to prosper, the requirements of time and place must be strictly met. **PEOPLE OF THE PHILIPPINES vs. RAUL SATO, G.R. No. 190863, November 19, 2014, J. Del Castillo**

Castrodes argued that it was highly improbable that AAA was raped in broad daylight and in a very highly visible area surrounded by eight houses. The Court upheld his conviction. There is no rule that rape is committed only in seclusion. A man’s carnality is not hindered by time or place—his prurient desire impels him to commit rape even in the most public of places. **PEOPLE OF THE PHILIPPINES vs. LEONARDO CASTRODES, G.R. No. 206768, December 03, 2014, J. Perez**

When the crime of rape was committed by a father to his daughter, he shall be liable for qualified rape and not simple rape. Also, the reactions of rape victims after the commission of the offense may vary and shall not be confined to one classification. **PEOPLE OF THE PHILIPPINES vs. JOSE ESTALIN PRODENCIADO, G.R. No. 192232, December 10, 2014, J. Del Castillo**

The failure of the prosecution to prove that the rape victim is below 12 years old does not exonerate the convict from the offense but shall only be liable for simple rape. **PEOPLE OF THE PHILIPPINES vs. FRANCASIO DELFIN, G.R. No. 190349, December 10, 2014, J. Del Castillo**

Nestor was indicted before the RTC for the rape of his minor niece. It is a well-entrenched principle that testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. Youth and immaturity are generally badges of truth and sincerity. **PEOPLE OF THE PHILIPPINES vs. NESTOR SUAREZ y MAGTANOB, G.R. No. 201151, January 14, 2015, J. Perez**

Rape under the second paragraph of Article 266-A is also known as “instrument or object rape,” “gender-free rape,” or “homosexual rape.” The gravamen of rape through sexual assault is “the insertion of the penis into another person’s mouth or anal orifice, or any instrument or object, into another person’s genital or anal orifice.” **RICHARD RICALDE vs. PEOPLE OF THE PHILIPPINES, G.R. No. 211002, January 21, 2015, J. Leonen**

The failure of the victim to shout for help or resist the sexual advances of the rapist is not tantamount to consent. Physical resistance need not be established in rape when threats and intimidation are employed and the victim submits herself to her attackers of because of fear. Besides, physical resistance is not the sole test to determine whether a woman voluntarily succumbed to the lust of an accused. Rape victims show no uniform reaction. Some may offer strong resistance while others may be too intimidated to offer any resistance at all. After all, resistance is not an element of rape. **PEOPLE OF THE PHILIPPINES vs. MICHAEL JOSON y ROGANDO, G.R. No. 206393. January 21, 2015, J. Perez**

The mere fact that AAA did not tell her parents about what happened to her immediately after the first incident on 10 August 2003 does not discredit her accusations of rape and sexual molestation against Espejon. Delay or vacillation in making a criminal accusation does not necessarily impair the credibility of witnesses if such delay is satisfactorily explained. In this connection, fear of reprisal, social humiliation, familial considerations, and economic reasons have all been considered by this Court as sufficient explanations for such delay. **PEOPLE OF THE PHILIPPINES** **vs.** **PACITO ESPEJON y LEBIOS, G.R. No. 199445, February 04, 2015**, **J. Perez**

**The RTC and the Court of Appeals convicted the accused of qualified rape. It is the contention of the accused that he cannot be held liable for the crime charged because the testimony of AAA is inconsistent and should not considered as a basis for his conviction. The Supreme Court ruled that testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. PEOPLE OF THE PHILIPPINES vs.** **NILO COLENTAVA, G.R. No. 190348, February 09, 2015, J. Del Castillo**

**The RTC and the CA convicted the accused of 1 count of rape and 15 counts of acts of lasciviousness. The accused interposed a defense of denial and alibi. The Supreme Court ruled Denial and alibi, which are self-serving negative evidence and easily fabricated, especially when uncorroborated, cannot be accorded greater evidentiary weight than the positive testimony of a credible witness. Appellant’s denial and uncorroborated defense of alibi cannot prevail over the credible and positive testimony of AAA that appellant raped her and committed acts of lasciviousness against her. As found by the trial court and the appellate court, AAA categorically identified appellant as the person who repeatedly molested her. AAA’s testimony was replete with delicate details which she could not have concocted herself. She was consistent in her testimony and never wavered even during cross-examination. PEOPLE OF THE PHILIPPINES vs.** **OSCAR SANTOS y ENCINAS, G.R. No. 205308, February 11, 2015, J. Carpio**

Alminario insisted that he could not be convicted of rape because the medical examination results showed that AAA suffered no lacerations or contusions. It is settled that the absence of physical injuries or fresh lacerations does not negate rape, and although medical results may not indicate physical abuse or hymenal lacerations, rape can still be established since medical findings or proof of injuries are not among the essential elements in the prosecution for rape. **PEOPLE OF THE PHILIPPINES vs. RONALD NICAL y ALMINARIO, G.R. No. 210430, February 18, 2015, J. Reyes**

Rape is a crime that is almost always committed in isolation or in secret, usually leaving only the victim to testify about the commission of the crime. As such, the accused may be convicted of rape on the basis of the victim's sole testimony provided such testimony is logical, credible, consistent and convincing. Moreover, the testimony of a young rape victim is given full weight and credence considering that her denunciation against him for rape would necessarily expose herself and her family to shame and perhaps ridicule.

Gallano was guilty only of simple rape, not of qualified rape. In order that the accused is convicted of qualified rape under Article 266-B (1) of the Revised Penal Code, two requisites must be met, namely: (1) the victim must be a less than 18 years old; and (2) the offender must either be related to the victim by consanguinity of by affinity within the third civil degree, or is the common-law spouse of the parent of the victim. These two requisites must be both alleged and proved with absolute certainty. Otherwise, the accused could only be held guilty of simple rape. The qualifying circumstances of relationship and minority remain to be relevant in the crime of rape despite the abolition of the death penalty under R.A. No. 9346. The accused's civil liability depends on the mode of rape he committed. **PEOPLE OF THE PHILIPPINES** **vs.** **DOMINGO GALLANO y JARANILLA, G.R. No. 184762, February 25, 2015**, **J. Bersamin**

In reviewing rape cases, the lone testimony of the victim is and should be, by itself, sufficient to warrant a judgment of conviction if found to be credible.  Also, it has been established that when a woman declares that she has been raped, she says in effect all that is necessary to mean that she has been raped, and where her testimony passes the test of credibility, the accused can be convicted on that basis alone.  This is because from the nature of the offense, the sole evidence that can usually be offered to establish the guilt of the accused is the complainant’s testimony itself. **PEOPLE OF THE PHILIPPINES AND AAA** **vs.** **COURT OF APPEALS, 21ST DIVISION, MINDANAO STATION, RAYMUND CARAMPATANA, JOEFHEL OPORTO, AND MOISES ALQUIZOLA, G.R. No. 183652, February 25, 2015, J. Peralta**

**ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN**

The trial court directed AFPFC to automatically deduct a percentage from the retirement benefits of S/Sgt. Charles Yahon, and to give the same directly to his wife Daisy Yahon as spousal support in accordance of the permanent protection order issued for his violation of the Anti-Violence Against Women and Their Children Act of 2004. Despite the provision of exemption of funds provided in PD No. 1638, the Court held that Sec. 8(g) of R.A. No. 9262, being a later enactment, should be construed as laying down an exception to the general rule that retirement benefits are exempt from execution. **REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE ARMED FORCES OF THE PHILIPPINES FINANCE CENTER (AFPFC) vs. DAISY R. YAHON, G.R. No. 201043, June 16, 2014, J. Villarama, Jr.**

It bears stressing that Sec. 23(d) of A.M. No. 04-10-11-SC20 explicitly prohibits compromise on any act constituting the crime of violence against women. Thus, in Garcia vs. Drilon, the Court declared that: “[v]iolence, however, is not a subject for compromise. A process which involves parties mediating the issue of violence implies that the victim is somehow at fault.”

AM No. 10-4-16-SC,23 on the other hand, directs the referral to mediation of all issues under the Family Code and other laws in relation to support, custody, visitation, property relations and guardianship of minor children, excepting therefrom those covered by R.A. No. 9262.

While AAA filed her application for a TPO and a PPO as an independent action and not as an incidental relief prayed for in a criminal suit, the instant petition cannot be taken outside the ambit of cases falling under the provisions of R.A. No. 9262. Perforce, the prohibition against subjecting the instant petition to compromise applies. **BBB vs. AAA, G.R. No. 193225, February 9, 2015, J. Reyes**

**ANTI-HAZING LAW**

It is a settled rule that the case against those charged as accomplices is not ipso facto dismissed in the absence of trial of the purported principals; the dismissal of the case against the latter; or even the latter’s acquittal, especially when the occurrence of the crime has in fact been established. Hence, the Sandiganbayan erred when it dismissed outright the case against respondents Bayabos, on the sole ground that the case against the purported principals had already been dismissed. Nonetheless, the SC affirmed the quashal of the Information against respondents Bayabos. The indictment merely states that psychological pain and physical injuries were inflicted on the victim. There is no allegation that the purported acts were employed as a prerequisite for admission or entry into the organization. Failure to aver this crucial ingredient would prevent the successful prosecution of the criminal responsibility of the accused, either as principal or as accomplice, for the crime of hazing. Plain reference to a technical term – in this case, hazing – is insufficient and incomplete, as it is but a characterization of the acts allegedly committed and thus a mere conclusion of law. Thus, the information must be quashed, as the ultimate facts it presents do not constitute the crime of accomplice to hazing. **PEOPLE OF THE PHILIPPINES vs. LTSG. DOMINADOR BAYABOS, et al., G.R. No. 171222, February 18, 2015, CJ. Sereno**

**CHILD ABUSE LAW**

In the crime of child abuse, the maltreatment may consist of an act by deeds or by words that debases, degrades or demeans the intrinsic worth and dignity of a child as a human being. Such act, as settled, need not be habitual. Although a school teacher could duly discipline her pupil, the infliction of the physical injuries on the child was unnecessary, violent and excessive. The Family Code has even expressly banned the infliction of corporal punishment by a school administrator, teacher or individual engaged in child care exercising special parental authority (i.e., in loco parentis). Hence, a school teacher may be convicted of the said crime and, all the more when her propensity for violence has been established clearly by the prosecution. **FELINA ROSALDES vs. PEOPLE OF THE PHILIPPINES, G.R. No. 173988, October 8, 2014, J. Bersamin**

**JUVENILE JUSTICE AND WELFARE ACT**

In determining the age for purposes of exemption from criminal liability under R.A. No. 9344, Sec. 6 thereof clearly refers to the age as determined by the anniversary of one’s birth date, and not the mental age of the accused. Thus, a person who is eighteen years old at the time of the commission of the crime of rape is not exempt from criminal liability despite having a mental age of nine years old.

Mere allegation that the victim is the niece of the accused is insufficient unless proven. Thus, if what was proven is only the minority of the victim and not the relationship between accused and the victim, only minority will be considered as the aggravating circumstance. **PEOPLE OF THE PHILIPPINES vs. MILAN ROXAS, G.R. No. 200793, June 4, 2014, J. Leonardo-De Castro**

**CRIMES AGAINST PERSONAL LIBERTY AND SECURITY**

**KIDNAPPING**

Amendment introduced in our criminal statutes the concept of “special complex crime” of kidnapping with murder or homicide. It effectively eliminated the distinction drawn by the courts between those cases where the killing of the kidnapped victim was purposely sought by the accused, and those where the killing of the victim was not deliberately resorted to but was merely an afterthought. Consequently, the rule now is: Where the person kidnapped is killed in the course of the detention, regardless of whether the killing was purposely sought or was merely an afterthought, the kidnapping and murder or homicide can no longer be complexed under Art. 48, nor be treated as separate crimes, but shall be punished as a special complex crime under the last paragraph of Art. 267, as amended by R.A. No. 7659.

Thus, further taking into account the fact that the kidnapping was committed for the purpose of extorting ransom, accused-appellants’ conviction must be modified from Kidnapping and Serious Illegal Detention to the special complex crime of Kidnapping for Ransom with Homicide, which carries the penalty of death. As earlier intimated, the enactment of R.A. No. 9346 had suspended the imposition of the death penalty. This means that the accused-appellants could, as the CA and trial court properly ruled, only be sentenced to the penalty of reclusion perpetua. To this, the Court adds that the accused-appellants are not eligible for parole. **PEOPLE OF THE PHILIPPINES vs. ARMANDO DIONALDO, et al., G.R. No. 207949, July 23, 2014, J. Perlas-Bernabe**

An American national was allegedly kidnapped by the accused. The victim positively identified the accused as his kidnapper. In every criminal case, the task of the prosecution is always two-fold, that is, (1) to prove beyond reasonable doubt the commission of the crime charged; and (2) to establish with the same quantum of proof the identity of the person or persons responsible therefor, because, even if the commission of the crime is a given, there can be no conviction without the identity of the malefactor being likewise clearly ascertained. **PEOPLE OF THE PHILIPPINES vs. PETRUS YAU, A.K.A. “JOHN” AND “RICKY”, AND SUSANA YAU, G.R. No. 208170, August 20, 2014, J. Mendoza**

**ANTI-TRAFFICKING IN PERSONS ACT**

Shirley Casio was charged with violation of Anti-Trafficking by soliciting the services of minor victims. However, she alleged the prosecution has failed to prove her guilt beyond reasonable doubt and that the minor victims were willing to do such. The court ruled that Trafficking in Persons as a Prostitute is an analogous case to the crimes of seduction, abduction, rape, or other lascivious acts. Regardless of the willingness of AAA and BBB, therefore, to be trafficked, [the Court affirms] the text and spirit of our laws. Minors should spend their adolescence moulding their character in environ-ments free of the vilest motives and the worse of other human beings. **PEOPLE OF THE PHILIPPINES vs. SHIRLEY A. CASIO, G.R. No. 211465, December 03, 2014, J. Leonen**

**CRIMES AGAINST PROPERTY**

**ROBBERY**

The court has held that what is imperative and essential for a conviction for the crime of robbery with homicide is for the prosecution to establish the offender’s intent to take personal property before the killing, regardless of the time when the homicide is actually carried out.  In cases when the prosecution failed to conclusively prove that homicide was committed for the purpose of robbing the victim, no accused can be convicted of robbery with homicide. **PEOPLE OF THE PHILIPPINES vs. MARK JASON CHAVEZ Y BITANCOR ALIAS “NOY,” G.R. No. 207950, September 22, 2014, J. Leonen**

In People vs. Ibañez, the Court exhaustively explained that “[a] special complex crime of robbery with homicide takes place when a homicide is committed either by reason, or on the occasion, of the robbery. To sustain a conviction for robbery with homicide, the prosecution must prove the following elements: (1) the taking of personal property belonging to another; (2) with intent to gain; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in its generic sense, was committed. A conviction requires certitude that the robbery is the main purpose, and [the] objective of the malefactor and the killing is merely incidental to the robbery. The intent to rob must precede the taking of human life but the killing may occur before, during or after the robbery.” Homicide is said to have been committed by reason or on occasion of robbery if, for instance, it was committed: (a) to facilitate the robbery or the escape of the culprit; (b) to preserve the possession by the culprit of the loot; (c) to prevent discovery of the commission of the robbery; or (d) to eliminate witnesses in the commission of the crime.

In the instant case, the CA correctly upheld the RTC’s finding that the prosecution was able to establish the fact that Balute poked his gun at SPO1 Manaois, took the latter’s mobile phone, and thereafter, shot him, resulting in his death despite surgical and medical intervention. This is buttressed by Cristita and Blesilda’s positive identification of Balute as the one who committed the crime… **PEOPLE OF THE PHILIPPINES vs. ARNEL BALUTE, G.R. No. 189272, January 21, 2015, J. Perlas-Bernabe**

Accused-appellants conspired to commit robbery in the house of Sps. Clavel. Said robbery resulted to the death of Freddie Clavel. The RTC and CA convicted the accused-appellants of Robbery with Homicide. In affirming the ruling of the RTC and CA, the Supreme Court ruled that, it is settled that the positive identification of accused-appellants prevails over their defense of alibi considering that in this jurisdiction the latter is considered as inherently weak and, thus, cannot outweigh the testimony of eyewitnesses establishing that accused-appellants committed the crime. Moreover, conspiracy having been established, when a homicide takes place by reason of or on occasion of the robbery, all those who took part shall be guilty of the special complex crime of robbery with homicide whether they actually participated in the killing, unless there is proof that there was an endeavour to prevent the killing. **PEOPLE OF THE PHILIPPINES vs. JAY HINLO aka “INDAY KABANG”, et al., G.R. No. 212151, February 18, 2015, J. Perlas-Bernabe**

**ROBBERY WITH HOMICIDE**

A special complex crime of robbery with homicide takes place when a homicide is committed either by reason, or on the occasion, of the robbery. To sustain a conviction for robbery with homicide, the prosecution must prove the following elements: (1) the taking of personal property belonging to another; (2) with intent to gain; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in its generic sense, was committed. **PEOPLE OF THE PHILIPPINES vs. ARNEL BALUTE Y VILLANUEVA, G.R. No. 189272, January 21, 2015, J. Perlas-Bernabe**

Charlie and John Doe had to kill Yap to accomplish their main objective of stealing her money. In robbery with homicide, the original criminal design of the malefactor is to commit robbery, with homicide perpetrated on the occasion or by reason of the robbery. The intent to commit robbery must precede the taking of human life. The homicide may take place before, during or after the robbery. **PEOPLE OF THE PHILIPPINES vs. CHARLIE OROSCO, G.R. No. 209227, March 25, 2015, J. Villarama, Jr.**

**THEFT AND QUALIFIED THEFT**

To warrant a conviction for theft of damaged property, the prosecution must prove beyond reasonable that the accused maliciously damaged the property belonging to another and, thereafter, removed or used the fruits or object thereof, with intent to gain. When the [Magsumbol] was ordered by his brother-in-law to cut down coconut trees on the latter’s property, and he asked permission from the barangay captain to do so, and the fact that even the land owner was unsure as to the position of the boundary of his land, then the accused had no criminal intent when he mistakenly cut the trees of the complainant. **EDUARDO MAGSUMBOL vs. PEOPLE OF THE PHILIPPINES, G.R. No. 207175, November 26, 2014, J. Mendoza**

Grave abuse of confidence, as an element of Qualified Theft, must be the result of the relation by reason of dependence, guardianship, or vigilance, between the appellant and the offended party that might create a high degree of confidence between them which the appellant abused. Applying this, Cahilig’s act of deliberately misleading the board of directors into authorizing disbursements for money that eventually ended up in her personal account makes him guilty of the crime of qualified theft considering that his position was one reposed with trust and confidence as it involves “handling, managing, receiving, and disbursing” money from complainant-depositors and other funds. **PEOPLE OF THE PHILIPPINES vs. TRINIDAD A. CAHILIG, G.R. No. 199208, July 30, 2014, J. Carpio**

The elements of qualified theft, committed with grave abuse of discretion, can simply be enumerated as follows: 1. Taking of personal property; 2. That the said property belongs to another; 3. That the said taking be done with intent to gain; 4. That it be done without the owner’s consent; 5. That it be accomplished without the use of violence or intimidation against persons, nor of force upon things; and6. That it be done with grave abuse of confidence. The accused in this case, it bears stressing, were guards and drivers with access to the entrance and exit of the CEO premises. In other words, they enjoyed the trust and confidence reposed on them by their employer to have access throughout the CEO premises on account of their respective duties. It was this trust and confidence that was gravely abused by them that makes the theft qualified. **JOEL YONGCO and JULIETO LAÑOJAN vs. PEOPLE OF THE PHILIPPINES, G.R. No. 209373 (consolidated), July 30, 2014, J. Velasco, Jr.**

Nielles questions the decision of the CA finding her guilty of the crime of qualified theft. The elements of qualified theft are as follows 1) taking of personal property; 2) that said property belongs to another; 3) that the said taking was done with intent to gain; 4) that it was done without the owner’s consent; 5) that it was accomplished without the use of violence or intimidation against persons, or of force upon things; and 6) that it was done with grave abuse of confidence. For having established all the elements abovementioned, the SC affirmed the findings and decision of the trial court and appellate court that petitioner had indeed committed the crime of qualified theft. **PEOPLE OF THE PHILIPPINES vs. MERA “JOY” ELEUTERIO NIELLES, AND MERA NIELLES DELOS REYES, G.R. No. 200308, February 23, 2015, J. Del Castillo**

**ESTAFA**

The CA convicted the accused for the commission of the crime of estafa. Gamboa denied the allegations. The Court has ruled that findings of fact of the trial court when affirmed by the CA is binding upon it unless there is proof that such facts where overlooked, ignored, misconstrued, and misinterpreted. The fact of misappropriation cannot be refuted by the mere allegation that the amount claimed against Gamboa is unliquidated. Its effect is merely to put into question the actual amount misappropriated and the damage sustained by TFS Pawnshop. **JEAN D. GAMBOA vs. PEOPLE OF THE PHILIPPINES, G.R. No. 188052, April 21, 2014, J. Perez**

The elements of estafa with abuse of confidence are as follows: (a) that money, goods or other personal property is received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return the same; (b) that there be misappropriation or conversion of such money or property by the offender or denial on his part of such receipt; (c) that such misappropriation or conversion or denial is to the prejudice of another; and (d) that there is a demand made by the offended party on the offender. The prosecution was able to prove the existence of all the elements of the crime. Tangcoy gave Corpuz the pieces of jewelry in trust, or on commission basis, as shown in the receipt dated May 2, 1991 with an obligation to sell or return the same within sixty (60) days, if unsold. There was misappropriation when Corpuz failed to remit the proceeds of those pieces of jewelry sold, or if no sale took place, failed to return the same pieces of jewelry within or after the agreed period despite demand from Tangcoy to the prejudice of the latter. **LITO CORPUZ vs. PEOPLE OF THE PHILIPPINES, G.R. No. 180016, April 29, 2014, J. Peralta**

It is settled that a person may be charged and convicted separately of illegal recruitment and Estafa. Roderick’s contention that he cannot be convicted of estafa because the element of deceit is lacking is without merit, as private complainants were able to establish, through their positive and credible testimonies, that appellant acted in conspiracy with his co-accused to mislead private complainants into believing that appellant and his co-accused, for a fee, can deploy private complainants abroad for employment.  **PEOPLE OF THE PHILIPPINES vs. ANGELITA I. DAUD, HANELITA M. GALLEMIT and RODERICK GALLEMIT y TOLENTINO, G.R. No. 197539, June 2, 2014, J. Leonardo-De Castro**

As regards the first element, the Court finds that there was neither abuse of confidence nor deceit in this case. On the charge of abuse of confidence, [the Court again finds] that there is no evidence that could possibly lead to a conclusion that respondents committed abuse of confidence in dealing with Madrigal. First, a perusal of the evidence reveals that Madrigal did not sign a blank document nor was she deceived by respondents regarding the terms of the CSA. On its face, the CSA was a standard preprinted form. A plain reading thereof shows that the signatory guarantees the punctual payment of indebtedness that may have been due or owed by the borrower. Madrigal ought to have read the terms of the CSA before she signed it.

Second, considering the accountability of the signatory upon signing the CSA, Madrigal must have observed prudence in order to protect her interests. Hence, she should have personally indicated her own terms in the CSA whether she was signing as a representative, a surety, or a witness. It is unlikely that FEBTC officers would make it appear that she was personally liable as surety of a loan without her knowledge and authority. Madrigal failed to overcome the presumption in favor of respondents that the ordinary course of business has been followed. **MA. ANA CONSUELO A.S. MADRIGAL vs. DEPARTMENT OF JUSTICE, UNDERSECRETARY MA. MERCEDITAS N. GUTIERREZ, CELESTINO M. PALMA III, and HELEN T. CHUA, G.R. No. 168903, June 18, 2014, C.J. Sereno**

Tria received pieces of jewelry from Seven Sphere for her to sell on the condition that she will deliver the proceeds and to return if unsold. Half of the jewelries were returned, but [she] failed to pay the remaining value. She argued that the element of fraud is missing since she returned the jewelry. The Court held that all elements of estafa through misappropriation or conversion are present. Tria’s argument implies an admission of her receipt of the jewelry items and her failure to account for all of them. The words “convert” and “misappropriate” connote the act of using or disposing of another’s property as if it were one’s own, or of devoting it to a purpose or use different from that agreed upon. **SOLEDAD TRIA vs. PEOPLE OF THE PHILIPPINES, G.R. No. 204755, September 17, 2014, J. Reyes**

The offense of estafa committed with abuse of confidence requires that money, goods or other personal property is received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same; that there be misappropriation or conversion of such money or property by the offender, or denial on his part of such receipt that such misappropriation or conversion or denial is to the prejudice of another; and that there is demand by the offended party to the offender. **NENITA CARGANILLO vs. PEOPLE OF THE PHILIPPINES, G.R. No. 182424, September 22, 2014, J. Brion**

While a BP Blg. 22 case and an estafa case may be rooted from an identical set of facts, they nevertheless present different causes of action, which, under the law, are considered “separate, distinct, and independent” from each other. Therefore, both cases can proceed to their final adjudication – both as to their criminal and civil aspects – subject to the prohibition on double recovery. Perforce, a ruling in a BP Blg. 22 case concerning the criminal and civil liabilities of the accused cannot be given any bearing whatsoever in the criminal and civil aspects of a related estafa case. Clearly, the simultaneous filing of BP Blg. 22 and estafa cases do not amount to double jeopardy.

As such, an acquittal and subsequent exoneration in the BP Blg. 22 cases had no effect in the estafa case, even if both cases were founded on the same factual circumstances. There being no deceit employed to induce another for the investment of money, the civil liability did not arise from any purported act constituting the crime of estafa. Verily, the case at bar involves a liability traceable from being an accommodation party. Thus, not being based upon the crime she is charged with, the lower court correctly upheld the same despite her acquittal in the estafa case. **LEONORA B. RIMANDO vs. SPOUSES WINSTON and ELENITA ALDABA and PEOPLE OF THE PHILIPPINES, G.R. No. 203583, October 13, 2014, J. Perlas-Bernabe**

Here, Balerta held the funds in behalf of BABMPC. Over the funds, she had mere physical or material possession, but she held no independent right or title, which she can set up against BABMPC. Balerta was nothing more than a mere cash custodian, thus one of the elements of estafa by misappropriation - the juridical possession of the funds - is not proven. In addition, the testimony of the BABMPC’s manager, without corroborating evidence, does not prove misappropriation on Balerta’s part.

When the accused in an estafa case is acquitted due to reasonable doubt as to her criminal liability, civil liability may still be proven by preponderance of evidence. Timonera made references to the alleged falsifications and misappropriations committed by Balerta. However, he denied specific knowledge of where exactly the falsifications and misappropriations were shown and recorded. This, plus the fact that the prosecution made no formal offer of documentary evidence, leaves the Court in the dark as to how Balerta's civil liability, if any, shall be determined. **MARGIE BALERTA vs. PEOPLE OF THE PHILIPPINES, G.R. No. 205144, November 26, 2014, J. Reyes**

The elements of estafa through conversion or misappropriation under Art. 315(1)(b) of the [RPC] are: (1) that personal property is received in trust, on commission, for administration or under any other circumstance involving the duty to make delivery of or to return the same, even though the obligation is guaranteed by a bond; (2) that there is conversion or diversion of such property by the person who has so received it or a denial on his part that he received it; (3) that such conversion, diversion or denial is to the injury of another; and (4) that there be demand for the return of the property.

Juridical possession means a possession which gives the transferee a right over the thing which the transferee may set up even against the owner.

In this case, it was Velayo alone who transacted with WJA and AIMS in behalf of ARDC. It was to her that all the above checks were handed in payment for the lots, and she alone opened a deposit account with UCPB, although in the name of ARDC, where she deposited all the check payments she received from WJA. Then, only her signature is in the UCPB signature cards, and thus she alone was the sole authorized signatory for the said account. There is then no doubt that Velayo had sole possession and control of the missing funds intended for payment of the capital gains and documentary stamps taxes. Velayo did not receive the missing funds in behalf of ARDC, but received it for herself, through her own representations. WJA had no obligation to pay to ARDC the withholding tax; its obligation was to pay the same to the BIR itself. It was only due to Velayo’s own representations that she was able to get hold of the money. **MARIA LINA S. VELAYO vs. PEOPLE OF THE PHILIPPINES, G.R. No. 204025, November 26, 2014, J. Reyes**

The elements of syndicated estafa are: (a) estafa or other forms of swindling, as defined in Arts. 315 and 316 of the RPC, is committed; (b) the estafa or swindling is committed by a syndi-cate of five (5) or more persons; and (c) defraudation results in the misappropriation of moneys contributed by stockholders, or members of rural banks, cooperative, “samahang nayon(s),” or farmers’ associations, or of funds solicited by corporations/associations from the general public.

In this case, a judicious review of the records reveals TGICI’s modus operandi of inducing the public to invest in it on the undertaking that their investment would be returned with a very high monthly interest rate ranging from three to five and a half percent (3%-5.5%). Under such lucrative promise, the investing public are enticed to infuse funds into TGICI. However, as the directors/incorporators of TGICI knew from the start that TGICI is operating without any paid-up capital and has no clear trade by which it can pay the assured profits to its investors, they cannot comply with their guarantee and had to simply abscond with their investors’ money. Thus, the CA correctly held that accused-appellants, along with the other accused who are still at large, used TGICI to engage in a Ponzi scheme, resulting in the defraudation of the TGICI investors. **PEOPLE OF THE PHILIPPINES vs. PALMY TIBAYAN AND RICO Z. PUERTO, G.R. Nos. 209655-60, January 14, 2015, J. Perlas-Bernabe**

The elements of estafa under this Art. 315 of RPC are: (a) the offender's receipt of money, goods, or other personal property in trust, or on commission, or for administration, or under any other obligation involving the duty to deliver, or to return, the same; (b) misappropriation or conversion by the offender of the money or property received, or denial of receipt of the money or property; (c) the misappropriation, conversion or denial is to the prejudice of another; and (d) demand by the offended party that the offender return the money or property received.

It bears to stress that a sum of money received by an employee on behalf of an employer is considered to be only in the material possession of the employee. The material possession of an employee is adjunct, by reason of his employment, to a recognition of the juridical possession of the employer.

In this case, Benabaye maintains that the first element of estafa through misappropriation has not been established, insisting that her possession of the collected loan payments was merely material and not juridical; therefore, she cannot be convicted of the said crime. The Court agrees. Records show that Benabaye was merely a collector of loan payments from Siam Bank's clients. At the end of every banking day, she was required to remit all cash payments received together with the corresponding cash transfer slips to her supervisor, Tupag. As such, the money merely passes into her hands and she takes custody thereof only for the duration of the banking day. Hence, as an employee of Siam Bank, specifically, its temporary cash custodian whose tasks are akin to a bank teller, she had no juridical possession over the missing funds but only their physical or material possession. **CHERRY ANN M. BENABAYE vs. PEOPLE OF THE PHILIPPINES, G.R. No. 203466, February 25, 2015, J. Perlas-Bernabe**

The estafa charged in the information may be committed, therefore, when: (1) the offender has post-dated or issued a check in payment of an obligation contracted at the time of the postdating or issuance; (2) at the time of postdating or issuance of said check, the offender has no funds in the bank, or the funds deposited are not sufficient to cover the amount of the check; (3) the payee has been defrauded. The deceit here should be the efficient cause of the defraudation, and should either be prior to, or simultaneously with, the act of the fraud.

All the elements of estafa were present in this case. The first element was admitted by Villanueva, who confirmed that she had issued the checks to Madarang in exchange for the jewelry she had purchased. There is no question that Madarang accepted the checks upon the assurance of   Villanueva that they would be funded upon presentment. It is clear that Madarang would not have parted with and entrusted the pieces of valuable jewelry to Villanueva whom she barely knew unless Villanueva gave such assurance to her. The second element was likewise established because the checks were dishonored upon presentment due to insufficiency of funds or because the account was already closed. The third element was also proved by the showing that Madarang suffered prejudice by her failure to collect from Villanueva the balance of PhP995,000.00. **PEOPLE OF THE PHILIPPINES vs. JULIE GRACE K. VILLANUEVA, G.R. No. 163662, February 25, 2015, J. Bersamin**

**BOUNCING CHECKS LAW**

The Court, however, considers Campos' defense that she exerted efforts to reach an amicable settlement with her creditor after the checks which she issued were dishonored by the drawee bank. Campos categorically declared in her petition that, “she has in her favor evidence to show that she was in good faith and indeed made arrangements for the payment of her obligations subsequently after the dishonor of the checks.” Clearly, this statement was a confirmation that she actually received the required notice of dishonor from FWCC. Campos would not have entered into the alleged arrangements beginning January 1996 until May 1998 if she had not received a notice of dishonor from her creditor, and had no knowledge of the insufficiency of her funds with the bank and the dishonor of her checks. **MA. ROSARIO P. CAMPOS vs. PEOPLE OF THE PHILIPPINES and FIRST WOMEN’S CREDIT CORPORATION, G.R. No. 187401, September 17, 2014, J. Reyes**

Lim questions the decision of the CA finding him guilty of violation of B.P. Blg. 22 despite the fact that he had already paid the amount of the dishonored checks even before the informations against him were filed in court. Ruling in favor of Lim, the Court ruled that although generally, only the full payment of the value of the dishonored check during the five-day grace period would exculpate the accused from criminal liability under B.P. Blg. 22 the Court acknowledges the existence of extraordinary cases where, even if all the elements of the crime or offense are present, the conviction of the accused would prove to be abhorrent to society's sense of justice. The spirit of the law which, for B.P. Blg. 22, is the protection of the credibility and stability of the banking system, would not be served by penalizing people who have evidently made amends for their mistakes and made restitution for damages even before charges have been filed against them. In effect, the payment of the checks before the filing of the informations has already attained the purpose of the law. **ARIEL T. LIM vs. PEOPLE OF THE PHILIPPINES, G.R. No. 190834, November 26, 2014, J. Peralta**

**ILLEGAL RECRUITMENT**

Fernandez allegedly recruited several persons for overseas employment in Hongkong. The persons recruited, for failure to be deployed, instituted a case of illegal recruitment against Fernandez. The RTC and CA convicted Fernandez. The Supreme Court then ruled that for illegal recruitment in large scale to prosper, the prosecution has to prove three essential elements, namely: (1) the accused undertook a recruitment activity under Article 13(b) or any prohibited practice under Article 34 of the Labor Code; (2) the accused did not have the license or the authority to lawfully engage in the recruitment and placement of workers; and (3) the accused committed such illegal activity against three or more persons individually or as a group. **PEOPLE OF THE PHILIPPINES vs. JERIC FERNANDEZ y JAURIGUE, G.R. No. 199211, June 4, 2014, J. Brion**

The appellant assails the decision of the CA finding guilty of the crime of illegal recruitment in large scale. Affirming the decision of the CA the SC ruled that Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group. It is necessary that the prosecution prove the concurrence of the following elements: (1) the offender undertakes any of the activities within the meaning of "recruitment and placement" under Article 13 (b) of the labor Code, or any of the prohibited practices enumerated under Article 34 of the Labor Code (now Section 6 of RA 8042) and (2) the offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers. In the case of illegal recruitment in large scale, a third element is added: that the offender commits any of the acts of recruitment and placement against three or more persons, individually or as a group. In this case, appellant engaged in recruitment when she represented herself to be capable of deploying workers to South Korea upon submission of the pertinent documents and payment of the required fees. It is also clear from the evidence presented that the crime of illegal recruitment was committed by against against five persons. **THE PEOPLE OF THE PHILIPPINES vs. MILDRED SALVATIERRA y MATUCO, G.R. No. 200884, June 4, 2014, J. Peralta**

Illegal recruitment is committed by a syndicate carried out by a group of 3 or more persons conspiring with one another. It is deemed committed in large scale if committed against 3 or more persons individually or as a group. Both the RTC and the CA found that the prosecution has established that petitioner and her co-accused committed the acts enumerated under the provisions of Section 6 (a), (1) and (m) of RA 8042 when: (1) they separately charged the private complainants placement fees; (2) they failed to actually deploy the private complainants without valid reasons, and; (3) they failed to reimburse the said complainants after such failure to deploy.

The elements of estafa by means of deceit are the following, viz.: (a) that there must be a false pretense or fraudulent representation as to his power, influence, qualifications, property, credit, agency, business or imaginary transactions; (b) that such false pretense or fraudulent representation was made or executed prior to or simultaneously with the commission of the fraud; (c) that the offended party relied on the false pretense, fraudulent act, or fraudulent means and was induced to part with his money or property; and (d) that, as a result thereof, the offended party suffered damage. In the instant case, all the elements are present. It was proven beyond reasonable doubt, that Suliman and her co-accused misrepresented and falsely pretended that they had the capacity to deploy the private complainants for employment either in South Korea, Saudi Arabia and Canada. It was the misrepresentation and false pretenses made by petitioner and her co-accused that induced the private complainants to part with their money. As a result the private complainants suffered damages as the promised employment abroad never materialized and the various amounts of money they paid were never recovered. **VILMA M. SULIMAN vs. PEOPLE OF THE PHILIPPINES, G.R. No. 190970, November 24, 2014, J. Peralta**

**CRIMES AGAINST CIVIL STATUS**

**BIGAMY**

The marriage between Lasanas and Patingo was void because of the absence of a marriage license or of an affidavit of cohabitation. The ratificatory religious wedding ceremony could not have validated the void marriage. Neither can the church wedding be treated as a marriage in itself for to do so, all the essential and formal requisites of a valid marriage should be present. But then, as the law and jurisprudence say, Lasanas should have first secured a judicial declaration of the nullity of his void marriage to Patingo before marrying Josefa Eslaban. Actually, he did just that but after his marriage to Josefa Eslaban. Consequently, he violated the law on bigamy. To reiterate, before one could validly contract a subsequent marriage, he must first secure a judicial declaration of nullity of his first marriage although such first marriage is void ab initio. **NOEL A. LASANAS vs. PEOPLE OF THE PHILIPPINES, G.R No. 159031, June 23, 2014, J. Bersamin**

**ILLEGAL MARRIAGE CEREMONY**

Art. 352 of the RPC, as amended, penalizes an authorized solemnizing officer who shall perform or authorize any illegal marriage ceremony. The elements of this crime are as follows: (1) authority of the solemnizing officer; and (2) his performance of an illegal marriage ceremony. In the present case, Ronulo admitted that he has authority to solemnize a marriage. Ronulo admitted that the parties appeared before him and this fact was testified to by witnesses. Further, the prosecution has proven, through the testimony of Florida that the contracting parties personally declared that they take each other as husband and wife. Hence, the Court found Ronulo guilty of violation of Art. 352 of the RPC. **RENE RONULO vs. PEOPLE OF THE PHILIPPINES, G.R. No. 182438, July 02, 2014, J. Brion**

**CRIMES AGAINST HONOR**

**LIBEL**

In determining whether a statement is defamatory, the words used are to be construed in their entirety and should be taken in their plain, natural, and ordinary meaning as they would naturally be understood by the persons reading them, unless it appears that they were used and understood in another sense. In the instant case, the letters tag respondent as a “reknown black mailer,” a vengeful family member who filed cases against his mother and siblings, and with nefarious designs. Even an impartial mind reading these descriptions would be led to entertain doubts on the person’s character, thereby affecting that person’s reputation.

Malice can also be presumed inasmuch as the letters are not privileged in nature. Respondent’s contention that he has the legal, moral or social duty to make the communication cannot be countenanced because he failed to communicate the statements only to the person or persons who have some interest or duty in the matter alleged, and who have the power to furnish the protection sought by the author of the statement. A written letter containing libelous matter cannot be classified as privileged when it is published and circulated among the public. **ALEJANDRO C. ALMENDRAS, JR. vs.** **ALEXIS C. ALMENDRAS, G.R. No. 179491, January 14, 2015, C.J. Sereno**

**OTHER SPECIAL PENAL LAWS**

The DENR personnel had the authority to arrest the Cresencio, even without a warrant. Sec. 80 of the Forestry Code authorizes the forestry officer or employee of the DENR or any personnel of the PNP to arrest, even without a warrant, any person who has committed or is commit-ting in his presence any of the offenses defined by the Forestry Code and to seize and confiscate the tools and equipment used in committing the offense or the forest products gathered or taken by the offender. It is immaterial whether the cutting, gathering, collecting and removal of the forest products are legal or not. Mere possession of forest products without the proper documents consummates the crime. Whether or not the lumber comes from a legal source is immaterial because the Forestry Code is a special law which considers mere possession of timber or other forest products without the proper documentation as malum prohibitum. **MA. MIMIE CRESCENCIO vs. PEOPLE OF THE PHILIPPINES, G.R. No. 205015, November 19, 2014, J. Reyes**

Under Art. 128 of the RPC, the penalty shall be prision correccional in its medium and maximum periods (2 years, 4 months and 1 day to 6 years) if Violation of Domicile be committed at night time or if any papers or effects not constituting evidence of a crime be not returned immediately after the search made by the offender. In this case, petitioners barged in the house of Baleriano while they were sleeping at night and, in addition, they took away with them his airgun. The penalty prescribed by Art. 128 of the RPC is composed of only two, not three, periods. In which case, Art. 65 of the same Code requires the division into three equal portions the time included in the penalty, forming one period of each of the three portions. **EDIGARDO GEROCHE, et al. vs. PEOPLE OF THE PHILIPPINES, G.R. No. 179080, November 26, 2014, J. Peralta**

Hubilla insists, however, that the maximum of his indeterminate sentence of eight years and one day of prison mayor should be reduced to only six years of prision correccional to enable him to apply for probation under P.D. No. 968. This argument is bereft of legal basis. Neither the RPC, nor R.A. No. 9344, nor any other relevant law or rules support or justify the further reduction of the maximum of the indeterminate sentence. To yield to his insistence would be to impose an illegal penalty, and would cause the Court to deliberately violate the law. Thus, when he was convicted at age 23, the suspension of his sentence is not available. **ROSAL HUBILLA vs. PEOPLE OF THE PHILIPPINES, G.R. No. 176102, November 26, 2014, J. Bersamin**

In the case at bar, the men manning the checkpoint in the subject area and during the period material appeared not to have performed their duties as required by law, or at least fell short of the norm expected of peace officers. They spotted the Sionzon’s purported swerving vehicle. They then signaled him to stop which he obeyed. But they did not demand the presentation of the driver’s license or issue any ticket or similar citation paper for traffic violation as required under the particular premises by Sec. 29 of R.A. No. 4136 (Driving under the Influence of Liquor). Instead, they inspected the vehicle, ordered the Sionzon and his companions to step down of their pick up and concluded that the Sionzon was then drunk mainly because of the cases of beer found at the trunk of the vehicle. **EDMUND SYDECO vs. PEOPLE OF THE PHILIPPINES, G.R. No. 202692, November 12, 2014, J. Velasco**