

EN BANC

[G.R. No. 135862, May 02, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAFAEL PRINCIPE Y MOLINA, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

This case is here for review pursuant to Rule 122, Sec. 3, par. (d), and Sec. 10 of the Revised Rules of Criminal Procedure in view of the decision,^[1] dated September 18, 1998, of the Regional Trial Court, Branch. 27, Cabanatuan City, imposing on accused-appellant Rafael Principe y Molina the penalty of death for the rape-slaying of a 6-year old child, Arlene Ipurong, in Cabanatuan City on August 9, 1998.

The information against accused-appellant alleged:

“That on or about the 9th day of August, 1998, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge of one ARLENE IPURONG y GONZALES, who was then 6 years of age and by reason of (or) on the occasion thereof, said ARLENE IPURONG y GONZALES was killed.”^[2]

Upon arraignment, during which the information was read, interpreted, and explained to accused-appellant and the consequences of a plea of guilt explained to him, accused-appellant, assisted by counsel, pleaded guilty^[3] to the charge, whereupon the trial court ordered the prosecution to present evidence to prove the guilt of accused-appellant and the precise degree of his culpability. Accordingly, the prosecution presented five witnesses, namely: Lerma Morales,^[4] Frederick Agrigado,^[5] Miguel Bernabe,^[6] Alfredo Apan,^[7] and Danilo Ipurong.^[8] Their testimonies established the following facts:

Accused-appellant, an elementary graduate and then 19 years old, had a drinking spree with eight friends at the birthday party of Freddie Saragpon, held in the latter’s house on Perigola Street, Valdefuente, Cabanatuan City on August 9, 1998, starting 9:00 a.m. At about 4:00 p.m., accused-appellant went to buy some “*pulutan*” at the Best-Line Eatery located along the national highway. Accused-appellant had only maroon shorts on and was wearing slippers. As it was raining, he brought an umbrella with him.

On the way, he passed by the victim, 6-year old Arlene Ipurong, who asked if she could share his umbrella. Arlene was his niece, her paternal grandmother being the sister of accused-appellant’s mother. Accused-appellant carried Arlene on his back

and went to Best-Line Eatery to buy the "*pulutan*."^[9] They were seen by witness Alfredo Apan as they passed by the church between 3:00 to 4:00 p.m. Apan was in the church attending an activity of the Singles for Christ.^[10]

At the restaurant, accused-appellant was served by witness Lerma Morales. Lerma noticed the child with him, whom accused-appellant introduced as his niece. After getting the "*pulutan*," accused-appellant took the hand of Arlene, and the two went in the direction of an abandoned house, approximately 10 meters from the restaurant.^[11]

Accused-appellant took Arlene to the abandoned house, which was owned by a certain Jet Magno. There, accused-appellant ordered Arlene to undress. Although Arlene complied, she told him that she was going to tell somebody about it. This angered accused-appellant, who picked up a big rock and hit the child with it three times on the forehead. When Arlene fell unconscious, accused-appellant pulled down his shorts to his knees and raped her. Accused-appellant then brought her to the toilet and dumped her into the bowl.^[12]

At about 5:30 p.m., accused-appellant went back to Saragpon's house. He was still without any shirt on. He was wet from the rain and was no longer wearing his slippers. As accused-appellant was gone for about one and a half hours, some of his drinking buddies got tired of waiting for him and already fell asleep. After giving the "*pulutan*" to his friends, accused-appellant left.^[13]

In the meantime, at about 5:00 p.m. of the same day, Arlene's father, Danilo Ipurong, a tricycle driver, arrived home from work and, realizing that her daughter was not in their house, started searching for her. He came upon a group playing "tong-its" but Arlene was not there.^[14] Danilo continued his search, now joined by several people, including Alfredo Apan. Then Apan saw accused-appellant and asked him, "*Hindi ba ikaw ang may dala-dala noong bata sa balikat mo nang pagitan ng 3-4 ng hapon na iyon?*" ("Wasn't it you who was carrying the child sometime between 3 and 4 o'clock in the afternoon?") Accused-appellant denied he was with the child, saying "*Si kuya naman, hindi ko dinala ang bata.*" ("No, I didn't bring the child with me.") Apan began to suspect that accused-appellant had something to do with the disappearance of Arlene. He informed the Chief of the Bantay Bayan, Miguel Bernabe, of his suspicions.^[15] For this reason, Bernabe invited accused-appellant for questioning, but the latter denied having anything to do with the disappearance of the child.^[16]

At around 8:00 p.m., Alfredo Apan and Danilo Ipurong found the body of Arlene in the toilet bowl in the abandoned house. Danilo was shocked and he screamed.^[17]

On August 10, 1998, the body of Arlene was taken to the City Health Office of Cabanatuan City. Upon the request of PO2 Romeo Lopez, the investigating officer, Dr. Jun B. Concepcion, the medico-legal officer, conducted an autopsy. His findings are as follows:

"HT: 100 cm. in length.

(+) Abrasions, multiple, with hematoma and lacerated wounds, (2) linear

on the midfrontal area. Abrasions measuring to 6-5 cms. in diameter extending down to (L) per-orbital area. This involving the subconjunctival area, laterally.

(+) Skull fractures, multiple, depressed, frontal area.

(+) Hematomas, both upper arm, medially.

GENITALIA:

(+) Abrasions, opening of the vagina, 3 O'CLOCK, with bleeding.

(+) Abrasions, 12-o'clock, fresh, vaginal canal

(+) Vaginal discharges, creamy-white in character flowing out of the vagina. Extracted 0.5 ml for sperm analysis then submitted to PNP-CRIME LAB, CAPITOL COMPOUND, NE. on same day and place in a disposable syringe with marking of: X - I.

CAUSE OF DEATH:

INTRA-CRANIAL INJURIES, SEVERE, SECONDARY TO EXTRA-CRANIAL INJURIES, SEVERE."^[18]

Dr. Concepcion issued a death certificate indicating the cause of death as:

"Immediate cause: a. intracranial injuries severe

Antecedent cause: b. Extra cranial injuries severe"^[19]

Dr. Concepcion testified that Arlene sustained severe fractures on the forehead, which could have been caused by a hammer, a hollow block, or a hard piece of wood. Likewise, there were hematomas on her upper arms which were possibly caused by a strong grip from the assailant. In addition, Arlene also sustained abrasions on the external opening of her genital organ and an abrasion along the vaginal canal, which could have been caused by the penetration of a penis or some other object. There was fresh blood coming out of the abrasions. Dr. Concepcion found secretions in the vagina, which could be vaginal secretions or semen from the assailant. From the vaginal bleeding, Dr. Concepcion concluded that the rape of Arlene occurred before she died. The victim's death was caused by the severe injuries sustained on the head.^[20]

An investigation was conducted by the police in the evening of August 9, 1998. Several witnesses pointed to accused-appellant as the person who was last seen with the victim Arlene.

Accused-appellant was subsequently taken into custody by the police, and an information was filed against him on August 10, 1998.^[21] On August 17, 1998, accused-appellant was interrogated by the police, to whom, after reading his rights in Tagalog and in the presence of accused-appellant's father and of his counsel Atty. Cesar Villar, he admitted hitting Arlene with a large rock until she was unconscious and subsequently raping her. Accused-appellant claimed that he was drunk at that time.^[22]

On September 18, 1998, the trial court rendered its decision, the dispositive part of which reads:

"WHEREFORE, premises considered, the Court hereby finds, and so holds, the accused GUILTY, beyond reasonable doubt, of the crime of Rape with Homicide, and hereby sentences him to suffer the penalty of DEATH.

The accused is further ordered to indemnify the heirs of the deceased offended party in the sum of P50,000.00, and the additional sum of P21,307.00 representing funeral expenses.

SO ORDERED."^[23]

Hence, this appeal. Accused-appellant's sole assignment of error is that—

"THE COURT A *QUO* MANIFESTLY ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED DESPITE HIS IMPROVIDENT PLEA OF GUILT."

Accused-appellant contends that the trial court failed to ascertain whether accused-appellant was fully apprised of the legal consequences of his plea, considering that he finished only up to the sixth grade of the elementary school.

Accused-appellant is correct. When an accused enters a plea of guilt to a capital offense, Section 3 of Rule 116 of the Rules of Criminal Procedure provides that it is the duty of the trial court to observe the following rules: (1) it must conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea; (2) it must require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and (3) it must ask the accused if he desires to present evidence in his behalf and allow him to do so if he desires.^[24] This is because a plea of guilt must be based on a free and informed judgment. Thus, the inquiry must focus on the voluntariness of the plea and the full comprehension of the consequences of the plea.^[25]

In this case, the trial court failed to comply fully with the requirement to conduct a searching inquiry to determine whether accused-appellant's plea was voluntary and done with full comprehension of the consequences thereof. Before the hearing, the trial court asked accused-appellant:

"COURT:

Are you still willing to present evidence for your defense or you want the prosecution (to) present evidence and you still insist on admitting what you did to Arlene Ipurong y Gonzales?

R. PRINCIPE:

I will now admit the same, I will not present any other evidence, sir.

COURT:

Do you know that because you admit the guilt, you may be sentenced to death like Echegaray?

R. PRINCIPE:

Yes, sir.”^[26]

Thus, in determining whether accused-appellant was aware of the full consequences of his plea of guilt, the trial court simply asked him whether he knew that he “*may*” be sentenced to death, implying that it was possible that the death penalty might not be imposed on him. But Art. 266-B of the Revised Penal Code provides for the mandatory imposition of the death penalty if the crime of rape is committed against a child below seven years old. In fact, even if the victim is not a child below seven years of age but homicide is committed by reason of or on the occasion of the rape, the imposable penalty is death. Indeed, as noted in *People vs. Nadera*,^[27] a mere warning that the accused faces the supreme penalty of death is insufficient. More often than not, an accused pleads guilty because he hopes for a lenient treatment or a lighter penalty. Thus, in the case at bar, when the trial court again asked accused-appellant his final plea, accused-appellant answered:

“COURT:

Mr. Principe, for the last time, the court would like to ask you your final plea before the case is submitted for resolution.

ACCUSED PRINCIPE:

A As narrated. I have admitted my guilt, sir, in connection with this case. My only plea is, if possible, kindly give me the minimum penalty that the Court can impose.

COURT:

Q In other words, you admit your guilt because you did it. Only, what you want is leniency from the Court?

A Yes, sir.

Q I want to tell you that what you stated in open court are recorded and it is finally for the Supreme Court to give you leniency.

A Yes, sir.”^[28]

Although accused-appellant said he was admitting guilt “because [he] did it,” there is doubt whether that was his only reason for pleading guilty because he also said he “wanted leniency from the court.” This makes it doubtful whether his plea was voluntary.

While accused-appellant’s improvident plea should be disregarded, nevertheless his conviction cannot be set aside as there is, in addition to his plea, other sufficient and credible evidence on which the judgment of the trial court rests.^[29] This evidence consists of accused-appellant’s extrajudicial confession, his testimony in open court, and the testimony of the other witnesses.

With respect to accused-appellant’s extrajudicial confession, the Constitution,^[30] R.A. No. 7438,^[31] and caselaw^[32] lay down four fundamental requirements for the admissibility of extrajudicial confessions in general, to wit: (a) the confession must be voluntary; (b) it must be made with the assistance of competent and