

EN BANC

[G.R. No. 136382, June 25, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FIDEL
ALBORIDA Y VILLEGAS, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

For automatic review is the decision^[1] of the Regional Trial Court of Calamba, Laguna, Branch 34, in Criminal Case No. 6072-98-C, finding accused-appellant guilty beyond reasonable doubt of raping his minor daughter, and sentencing him to suffer the supreme penalty of death.

The information against accused-appellant reads:

That on or about June 13, 1998 at Brgy. Mayodon, Municipality of Los Banos, Province of Laguna and within the jurisdiction of this Honorable Court, the abovenamed accused, by means of force, violence and intimidation and with lewd design, did then and there wilfully, unlawfully and feloniously have carnal knowledge with (sic) eight (8) year old daughter SUZETTE C. ALBORIDA and against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.^[2]

Arraigned on September 21, 1998, accused-appellant pleaded not guilty.^[3] At the pre-trial conference on October 14, 1998, however, accused-appellant through counsel, informed the court of his intention to withdraw his earlier plea of not guilty and to substitute the same with a plea of guilty. Said manifestation was confirmed by accused-appellant upon inquiry by the court. Hence, when arraigned anew, he entered a plea of guilty.^[4] Nonetheless, the prosecution presented evidence to prove its case beyond reasonable doubt through the testimony of the rape victim herself, Grade II pupil, Suzette C. Alborido, and the examining physician, Dr. Filemon P. Raymond Guerra III. Thus ---

In the evening of June 13, 1998, nine-year old Suzette Alborida (Suzette), was sleeping beside her two-year old brother in their house at Brgy. Mayodon, Los Banos, Laguna. The house consisted of one bedroom with two wooden beds. One bed was occupied by Suzette, her two-year old brother, and her grandmother; while the other bed is occupied by accused-appellant. At around 10:00 o'clock of the same evening Suzette awoke and saw her father, herein accused-appellant, beside her with his head on her lap. Accused-appellant told her to transfer to his bed, at the same time pulling her without being noticed by Suzette's grandmother.

Thereafter, accused-appellant undressed Suzette and ordered her to lie down as he himself removed his clothes. Accused-appellant forthwith placed himself on top of her and inserted his penis into her vagina. Suzette felt pain, hence, accused-appellant ordered her to get soap, which he applied on his hands. Accused-appellant then inserted his finger in Suzette's vagina. At this instance, Suzette's mother, Adelina Alborida arrived. Sensing the presence of Adelina, accused-appellant retreated to his bed while Suzette opened the door and related the incident to Adelina. The latter immediately reported the matter to the Barangay Chairman, leading to the filing of the instant case.^[5]

Suzette disclosed that prior to the incident on June 13, 1998, she had been molested four times by accused-appellant but she kept her ordeal to herself because of the threats of accused-appellant.

On June 14, 1998, Suzette was examined by Dr. Filemon Raymond P. Guerra III, of the Jose Rizal Memorial Hospital, Calamba, Laguna. Said examination yielded the following results:

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P.E. Genitalia

= External infantile, (+) abrasion with erythema (redness) right side of vaginal opening.

= (+) erythema (redness) left side of vaginal opening.

Hymen = laceration at 7 o'clock position.

Sperm count = negative for spermatozoa.^[6]

On November 9, 1998, the trial court rendered the judgment of conviction under automatic review, holding as follows:

ACCORDINGLY, by virtue of his voluntary plea of guilty, this Court finds accused Fidel Alborida y Villegas GUILTY beyond reasonable doubt of the crime of Rape as defined and penalized under Article 335 of the Revised Penal Code, as amended, and hereby imposes upon him the penalty of DEATH.

Accused is further directed to indemnify the victim Suzette Alborida the sum of FIFTY THOUSAND (P50,000.00) PESOS as moral damages.

With costs against the accused.

SO ORDERED.^[7]

In accordance with Rule 122, Section 10, of the Revised Rules on Criminal Procedure, the case was elevated to this Court for automatic review in view of the imposition of death penalty. Accused-appellant through the Public Attorney's Office argues that the trial court gravely erred in not applying the safeguards to a plea of guilty to a capital offense set forth under the rules.^[8]

Rule 116, Section 3, of the Revised Rules on Criminal Procedure provides -

Sec. 3. Plea of guilty to capital offense; reception of evidence. --- When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and precise degree of culpability. The accused may present evidence in his behalf.

The aforecited rule specifically mandates three things upon the trial court in cases where a positive plea is entered by the accused; to wit: (1) conduct a searching inquiry into the voluntariness of the plea and the accused's comprehension of the consequences thereof; (2) require the prosecution to prove the guilt of the accused and the precise degree of his culpability; and (3) ask the accused if he desires to present evidence on his behalf and allow him to do so if he desires.^[9]

The rationale behind the rule is that the courts must proceed with more care where the possible punishment is in its severest form, namely death, for the reason that the execution of such a sentence is irrevocable and experience has shown that innocent persons have at times pleaded guilty. The primordial purpose is to avoid improvident pleas of guilty on the part of an accused where grave crimes are involved since by admitting his guilt before the court, he would forfeit his life and liberty without having fully understood the meaning, significance and consequence of his plea.^[10]

In the case at bar, the records disclose that the court a quo failed to abide by the strict safeguards intended to guarantee a provident plea of guilt. At the scheduled pre-trial, the following proceedings transpired:

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ATTY. PADERAYON:

For the accused.

Your honor please after conferring with the accused, he is now ready to plead guilty.

COURT:

Do you confirm your counsel's manifestation that you wish to withdraw your previous plea of not guilty and change it to a plea of guilty?

A: Yes, your honor.

COURT:

Did your lawyer explain to you the consequences of your change of plea?

A: Yes, your honor.

COURT:

Did you understand the explanation of your counsel?

A: Yes, your honor.

COURT:

Are you aware that even if you changed your plea from not guilty to guilty you will still be meted the penalty of death?

A: Yes, your honor.

COURT:

And you are changing your plea without having been intimidated, bribed and/or threatened by anyone?

A: Yes, you honor.

COURT:

Alright order.^[11]

The foregoing exchange between the judge and the accused-appellant does not, to the mind of the Court, sufficiently prove the voluntariness and full comprehension of accused-appellant's plea of guilt to the crime of qualified rape. Regrettably, the questions propounded by the trial court do not constitute a "searching inquiry" within the contemplation of Section 3, Rule 116, of the Revised Rules on Criminal Procedure.

Similarly, in *People v. Sevileno*,^[12] the court asked the following questions on accused-appellant, to wit: (1) Do you understand your plea of guilt?; and (2) Do you know that your plea of guilt could warrant the death penalty? Ruling that the positive plea of accused-appellant in the said case was improvidently made, we held that those questions hardly satisfied the requisites of searching inquiry.

In *People v. Ponce Hermoso*,^[13] citing *People v. Nadera*,^[14] the Court rationcinated that:

The warnings given by the trial court in this case fall short of the requirement that it must make searching inquiry to determine whether accused-appellant understood fully the import of his guilty plea. As has been said, a mere warning that the accused faces the supreme penalty of death is insufficient. (*People v. Estomaca*, 326 Phil. 429 ^[1996]). For more often than not, an accused pleads guilty upon bad advice or because he hopes for a lenient treatment or a lighter penalty. The trial judge must erase such mistaken impressions. (*People v. Belo*, G.R. Nos. 130411-14, October 13, 1999) He must be completely convinced that the guilty plea made by the accused was not made under duress or promise of reward. The judge must ask the accused the manner the latter was arrested or detained, and whether he was assisted by counsel during the custodial and preliminary investigations. In addition, the defense counsel should also be asked whether he conferred with the accused and completely explained to him the meaning and the consequences of a plea of guilt. Furthermore, since the age, educational attainment and socio-economic status of the accused may reveal insights for a proper verdict in the case, the trial court must ask questions concerning them. (*People v. Estomaca*, *supra*) In this case, absent any showing that these questions were put to accused-appellant, a searching inquiry cannot be said to have been undertaken by the trial court.

Notwithstanding the improvident plea of accused-appellant, however, remand of the instant case, is not warranted under the circumstances. It must be stressed that accused-appellant's plea of guilty was not the sole basis of the condemnatory judgment under consideration. The settled rule is that, where the trial court receives evidence to determine precisely whether the accused has erred in admitting his guilt, the manner in which the plea of guilty is made - whether improvidently or not - loses legal significance for the simple reason that the conviction is based on the evidence proving the commission by the accused of the offense charged.^[15]

Hence, even without considering the plea of guilt of the accused-appellant in the case under scrutiny, he can still be convicted as there is sufficient evidence on record on which to base his conviction. The testimony of private complainant alone is enough to convict accused-appellant. She was spontaneous, clear and direct in relating how accused-appellant raped her. Her testimony reads:

- Q: In your said statement you were asked this question:
"T: Ano ang dahilan bakit ka narito sa himpilan?" and your answer was:
"S: Nais kong ireklamo and aking Tatay na si Fidel." Do you affirm that the accused is your father?
- A: Yes, sir.
- Q: That according to you this case happened on June 13, 1998 when you were sleeping at around 10:00 o'clock in the evening, do you affirm that?
- A: Yes, Sir.
- Q: Who were with you while you were sleeping?
- A: My grandmother, my brother and sister.
- Q: Where were they sleeping in relation to you?
- A: My grandmother, was sleeping on wooden bed while I was sleeping beside my youngest brother.
- Q: How old is this brother of yours?
- A: Two years old sir.
- Q: Your grandmother which (*sic*) you said was then sleeping in your wooden bed, how far was she at that time from you?
- A: She was very near us.
- Q: How old is your grandmother?
- A: I do not know.
- Q: Can you tell us how were you raped by your father while you were sleeping?
- A: He had his head on my lap and he told to transfer to the other wooden bed?
- Q: What exactly did your father tell you when you were asked to transfer to the wooden bed?
- A: He just told me to transfer.
- Q: Did your father tell you why you were being asked by him to transfer to the other wooden bed?
- A: No sir.
- Q: What did you do when you were asked by your father to transfer?
- A: Because he was pulling me.
- Q: And how was he pulling you?
- A: I was holding on wood while he was pulling me sir.