

EN BANC

[G.R. No. 137841, October 01, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,
VS. ALBERTO CHUA ALIAS "BERT", ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

This is an automatic review of the decision of the Regional Trial Court, Third Judicial Region, Malolos, Bulacan, Branch 78^[1] in Criminal Case No. 514-M-98 imposing on accused-appellant Alberto Chua alias "Bert" the penalty of death.

In a criminal complaint dated April 13, 1998, accused-appellant was charged with the crime of rape as follows:

"The undersigned complainant, assisted by her mother, Esterlita A. Chua, hereby accuses Alberto Chua alias Bert of the crime of rape, penalized under the provisions of Art. 335 of the Revised Penal Code, as amended by RA 7659, committed as follows:

That on or about the 28th day of March 1998, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of the offended party, did then and there wilfully, unlawfully and feloniously, by means of force, threats and intimidation and with lewd designs, have carnal knowledge of the said offended party, Chenny A. Chua, a minor, against her will

Contrary to law.

Malolos, Bulacan, April 13, 1998.

(SGD.) CHENNY CHUA
Complainant.

Assisted by:

(SGD.) ESTERLITA CHUA
(Mother)

SUBSCRIBED AND SWORN to before me this 13th day of April 1998 at Malolos, Bulacan.

(SGD.) RENATO T. SANTIAGO

3rd Asst. Prov'l. Prosecutor

I hereby certify that I have conducted proceedings in this case pursuant to the provisions of Sec. 7, Rule 112 of the 1985 Rules on Criminal Procedure, considering that the herein accused, who is under custody of the law without warrant of arrest has refused to sign a written waiver of his rights under Art. 125 of the Revised Penal Code, and finding a prima facie against the accused , the undersigned is filing this information with the approval of the Provincial Prosecutor.

(SGD.)RENATO T. SANTIAGO

3rd Asst. Prov'l. Prosecutor

x x x

x x x

x

x x."[2]

On April 20, 1998, appellant was arraigned and he pleaded "not guilty." [3] At the pretrial conference on May 8, 1998, however, appellant, through counsel, manifested that he was withdrawing his plea and changing it to "guilty" as charged. As prayed for by counsel for appellant, the trial court reset the pretrial to May 13, 1998.

On May 13, 1998, the trial court propounded several questions on appellant inquiring into the voluntariness of his change of plea and his comprehension of its consequences. Satisfied with appellant's response, the court ordered his rearraignment. Appellant, with the assistance of counsel, withdrew his plea of "not guilty" and entered a plea of "guilty" as charged. [4] Thereafter, the court ordered the prosecution to present its evidence.

The prosecution presented the testimony of private complainant, Chenny Chua. It also presented Chenny's sworn statement before the Malolos police investigators [5] and the medico-legal report of the Philippine National Police Crime Laboratory on the girl's physical condition. [6] From these evidence, the following facts were established: On March 28, 1998, at around 2:00 in the afternoon in Canalate, Malolos, Bulacan, Chenny Chua, thirteen (13) years of age, and her father, herein accused-appellant, were watching television in the house of her aunt, Salvacion Ardenio Niegas. At about 2:15, Chenny stood up and went to her family's rented room adjacent to her aunt's house. Chenny entered the room and laid down on the floor to sleep. Beside her slept two of her younger sisters. Some fifteen (15) minutes later, Chenny woke up and saw her father, herein appellant, shaking her and calling her name. Then, she saw him remove her short pants. Chenny stared at him. She knew what her father was going to do but did not resist him because he had been sexually molesting her since July 1996. She resisted the very first time it happened, but he forced himself on her and told her not to say anything about the incident. He said that if her mother would find out, her mother would surely kill him, and she would be imprisoned and no one would take care of Chenny and her seven (7) little brothers and sisters. So Chenny bore everything in silence. And that fateful day, Chenny just closed her eyes as he peeled off her short pants. Appellant went on top of the girl and parted her thighs. He inserted his penis into her vagina and

made a push and pull movement for some five minutes. After he was through, appellant told Chenny not to report the incident to her mother. Appellant got up and suddenly sensed that someone was watching them. He turned around and saw the gaping hole in the wall divider. The hole was not covered by the wall calendar as it used to be.

Earlier, when appellant was on top of Chenny, the girl saw someone peeping through the hole in the divider. It was her aunt, Salvacion Ardenio Niegas, and Chenny heard her exclaim "Nakita ko! Nakita ko!" Chenny did not cry out for help because she was afraid. She then saw another person peering through the hole. It was her little cousin. When appellant realized that someone was watching them, he got up and said "O, Gene!" and pretended to fix something at the door. Softly, appellant again warned Chenny not to tell her mother about what he did to her.

Five days later, on April 2, 1998, Chenny's mother, Esterlita, arrived. She had just come from work in Taytay, Rizal. Chenny's aunt lost no time in reporting to Esterlita what she witnessed. Fuming mad, Esterlita roused her daughter from sleep and asked her about the incident. Chenny denied it. By Esterlita's persistent questioning, however, Chenny finally admitted her father's dastardly act. Forthwith, Esterlita brought her daughter to the police station where Chenny executed a sworn statement and submitted herself to a physical and medical examination.

Dr. Manuel C. Aves, the medico-legal officer at the Philippine National Police (PNP) Regional Crime Laboratory Office found the following:

"GENERAL AND EXTRA-GENITAL

PHYSICAL BUILD: lean built
MENTAL STATUS: coherent female
BREAST: conical
ABDOMEN: flat
PHYSICAL INJURIES: No sign of physical injury

GENITAL

PUBIC HAIR: scanty
LABIA MAJORA: coaptated
LABIA MINORA: light pink
HYMEN: Multiple healed lacerations at 12, 2, 4, 5, 7, 9, 11 o'clock
EXTERNAL VAGINAL ORIFICE: With moderate resistance upon inserting examining finger.
VAGINAL CANAL: prominent rugosities
CERVIX: smooth
PERI-URETHRAL AND VAGINAL SMEARS:

REMARKS: Multiple healed lacerations at 12, 2, 4, 5, 7, 9, 11 o'clock.

x x x

x x x

x

x x."[7]

On May 22, 1998, the trial court found appellant guilty of the offense and sentenced him to death. The court held:

"WHEREFORE, the foregoing considered, this Court hereby finds accused ALBERTO CHUA alias Bert GUILTY beyond reasonable doubt of the crime of rape defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, and sentences him to suffer the penalty of Death and to pay private complainant Chenny Chua the amount of Fifty Thousand Pesos (P50,000.00) as moral damages and Twenty Thousand Pesos (P20,000.00) as exemplary damages. With costs.

SO ORDERED."^[8]

Hence this recourse. Appellant assigns the following errors:

"I THE TRIAL COURT ERRED IN METING OUT THE DEATH PENALTY ON THE ACCUSED DESPITE THE FACT THAT THE QUALIFYING CIRCUMSTANCE OF MINORITY WAS NOT PROPERLY ALLEGED IN THE INFORMATION. THE FACT THAT COMPLAINANT DAUGHTER WAS DESCRIBED AS A "MINOR" IN THE INFORMATION IS A CONCLUSION OF LAW AND NOT A STATEMENT OF FACT.

II THE TRIAL COURT ERRED IN ACCEPTING WITH ALACRITY ACCUSED'S PLEA OF GUILTY TO THE OFFENSE CHARGED."^[9]

When the accused pleads guilty to a capital offense, Rule 116, Section 3 of the Rules on Criminal Procedure provides the following procedure:

"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 require the prosecution to prove his guilt and the precise degree of culpability.

The accused may also present evidence in his behalf."^[10]

When the accused enters a plea of guilty to a capital offense, the trial court must do the following: (1) conduct a searching inquiry into the voluntariness of the plea and the accused's full comprehension of the consequences thereof; (2) require the prosecution to present evidence 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 in his behalf and allow him to do so if he desires.^[11] This procedure is mandatory and a judge who fails to observe it commits grave abuse of discretion.^[12]

The essence of a plea of guilty is that the accused admits his guilt freely, voluntarily and with full knowledge of the consequences and meaning of his act and with a clear understanding of the precise nature of the crime charged in the complaint or information.^[13] Thus, when the accused enters a plea of guilt, the trial court must, first of all, determine the voluntariness of the said plea and accused's comprehension of its consequences. In making such determination, the court must conduct a searching inquiry. The inquiry is not a simple question and answer exercise; it must be searching. To "search" means "to look into or over carefully or thoroughly in an effort to find something."^[14] This looking into carefully and thoroughly, in the matter under consideration, must be focused on: (1) the voluntariness of the plea; and (2) the full comprehension of the consequences of said plea.^[15]

There is no hard and fast rule as to the number and type of questions the judge may put to the accused, or as to the earnestness with which he may conduct the inquiry. What is essential is that the judge should, first of all, consider the age, personality, educational background, socio-economic status and other personal circumstances of the accused confessing his guilt.^[16] The trial judge should determine whether the accused had been coerced or placed under a state of duress either by actual threats of physical harm coming from malevolent or avenging quarters, or by mistaken impressions given, wittingly or unwittingly, by authorities or parties; whether the accused had the assistance of competent counsel during the custodial and preliminary investigations; and whether he understood the charges against him.^[17] The court should inquire if the accused knows the crime with which he is charged and explain to him the elements of the crime and the corresponding penalty therefor. The court may require the accused to fully narrate the incident that spawned the charges against him, or make him reenact the manner in which he perpetrated the crime, or cause him to furnish and explain missing details of significance^[18] about his personal circumstances, about the commission of the crime and events during the custodial and preliminary investigation. In doing so, all questions posed by the judge to the accused should be in a language known and understood by the latter.^[19] Still, the inquiry need not stop with the accused. The court may also propound questions to accused's counsel to determine whether or not said counsel had conferred with, and completely explained to accused the meaning of a plea and its consequences.^[20] In all cases, the bottom line is that the judge must fully convince himself that: (1) the accused, in pleading guilty, is doing so voluntarily; and (2) he, in so doing, is truly guilty, and that there exists a rational basis for a finding of guilt, based on his testimony.^[21]

In the case at bar, appellant claims that the trial court accepted his plea of guilt without following the procedure laid down in the Rules of Court. He alleges that the court should have placed him on the witness stand to find out if he actually understood the effect of his action and to hear his version of the events.^[22]

We agree.

The following transpired at the pretrial: