PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GODOFREDO TAHOP ALIAS "DODONG GAMAY," ACCUSED-APPELLANT.

G.R. No. 125330. September 29, 1999

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PER CURIAM:

This assays once more this court's deference and adherence to settled jurisprudence that factual findings of trial courts and their assessment of witness credibility are accorded great weight and respect, especially as this case involves the death penalty.

Asuncion Sereño, native of Bgy. Tuburan, Calubian, Leyte, was last seen alive on 16 July 1995 in the company of accused Godofredo Tahop alias "Dodong Gamay." She was 67 years old.

On 7 August 1995 Godofredo Tahop, 32 years old, a farmer, was charged in an Information for rape with homicide[1] where the alleged victim was Asuncion Sereño. At his arraignment on 18 September 1995 the accused pleaded guilty to the charge. Nonetheless, the prosecution presented its evidence through the eyewitness account of Paquito Aton, and the corroborating testimony of Cinderella vda. de Mure, both of whom were residents of Tuburan, Calubian, Leyte, to prove the guilt of the accused beyond reasonable doubt, more so that the case dealt with a capital offense.

Paquito Aton testified that at around 4:00 o'clock in the afternoon of 16 July 1995 he was gathering grass for his cow in the coconut plantation of a certain Juan Cabillan in Bgy. Tuburan, Calubian, Leyte, when he saw the accused dragging Asuncion Sereño towards a secluded grassy area in the plantation. After a while, the accused hit Asuncion on the head with a bottle of Pepsi Cola sending her to the ground. Then, he embraced her, removed her panties and raped her. After the sexual assault, he stabbed her and hacked her to death several times with a bolo about twenty (20) inches long. Aton witnessed this gruesome occurrence from a distance of ten (10) meters. According to Aton, he could do nothing except to crouch and watch as the accused was armed with a bolo and he was overcome by fear. Helpless as he was, he left the crime scene to go home. However, when he arrived home he was informed by his wife that his cow was missing so he had to look for it first before he could tell the deceased's daughter, Eugenia Rosal, at around 7:00 o'clock in the evening about what had happened to her mother. Eugenia and her neighbors immediately set out to look for her mother but the body could not be found until the following morning. Apparently, the cadaver of Asuncion was moved several meters away from where she was rape-slain.

Cinderella vda. de Mure also testified that in the afternoon of 16 July 1995 she and Asuncion Sereño were on their way home after selling dried copra and stopped by a camalig to get their slippers they left there earlier. Soon accused Godofredo Tahop passed by astride a carabao which was towing a sledge. Asuncion who was carrying a handbag rode on the sledge which was passing on the pathway intended for the carabao. Cinderella took a different trail that led directly to her house. That was the last time she saw Asuncion alive. She also testified that Asuncion's body was found the following morning beside a big stone about eight (8) fathoms from the carabao

pathway.

Dr. Josefina Superable, Municipal Health Officer of the Northwestern Leyte District Hospital, examined the body of the victim as soon as it was found. Her laboratory[2] and autopsy[3] reports indicated that the victim was raped as she was found with fresh laceration with minimal blood located at 6:00 o'clock position in the vaginal opening with presence of spermatozoa. Death was due to incised wounds, 1-1/2" x ½" x 6-1/2" located at the 6th intercostal space, left hypochondriac area directed posteriorly upward penetrating the left lung; 3" x ½" x ½", thenar eminence, left hand, and contusion 1-1/2" x 1" middle 1/3 anterior aspect, left thigh.

On 20 February 1996 the prosecution rested and submitted the case for decision. The accused together with his counsel did not object, apparently in view of the former's plea of guilt.

On 13 March 1996 the Regional Trial Court-Br. 11, Calubian, Leyte,[4] found accused Tahop guilty of the complex crime of rape with homicide and sentenced him to death and to indemnify the heirs of Asuncion Sereño P50,000.00.[5]

In this automatic review, counsel for the accused contends that the lower court erred in finding that there was a provident plea of guilty and in giving credence to the testimony of the prosecution witnesses.[6] The defense argues that Tahop's plea of guilty was improvident considering that he had no time to confer with his counsel before he was arraigned. As such his counsel had no opportunity to explain to him the nature of the charge against him and the consequences of his plea of guilt.

We are not convinced. As the records show, the trial court appointed Atty. Romulo Casiber as counsel de oficio after having been informed that the accused was not able to secure the services of counsel. After his appointment as counsel de oficio, Atty. Casiber asked and was granted permission by the trial court to confer with his client.[7] Thus, it is not correct to state that accused was not accorded his right to confer with his counsel before the arraignment.

Corollarily, the accused was properly apprised of the nature of the charge against him and the consequences of his plea of guilt. Precisely, his counsel sought permission from the court to confer with him before his arraignment. In addition, the Presiding Judge himself[8] adequately discharged his duty in conducting a searching inquiry into the voluntariness of his admission of guilt and his comprehension of the implications thereof. In his Order[9] Judge Maceda stated:

> Accused Godofredo Tahop @ Dodong Gamay was arraigned by reading the Information dated August 7, 1995 in a language known and understood by him and when asked how he pleads to the charge contained in the information, accused freely, voluntarily and spontaneously pleaded guilty thereto.
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> The Court probed the understanding of the accused on the consequences of his plea. The Court asked him whether he realizes that he pleaded to a heinous crime which is punished by law with death, accused answered in the affirmative. The Court again asked him whether he realizes that with his plea of guilty to a heinous crime, the court is obliged by law to impose death penalty upon him the accused again answered in the affirmative and when asked whether he maintains his plea the accused maintains his plea to the charge against him. To satisfy the court wholly the court asked the accused for the second time whether he maintains his plea of guilty to the charge against him. Accused informed the Court that indeed he maintains his plea of guilty.

This Court has set aside convictions based on pleas of guilt in capital offenses because of the improvidence thereof and when such pleas are the sole bases of the condemnatory judgments. However, 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. Thus, even

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without considering the plea of guilt of the accused, he may still be convicted if there is adequate proof on record on which to predicate his conviction.[10] So, even if accused Tahop's plea was improvidently made, if the evidence presented thereafter by the prosecution is sufficient to prove his guilt beyond reasonable doubt, the court's verdict of guilt based solely on the hard evidence presented can be sustained. At this point then, the improvidence of the plea of guilt is irrelevant. The only challenge left for the prosecution to handle is the assailed credibility of eyewitness Paquito Aton.

The defense imputes that the reliance by the lower court on Aton's testimony as evidence to prove the guilt of accused Tahop is not worthy of belief. He points out inconsistencies in the narration of facts. During his direct testimony, Aton testified that he was gathering grass for his cow when he saw the victim with the accused. But in answer to a subsequent question he stated he was pasturing his cow.

This Court believes that this seeming inconsistency is more apparent than real. In viewing the totality of Aton's testimony, it is crystal clear that he was gathering grass in the coconut plantation of Juan Cabillan when he saw Asuncion with accused Tahop. Before he left to gather grass, he tied the rope securing his cow around a tree situated near his house. After witnessing the incident, he went home with the grass he had gathered. When he reached home however he was informed by his wife that his cow managed to escape as the rope securing it to the tree became loose.

We find this explanation satisfactory and plausible. Significantly, regardless of whether Aton was gathering grass or pasturing his cow at the time he saw the accused together with Asuncion, the material and more relevant fact still remains that Aton had witnessed the brutal and senseless rape-slay of Asuncion.

We cannot see how this discrepancy in the cow story could debunk the credibility of the eyewitness. It neither relates to the commission of the crime nor to the positive identification of the accused. It is elementary in the rule of evidence that inconsistencies in the testimonies of prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their declaration nor the veracity or weight of their testimony. Such minor inconsistencies may even serve to strengthen their credibility as these erase any suspicion of a rehearsed testimony and can thus be considered as a badge of truth rather than of falsehood.[11] Besides, no evil motive has been established against Aton that might prompt him to incriminate the accused or falsely testify against him. The absence of a corrupt motive on the part of Aton to make an untruthful accusation against the accused enhances his credibility as a witness.[12] It is settled that where there is nothing to indicate that a witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit.[13]

Accused Tahop further imputes that Aton's behavior while the rape-slay was going on was contrary to human experience. He argues that Aton being a simple folk, his normal reaction would have been to immediately report the incident. Instead, he opted to look for his cow before any thing else. The mere fact that Aton knew both the accused and the victim should have prompted him to call the attention of the accused or he could have sought help elsewhere had he been afraid to confront Tahop. People, however, react differently in different situations and respond to stimuli in varying degrees.. Witnesses of startling occurrences react variedly depending upon their situation and state of mind. There is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.[14] Still, others are severely traumatized so that they are unable to behave rationally after the incident. This can very well be said of Aton.

Similarly, at the fulcrum is the credibility of the witness. The strength of the prosecution's case falls mainly on Aton's accounts, the corroborating testimony of Cinderella vda. de Mure and the medical findings. As the lower court had the opportunity to examine the witnesses and the other evidence presented, we see no reason why we

should rule otherwise. It is settled jurisprudence that this Court will not interfere with the judgment of the trial court in passing upon the credibility of witnesses unless there appears in the record some facts or circumstances of weight and influence which have been overlooked and, if considered, would affect the outcome of the case.[15] This is founded on practical and empirical considerations, i.e., the trial judge is in a better position to decide the question of credibility, since he personally heard the witnesses and observed their deportment and manner of testifying. He has before him the essential aids to determine whether a witness is telling the truth. On the other hand, an appellate court has only the cold records, which generally do not reveal the thin line between fact and prevarication crucial in determining innocence or guilt.[16]

The trial court awarded only P50,000.00 as death indemnity. However, in People v. Renante Robles y Burgos alias Titing[17] we ruled that in rape with homicide the death indemnity should be increased to P100,000. Thus:

> With regard to the civil indemnity, the Court hereby rules that the victim of rape with homicide should be awarded the amount of P100,000.00. Prevailing judicial policy has authorized the mandatory award of P50,000.00 in case of death, and P50,000.00 upon the finding of the fact of rape. Also, under recent case law the indemnity for the victim shall be in the increased amount of P75,000.00 if the crime of rape committed is effectively qualified by any of the circumstances under which the death penalty is authorized by the applicable amendatory laws. Thus, if homicide is committed by reason or on the occasion of the rape, indemnity in the amount of P100,000.00 is fully justified and properly commensurate with the seriousness of the said special complex crime.
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> The award of P50,000.00 as moral damages is maintained. Moral damages may be additionally awarded to the heirs of the victim in a criminal proceeding without the need for pleading or proof of the basis thereof; the fact that they suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damage under the Civil Code are too obvious to still require the recital thereof at the trial x x x x[18]

Four (4) Justices of the Court however continue to maintain the unconstitutionality of RA No. 7659 insofar as it prescribes the death penalty; nevertheless, they submit to the ruling of the majority to the effect that the law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

WHEREFORE, the Decision of the regional Trial Court-Br. 11, Calubian, Leyte, finding accused Godofredo Tahop alias “Dodong Gamay” guilty of rape with homicide and sentencing him to suffer the penalty of death is AFFIRMED. The accused is ordered to indemnify the heirs of Asuncion Sereño P100,000.00 as death indemnity and P50,000.00 as moral damages.

In consonance with Sec. 25 of RA 7659 amending Art. 83 of the Revised Penal Code, upon finality of this Decision, let the records of this case be forthwith forwarded to the Office of the President for the possible exercise of his pardoning power.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

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[1] Rollo, p. 4.

[2] Exh. “B,” Folder of Exhibits.

[3] Exh. “C,” id.

[4] Alejandro R. Diongzon, Presiding Judge.

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[5] Records, pp. 62-66.

[6] Appellant's Brief, p. 1; Rollo, p. 21.

[7] Transcript for Arraignment, TSN, 18 September 1995, pp. 27-28.

[8] Judge Bonifacio Sanz Maceda.

[9] See Note 7, pp. 30-31.

[10] People v. Derilo, G.R. No. 117818, 18 April 1997, 271 SCRA 633.

[11] People v. Derilo, see Note 10; People v. Prado, G.R. No. 112982, 29 December 1995, 251 SCRA 690.

[12] People v. Prado, see Note 11; People v. Lopez, Jr., G.R. No. 104662, 16 June 1995, 245 SCRA 95.

[13] People v. Antonio Eribal, G.R. No. 127662, 25 March 1999.

[14] People v. Halili, G.R. No. 108662, 27 June 1995, 245 SCRA 340; People v. Alban, G.R. No. 112279, 3 July 1995, 245 SCRA 549.

[15] People v. Juan Manggasin y Lucanas, G.R. Nos. 130599-600, 21 April 1999; People v. Roberto Mengote, G.R. No. 130491, 25 March 1999; Peole v. Eribal, see Note 13.

[16] People v. Agbayani, G.R. No. 122770, 16 January 1998, 284 SCRA 315.

[17] G.R. No. 124300, 25 March 1999.

[18] Ibid.

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