

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WENEFREDO DIMSON ASOY, ACCUSED-APPELLANT.

G.R. No. 132059. June 29, 2001

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.

For having allegedly raped and killed his very own sister, accused Wenefredo D. Asoy was convicted and sentenced to suffer the penalty of death by the Regional Trial Court of Cariaga, Leyte, Branch 13, in Criminal Case No. 2631.

This case is now before us on automatic review.[1]

On January 21, 1997, Prosecutor Cesar Merin filed with the trial court an Information for "Rape with Homicide" against the accused. It reads:

"That on or about the 22nd day of December, 1996, in the Municipality of Tuñga, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a long bolo (sundang), with the deliberate intent and with lewd designs, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously had carnal knowledge with one ESTER DIMSON ASOY against her will; that by reason and on the occasion of said rape, the accused with deliberate intent and with intent to kill, hacked and wounded said Ester Dimson Asoy on the different parts of the body, thereby inflicting upon her the following wounds, to wit:

- Incised wound, at the anterior portion of the neck, 12 cms in length, involving the inner structure of the neck, including the neck vessels, bilateral. There is partial fracture of the 3rd cervical vertebra.
- There are areas of contusion at the antero lateral portions of the arm, right.
- On opening of the chest, there is fracture at the 4th rib, anterior right.

which wounds caused the death of said Ester Dimson Asoy.

"CONTRARY TO LAW."[2]

Upon arraignment on March 4, 1997, the accused, assisted by his counsel, Public Attorney Fidelina Q. Grapilon, pleaded "guilty"[3] to the crime charged.

Realizing that "this is a very serious offense which is included under the new Heinous Crime Law," the court a quo "reset...the sentencing of the accused" and ordered the appearance of prosecution witnesses listed in the Information to testify on the case "for the purpose of determining his culpability...."[4]

Accordingly, on April 7 and 28, 1997, the prosecution presented its witnesses whose testimonies may be summarized as follows:

1. Anecita Dimson-Asoy, a farmer, testified that she is the mother of both the accused, her eldest son among her

ten children, and the victim, Ester Dimson Asoy. Around 7:00 o'clock in the evening of December 22, 1996, Ester left their house in Barangay Astorga, Tunga, Leyte to buy bread in the store located one (1) kilometer away.[5] Ester, however, failed to come home that evening.[6] Anecita learned later that Ester was found dead along a brook at Brgy. Astorga. Her son, the accused, confessed to her in their house that "he was the one who killed my daughter Ester." [7] Anecita did not inquire, though, from the accused why he killed Ester.[8] After having learned of this, Anecita said, "I did nothing." [9] She did not even report the matter to the police.[10] Anecita ended her testimony by declaring, when asked by the trial court, that the accused "did not tell me that he raped my daughter", [11] and that what he only told her was that he was the one who killed Ester.[12]

2. It was Ronelo Tañola, a nephew of the accused,[13] who first saw a lifeless body lying face down on a brook in Brgy. Astorga while he was up the coconut tree gathering tuba at about 6:00 o'clock in the early morning of December 24, 1996.[14] He immediately reported what he saw to Rodolfo Asoy, a Brgy. Tanod.[15]. Then they went to verify the dead body. It was that of Ester.[16]

3. SPO4 Melecio Davocol conducted the investigation on December 24, 1996.[17] The following day, he went to the house of the accused and brought him to the police station for investigation upon being informed by "one of the bystanders...that a certain woman by the name of Ruperta Arcon found the T-shirt and the headgear cap" [18] "along the road near the brook" [19] which she allegedly saw the accused wore before the incident happened.[20] When SPO4 Davocol fetched the accused from his house, he confiscated the bladed weapon in his possession.[21] According to a certain person who was the companion of the accused in a drinking spree, the same weapon was tucked on his waist prior to the incident.[22] This certain person and Ruperta Arcon, however, did not go to the police station to report what they knew.[23]

4. Police Superintendent Angel A. Cordero, the Chief Medico-Legal Officer and Forensic Pathologist of the Philippine National Police (PNP), Region VIII, conducted the autopsy on the cadaver of Ester Asoy and identified his Medico-Legal Necropsy Report dated December 24, 1996 (Exhibits "A" and "A-1"), [24] which reads:

"POST MORTEM FINDINGS:

GENERAL:

A fairly nourished, fairly developed female cadaver in beginning stage of decomposition.

HEAD, NECK AND CHEST:

- incised wound, at the anterior portion of the neck, 12 cms. in length, involving the inner structure of the neck, including the neck vessels, bilateral. There is partial fracture of the 3rd cervical vertebra.

- there are areas of contusion at the antero lateral portions of the arm, right.

- on opening of the chest, there is fracture at the 4th rib, anterior, right.

GENITAL EXAMINATION:

Pubic hair moderately abundant. Labia majora and minora are coaptated. Hymen showed a deep and in complete laceration corresponding to 3:00, 6:00 and 9:00 o'clock positions in the face of a watch. Vaginal rugosities are present but almost obliterated. Vaginal canal and the cervix showed presence of gelatinous whitish substance, which on subsequent microscopic examination revealed presence of a non-motile spermatozoa."

CONCLUSION:

1. Cause of death is shock and hemorrhage massive, due to incised wound of the neck anterior portion with the

involvement of the deep vital structures underneath.

2. Physical virginity lost."

The prosecution then rested its case and offered its evidence "to prove the extent of the guilt of the accused." [25]

Thereupon, the accused's counsel manifested that "we have no evidence to contradict (the prosecution evidence)" and that "we submit the same for decision." [26]

The trial court found the accused guilty as charged. The dispositive portion of its decision declares:

"WHEREFORE, in view of the foregoing considerations, the accused having pleaded guilty to the crime charged under the Information, and as proven by the evidence on hand, the court finds the accused GUILTY of the crime of RAPE with HOMICIDE and sentences him to suffer the penalty of DEATH." [27]

The appellant faults the trial court, contending that it -

"I

x x x GRAVELY ERRED IN PROCEEDING WITH THE TRIAL OF THE ACCUSED DESPITE THE LATTER'S IMPROVIDENT PLEA OF GUILTY.

"II

x x x GRAVELY ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED DESPITE INSUFFICIENCY OF EVIDENCE." [28]

In support of the first assigned error, appellant claimed that during the arraignment, "it was not shown that the reading of the Information was done and translated to the dialect known and understood by (him)." [29] Appellant further asserted that "the trial judge did not even bother to ask searching questions to him or presented the latter to the stand to narrate the horrible crime he committed, especially that it was his own sister that he ravished and killed." [30] There was, therefore, an improvident plea of guilty, so the appellant concluded.

Significantly, the prosecution did not controvert appellant's assertions.

The appellant is right.

The mandatory and stringent procedural requirements concerning the arraignment and plea [31] of an accused are too simple and clear to be missed by the trial court. Section 1 (a), Rule 116 of the Revised Rules of Criminal Procedure, as amended, mandates:

"SECTION 1. Arraignment and plea; how made.-

(a) The accused must be arraigned before the court where the complaint or information was filed or assigned for trial. The arraignment shall be made in open court by the judge or clerk by furnishing the accused with a copy of the complaint or information, reading the same in the language or dialect known to him, and asking him whether he pleads guilty or not guilty. The prosecution may call at the trial witnesses other than those named in the complaint or information." (Emphasis ours.)

Section 3 of the same Rule 116 further 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 the precise degree of culpability. The accused may present evidence in his behalf. (3a)" (Emphasis ours.)

In the present case, the Certificate of Arraignment dated March 4, 1997 states:

"That in open court and in the presence of the Assistant Provincial Prosecutor CESAR M. MERIN, the accused WENEFREDO DIMSON ASOY, assisted by his PUBLIC ATTORNEY FIDELINA Q. GRAPILON, of Cariaga, Leyte, was called and having been informed of the nature of the charge against him by reading the INFORMATION and in answer of the question of the Court, he pleaded, GUILTY of the crime charged." [32] (Emphasis ours.)

As shown in the Certificate of Arraignment, the appellant was "informed of the nature of the charge against him" by merely "reading the Information". The Information, as earlier quoted, is written in the English language of which the appellant, a probinsiyano, is obviously unfamiliar with. Clearly, the trial court, during the arraignment of the appellant, failed to comply with the requirements of Section 1 (a) of Rule 116 when it did not furnish the accused with a copy of the Information and read the same in the language or dialect known to him. [33] And, after the appellant entered a plea of guilty to the capital offense charged, the trial court also violated Section 3 of Rule 116 by not conducting a searching inquiry into the voluntariness and full comprehension of the consequences of his plea. [34]

The requirements in the aforecited rules are, to repeat, mandatory, not optional, and must be strictly complied with by the trial court as they are intended to protect and enhance the constitutional right of the accused to be informed of the nature and cause of the accusation against him. Courts must be extra solicitous to see to it that the accused fully understands the meaning and importance of his plea, especially in capital offenses. [35] The prudent course to follow is to take testimony to aid this Court in determining whether the accused understood the significance and consequences of his plea. [36] Failure to observe the said stringent rules would nullify the arraignment.

That the appellant may not have really understood the nature of his charge can be deduced from the testimony of the appellant's mother, Anecita Dimson-Asoy, when she declared that what the appellant confessed to her was that he killed his sister Ester Dimson Asoy. Anecita made it clear, upon questioning by the trial court, that the appellant never mentioned to her that he also raped Ester. [37] This declaration raises serious doubt whether the appellant pleaded guilty to the crime of rape with homicide being charged in the Information.

We are thus constrained to set aside the arraignment conducted on the appellant. Consequently, we need not discuss the second error raised by him.

WHEREFORE, the assailed decision is SET ASIDE. The trial court is ordered to re-arraign Wenefredo Dimson Asoy in Criminal Case No. 2631 and thereafter, to conduct the proper proceedings without delay.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, and De Leon, Jr., JJ., concur.
Ynares-Santiago, J., abroad on official business.

[1] Article 47, Revised Penal Code, as amended by Section 22, Republic Act No. 7659; Section 3 (d), Revised Rules of Criminal Procedure, as amended (effective December 1, 2000).

[2] Record of the RTC, p. 1.

[3] Ibid., p. 32.

- [4] Ibid., p. 29.
- [5] Transcript of Stenographic Notes (TSN), April 7, 1997, pp. 2-4.
- [6] Ibid., p. 4.
- [7] Ibid., p. 5.
- [8] Ibid.
- [9] Ibid.
- [10] Ibid.
- [11] Ibid., p. 6.
- [12] Ibid.
- [13] Ibid., p. 8.
- [14] Ibid., p. 7.
- [15] Ibid.
- [16] Ibid.
- [17] Ibid., p. 12.
- [18] Ibid.
- [19] Ibid., pp. 10-12.
- [20] Ibid., p. 11.
- [21] Ibid., p. 10.
- [22] Ibid., pp. 12-13.
- [23] Ibid.
- [24] Ibid., April 28, 1997, pp. 2-7.
- [25] Ibid., p. 7.
- [26] Ibid.
- [27] Record of the RTC, p. 43.
- [28] Appellant's Brief, Rollo, p. 23.
- [29] Ibid., p. 27.
- [30] Ibid., p. 28.
- [31] *People vs. Estomaca*, 256 SCRA 421 (1996).
- [32] Record of the RTC, p. 32.
- [33] Ibid.
- [34] Ibid.

[35] People vs. Aguilar, et al., L-30932, Jan. 29, 1971.

[36] People vs. Alibasa, et al., G.R. No. 59054, Nov. 2, 1982, cited in Regalado, Florenz D., Remedial Law Compendium, Vol. II, 7th Revised Ed., 1995, p. 383.

[37] TSN, April 7, 1997, p. 6.

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