

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

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

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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 9[th] 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) pen-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 independent counsel; (c) the confession must be express; and (d) it must be in writing. In this case, after accused-appellant was read his rights in Tagalog, he signified his intention to confess his participation in the rape and killing of Arlene. He did this in the presence of his father and with the assistance of Atty. Cesar Villar, who had been chosen by his father for him. In his confession, he stated categorically that he took Arlene to an abandoned house near Best-Line Eatery, where he struck her on the head with a rock, raped her, and afterwards dumped her body into the toilet bowl in order to hide it. Accused-appellant’s confession was placed in writing and it was signed by him, his counsel, and the administering officer.

Accused-appellant acknowledged his extrajudicial confession in court. The court asked him if he executed the extrajudicial confession voluntarily and in the presence of counsel, and he answered in the affirmative. Accused-appellant testified with some relatives present in the courtroom, including his grandmother. In addition, he was assisted by his counsel de oficio, Atty. Victor Galang.

Finally, the testimonies of witnesses for the prosecution confirm accused-appellant’s testimony that he committed the crime. One of his drinking companions, Frederick Agrigado, testified that accused-appellant left them at about 4 p.m. to buy “pulutan” from the Best-Line Eatery. Another witness, Alfredo Apan, said he saw accused-appellant with the victim Arlene on his back walking towards the highway at about the same time. After the disappearance of the victim, Alfredo Apan confronted accused-appellant, telling him that he was the last person seen with the child. Accused-appellant’s vehement denial aroused Apan’s suspicions as he was the one who saw accused-appellant with Arlene. At the restaurant, accused-appellant was served by Lerma Morales, who noticed that he was with a 6-year old child, whom accused-appellant introduced as his niece. After accused-appellant was given his order, he took the child’s hand and led her to the abandoned house. When he returned to his drinking companions, they noted it was already about 5:30 p.m. and that he had been gone for one

and a half hours. Arlene's body was found missing at past 5 p.m. of that same day. All the above witnesses placed accused-appellant at the scene of the crime at the time it took place.

The conviction of an accused may be based on circumstantial evidence provided the following requisites must concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[33] Thus, while there is no eyewitness account as to who raped and killed Arlene, the above circumstances strongly point to no other person than accused-appellant as the perpetrator of the crime. This conclusion becomes all the more certain and inevitable when the circumstantial evidence is considered together with accused-appellant's extrajudicial confession and his own testimony in open court.

The trial court correctly imposed the penalty of death. Art. 266-B of the Revised Penal Code provides for the imposition of the death penalty when, by reason or on the occasion of the rape, homicide is committed. In this case, accused-appellant knocked Arlene unconscious to facilitate his dastardly design. The severity of the blows caused her death. Thus, the imposable penalty is death.[34] The fact that Arlene was below seven years old at the time of the rape cannot be taken into account against accused-appellant as, although her age was alleged in the information, it was not proven during the trial.

The trial court erred, however, in fixing the civil indemnity at P50,000.00. In *People vs. Robles, Jr.*[35] and in subsequent cases,[36] this Court ruled that where homicide is committed by reason or on the occasion of the rape, the civil indemnity shall be not less than P100,000.00.

The trial court likewise erred in granting the heirs of the deceased victim an additional amount of P21,307.00 representing funeral expenses. Under Art. 2199 of the Civil Code, a party is entitled to compensation only for such pecuniary loss suffered by him as proven.[37] The recovery thereof must be premised upon competent proof and the best evidence obtainable, such as receipts, by the injured party showing the actual expenses incurred in connection with the death, wake, or burial of the victim. The list of expenses incurred for the wake, funeral, and burial of the victim amounting to P21,307.00[38] submitted by Arlene's father is self-serving and not proved.[39] Thus, the trial court's award of P21,307.00 for funeral expenses cannot be affirmed.

However, the reason Arlene's father was unable to present the receipt for the funeral parlor was because the latter's representative refused to issue a receipt until he had fully paid the entire amount, which he had not done at the time of the trial. Under Art. 2224 of the Civil Code, temperate damages may be recovered if it is shown that such party suffered some pecuniary loss but the amount cannot, from the nature of the case, be proved with certainty.[40] As there is no doubt the heirs of the victim incurred funeral expenses, although the amount thereof has not been proven, it is appropriate to award P15,000.00 by way of temperate damages to the heirs of the victim.

In addition, the heirs are entitled to moral damages in the amount of P50,000.00 in accordance with Art. 2219 of the Civil Code for the physical suffering, mental anguish, serious anxiety, and moral shock caused by the manner by which Arlene was raped and killed.[41]

WHEREFORE, the judgment of the Regional Trial Court, Branch 27, Cabanatuan City is **AFFIRMED** with the **MODIFICATION** that accused-appellant is ordered to pay the heirs of the victim, Arlene Ipurong, P100,000.00 as civil indemnity, P15,000.00 as temperate damages, and P50,000.00 as moral damages.

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 her pardoning power.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

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- [1] Per Judge Feliciano V. Buenaventura.
- [2] Records, p. 1.
- [3] Id., p. 14.
- [4] TSN (Lerma Morales), Aug. 19, 1998, pp. 10-14.
- [5] TSN (Frederick Agrigado), Aug. 28, 1998, pp. 2-8.
- [6] TSN (Miguel Bernabe), Sept. 9, 1998, pp. 1-7.
- [7] TSN (Alfredo Apan), Sept. 10, 1998, pp. 2-8.
- [8] TSN (Danilo Ipurong), Sept. 10, 1998, pp. 1-11.
- [9] TSN (Rafael Principe), Aug. 19, 1998, pp. 5-8; Records (Exh. "A"), p. 46.
- [10] TSN (Alfredo Apan), Aug. 28, 1998, p. 3; Id., (Exh. "G"), p. 54.
- [11] TSN (Lerma Morales), Aug. 19, 1998, pp. 10-11.
- [12] TSN (Rafael Principe), Aug. 19, 1998, p. 6; Records (Exh. "A"), pp. 46-47.
- [13] TSN (Frederick Agrigado), Aug. 28, 1998, pp. 6-9; Id., (Exh. "E"), p. 53.
- [14] TSN (Danilo Ipurong), Sept. 10, 1998, pp. 4-6.
- [15] TSN (Alfredo Apan), Aug. 28, 1998, p. 5.
- [16] TSN (Miguel Bernabe), Sept. 9, 1998, p. 4.
- [17] TSN (Alfredo Apan), Aug. 28, 1998, pp. 5-6; TSN (Danilo Ipurong), Sept. 10, 1998, p. 2.
- [18] TSN (Dr. Jun B. Concepcion), Aug. 27, 1998, p. 3; Records (Exh. "C"), p. 50.
- [19] Records (Exh. "D"), p. 52.
- [20] TSN (Dr. Jun B. Concepcion), Aug. 27, 1998, pp. 3-7.
- [21] Records, p. 43.
- [22] TSN (Rafael Principe), Aug. 18, 1998, pp. 2-4; Records (Exh. "A"), pp. 45-48.
- [23] Records, p. 40; Decision, p. 8.
- [24] *People vs. Magat*, 332 SCRA 517 (2000); *People vs. Nadera*, 324 SCRA 490 (2000); *People vs. Lakindanum*, 304 SCRA 429 (1999).
- [25] *People vs. Nadera*, *supra*; *People vs. Alicando*, 251 SCRA 293 (1995).
- [26] TSN (Rafael Principe), Aug. 18, 1998, p. 4.
- [27] *Supra*.

[28] TSN (Rafael Principe), Sept. 10, 1998, pp. 10-11 (emphasis added).

[29] See *People vs. Nadera*, supra.

[30] CONSTITUTION, Art. III, § 12 (1).

[31] REP. ACT NO. 7438, An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining, and Investigating Officers, and Providing Penalties for Violations thereof. It took effect on April 27, 1992.

[32] *People vs. Ordoño*, 334 SCRA 673 (2000); *People vs. Tan*, 286 SCRA 207 (1998); *Morales, Jr. vs. Enrile*, 121 SCRA 538 (1983).

[33] *People vs. Olivia*, 349 SCRA 435 (2001).

[34] Three (3) members of the Court, although maintaining their adherence to the separate opinions expressed in *People vs. Echegaray* (267 SCRA 682 [1997]) that R.A. No. 7659, insofar as it prescribes the penalty of death, is unconstitutional, nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should accordingly be imposed.

[35] 305 SCRA 273 (1999).

[36] *People vs. Hermoso*, 343 SCRA 567 (2000); *People vs. Payot*, 308 SCRA 43 (1999).

[37] *People vs. Lopez*, 312 SCRA 384 (1999).

[38] Exh. "H".

[39] *People vs. Ereño*, 326 SCRA 157 (2000); *People vs. Nullan*, 305 SCRA 679 (1999).

[40] *People vs. Lopez*, supra.

[41] *People vs. Ronas*, G.R. Nos. 128088 & 146639, Jan. 31, 2001; *People vs. Bahenting*, 303 SCRA 558 (1999); *People vs. Maguad*, 287 SCRA 535 (1998).

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