

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELPIDIO PASTOR, ACCUSED-APPELLANT.

G.R. No. 140208. March 12, 2002

Ponente: PUNO, J.

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PUNO, J.:

For automatic review is the decision of the Regional Trial Court of the City of Tagbilaran, Branch 2, in Criminal Case No. 10283, dated August 30, 1999, finding accused-appellant Elpidio Pastor guilty of incestuous rape and sentencing him to suffer the supreme penalty of death with its accessory penalties, to indemnify the complainant Maria Niña R. Pastor the sum of P75,000.00, and to pay the costs.[1]

In an Information[2] dated March 12, 1999, accused-appellant was charged with the crime of Incestuous Rape, committed as follows:

“That on or about the 7th day of May, 1998, in the Municipality of Loon, Province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused with lewd designs, entered the room of his own daughter, Maria Niña R. Pastor (accused being the biological father of the victim), a 13-year-old girl, and once inside did then and there willfully, unlawfully and feloniously, by means of force and intimidation, lie on top of her, insert his penis in the vagina of the said offended victim, Maria Niña R. Pastor, and succeeded in having carnal knowledge of her against her will and without her consent resulting in the pregnancy of the victim, to the damage and prejudice of the latter.

Acts committed in violation of Sec. 2, Art. 266-B, par. 1, of RA 8353, amending [Article] 335 of the Revised Penal Code.”

On April 8, 1999, accused-appellant was arraigned and, with the assistance of PAO lawyer Atty. Perpetuo Magallano, entered a plea of not guilty.

During the hearing on June 23, 1999, Atty. Adriano Damalerio of PAO manifested that after a conference with accused-appellant, the latter had decided to change his plea from Not Guilty to Guilty. The trial court ordered that the previous plea of not guilty be set aside and that accused-appellant be arraigned anew. Upon re-arraignment, accused-appellant entered a plea of guilty to the Information which was read and translated to him in the Visayan dialect. Thereafter, the trial court propounded clarificatory questions to accused-appellant to ascertain whether he understood the consequences of his plea.

Accused-appellant then testified on the mitigating circumstances of plea of guilty, voluntary surrender and drunkenness which is not habitual. The prosecution admitted the plea of guilty and voluntary surrender. Accused-appellant offered evidence to prove drunkenness. He testified that on May 7, 1998, he drank tuba and in his drunkenness, he was led to think bad about his daughter, herein complainant, because his wife left him. He claims that it was never his intention to rape his daughter.[3]

Subsequently, the prosecution was ordered to prove the culpability of accused-appellant. Complainant Maria Niña

testified that on May 7, 1998, at about 3 o'clock in the morning, she was raped by her father, herein accused-appellant, in their house at Catagbacan Sur, Loon, Bohol. Her parents were already separated at that time and her mother was living in Manila. Complainant was impregnated[4] and gave birth on December 12, 1998.[5] On cross examination, complainant testified that she was 13 years old at the time of the incident;[6] that she had a premature delivery and her baby died five days after birth; that nobody forced her to file the complaint against accused-appellant; and that she pursued the prosecution of the case against accused-appellant knowing that he may be sentenced to death.[7]

On August 30, 1999, the court a quo rendered judgment finding accused-appellant guilty beyond reasonable doubt of the crime of incestuous rape. It nevertheless recommended the commutation of the sentence from death to reclusion perpetua by reason of the remorseful attitude exhibited by accused-appellant. The dispositive portion of the decision reads:

“WHEREFORE, in Criminal Case No. 10283, the Court finds accused ELPIDIO PASTOR, guilty beyond reasonable doubt of the crime of Incestuous Rape, defined under Par 1 (a) of Article 266-A and penalized under Par 5, No. (1) of Article 266-B, of the Revised Penal Code, as amended by Republic Act No. 8353, and hereby sentences said accused ELPIDIO PASTOR to suffer the supreme and indivisible penalty of DEATH, in the manner provided for by law, with the accessory penalties of the law, to indemnify the offended party, Maria Niña R. Pastor the sum of P75,000.00, and to pay the costs.

The Court herein was saved of its precious time in conducting (a) full-dress trial because the accused pleaded guilty. The prosecution even conformed to accused' (sic) claim of the mitigating circumstances of voluntary surrender and spontaneous plea of guilt.

When the accused took the witness stand to prove the circumstance of drunkenness, which is not habitual, which was not conceded by the prosecution, we found him to be meditative and remorseful, a behaviour which is quite different from other death-row convicts, who despite the onus of the evidence against them, with insistence, persist in needlessly taxing the court on their claim of innocence, all throughout the trial and even after the affirmance of their conviction by our Highest Court. We believe that accused herein should not be equated to the likes of these calloused and non-repentant offenders.

It is therefore on the basis of the foregoing circumstances, and in the highest interest of humane and compassionate justice, that we are minded of the provisions of Article 5, paragraph 2 of the Revised Penal Code, and hereby, without suspending the execution of the sentence herein, recommends unto the President of the Republic of the Philippines, thru the Secretary of Justice, the commutation of accused' (sic) sentence from death to reclusion perpetua.

Accordingly, let copy of this decision be furnished the Secretary of Justice, Padre Faura, Manila, for whatever recommendation he may deem proper to His Excellency, the President of the Republic of the Philippines.

SO ORDERED.”

In his appellant's brief, accused-appellant avers that the trial court gravely erred in not applying the guidelines for a plea of guilty to a capital offense provided in Section 3, Rule 116 of the Revised Rules of Criminal Procedure. Specifically, it is contended that the trial court failed to conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the accused-appellant's plea, pursuant to the ruling laid down in the cases of *People vs. Bello*[8] and *People vs. Dayot*. [9] Allegedly, the questions propounded to the accused-appellant were limited to his family background and personal circumstances. Accused-appellant thus prays that the case be remanded to the court a quo for a full-blown trial.

Section 3, Rule 116 of the 1985 Rules of Criminal Procedure provides, viz:

“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 his culpability. The accused may present evidence in his behalf.”

When a plea of guilty to a capital offense is entered, the trial court is duty bound to: (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) inquire from the accused if he desires to present evidence on his behalf and allow him to do so if he desires.[10] 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.[11] Moreover, the requirement of taking further evidence would aid this Court on appellate review in determining the propriety or impropriety of the plea.[12]

I.

Anent the first requirement, the searching inquiry must determine whether the plea of guilt was based on a free and informed judgment. Hence, it must focus on (1) the voluntariness of the plea, and (2) the full comprehension of the consequences of the plea.[13] Although there is no definite and concrete rule as to how a trial judge must conduct a “searching inquiry,” we have held that the following guidelines should be observed:

- Ascertain from the accused himself (a) how he was brought into the custody of the law; (b) whether he had the assistance of a competent counsel during the custodial and preliminary investigations; and (c) under what conditions he was detained and interrogated during the investigations. This is intended to rule out the possibility that the accused has been coerced or placed under a state of duress either by actual threats of physical harm coming from malevolent quarters or simply because of the judge's intimidating robes.
- Ask the defense counsel a series of questions as to whether he had conferred with, and completely explained to, the accused the meaning and consequences of a plea of guilty.
- Elicit information about the personality profile of the accused, such as his age, socio-economic status, and educational background, which may serve as a trustworthy index of his capacity to give a free and informed plea of guilty.
- Inform the accused the exact length of imprisonment or nature of the penalty under the law and the certainty that he will serve such sentence. For not infrequently, an accused pleads guilty in the hope of a lenient treatment or upon bad advice or because of promises of the authorities or parties of a lighter penalty should he admit guilt or express remorse. It is the duty of the judge to ensure that the accused does not labor under these mistaken impressions because a plea of guilty carries with it not only the admission of authorship of the crime proper but also of the aggravating circumstances attending it, that increase punishment.[14]
- Inquire if the accused knows the crime with which he is charged and fully explain to him the elements of the crime which is the basis of his indictment. Failure of the court to do so would constitute a violation of his fundamental right to be informed of the precise nature of the accusation against him and a denial of his right to due process.[15]
- All questions posed to the accused should be in a language known and understood by the latter.[16]
- The trial judge must satisfy himself that the accused, in pleading guilty, is truly guilty. The accused must be

required to narrate the tragedy or reenact the crime or furnish its missing details.[17]

In the case at bar, the records will show that the trial court miserably failed to discharge its duty to conduct a "searching inquiry," to wit:

“ATTY. ADRIANO DAMALERIO:

Yes, your Honor, and the accused is now ready to enter a plea of Guilty, and I would like to manifest, Your Honor, that the accused was already arraigned and he entered the plea of Not Guilty and he would like to change his plea of Not Guilty to Guilty, Your Honor, and we move that the earlier plea of Not Guilty be vacated and the accused be re-arraigned.

COURT:

Let the previous plea of Not Guilty by the accused Elpidio Pastor be set aside and re-arraign the accused now.

COURT:

Call the accused, Elpidio Pastor, and arraign the accused.

RECORD:

COURT INTERPRETER: reads the Information of Incestuous Rape and translated the same to the accused in Visayan vernacular.

COURT TO ACCUSED ELPIDIO PASTOR:

Let's ask the accused Elpidio Pastor, whether he understood the Information read and translated to him in the Visayan vernacular.

COURT INTERPRETER TO THE ACCUSED:

Q

Do you understand the Information read to you?

ACCUSED ELPIDIO PASTOR:

A

Yes, Your Honor.

COURT:

Q

Now, having understood the Information, Mr. Elpidio Pastor, what is your plea, guilty or not guilty?

ACCUSED ELPIDIO PASTOR:

A

I admit, Your Honor, that I have committed a sin.

COURT:

Enter a plea of Guilty as expressed by accused Elpidio Pastor through his very own mouth, upon his re-arraignment today.

COURT TO ELPIDIO PASTOR:

Q

You are Elpidio Pastor?

A

Yes, Your Honor.

Q

How old are you?

A

35 years old, Your Honor.

Q

You are married?

A

Yes, Your Honor.

Q

What is the name of your wife?

A

Josefina Requello.

Q

You and your wife were married in church?

A

Yes, Your Honor.

Q

Do you have children?

A

Yes, Your Honor, five (5) children.

Q

Tell the Court the names of your children?

A

Goldelyn the eldest.

Q

How old is Goldelyn now?

A

16 years old.

Q

Where is Goldelyn now?

A

She is in Mindanao, Don Carlos, Mindanao.

Q

Your second child, what is the name?

A

Maria Niña, Your Honor.

Q

Maria Niña is the private complainant in this case?

A

Yes, Your Honor.

Q

How old is Maria Niña?

A

14 years old, Your Honor.

Q

Maria Niña was living with you during the incident?

A

Yes, Your Honor.

Q

The third child, what is the name?

A

Joel.

Q

How old is Joel?

A

12 years old, Your Honor.

Q

How about the 4th child?

A

Rodel.

Q

How old is Rodel?

A

10 years old, Your Honor.

Q

And the 5th child?

A

Jenelyn.

Q

How old is Jenelyn?

A

8 years old.

Q

Your wife Josefina is living with you?

A

We got separated, Your Honor, she left for Manila and she did not return because she had a boyfriend.

Q

Of the five (5) children, how many children were living with you at that time of the incident?

A

Four (4), Your Honor.

Q

Who supported your four (4) children, Maria Niña, Joel, Rodel and Jenelyn?

A

Me and my mother.

Q

Why, what is your work?

A

Fisherman, Your Honor.

Q

You have changed your plea from Not Guilty to Guilty, is this correct?

A

Yes, Your Honor, that is true that I have committed a sin.

Q

Nobody has forced you to plead guilty to this Information?

A

None, Your Honor.

Q

In other words, your pleading guilty is your free and voluntary act?

A

Yes, Your Honor.

Q

Do you know that by pleading guilty you may be sentenced to a death penalty?

A

I do not know what will be the outcome of my pleading guilty, Your Honor.

Q

The Court is now telling you, that by pleading guilty you may be sentenced to a death penalty.

A

Yes, Your Honor, I understand.

Q

Despite of your knowledge, you still insist on your plea of guilt?

A

Yes, Your Honor.

COURT:

No further questions.

ATTY. ADRIANO DAMALERIO:

Your Honor, we would like to present the accused himself to the witness stand to prove three (3) mitigating circumstances: First, the plea of guilt; Second, voluntary surrender; and Third, drunkenness which is not habitual and at that time of the incident, Your Honor, he was drunk.

COURT TO COUNSELS:

I have to inform counsels that in cases of Incestuous Rape, neither mitigating nor aggravating circumstances cannot (sic) be availed of.

ATTY. ADRIANO DAMALERIO:

Only to save him, Your Honor, for (sic) the penalty of death.

COURT:

Okay, let's hear the accused.
Call the accused to the witness stand.

X X X X X X X X

ATTY. ADRIANO DAMALERIO:

The purpose of the testimony of Elpidio Pastor, Your Honor, is to prove the three (3) mitigating circumstances:
1. Plea of guilt; 2. Voluntary surrender; and 3. Drunkenness which is not habitual, Your Honor.

FISCAL HELEN T. CABATOS:

We admit the plea of guilt, Your Honor, and the voluntary surrender, Your Honor.

X X X X X X X X

DIRECT EXAMINATION ON ELPIDIO PASTOR
BY: ATTY. ADRIANO DAMALERIO

Q

You have just admitted and in fact pleaded guilty to the crime which accordingly committed (sic) on May 7, 1998, now please tell the Court why did you do this kind of crime and what led you to do this crime?

A

I have drunk tuba.

Q

And what did you feel after you drunk tuba?

A

A little bit tipsy.

Q

You mean you are drunk?

A

Yes, sir.

Q

And because of that drunkenness, what did you do?

A

I was led to think bad about my daughter because my wife left me.

x x x x x x x x

CROSS EXAMINATION:

x x x x x x x x

Q

I said, this is not the first time that you were drunk?

A

There are times that I got drunk but that was the only time that I committed that kind of incident.

x x x x x x x x

COURT:

X X X X X X X X

Q

Now, did you purposely take tuba in order to commit crime (sic) against your child?

A

When I drunk (sic), Your Honor, that was not my intention to do it.”[18]

The questions propounded by the trial court failed to show the voluntariness of the plea of guilt of accused-appellant nor did the questions demonstrate that he fully understood the consequences of his plea.

First, all the questions propounded by the court were couched in English but there is nothing in the records to show that accused-appellant had a good comprehension, or at least, a nodding acquaintance with the English language. The records also do not show whether the judge translated and explained his questions to accused-appellant in a language or dialect known and understood by the latter.[19] Accused-appellant is a simple fisherman and his educational background is unknown.

Second, the trial court failed to explain to accused-appellant the elements of the crime of rape. Moreover, when the trial court asked accused-appellant if he knew that by pleading guilty he may be sentenced to a death penalty, the latter answered “I do not know what will be the outcome of my pleading guilty, Your Honor.” Given the vagueness of accused-appellant’s answer, the trial court went no further to find out whether or not he fully comprehended the consequences of his plea. In addition, accused-appellant was not categorically advised that his plea of guilt would not under any circumstance affect or reduce his sentence. The records reveal that it was the defense counsel, not accused-appellant, who was informed and warned by the court that in cases of incestuous rape, mitigating and aggravating circumstances do not matter.[20] When accused-appellant attempted to prove the mitigating circumstances of plea of guilty, voluntary surrender and drunkenness, he was under the mistaken assumption that his liability would be reduced.[21] He was not warned that the penalty of death is indivisible and is not affected by either aggravating or mitigating circumstances.[22] The trial court’s statement that by pleading guilty he “may” be sentenced to a death penalty is inadequate. It should have warned him, in a language that cannot be misinterpreted, that should the court find that the qualifying circumstances alleged in the information were proved during the trial, along with the elements of the crime of rape, he would be meted the death penalty.[23]

Third, when accused-appellant was questioned by the court as to the act he committed, he answered that he “was led to think bad about my daughter because my wife left me.” Again, the answer is hardly comprehensible yet, the court failed to probe deeper into the material details of the crime.

We hold that in the absence of a “searching inquiry” into the voluntariness of the plea of guilt of accused-appellant and his full comprehension of the consequences thereof, the re-arraignment of accused-appellant is fatally flawed.

II.

The second requirement prescribes that the trial court must order the prosecution to prove the guilt of the accused-appellant and the precise degree of his culpability beyond reasonable doubt. It must be stressed that under the 1985 Rules of Criminal Procedure, a conviction in capital offenses cannot rest alone on a plea of guilt. The prosecution evidence must be sufficient to sustain a judgment of conviction independently of the plea of

guilty.[24]

In the case at bar, complainant Maria Niña testified as follows:

“Q

Ma. Niña, the accused in this case is Elpidio Pastor, how are you related to him?

A

My father.

Q

If your father is inside this court room today please point (sic) him?

A

That one, ma’am.

x x x x x x x x

Q

Were you present during the arraignment of your father, the accused in this case?

A

Yes, maam.

Q

And you heard him pleaded (sic) guilty to the crime charge (sic)?

A

Yes maam, I heard.

Q

Having heard your father admitted (sic) the crime charged against him, do you still insist to pursue in prosecuting this case?

A

Yes, Your Honor.

COURT:

Record that the witness is crying.

x x x x x x x x

Q

Now, if you can recall, when was that that your father raped you?

A

May 7, 1998.

Q

Where did it happen?

A

In our house.

Q

Where is your house located?

A

Catagbacan Sur, Loon, Bohol.

Q

Can you recall what time was that, that your father sexually abused you?

A

That was 3:00 o'clock dawn.

Q

By the way, where was your mother at that time when your father sexually abused you?

A

My mother is not there.

x x x x x x x x

Q

What was the result of that sexual abused (sic) committed by your father on May 7, 1998?

A

I got ill and always vomit.

Q

What was the caused (sic) of vomiting?

A

I was pregnant.

Q

Were you examined by a doctor, to prove that you were pregnant of that rape incident?

A

Yes, maam.

x x x x x x x x

Q

Now, you said that you were pregnant, eventually did you give birth of (sic) a child?

A

Yes, maam.

Q

When did you give birth?

A

December 12, 1998.

Q

And where is your baby now?

A

She died.

x x x x x x x x

Q

What did you feel about the sexual assault committed by your father against you?

A

I'm mad.

Q

What else did you feel?

A

Angry.

Q

Is that all your feelings because of this incident?

A

I'm also sad.

x x x x x x x x

FISCAL HELEN T. CABATOS:

No further questions, Your Honor.

COURT:

Cross.

ATTY. ADRIANO DAMALERIO:

No cross, Your Honor, accused had already pleaded guilty.”[25]

The prosecution formally offered its documentary evidence which consist of the birth certificate of complainant to

prove that she was 13 years old at the time of the incident and that accused-appellant is her father,[26] and two medical certificates, one showing that complainant has been pregnant for 23-3/7 weeks,[27] and the other that she gave birth to a baby girl who died five days thereafter.[28]

As heretofore discussed, the plea of guilty of accused-appellant was made improvidently. Convictions based on an improvident plea of guilt are set aside if such plea is the sole basis of the judgment. If, however, the trial court relied on sufficient and credible evidence to convict the accused, the conviction must be sustained, because then it is predicated not merely on the guilty plea of the accused but on evidence proving his commission of the offense charged.[29]

A perusal of the decision of the trial court will reveal that the judge failed to state the factual and legal reasons on which he based accused-appellant's conviction. The judge merely stated that the complainant "positively declared that on May 7, 1998, her father (the accused in this case), without her consent, forcibly obtained carnal knowledge with her, which resulted in her being pregnant." He then concluded that the lone testimony of the victim, if credible, is enough to sustain a conviction, and made a bare recital of Article 266-B of the Revised Penal Code, as amended by R.A. 8353. There is no discussion of the facts of the case and the qualifying circumstances alleged in the information, in utter disregard of the constitutional injunction that "no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based." [30]

Also, there is no evaluation of the evidence and no reason given why the court found that the testimony of the complainant is credible. We note that the first question asked of the complainant in her direct examination was if she could recall when she was raped by the accused-appellant. It did not elicit the specific details as to how the rape was committed against complainant. The prosecution simply presumed that the complainant was indeed raped on the basis of the plea of guilty of accused-appellant.

Moreover, there was practically no evidence presented to prove force and intimidation as well as the relationship of accused-appellant with complainant. It is true that our jurisprudence is replete with cases where the moral ascendancy of a parent over his child has been allowed to justify a finding that there was intimidation sufficient to convict the accused of incestuous rape. However, in the case of *People vs. Alberto Chua*, [31] we held that the mere fact that accused-appellant is her father and therefore exercises moral ascendancy over his daughter cannot ipso facto justify this Court to conclude that the victim was intimidated. Thus, we held:

"There must be some evidence of intimidation employed on the victim as to indubitably show how vitiated the victim's consent was to the violation of her womanhood. After all, rape is committed against or without the consent of the victim. x x x The court cannot rely on presumptions of moral ascendancy x x x [which] cannot and should not prevail over the constitutional presumption of innocence. Force or intimidation is an element of the crime of rape. There must, therefore, be proof beyond reasonable doubt that the victim did not resist her defloration due to the moral ascendancy of the accused."

We have ruled that it is the concurrence of the minority of the victim and her relationship with the offender that would qualify the rape as heinous and thus justify the imposition of the supreme penalty.[32] Both qualifying circumstances of age and relationship must be alleged in the information and proved during the trial. In the case at bar, the qualifying circumstance of relationship was not established beyond moral certainty. The rule is that relationship, as a qualifying circumstance of rape, must be proved beyond reasonable doubt, just as the crime itself. It has been held that the bare testimony of the complainant and the admission of accused-appellant as to their relationship is not sufficient.[33] The birth certificate of herein complainant which was not duly certified cannot be given probative value insofar as the relationship of complainant with accused-appellant is concerned.[34] Since the relationship of complainant to accused-appellant has not been sufficiently established, it was error for the trial court to impose the penalty of death.

In addition, the trial court, in convicting accused-appellant, considered pieces of evidence presented by the prosecution that are inadmissible for being hearsay. The prosecution merely asked complainant to identify the two medical certificates relating to her pregnancy without presenting the doctors who issued the certifications to testify thereon. The defense counsel failed to object to the documentary evidence of the prosecution and worse, even expressed his conformity to its admission. Such lapses should not have been allowed by the trial court considering that it was trying a case where a life was at stake. Life cannot be lost due to the ignorance of counsel.

III.

Under the third requirement, the court must ask the accused if he desires to present evidence on his behalf and allow him to do so if he desires. In the present case, there is nothing in the records to show that accused-appellant was informed, either by his counsel or by the court, of his right to present evidence, if he so desires.

Very glaring is the manifest lack of enthusiasm of the defense counsel, Atty. Damalerio, for his client's cause when he refused to cross examine the complainant, on the pretext that accused-appellant has pleaded guilty. We reiterate that it is the bounden duty of lawyers to protect the constitutional right of an accused even when he has pleaded guilty to the crime charged, viz.:

“It may be so that defense counsel personally found Oleby's testimony to be believable. Nonetheless, he had the bounden duty to scrutinize private complainant's testimony to ensure that the accused's constitutional right to confront and examine the witnesses against him was not rendered for naught.

It bears pointing out that in rape cases, it is often the word of the complainant against that of the accused, the two being the only persons present during the commission of the offense. While the lone testimony of the victim is sufficient to convict the accused, such testimony must be clear, positive, convincing and consistent with human nature and the normal course of things. Complainant's testimony cannot be accepted with precipitate credulity without denying the accused's constitutional right to be presumed innocent. This is where cross examination becomes essential to test the credibility of the witnesses, expose falsehoods or half-truths, uncover the truth which rehearsed direct examination testimonies may successfully suppress, and demonstrate inconsistencies in substantial matters which create reasonable doubt as to the guilt of the accused and thus to give substance to the constitutional right of the accused to confront the witnesses against him. For unless proven otherwise to be guilty beyond all reasonable doubt, the accused is presumed to be innocent.

x x x x x x x x

Atty. Brotonel, as counsel de oficio, had the duty to defend his client and protect his rights, no matter how guilty or evil he perceives accused-appellant to be. The performance of this duty was all the more imperative because the life of accused-appellant hangs in the balance. His duty was no less because he was counsel de oficio.”[35]

This utter lack of concern is further aggravated by Atty. Damalerio's lackadaisical and perfunctory discharge of his obligation to present evidence in behalf of accused-appellant. After the prosecution rested its case, Atty. Damalerio manifested that since the accused-appellant had already pleaded guilty, he is not presenting any defense, and merely prayed that his client be credited with the mitigating circumstances earlier claimed by him.[36] To say the least, Atty. Damalerio's attitude falls short of the noble duty of a lawyer to defend an accused however guilty he may appear to be if only to assure that his prosecution is in accord with the procedure laid down by our law. It cannot be over emphasized that even the guilty cannot be prosecuted by means revolting to the civilized demands of due process.

IN VIEW WHEREOF, the judgment appealed from is SET ASIDE. The case is REMANDED to the trial court for further proceedings in accord with the guidelines set forth in this Decision.

SO ORDERED.

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

[1] Penned by Judge Baudilio K. Dosdos; Principal Record, pp. 78-81.

[2] Ibid., p. 22.

[3] TSN, June 23, 1999, pp. 9-12.

[4] Exhibit A, Medical Certificate dated October 14, 1998; Record of Documentary Evidence, p. 1.

[5] Exhibit B, Medical Certificate dated April 19, 1999; Ibid., p. 2.

[6] Exhibit C, Certificate of Birth; Ibid., p. 3.

[7] TSN, July 30, 1999, pp. 4-12.

[8] 141 SCRA 563 (1999).

[9] 187 SCRA 637 (1990).

[10] People vs. Nadera, Jr., 324 SCRA 490 (2000).

[11] People vs. Samontañez, 346 SCRA 837 (2000), citing 14 Am Jur Crim Law, § 271, p. 951; People vs. Havana, 199 SCRA 805 (1991); People vs. Gonzaga, 127 SCRA 158 (1984).

[12] People vs. Albert, 251 SCRA 136 (1995).

[13] People vs. Hermoso, 343 SCRA 567 (2000); People vs. Alicando, 251 SCRA 293 (1995).

[14] People vs. Bernardino Aranzado, G.R. Nos. 132442-44, September 24, 2001.

[15] People vs. Alberto Chua, G.R. No. 137841, October 1, 2001.

[16] People vs. Alicando, supra note 13.

[17] People vs. Albert, supra note 12.

[18] TSN, June 23, 1999, pp. 3-12.

[19] People vs. Alberto Chua, supra note 15.

[20] TSN, June 23, 1999, p. 8.

[21] Ibid.

[22] People vs. Estomaca, 256 SCRA 421 (1996).

[23] People vs. Aranzado, supra note 14.

[24] US vs. Jamad, 37 Phil 305 (1917).

[25] TSN, July 30, 1999, pp. 4-10.

[26] Exhibit C, Record of Documentary Evidence, p. 3.

[27] Exhibit A, id., p. 1.

[28] Exhibit B, id., p. 2.

[29] People vs. Lakindanum, 304 SCRA 429 (1999).

[30] People vs. Albert, supra note 12.

[31] Supra note 15.

[32] People vs. Arves, 343 SCRA 123 (2000).

[33] People vs. Antonio Evangelista, G.R. No. 132044, October 5, 2001.

[34] People vs. Tabanggay, 334 SCRA 575 (2000).

[35] People vs. Pido, 200 SCRA 45 (1991).

[36] TSN, July 30, 1999, p. 15.

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