

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROBERTO AGUILAR, APPELLANT.

G.R. No. 172868. March 14, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On petition for review is the Court of Appeals' decision[1] of August 31, 2005 which affirmed with modification that of Branch 69 of the Regional Trial Court of Pasig convicting appellant, Roberto Aguilar, of Qualified Rape.[2]

The inculpatory portion of the information, docketed as Criminal Case No. 125621-H charging appellant with Qualified Rape of his daughter, reads:

That on or about the 4[th] day of May, 2003 in Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of his moral authority and ascendancy and by means of force and intimidation did, then and there willfully, unlawfully and feloniously have carnal knowledge of [AAA][3] against her will and consent, the said crime having been attended by the qualifying circumstances of relationship and minority, the said accused being the father of the said victim, a 15-year old minor at the time of the commission of the crime, and that the said rape was committed in full view of the sister of the victim, thereby raising the crime to a [sic] QUALIFIED RAPE, which is aggravated by the circumstances of treachery, evident premeditation, abuse of superior strength, nighttime and dwelling, to the damage and prejudice of said victim.

CONTRARY TO LAW.[4] (Underscoring supplied)

The following facts were not disputed by appellant.

The private complainant, AAA, daughter of appellant and his wife BBB, was born on January 22, 1989,[5] and was thus 14 years old on May 4, 2003, the date the offense is alleged to have been committed.

At the time of the commission of the offense, AAA's mother BBB was working in Pakistan, leaving the custody and care of their three children to her husband-appellant.

Around 2:00 o'clock in the morning of May 4, 2003, while AAA was sleeping with her younger sister CCC at their house in Purok 6, Tuktukan, Taguig, Metro Manila, she was roused from her sleep as she felt someone undressing her. She quickly recognized her father, herein appellant, who was removing her short pants and later also removed his. He soon lay atop her, inserted his penis in her vagina, and proceeded to perform a push and pull motion.

The noise produced by the push and pull motion of appellant awakened CCC who, overtaken by fear, feigned to be asleep albeit she made sure she witnessed the incident.

Later that day, the siblings' aunt DDD, sister of their mother BBB, visited their home. CCC at once reported to DDD what she had witnessed earlier. AAA confirmed the report. After consulting her husband about the incident,

DDD, together with AAA proceeded to the Taguig Police Station and filed a complaint against appellant.

On examination of AAA at the Philippine National Police Laboratory by Medico-legal Officer Paul Ed C. Ortiz, the following findings, quoted verbatim, were noted:

Hymen: With pressure if shallow healed lacerations at 2, 3, 6 & 9 o'clock and a deep healed laceration at 11 o'clock position.

xxx xxx xxx

CONCLUSION: Subject is non-virgin state physically. There are no external signs of application of any form of trauma.[6]

On his scheduled date of arraignment on June 23, 2003, appellant's counsel de oficio informed the trial court that appellant intended to plead guilty to the charge. To afford appellant time to reflect on his intended plan and its consequences, however, the trial court postponed the arraignment to July 6, 2003, and later to July 21, 2003.

On arraignment on July 21, 2003, appellant pleaded guilty to the charge. The trial court thereupon conducted a searching inquiry to determine the voluntariness of appellant's plea and his full comprehension of the consequences thereof. On being convinced that appellant indeed voluntarily admitted his guilt and fully understood its consequences, the trial court directed the prosecution to present evidence "to prove the guilt of [appellant] and [the] exact degree of culpability."

The prosecution thus presented as witnesses AAA, CCC, and DDD.

After the prosecution rested its case, when asked by the trial court "What can you say, are you going to testify," appellant answered in the negative.[7]

By decision of October 10, 2003, the trial court convicted appellant and imposed the death penalty on him, disposing as follows:

WHEREFORE, finding accused Roberto Aguilar guilty beyond reasonable doubt of Qualified Rape, this court hereby sentences accused to suffer the Death penalty and to pay offended party [AAA] P50,000.00 as moral damages, P50,000.00 as civil indemnity and P25,000.00 as exemplary damages.

SO ORDERED.[8]

The case was thereupon elevated for automatic review to this Court, appellant faulting the trial court on the sole ground that in convicting him, it failed to comply with Section 3, Rule 116 of the Rules of Court which reads:

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.

Following *People v. Mateo*,[9] the Court transferred the case to the Court of Appeals for intermediate review.

By Decision of August 31, 2005, the Court of Appeals, finding the evidence for the prosecution to have proved beyond reasonable doubt the guilt of appellant, affirmed the decision of the trial court with modification by increasing the award of civil indemnity, disposing thus:

WHEREFORE, the October 10, 2003 Decision of the Regional Trial court, Branch 69, Pasig City, in Criminal Case No. 125621-H, is hereby MODIFIED to read as follows:

WHEREFORE, finding accused Roberto Aguilar guilty beyond reasonable doubt of Qualified Rape, this court

hereby sentences accused to suffer the Death Penalty and to pay offended party [AAA] P50,000.00 as moral damages, P75,000.00 as civil indemnity and P25,000.00 as exemplary damages.

SO ORDERED.[10] (Emphasis supplied)

The case is back before this Court.

The parties were, by Resolution of July 11, 2006, required by the Court to submit Supplemental Briefs if they so desired.[11] Both parties manifested that they no longer intended to submit the same.[12]

The above-quoted provision of Sec. 3 of Rule 116 provides the procedure to be observed when an accused pleads guilty to a capital offense in order to safeguard his rights.

The Court has in several cases prescribed the following guidelines on the manner in which a searching inquiry should proceed:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) Inform the accused of 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.
- (5) Inquire if the accused knows the crime with which he is charged and to 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.
- (6) All questions posed to the accused should be in a language known and understood by the latter.
- (7) 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.[13]

The trial court attempted to observe these guidelines as reflected in the following excerpt of the proceedings taken on July 21, 2003:

COURT:

Make it of record that accused admitted complete responsibility to Criminal Case No. 125621 duly assisted by counsel for qualified rape. Question Alam mo ba nasapag-amin mo sa kasong qualified rape bibigyan ka ng parusang lethal injection or life sentence depende sa testimony ng complainant, nalalaman mo ba ito?

ACCUSED:

Opo.

COURT: Bakit mo naman inamin itong kaso laban sa iyo?

ACCUSED:

Dahil ginawa ko po kase talaga at naaawa ako sa asawa ko na nagpapakagastos pa sa kaso at saka umaabsent pa eskwela ang anak ko sa pagpunta punta dito.

COURT:

Ito ba ay napagisipan mong mabuti bago ka umamin?

ACCUSED:

Opo, mulapa noong July 7. Noon ko unang sinabi na aamin ako.

COURT:

Ilang taon ka na ngayon?

ACCUSED:

Forty-five po.

COURT:

Anong natapos mo?

ACCUSED:

First year high school po.

COURT:

Ano ang trabaho mo bago nangyari ang insidenteng ito?

ACCUSED:

Isa po akong smoked-fish vendor.

COURT:

Ano ang religion mo?

ACCUSED:

Roman Catholic po.

COURT:

How about your daughter?

A- Opo.

COURT:

Kasal ka ba sa iyong asawa?

A- Opo.

COURT:

Kailan?

ACCUSED:

May 19.

COURT:

Alam mo ba kung ilang taon si [AAA]?

ACCUSED:

Fifteen po sa January 22.

COURT:

Pinagsisisihan mo ba ang ginawa mo sa anak mo?

ACCUSED:

Opo.

COURT:

Bibistahan ko pa rin ito at saka kita bibigyan ng kaukulang parusa matapos kong marining [sic] ang testimony ng iyong anak at ng kanyang testigo.

ACCUSED:

Opo.[14] (Emphasis and underscoring supplied)

From the above-quoted transcript of the proceedings, the Court finds that the trial court failed to fully observe the above-enumerated guidelines.

Nevertheless, as did the appellate court, the Court finds that appellant's conviction must be sustained, not on the basis of his plea of guilt which he affirmed on the witness stand but on the basis of the evidence presented by the prosecution showing the guilt beyond reasonable doubt of appellant which, by choice, he failed to rebut.

Consider the following testimony of AAA:

Prosecutor Deza —

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Q- When did this alleged molestation of the accused to you happened? [sic]

A- May 4, 2003 Sir.

Q- And where did it occur?

A- In our residence in Purok 6, Tuktukan, Taguig, Metro Manila Sir.

Q- What time did it occur?

A- Two o'clock in the morning Sir.

Q- Will you please inform the Honorable Court how did the alleged rape started? [sic]

A- I was sleeping at around seven o'clock in the evening when I was awakened because somebody was undressing me.

Q- And who were your companion [sic] or rather persons, if any, sleeping with you on that night of May 4, 2003?

A- My sister was sleeping beside me.

Q- Who else if any?

A- Only the two of us were sleeping while the others were sleeping outside Sir.

Q- How about your father? Where was he supposed to sleep then?

A- Outside of the room Sir.

Q- So what time if you can remember were you awakened when somebody was undressing you?

A- About two o'clock.

Q- And when you were awakened because you were being undressed do [sic] you recognize who was undressing you?

A- Yes Sir.

Q- And who was he?

A- Roberto Aguilar Sir.

Q- When you open [sic] your eyes and you saw Roberto Aguilar undressing you was he undressed or dressed?

A- He was dressed when he removed my short pants and then he also undressed himself.

xxx xxx xxx

Q- So what happen [sic] after he undressed himself and you were also undressed?

A- He put himself on top of me and he inserted his organ part [sic] to my private part.

Q- You said he inserted his organ to yours. Did you see it?

A- Yes Sir.

Q- What was he actually doing when he was on top of you?

A- "Niyuyugyug po niva ako. kinakabayo po niya ako."

Court —

Make it of record that the witness was crying while narrating her story.

Prosecutor Deza —

Q- Can you remember how long did this "niyuyugyug ka niya" last?

A- Three (3) minutes po.

Q- Did you feel his organ to [sic] your organ?

A- Yes Sir.

Q- And how did you feel?

A- It was painful Sir.

Q- Did you ever attempt to prevent him from doing so?

A- I pushed him but he was strong Sir.

Q- Aside from his acts did he say anything while he was doing such molestation to you?

A- He told me not to make any noise because somebody might hear us, "tapos minura pa niya ako."

Q- Were you afraid with [sic] your father?

A- Yes Sir.

Q- At that time that [sic], when your father bad mouth or "minura ka" was that enough to make you afraid?

A- Yes Sir and he was threatening me Sir.

Court (to the witness) —

Q- How did he threaten you?

A- He said that he will kill me Your Honor. He told me that if I will shout or do something against him he will kill me.

Prosecutor Deza—

Q- Did he have the influence or the means to kill you at that time?

A- Yes Sir because he has a knife with him and he can stab me anytime.

Q- Did you see the knife?

A- Yes Sir.

Court (to the witness) —

Q- When did you see the knife?

A- When I was last used he pointed the knife at me Your Honor.

Prosecutor Deza —

Q- When you said your last used when was that last used? [sic] Were you referring to this one May 4?

A- Yes Sir.[15] (Emphasis and underscoring supplied)

Undoubtedly, AAA's testimony, which was corroborated by her sister CCC, proves beyond reasonable doubt that appellant had carnal knowledge of his minor daughter AAA.

It bears reiterating at this juncture that in the earlier-quoted transcript of his testimony during the searching inquiry conducted by the trial court after he pleaded guilty to the charge, appellant, when asked why he made such plea, answered, "Dahil ginawa ko po kase talaga," and that after the prosecution rested its case, appellant opted not to present evidence in his defense.

With the passage, however, on June 24, 2006 of R.A. No. 9346, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the penalty of death cannot be imposed.

Accordingly, the penalty imposed upon appellant is reduced to reclusion perpetua, without eligibility for parole.[16]

WHEREFORE, the challenged August 31, 2005 decision of the Court of Appeals is MODIFIED in that appellant, Roberto Aguilar, is sentenced to suffer, reclusion perpetua, without eligibility for parole. In all other respects, the appellate court's decision is AFFIRMED.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Reyes, and Leonardo-de Castro, JJ., concur.

Nachura, J., no part. Signed pleading as Solicitor General.

[1] CA-G.R. CR.-H.C. No. 01298; penned by Associate Justice Jose Catral Mendoza and concurred in by Presiding Justice Romeo A. Brawner and Associate Justice Edgardo P. Cruz; rollo, pp. 3-14.

[2] Criminal Case No. 125621-H; records, pp. 67-75.

[3] The names of the victim and the immediate family members of the victim were withheld pursuant to People v. Cabalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] Records, p. 15.

[5] Certificate of Live Birth, id. at 51.

[6] Id. at 49.

[7] TSN, August 5, 2003, p. 38.

[8] Records, p. 75.

[9] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[10] Rollo, pp. 13-14.

[11] Id. at 15.

[12] Id. at 16-19.

[13] *People v. Gumimba*, G.R. No. 174056, February 27, 2007, 517 SCRA 25, 35-36; *People v. Tonyacao*, G.R. Nos. 134531-32, July 7, 2004, 433 SCRA 513, 522-523; *People v. Pastor*, 428 Phil. 976, 987 (2002); *People v. Aranzado*, 418 Phil. 125 (2001); *People v. Chua*, 418 Phil. 565 (2001); *People v. Alicando*, 321 Phil. 657 (1995); *People v. Albert*, 321 Phil. 500 (1995).

[14] TSN, July 21, 2003, pp. 3-6.

[15] TSN, July 28, 2003, pp. 5-10.

[16] Sec. 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

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