

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MUSTAPA ALIBASA ALIAS “PHANKS”; CMDR. JACK JAMMAN, ASST. CMDR. SEDICK, HARABING ISA-LON, YAKAN ISAH AND YAKAN ITAK, ACCUSED. M...

G.R. No. 59054. November 02, 1982

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

In Criminal Case No. 454 of the Court of First Instance of Basilan, the accused-appellant together with Cmdr. Jack Jamman, Asst. Cmdr. Sedick, Harabing Isalon, Yakan Isah and Yakan Itak, were charged with the crime of kidnapping with ransom, allegedly committed, as follows:

"That on or about the 26th day of November, 1980, and within the jurisdiction of this Honor-able Court, viz., at Kabunabata, Municipality of Isabela, Province of Basilan, Philippines, the above named accused, who being members of a terrorist group and armed with assorted firearms, conspiring and confederating together, aiding and assisting one with the other, by force and without authority, did then and there willfully, unlawfully, and feloniously, kidnap and carry away the person of Alejandro Guiroy to a far and secluded place of Tambulig, Municipality of Tuburan, Basilan Province, and kept under heavy guard from November 26, 1980, to January 23, 1981, to better secure the consent of the victim through fear to pay the ransom in the amount of TWENTY-THOUSAND (P20,000.00) PESOS, Philippine Currency. That the victim was released only on January 23, 1981, after having paid the ransom in the amount of Twenty Thousand Pesos (P20,000.00), Philippine Currency." [1]

Except for appellant Alibasa, all the other accused have not been apprehended and remain at large up to the present.

Upon arraignment, appellant Alibasa, pleaded not guilty, [2] and the case was, thereafter, set for trial on the merits.

After the prosecution had presented its first witness in the person of Thelma Andajao, appellant Alibasa, thru his counsel de officio, moved for leave to change his plea of "not guilty" to "guilty". There being no objection on the part of the prosecuting fiscal, the court a quo granted the motion. Whereupon, appellant Alibasa was rearraigned and he entered a plea of guilty. [3]

Instead of requiring the prosecution to complete the presentation of its evidence, the trial court ordered appellant Alibasa to take the witness stand, after which the Court rendered judgment convicting him of the crime of kidnapping with ransom, the dispositive portion of which reads, as follows:

"WHEREFORE, in view of the foregoing considerations and in accordance with law and existing jurisprudence, this Court finds the accused Mustapa Ali-basa alias "Phanks" guilty beyond reasonable doubt of the crime of Kidnapping with Ransom as defined and penalized under the provision of Article 267, last paragraph of the Revised Penal Code, as amended by Republic Act No. 1084 approved June 15, 1954, and hereby sentences him to suffer the supreme penalty of DEATH.

"This Court, however, in the furtherance of justice and considering the provisions of Section 106 of the Code of Mindanao and Sulu and the testimony of the accused himself taken in open court to the effect inter alia that he came to know of the P20,000.00 ransom only after he was captured, hereby strongly recommends that he be seriously considered for Executive Clemency.

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SO ORDERED." [4]

Thereupon, this case was elevated to the court for automatic review.

After the appellant had filed his brief, [5] the Solicitor General filed a Memorandum in lieu of the appellee's brief, [6] contending that the prosecution was not given an opportunity to prove its case against the appellant since it had barely started presenting its evidence when the appellant moved to change his plea from "not guilty" to "guilty" and recommends that the judgment under review be set aside and the case remanded to the lower court for completion of the trial thereof.

The recommendation of the Solicitor General is well taken.

Considering that the appellant was charged with the capital offense of kidnapping with ransom, the trial court should have required the prosecution to present its evidence to prove the extent of his culpability. This Court has consistently ruled that after a plea of guilty, where a grave offense is charged, the taking of testimony is the prudent and proper course to follow for the purpose of establishing not only the guilt but also the precise degree of culpability of the defendant. [7]

ACCORDINGLY, the judgment under review dated November 16, 1981 is hereby SET ASIDE and the case REMANDED to the trial court for further proceedings.

SO ORDERED.

Makasiar, Acting C.J., Guerrero, Abad Santos, Melencio-Herrera, Plana, Escolin, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

Aquino, J., dissents. There is no improvident plea in this case.

Fernando, C.J., Teehankee, and De Castro, JJ., on official leave.

[1] Original Record, p. 1.

[2] Id., p. 21.

[3] t.s.n., p. 28.

[4] Original Record, pp. 60-61.

[5] Rollo, p. 46.

[6] Id., p. 60.

[7] People vs. Villafuerte 56 SCRA 219, and cases therein cited.

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