PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILFREDO OLARTE, ACCUSED-APPELLANT.

G.R. Nos. 129530-31. September 24, 2001

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PER CURIAM:

What is before the Court for automatic review is the decision[1] of the Regional Trial Court, Sultan Kudarat, Branch 19, Isulan finding accused Wilfredo Olarte guilty of rape on two counts and sentencing him in each case to the supreme penalty of death, and to indemnify the offended party in the amount of P50,000.00 as moral damages and the amount of P25,000.00 as exemplary damages, and costs. The court further sentenced the accused to recognize the offspring that the offended party delivered on December 22, 1995. Without pronouncement as to costs.

Sometime in the first week of March 1995, just a few weeks before Cristina Olarte's seventeenth birthday which falls on April 12, 1978, she was at the family house at sitio New Tarlac, Barangay Villamor, Esperanza, Sultan Kudarat, where she resided with her younger brothers and sisters, and their father, accused herein. Their mother, Clarita Olarte, was not at their house since she was working as a family cook of a certain Mr. Robles in Poblacion, Esperanza, Sultan Kudarat, and went home to sitio New Tarlac only on Sundays.[2]

Early that evening, Cristina was sleeping in their one room house alongside her younger siblings. Her younger brothers and sisters were sleeping by her right side while she was on the left side, beside the wall of the house. Immediately to her right side was her two (2) year old brother.[3]

Later that evening, about midnight, accused who came from a drinking session, arrived at their house. When Cristina awakened her father was on top of her. He smelled of liquor. He pointed a knife towards the left side of her chest, raised the nightdress she was wearing and removed her underwear. When she asked him why he was doing that to her, being her daughter, accused told her to keep quiet and not make any noise, or he would kill her. He then had carnal knowledge of his own daughter. Thereafter, accused threatened to kill Cristina and her siblings if she would report the incident. Cristina had no clear memory of where her father went after forcing himself on her because she was so shaken and her mind was blank.[4]

The bestial event was followed by several other incidents of sexual abuse, which Cristina could no longer remember. After a while, Cristina got pregnant and gave birth on December 22, 1995. It was on the third month of her pregnancy that she told her mother, Clarita Olarte, about what her father did to her. She was forced to tell her mother as she noticed her condition when the latter massaged her belly. Clarita confronted her husband about it and they had a fight.[5]

Cristina remembered that the last time accused sexually abused her was in the evening of November 30, 1995. She was seventeen (17) years, seven (7) months and eighteen (18) days old. She clearly recalled that date being the last day of the month. She was then about seven (7) or eight (8) months on the family way when appellant again woke her up while she was sleeping, alongside her younger siblings, and while her mother was not at home. He succeeded in having sexual intercourse with her by threatening her with a knife.[6]

Cristina reported to the police what accused did to her only after she gave birth on December 22, 1995, after which, Cristina, her mother and her siblings transferred their residence to Purok, Tagumpay, Sagasa, Esperanza, Sultan Kudarat.[7]

On February 18, 1996, Cristina Olarte went to the police station, and SPO4 Godofredo Sibag took her sworn affidavit at the office of the PNP at Esperanza, Sultan Kudarat.[8]

On June 25, 1996, on the basis of Cristina's criminal complaint, 2nd assistant provincial prosecutor Dominador V. Valeron filed with the Regional Trial Court, Isulan, Sultan Kudarat an information for rape against accused, which reads:

> Criminal Case No. 2317
>
> "The undersigned Second Assistant Provincial Prosecutor upon sworn criminal complaint originally filed by the offended party, accuses WILFREDO OLARTE of the crime of RAPE, committed as follows:
> "That sometime on November 30, 1995, at sitio New Tarlac, Barangay Villamor, Municipality of Esperanza, province of Sultan Kudarat, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd and unchaste designs and by means of force and intimidation, did then and there, willfully, unlawfully and feloniously, lie and succeeded in having carnal knowledge of Cristina Olarte, his 19 year old daughter, against her will and consent.

"CONTRARY TO LAW, particularly Article 335 of the Revised Penal Code of the Philippines.

"Isulan, Sultan Kudarat, Philippines, April 16, 1996.

"DOMINADOR V. VALENSON"
"2nd Asst. Provincial Prosecutor"[9]

On July 7, 1996, 2nd Assistant provincial prosecutor Dominador V. Valenson filed with the Regional Trial Court, Isulan, Sultan Kudarat, another information against the accused, as follows:

> Criminal Case No. 2325
>
> "The undersigned Second Assistant Provincial Prosecutor upon sworn criminal complaint originally filed by the offended party, accuses WILFREDO OLARTE of the crime of RAPE committed as follows:
> "That on or about in the month of March, 1995, at sitio New Tarlac, Barangay Villamor, municipality of Esperanza, Province of Sultan, Kudarat, Philippines, and within the jurisdiction of this Honorable Court, the said accused with lewd and unchaste designs and by means of force and intimidation, did then and there, willfully, unlawfully, and feloniously, lie and succeeded in having carnal knowledge of Cristina Olarte, his 19 year old daughter, against her will and consent.

"CONTRARY TO LAW, particularly Article 335 of the Revised Penal Code of the Philippines.

"Isulan, Sultan, Kudarat, Philippines, April 16, 1996.

"DOMINADOR V. VALENSON"
"2nd Asst. Provincial Prosecutor"[10]

On September 12, 1996, the trial court arraigned the accused. With the assistance of counsel de oficio, he entered a plea of not guilty to both charges.[11] On January 17, 1997, the defense counsel moved to withdraw the former plea of not guilty, and to allow the accused to enter a plea of guilty to the offense charged.[12] Thereafter, he moved for the re-arraignment of the accused.[13] At the re-arraignment on the same day, accused entered a plea of guilty to both charges.[14] Nonetheless, the trial court proceeded to try the case.

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After due trial, on February 27, 1997, the trial court rendered a decision finding that:

> "Upon the judicial plea of guilty for the accused upon his re-arraignment in the above entitled cases, as well as, on the unrebutted testimony of the private complainant, Cristina Olarte, the court fully convinced that the allegations of rape against the accused, Wilfredo Olarte, have been proven beyond a scintilla of reasonable doubt, which is sufficient to sustain a verdict of conviction.
>
> "The fact, however that the offended party is the daughter of the accused, the alternative circumstance of relationship provided for in Article 15 of the Revised Penal Code should be appreciated. (People vs. Lucas, G.R. No. 80102, Jan. 22, 1990, 181 SCRA 316).
>
> "Since, the offended party, Cristina Olarte was not disputed by the accused, she was then only about SEVENTEEN (17) YEARS old when she was sexually assaulted by the accused for the first time (Criminal Case No. 2325) in March 1995, and she was SEVENTEEN (17) YEARS, SEVEN (&) MONTHS AND EIGHTEEN (18) DAYS old when she was sexually attacked by the accused on November 30, 1995 (Criminal Case No. 2317). This personal circumstance of the offended party must necessarily be considered in the imposition of the appropriate penalty prescribed by law.
>
> "Inevitably, the circumstance, obtaining in those cases warrant the award of damages under Article 2219 (3) in relation to Article 2217 of the Civil Code, which is hereby fixed at P50,000.00 in each of the above entitled cases. To deter other fathers with perverse tendencies or abnormal sexual behavior from sexually abusing their own daughter, exemplary damages are herein imposed against the accused, Wilfredo Olarte, in the amount fixed at 25,000.00 in each of said cases.
>
> "The crime of rape is defined and penalized under Section 11 of Republic Act 7659, amending Article 335 of the Revised Penal Code, and when the victim is under eighteen (18) years of age and the offender is a parent, the penalty shall be imposed. The court has no other recourse but to apply the law, as it is the duty of judicial officers to respect and apply the law regardless of their private opinion.
>
> "WHEREFORE, upon all the foregoing considerations, the court finds the accused, Wilfredo Olarte, guilty beyond reasonable doubt of the crime of rape, as separately charged in Criminal Case No. 2325 and in Criminal Case 2317.
>
> "Accordingly, however, unpleasant, even painful is the compliance with its duty to apply the penalty provided by law, the court sentences the accused, Wilfredo Olarte:
>
> "IN CRIMINAL CASE NO. 2325
>
> (a)
>
> to suffer the extreme penalty of DEATH; and
>
> (b)
>
> to indemnify the private offended party, Cristina Olarte, the amount of FIFTY THOUSAND (P50,000.00) PESOS, as moral damages, and the amount of P25,000.00, as exemplary damages, conformably with current jurisprudential policy.
>
> "IN CRIMINAL CASE NO. 2317
>
> (a)
>
> to suffer the extreme penalty of DEATH; and
>
> (b)

> to indemnify the private offended party, Cristina Olarte, the amount of FIFTY THOUSAND (P50,000.00) PESOS, as moral damages, and the amount of P25,000.00, as exemplary damages, conformably with current jurisprudential policy.
>
> "The court further sentences the accused, Wilfredo Olarte, to recognize the offspring that the offended party, Cristina Olarte, had delivered on December 22, 1995. Without pronouncement as to costs.
>
> "IT IS SO ORDERED."[15]

Hence, this automatic review.[16]

Accused imputes the following errors to the trial court.

- The trial court gravely erred in not applying the safeguards set forth under Rule 116, 1985 Rules on Criminal Procedure.

- The trial court gravely erred in finding that the guilt of the accused of the crime charged has been proved beyond reasonable doubt.[17]

According to the accused, the trial court failed to conduct a searching inquiry as to the voluntariness and full comprehension of the consequences of his plea of guilty, as provided for in Rule 116, Section 3, 1985 Rules on Criminal Procedure. Questions propounded by the judge were answerable by a mere yes or no and were not the searching inquiry required by the Rule.

Rule 116, section 3, 1985 Rules on Criminal Procedure specifically mandates the course that trial courts must follow in case the accused pleads guilty to a capital offense, as follows:

> "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 require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf."

Based on the aforecited rule, "the judge is required to accomplish three things: (1) to conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the accused's plea; (2) to require the prosecution to prove the guilt of the accused and the precise degree of his culpability; and (3) to inquire whether or not the accused wishes to present evidence on his behalf and allow him to do so if he so desires. This procedure is mandatory, and a judge who fails to observe it commits a grave abuse of discretion."[18]

"The rationale behind the rule is that courts must proceed with more care where the possible punishment is in its severest form--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. The primordial purpose then is to avoid improvident pleas of guilt on the part of an accused where grave crimes are involved since he might be admitting his guilt before the court and thus forfeit his life and liberty without having fully understood the meaning, significance and consequence of his plea."[19]

The procedure followed by the trial court was not in scrupulous adherence to the requirements of Rule 116, Section 3, 1985 Rules on Criminal Procedure. The trial court was required to conduct a searching inquiry. A searching inquiry, under the Rules, means more than informing cursorily the accused that he faces a jail term (or the death penalty) but so also, the exact length of imprisonment under the law and the certainty that he will serve time at the national penitentiary or a penal colony. A searching inquiry likewise compels the judge to content himself reasonably that the accused has not been coerced or placed under a state of duress and that his guilty plea has not been given improvidently either by actual threats or physical harm from malevolent quarters or simply

because of his, the judge's, intimidating robes.[20] The questions propounded by the trial court were not enough to apprise the accused of the consequences of his plea of guilty. The trial court did not make the accused aware that he was charged with rape of his own daughter which carried with it the penalty of death and that he was likely to be sentenced to death. We, therefore. believe that the trial court failed to do its duty to properly make searching inquiries when the accused entered his plea of guilty.

Nonetheless, even without considering the accused's plea of guilty, there is adequate evidence on record on which to sustain the conviction of the accused.[21]

The testimony of Cristina is worthy of belief. She was candid, categorical and positive. She declared that her father raped her repeatedly. We quote:

"FISCAL VALENSON:

"Q:

Now, in that midnight of the first week of March 1995, do you remember what happened to you?

"A:

Yes, sir.

"Q:

What happened?

"A:

I was forced by him, sir.

"Q:

Who?

"A:

My father, sir.

"Q:

Forced to what?

"A:

I was threatened by him with a knife, sir.

"Q:

And after that what did he do next?

"A:

He raised my dress and that is the time he raped me, sir. (WITNESS CRYING ON THE WITNESS STAND WHILE TESTIFYING).

"Q:

When he raped you, what did you tell him?

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"A:

I asked him why you are doing this to me since I am your daughter.

"Q:

And what did he tell you, if there was any?

"A:

He just told me to keep quite because if I will made noise, then he will kill me.

"Q:

After raping you, what did your father tell you, if there was any?

"A:

He said that he will kill all of us if I will report what he did to me, sir.

"Q:

On November 30, 1995, at nighttime, do you remember where did you again sleep?

"A:

In our house, sir.

"Q:

And on the night of November 30, 1995, do you remember what again happened to you?

"A:

The same thing happened to me, sir.

"Q:

You mean your father again raped you?

"A:

Yes, sir. (WITNESS AGAIN CRIED WHILE TESTIFYING).

"Q:

And after that, what did your father tell you again?

"A:

The same thing, sir, the same wordings, sir.

"Q:

If you are ask to identify your father if he is in Court, will you be able to identify him?

"A:

Yes, sir.

"Q:

> Will you please look around the courtroom if your father is in Court and please point to him?
>
> "A:
>
> Yes, sir. He is the one. (WITNESS POINTING TO A PERSON WHO WHEN ASKED HIS NAME ANSWERED THAT HIS NAME IS WILFREDO OLARTE, THE ACCUSED IN THIS CASE)."[22]

The second error raised is that the guilt of the accused was not proven beyond reasonable doubt. Here, the accused relied mainly on the mistaken belief that the victim Cristina Olarte must categorically say that there was penetration of the penis of her father into her vagina before there could be consummated rape, that a simple statement that she was raped was not enough to prove rape.

"It must be pointed out that in cases of rape, complainant's testimony must be considered and calibrated in its entirety, and not by truncated portions or isolated passages thereof."[23] In this case, the Court finds complainant's testimony worthy of credit.

It is not necessary that the victim narrate all the sordid details of the rape. To require her to do so would mean that she must relive the horror and anguish she experienced which, in all probability, she was trying hard to erase from memory. Hence, it would be enough if the victim merely said that she was raped.[24] This Court has held consistently that when a woman declares that she has been raped, she says in effect all that is necessary to mean that she has been raped, and where her testimony passes the test of credibility, the accused may be convicted on the basis thereof.[25]

When Cristina was asked during direct examination as to what the accused did to her, she stated:

> - He raised my dress and that is the time he raped me, sir. (witness crying on the witness stand while testifying)[26]

When the victim Cristina Olarte used the word "raped" she meant that accused had sexual intercourse with her. Clearly, this was what she meant. She even became pregnant due to the rape that accused committed against her.

Four (4) Justices of the Court continue to maintain the unconstitutionality of Republic Act No. 7659 insofar as it prescribes the death penalty. Nevertheless, they submit to the ruling of the majority that the law is constitutional and that the death penalty may be imposed lawfully in the case at bar.

On the civil liability of the accused Wilfredo Olarte, we note that the trial court merely ordered the payment of moral damages in the sum of P50,000.00 in each case but did not award civil indemnity which is mandatory upon the finding of the fact of rape. Thus, consistent with the current prevailing jurisprudence,[27] accused Wilfredo Olarte must be ordered to pay Cristina Olarte the amount of P75,000.00 in each of the two counts of rape. However, the trial court correctly awarded exemplary damages in the hope of deterring fathers with perverse tendencies and aberrant sexual behaviors from sexually abusing their daughters.[28]

WHEREFORE, the decision of the Regional Trial Court, Sultan Kudarat, Branch 19, Isulan, in Criminal Cases No. 2317 and No. 2325, finding accused Wilfredo Olarte guilty beyond reasonable doubt of two (2) counts of rape and sentencing him to suffer the death penalty in each of the two cases is hereby AFFIRMED, with the MODIFICATION that accused is further ordered to indemnify the victim in the amount of seventy five thousand pesos (P75,000.00), plus fifty thousand pesos (P50,000.00) as moral damages and twenty five thousand pesos (P25,000.00) as exemplary damages, for each count, and costs.

In accordance with Article 83 of the Revised Penal Code, as amended by Republic Act No. 7659, Section 25, upon the finality of this decision, let certified true copies of the records of the case be forwarded to the President of the Philippines for the possible exercise of the pardoning power.

SO ORDERED.

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

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[1] Judgment, Regional Trial Court, Judge German M. Malcampo, presiding, Rollo, pp. 15-34.

[2] TSN, January 17, 1997, pp. 3-4.

[3] Ibid., pp. 8-9.

[4] Ibid., pp. 8-10.

[5] Ibid., pp. 6-7.

[6] Ibid., p. 11.

[7] Ibid., pp. 12, 16.

[8] Original Record, Criminal Case No. 2317, p. 2.

[9] Information, Criminal Case No. 2317, Original Record, pp. 7-8.

[10] Information, Criminal Case No. 2325, Original Record, pp. 3-4.

[11] Certificate of Arraignment, Criminal Case No. 2317, Original Record, p. 18.

[12] TSN, January 17, 1997, pp. 2-3.

[13] Ibid.

[14] TSN, January 17, 1997, pp. 4-5; Certificate of Arraignment, Original Record, Crim. Case No. 2317, p. 29.

[15] Judgment, Rollo, pp. 15-34, at pp. 32-34.

[16] On September 3, 1998, we accepted the case (Rollo, p. 35).

[17] Brief for Accused-Appellant, Rollo, pp. 49-59, at p. 49.

[18] People v. Dayot, 187 SCRA 637, 641 [1990]; People v. Camay, 152 SCRA 401, 403, [1987].

[19] People v. Santomanez, G.R. No. 134530, December 4, 2000, citing People v. Albert, 321 Phil. 500, 510 [1995].

[20] People v. Albert, supra, at pp. 521-522, citing People v. Dayot, supra, Note 18.

[21] People v. Jabien, 332 SCRA 702, 714 [2000], citing People v. Tahop, 315 SCRA 465 [1999]; People v. Derilo, 338 Phil. 350, 374 [1997], citing People v. Petalcorin, 180 SCRA 685, 692 [1989].

[22] TSN, January 17, 1997, pp. 4-5.

[23] People v. Valez, G.R. No. 136738, March 12, 2001, citing People v. Gaorana, 352 Phil. 487, 498 [1998].

[24] People v. de Villa, G.R. No. 124639, February 1, 2001.

[25] People v. Belga, G.R. No. 129769, January 19, 2001.

[26] TSN, January 17, 1997, p. 4.

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[27] People v. Alvero, 329 SCRA 737, 757 [2000], citing People v. Prades, 355 Phil. 150 [1998]; People v. de los Santos, G.R. No. 137889, March 26, 2001, citing People v. Itdang, G.R. No. 136393, October 18, 2000; People v. Ayo, 365 Phil. 88, 104 (1999).

[28] People v. Alvero, supra, Note 27, citing People v. Matrimonio, 215 SCRA 613 [1992]; People v. Lao, 319 Phil. 232, 245 [1995].

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