

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HIPOLITO DIAZ Y DE GUZMAN, ACCUSED-APPELLANT.

G.R. Nos. 131149-50. July 28, 1999

Ponente: ROMERO, J.

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ROMERO, J.:

Before us on automatic review is the decision[1] dated September 22, 1997, rendered by the Regional Trial Court of Caloocan City, Branch 180, in Criminal Case Nos. C-48872 and C-48873 finding accused-appellant HIPOLITO DIAZ guilty of two counts of rape committed against his very own daughter, Marissa Diaz.

In two informations simultaneously filed on June 5, 1995 in the aforesaid trial court, accused-appellant was charged for raping his daughter Marissa Diaz in two separate incidents. The information in Criminal Case No. C-48872 charges him as follows:

"That on or about the 27th day of May, 1995 in Kalookan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of the victim MARISSA DIAZ Y GOROSPE, a minor, 16 years of age, with lewd design and by means of force and intimidation employed upon the latter, did then and there wilfully, unlawfully and feloniously lie and have carnal knowledge with said MARISSA DIAZ Y GOROSPE, against the latter's will and without her consent.

CONTRARY TO LAW."[2]

The information in Criminal Case No. C-48873, on the other hand, alleges:

"That sometime during the month of February, 1995, in Kalookan City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being then the father (sic) one MARISSA DIAZ Y GOROSPE, a minor, 16 years of age, with lewd design and by means of force and intimidation employed upon said Marissa Diaz y Gorospe, did then and there wilfully, unlawfully and feloniously lie and have carnal knowledge with said complainant, against the latter's will and without her consent.

CONTRARY TO LAW."[3]

Upon arraignment, accused-appellant entered a plea of "not guilty" to the offenses charged. The cases having been consolidated, joint trial ensued. On September 22, 1997, the court a quo rendered judgment finding accused-appellant guilty of two counts of rape and sentencing him as follows:

"WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, the Court finds the accused HIPOLITO DIAZ Y DE GUZMAN, alias "TONY", GUILTY as principal, of TWO (2) COUNTS OF RAPE, attended by the alternative aggravating circumstance of relationship, the offended party being the daughter of the accused, without any mitigating circumstance to offset the same, and hereby sentence him as follows: in Criminal Case No. C-48872, to suffer the penalty of death; and in Criminal Case No. C-48873, to suffer the penalty of death, to indemnify the victim Marissa Diaz y Gorospe in the amount of P50,000.00 in each case, and to pay the costs.

SO ORDERED.[4]

It appears that after the prosecution had rested its case, the trial court set the case for reception of evidence for the defense. However, all four settings for the reception of evidence for the defense were postponed at the instance of the accused himself since his counsel, Atty. Alexander T. Yap, was not in court even if he was duly notified of the hearing on the fourth setting on June 17, 1996. No motion for postponement having been filed by the accused-appellant, the court a quo proceeded to consider such non-appearance of his counsel as a waiver of his right to present evidence and, accordingly, terminated the trial.[5] Hence, the case was considered submitted for decision with only the prosecution's evidence having been presented.

Considering the trial court's imposition of the capital punishment, accused-appellant now complains that the trial court violated his right to due process in submitting this case for decision without giving him time to adduce evidence for his defense.

We believe that accused-appellant's complaint requires inquiry into the extent of the rights accorded to an accused in a criminal case and to determine whether accused-appellant has indeed been denied the rights to which he is entitled. In this regard, accused-appellant asserts that considering the penalty imposed, the trial court should have afforded him the opportunity to present his evidence. He further avers that the non-appearance of his counsel should not have been taken against him outright and interpreted to mean a waiver of his right to present evidence. He claims that prudence should have dictated that the court a quo should not consider the absence of his counsel as a waiver, and instead, should have appointed another counsel to represent him in the proceedings.[6]

It is well-settled that the right to be heard by himself and counsel is one of the constitutional rights granted to the accused. Not only this but he likewise has the right to present evidence for his defense. Accordingly, denial of due process can be successfully invoked where no valid waiver of rights has been made, as in the instant case.

We note that accused-appellant's counsel was fairly notified of the scheduled hearings. Despite this, he did not attend any of the four settings.[7] Even on the fourth setting, counsel for accused-appellant did not even bother to file a motion for postponement. Understandably, the court a quo deemed it best to adhere to the policy on speedy disposition of cases for the wheels of justice must turn unhampered by undue delay. However, we find that under the circumstances, the accused-appellant was, in effect, denied due process when the successive non-appearance of his counsel was construed as a waiver of his right to present evidence. Since the imposable penalty under the facts of the case at bar may be death, the trial court should have been more circumspect in outrightly denying the accused-appellant his opportunity to present his side, particularly since he himself was present during the four hearings. Clearly, such presence is a strong indication that accused-appellant was in truth interested in presenting his side but unfamiliarity with the highly technical rules of judicial proceedings prevented him from doing so.

ACCORDINGLY, the Court hereby resolves to GRANT this appeal insofar as the accused-appellant's right to present evidence is concerned. Hence, the instant case is REMANDED to the court of origin for reception of accused-appellant's evidence and for further proceedings.

SO ORDERED.

Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.
Davide, Jr., C.J., on leave.

[1] Penned by Judge Jaime T. Hamoy.

[2] Rollo, p. 6.

[3] Ibid., p. 7.

[4] Ibid., p. 68.

[5] Records, p. 61.

[6] Rollo, pp. 46-47.

[7] Supra, note 36.

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