

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLAND MOLINA Y JOVERE, ACCUSED-APPELLANT.*G.R. Nos. 141129-33. December 14, 2001*

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-141129-33/>**BELLOSILLO, J.:**

This case pierces the enduring belief in the family as a peaceful retreat. Here, we are faced with a father who, it is claimed, attempted to rape his own daughter once and succeeded in consummating it four (4) times before then, as a result of which he was sentenced to a prison term and imposed four (4) death penalties. The children, as many others in the past, are unfortunately the victims of this indecency in an atrophied family, something that we stress is never about losing virtue or honor but an assault upon their persons akin to torture or murder.[1] Quite understandably, most crimes of this nature remain unreported, while the perpetrators in those cases prosecuted and tried, naturally engender enmity and rage. With sensitivity to this call for justice and healing, we proceed to review this criminal case.

Roland J. Molina, accused-appellant, was charged with attempted rape and four (4) counts of incestuous rape penalized under RA 8353 amending Art. 266 of The Revised Penal Code committed against his very own 16-year old[2] daughter Brenda Molina. He was found guilty by the court a quo in these five (5) crimes for which he was meted an indeterminate sentence of eight (8) years and one (1) day of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum for the attempted rape, and four (4) death sentences for the four (4) counts of incestuous rape. He was also ordered to pay his victim indemnity and moral damages each worth P75,000.00. His conviction is now the subject of this automatic review,[3] and tests our fealty to procedural fairness and the rule of law.

The four (4) cases of incestuous rape were allegedly committed by accused-appellant Roland Molina sometime in August 1998, 22 September, 29 September and 24 December 1998, while the attempted rape, on 1 March 1999. Upon the verbal complaint of his daughter Brenda, accused-appellant was arrested on 3 March 1999 and detained at the municipal jail of Sta. Barbara, Pangasinan. There is however nothing on record from then on to account for his version of the facts.

Despite his immediate arrest and the absence of a waiver under the 1985 Rules on Criminal Procedure, accused-appellant was subjected to a regular preliminary investigation by the municipal trial judge whose findings[4] were affirmed by the Provincial Prosecutor. Accused-appellant did not file a counter-affidavit to refute the charges. The preliminary investigation took about one (1) month to complete, after which, accused-appellant was transferred from the Sta. Barbara Municipal Jail to the Pangasinan Provincial Jail. Thereafter, four (4) Informations were filed against accused-appellant for raping his own daughter who was below eighteen (18) years old[5] and one (1) Information for attempted rape.[6] The cases were raffled to RTC-Br. 42 in Dagupan City, Pangasinan.

Roland Molina was arraigned on the four (4) indictments for incestuous rape on 18 May 1999. He pleaded not

guilty to each of the four (4) charges. On 20 May 1999 these cases were consolidated with the attempted rape to which he also pleaded not guilty on 3 June 1999, after which, the pre-trial was conducted for all the five (5) cases. The trial commenced on 22 July 1999 with the mother of complaining witness Brenda Molina testifying. Parenthetically, two (2) of the Informations (Crim. Cases Nos. 99-02818-D and 99-02819-D), both for incestuous rape, were amended to specify the dates of commission of the crimes.

On 30 August 1999 the hearing was cut short when the prosecution "asked for a deferment to determine whether the proposal of the accused to withdraw his plea of not guilty and change same (sic) to guilty could have the effect of lowering the penalty attached to the offense charged to reclusion perpetua." [7] Trial was thus reset to 2 September 1999 on which date the defense counsel manifested the desire of accused-appellant to change his plea to guilty as regards all the five (5) crimes since he "was being bothered by his conscience and by way of contrition would like to make amends." [8] Thus he was immediately re-arraigned and entered a plea of guilty "after," as the trial court noted, "the consequences of the change of plea had been duly explained to him by his counsel and by 1st Asst. Provincial Prosecutor Eugenio Manaois, the public prosecutor handling the case for the prosecution." [9] Despite this observation of the trial court, there is nothing on record to determine what this explanation consisted of. By way of concession, after accused-appellant was arraigned, the defense counsel prayed for liberality from the trial court "even only by recommending the accused for executive clemency." [10]

The prosecution then proceeded to present its evidence on 16 September 1999 to ascertain with precision the real culpability of accused-appellant. All in all, the prosecution evidence consisted of (a) the testimonies of Brenda, her mother, the police investigators, a barangay councilor, and the medico-legal officer, and (b) certain documents, e.g., the birth certificate of Brenda, the medico-legal certificate, and the letter of accused-appellant to his daughter Brenda begging the latter's forgiveness. While the defense counsel cross-examined the prosecution witnesses, he did not introduce any evidence in behalf of accused-appellant.

On 10 November 1999 the trial court rendered judgment finding accused-appellant guilty of the five (5) crimes charged on the basis of "the change of plea by the accused from not guilty to guilty, and the testimony of the offended party Brenda Molina and the corroborating evidence presented by the prosecution, both oral and written." [11] The trial court however strongly recommended executive clemency in light of his plea of guilt and his alleged letter that ambiguously expressed his remorse for some unidentified acts. No notice of appeal was filed from the conviction in the criminal case for attempted rape. Accused-appellant was thereafter transferred from the Pangasinan Provincial Jail to the National Penitentiary at Muntinlupa City.

The Public Attorneys Office, in its Brief for the Appellant, asserts that accused-appellant's plea of guilty was improvidently made.

We find merit in this observation. Verily it was incumbent upon the trial court to observe the provisions of Secs. 1, par. (a), and 3, of Rule 116, 1985 Rules on Criminal Procedure, when accused-appellant manifested his intention to withdraw his earlier plea of not guilty to re-enter a plea of guilty to the four (4) crimes of incestuous rape and one (1) attempted rape. In this regard, we find critical omissions in the procedure adopted by the trial court in the re-arraignment of accused-appellant. For one, Sec. 1, par. (a), of Rule 116 of the Rules of Court, [12] which requires that the accused-appellant must be furnished a copy of the complaint or information with the list of witnesses to be read to him in the language or dialect known to him, was not followed by the trial court. Record of the re-arraignment merely noted that "the accused was re-arraigned and [he] entered a plea of guilty separately in the five-entitled cases after the consequences of the change of plea have been duly explained to him x x x" [13] but it does not state that copies of the five (5) Informations and the list of witnesses were given to him and the Informations read in a language that he knows. We ruled in *People v. Bello* [14] that when the death penalty is at stake, the presumption of regularity in the performance of official functions does not apply -

The original record of this case is completely bereft of any document concerning accused-appellant's supposed re-arraignment. We cannot presume that the re-arraignment of accused-appellant was regularly conducted. We cannot lean on this rebuttable presumption especially when a man's life is at stake. We cannot anchor our judgment based on mere speculations and conjectures. Rather, we must be positively convinced.

Clearly, it cannot be said that the trial court complied with this rule.

Even the certificate of re-arraignment[15] contradicts the statement therein that accused-appellant was separately re-arraigned in the five (5) criminal cases. This certificate states "complaint" (singular) rather than "complaints" (plural) since there were five (5) criminal cases to which he was allegedly pleading guilty[16] and thus irregularly attests to his guilty plea to only one (1) of the five (5) Informations.[17] In *People v. Estomaca*[18] we held -

At threshold, what strikes this Court as peculiar is that the arraignment appears to have consisted merely of the bare reading of the five complaints, synthetically and cryptically reported in the transcript, thus: "(Reading the information/complaint to the accused in Ilonggo/local dialect)." Since what was supposed to have been read was stated in the singular, but there were five criminal complaints against appellant, this Court is then left to speculate on whether all five criminal complaints were actually read, translated or explained to appellant on a level within his comprehension, considering his limited education.

Moreover, the trial court did not conduct a searching inquiry to establish that the plea of guilty was done voluntarily with full awareness of its consequences.[19] This procedure is anchored on Sec. 3, of Rule 116, 1985 Rules of Criminal Procedure -

When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence on his behalf.

Under established principles, a searching inquiry must not only comply with the requirements of Sec. 1, par. (a), of Rule 116 but must also expound on the events that actually took place during the arraignment, the words spoken and the warnings given,[20] with special attention to the age of the accused, his educational attainment and socio-economic status[21] as well as the manner of his arrest and detention, the provision of counsel in his behalf during the custodial and preliminary investigations, and the opportunity of his defense counsel to confer with him.[22] These matters are relevant since they serve as trustworthy indices of his capacity to give a free and informed plea of guilt.[23] Lastly, the trial court must explain the essential elements of the five (5) crimes he was charged with and their respective penalties and civil liabilities,[24] and also direct a series of questions to defense counsel to determine whether he has conferred with the accused and has completely explained to him the meaning of a plea of guilty.[25] This formula is mandatory and absent any showing that it was followed, a searching inquiry cannot be said to have been undertaken.[26]

Nothing on record shows that the foregoing inquiry was complied with, or in any manner or event answered. Not even the assurance conveyed to us by the Order of the trial court of 2 September 1999 sketchily alleging compliance with the requirements satisfies a searching inquiry -

In today's hearing, the private offended party was supposed to continue with her testimony. Atty. Elmer Surot, counsel for the accused, however, manifested that the accused was being bothered by his conscience and by way of contrition would like to make amends by withdrawing his pleas of not guilty in the above-entitled cases and change same to pleas of guilty. Thus, the accused was re-arraigned and entered a plea of guilty separately in the five-entitled cases after the consequences of the change of plea have been duly explained to him by his counsel and by 1st Asst. Provincial Prosecutor Eugenio Manaois, the Public Prosecutor handling the case for the prosecution.

With this Order alone, we have nothing to go by to state for sure that the trial court followed the steps or asked the questions outlined above or that accused-appellant's own counsel advised him adequately. As stated above, we do not presume compliance with the requirements from a silent record. The fact that the consequences of the plea were explained to accused-appellant does not comply with the strict parameters of a searching inquiry since "a mere warning that the accused faces the supreme penalty of death is insufficient." [27] There are therefore clearly no verifiable facts for us to assume that he completely comprehended the legal significance of a guilty plea and the nature of the crime or crimes he confessed to.

Equally distressing is the correlated omission of the transcripts of stenographic notes of the supposed re-arraignment or plea colloquy of accused-appellant. We have emphasized the need for and importance of such transcripts, [28] and even more in the instant case where accused-appellant manifested his desire to change his plea on the condition that the death penalty would not be imposed. Thus the trial court deferred the hearing on 29 August 1999 precisely to give the prosecution time to "x x x determine whether the proposal of the accused to withdraw his plea of not guilty and change the same to guilty could have the effect of lowering the penalty attached to the offense charged to reclusion perpetua." [29] If the searching inquiry were reduced into writing, this Court would have been duly informed of accused-appellant's sincere intention to change his plea despite the imposition of the capital penalty and the legal impossibility of any promise of reward.

In view of the foregoing we have no alternative but to set aside the plea of guilty. [30]

It is also urged in the Brief for the Appellant that an improvident plea of guilty per se results in the remand of the criminal case(s) to the trial court for the re-arraignment of accused-appellant and for further proceedings. We hold that this argument does not accurately reflect the standing principle. Our jurisdiction does not subscribe to a per se rule that once a plea of guilty is deemed improvidently made that the accused-appellant is at once entitled to a remand. To warrant a remand of the criminal case, it must also be proved that as a result of such irregularity there was inadequate representation of facts by either the prosecution or the defense during the trial. In *People v. Abapo* [31] we found that undue reliance upon an invalid plea of guilty prevented the prosecution from fully presenting its evidence, and thus remanded the criminal case for further proceedings. Similarly in *People v. Durango* [32] where an improvident plea of guilty was followed by an abbreviated proceeding with practically no role at all being played by the defense, we ruled that this procedure was "just too meager to accept as being the standard constitutional due process at work enough to forfeit a human life" and so threw back the criminal case to the trial court for appropriate action. Verily the relevant matter that justifies the remand of the criminal case to the trial court is the procedural unfairness or complete miscarriage of justice in the handling of the proceedings a quo as occasioned by the improvident plea of guilty, [33] or what *People v. Tizon* [34] encapsulizes as the "attendant circumstances."

Where facts are however adequately represented in the criminal case and no procedural unfairness or irregularity has prejudiced either the prosecution or the defense as a result of the improvident plea of guilty, the settled rule is that a decision based on an irregular plea may nevertheless be upheld where the judgment is supported beyond reasonable doubt by other evidence on record [35] since it would be a useless ritual to return the case to the trial court for another arraignment and further proceedings. [36]

After a careful examination of the records, we find that the improvident plea of guilt of accused-appellant has affected the manner by which the prosecution and the defense conducted its presentation of the evidence, and the trial court in carefully evaluating the evidence on record. Remand of Crim. Cases Nos. 99-02817-D, 99-02818-D, 99-02819-D, 99-02820-D and 99-02821-D for re-arraignment and further relevant proceedings is therefore proper. First, the prosecution failed to lay the proper foundation for the introduction of the alleged handwritten letter of accused-appellant acknowledging his guilt for the rape of his daughter. This could very well be attributed to the

fact that this letter was introduced only after accused-appellant pleaded guilty to the accusations for which reason the prosecution no longer endeavored to elicit the proper foundation for this evidence.

Under Sec. 20 of Rule 132, Rules of Court, proof of the authenticity and due execution of this letter is done by "anyone who saw the document executed or written" or "evidence of the genuineness of the signature or handwriting of the maker." Brenda's testimony that the letter was given to her by her father's nephew and grandfather and that it was signed by accused-appellant does not prove the authorship of the letter.[37] In the first place, no foundation was laid to ascertain that she knew the signature of her father, and her reliance upon statements of her father's nephew and grandfather (even if truly said) would be hearsay and speculative. Furthermore, the contents of the letter are, as it is, far from damaging. Its relevant parts are ambiguous from which we cannot infer anything about the alleged cases of rape of Brenda. It states, "x x x please forgive me for what happened to us x x x so please forgive and I'll promise I will not repeat anymore what I have done to you." Verily, several conclusions could be deciphered from these statements that may have nothing to do at all with rape.

It is certainly within the power of the prosecution to compel accused-appellant's nephew and grandfather to prove the authenticity and due execution of the alleged damning letter since they were the sources thereof. Or perhaps if accused-appellant was indeed pleading guilty then, he could very well accommodate the prosecution by owning authorship of the letter and clarifying its meaning. This the prosecution may undertake in the course of the proceedings upon remand of the criminal cases.

Second, the presentation of the prosecution's case was lacking in assiduity and was not characterized with the meticulous attention to details that is necessarily expected in a prosecution for a capital offense. In his examination of Brenda after accused-appellant pleaded guilty, the public prosecutor was evidently concerned with abbreviating the proceedings as shown by his failure to clarify such ambiguous statements as "he repeated to me what he had done to me" when previously he pursued such ambiguities to their clear intended meanings. It is clear to our mind that the prosecution did not discharge its obligation as seriously as it should have had, had there been no plea of guilt on the part of the accused. The prosecutor's questions and Brenda's answers are as follows -

[in August 1998]

Q:

And after kissing your neck as well as your breast, what else did your father do?

A:

He tried to insert his penis inside my private part, sir.

Q: Was he successful?

A:

No sir.

Q:

Why do you know that he was inserting his penis into your vagina?

A:

Because I felt pain, sir.

Q:

When you felt pain, what did you do?

A:

I pushed his arms, sir x x x x

Q:

What happened when you cannot (sic) do anything anymore?

A:

(Witness crying.) He succeeded, sir. He used me x x x x

Q:

When you said your father was successful in doing what he wanted to do and that he used you, what do you mean by he used you?

A:

He had sexual intercourse with me, sir. (TSN, 16 August 1999, pp. 23-25).

[on 22 September 1998]

Q:

After removing your shirt and panty, what did he do next?

A:

That he did what he wanted to do, sir.

Q:

What is that, tell us frankly?

A:

The fact what he does to my mother, sir.

Q:

What is that which your father does to your mother and which he did to you on that night of September 22, 1998, tell us in plain language?

A:

(Witness is crying.) He is already making sex with me, sir. (TSN, 16 September 1999, p. 6).

[about one week after 22 September 1998]

Q: While you were sleeping in your house on that same date which is (sic) approximately one week after September 22, was there anything unusual that took place?

A: Yes, sir.

Q: What is (sic) it?

A: He repeated to me what he did to me for the first time and second time, sir. (TSN, 16 September 1999, pp. 7-8).

[on 24 December 1998]

Q:

While you were sleeping on that night of December 24, was there anything unusual that took place?

A:

Yes, sir.

Q:

What was that?

A:

He repeated to me (again) what he had done to me, sir. (TSN, 16 September 1999, p. 10).

Third, the prosecution could very well clarify why on 1 March 1999 after accused-appellant's wife saw him and Brenda sleeping side by side and after she confronted his husband about it^[38] and was told by her daughter that "if I will tell it to you, my father will kill us,"^[39] accused-appellant was still allegedly able to attempt a rape on his daughter on the same date.^[40] It is our understanding of the behavior of gutter criminals that with the confrontation between him and his wife, he would have laid low a while even for just that day.^[41] The prosecution may want to elucidate on this seemingly unnatural behavior.

Fourth, neither the defense nor the prosecution elicited from the private complainant whether the accusations for incestuous rape and attempted rape were in a manner colored by the seething allegations in the transcript of

stenographic notes that accused-appellant was a violent person towards his family, most especially his wife who is Brenda's mother.[42] This Court would want to know for sure that these criminal cases under review are not merciless equivalents of the alleged violence done by accused-appellant. Our endeavor is to try the case on the facts and not upon the supposedly despicable character of the man.

Fifth, the improvident plea appears to have sent the wrong signal to the defense that proceedings thereafter would be abbreviated. There was thus a perfunctory representation of accused-appellant as shown by (a) his counsel's failure to object to and correct the irregularities during his client's re-arraignment; (b) his failure to question the offer of the alleged letter wherein accused-appellant acknowledged his authorship of the dastardly crimes; (c) his failure to present evidence in behalf of accused-appellant or to so inform the latter of his right to adduce evidence whether in support of the guilty plea or in deviation therefrom; (d) his failure to object to his client's warrantless arrest and the designation of the crime in Crim. Case No. 99-02821-D as attempted rape when the evidence may appear not to warrant the same; and, (e) his failure to file a notice of appeal as regards Crim. Case No. 99-02821-D to the Court of Appeals for appropriate review. This Court perceives no reasonable basis for excusing these omissions as counsel's strategic decision in his handling of the case. Rather, they constitute inadequate representation that renders the result of the trial suspect or unreliable, and as we explained in *People v. Durango*,[43] in violation of the right to counsel of accused-appellant -

The improvident plea, followed by an abbreviated proceeding, with practically no role at all played by the defense, is just too meager to accept as being the standard constitutional due process at work enough to forfeit a human life. It may be opportune to invite attention to the disquisition of the Court in *People v. Bermas*, thus - . . . The right to counsel proceeds from the fundamental principle of due process which basically means that a person must be heard before being condemned. The due process requirement is a part of a person's basic rights; it is not a mere formality that may be dispensed with or performed perfunctorily.

The right to counsel must be more than just the presence of a lawyer in the courtroom or the mere propounding of standard questions and objections. The right to counsel means that the accused is amply accorded legal assistance extended by a counsel who commits himself to the cause for the defense and acts accordingly. The right assumes an active involvement by the lawyer in the proceedings, particularly at the trial of the case, his bearing constantly in mind of the basic rights of the accused, his being well-versed on the case, and his knowing the fundamental procedures, essential laws and existing jurisprudence. The right of an accused to counsel finds substance in the performance by the lawyer of his sworn duty of fidelity to his client. Tersely put, it means an efficient and truly decisive legal assistance and not a simple perfunctory representation.

The flawed re-arraignment of accused-appellant and the invalid admission of his supposed letter-admission were caused by the omission of minimal standards for a searching inquiry in the former and the admissibility of private documents in the latter. We cannot conceive any reasonable legal basis to explain the oversight to contest these errors. Under the same set of facts, it was held in *Commonwealth of Pennsylvania v. Bruno*:[44]

In ruling upon appellant's claim that he was denied effective assistance of counsel, we are guided by the standard established by our Supreme Court in *Commonwealth ex rel. Washington v. Maroney* x x x [O]ur inquiry ceases and counsel's assistance is deemed constitutionally effective once we are able to conclude that the particular course chosen by counsel had some reasonable basis designed to effectuate his client's interests. The test is not whether other alternatives were more reasonable, employing a hindsight evaluation of the record. Although weigh the alternatives we must, the balance tips in favor of a finding of effective assistance as soon as it is determined that trial counsel's decisions had any reasonable basis.

Counsel's failure to insure that the plea colloquy conducted met at least the minimal standards as set forth in Rule 319 and cases of this Commonwealth [have] no reasonable legal basis that we can discern. As such, we hold that appellant was denied effective assistance of counsel.

Considering the other attendant circumstances, with more reason should we so rule in the instant case.

While no longer material to the merits of the criminal cases now under review, it appears to us that accused-appellant's warrantless arrest on 3 March 1999 was contrary to law. We observe with due attention how he was arrested without a warrant and thereafter subjected to the regular process of preliminary investigation without the benefit of a waiver as called for in Art. 125, The Revised Penal Code, and Sec. 7 of Rule 112, 1985 Rules of Criminal Procedure. Without belaboring this matter, it is worth stressing that his warrantless arrest was under no emergency circumstance of flight or risk to law enforcers and more obviously under none of the circumstances stated in Sec. 5, of Rule 113, 1985 Rules of Criminal Procedure. Unfortunately, the public defender did not bring these facts to the attention of the trial court for remedial measures.

The accusation and conviction of accused-appellant for attempted rape in Crim. Case No. 99-02821-D were based on the testimony of Brenda that she was watching television when her father unexpectedly sat beside her, pushed her to the floor, went on top of her, and with their clothes on, wiggled his hips while drubbing his penis on her unexposed vagina.[45] As she further testified, her friends suddenly called out her name from the house's frontage since they were supposed to attend a wake at a relative's house, and the unexpected visitors forced accused-appellant to stop his prurient motions.[46] Considering these allegations, the defense could have plausibly argued accused-appellant's absence of intent to lie with the victim, or given accused-appellant's alleged willingness to plead guilty, at least conferred with the latter to inquire from him if he did have the intention then to have carnal knowledge of his daughter since the crime may constitute acts of lasciviousness and not the crime charged.[47]

Still, as regards the conviction for attempted rape, this Court notes the conspicuous absence of a Notice of Appeal to the Court of Appeals for proper review. It was necessary to file such notice since the conviction does not fall under Sec. 17, par. (1), RA 296 (The Judiciary Act of 1948) as amended which outlines our jurisdiction over "[a]ll criminal cases involving offenses for which the penalty imposed is death or life imprisonment; and those involving other offenses which, although not so punished, arose out of the same occurrence or which may have been committed by the accused on the same occasion, as that giving rise to the more serious offense x x x"[48] In the instant case, it cannot be said that the attempted rape "arose out of the same occurrence or committed by the accused on the same occasion" as the more severe crimes of incestuous rape. The two (2) sets of cases involved distinct offenses committed allegedly at an interval of three (3) months. The prosecution evidence reveals that the last incident of incestuous rape was committed on Christmas eve of 1998 while the attempted rape was perpetrated on 1 March 1999. As can be deduced further from the same evidence, the circumstances in both cases are diverse that clearly accused-appellant was animated by separate circumstances and criminal intent although both crimes were directed against the same victim. The prosecution evidence for the attempted rape shows that he merely commenced the foreplay by mimicking the sexual act while he and his daughter had their clothes on; while in contrast, the four (4) criminal cases of rape involved consummated lust.

This omission is fatal since ordinarily the conviction for attempted rape would by now be already final and executory. No doubt this omission was caused by accused-appellant's improvident plea of guilty that led the public defender to simply shorten the proceedings. Given that the plea of guilty has been set aside, effective counseling would have nonetheless dictated the institution of at least a precautionary appeal to the appellate court if only to assure protection of his client's rights.

Sixth, for whatever reason, accused-appellant had not found a voice in the proceedings a quo. Oddly from the preliminary investigation to the promulgation of judgment his version was never heard of even if prior to his re-arraignment he appeared adamant at denying the crimes charged against him. This situation is lamentable since at the preliminary investigation of a criminal case the Constitution requires that an accused be informed of his

right to counsel and provided with a lawyer if he cannot afford to hire one, and that a waiver of these rights requires the assistance of counsel.

While it is true that un rebutted evidence provides itself an effective corroboration,[49] we cannot give credence to this rule given the circumstances under which such deficiency came about. For one, had the trial court correctly implemented the corresponding rules on plea of guilty, we may not be having this situation where only the private complainant was heard. The absence of the transcripts of stenographic notes of the arraignment proceedings already denies us "full opportunity to review the cases fairly and intelligently." [50] After having set aside the plea of guilty, we could never be sure that accused-appellant would waive telling his version of the story, or that the facts would still be the same after we hear him say his side. Moreover, the sad fact of this omission is that obviously we could have learned more about the crimes alleged by the prosecution if accused-appellant had also participated meaningfully in all the proceedings below. His voice could better assure the fairness of any action for or against him. As in similar situations, we should achieve such comforting posture if the court a quo is required to establish with moral certainty the guilt of accused-appellant who allegedly wanted to confess his guilt by requiring him to narrate the incident or making him reenact it, or by causing him to furnish the missing details.[51]

Lastly, the idea that in our midst runs a paucity of facts is substantiated by the assailed Decision of the trial court itself. It bewailed the sloppy pacing of the trial proper, but in coming up with the judgment of conviction barely summed up the testimony of the private complainant and other prosecution evidence. No reason is given why the trial court found the testimonies of the prosecution witnesses credible except for the bare statement that Brenda wept while on the witness stand and the inadmissible letter allegedly from accused-appellant admitting the charges against him. The assailed Judgment fails to state, in short, the factual and legal reasons on which the trial court based the conviction, contrary to Sec. 2 of Rule 120, 1985 Rules on Criminal Procedure.[52] Thus even the Decision lacks the "assurance to the parties that, in reaching judgment, the judge did so through the processes of legal reasoning x x x a safeguard against the impetuosity of the judge, preventing him from deciding by ipse dixit." [53]

Given the attendant circumstances in the instant case, we are not therefore about to order the execution of accused-appellant because of default by both the public defender and, to a certain degree, the trial court. This Court cannot send him to the death chamber for no matter how outrageous the crime might be or how depraved the offender would appear to be, the uncompromising rule of law must still prevail. Truly, there is in the ethics of judgeship the caution expected of every judge, all the more in this case where the accused stands to be executed four (4) times. The advocate Hugh P. MacMillan drives this point poignantly: "There is almost always something to be said either way. And it is of the greatest importance that that something should be said, not only in order that each party may leave the judgment seat satisfied that, whatever has been the decision, the case has had a fair hearing, but in order that the Court may not reach its judgment without having had in view all that could be urged to the contrary effect. In order that the decisions of the Courts may give satisfaction to the parties and at the same time command respect and acceptance, they must proceed upon full arguments on both sides." [54]

Clearly we are not unmindful that the charges against accused-appellant carry the punishment that is most severe. The death penalty is irrevocable, and deplorably, experience has shown that innocent persons have at times pleaded guilty.[55] The dispossessed of fortune should not be disinherited in law. But neither are we oblivious of Brenda's claim that she was molested and abused successfully by her father four (4) times. When truth stands, to no person will we sell, or deny, or delay, right or justice, and rightly then would the consequent public condemnation and punishment of the perpetrator reassure the victim that she has public recognition and support.[56]

Verily, a judgment of conviction cannot stand upon an invalid arraignment.[57] Since the vice of nullity affects not only the criminal cases for incestuous rape under automatic review but also the criminal case for attempted rape, notwithstanding the absence of a notice of appeal in the latter, we rule to set aside the Joint Decision dated 3 November 1999 in toto. We therefore remand Crim. Cases Nos. 99-02817-D, 99-02818-D, 99-02819-D, 99-02820-D and 99-02821-D to the court a quo for rearraignment and reception of evidence for the prosecution and accused-appellant if both so desire. If the accused-appellant pleads guilty, the trial court is instructed to conduct the searching inquiry and to inform him of his right to adduce evidence, in accordance with the discussion herein made, complete with transcripts of stenographic notes.

WHEREFORE, the Joint Decision dated 3 November 1999 is SET ASIDE. Crim. Cases Nos. 99-02817-D, 99-02818-D, 99-02819-D, 99-02820-D and 99-02821-D are REMANDED to the court of origin for rearraignment of accused-appellant ROLANDO MOLINA Y JOVERE and for further proceedings in accordance with this Decision. For this purpose, the appropriate law enforcement officers are directed to TRANSFER accused-appellant from the National Penitentiary in Muntinlupa City where he is presently detained to the Pangasinan Provincial Jail in Lingayen, Pangasinan, where he shall be DETAINED for the duration of the proceedings in the trial court.

SO ORDERED.

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

Puno, J., on official leave.

Buena, J., on official business.

[1] In *People v. Bolatete*, G.R. No. 127570, 25 February 1999, 303 SCRA 709, 729-730, we criticized the argument that incestuous rape was about inflicting the proper penalty upon a daughter and impressed the point that such crime was designed to humiliate his daughter and destroy her life, good future and the very essence of her existence.

[2] According to Brenda's certificate of live birth (Exh. "E"), she was born on 16 September 1982; TSN, 16 August 1999, p. 17.

[3] Penned by Judge Luis M. Fontanilla of RTC-Br. 42 in Dagupan City, Pangasinan; Original Record, pp. 92-103; Rollo, pp. 64-75.

[4] Embodied in a Joint Resolution by Judge Genoveva Coching-Maramba of MTC-Sta. Barbara, Pangasinan; Original Record, pp. 14-16.

[5] Docketed as Crim. Cases Nos. 99-02817-D, 99-02818-D, 99-02819-D and 99-02820-D.

[6] Docketed as Crim. Case No. 99-02821-D.

[7] Order of Presiding Judge of RTC-Br. 42, Dagupan City, dated 30 August 1999; Original Record, p. 78.

[8] Order of the same Presiding Judge dated 2 September 1999; Original Record, p. 81.

[9] *Ibid.*

[10] *Ibid.*

[11] See Note 3.

[12] This rule states: "The accused must be arraigned before the court where the complaint or information has been filed or assigned for trial. The arraignment must be made in open court by the judge or clerk by furnishing the accused a copy of the complaint or information with the list of witnesses, reading the same in the language or dialect known to him and asking him whether he pleads guilty or not guilty. The prosecution may, however, call at the trial witnesses other than those named in the complaint or information."

[13] See Note 8.

[14] G.R. Nos. 130411-14, 13 October 1999, 316 SCRA 804, 813. See also *People v. Alicando*, G.R. No. 117487, 12 December 1995, 251 SCRA 293.

[15] The Certificate of Re-Arraignment states: This 2nd day of April (sic) 1999, the undersigned states: That, in open court and in the presence of PROS. EUGENIO MANAOIS (Provincial) Fiscal, the following accused, ROLAND J. MOLINA assisted by ATTY. ELMER SUROT (his) counsel, was called and having been informed of the nature of the accusation filed against him by reading the complaint and delivering to him a copy thereof including a list of witnesses, said accused, in answer to the question of the court, pleaded GUILTY to the crime as charged in said complaint; Original Record, p. 80.

[16] *Ibid.*

[17] *Ibid.* See *People v. Asoy*, G.R. No. 132059, 29 June 2001.

[18] G.R. Nos. 117485-86, 22 April 1996, 256 SCRA 421, 433-434.

[19] *People v. Dayot*, G.R. No. 88281, 20 July 1990, 187 SCRA 637.

[20] *People v. Albert*, G.R. No. 114001, 11 December 1995, 251 SCRA 136.

[21] *People v. Nadera*, G.R. Nos. 131384-87, 2 February 2000, 324 SCRA 490.

[22] *Ibid.*

[23] *People v. Alicando*, G.R. No. 117487, 12 December 1995, 251 SCRA 293.

[24] *People v. Bello*, G.R. Nos. 130411-14, 13 October 1999, 316 SCRA 804.

[25] *People v. Durango*, G.R. Nos. 135438-39, 5 April 2000, 329 SCRA 758, 769.

[26] *Ibid.*; see *People v. Tizon*, G.R. No. 126955, October 28, 1999, 317 SCRA 632.

[27] *Ibid.*

[28] *People v. Tizon*, G.R. No. 126955, October 28, 1999, 317 SCRA 632; *People v. Estomaca*, G.R. Nos. 117485-86, 22 April 1996, 256 SCRA 421; *People v. Albert*, G.R. No. 114001, 11 December 1995, 251 SCRA 136; *People vs. Del Rosano*, No. L-33270, 28 November 1975, 68 SCRA 242.

[29] Original Record, p. 29.

[30] See *People v. Sevileno*, G.R. No. 129058, 29 March 1999, 305 SCRA 519.

[31] G.R. Nos. 133387-423, 31 March 2000, 329 SCRA 513.

[32] G.R. Nos. 135438-39, 5 April 2000, 329 SCRA 758, 767.

[33] See 21A Am Jur 2d 663.

[34] G.R. No. 126955, 28 October 1999, 317 SCRA 632, 640.

[35] *People v. Tahop*, G.R. No. 125330, 29 September 1999, 315 SCRA 465; *People v. Nunez*, G.R. No. 128875, 8 July 1999, 310 SCRA 168; *People v. Gaballo*, G.R. No. 133993, 13 October 1999, 316 SCRA 881.

[36] *People v. Rosales*, No. L-38625, 23 October 1981, 108 SCRA 339; *People v. Lakindanum*, G.R. No. 127123, 10 March 1999, 304 SCRA 429; *People v. Jabien*, G.R. Nos. 133068-69, 31 May 2000, 332 SCRA 702; *People v. Delos Santos*, G.R. No. 137889, 26 March 2001.

[37] TSN, 16 September 1999, pp. 22-23.

[38] TSN, 22 July 1999, p. 4.

[39] *Id.*, p. 5.

[40] TSN, 16 September 1999, pp. 10-12.

[41] See *People v. Royeras*, G.R. No. 64849, 29 June 1984, 130 SCRA 259, 270 applying by analogy: "It is contrary to human behavior for the accused-appellant, after committing the rape and almost being caught by the complainant's father, to immediately return to the victim's house and continue the drinking spree."

[42] TSN, 16 August 1999, p. 20; TSN, 16 September 1999, pp. 8, 14-16.

[43] G.R. Nos. 135438-39, 5 April 2000, 329 SCRA 758, 767-768.

[44] 416 A2d 1039, 1042.

[45] TSN, 16 September 1999, pp. 11-12.

[46] *Ibid.*

[47] II L.B. Reyes, *The Revised Penal Code* (1981) 851, citing *U.S v. Tan Teng*, 23 Phil. 145 (1912).

[48] In *People v. Francisco*, G.R. Nos. 135201-02, 15 March 2001, we noted that this provision remains good law.

[49] *People v. De Los Santos*, G.R. No. 137889, 26 March 2001.

[50] *People v. Busa*, No. L-32047, 25 June 1973, 51 SCRA 317, 321.

[51] *People v. Albert*, G.R. No. 114001, 11 December 1995, 251 SCRA 136.

[52] This rule states: "Form and contents of judgment. - The judgment must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts proved or admitted by the accused and the law upon which the judgment is based.

If it is of conviction, the judgment shall state (a) the legal qualification of the offense constituted by the acts committed by the accused, and the aggravating or mitigating circumstances attending the commission thereof, if there be any; (b) participation of the accused in the commission of the offense, whether as principal, accomplice, or accessory after the fact; (c) the penalty imposed upon the accused; and (d) the civil liability or damages caused by the wrongful act to be recovered from the accused by the offended party, if there be any, unless the enforcement of the civil liability by a separate action has been reserved or waived.

In case of acquittal, unless there is a clear showing that the act from which the civil liability might arise did not exist, the judgment shall make a finding on the civil liability of the accused in favor of the offended party."

[53] *People v. Nadera*, G.R. Nos. 131384-87, 2 February 2000, 324 SCRA 490, citing *People v. Bugarin*, 330 Phil. 570, 579-580 (1997).

[54] "The Ethics of Advocacy," an address delivered in 1916, reprinted in Jurisprudence in Action, p. 307, in P. Cook, Treasury of Legal Quotations (1961), pp. 143-144.

[55] People v. Albert, G.R. No. 114001, 11 December 1995, 251 SCRA 136.

[56] A. Cretney & G. Davis, Punishing Violence (1995), p. 178.

[57] People v. Durango, G.R. Nos. 135438-39, 5 April 2000; People v. Tizon, G.R. No. 126955, 28 October 1999; People v. Estomaca, G.R. Nos. 117485-86, 22 April 1996.

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