

EN BANC

[G.R. No. 140208, March 12, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ELPIDIO PASTOR, ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

For automatic review is the decision of the Regional Trial Court of the City of Tagbilaran, Branch 2, in Criminal Case No. 10283, dated August 30, 1999, finding accused-appellant Elpidio Pastor guilty of incestuous rape and sentencing him to suffer the supreme penalty of death with its accessory penalties, to indemnify the complainant Maria Niña R. Pastor the sum of P75,000.00, and to pay the costs.^[1]

In an Information^[2] dated March 12, 1999, accused-appellant was charged with the crime of Incestuous Rape, committed as follows:

“That on or about the 7th day of May, 1998, in the Municipality of Loon, Province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused with lewd designs, entered the room of his own daughter, Maria Niña R. Pastor (accused being the biological father of the victim), a 13-year-old girl, and once inside did then and there willfully, unlawfully and feloniously, by means of force and intimidation, lie on top of her, insert his penis in the vagina of the said offended victim, Maria Niña R. Pastor, and succeeded in having carnal knowledge of her against her will and without her consent resulting in the pregnancy of the victim, to the damage and prejudice of the latter.

Acts committed in violation of Sec. 2, Art. 266-B, par. 1, of RA 8353, amending [Article] 335 of the Revised Penal Code.”

On April 8, 1999, accused-appellant was arraigned and, with the assistance of PAO lawyer Atty. Perpetuo Magallano, entered a plea of not guilty.

During the hearing on June 23, 1999, Atty. Adriano Damalerio of PAO manifested that after a conference with accused-appellant, the latter had decided to change his plea from Not Guilty to Guilty. The trial court ordered that the previous plea of not guilty be set aside and that accused-appellant be arraigned anew. Upon re-arraignment, accused-appellant entered a plea of guilty to the Information which was read and translated to him in the Visayan dialect. Thereafter, the trial court propounded clarificatory questions to accused-appellant to ascertain whether he understood the consequences of his plea.

Accused-appellant then testified on the mitigating circumstances of plea of guilty, voluntary surrender and drunkenness which is not habitual. The prosecution

admitted the plea of guilty and voluntary surrender. Accused-appellant offered evidence to prove drunkenness. He testified that on May 7, 1998, he drank tuba and in his drunkenness, he was led to think bad about his daughter, herein complainant, because his wife left him. He claims that it was never his intention to rape his daughter.^[3]

Subsequently, the prosecution was ordered to prove the culpability of accused-appellant. Complainant Maria Niña testified that on May 7, 1998, at about 3 o'clock in the morning, she was raped by her father, herein accused-appellant, in their house at Catagbacan Sur, Loon, Bohol. Her parents were already separated at that time and her mother was living in Manila. Complainant was impregnated^[4] and gave birth on December 12, 1998.^[5] On cross examination, complainant testified that she was 13 years old at the time of the incident;^[6] that she had a premature delivery and her baby died five days after birth; that nobody forced her to file the complaint against accused-appellant; and that she pursued the prosecution of the case against accused-appellant knowing that he may be sentenced to death.^[7]

On August 30, 1999, the court *a quo* rendered judgment finding accused-appellant guilty beyond reasonable doubt of the crime of incestuous rape. It nevertheless recommended the commutation of the sentence from death to *reclusion perpetua* by reason of the remorseful attitude exhibited by accused-appellant. The dispositive portion of the decision reads:

"WHEREFORE, in Criminal Case No. 10283, the Court finds accused **ELPIDIO PASTOR**, guilty beyond reasonable doubt of the crime of Incestuous Rape, defined under Par 1 (a) of Article 266-A and penalized under Par 5, No. (1) of Article 266-B, of the Revised Penal Code, as amended by Republic Act No. 8353, and hereby sentences said accused **ELPIDIO PASTOR** to suffer the supreme and indivisible penalty of **DEATH**, in the manner provided for by law, with the accessory penalties of the law, to indemnify the offended party, Maria Niña R. Pastor the sum of P75,000.00, and to pay the costs.

The Court herein was saved of its precious time in conducting (a) full-dress trial because the accused pleaded guilty. The prosecution even conformed to accused' (sic) claim of the mitigating circumstances of voluntary surrender and spontaneous plea of guilt.

When the accused took the witness stand to prove the circumstance of drunkenness, which is not habitual, which was not conceded by the prosecution, we found him to be meditative and remorseful, a behaviour which is quite different from other death-row convicts, who despite the onus of the evidence against them, with insistence, persist in needlessly taxing the court on their claim of innocence, all throughout the trial and even after the affirmance of their conviction by our Highest Court. We believe that accused herein should not be equated to the likes of these calloused and non-repentant offenders.

It is therefore on the basis of the foregoing circumstances, and in the highest interest of humane and compassionate justice, that we are minded of the provisions of Article 5, paragraph 2 of the Revised Penal

Code, and hereby, without suspending the execution of the sentence herein, recommends unto the President of the Republic of the Philippines, thru the Secretary of Justice, the commutation of accused' (sic) sentence from death to *reclusion perpetua*.

Accordingly, let copy of this decision be furnished the Secretary of Justice, Padre Faura, Manila, for whatever recommendation he may deem proper to His Excellency, the President of the Republic of the Philippines.

SO ORDERED."

In his appellant's brief, accused-appellant avers that the trial court gravely erred in not applying the guidelines for a plea of guilty to a capital offense provided in Section 3, Rule 116 of the Revised Rules of Criminal Procedure. Specifically, it is contended that the trial court failed to conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the accused-appellant's plea, pursuant to the ruling laid down in the cases of **People vs. Bello**^[8] and **People vs. Dayot**.^[9] Allegedly, the questions propounded to the accused-appellant were limited to his family background and personal circumstances. Accused-appellant thus prays that the case be remanded to the court *a quo* for a full-blown trial.

Section 3, Rule 116 of the 1985 Rules of Criminal Procedure provides, *viz*:

"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 his culpability. The accused may present evidence in his behalf."

When a plea of guilty to a capital offense is entered, the trial court is duty bound to: (1) conduct a searching inquiry into the voluntariness of the plea and the accused's full comprehension of the consequences thereof; (2) require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and (3) inquire from the accused if he desires to present evidence on his behalf and allow him to do so if he desires.^[10] The rationale behind the rule is that the courts must proceed with more care where the possible punishment is in its severest form, namely 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.^[11] Moreover, the requirement of taking further evidence would aid this Court on appellate review in determining the propriety or impropriety of the plea.^[12]

I.

Anent the first requirement, the searching inquiry must determine whether the plea of guilt was based on a free and informed judgment. Hence, it must focus on (1) the voluntariness of the plea, and (2) the full comprehension of the consequences of the plea.^[13] Although there is no definite and concrete rule as to how a trial judge must conduct a "searching inquiry," we have held that the following guidelines should be observed:

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 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.^[14]
5. Inquire if the accused knows the crime with which he is charged and 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.^[15]
6. All questions posed to the accused should be in a language known and understood by the latter.^[16]
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.^[17]

In the case at bar, the records will show that the trial court miserably failed to discharge its duty to conduct a "searching inquiry," to wit:

"ATTY. ADRIANO DAMALERIO:

Yes, your Honor, and the accused is now ready to enter a plea of Guilty, and I would like to manifest, Your Honor, that the accused was already arraigned and he entered the plea of Not Guilty and he would like to change his plea of Not Guilty to Guilty, Your Honor, and we move that the earlier plea of Not Guilty be vacated and the accused be re-arraigned.

COURT:

Let the previous plea of Not Guilty by the accused Elpidio Pastor be set aside and re-arraign the accused now.

COURT:

Call the accused, Elpidio Pastor, and arraign the accused.

RECORD:

COURT INTERPRETER: reads the Information of Incestuous Rape and translated the same to the accused in Visayan vernacular.

COURT TO ACCUSED ELPIDIO PASTOR:

Let's ask the accused Elpidio Pastor, whether he understood the Information read and translated to him in the Visayan vernacular.

COURT INTERPRETER TO THE ACCUSED:

Q Do you understand the Information read to you?

ACCUSED ELPIDIO PASTOR:

A Yes, Your Honor.

COURT:

Q Now, having understood the Information, Mr. Elpidio Pastor, what is your plea, guilty or not guilty?

ACCUSED ELPIDIO PASTOR:

A **I admit, Your Honor, that I have committed a sin.**

COURT:

Enter a plea of Guilty as expressed by accused Elpidio Pastor through his very own mouth, upon his re-arraignment today.

COURT TO ELPIDIO PASTOR: