

EN BANC

[G.R. No. 128289, April 23, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GREGORIO LIMA Y SILPA, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

Among the heinous crimes, none stirs up so much public outrage, repulsion and hatred than incestuous rape. It is so odious and disgusting that the perpetrator rightfully must feel the anger and spurn of society. Indeed, a father who stains the purity and dignity of his own flesh and blood has reduced himself to the lowliest of lowly beasts.

Gregorio S. Lima was charged by her own daughter, Sherilyn Lima, before the Regional Trial Court (RTC), Branch 17, Davao City, with two counts of rape under the following informations:

Criminal Case No. 36,517-96 ^[1]

"The undersigned accuses the above-named accused of the crime of rape under Art. 335 of the Revised Penal Code, upon the instance of the complainant, Sherilyn B. Lima, who is a minor, and her mother, Erlinda B. Lima, and witness SPO2 Ricardo M. Arcilla, whose affidavits are hereto attached to form part of this information. The crime is committed as follows:

"That sometime in 1992, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation and abuse of superior strength, did then and there willfully, unlawfully and feloniously have carnal knowledge with her daughter, Sherilyn B. Lima, a minor who is below fourteen (14) years of age, against her will.

"Contrary to law."

Criminal case No. 36,380-96 ^[2]

"The undersigned, SHERILYN LIMA Y BARLIZO, after having been duly sworn according to law, accuses her father, GREGORIO LIMA Y SILPA of the crime of rape, under Art. 335, par. 1 of the Revised Penal Code, as amended by Republic Act 7659, committed as follows:

"That on or about January 20, 1996, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, the above-mentioned

accused by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, who is 14 years of age against her will.

"Contrary to law."

The two cases were originally raffled to the two branches of the said RTC. When arraigned separately on the two Informations, accused pleaded "Not guilty." Thereafter, the two cases were consolidated in Branch 17.

On November 20, 1996, counsel for the accused manifested that the latter would change his plea of not guilty to both charges. [3] Upon rearraignment, he entered a plea of "Guilty." Thereafter, upon order of the trial court, the prosecution presented its evidence and rested its case.

The prosecution's evidence consisted of the testimonies of the victim, Sherilyn Lima, her mother, Erlinda Lima, SP02 Ricardo Arcilla, and Dr. Danilo P. Ledesma.

Sherilyn was 15 years old when she testified in court on November 20, 1996 about her harrowing experience in the hands of her very own father. She identified her Certificate of Live Birth [4] which indicates that she was born on August 14, 1981 in Davao City, and that her father is Gregorio Silpa Lima, the accused. She narrated that sometime in 1992, when she was only 10 years old, her father, whom she identified in court, raped her in their house located in Sitio Concepcion, Indangan, Buhangin, Davao City. He warned her not to inform anyone about that incident lest he would kill all of their family members. Because of fear that he would harm them, she did not tell her mother what he did to her. Since that incident in 1992, she had been repeatedly ravished by the accused on occasions when her mother was out of the house. In all those instances, she repeatedly pleaded to him to stop abusing her, but her pleas only fell on deaf ears. [5]

Sherilyn further testified that in the evening of January 20, 1996, when she was 14 years old, she was sleeping in the sala of their house together with her brothers. At that time, her mother was attending a birthday party in her sister's place about 16 kilometers away. Sherilyn was roused from her sleep by the accused, telling her to transfer to the master's bedroom. When she asked why, he replied that he would do something to her. Inside the room, he instructed her to undress and lie down. He then placed himself on top of her, kissed her private parts, and inserted his organ into her vagina. Sherilyn felt extreme pain in her vagina while he was raping her. But she could not resist for fear he would kill her. [6]

According to Erlinda Lima, Sherilyn's mother, at around 10:00 in the evening of the same date, she arrived home and noticed that the gate of the house was locked from inside. She then entered the gate of her brother-in-law, which was beside their house, and proceeded to her house. When she entered the master's bedroom, she was surprised to find Sherilyn sleeping on the bed. She approached her daughter, removed the blanket and saw her totally naked. Erlinda told her to dress up because they were attending her nephew's birthday party. At that moment, the accused went out to open the gate. When he returned, Erlinda did not let him notice her suspicion. On their way to the house of Erlinda's sister, Sherilyn cried as she confided to her mother that the accused raped her. She also told her mother that when she was ten,

or four years earlier, she was already ravished by her father. Thereupon, Erlinda brought Sherilyn to the police station and reported the rape incidents.

In the course of her testimony, Erlinda also identified and confirmed the Certificate of Live Birth (Exhibit "B") of her daughter and further testified that she is legally married to accused Gregorio Lima. [7]

Meanwhile, at midnight of that same day, January 20, 1996, SPO2 Ricardo Arcilla and several policemen, together with Sherilyn and her mother, proceeded to the house of accused. SP02 Arcilla invited him to go with them to the police station, but the latter resisted. Forthwith, Arcilla asked a fellow policeman to handcuff the accused and brought him to the police station. [8]

Thereafter, Dr. Danilo P. Ledesma, Medico-legal Officer of the Davao City Health Office, physically examined Sherilyn and found "old healed deep lacerations at 3 and 8 o'clock positions" in her hymen. He also observed that her "hymenal orifice...admits a tube 3.0 in diameter." He estimated that the lacerations could be more than four (4) months old, or possibly more than three (3) years old. He also found spermatozoa in her vaginal canal. These findings are reflected in the Medical Certificate he issued on January 22, 1996. [9]

The accused pleaded guilty to the charges. He testified that on January 21, 1996, the police went to his house and invited him to the police station for investigation regarding the rape incident. He then extended his two arms to be handcuffed showing that he voluntarily surrendered. [10] He already knew that his wife Erlinda and daughter Sherilyn would go to the police station to have him arrested. He declared that her daughter "agreed" to what he had done to her "because she used to get money from my wallet, (so) she cannot refuse anymore." When asked why he raped his daughter, he answered, "Because at times that I am drunk, I lost my composure and Sherilyn used to lay down inside my room." He also admitted having raped her when she was 10 years old. [11]

The defense rested its case with the prayer that the "voluntary plea of guilty and voluntary surrender" be appreciated as mitigating circumstances so as to reduce the penalty to be imposed upon the accused. [12]

On November 29, 1996, the trial court rendered a Joint Judgment, [13] the dispositive portion of which reads:

"Accordingly, **finding the evidence of the prosecution more than sufficient to prove the guilt of the accused Gregorio Lima Y Silpa beyond reasonable doubt of the offense charged for rape under Criminal Case No. 36, 517-96**, said accused is sentenced to suffer an indivisible **penalty of reclusion perpetua** pursuant to Art. 335, par. 3 of the Revised Penal Code, together with all the accessory penalty attached therewith in accordance with law.

"In Criminal Case No. 36,380-96, finding the evidence of the prosecution, notwithstanding the plea of guilty of the accused voluntarily entered, more than sufficient to prove beyond reasonable doubt the guilt of accused, pursuant to Republic Act

7659, Sec. 11 thereof, sub-paragraph 7, accused Gregorio Lima y Silpa is sentenced to suffer the supreme **penalty of death** by electrocution pursuant to sec. 24 of R.A. 7659 in the manner therein provided, subject to such other method of carrying out his sentence as may be provided for by law, under existing procedure or maybe regulated through other means such as lethal injection to be executed in the manner and procedure therein provided.

"Moreover, pursuant to Art. 100, in relation to Art. 104 of the Revised Penal Code, governing civil indemnity, accused is furthermore ordered to indemnify complainant Sherilyn Lima... the amount of P30,000.00 by way of moral damages of all the ignominy and sufferings she incurred out of accused demonic act of sexually abusing his own daughter.

"x x x." (Emphasis supplied)

In this appeal, appellant asserts, as his lone assignment of error, that "the trial court gravely erred in convicting (him) **on an improvident plea of guilty** and sentencing him to suffer *reclusion perpetua* (in Criminal Case No. 36,517-96) and the supreme penalty of death (in Criminal Case No. 36,380-96)." ^[14]

Appellant argues, in essence, that his plea in both cases was "improvident, fatally defective and void" because the trial court failed to observe the mandatory provisions of Sec. 3, Rule 116 of the Revised Rules of Criminal Procedure, which provides –

"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."

Appellant claims that nothing on record shows that: a) he understood the two (2) separate charges against him; and b) he was made to understand and was specifically warned that in Crim. Case No. 36,380-96, he shall be sentenced to death and that his plea of guilty shall not in any way affect or reduce the penalty.

The records of the proceedings during the rearraignment of appellant show how he entered his plea of guilty, thus:

"ATTY ARIQUEZ: For the accused. We would like to inform the Honorable Court that the accused intend to withdraw his plea of not guilty to both charges and instead enters a plea of guilty to both charges.

COURT: Does he understand the consequences of this?

ATTY. ARIQUEZ: Yes, your Honor.

COURT: Alright, re-arraign the accused.

COURT INTERPRETER:

Reading both informations to accused:

ACCUSED: GUILTY.

COURT: In these two informations against you, you understand the extent and implication of your plea of guilty?

ACCUSED: I know, your Honor because I committed a mistake.

COURT: Were these matters explained and fully understood by you upon assistance by your counsel?

ACCUSED: Yes, I was advised by my lawyer and I understand what he explained to me, very clearly.

COURT: I would like to explain to you and understand, that upon your plea of guilty on the two offenses, very serious offenses, in fact, capital offenses, you may be sentenced to life or death penalty, you understand that?

ACCUSED: Whatever will be the judgment I will gladly accept it Your Honor.

COURT: The court is explaining to you the consequences now, did you understand the explanation given to you by the court?

ACCUSED: I understand your Honor.

COURT: Do you still insist that you plead guilty in these two offenses just read to you?

ACCUSED: Yes, I will accept it.

COURT: Were you forced or intimidated or unduly influenced by anybody in your plea of guilty in these two offenses?

ACCUSED: No one has forced me to admit the two charges, it is voluntary on my part.

COURT: In other words, despite the explanation of the court and your lawyer, it is voluntary on your part that you will plead guilty to the two offenses?

ACCUSED: It is my voluntary plea of guilty in these two cases.

COURT: The court is convinced on the voluntariness of plea of guilty of accused in both cases, but considering the matter of these charges against the accused, capital offenses, and pursuant to the ruling of the Supreme Court, despite his plea of guilty, the prosecution will still present its evidence against the accused, and the accused, if the defense decides to present, the court will receive his evidence, despite his plea of guilty." [15]

Appellant's theory does not convince us.

There is no definite and concrete rule as to how a trial judge may go about the matter of a proper "searching inquiry" as required by the aforecited rule.[16] It is incumbent upon a trial judge to ascertain and be totally convinced that the plea of guilty was voluntarily made and its consequences fully comprehended by the accused.