

## EN BANC

[ G.R. No. 135438-39, April 05, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
BONIFACIO DURANGO Y CARCEDO, ACCUSED-APPELLANT.**

### DECISION

**VITUG, J.:**

Before this Court, for automatic review, is the decision of the Regional Trial Court of Malabon, Branch 170, in Criminal Case No. 18897-MN and Criminal Case No. 18898-MN, jointly tried, which has found herein accused-appellant Bonifacio Durango y Carcedo guilty beyond reasonable doubt of the crime of rape on two counts.

The complaints charging accused-appellant with the crime of rape, allegedly twice committed on the same victim, read:

"CRIMINAL CASE NO. 18897-MN

"That on or about the 21st day of August, 1997, in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being a father of Noniebeth Durango y Ferolino, with lewd design and by means of force and intimidation, wilfully, unlawfully and feloniously did then and there have sexual intercourse with NONIEBETH DURANGO Y FEROLINO, a minor of 12 years of age against her will and without her consent.

'CONTRARY TO LAW.'

"CRIMINAL CASE NO. 18898-MN

"That on or about the 21st day of September, 1996, in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being a father of Noniebeth Durango y Ferolino, with lewd design and by means of force and intimidation, wilfully, unlawfully and feloniously did then and there have sexual intercourse with NONIEBETH DURANGO Y FEROLINO, a minor of 12 years of age against her will and without her consent.

'CONTRARY TO LAW.'"<sup>[1]</sup>

During the arraignment on 22 January 1998, the public prosecutor moved for a joint trial of the two cases. Accused Bonifacio Durango, with the assistance of counsel and after having been informed, in a language and dialect known to him, of the nature and cause of the indictment, voluntarily entered a plea of not guilty to the criminal complaints. On 14 May 1998, after the prosecution had barely started with the presentation at the witness stand of private complainant, the defense counsel

manifested to the court that the accused wanted to withdraw his earlier plea of not guilty and to substitute it with a plea of guilty to the crimes charged. On the basis of the manifestation, accused was re-arraigned, and this time accused pleaded guilty. The trial court thereupon proceeded to hear the testimony of private complainant.

On 11 August 1998, after the prosecution had concluded its presentation, the trial court rendered the now questioned decision, the pertinent portions of which read -

"As established by the testimony of Noniebeth Durango, the first charge of rape was committed on the night of September 21, 1996 while she was already sleeping inside their house located at 214 Hernandez Street, Catmon, Malabon Metro Manila. She was with her seven (7) years old sister Zeny but then the latter was also sound asleep on the floor. Her father at that instant went beside her and forced her to undress. In fact, it was the accused who removed her clothings, after which, stripped himself of his apparels before allowing his penis to touch the private part of Noniebeth. On the following night, the accused finally penetrated his daughter. Noniebeth felt his penis inside her genital during which moment the accused threatened her not to tell her mother about the incident otherwise they would be killed. That initial sexual coupling was repeated for several times while the mother of Noniebeth was still working in Taiwan.

"The second charge of rape was committed August 21, 1997. This time it happened at around 10:00 a.m. and the mother of Noniebeth was around after returning home in July, 1997. Noniebeth was in her room and her mother was then cooking. The accused went inside and begun to violate her daughter under practically the same circumstances as the first. But this time the threat did not work because Noniebeth by now had gained enough courage to inform her mother about the ordeal she went through in the hands of the accused. Finding it to be an easy way in order to get out of their house, Noniebeth and her mother went to Mindanao to visit her sick grandmother. And upon their return, Noniebeth was examined by a doctor in Manila."<sup>[2]</sup>

The trial court then adjudged:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

"1. In Criminal Case No. 18897-MN, the Court finds accused Bonifacio Durango y Carcedo guilty beyond reasonable doubt of the crime of RAPE and hereby sentences him to suffer the penalty of DEATH;

"2. In Criminal Case No. 18898-MN, the Court finds accused Bonifacio Durango y Carcedo guilty beyond reasonable doubt of the crime of RAPE and hereby sentences him to suffer the penalty of DEATH.

"Likewise, the accused is hereby ordered to indemnify Noniebeth Durango in the amount of P50,000.00, the additional sums of P50,000.00 as moral damages, P30,000.00 as exemplary damages and cost of the suit in each of the crime charged.

"SO ORDERED."<sup>[3]</sup>

In his appeal brief, accused-appellant submitted a lone assignment of error, to wit:

"The Court *a quo* manifestly erred in convicting accused-appellant of the crimes charged despite his improvident plea of guilty."<sup>[4]</sup>

The imposition of the death penalty tasks anew this Court to closely review the judgment of conviction not only whether or not an accused did commit the Crime imputed against him but also whether or not his constitutional rights have been duly protected before and during his trial.

Initially, the accused entered a plea of "not guilty." Just as Noniebeth was called to the witness stand, the defense manifested its intention to substitute the plea of "not guilty" to one of "guilty."

When an accused enters such a plea of "guilty," the trial court is mandated to see to it that the exacting standards laid down by the rules therefor are strictly observed. Rule 116 of the Rules of Court, in part, provides:

"Section 1. Arraignment and plea; how made. - (a) 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.

"(b) The accused must be present at the arraignment and must personally enter his plea. Both arraignment and plea shall be made of record, but a failure to enter of record shall not affect the validity of the proceedings.

"(c) If the accused refuses to plead, or makes a conditional plea of guilty, a plea of not guilty shall be entered for him."

"Section 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."

This Court, in the recent case of *People vs. Tizon*,<sup>[5]</sup> has expressed the rationale behind the rule and it is, at bottom -

"x x x that no accused is wrongly convicted or erroneously sentenced. It constantly behooves the courts to proceed with utmost care in each and every case before them but perhaps nothing can be more demanding of judges in that respect than when the punishment is in its severest form - death - a penalty that, once carried out, is irreversible and irreparable. It cannot be said that when a person pleads guilty to a crime there is no chance at all that he could, in fact, be innocent. Statistics (See *People vs. Estomaca*, 256 SCRA 421, citing *People vs. Albert*, 251 SCRA 136, and 14 Am. Jur., Criminal Law, Section 251, p. 951) can easily dispel that notion."

The records of the case at bar would disclose that the trial court issued a joint order, dated 14 May 1998, to the following effect; viz:

"JOINT ORDER

"At the hearing today, defense counsel manifested that the accused is intending to withdraw his former plea of not guilty and substitute the same with that of guilty to the offenses charged, to which manifestation the Trial Prosecutor interposed no objection.

"Accordingly, the accused withdrew his former plea and was re-arraigned in these two (2) complaints in the language and dialect known to him. With the assistance of his counsel from the PAO, the accused voluntarily entered a plea of guilty in these two (2) complaints.

"Considering that the charges are capital offenses, the Trial Prosecutor was directed to present the complainant, whose testimony was terminated. Thereafter, Trial Prosecutor formally offered his evidence.

"WHEREFORE, these cases are now submitted for decision. Kyle

"SO ORDERED.

"Malabon, Metro Manila, May 14, 1998.

"(SGD) BENJAMIN T. ANTONIO  
J u d g e"<sup>[6]</sup>

The order was preceded by a brief and abbreviated exchange of remarks between the defense counsel and the trial judge hereunder fully quoted; viz:

"ATTY. DE LAS ALAS

For the accused Your Honor

"FISCAL ALIPOSA

For the people Your Honor, we are ready to present the victim, Noniebeth Durango, whose testimony is being offered to establish the allegations in the Informations and particularly to the fact that she is the victim Your Honor.

"COURT

Duly noted. Swear in the witness.

X-----

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"ON THE WITNESS STAND: NONIEBETH DURANGO, 12 years of age, single, a student, and residing at No. 214 Hernandez Street, Catmon, Malabon, Metro Manila, after having been duly sworn to in accordance with law, testified:

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"FISCAL ALIPOSA

Considering the nature of the offense Your Honor, may we