

## EN BANC

[ G.R. No. 127123, March 10, 1999 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JOSEPH LAKINDANUM Y CALMA, ACCUSED-APPELLANT.**

### DECISION

**ROMERO, J.:**

In a decision dated October 10, 1996,<sup>[1]</sup> accused was convicted for the crime of statutory rape and was meted out the capital punishment of death pursuant to Republic Act No. 7659. The dispositive portion of said decision, now up for automatic review, is quoted herein:

"WHEREFORE, finding the accused Joseph Lakindanum guilty beyond reasonable doubt of the crime of rape, he is hereby sentenced to die by electrocution pursuant to RA 7659 and to indemnify his victim in the amount of P60,000 as compensatory damages and P300,000 as moral damages.

SO ORDERED."

As the victim was only nine years old, her mother, Lanie Calaguin, filed the complaint for rape allegedly committed as follows:

"That on or about the 8th day of September, 1996, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court the above-named accused, JOSEPH LAKINDANUM y Calma, by means of intimidation, did then and there, wilfully, unlawfully and criminally, have carnal knowledge upon the person of one CATHERINE CALAGUIN who is under 12 years of age, to her damage and prejudice.

Contrary to Article 334, par. 1 & 3 of the Revised Penal Code, as amended by R. A. 7659."<sup>[2]</sup>

Upon arraignment, accused pleaded "not guilty" to the offense charged. On October 2, 1996, however, just before the direct examination of the victim started, the defense counsel manifested that the accused wanted to withdraw his original plea of "not guilty" and replace it with a "guilty" plea. The Court gave defense counsel time to confer with his client and apprise him of the consequences of entering a "guilty" plea.<sup>[3]</sup>

At the next hearing, the trial court judge examined the accused to determine the voluntariness and full comprehension of the plea he was about to make. Thereafter, Lakindanum was rearraigned and he pleaded "guilty" to the charge.<sup>[4]</sup>

The trial court then proceeded to hear the evidence of the prosecution to establish

Lakindanum's guilt and the precise degree of his culpability. Since the defense already admitted the genuineness and authenticity of the victim's birth certificate and the medical certificate issued by the doctor who examined her, only the victim, Catherine Calaguin, was presented as the lone prosecution witness.

Based on Catherine's testimony, it appears that at around ten o'clock in the morning of September 8, 1996, she rode with the accused in the latter's tricycle together with her grandmothers Sion, Anit, and Coring. The three, however, alighted at Banaoang, leaving Catherine alone with the accused in the tricycle.

Instead of heading home to Malued, Lakindanum drove toward Bonuan and, upon reaching a secluded place concealed from the highway by milly mounds, parked his tricycle and joined Catherine in the passenger cab. He removed his pants and underwear and proceeded to take off Catherine's short pants and panty. Thereafter, Lakindanum placed the girl on top of his lap and inserted his penis into her vagina, accomplishing full penetration and causing her to cry from excruciating pain. Not satisfied, he then inserted his finger into Catherine's vagina. Before taking her home, Lakindanum threatened to kill Catherine if she told anyone about the incident.

Upon reaching home, Catherine did not tell her parents about what happened. However, her mother noticed that her shorts were bloodied and immediately brought her to the hospital for examination. It was there that Catherine revealed her ordeal to the doctor. According to the medical certificate which was admitted as evidence, Catherine's vagina bore lacerations and had traces of spermatozoa.

As their lone assignment of error, the defense asserted that the trial court erred in accepting the accused-appellant's improvident plea of guilty to the crime charged and in not requiring the accused-appellant to take the witness stand to determine his degree of culpability considering that the case involves a capital offense. Defense counsel argued that Lakindanum was not well apprised of the legal consequences of his plea and should therefore be acquitted.

The contention is without merit.

The Court observes that indeed, the manner by which the trial court judge conducted the inquiry into the voluntariness and full comprehension of the accused-appellant's plea of guilty leaves much to be desired.

The rule is that where the accused desires to plead guilty to a capital offense, the court is enjoined to observe the following:

1. It must conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea;
2. The court must require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and
3. The court must ask the accused if he desires to present evidence in his behalf and allow him to do so if he desires. [5]

From the records of the proceedings in the court below, it can be gleaned that the trial judge's manner of apprising Lakindanum of the consequences of his plea was at best, cursory, to wit:

Atty. Taminaya:

We are ready and may we manifest that the accused be allowed to withdraw his plea of not guilty and be re-arraigned?

COURT:

Alright, you call for the accused.

FOR THE COURT:

Your lawyer has informed this court that you are willing to withdraw your plea of not guilty and replace to (sic) that of guilty. Have you been apprised of the consequences of your entering into a plea of not guilty and replace it to (sic) that of guilty?

a Yes, sir.

q And have you been apprised of the consequences of your plea?

a Yes, sir.

q And that you don't have the right anymore to testify in your favor and prove your innocence?

a I don't know, sir, because this is my first time to know that.

q And you still want to plead guilty?

a Yes, sir.

q And of course, under the law, you know that the moment you plead guilty, the court will impose to you the proper sentence?

a Yes, sir.

COURT:

Alright, order.

From the foregoing, it is clear that the judge can hardly be said to have satisfied the requirement of conducting a searching inquiry into the voluntariness and full comprehension by the accused of entering a guilty plea. Worse, the judge erroneously informed Lakindanum that by pleading guilty, the latter forfeited his right to testify and to adduce evidence in his defense. Section 4, Rule 116 of the Rules of Court is clear on the matter:

"Sec. 4. Plea of guilty to a 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."

Considering that Lakindanum stands accused of a capital offense for which he may be put to death, the trial judge should have been more vigilant and solicitous in making sure that the accused-appellant clearly understood the legal consequences of the plea he was about to make.

In *People vs. Alicando*,<sup>[6]</sup> the Court stressed that the plea of guilty to a capital offense is null and void where the trial court inadequately discharged the duty of conducting a "searching inquiry." In that case, the Court remanded the case to the trial court for rearraignment and trial on the merits.

It should be noted,, however, that the proceedings in the present case are not exactly the same as those in Alicando because here, there is sufficient evidence to prove beyond reasonable doubt that the accused-appellant indeed committed the crime charged. The testimony of Catherine, as corroborated by the findings embodied in the medical certificate, shows that she was indeed raped by Lakindanum. Despite her tender age, Catherine was able to relate in a clear, credible, and straightforward manner the events leading to, during, and after her rape. We, therefore, find that the trial court properly relied on the lone testimony of the child victim to convict Lakindanum. To reproduce Catherine's account:

x x x x x x x x

Prosecutor:

What is your age?

a Nine (9), sir.

q When were you born?

a January 30, 1987, sir.

q What did the accused Joseph Laquindanum do you (sic)?

COURT:

Lay the basis, Fiscal.

Prosecutor:

Your honor please, this humble representation believes that the witness is of tender age.

COURT:

The court denies the motion. The witness here appears to be mentally alert, probably of proper discernment. She response (sic) quickly to