

EN BANC

[G.R. No. 125330, September 29, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GODOFREDO TAHOP ALIAS "DODONG GAMAY," ACCUSED-
APPELLANT.**

D E C I S I O N

PER CURIAM:

This assays once more this court's deference and adherence to settled jurisprudence that factual findings of trial courts and their assessment of witness credibility are accorded great weight and respect, especially as this case involves the death penalty.

Asuncion Sereño, native of Bgy. Tuburan, Calubian, Leyte, was last seen alive on 16 July 1995 in the company of accused Godofredo Tahop alias "*Dodong Gamay*." She was 67 years old.

On 7 August 1995 Godofredo Tahop, 32 years old, a farmer, was charged in an Information for rape with homicide^[1] where the alleged victim was Asuncion Sereño. At his arraignment on 18 September 1995 the accused pleaded guilty to the charge. Nonetheless, the prosecution presented its evidence through the eyewitness account of Paquito Aton, and the corroborating testimony of Cinderella vda. de Mure, both of whom were residents of Tuburan, Calubian, Leyte, to prove the guilt of the accused beyond reasonable doubt, more so that the case dealt with a capital offense.

Paquito Aton testified that at around 4:00 o'clock in the afternoon of 16 July 1995 he was gathering grass for his cow in the coconut plantation of a certain Juan Cabillan in Bgy. Tuburan, Calubian, Leyte, when he saw the accused dragging Asuncion Sereño towards a secluded grassy area in the plantation. After a while, the accused hit Asuncion on the head with a bottle of *Pepsi Cola* sending her to the ground. Then, he embraced her, removed her panties and raped her. After the sexual assault, he stabbed her and hacked her to death several times with a bolo about twenty (20) inches long. Aton witnessed this gruesome occurrence from a distance of ten (10) meters. According to Aton, he could do nothing except to crouch and watch as the accused was armed with a bolo and he was overcome by fear. Helpless as he was, he left the crime scene to go home. However, when he arrived home he was informed by his wife that his cow was missing so he had to look for it first before he could tell the deceased's daughter, Eugenia Rosal, at around 7:00 o'clock in the evening about what had happened to her mother. Eugenia and her neighbors immediately set out to look for her mother but the body could not be found until the following morning. Apparently, the cadaver of Asuncion was moved several meters away from where she was rape-slain.

Cinderella vda. de Mure also testified that in the afternoon of 16 July 1995 she and Asuncion Sereño were on their way home after selling dried copra and stopped by a *camalig* to get their slippers they left there earlier. Soon accused Godofredo Tahop passed by astride a carabao which was towing a sledge. Asuncion who was carrying a handbag rode on the sledge which was passing on the pathway intended for the carabao. Cinderella took a different trail that led directly to her house. That was the last time she saw Asuncion alive. She also testified that Asuncion's body was found the following morning beside a big stone about eight (8) fathoms from the carabao pathway.

Dr. Josefina Superable, Municipal Health Officer of the Northwestern Leyte District Hospital, examined the body of the victim as soon as it was found. Her laboratory^[2] and autopsy^[3] reports indicated that the victim was raped as she was found with fresh laceration with minimal blood located at 6:00 o'clock position in the vaginal opening with presence of spermatozoa. Death was due to incised wounds, 1-1/2" x 1/2" x 6-1/2" located at the 6th intercostal space, left hypochondriac area directed posteriorly upward penetrating the left lung; 3" x 1/2" x 1/2", thenar eminence, left hand, and contusion 1-1/2" x 1" middle 1/3 anterior aspect, left thigh.

On 20 February 1996 the prosecution rested and submitted the case for decision. The accused together with his counsel did not object, apparently in view of the former's plea of guilt.

On 13 March 1996 the Regional Trial Court-Br. 11, Calubian, Leyte,^[4] found accused Tahop guilty of the complex crime of rape with homicide and sentenced him to death and to indemnify the heirs of Asuncion Sereño P50,000.00.^[5]

In this automatic review, counsel for the accused contends that the lower court erred in finding that there was a provident plea of guilty and in giving credence to the testimony of the prosecution witnesses.^[6] The defense argues that Tahop's plea of guilty was improvident considering that he had no time to confer with his counsel before he was arraigned. As such his counsel had no opportunity to explain to him the nature of the charge against him and the consequences of his plea of guilt.

We are not convinced. As the records show, the trial court appointed Atty. Romulo Casiber as counsel *de oficio* after having been informed that the accused was not able to secure the services of counsel. After his appointment as counsel *de oficio*, Atty. Casiber asked and was granted permission by the trial court to confer with his client.^[7] Thus, it is not correct to state that accused was not accorded his right to confer with his counsel before the arraignment.

Corollarily, the accused was properly apprised of the nature of the charge against him and the consequences of his plea of guilt. Precisely, his counsel sought permission from the court to confer with him before his arraignment. In addition, the Presiding Judge himself^[8] adequately discharged his duty in conducting a searching inquiry into the voluntariness of his admission of guilt and his comprehension of the implications thereof. In his Order^[9] Judge Maceda stated:

Accused Godofredo Tahop @ Dodong Gamay was arraigned by reading the Information dated August 7, 1995 in a language known and

understood by him and when asked how he pleads to the charge contained in the information, accused freely, voluntarily and spontaneously pleaded guilty thereto.

The Court probed the understanding of the accused on the consequences of his plea. The Court asked him whether he realizes that he pleaded to a heinous crime which is punished by law with death, accused answered in the affirmative. The Court again asked him whether he realizes that with his plea of guilty to a heinous crime, the court is obliged by law to impose death penalty upon him the accused again answered in the affirmative and when asked whether he maintains his plea the accused maintains his plea to the charge against him. To satisfy the court wholly the court asked the accused for the second time whether he maintains his plea of guilty to the charge against him. Accused informed the Court that indeed he maintains his plea of guilty.

This Court has set aside convictions based on pleas of guilt in capital offenses because of the improvidence thereof and when such pleas are the sole bases of the condemnatory judgments. However, where the trial court receives evidence to determine precisely whether the accused has erred in admitting his guilt, the manner in which the plea of guilty is made – whether improvidently or not – loses legal significance for the simple reason that the conviction is based on the evidence proving the commission by the accused of the offense charged. Thus, even without considering the plea of guilt of the accused, he may still be convicted if there is adequate proof on record on which to predicate his conviction.^[10] So, even if accused Tahop's plea was improvidently made, if the evidence presented thereafter by the prosecution is sufficient to prove his guilt beyond reasonable doubt, the court's verdict of guilt based solely on the hard evidence presented can be sustained. At this point then, the improvidence of the plea of guilt is irrelevant. The only challenge left for the prosecution to handle is the assailed credibility of eyewitness Paquito Aton.

The defense imputes that the reliance by the lower court on Aton's testimony as evidence to prove the guilt of accused Tahop is not worthy of belief. He points out inconsistencies in the narration of facts. During his direct testimony, Aton testified that he was gathering grass for his cow when he saw the victim with the accused. But in answer to a subsequent question he stated he was pasturing his cow.

This Court believes that this seeming inconsistency is more apparent than real. In viewing the totality of Aton's testimony, it is crystal clear that he was gathering grass in the coconut plantation of Juan Cabillan when he saw Asuncion with accused Tahop. Before he left to gather grass, he tied the rope securing his cow around a tree situated near his house. After witnessing the incident, he went home with the grass he had gathered. When he reached home however he was informed by his wife that his cow managed to escape as the rope securing it to the tree became loose.

We find this explanation satisfactory and plausible. Significantly, regardless of whether Aton was gathering grass or pasturing his cow at the time he saw the accused together with Asuncion, the material and more relevant fact still remains that Aton had witnessed the brutal and senseless rape-slay of Asuncion.