

SPECIAL ELEVENTH DIVISION

[CA-G.R. CR-HC No. 04995, February 10, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO PANOPIO Y PANGANIBAN ALIAS "RUDY," ACCUSED-
APPELLANT.**

DECISION

SADANG, J.:

Before us is an ordinary appeal from the Decision,^[1] dated March 31, 2011, of the Regional Trial Court of Batangas City, Branch VII, in Criminal Case No. 14506, convicting accused-appellant Rodolfo Panopio y Panganiban of rape under Article 266-A, paragraph 1, in relation to Article 266-B of the Revised Penal Code.

Accused-appellant Rodolfo Panopio y Panganiban (hereafter, accused) was indicted for rape in the Information that reads:

That on or about the 15th day of February, 2006 at about 3:00 o'clock in the morning at Barangay Alalum, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then there willfully, unlawfully and feloniously lie with and have carnal knowledge with his niece, AAA,^[2] while the latter is in a lethargy produced by drunkenness, against her will and consent.

Contrary to law.^[3]

At the arraignment on July 3, 2006, accused, assisted by Atty. Arsenio Hernandez, Jr., pleaded not guilty;^[4] thereafter, pre-trial and trial ensued.

The prosecution's version, as proved by AAA, the private offended party, and her cousin, Analyn Cabral, is as follows:

On Feb 14, 2006, at around 7 PM, AAA, then 19 years old, was in her grandmother's house in Barangay Alalum, San Pascual, Batangas.^[5] She had been residing in said house because she had to take care of her younger brother, BBB, whose schooling was being supported by their aunt Imelda, then working in Canada. Imelda and accused are the siblings of AAA's father. As caretaker of the house, accused stood as father to AAA and BBB. On that day, AAA had asked her cousin, Analyn Cabral, to stay with her for a while in the house and be her companion.^[6]

After dinner, accused asked AAA and Analyn to have a drink with him as it was Valentine's Day and both of them were loveless. Because accused is their uncle and they trusted him, the two girls obliged. Accused asked the girls to buy Emperador

(brandy) from a store for them to drink.^[7] AAA found the brandy bitter because she had never drank it before.^[8] AAA and Analyn added water to their drink but accused dissuaded them from doing so and told them to drink the brandy pure because that would be good for blood circulation especially for Analyn who was menstruating. While the three were drinking, BBB told AAA that he is going upstairs to prepare for an examination the next day. Thereafter, AAA felt dizzy and her eyelids became heavy. She allowed accused to accompany her to the bathroom where she vomited profusely. At around 3 AM the following day, accused accompanied AAA to Imelda's room and massaged her forehead. AAA was still very dizzy. She was about to fall asleep when she felt accused from behind her trying to insert his finger inside her vagina. She tried to shout but accused covered her mouth with his hand.^[9] She wanted to resist but she could not do so because she was very dizzy. Accused then unlocked her bra, kissed her breasts, going down her body and her genitals, and inserted his finger inside her vagina. Accused tried to insert his penis inside her vagina and when he could not do so he inserted his finger repeatedly. Again, accused tried to insert his penis inside her vagina and this time he was able to do so. Before accused left the room, he threatened AAA not to tell anyone what happened or else he would kill her. He also told her that no one would believe her.^[10]

AAA wanted to divulge the incident to someone but she was very scared. She wanted to kill herself and then thought of informing CCC, her older brother. She sent a text message to CCC that she had been raped but did not tell him who did it. She wanted to report the incident but could not do so because accused was always sitting near the telephone. When she had the chance to escape, she left the house with Analyn and went to Dorie Umali, an acquaintance of her aunt, and told her about the incident. Umali accompanied AAA to Dr. Rosalina Caraan-Mendoza who examined her. On the same day, February 15, 2006, AAA, accompanied by her aunt, Margarita Umali, reported the incident at the Municipal Police Station of San Pascual^[11] and she executed a *Sinumpaang Salaysay*.^[12] Even if her brother BBB continued to live in their grandmother's house,^[13] AAA did not return there because for her, it would be a nightmare to do so ("*Para ng bangungot ang tumira sa bahay na iyon*"). Instead, AAA lived with his aunt Margie.^[14]

Dr. Caraan-Mendoza issued a Medico-Legal Certificate, dated February 27, 2006, stating her findings and conclusion thus:

NOI - alledged [sic] rape
DOI - February 15, 2006
TOI - between 1-3 AM
POI - Alalum, San Pascual, Batangas

PPE:

- Conscious, coherent, ambulatory, oriented as to time, place, and person, with the following vital signs:
BP- 120/70 RR- 22/minute
Abwt-44.7 kgs. ABHt- 153 cm.
PR- 92/minute
- Normal looking breast with no signs of physical injuries

noted.

- Mons pubis normal looking, pubic hairs well grown and developed.
- External genitalia – normal looking with gross vaginal bleeding both coming from the vaginal os (sic) and from labia.
- Labia majora slightly gaping:
 - with (+) defloration of the hymen, edges rounded, noncoaptible borders, with gross bleeding compatible to fresh lacerations noted at 3°, 4°, 6° and 9° positions.
- Labia minora: inflamed [sic] (L) labium, noted with multiple bleeding ulcerations, at internal (L) side numbering to three (3), curved ulcerations.
- Vaginal orifice admits 2 examining fingers with resistance, and gross moderate bleeding noted.
- On Speculum examination:
 - (+) signs of resistance noted upon insertion of speculum.
 - pinkish, rounded cervix with moderate bleeding coming from the os.
 - (-) cervical lacerations.
 - smears (#2) from the vaginal vault taken for analysis.
- On Internal examination:
 - cervix smooth, firm but tender.
 - resistance from patient noted upon insertion of examining finger.

CONCLUSION:

1. The above describe [sic] injuries is [sic] compatible as to age and date of inflictions.
2. POSITIVE (+) hymenal lacerations, fresh.
3. Specimens consisting of two (2) vaginal smears spread on two (2) different slides were duly submitted to PNP San Pascual for submission to Canlubang PNP Laboratory for possible sperm cell identification.^[15]

The Medico-Legal Report issued by Dr. Roy Camarillo, Police Chief Inspector and Medico-Legal Officer of the PNP Regional Crime Laboratory states the finding on the vaginal smears taken from AAA thus:

FINDINGS:

Both glass slides, with label "RMP" revealed PRESENCE of SPERMATOZOA thru microscopic examination.^[16]

Accused denied the charge. He testified that on February 14, 2006, he was in his mother's house and watched TV the whole day. In the evening, AAA and Analyn asked for his permission to go to the store to buy something. When the two returned, he found out that they bought Tanduay. He allowed the girls to drink because it was Valentine's Day. AAA and Analyn started drinking at 7 PM and continued until 12 midnight. Accused did not drink or sleep but just watched TV. He also watched the two girls drink as they might vomit in the sala. After the drinking, he and Analyn accompanied AAA in going to the bedroom on the ground floor. Analyn went to a bedroom upstairs and slept. BBB was already asleep. Between

12:30 AM and 1 AM of February 15, 2006, accused went to another bedroom upstairs and slept. He woke up at 6 AM and cooked breakfast for AAA, BBB, Analyn, and himself. After eating breakfast, AAA and Analyn washed their clothes, laughing all the while. The girls then asked accused's permission to attend mass in Bauan and accused saw them laughing and happy as they boarded a jeepney. At 3 PM, he was arrested by the police.

Accused claimed that before the incident in question AAA had been behaving strangely. He averred that AAA was "always laughing and crying everyday" and would even laugh while she is alone.^[17] He stated that he knows of no reason why AAA would charge him of rape.

On March 31, 2011, the RTC rendered a Decision finding accused guilty as charged. The fallo reads:

WHEREFORE, judgment is hereby rendered finding accused RODOLFO PANOPIO y PANGANIBAN GUILTY beyond reasonable doubt as Principal of the crime of SIMPLE RAPE penalized under Article 266-A, par. 1 in relation to Article 266-B of the Revised Penal Code, and sentencing him to suffer the penalty of reclusion perpetua without eligibility for parole and to indemnify AAA the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages. Costs of suit must also be paid by the accused.

SO ORDERED.^[18]

Accused filed a Notice of Appeal^[19] which the trial court approved in an Order^[20] dated April 28, 2011.

In this appeal, appellant alleges that:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME CHARGED WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

RULING

Accused contends that the RTC gave undue importance to the vaginal smear results which were positive for the presence of spermatozoa. He argues that, at best, the presence of spermatozoa shows that sexual intercourse took place but it does not show if the intercourse was forced. Further, he points out that there was no DNA test to determine if the spermatozoa came from him.

The contention does not persuade. In a prosecution for rape, the presence of spermatozoa and the conduct of DNA test are not essential. The important consideration in rape is not the emission of semen but the penetration of the female genitalia by the male organ.^[21] There was no need for the prosecutor to present such evidence.^[22] However, if accused believed that a DNA test would prove his innocence, then he could have asked for such test.^[23]

Accused contends that AAA appears to be suffering from some form of mental illness because prior to the incident in question she manifested "conflicting emotions, e.g.