

FIRST DIVISION

[G.R. No. 215194, December 14, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
RONALDO DELOSO Y BAGARES, ACCUSED-APPELLANT.**

R E S O L U T I O N

LEONARDO-DE CASTRO, J.:

We decide the appeal filed by the accused-appellant Ronaldo Deloso y Bagares^[1] from the Decision^[2] dated July 30, 2014 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00981-MIN. The appellate court affirmed the Decision^[3] dated October 7, 2011 of the Regional Trial Court (RTC) of Cagayan De Oro City, Branch 19 in FC Crim. Case No. 2009-506, which found Deloso guilty of one count of qualified rape.

Deloso was charged with one count of rape committed against AAA^[4] in an Information, the accusatory portion of which provides:

That on September 16, 2009 at more or less twelve midnight, at [XXX], Cagayan de Oro City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while being the common law spouse of the mother of the offended party, by means of force, threat and intimidation, did then and there, willfully, unlawfully and feloniously, have carnal knowledge of the offended party, child [AAA], thirteen years of age, against her will and consent, to the damage and prejudice of the said offended party.

Contrary to law and with the aggravating circumstances that the offended party is below eighteen years old and the accused is the common law spouse of the parent of the offended party.^[5]

When arraigned, Deloso pleaded not guilty to the charge.^[6] After the pre-trial conference, the trial court issued a Pre-Trial Order ^[7] dated December 14, 2009 that contained the following stipulations of fact:

1. Identity of the accused;
2. Accused is the common-law spouse of [BBB], mother of "AAA";
3. Minority of the complainant;
4. [BBB] comes home every Saturday at [XXX], Cagayan de Oro City;
5. Authenticity and due execution of the Living Case Report dated September 1, 2009.

The pre-trial order containing the foregoing stipulations was signed by the accused and his counsel. In the trial that followed, the prosecution presented the testimonies

of BBB,^[8] AAA,^[9] and CCC^[10] (the younger brother of AAA). The defense presented the lone testimony of Deloso.^[11]

The RTC summed up the prosecution's testimonial evidence as follows:

EVIDENCE FOR THE PROSECUTION:

40 years old "BBB", mother of the offended party "AAA" a resident of XXX attests that she and [Deloso] were live-in-partners for 5 years. She works as [a] dishwasher in a restaurant in [YYY], Cagayan de Oro and comes home to [XXX] only every Saturday. This leaves [Deloso], "AAA" and her youngest, 11 years (sic) old son "CCC" in the house. x x x.

"BBB" recalls that on September 17, 2009 at 9:00 o'clock in the morning, a certain "Inday Ayon" called her through telephone at her workplace to go home as her daughter "AAA" was molested by [Deloso] the night before. She immediately went home and arrived at [XXX] at 10:00 o'clock in the morning. Nobody was home, thus she proceeded to the (Puerto) Police Station and there she saw "AAA" crying, while [Deloso] was already inside the detention cell.

"AAA" worriedly told her that her stepfather [Deloso] molested her: accordingly the first on September 15, 2009 and was successively done until September 16, 2009, which incident was witnessed by [her] youngest son, "CCC." "AAA" further told her that [Deloso] would kill them all if she reveals to them the incident. "CCC" also confirmed to her that he saw [Deloso] molesting "AAA" by holding her and mounting her in the room of their house in [XXX] about 12:00 midnight. She had the incident blotted x x x.

Private complainant "AAA," avers that she is now 14 years old having been born on July 22, 1996. x x x.

"AAA" recalls that on September 16, 2009, at about 12:00 o'clock midnight, she, together with [her] 11-year-old brother "CCC" and a certain nephew [DDD] were sleeping side by side in their room - sized about (2 by 2 meters/ 2 square meters) while [Deloso] was sleeping in the "sala." She was awakened when [Deloso] removed her shirt and panty. [Deloso], who was only wearing [a] shirt, without lower garments and underwear, inserted his penis into her vagina. "AAA" felt pain. She did not shout but wrestled against [Deloso] who held her both hands. When asked where was her brother "CCC" when [Deloso] inserted his penis into her vagina, "AAA" clarified that [Deloso] first carried and transferred "CCC" somewhere at her feet's side. While on top of her, [Deloso] warned not to tell "BBB" of the incident. [Deloso] then dressed up, wore his underwear and lie beside her, when "CCC" suddenly shouted at the accused that he will report him to the Barangay. [Deloso] was pissed off saying "bullshit" to "CCC" and threw the blanket at the latter. "CCC" ran through the small door towards their aunt's house. [Deloso] chased him while "AAA" attempted to follow "CCC" but did not push through, instead went back to their house. After a while, [Deloso] came back in the house and slept in the "sala." "AAA" further testified that though it was the first time that "CCC" witnessed [Deloso] raping her, she

revealed x x x to the Court that [Deloso] has been sexually abusing her several times already. x x x "CCC" reported the raping incident to their aunt, and eventually to the Barangay Office that led to the arrest of [Deloso].

"AAA" on the clarificatory questions by the Court admitted that her mother "BBB" had long been suspecting that [Deloso] had raped her, but she had to deny to "BBB" every time the latter would ask her because she was afraid of the threats of [Deloso].

Last prosecution witness is the 12 years old brother of the private complainant, "CCC." His relationship with the accused is not good, since [Deloso] "raped" [his] sister "AAA" in their house. When asked how, "CCC" elaborated this by testifying that [Deloso] opened the skirt of "AAA," removed her panty and mounted on her making a push and pull movement several times and holding her both hands, while "AAA" was crying. He further heard [Deloso] telling "AAA" "*pagtarung ba ayaw paglingas!*" (be cooperative don't keep moving!) "CCC" testified that he was able to wake up when [Deloso] transferred him from beside "AAA" to the place near the door. When asked how he saw [Deloso] raping "AAA," "CCC" answered that there was a light illuminated from their neighbor's house. Though he did not actually see the penis of [Deloso] inserted to "AAA's" vagina, he was certain that [Deloso] was not wearing his "brief"/underwear and that the accused made push and pull motions. When [Deloso] finished raping "AAA" it was then that he shouted at the accused that he would report him to the Barangay Chairman. [Deloso] then threw the blanket at him, saying "bullshit!" "CCC" then ran (passing through a small opening of their house) towards his cousin's house to hide. "CCC" could not exactly recall the date of the raping incident, but he was so certain that it happened in a *midnight in 2009* and at that time he was going to school.^[12] (Citations omitted.)

The prosecution presented the following documentary evidence: (1) the Certificate of Live Birth^[13] of AAA; and (2) the Living Case Report^[14] issued by the Northern Mindanao Medical Center, which contained the results of the medical examination of AAA.

On the other hand, the RTC summarized the testimony of Deloso in this wise:

EVIDENCE FOR THE DEFENSE:

Sole witness for the defense is the accused himself, Ronaldo Deloso to prove that on the night of [the] incident he merely inserted his finger but not his penis into the vagina of "AAA."

On September 16, 2009, he was just in their house at XXX together with "AAA" and "CCC," the children of his live-in-partner "BBB." The children slept early while he slept at 11:00 o'clock in the evening. Admittedly, he inserted his finger into her vagina that night (or as referred by him at 1:00 o'clock early dawn of September 17, 2009) of September 16, 2009 while "AAA" was lying down. [Deloso] claimed that he was never on top of "AAA." "AAA" was then awakened and also "CCC." "CCC" shouted and ran outside. The following day at 7:00 o'clock he was arrested. [Deloso]

further denied that he had sexually molested nor had any sexual intercourse with her prior to September 16, 2009.^[15]

In its **Decision dated October 7, 2011**, the RTC found Deloso guilty of the crime charged. The trial court decreed:

ALL THE FOREGOING CONSIDERED, the Court finds accused Ronaldo Deloso GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined under the 1st paragraph of Article 266-A of the Revised Penal Code, and for which he is imposed the penalty to serve the imprisonment of RECLUSION PERPETUA without eligibility for parole as provided for by Republic Act No. 9346 and to indemnify to pay the victim, "AAA" P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P10,000 as temperate damages.^[16] (Citations omitted.)

The RTC gave more credence to the positive testimonies of AAA and CCC that Deloso had sexual intercourse with AAA and rejected the allegation of Deloso that he merely inserted his finger into AAA's female organ. The trial court also found that the qualifying circumstances of AAA's minority and her relationship with Deloso, *i.e.*, that he is the common-law spouse of BBB, were both alleged in the information and proven in this case.

On appeal,^[17] the Court of Appeals rendered the assailed **Decision dated July 30, 2014** that affirmed *in toto* the judgment of the trial court. The appellate court found no reason to depart from the trial court's appreciation of the credibility of the prosecution witnesses. The clear and categorical testimony of AAA, as corroborated by the testimony of CCC, was held to be sufficient to establish the act of rape committed by Deloso. The latter's defense of denial cannot prevail over the straightforward, categorical, and unequivocal testimonies of said witnesses.

The case is now before us on appeal^[18] and the parties herein no longer filed their respective supplemental briefs.^[19]

The Ruling of the Court

We resolve to deny the appeal.

In the Revised Penal Code, as amended, the crime of rape is committed in the following manner:

Article 266-A. *Rape; When And How Committed* - Rape Is Committed -

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or is otherwise unconscious; and
- c) By means of fraudulent machination or grave abuse of authority;
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances