

## THIRD DIVISION

[ G.R. No. 148902, September 29, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DANILO ANDRADE,  
APPELLANT.**

### DECISION

**PANGANIBAN, J.:**

In rejecting the present appeal, this Court has carefully reviewed the records and found no reason to disturb the lower court's judgment convicting appellant.

### The Case

Danilo Andrade appeals the April 16, 2001 Decision<sup>[1]</sup> of the Regional Trial Court (RTC) of Butuan City, Branch 4, in Criminal Case No. 7203, convicting him of rape. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, in view of all the foregoing, the Court finds accused Danilo Andrade y Monter guilty beyond reasonable doubt of the crime of rape provided in Article 335, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 7659.

"Consequently, accused Danilo Andrade y Monter is sentenced to the single indivisible penalty of *reclusion perpetua* with its accessory penalties conformably with Art. 41 of the Revised Penal Code which he shall serve at the Davao Prison and Penal Farm at Panabo, Davao del Norte. He shall be entitled to the benefits of his preventive imprisonment conformably with Article 29 of the Revised Penal Code, as amended.

"Accused is also ordered to indemnify the offended party the sum of Fifty Thousand Pesos (P50,000.00). In addition, accused is also ordered to pay the offended party moral damages in another sum of Fifty Thousand (P50,000.00) Pesos."<sup>[2]</sup>

The Complaint,<sup>[3]</sup> dated February 27, 1997, charged appellant in these words:

"That [on] or about the morning of December 28, 1996 at Brgy. [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have carnal knowledge with AAA, a minor by using force and intimidation and against her will."<sup>[4]</sup>

Upon his arraignment on October 15, 1997, appellant, assisted by his counsel *de parte*,<sup>[5]</sup> pleaded not guilty.<sup>[6]</sup> After trial in due course, the court *a quo* rendered

the assailed Decision.

## **The Facts**

### **Version of the Prosecution**

In its Brief,<sup>[7]</sup> the Office of the Solicitor General (OSG) presents the prosecution's version of the facts in the following manner:

"On December 28, 1996, about 11:30 o'clock in the morning, while complainant AAA (AAA) was on her way home to [REDACTED] from the creek after washing clothes, she saw x x x Danilo Andrade (appellant), a neighbor, seated under a [star apple] tree. AAA did not pay attention to him and proceeded to walk home. As she walked past him, appellant pulled her left hand and dragged her towards the bushes. AAA was 13 years old at that time.

"AAA shouted for help but appellant covered her mouth and pointed a bolo at her, with a warning not to make any noise. AAA struggled ('kisi-kisi') in vain. Appellant was able to push her down. While lying down, appellant remove[d] her pants and her panty. All the while, AAA struggled to free herself but her strength was no match to that of appellant. She was trying to close her thighs but he was able to keep her legs apart. He removed his pants, placed himself on top of AAA and inserted his penis into her vagina. AAA felt pain in her organ. She told him to stop because she felt pain but appellant continued, making push and pull movements, until he was satisfied. Appellant then stood up, put on his clothes and warned AAA not to tell anyone, otherwise he would kill her. Upon reaching home, AAA immediately told her mother, [REDACTED], about the rape because it was the second time that she was sexually abused by appellant.

"About noontime of the same day, while Maria Estrada was on her way to the house of [REDACTED] to get the bathrobe the latter borrowed from her, Estrada saw appellant running downhill going towards the barangay proper. As Estrada reached [REDACTED]'s house, she learned about the rape incident. Forthwith, AAA, her mother and Estrada went to the barangay captain but the latter was not in, so they went home.

"On their way back, AAA, [REDACTED] and Estrada passed by the house of appellant, which was along the way to [REDACTED]'s house. [REDACTED] talked to Mayeth, appellant's wife. [REDACTED] told her about the incident. Mayeth went to fetch appellant in the field. When appellant and Mayeth came back, [REDACTED] confronted him but he denied, saying he did not rape AAA but he only hugged and kissed her. Mayeth was enraged and hit appellant. Afterwards, appellant apologized to [REDACTED] and AAA and asked for forgiveness. Mayeth then said that it would be better for her and appellant to leave the place because of the scandal that he did. Estrada, however, commented that they should not leave if appellant had not done anything wrong. However, [REDACTED], just to prevent the couple from leaving the place, pretended by saying that she would no longer bring the matter to the barangay captain. [REDACTED], AAA and Estrada then went home.

"On the following morning, December 29, 1996, AAA and [REDACTED] went to the office of the Barangay Captain and reported the matter to Barangay Kagawad Angeles Apatan, who accompanied them to the police station at Barangay Amparo. Thereat, AAA executed her affidavit and a complaint for rape against appellant was filed, after which appellant was arrested. AAA and [REDACTED] then proceeded to the City General Hospital at Languihan, Butuan City for medical examination.

"In the afternoon of December 29, 1996, AAA was examined by Dr. Rhodora Gliceria Monton-Anino, medical officer of City General Hospital, Languihan, Butuan City, who thereafter issued a medical certificate (Exhibit `B'). Dr. Anino found an old hymeneal laceration at 3, 5, 8 o'clock positions; fourchette intact, round in contour; the introitus admitted easily a vaginal speculum; erosions at the anterior lip of the cervix; negative for spermatozoa. Dr. Anino later testified and explained that the normal form of fourchette is V-shape while the contour is rounded if there is a stretch on it, and that based on her examination, the cervical erosions could be caused by an infection or force applied on it such as constant rubbing of the penis to the cervix."<sup>[8]</sup>

### **Version of the Defense**

On the other hand, the defense, in its Brief,<sup>[9]</sup> narrates its version of the facts in this wise:

"Accused Danilo Andrade denied having anything to do with the crime ascribed against him as he was then working in the farm of Elit Obungen at Nocnocan. In refuting the charge against him, he testified that the private complainant's mother, [REDACTED], is his paramour. The illicit relationship started in 1992 when [REDACTED] used to tempt him by going to his farm house to borrow soap and fetch water. On several occasions, [REDACTED] used to wear shorts. In 1995, he got married. But this did not stop [REDACTED] from seeing him in [REDACTED]. After arriving from Cagayan de Oro, he proceeded to his farm and later to the house of his sister. [REDACTED] followed him. Thereat, [REDACTED] told him that he would not be able to see her anymore because she would be floating in [the] Agusan River. [REDACTED] also told him that he will not have peace in his family as she is going to make trouble. After telling him that she would commit suicide, [REDACTED] went to his house many times drunk. As he kept on avoiding her, he later learned that [REDACTED] slashed herself. When [REDACTED] recovered, she went to his house and created trouble. As proof that he and [REDACTED] were lovers, they used to check in at a hotel. They also had sexual intercourse in the farm several times.

"Mayet Andrade corroborated the foregoing testimony of the accused. She testified that it is not true that they asked forgiveness from [REDACTED] about the incident. Instead, she only confronted [REDACTED] why she filed a case against the accused. [REDACTED] told her that she was only filing the case against the accused because she wanted to take revenge. In her conversation with the private complainant, the latter told

her that she was not raped by the accused.

"SPO2 Teofilo Maquilling Pame identified the police blotter and the entries made therein on December 30, 1996 regarding the complaint of the victim, AAA for x x x attempted rape, which allegedly happened on December 28, 1996 at Purok [REDACTED]."[10]

### **Ruling of the Trial Court**

Weighing the merits of the evidence presented by the prosecution and the defense, the court *a quo* held that the sole testimony of the victim was sufficient to convict appellant of rape.

The trial court rejected the "hell-hath-no-fury-like-a-woman-scorned" defense proffered by appellant. According to him, in order to take revenge for his refusal to continue their sexual relations, complainant's mother convinced her daughter to file the Complaint against him. In dismissing this argument, the trial court held that just to assuage her own hurt feelings, no mother would stoop so low as to subject her daughter to the hardship and the shame concomitant with a rape prosecution. It would be quite unnatural for a parent to use her offspring as a means to sow malice, especially if the latter would be subjected to embarrassment and lifelong stigma in the process. Moreover, it found that the alleged illicit relationship between appellant and complainant's mother had not been substantiated.

The lower court likewise rejected the defense of alibi. The claim of appellant that he was working in Nocnocan when the crime occurred in [REDACTED] cannot exculpate him. The two towns were shown to be only three kilometers away from each other. In fact, it was in his house in [REDACTED] where he was arrested by the police the next day.

Hence, this appeal.[11]

### **Issues**

In his Brief, appellant raises the following alleged errors for our consideration:

"I

The trial court erred in not rejecting the highly implausible and conflicting testimony of the private complainant anent the crime charged.

"II

The trial court erred in convicting the accused-appellant of rape considering that the private complainant did not offer any tenacious resistance.

"III

The trial court erred in not giving full faith and credence to the evidence

proffered by the defense.

"IV

The trial court erred in rendering a verdict of conviction despite the failure of the prosecution to establish the guilt of the accused-appellant beyond reasonable doubt."<sup>[12]</sup>

### **The Court's Ruling**

The appeal has no merit.

### **First and Fourth Issues: Sufficiency of the Prosecution Evidence**

Rape is committed, *inter alia*, when a man has carnal knowledge of the victim with the use of force and intimidation.<sup>[13]</sup> In this case, the victim is a 13-year-old girl from Butuan City.<sup>[14]</sup> To demonstrate how clearly and convincingly she narrated her defilement, we extensively quote her testimony as follows:

"PROSECUTOR GUIRITAN:

Q And, how far were you to Danilo when you saw him seated for the first time under the star apple tree?

A He was also about five (5) brazas from where I was.

Q When you saw him, what did you do?

A I did not pay attention to him. I proceeded my way.

Q What happened after that?

A When I proceeded walking, he pulled my hands.

COURT: (to the witness)

Q Your two (2) hands?

A Lefthand.

PROSECUTOR GUIRITAN:

Q And when he pulled your [hand], what happened to your basin of washed clothes?

A The basin with the laundered clothes fell and the clothes got dirty.

Q After he pulled your left hand, what else did he do to you after that?

A After pulling my hands, he dragged me towards where the bushes are.

Q How far [were the] bushes to the place whe[re] your left hand was first pulled by Danilo?

(Witness indicating the distance from where she is seated to the main door of the courtroom which is 8.3 meters as