

THIRD DIVISION

[G.R. No. 140638, October 14, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARNOLD RIZALDO Y GARDOSE ALIAS TOTONG, ACCUSED-
APPELLANT.**

D E C I S I O N

CORONA, J.:

At bar is an appeal from the decision of the Regional Trial Court, Branch 8, City of Malaybalay, Bukidnon, finding accused-appellant Arnold "Totong" Rizaldo guilty of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the victim Rose Bongcawel the amount of P50,000 in addition to another P50,000 as moral damages.

The information against accused-appellant read:

"That on or about the 23rd day of May 1998, in the afternoon, at Purok 1-B, Camp I, Municipality of Maramag, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused prompted with lewd design and by means of force suddenly held both hands of ROSE BONGCAWEL which made her fall to the ground, did then and there willfully, unlawfully and criminally removed (sic) her shortpants and panty, insert his penis to the vagina of ROSE BONGCAWEL and have sexual intercourse with 15 years old ROSE BONGCAWEL against her will, to the damage and prejudice of ROSE BONGCAWEL in such amount as may be allowed by law.

"Contrary to and in violation of R.A. No. 7659 as amended by R.A. 8353."

[1]

The facts as culled from the records follow.

At about 5 o'clock in the evening of May 23, 1998, 15-year old Rose Bongcawel noticed that their goat was nowhere to be found. Thinking that her elder sister might have taken the goat, she decided to leave the house and look for it. Accused-appellant who had been following Rose asked the latter where she was going. Rose replied that she was looking for her goat which she suspected to be in the farm. Accused-appellant offered to help find it and insisted on accompanying her. Rose acceded.[2]

On their way to the farm, accused-appellant suggested that they take the way crossing a small creek. Rose agreed, unmindful of accused-appellant's intentions and believing that accused-appellant knew where the missing goat might be. However, shortly after crossing the creek, accused-appellant suddenly sat on the ground, grabbed his victim's arm and pulled Rose towards his lap, urging her to have sex with him. Rose's pleading caused accused-appellant to release her,

momentarily thwarting whatever lurid intentions accused-appellant had in mind. Rose then decided to go home. However, as the two began to retrace their way back to Rose's house, accused-appellant suddenly kicked Rose's legs causing her to trip and fall to the ground. Immediately thereafter, accused-appellant laid on top of his victim pinning her down with his legs. Accused-appellant took off the victim's short pants and underwear. Rose struggled and tried to resist but accused-appellant overpowered her and succeeded in forcibly inserting his penis inside her vagina.

His lust satiated, accused-appellant dressed up and told his victim to go home. He himself left and immediately disappeared.^[3]

As the victim rushed towards home, she met some close friends who inquired why she appeared weak. She replied that she was raped by accused-appellant. Thereafter, Rose met her brother who had been sent by their father to look for her. She recounted her ordeal to him. Upon arriving home, Rose tearfully narrated her harrowing experience in the hands of the accused-appellant to her father who immediately filed a complaint with the police.

Immediately thereafter, the victim was subjected to a physical examination by Dr. Evangeline Colinares-Revilla of the Bukidnon Provincial Hospital, who examined the victim's private parts and made the following diagnosis:

"-Erythematous walls of the labia minora with cervical laceration at the 5:00 o'clock and 7 o'clock position

"-Cervix – admits 1 fingertip easily but with tenderness (-) abrasions nor hematoma seen in other part of the body."

"Under REMARK, Dr. Colinares wrote: "Vaginal smear done: (+) for spermatozoa (dead) epithelial cells moderate."^[4]

On May 28, 1998, Rose executed a sworn statement which became the basis of the criminal complaint against accused-appellant. After preliminary investigation, an information was filed charging accused with the crime of rape. On arraignment, accused-appellant, assisted by counsel, entered a plea of not guilty.

On September 7, 1999, the trial court rendered its decision finding accused-appellant guilty of rape. The trial court wrote:

"WHEREFORE, this court finds accused Arnold Rizaldo guilty beyond reasonable doubt of the crime of rape in violation of R.A. 8353, and he is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is also ordered to indemnify private complainant the sum of P50,000.00, and moral damages (which under the recent Supreme Court rulings need to (sic) further evidence) in the sum of P50,000.00

"SO ORDERED."^[5]

Hence this appeal. Accused-appellant claims that the trial court gravely erred in finding him guilty beyond reasonable doubt of the crime of rape.

The appeal is bereft of merit.

Accused-appellant interposes the "sweetheart theory" claiming that he and Rose were lovers and that what happened at dusk on May 23, 1998 was consensual.^[6]

In reviewing rape cases, we are guided by the following principles: (a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for a person accused, although innocent, to disprove the charge; (b) considering the intrinsic nature of the crime, only two persons are usually involved in the crime of rape and the testimony of the complainant should be scrutinized with great caution, and (c) the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence for the defense.^[7]

With the above principles in mind, we take a second look at the testimony of the victim as well as that of the accused-appellant.

In her testimony, the victim pointedly denied that she had any love relationship with accused-appellant:

Q: Now Rose, Totong offered to marry you. Are you his sweetheart?

A: No.

Q: Did he court you?

A: No.

Q: Today you are already 16 years old. Do you already experienced (sic) a sweetheart?

A: Not yet.^[8]

Moreover, the victim was candid in her recollection of that traumatic and horrifying experience:

Q: How did it happen that you were already lying down?

A: He kicked me and that was how I came to the position of lying down.

Q: When he took off his shirt you were already on the ground?

A: Yes.

Continue.

PROSECUTOR DALAPO:

Q: Now, when he took off his upper clothing was he standing or what was his position at that time?

A: He was on top of me pinning me with his legs.

COURT: (to witness)

Q: He undressed you. What did he take off from you?

A: My short pant (sic) and my panty.

Q: He did not take off your upper clothing?

A: No. Continue.