

NINTH DIVISION

[CA-G.R. CR-HC No. 05862, March 03, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENATO DELA CRUZ Y FRANCISCO, ACCUSED-APPELLANT.**

DECISION

PAREDES, J.:

THE CASE

THIS APPEAL, filed by appellant Renato dela Cruz y Francisco (appellant), seeks to reverse and set aside the Consolidated Decision^[1] dated July 23, 2012, of the Regional Trial Court of Malolos City, Bulacan, Branch 84 in Criminal Case Nos. 3155-M-2009 and 3156-M-2009, the dispositive portion of which reads:

WHEREFORE, finding accused RENATO DELA CRUZ Y FRANCISCO guilty beyond reasonable doubt of the crime of RAPE, he is hereby sentenced to suffer the penalty of *Reclusion Perpetua* and to indemnify AAA^[2] the amounts of Php50,000.00 as civil indemnity and Php50,000.00 as moral damages.

Meantime, for insufficiency of evidence, the accused is acquitted of the crime of attempted rape.

SO ORDERED.^[3]

THE ANTECEDENTS

In Crim. Case No. 3155-M-2009, appellant was charged with *Rape* penalized under Article 266-B of the Revised Penal Code, committed as follows:

That on or about the 25th day of September, 2009, in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, by means of force, threat and intimidation and with lewd designs, have carnal knowledge of one, AAA, against her will and without her consent.

Contrary to law.^[4]

While in Crim. Case No. 3156-M-2009, appellant was charged with *Attempted Rape* penalized under Article 51 of the Revised Penal Code, committed as follows:

That on or about the 25th day of September, 2009, in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there

willfully, unlawfully and feloniously commence the commission of rape directly by overt acts, to wit: the said accused, not having been satisfied with having carnal knowledge of the complainant, AAA, earlier in the day, against the latter's will and without her consent, tried to have sexual intercourse with the complainant for the second time by pushing her against the sink as she was trying to escape and attempted to insert his penis into the complainant's vagina but the complainant managed to shout for help prompting the accused to ran (sic) away and flee.^[5]

On November 16, 2009, appellant was arraigned and pleaded "Not Guilty."^[6]

On December 9, 2009, pre-trial stipulations were entered by the prosecution and the defense, thus:

1. the identity of accused Renato Dela Cruz as the same person charged in the information;
2. the jurisdiction of the Honorable Court over the case;
3. the existence of the carbon copy of the Medico Legal Report.^[7]

Thereafter, trial on the merits ensued.

Evidence for the PROSECUTION

The prosecution presented the following witnesses, namely: AAA^[8], Whay M. Gagap (Gagap)^[9], and Dr. Jericho Angelito Q. Cordero (Dr. Cordero)^[10]. Through their testimonies, the version of the prosecution is, that:

AAA is a house helper hired by Gagap to work at the house of her sister, Mary Grace Sinaksi, who is based abroad. AAA's wards were Randel and Reggie Sinaksi. Also living with them in the house were Omie and Mai Margarito and their children.

On September 25, 2009, AAA was inside the house taking care of Reggie. Appellant, who was also known as "Kuya Boy", was also inside the house watching television, smoking and drinking beer. Appellant, a friend of Omie, frequents the house and is familiar to AAA.

At noon time, as AAA was putting Reggie to sleep, she requested appellant to go out. Appellant went out of the house but stayed in the yard. At around 2:00 p.m., appellant entered the house again. Surprised, AAA asked him to leave. Instead of leaving, appellant approached AAA and touched her thigh. He also pulled her right foot causing her to fall and hit her head on a wooden chair. As AAA lay on the floor, appellant tried to remove her panty but she resisted and kicked him. Appellant pushed AAA and managed to get on top of her. Appellant pinned AAA down by placing his arm on her neck and at the same time forcibly kissed her. Appellant shifted into a stooping position and managed to move AAA's panty down to her lower pelvic area. Appellant unzipped his shorts and inserted his penis into AAA's vagina. Thereafter, he took AAA's panty and wiped something on her thigh.

Dazed, AAA got up and went to the kitchen. Appellant followed her, pushed her towards the sink, grabbed her and again attempted to force himself on her. AAA

shouted and appellant left the house.

AAA took her cell phone and called Gagap, but all she could say, in between sobs, was "Ate Whay, Ate Whay, Ate Whay". Gagap sent her maid to check on AAA. Anxious, Gagap went to her sister's house and saw AAA's disheveled state and the living room in disarray.

Gagap testified that she hired AAA to take care of her sister's children. On September 25, 2009, at around 9:00 a.m., she went to her sister's house to check on AAA and the children. She saw the appellant inside the house and asked him what he was doing there. Appellant replied that he will fix something in the neighbor's house. Gagap left the house at 10:00 a.m.. At around 2:00 p.m., she received a call from AAA who was crying and repeatedly calling her name. She sent her maid to check on AAA. Thinking that something might have happened to the children, she followed her maid. There, she saw AAA sitting on the floor crying; AAA's skirt and panty were beside her and the living room was in disarray.

Later that evening, Dr. Cordero examined AAA, and found congestion and a deep healed laceration at 8 o' clock position in her vagina. After the examination, Dr. Cordero executed^[11] Medico-Legal Report No. R09-1862.

Evidence for the DEFENSE

Appellant^[12] was the lone witness for the defense. He testified that he is often at the house where AAA works because he is a friend of Omie and that he and AAA had become sweethearts since July 2009. He admits that he was in the house on September 25, 2009, resting and drinking beer. Appellant stayed in the house from 9:00 a.m. to 2:00 p.m.. Before leaving, he and AAA had an argument because AAA wanted to talk about their future. Appellant ignored her and left. AAA warned him that something bad will happen if he leaves.

When appellant returned to the house, Gagap was already there. Gagap asked him what he did to AAA as she was crying. AAA replied that he did not do anything; nonetheless, he was brought to the barangay hall and municipal hall where the rape charge was entered into a blotter. He was then detained.

Appellant imputes ill-motive upon AAA, claiming that she filed the rape charge because she wanted them to live together but it was not possible as he was married with children. Appellant also testified that he and AAA had sexual intercourse four or five times prior to the incident; but, that, on September 25, 2009, they did not have sexual intercourse.

After trial, the court *a quo* issued the assailed Consolidated Decision finding the appellant guilty of *Rape* and acquitting him of *Attempted Rape*. Hence, this appeal.

THE ISSUE

THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.^[13]

THE COURT'S RULING

The appeal is without merit.

Appellant assails his conviction for rape, contending: that Dr. Cordero's finding of a "deep-healed" laceration, meaning that the laceration occurred three (3) days, or seventy-two (72) hours, prior to the examination; that this medical finding confirms appellant's testimony that no sexual intercourse took place on September 25, 2009; that AAA's testimony is riddled with inconsistencies; that the trial court erred in appreciating Gagap's testimony when she did not witness the rape; that AAA is induced by ill-motive; and that he and AAA are sweethearts who had previously engaged in sexual intercourse.

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent^[14]. Consequently, for the charge of rape to prosper, the prosecution must prove that: (1) the accused had carnal knowledge of the complainant; and, (2) that the same was accomplished through force or intimidation^[15].

In cases of rape, only two (2) persons are normally privy to its occurrence, the complainant and the accused^[16]. Generally, the nature of the offense is such that the only evidence that can prove the guilt of the accused is the testimony of the complainant herself^[17]. Thus, the prosecution of a rape cases is anchored mainly on the credibility of the complaining witness^[18].

The trial court found AAA's narration of the events surrounding the rape as credible, thus:

Q What did Boy do inside the house?

A I was surprised when he again went inside the house, sir.

Q So, what happened next after you saw him already inside the house?

A I told him to get out of the house, sir.

Q Did your Kuya Boy oblige?

A No, sir.

Q What did he do inside the house?

A He approached me and touched my thigh, sir.

Q What were you wearing then?

A During that time, I was wearing skirt, sir.

Q What else did Kuya Boy do when he held you on your thigh?

A He pulled my foot, sir.

Q Both feet?

A Only my right foot, sir.

Q After that what happened?

A When he pulled my right foot I fell down and my head hit the chair, sir.

Q What happened next after you fell down and hit your head on the chair?

A Of course, I got hurt and I was fighting him, sir.

Q Why? What was Boy doing and why were you fighting him?

A When I got hurt he still continued in touching me, sir.

Q What was Boy touching?

A He continued touching my thigh, sir.^[19]

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Q What part of your head hit the chair?

A The back of my head, sir.

Q So, what happened next after you [sic] leg was pulled and your head hit the chair?

A He hurriedly tried to remove my panty but I refused to give in. In fact, I even kicked him, sir.

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Q You said a while [ago] that you kicked the accused while he was trying to remove your panty. What happened to the accused when you kicked him?

A "The witness is demonstrating what the accused did to her." The accused again pushed me and he went on top of me. And I shouted, sir.

Q What happened when the accused pushed you and went on top of you and you shouted?

A As I stated, sir, the accused was on top of me and he forcibly kissed my lips and he used his hand. "The witness is demonstrating how the accused used his arm to pin her down."

Q Where did the accused place his arm in pinning you down?

A On my neck, sir.

FISCAL MALAPIT:

Q So what happened next when you were already, and the