

SEVENTH DIVISION

[CA-G.R. CR-HC No. 06321, November 28, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO GOOL Y CALIGAGA, ACCUSED-APPELLANT.**

DECISION

INTING, S.B., J.:

Under appeal is the *Judgment*^[1] promulgated on July 31, 2013 of the Regional Trial Court of Quezon City, Branch 106 convicting accused-appellant Rolando C. Gool of the crime of rape defined and penalized under Article 266-A of the Revised Penal Code.

The *Information*^[2] in Criminal Case No. Q-10-162276 reads:

"That on or about the 22nd day of December, 2009, in Quezon City, Philippines, the above-named accused, being then the stepfather of minor AAA^[3], taking advantage of his moral ascendancy and authority over the latter and by means of force and intimidation, with lewd designs, did then and there willfully, unlawfully, and feloniously have carnal knowledge with one "AAA", 12 years of age, a minor, against her will and without her consent, which act debases, degrades or demeans the intrinsic worth and dignity of said [AAA], as a human being, to her damage and prejudice.

CONTRARY TO LAW."

THE FACTS

Evidence for the Prosecution:

On December 22, 2009, at about 11:30 a.m., twelve (12) year-old private complainant AAA, her mother BBB^[4], and the latter's live-in partner, Rolando Gool, herein accused-appellant, were all at their house in Brgy. Pag-asa, Quezon City. While BBB is doing the laundry, AAA told her if she can go to sleep as she felt sleepy. BBB responded that AAA can go, hence AAA went inside the house. There she saw accused-appellant cooking. When AAA entered the room, accused-appellant followed her and said , "*Pahipo naman.*" When AAA refused, accused-appellant left. Thinking that accused-appellant will not come back anymore, AAA lay on the bed and covered herself with a blanket. Suddenly, AAA felt accused-appellant pulling her feet and removing her shorts and underwear. He held her hands and inserted his penis into her vagina. While accused-appellant was ejaculating, BBB entered the room and saw him with his shorts unzipped. He was kneeling on the bed and holding

his penis with his hand. On the other hand, AAA was naked from the waist down and about to put on her underwear and shorts. Stunned by what she saw, BBB slapped and hit accused-appellant and demanded that he leave.

At about 6:00 p.m. of said date, AAA and BBB went to the police station to report the incident. AAA was thereafter subjected to a medico-legal examination. Later, after receiving the complaint of AAA and BBB, police operatives arrested accused-appellant.

Dr. Jericho Cordero, who conducted the medico-legal examination on AAA, found the presence of a deep healed hymenal laceration at 8 o'clock position caused by insertion of a blunt object or instrument.

Inside the courtroom, AAA identified accused-appellant as her rapist. In her testimony, AAA narrated that for a number of times before the rape incident on December 22, 2009, accused-appellant already raped her. The first time was sometime in October 2009 and on twenty-four (24) other occasions thereafter. When asked why she did not report her traumatic ordeal to anyone, AAA stated that she was not able to do so because she was threatened by accused-appellant that if she did, BBB would order her to leave the house. She likewise stated that she did not have any ill motive against accused-appellant for her to maliciously charge him with rape.

Evidence for the Defense:

Accused-appellant denied having raped AAA. He countered that on December 22, 2009, he was at home together with AAA and BBB. When he talked to AAA about her failing grade in one of her subjects and the need to retake it, the latter cried and told him not to tell her mother about it. It was at this instance that BBB arrived and asked him what was going on. He did not answer and waited for AAA to tell the matter to BBB. AAA suddenly uttered, "*Magtatapat na po ako.*" BBB immediately asked, "*Bakit ano nangyayari (sic) dito, ni-rape ka ba ng daddy mo?*" AAA replied in the affirmative. Thereafter, BBB demanded him to leave.

The next day, accused-appellant received a text message from BBB telling him to return to their house. Thinking that AAA already told BBB about her grades, he went back to their house. Thereat, he was arrested by police operatives.

Upon arraignment, accused-appellant pleaded not guilty to the crime charged. Trial on the merits thereafter ensued.

THE RULING OF THE TRIAL COURT

On July 31, 2013, the trial court rendered judgment finding accused-appellant guilty beyond reasonable doubt of the crime of rape as charged. It gave more weight to AAA's demeanor and direct, positive and clear testimony as against accused-appellant's self-serving testimony. Thus, the trial court disposed of the case as follows, viz:

"IN VIEW WHEREOF, accused Rolando Gool y Caligagan is found **GUILTY** of the crime of Rape and is hereby sentenced to suffer the

penalty of **Reclusion Perpetua**.

The accused is further ordered to pay private complainant the amount of Fifty Thousand Pesos (Php50,000.00) as civil indemnity, Fifty Thousand Pesos (Php50,000.00) as moral damages and Twenty Five Thousand Pesos (Php25,000.00) as exemplary damages. No costs.

The period of the accused's preventive detention shall be credited in the service of his sentence.

SO ORDERED."

Aggrieved, accused-appellant interposed the present appeal.

THE APPEAL

In his *Brief*,^[5] accused-appellant raises a single assignment of error, to wit:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT

Simply, accused-appellant submits that AAA's narration as to the circumstances surrounding the alleged rape was incredible as it defies logic and runs counter to the ordinary course of human experience. He argues that although AAA may have been too young to realize what had happened to her, for someone who had allegedly experienced something horrendous and against her will, her conduct on the fateful day of December 22, 2009 should have somehow shown that she was traumatized by the previous supposed harrowing experiences and at least, should have tried to avoid the sexual advances of the accused-appellant. Accused-appellant further argues that it is disconcerting that AAA did not even bother to run to her mother after accused-appellant uttered "*pahipo naman*". Or, she could have shouted for help while accused-appellant was fulfilling his bestial desires.

Accused-appellant further claims innocence of the crime charged by advancing an inconsistency between the physical evidence of rape and Dr. Cordero's testimony.

In all, he contends that it was quite highly improbable that he committed the crime charged against him. He thus claims that he is entitled to an acquittal because the prosecution failed to establish by proof beyond reasonable doubt that he committed the crime attributed to him.

THIS COURT'S RULING

After a careful review of the records of this case, We are satisfied that the prosecution's evidence established the guilt of accused-appellant beyond reasonable doubt.

It has been ruled that [i]n reviewing the evidence in rape cases, the following

considerations should be made: (1) an accusation for rape can be made with facility, it is difficult to prove but more difficult for the person, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[6] Nonetheless, it is also worth noting that rape is essentially committed in relative isolation or secrecy; thus, it is most often only the victim who can testify with regard to the fact of forced coitus.^[7]

In the case at bar, accused-appellant is charged with the crime of rape under Article 266-A of the Revised Penal Code .

Pertinently, the elements of rape under Art. 266-A of the Code are the following: (1) that the offender is a man; (2) that the offender had carnal knowledge of a woman; and (3) that such act is accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.

Notably, the prosecution has sufficiently established the existence of the three (3) foregoing elements.

Firstly, there is no question that accused-appellant is a man.

Secondly, it is no dispute that accused-appellant had carnal knowledge of AAA. When AAA was called to the witness stand, she gave a detailed narration of the incidents that transpired in the morning of December 22, 2009. She was candid and straightforward when she testified that accused-appellant raped her on December 22, 2009.

"Q What happen in December 22, 2009?

A At that time my mother was doing a laundry and I was with her, and when I felt sleepy, I told her that I want sleep and she said okay and so I left her and I enter (sic) the bedroom.

Q What time was that?

A Around 11:30 to 11:35, ma'am.

Q In the morning or in the evening?

A Morning ma'am.

Q So, what happen (sic) when you enter (sic) the bedroom to sleep, whose bedroom did you enter at that time?

A Actually, we have only one room, ma'am.

Q What happen (sic) after you entered that bedroom?

A He followed me into the room and he said "pahipo naman".

Q What does pahipo naman mean? How did you understand pahipo naman?

Court:

Who is that he?

A Rolando Gool, po.

Court:

So, Rolando Gool followed you inside the room then he said pahipo naman?