

THIRTEENTH DIVISION

[CA-G.R. CR-HC No. 06397, December 22, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RONNIE DELA CRUZ ALIAS BAROK, ACCUSED-APPELLANT.**

DECISION

LIBREA-LEAGOGO, C.C., J.:

Before this Court is an appeal from the Decision^[1] dated 26 September 2013 of the Regional Trial Court, National Capital Judicial Region, Branch 209, Mandaluyong City, in the case entitled "*People of the Philippines v. Ronnie Dela Cruz alias Barok*," docketed as *Criminal Case No. MC08-2728-FC*, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing premises, the court finds the accused guilty beyond reasonable doubt of the crime of rape and he is hereby sentenced the penalty of RECLUSION PERPETUA. He is further ordered to pay the offended party the sum of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages including interest at the rate of 6% per annum on all damages awarded from the date of finality of this judgment until fully paid.

SO ORDERED."^[2]

Accused-appellant filed his Brief^[3] dated 19 May 2014. Plaintiff-appellee also filed its Brief^[4] dated 28 October 2014. A Manifestation^[5] (In Lieu of Reply-Brief) dated 12 November 2014 was filed by accused-appellant. Thus, the appeal is submitted for decision.

FACTUAL ANTECEDENTS

In this Decision, private complainant is designated as "AAA".^[6]

Accused Ronnie dela Cruz @ Barok ("Barok," for brevity) was charged with the crime of rape in an Information^[7] dated 19 May 2008, before the Regional Trial Court of Mandaluyong City, Branch 209, docketed as *Criminal Case No. MC08-2728-FC*, the accusatory portion of which reads:

"That on or about the 4th day of April 2008, in the City of Mandaluyong, a place within the jurisdiction of this Honorable Court, the above-named

accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously commit an act of sexual assault upon the person of AAA, a minor, 14 years of age, against the latter's will and consent by having carnal knowledge of the said AAA, thereby affecting the victim's normal growth and development as a child, to her damage and prejudice.

CONTRARY TO LAW.”^[8]

When arraigned on 27 August 2008, accused entered a plea of not guilty.^[9] In an Order^[10] dated 22 October 2008, it was stated that the prosecution and the defense jointly manifested that they are adopting the Minutes of the Preliminary Conference dated 30 September 2008 as part of the pre-trial; and the pre-trial was terminated.^[11]

Trial ensued.

The prosecution presented four witnesses; AAA, BBB (AAA's mother, Diane (AAA's niece) and Police Chief Inspector (PCI) Marianne Ebdane.

Their testimonies were summarized by the trial court, viz:

“AAA testified that she was born on June 3, 1994. On the night of April 3, 2008, she together with her cousin Diane, were at the house of Diane's boyfriend. At around 10 or 11 in the evening, accused arrived together with his group of friends. Accused was introduced to her by Diane. Accused and his group invited them to a drinking spree. She did not agree outright but instead she told them bahala kayo. They had a drinking spree outside the house of Diane's boyfriend. At around 3 a.m. the next day, she did not want to go home because she had a misunderstanding with her parents. Since she did not have a place to sleep and Diane's boyfriend's house had no space, Diane asked the accused if AAA could sleep at his place. Accused agreed but AAA wanted to see the place first before agreeing to sleep over. Thus, she and accused went to accused's house to check out the room first if she will be comfortable sleeping there. When she and accused arrived at the house, she noticed that there were no other persons present in the house. She went inside the room which had no light on (sic) and accused followed her immediately. He started kissing her. She told him to stop and pushed him away but he did not stop. She was not able to go out of the room because she was drunk and felt weak. He took off her clothes and he went on top of her. He inserted his penis into her vagina and she was crying at that time because she really did not want what he was doing to her. They were lying on the floor. She wanted to go out of that room but did not know the way going out. The house was in a very narrow alley and it was dark outside. She did not ask for help because nobody was in the house. After accused was done with her, he immediately left. She waited until daylight, i.e.(.) around 5:30 to 6:00 a.m. to leave the house as she was not familiar with the place. She went to Diane's boyfriend's

house which is just one street away and not too far. She told Diane that they should go home. She did not tell Diane what happened to her as she was afraid that other people might know what happened. She was then thirteen (13) years old and that was the first time she had sexual intercourse. When she got home, she told her aunt about it. Her aunt pitied and told her parents about the rape. She and her mother went to the Women and Children's Protection Desk of Mandaluyong City to report the rape. She executed a sworn statement. Then she and her mother went to the Crime Laboratory for medical examination.

Diane Kristina Pocesion is the cousin AAA was referring to in her complaint/testimony. Diane is much older than AAA but AAA is actually her aunt. They are not cousins. At around 10:00 pm of April 3, 2008, she and AAA were at Noknok's (Diane's boyfriend) house. The three of them were drinking liquor and then accused together with his friends arrived. Accused joined them in their drinking session. By midnight, AAA was already sleepy and dizzy. She asked accused if AAA could sleep at his place to which he agreed. Noknok's house is small that's why she talked to accused. Also they could not go home because there were no more vehicles that would take them home. She did not know accused but he seemed to be a nice person. Accused told them that he and AAA would just go and see the house first and it will not take them a long time to do so. Because of this, she did not accompany AAA in going to accused's house. She waited for them until morning but they did not come back. She went to accused's house but AAA was not there already (sic). Then she went back to Noknok's house and there she saw AAA. AAA was seated and looked tired. That was around 6:00 a.m. She found out about the rape only in the evening of April 4 through her mother. This was the first time AAA joined them in their drinking session. She also filed a case against the accused for grave threats. Last April 15, 2008, she took a picture of accused using her cellphone while they were both inside a store. She took this picture so that she could show how accused looked like to AAA's parents. Accused got angry, deleted his picture, and threatened to kill her if he saw her again.

The prosecution and defense agreed to dispense with the testimony of BBB (AAA's mother) and stipulated that she accompanied her daughter to the police station and assisted her in filing the complaint.

PCI Marianne Ebdane, Medico-Legal Officer assigned at the Quezon City Police District Crime Laboratory conducted a medico-legal examination of AAA on 5 April 2008. After conducting the genital examination, she filled up the Sexual Crime Protocol which includes the general data of the victim and the brief history which was written by AAA herself. In the hymen, there was a deep fresh laceration at 8:00 o'clock position and in the perihymenal region, there was an abrasion. Except for these, all findings were normal. The presence of fresh deep laceration at 8 o'clock position in the hymen means that there was a blunt object inserted into the hymen or genitalia such as a finger or an erect penis. ^[12]

The prosecution filed its Formal Offer of Exhibits^[13] dated 16 September 2011, consisting of Exhibits "A" to "H" and their respective submarkings, to which the accused filed his Comment/Objection^[14] dated 14 October 2011. In an Order^[15] dated 18 October 2011, the trial court admitted Exhibits "A" to "D."

The defense presented the accused and his testimony was summarized by the trial court, viz:

"Accused denied the charge. He testified that he was invited by Noknok to drink when they saw him passing by. Diane asked him if AAA could sleep over at his place because according to Diane, AAA ran away from home. They were both drunk and he does not remember what happened when they got home. It is possible that they had sex but there was no force involved as they were both drunk at that time. His brother fixed breakfast for AAA at around 8:00 a.m. and then AAA went back to sleep. He woke up at around 10:30 a.m. and left at 11:00 a.m. to go to his aunt's place. When he came back to his house at around 4:00 p.m. AAA was still there preparing her things."^[16]

The assailed Decision^[17] dated 26 September 2013 was promulgated,^[18] finding the accused guilty beyond reasonable doubt of the crime of rape, the decretal portion of which was earlier quoted.^[19] The accused filed his Notice of Appeal^[20] dated 26 September 2013. On even date, the trial court issued an Order^[21] giving due course to the appeal. The trial court issued a Sentence *Mittimus*^[22] dated 26 September 2013 addressed to the Director of the Bureau of Corrections.

Hence, this appeal.

R U L I N G

Accused-appellant assigns a lone error, viz:

"I.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE OFFENSE CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT."^[23]

Accused-appellant contends, *inter alia*, that: the trial court arrived at the judgment of conviction by relying entirely on the private complainant's version while totally disregarding his testimony; the element of force, threat, or intimidation was not clearly established beyond reasonable doubt; while private complainant claims offering physical resistance against him to stop, such is a mere allegation controverted by her own subsequent acts; it must be noted, that from the time she

was allegedly followed until the consummation of the act complained of, he did not employ force, threat or intimidation; he was unarmed at that time; private complainant's claim that he immediately followed and kissed her inside the room hardly constitutes force, threat or intimidation considering that he did not warn her of any physical harm should she resist the same; she was totally free to protest or ward off his alleged "unwelcome" sexual advances had she wished to; her manner of testifying apparently lacks candor; her demeanor prior to and during the alleged rape was inconsistent with that of a woman who was raped such that she could have easily shouted for help from the people in the nearby rooms considering that the place of the incident was part of a house and her mouth was uncovered nor gagged; she could have easily resisted as her hands and feet were untied, however she remained placid while he was allegedly doing those odious acts; her justification in not fleeing immediately despite many opportunities to do so pales; while rape victims react differently, it is unnatural for private complainant to not even make a feeble attempt to free herself considering that she had all the opportunity to do so; her claim that there was forcible sexual intercourse is hardly believable; not all denials and alibis should be regarded as fabricated; if he is truly innocent, he can have no other defense but denial and alibi; and presumption of innocence can be overborne only by proof of guilt beyond reasonable doubt.

Plaintiff-appellee ripostes, *inter alia*, that: accused-appellant's contention is not meritorious as private complainant was able to establish the presence of all the elements to sustain a conviction for rape, through her testimony; she identified him as the perpetrator who had carnal knowledge of her; the presence of intercourse was properly documented by a medico-legal certificate; anent the element of force and intimidation, taking into consideration the victim's age, force/intimidation need not be irresistible; as explained, she was unable to resist his bestial desires because she was intoxicated and could not exert sufficient resistance to his advances; as a man, accused-appellant's strength is still stronger than her; she was aware that he had a weapon, a small knife, behind his back; in prosecution for rape, the victim's credibility becomes the single most important issue for when a woman says she was raped, she says in effect all that is necessary to show that rape was committed; she did not waver in pointing to accused-appellant as her rapist; despite her minority and intoxication at the time of the incident, she was straightforward and categorical in narrating the said incident; while she had an opportunity to escape and cry for help, she did not know the place where she was brought to pass the night; she neither knew that the house was situated in a dark alley and no one else, other than the two of them were inside the house at the time she was raped; the trial court judiciously exercised its discretion in giving full faith and credit to the testimony of the victim.

The appeal is bereft of merit.

In this jurisdiction, the accused (is convicted) only when his guilt is established beyond reasonable doubt. Conformably with this standard, we are mandated as an appellate court to sift the records and search for every error, though unassigned in the appeal, in order to ensure that the conviction is warranted, and to correct every error that the lower court has committed in finding guilt against the accused.^[24]

The law presumes that an accused in a criminal prosecution is innocent until the contrary is proven. This basic constitutional principle is fleshed out by procedural rules which place on the prosecution the burden of proving that an accused is guilty