

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CONRADO BARANGAN Y GENERALAO, ACCUSED-APPELLANT.

G.R. No. 175480. October 02, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] of the Court of Appeals promulgated on 30 June 2006, in CA-G.R. CR. HC. No. 00198-MIN entitled, “People of the Philippines v. Conrado Generalao Barangan,” affirming in toto, the Judgment[2] dated 25 March 2002, of the Regional Trial Court (RTC), Branch 32, Surigao City, in Criminal Case No. 782.

Accused-appellant Conrado Barangan[3] y Generalao prays for the reversal of the appellate court’s decision, affirming in toto the judgment of the trial court, finding him “guilty beyond reasonable doubt as a principal of the crime of rape under Article 266-A, paragraph (1), (a), of the Revised Penal Code, with the aggravating circumstance of dwelling,”[4] and sentencing him to suffer the penalty of reclusion perpetua coupled with the accessory penalties and to indemnify the victim in “the sum of P50,000.00 and to pay P50,000.00 as moral damages,”[5] plus the cost of suit.

A thorough review of the records of the case at bar discloses the following:

On 18 January 1999, accused-appellant was charged with the crime of rape before the RTC, Branch 32, Surigao City, for allegedly raping AAA,[6] in an Information[7] dated 11 December 1998. The accusatory portion thereof states:

That on or about October 20, 1998 at 11:00 o’clock in the evening, more or less in P-1, Brgy. XXX, YYY, ZZZ, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with full freedom and intelligence, deliberate intent and with lewd design and with force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, a 15 year-old girl against her will much less her consent, thus causing damage and prejudice to the aforesaid AAA in such amount as may be proved during the trial.

CONTRARY to Article 335 of the Revised Penal Code as amended by Republic Act 7659 and further amended by Republic Act 8353 with the aggravating circumstance of dwelling, the crime being committed inside the dwelling of the offended party.

The case was docketed as Criminal Case No. 782.

Upon arraignment, accused-appellant, duly assisted by counsel, pleaded “Not Guilty” to the crime charged. Thus, trial ensued, with the prosecution presenting four witnesses, namely: Dr. Benjamin Cabrera (Dr. Cabrera),[8] Medical Officer, Rural Health Unit and Family Planning Center, WWW, ZZZ; Cesar Villacencio, the Punong Barangay of Baranggay XXX;[9] Paciencia Salumayag, neighbor of the victim;[10] AAA, the victim and the private complainant;[11] and EEE, older sister of AAA, to establish accused-appellant’s culpability beyond

reasonable doubt of the crime charged. On the other hand, to rebut the foregoing evidence, the defense offered the testimonies of accused-appellant;^[12] BBB, the younger sister of AAA;^[13] and Joseph Barangan, the son of accused-appellant.^[14]

The People's version of the incident that precipitated this case, as established by the above-named prosecution witnesses, put forward the following antecedents:

As testified to on the witness stand, AAA recounted her harrowing experience in the hands of accused-appellant:

Prosecutor Servillas (conducted the direct examination):

Q:

Do you know Conrado Generalao Balagan [Barangan]?

A:

Yes, sir.

Q:

Do you know him?

A:

He is our neighbor.

Q:

How long he has been your neighbor?

A:

Five years.

Q:

How far is his house to your house?

A:

40 meters more or less x x x.

x x x x

Q:

Now, if this accused Conrado Generalao will be shown to you, can you identify him?

A:

Yes, sir.

Q:

Will you please look around?

A:

(Witness pointing to a person who upon being asked answered that his name is Conrado Generalao.)

Q:

By the way, how old are you last October 20, 1998?

A:

15 years old.

Q:

Do you have proof that you are fifteen years old?

A:

Yes, sir.

Q:

What is your birth date?

A:

March 9, 1963.

x x x x

Prosecutor Servillas:

Q:

Do you recall where were you last October 20, 1998 at 11:00 o'clock in the evening?

A:

I was in our house in barangay XXX, YYY, ZZZ.

Q:

Were you alone on that date?

A:

I was with my younger sister.

Q:

What about your mother where was she on that date?

A:

She died already.

Q:

What about your father?

A:

He is now in Bukidnon.

Q:

Now, who is the name of your sister with you on that date?

A:

BBB, ten years old.

Q:

On last October 20, how old was she?

A:

9 years old.

Q:

Now, on that said date October 20, 1998 date and time what were you doing in your house?

A:

I was sleeping.

Q:

What about your sister?

A:

She was also sleeping.

Q:

Now, what happened while you...if you recall while she was sleeping on said date and time?

A:

At first he entered our house.

Q:

Whom do you refer he?

A:

Conrado Barangan.

x x x x

Q:

Now, this accused Conrado when he entered what did he do?

A:

He kept on touching my private organ.

Q:

What were you doing while he was touching your private parts?

A:

I woke up and then he immediately covered my mouth with his hand.

Q:

Now, what was his attire if any?

A:

He was only wearing a brief.

Q:

When he entered [your] house and started to touch your private parts what was your position in relation to you?

A:

He was kneeling (witness pointing his left hand to an imaginary object as if holding something).

x x x x

Q:

Then after he covered your mouth what did you do next?

A:

While covering my mouth his other hand is holding my neck.

Q:

What happened next he held your neck and covered your mouth?

A:

Then he told me to keep quiet [or] I will kill you together with your sister.

Q:

What did you do when he told you that thing?

A:

I don't (sic) do anything.

Q:

Since you don't do anything?

A:

I could not do anything.

Q:

What did you next?

A:

Then he removed my panty, he kept on kissing my face and sucked my nipple.

Q:

What did he do next?

A:

Then he placed himself between my two legs.

Q:

After he placed his legs, himself to your two legs what did he do next?

A:

He removed his brief and he placed his.... he inserted his penis to my private part.

Q:

Can you demonstrate to this court what was his position and how he placed to your private part?

A:

He was lying down.

Q:

Then when he inserted to your private part what did he do what was he doing?

A:

He make (sic) a push and pull motion against my private part.

Q:

Then what did you do when he made a push and pull motion to your private part?

A:

I observed that his semen ejaculated inside my private part.

Q:

Now, when he was making a push and pull to your vagina what did you do?

A:

Nothing.

Q:

Why did you not do anything?

A:

I could not shout I could not move because he placed himself between my two legs.

Q:

Now, what did you feel whether push and pull between your vagina?

A:

I felt pain. I felt pain and I was very ashamed of myself.

Q:

Because of the shame and pain when he pushed and pull to your vagina what did you feel?

A:

Very painful because he inserted his penis to my vagina to my private part.

Q:

How long he has been doing a push and pull?

A:

Quite a while. I could not determine how long its quite a while.

Q:

What about your sister?

A:

There was a typhoon and my sister was aslept (sic).

Q:

You said it was the accused who assaulted you how do (sic) you recognize it was a nighttime?

A:

He is a neighbor and I knew him very well. And I always see his face because I am familiar with him for quiet a long time.

Q:

After you feel the fluid (sic) the pain, what happened next?

A:

That is the time he went outside. But before he went outside I heard my sister, said, "ate." And he said, don't shout.

Q:

When she said, "ate", was she awakened or what?

A:

No, she was not awakened. She was half asleep.

Q:

Then after your sister said, ate, to you, what did your sister do to you?

Court: What did Conrado do to you?

A:

He went down.

Q:

Where did he pass?

A:

At the door.

Prosecutor Servillas:

Q:

What did you do when he went outside?

A:

I was not able to stood up (sic) and I could not stand up I feel the pain of my vagina.

Q:

Then what... when you felt that your vagina was painful what did you do?

A:

After that I stood up and closed the door of the house.

Q:

What time was that when you closed the door of your house?

A:

It was about 12:00 o'clock already.

Q:

What did you do when you closed the door?

A:

I returned to my bed, go back to my bed.

Q:

When did you wake up to your bed?

A:

About 6:30 o'clock.[15]

Pacencia Salumayag, the neighbor of AAA, narrated what occurred on the morning of the next day. She stated that on the morning of 21 October 1998, at 7 o'clock, AAA went to her house; that she observed AAA to be afraid of something; that upon further prodding, AAA asked her to accompany the former to the house of Vivian Silvano to ask him to go along with them to see the Punong Barangay; and that after entrusting AAA to the Punong Barangay, she went home. During cross-examination, the defense counsel elicited from the witness the statement that though she and accused-appellant were also neighbors, she actually did not like him; that when AAA went to see her, the former was crying. When asked on redirect examination if AAA had identified the person who allegedly committed the rape, the witness answered in the affirmative and proceeded to name accused-appellant as the perpetrator of the crime.

Cesar Villacencio, the Punong Barangay of Barangay XXX, Municipality of YYY, Province of ZZZ, testified

that, on 21 October 1998, around 7:30 in the morning, AAA, accompanied by Pacencia Salumayag and Vivian Silvano, reported to him the alleged rape that occurred the previous evening. In particular, he narrated that AAA identified her rapist to be Conrado Baranggan y Generalao, a resident of the same barangay; that he later summoned accused Baranggan to the Barangay Hall in order to fully investigate the alleged crime; and that he later turned over the suspect to the police due to the seriousness of the matter. On cross-examination, said witness further testified the behavior and appearance of AAA – that she was crying and appeared to be weak.

To further make out a case for the crime of rape, the prosecution presented Dr. Cabrera, Municipal Health Officer and Rural Health Physician, Rural Health Unit and Family Planning Center, WWW, ZZZ. Dr. Cabrera gave evidence as to the injuries sustained by AAA as a result of her alleged rape on the night of 20 October 1998. He testified that on 21 October 1998, around 6 o'clock in the evening, the police brought AAA to his clinic to be examined by him; that he performed a medical examination on the person of AAA and thereafter, issued a Medical Certificate to attest to his findings. According to his testimony, his physical examination of AAA yielded the following findings: though the labia majora showed no physical signs of injury, there was a whitish mucoid discharge at its opening; on the inside of AAA's vagina, however, there was evidence of recent penetration by a hard and blunt object -- the hymen displayed a laceration or tearing at the 3 o'clock position, as well as abrasions with blood clot at the 6 o'clock position; and that the whitish mucoid discharge was seminal fluid. Dr. Cabrera then concluded that the injuries sustained by AAA's private part were the result of "sexual completion or sexual penetration." [16] On cross-examination, Dr. Cabrera testified that he found no sign of physical injury on any other part of AAA's body.

EEE, the older sister of AAA, was presented last to establish merely the date of birth and age of the latter.

When the time came for the defense to controvert the evidence of the prosecution, a different version was laid out. Diametrically opposed to the version of the prosecution, accused-appellant did not deny that he had sexual intercourse with AAA. He claimed, however, that his sexual relations with the victim was consensual, they being sweethearts. He related that what occurred on the night of 20 October 1998 was a planned assignation between them. Particularly, he stated that –

A:

I was taking a bath at the spring.

Q:

Where is that spring located?

A:

Very near to our house.

Q:

How far is that spring to the house of the private complainant AAA?

A:

About more or less 100 meters.

Q:

We may know also how far from your house to the house of AAA?

A:

The same distance, about 300 meters.

Q:

Are you referring to the distance between the house of AAA to your house?

A:

About the same distance.

Q:

We may know who was your companion in the spring in the morning of October 20, 1998?

A:

We happened to meet each other and she was washing clothes.

Q:

Aside from the two of you, there were other persons present?

A:

She was with her younger sister.

Court:

(to the witness)

Q:

Who was there in the spring?

A:

They were three of us, your honor.

Q:

Who were the three of you?

A:

BBB, AAA and me, your honor.

Atty. Moleta:

We may know if you have conversation with the private complainant in this case?

A:

We had a (sic) jokes.

Q:

And we may know what did you tell to AAA?

A:

I courted her.

Q:

How did you court AAA?

A:

I told her, since your manang is already dead, maybe I will ask you to be my wife.

Q:

And we may know what was her answer?

A:

She said she is very young. She even said, “since you are older and I am very young I think there is no age limit in terms of love.” And so at that time I requested her that during night time I be allowed to visit her.

Q:

What was her response to your request?

A:

She said it’s up to you.

Q:

And we may know what was your last words with the private complainant in the morning of October 20, 1998?

A:

After taking a bath, I told her I will visit her and she said its up to you.

Q:

After that what happened?

A:

At 2:00 o’clock in the afternoon, I went to the municipal building to secure the voter’s affidavit of my wife. I was entertained by the stories of my friends there, we talked about the problems regarding the death of my wife.

Q:

In the morning of October 20, 1998 while the two of you were conversing, we may know if you had agreed with her regarding the time of your visit to her house?

A:

I promised at nighttime.

Q:

Aside from the time we may know if there are other matters that you agreed with the private complainant?

A:

That I will visit her at nighttime. She said just knock at the door if she is asleep. When I knocked the door, nobody opened it, so I just moved the door.

Q:

Mr. Barangan, we may know where were you in the afternoon of October 20, 1998?

A:

In the municipal building.

Q:

Where did you proceed after going to the municipal building?

A:

Then I happened to talk with barangay captain Bebot Ecleo in his house.

Court:

Q:

To whom did you talk?

A:

The friends of Bebot Ecleo, your honor.

Atty. Moleta:

Q:

We may know at what time did you go home?

A:

From the house of Bebot Ecleo, I went home at 9:00 o'clock in the evening.

Q:

And where did you proceed to your house?

A:

Towards my house and since I was able to remember our agreement so I went to her house.

Q:

What agreement are you referring to that you remember?

A:

To visit her.

Q:

To whom?

A:

AAA.

Q:

And we may know what happened?

A:

When I arrived at their house, I knocked at the door but nobody opened it. So I tried to move aside the door of the house and it was not locked, and then I saw her lying.

Q:

Mr. Baranggan, you said that the door of the house of AAA was not locked, do you know the reason why the same was not locked?

Prosecutor Villaces:

It calls for opinion, your honor.

Court:

It calls for opinion.

Atty. Moleta:

Your honor please, the accused in this case has personal knowledge why the same was not locked, your honor.

Court:

The witness testified that he was supposed to knock the door, there was no such agreement, there is no basis.

Atty. Moleta:

We believe, your honor, that this witness may have personal knowledge as to why the door was not locked.

Court:

There is no testimony to that effect previously. As matter of fact he said that when nobody opened the door, he just pushed it.

Atty. Moleta:

We will reform the question.

Q:

Mr. Baranggan, do you have any personal knowledge why the door of the house of the private complainant is not locked when you have gone to the house of the private complainant in the evening of October 20, 1998?

Pros. Villaces:

Already submitted, your honor.

Court:

Sustained.

Atty. Moleta:

Q:

Can you estimate the consumed time when you knocked the door of the private complainant in the evening of October 20, 1998?

A:

At about 9:30 o'clock more or less.

Q:

And when you opened the door, we may know who was the persons present inside?

A:

Only the two of them.

Q:

We may know who were these persons?

A:

AAA and BBB.

Q:

What were they doing when you entered the house?

A:

They were asleep.

Q:

We may know how did they position while they were sleeping?

A:

There were sleeping with their arms across their chest.

Q:

Were they sleeping together or lying together?

A:

They were lying together side by side.

Q:

We may know how far were they from each other?

A:

Very near, sir, about one foot distance.

Q:

Were they using a mat?

A:

Yes, sir, singular size.

Q:

How big is this single size mat?

A:

More than a meter wide and the distance from each other is less than a meter.

Q:

When you opened the door of the house of the private complainant, we may know what happened next?

A:

I touched her leg in order to awaken her?

Q:

We may know if she got awake?

A:

She stood up.

Court:

(to the witness)

Q:

Who stood up?

A:

AAA, your honor.

Atty. Moleta:

Q:

We may know what did she say when she stood up?

A:

She said, "you are here?"

Q:

What was your answer?

A:

I said, "I have not forgotten our agreement that's why I'm here."

Q:

We may know what happened next?

A:

I asked her "what about my request?"

Q:

We may know what was her response?

A:

She said “you really abided with our agreement.”

Q:

And we may know what happened next?

A:

I placed my arms around her shoulder.

Q:

We may know what was her position when you placed your arm around in her shoulder?

A:

We were facing each other seated and placed my arm around her shoulder.

Q:

And we may know what happened next?

A:

So I kissed her because at that time I was already craving for sex.

Q:

Before you kissed the private complainant in this case, we may know if you have a conversation with her?

A:

A little conversation.

Q:

What was your conversation about?

A:

Regarding the life of the widower and I told her that I wanted a companion.

Q:

After you kissed the private complainant in this case, we may know what happened next?

A:

After kissing her on her face including her neck, I placed a kissed mark on her neck, and she said, “don’t do it in my neck because it is noticeable.”

Q:

When you kissed the private complainant in this case, we may know what was her reaction?

A:

She had no reaction. She just let me kiss her and she even stretched her neck.

Q:

After that what happened next?

A:

Since she does not want that a kissed mark be placed on her neck then I asked her, “where will I place the kissed mark.”

Q:

And what was her answer?

A:

She said “in the hidden part.”

Q:

And then we may know what happened next?

A:

And so I placed the kissed mark on her left breast. She even opened her blouse so I placed a kissed mark.

Q:

After kissing the private complainant in this case and after she opened her blouse, we may know where was her sister at that time?

A:

She was there sleeping.

Q:

How come that while you were kissing with the private complainant in this case, her sister BBB was not able to awaken?

Pros. Villaces:

It calls for opinion, your honor.

Court:

Sustained.

Atty. Moleta:

Q:

Mr. Baranggan, you are aware of the presence of BBB, the sister of the private complainant, when you kissed the private complainant?

Pros. Villaces:

Leading, your honor.

Atty. Moleta:

Q:

How did you kiss the private complainant that was not awakened the sister, BBB?

Pros. Villaces:

We object, your honor.

Court:

The witness may answer.

A:

Very silent.

Atty. Moleta:

Q:

And after the private complainant in this case opened her blouse, we may know what happened next?

A:

When she opened her blouse, I embraced her and then I romanced with her on her breast and on her body/

Q:

Then after that what happened?

A:

Then we laid down side by side. I requested her that I be allowed to perform the private act.

Q:

And what was her response to your request, if there was any?

A:

And she said, "you want to use me when I still have my underwear."

Q:

Whose underwear the private complainant are you referring to?

A:

Her underwear.

Q:

So, what did you do?

A:

After removing her underwear, I romanced with her, I kissed her private parts.

Q:

We may know who took her panty?

A:

She was the one who removed her underwear.

Q:

What have you observed with her companion BBB?

A:

She was not yet awakened at that time.

Q:

After that we may know what happened?

A:

After romancing her breast and her private parts, she held my head and then I kissed again her face.

Q:

After that what happened?

A:

After that we had sexual intercourse.

Q:

While you were already having sexual act with the private complainant, we may know what have you observed from her?

A:

Since I am a man, I asked her “why are you not a virgin anymore as if you have already delivered a child.” That was really I asked her.

Court:

(to the witness)

Q:

What did she answer?

A:

She said “you have nothing to do with that.”

Atty. Moleta:

Q:

We may know what have you observed from her bodily reaction when you had a sexual intercourse with her?

A:

That she was not a virgin. After a while she wrapped her legs around my waist and that was the time that BBB was able to wake up.

Q:

Can you point to BBB if she is present in this courtroom?

A:

BBB is not here.

Q:

Was there a noise created when the private complainant... I will reform the question, you honor.

Why did you say that BBB was able to wake up?

A:

She was already woke up because she asked "Ate, who is your companion?"

Q:

When BBB said ate to whom was she referring to?

A:

Ate AAA.

Q:

We may know what was the answer or reaction of AAA?

A:

She said "keep quiet just go to sleep." She even covered her face with a blanket.[17]

BBB was presented as a hostile witness considering that she is the younger sister of AAA. During her testimony, BBB stated that on the date and time of the incident in question, she was inside their home – a one-room nipa structure – and was asleep on top of a mat on the floor; that she slept beside her "ate"; that they each had their own blanket; that during the night of the date in question, she woke up, as she had the urge to urinate, and she called out to her "ate" but the latter told her to keep quiet; that she fell asleep again without going to the bathroom; and that the following morning, her "ate" told her that during the night, the former was raped by accused-appellant.

Joseph Baranggan, son of accused-appellant, was the third and last witness presented by the defense. During his direct examination, the witness testified that he knew the sisters AAA and BBB, for they were his neighbors; considering the proximity of their houses, the witness knew for a fact that the sisters were used to going out and returning well into the night; and that AAA was fond of male company and was actually the talk of the town.

After trial, on 25 March 2002, the RTC promulgated its Judgment, the dispositive portion of which states:

Wherefore, premises considered, the Court finds the accused, Conrado Generalao Baranggan, guilty beyond reasonable doubt as a principal of the crime of rape under Article 266-A, paragraph (1), (a), of the Revised Penal Code, with the aggravating circumstance of dwelling, and hereby sentences him to reclusion perpetua and its accessory penalties; and to pay the costs.

The accused is ordered to pay to the victim, AAA, the sum of P50,000.00 as civil indemnity and the further sum of P50,000.00 as moral damages.[18]

In adjudging accused-appellant guilty of the crime charged, the RTC gave credence to the evidence of the prosecution and declared that:

Since it was admitted that the accused engaged in sexual intercourse with the complainant, the burden lay upon him to prove by clear and convincing proof that it was with her consent. This (sic) the accused failed to do to the satisfaction of the court.

x x x x

[E]ven assuming arguendo that the complainant had lovers and was no longer a virgin, this gave no license to the accused to force himself on a defenseless girl. The victim who was only fifteen years old was not shown to possess the shrewdness and callousness to concoct a story of rape. AAA appeared to be a simple country girl who would not endure physical examination and public trial if her story were untrue. She had absolutely no motive to testify falsely against the accused. Her testimony is entitled to full faith and credence (citation omitted).[19]

And in the end concluded that:

It was satisfactorily established that the accused had carnal knowledge of his victim by means of force and intimidation and without the latter's consent.[20]

On 2 May 2002, accused-appellant seasonably filed a Notice of Appeal[21] before the RTC. Conformably with *People v. Mateo*,[22] however, in a Resolution dated 20 September 2004,[23] we directed the transfer of this case to the Court of Appeals for intermediate review.

Affirming in toto the judgment of the RTC, the Court of Appeals confirmed accused-appellant's conviction in a Decision dated 30 June 2006, in CA-G.R. CR. HC. No. 00198-MIN. The fallo of the Court of Appeals decision reads:

WHEREFORE, all the foregoing considered, the appeal is hereby DISMISSED for lack of merit and the assailed Decision is hereby AFFIRMED in toto.[24]

The present case is again before us for our final disposition.

Accused-appellant is still seeking the reversal of the decision of the RTC, as affirmed by the Court of Appeals, finding him guilty beyond reasonable doubt of the crime of rape on the lone assignment of error stating:

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.[25]

Essentially, it is his contention that the evidence presented by the prosecution was not sufficient to establish the existence of the crime of rape. In his Brief, he avers that AAA's accusation of rape, vis-à-vis her lack of physical injuries and her reputation, do not establish occurrence of the crime of rape. Accused-appellant maintains the defense that the sexual intercourse that occurred on the date and time in question was a tryst between sweethearts. It is then his conclusion that the absence of external evidence of physical injuries on AAA's person, the latter's loose morals or naughty reputation, in addition to the fact that they had a thing going between them, all point to reasonable doubt respecting his legal culpability of the crime charged. And there being reasonable doubt, his constitutionally guaranteed right to be presumed innocent was not overcome.

On the other hand, the Office of the Solicitor General (OSG), for the People of the Philippines, asserts that accused-appellant's claim of the "sweetheart defense" is tenuous at best. Having failed to present corroborating evidence to support such assertion, the claim was self-serving and merely an afterthought or a "desperate attempt to extricate himself from the bind brought about by his unmitigated lust towards an innocent and practically orphaned child." [26] Respecting the claim of lack of external signs of physical injuries, the OSG avers that "[w]hether the victim suffered external injuries other than the violation done to her private parts is immaterial where the medical report proves that she sustained the injury which under the law qualifies as rape." [27]

Moreover, it argues that even though BBB was also in the room when the rape occurred, AAA could not call out to her for help, because accused-appellant threatened to kill both AAA and BBB if she (AAA) brought attention to what was going on.

We find no merit in the petition.

Article 266-A of the Revised Penal Code, defines and punishes the crime of rape, viz:

Art. 266-A. Rape; When and How Committed. – Rape is committed: –

1) By a man who have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

b) When the offended party is deprived of reason or otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

The crime of rape is penalized by a sentence of reclusion perpetua under the terms of Article 266-B of the same law:

Art. 266-B. Penalties. – Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

In the case at bar, having weighed the evidence for the contending parties, we find no cogent reason to reverse the findings and conclusion of the RTC, as affirmed by the Court of Appeals. From a painstaking and meticulous review of the records, we find, and so hold, that the crime of rape was committed on the person of AAA, and that accused-appellant was the perpetrator of the crime that he had been charged with and convicted of.

From the quoted provisions of Articles 266-A and 266-B of the Revised Penal Code, for conviction in the crime of rape, the following elements must be proved beyond reasonable doubt: 1) that the accused had carnal knowledge of the victim; and 2) that said act was 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 twelve years of age or is demented.

Basic is the principle in criminal law that the evidence presented must be sufficient to prove the corpus delicti – the body or substance of the crime; and, in its primary sense, refers to the fact that a crime has been actually committed.[28] The corpus delicti is a compound fact composed of two things: 1) the existence of a certain act or result forming the basis of the criminal charge; and 2) the existence of a criminal agency as the cause of this act or result.[29] In all criminal prosecutions, the burden is on the prosecution to prove the body or substance of the crime. In the case at bar, accused-appellant himself does not deny that he had sexual intercourse with AAA. His contention, however, is that his carnal knowledge of the victim on the date and time in question did not amount to the crime of rape because such coitus was consensual. The foregoing being an affirmative defense, accused-appellant now has the burden of proving the claim of consent to the sexual act.

The evidence presented by the prosecution – the testimony of AAA that accused-appellant raped her, coupled with the testimony of Dr. Cabrera narrating that the medical examination he conducted on AAA and the result of such examination attesting to her injuries were consistent with the penetration of the vagina by a hard object – added to the admission by accused-appellant that he had sexual intercourse with AAA, fully buttresses the existence of the crime of rape. The burden of proof having shifted to accused-appellant, was he able to prove the

non-existence of the two components of the *corpus delicti*?

In his defense, accused-appellant advances the so-called “sweetheart theory.” He admits the sexual encounter, but avers that it was consensual because of his alleged relationship with the victim. He bolsters his claim of consent by pointing to AAA’s lack of external physical injuries along with her loose morals or naughty reputation.

The “sweetheart theory” or “sweetheart defense” is an oft abused justification that rashly derides the intelligence of this Court and sorely tests our patience.[30] By asserting the existence of such a relationship, accused-appellant seeks to prove that AAA willingly participated in the sexual act. But she did not. Accused-appellant is but a neighbor. From the testimony of AAA, he was nothing more than an acquaintance. Therefore, contrary to his claim that such familiarity explains the mutual attraction that was spawned in a day’s time, this Court’s estimation is that if at all there was attraction, it was merely one-sided – from his end. Absent any other tangible and concrete evidence of a relationship beyond acquaintanceship or neighborly relations, we cannot give credence to accused-appellant’s self-serving claim of intimate association between him and AAA that would validate the sexual intercourse that occurred on the date and time in question.

And even if it were true that they were sweethearts, a love affair does not justify rape, for the beloved cannot be sexually violated against her will.[31] A man does not have an unbridled license to subject his beloved to his carnal desires.[32]

In his Brief, accused-appellant wants us to open our minds to the possibility of a one-day courtship that led to an irrepressible attraction and culminated in a late night tryst. Other than surmise and conjecture, nothing substantial or corporeal has been put forward by him. Lest it be forgotten, surmises and conjectures have no place in a judicial inquiry and are especially anathema in a criminal prosecution.[33] In a criminal prosecution, a reasonable doubt can be created by many things; but to be sufficient to prevent conviction, it must arise from the evidence adduced or from the lack of evidence, and can arise from no other legitimate source.[34] Absolute certainty is not demanded by law to convict an accused of any criminal charge; but quite surely, mere possibility is not the type of evidence that will amount to a speck of reasonable doubt that will engender an acquittal. In the instant case, accused-appellant’s assertion that due to the long standing familiarity between him and AAA, the one-day courtship during their chance encounter at the spring was possible. But that was just it – only a possibility.

Anent accused-appellant’s argument concerning the absence of external physical injuries on the person of AAA, suffice it to say that the absence of physical injuries on AAA’s body does not, of itself, negate the latter’s testimony of rape, nor does it make her a willing partner in the sexual act in the case at bar. This Court is satisfied that the evidence elicited from Dr. Cabrera apropos the laceration and abrasion sustained by AAA on her hymen is consistent with a very recent sexual intercourse.

The force used in the commission of rape need not be overpowering or absolutely irresistible.[35] What is essential is simply that the force employed was sufficient to enable the offender to consummate the lewd purpose which the offender had in mind. In this case, there is no question that accused-appellant succeeded in his brutish objective. The threat made on the life of AAA and her sister BBB, coupled with accused-appellant’s strength, was more than enough to facilitate his bestial intentions.

Worth noting further is the fact that accused-appellant has not shown any motive on the part of AAA, to accuse him falsely of the crime of rape. If accused-appellant’s defense was real – that AAA willingly submitted to his embraces and voluntarily engaged in sexual intercourse with him – it is very difficult for us to understand why AAA should, without much ado or prevarication, rush to her neighbor to ask to be accompanied to the Punong Barangay, crying that accused-appellant violated her. We agree with the RTC that it is quite unreal to suppose that AAA, a young country lass, with no apparent reason to bear false witness against accused-appellant, would tell

such a nauseating story, seek police assistance, endure the humiliation of having someone examine her privates, and go through the rigors of a public trial, if indeed she had not been raped.

As to accused-appellant's civil liability, the RTC correctly awarded to AAA P50,000.00 as civil indemnity, and P50,000.00 as moral damages, but failed to award exemplary damages. Given the presence of the aggravating circumstance of dwelling, and in line with current jurisprudence, the additional award of P25,000.00 to AAA as exemplary damages is appropriate.

In fine, the above-quoted excerpts from AAA's account of the rape that occurred on the night of 20 October 1998 is plain and forthright. The RTC, which had the exclusive opportunity to assess the truthfulness of her narration, was thoroughly convinced of her credibility. Let it be stated again that we have consistently deferred to the findings and conclusions made by a trial judge, principally because it is the latter who gets the opportunity to directly and intimately observe the witnesses and to determine, by their demeanor on the witness stand, the probative strength or weakness of what they declared. It must be stressed further that this case has previously undergone intermediate review by the Court of Appeals, which reached the same conclusion as the RTC. Our own thorough examination of the records necessitates us to concur.

WHEREFORE, in light of the foregoing, the Decision of the Court of Appeals dated 30 June 2006 is **AFFIRMED** with **MODIFICATION**. Accused-appellant Conrado Barangan y Generalao is hereby found **GUILTY** of the crime of **RAPE** and is hereby sentenced to suffer the penalty of **Reclusion Perpetua**. Accused-appellant is further **ORDERED** to indemnify AAA in the following amounts: 1) Fifty Thousand Pesos (P50,000.00) as civil indemnity; 2) Fifty Thousand Pesos (P50,000.00) as moral damages; and 3) Twenty-Five Thousand Pesos (P25,000.00) as exemplary damages. Costs de oficio.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Penned by Court of Appeals Associate Justice Rodrigo F. Lim, Jr. with Associate Justices Teresita Dy-Liacco Flores and Sixto C. Marella, Jr., concurring; rollo, pp. 3-21.

[2] Penned by Judge Diomedes M. Eviota; CA rollo, pp. 17-26.

[3] Also spelled as Baranggan in other records.

[4] Id. at 25-26.

[5] Id. at 26.

[6] Per this Court's Resolution dated 19 September 2006 in A.M. No. 04-11-09-SC, as well as our ruling in *People v. Cabalquinto* (G.R. No. 167693, 19 September 2006, 502 SCRA 419), pursuant to Republic Act No. 9262 or the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victims and their immediate family members other than the accused are to be withheld and fictitious initials are to be used instead. Likewise, the exact addresses of the victims are to be deleted.

[7] CA rollo, pp. 6-7.

[8] TSN, 10 May 1999.

[9] TSN, 22 June 1999.

[10] Id.

- [11] TSN, 27 September 1999.
- [12] TSN, 3 July 2001.
- [13] TSN, 15 January 2001.
- [14] TSN, 21 May 2001.
- [15] TSN, 27 September 1999, pp. 3-12.
- [16] TSN, 10 May 1999, p. 15.
- [17] TSN, 3 July 2001, pp. 6-18.
- [18] CA rollo, pp. 25-26.
- [19] Id. at 23-24.
- [20] Id. at 25.
- [21] Records, p. 104-A.
- [22] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [23] CA rollo, p. 119.
- [24] Rollo, p. 21.
- [25] CA rollo, p. 67.
- [26] Id. at 100-101.
- [27] Id. at 102.
- [28] R. Francisco, BASIC EVIDENCE, p. 38 of the Supplement (1999).

[29] 23 C.J.S. 264.

- [30] People v. Maglantay, 363 Phil. 615, 623 (1999).
- [31] People v. Jimenez, 362 Phil. 222, 234 (1999).
- [32] People v. Lozano, 357 Phil. 397, 407 (1998).
- [33] People v. Furugganan, G.R. Nos. 90191-96, 28 January 1991, 193 SCRA 471, 480.
- [34] People v. Calma, 356 Phil. 945, 974 (1998).
- [35] People v. Villaflores, G.R. No. 66039, 8 June 1989, 174 SCRA 70, 78.

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