

FORMER THIRTEENTH DIVISION

[CA-G.R. CR-HC NO. 05985, April 16, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GABRIEL SINFUEGO, ACCUSED-APPELLANT.**

DECISION

DIMAAMPAO, J.:

Incestuous rape of a daughter by a father has heretofore been bitterly and vehemently denounced by this Court as more than just a shameful and shameless crime. Rape in itself is a nauseating crime that deserves the condemnation of all decent persons who recognize that a woman's cherished chastity is hers alone to surrender at her own free will, and whoever violates this norm descends to the level of the odious beast. But the act becomes doubly repulsive where the outrage is perpetrated on one's own flesh and blood for the culprit is further reduced to a level lower than the lowly animal and forfeits all respect otherwise due him as a human being.^[1]

In an Information^[2] dated 28 April 2009, accused-appellant Gabriel Sinfuego (SINFUEGO) was indicted for the crime of Rape in relation to Republic Act No. 7610,^[3] the inculpatory averments of which read:

"That on or about December 27, 2008, in the evening, at Brgy. Bomitog, Banna, Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lewd designs and thru force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA^[4] his fourteen (14) year old daughter, against her will and consent.

CONTRARY TO LAW."^[5]

Upon arraignment, SINFUEGO pled not guilty^[6] to the offense charged. During the pre-trial conference, the parties stipulated on the following facts:

1. The Court has jurisdiction over the case;
2. The identity of the accused is admitted in that he is the same person who was charged and arraigned under the information;
3. The accused is also known as Gabrielano;
4. The private complainant was only fourteen (14) years old on December 27, 2008, the date of the incident, subject matter of the instant case, she having been born on April 24, 1994;

5. The private complainant is the daughter of the accused;
6. The accused and the mother of the private complainant were not yet married when the private complainant was born due to the minority of the mother of the private complainant reason for which she uses the surname Tenedor;
7. The mother of the private complainant and the accused were married on December 8, 1995 after the private complainant was born; and(,)
8. At the time of the alleged incident, the accused and the private complainant were living in Barangay Bumitog, Banna, Ilocos Norte.”^[7]

Thereafter, trial on the merits ensued.

The version of the prosecution^[8] unfolds as follows:

SINFUEGO and CCC got married in 1995. They have five children, two of whom are AAA and BBB. In May 2008, CCC told SINFUEGO to go and live in *Barangay* Bumitog, Banna, Ilocos Norte while she remained in *Barangay* Miramar, Magsingal, Ilocos Sur. He left, taking with him AAA.

During the 2008 Christmas break, BBB spent her holidays with AAA and SINFUEGO at *Barangay* Bumitog. At around 3:00 o'clock early in the morning of 27 December 2008, AAA was sleeping with her brother BBB inside their house when SINFUEGO held her hands and removed her shorts as well as her panty. In a jiff, he went on top of her, and inserted his penis to her vagina. SINFUEGO then told AAA, “If you will report this, I will kill you with your mother.”^[9] Then, he left. AAA was angry about what had happened to her.

BBB, who was asleep at that time, was awakened when SINFUEGO put him aside. BBB witnessed the incident as narrated by his sister, AAA.

CCC went to *Barangay* Bumitog on 5 January 2009 to fetch BBB. That evening, BBB told her, “I have something to tell you mama.”^[10] He divulged that SINFUEGO had gone on top of his sister and had raped her. CCC then asked, “Why did you not tell that to me when we were there this afternoon?”^[11] He answered, “I was afraid because papa threatened me.”^[12]

Immediately, CCC returned to *Barangay* Bumitog that same night to fetch AAA. CCC rode on a motorcycle and was accompanied by her sister's husband. When they arrived thereat, SINFUEGO and his companions were drinking. CCC saw AAA leaning on the back of her father. CCC called AAA and asked about what her brother had told her. AAA cried and confirmed what had happened to her. CCC then related to go home with her even without bringing her clothes. At first, AAA refused but when she agreed, SINFUEGO went near them and threatened them. He picked up a stone and threw it at them. CCC kept mum and just boarded the motorcycle and went home.

Eventually, AAA, assisted by CCC, filed a Complaint against SINFUEGO. A certain Dr. Ernella Agulay (Dr. Agulay), a pediatrician and the coordinator of the Women and Children Protection Unit (WCPU) of the Mariano Marcos Memorial Hospital and

Medical Center of Batac, Ilocos Norte, conducted a physical examination on AAA. The examination yielded the following results:

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ANO-GENITAL EXAMINATION

EXTERNAL GENITALIA	No evident sign of injury at the time of exam
URETHRA AND PERIURETHRAL AREA	No evident sign of injury at the time of exam
PERIHYMENAL AREA AND FOSSA NAVICULARIS	No evident sign of injury at the time of exam
HYMEN	Fimbriated, absent hymenal tissue at 4-5 o'clock, notch at 8 o'clock
PERINEUM	No evident sign of injury at the time of exam

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IMPRESSIONS

Findings diagnostic of previous blunt force penetrating injury”^[13]

SINFUEGO^[14] denied the crime charged against him, asseverating that he could not in conscience rape AAA, his own daughter. He asserted that CCC merely fabricated the whole incident so that she could freely have other relationships.

At around 8:00 o'clock in the morning of 26 December 2008, SINFUEGO avowed that he was at the house of Franklin Morella (Franklin), the husband of his sister, to help in the butchering of a pig. They finished at 10:00 o'clock in the morning. After cooking, they served the food followed by a drinking spree together with Franklin, as well as Florante, Efren and Arnel, all surnamed Morella. When SINFUEGO felt tipsy, he went to sleep in Franklin's house and woke up in the morning of the following day, 27 December 2008. Thereafter, he helped in the preparation of a rice delicacy called “dudol.” He and his companions continued their drinking spree. As before, he slept when he felt inebriated. At around 9:00 o'clock in the morning, he decided to go home. Finding no one upon his arrival, he left for the fields; when he came back at around 3:00 o'clock in the afternoon, AAA and BBB were still not around.

SINFUEGO's avowals were corroborated by Franklin^[15] and his friend, Florante.

Franklin professed that SINFUEGO was indeed at his house on 26 and 27 December 2008 to help in the preparation for the baptism and birthday of his grandchild. SINFUEGO never left his house as he was drunk on these days. He went home on 28 December.

Florante,^[16] for his part, testified that he was with SINFUEGO on 27 December 2008. During their drinking spree, it was SINFUEGO who first became intoxicated,

lay down on the bamboo bed near the place where they were drinking, and who, when he (Florante) was about to go home at around midnight, was still on the said bed.

On 15 April 2011, the Regional Trial Court, First Judicial Region of Laoag City, Branch 11, rendered a Decision,^[17] in Crim. Case No. 14032, the fallo of which reads:

“WHEREFORE, judgment is hereby rendered finding Gabriel Sinfuego, the accused herein, GUILTY BEYOND REASONABLE DOUBT of the crime of rape. He is hereby sentenced to the penalty of RECLUSION PERPETUA. Further, pursuant to prevailing jurisprudence, he is hereby ordered to pay the private complainant the following:

1. The amount of P75,000.00 as civil indemnity;
2. The amount of P75,000.00 as moral damages; and
3. The amount of P25,000.00 as exemplary damages.

SO ORDERED.”^[18]

Unruffled, SINFUEGO (now, appellant) comes to Us via this Appeal, raising a solitary error—

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

After a judicious scrutiny of the record, We affirm the conviction of appellant.

First off, it bears emphasis that ultimately and frequently, the resolution of the charge of rape hinges on the credibility of the victim's testimony. We have consistently relied on the assessment of such credibility by the trial court, because the factual findings of the trial court, particularly those bearing on such assessment, are the product of the trial judge's peculiar opportunity to observe the deportment and demeanor of the witnesses while they personally appear and testify during the trial, as contrasted with Our dependence on the mute pages of the records of the trial. This consistent reliance proceeds from the reality that the trial judge is in the best position to detect that frequently thin line between truth and prevarication that determines the guilt or innocence of the accused. Thus, We will not disturb the credence the trial court accorded to the testimonies of the witnesses unless the trial court is shown to have overlooked or arbitrarily disregarded facts and circumstances of significance in the correct resolution of the case.^[19]

In the case at bench, We rule and so hold that the court *a quo* neither overlooked nor ignored any fact or circumstance of significance. Indeed, it correctly appreciated the evidence and properly concluded that appellant ravished AAA, his own daughter. It unerringly ruled that AAA and BBB are credible witnesses.

In her direct examination, AAA recounted with forthrightness and consistency her

sexual ordeal in the hands of appellant, viz—

“Q You said you were raped by Gabriel Sinfuego. What did he do to you that you say you were raped by him?

A He held my hands, ma'am.

Q And then, what did you do next when he held your hands?

A He removed my shorts, ma'am.

Q How about him, what did he do before he removed your shorts?

A He removed his shirt, ma'am.

Q You said he removed his shirt before he removed your shorts. Will you tell us what was he wearing from waist up at that time? (sic)

A None, ma'am.

Q You said he removed your shorts. What did he do next when he removed your shorts?

A My panty, ma'am.

Q What did he do next after removing your panty?

x x x

x x x

x x x

PROS. PABLO

Q What did he do to your panty when you said panty?

A He removed, ma'am.

Q What happened next?

A He put his penis, ma'am.

Q Where did he put his penis?

A In my vagina, ma'am.

Q How did he position himself in relation to you when he put his penis inside your vagina?

A He was lying on top of me facing the ground, ma'am.

Q When he went on top of you, what did he do next?

x x x

x x x

x x x