

## EIGHTH DIVISION

[ CA-G.R. CR. NO. 04640, October 02, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RODOLFO MADERA A.K.A. "RODING", ACCUSED-APPELLANT.**

### DECISION

**GARCIA-FERNANDEZ, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court of Cabarroguis, Quirino, Branch 31 dated August 17, 2010 in Criminal Case No. 1707-2002 finding accused-appellant Rodolfo Madera a.k.a. "Roding", guilty beyond reasonable doubt of qualified rape as charged and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code.

Accused-appellant was charged in an information<sup>[2]</sup> which reads:

**"That on or about 10:00 o'clock in the evening of June 19, 2002, in Tres Reyes, Saguday, Quirino, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a dagger and motivated by his lust did then and there willfully, unlawfully and feloniously by means of force and intimidation have sexual intercourse with AAA<sup>[3]</sup> against the will and consent of the latter."**

On October 16, 2002, accused-appellant entered a plea of not guilty to the crime charged.<sup>[4]</sup>

On January 20, 2003, pre-trial conference was held where the parties stipulated that the charge against the accused is simple rape and that the prosecution will present AAA's medical certificate.

During trial, the prosecution presented as its witnesses AAA, and Dr. Alex Cristobal, the Municipal Health Officer of Saguday, Quirino. It offered the following documentary evidence: Exhibit-A- short pants of the victim; Exhibit-B- panty of the victim; Exhibit-C- sworn statement of the victim<sup>[5]</sup>; Exhibit-D- medico-legal report of Dr. Cristobal<sup>[6]</sup> and Exhibit-E- affidavit of arrest of Police Officers Garingan and Dacanay<sup>[7]</sup>. On the other hand, the defense presented as witnesses accused-appellant Rodolfo Madera, Juliana Dela Cruz, and Len Len Daileg but did not offer any documentary evidence.

The prosecution's version of facts is as follows:

On June 19, 2002 at seven o'clock in the evening, AAA, together with her husband, was at the house of their Aunt Maring watching television. Their own house is 700

meters away from their aunt's house. At ten o'clock in the evening, AAA decided to go home alone. On her way home, accused-appellant suddenly appeared and pulled AAA's hair. Accused-appellant poked a knife at her neck and then pulled her towards a mango tree. He laid her down and removed her short pants and panty, which he tore with a knife. She tried to struggle, but accused-appellant was stronger. When AAA said that there is a person nearby, accused-appellant immediately stood up. AAA raised her undergarment and short pants and tried to run away but accused-appellant held her right hand and pulled her to the trunk of the mango tree and poked the knife at her neck. They were on a standing position when accused-appellant lowered her short pants and panty. Then, he inserted his penis into her vagina with pumping motions and kissed her face and neck while a knife was pointed at her neck. After accused-appellant satisfied his lust and while he was still kissing her, AAA kicked his penis and ran away. Upon reaching home, she cried but her husband was not there. The following day, she narrated the incident to her husband. They reported the incident to the barangay captain of Tres Reyes, who accompanied them to the Saguday Police Station. AAA subjected herself to a physical examination which was conducted by Dr. Alex Cristobal.<sup>[8]</sup>

Accused-appellant presented his own version of the case.

On June 19, 2002 at around six o'clock in the evening, 68-year old widow Juliana Dela Cruz was at accused-appellant's house watching television. Since she was alone in her own house, she stayed most of the time at accused-appellant's house. She watched television until 11 o'clock in the evening together with accused-appellant and with the latter's mother and the latter's grandchildren. He never went out of the house. At around 11 o'clock in the evening, Juliana cooked noodles. At that time, accused-appellant was already in his room which was only two (2) meters away from the kitchen.<sup>[9]</sup>

Len Len Daileg substantially corroborated the testimony of Juliana Dela Cruz in its material points. She testified that in the evening of June 19, 2002, she was beside her uncle, accused-appellant, watching television together with Juliana Dela Cruz, her brother Lemuel Daileg and her grandmother Josefina Madera. Thereafter, she went to her room while his uncle also proceeded to his own room.<sup>[10]</sup>

Accused-appellant testified that at about nine o'clock in the evening of June 19, 2002, he was inside his house watching television with Len Len Daileg and Juliana Dela Cruz. Later that night, Juliana cooked noodles while he already went to sleep.<sup>[11]</sup> It was already the following day when he woke up.<sup>[12]</sup> He knows AAA because she is the cousin of Bilo Songcuan, who is also a resident of Tres Reyes. During that night, he recalled that Bilo's house was well-illuminated and there were street lights along the road.<sup>[13]</sup>

On August 17, 2010, the trial court rendered a decision, the dispositive portion of which reads:

**"WHEREFORE, premises considered, judgment is hereby rendered finding RODOLFO MADERA GUILTY beyond reasonable doubt of rape committed with the use of a deadly weapon and sentences him to suffer the penalty of reclusion perpetua. However, his preventive imprisonment shall be fully credited to him in the**

**service of his sentence pursuant to Article 29 of the Revised Penal Code, as amended.**

**He is directed to pay AAA the amount of 1) P50,000.00 as civil indemnity; and another 2) P50,000.00 as moral damages.**

**With the category of the accused as a national prisoner, the Clerk of Court is directed to prepare the corresponding mittimus or commitment order for his transfer to the Bureau of Corrections, Muntinlupa City.**

**SO ORDERED."**

Hence, this appeal by the accused-appellant, assigning to the trial court this lone error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE BEYOND REASONABLE DOUBT THE ELEMENTS OF THE CRIME CHARGED.<sup>[14]</sup>

Accused-appellant contends that the prosecution utterly failed to discharge its onus of proving that his penis penetrated AAA's vagina. He asserted that AAA's statement that there was penetration was due to the continued prodding of the prosecution. AAA simply affirmed, denied or supplied the missing details in response to the questions propounded to her. Further, he asserts that evidence on record creates a cloud of doubt on whether he had carnal knowledge with AAA. The constitutional presumption that the accused shall be presumed innocent unless proven otherwise shall not be overridden by the oft-cited doctrine that it is highly improbable for an innocent girl to fabricate a charge so humiliating not only to herself but to her family.<sup>[15]</sup>

The appeal is bereft of merit.

AAA was consistent, candid, and straightforward in her narration that she was raped by accused-appellant. She stood firm on her story even during the cross-examination, to wit:

**Atty. Ubando: Going back to the incident. Did the one who pulled your hair and poked a knife at you succeeded in having carnal knowledge with you?**

**A: Yes sir.**

**Q: How many times, madam witness, did he try to rape you according to you?**

**A: Once only sir.**

**Q: And you are very sure of that?**

**A: Yes sir.**

**Q: Is it not madam witness that you mentioned in your sworn statement that when the accused tried first to rape you he was not able to do so because you were then wearing your panty?**

**Pros. Orias: The witness should be confronted with her sworn statement.**

**Atty. Ubando: Madam witness, in your sworn statement particularly question no. 20, you were asked by the Investigator. Q- At that situation what happened next, if any? At that situation sir, he pulled up and down his hips penetrating his penis to my vagina but he did not succeed because he forgot to remove my panty sir."**

**Q: My question is do you remember having asked this question and gave this answer?**

**A: Yes sir.**

**Q: So that was the only time that he tried to rape you but he did not succeed?**

**A: Yes sir.**

**Q: Because he tried to rape you only once?**

**A: Yes sir.<sup>[16]</sup>**

**xxx**

**Q: Madam witness, did you mention in your sworn statement that the accused was able to rape you while the two of you were in standing position?**

**A: I did sir.**

**Q: But that was the time when you were still wearing your panty?**

**A: No more sir.**

**Q: Because you yourself removed your panty?**

**A: No sir.**

**Q: You removed your panty?**

**A: He torn(sic) with a knife sir.**

**Q: When he torn (sic) with a knife you did not even try to shout for help?**

**A: No sir, because he threatened me.**

**Q: How did he threaten you?**

**A: He told me that he will kill me if I will shout.<sup>[17]</sup>**

Significantly, Dr. Cristobal corroborated AAA's testimony that there was penetration consummating the rape. The doctor found gapping vulva on private complainant's vagina and according to him, this could have been probably due to repeated sexual intercourse or insertion therein of a foreign body like an erected penis.<sup>[18]</sup> Further, the prosecution presented as corroborative pieces of evidence AAA's torn short pants and panty. When a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the same is

sufficient to support a conviction for rape.<sup>[19]</sup>

Accused-appellant denied the accusation and asserted that at the time of the incident he was at home together with his mother, Len Len Daileg, Lemuel Daileg and Juliana Dela Cruz watching television. The testimonies of Juliana dela Cruz and Len Len Daileg corroborating accused-appellant's defense of denial cannot prevail over the testimony of AAA. The testimonies of close relatives and friends are necessarily suspect and cannot prevail over the unequivocal declaration of the complaining witness.<sup>[20]</sup>

Clearly, accused-appellant was not able to prove that it was physically impossible for him to be at the crime scene at the time the offense was committed<sup>[21]</sup>. Denial like alibi is the weakest of all defenses, because it is easy to concoct and difficult to disprove. Further, it cannot prevail over the positive and unequivocal identification of appellant by the offended party and other witnesses. Categorical and consistent positive identification, absent any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over the appellants' defense of denial and alibi.<sup>[22]</sup>

Accused-appellant succeeded in raping AAA with the use of a deadly weapon. This qualifying circumstance was both alleged in the information and proven during the trial, to wit:

**xxx**

**Q: What did he do next when he pulled your hair?**

**A: He poked a knife at my neck, sir. (witness pointing to her left portion of her neck).**

**Q: How were you able to identify that it was Rodolfo Madera who pulled your hair and poked a knife at your neck?**

**A: When I was able to take a look at him, sir, when he loosen (sic) his hold at my hair sir.**

**Q: What did he do next when he poked a knife at your neck?**

**A: He pulled me underneath the mango tree, sir.<sup>[23]</sup>**

**xxx**

**Q: When the accused succeeded in removing your short and panty, did you not try to struggle?**

**A: I did, sir, but he was strong.**

**Q: How about his knife where was it at the time when you said you fought?**

**A: At my right side, sir.**

**Q: Right side of what?**

**A: Right side of my neck sir.<sup>[24]</sup>**

**xxx**

**Q: What about his knife, where was it when he was able to bring you at the trunk of the mango tree?**

**A: It was still poked at my neck, sir.**