

SEVENTH DIVISION

[CA-G.R. CR-H.C. NO. 00730, August 18, 2006]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN
CONTIC Y GUIDANGEN, ACCUSED-APPELLANT.**

D E C I S I O N

COSICO, J.:

Before us is an appeal from the decision dated February 8, 2005 of the Regional Trial Court, Branch 62 of La Trinidad, Benguet in Criminal Case No. 98-CR-3169 finding herein accused-appellant Allan Contic guilty beyond reasonable doubt of the crime of rape.

The Facts

Accused-appellant Allan Contic y Guidangen was charged with the crime of rape as defined under Article 266-A and penalized under Article 266-B of the Revised Penal Code, as amended^[*], via an information^[1] that reads in part –

“That on or about the 15th day of September 1998, at Central Beckel, Municipality of La Trinidad, Province of Benguet, Philippines, and 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 have carnal knowledge of one JENNIFER COPIPING Y ARTEMIO, against the latter’s will and consent.

“That in the commission of the crime, the aggravating circumstance of nighttime is present the same having been purposely sought to facilitate the commission of the crime.

“CONTRARY TO LAW.”

Contic pleaded “not guilty” upon arraignment. After pre-trial, trial on the merits ensued.

The material facts, as found by the trial court, are as follows –

“The prosecution has established these facts:

“After watching TV with Lalyne Lasaten in the house of the Dalpasens that night of 15 September 1998, Jennifer Copiling, a thirteen year old girl, using an umbrella walked home under the rain. She entered by the back door of their house which was not locked, closed the door behind her, and left it unlocked as she expected her mother, Mary Ann, to be home shortly as she visited a neighbor. Near their house, there was a light coming from the house of their neighbor. She changed to her long T-

Shirt – like a duster – and went to sleep. She was roused from her sleep when she heard heavy footsteps inside the house. Thinking that it was her father she called aloud, '*Papa, Papa,*' but there was no answer. Before she knew it, a man went on top of her. At first, Jennifer did not know the man who rode on her. With all her might, she struggled, wiggled, pushed, and kicked to release herself from the hold of the man on top of her. It was dark in the room, so she could not recognize her attacker. Then the man spoke: '*Huwag kang iimik.*' It dawned to her that the voice she heard was very familiar which was that of Allan Contic whom she knew pretty well way back as the Contics and Copilings have been neighbors for a long time. But then she was not so sure if it was really Allan Contic. She continued to struggle and grapple with the man. Jennifer cried out '*tulungan dak*' -- help me. She continued to move from left to right then she shouted again: '*tulungan dak*' – help me. With both hands, she scratched the face of the man. The man boxed her stomach and left eye. She felt pain. The man inserted her three fingers into her mouth but she bit them. The man '*lallalo nga nagungit*' – he became angrier – and with both hands strangled her, and said: '*tumahimik ka, papatayin kita*' – keep quiet or I will kill you. As they grappled, they fell on the floor.

"Summoning all her remaining strength, she tried to remove the choking hold with both her hands but could not. The man banged her head several times on the floor. The man boxed her stomach several times and her eyes. She got dizzy but she kicked Allan and momentarily freed herself. She tried to get up and run, but the man caught her left foot and hand. The man pulled her out of the house. She resisted by clinging on anything she can hold on but failed. The man continued to pull her towards the bath cum toilet, which was about two meters from the house. There was a light coming from the house of a neighbor, Marjorie Freala. It was then that she saw the face of the man, her attacker. It was Allan Contic. The voice she heard earlier was confirmed. As the rain poured, Allan removed her panty (Exhibit L) which was with a sanitary napkin (Exhibit M) as she was then having her menstrual period. Allan pushed her and '*binugbubugbog nak*' – he mauled me. Allan boxed her thighs many times and she felt pain. She felt so weak and could no longer shout for help. She was then exhausted and helpless. Allan raised her long T-shirt, and kissed her breast and face. Jennifer kept moving, pushing and kicking. Allan held both her hands pulled down her panty. Allan said to her, '*sige, ipasok na natin*' – let us put it in. Allan pulled down his pants and brief and inserted his penis into her vagina. She felt pain to a point where she became dizzy. Allan was '*agkinudkinud*' – his buttocks moved up and down. When Allan was finished, he patted her face. She did not move and pretended to be dead. She was so weak but conscious. Allan turned her around such that her belly and face were on the mud. Allan pushed her face several times against the mud that she could hardly breathe and her face hurt. She raised her face and saw Allan enter their house. She stood up and ran to the house of the Dalpasens. She entered through the back door, and shouted: '*Manang Lalyne, tulungan nak*' -- sister Lalyne, help me, and then she cried. Lalyne opened all the lights in the first floor and was shocked to see Jennifer who was wet; her eyes were blue and her nose bleeding. Lalyne asked Jennifer '*apay anya nangyari kenka*' – what happened to you and Jennifer

answered '*ni rape nak*' – he raped me. Lalyne asked who raped her and Jennifer replied: Allan Contic. Lalyne called James Dalpasen, Jr., who with his two friends were on the second floor, and told him to go and look for Jennifer's mother. The three boys left and went to fetch Mrs. Dalpasen who earlier went to bring food to a neighbor. Meanwhile, Lalyne escorted Jennifer to the bathroom and washed her. Lalyne noticed that Jennifer had no panty; that she had bruises and cuts on her body, that her eyes were swollen, that her left eye was black and blue, and that her nose was bleeding. After Jennifer's quick bath, she left her wet brassiere (Exhibit J) and long T-shirt (Exhibit K) in the bathroom, and Lalyne escorted her to the living room. Lalyne loaned Jennifer fresh clothes to wear. While Jennifer was dressing up, Mrs. Dalpasen and Mary Ann, the mother of Jennifer, arrived. Mary Ann hugged Jennifer tightly and they both cried. Mrs. Dalpasen also cried. Mary Ann saw the swollen face of her daughter with one eye almost closed. Mary Ann asked her daughter who raped her; and Jennifer answered: Allan Contic. Mary Ann thought of bringing Jennifer to the hospital. But first, she went to their house to get a jacket for Jennifer. With the use of a flashlight as their electricity was disconnected, she saw three blankets on the floor, and as she lifted and placed them back on the bed, she saw a ball cap on the floor. She examined it. It bore the Nike logo, on the side was the words '*Just do it*', and inside was the initials AGC. She took the ball cap. She saw and took the jacket of Jennifer. She retrieved the key placed on top of the table. As she carried the jacket and the ball cap, she took the key on the table and locked the door of their house and went back to the house of the Dalpasens."^[2]

Victim Jennifer, together with her parents, Mary Ann and Apolinario, and three other persons then went to the La Trinidad Police Station, where Apolinario talked to SPO1 Abansi and SPO1 Gines about what happened to Jennifer. They then proceeded to Benguet General Hospital for the treatment of Jennifer.

Dr. Vladimir V. Villasenor, Regional Chief of the Philippine National Police Crime Laboratory, Camp Bado Dangwa, was the one who conducted the medical examination of victim Jennifer and prepared Medico-Legal Report No. M-143-98^[3] embodying the results of the said examination. The report states that Jennifer sustained fourteen (14) different kinds of injury at different parts of her body. The results of the examination were also compatible with the averment on the girl's recent loss of virginity considering the lacerations in her vagina.

The defense had a different story to tell.

"Let us now shift to the defense.

"In the morning of 15 September 1998, Allan Contic was in Beckel helping in the construction of the house of his brother, Ronald. After lunch, he went to Holy Ghost Hill, Baguio City, to check on a jitney owned by Roger Marzan then under repair in the shop of his uncle Bilo. For a while, he assisted his uncle Bilo. Then, Bilo told him to go and buy certain parts needed. He went to the PNB bank and withdrew the amount of P4,000.00 from their joint savings account. Instead of buying the parts, he proceeded to Gibraltar, Pacdal, Baguio City to get the tools he left in

the house of his sister-in-law, Cathy Apaling and his aunt Hilda Josephine Ngolab. The nephew of his aunt to whom he gave his tools for safekeeping was not in the house. While he was waiting in the house of his sister-in-law, Stephen Danang, the godfather of Kerry his son, invited him to drink. He and Stephen began to drink San Miguel gin. Between them, they had consumed two bottles of 4 x 4 San Miguel gin and one third of the third bottle of 4 x 4 San Miguel gin. At about eleven o'clock in the evening, they stopped drinking and he begged leave to go home. It was raining then, and with the umbrella he brought with him, followed a path which was a short cut to reach the Ambuklao road. He was on the road after walking for about fifteen minutes. He continued to walk and stopped by a store which was still open and stayed there for about forty five minutes as he waited for a ride to go home to Beckel. Ordinarily, from Gibraltar to where he was then to Beckel he could hike the distance of about two kilometers in thirty minutes. Then, he continued to walk a little further until he was in front of the gate of the APTS Seminary. A vehicle approached from the opposite direction. He flagged the vehicle down thinking that it was a taxicab but the vehicle did not stop. After traveling some distance, the vehicle made a u-turn and proceeded back towards Beckel. The vehicle stopped at where he was and noticed that it was a police car. The driver of the police car alighted, approached him and said to him: *'Apay nga rabrabiin ket adda ka pay laeng dita nga agwalang walang? Sumorot ka ketki kanya mi ta agawid ka met laeng no bigat'* -- Why are you still here, it is already nighttime and you are still loitering around. You better come with us and you go home tomorrow. He pleaded to walk home but instead the driver pulled him to the police car. Still with his umbrella, he climbed the police car and noticed two passengers seated in the police car. He recognized one of the two who was Nario or Apolinario Copiling whom he is well acquainted because he is married to Mary Ann Copiling, his neighbor in Beckel. He asked Apolinario where he came from but the latter remained quiet. They proceeded to the La Trinidad Police Station. He overheard a policeman asking Apolinario if he knew him and Apolinario said *'wen'* – yes, and Apolinario continued to say *'awan, haan nga am-amu diay ubing ko diay'* – my child does not know him. After having made to sit for about thirty minutes, two policemen brought him to the Benguet General Hospital, and entered a room where he was examined by Dr. Joey Ancheta. After he was examined by the doctor, the policemen escorted him to a room where there were patients. He did not recognize any of the patients inside the room. After ten minutes, he was brought back to the Police Station. He was then interviewed by a policeman, SPO1 Gines. After having been asked several questions, SPO1 Gines stood up and kicked him. He was then brought to a cell. Later, his picture was taken (Exhibit H-4). He was made to sign a paper and went through finger printing procedure. He admitted that the T-shirt (Exhibit P), the pair of Caterpillar shoes (Exhibit O), the Jacket (Exhibit N), the ball cap (Exhibit I) and the umbrella (Exhibit Q) were his. He was wearing the T-Shirt, the Jacket, and the Caterpillar shoes that evening when he was picked up by the police.

"He knew Jennifer Copiling very well long before 15 September 1998 and Jennifer knew him too. In fact Jennifer addressed him *'manong Allan'*.

Before or on 15 September 1998, he had no quarrel or misunderstanding neither with Jennifer nor with Apolinario and Mary Ann, the parents of Jennifer. He did not know of any reason why Jennifer would charge him with the crime of rape.

"Adela Guidangen Contic, the mother of Allan said that his son, Allan, left their house in Beckel in the afternoon of 5 September 1998 Allan told her that he will go to Gibraltar, Pacdal, Baguio City though it was drizzling. Allan took an umbrella (Exhibit Q) and left. He did not return home that evening. That same evening, Adela was up in keeping watch over her sick mother. Apolinario Copiling came to their house accompanied by two policemen. They were looking for his son Allan. With the use of a flashlight, they searched the house for Allan but he was not around. After fifteen minutes, they left even if it was raining hard.

"Catherine Apaling, the sister of Hilda, said that Stephen and Allan were on the first floor of her house drinking San Miguel gin on 15 September 1998. At about eleven o'clock in the evening, she told Allan and Stephen to stop drinking and told Allan to go home. After about fifteen minutes, though it was raining, Allan left. She observed that Allan was drunk and was too weak to move."^[4]

The Ruling of the RTC

In its judgment^[5] dated February 8, 2005, the RTC declared herein accused-appellant guilty beyond reasonable doubt of the crime of rape. Thus, the dispositive portion of the said judgment reads:

"WHEREFORE, viewed from all the foregoing, the court finds ALLAN CONTIC y GUIDANGEN guilty beyond reasonable doubt of the crime of simple rape and sentences him to suffer the penalty of *reclusion perpetua* and all the accessory penalties provided under Article 41 of the Revised Penal Code, and to indemnify Jennifer Copiling the sum of Fifty Thousand Pesos (P50,000.00) as civil indemnity, the sum of Sixty Thousand Pesos (P60,000.00) as moral damages, and the sum of Twenty Five [Thousand] Pesos (P25,000.00) as exemplary damages.

"The accused ALLAN CONTIC y GUIDANGEN has been under preventive imprisonment during the course of the proceedings in this case, hence, he is given full credit of the entire duration of his preventive imprisonment.

"Pursuant to Administrative Circular No. 4-92-A of the Court Administrator, the Provincial Jail Warden of Benguet Province is directed to immediately transfer the said accused ALLAN CONTIC y GUIDANGEN to the custody of the Bureau of Corrections, Muntinlupa City, Metro Manila after the expiration of fifteen (15) days from date of promulgation unless otherwise ordered by this Court.

"Let a copy of this Judgment be furnished the Provincial Jail Warden of Benguet Province for his information, guidance and compliance.