

## THIRD DIVISION

[ G.R. No. 133831, February 14, 2003 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
APOLONIO CULTURA, ACCUSED-APPELLANT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

On appeal is the Decision<sup>[1]</sup> of the Regional Trial Court, Branch 43, Dumaguete City, Negros Oriental, in Criminal Case No. 12492, convicting Apolonio Cultura, accused-appellant, of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to pay AAA, complainant, the amount of P50,000.00 as civil indemnity.

On May 13, 1996, an Information was filed with the said court charging the accused-appellant with rape committed in the following manner:

"That on April 9, 1996 at about 12:00 o'clock noon at Barrio [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation with the use of a knife willfully, unlawfully and feloniously, did then and there lie and succeeded in having sexual intercourse with an eleven (11) year old victim AAA, without the latter's consent.

"Contrary to Article 335 of the Revised Penal Code."<sup>[2]</sup>

Upon arraignment, the accused-appellant pleaded not guilty to the crime charged.<sup>[3]</sup> Thereafter, trial ensued.

The evidence for the prosecution, as synthesized by the Solicitor General in the Appellee's Brief, is as follows:

"At about 11:00 o'clock a.m. of April 9, 1996, eleven year-old AAA, and her brother [REDACTED], were at the Siaton River, just below their house at [REDACTED] (p. 5, tsn, August 13, 1996) catching shrimps (p. 8, *id.*). Since the Siaton River was waist-deep, AAA took off her clothes while catching shrimps with a spear gun (p. 3, tsn, October 25, 1996). [REDACTED], however, went home ahead of AAA who wanted to take a bath after catching shrimps (p. 19, tsn, August 13, 1996). While at the river, AAA saw her neighbor, Apolonio Cultura, alias Onyot approaching her after coming from a bamboo grove (p. 6, tsn, October 26, 1996). When Onyot neared AAA, he boxed her twice causing her to fall and to lose consciousness (pp. 6-7, *supra*). When AAA recovered, she found herself in the bamboo grove. AAA stood up and saw blood oozing out of her sexual organ. AAA ran home but saw Onyot on the road near his farm (p. 7, tsn, October 25, 1996). Onyot warned her not to tell her parents about the incident, otherwise, he will kill her family (p. 7, *supra*).

"Upon reaching home, [REDACTED], AAA's father, noticed that AAA's sexual organ was bleeding. When asked by her father as to what happened, AAA answered that she was raped by Onyot (pp. 8-9, tsn, November 18, 1996). Immediately, [REDACTED] brought AAA to the barangay captain who, upon noticing that AAA's shorts was drenched with blood, advised them to proceed to the police station at the municipal hall (pp. 6 and 10, *supra*). After the incident was blotted by the police, AAA, upon police advice, was brought to the Bayawan District Hospital where her bleeding sexual organ was cleaned and sutured (p. 11, *supra*). On examination, Dr. Mitylene Besario Tan, AAA's attending physician, found that AAA sustained a lacerated wound located at the mid-lower aspect, vaginal mucosa extending to the perimeum. The wound was a very serious one because it extended from the inside to the outside of the victim's vagina. Without medical attendance, it would cause profuse bleeding leading to anemia and possibly to hypovolemic shock and death (p. 8, tsn, July 9, 1996)."<sup>[4]</sup>

The evidence for the defense consisted of the testimonies of the accused-appellant and Roger Sumili.

Roger Sumili testified that he is a *trysicad*<sup>[5]</sup> operator and that the accused-appellant is his driver. On April 9, 1996, the accused-appellant rented his *trysicad* and plied the routes around the *poblacion* of Siaton, Negros Oriental from 6:00 o'clock in the morning until 12:00 o'clock noon.<sup>[6]</sup> Then, they ate lunch at the *poblacion* market. Thirty minutes later, the accused-appellant resumed driving the *trysicad* and proceeded to *Barangay* 2 of Siaton, while Sumili drove another *trysicad* towards the opposite direction. They encountered each other at the crossroads and also at the marketplace at 2:00 o'clock in the afternoon. Two hours later, Sumili saw the accused-appellant with a policeman riding in a *trysicad* heading towards the Siaton police station.<sup>[7]</sup> Sumili later learned that the accused-appellant was charged with rape. According to Sumili, *Barangay* [REDACTED] (where the crime took place) is far from the *poblacion* although the distance may be traversed by a *trysicad* or pedicab.<sup>[8]</sup>

For his part, the accused-appellant, in a very brief testimony, denied committing the crime charged and raised the defense of alibi. He testified that on April 9, 1996 at around 12:00 noon, he was at *poblacion* Siaton, Negros Oriental, driving a *trysicad* owned by Roger Sumili. He maintained that he and complainant are not neighbors in *Barangay* [REDACTED] where she lives.<sup>[9]</sup> According to him, he resides in Camansi, Tanjay.

On March 16, 1998, the trial court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered finding the accused Apolonio Cultura alias "Onyot", guilty beyond reasonable doubt of the crime of rape defined and punished under Article 335 of the Revised Penal Code, as amended, under circumstances provided under no. 3 of the same Article of the Revised Penal Code, and the penalty of Reclusion Perpetua is hereby imposed upon the said accused, who is directed to indemnify the victim in the amount of P50,000.00.

"The accused is granted full time credit of the duration of his preventive custody.

"SO ORDERED."<sup>[10]</sup>

Hence, this appeal.

In his Brief, the accused-appellant contends that the trial court erred:

"...IN CONVICTING ACCUSED-APPELLANT OF RAPE DESPITE THE FACT THAT HIS GUILT WAS NOT PROVED BEYOND REASONABLE DOUBT."<sup>[11]</sup>

In the main, the issue is the credibility of complainant AAA. It is apt to point out once more that factual findings of the trial court, particularly its assessment of the credibility of witnesses, are entitled to great weight on appeal. This is based on the principle that the assessment of the credibility of witnesses is a matter best left to the trial court because of its unique position of being able to ascertain and measure the sincerity and spontaneity of witnesses through the actual observation of their manner of testifying, demeanor and behavior in court.<sup>[12]</sup>

The complainant testified as follows:

"x x x

Q On April 9, 1996 at about 11:00 o'clock in the morning, can you still recall where were you?.

A Yes

Q Where were you?

A I was catching.

Q What were you catching?

A Shrimps.

Q Where were you catching shrimps?

A In the river of Siaton.

Q That river of Siaton is far from your house?

A Just below.

Q Who was with you when you were catching shrimps at the river of Siaton?

A [REDACTED] but he went home ahead of me.

Q You are saying that after [REDACTED] went ahead of you, you were left alone at the river?

A Yes.

Q How deep was the river where you were catching shrimps?

A Until the waistline.

Q When you were catching shrimps at the river, were you wearing something or were you naked?

A None.

Q While you were catching shrimps, will you please tell us what happened if anything happened?

A There was.

Q What happened?

A He boxed me twice.

Q Who boxed you twice?

A Onyok.

Q Is that Onyok present in the courtroom now?

A Yes.

Q Can you please point him to the Court?

A That man.

NOTE:

Witness is pointing to a man whom when called and asked his name answered Apolonio Cultura.

Q When you said that you were boxed by Onyok, where were you boxed by Onyok, at the river or already away from the river?

A In the river.

Q Were you hit by Onyok?

A Yes.

Q Where were you hit?

A At the side.

Q After you were boxed at the side and you were hit, what did Onyok do, if any?

A I fell down.

Q When you already fell down, what did Onyok do to you if you can still remember?

A I lost my senses for a while.

Q When you recovered your senses, do you remember where were you, were you still at the river or away from the river?

A I can remember.

Q Where were you?

A By the bamboo grove.

Q When you said that you recovered your consciousness at

the bamboo grove, when you recovered your consciousness, what happened and what did you see of your body if you remember?

A I found out that he was already gone.

Q What about you, were you still naked at the time you regained consciousness?

A Yes.

Q What did you see with your body after you recovered your consciousness?

A I did not have clothes on and when I stood up the blood spluttered.

Q Where did this blood come from that spluttered?

A From my vagina.

Q How much was this blood that came out from your vagina?

A Much blood.

Q What did you feel after you saw that there was so much blood coming out from your vagina?

A Pain.

Q What did you do after you discovered that there was so much blood coming from your vagina?

A I ran.

Q To which direction were you going?

A To the road.

Q To whom did you see, if any, when you were at the road?

A I saw Onyok.

Q When you saw Onyok right there at the road, did you hear anything that he said to you at that time?

A Yes, there was.

Q What did he say to you?

A He said that if I were to tell those things to my father, he would kill all of us.

Q After hearing those words from Onyok, what did you do next?

A I ran.

Q To which direction were you going?

A To our house.

Q Were you able to arrive at your house?

A Yes.