

SECOND DIVISION

[G.R. No. 124704, February 22, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LORETO CUADRO Y OBEDOZA ALIAS "PIJOK", ACCUSED-
APPELLANT.**

D E C I S I O N

QUISUMBING, J.:

On appeal is the decision dated November 15, 1995 of the Regional Trial Court, Lingayen, Pangasinan, Branch 37, in Criminal Cases Nos. L-4711 to L-4716, acquitting appellant of one (1) count of rape but convicting him of five (5) counts of rape and sentencing him in each count to *reclusion perpetua* as well as to indemnify the victim the amount of P30,000.00, and to pay the costs.

Appellant is accused of raping Venus D. Addato, who was a 12 year-old, Grade III pupil at the time of the incident. Her mother is the live-in partner ("common-law wife") of appellant.

The version of the prosecution, as summarized by the trial court, is as follows:

"Venus Addato claimed on the witness stand that during her stay at Brgy. Puelay, Villasis, Pangasinan, in the house of her step-father, Loreto Cuadro, mother, brother, half-sisters and half-brothers, sometime in the month of May, 1992, her step-father, Loreto Cuadro, on five (5) occasions, at intervals of one day after each incident, had sexual intercourse with her by inserting his penis in her vagina. Venus narrated further that each time she was raped by her said stepfather, it was in their house, after lunch when her brothers and sisters were playing in the houses of their neighbors, her mother was selling corn at Carmen, Rosales, Pangasinan, and it was only the two of them inside the house. (TSN, 15 December, 1992, pp. 6-7).

Going into detail, Venus testified that the first time she was raped by her stepfather, he armed himself with a kitchen knife. It was in their house after lunch, her mother was not home as she was selling corn in Carmen, and her brother and sisters were in the neighboring houses, playing. Her stepfather first inserted his penis into her mouth. Then, he inserted his penis into her vagina. He told her that if she would report the incident to her mother, he would kill her. She did not resist because she was afraid he might kill her as he was drunk. (TSN, *supra*, pp. 6-7).

The second incident took place after an interval of one day, again in their house, when she had no companion, her step father raped her. He did not have the knife, he did not say anything or warn her. The third time her step-father raped her was also one day later, after lunch, she did not

resist because she was afraid he might kill her as he again had the kitchen knife, 6 to 8 inches long, which he got from the kitchen. The fourth time she was raped by her step-father, a day later, after lunch, in the house, he was not armed, he did not say anything thereafter, he did not warn her that he would be killed if she reported the matter to her mother. On the fifth occasion that her stepfather raped her, he was not armed, he did not warn her. (TSN, supra, pp. 8-10).

Cherry Diaz, wife of a brother of Venus Addato's mother, with whom Venus lived with her grandmother in Tubor, Malasiqui, during school days, testified that sometime in June 1992 she observed Venus to be restless, so she asked her what was wrong with her, and, trembling, Venus said that she was afraid because the accused might kill her. She confided that she was sexually abused by her stepfather Loreto Cuadro, five (5) times, once every other day. Cherry Diaz forthwith reported the matter to her mother-in-law, Alberta Diaz, Venus' grand-mother who investigated Venus about the report."^[1]

The defense, on the other hand, presents the following version:

"The accused, Loreto Cuadro, 46 years old, put up the defense of denial, admitting that he is a live-in-partner of Lolita Diaz (Addato-Cuadro), that they live in their house in Puelay, Villasis, Pangasinan, with their five (5) children, the oldest being 10 years old and the youngest 2 years old, and a stepson 14-year old Rex Addato, son of Lolita with her husband, that Venus Addato is his step-daughter, being another child of Lolita, and that Venus was then living with her grandmother, Alberta Diaz in Brgy. Tubor, Malasiqui, Pangasinan where she goes to school. Further, he claimed that in the month of May 1992 he and Lolita were engaged in gold panning in the Agno River near the Carmen, Rosales bridge, going to the river at 6:00 A.M. and going back home at 2:00 P.M., taking their lunch in the river.

Accused Loreto Cuadro denied, on direct examination and cross-examination, that Venus Addato ever visited or stayed in his house at Puelay, Villasis in the month of May, 1992 (TSN, 28 April 1993, p. 5; *ibid*, p. 10). And, he vehemently denied that he raped Venus or did anything to her (*ibid.*, pp. 6-7).

The accused's defense of alibi was corroborated by his live-in partner Lolita, step-son Rex and his 'Cabo' in his job as jueteng collector, to the effect that said accused and his live-in-partner were gold panning during the month of May 1992, they left their house at 6:00 o'clock in the morning, stay at the river gold-panning continuously up to 2:00 o'clock in the afternoon when they went home, with the accused never having gone home before 2:00 P.M., and thereafter the accused went around collecting jueteng bets in the neighborhood. Rex Addato added that he was also a jueteng collector but he collected bets right at the yard in front of their house where the bettors went to place their bets and did not notice his sister, Venus, being abused by their step-father.

Adding her two-cents worth, Lolita Diaz (Addato-Cuadro), claimed that

she cooked the family's breakfast and lunch in the morning before leaving for the river to pan gold, when she and her husband (accused) returned home from the river at 2:00 PM, she washed the clothes of the family in their house because Venus was very lazy, that she never sold corn at the Carmen bus terminal, and there was no way for the accused to have raped her daughter.

Not to be outdone, Rosendo Oliveras, neighbor and 'Cabo' of the accused in jueteng who claimed to be roaming around the premises of the house of the accused, as jueteng 'cabo', collecting bets from jueteng collectors from 9:00 o'clock in the morning to 12:00 noon when the numbers are drawn, that the house of the accused, which is a little nipa hut, was then under repair in the month of May and that persons inside the house could be seen from the outside, that usually between 12:00 noon and 5:00 PM, the children of Lolita were watching television in his house with Venus Addato watching over her half-brothers and half-sisters, that Venus could not have been raped by her step-father because she was only 12 years old and no blood came out from her private part. (TSN, 8 March 1993, pp. 9, 15-16, 18.)"^[2]

On July 6, 1992, the victim, accompanied by her aunt Cherry Diaz, filed against appellant a Criminal Complaint^[3] for rape with the Municipal Circuit Court of Villasis, Pangasinan. On July 20, 1992, after conducting preliminary investigation, the circuit judge issued a Resolution^[4] finding a *prima facie* case for rape and forwarded the records to the Provincial Prosecutor of Lingayen, Pangasinan.

On October 14, 1992, appellant was charged with six (6) counts of rape under six (6) Informations^[5] which are similarly worded as follows:

I N F O R M A T I O N

"The undersigned upon verified complaint of Venus D. Addato, a minor of 12 years, hereby accuses LORETO CUADRO y OBEDOZA of the crime of RAPE, committed as follows:

That on or sometime on May, 1992 in barangay Puelay, municipality of Villasis, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, [being the step father of the complainant], armed with a bolo, by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously have sexual intercourse with Venus D. Addato against her will, to her damage and prejudice.

CONTRARY to Article 335 of the Revised Penal Code.

Lingayen, Pangasinan, October 13, 1992."

Upon arraignment, appellant entered a plea of not guilty.^[6]

During trial, the prosecution presented as witnesses (1) Venus D. Addato, the victim, (2) Cherry Diaz, sister-in-law of the victim's mother, to whom the victim

confided about the rapes perpetrated by appellant,^[7] (3) Alberta Diaz, grandmother of the victim, who conferred with the victim about the rapes upon the request of Cherry Diaz,^[8] (4) Lutgarda Diaz, a social worker, whose testimony was dispensed with when the defense admitted that her testimony was merely corroborative of the testimonies of Cherry Diaz and Alberta Diaz,^[9] and (5) Dr. Noel U. Obedoza, resident physician at the Urdaneta District Hospital in Asingan, Pangasinan. Dr. Obedoza testified that he did not find any recent external physical injuries on the body of the victim, but he found the hymen ruptured with old healed lacerations at 7, 11 and 3 o'clock, and that her vaginal orifice easily admitted a forefinger. Considering the victim's age, Dr. Obedoza opined that it was possible that the victim had sexual intercourse more than once.^[10]

For the defense, the following witnesses testified: (1) appellant, (2) Lolita Diaz, the victim's mother and common-law wife of appellant, (3) Rex Addato, brother of the victim, and (4) Rosendo Oliveras, appellant's neighbor.

Appellant denied the rape charges. He and his witnesses claimed that it was highly improbable, if not impossible, for him to have raped the victim considering that in the month of May 1992, appellant and his common-law wife panned gold in the Agno Valley River from 6:00 A.M. until around 2:00 P.M., and thereafter, appellant would continue with his work as a *jueteng* bet collector. Further, the house where the alleged rape took place always had many visitors who would place their *jueteng* bets with appellant or his son, Rex Addato. The defense insisted that Alberta Diaz, the victim's grandmother, helped the victim file this rape case in order to force appellant and his common-law wife to separate.^[11]

On rebuttal, Alberta Diaz testified that she had no ill-will towards appellant except for the fact that he raped her granddaughter.^[12]

On sur-rebuttal, appellant insisted that his mother-in-law, Alberta Diaz, used to borrow money from him, and when she could no longer borrow money, she wanted appellant to separate from her daughter so that the latter could marry a richer man.^[13]

On November 15, 1995, the trial court rendered its decision^[14] disposing thus -

"WHEREFORE, the accused, Loreto Cuadro y Obedoza, alias `Pijok', is hereby found guilty beyond reasonable doubt, of the crime of Rape, in five (5) counts, defined and penalized under Article 335 of the Revised Penal Code, under Criminal Cases Nos. L-4711, L-4712, L-4713, L-4714 and L-4715, and he is hereby sentenced to suffer the penalty of five (5) imprisonments of reclusion perpetua, to indemnify the offended party, Venus Addato in the amount of P30,000.00, and to pay costs.

The accused is hereby acquitted of the crime charged under the Information filed in Criminal Case No. L-4716.

SO ORDERED."

Hence, the present appeal. Appellant contends that the trial court erred in - ^[15]