

FIRST DIVISION

[G.R. No. 119325, September 26, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SULPICIO CAPINIG Y RANON, ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

Accused-appellant Sulpicio Capinig was indicted for the crime of Rape^[1] before the Regional Trial Court of Masbate (Branch 46)^[2] in an information^[3] (docketed Criminal Case No. 6587) that read:

"That on or about February 2, 1992, in the evening thereof, at sitio Pisong, Barangay Jaboyo-an, Municipality of Aroroy, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused with lewd design and armed with a bolo, did then and there willfully, unlawfully and feloniously have carnal knowledge with Trinidad Abriol, a girl of 13 year old, against the latter's will.

"Contrary to law."^[4]

The accused pleaded "not guilty" to the charge.

At the trial, evidence was adduced by the prosecution and the defense. Convinced that the case for the people had been sufficiently established, the trial court rendered a judgment of conviction; it concluded:

"WHEREFORE, in view of all the foregoing considerations, the Court finds accused Sulpicio Capinig guilty beyond reasonable doubt of the crime charged and hereby sentences him to suffer the penalty of RECLUSION PERPETUA and to indemnify the victim Trinidad Abriol the amount of P30,000.00 without subsidiary imprisonment in case of insolvency.

"Since the accused is detained, in the service of his sentence, he shall be credited the full period of his detention.

"It is likewise ordered that the accused be transmitted to the National Bureau of Prison thru the Philippine National Police (PNP) pursuant to the Supreme Court Resolution En Banc laid down in the case of People vs. Ricardo C. Cortez (GR-92580, October 15, 1991) cited in the case of People vs. Cresencio C. Reyes, En Banc, GR-101127-31, August 7, 1992.

"SO ORDERED."^[5]

Hereunder, briefly narrated, is the evidence submitted by the prosecution.

At about five o'clock in the afternoon of 02 February 1992, Trinidad Abriol, then only thirteen years of age and a fourth-grade pupil at the Barangay Jaboyo-an Elementary School in Aroroy, Masbate, visited Alma Recaña, a friend and a schoolmate, at the latter's house. On her way home two hours later, she chanced upon the accused^[6] along the road. Moments later, the accused suddenly grabbed Trinidad's right hand and dragged her to a cogonal area where he forced her to the ground. She struggled to break free and shouted for help until the accused poked a *bolo* at her neck. Then, he forced himself upon her. When it was over, the accused directed the young girl to get home but warned her of serious consequences if she were to tell on him. Trinidad arrived home at about ten o'clock that evening. She kept the ordeal to herself.

A few days later, Trinidad's mother, learned about the rape from Sefa Recaña, a relative and neighbor, to whom Trinidad ultimately confided. Her mother lost no time in reporting the matter to the *Barangay* Captain. Trinidad submitted herself to a physical examination conducted by Dra. Conchita Ulanday, a municipal health officer at Aroroy, who made the following findings:

"1. Laceration of the hymen which is on the healing process at 3:00 o'clock and 7:00 o'clock.

"2. Two examining fingers could easily be inserted."^[7]

In appealing his conviction to the Court, the accused-appellant asseverates that -

"1. The trial court gravely erred in giving full credence to the testimony of the complainant which is incredible, unreliable, therefore not sufficient to sustain a conviction beyond reasonable doubt.

"2. The trial court erred in not acquitting accused-appellant when the evidence adduced by prosecution failed to overcome the presumption of evidence of innocence in their favor by clear and convincing evidence of guilt beyond reasonable doubt."^[8]

Appellant would want to make it appear that he and complainant were in fact lovers, and that the filing of the complaint against him was her mother's way of having the love relationship terminated.

Like the trial court below, we are not persuaded.

The court *a quo* gave more credence to the statements of the prosecution witnesses rather than those of the defense witnesses. This determination must be respected; it is an old maxim that the findings of a trial court on the credibility of witnesses deserve great weight, given the clear advantage of a trial judge over an appellate magistrate, in the appreciation of testimonial evidence.

The Court itself, nevertheless, has gone over the testimony of the victim, and it finds nothing to cause any disagreement with the trial court. In a manner that is typical of an inexperienced young girl, she has testified:

"Q. Now, when you met this Sulpicio Capinig on your way home at around 7 o'clock of Feb. 2, 1992, what did he do to you?

"CASTILLO

Leading, we object.

"BARSAGA

"Q. What happened?

"A. He held my hand and dragged me to the cogon grasses.

"Q. What did you do when you were dragged by this Sulpicio Capinig to the grasses?

"A. I shouted and he pointed his bolo at my neck.

"Q. And what else did he do?

"A. Then he lied me down and he would something from me.

"Q. And could you tell us what was that he got something from you?

"A. Yes, sir.

"Q. What is that?

"A. He had a sexual intercourse with me.

"Q. When this Sulpicio Capinig had sexual intercourse with you what did you do?

"A. When I was already standing he again pointed his bolo also in my neck and I kept on shouting.

"Q. And what did this Sulpicio Capinig tell you, if any, when he was pointing that bolo to your neck?

"CASTILLO

Leading, we object.

"COURT

Let the witness answer.

"WITNESS

"A. He told me not to make any noise.

"Q. And how many time did this Sulpicio Capinig have sex with you?

"A. Only once.

"COURT (to the witness)

"Q. Why is the accused your uncle?

"A. Because my mother and the mother of the accused are first cousins.

"COURT

Proceed.

"BARSAGA

"Q. And after this Sulpicio Capinig have sex with you, what else happened?

"A. When I was standing already, he lied me down again and fondled my breast.

"Q. And what happened after that?

"A. Then he again have sexual intercourse with me.

"Q. And after he has sex with you, what did you do?

"A. He lied on top of me.