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THIRD DIVISION

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

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **APOLONIO CULTURA,** *accused-appellant.*

SYNOPSIS

On appeal before the Supreme Court is the decision of the Regional Trial Court convicting accused-appellant of the crime of rape, and sentencing him to suffer the penalty of *reclusion perpetua*. Appellant denied the charge and raised the defense of alibi.

According to the Supreme Court, a review of the records and evaluation of evidence showed that the complainant told the truth and that she positively identified the appellant. The Court agreed with the ruling that there was sufficient circumstantial evidence to warrant his conviction and found that the incidents, as glaringly shown by the records, constituted an unbroken chain of events which leads to the conclusion that the appellant committed the crime charged.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; ASSESSMENT BY THE TRIAL COURT ENTITLED TO GREAT WEIGHT; RATIONALE.**— 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.

2. **ID.; ID.; CIRCUMSTANTIAL EVIDENCE; WHEN SUFFICIENT TO PRODUCE CONVICTION.**— Section 4, Rule 133 of the Revised Rules of Court, as amended, enumerates the conditions when circumstantial evidence may be sufficient for conviction, thus: "SEC. 4. Circumstantial Evidence, when sufficient. — Circumstantial evidence is sufficient for conviction if: (a) There

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is more than one circumstance; (b) The facts from which the inferences are derived are proven; and (c) The combination of all circumstances is such as to produce conviction beyond reasonable doubt." As jurisprudentially formulated, a judgment of conviction based on circumstantial evidence can be upheld only if the circumstances proven constitute "an unbroken chain which leads to one fair and reasonable conclusion pointing to the defendant as the guilty person," *i.e.,* the circumstances proven must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other hypothesis except that of guilty.

3. **ID.; ID.; ALIBI, AS A DEFENSE; WHEN MAY PROSPER; NOT PRESENT IN CASE AT BAR.**— Alibi is the weakest of all defenses for it is easy to fabricate. It cannot prevail over the positive identification of the accused by credible witnesses as the perpetrator of the crime. For the defense of alibi to prosper, the accused must be able to (a) prove his presence at another place at the time of the perpetration of the offense, and (b) demonstrate that it is physically impossible for him to be at the scene of the crime. In the case at bar, Sumili testified that the distance between the *poblacion* (where the accused-appellant was driving the *trysicad*) and *Barangay* Datag (the scene of the crime) may be negotiated by *trysicad.* Clearly, it was possible for the accused-appellant to be at *Barangay* Datag at that particular time when the crime was committed.

4. **CRIMINAL LAW; RAPE; ELEMENTS.**— Article 335 of the Revised Penal Code, as amended by RA 7659, defines rape as the crime committed by a person having carnal knowledge of a woman under any of the following circumstances: (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when the woman is under twelve years of age or is demented. The crime shall be punished by *reclusion perpetua.*

5. **ID.; ID.; COMMITTED WHILE THE WOMAN WAS UNCONSCIOUS; PRESENT IN CASE AT BAR.**— The trial court correctly convicted the accused-appellant on the basis of Article 335 (2) of the Revised Penal Code, *i.e.,* that the rape was committed when the woman was unconscious. It bears reiterating that the prosecution has established by evidence beyond reasonable doubt that the complainant was unconscious

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at the time she was raped. The carnal knowledge of an unconscious woman constitutes rape, opposition or resistance not being required, for the state of the woman at that time signifies that she has no will.

APPEARANCES OF COUNSEL

Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

SANDOVAL-GUTIERREZ, *J.*:

On appeal is the Decision[1] 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 Dahlia Rose Balsamo, complainant, the amount of ₱50,000.00 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 Datag, Siaton, Negros Oriental, 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 Dalia Rose C. Balsamo, without the latter's consent.

"Contrary to Article 335 of the Revised Penal Code."[2]

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

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[1] Penned by Judge Winston M. Villegas, *Rollo*, at 18-28.

[2] RTC Record, at 2.

[3] RTC Order dated June 7, 1996, *id.*, at 20.

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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 Dahlia Rose Balsamo, and her brother Longlong, were at the Siaton River, just below their house at Datag, Siaton, Negros Oriental (p. 5, tsn, August 13, 1996) catching shrimps (p. 8, *id.*). Since the Siaton River was waist-deep, Dahlia took off her clothes while catching shrimps with a spear gun (p. 3, tsn, October 25, 1996). Longlong, however, went home ahead of Dahlia who wanted to take a bath after catching shrimps (p. 19, tsn, August 13, 1996). While at the river, Dahlia saw her neighbor, Apolonio Cultura, *alias* Onyot approaching her after coming from a bamboo grove (p. 6, tsn, October 26, 1996). When Onyot neared Dahlia, he boxed her twice causing her to fall and to lose consciousness (pp. 6-7, *supra*). When Dahlia recovered, she found herself in the bamboo grove. Dahlia stood up and saw blood oozing out of her sexual organ. Dahlia 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, Leoncio Balsamo, Dahlia's father, noticed that Dahlia's sexual organ was bleeding. When asked by her father as to what happened, Dahlia answered that she was raped by Onyot (pp. 8-9, tsn, November 18, 1996). Immediately, Leoncio brought Dahlia to the *barangay* captain who, upon noticing that Dahlia'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 blottered by the police, Dahlia, 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, Dahlia's attending physician, found that Dahlia sustained a lacerated wound located at the mid-lower aspect, vaginal mucosa extending to the perineum. 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)."[4]

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[4] *Rollo*, at 89-91.

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

Roger Sumili testified that he is a *trysicad*[5] 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.[6] 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.[7] Sumili later learned that the accused-appellant was charged with rape. According to Sumili, *Barangay* Datag (where the crime took place) is far from the *poblacion* although the distance may be traversed by a *trysicad* or pedicab.[8]

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* Datag where she lives.[9] 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

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[5] A *trysicad* is a bicycle with sidecar which transports passengers for hire.

[6] TSN, July 16, 1997, at 4-6.

[7] TSN, October 13, 1997, at 3-12.

[8] *Id.*, at 9.

[9] TSN, July 16, 1997, at 3-6.

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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 ₱50,000.00.

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

"SO ORDERED."[10]

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."[11]

In the main, the issue is the credibility of complainant Dahlia Rose Balsamo. 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.[12]

The complainant testified as follows:

"xxx xxx xxx

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

A Yes.

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[10] RTC Record, at 119.

[11] *Rollo*, at 58.

[12] *People vs. Concepcion*, 361 SCRA 716, 734 (2002); *People vs. Ubaldo*, 342 SCRA 338, 348 (2000); *People vs. Lacaba*, 318 SCRA 301, 309 (1999).

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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 Longlong but he went home ahead of me.

Q You are saying that after Longlong 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.

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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.

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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 sputtered.

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.

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Q Who was there in your house when you arrived there?
A My father.

Q What did you tell your father, if any?
A I said I was sexually abused by Onyok.

Q When you arrived at your house and you told your father that you were sexually abused by Onyok, do you remember if you were still bleeding at that time?
A Yes.

Q Did you show your vagina bleeding to your father?
A Yes.

Q What did your father do after he saw that your vagina was bleeding at that time?
A He changed clothing.

Q Do you know why he was changing his clothes?
A Yes.

Q Why, where was he going at that time?
A We were going to the police.

Q Were you able to go to the police?
A Yes.

Q What police station is that? Is that the police station of Siaton or some other municipalities?
A In Siaton only.

Q When you arrived at the Police Station of Siaton, can you remember what the police did to you?
A I can remember.

Q What did they do?
A They attended to me and they went to the person who sexually abused me.

Q From the Police Station of Siaton, do you remember where did you go next?
A Yes, I remember.

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Q Where did you go next?
A In the hospital.

Q Can you still remember if that hospital was still in Siaton?
A Yes.

Q Do you remember what the doctor did to you at the hospital?
A They cleaned me.

Q Do you still remember if when you arrived at the hospital, you were still bleeding?
A Still bleeding.

Q After the doctor cleaned you, where did you go next?
A To the center.

Q That center is still within Siaton?
A Yes.

xxx xxx xxx"[13]

Dr. Mitylene Tan of the Municipal Health Office in Siaton, testified that she examined Dahlia Rose Balsamo for vaginal bleeding at the Rural Health Unit Office, Siaton, Negros Oriental. She suffered from a "lacerated wound, mid-lower aspect, vaginal mucosa extending to the perineum" and endured severe vaginal bleeding caused by the wound. Without prompt medical assistance, the wound would have led to anemia, hypovolemic shock or death. Dr. Tan opined that a male organ could have caused the laceration and vaginal bleeding.

A review of the records and evaluation of the evidence show that the complainant told the truth and that she positively identified the accused-appellant. As correctly ruled by the trial court, there is sufficient circumstantial evidence to warrant his conviction.

Section 4, Rule 133 of the Revised Rules of Court, as amended, enumerates the conditions when circumstantial evidence may be sufficient for conviction, thus:

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[13] TSN, August 13, 1996, at 145-153.

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"SEC. 4. Circumstantial Evidence, when sufficient. — Circumstantial evidence is sufficient for conviction if:

(a) There is more than one circumstance;

(b) The facts from which the inferences are derived are proven; and

(c) The combination of all circumstances is such as to produce conviction beyond reasonable doubt."

As jurisprudentially formulated, a judgment of conviction based on circumstantial evidence can be upheld only if the circumstances proven constitute "an unbroken chain which leads to one fair and reasonable conclusion pointing to the defendant as the guilty person," *i.e.,* the circumstances proven must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other hypothesis except that of guilty.[14]

The following incidents, glaringly shown by the records, constitute an unbroken chain of events which leads to the conclusion that the accused-appellant committed the crime charged.

First, complainant Dahlia Rose Balsamo was bathing in the river alone;

Second, the accused-appellant approached her and boxed her twice;

Third, she lost consciousness;

Fourth, she woke up in a bamboo grove, naked and alone;

Fifth, as she stood up, she felt pain in her vagina and found it was bleeding;

Sixth, when she started walking home, she met the accused-appellant near the road;

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[14] *People vs. Grefaldia*, 273 SCRA 591 (1999).

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Seventh, he threatened her not to tell her father about the incident;

Eighth, the medical findings show that she suffered a "lacerated wound, mid-lower aspect, vaginal mucosa extending to the perineum." The bleeding was so severe that the wound had to be sutured;

Ninth, the prosecution witness, Barangay captain Sergio Ege, declared that he saw blood on her shorts when she and her father approached him for assistance.[15] Police Investigator SPO2 Inocencio V. de la Peña, another prosecution witness, also saw blood on the lower portion of her body.[16]

The foregoing circumstances convince us with moral certainty that the accused-appellant raped herein complainant when she was unconscious.

Significantly, we cannot discern any reason why the complainant would fabricate the charge against the accused-appellant. No woman would contrive a rape story, allow an examination of her private parts and permit herself to be subjected to scrutiny at a public trial if she is not motivated solely by a desire to have the culprit apprehended and punished.[17]

Furthermore, the conduct of the victim immediately following the alleged assault is of utmost importance in establishing the truth or falsity of the charges of rape.[18] Here, the complainant promptly told her father that she had been raped. She was thereafter taken to the *barangay* chairman and the police authorities for assistance. Her act of immediately reporting the commission of the rape is considered a factor in strengthening her credibility.[19]

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[15] TSN, January 28, 1997, at 6.

[16] TSN, February 10, 1997, at 4-5.

[17] *People vs. Licanda*, 331 SCRA 357, 369 (2000); *People vs. Antipona*, 274 SCRA 328, 335 (1997).

[18] *People vs. Bismonte*, G.R. No. 139563, November 22, 2001.

[19] *People vs. Cepeda*, 324 SCRA 290, 302-303 (2000).

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Thus, the accused-appellant's defense of denial and alibi must fail. Alibi is the weakest of all defenses for it is easy to fabricate. It cannot prevail over the positive identification of the accused by credible witnesses as the perpetrator of the crime. For the defense of alibi to prosper, the accused must be able to (a) prove his presence at another place at the time of the perpetration of the offense, and (b) demonstrate that it is physically impossible for him to be at the scene of the crime.[20] In the case at bar, Sumili testified that the distance between the *poblacion* (where the accused-appellant was driving the *trysicad*) and *Barangay* Datag (the scene of the crime) may be negotiated by *trysicad*. Clearly, it was possible for the accused-appellant to be at *Barangay* Datag at that particular time when the crime was committed.

Although the Information alleged that the complainant was eleven (11) years old when she was raped, the prosecution failed to prove the same during the trial.

Article 335 of the Revised Penal Code, as amended by RA 7659, defines rape as the crime committed by a person having carnal knowledge of a woman under any of the following circumstances: (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when the woman is under twelve years of age or is demented. The crime shall be punished by *reclusion perpetua*.[21]

The trial court correctly convicted the accused-appellant on the basis of Article 335 (2) of the Revised Penal Code, *i.e.*, that the rape was committed when the woman was unconscious. It bears reiterating that the prosecution has established by evidence beyond reasonable doubt that the complainant was unconscious at the time she was raped. The carnal knowledge of an unconscious woman constitutes rape, opposition or

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[20] *People vs. Lopez*, G.R. No. 134774, April 19, 2002; *People vs. Torres*, G.R. Nos. 135522-23, October 2, 2001.

[21] See also *People vs. Diaz*, 262 SCRA 723, 730 (1996).

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resistance not being required, for the state of the woman at that time signifies that she has no will.[22]

Regarding the accused-appellant's civil liability, we note that the trial court awarded civil indemnity in the amount of ₱50,000.00 but failed to grant moral damages. In rape cases, the victim's injury is inherently concomitant with the odious crime to warrant *per se* an award for moral damages without the requirement of proof of mental and physical suffering.[23] Moral damages in rape cases are given without need of showing that the victim suffered the trauma of mental, physical and psychological sufferings that constitute the bases thereof.[24] Pursuant to current jurisprudence, the amount of ₱50,000.00 as moral damages is proper.[25]

WHEREFORE, the Decision of the Regional Trial Court, Branch 43, Dumaguete City, Negros Oriental in Criminal Case No. 12492, convicting accused-appellant Apolonio Cultura of the crime of rape defined and penalized by Article 335(2) of the Revised Penal Code, as amended, and sentencing him to *reclusion perpetua* is *AFFIRMED* with *MODIFICATION* in the sense that he is ordered to pay the victim, Dahlia Rose Balsamo, the additional amount of ₱50,000.00 as moral damages.

SO ORDERED.

Puno (Chairman), Panganiban, Corona, and *Carpio Morales, JJ.*, concur.

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[22] *People vs. Dizon*, 309 SCRA 669, 685 (1999).

[23] *People vs. Mangompit, Jr.*, 353 SCRA 833, 853 (2001); *People vs. Garcia*, 341 SCRA 502, 518 (2000).

[24] *People vs. Gajo*, 327 SCRA 612, 622 (2000).

[25] *People vs. Bernabe*, G.R. No. 141881, November 21, 2001; *People vs. Galisim*, G.R. No. 144401, November 20, 2001.