

## THIRD DIVISION

[ G.R. No. 141519, January 22, 2004 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SONNY CANON  
ALIAS "POGI," APPELLANT.**

### DECISION

**CARPIO MORALES, J.:**

Under an Information<sup>[1]</sup> dated August 12, 1998, Sonny Canon alias "Pogi" (appellant) was indicted for rape as follows:

That on or about or sometime in the month of December, 1997, in Barangay San Vicente, Buhi, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation and with the use of a knife, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with one Maryjane C. Borsong, 16 years old, minor and a mental retardate, against her will and without her consent, to her damage and prejudice in such amount as shall be proven in court.

After trial, the Regional Trial Court of Iriga City, Branch 37 convicted appellant by Decision<sup>[2]</sup> dated August 20, 1999, the dispositive part of which reads:

WHEREFORE, in view of the foregoing, the Court finds accused Sonny Canon alias "Pogi" guilty beyond reasonable doubt of the crime of rape punishable under Article 335 of the Revised Penal Code, as amended, as principal thereof, with the aggravating circumstance of dwelling and no mitigating circumstance to offset it. It may be mentioned here, however, that the attending circumstance can no longer be properly considered in view of the penalty imposable. Accordingly, the accused is sentenced to suffer the penalty of reclusion perpetua, with the accessory penalties provided by law, to indemnify Maryjane, the sum of P50,000.00 and to acknowledge and give support to Maria Roxanne Borsong as his child, and to pay the costs.

In the service of his sentence, he shall be credited with the full period of his preventive imprisonment had there been compliance with Article 29 of the Revised Penal Code.

SO ORDERED.

Based primarily on the testimonies of the alleged victim Maryjane C. Borsong (Maryjane) and her mother Eufrecina C. Borsong (Eufrecina), the prosecution presented the following version of the rape incident:

One evening in December 1997, as the then fifteen-year-old Maryjane was left

home alone in Barangay San Vicente, Buhi, Camarines Sur, her parents having gone to their farm about two kilometers away therefrom,<sup>[3]</sup> appellant, a neighbor, knocked at the door of the Borsongs' house and Maryjane opened it. Appellant soon trained his flashlight on her and suddenly pulled her inside.<sup>[4]</sup>

As appellant poked a fan knife at the neck, and covered the mouth, of Maryjane who was made to lie down, he removed her shorts and inserted his penis into her vagina.<sup>[5]</sup>

As she tried to push appellant, Maryjane felt pain and blood came out of her private part.<sup>[6]</sup> When appellant had satisfied his lust, he told her not to tell anybody about what had happened.<sup>[7]</sup>

Maryjane's mother Eufrecina and her husband found nothing unusual about Maryjane in the days following the incident until, in the second week of February 1998, Eufrecina noticed that Maryjane's abdomen was getting bigger. She was thus prompted to bring Maryjane to a midwife and later to a doctor who found her pregnant.

When Maryjane's parents asked her who impregnated her, she was initially hesitant and afraid to utter anything,<sup>[8]</sup> drawing them to beat her. She thereupon revealed that she was raped by appellant. Appellant later went into hiding.

Eufrecina described the hapless Maryjane, who delivered a child (a girl) on April 20, 1998,<sup>[9]</sup> to be mentally deficient, she having difficulty speaking and reading, and whose highest educational attainment was Grade III. Having the mentality inferior to that of her age, Maryjane could not look after her needs much less those of her baby such that Eufrecina bore the responsibility of taking care of them.

Appellant came out of hiding when Maryjane gave birth and sought settlement from the Borsongs, he proposing to marry her but Eufrecina rejected it.<sup>[10]</sup>

Testifying on the Medical Report<sup>[11]</sup> he issued, Doctor Breandovin S. Saez (Dr. Saez), Rural Health Physician of Buhi in Camarines Sur, affirmed that when he physically examined Maryjane on April 24, 1998, he found her to be of inferior mental capacity compared to a normal individual of her age, and to have a speech problem which in local parlance is termed "bulol." Dr. Saez could not, however, determine the victim's mental age. Reiterating his finding that Maryjane was about nineteen to twenty weeks pregnant at the time of examination, he related that when he asked Maryjane who got her pregnant, she answered that it was one with the alias "Pogi."<sup>[12]</sup>

Appellant denied raping Maryjane. He admitted though that he had carnal knowledge of Maryjane whom he claimed to be his sweetheart and that he sired her child.

Originally a resident of Barangay Igbac also in Buhi, Camarines Sur, appellant narrated that when he started to work in January 1997 as caretaker of the house of one Emelin Belleza, a neighbor of the Borsongs, he got to know Maryjane as she frequented Belleza's house to watch movies shown by him for a fee through his

operation of a betamax machine; that he courted Maryjane who responded positively to his romantic overtures; that they subsequently engaged in sexual intercourse on about ten occasions from February to December 1997 at Belleza's residence; and that his offer to marry Maryjane was rebuffed by her parents, and his criminal prosecution was actuated with malice as Maryjane was merely acting under duress from her parents.<sup>[13]</sup>

Defense witness Marcelino L. Apante corroborated appellant's claim that he and Maryjane were sweethearts. He gave the following tale: Hired at one time to harvest the palay of the Bellezas and to clean their banana plantation, he spent the night of October 2, 1997 at the Bellezas' residence as his work was then still unfinished. At around eleven o'clock in the evening of said date, while he was sleeping at a corner of the house and appellant and Maryjane were at the living room, he heard Maryjane moaning. Apante turned on the light and saw both appellant and Maryjane naked and lying down with appellant on top of Maryjane. Apante then remarked that it was too much for the two lovers to let him see what they were doing but Maryjane replied in the local dialect that it was not a problem because appellant and she loved each other anyway.

Continuing, Apante related that Maryjane and appellant had been sweethearts since October 1996 and that in the four days that he stayed at Belleza's home, Maryjane was always there to cook for them.<sup>[14]</sup>

With leave of court, the prosecution recalled Maryjane on rebuttal. She denied having ever been appellant's sweetheart or having had any intimate relationship or engaging in sex with him. Declaring that appellant and she did not personally know each other, she insisted that he never courted her. She admitted, however, that she once watched appellant's showing of a video film.<sup>[15]</sup>

Now before this Court, appellant assails his conviction, contending that:

THE COURT A QUO ERRED IN CONVICTING [HIM] WHEN HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

Appellant assails Maryjane's claim that he covered her mouth, poked a knife at her and removed her shorts all at the same time as not being possible of simultaneous execution, hence, highly improbable and unbelievable.

And he underscores what he claims to be inconsistencies, and lack of clarity and straightforwardness in Maryjane's testimonies which indicate that she might have been coached, which probability gains light from her very admission that her parents harmed her in order to falsely impute the crime to him.

Finally, appellant questions the prosecution's characterization of Maryjane as a mental retardate as bereft of supporting evidence.<sup>[16]</sup>

The People seeks affirmance of appellant's conviction with a prayer for the award of moral damages to Maryjane in the amount of P50,000.00.<sup>[17]</sup>

The appeal fails.

The prosecution has met the quantum of proof to establish the commission of the crime of rape. Appellant's defense of having consensual sex with Maryjane is unavailing, given her candid and vivid description of the incident as the following transcript of her testimony reflects:

PROSECUTOR RAMOS -

Q: And how did the accused Sonny Canon alias "pogi" sexually abuse you?

A: In the house, our house. He knocked at the door of our house, pulled me, flashed me with a flashlight, poked his knife on me and he removed my shorts.

Q: After the accused Sonny Canon alias "pogi" removed your short (sic), what did the accused do next?

A: He covered my mouth while he was poking his knife on my neck and he was removing my short (sic) at the same time.

Q: What did the accused do to your vagina, if any?

A: His penis was very big and my vagina bled.

INTERPRETER: Witness demonstrating the size of the penis as big as the size of her wrist.

PROSECUTOR RAMOS -

Q: What did the accused do with his penis to your vagina?

A: After he removed my short (sic) "pogi" put his penis on my vagina and it was painful, there was blood.

Q: You said he has a knife. What kind of knife was that, if you can still recall?

A: It was a fan knife.

Q: What did the accused Sonny Canon alias "pogi" do to you, if any, when he raped you?

A: According to "pogi" I should not tell to anybody.

Q: After Sonny Canon alias "pogi" raped you, what happened next?

A: He said I should not tell anybody and I was afraid.

Q: There is a proposal by the accused Sonny Canon alias "pogi" to marry you, would you accede to his proposal in order to settle the case?

A: I do not like to marry him.

INTERPRETER: Witness **crying** showing his anger.

PROSECUTOR RAMOS: Can we just make of record that the witness has difficulty talking?

**COURT: The witness is crying and pointing to the accused.**