

SECOND DIVISION

[G. R. No. 146276, November 21, 2002]

**PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS.
ANTONIO C. DUROHOM, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated September 28, 2000, of the Regional Trial Court, Branch 18, Misamis Oriental, Cagayan de Oro City, finding accused-appellant Antonio C. Durohom guilty of rape under Art. 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, and sentencing him to suffer the penalty of *reclusion perpetua* and its accessory penalty and to indemnify complainant Liezel Villaceran in the amount of ₱50,000.00 as compensatory damages, ₱50,000.00 as moral damages and ₱40,000.00 as exemplary damages.

The information alleged —

That on or about the 28th day of July, 1999 at about 6:30 in the evening, more or less, at a grassy vacant lot of Chavez Subdivision, Poblacion, Villanueva, Misamis Oriental, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there, willfully, unlawfully and feloniously ha[ve] carnal knowledge with the offended party, Liezel Villaceran, against her will and consent.

CONTRARY TO and in violation of Republic Act No. 8353.^[2]

Upon arraignment, accused-appellant pleaded not guilty to the crime charged, whereupon trial on the merits ensued.

The prosecution presented five witnesses: complainant Liezel Villaceran, Flores Villaceran, PO3 Eduardo Pagaling, Dr. Diana Marie L. Casiño and Marciana Tan Galon. Their testimonies are to the following effect:

At about 6:30 o'clock in the evening of July 28, 1999, complainant Liezel Villaceran, then 19 years of age, was sent by her aunt, Flores Villaceran, to buy bread at the Ticos Bakery located near the plaza in the municipality of Villanueva, Misamis Oriental. After coming from the bakery, she hailed a *trisikad* across the street, but, before she could board the vehicle, accused-appellant Antonio Durohom, driving another *trisikad*, came along and offered to take her home. As it was raining hard, Liezel accepted his offer. She was the only passenger on the *trisikad*.

Liezel asked to be taken in front of the Mindanao Oriental Builders, Inc. (MOBI) building. Accused-appellant drove his vehicle fast and then stopped to get a screwdriver. When he resumed driving, accused-appellant, instead of going towards MOBI building, went to the opposite direction downhill. He held the screwdriver to

Liesel's neck and covered her mouth with his right hand. The *trisikad* coasted along until it stopped in a grassy area. Accused-appellant then dragged Liesel towards the grassy area and raped her. Liesel shouted for help, but nobody could hear her because of the rain and the distance of the neighboring houses, which were 100 to 200 meters away from the grassy area. Then, her hands and feet were bound and her mouth gagged. She was later able to free herself and to run home.

Narrating her ordeal, Liesel testified:

Q Liesel, can you recall where you were on July 28, 1999 at about 6:30 o'clock in the evening?

A I was requested by my aunt to buy bread.

Q And what is the name of your aunt?

A Flores Villaceran.

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Q Where [were] you residing on July 28, 1999?

A I was residing at my aunt.

Q Why were you not living with your parents?

A My aunt is single and besides she is very sick and I live with her.

Q How long were you living [with] your aunt from July 28, 1999?

A More than one year.

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Q You said that you were sent by your aunt to buy bread, where did you buy bread?

A Ticos bakery.

Q What municipality?

A Villanueva, Misamis Oriental.

Q What time was that when you b[ought] bread?

A 6:30 o'clock more or less in the evening.

Q Were you able to buy bread?

A Yes, sir.

Q What happened after you bought bread, what did you do if any?

A I was waiting for a tri-sikad for me to go home.

Q This tri-sikad, only the legs used or motor?

A Motorized.

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Q Were you able to get a ride on a tri-sikad?

A I called a tri-sikad which is across the street but this driver (pointing to the accused) forced me to ride on his tri-sikad.

Q By the way, you were pointing to this person as the driver, why are you very angry at him?

A Because he was the one who raped me (the witness is crying and angry towards the accused).

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Q And what exactly did he tell you why he forced you?

A He kept on saying "come on, come on, ride on my tri-sikad."

Q And the weather at that time, was it raining?

A It was only slight rain.

Q Later the rain become strong?

A Yes, sir, when the rain became ... heavy ... that is why I was forced to ride [o]n his tri-sikad.

Q By the way, did you know this accused before July 28, 1999?

A No, sir, that was the only time that I recognized or [saw] his face.

Q When for the first time did you know his [name]?

A At the police [station].

Q Where?

A At Villanueva.

Q What is the name?

A Antonio Durohom.

Q So you boarded the motorized [vehicle] of the accused?

A He asked me where I was living and I told him that I was going in front of the MOBI, Mindanao Oriental Builders, Inc.

Q You were going to alight in front of the MOBI?

A Yes, sir.

COURT: (to the witness)

Q Were you alone at the motorela or there was another person when you boarded the motorized sikad?

A Only myself.

PROS. B. APEPE: (continuing)

Q You said that when you boarded the tri-sikad you told him that you are going to the MOBI and after that he sped very fast, was that what you said?

A Yes, sir, that is true.

Q What else happened?

A He sped fast and he stopped in front of the Releta Machine Shop.

Q What did he do when he stopped?

A He got a screw driver, then he started the engine and ran fast.

Q What about the screw driver, where was it when he started to run fast?

A He was holding [it] in his hand.

Q So after that what happened next? Where did the motorela go?

A He proceeded to a downhill portion.

Q Was that towards the direction of MOBI?

A No, sir.

Q So what happened after that when you said that you were going downhill in an area that is very dark?

A He told me that is not the destination that I am going to go but he was pointing a screw driver on my neck and covered my mouth.

Q By the way, where did you sit down?

A At the front seat.

Q Side of the driver?

A Yes, sir.

Q So at the time that he held you by the neck and the other hand pointing the screw driver the tri-sikad was still running?

A The tri-sikad was free wheeling because of the downward hill.

Q What about the rain, was it still raining?

A Raining hard.

Q You said it was very dark?

A Yes, sir.

Q No light whatsoever?

A None.

Q At the time that you boarded the tri-sikad of the accused in front of the bakery, were there lights?

A Yes, sir, very lighted, it was near the plaza.

Q Was there light in the plaza?

A Yes, sir.

Q At the time, you could recognize the accused at the time that you boarded the motorized tri-sikad in front of the bakery?

A I can still recall his face because he kept on forcing me to ride in his motorela and I was forced because the motorela that I am supposed to ride on the other side was blocked by the traffic aide and so I have to look at his face again because he kept on telling me to ride and I was constrained to take his [tri-sikad] because it was already raining very hard.

Q Again you said you stopped at Releta Machine Shop, was there a light?

A There was.

Q What kind of light?

A I am not sure.

Q Again it was very bright?

A Yes, sir.

Q What happened after you said that he held you by your neck and was also pointing the screw driver, what happened after that?

A He dragged me towards a dark portion where there are many sunflowers.

Q The rain was very hard?

A Yes, sir.

Q What happened when you were dragged to the sunflowers?

A I want to free myself but he choked me and pushed me to the ground.

Q And because he pushed you to the ground you fel[I] to the ground, what happened after you were forced to the ground?

A I fell to the wet ground.

Q Were you facing up or facing down to the ground?

A Facing up.

Q What happened after you fell to the ground face up?