**DANIEL IREFETA INIJE**

**V.**

**THE STATE**

IN THE SUPREME COURT OF NIGERIA

21ST JANUARY, 1977.

SUIT NO. SC 101/1976.

**LEX (1977) - SC 101/1976**

**OTHER CITATIONS**

3PLR/1977/32 (SC)

**BEFORE THEIR LORDSHIPS**

UDO UDOMA, J.S.C.

CHUKWUNWIKE IDIGBE, J.S.C.

ANDREWS OTUTU OBASEKI, J.S.C.

**ORIGINATION COURT**

HIGH COURT OF LAGOS STATE (Savage J. Presiding)

**REPRESENTATION**

F. O. AKINRELE ESQ. - for Appellant

ABIODUN ALAO ESQ., (Principal State Counsel, Lagos State) - for Respondent

**ISSUES FROM THE CAUSE(S) OF ACTION**

CRIMINAL LAW:– Murder – Proof of - Effect of retracted confessional statement – Defence of provocation

CHILDREN AND WOMEN LAW: *Women and Security* – Wife-killing - Domestic violence - Gruesome death of pregnant wife from seven matchet cut wounds – How treated

HEALTHCARE AND LAW:- Emergency healthcare – Using taxi to evacuate a pregnant woman grievously wounded with machete wounds and left in her own blood – Postmortem medical examination and proof of murder

**MAIN JUDGEMENT**

**OBASEKI, J.S.C.** **(Delivering the Judgment of the Court):**

We dismissed this appeal on the 16th day of December, 1976 and indicated that we would give our reasons at a later date. We now give our reasons.

The Appellant was tried by Savage J. in the High Court of Lagos State and convicted for the murder of Esther Inije contrary to Section 319 of the Criminal Code. It was against the conviction that the appellant lodged his appeal. Three grounds of appeal were filed against the judgment. But at the hearing of the appeal, the learned Counsel for the appellant, wisely in our view, informed the Court that on the evidence accepted by the trial Judge, he had nothing to urge in favour of the appellant.

We now state the facts of the case accepted by the learned trial Judge.

Ten witnesses were called by the prosecuting Counsel and they all gave evidence. The accused person himself gave evidence in his own defence.

It was common ground that the appellant and the deceased were husband and wife and lived together in the same house at No. 61 Jubrila Street, Itire, Surulere. They also shared the same room. On the 25th day of February, 1973, Augustine Ekperi (P.W.6) called at the residence of the appellant to see the appellant and the deceased. He met only the deceased at home but in a horrible condition which he described to the Court as follows:

“On the morning of that day, I went to say hello to the accused and his wife, Esther, at a street behind mine in Itire. We three came from the Midwestern State, and from the same clan. The deceased Esther was my own sister-in-law. When I got to the house, I met only Esther, the accused was not in but Esther had some serious cuts all over her body. The room and the corridor were practically flooded with blood.”

P.W.6 later removed her to the Lagos University Teaching Hospital in a taxi but she died later that day. Before her death, Peter Ikpama, P.W. 2 a junior brother of the deceased and Blackie Okoro, a sister of the deceased called to see her in the Hospital. P.W. 2 identified her corpse to the doctor, Dr. Nosirudeen Olaseni Akin-lade (P.W.9) before he performed the autopsy on the body. The doctor found 7 matchet cuts on her body and certified that the cause of her death was due to haemorrhage from the multiple matchet cuts.

As the appellant could not be found, he was declared a wanted person by the police and on the 28th day February, he was arrested by the police. On being charged by the police with the murder of the deceased, he made confessional statements Exhibits C and D, the material portions of which read:

In respect of Exhibit C

“It was at this stage Esther told me that her present pregnancy is not for me. I then asked her again to speak the truth about this pregnancy. She repeated it a second time that the pregnancy she has was not for me. I then told her that I have been bearing the expenses on her pregnancy and that all my effort was for nothing. It was at this stage fight ensued between Esther and myself. The fight between Esther and myself started inside the room on 25/2/73 at about 5 a.m. During the fight I took my cutlass which I kept in my room and I cut her on her shoulder and I walked out. Esther ran after me and she fell down on the corridor of our house... On 28/2/73, I went to Ikorodu Road to see Mr. Inije and he carried me to the police station.”

Exhibit D which was the 2nd confessional statement attested by the superior police officer was taken down in the language (pigeon English) in which appellant made it. The statement in part reads:

“I ask Esther again if the belly (i.e. pregnancy) no be my own. She reply me second time say the belly nor be my own... Nai there fight begin with me and Esther. Nai we fight. As we de fight the cutlass whe I buy for firewood I see inside my room I show police thecutlass I used tocutEstheron25/2/73at 6 a.m. at No. 61 Jubrila Street, Itire. The police saw the cutlass I used in cutting my wife on her left shoulder.”

At the hearing, the appellant retracted the confessional statements. He denied killing Esther. He denied making any statement to the police. He denied signing any statement and denied showing the police anything. Instead, he alleged that one Okechuku and other persons came to his room at 4.00 a.m. fought with him, used cutlass on his left shoulder but he resisted them and they drove him out. He then took refuge in a gutter leaving his wife behind in the room. When he returned later, he was told that his wife had been taken to Lagos University Teaching Hospital.

But the deposition Exhibit ‘L”1" of Emmanuel Okafor who was not available at the trial to testify revealed that he (who knew the couple well and lived in the same compound) heard the couple quarrelling in the early morning of the 25/2/73 and when soon after at 6.00 a.m. he came out of his room to ascertain the cause, he found Esther in a pool of blood and the appellant was nowhere to be found. He then sent his junior brother to make a report to the police. The appellant did not show up at all that day. He, Emmanuel Okafor was present when the deceased’s relatives conveyed her away in a taxi to the hospital.

When arrested by P.W. 5, the appellant told P.W.5 Sgt. Odigie that he killed his wife with the cutlass Exhibit B and led him to recover Exhibit B. Exhibit B was examined by the Government Analyst, Mr. Mathew Oluwole Taiwo, P.W.4 and found to contain human blood.

The learned trial Judge considered the above facts led in evidence before him. He rejected the denial of the appellant in Court along with the retraction of the confessional statements and held that the statements Exhibits C and D were made by the accused person/appellant freely and voluntarily . He also held and found as a fact that the appellant told P.W. 5 that he killed the deceased with the cutlass Exhibit B. He considered the issue of provocation and dismissed it, rightly, in our view, as untenable in this case.

It appears to us that the anguish for having spent so much money for the pregnancy which has been denied him ignited the feeling of revenge and the desire to inflict punishment on the deceased for the deception. There was no passion raised which took control of the appellant. Propelled by this desire to punish, he inflicted the 7 matchet cuts on the deceased, abandoned the marital home and left her helpless to bleed to death, which the frantic efforts of P.W.2 and the doctors of Lagos University Teaching Hospital could not avert.

The learned trial Judge rightly concluded in the closing paragraph of his judgment that

‘These facts, the hasty flight of the accused person, the blood stained matchet belonging to the accused, to my mind, are facts from which the inference to be drawn is irresistible and conclusive of the guilt of the accused as the murderer.

I find the charge against the accused proved and to this effect, I find him guilty of murder as charged.”

We agree with the learned trial Judge that the truth of the confessional statement was fully established by the evidence before him and the denial of the act by the appellant in his evidence before him could not avail him. On the evidence before him, the learned trial Judge could have arrived at no other conclusion than that the case of the prosecution had been proven beyond any reasonable doubt. We had found no merits in the appeal.

Appeal dismissed.