**MARGARET NWOKO.**

**V.**

**THE STATE**SUPREME COURT OF NIGERIA

25TH DAY OF FEBRUARY, 1966

S.C. 593/1965

**LEX (1966) - S.C. 593/1965**

OTHER CITATIONS

2PLR/1966/103 (SC)

**BEFORE THEIR LORDSHIPS:**

SIR ADETOKUNBO ADEMOLA, C.J.N. (Presided and Read the Judgment of the Court)

GEORGE BAPTIST AYODOLA COKER, J.S.C.

CHUKWUNWEIKE IDIGBE, J.S.C.

**BETWEEN**

MARGARET NWOKO – Appellant

AND

THE STATE – Respondent

**ORIGINATING COURT**

HIGH COURT OF EASTERN NIGERIA, HOLDEN AT UMUAHIA

**REPRESENTATION**

J.A. COLE - for the Appellant.

K. K. KEAZOR, State Counsel - for the Respondent.

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

CRIMINAL LAW AND PROCEDURE:- Murder – Proof thereof

CRIMINAL LAW AND PROCEDURE:- Evidence in criminal trial – Extra-judicial statement - Retraction of confessional statements – Expert evidence - Whether medical evidence as to cause of death a necessity for conviction

CHILDREN AND WOMEN LAW: - Women in crime – Husband killing – Wife who dominated marriage – Kept a paramour who she committed adultery with in and out of her matrimonial home with the knowledge of her husband – Married a 15 year old for husband in hope of raising a family for the childless marriage – Finally accompanied husband to waterfront from where he never returned alive – Attempted to frame others for murder – How treated by court

**MAIN JUDGMENT**

ADEMOLA C.J.N. (DELIVERING THE JUDGMENT OF THE COURT):

We now give our reasons, briefly, for dismissing this appeal when it was argued before us on 7th February, 1966.

In the High Court at Umuahia, in Eastern Nigeria, the appellant with two others were charged with the offence of murdering Nwoko Nwogu on the 25th day of December, 1964.

The deceased was the husband of the appellant, and from the evidence against the appellant by the prosecution, it was evident that she had a very great influence on the deceased who appeared to have indulged her and al­lowed her to have her own way. She brought the 2nd accused to live in her house and paraded him as her blood relation. Later she developed amorous relationship with him. When this became a scandal the deceased’s relatives drove the 2nd accused from the house. Nevertheless she kept him as a paramour and she openly spent week-ends with him, to the knowledge of the deceased, sometimes in her own house, and sometimes in his house. After sometime she procured a young girl of 15, called Nkechi as a wife for the de­ceased with the hope that he will raise a family by her as they had no chil­dren.

On the night of 24th December, 1964, the appellant and the deceased went to bed in the deceased’s room. Early next morning about 5.30 a.m., it would appear the appellant lured the deceased towards the water side. Two witnesses who saw them were Nwanyiocha Anosike (7th witness for the pro­secution) who is the sister-in-law to the deceased and one Ihuoma Nwachuku (f) who was going to the stream early that morning. The deceased was never seen alive after this. The appellant returned home alone at about 9 a. m. that morning and asked for the deceased from the young wife Nkechi, who said that she had not seen him that morning. The appellant led a normal life that day, that is to say, she cooked her food, ate and carried out other duties. Late that night, she packed some of the deceased’s belongings, radio, wall clock, etc., and stored them in the house of the 2nd accused; she urged Nkechi to tell nobody about this. Next day she made a report to the relatives of the deceased that he was missing; she later reported to the Police to whom she made a statement. Two weeks later the decomposed body of the de­ceased was found in the bush. The appellant made another statement to the Police in which she confessed she and the deceased went out together at 5.30 a. m., on 25th December, and that in the bush on the spot the dead body was found, her husband was attacked by two men one of whom she identified as Emmanuel Nwogwugwu an old enemy of the deceased. She stated that the deceased was killed at the encounter and Nwogwugwu warned her that she would be killed if she told anyone about it. On another occasion, she made another statement to the Police implicating the 3rd accused. Her allegations against Nwogwugwu were found to be false.

At the trial the appellant retracted her last two statements. She stuck to her first story that she left the deceased in the house at 5.30 a.m., on 25th De­cember, 1964, but did not see him at home on her return about 8 a.m. She denied killing the deceased or being present when he was killed or having any complicity in the crime.

The learned trial Judge disbelieved the evidence of the appellant and accepted her retracted statements that she went out with her husband early in the morning of the 25th December, and that she was present when her ac­complices killed the deceased.

The submissions made by Counsel that as the dead body was decom­posed and the doctor was unable to state the cause of death, a conviction cannot he sustained was dismissed, rightly in our view, by the learned trial Judge since it was clear from the confessional statements made by the appel­lant that the deceased was attacked and killed on the spot the body was found.

The learned Judge considered all the evidence before him as well as the defence, and we were satisfied that the conclusion he arrived at in the cir­cumstance, was right.

We therefore dismissed the appeal.

**COKER, J.S.C.:**

I concur.

**IDIGBE, J.S.C**.:

I concur.