

**Dasury Dei Alias Lakra Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/532103](http://sooperkanoon.com/532103)

**Court :** Orissa

**Decided On :** Apr-17-1986

**Reported in :** 1986(I)OLR663

**Judge :** B.K. Behera and ;G.B. Pattnaik, JJ.

**Appeal No. :** Jail Criminal Appeal No. 220 of 1984

**Appellant :** Dasury Dei Alias Lakra

**Respondent :** State

**Advocate for Def. :** D.P. Sahoo, Standing Counsel

**Advocate for Pet/Ap. :** Dhuliram Patnaik, Adv.

**Disposition :** Appeal dismissed

**Judgement :**

**B.K. Behera, J.**

1. The appellant stands convicted under Section 302 of the Indian Penal Code and sentenced to undergo imprisonment for life for committing the murder of her husband Ladhu Lakra (to be referred to hereinafter as the 'deceased') during the night of the 24th and 25th October, 1983, at Kulba in the district of Sundargarh, by means of an axe (M.O. I). There was no witness to the actual occurrence. The

prosecution had not established any motive for the commission of the offence. Reliance had been placed by the prosecution on an extrajudicial confession made by the appellant before her Son (P. W. 1), her daughter (P. W. 2) and before the co-villagers including P.W. 3 who had come to the spot on being called by P. W. 1, the medical evidence and some other items of circumstantial evidence to be referred to hereinafter. The plea of the appellant was one of denial and false implication.

2. Appearing on behalf of the appellant, Mr. Patnaik has submitted that the charge has not been brought home to the appellant beyond reasonable doubt. The learned Standing Counsel has contended that the evidence relating to the extrajudicial confession was not only of an unimpeachable character, but had also received general corroboration which would clearly establish that the appellant was the author of the crime.

3. As would appear from the evidence of P. Ws. 1 and 2, during the night in which the occurrence had taken place, the appellant and the deceased were the sole occupants of the house. Next morning, when P. Ws. 1 and 2 returned home after performing Karma dance during the night, they saw the appellant sitting under a tree outside their house and on being asked by P. W. 2, she stated that she had killed her husband. P. Ws. 1 and 2 found their father lying dead in the house with injuries on his person. When P. W. 3 and other co-villagers came, the appellant admitted to have killed her husband. This is in the presence of P. Ws. 1 and 2. We see no infirmity in the evidence of P. Ws. 1 to 3 with regard to the extrajudicial confession. Two of the witnesses in this regard are no other persons than the son and daughter of the appellant and the other is a co-villager. There is no reason as to why these three persons would falsely involve the appellant in such a grave crime. The evidence with regard to an extrajudicial confession coming from independent and reliable sources can, by itself, constitute the basis of a conviction, as has been laid down by the Supreme Court in AIR 1985 S. C. 48 (State of U.P. v. M. K. Anthony). However, as a rule of practice and prudence, a Court requires some corroboration of a retracted extrajudicial confession in order to act upon it. In the instant case, there is no lack of it. In addition to the circumstances indicated above, it would be seen from the evidence that the axe

(M. O. I), which had been handed over by the appellant to P. W. 2, who, in turn, had produced it before the Investigating Officer in the course of investigation, contained human blood of the same group as found on the cloth of the deceased on chemical and serological test. This is a telling circumstance pointing to the guilt of the appellant. The medical evidence did support the theory of the prosecution that the fatal injuries found on the person of the deceased could be caused by means of M. O. I.

4. It is, no doubt, true that the prosecution has not established any motive for the commission of the offence of murder of a husband by his wife and in the normal and natural course of events, a strong motive would prompt a wife to kill her husband. It has, however, been a settled principle of law that the prosecution is not obliged to establish a motive in each and every case and absence, of proof of motive is of no consequence if the evidence against an accused is clear, cogent and reliable, as in the instant case.

5. Regard being had to the nature and the seats of the injuries and the weapon used, there can be no doubt that with the intention of causing the death of the deceased, the appellant had caused injuries sufficient in the ordinary course of nature to cause death. The offence would be murder punishable under Section 302 of the Indian Penal Code.

6. The appeal fails and is dismissed.

**G.B. Pattnaik, J.**

7. I agree.

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