

**SUPREME COURT OF NIGERIA**  
FRIDAY 29TH JANUARY, 2016. SC. 393/2010  
**CORAM:- I. T. MUHAMMAD, M. S. MUNTAKA-**  
**COOMASSIE, O. RHODES-VIVOUR, C. B. OGUNBIYI,**  
**C. C. NWEZE, JJSC**

MUHAMMAD LADAN ..... APPELLANT  
V.  
THE STATE ..... RESPONDENT

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MURDER - Ingredients - Proof - Appellant's confessional statement was corroborated by other credible evidence - Which clearly established the ingredients of the offence (H1)

MURDER - Proof - Intoxication - There are credible pieces of evidence - Showing alcoholic intoxication of appellant - Which resulted in his acts leading to the death of the deceased (H2)

**FACTS**

Before the High Court of Sokoto State, accused/appellant was arraigned for the murder of his mother (the deceased). Appellant pleaded not guilty to the charge. Prosecution/respondent called six witnesses to prove its case against appellant. It stated that appellant caused the death of the deceased by mercilessly beating her up and strangled her while he was drunk with alcohol. Appellant testified in his defence and called no witness.

Appellant's defence is that he was under an unintentional influence of alcohol when the murder was said to have been allegedly committed by him. The Court heard from both sides and in its judgment, convicted and sentenced appellant to death. Dissatisfied, appellant appealed to the Court of Appeal Sokoto Division. The appeal was well considered and at the end of which the Court found no merit therein. The Court dismissed the appeal and affirmed the conclusion and decision of the learned trial Judge. Aggrieved further, appellant appealed to Supreme Court.

**ISSUE FOR DETERMINATION**

*"Whether the guilt of the appellant was proved beyond reasonable doubt having regard to the evidence adduced at the trial*

**HELD** (Unanimously dismissing the appeal per

**MUNTAKA-COOMASSIE JSC)**

*MURDER - Ingredients - Proof*

**1. Without much ado, the evidence before the trial court, which I consider credible and consistent clearly established the ingredients of the offence of culpable homicide punishable with death under Section 221 of the Penal Code, when one considers the confessional statement of the appellant in court - Exhibits A and AI, one would definitely hold that both evidence and exhibits corroborated each other. In a nutshell the confessional statement was corroborated by other credible evidence in the prosecution’s case, which make the confessional statement reliable and real. (p. 146 E)**

*MURDER - Proof - Intoxication*

**2. Above is the correct finding and decision of the Supreme Court in that case. The respondent submits rightly in my view, that even assuming anything may be found wanting in Exhibits A and AI, there are other credible pieces of evidence, such as the evidence of Pw2 and 3 and Exhibit B to show alcoholic intoxication of the appellant which resulted in his acts leading to the death of the deceased as to make Exhibit A and AI credible in showing the story of the appellant as Dw1 as an after thought and unacceptable.**

**Having considered the decision of both the trial and lower courts and having considered and digested the submissions of both counsel on behalf of their respective clients I hold that the prosecution has proved against the appellant, all the ingredients of the offence of culpable homicide punishable with death beyond reasonable doubt. The retraction of the appellant from his statement in Exhibits A and AI is of no moment.**

**The real cause of the intoxication of the appellant which led to the killing of the appellant’s mother was voluntary intoxication. There is no reliable evidence from**

***the appellant to show that the intoxication was in fact involuntary. It is superfluous therefore for the appellant to rely on the provisions of Section 52 of the Penal Code in his defence. The prosecution proved all the ingredients of the offence charged. The trial court was perfectly right in convicting the appellant for murder of his mother and the sentence passed on the appellant was right. The court below was on a solid ground in affirming the conviction and sentence on the appellant.*** (p. 147 H)

### **REPRESENTATION**

Nnamonso Ekanem, Esq., for the appellant  
Sulaiman Usman, A-G Sokoto State, with him, A. Usman, S. A. to A. G. Sokoto State. G. C. Ude (Miss) S. A. to A. G. Sokoto State, M. O. J Sokoto State

### **CASES REFERRED TO**

Gira v. State (1996) 4 NWLR (pt. 443) 375  
Idowu v. State (2000) 7 SC (pt. 11) 50  
Solola v. State (2005) 11 NWLR (pt. 937) 460  
Akinmoje v. State (2000) 4 SC (pt. 1) 64  
Adeyemi v. State (1991) 6 NWLR (pt. 195) 42  
R. v. Golde (1960) 1 WLR 1169  
State v. Okoro (1974) 2 SC 73  
Muka v. State (1976) 9 10 SC (pt. 305)  
Egboghome v. State (1993) 8 SCNJ 1  
Ikemson v. State (1989) 3 NWLR (pt. 110) 455  
Asanya v. State (1991) 3 NWLR (pt. 180) 422  
Yusufu v. State [1976] 6 SC 167  
Okegbu v. State [1984] 8 SC 65  
Kim v. State [1992] 4 SCNJ 81  
Ikpo v. State [1995] 2 SCNJ 64

### **STATUTES REFERRED TO**

Penal Code, ss. 44, 52, 221(b)  
Evidence Act, 27(1)

**LEAD JUDGMENT BY MUNTAKA-COOMASSIE JSC**

The Appeal herein is against the Judgment of the court of Appeal Sokoto Division delivered on the 30th day of April, 2010 in which the Court of Appeal Sokoto, hereinafter called lower court, affirmed the decision of the High Court Sokoto which convicted the accused, now appellant of culpable homicide punishable with death and sentenced him to death under section 221(b) of the Penal Code. The facts of this case are stated thus:-

The appellant, Mohammed Ladan, a civil servant and at the same time a student of Shehu Shagari College of Education Sokoto, lived in Gidan Madi, Tangaza Local Government Sokoto. After his lecture on 6/4/2002 whilst waiting for taxi at the school gate according to his story, the appellant saw a woman selling traditional medicine. He then asked for malaria medicine and was given some liquid. On taking the liquid he could not remember what happened only to find himself at the police station being accused of killing HAJIYAI HAUWA his mother on the same date. He was arraigned in the High Court Sokoto for culpable homicide punishable with death under Section 221 of the Penal Code.

**E                      CHARGE**

*“That you Mohammed Ladan on or about the 6th day of April 2002 at about 12:00 midnight, at Runji, Gidan Madi Tangaza Local Government Area within Sokoto Judicial Division did commit culpable homicide punishable with death in that while drunk with alcohol you beat up and strangled your mother one Hajiya Hauwa Mohammed to death with the knowledge that you are likely to cause her death by your acts, and thereby committed an offence punishable under section 221 (b) of the Penal Code Cap. 104 Laws of Sokoto State 1996”.*

The accused, now appellant, was alleged to have caused the death of Hajiya Hauwa by mercilessly beating her up and strangled her while he was drunk with alcohol.

The appellant pleaded not guilty to the above charge. The prosecution in its spirited efforts to prove its case against the appellant called six (6) witnesses to prove the culpable homicide against the appellant. The appellant testified in his defence, but called no witness. The accused in that court was found guilty, convicted on the charge and was sentenced to death under Section 221 (b) of the

Penal Code on 27/2/2008. The trial Judge Malami Umar J. has this to say on page 91 - 93 of the record of proceedings:-

*“On the final analysis, having found that the state of intoxication the accused found himself on the night of 6th of April, was voluntary and the fact that Section 44 of the Penal Code put the accused person on the same position he would have been if he had not been intoxicated, this court is of the opinion that all the 3 ingredients of the offence of culpable homicide punishable with death have been proved beyond reasonable doubt against the accused person and I so hold”.*

On the first ingredient i.e. that death of a human have occurred. It is not in dispute that Hajiya Hauwa, the deceased person in this case, died on the 6th of April 2002. This can be attested to by the evidence of Pw4, Pw3 and Exhibit B1.

On the second ingredient i.e. that it was the act of the accused that cause the death of the deceased. It is also very clear by the evidence of Pw5, Pw6 and Exhibit B that it was the beatings inflicted on the body of the deceased by the accused person Mohammed Ladan that caused her death.

On the last ingredient of the offence i.e. that the accused should have knowledge that by his act he is likely to cause the death of the deceased. This court is of the opinion that since it is the finding of this court that the state of intoxication or the intention on the part of the accused person to cause the death of the deceased. Section 44 of the Penal Code already provides that a person who does not act in a state of intoxication is presumed to have the same knowledge he would have had if he had not been intoxicated. Why, I found the case against the accused person Mohammed Ladan was proved beyond reasonable doubt. The accused is found guilty as charged and convicted accordingly.

The appellant un-successfully appealed to the Court of Appeal. The Court of Appeal unanimously dismissed the appeal. The lower court has evaluated the facts and evidence and rejected the confessional statement alleged to have been made in Exhibit A and AI. The appellant’s submission that since the appellant had retracted from Exhibits A and AI, the trial court should not have convicted the appellant. The trial court should have contented itself by looking for evidence outside the confessional statements to corroborate them

before convicting the appellant based on the confession, and that the lower court did not test the truthfulness of the voluntary statements. The learned presiding justice of the court below maintained that the stand taken by the learned appellants counsel for the appellant is not borne out by the record of appeal.

B At this stage of the proceeding learned justice of the lower court defined what a confession is. He referred to the provision of Section 27 (1) of the Evidence Act, and states thus “a confession is an admission made at any time by a person charged with a crime stating or suggesting by inference that he committed that crime. He C relied on the authority of *Gira V. The State* (1996) 4 NWLR (pt. 443) 375. The presiding justice of the lower court Belgore JCA stated that the counsel may be correct in law, however the court is saddled with the responsibility of examining such type of confession in the light of D the other credible evidence before it to make it real. Once this is done, the justice continues, voluntary confession which is direct, positive and properly proved is sufficient to sustain a conviction without any corroborative evidence. See *Idowu V. The State* (2000) 7 S. C (pt. 11) 50; *Solola V. The State* (2005) 11 NWLR (pt. 937) E 460 and *Akinmoje V. The State* (2000) 4 SC (Pt. 1) 64. The conclusion of the lower court is on p. 161 of the record thus:-

“The learned trial Judge has admirably evaluated the evidence and tested the truth of Exhibits A and Al in the light of the evidence F available to him in the case. He has accepted the truth of the confessional statements and believed same to be voluntary. His finding on this is unassailable and cannot be disturbed by this court. The appeal is lacking in merit and same is accordingly hereby dismissed”.

G All other justices, including Musa Dattijo Muhammad, JCA (as he then was) and Massoud Oredola JCA, agreed with the decision taken.

Still aggrieved by the above decision of the court below the appellant, again, appealed to this court and filed a Notice of Appeal containing two (2) grounds of appeal thus:-

- H 1. The judgment of the Court of Appeal is, with respect unreasonable and cannot be supported having regard to the evidence.  
2. Further grounds of appeal will be filed upon receipt of the record of proceedings.

The parties, in compliance with the rules of this court exchanged

their briefs of argument. The appellant, through his counsel Nnamonso O. Ekanem Esq., distilled one issue for the determination of this appeal as follows:-

*“Whether the guilt of the appellant was proved beyond reasonable doubt having regard to the evidence adduced at the trial court and affirmed by the Court of Appeal”.* B

My lords, the appellant in arguing the said issue stated that the sole ground of appeal was not fairly treated by the trial and lower courts. The trial court was wrong in convicting the appellant so also the court below cannot be right in affirming the decision of the trial court. He contended that the burden is on the prosecution to prove all the ingredients of the offence, alleged beyond reasonable doubt. He then submitted that failure of the prosecution to establish the guilt of the accused person will lead to the matter being resolved in favour of the accused. In the instant case, or appeal counsel submitted that guilt of the appellant was not proved beyond reasonable doubt by the prosecution. C D

The learned appellant’s counsel relied on the retraction of the appellant’s confessional statement in Exhibits A and Al to say that the appellant was involuntarily intoxicated and that he did not know what he was doing. He again clearly relied on Section 52 of the Penal Code to state that his client, i.e. the appellant, was entitled to be acquitted and discharged. E

My lords, let me say this, the law dealing with what the accused person did is contained in Section 44 of the Penal Code. Once a person is proved to have committed such offence, he should be guilty and convicted by the trial court and he should be accordingly punished. The Section provides thus:- F

*“A person who does an act in a state of intoxication is presumed to have the same knowledge as he would have had if he had not been intoxicated”.* G

The issue now is that the appellant committed murder on his mother Hajiya Hauwa Mohammed in a state of intoxication. The evidence of the prosecution clearly confirms that the appellant strangled his mother to death. Both actus reus and mens rea are present. H

The trial court with these types of piece of evidence was expected by any reasonable tribunal to have found the appellant guilty as charged. The prosecution witnesses are six (6) in number who

testified for the prosecution. The accused, now appellant did not put up any objection when his seemingly confessional statements were being tendered.

The confessional statement of the accused person was made at the State C. I. D Sokoto two days after the incident and since the appellant did not object the confessional statement in Hausa and its English translation were admitted as exhibits and marked Exhibits A and Al respectively.

My lords, the appellant after the prosecution closed its case, elected to give evidence which he did as Dw1. The appellant in his defence, retracted the content of Exhibits A and Al in its place he gave a completely different story creating unbelievable story or impression that he found himself in a state of intoxication involuntarily. He denied ever visiting “mammy market” in Sokoto. His own version is that “he requested a traditional malaria medicine from a woman. The woman gave him a liquid” which he drank and thereafter he knew nothing and the following day when he found himself being detained at “Gidan Madi” police station. He was, upon inquiry, informed of what he had done.

***Without much ado, the evidence before the trial court, which I consider credible and consistent clearly established the ingredients of the offence of culpable homicide punishable with death under Section 221 of the Penal Code, when one considers the confessional statement of the appellant in court - Exhibits A and Al, one would definitely hold that both evidence and exhibits corroborated each other. In a nutshell the confessional statement was corroborated by other credible evidence in the prosecution’s case, which make the confessional statement reliable and real.***

The respondent’s brief clearly debunked the stance taken by the Appellant. It is the position of the respondent that the medical report Exhibit B made the prosecution’s case stronger. The case of Adeyemi V. State was relied upon by the respondent against the submissions of the learned counsel for the appellant.

The Adeyemi’s case (1991) 6 NWLR (pt. 195) at p. 42 decided thus:-

*“The extra-judicial statement of an accused person which is tendered at the hearing is part of the evidence called by the prosecution*



*and will therefore be looked upon from the standing point of the onus on them to prove their case beyond reasonable doubt, what is being relied upon in the statement is only an admission which fails short of a voluntary confession, its weight and value depend upon variety of consideration, including the circumstance of the admissions, the competence and capability of the accused person to know what was allegedly admitted by him”.*<sup>B</sup>

The respondent, my lords, further made an interesting argument thus:-

*“The respondent submit that for the appellant to have stated in Exhibit A1, and A2, on 7<sup>th</sup> April, 2002 that he went to mammy market and bought a bottle of dry gin which he consumed and repeated the same story in Exhibit A, on the 5<sup>th</sup> April, 2002, when he was more sober, is a clear testimony of the veracity of the facts stated therein. The trial court, respondents counsel continued, was therefore right to have held as it did on page 91 and 92 of the records of proceedings. He urged us to so hold that the decision of the trial court, as affirmed by the lower court that the intoxication of the appellant was voluntarily caused by the appellant himself, hence, the invocation of the provision of Section 44 of the Penal Code cannot assist the appellant.*<sup>C</sup><sup>D</sup><sup>E</sup>

*The law is quite clear and there is no need now for it to be altered. Once the court trying the case is satisfied of the guilt of the accused person the retraction of the appellant’s confessional statement cannot be used to disturb the finding of guilt against the accused. It cannot therefore be used to disturb the findings especially when there are two concurrent decisions of the two lower courts as in the case at hand. The case of Ibikunle V. The State (2007) 1 SC (pt. 11) 12 where it was held that it is settled law that the Supreme Court will not reverse concurrent finding except special circumstances can be shown by the appellant. See Eholor V. Osayande (1992) 6 NWLR (pt. 249) 524 at 548, paragraphs D - F. In the instant case, the appellant has not been able to show from the angle of the trial court that it has not preeminently the privilege to see and hear the witnesses which the court believed cannot have their testimony treated highly since his conclusion thereon is presumed to be correct and ought not to be disturbed”.*<sup>F</sup><sup>G</sup><sup>H</sup>

**Above is the correct finding and decision of the Supreme**

***Court in that case. The respondent submits rightly in my view, that even assuming anything may be found wanting in Exhibits A and AI, there are other credible pieces of evidence, such as the evidence of Pw2 and 3 and Exhibit B to show alcoholic intoxication of the appellant which resulted in his acts leading to the death of the deceased as to make Exhibit A and AI credible in showing the story of the appellant as Dw1 as an after thought and unacceptable.***

***Having considered the decision of both the trial and lower courts and having considered and digested the submissions of both counsel on behalf of their respective clients I hold that the prosecution has proved against the appellant, all the ingredients of the offence of culpable homicide punishable with death beyond reasonable doubt. The retraction of the appellant from his statement in Exhibits A and AI is of no moment.***

***The real cause of the intoxication of the appellant which led to the killing of the appellant's mother was voluntary intoxication. There is no reliable evidence from the appellant to show that the intoxication was in fact involuntary. It is superfluous therefore for the appellant to rely on the provisions of Section 52 of the Penal Code in his defence. The prosecution proved all the ingredients of the offence charged. The trial court was perfectly right in convicting the appellant for murder of his mother and the sentence passed on the appellant was right. The court below was on a solid ground in affirming the conviction and sentence on the appellant.***

***There was no valid and credible evidence to persuade this court to disturb the concurrent findings of the two lower courts. The judgment of the lower court is upheld.***

***The appeal is devoid of any merit, same is hereby dismissed. The conviction as well as the punishment under Section 221 (b) of the Penal Code is further affirmed. The tree must continue to lie where it falls.***

**H**

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### **MUHAMMAD JSC**

I read before now the judgment just delivered by my learned brother, Coomassie, JSC. I agree with him in dismissing the appeal. I,

too, dismiss the appeal. I abide by orders made in the said judgment.

### **RHODES-VIVOUR JSC**

I read in draft the leading judgment delivered by my learned brother Muntaka-Coomassie, JSC. I agree with his lordship that concurrent findings of fact by the two courts below that the Appellant is guilty of culpable homicide punishable with death for killing his mother are correct. I intend in my contribution to state the position of the law on retracted confessional statement. The Appellant made a confessional statement. It was admitted in evidence as exhibit A. It was free and voluntarily made. In the statement the Appellant said that he drank a whole bottle of Whisky. Thereafter he beat up his mother. She died from injuries received from the beatings.

In court while giving evidence he resiled from his confessional statement when he said:

*"I saw a woman selling traditional medicine in basin on her head. I called her and asked if she has traditional medicine for malaria which she said she has. She sold a liquid to me... when got home and I took my food in the night. I took the medicine... After sometime I could not recall what happened to me except that I found myself in a Police Station the following morning... a policeman came to the cell and he told me that I went to my neighbors house and beat one woman Hajiya Hauwa to death. What he told me was unbelievable to me."*

It is clear that the Appellant's extrajudicial statement is contrary to his testimony in court.

In *R. v. Golde* (1960) 1 WLR p.1169 Lord Parker CJ explained the inconsistency Rule when his lordship said that:

*"When a witness is shown to have made previous statements inconsistent with the evidence given by that witness at the trial the jury should not merely be directed that the evidence given at the trial should be regarded as unreliable, they should also be directed that the previous statements, whether sworn or unsworn do not constitute evidence upon which they can act."* See *State v. Okoro* (1974) 2 SC p.73, *Boy Muka v. State* (1976) 9 10 SC pt 305 *Egboghme v. State* (1993) 8 SCNJ p. 1.

The rule in *R v Golder* (supra) adopted in several decisions of

this court, a few of them referred to above does not apply to an accused person and his confessional statement. See *Ikemson v State* (1989) 3 NWLR (Pt.110) p. 455 *Asanya v State* (1991) 3 NWLR (Pt.180) p.422.

My lords, once a statement was made in accordance with the law and it was properly admitted in evidence as an exhibit no amount of retraction will affect it. The statement, if confessional remains good evidence on which the court can convict. That is to a court can convict on the retracted confessional statement of the Appellant. The judgment of the trial court wherein the Appellant was convicted for Murder is correct. The Court of Appeal was right to affirm that judgment.

For this, and the more detailed reasoning in the leading judgment, I agree that there is no merit in this appeal. Appeal dismissed.

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### **OGUNBIYI JSC**

I agree with my brother Hon. Justice Muntaka – Coomassie JSC that this appeal lacks merit and is hereby dismissed also by me. The concurrent nature of the judgment by the two lower courts is unsailable and it is an uphill task for the appellant to demolish same. In other words, the appellant has not shown that the judgment by the two lower courts are either perverse or wrong in law. It is not shown also that there has been absence of compliance with some principles of law or that it is made in bad faith. Life in itself is sacred and hence the reason why the appellant should not have taken things for granted and acted in a reckless and unwholesome manner.

The law has caught up with the appellant and he must face the music. In terms of the lead judgment of my learned brother, I also dismiss the appeal and uphold the judgment of the lower court which in turn also endorsed that of the trial court. The appeal is dismissed and the conviction and sentence passed on the appellant by the two lower courts is also affirmed by me.

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### **NWEZE JSC**

I had the advantage of reading the draft of the leading judgment which my Lord, Muntaka-Coomassie, JSC, just delivered now. I,

entirely, agree with His Lordship that this appeal in devoid of merit.

At page 161 of the record, the lower court found that:

*The learned trial Judge has admirably evaluated the evidence and tested the truth of exhibits A and A1 in the light of the evidence available to him in the case. He has accepted the truth of the confessional statements and believed them to be voluntary. His finding on this is un-assailable and cannot be disturbed by this court....* [Italics supplied for emphasis] <sup>B</sup>

With due respect, it is difficult to appreciate the entreaty of the learned counsel for the appellant to this court in the face of the above finding. It is no longer open to conjecture that a free and voluntary confession of guilt, whether judicial or extra-judicial, if it is direct and positive and, properly, established, is sufficient proof of guilt. <sup>C</sup>

As such, it is enough to sustain a conviction so long as the court is satisfied with the truth thereof, Yusufu v The State [1976] 6 SC 167, 173; Okegbu v the State [1984] 8 SC 65; Kim v The State [1992] 4 SCNJ 81, 110; [1992] 4 NWLR (pt. 233) 17; Ikpo and Anor v. The State [1995] 2 SCNJ 64, 75; [1995] 9 NWLR (pt. 421) 540; Igago v The State [1999J 12 SCNJ 140; [1999] 6 NWLR (pt. 608) 568; Hassan v The State [2001] 7 SCNJ 643; [2001] 7 NSCQR 107, 109; [2001] 15 NWLR (pt.735) 184; Olalekan v State [2002] 4 WRN 146; [2001] 18 NWLR (pt. 746) 793, 824; Salawu v. State (1971) NMLR 249; Nwachukwu v The State (2007) LPELR - 8075 (SC) 34, 36. <sup>D</sup>

However, outside the confession, it is desirable to have some corroborative evidence, no mater how slight, of circumstances which make it probable that the said confession is true and correct. The reason for this prescription is simple: courts are not, generally disposed to act on a confession without testing the truth thereof, Onochie and Ors v The Republic (196) NMLR 307; R v. Sykes (1913) 8 CAR 233, 236. <sup>F</sup>

For the purpose of the test, the court would be expected to consider the question: whether the accused person had the opportunity of committing the offence charged and whether the confession was consistent with other facts which have been ascertained and proved at the trial? <sup>G</sup>

There are, actually, several cases on this point. However, only a handful will be cited here, Queen v. Obiasa(1962) 1 ANLR 65; [1962] <sup>H</sup>

2 SCNLR 402; Ikpassa v. Attorney-General of Bendel State [1981] 9 SC 7; Akpan v The State [1992] 6 NWLR (pt. 248) 439, 460; [1992] 7 SCNJ 22; Kanu v The King (1952) 14 WACA 30; The Queen v. Obiasa (1962) 1 All NLR 651; [1962] 1 SCNLR 137; Obosi v The State (1965) NMLR 129; Jafiya Kopa v. The State (1971) 1 All NLR B 150 Dawa v The State [1980] 8 -11 SC 236; Ejiniifla v The State [1991] 5 LRCN 1640, 1671; Arthur Onyejekwe v The State [1992] 4 SCNJ 1, 9; [1992] 3 NWLR (Pt. 230) 444; Aiguoreghian and Anor. v. The State [2004] 3NWLR (pt 860) 367; [2004] 1 SCNJ 65; [2004] 1 SC (pt.1) 65.

C      From the above findings, it is not in doubt that the trial court, rigorously and meticulously, observed these prescriptions. Little wonder then why the lower court had no hesitation in affirming its approach. I am afraid learned counsel for the appellant has not been able to D persuade this court that the lower court did anything untoward in the circumstance. Like the leading judgment, therefore, I have no warrant for interfering with both findings. I, too, shall enter an order dismissing this appeal. I abide by the consequential orders in the leading judgment.

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