

SUPREME COURT OF NIGERIA
FRIDAY 29TH JANUARY, 2016. SC. 728/2013
CORAM:- N. S. NGWUTA, M. U. PETER-ODILI,
O. ARIWOOLA, M. D. MUHAMMAD, J. I. OKORO, JJSC

NURA OCHALA APPELLANT
V.
FEDERAL REPUBLIC OF NIGERIA RESPONDENT

CONSTITUTIONAL LAW - Constitution - Supremacy of - By virtue of Constitution 1999 s. 1(3) - All other laws must not only be consistent with Constitution - But derive their potency from it (H1)

JURISDICTION - Narcotic drugs - Federal High Court and not Magistrate Court is vested with jurisdiction - To entertain the charge bordering on Indian Hemp against appellant (H2)

DRUGS - Narcotic drugs - Indian hemp - Okewu v. FRN - Drugs stated in NDLEA Act s. 10(h) otherwise known as Indian hemp - Are substances known to alter user's perception - They are also narcotic drugs (H3)

FACTS

Accused/appellant was arraigned before the Federal High Court Ilorin Division for dealing in 8.8 Kilogrammes of Cannabis Sativa also known as Indian Hemp without lawful authority. Appellant was arrested sometime in September 2011 at a village in Kwara State with the drugs substance. He was therefore brought to court for the crime. Appellant was represented by a learned counsel. When the charge was read and explained to him, he pleaded guilty thereto. To prove its case, prosecution/respondent filed proof of evidence contemporaneously with the confessional statements of appellant.

Respondent presented facts of the case by tendering all relevant exhibits in proof of the charge. The Exhibits tendered include statement of appellant, packing of substance form, Certificate of test analysis, request for scientific aid form, drug analysis report, evidence pouch and 8.8 kilogrammes of Cannabis Sativa (Indian hemp) recovered from appellant. The exhibits were tendered and admitted as

Exhibits AH- H2 without any objection from the counsel for appellant. Respondent therefore urged the Court to convict appellant accordingly. The Court in the circumstance convicted appellant as charged. Based on the allocutus made by appellant's learned counsel, the Court sentenced appellant to 18 months imprisonment. Aggrieved, appellant appealed to the Court of Appeal Ilorin Division. The Court dismissed the appeal and affirmed the judgment of the trial Court. Not yet satisfied, appellant appealed to Supreme Court.

ISSUE FOR DETERMINATION

Whether the Court of Appeal was right when it held that the trial court had jurisdiction to try the Appellant under Section 11 (c) of the National Drug Enforcement Act 2004.

HELD (Unanimously dismissing the appeal per **PETER-ODILI JSC**)

Constitution - Supremacy of

1. It is trite that the Constitution, the fons et origo, is supreme, paramount and overshadows all other enactment promulgated by the legislature, be it Federal or State legislature. By virtue of Section 1(3) of the Constitution, as amended, all other laws must not only be consistent with its provisions, but derive their potency and legitimacy from it. (p. 454 B)

JURISDICTION - Narcotic drugs

2. Given the established linkage between the National Drug Law Enforcement Agency Act and the Constitution, as amended, regarding the jurisdiction of the Federal High Court over Indian hemp criminal matters, I hold the view that the Federal High court, the Lower Court, is vested with the necessary jurisdiction to entertain the charge against the Appellant, not the Magistrate's Court as, enticingly, canvassed by the Appellant". (p. 454 D)

DRUGS - Narcotic drugs - Indian hemp - Okewu v. FRN

3. Now getting back on track on the conflicting positions of either party as to whether or not cannabis sativa or Indian

Hemp as widely known comes within the definition of a narcotic drug within the purview of Section 11 (c) of the National Drug Law Enforcement Agency Act Cap. N30 Laws of the Federation of Nigeria, 2004 on which the Appellant was charged, tried, convicted and sentenced by the Federal High Court, Ilorin Kwara State, which acts were affirmed by the Court below. In making my decision, I have called in aid what my learned brother Ariwoola JSC stated in *Okewu v Federal Republic of Nigeria* (2012) All FWLR (Pt. 625) 205 at 223.

“There is no doubt that all drugs mentioned in Section 10 (h) of the Law, that is Cocaine, LSD and Heroine with Cannabis Sativa otherwise known as Indian hemp are substances that are known to alter users perception or consciousness. They are also narcotic drugs hence; they are all prohibited by law. In other words, Cocaine, LSD, Heroine and Indian hemp are prohibited in the same way because they are all drugs that alter one’s perception or consciousness hence the prohibition by law. As a result, I am not in the slightest doubt and I hereby say with conviction that the Court below was right to hold that the substance called Indian hemp, otherwise known as Cannabis Sativa falls within the phrase “any other similar drugs” used in Section 10 (h) of the NDLEA Act pursuant to which the Appellant was charged, convicted and sentenced by the Tribunal”.

The wordings “Any other similar drugs” used in Section 10 (h) of the NDLEA Act is the same as used in Section 10 (c) of the same NDLEA Act. (p. 457 A)

REPRESENTATION

Isiaka Abiola Olagunju, Esq., with him Mas’ud Alabelewa, Esq., for the appellant

Adeola Omotunde, Esq., with him. Adedeji Atande, Esq., for the Respondent

CASES REFERRED TO

Onwudiwe v. FRN (2006) 10 NWLR (pt. 988) 382

Alashe v. Ilu (1964) All NLR 390

- Durosaro v. Ayorinde (2005) All FWLR (pt. 260) 167
 Owoyin v. Omotosho (1961) 2 SCNLR 57
 Okewu v. F.R.N. (2012) All FWLR (pt. 625) SC 205
 Chukwuma v. F.R.N. (2011) 13 NWLR (pt. 1264) 391
 F.R.N. v. Osahon (2006) 5 NWLR (pt. 973) 361
 B Araka v. Egbue (2003) FWLR (pt. 175) 507
 Amusan v. Olawuyi (2002) 12 NWLR (pt. 780) 30
 Oladele v. Nigerian Army (2004) 6 NWLR (pt. 868) 166
 Tank v. State (2009) 4 NWLR (pt. 1131) 430
 C Amusan v. Olawuyi (2002) 12 NWLR (pt. 780) 30
 Bronik Motors Ltd. v. Wema Bank Ltd. (1983) 1 SC NLR 296
 Adisa v. Oyinwola (2000) 10 NWLR (pt. 674) 116

STATUTES REFERRED TO

- D NDLEA Act Vol. 9 Cap 30, LFN 2004, ss. 10(h), 11(c), 26(1)
 Constitution of the Federal Republic of Nigeria 1999, ss. 251(1)(3), 315
 Federal High Court Act Cap F12 LFN 2004, s. 7(1)
 Evidence Act 2011, s. 74(1)
 E Tribunals Certain Consequential Amendment Decree 62 of 1999, s. 2(3)

LEAD JUDGMENT BY PETER-ODILI JSC

- F This appeal stemmed from the judgment of the Court of Appeal, Ilorin Division delivered on 19th June, 2013 coram: Paul Adamu Galinje, Obande Festus Ogbuinya and Tijani Abubakar JJCA whereby that court upheld the judgment of the Federal High Court Ilorin Division per A. O. Faji J. delivered on the 9th day of
 G November 2011 wherein Appellant was convicted and sentenced to 18 months imprisonment for dealing in 8.8 Kilogrammes of Cannabis Sativa also known as Indian Hemp without lawful authority.

BACKGROUND FACTS:

- H Appellant was arrested on 23rd day of September, 2011 at Banni Village in Kaima Local Government Area of Kwara State with 8.8 kilogrammes of Cannabis Sativa (Indian hemp). Appellant was charged on a one count charge by a charge dated 24th October, 2011 which reads as follows:-

“That you NURA OCHALA, male, adult, on or about the 23rd day of September, 2011, at Banni Village in Kaima local Government Area of Kwara State within the Jurisdiction of this Honourable Court, without lawful authority deal In 8.8 Kilogrammes of Cannabis Sativa (otherwise known as Indian hemp) a drug similar to Cocaine, Heroin, LSD etc, thereby committing an offence contrary to and punishable under Section 11 (c) of the National Drug Law Enforcement Agency Act Cap N30 Laws of the Federation of Nigeria, 2004”.

Prosecution in proof of its case filed proof of evidence contemporaneously with the confessional statements of the Appellant.

The Appellant was arraigned in court on 9th November, 2011 and he was ably represented by M. A. Lawal (Mrs.). The charge was read and explained to the appellant in English Language on 9th November, 2011 and he perfectly understood same. Appellant pleaded guilty to the charge. The prosecution presented facts of the case by tendering all relevant exhibits in proof of the charge. The Exhibits tendered by the prosecution in the presence of the appellant and his counsel include statement of the appellant as the accused person before the Lower court, packing of substance form, Certificate of test analysis, request for scientific aid form, drug analysis report, evidence pouch and 8.8 kilogrammes of Cannabis Sativa (Indian hemp) recovered from the accused person.

All the exhibits were tendered and admitted as Exhibits AH-H2 without any objection from the counsel for the Appellant. The prosecution proceeded by praying the court to convict the appellant based on the documents tendered and admitted by the Lower court against which the counsel for the appellant did not raise any objection and the Lower court convicted the appellant as charged. Thereafter, the counsel for the appellant made the allocutus and the Lower court thereafter sentenced the appellant to 18 months imprisonment. The appellant was 42 years of age at the time of his conviction and sentence with record of drug related transactions as a bulk purchaser and retailer of illicit drugs.

Appellant, aggrieved with the judgment conviction and sentence of the trial Federal High Court appealed to the Court of Appeal but the Lower Court affirmed what the court of first instance

did. Again dissatisfied, the Appellant has sought recourse to the Apex Court.

Learned counsel for the Appellant, Mr. Isiaka Abiola Olagunju on the hearing date of 1st day of November, 2015 adopted the Brief of Argument of the Appellant filed on the 9th day of January 2014.

B He distilled a sole issue for the determination of the appeal which is thus:-

C Whether the Court of Appeal was right when it held that the trial Court had jurisdiction to try the Appellant under Section 11(c) of the National Drug Enforcement Act, 2004. Mr. Adeola Omotunde, learned counsel for the Respondent adopted the Brief of Argument of the Respondent filed on the 16th day of June, 2014. He formulated a single issue which is as follows:-

D Considering the totality of this case whether the Court of Appeal was not right in holding that the trial Federal High Court had jurisdiction under Section 11 (c) of the National Drug Enforcement Act 2004 to try this case.

Each of the issues is in effect saying the same thing but I shall use that as crafted by the Appellant as it is simpler.

E LONE ISSUE:

Whether the Court of Appeal was right when it held that the trial court had jurisdiction to try the Appellant under Section 11 (c) of the National Drug Enforcement Act 2004.

F Mr. Olagunju of counsel for the Appellant submitted that jurisdiction of the court to try a matter whether civil or criminal would be determined in the light of the enabling law that covers the issue of law before the court or the offence being tried. He cited Onwudiwe v Federal Republic of Nigeria (2006) 10 NWLR (Pt. 988) 382 at G 425.

H That it is conceded that the National Drug Enforcement Agency Act, Volume 9 Cap 30, Laws of the Federation of Nigeria, 2004 (NDLEA ACT) confers jurisdiction to try offenders in cases of hard drugs on the Federal High Court but that it is the Indian Hemp Act that applies to Indian hemp related offences conferring jurisdiction on the Magistrate Court by Section 8. That Section 11 (c) of the NDLEA Act that the Appellant was charged with does not expressly mention Indian Hemp.

Mr. Olagunju of counsel went further to state that assuming without conceding that Section 11 (c) of the NDLEA Act accommodates Indian hemp as one of the items contemplated by virtue of the phrase “any other similar drugs”, it means the phrase “any other similar drugs, must be proved as an essential ingredient of the charge pressed against the Appellant and the Respondent failed to place any evidence to establish that Indian hemp is a similar drug. B

It was also submitted that when all the exhibits including the Drug Analysis Report were tendered by the prosecuting counsel without certification and therefore inadmissible. He cited *Alashe v Ilu & Others* (1964) All LLR P.390; *Durosaro v Ayorinde* (2005) All FWLR (Pt. 260) 167 at 181; *Owoyin v Omotosho* (1961) 2 SCNLR 57. That both the NDLEA Act and the Indian Hemp Act are products of a Federal Legislation and by virtue of Section 315 of the Constitution, the Indian Hemp Act shall have effect with respect to when the subject matter is Indian hemp of an offence. That Section 251 of the 1999 Constitution donates exclusive jurisdiction to the Federal High Court in matters of Drug and Poison and so the Lower Court went off tangent when it held that only the Federal High Court has exclusive jurisdiction to try cases with respect to Indian Hemp Offences. Mr. Olagunju submitted for the Appellant that Section 251 (1) and (3) of the 1999 Constitution has not taken away jurisdiction to try offences that border on Indian hemp from the Magistrates Court rather by the provision of subsection 3 of Section 251 the Federal High Court also has criminal jurisdiction to prosecute offences that border on drugs and poisons generally. That the Indian Hemp Act, being a specific law with respect to offences relating to Indian hemp, the Magistrate Court, not the Federal High Court has the jurisdiction to prosecute the same. That Indian Hemp Act is an Act of the Federal Legislature and it is the same Act that confers on the Magistrate’s Court the jurisdiction to prosecute offences created under the Act. It was also submitted that ferreting through Section 7 (1) of the Federal High Court, Act Cap F12 Laws of the Federation of Nigeria 2004 and nowhere in the law where exclusive criminal jurisdiction is conferred on the Federal High Court to prosecute offences that border on drugs and poisons rather such exclusive jurisdiction is conferred on the Court with respect to criminal cases and matters only. Responding, Mr. Omotunde of counsel for the C D E F G H

Respondent countered by stating that Cannabis Sativa otherwise known as Indian hemp is a narcotic drug as defined by the Supreme Court in *Okewu v F.R.N.* (2012) All FWLR (Pt.625) SC 205 at 229 - 230; *Chukwuma v F.R.N.* (2011) 13 NWLR (Pt. 1264) 391 at 412. That Nigeria is a signatory to the 1961 Single Convention, the 1972 Protocol as well as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1989 and it is bound to enforce and observe these Conventions. That by Section 74(1) of the Evidence Act 2011, the Courts are to take judicial Notice of all conventions to which Nigeria is a signatory and which has been codified in her law. That sequel to that foregoing paragraph, that by Section 11 (c) of the NDLEA Act, Cannabis Sativa is one of “Any other similar drugs” referred to in that section. He referred to *Okewu v Federal Republic of Nigeria* (2012) All FWLR (Pt. 625) 205 at 223.

For the Respondent was contended that when the Indian Hemp Decree now Act was promulgated in 1966, it gave jurisdiction to try offences under the said Act to the Magistrate Court. That by Decree 48 of the 1989 now NDLEA Act Cap N30 Laws of the Federation of Nigeria, 2004, jurisdiction to try offences relating to Indian hemp was transferred to the Federal High Court. He cited Section 17 of the NDLEA. Learned counsel for the Respondent submitted that offences relating to Indian hemp were transferred to the Federal High Court, offenders under the Act were being tried at the Special (Miscellaneous Offences) Tribunals which were established pursuant to Decree 20 of 1984 as amended by Decree 22 of 1986 and which the Tribunals were dissolved on 29th May, 1999 by Decree 62 of 1999 which ushered in the return of the Democratic dispensation in May 1999. He stated on that the question of specific or general provision of an enactment will disappear in the face of clear positions of the Constitution which supersedes every other law and Section 251 (1) (m) and (3) of the 1999 Constitution vests the Federal High Court with the exclusive jurisdiction in matters relating to drugs and poisons and only the Constitution can take away the same jurisdiction and not any other law. He relied on *F.R.N. v Osahon* (2006) 5 NWLR (Pt. 973) 361 a 403 - 404; *Araka v Egbue* (2003) FWLR (Pt. 175) 507 at 522; *Amusan v Olawuyi* (2002) 12 NWLR (Pt. 780) 30 at 57; Section 315 of the 1999 Constitution etc.

The thrust of the dispute between the parties in this appeal is seen in the divergent or opposite views of the parties which are in the standpoint of the Appellant, the provisions of Section 251 of the Constitution of 1999, Section 7 of the Federal High Court and Section 11 of the National Drug Law Enforcement Agency Act have not conferred jurisdiction on the Federal High Court to prosecute offences that border on drugs and poison and/or Indian Hemp and so the trial Federal High Court that tried, convicted and sentenced the Appellant did so without jurisdiction. The jurisdiction for the offence of Indian Hemp or Cannabis Sativa resides on the Magistrate Court exclusively by virtue of the Indian Hemp Act, 2004. The position of the Appellant is contested vehemently by the Respondent who contends that the Federal High Court possesses the exclusive jurisdiction by virtue of Section 25 (1) (m) (3) and of the 1999 Constitution, Section 7 (1) (m) of the Federal High Court Act Cap F12, Laws of the Federation of Nigeria 2004 and Section 26 of the NDLEA Act, Cap N30, LFN 2004. That the proper venue for the trial of the offence for which the Appellant was convicted is the Federal High Court and not the Magistrate Court and so the trial, conviction and sentence of the Appellant by the Federal High Court are not a nullity.

The Court of Appeal in its judgment anchored by Ogbuinya JCA held among other things thus:-

“Now, the sacrosanct provision of Section 251 (1) (m) of the Constitution, as amended, donates exclusive jurisdiction to the Federal High Court (the Lower Court) on civil causes and matters relating to drugs and poisons.

By virtue of the provision of Section 251 (3) thereof: “The Federal High Court shall also have exercise jurisdiction and power in respect of criminal causes and matters in respect of which jurisdiction is conferred by subsection (1) of the Section.” See Abbas v C.O.P. (1998) 12 NWLR (Pt.577) 308.

Interestingly, the Supreme Court has given its imprimatur to the fact that Indian hemp is a drug within the meaning of drugs in Section 11 of the National Drug Law Enforcement Agency Act in the recent cases of Okewu v FRN (supra) (2012) 9 NWLR (pt. 1305) 327 and Chukwuma v FRN (supra). It seems from these highlights that the Constitution, as amended, has made clear and copious

provisions, in allotting jurisdiction to the Federal High Court over criminal causes and matters touching on Indian hemp.

Indubitably, the Federal High Court traces the statutory paternity of its jurisdiction over Indian hemp offences, allocated to it by Section 26(1) of the National Drug Law Enforcement Agency Act, to the Constitution, as amended. Contrariwise, there is no such triumvirate legislative nexus between the Indian hemp Act, the Constitution, as amended, and the Magistrate's Court vis-à-vis adjudication of Indian hemp crimes. ***It is trite that the Constitution, the fons et origo, is supreme, paramount and overshadows all other enactment promulgated by the legislature, be it Federal or State legislature. By virtue of Section 1(3) of the Constitution, as amended, all other laws must not only be consistent with its provisions, but derive their potency and legitimacy from it.*** See *Oladele v. Nigerian Army* (2004) 6 NWLR (Pt. 868) 166; *FRN v Osahon* (supra); *Tank v State* (2009) 4 NWLR (Pt. 1131) 430. ***Given the established linkage between the National Drug Law Enforcement Agency Act and the Constitution, as amended, regarding the jurisdiction of the Federal High Court over Indian hemp criminal matters, I hold the view that the Federal High court, the Lower Court, is vested with the necessary jurisdiction to entertain the charge against the Appellant, not the Magistrate's Court as, enticingly, canvassed by the Appellant***".

It needs be said that no one is denying the existence of the Indian Hemp Decree of 1966 now Act which gave jurisdiction for the trial of offenders under the said Act to the Magistrate's Court. The Act of 1966 had its provisions replicated in the Indian Hemp Act, Volume 7, Cap 16, Laws of the Federation of Nigerian, 2004 and it is called the "Indian Hemp Act" for short and Section 8 (1) thereof provides thus:-

"Every Magistrate in any part of Nigeria shall notwithstanding anything contained in any enactment, have jurisdiction for the summary trial of any offence under Section 4 to 7 of this Act and impose the punishment provided by the Act for such offence".

The NDLEA was established by Decree 48 of the 1989 now NDLEA Act Cap N30 Laws of Federation of Nigeria. Jurisdiction to try offences relating to Indian hemp was transferred to the Federal

High Court. The specific section of the Act in relation thereto is Section 17 and it provides as follows:-

“17(1): The Tribunal established under the Special Miscellaneous Offences Act, as amended shall have jurisdiction to try offenders under this Act”.

“17(2): The Tribunal shall have power, notwithstanding anything to the contrary in any other enactment to impose the penalties provided for under this Act”.

Earlier before this transfer referred to above, jurisdiction was vested in the Special (Miscellaneous Offences) Tribunals established by virtue of Decree 20 of 1984 as amended by Decree 22 of 1986 which Tribunals were dissolved on 29th of May, 1999 by Decree 62 of 1999 on the dawn of the Democratic era of May, 1999. I shall quote the relevant section of Decree 62 of 1999 which made that transfer effective and it is thus:-

Decree 62 of 1999 otherwise known as Tribunals Certain Consequential Amendment etc provides in Section 2 (3) as follows:-
“A charge, claim or court process filed before a Tribunal established under any of the enactments specific in the schedule to this Decree shall be deemed to have been duly filed or served before the Federal High Court or High Court of a State as the case may be and such charge, claim and court process shall be deemed amended as to title, venue and such other matter as may be appropriate to give effect to this subsection without further assurance than this Decree”.

Then, Section 251 (1) of the 1999 Constitution stipulates as follows:

“Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters”

...(m) drugs and poisons.

“Section 251 (3): The Federal High Court shall also have and exercise jurisdiction and powers in respect of criminal cases and matters in respect of which jurisdiction is conferred by Section (1) of this Section”.

In the 1999 Constitution the items in the exclusive list on which only the Federal Government of Nigeria can legislate upon, drugs

and poisons are listed in item “21” and it needs no saying that Magistrates Court that are under the powers of State Government cannot exercise or assume jurisdiction over those subjects in the exclusive list and so their jurisdiction would be limited to matters within the State Government legislations or Edicts.

B For further emphasis and clarification is to call in aid Section 7(1) of the Federal High Court Act, Cap F12 Laws of the federation, 2004 which section stipulates thus:-

C *“The Court shall to the exclusion of any other court have original jurisdiction to try civil (m) Drugs and poisons; (s) Such other jurisdiction, civil or criminal, and whether to the exclusion of any other court or not as may be conferred upon by an Act of the National Assembly; (3) Where Jurisdiction is conferred upon the Court under subsections (L), (2) and (3) of this section. Such jurisdiction shall be*
D *construed to include jurisdiction from or ancillary to such subject matter”.*

It follows therefore that an argument as pushed forward by the learned counsel for the Appellant that the Magistrate Court by virtue of the Indian Hemp Act has the exclusive power in view of the
E specific provision would not have a leg since it is an Act which cannot contest the Constitutional empowerment of the Federal High Court under Section 251 (1) (m) and 3 thereof and the explanatory provision of Section 1 (3) of the same Constitution which provides thus:

F *“If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail and that other law shall to the extent of the inconsistency be void”.*

G Clearly, the above stated Constitutional provisions have rendered out of existence the Indian Hemp Act Cap 16 Laws of the Federation of Nigeria, 2004 since it has come into direct conflict with Section 251 (1) (m) and (3) of the 1999 Constitution. To underscore the supreme position of the Constitution, Section 251 (3) thereof has as follows:-

H *“Nothing in this Constitution shall be construed as affecting the power of a court of law or any tribunal established by law to declare invalid any provision of an existing law on the ground of inconsistency with the provision of any other law, that is to say- Any other existing law;*

- b) A law of a House of Assembly;
- c) An act of the National Assembly; or
- d) Any provision of this Constitution.”

Now getting back on track on the conflicting positions of either party as to whether or not cannabis sativa or Indian Hemp as widely known comes within the definition of a narcotic drug within the purview of Section 11 (c) of the National Drug Law Enforcement Agency Act Cap. N30 Laws of the Federation of Nigeria, 2004 on which the Appellant was charged, tried, convicted and sentenced by the Federal High Court, Ilorin Kwara State, which acts were affirmed by the Court below. In making my decision, I have called in aid what my learned brother Ariwoola JSC stated in *Okewu v Federal Republic of Nigeria* (2012) All FWLR (Pt. 625) 205 at 223.

“There is no doubt that all drugs mentioned in Section 10 (h) of the Law, that is Cocaine, LSD and Heroine with Cannabis Sativa otherwise known as Indian hemp are substances that are known to alter users perception or consciousness. They are also narcotic drugs hence; they are all prohibited by law. In other words, Cocaine, LSD, Heroine and Indian hemp are prohibited in the same way because they are all drugs that alter one’s perception or consciousness hence the prohibition by law. As a result, I am not in the slightest doubt and I hereby say with conviction that the Court below was right to hold that the substance called Indian hemp, otherwise known as Cannabis Sativa falls within the phrase “any other similar drugs” used in Section 10 (h) of the NDLEA Act pursuant to which the Appellant was charged, convicted and sentenced by the Tribunal”.

The wordings “Any other similar drugs” used in Section 10 (h) of the NDLEA Act is the same as used in Section 10 (c) of the same NDLEA Act.

Similarly, in the same *Okewu’s* case supra at page 226 - 227, H paras. C - B Mohammed JSC posited as follows:-

“Thus, all the necessary intendments of what Section 10 (h) of the Decree stipulates must include Cannabis Sativa as forming part of “other drugs”, as it falls in its usage among such drugs that are

smoked, inhaled, or injected into human body to cause the dullness of the senses, induce profound sleep or even cause stupor, coma, convulsions, or hallucination. It indeed is destructive drug that must not only be controlled but prohibited, and any person who is established to possess or use it however without lawful authority must
 B *be made to face heavy punishments to serve as deterrent to others”.*

Having made the above considerations, it is clear that the Federal High Court was within the powers well donated by the Constitution and the specific legislations to entertain the charge,
 C conduct the trial and with the findings made effect the conviction and sentence of the Appellant. The Court of Appeal had no difficulty in affirming what the Court of first instance did in the full cover of the appropriate constitutional provisions and the Federal legislations in relation thereto. All these bearing in mind the plea of guilty by the
 D accused/appellant in the presence of counsel who did not object to the tendering of the exhibits including the confessional statement of the Accused.

The conclusion that has to be is that the positions of the Court below in support of what the trial Federal High Court did is difficult
 E to challenge as nothing has come up on which what the Courts below did could be interfered with, upset or set aside and the Federal High Court acted within the jurisdiction well endowed it and so the posture of the Appellant cannot be sustained. I rely on the cases, Amusan v Olawuyi (2002) 12 NWLR (Pt. 780) 30 at 57; Bronik Motors Ltd. v
 F Wema Bank Ltd. (1983) 1 SC NLR 296; Adisa v Oyinwola (2000) 10 NWLR (Pt. 674) 116 at 167.

From the foregoing, I see no merit in this appeal which I dismiss.
 I affirm the decision of the Court of Appeal in its affirmation of the
 G conviction and sentence of the Appellant.

ARIWOOLA JSC

I had the privilege of reading in draft the lead judgment of my
 H learned brother, Peter-Odili, JSC just delivered. I agree with the reasoning of my learned brother which led to the conclusion that this appeal is devoid of merit and deserves dismissal order. There is no doubt that the court below was right to have held that the trial

court had jurisdiction to try the appellant as it did under Section 11(c) of the National Drug Law Enforcement Agency Act, 2004.

Accordingly, I too will dismiss the appeal as been unmeritorious. Appeal dismissed.

B

MUHAMMAD JSC

Having had a preview of the lead judgment of my learned brother Peter-Odili JSC, I agree with the reasoning leading to the conclusion therein that the appeal which lacks merit stands dismissed. I abide by the consequential orders made in the judgment.

C

OKORO JSC

My learned brother, Mary Ukaego Peter-Odili, JSC obliged me in advance a copy of the judgment he has just delivered. He has meticulously and quite efficiently resolved all the salient issues nominated for the determination of this appeal. For the reasons he has advanced, and the conclusion that this appeal is devoid of merit, I agree. I also dismiss this appeal and abide by all the consequential orders made in the lead judgment, including the order as to costs.

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H