



**(From Original Conviction and Sentence in Criminal Case NO. 781 OF 2004 of SRM'S Court at MAKINDU).**

**DOMINIC LIHANDA ..... APPELLANT**

**VERSUS**

**REPUBLIC ..... .. RESPONDENT**

**JUDGMENT**

I have carefully perused the lower court record, considered the submissions of Mr. Omirera for the Attorney General and noted the agreement of the appellant. I agree with what Mr. Omirera has stated. Unless the facts stated by the prosecutor in the court below were backed by a Government Chemist's report confirming that the stuff before that court was cannabis sativa, any conviction on the bare facts cannot be enough and the conviction cannot therefore stand. Accordingly the conviction entered against the appellant cannot stand and is hereby quashed. The sentence of 8 years besides being therefore illegal, must be set aside. It is hereby also therefore set aside. The appellant is accordingly unconditionally released, unless otherwise lawfully held in prison. It is so ordered.

Dated at Machakos this 21<sup>st</sup> day of September, 2006.

**D.A. ONYANCHA**

**JUDGE**

**21/9/06**