



## Statements of both sides heard at Supreme Court (Yangon) for appeal case of refusing two defence witnesses nominated for lawsuit against US citizen Mr John William Yettaw, Daw Aung San Suu Kyi, Daw Khin Khin Win and Ma Win Ma Ma

YANGON, 24 June—Daw Aung San Suu Kyi, Daw Khin Khin Win and Ma Win Ma Ma filed an appeal case No 333 (b)/2009 to Supreme Court (Yangon) in dissatisfaction with Yangon Division Court's decree of confirming Yangon North District Court's decree of declining the nomination of defence witnesses U Win Tin and U Tin Oo in Criminal Case 47/2009 filed against US citizen Mr John William Yettaw, Daw Aung San Suu Kyi, Daw Khin Khin Win and Ma Win Ma Ma. After hearing the statements of U Kyi Win, the lawyer of the defendants, Supreme Court (Yangon) accepted the case on 17 June.

Final statements of both sides in the appeal case were heard at Supreme Court (Yangon) at 10 am today.

Supreme Court Advocate U Nyan Win, defending the applicants, said that at the district level, a decree was delivered to summon only lawyer U Kyi Win from Labutta (whose licence was revoked), one of the four witnesses nominated by the defendants, as a law expert, without recording any specific reason of why the three other witnesses were denied; that the decree was wrong because it failed, disregarding the law, to give a reason of why the three other witnesses should not be summoned; that an appeal case was thus filed to Yangon Division Court to amend the decree; that it is wrong that "the judge of Yangon Division Court in his judgment dated 9 June said that it could not be assumed that the initial court's failure to state the reason according to Section 257 (1) was against the law, and it was carried out in accordance with paragraph 1115 of the book Manual to Courts"; that the judge of the Division Court in his judgment said that U Win Tin and U Tin Oo were nominated as witnesses

regarding character, and there was no need to argue as to the character of Daw Aung San Suu Kyi; that he would like to point out that the nomination of U Win Tin and U Tin Oo was referred not only to the character the learned judges were taking into consideration, but also to political character; that English-Myanmar dictionary by Judson says that the term 'character' also means 'public character'; that therefore that should not be assumed in a narrow-minded way; and that U Win Tin and U Tin Oo should be examined in connection with the political character of Daw Aung San Suu Kyi.

Director Daw Khin Cho Ohn from the Attorney-General's Office, on the side of the plaintiffs, said that the case was filed under Section (22) of the Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts; that action is taken against the accused for their violation of the section; that Daw Aung San Suu Kyi just has to produce evidence that she did not oppose or violate the restriction order (or) prohibition order, under which action is taken against her; that it is stated in the application that the purpose of the nomination of U Win Tin and U Tin Oo is to refer to political character; that according to the statement, the application is designed to have U Win Tin and U Tin Oo examined as defence witnesses in relation to political character of Daw Aung San Suu Kyi; that the explanation of Section (55) of Evidence Law says that the term 'character' enumerated in Sections 52, 53, 54 and 55 covers reputation and disposition; that according to the sections, the term 'character' does not include the term 'political character'; that Evidence Law does not prescribe any provision

that the accused has the right to give evidence regarding political character; that it can be deduced that the appeal case applied to examine U Win Tin and U Tin Oo as defence witnesses regarding political character of Daw Aung San Suu Kyi is intended to disturb and delay the trial at the court; that Section 257 (1) of Code of Criminal Procedure says if the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice; that the court is not responsible for summoning all the witnesses nominated by the accused; that the application for examination of U Win Tin and U Tin Oo as defence witnesses should be declined according to Section 257 (1) of Code of Criminal Procedure; and that therefore the application for an appeal case should be refused.

In hearing the final statements at Supreme Court (Yangon), Supreme Court Advocates U Nyan Win, U Hla Myo Myint and Daw Khin Htay Kywe were present on the side of the applicants, and Daw Khin Cho Ohn (Director, Attorney-General's Office), U San Hla Kyaw (Deputy Director, Attorney-General's Office), and U Ohn Myint (Assistant Director, Attorney-General's Office) on the side of the plaintiffs.

The Supreme Court (Yangon) will make the final decision.—MNA