

Supreme Court (Yangon) dismisses criminal revision case for refusing nomination of two defence witnesses in trial against US citizen Mr John William Yettaw, Daw Aung San Suu Kyi, Daw Khin Khin Win and Ma Win Ma Ma

YANGON, 29 June—Final statements of both sides were heard at Supreme Court (Yangon) on 24 June for Criminal Revision Case No 333 (b)/2009 filed by Daw Aung San Suu Kyi, Daw Khin Khin Win and Ma Win Ma Ma in dissatisfaction with Yangon Division Court's order of confirming Yangon North District Court's order of refusing nomination of defence witnesses U Win Tin and U Tin Oo in Yangon North District Court's Criminal Case No 47/2009 against US citizen Mr John William Yettaw, Daw Aung San Suu Kyi, Daw Khin Khin Win and Ma Win Ma Ma.

Supreme Court (Yangon) pronounced the judgment on the Criminal Revision Case at 10 am today.

In the judgment, Supreme Court (Yangon) said that the lawsuit against applicant No (1) Daw Aung San Suu Kyi was filed under Section (22) of the Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts; that the Section is to take action if a person against whom action is taken opposes, breaches or fails to abide by the restriction order (or) prohibition order; that Daw Aung San Suu Kyi just needs to argue, providing an evidence that she did not oppose or breach the restriction order (or) prohibition order in the trial filed by the initial court; that the lawyer of Daw Aung San Suu Kyi in the case said that the witnesses they nominated were important for the judgment, U Tin Oo, for instance, was nominated as he was assumed to be a witness capable of giving profound statements that action should not be taken under the Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts; that according to the provision of Section (7) of that Law, the provision is that the cabinet is authorized to pass an order, as may be necessary, restricting any fundamental right, not the provision that action is

taken in accordance with the judiciary or judicial trend; that therefore, it is to be assumed that there is no need to take into consideration the statements of the lawyer of the applicants; that the lawyer of the applicants also demanded that U Win Tin and U Tin Oo should be examined as defence witnesses regarding political character of Daw Aung San Suu Kyi; that the explanation of the provision of Section 55 of the Evidence Law says that the term "character" stipulated in Sections 52, 53, 54 and 55 comprises both reputation and disposition; that according to the explanation, there is no provision in the Evidence Law that says there is the right to nominate a witness regarding political character; that in view of the statements given by the witnesses in the case of the initial court, there is not any argument regarding character or political character of applicant Daw Aung San Suu Kyi, the accused of the initial court; that therefore the character of Daw Aung San Suu Kyi does not attract any argument in the initial case; that according to the documents of the file of the initial court, applicant Daw Aung San Suu Kyi, the accused of the initial court, was examined as the accused, not as a witness in the court; that so it can be deduced that the application for examining U Win Tin and U Tin Oo as defence witnesses for character of Daw Aung San Suu Kyi is particularly intended to disrupt and delay the case; that the district court refused to summon and examine U Win Tin and U Tin Oo as defence witnesses in accordance with the provision of Section 257 (1) of Code of Criminal Procedure; that the lawyer of the applicants publicly admitted that the judge of the district court pronounced an order according to Section 257 (1) of Code of Criminal Procedure; that Yangon Division Court reviewed that it dismissed the revision case as it is designed to delay the trial as evidenced by the

documents of the initial court, although the initial court's order does not enumerate, in accordance with Section 257 (1) of Code of Criminal Procedure, the reason of why the nomination of three defence witnesses was refused; that however, it cannot be said that the review of the division court is wrong; that the lawyer of the applicants submitted that the division court pronounced an order "it is right according to Paragraph 1115 of Manual to Courts" and it did so without any authority bestowed on it; that it is required to find out whether his statement is right or not; that with daily records, stating in brief the reason of refusing the nomination, the district court pronounced the order to refuse the nomination of defence witnesses, according to Paragraphs 1115 and 1116 of Manual to Court, and the court procedure, so it is not wrong; that it is virtually illogical to say that the division court's confirmation of the district court's daily records, referring to Paragraph 1115 of Manual to Courts, is beyond its authority; that therefore, it is assumed that the criminal revision case to summon and examine U Win Tin and U Tin Oo as defence witnesses is intended to hinder and delay the trial because they just wanted to submit a subject that does not need any argument in the case; that the district court's order to refuse to summon and examine U Win Tin and U Tin Oo as defence witnesses, and the division court's confirmation of the district court's order are in accordance with the law; and that therefore making a deduction that the Supreme Court does not need to intervene in the case with the authority to revise the orders of the district and division courts, it pronounced the order to confirm Yangon Division Court's order dated 9 June and dismiss the Criminal Revision Case.—MNA