

Unofficial translation of the trial report

Criminal Court of the judge
14 December 2002
Criminal Trail No 24 of year 2000

Complainant: Police officer Hla Myint
Defendants: Five persons including U Aye Kyu (a.k.a.) Monywa Aung Shin
Charged under the 1962 Press Act, section 17/20

Judgement

The case is a complaint by sub lieutenant U Hla Myint of the Police Special Bureau in Bahan police department. He has found that these six persons are guilty under the 1962 Press Act, section 17/20 and he wants action to be taken against them. He found out that

U Aye Kyu (a.k.a.) Monywa Aung Shin

U Aung Myint,

U Soe Han, U Tun Myint,

U Saw Naing Naing (a.k.a.) U Naing Naing,

and U Sein Tun Kyaw, who is the vice chairperson, National League for Democracy, Irrawaddy Division branch (running away from the case)

Gathered in the house of U Saw Naing Naing (a.k.a.) U Naing Naing on Sep 10 and Sep 12, 2000. Together they discussed and wrote a statement of the National League for Democracy members dated Sep 12, 2000. The statement asked for the release of Daw Suu Kyi and other Central Executive Committee members who were under house arrest, and for the Head Quarters and (Rangoon) Division Branch to be allowed to reopen. It also called for urgent tripartite dialogue between the Government, NLD and Ethnic groups, and denounced the unlawful action of the State Peace and Development Council. They printed the statement on a computer and sent it to the Voice of America through the US Embassy. They wrote, published and distributed it without permission from the authority concerned.

In the case, U Hla Myint (Prosecution witness {PW} 1), Zaw Min (PW2), U Kyaw Soe, U Tin Htut (PW3 and 4), and Kyaw Kyaw Hlaing were questioned. They send the following evidence to court.

Evidence (A) and (A1) Complaint

Evidence (B1) original statement of NLD members

Evidence (B2) printed statement

Evidence (C) to (G) confessions of those six persons including U Aung Shin, made to the intelligence official about how they committed the act.

U Hla Myint (PW1), Zaw Min (PW2), U Kyaw Soe, U Tin Htut (PW3) members of Yankin Township, YaYaKa members, and Kyaw Kyaw Hlaing (PW5) stated that (on September 14, 2000) they searched the Htan Taw Parijati monastery in Thakata township, the place defendant U Aung Shin stayed. They found the NLD members' statement and five copies of computer-printed statements all dated September 12, 2000. They seized these using the search warrant, Evidence (B). Moreover, they (the defendants) also confessed that they together wrote and printed the statement on a computer and sent it to the Voice of America through the US Embassy. They wrote, published and distributed it without permission from the authority concerned.

I also found that six persons including U Aung Shin made confessions to intelligence official that they committed the act. They were prosecuted under the 1962 Press Act, sections 17 and 20 because of the complainant's evidence and their evidence papers that showed that they together wrote and printed the NLD statement, dated on September 12, 2000, on a computer without permission from the authority concerned. The evidence was clear enough to prosecute.

Six persons including U Aung Shin said that they were not guilty and asked to call Kyaw Kyaw Hlaing for questioning.

When he was questioned again, he said that it was not true that they didn't have any intention of causing a people's uprising when they wrote the statement, or that they printed it on a computer as it was for the head of state.

In the case of, U Sein Tun Kyaw running away from the case No-30/2000, action will be taken action under ruling 87/88.

Defendant U Aye Kyu stated that: He wrote the draft statement in accordance with the members. He copied the edited one. He got someone to print it on a computer so that it looked better as it was intended to be sent to Senior General Than Shwe, the head of state.

He was asked to finish the statement. He was responsible for printing the statement on the computer as it was going to be sent to the Head of State. He put it in Htan Taw Parijati monastery in Thakata Township, the place he was staying. The statement doesn't have any words which provoke uprising. The statement doesn't contain any words which would provoke a people's uprising. They heard that some youth wing members disliked the crackdown as the NLD leaders were under strict restrictions on their movement, and the NLD head quarters and NLD Rangoon branch had been closed. They wrote the statement for the Senior General as they didn't want any problems.

U Aung Myint, U Soe Han, U Tun Myint, U Naing Naing (a) Saw Naing Naing said that they (except U Soe Han) discussed on September 10, 2000. They met again in U Naing Naing's house again on September 12, 2000 and U Aung Shin wrote the draft statement. They didn't know about the printing on a computer.

In this case, the important evidence is the defendants' confession to the NIB about how they committed the act. These are the results of the interrogations during which the defendants confessed to the NIB that they are guilty. In the case of "the Union of Burma and two persons including U Ye Naung", it rules that only confessions, given to intelligence personnel who didn't mislead, threaten or make promises, according to the Act 24, are acceptable. There is no evidence that the defendants were misled, threatened or promised anything. Therefore, there is no reason why their confessions to the Military Intelligence should not be accepted. So, their confessions to the intelligence unit are acceptable.

It's clear that six persons including U Aung Shin discussed and wrote the statement of NLD members, printed it on a computer according to CE U Hla Myint, Zaw Min and Kyaw Kyaw Hlaing and the defendants' confessions to intelligence unit. There was no clear evidence on sending the statement to Voice of America through United States embassy for broadcasting.

It's not true that U Aung Shin wrote the statement in order to send to Senior General Than Shwe, the head of state. U Aung Shin and others are guilty of the crime as set out in the 1962 Press Act, section 17 and 20 because they also didn't ask for permission for the statement from the authorities concerned.

The defendants pleaded that they should be punished under one section only or the punishment should be light, according to the Interpretation of clauses law, section 22 because they had been involved in only one activity.

The defendants committed different crimes with different intentions. The 1950 Emergency Provisions Act 5(j) is included in State Protection Law which is in the order No 9 of Council of people's justices. Therefore, their defence is not acceptable. The order is as follows.

"Order"

U Aung Shin (a.k.a.) U Aye Kyu (father U Bo Win), U Aung Myint (a.k.a.) Pya Pon Ni Lon Oo (father U Ban Du), U Soe Han (father U Ba Shein), U Tun Myint (father U Kyi Maung) and U Saw Naing Naing (a.k.a.) U Naing Naing (father U Saw Ba Thein) are sentenced to 7 years with hard labor each as they are guilty according to the 1962 Press Act, section 17. Moreover, they are also sentenced to 7 years with hard labor each as they are also guilty according to section 20 of that Act. (Ba Kyaw)

Joint Division Judge (4)
Rangoon Division Court

Foot note: 1991 Burma precedent (Page 63)