

1967/21

{93}

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL No. 14 of 1967

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O N A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

---

FEDERAL COURT CRIMINAL APPEAL No. X 5 of 1966  
(Muar High Court Emergency Criminal Trial No. 1/65)

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B E T W E E N:

LEE SIANG alias LEE AH KIM alias LEE BOK LIM Appellant

- and -

THE PUBLIC PROSECUTOR Respondent

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RECORD OF PROCEEDINGS

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CLASS MARK

ACCESSION NUMBER

91355

UNIVERSITY OF LONDON  
INSTITUTE OF ADVANCED  
LEGAL STUDIES  
15 MAR 1968  
25 RUSSELL SQUARE  
LONDON, W.C.1.

(i)

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No.14 of 1967

ON APPEAL  
FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

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(Muar High Court Emergency Criminal Trial No.1/65)

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LEE SIANG alias LEE AH KIM alias LEE BOK LIM Appellant

- and -

THE PUBLIC PROSECUTOR Respondent

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1.

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No.14 of 1967

---

ON APPEAL  
FROM THE FEDERAL COURT OF MALAYSIA (APPELLATE JURISDICTION)

---

FEDERAL COURT CRIMINAL APPEAL No.X5 of 1966

---

B E T W E E N :-

LEE SIANG alias LEE AH KIM alias LEE BOK LIM

Appellant

- and -

THE PUBLIC PROSECUTOR

Respondent

---

R E C O R D   O F   P R O C E E D I N G S

---

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No.1  
CHARGE SHEET - 20th MARCH 1965

In the High  
Court in  
Malaya

IN THE HIGH COURT IN MALAYA AT MUAR  
IN THE STATE OF JOHORE  
(Emergency Criminal Trial No.1 of 1965)

No.1  
Charge Sheet  
20th March  
1965

PUBLIC PROSECUTOR

Vs.

LEE AH KIM @ LEE BOK LIM

C H A R G E S

20 Lee Ah Kim @ Lee Bok Lim, you are charged at  
the instance of the Public Prosecutor and the  
charges against you are:

1st CHARGE:

"That you at about 1.40 p.m. on the 12th day  
of September, 1964, in a Security Area as pro-  
claimed by the Yang Di-Pertuan Agong by Federal

In the High  
Court in  
Malaya

No.1  
Charge Sheet  
20th March  
1965  
(Contd.)

L.N. 245 of 17th August, 1964, namely Kampong Juasek Tenang, Labis, in the District of Segamat, in the State of Johore, without lawful excuse had under your control a firearm to wit, one sten gun No. F.H. 54648 without lawful authority and that you have thereby committed an offence punishable under Section 57(1) (a) of the Internal Security Act, 18/60."

2nd CHARGE:

"That you at about 1.40 p.m. on the 12th day of September, 1964 in a Security Area as proclaimed by the Yang Di-Pertuan Agong by Federal L.N. 245 of 17th August, 1964, namely Kampong Juasek, Tanang, Labis, in the District of Segamat, in the State of Johore, without lawful excuse had under your control ammunitions to wit, 225 rounds of 9mm. ammunitions and two handgrenades Chinese Type without lawful authority and that you have thereby committed an offence punishable under Section 57(1)(b) of the Internal Security Act, 18/60." 10 20

3rd CHARGE:

"That you between 2.00 a.m. on the 2nd day of September, 1964 and 1.40 on the 12th day of September, 1964, in a Security Area as proclaimed by the Yang Di-Pertuan Agong vide Federal L.N. 245 of 17th August, 1964 namely Kampong Juasek, Tenang, Labis, in the District of Segamat, in the State of Johore, consorted with members of the Indonesian Armed Forces who carried firearms and ammunition in contravention of the provisions of Section 57(1) of the Internal Security Act, 18/60 in circumstances which raised a reasonable presumption that you intended to act with such members of the said Indonesian Armed Forces in a manner prejudicial to Public Security and that you have thereby committed an offence punishable under Section 58(1) of the same Act." 30

DATED this 20th day of March, 1965 40

Sgd: (WAN ADNAN BIN ISMAIL)  
Timbalan Penda'awa Raya  
Malaya

No.2  
EVIDENCE OF CAPT. DAVID HERMAN

In the High  
Court in  
Malaya

P.W.1 Capt. David Herman affirmed states in English:

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Prosecution  
Evidence  
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Federation Army attached to 1st Regiment, Federation of Malaya.

No.2  
Capt. David  
Herman

Examination  
undated

10 On 14th September, 1964, I was in Labis. About 12.35 p.m. I was approached by Inspector Annuar with an Indonesian prisoner named Mahmud. (To be identified). Inspector Annuar told me that Indonesian was to point to arms and I was to provide an escort. I accompanied Inspector Annuar and the Indonesian for about a mile from Ayer Panas Police Station. (Identifies Indonesian Mahmud bin Embun. Intld. A.H.). We stopped about a mile from Ayer Panas Police Station and proceeded into young rubber. Having walked  
20 for half a mile Indonesian pointed to 3 spots where clothings and ammunition were. At one place Mahmud pointed to me as the place where he had hidden his weapons and clothings. We opened the bag and saw a G.3 machine gun, some ammunition, and personal clothings. He said these things belonged to him. Inspector Annuar took possession. Mahmud then pointed to two other places close by. Mahmud told me..... (Rajah  
30 objects that under Section 27 of Evidence Ordinance evidence of what Indonesian said would be inadmissible. Refers to (1964) 3 W.L.R. page 632. I inform counsel that objection cannot be valid as this information is from a prisoner, not accused, but who will be called as a witness. I call on witness to proceed with his evidence Intld. A.H.).

40 Mahmud told me this is where his partner named Lee Boon Cheng had hidden his weapons and clothings. Inspector Annuar and I went to this spot and recovered two bundles from the hiding place. From these two bundles were found a sten gun, 3 sten-gun magazines, 225 rounds of 9mm. ammunition and 2 handgrenades together with personal clothings and some military equipment. Inspector Annuar took

In the High  
Court in  
Malaya

possession of these exhibits. I can identify the weapons as being similar but cannot say if they were the actual weapons I saw that day.

Prosecution  
Evidence

(Witness examines the exhibits consisting of weapons and haversacks and boots and magazines and others. Intld. A.H.).

No.2  
Capt. David  
Herman

These were similar to those I saw that day. We then went to Labis Police Station. I then went back to my work.

Intld. A.H.

10

Examination  
undated  
(Contd.)

XXND. by Rajah. I have never seen the accused before at any time. Inspector Annuar asked the Indonesian. There was a lot spoken at the spot. Inspector Annuar asked if there was any more kit. I said "more" because we had recovered some kits. The Indoesian led us straight there and pointed to the spots. After we had opened the kit we asked him if there was any more kit. There was conversation about arms. I cannot remember all. I think we did ask what sort of weapons they were. I speak a bit of Indonesian and Malay. Mahmud spoke part Malay and part Indonesian. Cannot remember the Indoesian he spoke. He said "Dekay sana." He was asked "Ada lagi barang". He was asked "Siapa punya". He said "Lee Boon Seng." I am positive he said this, very positive. Yes, I made a statement to the Police on 14th September. To the best of my knowledge I did use the name Lee Boon Seng. (Defence counsel says name not mentioned). I mentioned to Inspector Annuar. I made a note of the name in my note book. I asked accused "Siapa punya". That was all he said, nothing else. I just asked out of curiosity. Inspector Annuar asked a number of questions. I cannot remember what he asked.

20

30

Intld. A.H.

Re-examination  
undated

RE-EXAMINATION. No. questions.

Intld. A.H.

Cross-  
examination  
undated -  
(Contd.)

BY COURT: I was with the escort. Inspector Annuar was with me all the time when the Indoensian pointed out the weapons and clothings to us.

40

(I am satisfied there is nothing else which the witness can say in relation to the matter on which he is required to testify. Rajah says he may require this witness again after other evidence has been given. I allow witness to be released to attend to his duty. Intld. A.H.).

In the High  
Court of  
Malaya

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Prosecution  
Evidence

-----  
No.2  
Capt. David  
Herman

Further proceedings adjourned to 28th of  
March.

10

Intld. A.H.

22.3.65

-----  
Cross-  
examination  
(Contd.)  
undated

No.3  
EVIDENCE of MEAN BIN HAJI SIDEK

P.W.3 Mean bin Haji Sidek affirmed states  
in Malay:

No.3  
Mean bin  
Haji Sidek

36 years old, small-holder residing  
at Tenang Kampong, Labis. My house is about  
2 chains from the Main Road - Jalan Pekan Ayer  
Panas.

Examination  
19th February  
1966

20

At about 1.30 p.m. on 12th September,  
1964, I was in my house. I was sitting at  
front door. Saw two figures passing in front  
of my house. They were proceeding in the  
direction of Pekan Ayer Panas. They appeared  
to be strangers. I went to Tenang Police  
Station. At Police Station I met Ramly. He  
was a police man. One of the persons I saw  
was a Chinese and the other a Malay. I did  
not see them clearly. The P.C. Ramly informed  
the Gurkha soldiers. Then together with  
Gurkha soldiers we went back to the place.  
I saw the two persons in Kassim's car.  
(Identifies Kassim bin Tambah. Intd. A.H.).

30

The two persons were arrested. They were  
taken to Tenang Police Station. I went too.  
The two persons were handed over to P.C.  
Ya'acob. (Identifies P.C. Ya'acob bin Abdul  
Majid. Intld. A.H.). The accused was one of  
the men. I can also identifying the other man.  
(Identifies Mahmud bin Embun. Intld. A.H.).  
The two men were in civilian clothes.

40

Intld. A.H.

In the High  
Court of  
Malaya

Prosecution  
Evidence

No.3  
Mean bin  
Haji Sidek  
Cross-  
examination  
19th February  
1966

XXND: (Accused asked if he wishes to cross-examine witness. He keeps on asking for Mr. T.T.Rajah and says he would not ask any question. Intld. A.H.).

BY COURT: When I say "strangers", I mean I have never seen them before. I went to the Police Station because they looked to left and right.

(In answer to question "Why did you go to Police Station to report")

10

The two persons were walking on the road. They were walking two feet apart, one following the other. The Chinese was in front. Did not meet anyone before reaching the Police Station. There were four Gurkha soldiers beside me and P.C. Ramly. The soldiers arrested the two persons. At Tenang Police Station that was first time I saw accused. After a lapse of over a year I can still recognise his appearance. At Police Station I only made a verbal report. Intld. A.H.

20

No.4  
Kassim bin  
Tumbah  
Examination  
19th February  
1966

No.4  
EVIDENCE of KASSIM BIN TUMBAH

P.W.4. Kassim bin Tumbah affirmed states in Malay:

45 years of age, small-holder residing at Pekan Ayer Panas, Tenang, Labis.

On 12th September, 1964, at about 1.30 p.m. I was driving my car from Pekan Ayer Panas on the way to Labis. I was alone. About half a mile from Tenang Police Station near a bridge I saw ahead of me two persons walking. As I came near I made out that they were not persons of my kampong. Had never seen them before. I turned my car in order to go to the Police Station. As I was doing this police and Gurkhas arrived. They arrested these two persons. The two persons, Gurkha soldiers and Police got into my car. Not certain if P.W. 3 was inside my car. I was frightened, I was afraid as I have seen notice to the effect that any strangers seen in the kampong were to be reported to the police. At Police Station Gurkha soldiers

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40

handed over the two strangers to P.C. Ya'acob. There was a police man in my car. (Identifies P.C. Ya'acob. Intld. A.H.). When I first saw them they were walking in same direction as I was taking. They then turned round. They were dressed in civilian clothes. I cannot say what their nationalities were. I cannot recognise them again. I have lived in that kampong all my life. I have known P.W.3 since childhood.

10

Intld. A.H.

In the High Court in Malaya

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Prosecution Evidence  
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Mo.4  
Kassim bin Tambah  
Examination  
19th February  
1966

(Contd.)

XXND. (No question by accused. Intld. A.H.).

Cross-examination  
19th February  
1966

BY COURT: Gurkha soldiers arrived in a military lorry. They came out and surrounded the two strangers and myself. The strangers were near my car. The Gurkha soldiers opened the door of my car, pushed the two strangers in. After this I drove to the Police Station. Did not notice if any violence was used on the two strangers. Do not know what P.C. Ya'acob did to them. After that I left the place.

20

Intld. A.H.

No.5  
EVIDENCE of YA'ACOB BIN ABDUL MAJID

P.W.5 Ya'acob bin Abdul Majid affirmed states in Malay:

P.C. Ya'acob stationed at Segamat Police Station. In September, 1964, was stationed at V.P.C. Post, Tenang Kampong, Labis. (V.P.C. = Village Police Constables, Intld. A.H.).

30

I was at the Police Post, Tenang. P.C. Raily (P. W.3) and P.W.4 and about 6 to 7 Gurkha soldiers came to post. They handed to me two male persons. One was a Chinese and the other an Indonesian. The Chinese is the accused in the dock. According to his Identity Card his name is Lee Ah Kin. Do not know the Indonesian's

No.5  
Ya'acob  
bin Abdul  
Majid

Examination  
19th February  
1966

In the High  
Court in  
Malaya

Prosecution  
Evidence

No.5

Ya'acob bin  
Abdul Majid

Examination  
19th February  
1966

(Contd.)

name. (Identifies Mahmud bin Embun as the Indonesian. Intld. A.H.). I searched the accused's person. I found an Identity Card, cash \$60/-, all in one dollar denomination, Malayan currency. These were all that I found on the accused. The accused was in black trousers. He wore a shirt, yellow in colour. Cannot remember if it was short or long sleeved. I detained him at the post. I did not use any force on him. He did not make any complaint to me. Later I handed the Identity Card and \$60/- to Inspector Annuar. (Identifies Inspector Annuar. Intld. A.H.). The two persons were brought in at 1.45 p.m. Handed the cash and the Identity Card to Inspector Annuar at about 4 p.m. the same day. Now say I handed to Inspector Annuar only money. I handed Identity Card and accused to Inspector Liew at 2.30 p.m. same day. Inspector Liew was from Special Branch. (Identifies Inspector Liew. Intld. A.H.).

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Cross-  
examination  
19th February  
1966

XXND. (Accused declines to question. Intld. A.H.).

BY COURT: I recorded Identity Card number in my diary. (Witness asks leave to refer to diary. Leave granted. Refers to diary. Intld. A.H.). The number was J.021632. The new number 3226140. (Prosecution shows Identity Card. Intld. A.H.). This is the card. (P.2.)

30

Adjourned to 2.30 p.m.

Intld. A.H.

Hearing resumes at 2.30 p.m.

D.P.P. calls -

No.6

Annuar bin  
Mohd. Yusof

Examination  
19th February  
1966

no.6  
EVIDENCE of ANNUAR BIN MOHD. YUSOF

P.W.6 Annuar bin Mohd. Yusof affirmed states in English:

Inspector of Police, Kluang District. In September, 1964, I was stationed at Labis Police Station. On 12th of that month at about 4 p.m. I was at Labis Police Station. I was handed cash \$60/- by P.C. Ya'acob in

40

Malayan currency of one dollar denomination. I handed it to Inspector Yean Yoke Kin on afternoon of 14th September. An Indonesian captive named Mahmud bin Embun led me to a place in the jungle fringe half a mile from the Main Road to Labis. Yes, at first milestone from Labis. (Identifies Mahmud bin Embun. Intld. A.H.). He pointed to me 2 bundles purporting to be his arms and belongings and then in a bush about 5 yards away 2 other bundles. From the bundles in the bush I recovered one sten-gun. (Sten-gun shown to witness No.54648). This was the sten-gun (P.3). I recovered also 3 sten-gun magazines. I identify this as the magazine (P.4). Found 225 rounds of 9 mm. ammunition (P.5). Found 2 handgrenades. I was accompanied by Lieut. David Herman. I recovered these arms and ammunition and handed them to Inspector Yap the same day at about 3 p.m. I made this search in the course of investigation. The bundles were hidden in the bush. I would not have been able to find them if the Indonesian had not pointed them out to me. Apart from the arms and ammunition I also found jungle green uniform (P.6). and a pair of camouflaged uniform (P.7) Also a pair of leather boots (P.8). Found a haversack with straps (P.9). Also found other personal effects consisting of sarong, a pair of black Leather shoes, a pair of grey trousers, a pair of black trousers and a white shirt. (All marked as one - P.10. Intld. A.H.). I handed all the rest of the exhibits to Inspector Yean Yoke Kin. P.W.5. did not use any force on Mahmud. He escorted me to the scene for security reasons. Mahmud, the Indonesian, did not find any difficulty in locating the bundles.

Intld. A.H.

XXIIID. (Accused declines to cross-examine).

Intld. A.H.

In the High  
Court of  
Malaya

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Prosecution  
Evidence  
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No.6  
Annuar bin  
Mohd. Yusof  
Examination  
19th February  
1966  
(Contd.)

In the High Court in Malaya

BY COURT: The bundles which the Indonesian pointed out to me as his own are not in Court. I have identified as exhibits those found in the other bundles.

Prosecution Evidence

Intld. A.H.

No.6  
Annuar bin Mohd. Yusof  
Cross-examination  
19th February 1966  
(Contd.)

No.7  
Mahmud bin Embun  
Examination  
19th February 1966

No.7  
EVIDENCE of MAHMUD BIN EMBUN.

P.W.9. Mahmud bin Embun. (Witness says he wishes to speak in Indonesian. Affirmed and states).

10

My name is Mahmud bin Embun. 20 years old, unmarried. I am an Indonesian. At present I am detained at Johore Bahru Prison. I was in the Indonesian Army in Indonesia. I am a soldier. I joined the Army in November, 1961. In 1964 I received special training in Indonesia in the P.G.K. section. P.G.K. means Pasokan Gerak Chepat. I had six months' training. I was also trained in parachute jumping for one month. Made 5 jumps in the month. I came to Malaya on 2nd of September, 1964. Altogether 48 of us came to Malaya. The Commander was Lieut. Sutikno. We came in an aeroplane. We boarded plane at Jakarta at 6 a.m. We took off for Medan. At Medan we rested for 3 hours. Took off from Medan between 11 and 12 midnight. Yes, the 48 of us, including Lieut. Sutikno. I was in Section 6. There were 6 persons in Section 6. I can name the 6 persons. They are (1) Cpl. M. Tabri, (2) Supian, (3) Seow Sang, (4) Lee Bok Cheng, (5) myself, (6) I'idsuriani. M. Tabri was the leader of my section. There were in all 8 sections. (Identifies M. Tabri. Intld. A.H.). I carried arms, provision and clothings.

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30

Seow Sang and Lee Bok Cheng were Chinese. One of them is the accused. He is the one I call Lee Bok Cheng. Do not know him by any other name. There were altogether 14 Chinese in the plane. All Indonesians were armed with G.3 guns. As regards the Chinese, some carried rifles and some sten-guns. Accused was carrying a sten-gun. It was similar to P.3. Each one of us had 2 handgrenades. Do not know how much ammunition each of us carried. We were given money. I counted I received \$300/- all in one dollar denomination. After leaving Medan I jumped off the plane. A signal was given in the plane to jump. Accused was seated in front of me. Accused baled out first. I went after him. Accused had his arms and ammunition when he baled out. When I landed I met the accused. It was about 2 a.m. Met accused the same night. We remained in the jungle until the 12th of September. I still had my arms and ammunition. Accused also had his arms and ammunition. As we had no food we left our arms and ammunition in the fringe of the jungle. I left my G.3 gun, 2 hand-grenades, ammunition, a bayonet, a knife, a parang, clothings, my green uniform behind. I changed into civilian dress. I left my belongings near the roadside near a rubber plantation. I hid them. Accused also changed into his civilian clothes. Accused hid his equipment and arms in a bamboo under-growth. We hid in 4 separate places close to each other. Accused hid sten-gun, 2 hand-grenades, a parang, ammunition and other clothings. I had a close look at the sten-gun carried by the accused. I saw the sten-gun fully equipped with magazine, strap. There is no special identification mark. No, I cannot identify the sten-gun. I can only say it was similar to P.3. We then went to the road. I met a male Malay riding a bicycle. I can recognize him. He is that man. (Points to P.W.3. Intld. A.H.). After that I saw a car. I stopped the car. We got into the car. I cannot identify the driver. After we boarded the car police and some soldiers arrived. We were arrested and handed to a police man. That man (points to P.W.5). took me and handed me to that man (points to Inspector Yean, P.W.7). On 14th September I led a party of

In the High  
Court in  
Malaya

Prosecution  
Evidence

No.7  
Mahmud bin  
Embun  
Examination  
19th February  
1966  
(Contd.)

In the High  
Court of  
Malaya

Prosecution  
Evidence

No.7  
Mahmud bin  
Embun  
Examination  
19th February  
1966  
(Contd.)

police to take the hidden articles. That Inspector (points to P.W.6) led the police party. Took them to the jungle and pointed out the places where arms and ammunition were hidden. The first place I pointed out to Inspector Annuar was where we hid the clothings. Then I pointed out the places where the arms and ammunition were hidden. I pointed out place where I kept my arms and ammunition first, then where I kept my clothings. After that I pointed out place where accused kept his arms and ammunition, later the places where accused kept his clothings. Inspector Annuar recovered sten-gun, 2 handgrenades, ammunition and parang.

10

Before leaving Jakarta I had met accused for two days. After accused's arrest I met accused again at Labis; later at Segamat; at Police Depot, Johore Bahru. I am sure the accused is the man I know as Lee Bok Cheng, who was with me. I was not told previously that I was to jump into Malaya. We were ordered to regroup after landing and find our Section Commander and then to find Lieut. Sutikno. We were to receive further instructions after regrouping.

20

Intld. A.H.

Cross-  
examination  
19th February  
1966

XXND: (Accused informed that witness has given very damaging piece of evidence. Asked if he now wishes to cross-examine the witness accused says witness not telling the truth. I put to witness "accused is putting to you that you are not telling the truth"). I am telling the truth. (Accused then asks that he be defended by Mr. T.T. Rajah. I take it that accused has declined to ask any further questions. Intld. A.H.).

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Intld. A.H.

Examination  
Recalled by  
Court  
20th February  
1966

P.W. 9 Mahmud bin Embun affirmed states in Indonesian Malay

When I baled out of the plane I was stuck to a tree. I climbed down by easing a rope. As far as I know accused did not get stuck on a tree. As I landed he was already on the ground. I did not know where his parachute was because it was dark. I did not see his parachute on the ground. I did not tell the accused that I

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was stuck on a tree. I am also known as Hassan bin Sharir. I did not speak to accused when we took off from Jakarta. I came to know that his name was Lim Bok Cheng only in the jungle. I also came to know that his name was Lim Bok Cheng as I heard the Lieutenant calling his name when he was detailed to sit in front of me. I did not tell the accused my name. Did not tell him my name even while in the jungle. When I left Indonesia I was given \$300/-. I had not spent this money when I was captured by the police. The money had not been returned. As far as I know accused had not spent any part of his money. Accused did not complain to me that he lost any money when he baled out of the plane. I had only G.3 ammunition. I carried 460 rounds.

In the High Court in Malaya

Prosecution Evidence

No.7  
Mahmud bin Embun

Examination  
20th February  
1966

(Contd.)

With regard to the car, I first saw it in a drain. I helped the car out. Accused also helped. When the car came to the road accused and I got inside it. Just as we got into the car the police and soldiers arrived. We were both taken to Tenang Police Post and then to Labis. I was searched at Tenang as well as at Labis. Accused was also searched at Tenang. Do not know whether accused was searched at Labis for my eyes were then covered. That man (P.W.5) searched me at Tenang. He removed the money. He did not count the money. The soldiers also searched me but did not remove anything. I saw accused being searched. His clothings were searched. I cannot say who searched him for at that time I was being searched myself. When we were arrested I saw a policeman and another in yellow clothes holding a rifle. The police man was not P.W.5. Upon further consideration I say I am not sure whether it was P.W.5. or the other police man who searched me at Tenang. Do not know who searched at Labis Police Station. After some time blindfold was removed. After blindfold was removed I saw accused in a different room. I was at Labis Police Station about 2 or 3 days. I was detained in a cell. Accused and I were together the first and second day. Later I accompanied Inspector Annuar to the jungle to trace the bundles. I saw accused again at Segamat. We were kept separately.

Intld. A.H.

In the High  
Court in  
Malaya

No.8  
EVIDENCE of M. TABRI

P.W.10 M. Tabri affirmed states in Malay:

Prosecution  
Evidence

No.8

M. Tabri

Examination  
20th February  
1966

35 years old, married. I am now a detainee at Johore Bahru. I am an Indonesian national. I was a soldier in Indonesia with rank of Corporal. Have been a soldier for 11 years. In Jakarta I went through special training in 1964. It was a refresher course. It was normal training. Came to Malaya in the early hours of 2nd September, 1964. Left Jakarta at about 5.30 p.m. on 1st September, 1964 - 48 of us under the command of Lieut. Sutikno. We left in an aeroplane named Hercules. (Identifies Lieut. Sutikno. Intld. A.H.). We arrived at Medan. After 3 hours' rest at Medan we took off for Malaya: the same 48 persons. Of these there were 14 Chinese. The rest were Indonesians. The 48 persons were dressed in paratrooper's uniform. I was carrying a G.3 gun. All the Indonesians were carrying G.3 guns. The Chinese carried three types of arms. Some carried rifles and some carried sten-guns. All of us carried food rations, ammunition, and clothings and other military equipment. We also carried handgrenades. Each person carried 2 handgrenades. In the plane, before we baled out, we were given money. After I landed I found that \$300/- in Malayan currency was given to me, all in one dollar notes. In the plane we were divided into sections - altogether 8 sections. Each section consisted of 6 persons. My section was No.6. I was in charge of the section. I can give names of those in my section: (1) Myself No.31, (2) Suffian No.32, (3) Seow Seng No.33, (4) Lee Bok Cheng No. 34, (5) Mohamed No.35, (6) A. Suriani No.36. Each number represents serial from first person, who was ~~in~~ Lieut. Sutikno. About 1 a.m. we were ordered to bale out. The first man to bale out was Lieut. Sutikno. This was followed by others. I baled out first. Then Suffian No.32 followed by Seow Seng No.33. Then Lee Bok Cheng No.34 followed by Mahmud. Then A. Suriani. Mahmud is that man (P.W.9). The accused was among those in my section. He is Lee Bok Cheng. Accused gave his name when we were boarding the plane in Jakarta. Saw accused two days before leaving Jakarta.

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Accused was dressed in paratroppers' uniform and was carrying a sten-gun. He carried other things which I did not see. I saw accused carrying 2 handgrenades. Do not know if accused was carrying other ammunition. After I baled out I landed and fainted. Regained consciousness about 9 next morning. Remained in jungle until 30th September. Did not meet any of my comrades. On 30th September I was  
 10 taken by Kampong People to a place of which I did not know the name. From there I was taken to the Police Station. I saw accused at Depot, Johore Bahru, about a week after my capture. I am positive that accused was one of the men in my section. On instructions we regrouped to go 35 degrees North and rejoin our men and for them to meet Lieut. Sutikno. I had 18 parachute jumps before I baled out in Malaya.

In the High  
Court in  
Malaya

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Prosecution  
Evidence  
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No.8  
M. Tabri  
Examination  
(Contd.)

20 No one in authority has promised me anything to make me come to Court and give evidence.

Intld. A.H.

KXND. (Accused declines to question witness. Intld. A.H.).

Cross-  
examination  
20th February  
1966

BY COURT. No one forced me to make this statement. I have told the Court all I know and they are true. The sten-gun carried by the accused was similar to the one in Court (Points to P.3). I saw the accused place the  
 30 handgrenades at front of his waist. I do not know the name of the area where I landed. I would not know whether accused jumped out with the handgrenades and sten-gun as I jumped out first.

No.9  
EVIDENCE of LIEUTENANT SUTIKNO

No.9  
Lieutenant  
Sutikno

P.W.11 Lieut. Sutikno affirmed states in Malay:

Examination  
20th February  
1966

40 Age 40, married. I am a detainee at Johore Bahru. I was in Indonesian Air Force. In September, 1945, I joined as Sergeant in the Army. Appointed a Lieutenant in 1948. Joined Air Force in 1950. In 1964 I was given additional training in a base in Jakarta. This

In the High  
Court in  
Malaya

Prosecution  
Evidence

No.9

Lieut.  
Sutikno

Examination  
20th February  
1966

(Contd.)

was part of the confrontation scheme against Malaysia. We were trained in sabotage work and guerilla warfare to be carried out in Malaysia. During the training a company took part. This consisted of 107 persons. Left for Malaya on 1st September, 1964. Took off from Jakarta about 4.30 p.m. that day in Hercules C.130. Altogether 48 persons including myself. There were 34 Indonesians and 14 Chinese. All of us were dressed in paratroopers' uniform. (Shown P.7). Yes, uniform same as P.7. We stopped at Medan. We took off from Medan at about 11.30 p.m. same night. Landed in Malaya at about 2 a.m. on 2nd September, 1964. All of us carried clothings and arms. Indonesians carried G.3 guns. Some of the Chinese carried sten-guns and some carried Lee Enfield Rifles. In addition they carried rations and money. The money was in Malayan currency. Each was given 20 \$300/- in one dollar notes. We were given money after we took off at Medan. We each carried hand-grenades: two handgrenades. We also carried ammunition for the weapons. The 48 persons were divided into 8 sections. Each section consisted of 6 persons. Each section may have one or two Chinese while in others there might not be any. All section heads were Indonesians. P.W.9 and P.W.10 were the Indonesians in my group. These were Mahmud and M. Tabri. They were in Section No.6. P.W.10 was the section leader. The rest in same six were two Indonesians and two Chinese. The other Indonesians were Suffian and I'dsurani. I do not know the names of the two Chinese. I cannot recognise any Chinese in Court as one in Section 6. P.W.9 and P.W.10 were in my company. Have known P.W.10 since 1957, and P.W.9 since 1962. I first saw the 14 Chinese at 1 p.m. on 1st September, 1964, at Jakarta. I can recognise 40 some if I see them again, but not all. I may be able to recognise the two Chinese in Section 6 if I see them again. I cannot recognise the accused.

We baled out at about 1.55 a.m. I landed at Tenang Kampong, it was in a swamp behind a school. I remained in the jungle for 20 days. I was captured while searching for food. I met one person named Sahi, who was one of my

men. He was captured together with me. I gave instructions to the men to regroup in sections and then to contact me. We would receive further instructions after regrouping from Capt. Siroso. He should be in Malaya. He left in a different plane.

No one has promised me anything to make me come to Court.

Intld. A.H.

10 XXND. (Accused declines to question witness. Intld. A.H.).

BY COURT: The 8 sections were arranged in Jakarta. This was done from the office in Jakarta. My job was to line them up and call out their names. That was the first time I read their names.

The section leaders would be more close to them than me. I had a list of the names. I have torn them away.

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Intld. A.H.

No.10

EVIDENCE of LIM KOOI LOON

P.W.12 Lim Kooi Loon affirmed states in English:

Inspector stationed at Segamat as District Special Branch Officer.

In September, 1964, I was stationed at Labis as Special Branch Officer. On 12th September, in the afternoon at 2.25 - I was in V.P.C. (Village Police Constable Post). Before arriving there I had received information of the capture of an Indonesian infiltrator and a Chinese. I met the captured persons. They were Lee Ah Kim, the Chinese, and Mahmud, the Indonesian. (Identifies P.W.9 as Mahmud. Intld. A.H.).

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In the High Court in Malaya

Prosecution Evidence

No.9

Lieut. Sutikno

Examination  
20th February  
1966

(Contd.)

Cross-examination  
20th  
February 1966

No.10

Lim Kooi Loon

Examination  
20th February  
1966

In the High Court in Malaya

Prosecution Evidence

No.10  
Lim Kooi Loon

Examination  
20th February 1966  
(Contd.)

The accused is Lee Ah Kim. Interrogated the accused at 2.30 p.m. the same day and carried on until 3 p.m. I interrogated him to obtain intelligence for immediate operation. Operation was called "Lilac". It was in connection with paratroopers landing in Labis area. I was not concerned in criminal matters. I did not use any force or threat on him. After interrogation I brought the accused and the Indonesian to Labis Police Station. Put him under the charge of Sgt. Majid. At V.C.P. Post I was given the accused's Identity Card. P.C. Ya'acob gave me the card. P.2 was the card. (Identifies Sgt. Majid. Intld. A.H.).

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The accused acted normally. He answered all my questions. He made no complaint to me.

Intld. A.H.

Cross-examination  
20th February 1966

XXND. (Accused declines to ask witness questions. Intld. A.H.).

No.11  
Abdul Hamid bin Musa

Examination  
20th February 1966

No.11  
EVIDENCE of ABDUL HAMID BIN MUSA

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P.W.13 Abdul Hamid bin Musa affirmed states in English:

Inspector stationed to Kluang Police Headquarters as Special Branch Officer. In September, 1964, I was attached to Labis Police Station on special duty. On 12th September, 1964, at about 3 p.m. at Labis Police Station I interrogated one male Chinese named Lee Ah Kim. He is the accused. I interrogated him to obtain intelligence for operational use. Not sure of code name of operation. It was in connection with Indonesian landing. Interrogated him for about 2½ hours. Did not use force or make promise or threat. I was mainly concerned with operational use, and not with criminal aspect of the matter. I was alone. Accused appeared fit. He did not make any complaint.

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Intld. A.H.

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XXND. (Accused declines to ask witness any questions. Intld. A.H.).

In the High Court in Malaya

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Prosecution Evidence

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No.11  
Abdul Hamid bin Musa

Cross-examination  
20th February  
1966

No.12  
EVIDENCE of ABDUL MAJID BIN HJ. AMRAN

No.12  
Abdul Majid bin Hj.Amran  
Examination  
20th February  
1966

P.W.14 Abdul Majid bin Hj. Amran affirmed states in Malay:

Sergeant No. 3697 stationed at Labis as O.C.S. Have been O.C.S. since 1962.

10 On 12th September, 1964, at about 3 p.m. A Chinese and an Indonesian were brought by Inspector Liew (P.W.12) and Gurkha soldiers to the station. The Chinese's name was Lee Ah Kim and the Indonesian's name was Mahmud. P.W.9 was the Indonesian. The accused was the Chinese. The Chinese was kept in police lock-up. There were others in the lock-up. I had only one lock-up. Accused was detained from 3 p.m. on 12th September, 1964, till 12.40 p.m. the next day. He was taken to Johore Bahru. Cpl. Jantan took accused to Johore Bahru. (Identifies Cpl. Jantan bin Dagan. No.9915. Intld. A.H.). While under my custody no one assaulted the accused. Accused did not make any complaint to me. Any complaint from lock-up would have to be made to me. The accused appeared fit and healthy while under my custody.

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Intld. A.H.

In the High Court in Malaya

XXND. (Accused declines to ask witness questions. Intld. A.H.).

Prosecution Evidence

No.12  
Abdul Majid bin Hj. Amran

Cross-examination

20th February 1966

No.13  
Jantan bin Dagan  
Examination  
20th February 1966

No.13  
EVIDENCE of JANTAN BIN DAGAN

P.W.15 Jantan bin Dagan affirmed states in Malay:-

Corporal No.9915 Stationed at Segamat Police Station. In September, 1964, I was at Segamat. Remember escorting a Chinese, Lee Ah Kim. I cannot now recognise him. Took him from Labis at 1.40 p.m. on 13th September. Took him from O.C.S. (P.W.14). Arrived at Johore Bahru at 4.15 p.m. Handed him to Special Branch lock-up, Johore Bahru, under charge of an Inspector. (Identifies Inspector Oh Cheng Kooi. Intld. A.H.). Took Lee Ah Kim in 3-ton truck. There were other persons escorted - 11 in all. Three Chinese including a girl. Rest were Indonesians. All handcuffed. We went straight to Johore Bahru. No one among police escort spoke to any of the detainees. No one manhandled any of them. No refreshment given.

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Intld. A.H.

Cross-examination  
20th February 1966

XXND. (Accused still declines to ask any questions. Intld. A.H.).

12.45 p.m. I adjourn to 2.30 p.m.

Intld. A.H.

No.14  
JUDGE'S ADDRESS TO ACCUSED  
MONDAY, 21st FEBRUARY, 1966

In the High  
Court in  
Malaya

Hearing resumes at 11 a.m.

No.14  
Judge's  
Address  
to Accused

I explain the evidence against the accused.

Inform him that he can recall any witness  
if he so desires to ask questions which may  
be necessary to support his defence.

21st  
February  
1966

10 I call on accused for his defence and put  
him to election whether to give evidence  
on oath and be cross-examined by the D.P.P.  
or make a statement from the dock, in which  
case he would not be cross-examined, or to  
say nothing.

(Accused through interpreter says: 'I want  
Mr. Rajah').

I ask interpreter to explain again that  
three courses are open to him.

20 Accused: Since my lawyer is not here I do  
not propose to say anything.

Says he does not want to call any witness.

Intld. A.H.

No.15  
CONVICTION AND SENTENCE

No.15  
Conviction  
and Sentence

I convict the accused on 1st charge.  
I convict the accused on 2nd charge.  
I convict the accused on 3rd charge.  
I pass sentence of death in the usual form.

21st  
February  
1966

Intld. A.H.

30 Accused informs Court: I wish to appeal.

Intld. A.H.

21.2.66.

TRUE COPY

Sgd: Illegible  
Secretary to Judge,  
Ipoh.

In the High  
Court in  
Malaya

No.16  
FOUNDATIONS OF JUDGMENT

IN THE HIGH COURT IN MALAYA AT MUAR

No.16  
Foundations of  
Judgment

MUAR EMERGENCY CRIMINAL TRIAL No.1/64

10th March  
1966

PUBLIC PROSECUTOR

- v -

LEE AH KIM @ LEE BOOK LIN

FOUNDATIONS OF JUDGMENT

This is an emergency procedure case in which Lee Ah Kim @ Lee Bok Lim was charged with having committed offences under Section 57(i)(a) and Section 57(i)(b) of the Internal Security Act, 1960, for having under his control fire-arms and ammunition, respectively, and also for consorting with armed persons, contrary to Section 58(i) of the same Act. 10

The accused, for reasons stated below, refused the services of a defence counsel assigned by the Court and the trial, therefore, proceeded on the basis that he elected to conduct his own defence. This case was originally fixed for hearing at Muar on the 22nd of March, 1965, but as the hearing of another case had taken up most of the time which I was able to spare for the Muar sitting, it had to be adjourned provisionally to the 28th of the same month. Before the order of adjournment was made, the prosecution requested that the evidence of a prosecution witness, a member of the Security Forces, be recorded as he was then leaving for Sarawak for duty the following day. There being no substantial ground for the defence objection to the proposed course of action, I granted the prosecution's request. At the time the counsel assigned for the defence was Mr. T.T. Rajah. For reasons which need not detain us here, the continued hearing of the case could not be held on the 28th of March, 1964, but was instead 20 30

firmly fixed for the 19th February, 1966.  
 In the meantime, Mr. Rajah had unfortunately  
 fallen ill and had to undergo an operation.  
 When the new date of hearing was brought to  
 his attention, Mr. Rajah wrote to the  
 Assistant Registrar, Muar, on the 29th  
 January, 1966, informing him that since  
 after the operation he had been bed-ridden  
 for two months and was not physically fit to  
 appear as defence counsel for the accused on  
 the 19th February, 1966. He specially  
 requested that another counsel be assigned  
 for the defence in his place. This was done  
 and Mr. Elias Majid was assigned to defend  
 the accused. On the 19th February Mr. Majid  
 informed me in Chambers that he was not able  
 to obtain instructions from the accused, who  
 refused to have anyone else but Mr. Rajah  
 to defend him. In open Court the accused  
 was informed of the circumstances which had  
 led to Mr. Rajah's inability to appear as  
 defence counsel. He was advised that it would  
 be in his own interests for Mr. Majid to  
 conduct his defence. The accused, however,  
 maintained a very stubborn attitude and  
 insisted he be defended by Mr. Rajah and no  
 one else. He gave his reasons for so insist-  
 ing that Mr. Rajah knew all the facts of the  
 case and he had confidence only in Mr. Rajah.  
 I could only regard this as a very unreasonable  
 attitude on the part of the accused, but in  
 view of the gravity of the charges, I asked  
 the accused to reconsider his decision and  
 informed him that I would not agree to adjourn  
 the case merely to enable him to be defended  
 by Mr. Rajah, who has indicated very clearly  
 that he was not in a position to appear as  
 defence counsel. After half an hour's  
 adjournment, Mr. Majid again informed the  
 Court that the accused had refused to have him  
 as defence counsel and, in the circumstances,  
 there was no other course of action to take  
 except that he be discharged. Before this was  
 done, the accused was again informed that  
 either he agreed to Mr. Majid defending him or  
 that the trial would proceed with him conducting  
 his own defence. On the accused maintaining the  
 same attitude the trial proceeded with the  
 accused being unrepresented by counsel. As far

In the High  
 Court in  
 Malaya

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No.16  
 Grounds of  
 Judgment

10th March  
 1966

(Contd.)

In the High  
Court in  
Malaya

No.16  
Grounds of  
Judgment

10th March  
1966  
(Contd.)

as I am concerned, Regulation 12 (L.N. 286/64) had been complied with by the Registrar and that for the proper administration of justice it would be unreasonable to adjourn the case merely to enable the accused to obtain the services of Mr. Rajah. Mr. Majid was accordingly discharged.

The undisputed facts were that at about 1.30 p.m. on the 12th of September, 1964, the accused and an Indonesian were seen by witnesses walking on the road in the direction of Pekan Ayer Panas near Labis in the District of Segamat. One of the witnesses, Mean bin Haji Sidek (P.W.3), noting the accused and the Indonesian to be strangers, went to the nearby Police Post to make a report. Shortly afterwards, a police constable, Ramly, and a group of Gurkha soldiers were rushed to the scene where the accused and an Indonesian named Mahmud bin Embun were arrested. Soon after their arrest both were searched and on the person of the accused were found \$60/- in one dollar notes and an Identity Card, which showed that the accused was a resident of Pontian. Interrogation by members of the Special Branch as well as by those of the Criminal Investigation Department followed in the usual way and in consequence thereof, the Indonesian, Mahmud bin Embun, led Inspector Annuar of the Criminal Investigation Department and a party of soldiers, under the charge of Capt. David Herman, to a jungle fringe about half a mile off the Main Road in Labis. This was on the 14th September. There, on information given by the Indonesian, Inspector Annuar found 4 bundles hidden in a bush. Two of those bundles were alleged by the Indonesian to belong to the accused person. In one of these bundles the Inspector found a sten-gun No. 54648, three sten-gun magazines, 225 rounds of 9 mm. ammunition and two handgrenades. The ballistic experts testified to the effect that the 9 mm. ammunitions were capable of being used by the sten-gun and the two handgrenades were of Chinese make complete with two detonators. The sten-gun, ammunition and handgrenades were tested and found to be serviceable. Apart from the evidence of the arrest of the accused and the Indonesian, Mahmud

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bin Embun, and of the recovery of the arms and ammunitions by the police, the prosecution also called 3 Indonesian soldiers as witnesses and also produced a statement recorded from the accused person purported to have been made under caution. One of the Indonesian soldiers called as a witness was Lieut. Sutikno, who was in command of the 47 others flown from Jakarta by plane to be dropped by parachutes on to Malayan soil. This witness gave an account of the circumstances as to how and when they left Indonesia for Malaya. Although he was certain that there were 14 Chinese among the 48 persons in the plane, he was unable to identify the accused as one of them. He further testified that the 48 persons were divided into 8 sections each consisting of 6 persons. M. Tabri, who was called as a witness in this case, was one of the section leaders. He stated in his evidence that 48 persons left Jakarta in the afternoon of the 1st of September, 1964, by plane for Medan where, after a short rest, they were flown to Malaya. At about 2 a.m. on the 2nd of September they were dropped by parachutes. According to him, all in the plane were carrying arms and ammunitions and each was given \$300/- in one dollar notes, Malayan currency. He said that the accused belonged to his section and was carrying a sten-gun and two handgrenades. He claimed to have met the accused two days before leaving Jakarta. The third Indonesian witness, Mahmud bin Embun (P.W.9), who was arrested together with the accused on the 12th of September, stated that he was in the same section as the accused and that while in the plane the accused was sitting in front of him. His evidence was to the effect that he saw the accused armed with a sten-gun and handgrenades not only while in the plane but also on the ground after they had jumped out. According to this witness, he and the accused remained in the jungle for about 10 days after which they decided to go out and look for food. He said that while all the Chinese were carrying either rifles or sten-guns. On being shown the sten-gun, which was produced in Court as an exhibit, he was able to say that it was similar to the weapon which he saw the accused have. He went on to say that before leaving the jungle he and the accused changed into civilian clothings, wrapped up all their weapons and other personal belongings in

In the High  
Court in  
Malaya

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10th March  
1966  
(Contd.)

*the Indonesians were armed with G.3 guns the 14*

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Court in  
Malaya

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Ground of  
Judgment

10th March  
1966  
(Contd.)

bundles and hid them in an undergrowth near the fringe of the jungle. Not long after leaving the jungle they were captured or arrested by members of the Security Forces. There was no doubt in my mind that both Tabri and Mahmud bin Embun were accomplices. If their evidence could be accepted as reasonably true it would establish beyond all reasonable doubt that the accused was guilty of all the charges. But being accomplices consideration must be given to the possible existence of any fact which may give rise to the presumption under Section 114 of the Evidence Ordinance that they are unworthy of credit unless corroborated in material particulars. I am, of course, referring to illustration (b) of the section. In the first place, I do not consider it necessary as a matter of law that everything that was said by both or either one of the accomplices in this case requires corroboration. This was the proposition of law put to the jury by Maule, J. in Reg. v. Mullins, 3 Cox 526 at page 531:-

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"It often happens that an accomplice is a friend of those who committed the crime with them, and he would much rather get them out of the scrape and fix an innocent man than his real associates. But the question is here whether there are not circumstances which, as far as Barrett and Baldwinson are concerned, confirmed them in material particulars. Confirmation does not mean that there should be independent evidence of that which the accomplice relates, or his testimony would be unnecessary."

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This statement of the law was approved by Lord Reading, C.J. in Rex v. Baskerville, (1916) 2 K.B. 658, when he said at page 664:-

"Indeed, if it were required that the accomplice should be confirmed in every detail of the crime, his evidence would not be essential to the case, it would be merely confirmatory of other and independent testimony."

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Therefore, as far as the testimony of the

10 accomplice in this case relates to the fact  
 that they were members of the Indonesian Armed  
 Forces sent to this country by their superiors  
 with the apparent purpose of committing acts  
 prejudicial to the peace and security of this  
 country, I am satisfied it was true and  
 did not require corroboration. The same would  
 apply to the evidence as to the fact that they  
 had been flown to this country and dropped by  
 20 parachutes. Nor would I think it necessary to  
 seek corroboration in respect of their  
 evidence as to the fact that all in the plane  
 were armed and carrying ammunitions. The nature  
 of their mission, which was to create havoc  
 and disorder, would suggest to a reasonable  
 person that they must have been armed and  
 supplied with ammunitions if they were to have  
 any reasonable chance of success in their  
 operation. As regards the evidence which  
 30 relates to the presence of the 14 Chinese  
 in the plane, I could not see any possible  
 reason why the accomplices should want to lie  
 about them if, in fact, they were not in the  
 plane. In their case it could similarly be  
 assumed that they too were armed and supplied  
 with ammunitions. Indeed, it would be unthink-  
 able that they would be sent on such a  
 dangerous mission without being armed. All these  
 assumptions, which I consider to be reasonable,  
 render it unnecessary to seek corroboration of  
 the accomplices' evidence.

The incriminating part of Tabri's  
 evidence was when he said that the accused  
 was among those who were in his section, and  
 this is what he said:-

40 "The accused was among those in  
 my section. He is Lee Bok Cheng.  
 Accused gave his name when we were  
 boarding the plane in Jakarta. Saw  
 accused two days before leaving  
 Jakarta. Accused was dressed in  
 paratroppers' uniform and was carry-  
 ing a sten-gun. He carried other  
 things which I did not see. I saw  
 accused carrying two handgrenades.  
 Do not know if accused was carrying  
 other ammunition."

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Malaya

No.16  
Grounds of  
Judgment

10th March  
1966  
(Contd.)

As section leader it was reasonable to assume that he must have known who his men were. I could not think of any reason why he should name the accused as one of his men if, in fact, the accused was not. He was able to give the names of five others including Mahmud bin Embun for the simple reason that they were there. It did not appear to me that in naming the accused as one of his men he had any intention of incriminating him of having committed a common criminal act. Upon consideration, I felt satisfied that this witness' evidence could be accepted without corroboration. 10

As regards Mahmud bin Embun, this is what he said which incriminated the accused:-

"I was in section 6. There were 6 persons in Section 6. I can name the 6 persons. They are (1) Cpl. M. Tabri, (2) Supian, (3) Seow Sang, (4) Lee Bok Cheng, (5) Myself, (6) I'idsurinani. M. Tabri was the leader of my section. There were in all 8 sections. I carried arms, provision and clothings. Seow Sang and Lee Bok Cheng were Chinese. One of them is the accused. He is the one I call Lee Bok Cheng. Do not know him by any other name. There were altogether 14 Chinese in the plane. All Indonesians were armed with G.3 guns. As regards the Chinese, some carried rifles and some sten-guns. Accused was carrying a sten-gun. It was similar to P.3. Each one of us had 2 handgrenades. Do not know how much ammunition each of us carried." 20 30

Later on he said:-

"Accused was seated in front of me. Accused had his arms and ammunition when he baled out. When I landed I met the accused." 40

He further stated that they both remained in the jungle until the 12th of September and that he saw the accused still having his arms and ammunitions. He then went on to say:-

"As we had no food we left our arms and ammunition in the fringe of the jungle.....I changed into civilian dress. I left my belongings near the roadside near a rubber plantation. I hid them. Accused also changed into his civilian clothes. Accused hid his equipment and arms in a bamboo undergrowth. We hid in 4 separate places close to each other. Accused hid sten-gun, 2 handgrenades, a parang, ammunition and other clothings. I had a close look at the sten-gun carried by the accused. I saw the sten-gun fully equipped with magazine, strap."

In the High  
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\_\_\_\_\_  
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10th March  
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(Contd.)

10

Later in his evidence he said:-

"On 14th September I led a party of police to take the hidden articles... Took them to the jungle and pointed out the places where arms and ammunition were hidden."

20

30

40

This witness was an ordinary soldier, whose capture meant that he had failed in his mission. Like Tabri he appeared to me to be giving an honest account of what he saw from the time he boarded the plane in Jakarta up to the time when he was captured by the Security Forces. If his evidence had incriminated the accused in any way it was not because he had an evil intention of putting the accused in any predicament. Both he and Tabri were informed of the purpose of their testimony in Court and seemed to understand the effect it would have on the accused. Notwithstanding this he had given his evidence without any suggestion that he was exaggerating or harbouring any wicked or dishonest design towards the accused. In this case, too, upon consideration, I accepted the evidence as true even though it was not corroborated. As soldiers who had failed in their mission they appeared to have accepted the situation in which they are now placed and could hope to gain no further advantage by telling an untruth. Upon this assessment of the witnesses, I felt completely satisfied that each of them was a truthful witness and that their evidence could safely be accepted

In the High  
Court in  
Malaya

without corroboration. In Din v. P.P., 1964  
M.L.J. page 300, the Lord President said at page  
301:-

-----  
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Judgment

10th March  
1966

(Contd.)

"In the case of accomplice evidence  
the need for corroboration arises from  
the nature of the witness who is some-  
body who may have an interest in making  
out the guilt of another in preference  
to his own."

I was unable to find from the manner in which  
they gave their evidence and from the statement  
which they made in Court anything which might  
suggest that they might have an interest in  
making out the guilt of the accused. I regarded  
them as soldiers who had pursued a course of  
action led or misled by the belief that they  
were serving the cause of their country. This  
need not necessarily make them wicked or dis-  
honest persons.

10

There was also the evidence of the  
cautioned statement which amounted to a full  
confession of guilt by the accused on all the  
three charges. He appeared to have admitted  
having consorted with, or being in the company  
of, armed Indonesians and having under his  
control a sten-gun and several rounds of  
ammunition when he landed on Malayan soil after  
jumping out of an ~~ae~~eroplane. Although the accused  
refused to do anything to challenge the voluntary  
nature of the statement or to question the correct- 30  
ness of what had been recorded, I felt satisfied,  
after careful enquiry, that the making of the  
statement had not been caused by any inducement,  
threat or promise, and that the statutory words  
of caution had been properly administered by the  
recording officer, Inspector Lim Eng Guan.  
In going through the statement, I found that  
Inspector Lim had added words of his own  
within brackets suggesting that the accused  
had been asked to identify the sten-gun in 40  
the Exhibit Room in Segamat Police Station.  
These words obviously could not form part of  
the statement as they were not the words of  
the accused. I need only observe that recording  
officers should refrain from adding anything to  
a cautioned statement as this might easily lead

to the suspicion that an attempt had been made to make it appear more convincing than it really is. However, I accepted Inspector Lim's explanation that he had done this merely to find out whether the accused would admit to be the owner of the sten-gun that had been recovered. Taking the statement as a whole, I did not consider that the additional words would seriously prejudice the accused. It would appear from the statement that the accused, together with several others, had been recruited by a Committee Member of a political organization in Pontian, Johore, to go to Indonesia where they were promised jobs which would give them better salaries than they were getting locally. On the 22nd or the 23rd May, 1964, they appeared to have left in a fishing boat for an island in Indonesia. From there they were taken by an Indonesian naval vessel to Jakarta where they were issued with uniforms and other personal equipment. They were then taken to Bandoeng where they were trained in parachute jumping and shooting. According to the statement it was in Bandoeng that the accused was issued with a sten-gun. Towards the end of August they were brought back to Jakarta where they stayed in a camp together with a hundred Indonesian paratroopers. There they were each issued with 300 rounds of ammunition and ration to last them for a week. On the 1st of September they were flown to Malaya. After flying from Medan for half an hour the accused was alleged to have said that he and the rest jumped out. On landing the accused met Mahmud bin Embun (P.W.9) and they remained together for 10 days until they came to a rubber estate. The accused had further stated that both changed into civilian clothings, hid their arms, ammunitions and other personal belongings in the rubber estate. Coming out from there they saw a car stuck in the mud by the road side. They helped the driver to get the car back to the road and as they were getting into the car in order to go to the nearby town they were arrested by the Security Forces. Apart from the unsatisfactory features of the statement, which I have just described, I could not find anything from the evidence, nor from the statement itself, to suggest that the statement was not

In the High  
Court in  
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No.16  
Grounds of  
Judgment  
10th March  
1966  
(Contd.)

In the High  
Court in  
Malaya

            
No.16  
Grounds of  
Judgment

10th March  
1966

(Contd.)

voluntary and untrue.

Throughout the trial the accused repeatedly refused to cross-examine any of the witnesses called for the prosecution although informed of his right to do so. Each time when he was asked if he would like to question a witness his answer was that he did not know how to question the witness as Mr. Rajah was not there to defend him. He maintained a stubborn attitude and behaved very much like a spoilt brat. The prosecution was conducted with the utmost fairness and there could be no question of the accused not having had a fair trial. Subject to what has been said earlier in this judgment, on the nature of the evidence adduced on behalf of the prosecution, I considered the evidence against the accused overwhelming. When called upon to make his defence the accused elected to say nothing, which he was entitled to do.

10

20

The accused was accordingly convicted on all the three charges and sentence of death was passed on him.

Sgd: ALI HASSAN

J U D G E  
HIGH COURT, MALAYA,  
IPOH

Ipoh, 10th March, 1966

No.17  
PETITION OF APPEAL

In the  
Federal Court  
of Malaysia

IN THE FEDERAL COURT OF MALAYSIA

(APPELLATE JURISDICTION)

FEDERAL COURT CRIMINAL APPEAL No. A5 of 1966

No.17  
Petition of  
Appeal  
7th April  
1966

B E T W E E N:

LEE SIANG @ LEE AH KIM Appellant

- and -

10 PUBLIC PROSECUTOR Respondent

PETITION OF APPEAL

TO THE HONOURABLE THE JUDGE OF THE FEDERAL COURT

LEE SIANG @ LEE AH KIM, the appellant above-named, appeals to the Federal Court against the decision of the Honourable Mr. Justice Ali given in the High Court in Malaya at Muar in the State of Johore on the 21st day of February, 1966 on the following grounds:-

20 1. That the learned Judge was wrong in insisting on proceeding with the trial of the Accused on the basis of the Accused either accepting Mr. Elias Majid to defend him or defending himself.

2. That the Accused was not given a fair opportunity to present his defence.

3. That the learned Judge erred in not sufficiently cautioning himself on the dangers of accepting accomplice evidence without corroboration.

30 4. That the learned Judge erred in accepting the accomplice evidence before him.

and the appellant abovenamed therefore prays that

In the Federal  
Court of  
Malaysia

the conviction and sentence on him be set aside  
or that an order for a retrial may be made.

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No.17  
Petition of  
Appeal  
7th April  
1966  
(Contd.)

DATED this 7th day of April, 1966

Signed: THOMAS LEE

Solicitors for the Appellant

FILED this 7th day of April, 1966

Signed: PAWAN AHMAD BIN IBRAHIM RASHID  
Chief Registrar,  
Federal Court, Malaysia,  
Kuala Lumpur

10

The address of the Appellant is care of  
Messrs. Skrine & Co., Straits Trading Building,  
No. 4, Leboh Pasar Besar, Kuala Lumpur.

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No.18  
NOTES OF ARGUMENT (THOMSON L.P.)

In the  
Federal  
Court of  
Malaysia

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IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT  
KUALA LUMPUR (APPELLATE JURISDICTION)

Federal Court Criminal Appeal No.X5 of 1966  
(Muar High Court Emergency Criminal Trial No.  
1/1965)

No.18  
Notes of  
Argument  
(Thomson L.P)  
27th April  
1966

LEE SIANG alias LEE AH KIM  
alias LEE BOK LIM

Appellant

- v -

10 THE PUBLIC PROSECUTOR

Respondent

Cor: Thomson, Lord President, Malaysia  
Harley, Ag. Chief Justice, Borneo  
Raja Azlan Shah, Judge

NOTES OF ARGUMENT RECORDED BY THOMSON, LORD  
PRESIDENT, MALAYSIA

---

27th April, 1966

For Appellant: Thomas Lee

For Repondent: Nik Sadgir

Lee:

20 The trial was unsatisfactory

Trial commenced on 22.3.65 when one  
witness was called. Rajah appeared for him.

Trial adjourned to 19.2.66. Rajah not  
then able to appear. Appt. would not accept  
other counsel.

Galos Hired v. The King [1944] A.C. 149.

Mary Kingston (1948) 32 C.A.R. 183.

In the Federal  
Court of  
Malaysia

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No.18  
Notes of  
Argument  
(Thomson L.P.)  
27th April  
1966  
(Contd.)

Chong Fah Hin v. P.P. (1948-49) M.L.J.  
Supp. 139.  
Sim Kee Tong v. Rex (1948/49) M.L.J.  
Supp. 151.  
Tan Teow Swee v. Reg. (1955) M.L.J. 76.  
Lee Fook Sam v. P.P. (1963) M.L.J. 371.

Reasons in the last case do not apply here.

Appt. was not being capricious - he had full confidence in Rajah who has had great experience in this class of cases.

10

Judge should have granted an adjournment for appt. himself to study statement which had been supplied to counsel - not to appt.

Lee (continuing):

On this -

Sambasivam v. P.P. (1950) M.L.J. 145,  
150 (P.C.).

Case for appt.

Nik Sadgir:

Appt. behaved unreasonably.

20

In any event there was an overwhelming case against him.

Appeal dismissed.

Intld. J.B.T.  
27.4.66

TRUE COPY

Tneh Liang Peng  
Secretary to the Lord President  
Federal Court of Malaysia  
28 MAY 1966

No.19  
NOTES OF ARGUMENT (HARLEY AG. C.J.)

In the Federal  
Court of  
Malaysia

JUDGE'S NOTES

(Harley, Ag. Chief Justice, Borneo High Court)

FEDERAL COURT CRIMINAL APPEAL No. X5 of 1966  
(Muar High Court Emergency Crim. Trial 1/65

LEE SIANG @ LEE AH KIM Appellant

No.19  
Notes of  
Argument  
(Harley Ag.  
C.J.)  
27th April  
1966

- Vs. -

THE PUBLIC PROSECUTOR Respondent

Thomas Lee for Appellant

10 Nik Saghir, D.P.P., for Respondent

Lee: Judge regarded Appellant as a "spoilt brat"

22.3.65 Rajah defending

19.2.66 Trial resumed

Accused was an unwilling party to defending himself.

Cordon-Cuenca v. R. 1944 A.C. 105

R. v. Kingston 1948 32 Cr. App. R. 183.

Chong Fah Hin v. Public Prosecutor 1949  
M.L.J. Supp. 139.

20 Sim Kee Tong v. R. 1949 M.L.J. Supp. 151.

Lee Fook Sam v. Public Prosecutor 1963  
M.L.J. 371.

Did judge go as far as he could to meet wishes of Accused?

Counsel Elias Majid was assigned 5th Feb.

Reg. 10 Emergency Trials.

In the Federal  
Court of  
Malaysia

Were statements given to Accused (p.2 G F)?  
Sambasivam v. P.P. 1950 M.L.J. 150.

No.19  
Notes of  
Argument  
(Harley  
Ag. C.J.)  
27th April  
1966  
(Contd.)

Nik Saghir: Accused brought it about  
himself.

Oral Judgment Lord P. Appeal dismissed.

(Sgd.) E. R. HARLEY

27.4.66

Certified true copy

?

Secretary to Chief Justice,  
Borneo  
18/5/66

10

No.20  
Notes of  
Evidence  
(Shah J.)  
27th April  
1966

No.20  
NOTES OF EVIDENCE (SHAH J.)

IN THE FEDERAL COURT IN MALAYSIA HOLDEN AT  
KUALA LUMPUR  
(APPELLATE JURISDICTION)

FEDERAL COURT CRIMINAL APPEAL No.X5 of 1966  
(Muar High Court Emergency Crim. Trial 1/65)

LEE SIANG @ LEE AH KIM Appellant

20

vs.

THE PUBLIC PROSECUTOR Respondent

CORAM: Thomson, Lord President, Malaysia  
Harley, Ag. Chief Justice, Borneo.  
Raja Azlan Shah, Judge, Malaya.

NOTES OF ARGUMENT RECORDED BY RAJA AZLAN SHAH J.  
Thomas N.L. Lee for Appellant (Assigned).

D.P.P. Nik Saghir for Respondent.

Lee addresses:

Trial, 22.3.65

"I have confidence in Mr. Rajah".

(1944) A.C.

R. v. Kingston (1948) 32 C.A.R. 183.

(1940-49) M.L.J. Supp. 139; 151.

(1955) M.L.J. 76.

(1963) M.L.J. 371.

10 Reg. 10. Emergency Cr. Trial Regs.

(1950) M.L.J. 151.

D.P.P. addresses:

No miscarriage of justice.

Court adjourns.

Court resumes.

L.P. delivers judgment

Appeal dismissed.

(Sgd.) RAJA AZLAN SHAH  
JUDGE

20 Certified true copy

Secretary to Judge  
Kuala Lumpur

27.5.66.

In the Federal  
Court of  
Malaysia

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No.20  
Notes of  
Evidence  
(Shah J.)  
27th April  
1966  
(Contd.)

In the Federal  
Court of  
Malaysia

No.21  
JUDGMENT (THOMSON L.P.)

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT  
KUALA LUMPUR  
(APPELLATE JURISDICTION)

No.21  
Judgment  
(Thomson L.P)  
27th April  
1966

Federal Court Criminal Appeal No.X5 of 1966  
(Muar High Court Emergency Criminal Trial No.1/65)

Lee Siang alias Lee Ah Kim  
alias Lee Bok Lim Appellant

-v-

The Public Prosecutor Respondent 10

Cor: Thomson, Lord President, Malaysia  
Harley, Ag. Chief Justice, Borneo  
Raja Azlan Shah, Judge

ORAL JUDGMENT of THOMSON, LORD PRESIDENT, MALAYSIA

This appellant was prosecuted in connection with his alleged participation in the Indonesian invasion at Labis in 1954. He was prosecuted on three charges under the Internal Security Act for possession of arms in contravention of section 57 (1) (a), for possession of ammunition in contravention of section 57(1)(b) and for consorting in contravention of section 58(1). 20

He was convicted on all three charges and sentenced to death. We are now concerned with his appeal against his conviction.

That appeal is based on one ground and one ground only which arose from certain events during the trial.

Apparently the appellant was either unable or unwilling to make provision for his own defence and in consequence the Registrar of the Court acting under regulation 12 of the Emergency (Criminal Trials) Regulations instructed counsel to whom I shall refer as Mr. A to represent him. 30

The trial commenced on 22nd March, 1965, and

Mr. A. duly appeared. That day evidence was taken from one witness only and then the trial was adjourned until 19th February, 1966. We do not know the reason for that long adjournment and in the circumstances it would be wrong for us to make any comment regarding it.

In the Federal  
Court of  
Malaysia

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No.21  
Judgment  
(Thomson L.P)  
27th April  
1966  
(Contd.)

10 In due course, no doubt as a matter of caution rather than necessity, notice of the adjourned trial was sent to Mr. A. some time in January, 1966, and on 27th January, 1966, Mr. A wrote a letter to the Registrar stating that he been bedridden for nearly 2 months recuperating after an operation and was not in a physical position to continue with the defence of the appellant. On that the Registrar very properly took steps to retain another counsel and he retained a gentleman to whom I shall refer as Mr. B.

20 When the case came on for trial Mr. B told the Court that the appellant insisted on being defended by Mr. A. The Judge explained the position to the accused and read Mr. A's letter and asked him to reconsider his attitude. The accused replied that he had given Mr. A all the facts in complete confidence. The Judge informed him that at that stage the position was that he must make his choice. He must either defend himself or be defended by Mr. B and that he refused any further adjournment to enable him to be defended by Mr. A. He then gave the accused half an hour to consider the matter and on the resumption of the hearing defence counsel informed him that the accused had made up his mind and the accused said that since the Court would not grant him an adjournment he would conduct his own defence. Mr. B was then discharged from the case and the trial proceeded.

40 A considerable body of evidence was called and as the accused consistently refused to cross-examine any of the witnesses the Judge took it upon himself to question them when he considered such a course necessary. At the close of the case for the prosecution, the

In the Federal  
Court of  
Malaysia

\_\_\_\_\_  
No.21  
Judgment  
(Thomson L.P)  
27th April  
1966  
(Contd.)

Judge explained to the accused his rights, that he could give evidence on oath or make a statement from the dock, and that he was entitled to call any witnesses. The accused reiterated that he wanted Mr. A and then said that since Mr. A was not there he did not propose to say anything or call any witness in his defence.

In the event he was convicted and it is clear that on the evidence which fully made out the offences charged the Judge had no option but to convict.

10

As has been said, the only ground on which the convictions have been attacked before us arises from the events which have been described at some length. In our view, regrettable as the whole affair was, regrettable particularly as it placed an extremely heavy burden on the shoulders of the trial Judge, we are unable to say there was any miscarriage of justice. It was a case where counsel had to be provided by the Court. No doubt the case was unfortunate. When it became impossible for Mr. A to continue his duties through ill-health we must accept that that was so and then it is to be feared that the position was just as stated by the trial Judge - if the accused was not in a position to retain counsel then he must either accept the services of any counsel assigned by the court or must conduct his own defence.

20

The appeal is dismissed.

Taken down by me and seen by the Honourable the Lord President.

30

Tneh Liang Peng  
Secretary to the Lord President  
Federal Court of Malaysia

Kuala Lumpur, 27th April 1966

Thomas Lee Esq. for appellant  
Nik Sadgir, D.P.P. for respondent

TRUE COPY  
Tneh Liang Peng  
Secretary to the Lord  
President  
Federal Court of  
Malaysia  
16/5/66

40

43.

No.22  
O R D E R

In the Federal  
Court of  
Malaysia

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT  
KUALA LUMPUR

(APPELLATE JURISDICTION)

FEDERAL COURT CRIMINAL APPEAL No. X.5 of 1966  
(Muar High Court Emergency Criminal Trial No.  
1/65)

No.22  
Order  
27th April  
1966

LEE SIANG @ LEE AH KIM Appellant.

- vs. -

10 THE PUBLIC PROSECUTOR Respondent

CORAM: THOMSON, LORD PRESIDENT, FEDERAL COURT,  
MALAYSIA: HARLEY, AG. CHIEF JUSTICE,  
HIGH COURT IN BORNEO

- and -

RAJA AZLAN SHAH, JUDGE, HIGH COURT IN  
MALAYA

IN OPEN COURT

THIS 27th DAY OF APRIL, 1966

O R D E R

20 THIS APPEAL coming on for hearing this day in  
the presence of Mr. Thomas M.L.Lee of Counsel  
for the abovenamed Appellant and Inche Nik  
Saghir bin Mohd. Noor, Deputy Public Prosecutor  
AND UPON READING the Record of Appeal herein  
AND UPON HEARING counsel for the Appellant  
and the Deputy Public Prosecutor as aforesaid  
IT IS ORDERED that the Appeal of the above-  
named Appellant be and is hereby dismissed.

GIVEN under my hand and the Seal of the Court  
this 27th day of April, 1966

30 Sgd: PAWAN AHMAD BIN IBRAHIM RASHID  
CHIEF REGISTRAR  
FEDERAL COURT, MALAYSIA

*Judicial Committee of the*

In the Privy  
Council

No.23

ORDER GRANTING SPECIAL LEAVE  
TO APPEAL IN FORMA PAUPERIS TO HIS  
MAJESTY THE YANG DI-PERTUAN AGONG

No.23

Order in ~~Council~~ (Seal of  
granting Malaysia)  
Special Leave  
to Appeal in  
forma pauperis to  
His Majesty the  
Yang di-  
Pertuan Agong

COURTS OF JUDICATURE ACT, 1964  
(No.7 of 1964)

ORDER UNDER SECTION 76(1)

1st February  
1967

WHEREAS there was this day submitted to His Majesty the Yang di-Pertuan Agong a Report from the Lords of the Judicial Committee of the Privy Council dated the 9th day of November, 1966, in the words following, viz:-

10

"WHEREAS by virtue of the Malaysia (Appeals to Privy Council) Orders in Council 1958 and 1963 there was referred unto this Committee a humble Petition of Lee Siang alias Lee Ah Kim alias Lee Bok Lim in the matter of an Appeal from the Federal Court of Malaysia (Appellate Jurisdiction) between the Petitioner and the Public Prosecutor setting forth that the Petitioner desires to obtain special leave to appeal in forma pauperis from a Judgment of the said Federal Court dated the 27th April 1966 dismissing his Appeal against convictions in the High Court of Malaya at Muar in the State of Johore on the 21st February 1966 on charges of possession of a firearm and ammunition and of consorting with members of the Indonesian Armed Forces: And humbly praying the Head of Malaysia to grant him special leave to appeal in forma pauperis from the Judgment of the said Federal Court dated the 27th April 1966 and for further or other relief:

20

30

THE LORDS OF THE COMMITTEE in obedience to the said Orders in Council have taken the humble Petition into consideration and having

40

heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree to report to the Head of Malaysia as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal in forma pauperis against the Judgment of the Federal Court of Malaysia (Appellate Jurisdiction) dated the 27th April 1966:

10

And their Lordships do further report to the Head of Malaysia that the authenticated copy under seal of the Record produced by the Petitioner upon the hearing of the Petition ought to be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before the Judicial Committee on the hearing of the Appeal.

20

NOW, THEREFORE, His Majesty the Yang di-Pertuan Agong having taken the said Report into consideration was pleased to approve thereof and to order as it is hereby ordered that the same be punctually observed, obeyed and carried into execution.

DATED this 1st day of February 1967

BY COMMAND

30

Sgd: TUN (DR.) ISMAIL BIN DATO ABDUL RAHMAN

MINISTER OF JUSTICE

(F.C. Crim. App. X. 5/66)

TRUE COPY

?  
Deputy Registrar  
Federal Court, Malaysia  
Kuala Lumpur 13.3.67

*Judicial Committee of the*  
In the Privy  
Council

No. 23

Order ~~in Council~~  
granting Special  
Leave to Appeal  
in forma  
pauperis to  
His Majesty  
the Yang di-  
Pertuan Agong

1st February  
1967

(Contd.)

Exhibits

In the High  
Court in  
Malaya

Exhibit P.12

Caution  
Statement  
undated

EXHIBIT P.12POLIS DI-RAJA MALAYSIAPERCHAPKAN DALAM PEMEREKSAAN

No. Report: 471-472/64 Rumah Pasong: Labis.

Perchakapan bagi Lee Siang @ Lee Ah Kim nama bapa:

Lee Hock Soon

Bangsa: Hokkien Tempat di-peranakan: Pontian.

Umor: 19 tahun. Kerja: Pineapply Plt. labourer.

Dudok di: 36½ M.S. Jalan Slaughter, Pontian

Di-terima oleh: P.I.LIM di: Segamat DHQ. pada 10  
17/9/64 jam. 8.50 a.m.

Jurubhasa: self. Daripada: kapada:

Before recording the statement of the accused I administered the following caution to him in Hokkien dialect.

"It is my duty to warn you that you are not obliged to say anything or answer any question, but anything you say whether in answer to a question or not, may be given in evidence."

Q. Do you fully understand the caution administered to you? 20

A. Yes.

After administering the caution to the accused he admitted that he fully understood the caution and elects to speak in Hokkien dialect in answer to my questions.

Before me,

Sgd: LIM ENG GUAN P/Insp.  
Recording Officer.

Sometime in the middle of May, 1964, TAN THENG SING, a committee member of the Socialist Front in Pontian, approached me and asked whether I would like to have a job with a salary of \$200/- 30

to \$300/- per month. As I am earning about \$100/- then I agreed as it would be a greater help to my parents. He did not tell me the type of job and the place I am to work though I asked him but he merely say that I will find out later.

Exhibits  
In the High  
Court in  
Malaya

Exhibit "P.12"

Caution  
Statement  
undated  
(Contd.)

10 On the 22.5.64 or 23.5.64, at about 7.00 p.m. when I just returned from work at the pineapple plantation at 6 m.s. Jalan Kukup, and told me to get ready to go to the job he spoke to me and to wait at Batu 36 Jalan Pontian/ Johore at the roadside at about 10.00 p.m. There, 2 girls and another man will join me. Then we were to go to Ayer Masin and wait there. The 2 girls (Ong Lee Mei and Lee Geoh Moi) and the man whom I am to meet came in a car, the driver I did not know. We left Ayer Masin the same night, after about  $\frac{1}{2}$  hour waiting in a fishing boat and the boatmen I did not know. 20 We arrived at Tanjong Balai, Indonesia at about past 2 a.m. the following morning.

30 At Tanjong Balai there were about 30 to 40 Chinese (6 girls including the 2 with me). We were there nearly a week doing nothing. There were also a number of Malays staying nearby. It was either on the 6th or 7th night when we (42) went on board an Indonesian Navy ship and proceeded to Jakarta. Before alighting the ship at Djakarta we were issued with a pair of shoes, 2 pairs of camouflage uniform, 2 pairs of black socks, a belt, a tiffin carrier, and a water can. From Djakarta we proceed to Bandoeng by M/Lorry.

40 In Bandoeng I received training in drill, parachute jumping and shooting for about 3 months. It was in Bandoeng that I was issued with a sten gun (sten gun was identified by accused through a welding mark on the stomach of the cover trigger mechanism - the particular sten gun bears the No. FH. 54648).

Then on 28.8.64 all the 41 of us (Tan Theng Sing died during a parachute jump) who had training in Bandoeng left for Djakarta in 2 military buses. I had the sten gun with me and the others had their own arms. On arrival at

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Djakarta we were staying in a camp together with about 100 other Indonesian paratroopers though in different houses. There I was issued with 300 rounds of 9 mm. ammunitions and ration for a week.

Exhibit "P.12"

Cautious  
Statement  
undated  
(Contd.)

On 1.9.64 at about 12.00 noon 15 of us (2 girls (1) LEE GEOR MOI, (2) LEE POH HOR @ SALINAH). The others I know were:

- (1) Ng Ah Kooi (Pontian)
- (2) Lee Haing Chaing (Pontian) 10
- (3) Loh Chong Seong (Pontian Besar)
- (4) Tan Teng Par (Pontian 32 ms.)
- (5) Ong Ah Peng (Pontian)

together with the 15 of us there were about 30 other Indonesians in the same plane "The Hercules" which left Djakarta at between 4.00 p.m. and 6.00 p.m. There were boxes in the plane; these boxes were dropped before we jumped. The plane stopped at Medan for re-fuelling and we had our dinner in the plane. 20  
Before the plane take off again from Medan we were asked to fasten our parachutes and given \$300/- each in \$1/- notes. I slept when the plane took off from Medan and if I am not mistaken, it was about  $\frac{1}{2}$  an hour later when we were ordered to jump out. I was the 34th man to jump out, my parachute got stuck to a tree and I had to drop my equipment and come down by a rope for about 40 feet from the ground. When I reached the ground I recollected all my 30  
equipments, it was nearly dawn. I met another paratrooper (Indonesian) named MAHMOOD b. AMBUN @ HASSAN b, SHAHRJL whom I called 'kawan'. He was armed with an LMG and other equipments issued to him. We were then in our paratrooper uniform. As we could not find the rest of our friends we tried to find a way out of the jungle. From the second day we began to hear shooting all around us. Anyway we kept on walking for 10 days till we came to a rubber estate and was able to 40  
see cars passing on the road. We then changed our uniform into civilian clothings and hid our arms, ammo, H/grenades and other things in the rubber estate before coming out to the road.

We saw a car stuck in the mud by the roadside

and thus assisted the driver to get the car back to the road and then we asked for a lift to town. As we were going into the car the Gurkha soldiers came and arrested us. At the time of my arrest I still had \$300/- cash which was given to me in the plane in Medan and also a personal gold ring which I tied to my handkerchief; this handkerchief was used to tie my eyes and I don't know where my ring is now.

10

Q. Who was the officer-in-charge of you?

A. I do not know his name.

Q. What section you belong to?

A. I do not understand the Indonesian language, so I do not know what section I belong to.

Read over and admitted to be correct.

Q. Do you have anything to add or alter.

A. No.

20

No threat, inducement or promise was made in the course of recording this statement.

Before me,

Sgd: (LIM ENG GUAN) P/Insp.  
Recording Officer.

Exhibits

In the High  
Court in  
Malaya

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Exhibit "P.12"  
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Caution  
Statement  
undated  
(Contd.)

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL No. 14 of 1967

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O N A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

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FEDERAL COURT CRIMINAL APPEAL No. X 5 of 1966  
(Muar High Court Emergency Criminal Trial No. 1/65)

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B E T W E E N:

LEE SIANG alias LEE AH KIM alias LEE BOK LIM Appellant

- and -

THE PUBLIC PROSECUTOR Respondent

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RECORD OF PROCEEDINGS

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Solicitors for the Appellant

Solicitors for the Respondent