

GAHC010114042016



2024:GAU-AS:9528-DB

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM: NAGALAND: MIZORAM AND
ARUNACHAL PRADESH)
(CRIMINAL APPELLATE JURISDICTION)

Crl.A. No. 165/2016

MRS LANDHONI DEVI
W/O JEETEN SINGH, R/O VILL. AWANG SEKMAI, P.S. SEKMAI,
DIST. IMPHAL WEST, MANIPUR

- Versus -

NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 262/2016

SOUGAIJAM RAKESH SINGH @ S. RAKESH SINGH A-6
S/O DR. S. PRIYO KUMAR SINGH
R/O MOIRANGKHOM YEISKUL
P.S. IMPHAL WEST
DIST. IMPHAL WEST
MANIPUR

- Versus -

THE NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 263/2016

SINAM GUNE SINGH @ S. GUNE SINGH
S/O LT. SINAM KUBER
R/O VILL.MOURANGTHEM SOUGAIJAM
LEIRAT
P.S. IMPHAL WEST
DIST. IMPHAL WEST
MANIPUR

- Versus -

THE NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 264/2016

OINAM MANITON SINGHA A-15
S/O OINAM NILAMANI SINGHA
R/O VILL. BAHADURGRAM
P.S. UDHARBOND
DIST. CACHAR
ASSAM
PIN 788030

- Versus -

THE NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 265/2016

SRI W. NOREN SINGH A-8 @ W. NOREN MEETEI
S/O SRI WAYEMBAM TOMBA
R/O VILL.MOIRANGKAMPU
POROMPAT
IMPHAL EAST
MANIPUR

- Versus -

THE NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 289/2016

O. SAMARJIT SINGH @ NARESH @ KADENG
S/O LT. O DHANANJOY SINGH
R/O KEISHAMPAT AHEIBAM LEIRAKILL
P.S. IMPHAL WEST
DIST. IMPHAL WEST
MANIPUR

- Versus -

NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 291/2016

Y. BRAJABIDHU SINGH
S/O LATE MADHU SINGH

PALACE COMPOUND NEAR EASTERN GROUND
IMPHAL EAST MANIPUR

- Versus -

NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 295/2016

A. IBOMCHA
S/O LATE JOY KUMAR SINGH
R/O KHONGMAN
SONE-4
IMPHAL RIMS
MANIPUR

- Versus -

NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 299/2016

LAURENBUM JATISHOR SINGH @ TILEMBA
S/O SH. GULAMJAT SINGH
R/O VILL. MOIRANGKAMPU
P.S. IMPHAL EAST
DIST. IMPHAL WEST
MANIPUR

- Versus -

NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 113/2017

N. DILIP SINGH
S/O- SRI N CHAOBA SINGH
R/O- VILL- SINGJAMEI
WAIKHOM LEIKAI
P.S- SINGJAMEI
DIST- IMPHAL WEST
MANIPUR

- Versus -

NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 115/2017

KHWAIRAKPAM JEETEN SINGH and KHOMBO @ DENE
S/O- LATE KH. SANAJAOBA SINGH
R/O- VILL- AWANG SEKMAI
P.S- SEKMAI
DIST- IMPHAL WEST
MANIPUR.

- Versus -

NATIONAL INVESTIGATION AGENCY

with

Crl.A. No. 145/2017

MUTUM IBOHAL
S/O MUTUM SHYAMKISHORE
R/O VILL. KABOWAKCHING
P.S. NAMBOL
DIST. BISHNUPUR
MANIPUR

- Versus -

NATIONAL INVESTIGATION AGENCY

BEFORE
HON'BLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

JUDGMENT AND ORDER
(C.A.V.)

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List of appearing counsel, date of hearing and date of judgment.

Advocates for the appellants	Mr. D.K. Mishra, Senior Advocate Mr. M. Gunadhar Singh Mr. Rajshekhar Mr. B. Prasad
Advocates for the Union of India	Mr. R.K.D. Choudhury, D.S.G.I. Ms. L. Devi
Advocates for the N.I.A.	Mr. D.K. Das, Senior Advocate Ms. P.K. Darjee Ms. G.D. Choudhury Mr. D. Choudhury
Dates of hearing	01.02.2024, 04.02.2024, 05.02.2024, 06.02.2024, 07.02.2024, 15.02.2024, 16.02.2024, 16.02.2024, 19.02.2024, 20.02.2024, 21.02.2024, 22.02.2024, 23.02.2024, 26.02.2023, 27.02.2024, 28.02.2024, 29.02.2024. 01.03.2024 and 12.08.2024.
Date of judgment	23.09.2024

(K.R. Surana, J.)

Preliminaries:

Heard Mr. D.K. Mishra, learned Senior Counsel, assisted by Mr. B. Prasad, learned counsel for the appellant in Crl.A. 262/2016, Crl.A.263/2016, Crl.A.264/2016, Crl.A.265/2016 and Crl.A.291/2016. Also heard Mr. M. Gunadhar Singh, learned counsel for the appellants in Crl.A.289/2016, Crl.A.291/2016, Crl.A.295/2016, Crl.A.299/2016, Crl.A.113/2017, Crl.A.115/2017

and CrI.A.145/2017. Also heard Mr. R.K.D. Choudhury, learned DSGI for respondent no.1, assisted by Ms. L. Devi, Advocate, and Mr. D.K. Das, learned Senior Counsel, assisted by Ms. G.D. Choudhury, learned counsel for the respondent no.2.

2) By filing these 12 (twelve) separate appeals, the respective appellants, who have been convicted and sentenced, have assailed the common judgment and sentence dated 08.06.2016, passed by the learned Special Judge, NIA, Guwahati in Special NIA Case No. 1/2010.

3) The judgment and sentence impugned herein arise out of common trial and thus, common issues are involved. Hence, all these appeals were heard analogously. Therefore, all these appeals are disposed of by this common judgment and order.

4) In this judgment, certain abbreviations have been used, which are reiterated hereinafter for the sake of convenient reading of this judgment. The abbreviations are as under:-

Sl	Full description of words	Abbreviation used.
a	Central Forensic Science Laboratory, Chandigarh	'CFSL Chandigarh
b	Compilations submitted by instructing counsel for appellants in CrI.A. 262/2016, CrI.A. 263/2016, CrI.A. 264/2016, CrI.A. 265/2016 and CrI.A. 291/2016.	Comp.
c	Court of Special Judge, NIA, Assam, Guwahati	Trial Court
d	Criminal Procedure Code, 1973	CrPC
e	Imphal Urban Cooperative Bank	IUCB

f	Indian Penal Code, 1898.	IPC
g	Investigating Officer	I.O.
h	National Investigation Agency	NIA
i	National Investigation Agency Act, 2008	NIA Act
j	Trial Court Record	TCR
k	United National Liberation Front	UNLF
l	Unlawful Activities (Prevention) Act, 1967	UA(P)A

Position of the appellants during trial:

5) In this appeal, the appellants are hereinafter referred to as per their position as accused during trial.

6) In the trial proceeding, the position of the appellants and other accused persons are as follows:-

Sl.	Name	Accused no.	Appeal no.	Sentence
1.	Khungdong Tomba @ Bikramjit @ Pambi @ Sunil	A- 1	-	Absconder (not tried in this batch).
2.	Y. Nabinchand @ Abo @ Dilip @ Tiken	A- 2	-	Absconder (not tried in this batch).
3.	Brahmacharimayum Gopal Krishna Sharma @ Narengbam Loken @ Niken @ Inao @ Ibumgo @ Manoj Singh @ Benjamin	A- 3	-	Absconder (not tried in this batch).
4.	Brahmacharimayum Angobi Sharma	A- 4	-	Absconder (not tried in this batch).
5.	Thaoroijam Herojit Singh @ Prem @ Mangal	A- 5	-	Absconder (not tried in this batch).
6.	Sougaijam Rakesh Singh	A- 6	Crl.A. 262/2016	S.18 UA(P)A – 8 yrs and fine. S.20 UA(P)A – 7 yrs

				and fine. S.121A IPC – 10 yr. and fine. Fine are with default stipulation.
7.	Oinam Samarjit Singh @ Naresh @ Kadeng	A- 7	Crl.A. 264/2016	S.18 UA(P)A – 8 yrs S.20 UA(P)A – 7 yrs and fine. S.121A IPC – 10 yr. and fine. Fine are with default stipulation.
8.	Wayenbam Noren Singh @ W. Noren Meetei @ Thoiba	A- 8	Crl.A. 265/2016	S.18 UA(P)A – 8 yrs S.20 UA(P)A – 7 yrs and fine. S.121A IPC – 10 yr. and fine. Fine are with default stipulation.
9.	Naba Kumar Singh @ Maibam Sarat Singh @ Chaoren @ Suresh	A- 9	No appeal filed.	S.17 UA(P)A – 7 yrs and fine. S.20 UA(P)A – 7 yrs and fine. Fine are with default stipulation.
10.	Khwairakpam Jeeten Singh @ Khomba @ Dene	A- 10	Crl.A. 115/2017	S.17 UPA(P)A – 7 yrs and fine. S.18 UA(P)A – 8 yrs S.20 UA(P)A – 7 yrs and fine. S.121A IPC – 10 yr. and fine. Fine are with default stipulation.
11.	Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglen @ Little Boy	A- 11	Crl.A. 263/2016	S.18 UA(P)A – 8 yrs S.20 UA(P)A – 7 yrs and fine. S.121A IPC – 10 yr. and fine. Fine are with default stipulation.
12.	Mutum Ibohal Singh @ Ngamba @ Sanjay	A- 12	Crl.A. 145/2017	S.18 UA(P)A – 8 yrs S.20 UA(P)A – 7 yrs and fine. S.121A IPC – 10 yr. and fine. Fine are with default stipulation.
13.	Km. Chingakham	A- 13	No appeal filed.	S.20 UA(P)A – 7 yrs

	Bembem Chanu @ Shankhenbi @ Henbi @ Pempem			and fine. Fine are with default stipulation.
14.	Mrs. Landhoni Devi	A- 14	Crl.A. 165/2016	S.20 UA(P)A – 7 yrs and fine.
15.	Oiman Maniton Singha	A- 15	Crl.A. 264/2016	S.20 UA(P)A – 7 yrs and fine. Fine are with default stipulation.
16.	Ningombam Dilip Singh @ Ibochou @ Mani	A- 16	Crl.A. 113/2017	S.18 UA(P)A – 8 yrs S.20 UA(P)A – 7 yrs and fine. S.121A IPC – 10 yr. and fine. Fine are with default stipulation.
17.	Laurenbum Jatishor Singh @ Tilemba	A- 17	Crl.A. 299/2016	S.18 UA(P)A – 8 yrs S.20 UA(P)A – 7 yrs and fine. S.121A IPC – 10 yr. and fine. Fine are with default stipulation.
18.	Moirangthem Joy Singh @ JoyJao @ Nongyai @ Nilachandra	A- 18	No appeal filed.	S.18 UA(P)A – 8 yrs S.20 UA(P)A – 7 yrs with fine. S.121A IPC – 10 yr. and fine. Fine are with default stipulation.
19.	Raj Kumar Meghen @ Sanayaima	A- 19	No appeal filed.	S.18 UA(P)A – 8 yrs S.18-B UA(P)A – 7 yrs with fine. S.20 UA(P)A – 7 yrs with fine. S.121A IPC – 10 yr. and fine. S.122 IPC 10 yrs and fine. Fine are with default stipulation.
20.	Narengbam Marijit Singh @ Thabal	A-20	-	Suppl. Charge sheet filed. Not tried in this batch.
21.	Chabkungbam Thanil @ Nabachandra @ Chabungbam Laipangamba	A-21	-	Suppl. Charge sheet filed. Not tried in this batch.

22.	L. Iwanthaba @ Nanao Singh @ Ashok Singh	A-22	-	Suppl. Charge sheet filed. Not tried in this batch.
20.	Ningthoujam Bomi Singh (since deceased)	A- 23	Crl.A. 169/2016	S.20 UA(P)A – 7 yrs with fine. S.21 UA(P)A- 7 years with fine. Fine are with default stipulation.
21.	Y. Brajabidhu Singh	A- 24	Crl.A. 291/2016	S.20 UA(P)A – 7 yrs with fine. S.21 UA(P)A- 7 years with fine. Fine are with default stipulation.
22.	A. Ibomcha	A- 25	Crl.A. 295/2016	S.20 UA(P)A – 7 yrs with fine. S.21 UA(P)A- 7 years with fine. Fine are with default stipulation.

The case of the prosecution, in brief:

7) In brief, the prosecution case is as follows:-

- a. On the basis of information about presence of members of UNLF in Guwahati, the police conducted raid in a particular area on 30.04.2010, the accused nos. 1 and 2, who had subsequently absconded, were arrested in Guwahati in connection with Noonmati P.S. Case No.159/2010 under sections 120B, 121, 121A, 122, 468 IPC and sections 10 and 13 of UA(P)A, corresponding to G.R. Case No. 3115/2010 and certain articles like laptop, pen-drives, mobile phones, wireless internet connection and cash of Rs.50,000/- was recovered from them.
- b. The other accused nos. 6 to 18 and 23 to 25 were

arrested on various dates. On 30.11.2010, R.K. Meghen (A-19), the Chairman, UNLF was arrested in Motihari in Bihar allegedly while coming from Nepal.

- c. In course of investigation, it was revealed that the arrested persons were hatching a conspiracy to wage war against the Union of India, the investigation was transferred to NIA, and the case was re-registered as FIR No. 10/2010 dated 17.09.2010 under sections 120-B, 121, 121-A, 122, 468 of the IPC and sections 10 and 13 of UA(P)A.
- d. On completion of investigation, charge-sheet dated 14.02.2011 under sections 120B, 121, 121A, 122 IPC and sections 16, 17, 18, 18A, 18B and 20 of the UA(P)A was submitted by the I.O. before the Trial Court. The relevant copies were supplied to the accused persons who had appeared in trial. The learned Trial Court had explained charges to the appearing accused persons on 06.09.2012, to which they pleaded not guilty and claimed to be tried.
- e. Particulars of charges read over and explained by the learned Trial Court to the accused persons are as under:-

Sl.	Name	Accused no.	Charge framed/ explained under sections.
1.	Th. Herojit Singh @ Prem @ Mangal	A- 5	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
2.	Sougaijam Rakesh Singh	A- 6	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.

3.	Oinam Samarjit Singh @ Naresh @ Kadeng	A- 7	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
4.	Wayenbam Noren Singh @ W. Noren Meetei @ Thoiba	A- 8	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
5.	Naba Kumar Singh @ Maibam Sarat Singh @ Chaoren @ Suresh	A- 9	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
6.	Kh. Jeeten Singh @ Khomba @ Dene	A- 10	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
7.	Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglen @ Little Boy	A- 11	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
8.	Mutum Ibohal Singh @ Ngamba @ Sanjay	A- 12	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
9.	KM. Chingakhom Bembem Chanu @ Shankhenbi @ Henbi @ Pempem	A- 13	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
10.	Mrs. Landhoni Devi	A- 14	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
11.	Oiman Maniton Singha	A- 15	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
12.	Ningombam Dilip Singh @ Ibochou @ Mani	A- 16	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
13.	Laurenbum Jatishor Singh @ Tilemba	A- 17	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A.
14.	M. Joy Singh @ JoyJao @ Nongyai @ Nilachandra	A- 18	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A and S.18A of UA(P)A.
15.	Raj Kumar Meghen @ Sanayaima	A- 19	S.120B, 121A, 121, 122 IPC; S.16, 17, 18, 20 of UA(P)A; and S.18B of UA(P)A.
19.	Ningthoujam Bomi Singh (since deceased)	A- 23	S.120B, 121A IPC; S.17, 18, 20, 21 of UA(P)A.
20.	Y. Brajabidhu Singh	A- 24	S.120B, 121A IPC; S.17, 18, 20, 21 of UA(P)A.

21.	A. Ibomcha	A- 25	S.120B, 121A IPC; S.17, 18, 20, 21 of UA(P)A.
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- f. The TCR reveals that the accused nos. A-6, A-14, A-15 and A-23 (since deceased) were on bail during trial. The accused nos. A-5, A-7 to A-13, A-16 to A-19, A-24 and A-25 were in custody during trial. However, A-1 to A-5 were absconding. The accused nos. A-20 to A-22 is not tried along with the present batch of accused persons. Their status is not reflected in the impugned judgment.
- g. In the course of trial, the prosecution had examined 84 witnesses. The list of the witnesses examined by the prosecution is attached to this judgment as Appendix-A. During trial, the documents exhibited by the PWs were marked as Exhibit nos. 1 to 205 series; Ext.X series and Ext.Y series. The list of documentary exhibits and material exhibits are appended to this judgment and marked as Appendix-B and Appendix-C respectively.
- h. On conclusion of prosecution evidence, the accused persons were then examined by the learned Trial Court under section 313 CrPC by bringing the incriminating circumstances against them in form of questions. The accused took a plea of total denial.
- i. The learned Trial Court, by the impugned judgment and order dated 08.06.2016, convicted all the appearing accused persons (i.e. the appellants herein). The

sentence imposed on the appellants are mentioned in the chart appended to paragraph 6 herein before.

Submissions by the learned senior counsel for the appellants in Crl.A. Nos. 262/2016, 263/2016, 264/2016, 265/2016 and 291/2016:

I. Submissions common to above cases:

8) The learned Senior Counsel for the appellants had referred to the provisions of sections 2(k) 2(l), 2(m), 10, 15, 20, 30, and 35 of the UA(P)A.

9) It was submitted that section 20 of the UA(P)A contains two postulates. Firstly, one has to be a member of a terrorist organization and secondly, the organization must be involved in a terrorist act.

10) It was submitted that the exercise of power under section 35 of the UA(P)A was an arbitrary and unilateral executive action of the Government to include a particular organization to the schedule, which is not subject to the scrutiny of the Court or Tribunal.

11) By referring to the provisions of sections 10(a)(i),10(b)(i), 10(b)(ii), 20 and 38(2) of the UA(P)A, it was submitted that although they were all broadly referred to offences relating to membership of the terrorist organization, but punishment prescribed in all the three provisions are different.

- a. Under section 10(a)(i), a person is liable to be punished with imprisonment for a term which may extend to two years, and shall be liable to fine.
- b. Under section 10(b)(i), a person is liable to be punished with death or imprisonment for life, and shall be liable to fine.
- c. Under section 10(b)(ii), a person is liable to be punished with imprisonment for a term which shall be not less than five years, and shall be liable to fine.
- d. If a person is a member of a terrorist gang or organisation which is involved in a terrorist act, then under section 20 of UA(P)A, such person shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall be liable to fine.
- e. Under section 38(2), a person committing offence relating to membership of a terrorist organisation under sub-section (1) of section 38 shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or both.

12) Accordingly, it was submitted that as different punishments were prescribed for the aforesaid four provisions of sections 10(a)(i), 10(b)(i), 10(b)(ii), 20 and 38(2) of the UA(P)A, the legislative intent was to provide for different punishment having regard to the nature of offence. Accordingly, it is submitted

that it would be a travesty of justice that for merely being a member of a terrorist organization, which was not linked to any particular terrorist Act, a person will suffer life imprisonment under Section 20 of the UA(P)A; but if a person is involved in the activities in furtherance of the object of the terrorist organization, he would suffer imprisonment for a term not exceeding ten years as provided in Section 38(2) of the UA(P)A; and any person who continues to be a member of the unlawful association would suffer imprisonment for a maximum period of two years as prescribed under Section 10(a)(i). Accordingly, it was submitted that the prosecution was required to prove that the appellants were not only members of the proscribed organization i.e. UNLF, but they were also involved in activities of UNLF as provided under sub-clause (i), (ii), (iii) and (iv) of clause (a) of Section 10.

13) It was further submitted that in relation to offence under Section 38 of the UA(P)A, the prosecution had to prove that the appellants had committed offence related to membership of the terrorist organization.

14) It was submitted that in order to convict the appellants under Section 38 of the UA(P)A, the prosecution had to establish (i) that they had either associated themselves or professed to be associated with UNLF with an intention to furtherance of its activities; and that (ii) they had also committed an offence related to membership of the terrorist organization. By referring to the provisions of section 38 of the UA(P)A, it was submitted that the

prosecution must prove that the appellants were involved in a terrorist act.

15) By referring to the judgment in the case of *Arup Bhuyan v. State of Assam*, (2011) 3 SCC 377 (para-8), [hereinafter referred to as *Arup Bhuyan (1)*], it was submitted that an observation was made by the Supreme Court of India to the effect that the TADA Court had convicted the appellant in the said case under Section 3(5) of TADA, which makes mere membership of a banned organization, a criminal act. It was submitted that the said observation was reiterated in a subsequent judgment rendered by the Supreme Court of India in the case of *Indra Das v. State of Assam*, (2011) 3 SCC 380. It was submitted that in the case of *Thwaha Fasal & Ors. v. Union of India*, MANU/SC/1000/2021, decided by the Supreme Court of India dealt with the provisions of Section 20 of the UA(P)A, which is almost *para materia* to the provisions of Section 3(5) of the TADA Act. In the said context, it was submitted that perhaps the decision of *Kalp Nath Rai v. State (through CBI)*, (1997) 8 SCC 732, was not placed before the Court when the aforesaid cases were decided. In the said regard, it was submitted that in para-35 of the case of *Kalp Nath Rai (supra)*, it was held that there are two postulates in section 3(5) of the TADA Act to the effect that firstly, the accused should have to be a member of the terrorist gang or terrorist organization after 23.05.1993, and the second postulate was that the said gang or organization should have been involved in terrorist acts, subsequent to the said date and it was also held that except that

the provision of section 3(5) cannot be used against any person. Thus, it was submitted that the same principle is attracted in the present case in hand.

16) It is also submitted that in the case of *Arup Bhuyan (1) (supra)* was referred to a larger Bench. Accordingly, a 3-Judge Bench of the Supreme Court of India, after examined the decision and in *Arup Bhuyan v. State of Assam & Anr.*, MANU/SC/0294/2023 [hereinafter referred to as *Arup Bhuyan (3)*], and recalled the judgment of the Court reported in the case of (i) *Arup Bhuyan (I)* and (ii) *Indra Das (supra)*.

17) However, it was submitted that in the said case of *Arup Bhuyan (3) (supra)*, though the Supreme Court of India had interpreted the provisions of sections 10(a)(i), 3 and 4 of the UA(P)A, but in the entire judgment, there is no reference to the provisions of sections 3 and 4 of the UA(P)A and accordingly, it was submitted that with all respect, the observation made in the said judgment regarding the provisions of sections 3 and 4 of the UA(P)A, cannot be read as the ratio of the said judgment.

18) The learned Senior Counsel for the appellants had laid stress on paragraphs 14 and 23.2 of the judgment in the case of *Arup Bhuyan (3) (supra)*, and it was submitted that section 20 of the UA(P)A cannot be read to mean that mere membership of a banned organization will incriminate the appellants unless the organisation is involved in a terrorist act. It was submitted that in this case, the prosecution could not prove that the appellants had

committed any act of violence or incited people to violence and did any act intending to create disorder or disturbance of public peace by resort to violence. It was submitted that over and above the membership of a banned organization there must be a *mens rea* required to be established and proved and/or there must be a further overt or covert act. Therefore, for being a member of the terrorist gang or organization, one cannot be punishable with life imprisonment without proving that the appellants were a member of a terrorist organization and that the said terrorist organisation is involved in a terrorist act.

19) In order to explain his submissions, it has been submitted that in the schedule of the UA(P)A, there are 5 listed terrorist organization for the State of Manipur. Accordingly, it was submitted that it cannot be the intention of the legislature that if a terrorist act occurs in the State of Manipur, notwithstanding who is the culprit or which terrorist organization is involved in the terrorist act, all members of all the terrorist organizations were to be arrested and/or charged for committing an offence punishable under various provisions of UA(P)A.

20) It was submitted that in the present case in hand, the Trial Court had held that the appellants were not guilty of any terrorist act and they were acquitted for committing offence under Section 16 of the UA(P)A. However, the appellants were held guilty of being the members of the terrorist organization, but without connecting any of the appellants to commission of any

particular offence.

21) It was also submitted that in para-84 of the impugned judgment, three specific findings were returned by the learned Trial Court, viz., (i) it is not conclusively proved that the appellants had committed any terrorist act; (ii) though there was some evidence that extremist organizations did violence in Manipur, it was held that commission of any terrorist act by the appellants was not proved; (iii) there was no circumstances on record to show any specific terrorist act was committed by the appellants in conspiracy of others on the direction of the leadership of UNLF. Accordingly, it was held that the appellants were not guilty of commission of offence punishable under section 16 of the UA(P)A. It was also submitted that from the finding in paragraph 84 of the impugned judgment, it was held that A-6 to A-19 were not involved in any terrorist activity for which the accused were charged.

22) It was submitted that it is only by way of inference that the appellants have been held to be the members of UNLF. In this regard, it was submitted that the prosecution had placed heavy reliance on a series of e-mails and attachments to the e-mails to prove that the appellants were members of UNLF, a terrorist organization. In this regard, the learned Trial Court had heavily relied on the evidence of PW nos. 9, 17, 39, 61 and 63. In the said context, it was submitted that the PW nos. 69 and 63 were the employees of PW-39 and therefore, the learned Trial Court had not

discussed the evidence of the said PW nos. 61 and 63. Accordingly, it was submitted that in his argument he was not referring to the evidence of PW nos. 61 and 63.

23) In the context of the finding of the learned Trial Court in paragraph 84 of the impugned judgment, it was specifically held that the appellants were not guilty of committing any terrorist act and hence, they were not convicted of commission of offence punishable under Section 16 of the UA(P)A. Nonetheless, in paragraph 83 of the impugned judgment, it was held that the appellants were the members of UNLF, which is a terrorist organization. In the said context, it was submitted that the learned Trial Court did not refer to any evidence that UNLF had committed any terrorist act. Moreover, it was submitted that the finding in this case is that the appellants for whom he was submitting, were members of UNLF, was only on the basis of surmises and conjectures. It was submitted that none of the prosecution witnesses, including PW nos. 9, 17 and 39, had proved that the appellants were connected with any criminal or terrorist act.

24) By referring to the definition of the word "document", as provided in sections 3, 59, 65A and 65B of the Evidence Act, 1872, it was submitted that the e-mails and their attachments (Ext.5 and Ext.115), being inadmissible in evidence, could not have been relied upon by the learned Trial Court. Moreover, it was submitted that the said exhibits were not proved in accordance with law. It was submitted that the certificate issued by Satheesh Chand (PW-

53) purportedly under section 65B(4) of the Evidence Act, 1872, lacked any reference to the manner of how the said e-mails and attachments were printed. Accordingly, it was submitted that the said section 65B(4) certificate was valid only for downloading of the e-mails, and the said lapse in evidence was not considered by the learned Trial Court. It was submitted that although there is evidence to show that the laptop, pen-drive of A-18 and A-19 were seized, but the prosecution did not make any endeavour to prove that those e-mails were accessed by the use of those seized laptops and/or mobile phones of the said accused nos. 18 and 19.

25) In the said context, it was submitted that the prosecution had built-up a case against the appellants, amongst others, on the strength of *disclosure statement* (Ext.111) of M. Joy Singh (A-18). By referring to the *recovery memo* (Ext.112) of A-18, it was submitted that the said exhibit was for e-mails that were downloaded from one out of his two e-mail addresses i.e. greenplate09@ gmail.com.

26) It was submitted that M. Joy Singh (A-18) had given his disclosure statement (Ext.111). A recovery memo under section 27 of the Evidence Act, 1872 (Ext.112) was prepared on the basis of statement made by A-18. Satheesh Chand (PW-53) had exhibited a certificate (Ext.114) issued under section 65B of the Evidence Act, 1872 to the effect that the computer installed at NIA Office, New Delhi, using which data were recovered on the disclosure by A-18 was under his technical control and supervision. The said

PW-53 had stated that M. Joy Singh (A-18) was brought to his office on 19.11.2010 and his computer was provided to him. He opened his e-mail account greenplate09@ gmail.com with his password and the e-mails from inbox, outbox, sent items and draft was downloaded by A-18. Thereafter, PW-53 copied all those e-mails and attachments on to a new sterile hard disk to be forwarded to forensic laboratory for the purpose of examination. PW-53 had exhibited e-mails, which were marked as Ext. 115 series (further marked as E/1 to E/156) by projecting that those were print-out of e-mails.

27) It was submitted that the prosecution had not proved any certificate under section 65B of the Evidence Act, 1872 in respect of the print-outs i.e. Ext.115 series.

28) In the aforesaid context, it was submitted that the learned Trial Court had failed to appreciate that as per the evidence of Surinder Singh Bakshi (PW-79), the original e-mails were in *Meitei* language of Manipur. It was submitted that the learned Trial Court had not stated in the impugned judgment that the Court knew and could read *Meitei* language of Manipur. Nonetheless, by referring to the exhibited e-mails (Ext.5 series and Ext.115 series), it was submitted that the said exhibited documents were the English translated version of e-mails. However, there was no evidence on record regarding the correctness or reliability of those e-mails.

29) It was submitted that the prosecution version was that

the e-mails were translated by one Assistant Professor at Bangalore, who was projected to be well versed with *Meitei* language of Manipur. But the prosecution did not disclose his name or particulars before the learned Trial Court. Accordingly, it was submitted that in the charge-sheet, the said person was referred to as "Protected Witness no. 80", but during trial the prosecution had not examined the said "Protected Witness no. 80". It was submitted that the copy of the previous statement of the "Protected Witness no. 80" was not provided to the accused persons during trial. Moreover, it was submitted that in trial, the original e-mail in *Meitei* language or secondary evidence of their contents were also not proved by the prosecution. It was further submitted that English translated copies of the e-mails (Ext.5 series and Ext.115 series) were neither a primary nor a secondary evidence of the original e-mails, which were in *Meitei* language. Hence, it was submitted that the entire Ext.115 series were inadmissible. By referring to a certificate issued by the Protected Witness No. 80 (Ext.185), it was submitted that the said certificate does not bear any signature and was not proved by its author. In this regard it was submitted that Surinder Singh Bakshi (PW-79), who had exhibited Ext.185, had admitted in his cross-examination that *"It is true that no mention was made in Ext.185/1 to Ext.185/13 about the person who translated the e-mails from Meitei (Manipuri language) to English."*

30) By referring to the evidence of PW-3 and PW-4, it was submitted that the said witnesses were also protected witnesses,

but they were produced before the learned Trial Court and they were duly cross-examined by the appellants and other accused persons. However, the prosecution had not assigned any reason for not examining "Protected Witness no. 80" during trial. Hence, it was submitted that the trial and conviction of the appellants was vitiated because the learned Trial Court had relied on Ext.185, though its author was not examined by the prosecution.

31) It was submitted that the learned Trial Court had justified the acceptance of English translated e-mails by holding in paragraph 42 of the impugned judgment to the effect that the accused are Manipuri and they could have raised objection if the translation was incorrect. Accordingly, it was submitted that the learned Trial Court had failed to appreciate the well settled legal position that the electronic evidence could only be proved in accordance with the prescription of section 65B of the Evidence Act, 1872 and reverse burden could not be shifted to the appellants to prove that Ext.5 series and Ext.115 series was not correctly translated.

32) It was submitted that in respect of an electronic document, its admissibility is the first point to be decided and its reliability would be the second point to be decided.

33) In connection with electronic evidence, reliance was placed on the case of *Central Bureau of Investigation v. V.C. Shukla*, (1988) 3 SCC 410 (para 15, 17).

34) The following cases were also cited, being (i) *Union of India v. Raneef*, (2011) 1 SCC 784 (para 10), (ii) *Arun Bhuyan v. State of Assam*, (2011) 3 SCC 377, (iii) *Indra Das v. State of Assam*, (2011) 3 SCC 380, (iv) *Kalp Nath Rai v. State (through CBI)*, (1997) 8 SCC 732, (v) *Thwaha Fasal & Ors. v. Union of India*, (2021) 0 Supreme (SC) 650.

II. **Submissions on individual appeals:**

(i) **Crl. Appeal No. 262/2016: Sougaijam Rakesh Singh @ S. Rakesh Singh (A-6):**

35) Sougaijam Rakesh Singh @ S. Rakesh Singh (A-6) is the appellant in Crl. Appeal no. 262/ 2016. He was convicted under Section 18 and 20 of UA(P)A and section 121A IPC. The sentence awarded to him has been referred in the chart at para-6 above.

36) It was submitted that from the evidence of the PWs, the identity of A-6 could not be proved. Although PW nos. 9 and 17 have stated the name of "Rakesh", but no evidence was tendered to show that the said "Rakesh" was the accused no. 6, whose name was taken by Nongthombam Premchand (PW-9) and M.C. Arun (PW-17). It was also submitted that from the conjoint reading of evidence of PW-9 and PW-17, there is no evidence that A-6 was a member of UNLF.

37) It was submitted that the evidence of M.C. Arun (PW-17) was referred for showing that he had met A-6 at Bangkok. In the said context, it is submitted that the passport of PW-17 was not

exhibited through him. However, the passport of A-6 (Ext.143) was exhibited by one Ramananda Sairemcha (PW-69), who was a travel agent and the prosecution did not prove that he was the custodian of the passport of A-6. Nonetheless, the said PW-69 had not exhibited the relevant entry of A-6, visiting Bangkok. Moreover, the passport or any other document of A-6 regarding his visit to Bangkok was not proved by the prosecution. Hence, it was submitted that the visit of A-6 to Bangkok was not proved by the prosecution.

38) It was submitted that the evidence of Nongthombam Premchand (PW-9) was misread and misconstrued by the learned Trial Court. In this regard, it was submitted that in paragraph 70 of the impugned judgment, the learned Trial Court had wrongly recorded to the effect that A-6 had proposed to bear the expenses of PW-9.

39) The examination-in-chief of Ng. Robert Singh (PW-39) was read to show that the said PW had made a general allegation that they were required to pay all the underground organisations including UNLF. However, in his cross-examination, PW-39 had stated that he cannot say if the members of UNLF cadre demanded money from his family members or his firm. Moreover, PW-39 had admitted that a sum of Rs.60.00 lakh, invested by A-6 in his firm, was his personal money and not related to UNLF. Thus, it was submitted that this was a case of no evidence against the appellant. It was also submitted that while convicting the

appellant, the learned Trial Court had either misread or misconstrued the cross-examination of PW-39.

40) By referring to (i) the evidence of PW-39; (ii) cash production memo (Ext.87), and (iii) order dated 18.08.2011 (Ext.88), passed by the Designated Authority, Ministry of Home Affairs, Govt. of India, regarding retention of seized money, it was submitted that as the order of retention of money was passed after 48 hours from the time of its seizure and therefore, as per the provisions of section 25(2) of UA(P)A, the retention of money was illegal.

41) It was also submitted that in his evidence, Ng. Robert Singh (PW-39) had disclosed to the effect that on being asked by the I.O., he had withdrawn a cash amount of Rs.17.00 lakh from his bank account, which was produced by him and handed it over to the I.O. Accordingly, it was submitted that PW-39 had withdrawn his personal money from his own bank account, which the prosecution is projecting as if the said amount formed a part of Rs.60.00 lakh claimed by PW-39 to be invested by A-6. It was submitted that from the cross-examination of PW-39, it was clear that no part money invested by A-6 allegedly belonged to UNLF. It was submitted that from the evidence of PW-39, it was evident that the Designated Authority, vide order dated 18.08.2011 (Ext.88), had directed PW-39 to submit his objection, if any, as to why such money should not be retained/ forfeited. Thus, no such notice was served on A-6. By referring to the cross-examination of

PW-39, it was submitted that the said witness had admitted that a sum of Rs.17,00,000/- (Rupees seventeen lakh only) was withdrawn by him from bank at Delhi and handed it to Swayam Prakash Pani, I.O. (PW-84), who had thereafter seized that money vide production memo (Ext.87), prepared at Delhi. PW-39 had denied that the said money was seized from A-6.

42) It was submitted that Ext.92(2) is a *kucha* slip, exhibited by PW-39. The said document purportedly containing handwriting of PW-39 was neither shown to him nor was it proved by him. It was projected that by the said writing, PW-39 had recorded that a sum of Rs.17,00,000/- was due to A-6.

43) It was also submitted that the *kucha* cash book (Ext.91) are loose slips, which was a manufactured document and cannot be said to be a part of books of accounts within the meaning of Section 34 of the Evidence Act, 1872 and as such it could not have been read in evidence by the learned Trial Court. It was submitted that during the examination of A-6 under section 313 CrPC, he was not examined on Ext.91 series or in respect of cash of Rs.17,00,000/- that was withdrawn from the bank by A-6 and handed over to the I.O. (PW-84).

44) It was submitted that A-6 was acquitted of charges of committing offence under section 120B IPC and therefore, on the same set of evidence, A-6 could not have been held to be guilty of committing conspiracy under Section 121A IPC. Thus, it was submitted that though the learned Trial Court had exonerated A-6

of conspiracy under section 120B IPC, without any proof that some terrorist act, whatsoever, was committed either by A-6 or by the UNLF, the appellant was wrongly convicted under section 18 of the UA(P)A. Therefore, it was submitted that the conviction of A-6 for committing offence punishable under section 121A IPC and section 18 of the UA(P)A was perverse and not sustainable on facts and in law.

45) It was submitted that vide two seizure memo i.e. Ext.46 and Ext.47, no recovery was made from A-6. By referring to paragraphs 27, 47, 56 to 63 and 86 of the impugned judgment, it was submitted that the evidence of PW-7 does not implicate A-6 in any way.

46) It was submitted that in paragraph 52 of the impugned judgment, it was held by the learned Trial Court that the e-mails proved that A-5 to A-18 were involved with UNLF. In the said context, it was submitted that if the said finding is upheld by this Court, then it would mean that if two persons exchange e-mails and say that 'A' has murdered 'B', there would be no necessity for the prosecution to find the dead body or to prove that 'A' had murdered 'B', and the e-mail authored by 'Y' and sent to 'Z' would become an admissible evidence against 'A'. Moreover, it was also reiterated that none of the e-mails (Ext.5 and Ext.115) were proved as per the requirement of section 65B of the Evidence Act, 1872 and thus, those exhibits ought to have been rejected by the learned Trial Court.

47) Hence, it was submitted that the conviction of A-6 was required to be set aside.

(ii) **Crl. Appeal No. 263/2016: Sinam Gune Singh @ S. Gune Singh (A-11):**

48) Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy, the appellant in Crl. Appeal No. 263/2016 is A-11. He was found guilty of commission of offence punishable under sections 18 and 20 of UA(P)A and section 121A of the IPC. The sentence awarded to him is mentioned in the Chart at para-6 above.

49) It was submitted that A-11 had served out his sentence and has since been released after about 7¹/₂ years.

50) It was submitted that though there is no oral evidence against A-11, but as his name was mentioned in some of the e-mails Ext.115/51, Ext.115/72, Ext.115/178, and Ext.115/705, and Ext.115/714, he was convicted. It was submitted that Ext.115/714 is not available in the paper-book.

51) The submissions on non-admissibility of the e-mails in evidence have been reiterated herein, which is not replicated herein. Once again, the case of *Arjun Panditrao Khotkar (ibid.)* was cited.

52) It was submitted that in the charge-sheet the name of the appellant is *Sinam Gune Singh @ Boy @ Wanglen @ Little Boy*, and the same name also appears in the form of charge explained

to the appellant by the learned Trial Court. But in Ext.5, proved by PW-5, in the column under heading "Lt. Col.", at serial no.5, the name of person arrayed as A-11 is mentioned as *Lt. Col. Sinam Wanglen @ Guneshwar*.

53) Accordingly, it has been submitted that as the identity of the appellant was not proved and established by the prosecution, this was a case of prosecution under mistaken identity.

54) By referring to the evidence of M. Baskar (PW-5), it was submitted that the list of officers (five sheets) as well as the attachments to the e-mail (Ext.5 series) were proved without any certificate as required under section 65B(4) of the Evidence Act, 1872. By referring to one of the two documents marked as Ext.18(7), it was submitted that the said page contains three photographs and the document is a print-out of the Officers of UNLF, which contains the photograph in the name of Lt. Col. Sinan Wanglen @ Guneshwar. It was submitted that the sample photograph with which the three photographs (Ext.18/7) was compared, was not exhibited.

55) Moreover, it was submitted that the photographs were not taken on the strength of the order passed by any Magistrate. It was also submitted that A-11 was not examined under section 313 CrPC on his alleged downloaded photographs or his compared photographs.

56) It was submitted that in paragraphs 83, 85, 96, 97 and 98

of the impugned judgment, the learned Trial Court has made discussion regarding the appellant (A-11), which would show that the conviction was based on e-mails allegedly retrieved from e-mails of A-18 and A-19.

57) Hence, it was submitted that the conviction of A-11 was required to be set aside.

58) It was further submitted that K. Radha Kumar Singh (PW-75) had exhibited the forwarding letter and NSA dossier in his evidence. In this regard, it was submitted that a NSA dossier is a unilateral document of the authorities, which is similar to entries made in case diary, which is not admissible in evidence. It was also submitted that perhaps NSA dossier is prepared by the Executive, which cannot be considered as a proof against A-11. In this regard the judgment of *Haradhan Saha v. The State of West Bengal & Ors.*, (1975) 3 SCC 198 (para-19) was cited to show the purpose of passing detention order under NSA.

(iii) **Crl. A. No. 264/2016 - Oinam Maniton Singha (A-15):**

59) It was submitted that the A-15 was charged of committing offence punishable under section 20 of UA(P)A, but there is no oral evidence against him, but only because his name appears in some e-mails, disclosed by the accused nos. 18 and 19, the appellant was convicted.

60) Hence, it was submitted that the conviction of A-15 was required to be set aside.

(iv) **Crl. A. No. 265/2016- W. Noren Singh @ W. Noren Meetei (A-8):**

61) Wayembam Noren Singh @ W. Noren Meetei (A-8) was convicted for committing offence punishable under section 20 and 18 of UA(P)A and 121A IPC.

62) It was submitted that no oral evidence was led in respect of the appellant and he was convicted only on the strength of his name appearing in some e-mails. By referring to the evidence of M. Baskar (PW-5), it was submitted that the list of officers (five sheets) as well as the attachments to the e-mail were proved without any certificate as required under section 65B(4) of the Evidence Act, 1872. Referring to Ext.5/2 to Ext.5/6, which is a print-out of an e-mail purportedly containing a list of Officers of UNLF with photographs including one in the name of Maj. Wahengbam Toiba at serial no.8. It was also submitted that the sample photographs with which the photograph at e-mail was compared was not proved. It was also submitted that usually specimen signature of a concerned party is taken before a Magistrate and then sent for forensic examination of the questioned document, but in this case the said procedure was not followed.

63) It was submitted that in the charge sheet, the name of A-4 is mentioned as "Wayenbam Noren Singh @ Toiba", but the said name does not tally with the list of officers downloaded and proved by the prosecution witnesses as Ext.5 series. Moreover, it

was submitted that the appellant was not examined under S.313 CrPC on his alleged photograph.

64) Hence, it was submitted that the conviction of A-8 was required to be set aside.

(v) **Crl. App. 291/2016 – Y. Brajabridhu Singh (A-24):**

65) Y. Brajabridhu Singh (A-24), the appellant in Crl. Appeal No. 291/2016 was the Executive Member of AEGIS. He has been convicted for committing offence punishable under section 20 of UA(P)A and sentenced to undergo imprisonment for a term of 7 years and to pay a fine of Rs.10,000/- with default sentence. He was also convicted for committing offence punishable under section 21 of UA(P)A and sentenced to undergo imprisonment for a term of 7 years and to pay a fine of Rs.20,000/- with default sentence. The sentence of imprisonment was to run concurrently. It was submitted that the conviction of A-24 under section 20 of UA(P)A was only on the basis of e-mails and there is no oral evidence against him. Moreover, it was submitted that the conviction under section 21 of the UA(P) A was on the basis of surmises and conjectures alone.

66) It was submitted that the main charge appears to be against AEGIS as it was alleged that AEGIS was a front company administered by UNLF. In the said context, it was submitted that A-24 was only an employee of AEGIS and the said society is registered under the Societies Registration Act, 1860. It was

further submitted that the State of Manipur had enacted Manipur Societies Registration Act, 1989 and thus, AEGIS, which was registered in the year 1985, is deemed to have been registered under the said Manipur Societies Registration Act, 1989. By referring to the Rules and Regulation of the Society, it was submitted that under clause-19 thereof, the affairs of AEGIS is under the control of the Governing Body/ Managing Committee and all powers as well as properitorial rights vested in the Governing Body. It was submitted that though the prosecution was aware that AEGIS was a registered Society, but for the reasons not proved by the prosecution, AEGIS, the employer of A-24 was not prosecuted.

67) It was submitted that it is not the allegation against A-24 that in his personal capacity he is anyway involved in the activities of UNLF and therefore, there was no iota of evidence against A-24.

68) It was submitted that investigation was done in the basis of documents collected from the Imphal Urban Cooperative Bank (IUCB for short) and Chartered Accountant of AEGIS. However, from the documents collected from them, the prosecution could not prove that either AEGIS or A-24 was involved in any unlawful and/or terrorist activity. In this regard reference had been made to sanction letters (Ext.48, Ext.49 and Ext.51). By referring to Ext.50, Ext.51(series), Ext.52 (series), Ext.53 (series), Ext.54 (series), Ext.55 (series) and Ext.56 (series), it was submitted that the documents disclose that loan of Rs.50.00 lakh was taken by AEGIS

against fixed deposit of Rs.65.00 lakh as security to the Bank and the loan was returned within 14 days by liquidating the fixed deposits. In this regard, the evidence of Rakesh Kumar Jain (PW-24) was referred to. It was submitted that the learned Trial Court had misread and misconstrued the evidence of Rakesh Kumar Jain (PW-24) and had given an erroneous finding to the effect that A-24 was involved with UNLF without considering the evidence on record that the loan obtained by AEGIS was repaid by liquidating the fixed deposit of the said society. It was also submitted that the said PW-24 had stated that "*some of the contributions were not supported by proper documents*", but, in paragraph 54 of the impugned judgment, those words were as misread and misconstrued and wrongly mentioned to the effect that "*large amount of contributions were not supported by documents and he found several other anomalies*". By referring to Utilisation Certificate issued by the PW-24, it was submitted that the said certificate discloses that funds were received by AEGIS from the Government. Accordingly, it was submitted that a presumption has to be drawn that the State Govt. and the Union Govt. never considered AEGIS to be an unlawful organisation.

69) By referring to the Disclosure Statement of R.K. Meghen (A-19) (Ext.166), it was submitted that from the said document it is clear that 1 (one) out of 3 (three) e-mail addresses could not be opened. Certain print-outs were taken out from the e-mail address of enterprisedkay@gmail.com, but those e-mail print-outs were not proved in accordance with law. It was submitted that on a

flimsy ground that the witnesses were getting late, e-mails were downloaded in the computer and then transferred to a sterile hard disk, which was sent to Chandigarh. It was submitted that the e-mails exhibited as Ext.190 to Ext.195 were proved by D.P. Gangwar (PW-44). The other e-mails were printed at Chandigarh.

70) It was submitted that Siba Prasad Mohanty (PW-74) had exhibited certificate (Ext.168) under section 65B of the Evidence Act, but the said certificate only certifies the downloading and does not certify the process of its print-out. It was also submitted that the hard disk data was downloaded in a DVD-R and the print-outs were made from the DVD-R, but there is no certificate either for the contents of the DVD-R or in respect of the print-outs. Accordingly, it was submitted that the documents exhibited by N. Baskar (PW-5) were without any certificate under section 65B(4) of the Evidence Act and were copies of secondary evidence, which was not admissible in evidence.

71) Evidence of B. Haridas Sarma (PW-43) was read and it was submitted that his evidence was insufficient to convict the appellant.

72) It was submitted that AK Ibochouba Singh (PW-23) had stated that loan was taken by the AEGIS and returned, which was misinterpreted in paragraph 54 of the judgment by holding to the effect that *"the said witness had further stated that large amount of the contributions were not supported by documents and he found several other anomalies."*

73) Hence, it was submitted that the conviction of A-24 was required to be set aside.

Submissions of the learned counsel for the remaining appellants:

(vi) **Crl. A. 165/2016 - Landhoni Devi (A-14):**

74) Mrs. Landhoni Devi (A-14) is the wife of Khwairakpam Jeeten Singh (A-10). It may be mentioned that the name of Khwairakpam Jeeten Singh is also mentioned in some places as Jeeten Singh and Kh. Jeeten Singh. He has been convicted for committing offence punishable under section 20 of UA(P)A and sentenced to undergo imprisonment for 7 years with fine of Rs.10,000/- with default sentence in the event of non-payment.

75) It was submitted by the learned counsel for the said appellant that although Phanidhar Das (PW-15) had stated that Jeeten (A-10) had stayed in his rented house, but during examination of A-14 under section 313 CrPC, he was not examined on that part of the evidence of PW-15. It was submitted that the only material against A-14 was that she was residing at a rented accommodation with Jeeten (A-10) by concealing their identity. In his examination-in-chief, Phanidhar Das (PW-15) had stated that Jeeten (A-10) told him that he would stay with his wife also. Thus, it was submitted that there was no incriminating material against A-14 in the evidence of Phanidhar Das (PW-15).

76) By referring to the evidence of M.C. Arun (PW-17), it was

submitted that in his examination-in-chief, he had stated that his younger sister i.e. A-14 had eloped with Jeeten (A-10), a UNLF member and that except for that statement by PW-17, there is no other corroborative evidence to prove that A-14 was a member of UNLF.

77) Hence, it was submitted that the conviction of A-14 was required to be set aside.

(vii) **Crl.A.289/2016 - Oinam Samarjit Singh @ Naresh @ Kadeng (A-7):**

78) Oinam Samarjit Singh @ Naresh @ Kadeng (A-7) was convicted for committing offence punishable under sections 18 and 20 of UA(P)A as well as under section 121A IPC. His sentence is morefully referred in the chart appended to para-6 above. It was submitted that he has served out his sentence by undergoing imprisonment of nearly 7½ years and has since been set at liberty.

79) It was submitted that Indubhusan Kongkham (PW-7) had stated in his evidence-in-chief that A-7 had told him that he had become a member of UNLF and he had asked PW-7 to join UNLF. However, it was submitted that A-7 was not examined under Section 313 CrPC on that piece of evidence. It was submitted that the travel of A-7 to China, Nepal and Bangkok was not proved by the prosecution. The passport of A-7 was not seized and no documentary evidence was proved by any prosecution witnesses that A-7 had travelled to these three Countries with an intention to

procure arms, ammunitions, etc. It was submitted that Indubhusan Kongkham (PW-7) had exhibited a photograph of A-7 at Kathmandu, which does not prove that A-7 had committed any offence or that he was a member of UNLF. As per the statement of Indubhusan Kongkham (PW-7) in his examination-in-chief, he had met Nongyai (A-18) in the lobby of a hotel, who introduced PW-7 to Mr. Lancha, Mr. Thabal (A-20) and Mr. Sakhen. PW-7 was asked to have tea at the lobby. He had further stated that all of them went together to an adjoining room of the lobby and after having tea and waiting for 30 minutes, PW-7 went towards the room where they were talking and opened the door a little bit but did not enter. PW-7 had stated that all of them were in confusion and were shouting at one another and they were talking in English about purchase of AK-47, RPG, M-21 and about military training of UNLF cadre at China. It was submitted that the said PW-7 had not proved the date and time; name and address of hotel where he had heard all persons including A-18, A-20 shouting about purchase of arms and for giving training to UNLF cadre at China. The PW-7 had also not stated that name of the hotel, room number and address of hotel where he was staying. Thus, the learned counsel for A-7 has submitted that PW-7 was a peeping tom, whose evidence is devoid of any credibility.

80) By referring to the answer of A-7 in respect of question no. 18 during examination of A-7 under section 313 CrPC, which was based on the evidence of PW-75, it was submitted that the A-7 had answered that the detention order against him was

dismissed by the Advisory Board.

81) By referring to Seizure Memo (Ext.32 series), it was submitted that the said documents relating to travel of PW-7. However, it was submitted that no travel document relating to A-7 was called or proved. By referring to the finding of the learned Trial Court in paragraph 62 of the impugned judgment, it was submitted that in his evidence Indubhusan Kongkham (PW-7) had stated that in the year 2008, he had gone to China and met Ms. Cheng, General Manager of Chengdu Source Management Consultants Company Ltd. PW-7 had also stated that in the later part of the year 2008, he had met his friend Oinam Samarjit Singh (A-7) at Guwahati, who had introduced him to Dilip Singh @ Mani (A-16) and discussed about sending students to China. PW-7 had also stated that in Kathmandu, he had met Mr. Chen @ Alex and he had also met M. Joy Singh @ Nongyai (A-18) and Thabal (A-20), but he had not uttered the name of A-7. Hence, it was submitted that the evidence of the I.O. (PW-80) cannot be said to be reliable.

82) It was also submitted that there was no iota of evidence that PW-7 was accompanied by A-7. It was submitted that PW-7 is one of the star witness for proving the theory of conspiracy under Section 121(A) IPC. It was submitted that it is preposterous that PW-7 was able to open a hotel room from the corridor outside that hotel room and he had overheard two persons including A-18 and A-20 shouting at each other regarding purchase of AK-47, RPG, M-

21 and also about military training of UNLF cadres in China. However, it was submitted that the prosecution had failed to prove (a) the entry of A-16, A-18 and A-20 into China, (b) the name and address of the hotel and relevant room numbers, as well as (c) the date and time when PW-7 had over-heard A-18 and A-20. Therefore, it was submitted that no offence relating to any conspiracy whatsoever involving A-7 was even remotely made out.

83) It was submitted that as per para-86 of the impugned judgment, A-7 was acquitted of committing offence punishable under section 120B IPC. Hence, it was submitted that as the allegation of conspiracy under section 120B IPC could not be proved, the allegation of conspiracy would also stand disproved in respect of alleged offence under section 20 UA(P)A and for offence under section 121A IPC.

84) Hence, it was submitted that the conviction of A-7 was required to be set aside.

(viii) **Crl.A. 113/2017- Ningombam Dilip Singh @ Ibochou @ Mani (A-16):**

85) A-16 was convicted for committing offence under section 18 of the UA(P)A and sentenced to undergo imprisonment for 8 years and to pay a fine of Rs.10,000/- with default stipulation. He was also convicted for committing offence punishable under section 20 of the UA(P)A and sentenced to undergo rigorous imprisonment for 7 years and to pay a fine of Rs.10,000/-. He was

also convicted for committing offence punishable under section 121A of the IPC and sentenced to undergo imprisonment for a term of 10 years and to pay a fine of Rs.10,000/-. The sentence of fine was with a default stipulation.

86) It was submitted that A-16 had served out sentence of about 7¹/₂ years and has since been released.

87) By referring to the examination of A-16 under section 313 CrPC., it was submitted that A-16 was not examined on the point as to whether he had gone to China. It was submitted that except for the oral evidence of PW-7 and e-mails (Ext.115), which were not proved in accordance with law, there is no adverse evidence against A-16.

88) Hence, it was submitted that the conviction of A-16 was liable to be set aside.

(ix) **Crl.A. 115/2017 - Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10):**

89) It was submitted that Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10) was convicted for committing offence punishable under section 17 of the UA(P)A and sentenced to undergo rigorous imprisonment for 7 years and fine. He was also convicted for committing offence punishable under section 18 of the UA(P)A and sentenced to undergo rigorous imprisonment for a period of 8 years and to pay a fine of Rs.10,000/-. He was also convicted for committing offence punishable under section 20 of

the UA(P)A and sentenced to undergo rigorous imprisonment for 7 years and to pay a fine of Rs.10,000/-. He was also convicted for committing offence punishable under section 121A of the IPC and sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.10,000/-. The sentence of fine was with default stipulation.

90) It was submitted that A-10 had served out sentence of about 7¹/₂ years and has since been released.

91) It was submitted that during trial, the name of A-10 was mentioned as Kh. Jiten Singh and his name was also spelt as Khwairakpam Jeeten Singh in some places.

92) It was also submitted that A-10 has served out his sentence by undergoing imprisonment for about 7¹/₂ years and has since been set at liberty.

93) It was submitted that the evidence against A-10 was given by PW nos. 15, 17, 26, 34, 38, 57, 67 and 75. It was submitted that the learned Trial Court had held in para-85 of the impugned judgment that there was enough evidence against A-10, as discussed in paragraphs 27, 46, 56 to 61, 62, 63, 65 and 66 to prove that A-10 was guilty under section 18 of the UA(P)A and under section 121A of the IPC. It was further held that appreciation of evidence, as done in paragraphs 71 to 78 of the impugned judgment proved beyond all reasonable doubt that A-10 was guilty under section 17 of the UA(P)A.

94) In this regard, it was submitted that on conjoint reading of the examination-in-chief of the said witnesses and their cross-examination would show that the learned Trial Court had misread and misconstrued the evidence of the PWs.

95) It was submitted that M.C. Arun (PW-17) had stated in his examination-in-chief that his sister Landhoni Devi (A-14) had eloped with Jeeten Singh (A-10), a member of UNLF.

96) It was submitted that L. Momon Singh (PW-34), SI of Police had stated in his examination-in-chief that Khwairakpam Jiten @ Khomba Singh (A-10) and two others were arrested in connection with FIR dated 27.05.1996, being Heingang Police Station Case No. 63(5)/96, under sections 121/121A IPC and section 25(1-B) of the Arms Act, and section 13 of UA(P)A. However, in his cross-examination the said PW-34 had stated that he had no idea whether the charge-sheet was submitted against A-10 before the Trial Court or not and he had also stated that he did not know about the identity of the accused persons. He had also stated that he had no idea whether any case is pending against him or not

97) By referring to the evidence of Laitonjam Rupa Singh (PW-26), it was submitted that he had only stated that he did not pay any money to Indramoni, but he and one Jiten belonging to UNLF had collected money from nominee. For the transport of rice. It was submitted that PW-26 did not identify A-10. PW-26 had also stated that Jiten forced him to deposit money collected

from nominee in his bank account amounting to Rs.40/50 lakh. On receiving phone call from UNLF, he had handed over the money to Ranjit by cheque. PW-26 had also stated that he can identify Ranjit and Jiten, but he had not seen them in Court.

98) Referring to examination of A-10 under Section 313 CrPC, it was submitted that A-10 was not asked any question with regard to his identity. It was also submitted that question no.10 is related to the evidence of PW-17 to the effect that Jeeten (A-10) was a member of UNLF. However, under section 313 CrPC., A-10 was not examined on that point. Hence, it was submitted that the said statement of PW-17 cannot be relied upon by the prosecution. It was also submitted that the evidence of O. Ibomcha Singh (PW-57) also does not implicate A-10.

99) It was submitted that on 29.08.2013, Kh. Jeeten Singh (A-10) was present in the Trial Court and Laitonjam Rupa Singh (PW-26) was examined by the prosecution on the said date. However, in his deposition, PW-26 had stated that he did not see Jeeten in Court. Therefore, it was submitted that in this case Jeeten (A-10) was not the accused, but it was someone else.

100) It was submitted that during his examination under section 313 CrPC., A-10 was asked question no.13, which was based on the evidence of Laitonjam Rupa Singh (PW-26). However, he said witness did not identify A-10 in the dock, his evidence cannot implicate A-10. In continuation to the issue relating to identification of A-10, the learned counsel for the said

accused had referred to that part of the evidence of O. Ibomcha Singh (PW-57), where he had referred to another person named Th. Jiten Singh. Hence, it was submitted that the prosecution had failed to prove that A-10 was the alleged accused in this case.

101) It was submitted that while examining A-10 under section 313 CrPC., he was put question no. 10, which was based on the evidence of M.C. Arun (PW-17), but the learned Trial Court did not refer to that part of evidence of PW-17 wherein he had stated that his sister had eloped with Jeeten, a member of UNLF. Hence, it was submitted that the appellant could not have been held guilty of having membership of UNLF on the basis of oral evidence of PW-17.

102) Hence, it was submitted that the conviction of A-10 was required to be set aside.

(x) **Crl.A. 145/2017 - Mutum Ibohal Singh @ Ngamba @ Sanjay (A-12):**

103) Mutum Ibohal Singh @ Ngamba @ Sanjay (A-12) was convicted for committing offence punishable under sections 18 and 20 of the UA(P)A and sentenced to undergo rigorous imprisonment for 8 years and 7 years respectively and to pay a fine of Rs.10,000/- each for both the offence. He was also convicted for committing offence punishable under section 121A of the IPC and sentenced to undergo imprisonment for a term of 10 years and to pay a fine of Rs.10,000/-. The fine was with default stipulation.

104) It was submitted that A-12 had served about 7½ years of sentence and had since been released. He was arrested on 19.08.2010 in connection with Noonmati PS case no.159/2010 along with other co-accused.

105) It was submitted that the prosecution has relied on evidence of Satheesh Chand (PW-53) and Siba Prasad Mohanty (PW-74), who had retrieved the e-mail on disclosure by M. Joy Singh (A-18) and R.K. Meghen (A-19). D.P. Gangwar (PW-44) had compared the photograph downloaded from e-mail (Ext.115) with the sample photograph of A-12. It was submitted that except for the e-mails, which was not proved in accordance with law, there is no other incriminating material against A-12. It was submitted that the e-mails exhibited by the prosecution were not admissible as the said e-mail was not supported by a certificate as required under section 65B(4) of the Evidence Act, 1872. By referring to the e-mails (Ext.5 series), it was submitted that the name Maj. Mutum Ngamba @ Iboham appears at serial no.7, which is not the name in which A-12 was tried. By further referring to FSL report (Ext.204), and the photograph examination report dated 30.09.2011 of Maj. Mutum Ngamba @ Iboham, being document Q.2 before FSL, it was submitted that the sample photographs were not exhibited and in this connection. Hence, it was submitted that the conviction of A-12 was required to be set aside. Be it stated that in the list of Major (Ext.5/2), the name of A-12 is spelt as "Mutum Ngamba @ Ibohal" and not as "Mutum Iboham @ Ngamba @ Sanjay", the name against which charge-sheet was

submitted and/or the name of accused to whom charges were read over and explained.

(xi) **Crl.A. No. 299/2016- Laurenbum Jatishor Singh @ Tilemba (A-17):**

106) Laurenbum Jatishor Singh @ Tilemba (A-17) was convicted for committing offence punishable under sections 20 and 18 of UA(P)A and under section 121A of the IPC and he was sentenced to undergo imprisonment for 7 (seven) years, 8 (eight) years and 10 (ten) years respectively and to pay a fine of Rs.10,000/- each, with default stipulation.

107) It was submitted that A-17 has been released after serving sentence of about 7½ years. He was arrested in connection with Noonmati PS case no.159/2010 along with other co-accused.

108) It was submitted that A-17 was convicted on the basis of evidence of PW nos.17, 44, 53 and 74. In respect of A-17, the submissions made by the learned counsel in respect of A-12 were reiterated.

109) It was submitted that the prosecution had examined Smti. Laurembam Ibeyaima (PW-72). The said witness is the wife of A-17 and she did not give any incriminating evidence against A-17. Accordingly, it was submitted that this was a case of no adverse evidence against A-17, and that he was convicted and sentenced on the basis of surmises and conjectures.

110) Hence, it was submitted that the conviction of A-17 was required to be set aside.

(xii) **Crl. A. No. 295/2016 - A. Ibomcha (A-25):**

111) A. Ibomcha @ A. Ibomcha Singh (A-25) was convicted under sections 20 and 21 of UA(P)A. Under section 20 of the UA(P)A, he was sentenced to undergo imprisonment for 7 years and to pay a fine of Rs.10,000/- with default stipulation. Under section 21 of the UA(P)A, he was sentenced to undergo imprisonment for 7 years and to pay a fine of Rs.10,000/- with default stipulation.

112) It has been submitted that A-25 has since been released after serving his sentence.

113) A-25 was arrested in connection with Noonmati PS case no.159/2010 along with other co-accused.

114) It was submitted that in para-83 of the judgment, the learned Trial Court had held A-24 guilty twice under section 20 of the UA(P)A. However, in the judgment, there is no finding that A-25 was guilty of committing offence under section 20 of the UA(P)A. Accordingly, it was submitted that A-25 cannot be said to have been convicted under section 20 of the UA(P)A. It was submitted that this appeal has been filed as a measure of abundant caution because the respondents may take a plea that non-referring to A-25 in para 83 of the impugned judgment was an inadvertent error. In the said context, it was submitted that the

respondents have not filed any cross-appeal for convicting A-25 under section 20 of UA(P)A.

115) By referring to the photograph no.4 (Ext.18/5), it was submitted that A-9, Maj. Maibam Chareal was convicted only under section 20 UA(P)A and not under section 18 UA(P)A and 121 IPC. It is submitted that though A-25 was similarly situated, yet he was convicted under sections 20 and 21 of UA(P)A. It was submitted that there was a clear finding at para-84 of the impugned judgment that there was no terrorist act and that it applied to A-5 to A-19 as none of them were held guilty of committing any terrorist act.

116) It was submitted that after evaluating the evidence of Ak. Ibochouba Singh (PW-23), retired General Manager, IUCB and Ng. Robert (PW-39), the learned Trial Court did not find that any fund was received by AEGIS through any terrorist act. Moreover, though Ng. Robert (PW-39) claimed that money was demanded from his firm, but he did not give any evidence as to whom did he pay any sum of money. It was submitted that in his cross-examination PW-39 could not say that any member of UNLF had collected any money. Accordingly, it was submitted that the learned trial Court had convicted A-25 on the basis of presumption and conjectures alone.

117) By referring to evidence of Ak. Ibochouba Singh (PW-23), it was submitted that AEGIS had taken loan from IUCB, which was returned within 14 days, which is permitted by the RBI and

therefore, repayment before the due date cannot be said to be illegal. It was submitted that there was no evidence before the learned Trial Court from which it could have drawn adverse inference against A-25. By referring to the cross-examination of PW-23, it was submitted that the said witness had admitted that the A-25 was a renowned businessman.

118) By referring to the evidence of Rakesh Kumar Jain (PW-24), it was submitted that the said prosecution witness had admitted in his cross-examination that AEGIS was financed by the Central Government. Accordingly, it was submitted that there is no evidence in this case about there being any direction from the leadership of UNLF to any appellants herein to commit any terrorist act.

119) By referring to the evidence of N. Holland Singh (PW-29), it was submitted that the said witness had merely stated that AEGIS had taken a loan from IUCB, SFAC, Ministry of Food Processing Industries. However, there was no statement AEGIS had obtained any fund from any terrorist act.

120) By referring to the evidence of B. Haridas Sarma (PW-43), who was an ex-employee of AEGIS, it was submitted that he had denied in his cross-examination about giving statement that three persons including the appellant had link with UNLF. It was submitted that the said evidence was ignored by the learned Trial Court. By further referring to the evidence of B. Haridas Sarma (PW-43), it was submitted that he had admitted that he was

briefed by NIA officials about the statement given by him before the Magistrate. Accordingly, it was submitted that at the time when the statement of PW-43 was recorded under section 164 CrPC, he was a tutored witness and therefore, ought not to have been relied upon. Moreover, it is submitted that from the evidence of PW-43, no material was available to incriminate A-25 under section 20 UA(P)A.

121) It was submitted that Th. Indramani Singh (PW-45) had disclosed the names of two UNLF members, Mr. Naocha and Mr. Ratan, but he did not name A-25 to be a UNLF member.

122) By referring to paragraphs 20, 21 and 54 of the impugned judgment, it was submitted that the observation/ finding of the learned Trial Court was not supported by any documentary evidence. It was submitted that merely because the source of money is not known, the learned Trial Court could not have presumed that the money was a proceeds of terrorist act. Hence, it was submitted that the conviction of A-25 was on the basis of assumption and presumption alone and not even based on grave suspicion.

123) It was submitted that in para-80 of the impugned judgment, A-25 was linked with the UNLF only through the e-mails and disclosure statements made by M. Joy Singh (A-18) and R.K. Meghen (A-19). It was submitted that for the purpose of non-admissibility of the e-mails, he relies on the submission made by the learned senior counsel for some of the appellants. It was also

submitted that in paragraphs 81 and 82 of the impugned judgment, it was held that Ak. Ibochouba Singh (PW-23), Rakesh Kumar Jain (PW-24) and Smt. Ambika Sharma (PW-25) had made incriminating statement against A-25, which is incorrect reading or misreading of the evidence because there were no incriminating materials against A-25 in the evidence of PW-23, PW-24 and PW-25. Thus, it is submitted that A-25 was convicted only on surmises and conjectures and that the finding of his guilt was based on presumption of "either" and "or" and not on the basis of cogent and admissible proof.

124) It was submitted that the attachment order (Ext.94) was in respect of property of AEGIS, but no notice was issued to AEGIS.

125) The learned counsel had read the evidence of Protected Witness X (PW-3) and Protected Witness Y (PW-4) and it was submitted that no documents were seized by them and that only on the basis of that their oral testimony the learned Trial Court had convicted A-25.

126) By referring to para-84 of the impugned judgment, it was submitted that the learned Trial Court had not held that any terrorist act was committed by A-25. It was also submitted that the meeting of mind of A-25 with any UNLF member was not proved. Hence, it was submitted that A-25 was convicted on the basis of assumption and presumption and thus, his conviction is not sustainable.

127) Hence, it was submitted that the conviction of A-25 was liable to be set aside.

128) The learned senior counsel for the NIA (respondent no.2) after making general submissions, has advanced his submissions on individual appeals.

(a) **General submissions of the learned senior counsel for NIA (respondent no.2):**

129) It was submitted that UNLF is a terrorist organization so long its name remains in the First Schedule of the UA(P)A. Hence, it was submitted that as the prosecution had proved that the appellants and other co-accused had been associated with UNLF as its member, the conviction and resulting sentence was sustainable.

130) It was submitted that A-12 and A-24 had jumped bail and were declared as absconders. A-21 and 22 were also absconders. A-6, A-14 and A-15 were on bail during trial. A-5, A-7-13, 16 to 19 and 24-25 were in custody during their trial.

131) It was submitted that rest of the accused except R.K. Meghen (A-19) were arrested at Guwahati in connection with Noonmati PS case no.195/2010, which was registered by Someswar Dutta (PW-33), S.I. of Police, under sections 120B, 121A, 122, 468 IPC and section 10 and 13 of UA(P)A. It was submitted that R.K. Meghen (A-19) was arrested at Motihari, Bihar while he was coming into India from Nepal.

132) By referring to the evidence of PW nos. 2, 6, 8, 10, 12, 13, 15 and 21, it was submitted that the said witnesses were the owners of houses where some of the accused arrested at Guwahati were residing and that they had deposed that the accused persons named by them were residing in their houses. It was submitted that the evidence of Protected Witness X (PW-3) and Protected Witness Y (PW-4) was only to show that UNLF is a terrorist organization. The statement of R.K. Meghen (A-19) given during sentence hearing was read and it was submitted that the said statement amounted to admission by A-19 that he was a revolutionary and was waging war against India.

133) By citing the judgment of *Thwaha Fasal v. Union of India*, MANU/ SC/1000/2021, it was submitted that to be a member of a terrorist organization, punishment prescribed under section 20 of the UA(P)A is imprisonment for life. Relying on the case of *Arup Bhuyan v. State of Assam*, (2015) 12 SCC 702, it was submitted that the said decision was referred to a larger Bench.

(b) **Submissions in connection with Crl. A. No. 262/2016 - Sougaijam Rakesh Singh (A-6):**

134) By Referring to evidence of Nongthombam Premchand (PW-9), it was submitted by the learned senior counsel for the respondent no.2 that link of S. Rakesh Singh (A-6) was established with the Chairman, UNLF, namely, R.K. Meghen (A-19). It was submitted that the evidence of PW-9 against A-6 was not demolished during his cross-examination.

135) The case of *NIA v. Zahoor Ahmad Shah Watali*, (2019) 5 SCC 1, was cited on the point that section 34 of the Evidence Act had no applicability in the business of crime.

136) By referring to the evidence of Ng. Robert Singh (PW-39), it was submitted that the said witness had clearly deposed about extortion by UNLF and other terrorist organizations. It is submitted that S. Rakesh Singh (A-6) was only an advisor to two Students Unions i.e. AMSU and MEMSU, but he has invested a sum of Rs.1.10 Crore in the business of PW-39 and that after settlement of accounts, a sum of Rs.17.00 lakh was found payable by PW-39 to A-6, which was seized by NIA. It was submitted that A-6 did not deny that Rs.17.00 lakh that was seized from PW-39 was not his money and he had also not denied that said money was not the proceeds of extortion or terrorist act.

137) By referring to evidence of K. Krishna Kumar Singh (PW-63), it was submitted that he was a partner of Ng. Robert Singh (PW-39) and he had also stated that UNLF was involved in extortion, killing etc.

138) The examination of A-6 under section 313 CrPC was read, specifically Q.12 and Q.21. By referring to paragraphs 65 and 66 of the impugned judgment, it was submitted that the learned Trial Court had held that A-6, A-19 and A-20 were proved to be members of UNLF and in the process the link of A-6 was also established with the UNLF, which is a terrorist organization.

139) By referring to paragraphs 66, 78 and 83 of the impugned judgment, it was submitted that the learned Trial Court had correctly appreciated the evidence and therefore, no interference is called for against conviction of A-6.

(c) Submissions in Crl. A. No. 289/2016 - O. Samarjit Singh @ Naresh @ Kadeng (A-7):

140) It was submitted that oral evidence of Indubhusan Kongkham (PW-7) was sufficient to convict A-7. It was submitted that although A-7 was not in China, but he was fully aware of what was going on in China and he had called PW-7 and confronted him for leaving China without informing his associates. The said when Indubhusan Kongkham (PW-7) was in China, he had heard the UNLF cadres talking about purchasing arms like AK-47, RPG, etc. In the said context, it was submitted that the said part of the evidence of PW-7 could not be demolished in his cross-examination. The various e-mails were referred to.

141) It was submitted that with regard to the question nos. 5 to 8, 20, 29 and 33 of examination of A-7 under section 313 CrPC, A-7 had denied the same by giving his answer as "it is false"; "I am not aware"; "I have no idea". Accordingly, it was submitted that as the prosecution had failed to prove beyond reasonable doubt that A-7 was at China as alleged and that he had participated in any terrorist act whatsoever, the explanation of A-7 was required to be given weightage.

142) By referring to paragraphs 62 to 66 of the impugned judgment, it was submitted that the learned Trial Court had found the evidence of Indubhusan Kongkham (PW-7) to be truthful and his evidence could not be discredited in his cross-examination. Hence, it was submitted that charge against A-7 was proved.

143) It was submitted that no interference was called for against conviction of A-7.

(d) **Submissions in Crl. A. No. 113/2017 - N. @ Ibochou @ Mani Singh (A-16):**

144) It was submitted that oral evidence of Indubhusan Kongkham (PW-7) was sufficient to incriminate and convict the A-16 because his link to R.K. Meghen (A-19), the Chairman of UNLF was established as A-16 had met A-19 at Kathmandu, Nepal. The said PW-7 had also proved that A-16 had told him that he had joined UNLF and had also invited him to join UNLF. Accordingly, it was submitted that link of A-16 on the basis of evidence of PW-7 was established with A-7, A-18 and A-19 and their membership of UNLF was also established.

145) The evidence of Satheesh Chand (PW-53) was relied and it was submitted that e-mails (Ext.115) were duly proved.

146) The learned senior standing counsel for NIA had referred to the Disclosure Statement by A-18 (Ext.111) to show that A-18 and A-19 were respectively the Secretary and Chairman of UNLF. It was submitted that all the 2781 e-mails were downloaded by A-

19. It was submitted that only those relevant e-mails, which were necessary, were translated by NIA to English. It was submitted that the e-mails were supported by a certificate (Ext.114) issued by Satheesh Chand (PW-53) under section 65B of the Evidence Act, 1872. Reference was also made to the Recovery Memo (Ext.113) and the e-mails (Ext.115) series.

147) The decision of the larger Bench of the Supreme Court of India in the case of *Arup Bhuyan v. State of Assam*, MANU/SC/0294/2023 (para-18) was cited and it was submitted that a mere membership of a terrorist organisation would also entail punishment.

148) It was submitted that the defence ought to set up his/her case while cross-examining the prosecution witness. In this regard, the case of *AIR 1961 Cal 359* was cited. It was submitted that although the said case related to testamentary suit, but the said principle was accepted by Supreme Court of India in the case of *Sarwan Singh v. State of Punjab*, (2003) 1 SCC 240 (para-10). It was submitted that as per the case of *Sarwan Singh (supra)*, in TADA cases, the principle of preponderance of evidence is acceptable and accordingly, it was submitted that in the cases registered under various provisions of UA(P)A, conviction was permissible by applying the principle of preponderance of evidence.

149) It was submitted that oral evidence of Indubhusan Kongkham (PW-7) was direct as he was told by A-7 that he had

joined UNLF and he was also invited to join UNLF. His evidence also disclosed that he had met A-16 in Kathmandu, who arranged meeting of A-7 with RK Meghen (A-19).

150) It was submitted that the case of A-16 was decided in paragraphs 62 and 63 of the impugned judgment. It was also submitted that the relevant questions put to A-16 during his examination under section 313 CrPC were Q. nos. 4, 9, 13, 14 and 15 and it was submitted that A-16 did not make any attempt to explain the circumstances appearing against him when he got an opportunity during his examination under section 313 CrPC

151) It was submitted that no interference was called for against conviction of A-16.

Submissions in Crl. A. No. 115/2017 - Khwairakpam Jeeten Singh @ Khomba @ Dene A-10:

152) It was submitted that oral evidence of PW-17 was sufficient to prove that Khwairakpam Jeeten Singh @ Khombo @ Dene (A-10) was a member of UNLF and to prove that he had committed offence punishable under sections 18 and 20 of UA(P)A and sections 121A of the IPC.

153) It was submitted that M.C. Arun (PW-17) had stated in his examination-in-chief that his younger sister Landhoni Devi (A-14) had eloped with Jeeten (A-10), a member of UNLF. The said witness was not cross-examined on his said evidence.

154) Evidence of Laitonjam Rupa Singh (PW-26), L. Momon

Singh (PW-34), O. Ibomcha Singh (PW-57) and Maibam Rameswar Singh (PW-67) were read.

155) It was submitted that the learned Trial Court had explained charge under section 20 of UA(P)A to A-10. It was also submitted that as per the list of officers (Ext.5/2), A-10 was a UNLF officer of the rank of Colonel, which proved that A-10 belonged to armed cadre of UNLF, a terrorist organisation and in this regard, the photo of A-10, which is available in a page exhibited as Ext.18/9 at Sl. No.74 thereof was referred to. It was submitted that during his examination under section 313 CrPC, relevant questions on which A-10 was examined are Q. nos. 13, 15, 16, 21, 30, 37, 39 and 41. It was submitted that the relevant paragraphs in the impugned judgment against A-10 are at paragraphs 46, 47 and 76.

156) It was submitted that by a certificate (Ext.185), exhibited by Surinder Singh Bakshi (PW-79), the Protected Witness No. 80 had certified that 88 e-mails in 1008 sheets in *Meitei* (Manipuri), provided to him by Surinder Singh Bakshi (PW-79), DSP, NIA on 04.02.2011 along with index with corresponding attachment were found correctly translated in English. It was submitted that the said certificate (Ext.185) was admitted in evidence without any objection. In this regard, reliance was placed on the case of *Sonu @ Amar v. State of Haryana*, (2017) 8 SCC 570 (para-26), and *Ugar Ahir v. State of Bihar*, AIR 1965 SC 277 (para-6).

157) It was submitted that oral evidence of PWs was sufficient

to prove that A-10 was a member of UNLF. Hence, it was submitted that no interference was called for against conviction of A-10.

Submissions in Crl.A. 291/2016 – Y. Brajabridhu Singh (A-24) and Crl.A. 295/2016 - A. Ibomcha (A-25):

158) It was submitted that both A-24 and A-25 were convicted for committing offence punishable under sections 20 and 21 of UA(P)A and sentenced to undergo imprisonment for 7 years. Same set of evidence was led in both cases.

159) It was submitted that oral evidence supported by e-mails (Ext.115) were sufficient evidence before the learned Trial Court to hold A-24 and A-25 guilty of offence committed under sections 20 and 21 of UA(P)A. It was also submitted that A-24 and A-25 were both members of AEGIS, which was a front organisation of UNLF and both the accused were functionaries of AEGIS. It was also submitted that the accounts of AEGIS were monitored by UNLF leadership, which can be seen from e-mails (Ext.115 series) which in turn proved that extorted money of UNLF was routed through AEGIS. It was submitted that money collected through extortion was brought to Guwahati and then taken in foreign countries to purchase arms and ammunitions to wage war on India and those evidence was sufficient to prove that the appellants were members of UNLF, a terrorist organisation.

160) By referring to the evidence of Ak. Ibochouba Singh (PW-

23), Rakesh Kumar Jain, Chartered Accountant (PW-24), N. Holland Singh (PW-29) and B. Haridas Sarma (PW-43), who was examined as PW-29 had incriminated A-24 and A-25.

161) Hence, it was submitted that the conviction of A-24 and A-25 did not warrant any interference.

Submissions in Crl.A. 165/2016 - Landhoni Devi (A-14):

162) By referring to the evidence of M.C. Arun (PW-17), it was submitted that he said witness had proved that A-14, who was his younger sister had eloped with Jeeten (A-10), who was member of UNLF and he was not cross-examined on the point. The evidence of Ms. W. Amusana (PW-47), who was declared hostile, was also read. Accordingly, it was submitted that the conviction and sentence imposed upon the appellant does not warrant any interference in this appeal.

163) The evidence of Yumkham Rother, Judicial Magistrate, 1st Class, Imphal West, who was examined as PW-49 was read to show that Ms. W. Amusana (PW-47) was produced before him on 19.01.2011, and she had voluntarily given her statement under section 164 CrPC (Ext.104/1). He had exhibited the certified copy of the statement as Ext.104, and his signatures as Ext.104/2 and the signature of PW-47 as Ext.104/3 and Ext.104/4. Similarly, PW-49 had stated in his examination-in-chief that Sri Kongkham Indubhusan (PW-7), Laitonjam Rupa Singh (PW-26), Laitonjam Inao Singh (PW-27) and Ms. W. Amusana (PW-47), were produced

before him and he had recorded their statement under section 164 CrPC as Ext.110, Ext.108 and Ext.109 respectively. Accordingly, it was submitted that the said exhibited statements proved that all the appellants were members of UNLF and were involved in conspiracy to commit terrorist act.

Submissions in respect of M. Iboham (Crl.A. 145/2017), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (Crl.A. 263/2016) and Laurenbum Jatishor Singh @ Tilemba (Crl.A. 299/2016):

164) In respect of appellants Mutum Ibohal, also written in several places as Mutum Ibohal (Crl.A. 145/2017), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (Crl.A. 263/2016) and Laurenbum Jatishor Singh @ Tilemba (Crl.A. 299/2016), it was submitted that they were all arrested at Guwahati and certain incriminating articles were seized. Moreover, it is submitted that from the retrieved emails, their complicity and belonging to armed cadre of UNLF was proved.

165) The learned DSGI, representing the Union of India (respondent no.1), had submitted as follows:-

Submissions of Mr. R.K.D. Choudhury, DSGI:

166) In support of his submissions, the learned DSGI has cited the case of *Sonu @ Amar (supra)* and *Yuvaraj v. State, (2023) 0 Supreme (Mad) 1800 (DB) (paragraphs 181 to 186)*.

167) By referring to question no.32 of examination of Sinam

Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11) under section 313 CrPC, it was submitted that it was brought to the notice of A-11 about the activities of S. Rakesh Singh (A-6) pertaining to "Baloon Project", which was found mentioned in e-mail marked as E-88/86. He was also put to notice incriminating materials regarding receipt of financial benefits by O. Samarjit Singh (A-7), W. Noren Singh @ Thoiba (A-8), Mutum Ibohal Singh (A-12), Mrs. Landhoni Devi (A-14), O. Maniton Singha (A-15), N. Dilip Singh @ Ibochou @ Mani (A-16), L. Jatishor Singh @ Tilemba (A-17). He has also submitted that A-11 was also stated about list of officers of UNLF vide document E-79, which was retrieved from the e-mail ID of Raj Kumar Meghan @ Sanayaima (A-19), K. Jeeten Singh @ Khombo @ Dene (A-10), Mutum Ibohal Singh (A-12), W. Noren Singh @ Thoiba (A-8), L. Jatishor Singh @ Tilemba (A-17). Apart from several other UNLF members containing 9(nine) Lt. Colonel, 12 Major, 19 Captain, 18 Lt., 32 2nd Lt. plus 2 JCOs with a total of 92 cadres of UNLF and that A-92/4 to A-92/19 contained the photographs of UNLF cadres including A-10, A-11, A-12 and A-17 in combat uniform as located in the e-mail of A-19. Accordingly, it was submitted that though the photograph of A-11 in combat uniform was proved, A-11 had not denied his photograph and therefore, the membership of A-11 as armed cadre of UNLF was proved by the prosecution.

168) As regards the below named appellants whose photographs in combat uniform were retrieved from the e-mail of Raj Kumar Meghan @ Sanayaima (A-19), the same submission has

been made in respect of K. Jeeten Singh @ Khombo @ Dene (A-10), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), Mutum Ibohal Singh (A-12), L. Jatishor Singh @ Tilemba (A-17).

169) By referring to the examination report of DP Gangwar (PW-44), Senior Scientific Officer-Physics, CFSL, Chandigarh (Ext.204), it was submitted that the photographs of accused Capt. Laurembam Telemba @ Jatishwor (A-17) (PU) marked as photograph Q-1 was found to be matching on examination with his sample photographs marked as photograph S-1. Similar statement was made in respect of Maj. Mutum Ngamba @ Ibohal (A-12) whose Q-2 photograph was matched sample photograph S-2; for Maj. Wahengbam Thoiba @ Kothil (A-8) whose Q-3 photograph was found matching with sample photograph S-3;; and Q-6 photograph of Ltd. Col. Khwairakpam Khomba @ Jitan was found matching with sample photograph S-6 of Kh Jeetan (A-10). Accordingly, it is submitted that the said appellants had not questioned their photographs on being confronted in their examination under Section 313 CrPC.

Submissions of the learned DSGI in Crl. Appeal 283/2916 – Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11):

170) It was submitted that the case of accused no.11 was discussed in paragraphs 45, 46 and 47 of the judgment of the learned Trial Court.

171) It was submitted that vide attachment to Ext.115/714, M. Baskar (PW-5) had proved that UNLF was providing maintenance for the families of A-8, A-9, A-10, A-11, A-12 and A-17. Moreover, it was submitted that the attachment to e-mail (Ext.5) contained list of officers of UNLF, wherein the names of A-8, A-10, A-11, A-12 and A-17 appears. It was submitted that vide Ext.115/750 to A-115/872, it was proved that the top-brass of UNLF were being provided with information regarding positioning of the Indian Military in the State of Manipur. Moreover, it was submitted that Ext.18/2 proved by PW-5 was an attachment containing revenue collection sheet for the year 2007 of the Department of Finance, UNLF, disclosing collection of revenue of about Rs.44.00 Crore that year. It was submitted that Ext.18/7 was the photograph of A-11 and Ext.18/9 was the photograph of A-10. It was submitted that the said allegations were not denied by A-11

172) By referring to the examination report of DP Gangwar (PW-44), Senior Scientific Officer-Physics, CFSL, Chandigarh (Ext.204), it was submitted that the questioned photograph Q-5 of accused Lt. Col. Sinam Gune Singh (A-11) was found matching with sample photograph S-5.

173) It was submitted that A-18 and A-19 had not only voluntarily disclosed their e-mail passwords, but also downloaded the e-mails. It was also submitted by the learned DSGI and the learned senior counsel for the NIA (respondent no.2) that M. Joy Singh (A-18) and R.K. Meghen (A-19), who had downloaded the e-

mails had accepted the judgment had not filed any appeal and are serving sentence awarded to them. It was submitted that the print-out of e-mails were exhibited without any objection and therefore, objection cannot be raised by the accused now in appeal. Thus, after the e-mails were downloaded, there is no bar to treat those e-mails as evidence against other co-accused.

Submissions of the learned DSGI in Crl. A. 145/2017 - Mutum Ibohal Singh @ Ngamba @ Sanjay (A-12):

174) It was submitted that A-12 was convicted for committing offence under sections 18 and 20 of UA(P)A and section 121A IPC. He was sentenced for 8 years, 7 years and 10 years respectively. It was submitted that A-12 had served his sentence and since been released.

175) It was submitted that Sri M. Baskar (PW-5) had proved the photograph of A-12, which is at serial no. 127. His photograph was Ext.18/4. In his re-examination, D.P. Gangwar (PW-44) had exhibited the photograph comparison report and Q-2 photograph. It was submitted that A-12 did not dispute his photograph during trial. Q. nos. 27 and 27 of examination of A-12 under section 313 CrPC read. It was submitted that Ext. E/79 was the list of officers of UNLF and in reply to question put during his examination under section 313 CrPC, A-12 had merely relied that he has no idea, but he had not denied those photographs were not denied.

176) By referring to the examination report of DP Gangwar

(PW-44), Senior Scientific Officer-Physics, CFSL, Chandigarh (Ext.204), it was submitted that the questioned photograph Q-2 of accused Maj. Mutum Ngamba @ Ibohal (A-12) was found matching with sample photograph S-2 of Mutum Ibohal.

177) It was submitted that Ext.145, which was an interim report by M.C. Kuli, Scientific Officer, Digital Forensic Unit, Directorate of Forensic Science, Assam, which was exhibited by Ninendra Narayan Borah (PW-71) referred to documents of UNLF including its logo and budget with letters, photograph and profile etc. conclusively proved that Mutum Ibohal Singh @ Ngamba @ Sanjay was an active officer of UNLF and was dealing in the finance of UNLF was one of the incriminating materials against A-12. It was submitted that the learned counsel for A-12, in vain, had made an attempt to create a doubt regarding the name of A-12, but the discrepancy, if any, about the name of A-12 would not be fatal in this case because his downloaded photographs were compared with his sample photograph by D.P. Gangwar (PW-44) and that the identity of A-12 was never in dispute.

178) It was submitted that the learned Trial Court, in paragraph 44 of the impugned judgment, had referred to an e-mail about detention of A-5, A-7, A-11 and A-13 under National Security Act. It was submitted that Ext.115/176 proved by M. Baskar (PW-5) was the said e-mail regarding arrest of A-10, A-11, A-9, A-8, A-12 and A-13 at Guwahati. Moreover, it was submitted that from Ext.115/1, it was established that the UNLF was

monitoring about the arrest of their officers and cadres. The arrest of Telemba (A-2) was also being monitored, which can be seen from Ext.115/73. It was submitted that those e-mails also prove that the cadre of UNLF were reporting to the R.K. Meghen (A-19), Chairman of UNLF. It was submitted that in para-49 of the judgment, the learned Trial Court had held that A-8, A-9, A-10, A-11, A-12, A-16, A-17, A-18 and A-19 were deeply involved with UNLF.

Submissions in Crl. A 299/2016 - Laurenbum Jatishor Singh @ Tilemba (A-17):

179) It was submitted that A-17 was convicted for committing offence under sections 18 and 20 of UA(P)A and section 121A IPC and he was sentenced for 8 years, 7 years and 10 years respectively. It was submitted that he has served his sentence and been since released.

180) It was submitted that the conviction of A-17 was on the basis of downloaded e-mails, which were proved by Satheesh Chand (PW-53).

181) By referring to the evidence of Devinder Singh (PW-62), it was submitted that he had stated that he had taken over the investigation on 24.09.2010 for a part. He had sent the photographs to the FSL. It was also submitted that the FSL report (Ext.98) was proved by D.P. Gangwar (PW-44). It was submitted that Devinder Singh (PW-62) had proved the downloaded

photographs as Ext.204, and the sample photographs as Ext.205. By referring to Ext.115, it was submitted that the said exhibit is a letter which contains the information about arrest of 11 UNLF cadres from Guwahati. Accordingly, it was submitted that UNLF cadres were aware of the arrest of A-17 at Guwahati.

182) The statement of Laurenbum Jatishor Singh @ Tilemba (A-17) during his examination under section 313 CrPC was read and submitted that A-17 was put to notice of all the incriminating materials that was available against him, which were not denied. Accordingly, it is submitted that it was established and proved that A-17 was an active officer of UNLF and was involved in the affairs of UNLF, which included commission of terrorist acts.

183) It was submitted that the finding against A-17 by the learned Trial Court is at paragraphs 35-37, 43- 47 and 80-103.

Reply by Mr. D.K. Mishra, Senior Advocate against the submission by the learned counsel for the respondents:

184) The learned senior counsel for the appellants had submitted that by referring to the provisions of section 20 of the UA(P)A, learned Senior counsel for NIA had submitted that for being a member of a terrorist gang or organisation, an accused can invite punishment for life, and shall also be liable to fine and in support of the said submission, paragraph nos. 10 and 11 of the case of *Twaha Fasal (supra)* was cited. In the said context, the learned senior counsel for the appellants had also submitted that

he is also relying on same paragraph nos. 10 and 11 of the said judgment. It was submitted that the word "*which*" contained in section 20 of UA(P)A is intended for a terrorist organisation. It was submitted that the provision of section 20 carried a distinct and different postulates than as provided under section 38 UA(P)A.

185) By referring to the case of *Bashir Ahmed Pannu, MANU/DE/3241/2014*, cited by the learned senior counsel for respondent no.2, it was submitted that the said decision had not only demolished the entire case set up by the prosecution but it had also demolished the submissions of the learned senior counsel for NIA. Thus, it was submitted that if commission of terrorist activity is not proved, the appellants could not have been convicted under section 20 of UA(P)A. By referring to para-38(F) of the case of *Bashir Ahmed Ponnu (supra)*, as well as facts of the case as contained in paragraphs 2, 3, and 6 thereof, it was submitted that the facts were different from the present case in hand and therefore, the said case favours the appellants.

186) By referring to the evidence of Trailukya Borah (PW-16), it was submitted that in UA(P)A, presumption only as to offences under section 15 is prescribed under section 43E of the UA(P)A.

187) In respect of the case of Sougaijam Rakesh Singh @ S. Rakesh Singh (A-6), i.e. appellant in Crl. Appeal no. 262/2016, it was submitted that from the evidence of Ng. Robert Singh (PW-39), it can be seen that A-6 had met S. Rakesh (A-6), appellant in Crl.A 262/2016 at Bangkok. In the said context, the contrary

evidence in cross-examination of PW-39 read. It was submitted that PW-39 had stated in his cross-examination that he went to Vietnam with the Central Government delegation. In his examination-in-chief, he had stated that on return, they had stayed in Hongkong and Bangkok. But, the prosecution had woven a false story to project as if A-12 had gone for UNLF activities. The passport of A-12 was neither seized nor exhibited by the prosecution to prove travel of A-12.

188) It was submitted that as per the prosecution case, PW-17 had met the Chairman, UNLF (A-19) on 3 (three) occasions, but allegedly took A-6 once. Yet, PW-17 did not have link with UNLF, but A-6 had link. This circumstance creates doubt on the prosecution case. As per the evidence of PW-17, A-6 told him that sometimes UNLF sponsors for academic purpose. But the prosecution did not prove application by PW-17, seeking financial sponsorship by UNLF and the prosecution had also failed to prove any one such instance where expense for education or scholastic research was sponsored by UNLF. Thus, it was submitted that this was a case of no evidence and that A-6 was convicted on the basis of surmises and conjectures alone.

189) By reading the evidence of Nongthombam Premchand (PW-9), it was submitted that as per his evidence, the Course Coordinator and S. Rakesh Singh had proposed that they can extend their stay to Kathmandu and they will bear the expenses. However, the learned Trial Court had misread and misconstrued

the evidence of PW-9 and in para-70 of the judgment and the word "they" was read as "him" i.e. S. Rakesh Singh (A-6).

190) On the point that terrorist organisation was not required to maintain books of accounts, it was submitted that the *kucha* slips did not belong to UNLF, but were provided to the I.O. by Ng. Robert Singh (PW-39). In the said context, it was submitted that the firm of PW-39 is M/s. Look East Nirman. As per PW-39, on being directed by the I.O., he had withdrawn Rs.17.00 lakh from bank and handed the money to the I.O., which means that PW-39 must have disclosed the said money in his accounts. By referring to cross-examination of PW-39, it was submitted that the entire prosecution case against A-6 falls flat because he had clearly stated that Rs.60.00 lakh invested by A-6 was his personal money and not related to UNLF.

191) By referring to paragraph 52 of the case of *Zahoor Ahmad Shah Watali's* case, it was submitted that in the said case, the case of *Khoday Distilleries Ltd., (1995) 1 SCC 574 (para-54)* was referred and the facts under which the observation was made was explained.

192) It was submitted that the argument of the learned Senior counsel for NIA regarding so called "sleeper module" was a general and sweeping remark made out of cuff, and was not the case even remotely proved by the prosecution.

193) The observations made in paragraph 9 of the case of

Sarwan Singh v. State of Punjab, (2003) 1 SCC 240 (para-9, pg.43) explained and it was submitted that the examination of the accused there. In under section 313 CrPC was not available and therefore, the said case cannot be relied upon by the Court.

194) The evidence of Ak. Ibochouba Singh (PW-23) was read over and it was submitted that the said witness had admitted that the nature of transaction of sanctioning of loan on 30.07.2005 and closing the same on 16.08.2005 by the adjustment of the term deposit is permissible within the norms of the bank and he had further admitted that N. Bomi Singh (A-23) (since deceased), Y. Brajobidhu Singh (A-24) and A. Ibomcha Singh (A25) were good customers of IUCB and all of them were reputed businessman.

Submissions on Crl. App. 291/2016 – Y. Brajabridhu Singh (A-24):

195) By referring to the case of *Sonu @ Amar (supra)*, it was submitted that the said case had no application in this case in view of objection made by the defence lawyer regarding absence of a proper certificate under Section 65B of the Evidence Act, which is referred to in paragraph 51 of the impugned judgment. Moreover, it was submitted that objection was also raised during examination of Satheesh Chand (PW-53) and Siba Prasad Mohanty (PW-74). It was submitted that the principle of “prospective overruling” was first applied in India in the case of *I.C. Golaknath, AIR 1967 SC 1643* (para 60 and 76). The case of *T. Rajkumari v. The Govt. of Tamil Nadu, AIR 2016 Mad 177: MANU/TN/2202/2016 (para-4)*

(pg.74-75) was also referred to.

196) For academic purpose, the case of *Behram Khursheed* explained. By reading the provisions of section 65B of Evidence Act, 1872, it was submitted that print-out is a *deemed* document, which is subject to conditions prescribed under the said provision of law. By referring to the case of *Arjun Panditrao Khotkar (supra)* and *Shailendra Swarup v. Deputy Director, (2020) 16 SCC 561*, it was submitted that unless the conditions of section 65B of the Evidence Act, 1872 is complied, no electronic record would become a document.

197) To counter the submission of learned senior standing counsel for NIA that Ext.185 was not objected to, the evidence of Surinder Singh Bakshi (PW-79), Nongthombam Premchand (PW-9) and M.C. Arun (PW-17) was read. Moreover, it was submitted that there was no evidence against Y. Brajabridhu Singh (A-24), and evidence, if any, was against AEGIS, of which A-24 was an employee. It was submitted that the e-mails exhibited by D.P. Gangwar (PW-44) was merely a copy of secondary evidence, which is inadmissible in evidence.

Submissions in connection with A-8, A-11 and A-15:

198) It was submitted that the only evidence against A-8, A-11 and A-15 were e-mails. It was also submitted that even if the Court holds that e-mails were proved, its contents of those e-mails was never proved.

199) In reply to Court query as to whether downloading of e-mails by M. Joy Singh (A-18) and R.K. Meghen (A-19) has led the said two accused to incriminate themselves and whether it violated protection under Article 20(3) of the Constitution, Senior Counsel for NIA had submitted that M. Joy Singh (A-18) and R.K. Meghen (A-19) had voluntarily downloaded the e-mails and no objection was raised at any time and nothing adverse has come out in their cross-examination. In this regard, a recovery memo under section 27 of the Evidence Act (Ext.112) pursuant to disclosure statement made by the Moirangthem Joy Singh @ JoyJao @ Nongyai @ Nilachandra on 18.11.2010 regarding downloading of e-mail from his mail account was referred to. It was submitted that for unauthorized downloading or access to e-mails, section 43(b) of the Information Technology Act, 2000 might invite prosecution and hence, A-18 and A-19 may perhaps had downloaded their e-mails. It was submitted that Ext.114 and Ext.112 are the certificates under section 65B of the Evidence Act, 1872 regarding recovery and it was submitted that the print-out of e-mails were signed by the witnesses present including expert and that after downloading the said e-mails, they were transferred to a sterile base.

200) For R.K. Meghen (A-19), section 65B certificate (Ext.168), exhibited by Siba Prasad Mohanty (PW-74), whose signature is Ext.168/1, was referred to.

201) In respect of the Court query on charges framed by the learned trial Court, it was submitted that none of the appellants

have taken a plea in the memo appeal that they suffered a prejudice. Hence, it is submitted that the appeal cannot be heard and decided on a ground not urged by the appellants. The case of *State of Uttar Pradesh Vs. Subhas @ Pappu*, AIR 2022 SC 1651 cited, wherein it has been held that in view of section 464 CrPC, mere defective language on the narration or in the form of charges, it would not render the conviction unsustainable.

202) It was submitted that PW nos. 3, 7, 11, 14, 19, 22, 26, 27, 34, 45, 59 had given evidence to the effect that UNLF was a terrorist organization and had carried out terrorist activity.

203) In respect of CrI. App.257/2013- AEGIS was not maintainable on facts and law as the appeal was not filed within time permitted and moreover, as the time limit for filing appeal this writ petition is barred by limitation.

204) In support of his submissions, the case of *Sardul Singh v. State of Haryana*, (2002) 8 SCC 372 (para-8) and *Periyasami v. State, represented by Inspector of Police, Q Branch, CID, Tiruchirappally, Tamil Nadu*, (2014) 6 SCC 59 (para-9 and 15) were cited.

Submissions by Mr. R.K.D. Choudhury, learned DSGI:

205) On the case of *Kalpna Rai* (1997) 8 SCC 732 (para-35), cited by the learned senior counsel for the appellants to show that section 3(5) of TADA had two postulates, it was submitted that the said observation would not apply to this case because nobody had

invoked section 36 of UA(P)A to assail entry of UNLF in First Schedule of UA(P)A.

3(5) of TADA:

3. Punishment for terrorist acts. -

(5) Any person who is a member of a terrorists gang or a terrorists organisation, which is involved in terrorist acts, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.

Section 20 of UA(P)A:

20. Punishment for Being Member of Terrorist Gang or Organisation. - Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

206) By referring to the provisions of section 20 and 38 of UA(P)A, it was submitted that as UNLF is in First Schedule, it is a terrorist organisation and its members would become liable for punishment of offence relating to membership under section 20 of UA(P)A. It was also submitted that objection in respect of certified copy regarding section 65B certificate not taken by filing petition.

Reply submissions by learned counsel for the appellants:

207) It was reiterated by Mr. B. Prasad, learned counsel for the appellants that the recovery memo (Ext.113) under Section 27 of the Evidence Act as disclosed by Moirangthem Joy Singh @ JoyJao @ Nongyai @ Nilachandra (A-18) contains entry of downloading e-mail from three e-mail addresses. Ext.113 was in continuation to Ext.112, which is another recovery memo of A-18. However, it is submitted that the e-mails were downloaded from

one out of three e-mails addresses. It has been submitted that all the exhibited e-mails are in *Meitei* language of Manipur and therefore, without being translated into English or in Assamese, the State language of Assam, the learned trial Court could not have read the contents. Hence, it is submitted that the appellants were convicted on the basis of presumption and surmises and by relying on English translated e-mail without the translator being examined in Court.

208) To counter the submissions of the learned senior counsel for respondent no.2, Mr. M.G. Singh, learned counsel had submitted that in the cross-examination of Satheesh Chand (PW-53) and cross-examination of Siba Prasad Mohanty (PW-74), specific questions were asked to the said witnesses to object to the admissibility of the certificate purportedly issued under section 65B of the Evidence Act, 1872. It was submitted that in case the section 65B certificate is not found acceptable, then it would be a case of "no evidence" against all the appellants.

209) On maintainability of Crl. Appeal 257/2013, it was submitted that the appeal by AEGIS was against order dated 26.07.2013 of forfeiture of the property of the said Society. It was submitted that the copy of the order was not served on the appellant and therefore, certified copy of the order dated 26.07.2013 was applied for and received on 03.08.2013. Hence, it was submitted that the appeal filed on 26.08.2013 was well within the prescribed period of limitation. It was submitted that under the

scheme of UA(P)A, if a person is aggrieved by order of forfeiture passed by the competent authority an appeal could be preferred before the designated authority and thereafter the appeal could be preferred before the High Court, however, under the provision of section 21 of the National Investigation Agency Act 2008, an appeal can be preferred against any judgment or order passed by the Special Court, not being an interlocutory order. Hence, it is submitted that the appellant had exercised its right under section 21 of the NIA Act and therefore, the appeal, being a statutory right under the NIA Act would prevail over the procedure prescribed under the UA(P)A Act.

Points of determination in these appeals:

210) From the materials available on record, and on the basis of submissions made at the Bar, the following points of determination arises for consideration of the Court:-

- a. Whether the prosecution has been able to establish that the appellants are the members of UNLF, a terrorist organisation?
- b. Whether for convicting the appellants under sections 18 and 20 of the Unlawful Activities (Prevention) Act, 1967, the prosecution had to prove that the UNLF had committed any terrorist act or merely because the name of the UNLF is entered in the First Schedule, a

presumption can be drawn that UNLF is a terrorist organisation and is involved in acts of terrorism?

- c. When on facts the accused were acquitted for offence of conspiracy under section 120B of the IPC, whether they could have been convicted for conspiracy under section 121A of the IPC?
- d. Whether the electronic records, being the e-mails exhibited as Ext.5 (series), Ext.18(7) and Ext.115 series can be said to have been duly proved by the prosecution in accordance with law and section 65B of the Evidence Act, 1872? Or whether marking of document in evidence is sufficient to prove its contents or whether contents of a document are also required to be proved to saddle the accused with criminal liability?
- e. Whether the conviction of the appellants and sentence imposed on them are sustainable on facts and in law?

Preliminaries:

211) These 12 (twelve) appeals have arisen from one common judgment and therefore, the Court is inclined to pass a common judgment.

212) In this case the prosecution has examined 84 witnesses and huge numbers of documents were exhibited, which were marked as Ext.1 to Ext.205, which includes large numbers which are in series as well as Ext. X and Y which are also in series.

Therefore, the Court is of the considered opinion that if the contents of the evidence of all PWs and contents of all the exhibited document are narrated, it would burden this judgment with unnecessary volume, which can otherwise be avoided. Therefore, only those relevant parts of the evidence are referred to in this judgment, which is necessary to decide this appeal.

213) The relevant evidence of PW nos. 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 29, 33, 34, 35, 39, 43, 44, 45, 47, 49, 53, 57, 61, 62, 63, 67, 69, 72, 74, 75, 79, and 80 have been briefly referred in the hereinbefore paragraphs as because those PWs were referred by the learned senior counsel/ counsel for the appearing parties in course of their respective submissions.

214) In the judgment impugned in this appeal, the learned Trial Court has referred to the evidence of PW nos. 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 21, 22, 23, 26, 27, 33, 34, 35, 39, 48, 53, 64, 75, 78, 79, 80 and 84. Resultantly, it is observed that the evidence of the remaining PW nos. 1, 5, 18, 20, 24, 25, 28-32, 36-38, 40-47, 49-52, 54-63, 65-74, 75-77 and 81-83 have not been discussed by the learned Trial Court in the impugned judgment.

215) It may be stated herein that in respect of evidence of PW nos. 2, 6, 8, 10, 12, 13, 15 and 21, it is merely mentioned in the impugned judgment that their testimonies are in respect of stay of some of the accused in Guwahati and their subsequent arrest.

Thus, from their evidence, it can be said that the said PWs had not proved (i) that UNLF was a terrorist organisation; (ii) and/or UNLF had committed any act of terrorism; and/or (iii) that any of the accused in this case was involved in any unlawful act or act of terrorism.

On Point of determination no. (d) related to electronic evidence:

216) The point of determination no. (d) is taken up first because the conviction of the appellants is largely based on electronic evidence.

217) Therefore, it is first required to be examined as to whether the electronic records, being the e-mails exhibited as Ext.5 (series), Ext.18(7) and Ext.115 series can be said to have been duly proved by the prosecution in accordance with law and section 65B of the Evidence Act, 1872.

218) The witnesses examined by the prosecution for proving the electronic documents were (i) M. Baskar (PW-5), (ii) D.P. Gangwar (PW-44), (iii) Satheesh Chand (PW-53), (iv) Nirendra Narayan Bora (PW-71), (v) Kishan Lal (PW-73), (vi), Siba Prasad Mohanty (PW-74), (vii) Dr. Rajendra Nath Khound (PW-76), (viii) Surinder Singh Bakshi (PW-79), (xi) Aseem Srivastava (PW-80), (x) Sudesh Kumar Sharma (PW-81) and (xi) Swyam Prakash Pani (PW-84).

219) We have carefully examined the respective evidence of PW nos. 5, 44, 53, 71, 73, 74, 76, 79, 80, 81 and 84. The analysis of their evidence is made below.

(a) Evidence of M. Baskar (PW-5):

220) M. Baskar (PW-5), at the relevant time was working in Central Forensic Science Laboratory, Chandigarh (hereinafter referred to as 'CFSL Chandigarh' for short) as Junior Scientific Officer. In his examination-in-Chief, PW-5 had stated that Parcel-A received by CFSL contained one hard disk (Seagate, S.N 6VMPGSWN) of 500 GB, which was marked as Ext.H1 in the laboratory. Parcel B contained one hard disk (Seagate, SN 6VMPHOVE) of 500 GB, which was marked as Ext.H2 in the Laboratory. He had stated that he had opened those the sterile storage media (Ext. H1 and H2) and he had forensically imaged onto a storage sterile media and analysed using Encase 6 version of M/s. Guidance Software Inc. U.S.A., and after imaging the exhibits his finding are to the effect that (i) one folder named "greenplate09@ gmail.com" found present in exhibit H1. It has one file named "Outlook.pst" which contained 501 emails; (ii) two file folders named "enterprisedkay@gmail.com" and "salai_taret@yahoo.com" were found present in exhibit H2; (iii) one file named "outlook.pst" contained 842 mail files present in the file folder "enterprisedkay@gmail.com"; (iv) three zip files named drafts, inbox and sent were present in file folder "salai_taret@yahoo.com". The zip file i.e. drafts, inbox and sent were containing

6032 and 2846 email files; (v) the retrieved email file folders in/from the exhibits H1 and H2 is provided in DVD-R along with the report; and (vi) the extracted emails from the inbox (67 files) and sent (30 files) in the folder "salai_taret @yahoo.com" was provided in CD-R separately.

221) PW-1 had also exhibited the examination report dated 31.01.2011 (Ext.1) and his signature (Ext.1/1) thereon. He had also exhibited two parcels containing two hard disks re-sealed by him, which were marked as Mat.Ext.1 and Mat.Ext.2 respectively and the CD-R containing 97 extracted mail was exhibited as Mat.Ext.3. He had also exhibited emails as Ext.2 to Ext.30. He had also exhibited his signatures on the attachment to some of the exhibited e-mails.

222) Thus, it is seen that PW-5 had put his signatures on the e-mails and to the attachment contained in several e-mails. However, PW-5 has not proved the contents of the said e-mails or attachments thereto. The relevant entries have also not been exhibited.

223) Ext.5 is the e-mail purportedly containing one attachment namely officers list in 5 pages. PW-5 had exhibited his signatures as Ext.5/1 to 5/6 on the e-mails and 5 page attachments. Similarly, Ext.12 e-mail contained an attachment under subject Manipur Peoples' Army and his signature on the said attachment was exhibited as Ext.12/2. Ext.13 e-mail contained attachment under subject "revenue collection account 2007" in 119 pages and

PW-5 had exhibited his signatures on the e-mail and attachment as Ext.13/1 to Ext.13/120. Ext.18 e-mail contained an attachment under subject bio-data in 18 pages and PW-5 had exhibited his signature on the e-mail and pages of attachment as Ext.18/1 to Ext.18/19. A perusal of those exhibits shows that each page contained 2 sets of photographs of 3 persons in each page. Though each page has been signed by PW-5, but not one photograph is exhibited.

224) On a perusal of the said e-mails (Ext.2 to Ext.30), it is observed that none of those e-mails is not like the one that one may find in respect of e-mail downloaded from service providers like "gmail", "yahoo mail" and/or any other e-mail website. Therefore, the Court has to accept the only plausible explanation given by the learned senior counsel for the respondents that all the said e-mails are the English translated and typed-out copy of e-mail. Moreover, in none of those e-mails (Ext.2 to Ext.30), an impression of "attachment button" is seen. A copy of Ext.5 e-mail with signature of PW-5 as Ext.5/1 and the 5 page attachments on which signature of PW-5 as Ext.5/2 to Ext.5/6 have been scanned and attached to this judgment and order and marked as Appendix-D for ready reference.

225) Moreover, none of the e-mails proved by M. Baskar (PW-5) as Ext.2 to Ext. 30 or attachment thereto are found to be supported by certificate as required under section 65-B(4) of the Evidence Act, 1872.

226) The PW-5 had stated in his examination-in-chief that after analyzing of the exhibits, CD-R of 97 emails was provided to the forwarding authority i.e. SP, NIA, New Delhi. Thereafter, hard copy of the emails were taken out and on verification, he had signed the hard copy of the emails. Therefore, there is no doubt that the emails (Ext.3 to Ext.30) were all electronic documents purportedly printed at CFSL, Chandigarh. However, the competent authority in CFSL, Chandigarh did not exhibit any electronic certificate under Section 65B of the Evidence Act. It may also be stated that insofar as the print out of the emails are concerned, such print outs are also not supported by certificate under Section 65B of the Evidence Act. As stated hereinbefore, the contents of the said e-mails (Ext.2 to Ext.30) were not proved by PW-5.

227) Thus, in the considered opinion of the Court, the herein before referred e-mails marked as Ext.2 to Ext.30 and attachment thereto are inadmissible as electronic evidence as they are not the original e-mails and moreover, not supported by certificate as required under section 65B of the Evidence Act, 1872.

Evidence of D.P. Gangwar (PW-44):

228) During the period from 1999 to May 2013, PW-44 was posted as Junior Scientific Officer at CFSL, Chandigarh and since May 2013 he was working as Scientific Officer in CFSL, Chandigarh. On 12.10.2010, the SP, NIA, New Delhi has sent a letter along with six parcels sealed with the seal of NIA for examination of exhibits and for opinion. Ext. 97 was the said

forwarding letter and Ext.97/1 to 97/6 was the details of exhibits. As per this examination in chief, the PW-44 had stated that the office was asked to examine- (1) whether the cameras and satellite phones were in working condition; (2) all the contents of camera including video files are required to be recovered; (3) all the details both incoming and outgoing of satellite phone may please be provided; (4) all deleted files may please be recovered; (5) the contact lists of satellite phones may please be provided; (6) all the deleted date (*sic.* should have been 'data') may please be recovered; (7) any other data relevant to the above may please be provided. PW-44 has stated in his examination in chief that he had taken out hard copy of e-mail which are marked as E-102 to E-116 and E-118. Those were exhibited as Ext.202 series, where Ext.202/1 to Ext. 202/39 are his signatures. E-mail which were marked as E-119 to E-121 and E-123 to E-136, E-138, E-140 to E-142, E-144 to E-148, E-150 to E-155 were exhibited as Ext. 203 series and Ext.203/1 to Ext.203/97 are the signatures. He had further stated by NIA letter dated 07.02.2011 forwarded by DSP, NIA, New Delhi, two sealed parcels containing the question and specified photographs of the suspects were received by him on 08.02.2011. After examining, he prepared his report and submitted to NIA on 13.10.2011. Ext. 204 was the examination report and Ext.204/1 and 204/2 were his signatures. His initials on every photograph were marked as Ext.204/3 to 204/8. After examination of all the photographs those were exhibited as Ext.205 series and his initial in these photographs are marked as

Ext.205/1 to 205/6. He had further stated in his report that- (1) the photograph Q-1 was found to be matching with the photograph S-1 (Jiteshwar @ Telemba); photograph Q-2 was found to be matching with the photograph S-2 (SH. Mutum Ibahol); photograph Q-3 was found to be matching with the photograph S-3 (Wahengbam Toiba @ W. Naren Singh); photograph Q-4 was found to be matching with the photograph S-4 (Maibam Chaorel Sarat @ Noba Kumar Singh); photograph Q-5 was found to be matching with the photograph S-5 (Sinam Gune Singh); photograph Q-6 was found to be matching with the photograph S-6 (Kh. Jeeten). He had further stated in his examination in chief that in a Court that day he has seen a sealed packet, sealed with the seal which he was authorised to use, which is marked as MO-80/3 containing one DVD by which NIA has sent the soft copies of e-mails in different folder which were in zipped format. He had examined the DVD in the laboratory and e-mails were unzipped and the print outs thereof were exhibited earlier above. He unzipped e-mails taken from safe DVD were also provided in two other CD with his report along with the hard copy of e-mails, which was opened in Court and marked as Mat. Ext.45. The other two CDs which he made were exhibited as Mat. Ext.46 and 47.

229) Thus, it is seen that PW-44 has not exhibited the contents of any of the exhibited e-mails or attachment thereto.

230) In his examination-in-chief, PW-44 has not made any statement which incriminates any of the appellants herein of committing, abetting or participating in conspiracy for committing any offence punishable under Section 18, 20, 21 of UA(P)A and under section 121(A) and 122 of the IPC. Rather, in his cross examination, PW-44 had stated that as he was a CFSL Expert as such he was not aware if the material objects examined by him are incriminating or not. He has also stated that he cannot say whether the DVD sent to the CFSL containing the soft copies of e-mails have been tempered/ edited or not. He had also stated that before making the CDs tampering is possible in the soft copies. In his cross-examination, PW-44 had stated that he had examined the CDs and other software's and songs of different albums and movies and after examining all the materials referred to him, he had not found any incriminating materials. He had also stated that the Investigating Agency had not asked him to examine/ query relating to the CDs whether they are anti-social or not. Thus, the evidence of PW-44 does not implicate any accused- appellants from whom electronic devices like laptops, pen-drive, mobile, satellite phones, etc. were seized.

231) It is observed that none of the e-mails or photographs exhibited by PW-44 is supported by a certificate under Section 64B (4) of the Evidence Act.

Evidence of Satheesh Chand (PW-53):

232) In his examination-in-chief, Satheesh Chand (PW-53) had stated that at the relevant time, he was Dy. S.P., NIA and IT In-Charge of NIA. He had stated that Moirngtham Joy Singh @ JoyJao @ Nongyai @ Neelachandra (A-18) was brought to his office on 18.11.2010 at about 4.30 PM and he voluntarily told him that he has been working in UNLF since 1982 and he was using two e-mail accounts, greenplate09@ gmail.com and greenfield006@ yahoo. co.uk for sending and receiving emails in connection with activities of UNLF and he also told that if he is provided a computer with internet connection, he can open the email accounts and show the emails thereon to the I.O. Accordingly, A-18 was taken to an adjoining room with independent witness and I.O. and a computer having internet connection was provided to him. He opened his e-mail account greenplate09@gmail.com with his password and the e-mails from inbox, outbox, sent items and draft was downloaded by A-18. Ext.111 was the disclosure statement of A-18 and PW-53 exhibited his signatures, signatures of A-18 and witnesses as Ext.111/1 to Ext.111/10 thereon. Ext.112 was the recovery memo and his signatures, signatures of A-18 and witnesses were marked as Ext.112/1 to Ext.112/10 thereon. PW-53 had stated that printout of all emails in inbox, sent items outbox and drafts were printed by A-18 through a laser printer attached to the computer.

233) On 19.11.2010, A-18 was again produced before him. A-18 opened the e-mail account greenplate09@gmail.com with his password and the e-mails from inbox, outbox, sent items and draft

was downloaded by A-18. Thereafter, PW-53 copied all those e-mails with the attachments on to a new sterile hard disc to be forwarded to forensic laboratory for the purpose of examination. Ext.113 is the recovery memo by which e-mails were recovered and copied in sterile hard disc (Mat.Ext.43). PW-53 had exhibited his signatures, signatures of A-18 and witnesses as Ext.113/1 to Ext.111/10 thereon. Ext.114 is the certificate under section 65B of the Evidence Act, 1872, which contains date of 18.11.2011, i.e. after one year of downloading. PW-53 had exhibited e-mails, which were marked as Ext. 115 series (further marked as E/1 to E/156) by projecting that those were print-out of e-mails. PW-53 had also exhibited his signatures and signatures of Siba Prasad Mohanty (PW-74) as Ext.115/1 to Ext.1151/663 thereon. At random, we have perused some of the said e-mails, viz., e-mail marked E4/2 (Ext.115/13 and Ext.115/14), E5/3, E6/2 and E7/2 (Ext.115/15 and Ext.115/16), E11/2 (Ext.115/51 and Ext.115/52), E22/2 (Ext.115/172 and Ext.115/173), E23/3 (Ext.115/176 and Ext.115/177), E24/2 and E25/2 (Ext.115/178 and Ext.115/179), E28/31 (Ext.115/184 and Ext.115/185), and E59/2 (Ext.115/704 and Ext.115/705).

234) On a perusal thereof, it is seen that the mails which have been exhibited by PW-53 are English translated version. Those are e-mails typed on a computer, but are definitely not in the format by which e-mails can be seen and downloaded from "gmail", "yahoo mail" or any other e-mail website. None of the e-mails show the attachment button, even if any of such e-mail contained

an attachment. One of the aforesaid exhibits [Ext.115/16) and Ext.115/17] has been scanned and attached to this judgment and order as Appendix-E for ready reference.

235) Thus, in the considered opinion of the Court, none of the herein before referred e-mails marked Ext.115 series qualify as an admissible electronic evidence under section 64B of the Evidence Act and moreso, in the absence of any certificate under section 65B(4) of the Evidence Act, 1872.

Ninendra Narayan Bora (PW-71):

236) On the day PW-71 was examined before the learned Trial Court, he was working as the Director (I/c), Directorate of Forensic Science, Assam.

237) In his examination-in-chief, PW-71 had stated that when he was working as Senior Scientific Officer and Deputy Director in the Question Document Division, Mr. Mukul Kuli (who expired in 2014) was working as Junior Scientific Officer and Scientific Officer under him for ten years. He had exhibited interim report dated 24.12.2010 of NIA Case No. 10/2010 sent by M.C. Kuli to the SP, NIA, New Delhi camping at Guwahati regarding examination of Laptop, pen drive, mobile, modem etc. containing signature of MC Kuli (Ext.144/1 to 144/3) which he identified. Similarly, he also exhibited the another interim report dated 30.06.2011 of the said case as Ext.145 regarding examination of Laptop, pen drive, hard

disc etc. containing signatures of M.C. Kuli (Ext.145/1 to 145/23), which he identified.

238) He had exhibited a series of forwarding letters. For convenience, all the said forwarding letters are discussed herein together, as follows:-

- a. Ext.146 and Ext.148 are the forwarding letters by which report was sent by K. Sarma, the Deputy Director, Chemistry Division. The signature of K. Sarma, who had signed on behalf of the Director, which he identified was exhibited as Ext.146/1 and Ext.148/1 respectively.
- b. Ext.150, Ext.152, Ext.154, 156, Ext.160, Ext.162 and Ext.164 are the forwarding letters by which report of examination was sent by Dr. R.N. Khound, the then Director, Forensic Science, Assam, which contained signature of Dr. R.N. Khound, identified by him was exhibited as Ext.150/1, Ext.152/1, Ext.154/1, Ext.156/1, Ext.160/1, Ext.162/1 and Ext.164/1 respectively.

239) PW-71 had also exhibited several reports of examination of electronic devices. For convenience, all the said reports are discussed herein together, as follows:-

- a. Ext.147 is the report of examination of (1) laptop, (2) one 2 GB pen drive, (3) one 4 GB pen drive, (4) one 1 GB pen drive, (5) one Nokia 6233 handset with reliance sim, (6) one Tata Indicom USB Modem. The reports contain the

signature of M.C. Kuli, identified by him, which were exhibited as Ext.147/1.

- b. Ext.149 is the examination report of (1) one Nokia 1202 Handset with Vodafone sim, (2) one Nokia 1022 handset with Airtel sim, (3) one 12 MB Rambo pen drive, which contained signature of MC Kuli (Ext.149/1 to 149/6), which were identified by him.
- c. Ext.151 is the examination report of (1) one 80 GB SATA hard disc of Laptop, (2) one Nokia 5310 handset with BSNL sim, (3) one Nokia 7201c with Excel sim, (4) one Excel sim, (5) two apacer pen drive, which contained signature of MC Kuli (Ext.151/1 to 151/8), which were identified by him.
- d. Ext.153 is the examination report of (1) one Lenovo Laptop, (2) 10 nos. of sim, (3) five nos. of handsets, (4) two nos. of pen drive, which contained signature of M.C. Kuli (Ext.153/1 to 153/14), which were identified by him.
- e. Ext.155 is the examination report of (1) one 160 GB hard disc, (2) 8 nos. of sims, (3) 5 mobile phones, (4) one 41 GB Transcend Pen drive, which contained signature of M.C. Kuli (Ext.155/1 to 155/13), which were identified by him.
- f. Ext. 157 is the examination report of (1) one 320 GN hard disc of HP Min Laptop, (2) one Nokia 6600 handset, (3)

one Nokia 6600 handset, (4) one Nokia N95 handset, (5) one Blackberry 9630 handset, (6) one Nokia 1600 handset, (7) 7 nos. of sim cards, (8) one pen drive, which contained signature of M.C. Kuli (Ext.157/1 to 157/15), which were identified by him.

- g. Ext.159 is the examination report of (1) one 160 GB hard disc of Compaq Presario Laptop, (2) one Nokia E63 handset, (3) one Gfive U888 handset, (4) 2 sim cards, (5) one pen drive, which contained signature of M.C. Kuli (Ext.159/1 to 159/7), which were identified by him.
- h. Ext.161 is the examination report of (1) one 40 GB hard disc of Aser TravelMate 2420 series Laptop, (2) one Spice GSM Dual Sim model QT-55 handset, (3) one Spice GSM Dual Sim Model M-4580 handset, (4) one Maztor one Touch 4 Mini 80 GB External hard disc, (5) 2 SIM cards, (6) 4 nos. of software CDs, which contained signature of M.C. Kuli (Ext.161/1 to 161/7), which were identified by him.
- i. Ext.163 is the examination report of (1) one 120 GB hard disc, (2) one 80 GB hard disc, (3) 8 nos. of sim cards, (4) 5 nos. of mobile handset, which contained signature of M.C. Kuli (Ext.163/1 to 163/20), which were identified by him.

j. Ext.165 is the examination report of (1) one 160 GB hard disc, (2) one Spice GSM/CDMA model D-88 gold handset, (3) one spice CDMA model C-5060 handset, (4) one Nokia model 5030C handset, (5) 3 nos. sim card, which contained signature of M.C. Kuli (Ext.165/1 to 165/7), which were identified by him.

240) The said PW-71 had not proved the contents of any electronic storage media containing any material which incriminates any of the accused- appellants of committing any offence whatsoever.

Kishan Lal (PW-73):

241) Kishan Lal (PW-73) was witness to recovery of emails from R.K. Meghen (A-19) and had exhibited his signatures and signatures on PW-81 in various documents and e-mails. However, he cannot remember who prepared disclosure memo (Ext.166 and Ext.167). He did not read or gone through the contents of the emails described Ext.115. It may be mentioned that he had not referred to any certificate issued as per section 65B of the Evidence Act.

Evidence of Siba Prasad Mohanty (PW-74):

242) It is seen that the e-mails covered by Recovery Memo dated 11.12.2010 (Ext.167) were not proved by Siba Prasad Mohanty (PW-74) or by any official whose signature appeared in the said Ext.167. To support Ext.167, the PW-74 had exhibited a

certificate issued under section 65-B(4) of the Evidence Act, 1872. Siba Prasad Mohanty (PW-74), who at the relevant point of time was the Network Administrator in NIA had issued a certificate (Ext.168) under Section 65B of the Evidence Act regarding the data retrieved from emails on the disclosure of R.K. Meghen (A-19), by which he had certified that the process of downloading of the emails was uninterrupted. His signature was exhibited as Ext.168/1. In this examination-in-chief, PW-74 had stated that after getting the email ID and password of greenplate09@gmail.com, they started downloading the emails along with attachments. They started printing all the emails and attachments of that particular email ID one by one and that apart from printing hard copies of the emails from that particular email ID, he had also transferred the data to a sterile hard disk.

243) Therefore, from the evidence of PW-74, it appears that he had given a certificate under Section 65B of the Evidence Act for downloading of emails, being Ext.168. However, the said Ext.168 does not certify the print out of the e-mails. Therefore, electronic evidence is not found to be duly proved by PW-74.

Evidence of Dr. Rajendra Nath Khound (PW-76):

244) Dr. Rajendra Nath Khound was examined as PW-76. In the year 2009, he was the Deputy Director, Instrumentation Division, and from March, 2010 he became the Deputy Director and from August, 2010 he became the Director. He had exhibited a communication (Ext.139), thereby seeking time to examine the

exhibits and to give his report. He had also exhibited interim reports (Ext.144 and 145) sent to SP, NIA. The final report of examination was exhibited as Ext.147 and the reports of examination of certain electronic gadgets like mobile, hard disk, pen drive, etc. were marked as Ext.149, Ext.151, Ext.153, Ext.155, Ext.157, Ext.159, Ext.161. He had also exhibited a forwarding letter (Ext.164), and his report of examination of hard disk of a laptop (Ext.165).

245) He had stated that the finding in Ext.145 was publicity materials (press release dated 01.04.2010 of UNLF), budget details of UNLF, photographs, communication and emails etc. regarding budget demand of UNLF. Finding in Ext.147 was some photographs, letters addressed to Vice-Chairman, UNLF and budget details and emails. The finding in Ext.153 are some bank deposit slips, some photographs, budget statement of June, 2008 of UNLF, some letter head of UNLF dated 24.11.2008, account statement of April, 2007, budget demand for January, 2008, account statement of May, 2006, budget statement of 2010, and family maintenance allowance of the organization. The findings in Ext.155 are emails recovered from some laptop, and mobile data recovered from mobile and data recovered from SIMs, account statement of July, 2010. The findings in Ext.157 are some photographs, letters, emails, name of cadres, publicity materials, and data recovered from mobile handset. The findings in Ext.161 are some vehicle numbers, publicity materials of the organization, budget for September, 2010, map of Nagalim under heading Delhi

Unable to Kill Nagaland Separatist Movement, budget for September, 2010 (sic. repeat), emails, data of mobile handsets and SIM cards. The findings in Ext.163 are some photographs, recovered emails, publicity materials of Anglo Manipuri War, 1891, memorandum submitted to Chief Minister of Manipur, accounts statement, data recovered from mobile handset and SIM cards. The findings in Ext.165 are publicity materials of the organization, some photographs, letter head of KYKL, some materials of UNLF showing their cadre, budget statement of December, 2007 and data recovered from mobile and SIM cards.

246) It is further seen that the e-mails covered by Recovery Memo dated 11.12.2010 (Ext.167) were not proved by Siba Prasad Mohanty (PW-74) or by any official whose signature appeared in the said Ext.167. To support Ext.167, the PW-74 had exhibited a certificate issued under section 65-B(4) of the Evidence Act, 1872.

247) Therefore, when the primary evidence in form of photographs, e-mails, letters, etc. were available, there is no explanation why the prosecution did not exhibit such document which constitute primary evidence, but exhibited report of the electronic evidence. Thus, the findings contained in Ext. nos. 145, 147, 149, 151, 153, 155, 157, 161, 163 and 165 cannot be said to be an admissible evidence as those reports are secondary evidence and not the primary evidence.

Evidence of Surinder Singh Bakshi (PW-79):

248) Surinder Singh Bakshi (PW-79) had stated in his examination-in-chief that he had remained as one of the I.O's. of NIA Case RC10/2010/NIA/New Delhi from April, 2011 till filing of the charge-sheet. He had stated that on retrieval of digital evidence, in course of investigation were translated from Manipuri language to English language and were produced before the Court as evidence after due authentication by Protected Witness No.80. He had stated that the said Protected Witness No.80 was an Assistant Professor, who was well versed in *Meitei* language of Manipur had authenticated the veracity of the translated documents, which were returned to NIA with his certificate dated 05.02.2011 (Ext.185), enclosing therewith 13 statements regarding the emails from whom it was sent, to whom it was sent, the date and the gist of the emails. Those statements were marked as Ext. Nos.185/1 to 185/13. He had also submitted that in course of investigation, on 21.01.2012, he was directed by the CIO to prepare the proceedings of memorandum relating to recovery of photographs from website www.flickr.com. 29 (twenty nine) photographs were downloaded and forwarded to CFSL for examination and matching. Ext.186 was the downloading memo. The matched photographs marked as Ext.117/6 and 117/8 with a large photograph as Ext.117/11. In his cross-examination, PW-79 had admitted that no mention was made in Ext.185/1 to Ext.185/13 about the person who had translated the emails from *Meitei* to English. He did not know who had translated the contents of the emails. He had admitted that it was true that in

Ext.185, nothing was mentioned about the persons who had issued the certificate and there was no signature or any particulars of the person certifying. He had stated that the photographs were not seized from the accused. He had stated that he had not produced the downloaded photographs before the Court before sending it to CFSL, which he ought to have done as per law.

249) It is seen that Ext.185 is a certificate, which is unsigned. As stated above, the Protected Witness no. 80 mentioned in the charge-sheet was not examined in Court. His identity is not disclosed. The prosecution has not proved that Protected Witness no. 80 is a scientific expert as per Sec.293(4) CrPC as such, his examination could not have been wished away or waived. Surinder Singh Bakshi (PW-79) did not have the competence to prove Ext.185. In this regard, the learned Senior advocate for respondent no.2 has submitted that when the appellants have not taken any such ground, he questions as to whether this Court would examine the point. In this regard, the Court is of the considered opinion that in this case, an unsigned certificate was exhibited by PW-79 as Ext.185. *Per se*, the said document is inadmissible in evidence. Therefore, as admission of inadmissible evidence goes to the root of the matter, the Court is definitely entitled to examine and to return a finding that Ext.185 is inadmissible in evidence and a document purportedly written by an unknown person cannot partake character of a certificate having any evidential value.

250) Therefore, PW-79 has accepted that the emails those were exhibited were English translation of emails, which were in *Meitei* (Manipuri) language. Therefore, downloaded emails were not accompanied with certificates as required under Section 65B of the Evidence Act. Moreover, in the absence of certification from the person who had done the translation and in absence of examination of Protected Witness No.80 in Court, who had vetted the correctness of translation of the translated copies, could not be shown to be admissible evidence under any provision of the Evidence Act.

251) From the evidence of PW-79, persons whose photographs were downloaded from the website of www.flickr.com could not be proved to be members of UNLF.

252) It may be mentioned that the learned Trial Court found the e-mails which were English translation from *Meitei* language as admissible evidence by holding that the accused persons are Manipuri people and therefore, they could have raised objection if the translations were incorrect/ wrong. The Court is unable to concur with the finding of the learned Trial Court for two reasons. Firstly, because the Court had not mentioned in the judgment that it was well versed with *Meitei* language and secondly, it is the burden of the prosecution to prove a document, and only if the document is lawfully proved, that the onus of rebuttal would be on the accused persons. In this case, in the absence of certificate of printing of email as required under Section 65B of the Evidence

Act, the document is admissible in law. As per the provisions of Section 63 of the Evidence Act, it is permissible to give secondary evidence of the contents of a document.

253) An English translation of emails in *Meitei* language could have been proved by producing a translator. In this case, not only the identity of the translator has been withheld, but he was not examined as witness in Court. Admittedly, translation from *Meitei* language to English was made by an unidentified person and as per the evidence of Surinder Singh Bakshi (PW-79), an Assistant Professor, who was well versed in *Meitei* language a person, who is referred to as "Protected Witness No. 80" in the charge-sheet had purportedly authenticated the translated copies. However, the said Protected Witness No.80 was also not examined in the Court. Therefore, the Court is inclined to hold that none of the Ext.115 emails from emails marked as E-1 to E-88 can be said to have been proved in accordance with law.

Evidence of Aseem Srivastava (PW-80):

254) Aseem Srivastava (PW-80) was associate with Swayam Prakash Pani, SP, NIA, the Chief I.O. He was a co-signatory of production memo of documents produced by PW-7 (Ext.32), disclosure statement by A-18 (Ext.111), recovery memo (Ext.112), recovery memo (Ext.113), memo, of photograph taken of A-19 (Ext.127), disclosure statement of A-19(Ext.166), recovery memo (Ext.167), He had stated that print-out of e-mails only from enterprisedkay@gmail.com could be taken. Production memo of

documents by Dr. Prem Chand (PW-9) and M.C. Arun (PW-7) (Ext.187 and Ext.188) and he had exhibited his signatures thereon. He had filed supplementary charge-sheet (Ext.189) and he had exhibited his signature thereon. He had exhibited e-mails to show nexus of AEGIS with UNLF, being e-mails enclosed with charge-sheet marked as E-117 to E-155, Ext.190, Ext.190/1 to Ext.190/5, Ext.191, Ext.191/1 to Ext.191/8, Ext.192, Ext.192/1 to Ext.192/7, Ext.193, Ext.193/1 to Ext.193/12, Ext.194, Ext.194/1 to Ext.194/2, Ext.195, Ext.195/1 to Ext.195/3.

255) However, PW-80 had not exhibited any certificate under section 65B of Evidence Act, 1872 in respect of the herein before referred electronic record.

Evidence of Sudesh Kumar Sharma (PW-81):

256) Sudesh Kumar Sharma (PW-81) was witness to recovery of emails from R.K. Meghen (A-19) and had exhibited his signatures as Ext. Nos. 111/11, 111/12, 112/13, 112/14, 113/13, 113/14, 166/2, 166/5, 167/2, 167/5 and 167/8, 196/1 to 196/108. However, he cannot say about the contents thereof or who prepared the documents. He did not see the sterile disc in Court and that he subscribed his signature on the documents without going through its contents.

Evidence of Swyam Prakash Pani (PW-84):

257) Swyam Prakash Pani (PW-84) was the I.O. of the case. He had referred to several electronic evidences in his examination-

in-chief. He had exhibited disclosure statement of A-18 as Ext.111, and his signature (Ext.111/11 and Ext.111/12) thereon. He had taken print out of e-mails numbered as 1 to 2781, for which recovery memo (Ext.112) was prepared and he had exhibited his signatures (Ext.112/13 and Ext.112/14) thereon. He had stated that those e-mails were transferred to sterile hard disk for which recovery memo (Ext.113) was prepared wherein Ext.113/13 and Ext.113/14 were his signatures. He had also exhibited certificate under section 65(B) of Evidence Act as Ext.114. He had collected dossiers of past antecedents and profiles of A-8 (Ext.170) and few other co-accused. He had stated that A-1 to A-17 took rented accommodation at Guwahati by concealing their original identities and occupation from landlords. He had placed e-mails (Ext.115) in the charge-sheet. He had referred to financial benefit several accused and/or their families had received as mentioned in documents referred as document E-89 series. He had also referred to e-mails exchanged by some of the accused persons.

258) However, he had not referred to any certificate issued as per section 65B of the Evidence Act, 1872. Therefore, those exhibited documents are held not to have been proved in accordance with law.

Examination of electronic evidence in light of legal provision:

259) The electronic record that was exhibited by the hereinbefore referred prosecution witnesses are Ext.2 to Ext.30, Ext.113, Ext.114, Ext.115 (series), Ext.166, Ext.167, Ext.168,

Ext.190, Ext.191, Ext.192, Ext.185, Ext.195, Ext.202, Ext.203 (series).

260) It may be mentioned that annexed as Annexure-B-2 to the charge-sheet, is a list of 171 e-mails. In respect of some e-mails, there are attachments thereto. The original TCR was called for and upon inspection, the learned counsel for the appellants and the learned DSGI and the learned senior counsel for the respondent no.2 have submitted that the original of the exhibited emails are very much available. Be that as it may, the printed copies of none of the exhibited e-mails disclose existence of attachment button and are not in the format of e-mail service providers like gmail and yahoo mail or any other e-mail service provider.

261) In light of Ext.185 certificate, the prosecution has proved that it is not the original e-mail that was proved, which are in *Meitei* language of Manipur, but they are English version, which was translated by some unknown/ undisclosed person, and was vetted by "protected witness no. 80", who was also not examined in Court. Thus, none of the e-mail under Ext.115 series can be said to have been proved in accordance with law.

262) None of the witnesses who had proved e-mails gave evidence about the source from which attachment of the e-mails have been downloaded. These attachments, amongst others, contains the list of officers and photographs of UNLF cadres such as Lt. Col., Maj., Capt., Lt., 2/Lt., photographs of some of the

appellants in these appeals, details of expenditure incurred purportedly for maintenance of family of UNF cadre, etc.

263) Charge-sheet para 17.6, 17.23, 17.28 and 17.36 contain reference to some email addresses. However, none of the PWs had proved that those e-mails was either sent by and/or received by any of the appellants.

264) Moreover, in paragraph 17.36 of the charge-sheet, there is a reference to the photographs from which the exhibited photographs were compared. However, none of the PWs had exhibited the original photographs. As per the prosecution, the photographs of the appellants in army fatigue established that the appellants are members of UNLF. Assuming that the photographs were of the appellants, but there is no evidence to connect the appellants with any terrorist act. It is not the case of the prosecution that the photographs of the appellants were taken in some UNLF camp or while they were participating in any act of terrorism by UNLF. Therefore, the question is can by virtue of photographs downloaded from e-mail of a co-accused and/or a third person be sufficient evidence to charge the appellants to be the members of UNLF? It is not the case of prosecution that the said photographs were downloaded from the posts given by any of the appellants in their e-mail, claiming to be officers of UNLF.

265) From the statement made at paragraph 17.6 of the charge-sheet, the e-mail address of R.K. Meghan (A-19) is said to be salai_taret@yahoo.com. Similarly, in paragraph 17.28 of

charge-sheet, the email address by which Thanil (A-21) was communicating with Khungdong Tombe (A-1) was cnc_khuman@yahoo.com. However, the learned senior counsel for NIA and the learned DSGI could not show that there was any evidence regarding identification of e-mail addresses of the appellants and their link to UNLF through any e-mail address.

266) In respect of the e-mails, it is seen that except for the photographs proved as Ext.5 series, the e-mails that were proved as exhibit nos. 5 (series), 6, 8, and 115 (series) are mostly English typed copy of the original e-mails, which are in *Meitei* (Manipuri) language. Thus, they are not the original e-mails. *Meitei* language is not the language of the Court and the learned Trial Court has not recorded in the impugned judgment that it had read and understood the contents of e-mails which were in *Meitei* language.

267) Thus, from the provisions of Section 65B(1), it is clear that an electronic document is "*deemed to be also a document*", if the conditions mentioned in the said section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein or which direct evidence would be admissible.

268) As per the provisions of section 65B(2)(b) of the Evidence Act, evidence of particulars of any device involved in the production of that electronic record as may be appropriate for the

purpose of showing that the electronic record was produced by a computer must be given. In the present case in hand, not only the print-out of the e-mails, but the print-out of the photographs of UNLF cadres that were downloaded from e-mails of A-18 and A-19 as well as from website www.flickr.com were exhibited. However, none of the prosecution witnesses had exhibited a certificate of printing of those electronic documents as required by section 65B(4) of the Evidence Act, 1872.

269) It may be mentioned that Satheesh Chand (PW-53) had stated that M. Joy Singh (A-18) was brought to his office on 19.11.2010 and his computer was provided to A-18. He opened his e-mail account greenplate09@gmail.com with his password and the e-mails from inbox, outbox, sent items and draft was downloaded by A-18. Thereafter, PW-53 copied all those e-mails and attachments on to a new sterile hard disk to be forwarded to forensic laboratory for the purpose of examination. PW-53 had exhibited e-mails, which were marked as Ext. 115 series (further marked as E/1 to E/156) by projecting that those were print-out of e-mails.

270) In this case, admittedly, the email print-outs were first taken out by A-18 at New Delhi in the presence of PW-53. Thereafter, PW-53 copied all those e-mails and attachments on to a new sterile hard disk to be forwarded to forensic laboratory for the purpose of examination. The e-mails downloaded by A-19 were in the presence of Siba Prasad Mohanty (PW-74). One of the

sample e-mails marked as Ext.115 series, which are referred herein before in paragraph 238 above and entered in Appendix-E to this judgment, do not contain the signatures of PW-73 and PW-81, who were witnesses to their downloading by A-18 and A-19. Be it mentioned herein that the signatures of A-18 and A-19 were exhibited.

271) It is reiterated at the cost of repetition that on a perusal of the emails, which were admitted in evidence as exhibits and made a part of trial Court record, it is seen that most of the emails are not print out from the email service provider's web-site such as "gmail.com" or "yahoo.com" or any other e-mail service provider. Moreover, the so called attachments are not reflected in most of the exhibited emails. Therefore, based on the contents of Ext.185 certificate, the indelible impression gathered from the exhibited e-mails is that the exhibited e-mails are merely print-out of an typed-out document. For example, Ext.5 is an email which is given the mark of E79/6 by the prosecution. The said e-mail is typed in English. Although it mentioned in the e-mail that "list of officers is attached" but on the face of Ext.5, there is no attachment button/icon imbedded in the said email. The attachment containing list of officers (Ext.5/2 to Ext.5/6) and the photographs (Ext.18/4 to Ext.18/7), thus, cannot be accepted to be an attachment to the original e-mail of which an English typed copy was exhibited as Ext.5.

272) In the absence of the e-mail being proved in accordance with law, the English translated copy of the exhibited e-mails cannot be said to be an e-mail downloaded from the mail service provider and stored in the computer.

273) As mentioned herein before, the printed copy of exhibited e-mails, though supported by certificates issued under section 65B(4) of the Evidence Act, 1872, being Ext.114 and Ext.168, the said two certificates do not cover printing by use of computers and printers.

274) Accordingly, in light of the discussions above, the Court is constrained to hold that the evidence of electronic evidence in i.e. e-mails and photographs including list of officers (Ext.5/2 to Ext. 5/6) and the photographs (Ext.18/4 to Ext.18/7), thus, cannot be accepted to be an attachment to the said email (Ext.5) are inadmissible in evidence. The English translated copies of e-mails in *Meitei* language are also held to be inadmissible in evidence because the translator and the person authenticating the translations were not examined as prosecution witness in Court.

275) The learned senior counsel for the respondent no.2 (i.e. NIA) and the learned DSGI had strenuously submitted that the said documents were admitted without any objection. In this regard, the person who had translated e-mails from *Meitei* language to English or the Protected Witness No. 80 who had authenticated the translations were not the person exempted under section 293(4) of the CrPC Moreover, even if it is assumed

they are exempted from personal appearance, then also their nominee must be examined as witness in Court and their respective signatures was lawfully required to be proved. Therefore, PW-79, not being a nominee for the translator and authenticator, did not exhibit his competency to prove English translated copies of e-mails, which were in *Meitei* language.

276) In the case of *Anwar v. Basheer (supra)*, the Supreme Court of India, while dealing with electronic evidence, had observed as follows:-

22. The evidence relating to electronic record, as noted hereinbefore, being a special provision, the general law on secondary evidence under Section 63 read with Section 65 of the Evidence Act shall yield to the same. Generalia specialibus non derogant, special law will always prevail over the general law. It appears, the court omitted to take note of Sections 59 and 65-A dealing with the admissibility of electronic record. Sections 63 and 65 have no application in the case of secondary evidence by way of electronic record; the same is wholly governed by Sections 65-A and 65-B. To that extent, the statement of law on admissibility of secondary evidence pertaining to electronic record, as stated by this Court in State (NCT of Delhi) v. Navjot Sandhu @ Afsan Guru, (2005) 1 SCC 600, does not lay down the correct legal position. It requires to be overruled and we do so. An electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65-B are satisfied. Thus, in the case of CD, VCD, chip, etc., the same shall be accompanied by the certificate in terms of Section 65-B obtained at the time of taking the document, without which, the secondary evidence pertaining to that electronic record, is inadmissible."

277) In the case of *Sonu @ Amar (supra)*, the Supreme Court of India had observed as follows:-

The Effect of Overrule

31. *Electronic records play a crucial role in criminal investigations and prosecutions. The contents of electronic records may be proved in accordance with the provisions contained in Section 65B of the Indian Evidence Act. Interpreting Section 65B (4), this Court in Anvar's case held that an electronic record is inadmissible in evidence without the certification as provided therein. Navjot Sandhu's case which took the opposite view was overruled.*

32. *The interpretation of Section 65B (4) by this Court by a judgment dated 04.08.2005 in Navjot Sandhu held the field till it was overruled on 18.09.2014 in Anvar's case. All the criminal courts in this country are bound to follow the law as interpreted by this Court. Because of the interpretation of Section 65B in Navjot Sandhu, there was no necessity of a certificate for proving electronic records. A large number of trials have been held during the period between 04.08.2005 and 18.09.2014. Electronic records without a certificate might have been adduced in evidence. There is no doubt that the judgment of this Court in Anvar's case has to be retrospective in operation unless the judicial tool of 'prospective overruling' is applied. However, retrospective application of the judgment is not in the interests of administration of justice as it would necessitate the reopening of a large number of criminal cases. Criminal cases decided on the basis of electronic records adduced in evidence without certification have to be revisited as and when objections are taken by the accused at the appellate stage. Attempts will be made to reopen cases which have become final.*

278) It may be stated herein that the case of *Anwar v. Basheer (supra)* was decided on 18.09.2014. However, the evidence of Surinder Singh Bakshi (PW-79) was recorded on 18.08.2015. Therefore, the law as decided by the Supreme Court of India in the case of *Anwar v. Basheer (supra)* was very much holding the field, notwithstanding the retrospective effect that said judgment had referred to.

279) Therefore, the legal position is that an electronic record is a "deemed document" in terms of section 65B(1) of the Evidence Act, 1872 and that it becomes so on fulfilment of the requirement prescribed under section 65B(4) of the Evidence Act, 1872. The prosecution has failed to demonstrate that the process of printing of electronic record was covered by any of the certificates issued under section 65B of the Evidence Act, 1872. Hence, the Court is inclined to hold that the learned Trial Court had accepted the otherwise inadmissible e-mails and other electronic evidence, which is not sustainable in the scrutiny of law.

280) In respect of e-mails proved by the prosecution, it is seen that the learned senior counsel for A-8 has been able to demonstrate that the e-mails exhibited as Ext.115 series is supported by certificate under section 65-B(4) of the Evidence Act, which was marked as Ext.114. To support e-mails covered by recovery memo dated 11.12.2018 (Ext.167), Siba Prasad Mohanty (PW-74) had relied on certificate (Ext.168), issued under section 65-B(4) of the Evidence Act, 1872. However, the said certificates (i) do not identify the electronic record containing the e-mails, (ii) do not describe the manner in which the print-out were obtained, (iii) do not describe the particulars of the printer and other devices involved, (iv) do not cover printing; and Ext.168 does not certify the place where the print-out were made. The said certificates merely certify that the computer was under the technical control and supervision of the persons signing the said certificates and that the process of downloading was uninterrupted. Moreover, as

indicated herein before, though the certificate (Ext.168) was exhibited by PW-74, the e-mails covered by Recovery Memo (Ext.167) were not proved by them.

281) It is seen that the prosecution had proved another certificate under section 65-B(4) of the Evidence Act, 1872, which was marked as Ext.185. The said certificate does not contain any signature and therefore, it cannot be held that Ext.185 has any evidentiary value.

282) The e-mails obtained after downloading from address-enterprisedkay@ gmail.com were not exhibited by any prosecution witnesses. It would be appropriate to mention here that some of the witnesses have exhibited the hard-disk and CDs purportedly containing the e-mails, but the contents of such hard-disk, storage devices like pen-drive and compact-discs were not exhibited.

283) In light of the discussions above, the Court is inclined to hold that the prosecution witnesses, namely, M. Baskar (PW-5), (ii) Satheesh Chand (PW-53), (iii) Kishan Lal (PW-73), (iv) Siba Prasad Mohanty (PW-74), (v) Dr. Rajendra Nath Khound (PW-76), (vi) Surinder Singh Bakshi (PW-79), (vii) Aseem Srivastava (PW-80), (viii) Sudesh Kumar Sharma (PW-81) and (ix) Swyam Prakash Pani (PW-84) have not been able to prove the electronic evidence in accordance with law.

284) In light of the discussions above, the point of determination no.(d) is answered by holding as follows:-

- a. The prosecution witnesses have not proved the electronic evidence, being Ext.2 to Ext.30 [inclusive of Ext.5 (series), Ext.18(2) to Ext.18(7)] and Ext.115 (series) in accordance with law as per the requirement of section 65B of the Evidence Act, 1872; and
- b. The prosecution witnesses, viz., PW nos. 5, 44, 53, 71, 73, 74, 76, 79, 80, 81 and 84, as discussed herein before, have failed to prove the contents of the electronic evidence, being Ext.2 to Ext.30 [inclusive of Ext.5 (series), Ext.18(2) to Ext.18(7)], Ext.115 (series), Ext.144 (series) to Ext.167 (series), Ext.204 (series), Ext.205 (series).
- c. In light of the discussion above, the Court is inclined to hold that the learned Trial Court had erred in law in accepting the electronic evidence exhibited as Ext.2 to Ext.30 [inclusive of Ext.5 (series), Ext.18(2) to Ext.18(7)], Ext.115 (series), Ext.144 (series) to Ext.167 (series), Ext.204 (series), Ext.205 (series) as a conclusive proof of its contents which is found to be "not proved" because the original e-mails were in *Meitei* (Manipuri) language and the English translations were not proved by examining the person who had done the translation, i.e. Protected Witness No.80.
- d. Therefore, the point of determination no. (d) is answered in the negative and in favour of the appellants. The Court

is inclined to hold that the electronic evidence exhibited as Ext.2 to Ext.30 [inclusive of Ext.5 (series), Ext.18(2) to Ext.18(7)], Ext.115 (series), Ext.144 (series) to Ext.167 (series), Ext.204 (series), Ext.205 (series) have not been proved in accordance with the requirement of section 65-B(4) of the Evidence Act, 1872. It is also held that the marking of documents as exhibits are not sufficient to hold the appellants herein to be guilty of committing any offence because the contents of the electronic records has not been proved, without which the involvement of the appellants in any criminal offence or conspiracy in the commission of abatement of any offence cannot be established.

- e. The electronic mails disclosed by A-18 and A-19 though which photographs of the appellants, being W. Noren Singh @ Thoiba (A-8), K. Jeeten Singh @ Khombo @ Dene (A-10), S. Gune Singh @ Boy @ Wanglen @ Little Boy (A-11), Mutum Ibohal Singh (A-12), and L. Jatishor Singh @ Tilemba (A-17), were exhibited by D.P. Gangwar (PW-44) as Ext. 204 series; list of officers exhibited as Ext. 5, containing signatures of Shri M. Baskar as Ext.5/1 to 5/6, and 10 (ten) sheets containing 2 (two) photographs each of 3 (three) officers of UNLF containing signatures of Shri M. Baskar, which is exhibited as Ext.18/4 to Ext.18/13; and Ext.117 by Shri Siddharth Indravadan Desai (PW-54), which was exhibited as

Ext.117 contains report of examination with mark S-1, S-2, Q-1 to Q-9. The same does not relate to any of the appellants herein. Moreover, PW-55 did not state any incriminating materials against any of the appellants herein. Hence, the photographs do not prove that the persons whose photographs were retrieved through e-mail attachment are members of the UNLF in the absence of any other corroborative evidence.

Offence of committing conspiracy punishable under section 121A of the IPC:

285) The learned Trial Court had held that A-6, A-7, A-8, A-10, A-11, A-12, A-16, A-17, A-18 and A-19 are guilty of committing offence punishable under section 121A of the IPC.

286) It would be appropriate to refer to the provision of sections 121 and 121A IPC, which is quoted below:-

121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.- Whoever wages war against the Government of India, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment for life and shall also be liable to fine.

121A. Conspiracy to commit offences punishable by section 121.- Whoever within or without India conspires to commit any of the offences punishable by section 121, or conspires to overawe, by means of criminal force or the show of criminal force, the Central Government or any State Government, shall be punished with imprisonment for life, or with imprisonment of either description which may extend to ten years, and shall also be liable to fine.

Explanation.—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.

287) Thus, from a plain reading of the said two provisions, it appears that under section 121 IPC, conspiracy itself is an offence. It is not necessary to establish any illegal or illegal omission as overt act of the conspiracy or which has to be established to bring home the said offence. The prosecution has to only prove that the conspiracy must be within or without India to commit any of the offences punishable by Section 121 of the IPC and the accused persons must be guilty of conspiring to overawe by means of criminal force or the show of criminal force to the government and includes that (i) the accused should have entered into a conspiracy; (ii) the conspiracy must be to wage war or attempt to wage war against Govt. Of India (a) by use of criminal force; or (b) by show of criminal force to the Central Government or State Government. It prima facie appears that the criminality of a conspiracy is independent of the criminality of the overt act as is expressly laid down in the explanation of Section 121-A IPC.

288) The observations of the learned Trial Court in para-85 of the impugned judgment is quoted below:-

“There was, however, enough evidence to prove beyond reasonable doubt, as discussed in paragraphs 26, 46, 56 to 61, 62, 63, 65 & 66 of this judgment that some of the accused, namely, A-6, A-7, A-8, A-10, A-11, A-12, A-16, A-17, A-18 and A-19 were conspiring or attempting to commit an act which was in the nature of any act preparatory to the commission of a terrorist act and were also conspiring to commit an act which is punishable u/s 121 of the IPC.

There was, however, no specific evidence of waging war against the Government of India. Their act was limited to the extent of conspiracy to wage a war against Government of India and before it reached the stage of even an attempt to wage a war, they were detained and brought to face trial. Accused A-6, A-7, A-8, A-10, A-11, A-12, A-16, A-17, A-18 and A-19 are therefore, held guilty u/s. 18 of the UA(P) Act and u/s 121A of the IPC and are convicted accordingly. Remaining accused are held not guilty u/s. 18 of the UA(P) Act & u/s 121A of IPC and all the accused are held not guilty u/s 121 of the IPC."

[emphasis by us]

289) Thus, it is seen that the learned Trial Court has specifically held that none of the accused, including the appellants herein, are guilty of waging war against the Govt. of India. Hence, none of the appellants herein have been convicted for committing offence under section 121 of the IPC. Therefore, the Court is of the considered opinion that there is no evidence available against the appellants in respect of ingredients of first part of section 121A of the IPC i.e. "*Whoever within or without India conspires to commit any of the offences punishable by section 121*".

290) Hence, it is to be seen how far the prosecution has been able to prove the existence of ingredients relating to the second part of the provisions of section 121A of the IPC, i.e. "*Whoever conspires to overawe, by means of criminal force or the show of criminal force, the Central Government or any State Government, shall be punished with imprisonment for life, or with imprisonment of either description which may extend to ten years, and shall also be liable to fine.*"

Evidence against UNLF as a terrorist organisation and indulging in terrorist activities:

291) "Terrorist act" is defined under section 15 of the UA(P)A, with which we are now not concerned as we are examining the commission of offence punishable under section 121A of the IPC.

292) As per the learned senior counsel for the respondent no.2, the evidence against UNLF as a terrorist organisation and indulging in terrorist activities was by PW nos. 3, 4, 7, 11, 14, 19, 22, 26, 27, 34, 45, 59 and 83. The learned Trial Court has recorded in para-85 of the impugned judgment that evidence with regard to conspiracy has been discussed in paragraph nos. 26, 46, 56 to 61, 62, 63, 65 & 66 of the judgment. Therefore, the said paragraphs are now being examined herein below:-

Para 27 of judgment:

293) In para-27 of the impugned judgment, reference has been made to the evidence of PW-21, who had deposed to the effect that sometime in the year 2010, police had arrested A-5, A-6, A-7, and A-12 from his house. A-5 and A-12 were staying in rooms rented by him and A-6 used to stay with A-12. He had stated that vide two seizure memo (Ext.46 and Ext.47) police seized several items and a large amount of cash money amounting to more than Rs.2.00 lakh. The learned DSGI and the learned senior counsel for the respondent no.2 have not been able to

show how conspiracy is proved by discussion made by the learned Trial Court in para-27 of the judgment.

Para-46 of judgment:

294) In para-46 of the judgment, the learned Trial Court has discussed about Ext.115/740, which was an attachment regarding information and table of Indian Ballistic and Cruise Missiles. Ext.115/750 to Ext.115/872 purportedly contained information regarding establishment of Military in Manipur and chronology of Indian Missile Technology. The learned Trial Court had referred to Ext.5 series containing an attachment of list of officers of UNLF, being A-8, A-10, A-11, A-12 and A-17, which according to the learned Trial Court was a sound proof of them being UNLF cadre. It was also held that Ext.6/3 was a e-mail from A-16 to A-19 regarding plan to establish foothold in China. Ext.10/1 was held to be a mail regarding picking up a contractor and demand Rs.1.00 Crore, which was accepted as evidence of extortion.

295) The learned DSGI and the learned senior counsel for respondent no. 2 could not demonstrate that any secret information regarding establishment of Military in Manipur and chronology of Indian Missile Technology, hitherto not available in the public domain in the internet was found in Ext.115/750 to Ext.115/872.

296) Moreover, it was held by the learned Trial Court that from the e-mail (Ext.10/1), extortion was proved. However, it is seen

that the alleged person who had suffered threat of extortion, referred to in Ext.10/1 was not examined as witness during trial.

Para- 56 to 61 of the judgment:

297) In paragraph nos. 56 to 61 of the impugned judgment, the learned Trial Court has discussed the evidence of PW-3 and PW-4. It would suffice to mention that PW-3 and PW-4 have stated in their examination-in-chief that they had visited Manipur in May/June, 2006. They have stated having seen UNLF cadres in combat uniform with large amount of sophisticated arms and ammunition. However, PW-3 has only identified Sanayaima (A-19), as Chairman of the UNLF. Although the PW nos. 3 and 4 had deposed that on 4 to 5 times they had telecast the documentary titled "*Hidden War in North East*", the prosecution did not exhibit the said documentary. The PW-3, in his cross-examination, had refused to divulge the name of his news channel. He had stated that the interview was conducted by his colleague. He had stated that the film prepared by them was not seized by the investigating agency. He had further stated that the original film was not available with them. PW-3 had also stated that they fired some firearms as a part of their demonstration, which was not filmed by them. He had also stated that some young cadre gave them interview, which was telecast sometime in September, 2006, but that interview was also not exhibited by the prosecution. He had stated that they had telecasted the edited documentary and not the original recording. Thus, though electronic evidence of video

shot by PW nos. 3 and 4 was available, the best and direct evidence was withheld by the prosecution, for which the prosecution had not tendered any explanation and reliance was placed on the oral evidence of PW-3. Through PW-3 claimed to have seen UNLF cadres, but the photographs of A-6, A-7, A-8, A-10, A-11, A-12, A-16, A-17 was not showed to him.

298) The PW-4 had visited North East in May, 2006. His deposition was more or less same as that of PW-3. In his cross-examination, PW-4 had stated that he was accompanied by PW-78 on his visit to North East in the year 2007. It may be stated that Virendra Kumar (PW-78) is the then Under Secretary to the Govt. of India, Ministry of Home Affairs, who has issued sanction for prosecution against all the 19 accused including the appellants herein and had had exhibited the prosecution sanction order dated 09.02.2011 (Ext.137) and his signature (Ext.137/1) thereon. In his cross-examination, PW-4 had stated that they had edited the footage taken in UNLF camp before telecasting "*Hidden wars in the North East.*" He had also stated that as per request, paper scripts were handed over to the NIA by the office. He had also stated that except for the Chairman (i.e. A-19), he cannot identify any cadre of UNLF. PW-4 did not exhibit the photographs of any appellants herein as the UNLF cadre whom he had seen in the UNLF camps in Manipur. Contrary to the statement made by the PW-3, the said PW-4 had stated that request was made by NIA to their organisation to provide paper-scripts and photography of the interview, but the same was not provided. It is seen that it is not

the case of the prosecution that the PW-3 and PW-4 had refused to provide video photography of UNLF camp. Thus, though documentary evidence and electronic evidence of UNLF camps was very much available, the prosecution has relied on oral evidence of PW-4 instead.

299) It may be mentioned that in para-61 of the judgment, the learned Trial Court had dealt with the defence plea that no witness who had seen the telecast of interview of A-19 was produced by holding that PW-3 and PW-4 were protected witness and any testimony of any witness regarding telecast would have, in probability, reveal the name of the TV channel and the names of the protected witness and it was held that this probably explained non-examination of any witness regarding actual telecast of the interview. Moreover, it was held that there was no ground for those witnesses to give false and untrue statement.

300) The Court is unable to concur with the said finding of the learned Trial Court. If the identity of the witness was to be kept secret, the Courts are not powerless to do so. In cases under POCSO Act and rape cases, all Courts, including the Trial Court, High Court and the Supreme Court of India undertakes masking of the names of the victim and any other family members through whom the protected identity can be divulged and/or exposed. However, in this case in hand, although no evidence was led by the prosecution to prove the presence of any of the appellants herein in the UNLF camp in Manipur by exhibiting the original

video of “*Hidden wars in the North East*”, it is not open to the Court to justify lack of evidence on the ground that it could reveal protected identity. The learned DSGI representing respondent no.1 and the learned senior counsel for NIA i.e. respondent no.2 has not shown any case law wherein any Constitutional Court in India had held that in criminal jurisprudence, it was permissible for the Court to presume that a particular testimony is sacrosanct merely because the witness had no reason to make untrue statement. Thus, from the evidence of PW-3 and PW-4, it cannot be said that there is any admissible evidence to prove beyond doubt that any of the appellants herein were members of UNLF.

Para-62 to 66 of the judgment:

301) In the said paragraphs, the evidence of witnesses has been discussed.

302) It was stated that Indubhusan Kongkham (PW-7) had stated in his examination-in-chief that he had heard several persons including A-14, A-18 and A-20 shouting at each other in a room of a hotel in China about purchase of weapons and training of UNLF cadre in China. In this regard, it is seen that the prosecution has not proved that the police or the security forces had seized any China made weapons from any of the accused in this case. The prosecution has also not been able to prove that any UNLF cadre was arrested with arms and ammunitions procured by any of the appellants herein. Moreover, the prosecution has also failed to prove that any UNLF cadre has been

trained in China within a reasonable time after PW-7 had purportedly heard discussions about training of UNLF cadre in China.

303) The evidence of PW-7 has been discussed in paragraphs 354 and 355 of this judgment. Therefore, his evidence is not replicated herein to avoid repetition. Upon analysis of the evidence of PW-7, the learned Trial Court has held it to be trustworthy. However, the Court is unable to concur with the said finding of the learned Trial Court in the absence of any evidence by PW-7 regarding the following, viz., (i) his date of travel to Chengdu in China; (ii) the name of hotel where he had stayed; (iii) the dates when he had stayed in the particular hotel; (iv) name of the hotel where A-14, A-18 and A-20 were staying; (v) the date, time and the name of the hotel when PW-7 had allegedly over-heard the persons including A-14, A-18 and A-20, assembled in the hotel room where they were allegedly shouting at each other regarding purchase arms and to provide military training of UNLF cadre in China.

Evidence of extortion:

304) As per the finding of the learned Trial Court PW nos. 11, 14, 19, 22, 26 and 27 had deposed about extortion by UNLF.

305) The PW-11, namely, L. Pakasana Singh had denied in his cross examination that he had personally made any transaction with any member of the UNLF. He had also denied that there was

any written demand for money. He had also admitted that in the books of accounts of the firm where he was working it was not recorded that any money was paid to UNLF. He had further stated that telephonic demands were made from the truck drivers from their phones whose names and particulars he cannot remember. Thus PW-11 is merely a hearsay witness and therefore, his evidence is not found to be an admissible evidence to convict anyone for extortion or for conspiracy for committing the offence of extortion.

306) Suraj Sapam, who was examined as PW-14, had stated in his cross-examination that he does not know any accused persons who were present in Court. He had also stated that those persons (i.e. the extortionists) did not come to their firm to collect money. Moreover, he had also stated that he cannot identify the person who collected money. He had also stated that he had seen Ext.13 and Ext.14 and entries made therein for the first time in the Court and he had denied that any statement was prepared by him. He had stated that he had never experienced any instance where he was terrorized by the members of UNLF. Thus, it is seen that through PW-14, the prosecution has not been able to prove that UNLF or any of the appellants herein had indulged in any terrorist act.

307) The PW-19, namely, Th. Sarat Singh had clearly stated in his cross-examination that he had never reported to the police about any transaction from 2008 to 2010 regarding providing 5%

of their allocated food-grains to UNLF. He had also stated that UNLF had never threatened them in the matter. Thus, the PW-19 has also not proved that the appellants had indulged in any terrorist act.

308) The PW-22, in his cross-examination, had stated that he used to pay food grains to a contractor named L. Rupa Singh (PW-26) and he did not deliver food grains to any other person. He had stated that he had not received any written demand from UNLF and he did not contact any UNLF member personally. He had further stated that he did not know if the food grains collected by L. Rupa Singh (PW-26) were collected for UNLF or not. He had also stated that he had not received any threat from UNLF. Thus, PW-22 has also not been able to prove that the appellants had indulged in any terrorist act.

309) The PW-26, namely, Laitonjam Rupa Singh, in his cross examination, had stated that there was no threat by the show of force by using bombs, guns and other weapons to him or to his family. He had stated that one Ranjit Singh (who is not an accused in this case) had come to him once and that he cannot identify him. In his re-examination, PW-26 had stated that he had received threat from Jiten (A-10) over phone. However, the prosecution had not exhibited the "call detail report" of PW-26 to prove that PW-26 had received threat from Jeeten Singh (A-10). In his examination-in-chief, PW-26 had stated that he can identify Ranjit Singh and Jiten, but he did not see them in Court.

310) It may be mentioned that Ranjit Singh, whose name is disclosed by PW-26 is not arrayed as an accused in this case. It may also be stated that PW-26 was examined, cross-examined and discharged on 29.08.2013. As per the TCR, Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10) was physically present in the learned Trial Court on the said date, i.e. 29.08.2013. Thus, from the evidence of PW-26, the identity of A-10 has become disputed. Although PW-26 asserts that he had received threat from one "Jiten", but he had not stated in his evidence about the date and time when he had received any threatening from A-6.

311) In his cross-examination, PW-26 had stated that for recording his statement under section 164 CrPC, he was taken to Court by NIA officials and that he had come out of the Court with the NIA officials.

312) Although the PW-26 had deposed to the effect that UNLF money was deposited in his account, but through PW-26, the prosecution had not exhibited his bank statement to prove any such transaction.

313) Thus, PW-26 has also not been able to prove that the appellants had indulged in any terrorist act.

314) The PW-27, namely, Laitonjam Inao Singh, had stated in his cross examination that he and his family did not receive any demand letter from UNLF. The person who had demanded money from his was Choaren Singh. It may be stated that the said

Choaren Singh is neither arrayed as an accused and nor he was examined as a prosecution witness. PW-27 had also deposed that he and his family did not receive any threat from UNLF by using bombs, dynamites, guns and other lethal weapons and he was not kidnapped by UNLF. Moreover, although the PW-26 had stated in his deposition that UNLF money was deposited in his bank account, but no bank statement showing deposit of UNLF money in his account was exhibited by him. Thus, PW-27 has also not been able to prove that the appellants had indulged in any terrorist act.

315) Thus, from the cross-examination of the said PWs, it is seen that none of the PW nos. 11, 14, 19, 22, 26 and 27 had supported the prosecution case regarding extortion by the appellants or by any particular UNLF cadre. Moreover, except for some statement against A-10 by PW-26, there is no evidence that any of the appellants had indulged in any conspiracy regarding commission of any terrorist act. Moreover, the PW-26 has not proved that UNLF had extorted money from him or that he was subjected to or had witnessed commission of any terrorist act by the appellants herein.

316) Therefore, having regard to the second part of the provisions of section 121A of the IPC, i.e. *"Whoever conspires to overawe, by means of criminal force or the show of criminal force, the Central Government or any State Government, shall be punished with imprisonment for life, or with imprisonment of*

either description which may extend to ten years, and shall also be liable to fine”, the Court is constrained to hold that the prosecution has miserably failed to prove conspiracy on part of the appellants herein.

317) Resultantly, the finding of the learned Trial Court in para-85 of the impugned judgment that the appellants are guilty of conspiracy under section 121A of the IPC is held to be not sustainable on the basis of evidence on record. Therefore, the said finding is liable to be interfered with and set aside. Resultantly, the appellants herein are not found guilty of committing offence punishable under section 121A of the IPC.

318) While dealing with electronic evidence in paragraph nos. 216 to 284 above, the admissibility of exhibit nos. 2 to 30, 166, 167, 168, 190, 192, 194, 202 series and 203 series have been elaborately discussed and it has been held that the electronic records has not been proved in accordance with law. From the contents of the e-mail exhibited as Ext.6, the said exhibit *ex facie* does not reflect that there is any attachment to the said e-mail. As per the evidence-in- chief of M. Baskar (PW-5), e-mail at Ext.6 has two attachments, which was exhibited as Ext.6/2 and Ext.6/3. In respect of Ext.6/3, the learned Trial Court has held that the said Ext.6/3 was an e-mail from A-16 to A-19 regarding plan to establish foothold in China. The contents of Ext.6/3, cannot be said to be a conclusive proof to construe it as an e-mail from A-16

to A-18 because the print-out of Ext.6/3 is not supported by any certificate under section 65-B(4) of the Evidence Act, 1872.

319) The prosecution has not made any effort to show how any particular e-mail is a clinching evidence to prove existence of second part of section 121A of the IPC i.e. the appellants have "*conspired to overawe, by means of criminal force or the show of criminal force, the Central Government or any State Government.*"

320) In overall examination of paragraph nos. 27, 46, 56 to 66 of the impugned judgment of the learned Trial Court, and on examination of evidence of PWs as discussed hereinbefore in respect of S. Rakesh Singh (A-6), O. Samarjit Singh @ Naresh @ Kadeng (A-7), W. Noren Singh @ Thoiba (A-8), K. Jeeten Singh @ Khombo @ Dene (A-10), S. Gune Singh @ Boy @ Wanglen @ Little Boy (A-11), Mutum Ibohal Singh @ Ngamba @ Sanjay (A-12), N. Dilip Singh @ Ibochou @ Mani (A-16) and L. Jatishor Singh @ Tilemba (A-17), the Court is constrained to hold that the prosecution has failed to prove existence of conspiracy by the appellants herein, as envisaged under the provisions of section 121A of the IPC.

Examination of the individual appeal of the appellants:

321) As all thirteen appeals have been heard together, the Court deems it fit to evaluate the evidence against the individual appellants in seriatim.

322) The learned Trial Court had explained and framed charges against the accused nos. A-6 to A-19 under section 120B, 121A, 121 and 122 of the IPC and sections 16, 17, 18 and 20 of the UA(P)A. Charge against A-18 was explained and framed under section 18A of the UA(P)A. Charge against A-19 was explained and framed under section 18B of the UA(P)A. Charges against A-23 (since deceased), A-24 and A-25 were explained and framed under section 120B and 121A of the IPC and under sections 17, 18, 20 and 21 of the UA(P)A.

(i) **Examination of evidence available against S. Rakesh Singh (A-6), appellant in Crl. A. 262/2016:**

323) Sougaijam Rakesh Singh (A-6), is the Appellant in Crl. Appeal No. 262/2016. He has been convicted for committing offence punishable under sections 18 and 20 of the UA(P)A and section 121A of the IPC. He was sentenced to undergo imprisonment for 7 (seven) years under section 20 of UA(P)A; 8 (eight) years under section 18 of the UA(P)A and 10 (ten) years under section 121A of the IPC. Moreover, he was also sentenced to pay a fine of Rs.10,000/- with default stipulation.

324) The submission from all sides was to the effect that after serving out his sentence A-6 has since been released.

325) In respect of A-6, the prosecution has relied on the evidence of the following witnesses, viz., Nongthombam

Premchand (PW-9), M.C. Arun (PW-17), Ng. Robert Singh (PW-39), M. Joy Singh (PW-61), and K. Krishna Kumar Singh (PW-63).

326) The learned senior counsel for NIA as well as the learned DSGI for the Union of India have submitted that from the evidence of PW nos. 9 and 17, the link of A-6 was established with R.K. Meghen (A-19), who was the Chairman of UNLF, which in turn proved the offence punishable under section 20 of the UA(P)A.

327) In his evidence-in-chief, Nongthombam Premchand (PW-9) did not state where he was serving at the relevant time. In his examination-in-chief, PW-9 had stated that he had visited Guwahati with one Dr. M. Arun, Course Coordinator, for which he was granted leave by his University for 4 days from 14th to 17th September, 2009. He had stated that in the meantime, his Course Coordinator and S. Rakesh Singh (A-6) had approached him and proposed that they can extend their journey to Kathmandu for a day. He was taken to Kathmandu, kept in a hotel and then he was taken to a house where he had met A-19. He had stated that though he was taken for 1 day, but he was made to stay for 3 days. As he had stated that in Kathmandu he went for shopping, his statement in his examination-in-chief that after 3 days of confinement, he came to Guwahati cannot be believable. PW-9 had exhibited, amongst others, the photograph of Naba Kumar Singh (A-9) as Ext.35/2 and 36/2, which was purportedly taken at Kathmandu.

328) In his cross-examination, PW-9 had made contradictory statement by first stating that he had informed the concerned authority of Manipur University of his visit to Kathmandu and then took a U-turn by stating that he did not inform the concerned authority of Manipur University of his visit to Kathmandu.

329) PW-9 had also admitted in his cross-examination that R.K. Meghen (A-19) was a resident of his village and he knew him since his childhood.

330) Thus, it is seen that not only through A-6, but PW-9 also otherwise knew A-19, being a childhood friend from same village. Thus, if the evidence of PW-9 is to be believed, the prosecution has only been able to show that PW-9 had met A-6 and A-9. However, the prosecution has not been able to prove that A-6 was a member of UNLF. The evidence of Nongthombam Premchand (PW-9) would only mean that A-6 knows the Chairman of UNLF (A-19), which is not enough for a presumption to be drawn by the learned Trial Court that A-6 is a member of UNLF. PW-9 has also not proved that UNLF was involved in any terrorist act. The PW-9 has not been tendered any evidence to prove (a) the date on which A-6 offered to extend his travel to Kathmandu; (b) the dates on which PW-9 had stayed in Kathmandu; (c) the dates on which he had met A-19; (d) the place or hotel where he had stayed in Kathmandu; (d) the place where he had allegedly met A-19; (e) the mode of by which PW-9 had travelled to Kathmandu. Thus, the evidence of PW-9 is found to be too vague and devoid of any

material particulars which could otherwise be proved through document.

331) Mr. M.C. Arun (PW-17) had stated in his examination-in-chief that his second brother Jayanta Kumar had joined UNLF and his sister Landhoni Devi (A-14) had eloped with Jeeten (A-10). He had stated that he saw a web advertisement in 2007 regarding one seminar to be organised by DOLL Foundation, London. As he had no sponsorship to attend the seminar, he had contacted A-6, who was known to him since childhood and A-6 had told him that sometimes UNLF sponsors for academic purpose and told him to write to Chairman of UNLF. Accordingly, PW-17 wrote a letter and gave it to A-6, but got no reply.

332) He had stated that in the year 2009, he was to go to Kuming, China to attend an International Anthropological Seminar as a part of Indian delegation in the month of July, 2009. A-6 told him that he would be in Bangkok on 01.08.2009 and PW-17 could join A-6 at Bangkok and he joined A-6 at First Hotel in Bangkok and he was informed that A-19 may meet them upon which he was surprised and delighted to meet A-19 as he was writing a book on conflict resolution in Manipur and only UNLF talked about conflict resolution. On the next day A-19 came to his hotel and met them. He and A-6 stayed in Bangkok for 4/5 days and returned back on 08.08.2009. He had stated that in September, 2009 he and one Premchand (PW-6) were at Guwahati and A-7 told him that their journey could be extended upto

Kathmandu and there they could meet some leaders of UNLF. They stayed in a hotel in Kathmandu where a boy came and took them to a house at outskirts of Kathmandu, where he met A-19, Thabal and Nongyai, all members of UNLF. They discussed about various social issues and cultural problems of Manipur and they came back to Manipur after a day. He had stated that his expense for going to China was borne by University and his expenses to Bangkok and Kathmandu were borne by UNLF. However, in his cross-examination, PW-17 had stated that it was true that he had no idea whether A-6 was a member of UNLF and that so far as he knew, A-6 had not committed any illegal acts or activities which is against Union of India.

333) Thus, from the cross-examination of PW-6 and PW-17, the prosecution has not been able to prove the existence of ingredients of commission of offence by A-6 under section 20 of UA(P)A.

334) As per the submissions of the learned senior counsel for NIA and the learned DSGI, by the evidence of PW-39, offence committed by A-6 punishable under section 18 of UA(P)A was proved. On examination of the evidence of Ng. Robert Singh (PW-39), it is seen that in his examination-in-chief, he had stated that he and his father had started a firm in the year 2004, namely, Look East Nirman and his brother was kidnapped by PREPAK in the year 2001 and every year they had to pay 30-40 lakh to underground organisations including UNLF. He had stated that his

childhood friend A-6 approached him in the year 2008 for subletting construction work on the term that he will invest money and will take the bills along with profit. In construction of Food Park project in the year 2008, he had invested Rs.60.00 lakh. In 2009, he invested Rs.40.00 lakh in taxiway project for supply of material and a further sum of Rs.10.00 lakh in Taxiway project. He had stated that in the year 2008, A-6 was advisor to student organisation called AMSU and NEMSO and for this work he frequently visited the entire North East. He along with A-6 and many others went for a visit to Vietnam to attend Northeast India Summit and when they returned, they stayed in Hongkong and also at Bangkok. He had stated that sometime in 2009 he came to know that A-6 was arrested in Guwahati.

335) He had stated that there was a balance bill of Rs.17.00 lakh to be paid to A-6, which was seized from him by NIA. He had exhibited cash production memo (Ext.87), and his signatures (Ext.87/1 and 87/2) thereon. He had stated regarding receipt of an order (Ext.88) on 08.08.2021 regarding seizure of Rs.17.00 lakh, by which he was apprised that under section 26(6) of UA(P)A, he had a right to appeal.

336) Vide Ext.89 and Ext.90, PW-39 had produced certain documents before NIA, which was seized and he had also exhibited his signature (Ext.89/1 and Ext.90/1) thereon. He had stated that his firm maintained a *kucha* cash book (Ext.91) for payment made to A-6 under the hand of his accountant Joy Singh,

containing entries of payment made to A-6. He had identified his accountant's specimen signature (Ext.92) and accountant's writing (Ext.92/1 to Ext.92/10) and his signatures (Ext.92/11 to Ext.92/20).

337) However, in his cross-examination, he had stated that he cannot say if any of the members of UNLF cadre had demanded money from their family members or their firm. He had denied the suggestion that they never paid Rs.30.00 to Rs.40.00 lakh per year to the unlawful organisations. He had also admitted that A-6 had invested Rs.60.00 lakh in their firm as personal money and not related to UNLF organisation and the said money was invested in instalments according to the requirements and progress of the work. The seized money of Rs.17.00 lakh was encashed from a bank at Delhi and was deposited to SP, NIA, Mr. Swayam Prakash Pani (PW-84) as directed by him and the said money was not recovered from possession of A-6. He had also stated that the seizure memo (Ext.87) was prepared at Delhi and that he put his signature (Ext.87/1) without knowing the contents of seizure memo. He had stated that he had never stated in seizure memo that A-6 was an active member of UNLF to SP, NIA. He had also stated that he did not know the identity of witness Kishan Lal and he never signed in his presence. He had also stated that handwriting and signature contained in Ext.92 was also prepared in Delhi and the same was induced/ instigated by NIA person in their custody and was not given voluntarily. He had stated that he did not put his signature in Ext.92 and did not have any idea of its

contents. He was not aware of the contents of Ext.88. He had also stated that he did not go for appeal as the money did not belong to him and he had stated that Ext.88 was sent to him with a malaise motive and that the NIA officials know that the money did not belong to him and the copy of the order was endorsed to him wrongly. He had further stated that the said amount of money is the due amount receivable by A-6 on account for his contract work.

338) As mentioned herein before, PW-39 had exhibited Cash Production Memo (Ext.87) written and signed by him. In the said memo, it was mentioned that A-6 had invested Rs.60.00 lakh in September 2008, Rs.40.00 lakh in September, 2009 and Rs.10.00 lakh in October, 2009 in the Food Park and Taxiway projects that was being undertaken and executed by M/s. Look East Nirman (LEN) without informing him (i.e. PW-39) that the amount is the extortion money which belonged to UNLF.

339) The prosecution did not make any effort to prove that money to the extent of Rs.1.10 crore as claimed vide Ext.87 was actually invested in the two contract works by calling for the relevant documents of the employer for which those two contract works were executed. The books of accounts of M/s. Look East Nirman was not produced and exhibited to show that there was excess and/or unaccounted cash of Rs.1.10 Crore in the said firm, which was used for contract work by the said firm of PW-39.

340) In his cross-examination, PW-39 had stated that A-6 had invested his personal money in his firm for doing sub-contract work and he was thus, entitled to payment of bill including profit. Thus, from the evidence of PW-39, the prosecution has not been able to prove the correctness of the contents of the said Ext.87 with any cogent and admissible evidence.

341) From the evidence of the PW-39 it was apparent that the *kucha* cash book (Ext.91) was prepared by the accountant of his firm and that the accountant's specimen signature (Ext.92) and accountant's writing (Ext.92/1 to Ext.92/10) and his signatures (Ext.92/11 to Ext.92/20) were made at the inducement and instigation by NIA person in their custody and was not given voluntarily and moreover, as he did not put his signature in Ext.92, he did not have any idea of its contents. Thus, PW-39 failed to sustain any allegation of commission of any offence by A-6 not to speak of offence under section 18 of UA(P)A.

342) M. Joy Singh (PW-61) is an employee of Ng. Robert Singh (PW-39), working as accountant of his firm Look East Nirman. He had identified the photograph (Ext.128) of A-6 and photo identification memo (Ext.129). He had maintained *kucha* note book (Ext.91) at his company's head office. He had exhibited his signatures and signature of PW-39 contained therein. Entry marked Ext.91/2 was that "account closed, amount to be paid to A-6 is Rs.17,00,000/- only". He had exhibited his specimen handwriting (Ext.92/1 to Ext.92/10) and his signatures (Ext.92/21

to Ext.92/30). In his cross- examination PW-61 had stated that A-6 was a contractor and a businessman. He had not made any transaction with A-6 personally and all transactions mentioned by him was done by PW-39 and his entries were as per direction of PW-39.

343) Thus, PW-61 was a hearsay witness, who had not witnessed any financial transaction between A-6 and PW-39 and therefore, from the evidence of PW-61, the prosecution has failed to prove that A-6 had committed any offence punishable under section 18 and 20 of the UA(P)A.

344) K. Krishna Singh (PW-63) claims to be a partner of Ng. Robert Singh (PW-39). He claims that his firm had to pay Rs.30-Rs.40 lakh yearly to underground groups including UNLF. He had stated that on being introduced by PW-39, he gave some work like building construction and supply of material to A-6. He was told by PW-39 that on different occasions A-6 had contributed money to the tune of Rs.20-Rs.30 lakh for working capital for which their accountant M. Joy Singh maintained *kucha* diary (note-book) (Ext.91). He had stated that he along with PW-39 and A-6 and officials of Department of Commerce had visited Vietnam for attending business summit on North East South East Asia, organised by Indian Chambers of Commerce. He had exhibited photograph of A-6 (Ext.135), photo identification memo (Ext.135/3) and his signatures, and he had stated that A-6 had

worked in the firm for some time. He had stated that he can identify A-6 if he sees him.

345) In his cross examination, PW-63 had stated that his firm and he individually had not received any document and paper from UNLF demanding money. He had stated that it was true that there are instances of extorting money, kidnapping for ransom, etc. in Manipur by anti-social elements in the names of underground outfits for their personal benefits Amount of Rs.1.50 to Rs.2.00 lakh was collected from their firm/ Gas agency by different persons claiming themselves to be members of different underground outfits including UNLF, but he cannot confirm whether such persons are actually members of UNLF. He had not reported such incident to the police. He had stated that he did not have any personal knowledge about A-6 as regards to his criminal antecedents, but as per his knowledge, A-6 was knowledgeable, educated and intelligent businessman/ contractor without any criminal antecedents.

346) Thus, evidence of PW-63 was in contradiction to the evidence of PW-39 and PW-63 because those witnesses had not stated that PW-63 was a partner in M/s. Look East Nirman. The PW-63 has not proved the existence of any partnership with PW-39 in accordance with the provisions of Partnership Act, 1932. In his cross-examination, he had stated that A-6 was a businessman/ contractor without any criminal antecedents. From the evidence of PW-63, it is seen that the prosecution has failed to prove that A-6

had committed any offence punishable under section 18 and 20 of the UA(P)A or that UNLF was involved in any unlawful or terrorist act.

347) Therefore, on a conjoint reading of the evidence of PW-6, PW-39, PW-61 and PW-63, the prosecution failed to prove that any offence punishable under section 18 of the UA(P)A was committed by A-6 because PW-39 had disowned having received any extortion demand from UNLF.

348) From the examination of the evidence of Nongthombam Premchand (PW-9), M.C. Arun (PW-17), Ng. Robert Singh (PW-39), M. Joy Singh (PW-61), and K. Krishna Kumar Singh (PW-63), as narrated herein before, it is seen that the prosecution has failed to prove that A-6 had committed any offence punishable under section 18 and 20 of the UA(P)A; or that UNLF was involved in any unlawful or terrorist act; or that A-6 was involved in any criminal conspiracy whatsoever punishable under section 121A IPC.

(ii) **Examination of evidence available against O. Samarjit Singh @ Naresh @ Kadeng (A-7), appellant in Crl. A. 289/2016:**

349) O. Samarjit Singh @ Naresh @ Kadeng (A-7) is the appellant in Crl. Appeal No. 289/2016. He has been convicted for committing offence punishable under sections 18 and 20 of the UA(P)A and section 121A of the IPC. He was sentenced to undergo imprisonment for 7 (seven) years and to pay a fine of Rs.10,000/-

under section 20 of UA(P)A; 8 (eight) years and to pay a fine of Rs.10,000/- under section 18 of the UA(P)A and 10 (ten) years and to pay a fine of Rs.10,000/- under section 121A of the IPC. The sentence to pay a fine of Rs.10,000/- was with default stipulation.

350) The submission from all sides was to the effect that after serving out his sentence A-7 has since been released.

351) To prove the charges against A-7, the prosecution has relied on the evidence of Indubhusan Kongkham (PW-7). In his examination-in-chief, PW-7 had stated that he had started handloom business in the year 2005 and in the year 2010, he got registered in the Industries Department in the name of M/s. Nongin Enterprise. He has stated that he is also involved in sending students to China. As per his statement, he came across A-7, his childhood friend in a hotel at Guwahati. He understands that A-7 has got links with underground group. In the hotel, they discussed about themselves and A-7 told him that he had become a member of UNLF. A-6 indirectly invited him to become a member of UNLF. Instead PW-7 asked A-7 to start a business or to open an office to send students to study. After a month, A-7 called him over his surrendered phone and called him at a place at Noonmati in Guwahati. PW-7 went to Noonmati and there A-7 introduced him to one of his friend, Dilip @ Mani (A-16). They discussed to send students to China at length. PW-7 had further stated that in December, 2008, he had gone to Kathmandu with his wife in

connection with his handloom business to survey the market. Before his departure to from India A-7 called him and informed him that Dilip @ Mani (A-16) and some of his friends are also at Kathmandu. He told about his interest to send students to China and that his friend would also like to discuss the possibility of sending students to China through Nepal or if possible from Nepal itself. He had also stated that A-7 had asked him to contact his links of Chengdu Source Management Consultants Company Ltd. He contacted Ms. Wang and narrated her about the same over phone. She in turn asked the Director of Chengdu Source Management Consultants Company Ltd. To be there at the appointed time at Kathmandu. He and his wife was received by Mr. Chen @ Alex at Kathmandu Airport and from there he took them to a Chinese Hotel at Thamel in Kathmandu. From the mobile phone of Mr. Chen @ Alex, he had contacted Dilip @ Mani (A-16) and informed him about their location. A-16 came to the hotel where they were staying with two of his friends. They met in the hotel lobby and A-16 introduced him to his two friends, N. Joy Singh @ Nongyai (A-18) and Thabal (A-20). They had discussed about sending students, course fees, discount by University on fees, etc. and were happy with the discussion. He left Kathmandu with his wife next day for Imphal via Kolkata and Dilip @ Mani (A-16) and his friends stayed on. He had further stated that at the request of his uncle Mr. K. Manglem Singh, he had visited China as asked as his cousin i.e. daughter of uncle was sick. While in Chengdu, he came across Mr. Chen @ Alex. He told him that

Nongyai (A-18) and his friends were at Chengdu. He asked him to come with him and they went together at the hotel where they were staying and met at the lobby. Nongyai (A-18) introduced him to his friends, Mr. Lancha, Mr. Thabal and Mr. Sakhen. PW-7 could understand that something conspired amongst them as they were not happy to see him. He was asked to have tea at the lobby of the hotel where they were staying and they went together in one of the adjoining room of the lobby. He had stated that after having tea and waiting for 30 minutes, he went towards the room where they were talking. He could hear loud noise from outside. He opened the room a little but did not enter. All of them were in a confusion and shouting at one another. They were talking in English. They were talking about purchasing AK-47, RPG, M-21 and about military training of UNLF cadre in China. He stated that he was shocked to hear the discussion and ran back to his hotel and next day he quietly left for Nanjing to meet Indian students he had sent and the next day, he left China for India via Bangkok. He had stated that after reaching home, Samarjit @ Naresh (A-7) called him over his surrendered BSNL number and asked him why he had left China without informing his friends. He had further stated that being a true Roman Catholic, he had confessed the truth to clear his conscience. He identified Dilip @ Mani and Nongyai, who were present in Court. PW-7 had exhibited seizure memo (Ext.32) by which he had handed over four documents to Aseem Srivastava, NIA officer. He had exhibited seizure list (Ext.32) and his signature (Ext.32/1) thereon. Ext.32(2) was his

invitation letter from Chengdu, China. Ext.32(2)(a) was Chinese script. Ext.32(3) (in 5 copies) was the Letter of Trust issued by Chengdu Source Management Consultants Company Ltd. Ext.32(4)(a to p series) was the copy of passport in his name.

352) In his cross-examination, PW-7 had stated that his cousin had completed MBBS and was staying in India. He had also stated that none of the students whom he had sent to China have become doctors and he had heard that one has completed the course already. He and his wife had stayed in a Chinese hotel and did not know the name. In his cross-examination, his evidence-in-chief could not be dislodged.

353) It may be mentioned herein that in (i) his examination under section 313 CrPC, and (ii) in his examination before sentence, the name of A-18 is mentioned as Moirangthem Joy Singh @ JoyJao @ Nongyai @ Nilachandra, but in the judgment, his name is mentioned as N. Joy Singh.

354) Nonetheless, on examination of the evidence of PW-7, it appears that the said PW-7 had not proved commission of any offence by A-7, A-16 and A-18. PW-7 did not depose to the effect that he had heard A-7 committing any terrorist act, or had done anything to incite or abet terrorist act. From his evidence, it is not proved that A-7 was involved in the purchase of arms and ammunitions to wage war against the Country. The prosecution did not prove the call data record to show that the PW-7 had been in contact with A-7 over mobile phone. From the evidence of PW-

7, it does not appear that he had disclosed (i) any date on which he had met Nongyai (A-18) at Chengdu; (ii) name of hotel where he had allegedly gone to meet Nongyai (A-18). Even if it is assumed that Nongyai (A-18) and others were discussing about arms and arms training, but none of the persons had asked the said PW-7 to participate in their activity. Moreover, assuming that PW-7 over-heard someone talking about purchasing arms, from his evidence it does not appear that he had not stated as to what particular statement was made by A-6 and A-18. Moreover, the prosecution could not establish that merely if a person is discussing about purchasing arms and ammunitions or for giving arms training in China would make such person an accused of purchasing arms and ammunitions illegally for UNLF or to be involved in having trained any particular UNLF cadre in China.

355) One of the submissions of the learned senior counsel for NIA and the learned DSGI was that it was not easy for prosecution to get hold of witnesses against a terrorist organisation. The Court does not make any comment on such submissions. However, if this is the standard of proof of unlawful activity, then anyone can weave a cock and bull story and accuse any person by stating before the police that he had overheard such person talking about arms purchase from a foreign country. The prosecution has to prove some corroborative evidence other than oral statement of PW-7 to sustain the charges of aiding, abetting or being involved in a terrorist act. The learned senior counsel for A-7 has used the term "peeping-tom" for PW-7.

356) The evidence of PW-7 was to the effect that A-7 had told him that he had joined UNLF. Even if that evidence is accepted to be an extra judicial confession, such statement alone is not sufficient to make A-7 a member of UNLF in view of absence of any other corroborative evidence.

357) The learned Trial Court had not appreciated that as per the evidence of PW-7, A-7 had called him after he returned to India and asked him why he had left China without informing his friends. If that be so, the prosecution could have procured and proved the call data record to show that A-7 had called PW-7 over his mobile phone.

358) It would be relevant to quote question no. 19 of the statement of A-7 under section 313 CrPC. The same is as follows:-

"Q.19: PW-80- Aseem Srivastava has deposed that he is Addl. SP NIA and during interrogation Nongyai A-18 disclosed his email id as greenplate09@gmail.com & green field006@yahoo.co.uk and Ext.111 is his disclosure statement. Nongyai A-18 opened his email account greenplate09@gmail.com. Ext.112 is the recovery memo. On 11-12-10 R.K. Meghen A-19 during interrogation disclosed his email if salai tarat@yahoo.com, enterpriseddkay@gmail.com, pathfinder@hushmail.com. Ext.116 is the disclosure statement. He opened his email account and Ext.167 recovery memo. What do you have to say?

Ans:- I have no idea."

359) In the considered opinion of the Court, the said question no. 19 does not show that A-7 was confronted with any evidence which implicates him of committing any offence whatsoever.

360) Moreover, the recovery memos, referred to in question 19 above, being Ext.111, 112 and 116, purportedly under section 27 of the Evidence Act, 1872 cannot be held to be a substitute of a certificate for electronic evidence which is a mandatory requirement under section 65B of the Evidence Act, 1872.

361) To implicate A-7 of having visited China, the prosecution had relied on the evidence of Kongkham Indubhusan (PW-7) and Aseem Srivastava (PW-80), through whom the Production Memo (Ext.32) was exhibited. As stated herein before, by the said Ext.32, the following documents were produced, viz., (i) scanned copy of invitation issued by General Manager of Chengdu Source Management Consultant Co. Ltd., Sichuan, China, addressed to Mr. K. Indubhusan (Passport no. B1703038) dated 12-10-2008 (two sheets); (ii) Xerox copy of letter of trust dated 11-11-2004 issued by Director, International office, Sichuan University, China along with photocopy of letter of Prof. Fang Ding Jhi dated 20.02.2008 of Sichuan University, China and agreement for students enrolling for Sichuan University, China (five sheets); (iii) photocopy of passport of Kongkham Indubhusan, Imphal, issued by RPO Delhi (ten) sheets; (iv) photocopy of passport no. H1581707 dated 31-12-2008 of Kongkham Indubhusan, Imphal, issued by RPO Guwahati (ten sheets). The photocopies of documents are inadmissible in evidence and moreover, the documents produced vide Ext.32 does not prove any fact. The PW-7 did not prove his visit to Kathmandu or China as he had not exhibited any hotel bill for food and lodging in those foreign countries.

362) The learned Trial Court in paragraphs 62 to 65 had discussed about the evidence of PW-7 and the conclusion of the learned Trial Court was that there was no ground for PW-7 to have spoken a lie. The Court is unable to concur with such finding as it is not based on any sound or legally acceptable principles of criminal jurisprudence followed in India. In a criminal prosecution, the finding of guilt must be beyond reasonable doubt and not because the Court is of the opinion that a particular witness had no reason to lie.

363) The learned senior counsel for NIA and the learned DSGI for the Union of India have both submitted that from the evidence of PW-7, the link of A-7 as member of UNLF was established, which in turn proved that A-7 had committed offence which was punishable under section 18 and 20 of the UA(P)A and under section 121A of the IPC. It was also submitted that there was no cross-examination of PW-7 and no defence evidence was tendered by A-7 to show that he did not tell PW-7 that he had joined UNLF or that A-16 and A-18 were not discussing about purchasing arms and ammunitions from China or to give training to UNLF cadre at China.

364) In the context of aforesaid submissions, it is seen that no evidence was tendered by PW-7 to connect A-7 with any terrorist act or abetment of any terrorist act. Moreover, there is no evidence that A-7 had made any mobile phone calls to PW-7. In a criminal trial, the accused has a right to be silent and therefore,

the burden of proof lies on the prosecution to prove a fact. Unless the prosecution discharges such burden, the onus cannot shift to A-7 to explain his alleged acts.

365) Therefore, the Court is of the considered opinion that the prosecution has failed to prove that O. Samarjit Singh @ Naresh @ Kadeng (A-7) had committed any offence punishable under section 18 and 20 of the UA(P)A and section 121A of the IPC. In the context of A-7, the prosecution has failed to prove that UNLF was involved in any unlawful or terrorist act or that A-7 was also involved in any terrorist act or in any criminal conspiracy against the Government of India.

(iii) **Examination of evidence available against Wayenbam Noren Singh @ W. Noren (A-8), appellant in Crl. A. 265/2016:**

366) Wayenbam Noren Singh @ W. Noren Meetei @ Thoiba (A-8) is the appellant in Crl. Appeal No. 265/2016. He was convicted for committing offence punishable under sections 18 and 20 of the UA(P)A and under section 121A of the IPC. He was sentenced to undergo imprisonment for 8 (eight) years and to pay a fine of Rs.10,000/- under section 8 of UA(P)A; 7 (seven) years and to pay a fine of Rs.10,000/- under section 20 of the UA(P)A, and 10 (ten) years and to pay a fine of Rs.10,000/- under section 121A of the IPC. The payment of fine was with default stipulation.

367) The submission from all sides was to the effect that after serving out his sentence A-8 has since been released.

368) It may be stated that the learned Trial Court had framed charges against A-8 under sections 120B, 121A and 122 of the IPC and sections 16, 17, 18 and 20 of the UA(P)A.

369) Against A-8, the prosecution has relied on the evidence of M. Baskar (PW-5), Ujwal Bhattacharya (PW-8); Dr. Nilambar Thakuria (PW-10); Pradip Nath (PW-12); Gajendranath Bhattacharya (PW-31); Someswar Dutta (PW-33), D.P. Gangwar (PW-44), Amalendu Dhar (PW-51), Satheesh Chand (PW-53), Devinder Singh (PW-62); Siba Prasad Mohanty (PW-74), Virendra Kumar (PW-78), Surinder Singh Bakshi (PW-79); Aseem Srivastava (PW-80); Swayam Prakash Pani (PW-84).

370) Moreover, to implicate A-8, the prosecution has placed reliance on the following exhibits, viz., print-out of e-mails (Ext.2 to Ext.30); forwarding report of I.O. of Noonmati P.S. Case No. 159/2010; (Ext.75); disclosure memo of M. Joy Singh (A-18) (Ext.111); Recovery memo dated 18.11.2010 (Ext.112); Recovery memo dated 19.11.2010 (Ext.113); certificate issued by Satheesh Chand (PW-53) under section 65-B(4) of the Evidence Act, 1872 (Ext.114); print-out of e-mails (Ext.115 series); disclosure statement dated 11.12.2010 by Raj Kumar Meghen (A-19) (Ext.166); recovery memo dated 11.12.2010 (Ext.167); dossier of A-10 (Ext.175); print-out of e-mails (Ext.176); certificate

(Ext.185); print-out of e-mails (Ext.190 to Ext.195); Report of D.P. Gangwar (PW-44) (Ext.204).

371) M. Baskar (PW-5) has exhibited various e-mails and attachments contained in some e-mails as Ext.1 to Ext.30, and he had also exhibited M. Ext.1, M.Ext.2, M.Ext.3, M.Ext.43 and M.Ext.44. However, it may be stated that he did not make any specific statement against A-8. He had merely stated that Ext.5 is the e-mail dated 29.05.2009 from whiten_001@yahoo.com to salai_taret@yahoo.com and that Ext.5/1 was his signature and he had also stated that the said e-mail contained one attachment namely officer's list in 5 (five) pages, which was exhibited as Ext.5/2 to Ext.5/6. PW-5 did not identify the specific entry containing the name of A-8. In his cross- examination, PW-5 had stated that the hard disk contained in Parcel-A and Parcel-B were sent by NIA and not by competent court.

372) Ujwal Bhattacharya was examined as PW-8. He had let out his house to one Ratan Singh, but on 19.08.2010, he was informed by one Mr. Basumatary that in a police raid in his house 2 (two) extremists were picked up and he later on came to know that the two persons who were occupying his flat were Mr. Naren Singh (A-8) and Ms. Chanu (A-13). He had exhibited the seizure memo (Ext.33) and his signature (Ext.33/1) thereon. By the said seizure memo (i) proforma for verification (Ext.34), (ii) copies of photo i/d card (Ext.34/2 and Ext.34/3), (iii) copy of tenancy agreement (Ext.34/4) were seized. He had stated that the tenancy

agreement was done by him for his father. He had seen and identified Noren (A-8) and Chanu (A-13) in Court that day.

373) Be it stated that the learned trial court did not record who was identified by PW-8 as Noren and Chanu.

374) Dr. Nilambar Thakuria was examined as PW-10. He is the secretary of the management society of the building where a flat is owned by G.N. Bhattacharya (PW-13), who is the father of PW-8. PW-10 had stated in his examination-in- chief that Ratan Singh was staying in the flat of PW-13, which was later on occupied by W. Noren Singh, his wife and one lady. On 19.08.2010, the police had conducted search and seizure in the said flat and he was called to witness the arrest of A-8 and seizure. He had exhibited the seizure memo (Ext.37) and his signature (Ext.37/1) thereon and he had also referred to the description of the articles seized. He had exhibited M.Ext. Nos. 4 to 7. Thus, A-10 did not prove involvement of A-8 in any criminal act.

375) Pradip Nath was examined as PW-12. He was working as security guard in the apartment from where Noren Singh (A-8), and Hanbi Chanu (A-13) were arrested. He had stated in his examination-in-chief that Naba Kumar Singh (A-9) had overheard him discussing about accommodation for his son and offered to allow his son to stay with him in his rented accommodation and A-9 shifted from the building where he was working along with his son. He had exhibited tenant verification form submitted by A-9 (Ext.38) and by his son (Ext.39) with Dispur P.S. On 19.08.2010,

the police arrested A-8 and A-10 and also seized laptop, cash, pen drive, and mobile from their possession. Thus, A-12 did not prove involvement of A-8 in any criminal act.

376) Gajendranath Bhattacharya was examined as PW-31. He had let out his flat to one Ratan Singh, but later on he found that his flat was occupied by Noren Singh (A-8) and Chanu (A-13). He had stated in his examination-in-chief that in Ext.34/1, he had put his signature (Ext.34/5). He had exhibited the tenancy agreement with Ratan Singh as Ext.34/4 and his signature (Ext.34/6) thereon.

377) Someswar Dutta, who was the then S.I. of Police and posted in Noonmati P.S. was examined as PW-33. On 19.08.2010, the police had arrested 11 accused persons including A-8. He had exhibited the forwarding memo of the arrested accused as Ext.75. Though he had exhibited three seizure memos dated 19.08.2010 as Ext.61, Ext.79 and Ext.80, but he did not state in his examination-in-chief about the description of articles entered therein and did not correlate those with the accused from whom those articles were seized.

378) D.P. Gangwar (PW-44) had not given any incriminating statement against A-8 in his examination-in-chief. He was the Senior Scientific Officer in CFSL, Chandigarh and had examined 6 (six) parcels sealed with the seal of NIA, New Delhi which were forwarded vide letter (Ext.97), and the details of articles were exhibited as Ext.97/1 to Ext.97/6. His office was asked to examine (1) whether the cameras and satellite phones were in working

condition; all the contents of camera including video files are required to be recovered; (3) all the details both incoming and outgoing of satellite phone may please be provided; (4) all deleted files may please be recovered; (5) the contact lists of satellite phones may please be provided; (6) all the deleted data (*sic*: should have been 'data') may please be recovered; (7) any other data relevant to the above may please be provided. In his cross-examination, PW-44 had stated that he had examined the CDs and other software's and songs of different albums and movies and after examining all the materials referred to him, he had not found any incriminating materials. He had also stated that the Investigating Agency had not asked him to examine/ query relating to the CDs whether they are anti-social or not. Thus, the evidence of PW-44 does not implicate A-8 on the basis of electronic articles like, laptops, pen-drive, etc. Seized from him vide Ext.37. It may be stated that PW-44 has not identified a particular electronic device like laptop and pen-drive seized from A-8.

379) Amalendu Dhar (PW-51), who was the Inspector in NIA, had stated that Ext.33 is the document by which he had seized four documents produced by Ujwal Bhattacharya (PW-8) and Ext.32/2 was his signature and Ext.34/ to Ext.34/4 are the documents relating to tenancy agreement, proforma of verification of tenants, photocopy of PAN card, and photocopy of an identity card. Thus, PW-51 had not implicated A-8 of committing any offence whatsoever.

380) Satheesh Chand (PW-53) had stated about recovery of mails from two e-mail accounts of Moirangtham Joy Singh (A-18). He has not stated about recovery of any e-mail which contains materials to prove that A-8 had committed any offence whatsoever. He had exhibited disclosure statement of A-18 (Ext.111) and signatures (Ext.111/1 to Ext.111/10) thereon; recovery memo (Ext.112) and signatures (Ext.112/1 to Ext.112/10) thereon; recovery memo (Ext.113) and signatures (Ext.113/1 to Ext.112/12) thereon; certificate under section 65(B) of the Evidence Act (Ext.114) and his signature (Ext.114/1) thereon; print-out of e-mails (Ext.115) and series of signature (Ext.115/1 to Ext.115/653) thereon. PW-53 did not identify any document implicating A-8 of committing any offence.

381) Devinder Singh (PW-62), along with Amalendu Dhar (PW-51) had received documents of Noonmati P.S. Case No. 159/2010. His evidence does not specifically implicate A-8 of committing any offence whatsoever.

382) Kishan Lal (PW-71), an Assistant in the LIC is a seizure witness. He had exhibited his signatures and signatures of Sudesh Kumar Sharma on a series of e-mails as Ext.115/654 to Ext.115/909. However, he has not identified any particular e-mail which implicates A-8 of committing any offence.

383) Siba Prasad Mohanty (PW-74), was the then Network Administrator. He had exhibited recovery memos as Ext.112, Ext.113 and Ext.167 and his signatures thereon as Ext.112/11,

Ext.112/12, Ext.113/11, Ext.113/12, Ext.167/10, Ext.167/11 and Ext.167/12. However, he has not identified any particular e-mail which implicates A-8 of committing any offence.

384) Virendra Kumar (PW-78), who was then working as Under Secretary, Govt. of India, Ministry of Home Affairs had granted prosecution sanction in respect of A-8 as well as other co-accused in this case. His evidence does not specifically implicate A-8 for committing any offence whatsoever.

385) As per the evidence of Surinder Singh Bakshi (PW-79), he took the translated e-mails (i.e. Ext.115 series) to Bangaluru to get it authenticated by an Assistant Professor (Protected Witness no. 80), who was allegedly well versed in Manipuri language. The said Protected Witness no. 80 was not examined in Court. The person who had done the translation was also not examined in Court. Thus, it has been proved from the evidence of PW-79 that the original e-mails were not proved and instead the English translated copies of e-mails were proved. PW-79 also does not implicate A-8 of committing any offence.

386) Aseem Srivastava (PW-80), who was one of the I.O. of the case. He got the e-mails (Ext.115) recovered from M. Joy Singh (A-18) and had exhibited the recovery memos (Ext.111, Ext.112 and Ext.113), and his signature (Ext.111/7). His evidence does not specifically implicate A-8 of committing any offence.

387) Swayam Prakash Pani (PW-84) had exhibited disclosure statement of A-18 as Ext.111, and his signature (Ext.111/11 and Ext.111/12) thereon. He had taken print out of e-mails numbered as 1 to 2781, for which recovery memo (Ext.112) was prepared and he had exhibited his signatures (Ext.112/13 and Ext.112/14) thereon. He had stated that those e-mails were transferred to sterile hard disk for which recovery memo (Ext.113) was prepared wherein Ext.113/13 and Ext.113/14 were his signatures. He had also exhibited certificate under section 65(B) of Evidence Act as Ext.114. He had collected dossiers of past antecedents and profiles of A-8 (Ext.170) and few other co-accused. He had stated that A-1 to A-17 took rented accommodation at Guwahati by concealing their original identities and occupation from landlords. He had placed e-mails (Ext.115) in the charge-sheet. He had stated that A-8 had received financial benefits as mentioned in E-89/11 and A-89/13. He had also stated that e-mails exchanged by A-8 was at D-87. Moreover, PW-84 had not exhibited any certificate as required under section 64B of the Evidence Act to alter the status of a "deemed document" to that of an "electronic document" It is also seen that PW-84 has not specifically proved as to how the e-mails prove that A-8 was involved in committing any offence.

388) In respect of electronic evidence, the evidence of PW-5, 44, 53, 71, 74, 79, 80 and 84 has been discussed hereinbefore in paragraphs 219 to 273 of this judgment. Therefore, the discussion on electronic evidence is not repeated herein for the sake of brevity. It would suffice to mention here that the Court has held

that the electronic evidence has not been duly proved in accordance with law.

389) The learned senior counsel for A-8 had submitted that the name of A-8 in the charge-sheet is Wayenbam Noren Singh @ Thoiba. The learned Trial Court had framed charges against A-8 in the said name of Wayenbam Noren Singh @ Thoiba. However, the said name does not appear in the list of officers (Ext.5/2), exhibited by M. Baskar (PW-5). The examination report (Ext.204) by D.P. Gangwar (PW-44) contains the name of Wahengbam Thoiba @ Kothil and moreover, print-out of four photographs have been exhibited as Ext.204(3) and one of those photograph is also of Wahengbam Thoiba @ Kothil. The learned senior counsel for the NIA and the learned DSGI have not been able to show any evidence by the prosecution to show that Wayenbam Noren Singh @ Thoiba and Wahengbam Thoiba @ Kothil are both same and one person and the said person is A-8.

390) The learned senior counsel for A-8 had submitted that the name of A-8 in the charge-sheet is Wayenbam Noren Singh @ Thoiba. The learned Trial Court had framed charges against A-8 in the said name of Wayenbam Noren Singh @ Thoiba. However, the said name does not appear in the list of officers (Ext.5/2), exhibited by M. Baskar (PW-5). The examination report (Ext.204) by D.P. Gangwar (PW-44) contains the name of Wahengbam Thoiba @ Kothil and moreover, print-out of four photographs have been exhibited as Ext.204(3) and one of those photograph is also

of Wahengbam Thoiba @ Kothil. The learned senior counsel for the NIA and the learned DSGI have not been able to show any evidence by the prosecution to show that Wayenbam Noren Singh @ Thoiba and Wahengbam Thoiba @ Kothil are both same and one person and the said person is A-8.

391) From the examination of the evidence of M. Baskar (PW-5), Someswar Dutta (PW-33) D.P. Gangwar (PW-44), Satheesh Chand (PW-53), Siba Prasad Mohanty (PW-74), Surinder Singh Bakshi (PW-79), as narrated herein before, it is seen that the prosecution has failed to prove that A-8 had committed any offence punishable under section 18 and 20 of the UA(P)A; or that UNLF was involved in any unlawful or terrorist act; or that A-8 was involved in any criminal conspiracy whatsoever punishable under section 121A IPC.

(iv) **Examination of evidence available against K. Jeeten Singh @ Khomba @ Dene (A-10), appellant in Crl.A. 115/2017:**

392) Appellant in Crl. Appeal No. 115/2017, namely, Khwairakpam Jeeten Singh @ Khomba @ Dene was convicted for committing offence punishable under sections 18 and 20 of the UA(P)A and section 121A of the IPC. He was sentenced to undergo imprisonment for 8 (eight) years under section 18 of UA(P)A; 7 (seven) years under section 20 of the UA(P)A, and 10 (ten) years under section 121A of the IPC. Moreover, he was also sentenced

to pay a fine of Rs.10,000/- each under sections 18 and 20 of UA(P)A and section 121A of the IPC, with default stipulation.

393) The submission from all sides was to the effect that after serving out his sentence A-10 has since been released.

394) It may be stated that the learned Trial Court had framed charges against A-10 under sections 120B, 121, 121A and 122 of the IPC and sections 17, 18 and 20 of the UA(P)A.

395) Against A-10, the prosecution had relied on the evidence of M. Baskar (PW-5); Phanidhar Das (PW-15); M.C. Arun (PW-17); Laitonjam Rupa Singh (PW-26); Someswar Dutta (PW-33); L. Momon Singh (PW-34); Samujjal Gautam (PW-38); Sri D.P. Gangwar (PW-44), O. Ibomcha Singh (PW-57); Maibam Rameswar Singh (PW-67); K. Radha Kumar Singh (PW-75); Swayam Prakash Pani (PW-84). The documentary and material exhibits against A-10 are e-mails (Ext.5 series); bunch of photographs [Ext.18(9)]; forwarding report (Ext.75); FIR No. 63(5)/96 (Ext.86); Report (Ext.98); e-mail (Ext.115/176) regarding arrest of A-10 and others; e-mail (Ext.115/705) containing information of booking of A-10 and some co-accused under NSA; attachment (Ext.115/714) containing details about family maintenance of A-10 and some other co-accused; detention order (Ext.175) of A-10.

396) M. Baskar (PW-5) had exhibited Ext.5 series, which was an attachment of list of officers of UNLF, containing the names of A-10 and he had also exhibited a bunch of photographs (Ext.18/9),

where the photograph of Lt. Colonel Khwairakpam Khomba @ Jiten (A-10) was in Army dress. Moreover, PW-5 has also exhibited a list of officers as (Ext.5/2), where the name of Lt. Colonel Kh. Khomba @ Jiten is enlisted at Sl. No.7 in the list of Lt. Colonel. In the said context, it is seen from the evidence of PW-5 that the said print-out of photographs (Ext.18/9) and list of members (Ext.5/2) are not supported by any certificate as required under section 64(5) of the Evidence Act to prove electronic record. It may be mentioned here that the email dated 29.05.2009 from whiten_0001@yahoo.com to salai_taret@yahoo.com at Ext.5 contain attachment. The said Ext.5 is at page 16 of Paper-book Part-II Vol-I. The said email is not a part of standard yahoo mail page. It is a typed reproduction of the email. The said Ext.5 does not have the standard impression contained in an email which shows attachment appended to the said mail. As indicated above, the said Ext.5 and the attachment marked as Ext.5/2, in the absence of any certification under section 65B(4) of the Evidence Act and therefore, the said exhibits no.5 and 5/2 cannot be said to be duly proved in accordance with law. At this stage, it may be mentioned that vide a unsigned certificate (Ext.185), it contains a mention that the emails are in *Meitei* (Manipuri) language in Roman script with its English version. Therefore, in all probability, Ext.5 and attachment thereto are English translated copies from *Meitei* language and thus, their originals have not been proved by any witness.

397) Laitonjam Rupa Singh (PW-26) had deposed to the effect that Jiten (A-10) belonging to UNLF used to come to him to collect money. In his examination-in-chief PW-26 had stated that they last made payment to the extremist and underground groups including UNLF was in the year 2009. However, no documentary evidence or books of accounts of PW-26 or A-10 was exhibited to prove that any money was handed over to A-10. In this regard, the Court is of the considered opinion that such oral evidence cannot be considered as an evidence of sterling quality to prove participation of A-10 in the alleged act of extortion. The PW-26 did not give any evidence regarding proof of date, time and quantity of money extorted by A-10 on each occasion. Thus, vague oral evidence is not found to be sufficient to affirm the conviction of the appellant.

398) PW-5, namely, M. Baskar, did not prove the identify of A-10 by any e-mail or attachment thereto. Phanidhar Das (PW-15) and Samujjal Gautam (PW-38) had identified Jiten Singh as the person who had taken their house on rent. Although the PW-38 had exhibited the seizure list (Ext.79), but in his cross-examination, he had stated that he cannot say about the items seized from A-10 and that he had signed the seizure list without knowing its contents. Thus, PW-15 and PW-38 had not established that A-10 was a member of UNLF.

399) M.C. Arun (PW-17) had stated that his sister Landhoni Singh (A-14) had eloped with Jeeten Singh (A-10), who is a

member of UNLF. It is noticed that question no. 10 during examination of A-10 under section 313 CrPC is related to the evidence of M.C. Arun (PW-17) that Jeeten (A-10) was a member of UNLF, but A-10 was not examined under section 313 CrPC on that point. Therefore, the evidence of M.C. Arun (PW-17) that Jeeten Singh (A-10) was a member of UNLF cannot be said to be incriminating material against A-10. The prosecution has failed to demonstrate how by way of mere oral evidence, membership of A-10 with UNLF was proved.

400) Laitonjam Rupa Singh (PW-26), had stated that he did not pay any money to Indramoni, but he and one Jiten belonging to UNLF had collected money from nominee. For the transport of rice. It was submitted that PW-26 did not identify A-10. PW-26 had also stated that Jiten forced him to deposit money collected from nominee in his bank account amounting to Rs.40/50 lakh. On receiving phone call from UNLF, he had handed over the money to Ranjit by cheque. The said part of the evidence was not proved by exhibiting the books of accounts and/or bank statement of the firm of PW-26 to show that they had such money and after paying money corresponding entry has been made therein. It is also not proved how payment of money to one Ranjit will be an incriminating evidence against A-10.

401) In his evidence, PW-26 had stated that he can identify Ranjit and Jiten, but he had not seen them in Court. Thus, PW-26 did not identify A-10 in Court. From the TCR, it is seen that on

29.08.2013, Kh. Jeeten Singh (A-10) was present in the Trial Court. However, Laitonjam Rupa Singh (PW-26), who was examined by the prosecution on 29.08.2013, had stated that he did not see Jeeten in Court. Therefore, PW-26 did not prove the identity of Khwairakpam Jeeten Singh @ Khomba (A-10) as an accused.

402) It may also be mentioned that question no.13 to A-10 during his examination under section 313 CrPC was based on the evidence of Laitonjam Rupa Singh (PW-26), but the said witness did not identify A-10 in the dock. In his examination under section 313 CrPC, A-10 was not asked any question with regard to his identity. Hence, the herein before referred statement of PW-26 cannot be relied upon by the prosecution.

403) Someswar Dutta (PW-33), who had investigated Noonmati P.S. Case No. 159/2010 had merely stated that on 19.08.2010, the O/C/. Noonmati P.S. had received information that amongst others, A-10, UNLF member was picked-up and that they were wanted in connection with the said case and he had forwarded him with other co-accused vide Ext.75. Although PW-33 had referred to various seizure lists (Ext. nos. 76, 77, 78, 61, 79, 80, 82, 57, 83, 84, 85), and seizure of Nokia mobile handsets, being M.Ext.8 and M.Ext.9, but he did not specifically identify any article seized from A-10.

404) PW-34, namely, L. Momon Singh had exhibited FIR No. 63(5)/96 (Ext.86). He had stated that on the basis of the said FIR,

A-10 was arrested and one revolver with 4 (four) rounds of ammunitions were seized from him. The prosecution did not make any attempt to prove whether any charge-sheet was submitted against A-10, or the outcome of trial, if any, against A-10 on the basis of the FIR No. 63(5)/96 (Ext.86). L. Momon Singh (PW-34), SI of Police had stated in his examination-in- chief that Khwairakpam Jiten @ Khomba Singh (A-10) and two others were arrested in connection with FIR dated 27.05.1996, being Heingang Police Station Case No. 63(5)/96, under sections 121/121A IPC and section 25(1-B) of the Arms Act, and section 13 of UA(P)A. However, in his cross-examination the said PW-34 had stated that he had no idea whether the charge-sheet was submitted against A-10 before the Trial Court or not and he had also stated that he did not know about the identity of the accused persons. He had also stated that he had no idea whether any case is pending against him or not.

405) D.P. Gangwar (PW-44) did not specifically prove that any particular item was seized from A-10.

406) PW-57, namely, O. Ibomcha Singh had exhibited bank account related document, being correspondence between him and DSP, NIA (Ext.124, Ext.125, Ext.126); statement of account of M/s. L.I. Steel (Ext.125/3, 125/4 and 125/5); statement of account of L. Rupa Singh (Ext.125/9 to Ext.125/19); statement of account of Th. Jeeten Singh (Ext.125/31 to Ext.125/52); account opening forms (Ext.126/13 to Ext.126/15, Ext.126/22 to Ext.126/24);

specimen signature card (Ext.126/126/19, 126/20); nomination form (Ext.126/21). Therefore, it is seen that no financial transaction was proved by the PW-57. Moreover, from the evidence of PW-57, no entry from any exhibited documents, referred above, was proved to show that any money was received in the said accounts by extortion or unlawful activity.

407) In continuation to the identification of A-10, the learned counsel for the said accused had referred to that part of the evidence of O. Ibomcha Singh (PW-57), where he had referred to a person named Th. Jiten Singh and therefore, it was submitted that the prosecution had failed to prove that A-10 was the alleged accused in this case. Hence, it is seen that the prosecution had introduced Th. Jiten Singh through the evidence of PW-57.

408) Maibam Rameswar Singh (PW-67) had also proved the arrest of A-10 in connection with FIR No. 65(5)/1996 under section 121/121A of IPC 25)1-B) of Arms Act, registered on 31.05.1996. He had stated that A-10 was arrested on 27.05.1996 along with two other persons. The said PW-67 was examined and cross-examined as witness on 31.03.2015. However, in his cross-examination, PW-67 had stated that charge-sheet was not submitted in Case No. 65(5)/1996. Therefore, for last 19 years, charge-sheet is not shown to have been submitted in connection with the above referred Case No. 65(5)/1996.

409) K. Radha Kumar Singh (PW-75) had exhibited the detention order of A-10 (Ext.176) and by referring to the grounds

of detention, it was stated that A-10 was a member and Chief Revenue Officer of UNLF. He had also exhibited the complaint (Ext.176/10) by Md. Chaoba, Inspector of Police. However, the said Md. Chaoba, Inspector of Police was not examined as PW in this case. PW-75 had exhibited the detention order (Ext.176) of A-10. However, it is well settled principle of law that detention of a person under preventive detention laws is merely on the basis of satisfaction of the Executive that the detention of such person is necessary, but in this regard, the respondents have failed to demonstrate that how the order of preventive detention of A-10 vide Ext.176 had proved any commission of any offence by A-10.

410)

411) Swayam Prakash Pani, who was examined as PW-84, had stated that in order to ascertain the past criminal antecedents, the concerned State Police and Magistrate were contacted and dossier of A-10 and some other co-accused were prepared. Satheesh Chand (PW-53) had exhibited Ext.115/176, which was an e-mail communication regarding arrest of A-10 and he had also exhibited one e-mail (Ext.115/705) containing information of booking A-10 and some other co-accused under NSA and he had also exhibited attachment (Ext.115/714) containing details about family maintenance of A-10 and some other co-accused, which was construed to be a strong proof of the A-10 being a member of UNLF. The e-mail (Ext.115/705) is not a proof of commission of any offence and moreover, it was not proved that the said e-mail

communication was originated by A-10. It is also seen that although the prosecution has alleged that Ext.115/705 was an evidence of family maintenance of A-10, yet no attempt was made by the prosecution to prove the trail for such money. Moreover, the respondents have not been able to show how an entry made by a person in a dossier can be construed to be a proof that UNLF was maintaining the family of A-10. Moreover, the learned Trial Court has not made any discussion as to how Ext.115/705 was construed to be a book of accounts within the meaning of section 34 of the Evidence Act, 1872.

412) On the basis of e-mails (Ext.115), the learned Trial Court had held that A-10 and some other co-accused were deeply involved with UNLF, being in the leadership of the said outfit. The learned Trial Court had also held that all the e-mails and attachment retrieved on the voluntary disclosure of e-mails and passwords of A-18 and A-19 revealed activities of UNLF and some of its members and it was clear that A-10 and other co-accused were involved with UNLF as members of the organisation and it was certain that A-19 was its Chairman. It was also held that the arrest of A-10 and materials brought on record established his linkage with UNLF. The evidentiary value of electronic record has already been dealt herein before, wherein it has been held that the electronic record was not duly proved in accordance with law.

413) The learned Trial Court, on the basis of the statement of PW-17, that A-10 was a member of UNLF and Landhoni Devi (A-

14), his sister, had married A-10, had held that the evidence of M.C. Arun (PW-17) was trustworthy. In this regard, the Court is of the considered opinion that A-10 cannot be convicted merely because the evidence of A-17 was held to be trustworthy, in the absence of any proof by PW-17 that A-10 was a member of UNLF. The suspicion, howsoever strong cannot partake the character of incriminating evidence against A-10, which must prove beyond reasonable doubt that A-10 had committed the offences with which he has been allegedly charged.

414) In the opinion of the Court, the prosecution was required to prove the ingredients of section 18 of the UA(P)A by establishing that A-10 had conspired or attempted to commit, or he had advocated, abated, advised or incited or knowingly facilitated the commission of a terrorist act or any act preparatory to the commission of a terrorist act. Therefore, even if the evidence of the PW nos. 5, 15, 17, 26, 33, 34, 38, 44, 67, 75 and 84 are accepted at its face value, none the ingredients of section 18 of the UA(P)A can be said to have been proved by the prosecution.

415) As per the provisions of section 20 of the UA(P)A, in the opinion of the Court, the prosecution was required to prove that A-10 is a member of UNLF, and that the said organisation is involved in terrorist act. None of the PWs examined by the prosecution has proved any terrorist act committed by the UNLF.

416) Similarly, the conspiracy within the meaning of section 121A of the IPC has to be established in relation to the commission of a particular crime/ offence, which has not been proved and therefore, as in this case commission of offence by the UNLF and/or by A-10 has not been proved, the Court is inclined to hold that the prosecution has failed to prove the offence of conspiracy under section 121A of the IPC in so far as A-10 is concerned.

417) The finding of the learned Trial Court that A-10 was guilty of committing offence punishable under section 18 and 20 of UA(P)A and section 121A of the IPC is not found sustainable and is set aside and reversed.

(v) **Examination of evidence available against Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), appellant in Crl.A. 263/2016:**

418) Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglen @ Little Boy is the appellant in Crl. Appeal no. 263/2016. By the impugned judgment, he was convicted for committing offence punishable under sections 18 and 20 of the UA(P)A and section 121A of the IPC. He was sentenced to undergo imprisonment for 8 (eight) years under section 18 of UA(P)A; 7 (seven) years under section 20 of the UA(P)A, and 10 (ten) years under section 121A of the IPC. Apart from imprisonment, A-11 was also sentenced to pay fine of Rs.10,000/- each for committing offence under sections

18 and 20 of UA(P) A and section 121A of the IPC with default stipulation.

419) All sides had submitted that after serving out his sentence, A-11 has since been released.

420) It may be stated that the learned Trial Court had framed charges against A-11 under sections 120B, 121A, 121 and 122 of the IPC and sections 16, 17, 18 and 20 of the UA(P)A.

421) Against A-11, the prosecution has relied on the evidence of M. Baskar (PW-5); Someswar Dutta (PW-33), Gunadip Das (PW-41); D.P. Gangwar (PW-44); Sri Satheesh Chand (PW-53); O.S. Ashok (PW-64); Siba Prasad Mohanty (PW-74), K. Radha Kumar Singh (PW-75) and Virendra Kumar (PW-78).

422) To implicate A-11, the following documents were exhibited, viz., List of Officers of UNLF (Ext.5); e-mail dated 11.06.2010, containing attachment under subject bio-data (18 pages) from e-mail salai_taret@yahoo.com (Ext.18); seizure list (Ext.61); Examination report (Ext.204); retrieved e-mail account of M. Joy Singh (A-18) from greenplate09@gmail.com (Ext.115/714).

423) M. Baskar (PW-5) did not prove commission of any offence by A-11. He had exhibited an e-mail attachment under subject "Revenue Collection Account 2007" (Ext.13) and his signatures (Ext.13/1 to Ext.13/120) thereon. However, the e-mail in original was not exhibited. Ext.13 is the English typed copy of

the e-mail. The PW-5 did not prove any particular entry in Ext.13 series relating to A-11.

424) Someswar Dutta (PW-33) had stated that on 19.08.2010, the O/c. of Noonmati P.S. had received information from M.J. Mahanta, S.P. (Operation) that 11 persons including A-11, all members of UNLF, were picked up and they were wanted in the instant case. He had exhibited forwarding report (Ext.75). Although PW-33 had exhibited various seizure lists (Ext. nos. 76, 77, 78, 61, 79, 80, 82, 57, 83, 84, 85), and seizure of Nokia mobile handsets, being M.Ext.8 and M.Ext.9, but he did not specifically identify any article seized from A-11.

425) Gunadip Das (PW-41) had stated in his examination-in-chief that A-11 had visited his house which was let out to Naba Kumar Singh and Tridip Nath. He had stated that in the midnight of 19.08.2010, police personnel had come and arrested Naba Kumar Singh, Tridip Nath and Gune Singh. He had identified A-11 to have stayed in his house. In his cross-examination, PW-41 had stated that he was not present when search was made and he was called by the police after the search was over and he had put his signature in the seizure list (Ext.61), which was prepared by the police, as well as his signature (Ext.61/3). He had also admitted that none of the seized articles were illegal.

426) D.P. Gangwar (PW-44) did not specifically prove that any particular item was seized from A-11.

427) Satheesh Chand (PW-53) and Siba Prasad Mohanty (PW-74) had not proved any particular e-mail which implicates A-11 for committing any offence. The admissibility of electronic evidence and print-out has also been dealt elsewhere in this judgment.

428) PW-64, namely, O.S. Ashok had exhibited prosecution sanction order dated 09.02.2011 (Ext.137), signed by Virendra Kumar, Under Secretary to the Govt. of India, Ministry of Home Affairs, amongst others, for A-11. Virendra Kumar (PW-78) had also exhibited prosecution sanction order dated 09.02.2011 (Ext.137) and his signature (Ext.137/1) thereon. In his cross-examination, PW-78 had admitted that it was true that nowhere in Ext.137 the role of each individual accused or material against them is disclosed. He had also admitted it to be true that the report of the competent authority for according the prosecution sanction is not submitted in the present case record.

429) K. Radha Kumar Singh (PW-75) had exhibited the detention order dated 17.09.2010 of A-11 (Ext.170) as well as the 5 (five) page statement of A-11 (Ext.170/7), and his signatures thereon. He had also exhibited the copy of FIR (Ext.170/13) and history sheet of A-11 (Ext.170/16) and his signatures thereon. However, it is well settled principle of law that detention of a person under preventive detention laws is merely on the basis of satisfaction of the Executive that the detention of such person is necessary, but in this regard, the respondents have failed to

demonstrate that how the order of preventive detention of A-11 vide Ext.170 had proved any commission of any offence by A-11.

430) It is seen that as per para-84 of the impugned judgment, the learned Trial Court had held that the appellants including A-11 were not guilty of committing any terrorist act. Therefore, in order to prove the offence under section 20 of UA(P)A, the prosecution must prove the existence of the ingredients of section 20 of UA(P)A.

431) In the opinion of the Court, the prosecution was required to prove the ingredients of section 18 of the UA(P)A by establishing that A-11 had conspired or attempted to commit, or he had advocated, abated, advised or incited or knowingly facilitated the commission of a terrorist act or any act preparatory to the commission of a terrorist act. Therefore, even if the evidence of the PW nos. 5, 33, 41, 44, 53, 74 and 75 are accepted at its face value, none the ingredients of section 18 of the UA(P)A can be said to have been proved by the prosecution.

432) As per the provisions of section 20 of the UA(P)A, in the opinion of the Court, the prosecution was required to prove that A-11 is a member of UNLF, and that the said organisation is involved in terrorist act. None of the PWs examined by the prosecution has proved any terrorist act committed by the UNLF.

433) Similarly, the conspiracy within the meaning of section 121A of the IPC has to be established in relation to the

commission of a particular crime/ offence, which has not been proved and therefore, as in this case commission of offence by the UNLF and/or by A-11 has not been proved, the Court is inclined to hold that the prosecution has failed to prove the offence of conspiracy under section 121A of the IPC in so far as A-11 is concerned.

434) The finding of the learned Trial Court that A-11 was guilty of committing offence punishable under section 18 and 20 of UA(P)A and section 121A of the IPC is not found sustainable and is set aside and reversed.

(vi) **Examination of evidence available against Mutum Ibohal Singh @ Ngamba @ Sanjay (A-12), appellant in Crl.A. 145/2017:**

435) Mutum Ibohal Singh @ Ngamba @ Sanjay (A-12) is the appellant in Crl. Appeal no. 145/2017. By the impugned judgment, he was convicted for committing offence punishable under sections 18 and 20 of the UA(P)A and section 121A of the IPC. A-12 was sentenced to undergo imprisonment for 8 (eight) years under section 18 of UA(P)A and to pay a fine of Rs.10,000/-; 7 (seven) years under section 20 of the UA(P)A and to pay a fine of Rs.10,000/-, and 10 (ten) years under section 121A of the IPC. The sentence to pay fine was with default stipulation to undergo further imprisonment for 1 (one) year.

436) All sides had submitted that after serving out his sentence, A-12 has since been released.

437) To prove the charges framed against A-12, the prosecution had examined M. Baskar (PW-5), Someswar Dutta (PW-33), O.S. Ashok (PW-64), Virendra Kumar (PW-78) and Swayam Prakash Pani (PW-84).

438) M. Baskar (PW-5) did not prove commission of any offence by A-11. He had exhibited an e-mail attachment under subject "Revenue Collection Account 2007" (Ext.13) and his signatures (Ext.13/1 to Ext.13/120) thereon. However, the e-mail in original was not exhibited. Ext.13 is the English typed copy of the e-mail. The PW-5 did not prove any particular entry in Ext.13 series relating to A-11.

439) Someswar Dutta (PW-33) had stated in his examination-in-chief that on 19.08.2019, the O/c. Of Noonmati P.S. had received information from M.J. Mahanta, S.P. (Operation) that 11 persons including A-12, all members of UNLF, were picked up and they were wanted in the instant case. He had exhibited forwarding report (Ext.75) by which 11 (eleven) persons were forwarded before the Court. Although PW-33 had exhibited various seizure lists (Ext. nos. 76, 77, 78, 61, 79, 80, 82, 57, 83, 84, 85), and seizure of Nokia mobile handsets, being M.Ext.8 and M.Ext.9, but he did not specifically identify any article seized from A-12.

440) Satheesh Chand (PW-53) and Siba Prasad Mohanty (PW-74) had not proved any particular e-mail which implicates A-12 for committing any offence. The admissibility of electronic evidence and print-out has also been dealt elsewhere in this judgment.

441) O.S. Ashok (PW-64) had exhibited prosecution sanction order dated 09.02.2011 (Ext.137) under sections 120B, 121, 121A, 122 of IPC and under sections 16, 17, 18 and 20 of the UA(P)A, signed by Virendra Kumar, Under Secretary to the Govt. of India, Ministry of Home Affairs, amongst others, for A-12 and he had also exhibited his signature (Ext.137/1) thereon. Virendra Kumar (PW-78) had also exhibited prosecution sanction order dated 09.02.2011 (Ext.137) and his signature (Ext.137/1) thereon. In his cross-examination, PW-78 had admitted that it was true that nowhere in Ext.137 the role of each individual accused or material against them is disclosed. He had also admitted it to be true that the report of the competent authority for according the prosecution sanction is not submitted in the present case record.

442) Satheesh Chand (PW-53) and Siba Prasad Mohanty (PW-74) had not proved any particular e-mail which implicates A-12 for committing any offence. The admissibility of electronic evidence and print-out has also been dealt elsewhere in this judgment.

443) Swayam Prakash Pani (PW-84) had stated in his examination-in-chief that A-1 to A-17 had taken rented accommodation in different parts of city by concealing their identities. He had also stated that e-mail (E-2) contains the annual

function of A-1 to A-18. He had stated that e-mail (E-85) by A-19 regarding A-12 as he was tasked to carry out some violence. However, no such incidence of violence by A-12 was proved by PW-84. He had also stated that A-12 had received financial benefit as mentioned at E-88/65, E-88/18 and E88/63, and also mentioned at E-5/3, E-6/2, E-17/25, E-28/6, E-30/27, E-34, E-39/4, E-40/28, E-44/3, E-45/3, E-45/10, E-48/13, E-52/10, E-94/6, E-94/96. However, the said e-mails cannot be said to be an admissible evidence regarding receipt of monetary benefit by A-12, because the prosecution could not prove any corresponding entry in the bank account or any other books of account of A-12. Thus, the said e-mails can, at best, be said to be a unilateral e-mail by A-19 that some money was paid to A-12. The taking of rental accommodation by concealing true identity is not an offence under the IPC or under the UA(P)A and A-12 was not convicted for such offence.

444) PW-84 had exhibited E-79, which is a list of officers of UNLF, retrieved from the e-mail ID of A-19, containing the name of A-12 and photograph of A-12 (E-92/4 to E-92/19). He had stated that Ext.156 pertains to A-12. In this judgment, the Court has dealt with the non-admissibility of the e-mails (Ext.5 series and Ext.115 series) which are electronic evidence. Thus, in this case, the e-mails cannot be constituted to be a proof that A-12 is or was a member of UNLF.

445) It is seen that as per para-84 of the impugned judgment, the learned Trial Court had held that the appellants including A-12 were not guilty of committing any terrorist act. Therefore, in order to prove the offence under section 20 of UA(P)A, the prosecution must prove the existence of the ingredients of section 20 of UA(P)A.

446) In the opinion of the Court, the prosecution was required to prove the ingredients of section 18 of the UA(P)A by establishing that A-12 had conspired or attempted to commit, or he had advocated, abated, advised or incited or knowingly facilitated the commission of a terrorist act or any act preparatory to the commission of a terrorist act. Therefore, even if the evidence of the PW nos. 5, 33, 64, 78 and 84 are accepted at its face value, none the ingredients of section 18 of the UA(P)A can be said to have been proved by the prosecution.

447) As per the provisions of section 20 of the UA(P)A, in the opinion of the Court, the prosecution was required to prove that A-12 is/was a member of UNLF, and that the said organisation is involved in terrorist act. None of the PWs examined by the prosecution has proved any terrorist act committed by the UNLF.

448) Similarly, the conspiracy within the meaning of section 121A of the IPC has to be established in relation to the commission of a particular crime/ offence, which has not been proved and therefore, as in this case commission of offence by the UNLF and/or by A-12 has not been proved, the Court is inclined to

hold that the prosecution has failed to prove the offence of conspiracy under section 121A of the IPC in so far as A-12 is concerned.

449) The finding of the learned Trial Court that A-12 was guilty of committing offence punishable under section 18 and 20 of UA(P)A and section 121A of the IPC is not found sustainable and is set aside and reversed.

(vii) **Examination of evidence available against Smt. Landhoni Devi (A-14), appellant in Crl.A. 165/2016:**

450) Smt. Landhoni Devi is the appellant in Crl. Appeal no. 165/2016. By the impugned judgment, she was convicted for committing offence punishable under section 20 of the UA(P)A. A-14 was sentenced to undergo imprisonment for 7 (seven) years under section 20 of UA(P)A and to pay a fine of Rs.10,000/- with default stipulation to undergo further imprisonment for 1 (one) year.

451) All sides had submitted that A-14 has almost served her sentence and is likely to be released shortly.

452) To prove the charges framed against A-14, the prosecution had examined Phanidhar Das (PW-15), M.C. Arun (PW-17), Someswar Dutta (PW-33), and R.K. Napoleon Singh (PW-70).

453) The evidence of PW-15 was to the effect that he had let out his house to Jiten Singh (A-12), and Landhoni Devi (A-14), his

wife used to reside there with their sons and daughter. He had stated that Landhoni Devi had gone to Imphal with their sons and daughter and returned on 19.08.2010. On 19.08.2010, at around 10.00 pm and 11.00 pm, some policemen had already caught Jiten Singh (A-12) and seized lap-top, cash, mobile and other articles vide seizure memo (Ext.42). He had also exhibited his signature 9Ext.42/1) thereon.

454) M.C. Arun, PW-17 had only stated that that his younger sister, Landhoni Devi (A-14) had eloped with Jeeten (A-10), a UNLF member.

455) Someswar Dutta (PW-33) had stated in his examination-in-chief that on 19.08.2010, amongst others, Landhoni Devi was arrested and he had exhibited the forwarding report dated 20.08.2010 (Ext.75). However, PW-33 had not exhibited any signature contained in Ext.75.

456) R.K. Napoleon (PW-70) had stated in his evidence-in-chief that he was informed by Krishna Kumari, elder sister of Landhoni Devi (A-14) that she is lodged in Guwahati Jail and he used to meet Landhoni Devi in jail.

457) Except for such statement by PW-15, PW-17, PW-33 and PW-70, there is no other corroborative evidence to prove that A-14 was a member of UNLF, or was ever involved in any terrorist act whatsoever.

458) The prosecution had examined M. Baskar (PW-5) and Satheesh Chand (PW-53). The said PWs had exhibited various e-mails and their attachments for the purpose of establishing that all the accused persons were members of UNLF. However, the said PW nos. 5 and 53 had not exhibited any document to prove that Smt. Landhoni Devi (A-14) was a member of UNLF.

459) In the opinion of the Court, to bring home the conviction of A-14 under section 20 of the UA(P)A, the prosecution was required to prove that A-14 is/was a member of UNLF. The prosecution was also required to prove that the said UNLF was an organisation which was involved in terrorist act. However, none of the PWs examined by the prosecution has proved commission of any terrorist act either by the UNLF or by A-14.

460) The finding of the learned Trial Court that A-14 was guilty of committing offence punishable under section 20 of UA(P)A is not found sustainable and is set aside and reversed.

(viii) **Examination of evidence available against Oinam Maniton Singha (A-15), appellant in Crl.A. 264/2016:**

461) Oinam Maniton Singha is the appellant in Crl.A. 265/2016. By the impugned judgment, he was convicted for committing offence punishable under section 20 of the UA(P)A. A-15 was sentenced to undergo imprisonment for 7 (seven) years under section 20 of UA(P)A and to pay a fine of Rs.10,000/- with

default stipulation to undergo further imprisonment for 1 (one) year.

462) All sides had submitted that A-15 has served his sentence and has since been released.

463) To prove the charges framed against A-15, the prosecution had examined Someswar Dutta (PW-33), Akshay Kumar Das (PW-35), Jyoti Mili (PW-36), L. Surendra Singh (PW-48).

464) It may be stated that Someswar Dutta (PW-33) did not state in his examination-in-chief that he had arrested O. Maniton Singha (A-15). Rather, he had stated that on 08.09.2010, another 2 (two) UNLF members, N. Dilip Singh @ Ibochou (A-16) and Laurenbum Jatishor @ Tilemba (A-17) were arrested. However, during his cross-examination on behalf of A-15, he had stated that he had arrested A-15. However, he could not say about regarding Ext.83 and Ext.57 as it was seized by Jyoti Mili (PW-36) and not by him and he had no knowledge about FSL report regarding those seized articles.

465) In his examination-in-chief, Akshay Kumar Das (PW-35) had stated that he had let out his house to A-15, who was occupying three rooms, where he was staying with his brother till 2010. He had stated that sometime in the late hours of 2010, police personnel came and arrested A-15. He had exhibited seizure memo (Ext.83) by which certain items were seized and his

signature (Ext.83/2) thereon. He had identified A-15 in Court. In his cross-examination, PW-35 had stated that when he had signed Ext.83, it was a blank white paper and as the police took his signature, he can say that the police had written something there. He had further stated that he had no knowledge what was written in Ext.83. He had also stated that in Court, he has not seen any article seized by the police. He had also stated that while raiding his house, the police did not show any search warrant to him. He does not know why police had arrested A-15.

466) Jyoti Mili (PW-36), who at the relevant time was working as Attached Officer, Dispur P.S., had stated in his examination-in-chief that on 08.09.2010, on receipt of information about hold-out of UNLF militants at Survey area of Lilmil Path and Nayanpur, Ganeshguri and accordingly, he along with staff had visited the area and searched the house of Purna Ch. Joshi where N. Dilip Singh (A-16) was residing as a tenant. He was taken for interrogation and thereafter, they visited the house of Akshay Kr. Das (PW-35) at Nayanpur, Hastinapur where Maniton Singha (A-15) was residing as a tenant and he was also taken up for interrogation and his room was searched and articles described in Ext.83 was seized by him. He had stated that on the next day, the two arrested persons including A-15 were taken to Noonmati P.S. as there was a case pending investigation with regard to UNLF militants and they were handed over to I/O. Someswar Dutta (PW-33).

467) L. Surendra Singh (PW-48) had stated in his evidence-in-chief that in the year 1998-99, he was the Secretary, Games and Sports in Nehru College. He was also the Vice President of the said College. He was also the President of All Assam Manipuri Students Union (AAMSU) during 2009-10. For doing various activities, of the students of the Union, they required fund and they collected fund from students, teachers and donation from public. They also got fund from All Manipuri Students Union (AMSU). There is another organisation covering entire North-East by name North-East Manipuri Students Organisation (NEMSO), whose President was A-15. He had stated that they had no relation with NEMSO. Though the PW-48 had exhibited Ext.105, Ext.106, Ext.107 and signatures (Ext. nos. 105/1, 105/2, 106/1, 106/2, 106/3, 107/1) thereon, but none of the said exhibited documents relate to A-15. Thus, the evidence of PW-48 does not incriminate A-15 in any manner whatsoever.

468) Thus, though A-15 was charged of committing offence punishable under section 20 of UA(P)A, but there is no oral evidence against him. There is no other corroborative evidence to prove that A-15 was a member of UNLF, or that he was ever involved in any terrorist act whatsoever, or that UNLF had committed any terrorist act.

469) The prosecution had examined Someswar Dutta (PW-33), Akshay Kumar Das (PW-35), Jyoti Mili (PW-36) and L. Surendra Singh (PW-48) to prove charges framed against A-15. However,

the said PWs had failed to prove existence of any ingredients of section 20 of UA(P)A against A-15. In the opinion of the Court, to bring home the conviction of A-15 under section 20 of the UA(P)A, the prosecution was required to prove that A-15 is/was a member of UNLF. The prosecution was also required to prove that the said UNLF was an organisation that was involved in terrorist act. However, none of the PWs examined by the prosecution in respect of A-15 had proved commission of any terrorist act either by the UNLF or by A-15.

470) The finding of the learned Trial Court that A-15 was guilty of committing offence punishable under section 20 of UA(P)A is not found sustainable and is liable to set aside and reversed.

(ix) **Examination of evidence available against N. Dilip Singh @ Ibochou @ Mani (A-16), appellant in Crl.A. 113/2017:**

471) N. Dilip Singh @ Ibochou @ Mani (A-16) is the appellant in Crl. Appeal no. 113/2015. By the impugned judgment, he was convicted for committing offence punishable under section 18 and 20 of the UA(P)A and section 121A of the IPC. He was sentenced to undergo imprisonment for 8 (eight) years and to pay a fine of Rs.10,000/- under section 18 of the UA(P)A; to undergo rigorous imprisonment for 7 (seven) years and to pay a fine of Rs.10,000/- under section 20 of UA(P)A; and to undergo rigorous imprisonment for 10 (ten) years and to pay a fine of Rs.10,000/- under section 121A of the IPC. The sentence of payment of fine of

Rs.10,000/- each was with default stipulation to undergo further imprisonment for 1 (one) year.

472) All sides had submitted that A-16 has served his sentence and has been since released.

473) To prove the charges framed against A-16, the prosecution had examined Bijoy Krishna Das (PW-6), Indubhusan Kongkham (PW-7), Nitendra Tumung (A-13), Smt. Ambika Sharma (PW-25), Sri Jyoti Mili (PW-36), Satheesh Chand (PW-53), K. Radha Kumar Singh (PW-75).

474) Bijoy Krishna Das (PW-6) and Nitendra Tumung (A-13), both claim that they were the landlord of A-16 and they had deposed about the arrest of A-16 by the police. There is no explanation how A-16 could be arrested from house of two landlords at the same time. The PW-6 and PW-13 had both exhibited the seizure list (Ext.31) and their signature (Ext.31/1 and Ext.31/2) thereon.

475) The prosecution had also examined Indubhusan Kongkham (PW-7), who had stated in his examination-in-chief that in the later part of the year 2008, he had met his friend Oinam Samarjit Singh (A-7) at Guwahati who introduced him to Dilip Singh @ Mani (A-16) and discussed about sending students to China. The prosecution has failed to prove that discussion by A-16 to send students to China is a terrorist act within the meaning of UA(P)A.

476) The learned senior counsel for the NIA had submitted that oral evidence of Indubhusan Kongkham (PW-7) was sufficient to incriminate and convict A-16 because of his link to R.K. Meghen (A-19), the Chairman of UNLF was established as A-16 had met A-19 at Kathmandu, Nepal. It was submitted that PW-7 had proved by his oral evidence that O. Samarjit Singh (A-7) had told him that he had joined UNLF and had also invited him to join UNLF and that A-7 had introduced PW-7 to A-16 and A-16 introduced PW-7 to M. Joy Singh (A-18). Accordingly, it was submitted that link of A-16 on the basis of evidence of PW-7 was established with A-7, A-18 and A-19 and their membership of UNLF was also established. The Court is unable to accept the said submission because even assuming that (i) A-7 had met R.K. Meghen, Chairman, UNLF in Kathmandu, Nepal; and (ii) A-7 had introduced PW-7 to A-16 and A-16 had introduced PW-7 to A-18, it cannot be presumed that A-16 had become members of UNLF. Nonetheless, the prosecution had failed to prove the entry of A-7 and A-16 into Nepal and China in the year 2018.

477) Assuming that the evidence of PW-7 can be read as an extra judicial confession of A-7 that he had joined UNLF, but still some more corroborative evidence was required to be proved for holding that A-7 had joined UNLF and a mere oral evidence that some accused has admitted his guilt before another person cannot be read as a proof of guilt.

478) The PW-7 had handed over 4 (four) documents to the I.O., for which he had exhibited the seizure list (Ext.32) and his signature (Ext.32/1) thereon. None of the documents incriminate A-16.

479) PW-13 had admitted that Ext.31 was a photocopy. Nitendra Tumung (PW-13) had exhibited the arrest memo of A-16 as Ext.40 and his signature (Ext.40/1) thereon. However, PW-13, in his cross-examination, had stated that the arrest memo of A-16 was not issued when he was arrested from his building. From the evidence of PW nos. 6 and 13, it cannot be said that the articles seized from A-16 vide Ext.31 contained anything which is illegal.

480) Smt. Ambika Sharma (PW-25) also claims to be the landlady of A-16. She had stated that A-16 was arrested and brought to the room let out to A-16 and she had exhibited the seizure list (Ext.57) by which the I.O. had seized 35 articles including laptop, mobile sets, pen-drive, data card, ATM card, Rs.3,65,000/- in cash, and 35 nos. of CDs. He had also exhibited his signature (Ext.57/1), the signature of Hemlal Joshi, his brother-in-law (Ext.57/2) and signature of A-16 (Ext.57/3).

481) Jyoti Mili (PW-36), who was the then Attached Officer of Dispur P.S. had stated in his examination-in-chief that he had arrested A-16 from the house of Purna Ch. Joshi, where A-16 was residing as a tenant. The said landlord appears to have not been examined. According to PW-36, Ext.57 is the seizure list of articles seized from the tenanted house of A-16 under the said Purna Ch.

Joshi and it may be mentioned that PW-36 had not exhibited his signature on Ext.57. In his cross-examination. PW-36 had admitted that A-16 was arrested from the Guwahati Railway Station at Paltan Bazar. Thus, it appears that A-16 was arrested on multiple locations on the same day. PW-36 had admitted that none of the articles seized vide Ext.57 was prohibited articles.

482) The prosecution has submitted that by his evidence, Satheesh Chand (PW-53) had duly proved all the emails which squarely implicated A-16 of being associated with UNLF, his participation in the conspiracy against the Country in furtherance of terrorist act. In connection with the discussion of electronic evidence, it has been held that Ext.115 series which was exhibited by PW-53 were merely English translation of the emails and therefore, none of the emails which were downloaded from the email of M. Joy Singh (A-18) was the primary evidence of the contents of email which were in *Meitei* language. Accordingly, the electronic evidence in respect to emails had all been discarded as an admissible evidence while discarding electronic evidence in paragraph nos. 216 to 284 above.

483) At the relevant time, K. Radha Kumar Singh (PW-75) was the District Magistrate, Imphal West and had issued detention order (Ext.180) against A-16, and he had also exhibited his signatures thereon, grounds of detention (Ext.180/2), statement of A-16 (Ext.180/6), complaint (Ext.180/11), FIR (Ext.180/13) and history sheet (Ext.180/15). In his cross-examination, PW-75 had

admitted that Ext.170 to 181 were not the original documents. He had also admitted that detention orders are basically for the maintenance of public order. Thus, the detention order (Ext.180) of A-16 does not prove that there was any actual commission of a terrorist act by the said accused.

484) The admissibility of electronic evidence vide e-mails exhibited as Ext.5 (series) and Ext.115 (series) has been discussed in this judgment and it has been held that the said electronic documents are not admissible in evidence. The said finding is relevant for the A-16 also.

485) Bijoy Krishna Das (PW-6), Indubhusan Kongkham (PW-7), Nitendra Tumung (A-13), Smt. Ambika Sharma (PW-25), Sri Jyoti Mili (PW-36), Satheesh Chand (PW-53), K. Radha Kumar Singh (PW-75), who were examined by the prosecution had failed to prove existence of any ingredients of section 18 and 20 of UA(P)A and section 121A against A-16. In the opinion of the Court, to bring home the conviction of A-16 under Section 18 of the UA(P)A, the prosecution was required to prove beyond reasonable doubt that the appellants herein had conspired or had attempted to commit a terrorist act; (ii) that he/she had advocated, abetted, advised or has incited a terrorist act; and/or (iii) directed or knowingly facilitated the commission of terrorist act or that the appellants had committed any act preparatory to the commission of a terrorist act.

486) To bring home the conviction of A-16 under section 20 of the UA(P)A, the prosecution was required to prove that A-16 is/was a member of UNLF. The prosecution was also required to prove that the said UNLF was a terrorist gang or organisation that was involved in terrorist act. However, none of the PWs examined by the prosecution in respect of A-16 had proved commission of any terrorist act either by the UNLF or by A-16. The prosecution has also failed to prove that A-16 was involved in any criminal conspiracy whatsoever punishable under section 121A IPC.

487) The finding of the learned Trial Court that A-16 was guilty of committing offence punishable under section 18 and 20 of UA(P)A and 121A of the IPC is not found sustainable and the said finding is liable to be set aside and reversed.

(x) **Examination of evidence available against Laurenbum Jatishor Singh @ Tilemba (A-17), appellant in Crl. Appeal No. 299/2015:**

488) Laurenbum Jatishor Singh @ Tilemba (A-17) is the appellant in Crl. Appeal No. 299/2016. He has been convicted for committing offence under section 18 and 20 of UA(P)A and section 121A of the IPC. He was sentenced to undergo imprisonment for 8 (eight) years and to pay a fine of Rs.10,000/- under section 18 of the UA(P)A; to undergo rigorous imprisonment for 7 (seven) years and to pay a fine of Rs.10,000/- under section 20 of UA(P)A; and to undergo rigorous imprisonment for 10 (ten) years and to pay a fine of Rs.10,000/- under section 121A of the IPC. The sentence of

payment of fine of Rs.10,000/- each was with default stipulation to undergo further imprisonment for 1 (one) year.

489) All sides had submitted that A-17 has served his sentence and has been since released.

490) To prove the charges framed against A-17, the prosecution had examined Smti. Laurembam Ibeyaima (PW-72), and Sri K. Radha Kumar Singh (PW-75).

491) Smti. Laurembam Ibeyaima (PW-72) is the wife of A-17, to whom she had married in the year 2006. In her examination-in-chief she had stated that when she was in a hospital in the year 2009, the expenditure of her treatment was borne by A-17 and family members and she had also stated that when she was in hospital for the delivery of her child, she came to know that A-17 was arrested and after some time, she had visited Central Jail, Guwahati to meet her husband. She had also stated that her husband was doing business of selling small articles. PW-72 was not cross-examined by the defence. Thus, PW-72 did not implicate A-17 for committing any offence.

492) K. Radha Kumar Singh (PW-75), who was the then District Magistrate of Imphal West had exhibited the detention order of A-17 (Ext.181) and his signatures thereon. By referring to the grounds of detention (Ext.181/2), it was stated that A-17 was a member of the banned UNLF and belonged to 7th batch and received training in Upper Burma with effect from 01.01.1994 and

he was arrested on 25.06.1996 and released on bail on 30.04.1997 and was again arrested on 27.07.2007 by Assam Rifles and it was stated that A-17 was involved in heinous crimes like murder, dacoity, robbery, extortion and kidnapping for ransom. The statement of A-17 (Ext.181/6) was exhibited. The PW-75 had exhibited the complaint (Ext.181/11) of M. Maipak Singh, Inspector of Manipur Police; the copy of FIR (Ext.181/13); and the history sheet (Ext.181/15) of A-17. However, the said M. Maipak Singh was not examined as PW in this case. In his cross-examination, PW-75 had admitted that Ext.181 were not the original documents and had also admitted that the detention order was passed under section 3(2) of the NSA Act, 1980 which is basically for the maintenance of public order.

493) In connection with the evidence of PW-75, The Court is inclined to hold that detention of a person under preventive detention laws is merely on the basis of satisfaction of the Executive that the detention of such person is necessary. The Court is also inclined to hold that as the prosecution did not examine any victim of the offence allegedly committed by A-17, the respondents have failed to demonstrate that how the order of preventive detention of A-17 vide Ext.181 had proved any commission of any offence by A-17.

494) Thus, the prosecution witnesses, namely, Smti. Laurembam Ibeyaima (PW-72), and Sri K. Radha Kumar Singh (PW-75) did not prove the existence of any ingredients of section

18 and 20 of UA(P)A and section 121A of the IPC against A-17. The PWs examined by the prosecution in respect of A-17 had not proved (i) commission of any terrorist act by A-17; (ii) commission of any terrorist act by the UNLF; (iii) that A-17 was a member of UNLF, a terrorist organisation; and (iv) that A-17 was involved in any criminal conspiracy whatsoever punishable under section 121A IPC.

495) The finding of the learned Trial Court that A-17 was guilty of committing offence punishable under section 18 and 20 of UA(P)A and 121A of the IPC is not found sustainable and is therefore, liable to be set aside and reversed.

(xi) **Examination of evidence available against Y. Brajabidhu Singh (A-24), appellant in Crl. Appeal No. 291/2016; and A. Ibomcha @ A. Ibomcha Singh (A-25), appellant in Crl. Appeal No. 295/2016:**

496) As common evidence is in respect of Y. Brajabidhu Singh (A-24) and A. Ibomcha @ A. Ibomcha Singh (A-25), their appeals have been examined together. The discussion in this order also refers to accused N. Bomi Singh (A-23), whose appeal being Crl.A. No. 169/2016, has abated on his death.

497) Y. Brajabidhu Singh (A-24) is the appellant in Crl. Appeal No. 291/2016 and A. Ibomcha @ A. Ibomcha Singh (A-25) is the appellant in Crl. Appeal No. 295/2016. It has been submitted at the bar by the learned counsel for the said appellant that as per

unconfirmed information, the said appellant has expired. However, the learned counsel for the said appellant has submitted that he does not have any written instructions or death certificate to support his statement.

498) The said appellants have been convicted for committing offence punishable under section 20 and 21 of the UA(P)A. Accordingly, under section 20 of the UA(P)A, Y. Brajabidhu Singh (A-24) and A. Ibomcha @ A. Ibomcha Singh (A-25) were each sentenced to undergo rigorous imprisonment for a term of 7 (seven) years and to pay a fine of Rs.10,000/- with default stipulation and for the offence committed under section 21 of the UA(P)A, they were also sentenced to undergo rigorous imprisonment for a term of 7 (seven) years and to pay a fine of Rs.20,000/- with default stipulation.

499) All sides had submitted that the said A-23 is deceased and A-24 and A-25 have served their sentence and have been since released.

500) To prove the charges framed against A-24 and A-25, the prosecution had examined (i) Ak. Ibochouba Singh (PW-23), (ii) Rakesh Kumar Jain (PW-24); (iii) N. Holland Singh (PW-29), (iv) B. Haridas Sarma (PW-43), (v) O.S. Ashok (PW-66), (vi) Ravi Gambhir (PW-77), and (vii) Surinder Singh Bakshi (PW-79).

501) Ak. Ibochouba Singh (PW-23) was working with IUCB. In his examination-in-chief, he had stated that Association for

Extensive Growers Initiative Service (AEGIS for short) was having a current account no. 22/1318 in their bank. The account was opened and operated by Y. Brajabidhu Singh (A-24), President; N. Bomi Singh (A-23), Secretary (since deceased); and A. Ibomcha Singh (A-25), Treasurer. PW-23 has referred to financial transaction made in the said account and that loan of Rs.50.00 lakh that was sanctioned on 10.07.2005 against term deposit of Rs.25.00 lakh, Rs.20.00 lakh and Rs.20.00 lakh (total Rs.65.00 lakh) was repaid in full on 16.08.2005 by adjustment of term deposits within a period of 14 days. He had exhibited bank account opening documents and signatures as Ext.48, 48/1 to 48/7, statement of account (Ext.49); loan account statement for the period from 30.07.2005 to 16.08.2005 (Ext.50); loan sanction letter (Ext.51) and signature (Ext.51/1) and other documents and signatures (Ext.51/2 to 51/6); seizure memo (Ext.52) and his signature (Ext.52/1) thereon. He had also exhibited pay-in-slips (Ext.53, 53/1 to 53/7), statement (Ext.53/8), and cheques (Ext.54, 54/1 to 54/9), and statement of withdrawal (Ext.53/10). In his cross-examination, PW-23 had stated that the closure of loan account by adjustment against term deposit was permissible within the norms of the bank. He had also stated that A-23 (since deceased), A-24 and A-25 were good customers of his bank and all of them were reputed businessmen. Thus, no incriminating materials are culled out against A-23 (since deceased) from the evidence of PW-23. The prosecution has not proved that any law in force or any banking procedure was violated by AEGIS by

returning loan of Rs.50.00 lakh within 14 days by adjusting their fixed deposit receipt.

502) Rakesh Kumar Jain (PW-24), who was a Chartered Account and had examined and audited the books of accounts of AEGIS for the financial year 2005-06, 2006-07 and 2007-08 had stated in his examination-in-chief that one of the machinery was installed in a shed which was under construction. He had stated that some contributions were not supported by proper documents. Loan of bigger amount by AEGIS was not repaid. He had stated that after 2008, AEGIS did not come to their firm and he cannot say how they managed the firm. He had proved seizure memo (Ext.55 and Ext.55/1) of documents of AEGIS and his signature (Ext.55/2) thereon. He had stated that his firm had conducted audit of Pineapple Processing Unit at Matai and not regarding other activities. In his cross-examination, PW-24 had stated that he had come across documents/ communications between Union Government and AEGIS regarding the equity subscription, subsidy, etc. Concerning Food Processing Unit of AEGIS which shows substantial financial assistance from the Central Government to AEGIS which was transferred to the accounts of AEGIS by the Central Government. In his re-examination, A-24 had exhibited memo (Ext.56) of handing over documents pertaining to AEGIS as mentioned therein and his signature (Ext.56/3) thereon. The documents and signatures were also exhibited as Ext.56/2 to Ext.17), receipts and payments account (Ext.55) and his signature and signature of A-23 (since deceased) (Ext.55/2 to 55/30)

thereon. He had stated that in the column receipts, unsecured loans from friends and relatives of Rs.15.00 lakh, membership subscription of Rs.8.00 lakh could not be substantiated by the party. From such statement of PW-24, it cannot be presumed that merely because loans and membership subscription could not be substantiated, the said money was funded by UNLF. As a charter accountant, if he found certain discrepancy in the balance sheet of the AEGIS, he should have recorded it in the auditor's note, which was not done. Therefore, an oral statement of PW-24 where there is no note in the audited balance sheet cannot partake the character of a proof that AEGIS was a front of UNLF or that the money which could not be substantiated belong to UNLF. It is well settled that presumption, howsoever strong cannot be read as a proof.

503) As regards evidence of PW-24, the installation of machinery in under-construction shed is not an act of terrorism and does not prove that it was funded by act of terrorism of UNLF. No particular entry was exhibited to show that it was not supported by proper document. Non-payment of loan amount does not prove that AEGIS was funded by UNLF. The lack of explanation regarding receipts, unsecured loans and subscription also does not prove that a sum of Rs.15.00 lakh and Rs.8.00 lakh were proceeds of terrorist act committed by UNLF.

504) N. Holland Singh (PW-29) was a witness to the arrest and search in respect of A-23 (since deceased), A-24 and A-25. He had

exhibited the arrest memo and search memos of A-23 (since deceased) (Ext.67 & Ext.68) and his signatures thereon; arrest memo and search memos of A-25 (Ext.63 & Ext.62) and his signatures thereon; and arrest memo and search memos of A-24 (Ext.64 & Ext.65), and his signatures thereon. Thus, no incriminating materials are culled out against A-23 (since deceased) from the evidence of PW-29.

505) B. Haridas Sarma (PW-43), had joined AEGIS as after he had retired as Director, Agriculture, Govt. of Manipur. He was then working as President of the Executive Committee till the society was closed by NIA. Before he became the President, A-24 was the President. He had stated that the initial capital of AEGIS was Rs.197.00 lakh, which was later revised to Rs.206.00 lakh. A sum of Rs.50.00 lakh was taken as loan from IUCB when A-24 was the President, which was not utilized and returned. He had stated 'they' have arms with them, but A-43 had not disclosed the name of anyone with arms. He had stated that A-24 was related to a member of UNLF. He had given a statement before Magistrate, 1st Class, Kamrup, Guwahati on 24.05.2011 (Ext.93) under section 164 CrPC., and his signatures (Ext.93/1 and 93/2) thereon. He had also exhibited attachment notice to AEGIS (Ext.94) and his signatures (Ext.94/1, 94/2 and 93/3) thereon. He had also exhibited notice under section 25(1) of UA(P)A to A-23 (since deceased) (Ext.95) and his signature (Ext.95/1) as token of receipt of notice. He had also exhibited statement of accounts (Ext.96) of AEGIS prepared by Chartered Accountant for the period from

16.06.2006 to 31.03.2007 and the signatures of A-24 (Ext.96/1 to 96/6). In his cross-examination, PW-43 had stated that AEGIS had received long term loan of Rs.28.00 lakh from Ministry of Agriculture and Ministry of Food Processing on approval of their project and a further sum of Rs.56.00 lakh was received as grant. He had personally visited Delhi to meet officials of concerned Ministries for availing such funds and loans. He does not know how loan from IUCB was managed, but he was told that it was for book-keeping. He had also stated that while proceeding towards the Court, he was briefed by the Bakshi, DSP, NIA about the statement to be given before the Magistrate and after giving his statement, he was escorted back by the said police officer. In his cross, he was confronted with his statement under section 164 CrPC that "Now in 2011, I came to know that all these three aforesaid named three people have link with United National Liberation Front (UNLF) and they invested money of this UNLF into our Food Processing scheme of AEGIS", to which he had replied that he did not actually said the said portion of statement to the Magistrate. He had also stated that he cannot remember if his statement under section 164 CrPC was read over to him by the Magistrate. He had also stated that he does not remember the name of UNLF member with whom Brajabidhu Singh (A-24) is related. Thus, no incriminating materials are culled out against A-24 from the evidence of PW-43. From the evidence of PW-43, the prosecution has proved that AEGIS had received funds from the Central Government through Ministry of Agriculture and Ministry of

Food Processing, which cannot be said to be a fund provided by UNLF through terrorist act.

506) Satheesh Chand, who was examined as PW-53 had exhibited emails as Ext.115 (series). However, he did not prove the contents of any of the documents exhibited. Through one of such email, it is sought to be projected that the accounts of AEGIS was being monitored by UNLF leadership. None of the emails exhibited as Ext.115 (series) are the print-out of the original mail. In this regard, it may be restated that vide Ext.185 unsigned certificate, the prosecution has proved that the emails were in *Meitei* language, whereas none of the emails exhibited as Ext.115 series are in *Meitei* language, but they are English typed version, which is not in the usual email format of the service provider. Moreover, none of the witnesses have given evidence to the effect that A-24, A-25 had ever indulged in extortion of money. Similarly, none of the 84 PWs examined by the prosecution have been able to give any documentary evidence that AEGIS was funded by UNLF or any proceeds of terrorism could be identified out of the assets of AEGIS.

507) O.S. Ashok (PW-64), who at the relevant time was working as Under Secretary to the Ministry of Home Affairs, Govt. of India, had signed the prosecution sanction for prosecution of N. Bomi Singh (A-23) (since deceased), Y. Brajabidhu Singh (A-24) and A. Ibomcha @ A. Ibomcha Singh (A-25) under section 120, 121A of IPC and under section 18 read with 17, 20 and 21 of the

UP(A)A, being the authorized officer to accord sanction and he had exhibited the sanction order dated 01.03.2012 (Ext.136) and his signature (Ext.136/1) thereon. For other co-accused, he had exhibited the sanction order dated 09.02.2011 (Ext.137) and his signature (Ext.137/1) thereon. He had admitted that the report of the competent authority for recommendation of the prosecution sanction (Ext.136) is not a part of the case record.

508) Ravi Gambhir (PW-66), was in deputation to NIA during the relevant time. In his examination-in-chief, he had stated that on the strength of search warrant, he had assisted S.S. Bakshi, DSP in conduct of the search of the premises of AEGIS on 27.04.2011 and seized certain documents mentioned therein and he had exhibited the search list (Ext.140) and his signature (Ext.140/1 and Ext.140/2) and signature of S.S. Bakshi (Ext.140/3 and Ext.140/4) thereon, which he knew. The seizure of documents cannot lead to a presumption that the documents are incriminating against any particular accused person.

509) Dharmendra Sharma (PW-77), who was then posted as Joint Secretary (Internal Security-1), Ministry of Home Affairs, Govt. Of India had stated that he was the Designated Authority under UA(P)A vide MHA notification dated 15.04.2011. In his examination-in-chief, he had stated that S.P. Pani, I/O., NIA had intimated him that of two separate seizure of cash of Rs.17.00 lakh in August, 2011 and attachment of properties of AEGIS in November, 2011. Regarding seizure of cash, he had exhibited an

order dated 18.08.2011 (Ext.88) and his signature (Ext.88/1) thereon, by which he had confirmed that the I/O had informed of the seizure of cash suspected to be proceeds of terrorism within 48 hours of the seizure being made and for retention of cash. He had stated that the said order was passed after inspection and confirmation of cash amount in his office and he had also stated that the copy of the said order was directed to be served to every party for appeal, if any, against the same and had exhibited memo dated 18.08.2011 of inspection and confirmation of seizure of cash (Ext.182) under section 25(5) of UA(P)A and his signature (Ext.182/1) thereon. He had exhibited fax message dated 11.11.2011 received from S.P. Pani, I/O. Regarding involvement of AEGIS with UNLF (Ext.183). He had also stated that on receipt of information from I/O that property of AEGIS is suspected of being proceeds of terrorism of UNLF, a notice dated 24.11.2011, under section 25 of UA(P)A was issued to AEGIS giving two weeks (15 days) time to make representation against proposed attachment of properties of AEGIS. He had stated that considering that N. Bomi Singh (A-23) (since deceased) had acknowledged receipt of the said memorandum on 08.12.2011 and he had stated that he had no comment to offer, by order dated 29.12.2011 (Ext.184), he had confirmed the attachment of properties of AEGIS and his signature (Ext.184/1) thereon. In the considered opinion of the Court, the said evidence of PW-77 does not prove that any movable and immovable properties of AEGIS were out of the proceeds of any terrorist act by UNLF.

510) Surinder Singh Bakshi (PW-79), at the relevant time was the I.O. of the case from April, 2011 till filing of the charge-sheet. In his examination-in-chief, he had stated that during investigation, he had assisted Swayam Prakash Pani, IPS, SP, NIA., who was the Chief Investigating Officer. On 10.01.2012, he had arrested A-23 (since deceased), A-24 and A-25 in course of investigation and had assisted S.P. Pani in the attachment of the properties of AEGIS which were funded by UNLF from the proceeds of terrorism, and had exhibited the memorandum for attachment (Ext.94) under section 25 of the UA(P)A and his signature (Ext.94/4 to Ext.94/7) thereon. He had also exhibited seizure memo dated 10.11.2011 (Ext.56) of documents from Rakesh Kumar Jain, Partner of D.K. Vohra & Co., Chartered Accountant of AEGIS and his signature (Ext.56/18). In the opinion of the Court, this evidence of PW-79 does not incriminate AEGIS or Y. Brajabidhu Singh (A-24) and A. Ibomcha @ A. Ibomcha Singh (A-25).

511) The PW-24 and PW-43 also prove that AEGIS, amongst others, was funded by Ministry of Agriculture and Ministry of Food Processing, to the extent of Rs.28.00 lakh and Rs.56.00 lakh, which cannot be said to be funded by UNLF out of proceeds of terrorist act.

512) Thus, the prosecution witnesses, namely, (i) Ak. Ibochouba Singh (PW-23), (ii) Rakesh Kumar Jain (PW-24), (iii) N. Holland Singh (PW-29), (iv) B. Haridas Sarma (PW-43), (v) O.S.

Ashok (PW-66), (vi) Ravi Gambhir (PW-77), and (vii) Surinder Singh Bakshi (PW-79) do not prove the existence of any ingredients of sections 20 and 21 of the UA(P)A against A-24 and A-25. The PWs examined by the prosecution in respect of the said appellants had not proved (i) commission of any terrorist act by the appellants; (ii) that UNLF had committed any terrorist act; (iii) that any particular immovable or movable property of AEGIS was funded by UNLF from out of proceeds of terrorist act; (iv) that A-24 and A-25 were the member of UNLF, a terrorist organisation; and (v) that A-24 and A-25 were knowingly holding any property derived or obtained from commission of any terrorist act or acquired through the terrorist fund.

513) One of the submissions made on behalf of the learned counsel for the petitioner was that in para-83 of the judgment of the learned trial Court, A-24 was held guilty twice under section 20 of the UA(P)A, but in the judgment, there is no finding that A-25 was guilty of committing offence under section 20 of the UA(P)A and accordingly, it was submitted that A-25 cannot be said to have been convicted under section 20 of the UA(P)A. The said submission is without any merit in view of the provisions of section 465 CrPC, which provides that no finding or sentence or order passed by a Court shall be reversed by a Court of appeal on account of any error, omission or irregularity in the judgment and order. It may be mentioned here that in paragraph-82 of the judgment of the learned trial Court, A. Ibomcha Singh (A-25), who is the appellant in CrI.A. 295/2016 was held to be guilty of

committing offence under section 20 of the UA(P)A. Therefore, the mentioning of A-24 guilty under section 20 of the UA(P)A twice is only a typing error which does not vitiate the judgment or the finding of the learned trial Court in paragraph-82 of the impugned judgment.

514) The finding of the learned Trial Court that A-24 and A-25 were guilty of committing offence punishable under section 20 and 21 of the UA(P)A is not found sustainable and the same is liable to be set aside and reversed.

Decision of point of determination no.(a):

515) For deciding the point of determination no. (a), it would be appropriate to refer to the provision of section 18 and 20 of the UA(P)A is quoted below:-

18. Punishment for conspiracy, etc.— *Whoever conspires or attempts to commit, or advocates, abets, advises or incites, directs or knowingly facilitates the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.*

20. Punishment for being member of terrorist gang or organisation.—*Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.*

516) Thus, from the plain reading of the provisions of section 20 of the UA(P)A, there appears to be no ambiguity that the said

provision has two parts. Firstly, that a person must be a member of a terrorist gang or a terrorist organisation. Secondly, the said terrorist gang or a terrorist organisation is involved in terrorist act.

517) It is trite law that in cases where penal prosecution under IPC and UA(P)A is involved, the evidence must prove beyond reasonable doubt that the appellants herein have committed any offence. In the present case in hand, these two essential ingredients of offence under section 20 of UA(P)A is not found to be proved by any of the PWs against appellants herein being, Sougaijam Rakesh Singh (A-6), O. Samarjit Singh @ Naresh @ Kadeng (A-7), W. Noren Singh @ W. Noren Meetei @ Thoiba (A-8), Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), Mutum Ibohal (A-12), Mrs. Landhoni Devi (A-14), Oinam Maniton Singha (A-15), N. Dilip Singh @ Ibochou @ Mani (A-16), Laurenbum Jatishor Singh (A-17), Y. Brajabidhu Singh (A-24), A. Ibomcha @ A. Ibomcha Singh (A-25). As they have not been proved to be the members of UNLF, a terrorist organisation, the above named appellants are held to be not guilty of offence under section 20 of the UA(P)A. They are liable to be and are accordingly, acquitted of all charge under section 20 of UA(P)A.

518) It may also be mentioned that while discussing the appeal of the following appellants, namely, Sougaijam Rakesh Singh (A-6), O. Samarjit Singh @ Naresh @ Kadeng (A-7), W. Noren Singh @ W. Noren Meetei @ Thoiba (A-8), Khwairakpam

Jeeten Singh @ Khomba @ Dene (A-10), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), Mutum Ibohal (A-12), Mrs. Landhoni Devi (A-14), Oinam Maniton Singha (A-15), N. Dilip Singh @ Ibochou @ Mani (A-16), Laurenbum Jatishor Singh (A-17), it has also been held that they have not proved to have committed any offence within the meaning of section 18 of UA(P)A.

519) Thus, the prosecution has failed to prove the charge against the aforementioned appellants under section 18 of UA(P)A beyond reasonable doubt. Therefore, Sougaijam Rakesh Singh (A-6), O. Samarjit Singh @ Naresh @ Kadeng (A-7), W. Noren Singh @ W. Noren Meetei @ Thoiba (A-8), Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), Mutum Ibohal (A-12), Mrs. Landhoni Devi (A-14), Oinam Maniton Singha (A-15), N. Dilip Singh @ Ibochou @ Mani (A-16), Laurenbum Jatishor Singh (A-17) are acquitted of charge under section 18 of the UA(P)A.

520) Accordingly, the point of determination (a) as framed under paragraph no. 210 hereinbefore is decided in the negative and in favour of the appellant.

Decision on point of determination no. (b):

521) In light of the discussion of the various witnesses examined by the prosecution, it has not been proved that UNLF had committed any terrorist act for which the appellants have

been charged. There is also no evidence that any of the appellants in this case have been proved to be a member of the UNLF, which is a terrorist organization. Therefore, merely because the name of UNLF is entered in the first schedule, unless the prosecution is able to prove that a terrorist act had taken place and out of several unlawful organizations and gangs operating in the State of Manipur, the particular terrorist act is attributed to UNLF, the appellants cannot be held guilty for conspiracy within the meaning of section 18 of the UA(P)A and unless it is proved that the appellants are members of UNLF, a terrorist gang or organization, the appellants cannot be held guilty of being a member of the terrorist gang or organization within the meaning of section 20 of the UA(P)A.

522) In view of the decisions on point of determination no.(a) above, the conviction of the accused nos. A-6 to A-12, A-14 to A-17, A-24 and A-25 by the learned Trial Court for being members of UNLF, which is punishable under Section 20 of the UA(P)A cannot be sustained. Accordingly, the conviction of the said appellants under Section 20 of the UA(P)A is reversed. The said appellants, namely, A-14 to A-17, A-24 and A-25 Sougaijam Rakesh Singh (A-6), O. Samarjit Singh @ Naresh @ Kadeng (A-7), W. Noren Singh @ W. Noren Meetei @ Thoiba (A-8), Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), Mutum Ibohal (A-12), Mrs. Landhoni Devi (A-14), Oinam Maniton Singha (A-15), N. Dilip Singh @ Ibochou @ Mani (A-16) and Laurenbum Jatishor Singh

(A-17), Y. Brajabidhu Singh (A-24), A. Ibomcha @ A. Ibomcha Singh (A-25) are therefore, acquitted of the offence of Section 20 of the UA(P)A.

523) The accused nos. A-6 to A-8, A-10 to A-12, A-16 and A-17 have also been convicted for committing offence punishable under Section 18 of the UA(P)A. In the context of the following appellants, namely, Sougaijam Rakesh Singh (A-6), O. Samarjit Singh @ Naresh @ Kadeng (A-7), W. Noren Singh @ W. Noren Meetei @ Thoiba (A-8), Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), Mutum Ibohal (A-12), N. Dilip Singh @ Ibochou @ Mani (A-16) and Laurenbum Jatishor Singh (A-17), as discussed above, it is seen that none of the prosecution witnesses have been able to prove that UNLF had committed any terrorist act so as to link the aforesaid appellants' involvement in the commission, abetment, preparation etc. of any terrorist act. Therefore, it is held that merely because the name of the UNLF is entered in the first schedule, no presumption can be drawn that the said appellants/ accused persons were members of UNLF and had indulged in any unlawful activity punishable under Section 18 of the UA(P)A.

524) In light of the discussions made hereinbefore, the Court has held that the prosecution had failed to prove the offence of criminal conspiracy by the said accused nos. A-6 to A-8, A-10 to A-12, A-16 and A-17. From the evidence discussed above, there is

no evidence that any of the said appellants had committed or advocated or abetted or advised or incited or directed or knowingly facilitated the commission of any terrorist act or any act preparatory to the commission of a terrorist act.

525) Accordingly, the conviction of the following appellants, i.e. Sougaijam Rakesh Singh (A-6), O. Samarjit Singh @ Naresh @ Kadeng (A-7), W. Noren Singh @ W. Noren Meetei @ Thoiba (A-8), Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), Mutum Ibohal (A-12), N. Dilip Singh @ Ibochou @ Mani (A-16) and Laurenbum Jatishor Singh (A-17) under Section 18 of the UA(P)A, by the learned trial Court is not found sustainable.

526) Thus, the conviction the conviction and sentence of the appellants named in the foregoing paragraph under Section 18 of the UA(P)A is reversed and set aside. Resultantly, the said appellants are acquitted of the charges under Section 18 of the UA(P)A.

527) Accordingly, the point of determination no. (b) is answered in the affirmative and in favour of the appellants by holding that the prosecution had not only failed to prove that the UNLF had committed any terrorist act or that the following appellants, i.e. Sougaijam Rakesh Singh (A-6), O. Samarjit Singh @ Naresh @ Kadeng (A-7), W. Noren Singh @ W. Noren Meetei @ Thoiba (A-8), Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @

Little Boy (A-11), Mutum Ibohal (A-12), Mrs. Landhoni Devi (A-14), Oinam Maniton Singha (A-15), N. Dilip Singh @ Ibochou @ Mani (A-16) and Laurenbum Jatishor Singh (A-17), Y. Brajabidhu Singh (A-24), A. Ibomcha @ A. Ibomcha Singh (A-25) are liable to be acquitted for offence charge under section 20 and 18 of the UA(P)A.

Decision on point of determination no. (c):

528) In light of the discussions above, the conviction of the following appellants Sougaijam Rakesh Singh (A-6), O. Samarjit Singh @ Naresh @ Kadeng (A-7), W. Noren Singh @ W. Noren Meetei @ Thoiba (A-8), Khwairakpam Jeeten Singh @ Khomba @ Dene (A-10), Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), Mutum Ibohal (A-12), N. Dilip Singh @ Ibochou @ Mani (A-16) and Laurenbum Jatishor Singh (A-17) for committing offence punishable under Section 121A of the IPC is also held to be not sustainable.

529) Accordingly, the conviction and sentence of the said appellants named in the foregoing paragraph by the learned trial Court under Section 121A of the IPC is hereby reversed and set aside and they are acquitted of charges under Section 121A of the IPC.

530) Moreover, as discussed hereinbefore, the Court is of the considered opinion that when on same set of facts the accused nos. A-6 to A-8, A-10 to A-12, A-16 and A-17 were acquitted by

the learned trial Court for committing offence of conspiracy punishable under Section 120B of the IPC, the said accused persons could not have been convicted by the learned trial Court for commission of conspiracy under Section 121A of the IPC. Accordingly, the point of determination (c), as framed under paragraph 212 hereinbefore, is answered in the negative and in favour of the concerned appellants, i.e. accused nos. A-6 to A-8, A-10 to A-12, A-16 and A-17.

On point of determination no. (e):

531) In light of the discussion and decision on the point of determination nos. (a) and (b), which are answered in favour of the appellants, the point of determination no. (e) as framed at paragraph 212 above is also decided and answered in the affirmative and in favour of the appellant by holding that the conviction of the appellants and the resultant sentence imposed on them, i.e. (1) Sougaijam Rakesh Singh (A-6), appellant in CrI.A.262/2016, (2) O. Samarjit Singh @ Naresh @ Kadeng (A-7), appellant in CrI.A.264/2016, (3) Wayembam Noren Singh @ W. Noren Meetei @ Thoiba (A-8), appellant in CrI.A.265/2016, (4) Khwairakpam Jeeten Singh @ Khombo @ Dene (A-10), appellant in CrI.A. 115/ 2017, (5) Sinam Gune Singh @ S. Gune Singh @ Boy @ Wanglem @ Little Boy (A-11), appellant in CrI.A.263/2016, (6) Mutum Ibohal (A-12), appellant in CrI.A. 145/2017, (7) Mrs. Landhoni Devi (A-14), appellant in CrI.A. 165/2016, (8) Oinam Maniton Singha (A-15), appellant in CrI.A.264/2016, (9) N. Dilip

Singh @ Ibochou @ Mani (A-16), appellant in CrI.A.113/2017, (10) Laurenbum Jatishor Singh (A-17), appellant in CrI.A.299/2016, (11) Y. Brajabidhu Singh (A-24), appellant in CrI.A.291/2016, (12) A. Ibomcha (A-25), appellant in CrI.A. 295/2016 are liable to be reversed and set aside. They are entitled to acquittal on all counts.

ORDER

532) In light of the discussions above, all the appeals deserve to be and are accordingly, allowed. All the above named appellants are acquitted of all charges.

533) Those appellants who have not yet been released, shall be released forthwith, if not wanted in any other case.

534) Accordingly, the Registry shall issue the release orders, on production of which, the concerned Superintendent of Jail where the appellants are presently lodged, shall do the needful.

JUDGE

JUDGE.

M.Kumar/Champak.
(PS)

Comparing Assistant

Sl.	Appendix	Contents
1	Appendix – A	List of witness in Trial Court [referred to in paragraph 7(g)].
2	Appendix – B	List of Exhibits in Trial Court [referred to in paragraph 7(g)].
3	Appendix – C	List of material exhibits in Trial Court [referred to in paragraph 7(g)].
4	Appendix – D	E-mails marked as Ext.5 in Trial Court and with attachments [where signatures are marked as Ext.5(2) to Ext.5(6)] (referred to in paragraph 224).
5	Appendix – E	E-mails marked as Ext.115(15), Ext.115(16), Ext.115(176) and Ext.115 (177) in Trial Court (referred to in paragraph 234).

APPENDIX- A

**IN THE COURT OF SPECIAL JUDGE, NIA, ASSAM,
GUWAHATI**

SPL.NIA CASE NO. 01/2010

NATIONAL INVESTIGATION AGENCY (NIA)

-VS-

Kh. Thomba & Ors.

List of Prosecution witnesses

Sl. No.	Witness No.	Name of the Witness
1.	PW-1	Sh. Mahesh Chandra Das
2.	PW-2	Md. Mukshed Dewan
3.	PW-3	Mr. 'X' (Protected Witness)
4.	PW-4	Mr. 'Y' (Protected Witness)
5.	PW-5	Sh. M. Baskar (Sr. Scientific Officer, CFI, Pune).
6.	PW-6	Sh. Bijoy Krishna Das (Defence Civilian).
7.	PW-7	Sh. Indubhusan Kongkham
8.	PW-8	Sh. Ujwal Bhattacharya
9.	PW-9	Sh. Nongthombam Premchand
10.	PW-10	Dr. Nilambar Thakuria
11.	PW-11	Sh. L. Pakasana Singh
12.	PW-12	Sh. Pradip Nath
13.	PW-13	Sh. Nitendra Tumung
14.	PW-14	Sh. Suraj Sapam
15.	PW-15	Sh. Phanidhar Das
16.	PW-16	Sh. Trailukya Borah (Special task Force, Assam).
17.	PW-17	Sh. M.C. Arun
18.	PW-18	Sh. Bhabananda Goswami
19.	PW-19	Sh. Th. Sarat Singh
20.	PW-20	Sh. Hemlal Joishi
21.	PW-21	Sh. Pranjal Das
22.	PW-22	Sh. R.K. Sanathomba Singh
23.	PW-23	Sh. Ak. Ibochouba Singh
24.	PW-24	Sh. Rakesh Kumar Jain (Chartered Accountant).

25.	PW-25	Smti. Ambika Sharma
26.	PW-26	Sh. Laitonjam Rupa Singh
27.	PW-27	Sh. Laitonjam Inao Singh
28.	PW-28	Sh. Ganesh Kalita
29.	PW-29	Sh. N. Holland Singh
30.	PW-30	Sh. Ranjeev Kumar Boro
31.	PW-31	Sh. Gajendranath Bhattacharyya
32.	PW-32	Sh. Ngangom Netrojit Singh
33.	PW-33	Sh. Someswar Dutta, Insp. of Police, Vigilance & Anti Corruption.
34.	PW-34	Sh. L. Momon Singh
35.	PW-35	Sh. Akshay Kumar Das
36.	PW-36	Sh. Jyoti Mili, Sub-Inspector of Police, Dispur P.S.
37.	PW-37	Sh. Kh. Lanngamba
38.	PW-38	Sh. Samujjal Gautam
39.	PW-39	Sh. Ng. Robert Singh
40.	PW-40	Sh. Bhaskar Das
41.	PW-41	Sh. Gaunadip Das
42.	PW-42	Dr. Bidyut Das Boro, D.S.P., Chandmari.
43.	PW-43	Sh. B. Haridas Sarma, Retd., Govt. Servant.
44.	PW-44	Sh. D.P. Gangwar, Sr. Scientific Officer, CFSL, Chandigarh.
45.	PW-45	Sh. Th. Indramani Singh
46.	PW-46	Sh. B. Badoniya, Dy. Director, CFSL, Pune.
47.	PW-47	Ms. W. Amusana
48.	PW-48	Sh. L. Surendra Singh
49.	PW-49	Sh. Yumkham Rother, C.J.M., Churachandpur.
50.	PW-50	Sh. Kanteshwar Gogoi, S.D.P.O., Rangia.
51.	PW-51	Sh. Amalendu Dhar, D.S.P., N.I.A., New Delhi.
52.	PW-52	Md. Salauddin
53.	PW-53	Sh. Satheesh Chand, G.M., G.M.R. Group, Bangalore.
54.	PW-54	Sh. Siddharth Indravadan Desai, Retd. Scientific Officer, Photography Division, DFSL, Chandigarh.
55.	PW-55	Sh. Rashiklal Naranbhai Guna, Asst. Director, Directorate of Forensic Science, Gandhinagar.
56.	PW-56	Sh. M. Imomacha Singh
57.	PW-57	Sh. O. Ibomcha Singh
58.	PW-58	Sh. Dinesh Kumar, N.I.A. Official.
59.	PW-59	Sh. Kh. Asokumar Singh
60.	PW-60	Sh. A. Manihar Singh
61.	PW-61	Sh. M. Joy Singh

62.	PW-62	Sh. Devinder Singh, D.S.P., N.I.A.
63.	PW-63	Sh. K. Krishna Kumar Singh
64.	PW-64	Sh. O.S. Ashok
65.	PW-65	Sh. Loktongbam Bimol Singh
66.	PW-66	Sh. Ravi Gambhir, A.S.P., C.B.I., N.C.B., New Delhi.
67.	PW-67	Sh. Maibam Rameswar Singh, S.D.P.O., Mayang, Imphal West District.
68.	PW-68	Sh. Anil Kumar, D.S.P., N.I.A., Head Quarter, New Delhi.
69.	PW-69	Sh. Ramananda Sairemcha
70.	PW-70	Sh. R.K. Nepolean Singh
71.	PW-71	Sh. Ninendra Narayan Bora, Director I/c., Directorate of Forensic Science, Assam.
72.	PW-72	Smti. Laurembam Ibeyaima
73.	PW-73	Sh. Kishan Lal
74.	PW-74	Sh. Siba Prasad Mohanty
75.	PW-75	Sh. K. Radha Kumar Singh
76.	PW-76	Dr. Rajendra Nath Khound, Retd. Director, Directorate of Forensic Science, Assam.
77.	PW-77	Sh. Dharmendra Sharma, Commissioner & Principal Secretary, Govt. of A.P.
78.	PW-78	Sh. Virendra Kumar, Deputy Financial Advisor, Ministry of Defence.
79.	PW-79	Sh. Surinder Singh Bakshi, Deputy Commandant, 36 Bn., BSF.,
80.	PW-80	Sh. Aseem Srivastava, S.P., N.I.A., Lucknow Branch.
81.	PW-81	Sh. Sudesh Kumar Sharma
82.	PW-82	Sh. Jadu Das
83.	PW-83	Sh. M. Lokendro Singh
84.	PW-84	Sh. Swayam Prakash Pani, D.I.G., Ministry of Home Affairs, Govt. of India.

APPENDIX- B

**IN THE COURT OF SPECIAL JUDGE, NIA, ASSAM,
GUWAHATI**

SPL.NIA CASE NO. 01/2010

NATIONAL INVESTIGATION AGENCY (NIA)

-VS-

Kh. Thomba & Ors.

List of Exhibited Documents

Sl. No.	Exhibit No.	Nature of Documents
1.	Ext. 1	Examination report of CFSL
2.	Ext. 1/1, Ext. 1/2	Signatures of M. Baskar (PW-5)
3.	Ext. 2 to Ext. 30	emails
4.	Ext. 2/1	Signatures of M. Baskar (PW-5)
5.	Ext. 3/1	Signatures of M. Baskar (PW-5)
6.	Ext. 4/1 to 4/13	Signatures of M. Baskar (PW-5)
7.	Ext. 5	E-mail
8.	Ext. 5/1 to 5/6	Signatures of M. Baskar (PW-5)
9.	Ext. 6/1 to 6/3	Signatures of M. Baskar (PW-5)
10.	Ext. 7/1 to 7/3	Signatures of M. Baskar (PW-5)
11.	Ext. 9/1 to 9/3	Signatures of M. Baskar (PW-5)
12.	Ext. 10/1, 10/2	Signatures of M. Baskar (PW-5)
13.	Ext. 11/1	Signatures of M. Baskar (PW-5)
14.	Ext. 12/1, 12/2	Signatures of M. Baskar (PW-5)
15.	Ext. 13/1 to 13/120	Signatures of M. Baskar (PW-5)
16.	Ext. 14/1 to 14/77	Signatures of M. Baskar (PW-5)
17.	Ext. 15/1 to 15/16	Signatures of M. Baskar (PW-5)
18.	Ext. 16/1 to 16/16	Signatures of M. Baskar (PW-5)
19.	Ext. 17/1	Signatures of M. Baskar (PW-5)
20.	Ext. 18/1 to 18/19	Signatures of M. Baskar (PW-5)
21.	Ext. 19/1 to 19/31	Signatures of M. Baskar (PW-5)
22.	Ext. 20/1 to 20/3	Signatures of M. Baskar (PW-5)
23.	Ext. 21/1 to 21/4	Signatures of M. Baskar (PW-5)
24.	Ext. 22/1, 22/2	Signatures of M. Baskar (PW-5)
25.	Ext. 23/1 to 23/3	Signatures of M. Baskar (PW-5)

26.	Ext. 24/1	Signatures of M. Baskar (PW-5)
27.	Ext. 25/1 to 25/12	Signatures of M. Baskar (PW-5)
28.	Ext. 26/1	Signatures of M. Baskar (PW-5)
29.	Ext. 27/1	Signatures of M. Baskar (PW-5)
30.	Ext. 28/1, 28/2	Signatures of M. Baskar (PW-5)
31.	Ext. 29/1 to 29/7	Signatures of M. Baskar (PW-5)
32.	Ext. 30/1 to 30/5	Signatures of M. Baskar (PW-5)
33.	Ext. 30/6	email
34.	Ext. 30/7 to 30/72	Signatures of M. Baskar (PW-5)
35.	Ext. 31	Seizure Memo
36.	Ext. 31/1	Signature of B.K. Das (PW-6)
37.	Ext. 31/2	Signature of N. Tumung (PW-13)
38.	Ext. 32	Seizure Memo
39.	Ext. 32/1	Signature of Indubhusan (PW-7)
40.	Ext. 32/2	Invitation Letter
41.	Ext. 32/2/a	Chinese Script
42.	Ext. 32/3	Letter of Trust
43.	Ext. 32/4/a to 32/4/p	Copy of Passport
44.	Ext. 32/5	Signature of PW-80
45.	Ext. 33	Seizure Memo
46.	Ext. 33/1	Signature of U. Bhattacharya (PW-8)
47.	Ext. 33/2	Signature of PW-51
48.	Ext. 34	Proforma for verification
49.	Ext. 34/2, 34/3	Copies of ID card
50.	Ext. 34/4	Tenancy Agreement
51.	Ext. 34/5 and 34/6	Signatures of PW-31
52.	Ext. 35	Photograph
53.	Ext. 35/1	Photograph of N. Premchand (PW-9)
54.	Ext. 35/2	Photograph of S. Rakesh Singh
55.	Ext. 35/3	Photograph of Dr. Arun Kumar
56.	Ext. 36	Photograph
57.	Ext. 36/1	Photograph of N. Premchand (PW-9)
58.	Ext. 36/2	Photograph of S. Rakesh Singh
59.	Ext. 36/3	Photograph of Dr. Arun Kumar
60.	Ext. 37	Seizure Memo
61.	Ext. 37/1	Signature of N. Thakuria (PW-10)
62.	Ext. 38 & 39	Tenant Verification Form
63.	Ext. 40 & 41	Arrest Memo
64.	Ext. 40/1 & 41/1	Signatures of N. Tumung (PW-13)
65.	Ext. 14/9/a	Relevant entries in the name of Sapam X-Ray
66.	Ext. 14/10/a to 14/10/d	Relevant entries in the name of Sapam X-Ray
67.	Ext. 14/11/e, 14/11/f	Relevant entries in the name of Sapam X-

		Ray
68.	Ext. 14/12/g, 14/12/h	Relevant entries in the name of Sapam X-Ray
69.	Ext. 14/19/a, 14/19/b	Relevant entries in the name of Sapam X-Ray
70.	Ext. 14/20/a, 14/20/b	Relevant entries in the name of Sapam X-Ray
71.	Ext. 14/21/b	Relevant entries in the name of Sapam X-Ray
72.	Ext. 13/15/a, 13/15/b	Relevant entries in the name of Sapam X-Ray
73.	Ext. 13/16/a, 13/16/b	Relevant entries in the name of Sapam X-Ray
74.	Ext. 13/17/a to 13/17/d	Relevant entries in the name of Sapam X-Ray
75.	Ext. 13/18/a, 13/18/b	Relevant entries in the name of Sapam X-Ray
76.	Ext. 42	Seizure Memo
77.	Ext. 42/1	Signature of P. Das (PW-15)
78.	Ext. 43	FIR Format
79.	Ext. 43/1	Signature of T. Bora (PW-16)
80.	Ext. 43/2	Signature of K. Gogoi
81.	Ext. 43/3	FIR
82.	Ext. 43/4	Signature of T. Bora (PW-16)
83.	Ext. 43/5	Signature of K. Gogoi
84.	Ext. 44	Seizure List
85.	Ext. 44/1 to 44/3	Signatures
86.	Ext. 45	Seizure List
87.	Ext. 45/1	Signature of PW-20
88.	Ext. 46 & 47	Seizure Memo
89.	Ext. 46/1 & 47/1	Signature of PW-21
90.	Ext. 48	Application
91.	Ext. 48/1	Extract of Resolution
92.	Ext. 48/2	Rules and Regulations
93.	Ext. 48/3	Signature of A-24
94.	Ext. 48/4	Signature of A-23
95.	Ext. 48/5	Signature of A-25
96.	Ext. 48/6	Certificate of Registration
97.	Ext. 48/7	Account Opening Form
98.	Ext. 49	Statement of Account
99.	Ext. 50	Loan Account statement
100.	Ext. 51	Loan Sanction Letter
101.	Ext. 51/1	Signature
102.	Ext. 51/2	Security Letter

103.	Ext. 51/3	Demand Promissory Note
104.	Ext. 51/4 to 51/6	Term Deposit Receipts
105.	Ext. 52	Seizure Memo
106.	Ext. 52/1	Signature of PW-23
107.	Ext. 53	Pay-in-Slips
108.	Ext. 53/1 to 51/7	Pay-in-Slips
109.	Ext. 53/8	Statement
110.	Ext. 54	Cheques
111.	Ext. 54/1 to 54/9	Cheques
112.	Ext. 54/10	Statement
113.	Ext. 55	Audited Receipts and Payment Accounts
114.	Ext. 55/1	Seizure Memo
115.	Ext. 55/2 to 55/4	Signatures and initials of PW-24
116.	Ext. 55/5 and 55/6	Signatures of A-23
117.	Ext. 55/7	Audited receipts and Payment Account
118.	Ext. 55/8 to 55/11	Signatures and initials of PW-24
119.	Ext. 55/12 to 55/14	Signatures of A-23
120.	Ext. 55/15	Entries
121.	Ext. 55/16	Audited receipts and Payment Account
122.	Ext. 55/17 to 55/21	Initials of PW-24
123.	Ext. 55/22 to 55/26	Signatures of A-23
124.	Ext. 55/27	Utilization Certificate
125.	Ext. 55/28	Signature of PW-24
126.	Ext. 55/29	Signatures of A-23
127.	Ext. 55/30	Audited receipts and Payment Account
128.	Ext. 55/31, 55/32	Signature of PW-24
129.	Ext. 55/33, 55/34	Signatures of A-23
130.	Ext. 56	Seizure Memo
131.	Ext. 56/1	Signature of PW-24
132.	Ext. 56/2	Receipts and payment account
133.	Ext. 56/3	Signature of PW-24
134.	Ext. 56/4	Entries
135.	Ext. 56/5 to 56/9	Signatures and initials of PW-24
136.	Ext. 56/10 to 56/14	Signatures of A-23
137.	Ext. 56/15	Utilization Certificate
138.	Ext. 56/16	Signature of PW-24
139.	Ext. 56/17	Signatures of A-23
140.	Ext. 56/18	Signature of PW-79
141.	Ext. 57	Seizure Memo
142.	Ext. 57/1	Signature of PW-25

143.	Ext. 57/2	Signature of PW-20
144.	Ext. 57/3	Signature of A-16
145.	Ext. 58	Seizure Memo
146.	Ext. 58/1	Signature of PW-26
147.	Ext. 59	164 Cr.PC statement of PW-26
148.	Ext. 59/1 to 59/3	Signature of PW-26
149.	Ext. 59/4 & 59/6	Signatures of PW-49
150.	Ext. 60	164 Cr.PC statement of PW-27
151.	Ext. 60/1 and 60/2	Signature of PW-27
152.	Ext. 60/3 & 60/4	Signatures of PW-49
153.	Ext. 61	Seizure List
154.	Ext. 61/1	Signature of PW-28
155.	Ext. 61/2	Signature of C.K. Boro
156.	Ext. 61/3	Signature of PW-41
157.	Ext. 62	Personal Search memo
158.	Ext. 62/1	Signature of PW-29
159.	Ext. 63	Arrest Memo
160.	Ext. 63/1	Signature of PW-29
161.	Ext. 64	Arrest Memo
162.	Ext. 64/1	Signature of PW-29
163.	Ext. 65	Personal Search memo
164.	Ext. 65/1	Signature of PW-29
165.	Ext. 66	Seizure Memo
166.	Ext. 66/1	Signature of PW-29
167.	Ext. 67	Arrest Memo
168.	Ext. 67/1	Signature of PW-29
169.	Ext. 68	Personal Search Memo
170.	Ext. 68/1	Signature of PW-29
171.	Ext. 69	Seizure List
172.	Ext. 69/1	Signature of PW-29
173.	Ext. 70	Statement of Account
174.	Ext. 71	Seizure Memo
175.	Ext. 71/1	Signature of PW-32
175.	Ext. 71/2	ATM Card
176.	Ext. 71/3	Pan Card
177.	Ext. 71/4	Driving Licence
178.	Ext. 71/5	ATM Card
179.	Ext. 71/6	SBI ATM card
180.	Ext. 71/7	Signature of PW-62
181.	Ext. 72	Seizure Memo
182.	Ext. 72/1 to 72/6	Signature of PW-32
183.	Ext. 72/7 to 72/20	Pay-in-Slips
184.	Ext. 72/21 & 72/22	Statement of Account

185.	Ext. 72/23 to 72/26	Statement of Account
186.	Ext. 72/27	Signature of PW-62
187.	Ext. 73	Photograph
188.	Ext. 74 189	Seizure List
189.	Ext. 74/1	Signature of PW-33
190.	Ext. 74/2	Signature of A-3 (Absconder)
191.	Ext. 75	Forwarding Report
192.	Ext. 76	Seizure Memo
193.	Ext. 76/1 & 76/2	Signatures of PW-33
194.	Ext. 76/3 & 76/4	Signatures of C.K. Boro
195.	Ext. 77	Seizure List
196.	Ext. 77/1	Signature of C.K. Boro
197.	Ext. 78	Signature of Memo
198.	Ext. 78/1	Signature of C.K. Boro
199.	Ext. 78/2	Signature of PW-40
200.	Ext. 79	Seizure List
201.	Ext. 79/1	Signature of C.K. Boro
202.	Ext. 79/2	Signature of PW-38
203.	Ext. 80	Seizure Memo
204.	Ext. 80/1	Signature of C.K. Boro
205.	Ext. 81	Forwarding Report
206.	Ext. 81/1	Signature of PW-33
207.	Ext. 82	Seizure List
208.	Ext. 82/1	Signature of PW-33
209.	Ext. 82/2 & 82/3	Signature of PW-36
210.	Ext. 83	Seizure Memo
211.	Ext. 83/1	Signature of PW-36
212.	Ext. 83/2	Signature of PW-35
213.	Ext. 84	Letter
214.	Ext. 84/1	Signature of PW-33
215.	Ext. 85	Letter
216.	Ext. 85/1	Signature of PW-33
217.	Ext. 86	FIR
218.	Ext. 86/1 & 86/2	Signature of M. Rameshwar Singh
219.	Ext. 87	Production Memo
220.	Ext. 87/1 & 87/2	Signatures of PW-39
221.	Ext. 87/3	Signature
222.	Ext. 88	Order
223.	Ext. 88/1	Signature of PW-77

224.	Ext. 89	Seizure Memo
225.	Ext. 89/1	Signature of PW-39
226.	Ext. 90	Seizure Memo
227.	Ext. 90/1	Signature of PW-39
228.	Ext. 91	Kaccha Cash Book
229.	Ext. 91/1 to 91/21	Q-1 to Q-21
230.	Ext. 91/22 to 91/42	Initials of PW-55
231.	Ext. 91/43 to 91/76	Signatures
232.	Ext. 92	Specimen signature/writing of PW-61
233.	Ext. 92/1 to 92/10	Writings of PW-61
234.	Ext. 92/11 to 92/20	Signatures of PW-61
235.	Ext. 92/21 to 92/30	Signatures of PW-61
236.	Ext. 93	164 Cr.PC statement of PW-43
237.	Ext. 93/1 & 93/2	Signatures of PW-43
238.	Ext. 94	Attachment Notice
239.	Ext. 94/1 to 94/3	Signatures of PW-43
240.	Ext. 94/4 to 94/7	Signatures of PW-79
241.	Ext. 95	Attachment Notice
242.	Ext. 95/1	Signature of PW-43
243.	Ext. 96	Statement of Account
244.	Ext. 96/1 to 96/6	Signatures of A-23
245.	Ext. 97	Forwarding Letter
246.	Ext. 97/1 to 97/6	Details of exhibits
247.	Ext. 98, 98/1 & 98/2	Report of CFSL
248.	Ext. 98/3 to 98/5	Signatures of PW-44
249.	Ext. 99	Letter
250.	Ext. 99/1	Signature of Dr. S.K. Jain
251.	Ext. 100	Report
252.	Ext. 100/1 & 100/2	Signatures of PW-46
253.	Ext. 101	Forwarding Letter
254.	Ext. 101/1 to 101/7	Appendix
255.	Ext. 102	Covered Letter
256.	Ext. 102/1	Signature of Director, CFSL, Chandigarh
257.	Ext. 103	Photograph
258.	Ext. 103/1	Signature of PW-47
259.	Ext. 104	164 Cr.PC statement

260.	Ext. 104/1	Statement of PW-47
261.	Ext. 104/2, 104/5 & 104/6	Signature of PW-49
262.	Ext. 104/3 & 104/4	Signatures of PW-47
263.	Ext. 105	Letter
264.	Ext. 105/1 & 105/2	Signature
265.	Ext. 106	Memorandum
266.	Ext. 106/1 to 106/3	Signatures
267.	Ext. 107 268	Production Memo
268.	Ext . 107/1	Signature of PW-48
269.	Ext. 108	164 Cr.PC statement of PW-26
270.	Ext. 108/1	Signature of PW-49
271.	Ext. 108/2 to 108/4	Signatures of PW-26
272.	Ext. 109	164 Cr.PC statement of PW-27
273.	Ext. 109/1	Signature of PW-49
274.	Ext. 109/2 & 109/3	Signatures of PW-27
275.	Ext. 110	164 Cr.PC statement of PW-7
276.	Ext. 110/1	Signature of PW-49
277.	Ext. 110/2 & 110/3	Signatures of PW-7
278.	Ext. 111	Disclosure Memo
279.	Ext. 111/7	Signature of PW-80
280.	Ext. 111/1 to 111/10	Signatures
281.	Ext. 111/11 & 111/12 (PW-81)	Signatures of PW-81
282.	Ext. 111/11 & 111/12 (PW-84)	Signatures of PW-84
283.	Ext. 112	Recovery Memo
284.	Ext. 112/1 to 112/12	Signatures
285.	Ext. 112/13 & 112/14 (PW-81)	Signatures of PW-81
286.	Ext. 112/13 & 112/14 (PW-84)	Signatures of PW-84
287.	Ext. 113	Recovery Memo
288.	Ext. 113/1 to 113/12	Signatures
289.	Ext. 113/13 & 113/14 (PW-81)	Signatures of PW-81
290.	Ext. 113/13 & 113/14 (PW-84)	Signatures of PW-84

291.	Ext. 114	Certificate
292.	Ext. 114/1	Signature of PW-53
293.	Ext. 115	Printout of email
294.	Ext. 115/1 to 115/88	Signatures exhibited on e-mail print-out
295.	Ext. 116	Forwarding Letter
296.	Ext. 116/1	Signature
297.	Ext. 117/6, 117/8, 117/11	Photographs
298.	Ext. 117/1 to 117/27	Signatures of PW-54
299.	Ext. 118	Letter
300.	Ext. 118/1 to 118/4	Forwarding Note
301.	Ext. 119	Report
302.	Ext. 119/1 to 119/4	Signatures of PW-55
303.	Ext. 119/5	Signature of Dy. Chief Examiner of Questioned Documents.
304.	Ext. 119/6	Signature of PW-55
305.	Ext. 120	Letter
306.	Ext. 120/1	Signature of Dy. Director of DFS, Gandhinagar
307.	Ext. 121	Photocopy of News item
308.	Ext. 122 & 123	News Items in Manipuri paper
309.	Ext. 124	Letter
310.	Ext. 124/1	Signature of PW-66
311.	Ext. 125	Letter
312.	Ext. 125/1, 125/2	Signatures of PW-57
313.	Ext. 125/3 to 125/5	Statements of Accounts
314.	Ext. 125/6 to 125/8	Signatures of PW-57
315.	Ext. 125/9 to 125/19	Statements of Accounts
316.	Ext. 125/20 to 125/30	Signatures of PW-57
317.	Ext. 125/31 to 125/52	Statements of Accounts
318.	Ext. 125/53 to 125/74	Signatures of PW-57
319.	Ext. 126	Letter
320.	Ext. 126/1	Signature of PW-57
321.	Ext. 126/2 to 126/7	Attested Photocopies of A/c Opening Form
322.	Ext. 126/8 to 126/12	Signatures of PW-57
323.	Ext. 126/13 to 126/15	A/c Opening Form
324.	Ext. 126/16 to 126/18	Signatures of PW-57

325.	Ext. 126/19 & 126/20	Specimen signature Cards
326.	Ext. 126/21	Nomination Form
327.	Ext. 126/22 to 126/24	A/c Opening Form
328.	Ext. 126/25, 126/26	Signatures of PW-57
329.	Ext. 127	Memo
330.	Ext. 127/1	Signature of PW-58
331.	Ext. 127/2	Signature of A-19
332.	Ext. 127/3	Signature of PW-80
333.	Ext. 128	Photograph
334.	Ext. 128/1	Signature of PW-61
335.	Ext. 129	Photo identification Memo
336.	Ext. 129/1	Signature of PW-61
337.	Ext. 130	Production cum Receipt Memo
338.	Ext. 131 to 133	Letters
339.	Ext. 132/1 to 133/1	Signatures of PW-62
340.	Ext. 134	Search List
341.	Ext. 134/1	Signature of PW-62
342.	Ext. 135	Photograph
343.	Ext. 135/1, 135/2, 135/4	Signatures of PW-63
344.	Ext. 135/3	Photo Identification Memo
345.	Ext. 136	Prosecution Sanction Order
346.	Ext. 136/1	Signature of PW-64
347.	Ext. 137	Prosecution Sanction Order
348.	Ext. 137/1	Signature of PW-78
349.	Ext. 138	Letter
350.	Ext. 138/1	Signature of PW-66
351.	Ext. 139	Letter
352.	Ext. 139/1	Signature of PW-76
353.	Ext. 140	Search List
354.	Ext. 140/1 & 140/2	Signatures of PW-66
355.	Ext. 140/3 & 140/4	Signatures
356.	Ext. 141	Application for extension of Passport
357.	Ext. 142	Letter
358.	Ext. 142/1	Signature of PW-69
359.	Ext. 143	Passport
360.	Ext. 144	Interim Report
361.	Ext. 144/1 to 144/3	Signatures
362.	Ext. 145	Interim Report

363.	Ext. 145/1 to 145/23	Signatures
364.	Ext. 146	Forwarding Letter
365.	Ext. 146/1	Signature
366.	Ext. 147	Final Examination Report
367.	Ext. 147/1 to 147/3	Signatures
368.	Ext. 148	Forwarding Letter
369.	Ext. 148/1	Signature
370.	Ext. 149	Examination Report of Nokia mobile
371.	Ext. 149/1 to 149/6	Signatures
372.	Ext. 150	Forwarding Letter
373.	Ext. 150/1	Signature
374.	Ext. 151	Examination Report of Hard disc
375.	Ext. 151/1 to 151/8	Signatures
376.	Ext. 152	Forwarding Letter
377.	Ext. 152/1	Signature
378.	Ext. 153	Examination Report of Lenovo laptop
379.	Ext. 153/1 to 153/14	Signature
380.	Ext. 154	Forwarding Letter
381.	Ext. 154/1	Signature
382.	Ext. 155	Examination Report of Acer Aspire Laptop
383.	Ext. 155/1 to 155/13	Signatures
384.	Ext. 156	Forwarding Letter
385.	Ext. 156/1	Signatures
386.	Ext. 157	Examination Report of HP Mini laptop
387.	Ext. 158	Signatures
388.	Ext. 158/1	Forwarding Letter
389.	Ext. 157/1 to 157/15	Signatures
390.	Ext. 159	Examination Report of Compac Presario laptop
391.	Ext. 159/1 to 159/7	Signatures
392.	Ext. 160	Forwarding Letter
393.	Ext. 160/1	Signature
394.	Ext. 161	Examination Report of Acer Travel Mate laptop
395.	Ext. 161/1 to 161/7	Signatures
396.	Ext. 162	Forwarding Letter

397.	Ext. 162/1	Signature
398.	Ext. 163	Examination report of Lenovo laptop
399.	Ext. 163/1 to 163/20	Signatures
400.	Ext. 164	Forwarding Letter
401.	Ext. 164/1	Signature
402.	Ext. 165	Examination Report of Hard disc of Acer EEE Laptop
403.	Ext. 165/1 to 165/7	Signatures
404.	Ext. 166	Disclosure Statement
405.	Ext. 166/1 & 166/4	Signatures of PW-73
406.	Ext. 166/2 & 166/5	Signatures of PW-81
407.	Ext. 166/3 & 166/6	Signatures of A-19
408.	Ext. 166/7 & 166/8	Signatures of PW-80
409.	Ext. 167	Recovery Memo
410.	Ext. 167/1, 167/4, 167/7	Signatures of PW-73
411.	Ext. 167/2, 167/5, 167/8	Signatures of PW-81
412.	Ext. 167/3, 167/6, 167/9	Signatures of A-19
413.	Ext. 167/10, 167/11, 167/12	Signatures of PW-74
414.	Ext. 167/13 to 167/15	Signatures of PW-80
415.	Ext. 168	Certificate
416.	Ext. 168/1	Signature of PW-74
417.	Ext. 169	Forwarding letter dated 06.01.2011, by which copies of dossiers booked under NSA was sent.
418.	Ext. 169/1	Signature of PW-75
419.	Ext. 170	Detention order of A-11
420.	Ext. 170/1	Signature of PW-75
421.	Ext. 170/2	Ground of detention
422.	Ext. 170/3 to 170/6	Signatures of PW-75
423.	Ext. 170/7	Statement of A-11
424.	Ext. 170/8 to 170/12	Signatures of PW-75
425.	Ext. 170/14 & 170/15	FIR
426.	Ext. 170/16	Signatures of PW-75
427.	Ext. 170/13	History Sheet of accused
428.	Ext. 170/17 to 170/20	Signatures of PW-75
429.	Ext. 171	Detention Order of A-8

430.	Ext. 171/1	Signature of PW-75
431.	Ext. 171/2	Ground of detention
432.	Ext. 171/3 to 171/6	Signatures of PW-75
433.	Ext. 171/7	Statement of A-8
434.	Ext. 171/8 to 171/11	Signatures of PW-75
435.	Ext. 171/12	Statement of Complainant
436.	Ext. 171/13	Signatures of PW-75
437.	Ext. 171/14	FIR
438.	Ext. 171/15 & 171/16	Signatures of PW-75
439.	Ext. 171/17	History Sheet of accused
440.	Ext. 171/18 to 171/21	Signatures of PW-75
441.	Ext. 172	Detention Order of A-9
442.	Ext. 172/1	Signature of PW-75
443.	Ext. 172/2	Ground of Detention
444.	Ext. 172/3 to 172/5	Signatures of PW-75
445.	Ext. 172/6	Statement of A-9
446.	Ext. 172/7 to 172/9	Signatures of PW-75
447.	Ext. 172/10	Complaint
448.	Ext. 172/11	Signature of PW-75
449.	Ext. 172/12	FIR
450.	Ext. 172/13 & 172/14	Signatures of PW-75
451.	Ext. 172/15	History Sheet of A-9
452.	Ext. 172/16 to 172/18	Signatures of PW-75
453.	Ext. 173	Detention Order of A-7
454.	Ext. 173/1	Signature of PW-75
455.	Ext. 173/2	Ground of Detention
456.	Ext. 173/3 to 173/5	Signatures of PW-75
457.	Ext. 173/6	Statement of A-7
458.	Ext. 173/7 to 173/9	Signatures of PW-75
459.	Ext. 173/10	Complaint
460.	Ext. 173/11	Signature of PW-75
461.	Ext. 173/12	FIR
462.	Ext. 173/13 & 173/14	Signatures of PW-75
463.	Ext. 173/15	History Sheet of A-7
464.	Ext. 174	Signatures of PW-75
465.	Ext. 174/1	Detention Order of A-5

466.	Ext. 173/16 to 173/18	Signature of PW-75
467.	Ext. 174/2	Ground of Detention of A-5
468.	Ext. 174/3 to 174/5	Signatures of PW-75
469.	Ext. 174/6	Statement of A-5
470.	Ext. 174/7 to 174/9	Signatures of PW-75
471.	Ext.174/10	Complaint
472.	Ext.174/11	Signature of PW-75
473.	Ext.174/12	FIR
474.	Ext.174/13 & 174/14	Signatures of PW-75
475.	Ext.174/15	History sheet of A-5
476.	Ext.174/16 to 174/18	Signatures of PW-75
477.	Ext.175	Detention order of A-13
478.	Ext.175/1	Signature of PW-75
479.	Ext.175/2	Detention order of A-13
480.	Ext.175/3 to 175/5	Signatures of PW-75
481.	Ext.175/6	Statement of A-13
482.	Ext.175/7 to 175/9	Signatures of PW-75
483.	Ext.175/10	Complaint
484.	Ext.175/11	Signature of PW-75
485.	Ext.175/12	FIR
486.	Ext.175/13 & 175/14	Signatures of PW-75
487.	Ext.175/15	History Sheet of A-13
488.	Ext.175/16 to 175/18	Signatures of PW-75
489.	Ext.176	Detention order of A-10
490.	Ext.176/1	Signatures of PW-75
491.	Ext.176/2	Ground of Detention of A-10
492.	Ext.176/3 to 176/5	Signatures of PW-75
493.	Ext.176/6	Statement of A-10
494.	Ext.176/7 to 176/9	Signatures of PW-75
495.	Ext.176/10	Complaint
496.	Ext.176/11	Signatures of PW-75
497.	Ext.176/12	FIR
498.	Ext.176/13 & 176/14	Signatures of PW-75
499.	Ext.176/15	History Sheet of A-10
500.	Ext.176/16 & 176/18	Signatures of PW-75
501.	Ext.177	Letter

502.	Ext.177/1	Signatures of PW-75
503.	Ext.178	Notification
504.	Ext.178/1 & 178/2	Signatures of PW-75
505.	Ext.179	Order of Govt. of Manipur
506.	Ext.180	Detention Order of A-16
507.	Ext.180/1	Signature of PW-75
508.	Ext.180/2	Ground of Detention of A-16
509.	Ext.180/3 to 180/5	Signature of PW-75
510.	Ext.180/6	Statement of A-16
511.	Ext.180/7 to 180/10	Signatures of PW-75
512.	Ext.180/11	Complaint
513.	Ext.180/12	Signatures of PW-75
514.	Ext.180/13	FIR
515.	Ext.180/14	Signatures of PW-75
516.	Ext.180/15	History Sheet of A-16
517.	Ext.180/16 to 180/19	Signatures of PW-75
518.	Ext.181	Detention Order of A-17
519.	Ext.181/1	Signature of PW-75
520.	Ext.181/2	Ground of Detention of A-17
521.	Ext.181/3 to 181/5	Signature of PW-75
522.	Ext.181/6	Statement of A-17
523.	Ext.181/7 to 181/10	Signatures of PW-75
524.	Ext.181/11	Complaint
525.	Ext.181/12	Signature of PW-75
526.	Ext.181/13	FIR
527.	Ext.181/14	Signature of PW-75
528.	Ext.181/15	History Sheet of A-17
529.	Ext.181/16 to 181/19	Signature of PW-75
530.	Ext.182	Inspection Memo
531.	Ext.182/1	Signature of PW-77
532.	Ext.183	Fax Message
533.	Ext.184	Order
534.	Ext.184/1	Signature of PW-77
535.	Ext.185	Letter/ Certificate
536.	Ext.185/1 to 185/13	Statements
537.	Ext.186	Downloading Memo
538.	Ext.186/1	Signature of PW-79
539.	Ext.187	Production Memo
540.	Ext.187/1	Signature of PW-80
541.	Ext.187/2	Signature of MC Arun

542.	Ext.188	Production Memo
543.	Ext.188/1	Signature of PW-80
544.	Ext.188/2	Signature of Dr. Premchand
545.	Ext.189	Supplementary Charge Sheet
546.	Ext.189/1	Signature of PW-80
547.	Ext.190, 190/1 to 190/5	E-mails
548.	Ext. 190/6 to 190/10	Signatures of PW-44
549.	Ext. 191, 191/1 to 191/8	E-mails
550.	Ext.191/10 to 191/15	Signatures of PW-44
551.	Ext.192, 192/1 to 192/7	E-mails
552.	Ext. 192/7 to 192/10	Signatures of PW-44
553.	Ext. 193, 193/1 to 193/12	E-mails
554.	Ext. 193/13 to 193/24	Signatures of PW-44
555.	Ext. 194, 194/1 & 194/2	E-mails
556.	Ext.194/3 & 194/4	Signatures of PW-44
557.	Ext.195, 195/1 to 195/3	E-mails
558.	Ext.195/4 to 195/6	Signatures of PW-44
559.	Ext.196	Print out of emails
560.	Ext.196/1 to 196/108	Signatures of PW-81
561.	Ext.197	Disclosure Memo
562.	Ext.197/1	Signature of PW-82
563.	Ext.198	FIR
564.	Ext.198/1	Signature of PW-84
565.	Ext.199	Order of Ministry of Home Affairs
566.	Ext.199/1	Signature of PW-84
567.	Ext.200	164 Cr.P.C. statement of PW-40
568.	Ext.200/1	Signature of PW-80
569.	Ext.201	Charge Sheet
570.	Ext.201/1	Signature of PW-84
571.	Ext.202 series	Hard Copy of Emails
572.	Ext.202/1 to 202/39	Signatures of PW-44
573.	Ext.203 series	Hard Copy of Emails
574.	Ext.203/1 to 203/97	Signatures of PW-44
575.	Ext.204	Examination Report
576.	Ext.204/1 & 204/2	Signatures of PW-44

577.	Ext.204/3 to 204/8	Initials of PW-44
578.	Ext.205 series	Photographs
579.	Ext.205/1 to 205/6	Initials of PW-44
580.	Ext.X	Report
581.	Ext.X(1)	Signature
582.	Ext.X(2) to X(4)	Report
583.	Ext.X(2/1) to X(4/1)	Signatures
584.	Ext.Y	Report
585.	Ext.Y(1)	Signature
586.	Ext.Y(2)	Letter
587.	Ext.Y(2/1)	Signature
588.	Ext.Y(3)	Report
589.	Ext.Y(3/1)	Signature
590.	Ext.Y(4)	Letter
591.	Ext.Y(4/1)	Signature
592.	Ext.Y(5)	Report
593.	Ext.Y(5/1)	Signature

APPENDIX- C

In the Court of Special Judge, NIA, Assam, Guwahati

SPL. NIA Case No.01/2010

National Investigation Agency (NIA)

Versus

Kh. Thomba & Ors.

List of Material Exhibits:

Sl. No.	Exhibit No.	Nature of Document
1.	Mat. Ext.1	Parcel
2.	Mat. Ext.1/1	Signature of PW-73
3.	Mat. Ext.1/2	Signature of PW-81
4.	Mat. Ext.2	Parcel
5.	Mat. Ext.3	CD-R
6.	Mat. Ext.4	Laptop
7.	Mat. Ext.5 & 6	Mobile Phones
8.	Mat. Ext.7	Pen Drive
9.	Mat. Ext.8 & 9	Nokia Mobile Handsets
10.	Mat. Ext.10	Pen Drive
11.	Mat. Ext. 11	Laptop
12.	Mat. Ext. 12, 13	Spice Mobile Sets
13.	Mat. Ext. 14	SIM Card
14.	Mat. Ext. 15	8 GB Hard Disc
15.	Mat. Ext. 16	Handicam
16.	Mat. Ext. 17	Sony Digital Camera

17.	Mat. Ext. 18	2 nos. CDs
18.	Mat. Ext. 19	Battery Charger with battery
19.	Mat. Ext.20, 21	Lenovo & Accer Laptops
20.	Mat. Ext.22 to 27	Nokia, Micromax, Lephone (with 1 airtel SIM, 1 vodafone SIM, 1 Chinese SIM), Samsung Tata (with one Tata Indicom sim), Spice (with 2 airtel SIM) Mobile Handsets.
21.	Mat. Ext.M/28	Nikkon Digital Camera
22.	Mat. Ext.M/29/A to M/29/E	SIM Cards
23.	Mat. Ext.30/A to 30/C	Pen drives
24.	Mat. Ext.31/A to 31/C	Data Cards
25.	Mat. Ext.32	35 nos. of CDs
26.	Mat. Ext.33	Photographs of Rakesh Singh
27.	Mat. Ext.33/1	Signature of PW-40
28.	Mat. Ext.34	Photograph of Oinam Naresh
29.	Mat. Ext.34/1	Signature of PW-40
30.	Mat. Ext.35	Photograph of Prem Singh
31.	Mat. Ext.35/1	Signature of PW-40
32.	Mat. Ext.36	Sony Digital Camera
33.	Mat. Ext.37	Sony Cyber Shot Camera
34.	Mat. Ext.38	Satellite Phone with battery
35.	Mat. Ext.39	Sony Digital Camera
36.	Mat. Ext.40	5 nos. of DVDs
37.	Mat. Ext.41 & 42	CDs
38.	Mat. Ext.41/A & 41/B	CDs
39.	Mat. Ext.41/C	Cloth (White)
40.	Mat. Ext.41/C/1	Signature of PW-58

41.	Mat. Ext.41/C/2	Signature of PW-58
42.	Mat. Ext.42	CDs
43.	Mat. Ext.43	Hard Disk
44.	Mat. Ext.43/1	Sealed cloth cover with box containing the hard disc.
45.	Mat. Ext.43/2	Signature of PW-53
46.	Mat. Ext.43/3	Signature of A-18
47.	Mat. Ext.43/4	Signature of PW-84
48.	Mat. Ext.43/5	Signature of PW-80
49.	Mat. Ext.43/6	Signature of PW-79
50.	Mat. Ext.43/7	Signatures of independent witnesses
51.	Mat. Ext.44	Hard Disc
52.	Mat. Ext.45, 46 & 47	CDs

APPENDIX-D

(16)

E7916

Date: 29 May, 2009 time: 03:15:17
From: whiten_001@yahoo.com
To: galai_taret@yahoo.com

Sir,
List of officers is attached
CJ

Special N.I.A. Case No. 1/10
Exhibit No. 5
2/4/10

Special N.I.A. Case No. 1/10
Exhibit No. 503
2/4/10

Obayem
Stall

(17)

E79/2

(2)

Officer singgi list

Lt.Col.

1. Ser.No 221 Lt.Col. Oinam Chingkhengzua @ Dimla s/o (L) O. Chaoa of Oinam Bazar Manipal Bishnupur dist. (SMOI)
2. Ser. no 29 Lt.Col. Irengham Tamsana @ Nandakumar s/o L. Tomba of Wangoo Samlangkhong. (GSO 3)
3. Ser.no. 33 Lt. Col. S. Tenzhou @ Sharat of Heirok Bazar. (CO 242)
4. Ser. No. 36 Lt. Col. Mainam Chaoa of Pengsambi. (CO 291)
5. Ser.no.27 Lt Col Sinam Wanglen @ Ganeshwar s/o (L) S.Kuber of Yaikul Saungiam Leikai. (CO 241)
6. Ser.no. 44 Lt Col. Hanjam Tamsan @ Rughabi s/o H. Kunakeshor of Bimal Leikai. (CO 293)
7. Ser.no.74 Lt.Col. Kh. Khomba @ Jhen s/o Kh. Sanajaba/Merncha of Awang Sekmai Makhaleikai. (CO 292)
8. Pameiba (Khamu Leader)
9. Ser.No. 391 Chabungham Thant @ Nabachandra s/o Ch. Goummahan of Wabagal. (PSO CHQ)

Maj.

1. Ser.No 398 Maj. Laitonjam Khongranghaba @ Priyokumar s/o L. Shyankhanhai (L) Thoihi of Pishunzhong Ningom Leikai.
2. Ser.No.125 Maj. Laimayum Ingba @ Anand s/o L. Indrashar of Yaikul Police Land.
3. Ser. No. 264 Maj. Marangthem Munni @ Deban s/o M. Gulunchin/Nganba of Tarek Khol (Imphal East)
4. Ser. No 20 Maj. Yumnam Seroi @ Shanti s/o (L) Y. Gouramani of Yumnam khannu Bishnupur dist.
5. Ser. no 162 Maj.Sapsan Tamphajao @ Iro s/o (L) S. Sanamthun of Yumnam khannu.
6. Ser.No. 124 Maj. Asem Laingam @ Namo s/o A. Amaba of Yaikul.
7. Ser.No 127 Majam Ngamba @ Behal s/o M. Shyankishor of Kahawakching.
8. Ser.No. 134 Wahengbam Thoiha @ Kothil s/o W. Tomba of Top Moirangkampui.
9. Ser.No. 144 Kothellakpum Cilheiba @ Nabachandra of K. Mahon of Khurai Soibam Leikai.
10. Ser.No.147 Toijam Aehni @ Boghen s/o T/Shyankhanhai of Ayungpali.
11. Ser.No. 175 Maj Maibam Chaoa @ Anna s/o M. Shamu of Khurai Koenpal.
12. Ser.No. 393 Maj. Kshetrimayam Chinglen @ Sagar s/o Ksh. Ginchhar of Singantlei Kabetri Leikai.

Capt.

1. Ser.No 166 Capt. Sorabam Maipak of Kabuwakching.
2. Ser.No. 388 Capt. Thangjam Ningamha @ Kumar s/o Th. Omar of Heirokum Thangjam Leikai.

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3. Ser No. 195 Capt. Lomnabun Telumb @ Jatshar so L. Gulmchat of Mosang Kumpu, Khawa Baza
4. Ser No. 228 Capt. Thamsuput Kamutaha @ Hmjen so Th. Jochon of Lamjan.
5. Ser No. 232 Capt. Meimam Mamtala @ Nokuja so M. Sanga of Lamang.
6. Ser No. 236 Capt. Aam Doyat @ Doyat so A. Bana Ashanghi of Yumnam awang Leikai
7. Ser No. 244 Capt. Nungnam Incha @ Balseji so N. Ningthemb/Machon of Kivrim Khaim Leikai.
8. Ser No. 252 Capt. Wahngam Ihancha @ Ihancha so W. Tonja of Pombi Manang Leikai
9. Ser No. 254 Capt. Hotham Wokheba @ Tenda so Th. Tomba of Phougachao Mayai Leikai.
10. Ser No. 254 Capt. Khatrinayun Lanthaba.
11. Ser No. 257 Capt. Aam Achaba @ Jiban so (L) A. Mam/Tomba of Chendupur Mayai Leikai.
12. Ser No. 260 Capt. Wahngam Chantheng @ Khelendro so W. Kwakhi of Sekmaling, (Khamu)
13. Ser No. 262 Capt. Hekrujam Tomba @ Tomba so H. Nima of Sagulung Wakhong.
14. Ser No. 272 Capt. Batsanglem Tibusangacha @ Dhamjoy so P. Achaba of Lamngak Maning Leikai.
15. Ser No. 279 Capt. Mangpahan Tethaba @ Gajenda so M. Mam of Luwangsham Makha Leikai.
16. Ser No. 289 Capt. Sengajen Kutha @ Ratan so (L) S. Mam of Kwakthel Haimu Khongrambi Lando Leika
17. Ser No. 297 Capt. Salam Igoti @ Bonja so S. Angolanta/Chacha of Luchang Lura mayi Leikai.
18. Ser No. 303 Capt. Khuma Chir @ Chingba Chir so Thakakhang of Bungle Chir Village
19. Ser No. 326 Capt. Meimaitan Sashen @ Rajit so M. Kuladaja of Phutaba.

Li:

1. Ser No. 252 Li. Angan Kom @ Khumchue so Tangle Kom of Furam Likli
2. Ser No. 265 Li. RK. Nana of Urpot Sarba Tangel
3. Ser No. 305 Li. Nanan Loiz @ Rangkumar so N. Ahang of Kama.
4. Ser No. 309 Li. Siam Yaipaha @ Ranja so S. Likhachandra of Tolpachung
5. Ser No. 340 Li. Yunkhoem Luchangok @ Diney so Y. Bra of Seka Jira
6. Ser No. 356 Li. Yankham Igoti @ Suresh so Y. Sankumar of Mayang Imphal
7. Ser No. 357 Li. Hjam Tomba @ Bhodumar so H. Kama of Waikhang Uyang Khama Leikai.
8. Ser No. 363 Li. Garmayim Buba @ Igacha so G. Krikhacha of Yairpok. (Org)
9. Ser No. 378 Li. Nungtham Phangan @ Prengit so N. Chakchad of Khurai Chingaba Leikai. (Chenaming)
10. Ser No. 388 Li. Lungam Binge @ Jien so L. Kama of Yairpok Leikai Makha Leikai.
11. Ser No. 385 Li. Yangyi Parhpa @ Sanchi so Y. Thoncha of Kama Leimam mayai Leikai.

Handwritten signatures and stamps at the bottom of the page.

(19)

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12. Ser.No. 397 Lt. Longjam Samkhomba @ Reshan s/o L. Nulubon of New Chikun Imphal east.
13. Ser.No. 407 Lt. Khaidem Makhungpa @ Ramesh s/o Kh. Ibohni of Suguna Awang leikai.
14. Ser.No.498 Lt. Khazijam Khoina @ Benjamin s/o Kh. Hori of Sagulband Salam Leikai.
15. Ser. No. 523 Lt. Meikam Sangkhoba @ Premnada s/o M. Pakpa of Kumbi Thingel leikai.
16. Ser.No.986 Lt. Laisangthem Yabheba @ Umakanta s/o L. Tomchou of Sangjamei.
17. Ser.No.1881 Lt. Nazangbam Benjamin @ Ibungo s/o N. Hironani of Singjabung. (ARO)
18. Ser. No. 2248 Lt. Mayengbam Lanjingba @ Lakhikunta s/o M. Amujao/Tampakleima of Wabagai Awang leikai.

2/Lt.

1. Ser.no. 351 2nd Lt. Longjam Samkhomba @ Bobo @ Sanajoba s/o L. Thoiha/Mema of Pukhao Leikiepkepi (Imphal East).
2. Ser. No 376 2nd Lt. Khwairakpa Nungthoi @ Meinsing s/o Kh. Pishak/Lualungleima of Phubala Awang leikai.
3. Ser.No.405 2/Lt. Thangjam Luigan @ Momo s/o Th. Ibocha of Lamlunggei.
4. Ser.No. 410 2/Lt. Nongmaithem Inao @ Ratan s/o N. Gouramzi of Kutching. (ARO 2).
5. Ser.No.412 2/Lt. Wahengbam Mahangba @ Gopin s/o W. Chacha of Teubul.
6. Ser. No 426 2nd Lt. Khangbam Sakhenba @ Yaipharel s/o Kh. Ibocha of Kumbi Laisanglang.
7. Ser.No. 428 2/Lt. Thokcham Sidabheba @ Gyaneshor s/o Th. Ibotomhi of mayang Imphal.
8. Ser.No.441 2nd Lt. Dinam Chairallakpa @ Ganeswar s/o O.Shrangou of Thanga Chungkha leikai.
9. Ser.No.482 2/Lt. Laishram Sandhyangamba @ Nengchhenkhomba s/o Achou of Liwa Lambi kakwa Maibam Leikai.
10. Ser.no.484 2nd Lt. Thangjam Leirik @ Sana s/o Th. Kulabilla of Heirangothong YaigamLeinak.
11. Ser.No.488 2/Lt. Sakin Nongdol @ Khemarandi s/o S. Nijamcha of Sagulband Memo leirik.
12. Ser.no.489 2nd Lt. Yamenbam Leikakhomba @ Gopin s/o Y.(L) Rajendra @ Rajabenthai of Wangkhe Duraga Puja Lampak.
13. Ser.No.494 2/Lt. Ningthoujam Samkhombi @ Abe d/o N. Mangoljo of Wathulmbi (CHQ)
14. Ser.no. 495 2nd Lt. Ningombam Korphaba @ Pandakumar s/o N. Yaishkul/Yzima of Ningombong Kutana Pung.
15. Ser.No.503 2/Lt. Thounsojam Sanajoba @ Sam s/o T. Kalla of Kiyanggei (Dg)
16. Ser. no. 517 2nd Lt. Tishellambam Apahi @ Badal s/o T. Nageswar/Maima of Chaman Sandrak Awang leikai.
17. Ser.No.521 2nd Lt.Chungangbam Chingacha @ Okendra s/o Ch. Maniroban/Thobit d/o of Nagamagal Singjabung Leima.
18. Ser.No. 533 2/Lt. Simam Pankhei @ Sorenrendro s/o S. Thoiha of Thangamghel Simam leikai. (CHQ).
19. Ser.No.535 2/Lt. Achom Sanajoba @ Hemzha s/o A.Manglem e Mungchup Kamak.
20. Ser.No.537 2/Lt. Abajam Parzuba @ Lamphel s/o A. Tombi of Auphor.
21. Ser.No.545 2/Lt. Anzom Mangal @ Imroth s/o A. Ningthengao of Wangkhe.

(20)

E79/5

(5)

22. Ser. No. 533 2/Lt. Khundrakpam Nongthoi @ Langangba s/o Kh. Haribabu of Jiri
Kebilousangkhang mayai leikai.
23. Ser. No. 569 2nd Lt. Takhellamham Khungguliba @ Somrendro s/o T. Maniroy of
Kalinagar, Jiriham
24. Ser. No. 572, 2/Lt. Ningthoujam Abotomba @ Dhanajit.
25. Ser. No. 573 2nd Lt. Ningthoujam Manabou @ Sanatomba s/o N. Yaima of Pangahai
macha leikai.
26. Ser. No. 591, 2/Lt. Khangenham Makmnganba @ Inyoucha.
27. Ser. No. 615 2nd Lt. Thokcham Kuklei @ Shanjit s/o Th. Abhi of Sabangbam mamang
leikai.
28. Ser. No. 655 2nd Lt. Amam Tahanba @ Moma s/o A. Gouri of Wangon Sabal Mamang.
29. Ser. No. 665 2nd Lt. Nameirakpam Chenglei @ Jihan s/o N. Mohendro/Sanhanbi of
Sunusiphei Awang leikai.
30. Ser. No. 683 2nd Lt. Salam Khordakagakpa @ Tamba s/o S. Manudoi/Sanhanbi of
Khordak Mayai leikai.
31. Ser. no. 688 2nd Lt. Wanghem Chingamha @ Devan s/o W. Kulachandra/Bijoini of
Kharashom maning leikai (desert toadhere hundakra).
32. Ser. No. 1026, 2nd Lt. Laikhuram Laikhomba @ Baicha s/o L. JhahsWataki of Kongha
Bazar Laikhuram leikai.

Apurba officer:

1. Lt. Col. 9 nos.
2. Maj. 12 nos.
3. Capt. 19 nos.
4. Lt. 18 nos.
5. 2/Lt. 32 nos. + Total 90 nos + GSO 2 nos = 92 Nos.

Yrs
CS
26 May 09

Serial No. 1026
Exhibit No. 1026
Specimen No. 1026
Date 2/4/13
Signature
3/2/11

APPENDIX-E

(422)

Special N.I.A. Case No. X/0
Exhibit No. 115
Sd/- Eligible
Special Judge, N.I.A.,
Assam, Guwahati
1/4/14

Page No. 42

E1/2

P

From : Rising Sun <genexten@gmail.com>
To : DK Enterprise <enterprisodkay@gmail.com>, chaoxengchaoxeng@gmail.com, wahang
paokhumpaamjamba@gmail.com, greenplate09<greenplate09@gmail.com>
R/C/M.

As per report in connection with the arrest of 11 cadre from Guwahati given by the advocate of Assaba (Guwahati) to Sanatomba, brother of Tikon, it is learnt that NIA (National Investigation Agency) team have arrived at Assaba (Guwahati). It is said that, they may take the 11 (eleven) and Mani. So, instructed all to take care. NIA was set up after the incident of Mumbai Taj. A separate court will be instituted by the centre for it (NIA). Judge also will be appointed separately. NIA will get permission from the state Govt. to hold up the case. I hope, in this present situation, the state Govt. will grant the permission to hold up the case. Investigation of the case is done minutely by the NIA. One important thing is that, everything we have talked in mobile phone will be trace out by NIA and the same will be put up at the time of charge sheet. The nature of talking will automatically proof their involvement in the organization. It is said that, the NIA adopted torture (beating etc) when they tried to get clue, they want.

To ascertain the information of the Advocate of Guwahati, let Sanatomba be asked by Shri Tikon.

Warm regards
VC

Special N.I.A. Case No. X/0
Exhibit No. 115(1)
Sd/- Eligible
Special Judge, N.I.A.,
Assam, Guwahati
1/4/14

← Sd/- Eligible

Special N.I.A. Case No. X/0
Exhibit No. 115(2)
Sd/- Eligible
Special Judge, N.I.A.,
Assam, Guwahati
1/4/14

← Sd/- Eligible

5

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ES/3

✓

10.55 & 67

From: Green Field <greenplate09@gmail.com>
To: dtd.morningstar@gmail.com

I sent mail to your old ID to ask about what Budhamani had written to you in his mail regarding the arrest of Mani and his associates, but no reply. I am sending to your new ID. Please tell me what he had written. Till date no clue about their arrests can be detected. It is told that the arrests was made near the train station alongwith IC3.4L. Then Mani was sanction for us (GS+SeO). Two laptops were also seized alongwith them.

Yrs.

My

2. From: David Chabungbam <dvd.morningstar@gmail.com>
To: Green field <greenplate09@gmail.com>

E6/2

R/S

Received the mail. What Budhamani wrote was that there is high possibility of conspiracy between the Meitei SI from Cachar and Mariton during the recent arrest from hot place (Guwahati?). He requested to examine it properly. All those who had been arrested earlier were also known to him. He was closed to Sir tikan. It is suspicious that out of 3 persons arrested his name was not included in the police record. We look into what our youngsters told. All those who had been picked up earlier were known to him. What were recovered alongwith them are not mentioned.

Sincerely

Thant,

3. From: Green field <greenplate09@gmail.com>
To: David Chabungbam <dvd.morningstar@gmail.com>

E7/2

D/Oja

Youngsters (daughter and the son-in-law) also informed me. Because of their information it is confirmed up to a high percentage. What you said about the exclusion of his (Mani) name from the list of arrests in the newspaper has benefit of doubt. It may be more relevant that a few weeks ahead of mass pick-up Finance Secretary of AAMSU who stayed with Ingba ran away by carrying SL. After this they had been picked up. It was just like finishing at one stroke. Close investigation of the received information is necessary. When there is advantage of communicating with Mani it should be known in detail.

Thanks for giving information

Yrs.

My

Sd/- Jitajide
Special N.S.A. Case No. 1/10
Exhibit No. 15 (15)
Sd/- Jitajide
Special Judge, N.S.A.
Assam, Guwahati
1/1/14

Sd/- Jitajide
Special N.S.A. Case No. 1/10
Exhibit No. 15 (16)
Sd/- Jitajide
Special Judge, N.S.A.
Assam, Guwahati
1/1/14

Yrs

VC

2 DS

Which number is for GS? If that you will not get. If you tell me the number I can check. I hope he will not miss phone calls. My green field may not be used, at present I am not communicating with others. Let us communicate frequently through mails

Yrs.

Ny

3 DINY

Ngamba, Chaoren, Thoiba & Kadeng were picked up from the parental of Thoiba's wife at Sitchar. Wanglen, Khomba, Peeba, Sanjoy, Landhani, Hanbi and another unknown persons were also picked up from Guwahati. Altogether 11. We had already informed not to stay at Guwahati but they do not took it seriously. On this day of release I told it to Wanglen, Khomba & Chaoren. I told directly to Mani through phone but he might have left Guwahati. After our arrest from Guwahati our CC might have not discussed to review the security of Guwahati. At the same time all staying at Guwahati did not want to leave. I hope to allow staying further they might have reported that security over there is OK. Now all will come out to Maram of Paillou including from bn of ghq and the matter of movement in the Teddim road will be opened. Regarding GA, it is known all about it since all the files of GA was present in the pen drive of Tkn. From this in what route they were going while attending GA will be come up.

Regarding your hiding place Tomba of KYKL disclosed about you too including for jiri journey and about Alex & Indu. I was asked about Alex and Indu but did not continue since I said I don't know. It was also disclosed the meeting of Oken by Ba by coming there.

Finance Dept. will be defunct for some time. It is our fault of giving the charge to Chaoren only. It was important to depute another person also.

Thanks

VC

3 DS

Arresting of finance members adds extra headache to me will suffer a lot if it is said that because of inability to fit staff all money will be collected. It must be very much concern.

No one wants to remain far from Guwahati. They stayed just like me. That is why I wonder when you went for treatment at Guwahati. What can we do. Over is over. After the arrest of Sir, Benzamin was picked up. During these days many cadres of other organizations were also picked up. No one take it serious. By staying there, they would make unlimited calls to home. When Ngamba was arrested one person is now helpless. Large amount of money for Shubab was recovered alongwith number. His monthly sanctioned money was kept with him.

Yrs
Ny

Sd/- Silegibla
↓
Special N.P.A. Case No. 40
Exhibit No. 115 (176)
Sd/- Silegibla
Special Judge, N.P.A.
Disam, Guwahati

Sd/- Silegibla
↓
Special N.P.A. Case No. 40
Exhibit No. 115 (176)
Sd/- Silegibla
Special Judge, N.P.A.
Disam, Guwahati