



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A. No. 19 of 2021

Date of Decision: 02.06.2025

Shri. Edwin Sungoh,
S/o. (L) Shri. Loni War
R/o. Khliehrangnah Village, Shangpung
West Jaintia Hills,
Meghalaya

.....Appellant

-Versus-

The State of Meghalaya
Through The Commissioner and Secretary
to the Government of Meghalaya
Department of Home (Police)
Civil Secretariat, Shillong

.....Respondent

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Chief Justice (Acting)

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.P. Mahanta, Sr. Adv. with
Mr. L.M. Sangma, Adv.
Mr. M. Lyngdoh, Adv.
Mr. D. Dkhar, Adv.

For the Respondent(s) : Mr. R. Gurung, GA
Ms. S. Shyam, GA

i) Whether approved for reporting in Law journals etc.:	Yes/No
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ii) Whether approved for publication
in press:

Yes/No

Per W. Diengdoh, J:

JUDGMENT

1. This is a case where two persons, a mother and her son-in-law were said to have been murdered by the appellant herein on 14.05.1992 at the house of the deceased at Khliehrangnah Lum Muchai in the West Jaintia Hills District of the State. The names of the deceased are Lur @ Lo Rabon (D1) and his mother-in-law, Lakma @ Kma Sungoh (D2).

2. From the records what could be gathered is that though there was no initial FIR lodge, however, apparently, the police were informed of such incident, when on 15.05.1992 one Wanbeit Shullet, the local Member of the District Council (MDC) came along with the appellant to the police station at Jowai, whereby the said Mr. Shullet informed the police that the appellant had committed a double murder. The said information was noted in the G.D. (General Dairy) Entry vide Jowai P.S. G.D. Entry No. 500 dated 15.05.1992. The appellant was placed under custody immediately.

3. It is also noticed from the records that on forwarding of the said GDE No. 500 dated 15.05.1992 on 20.05.1992, the Officer Incharge, Jowai Police station was requested to convert the same as the FIR on the ground that the relatives of the deceased persons declined to file a formal complaint. Accordingly, the same being treated as an FIR, it was registered as Jowai P.S. Case No. 69 of 1992 u/s 302 IPC and investigation was launched. The Investigating Officer, on completion of



investigation submitted Chargesheet No. 100 of 1994 dated 29.07.1994 with the opinion that a prima facie case is found well established against the accused/appellant herein and he was sent to face trial before the competent court of jurisdiction.

4. The case was taken up for trial by the learned Additional Deputy Commissioner, Jowai, West Jaintia Hills, however vide order dated 12.07.2005 it was transferred to the Court of the Judge, Fast Track Court, Jowai for disposal. Yet again, at the evidence stage of the case, it was transferred to the Sessions Court, Jowai for final disposal which was done so. The same being re-registered as Sessions Case No. 89 of 2015.

5. The prosecution examined 6(six) witnesses in total and exhibited 5(five) documents in all. After all the witnesses have been examined, the accused/appellant was examined under Section 313 Cr.P.C. where his response to the questions put by the Court was noted down. After such statement was completed, on being asked, the accused/appellant declined to examine any witnesses from his side.

6. The learned Trial Court then heard the arguments of the learned counsels for the respective parties and on consideration of such argument, appreciation of evidence on record and while applying the law as is deemed proper, has, vide judgment dated 05.11.2021, held the accused/appellant guilty of the offence of murder and hence punishable under section 302 Cr.P.C.

7. Again, upon hearing the parties on the quantum of sentence, the learned Trial Court has vide order of sentence dated 08.11.2021



sentenced the accused/appellant to undergo a sentence of life imprisonment with fine of ₹ 50,000/- (rupees fifty thousand) only.

8. On being so convicted, the appellant has preferred this instant appeal being highly aggrieved and dissatisfied by the judgment and order dated 15.11.2021 and sentence dated 08.11.2021.

9. It may be mentioned that in course of these proceedings before this Court, the learned Sr. counsel for the appellant, Mr. S.P. Mahanta has raised the issue of mental disability as far as the appellant/accused is concerned which, according to him would have a bearing in the manner the trial has proceeded under such circumstances and if proved, would vitiate the entire trial and the subsequent order of conviction.

10. This Court has allowed the parties to be heard on this preliminary issue and has also caused related medical examination and report to be filed thereto. In brief, the medical report would say that the accused/appellant has Mild Intellectual Disability. It is however not certain as to whether the same was present at the time of the incident or during the trial or that it was a present and recent mental development as far as the appellant is concerned. This issue was however not pressed by the learned Sr. counsel for the appellant and finally, the merits of the appeal was taken up for hearing.

11. Heard Mr. S.P. Mahanta, learned Sr. counsel for the appellant and Mr. R. Gurung, learned GA for the State respondent.

12. Mr. Mahanta, has contended that because of the infirmities found in the impugned judgment, the same cannot be made the basis to secure the conviction.



13. The learned Sr. counsel after narrating the brief facts of the case as has been indicated hereinabove has also read over the deposition of the 6(six) prosecution witnesses. Thereafter, it is submitted that there appears to be a lacuna in the prosecution case wherein only on the basis of the evidence of PW-1, PW-2 and PW-5 the learned Trial Court had convicted the appellant, when such evidence is inconsistent, flimsy and not reliable at all.

14. It is also the contention of the learned Sr. counsel that on a police case being registered and investigation launched the Investigating Officer has not followed procedure since no statement of the witnesses was ever recorded under Section 161 Cr.P.C. This was confirmed by the Investigating Officer who has deposed as PW-6 when he said “...*I have not examined any witnesses in this case*”.

15. The learned Sr. counsel has also submitted that the investigation was started on the basis of a General Diary (GD) Entry No. 500 of 1992 which was recorded on 15.05.1992 when allegedly one Shri. Wanbeit Shullet, MDC of Shangpung Constituency produced the appellant before the police to say that he has committed a double murder. However, the IO has failed to produce the said MDC as a prosecution witness, which omission is fatal to the prosecution case.

16. The date of the alleged murder was 14.05.1992 as could be discerned from the evidence of PW-1 and PW-2. But records would show that the police had gone to the place of occurrence only on 16.05.1992 where they found the two deceased lying in the compound and the inquest was also carried out at the PO. On the same day, the dead bodies were taken to the Jowai Civil Hospital where post mortem was



conducted. Here too, the evidence of the alleged eye-witnesses, that is, PW-1 and PW-2 are found to be inconsistent inasmuch as whatever they have stated as the cause of death of the said two deceased persons was not corroborated with the findings recorded in the Post Mortem Report. Exhibit 5, the Post Mortem Report which speaks of 6(six) cut wounds on the head or scalp or on the back of the head about 6-7 inches in depth while Exhibit 6 speaks of cut wounds at two places. PW-1 and PW-2 however has spoken only about 1 cut wound on the body of the deceased. Therefore, there is serious variation in the two depiction which points to inconsistency in the ocular and medical evidence.

17. There is also no evidence as to motive since during the investigation by PW-4, PW-1 has stated that the murder happened due to a family affair but there was no investigation in this regard.

18. The main thrust of the argument on behalf of the appellant is that the impugned judgment and order was based entirely on the observations made by the learned Trial Judge on the basis of the materials found in the case diary which was converted to evidence as could be noticed from the findings made in the impugned judgment and order at page 81 of the paper-book, para 42 wherein it has been observed that “...*Though not exhibited by the prosecution, it is seen in the case diary that PW-4 had drawn a rough map of the P.O. Perusal of the same indicated that the P.O. is located to the east of a telephone main post, while there is a road to the south of the P.O. PW-4 did not indicate if there is any house near the P.O.*” Again, at page 89, para 54 the learned Trial Judge has taken into evidence that “...*As can be seen from the case diary, that PW-4 has noted that PW-1, PW-2 and Shri. Hambi Sungoh (expired) has stated*



that they were threatened by the accused if they report the matter to the police, hence they did not file the FIR.” Yet again, at page 92, para 62 it was observed that “Perusal of the Case Diary of the case shows that the investigation was initiated by PW-6 on 16.05.1992 till 20.05.1992... ”.

19. This, according to the learned Sr. counsel is a clear violation of the provision of Sub-Section 2 of Section 172 Cr.P.C which prohibits and debars the court from using the case diary as evidence in the case and on this ground alone, the impugned judgment and conviction is liable to be set aside and quashed. In this regard, the case of Mahabir Singh v. State of Haryana, (2001) 7 SCC 148, para 13 and 14 and also the case of Mohammed Ankoos & Ors. v. Public Prosecutor, High Court of Andhra Pradesh, Hyderabad, (2010) 1 SCC 94, para 27 and 30 are cited in support of this contention.

20. Per contra, Mr. R. Gurung, learned GA in his response, has also led this Court to the evidence of the witnesses and has laid stressed on the evidence of the wife of one of the deceased, who has witnessed the actual act where she has narrated how the appellant struck her deceased husband on the head with a dao and on her mother intervening, the appellant also struck her on the neck leading to the death of both her husband and her mother.

21. The learned GA has also submitted that the incident was seen not only by PW-1 but also by her sister who has deposed in court as PW-2. The statement of PW-2 is also identical with what was said and seen by PW-1 and as such, there is corroboration. Under such circumstances, the case not being one where circumstantial evidence has to be resorted to, therefore, the ocular evidence of the two eye-witnesses barring minor



discrepancies can be relied upon to convict the accused which was done so by the learned Trial Judge. However, as far as minor discrepancies are concerned, it is to be noted that PW-1 and PW-2 are rustic villagers who were in a state of shock when the incident happened and more so, after 20 years or so when they stood before the witness stand in court, some variation or discrepancies in their account of the incident cannot be ruled out. However, this would not weaken the prosecution case, the case of *Birbal Nath v. State of Rajasthan & Ors.*, 2023 SCC Online SC 1396, para 21 was cited by the learned GA to overcome any objection in this respect.

22. The learned GA has then submitted that this is a case of double murder and on the clinching evidence on record, the impugned judgment and sentence may not be interfered with.

23. At this juncture, this Court would examine the facts and circumstances of this case and what has transpired at the trial keeping in mind the issue involved and the approach of the learned Trial Court culminating in the passing of the impugned judgment and sentence as to whether the same is justified or not.

24. Perusal of the records would show that the genesis of the case stems from the appearance of the appellant before the concerned police station on 15.05.1992. Some portion of the records would indicate that it was the said Shri. Wanbeit Shullet, MDC who had produced the appellant before the police, another source says that it was the appellant himself who had surrendered before the police. Be that as it may, it was under such circumstances that the police came to know of the incident involving the death of two persons at Khliehrangnah, West Jaintia Hills



District under Jowai Police Station. Accordingly, a General Diary Entry was made taking note of the information given and the accused/appellant was taken into custody on 15.05.1992.

25. It is also a fact as has been submitted by the learned Sr. counsel for the appellant that no formal FIR was lodged by the family members of the deceased or by anyone for that matter. However, the Officer-in-Charge, Jowai Police Station on 20.05.1992 has noted that on the opinion of the IO, the information received at the P.S was treated as the FIR and Jowai P.S. Case No. 69 of 1992 under Section 302 IPC was registered and investigation was directed to be conducted. In this respect, the Supreme Court in the case of Superintendent of Police, CBI & Ors. v. Tapan Kumar Singh, (2003) 6 SCC 175, para 16 has observed that GD Entry may be treated as FIR in an appropriate case, where it discloses the commission of a cognizable offence. As such, there is no doubt that the initiation of the case against the appellant is proper.

26. There is also the contention of the learned Sr. counsel that from the deposition of PW-6 who was the IO at the relevant point of time, he has stated that no witnesses have been examined. However, records would show that in course of investigation three witnesses, including PW-1 and PW-2 have had their statement recorded by the IO. This would not have much impact on the outcome of the case since such statement have not been used for contradiction by the defence in the cross-examination of the PWs. Suffice it to say that the witnesses who have been listed by the IO in his chargesheet have been summoned as prosecution witnesses in court.



27. To appreciate the evidence recorded, it would be proper to again refer to the evidence tendered by the PW-1 Smti. Wanngaitlang Sungoh who is the wife of the deceased Lo Rabon and also the daughter of the other deceased Lakma Sungoh as well as the evidence of PW-2 Smti. Samjur Sungoh who is the sister of PW-1.

28. PW-1 is the wife of (L) Lo Rabon. She recalled what happened on the day of the incident, though she cannot recall the date, month or year, understandably as her deposition in court was recorded on 18.11.2015 when the incident actually took place on 14.05.1992, that is, almost after 23 years. She however recalled on that day she saw her husband coming from the pine groves. At that point of time, she also saw the appellant stabbing her husband on the head with a dao (cutting implement). When her mother Lakma Sungoh asked the appellant why he killed her husband, the appellant also struck her mother on the neck resulting in her death. This witness has further deposed that both the victim died on the spot, following which the appellant dragged the bodies and put them together inside the compound when he fled from the place of occurrence.

29. This part of her testimony could not be shaken in the cross examination by the defence counsel since PW-1 has reiterated that she saw the accused/appellant dragging her deceased husband from the village footpath to her compound and even when her mother was stabbed by the accused/appellant she was standing nearby and had rushed to the place where her husband was lying to find out if he is still alive. This would only confirm the fact that this witness has seen the actual incident with her own eyes, she therefore qualifies as an eye-witness in the case.



30. As to the manner in which the two deceased persons were killed, PW-1 on being confronted, in her cross-examination has stated that, “...I remember that my husband was stabbed by the accused on his head and my mother was cut at the back side of her neck...” Further, she said that, “...It is a fact that the accused had used the dao to commit the offence...” The post mortem report would corroborate this statement when it is seen from such report that as regard the deceased Lo Rabon under the heading “external appearance” on wounds-position, size and character, the findings are “Six cut wounds on the head (scalp) all in the back of the head – Occipital region. Size 6”- 7” and deep to the bone.” Then as regard Lakma Sungoh, the findings as far as wounds-position, size and character are concerned reads as follows:-

- “(1) Cut wound in the head (scalp) on the right parital region. The wound is 6” long and goes deep through the bone.
- (2) Cut wound in the base of the neck on the back side size 6” long and piercing the bone.”

31. Though the learned Sr. counsel for the appellant would content that PW-1 has not been able to accurately described the manner in which the two deceased person were killed which is contrary to the medical evidence, this Court on appreciation of the evidence in this connection finds that this contention cannot be sustained inasmuch as it is not expected for PW-1 in the state of mind that she was at that relevant point of time to examine the deceased persons as to where exactly were the wounds inflicted on them. The fact that she saw the accused/appellant striking her husband on the head and thereafter striking her mother on the neck is sufficient enough to prove that the deceased were subjected



to grievous assault by the accused/appellant which resulted in their death on the spot.

32. As regard the contention of discrepancies in the evidence of the prosecution witnesses, particularly that of PW-1, this Court would agree with the explanation put forth by the learned GA and the authority cited, that is, the case of Birbal Nath (*supra*) is found noteworthy. Para 21 of the same is hereby reproduced as:

“21. The contractions in the two statements may or may not be sufficient to discredit a witness. Section 145 read with Section 155 of the Evidence Act, have to be carefully applied in a given case. One cannot lose sight of the fact that PW-2 Rami is an injured eye witness, and being the wife of the deceased her presence in their agricultural field on the fateful day is natural. Her statement in her examination in chief gives detail of the incident and the precise role assigned to each of the assailants. This witness was put to a lengthy cross examination by the defence. Some discrepancies invariably occur in such cases when we take into account the fact that this witness is a woman who resides in a village and is the wife of a farmer who tills his land and raises crops by his own hands. In other words, they are not big farmers. The rural setting, the degree of articulation of such a witness in a Court of Law are relevant considerations while evaluating the credibility of such a witness. Moreover, the lengthy cross examination of a witness may invariably result in contradictions. But these contradictions are not always sufficient to discredit a witness. In *Rammi v. State of M.P.* (1999) 8 SCC 649, this Court had held as under:

“24. When an eyewitness is examined at length it is quite possible for him to make some discrepancies. No true witness can possibly escape from making some discrepant details. Perhaps an untrue witness who is well tutored can successfully make his testimony totally non-discrepant. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the



court is justified in jettisoning his evidence. But too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.”

33. Another aspect of the matter is the issue of corroboration. In this connection, PW-2 Smti. Samjur Sungoh in her deposition in court has stated that on the day of the incident around 3:00 pm she was grinding paddy in the compound of the house while her mother was also sitting nearby. She then saw the accused/appellant came with a dao (ka wait) to their compound and straightaway chopped Lo Rabon with a dao and also chopped her mother. Thereafter, the accused/appellant pulled both the dead bodies and kept them together after which he left the place. This witness in her cross-examination has also stated that the deceased Lo Rabon was chopped on the head while her mother was hit at the back of the neck. Incidentally, this witness is the sister of PW-1. The evidence of this witness as far as the identity of the accused/appellant and that of the deceased Lo Rabon and Lakhmi Sungoh and also the manner in which the assault was committed by the accused resulting in the death of the two deceased persons has not been able to be controverted in the cross-examination. This part of the evidence put in juxtaposition with the evidence of PW-1 will only lead to one conclusion, that is, that there is corroboration in the same and no doubt whatsoever would arise as to the complicity of the accused/appellant in the case and also his direct involvement as far as the death of the two deceased persons aforementioned is concerned. Apart from the fact that ocular and medical evidence speaks in one language.



34. Yet another aspect of the matter to be considered is the fact that PW-1 in her deposition has stated that on the day of the incident she along with two persons, that is, Smti. Samjur Sungoh and Smti. Iorita Sungoh were present on the spot. Smti. Samjur Sungoh is her elder sister (who was examined as PW-2) and Smti. Iorita Sungoh is her niece who was about 15-16 years at that time. All of them did not raise any alarm apparently out of shock at the sudden turn of events. PW-2 even went on to say in her cross-examination that there was another witness who had seen the incident on that day, that is, her husband Hambi Niang. Apart from these persons who have witnessed the incident, the name of another person, that is, Shri. Wanbeit Shullet has also figured in these proceedings as the person who had produced the accused/appellant before the police at the Jowai Police Station. The argument of the learned Sr. counsel for the appellant is that the prosecution in failing to produce Shri. Wanbeit Shullet as a witness in the case, his role being vital, the prosecution has failed to establish its case.

35. To answer this contention, it can be said that for the prosecution to establish a foolproof case all available relevant evidence has to be produced in court. However, it is not necessary that each and every piece of evidence, including production of a large number of witnesses has to be resorted to in this respect. The law of evidence does not require any particular number of witnesses to be examined in proof of a given fact. In this regard, the authority cited by Mr. R. Gurung, learned GA appearing for the State respondent is found relevant, the same being the case of *Ram Prasad v. State of U.P.*, (1974) 3 SCC 388 wherein at para 13 and 14 the following is found:-



“13. Considerable stress has been laid by Mr. Anthony upon the fact that, besides the four eye-witnesses who have been examined in this case, the occurrence, according to the first information report, had also been witnessed by Baddal, Shankar and Hubba. These persons were, however, not examined as witnesses at the trial. It is also pointed out that in addition to these persons, the occurrence was also witnessed by Sham Lal and Hubba (this Hubba is different from Hubba whose name was mentioned in the first information report), who also arrived at the scene of occurrence. Sham Lal and Hubba too were not examined as witnesses. The non-examination of these witnesses, in our opinion, would not introduce an infirmity fatal to the prosecution case. It is no doubt true that the prosecution is bound to produce witnesses who are essential to the unfolding of the narrative on which the prosecution is based. Apart from that, it cannot be laid down as a rule that if a large number of persons are present at the time of the occurrence, the prosecution is bound to call and examine each and every one of those persons. The answer to the question as to what is the effect of the non-examination of a particular witness would depend upon the facts and circumstances of each case. In case enough number of witnesses have been examined with regard to the actual occurrence and their evidence is reliable and sufficient to base the conviction of the accused thereon, the prosecution may well decide to refrain from examining the other witnesses. Likewise, if any of the witnesses is won over by the accused party and as such is not likely to state the truth, the prosecution would have a valid ground for not examining him in court. The prosecution would not, however, be justified in not examining a witness on the ground that his evidence even though not untrue would go in favour of the accused. It is as much the duty of the prosecutor as of the court to ensure that full and material facts are brought on the record so that there may be no miscarriage of justice. The discharge of such a duty cannot be affected by the consideration that some of the facts if brought on the record would be favourable to the accused. In case the court finds that the prosecution has not examined witnesses for reasons not tenable or not proper, the court would be justified in drawing an inference adverse to the prosecution.



14. So far as the present case is concerned, we find that the prosecution has examined four eye-witnesses of the occurrence and their evidence has been found by the trial Court and the High Court to be reliable, convincing and sufficient to warrant the conviction of the accused. It has not been shown to us that the evidence of the persons who were not examined as witnesses was essential for the unfolding of the narrative on which the prosecution was based. The present is not a case wherein the witnesses not examined could have given evidence on a point regarding which the witnesses actually examined were not in a position to depose. We are, therefore, of the view that the failure of the prosecution to examine the persons mentioned above as witnesses would not justify interference with the judgments of the High Court and the trial Court.”

36. Accordingly, when the quality of evidence of even a single witness is found to be of sterling quality, conviction of an accused can be based on such evidence. In the case in hand, this Court has found that the evidence of PW-1 and PW-2 to be reliable and factual duly attested to by the medical evidence as to the manner and mode of the death of the two deceased persons, therefore it is not necessary for the trial court to record the evidence of such witnesses whose evidence may not affect the outcome of the findings and conclusion thereof.

37. This Court would have stopped at this juncture, but for the sake of doing complete justice to the case of the respective parties, other aspects of the case may be looked into. For example, take the case of motive. PW-1 in her deposition has stated that the accused is the uncle of her (L) husband and that her husband has no grudge with the accused during his lifetime. However, in the light of the opinion of this Court as far as the appreciation of the evidence of PW-1 and PW-2 is concerned, it would be proper to say that in this particular case the prosecution is not required to establish motive. In this regard, the case of Chandan v.



The State (Delhi Admn.), (2024) 6 SCC 799 would aptly answer this question when at para 9, 10 and 11 of the same the Hon'ble Supreme Court has observed as follows:

“9. The argument of the defence that the prosecution has not been able to establish any motive on the accused for committing this dastardly act is in fact true, but since this is a case of eyewitness where there is nothing to discredit the eyewitness, the motive itself is of little relevance. It would be necessary to mention some of the leading cases on this aspect which are as under.

10. In *Shivaji Genu Mohite v. State of Maharashtra* [(1973) 3 SCC 219], it was held that it is a well-settled principle in criminal jurisprudence that when ocular testimony inspires the confidence of the court, the prosecution is not required to establish motive. Mere absence of motive would not impinge on the testimony of a reliable eyewitness. Motive is an important factor for consideration in a case of circumstantial evidence. But when there is direct eyewitness, motive is not significant. This is what was held: (SCC pp. 224-25, para 12)

“In case the prosecution is not able to discover an impelling motive, that could not reflect upon the credibility of a witness proved to be a reliable eyewitness. Evidence as to motive would, no doubt, go a long way in cases wholly dependent on circumstantial evidence. Such evidence would form one of the links in the chain of circumstantial evidence in such a case. But that would not be so in cases where there are eyewitnesses of credibility, though even in such cases if a motive is properly proved, such proof would strengthen the prosecution case and fortify the court in its ultimate conclusion. But that does not mean that if motive is not established, the evidence of an eyewitness is rendered untrustworthy.”

11. The principle that the lack or absence of motive is inconsequential when direct evidence establishes the crime has been reiterated by this Court in *Bikau Pandey v. State of Bihar*, [(2003) 12 SCC 616], *Rajagopal v. Muthupandi*, [(2017) 11 SCC 120], *Yogesh Singh v. Mahabeer Singh*, [(2017) 11 SCC 195].”



38. As to the non-recovery and non-production of the murder weapon, here too, the same would not damage the prosecution case since it is well settled that in the light of reliable and trustworthy eye-witnesses to the incident, for convicting an accused recovery of the weapon used in commission of the offence is not sine qua non.

39. To the charge of the appellant that the impugned judgment is defective and non-sustainable since the finding of conviction of the appellant was based on the materials found in the case diary, the provision of Section 172 sub-Section 2 of the Cr.P.C being attracted, that is, that a criminal court though is entitled to use the materials found in the case diary, it cannot however use such information as evidence in the case, reference being made to the latter part of para 42 of the impugned judgment as well as para 54 of the same, this Court on perusal of such portions of the judgment has found that at para 42 the learned trial judge had made reference to the particulars of the PO based on the map drawn by the IO which was included in the case diary. There is no objection to the place of occurrence by the defence in course of examination of the witnesses as such, this contention is found irrelevant since it was not the basis made for the conviction. At para 54, the learned Trial Judge has made an observation that what is revealed from the case diary is the fact that PW-1 and PW-2 along with one Hambi Sungoh (expired) did not file the FIR as they were threatened by the accused/appellant. This piece of information is also not relevant or decisive as has been observed above, the GD Entry has eventually been treated as the FIR in this case. Consequently, the contention of the appellant in this regard has no basis, therefore, the authorities cited in this connection are also not applicable to the facts of the case herein. It



is also seen that the learned Trial Judge had passed the impugned judgment mainly on the basis of the evidence of PW-1 and PW-2 as eye-witnesses, the question of reliance on the evidence found in the case diary does not arise as there is nothing found in the observations and findings of the learned Trial Judge to suggest that the conviction was based on the strength of the materials found in the case dairy.

40. On an overall consideration of the facts and circumstances of the case of the appellant vis-à-vis the impugned judgment and sentence, this Court finds that the said judgment and sentence has been rendered on firm legal foundation. The same is hereby upheld.

41. Consequently, this appeal is found to be devoid of merits and is hereby rejected.

42. Appeal disposed of. No costs.

43. Send back the Trial Court records.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Chief Justice (Acting)