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Analysis of the Rules of Documentary Evidence in the Case of PP v Dato' Sri Mohd Najib Hj Abd Razak

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ABSTRACT

It is undoubted that the role of the law of evidence is indispensable part of the criminal trial. The technicality issue of the admissibility of evidence is always deemed as the paramount axis and decisive factor of the criminal case for both the prosecution and the defence in proving their case. Recently, the application of the documentary evidence has been highlighted by the court in the highly attaching case of the PP v Dato' Sri Mohd Najib Hj Abd Razak. In this case, the argument around the law of evidence regulating the documentary evidence is put forward as the hot topic. The detail discussion on the relevant rules and law has been assessed by the trial court carefully and comprehensively in its judgement in resolving the legal issues and clarifying the debate casted by both the learned prosecutor and defence counsel. The analysis of the latest established rules of evidence concerning the documentary evidence have be pointed out and reflected by referring to the judgement of the case of PP v Dato' Sri Mohd Najib Hj Abd Razak. The analysis is made on the stages of the general discussion of the rule of relevancy and admissibility of the documentary evidence, the new or alternative approach in interpreting the rules of documentary evidence and the available exception to its general rule of admissibility. The findings of this paper showed that despite that the best evidence rule is the primary precept of the admissibility of the documentary evidence, but its application is not conclusive as it is always subjected to the other principles of the law evidence especially when it is involved the admissibility of the electronic documentary evidence.

Keywords: documentary evidence; law of evidence; criminal law; criminal breach of trust; SRC International Berhad.

INTRODUCTION

In the light of the doctrine of the presumption of innocence, the burden of proof to establish a criminal case is always put upon the prosecution and it is not the duty of the accused to prove his or her innocence to the charge made against him or her. In the legal framework of the criminal trial, it can be said that it will only be deemed as a safe conviction of the accused when the accused is found guilty and convicted by the court of law based on the credible evidence.[1]

Recently, one of the most notable criminal trials in Malaysian legal history may be the SRC corruption case of the Malaysian former Prime Minister, Dato' Sri Mohd Najib bin Abdul Razak. It is undoubted that documentary evidence constituted one of the pivotal evidence which had been maximum evaluated by the court in figuring out the judgement in the case of *PP v Dato' Sri Mohd Najib Hj Abd Razak* [2020] 8 CLJ 319; [2020] 11 MLJ 808.

This paper is aimed to analyse the particular principles of the documentary evidences which have been discussed in by the court in the case of the *PP v Dato' Sri Mohd Najib Hj Abd Razak*.

BRIEF FACTS OF THE CASE

In this case, Dato' Sri Mohd Najib was charged for the seven counts of offences

which comprised of the abuse of position for gratification, criminal breach of trust and money laundering in transferring the sum of RM42 million from SRC International Sdn Bhd to his own personal accounts. All of the charges were alleged to have been committed by him in discharging his official duty during his tenure as the former Prime Minister and Minister of Finance of Malaysia. After the critical evaluation upon the evidence, the court convicted him on all seven charges with the punishment of both the imprisonment and fine. However, the stay of execution of the punishment was granted in pending of his appeal.

THE RULES OF DOCUMENTARY EVIDENCE

A. Documentary Evidence

First and foremost, it is plain to see that the court had adopted the ordinary principles in assessing the documentary evidence tendered by both of the prosecution and the defence in this case. Therefore, it is apposite to start the analysis of the documentary evidence by leading it to the definition of the documentary evidence itself. By virtue of section 3 of the Evidence Act 1950 (hereinafter may be referred as the EA), any matter which expressed, described, or howsoever represented by means of letters, figures, marks, symbols, signals, and signs may be categorised as the document. The tape recording, facsimile letter, closed-circuit television (CCTV) tapes and documents produced by a computer are also deemed as the document covered by the comprehensive definition of document as provided by the section 3 of the EA (Peters 2013).

B. Relevancy and Admissibility

In order to resolve the question of law concerning with the admissibility of the documentary evidence, the court had resorted to the principle of relevancy of the documents. It is trite law that the party must be able to prove the relevancy of the document before it can be held as the admissible evidence to the court (Habibah Omar et al 2018). In this matter, the rules which governed the relevancy of the facts are actually based on the Chapter II of the EA started from the legal provisions of section 5 to section 55. At this point, it is important to emphasise that not all relevant evidences will be automatically considered as admissible as it is the duty of court to determine whether the relevant evidences are admissible or not.[2] The court may invoke its power in pursuant to section 136 of the EA to decide the issue of the admissibility of the evidence.

C. Best Evidence Rule

In addition, the best evidence rule is also incorporated into the rule relating to the admissibility of the documentary evidence. According to Habibah et al (2018), the two primary insistence of the application of the best evidence rule in tendering the documentary evidence are related to the production of the original documents and the maker of the documents must be called to attend the court to testify the originality of the documents, otherwise, it would render the documentary evidence to be inadmissible due to its hearsay nature; or, in other words, the party who seeks to the tender the documentary evidence has failed to complied with the best evidence rule, then all of the documents tendered may be deemed as documentary hearsay evidence and thus inadmissible.

D. Primary Evidence and Secondary Evidence

Moreover, section 64 of the EA stated that, subjected to the exception provided by the section 65 of the EA, the documentary evidence must be proved by primary evidence. In consonance to the statutory provision, the general rule of tendering the

documentary evidence is that the party who seeks to tender the documentary evidence must tender the original document itself as in the case of *Popular Industries Ltd v Eastern Garment Manufacturing Sdn Bhd* [1989] 3 MLJ 360. In this context, the primary evidence is referred to manner of tendering the document itself produced for the inspection of the court as provided by section 62 of the EA.

Nonetheless, it is notable that the rule of proving the contents of documents is different with the principle of proving the document itself. According to section 61 of the EA, the contents of documents may be proved either by primary or by secondary evidence. It is crucial to point out that the party should not interpret that the section 61 of the EA gives them the optional power or discretion to choose or decide that either they want to prove the contents of the documents by the means of tendering the primary evidence or secondary evidence as their option. The appropriate interpretation of the section 61 of the EA is the party must first tender the primary evidence; whereas the secondary evidence is only allowed to be given in the unavailable or absence of the primary evidence which the law requires to be given first, provided with the proper or reasonable explanation of its absence has been given to the court, in line with the case of *Lucas v Williams & Sons* [1892] 2 QB 113. Meanwhile, section 61 of the EA must also be read together with the other legal provisions of the EA especially section 64 and section 65 of the EA in justifying the admissibility of the secondary evidence.

E. Original Documents and the Maker of the Documents

Since the general principles of the documentary evidence have been well-explained, then, it is the time for turning the attention back to the present case. In this present case, one of the key challenges raised by the defence was related to the admissibility of certain documents by the court which tendered prosecution as the documentary evidence. The arguments proposed by the defence were predominantly centralized on the issues of failure to produce the primary or original documents and the makers were not called to testify the authenticity of the documents tendered by the prosecution. The defence contended that these documents were inadmissible due to its non-compliance with the provisions of the EA in tendering and proving the documentary evidence. In contrast, the prosecution rejected the arguments raised by the defence and replied that all of the documents which had been marked as prosecution exhibits (P) and defence exhibits (D) during the course of the trial were admissible.

In clarifying the issues, the court had referred to the section 64 of the EA and observed that the documents can only be proved by primary evidence except in cases where the admissibility of the secondary evidence is allowed. As stated by section 62 of the EA, the primary evidence means the document itself is produced for the inspection of the court. On the other hand, the court viewed that there are two conditions to tender the secondary evidence, which are first, the document must be proved as the secondary evidence as defined by section 63 of the EA, and the second, the secondary evidence can be admitted in the circumstances provided by the section 65 (1) of the EA only.

In the arguments, the defence claimed that the documentary evidences tendered by the prosecution were the photocopied version of the originals which were not produced. In replying to the defence arguments, the prosecution based on the section 65 (1) of the EA and contended that the documentary evidences in dispute were admissible as the secondary evidence in the situation where its original had been destroyed or lost. The judgment of the court regarding this issue

was that according to the best evidence rule the primary evidence or the original document must be produced before the court as the evidence unless there was the exceptional circumstance under section 65 (1) of the EA where the secondary evidence was permitted to be admitted as evidence. At this stage, the court found that these photocopied evidences shall be rejected to be admitted as evidence as the prosecution had failed to establish the originality of these documents as the secondary evidence and further, there was also insufficient evidence to permit reliance on any of the situations under section 65 (1) of the EA, for no evidence has been adduced to suggest that the originals have been lost or destroyed or for any reason cannot be produced.

In addition, in respect to the issue raised by the defence that the maker of the documents was not called to testify the authenticity of the documents, the court agreed that it is trite law that contents of any document must be testified by the maker of the document, otherwise, the contents of the document which must remain as hearsay. In justifying this judgment, the court had referred to the case of *Allied Bank (Malaysia) Bhd v Yau Jiok Hua* [1998] 6 MLJ 1; [1998] 2 CLJ 33 where the court had made it clear that:

... It is settled law that where a document is sought to be proved in order to establish the truth of the facts contained in it, the maker has to be called ... .

F. Proof of Execution of the Documents

Furthermore, the defence asserted that there was no proof of execution of the documents by the prosecution as stipulated by section 67 of the EA in which stated that if a document is alleged to be signed by any person, the signature or the handwriting of the document as is alleged to be in that person's handwriting shall be proved to be in his handwriting. In explaining the proof of signature and handwriting, the case of *Razak bin Abu v Public Prosecutor* [2008] 4 MLJ 248; [2008] 8 CLJ 252 had been cited by the court. The court had adopted the principles established by the court in Razak's case where the court conceded that admission of the person who wrote it and calling some witness who saw it written are two direct methods of proving the handwriting of a person. Apart from that, the court also observed that the handwriting of a person may also be proved by the modes of proof by opinion which comprised of the evidence of a handwriting expert as provided by section 45 of the EA; evidence of a witness acquainted with the handwriting of the person who is said to have written the writing in question by virtue of the section 47 of the EA; and, the opinion formed by the court on comparison made by the court itself in pursuant to the section 73 of the EA.

The defence had made the remark that the prosecution had failed to prove the execution of the documents by the accused in complying with these established requirements including that there was no any witness was called to testify that the documents were in fact did sign by the accused; none of the witnesses were established to have sufficient acquaintance with the accused's signature to be able to prove it was the accused's handwriting and that there was no chemist report was produced to justify the same, thus, the defence insisted that all of these documents were inadmissible without proving its execution.

In rebutting to the defence's argument on the admissibility of the documents and its proof of the execution, the prosecution submitted that the defence was merely challenging the irregularity or inadequacy of the method or mode of proof for the said documents, and this challenge shall be barred as decided by the court in *Nachiappin v Lakshmi Ammal* [1966] 2 MLJ 95; [1966] 1 LNS 112, the objection as to the irregularity or

insufficiency of the mode of proof is only allowed to be made before the document is marked as an exhibit and admitted to the record. As such, the failure of the defence to challenge the legality and admissibility of the documents before it was marked as exhibits must be conceived as to waive the right of the defence to challenge it afterwards.

Interestingly, the prosecution also advanced that the documents in dispute shall be admissible since the defence had cross-examined the relevant witnesses on these documents. The prosecution had also relied on the established foreign case laws in supporting this argument. First, the prosecution cited the case of *Jet Holding Ltd and Others v Cooper Cameron (Singapore) Pte Ltd and Another and Other Appeal* [2006] 3 SLR (R) 769 where the Singapore Court of Appeal held that despite the documents had been marked and admitted into evidence without complying the provisions and rules of the relevant statute, but if the opposite party did not object the admissibility of these documents at that particular point in time, then that party cannot object to the admission of the said documents later particularly when the opposite party had cross-examined on the impugned documents. Moreover, the view observed by the Indian Supreme Court in the case of *Ram Janki Devi and Another v Juggilal Kamlapat* AIR 1971 Supreme Court 2551 was also invoked by the prosecution to affirm that the document was considered as it had been proved and could be read in evidence once the document was used in the process of cross-examination.

In resolving this legal question, the court had departed from the foreign legal authorities. The court had made the comparison between the foreign jurisdictions and the jurisdiction of this country. The court emphasised that the distinction must be drawn between the foreign authorities and the Malaysia legal authorities as the Malaysian courts are only bound to follow the *stare decisis* or the judicial precedent established by the Malaysian superior courts (Murtala Ganiyu Murgan et al 2015). Another speaking, the court scrutinized that it was inappropriate for the prosecution to base on Singaporean and Indian case laws in convincing the court to accept the foreign legal principle that the relevant documents having already been subject to cross-examination were justified to be admitted into evidence since there are the valid Malaysian legal authorities and case laws in relation to this issue which can be referred to. In the light of the Malaysian case laws, the court made reference to the judgment held by the Malaysian Supreme Court in *KPM Khidmat Sdn Bhd v Tey Kim Suie* [1994] 3 CLJ 1 to bring up the conventional canons that the admissibility and proof of the documentary documents must be regulated by the provisions or the rules of the EA itself and neither the conducts of mere marking of the documents as the exhibits by the court nor having cross-examination on that inadmissible documents would accord the same statutorily admissibility to such documentary evidences if the evidentiary basis prescribed by the relevant legal provisions has not been sufficiently met.

G. New Rules/ Novel Approach/ Alternative Views

Besides that, the defence also raised the doubt that the documents produced by the prosecution were actually the scanned documents in which the signatures were made through the cut and paste method, thus, all of these forged instruments or documents shall be inadmissible. However, the court had introduced a new rule in proving the signatures of the accused, where the court reckoned that the manner of the proof of the execution of the documents with the signatures shall not be limited to the traditional norm of signature by handwriting, the application of the law must go alongside with the current practice of the society. The court envisaged that

there was nothing wrong with having transfer instructions which bear a photocopied signature or a digital signature of a signatory on the relevant documentary instruments as it is an acceptable common banking practice in executing the business transaction by using such digital signatures save in accordance that the signatory agreed to the subject matter of the document containing the signatures, and for his sample signature be used for any such purpose.

In respect to the manner of the proof of the execution of the documents, the court had advanced a novel approach in interpreting the section 67 of the EA and observed that it is not necessary to prove the execution of the documents by the direct evidence where the witness must actually saw another affixing his signature. The court adopted an alternative view that the signature as required by section 67 of the EA as to the proof of the execution of the documents may be proved by using the circumstantial evidence. The origin of this novel approach of interpreting the section 67 of the EA may be ascertained from the judgement of the Federal Court in *Dato' Mokhtar bin Hashim v Public Prosecutor* [1983] 2 MLJ 232; [1983] 2 CLJ 10; [1983] CLJ (Rep) 101 where the court opined that:

... The signature or handwriting in a document may be proved by circumstantial evidence if that irresistibly leads to the inference that the person in question must have signed or written it and a document can also be regarded as evidenced by its contents and the internal evidence afforded by the contents can be accepted as authentication as when it states facts and circumstances which could have been known only to the person to whom the authorship is attributed. The execution or authorship of a document is a question of fact and may be proved like any other fact by direct as well as circumstantial evidence which must be of sufficient strength to carry conviction ... .

Therefore, in the instant case, despite the prosecution was not able to prove that the signature made on the documentary evidences was signed or made by the accused himself, but the court found that the existing circumstantial evidence was sufficient and could similarly lead to the irresistible conclusion that the signatures were that of the accused and it proved the execution of such documents by the accused as well.

In addition, the new rules of the admissibility of the computer evidence were also discussed by the court particularly the section 90A of the EA. The court viewed that by virtue of section 90A (1) of the EA, a document produced by a computer, or a statement contained in such document, shall be admissible as evidence if the document was produced by the computer in the course of its ordinary use, whether or not the person tendering the same is the maker of such document or statement. As for the requirement of tendering the certificate of proof under section 90A (2) of the EA, the court construed that such certificate is no mandatory and it is only necessary to be tendered in the situation where the admissibility of the computer evidence is challenged as in the case of *Standard Chartered Bank v Muka Singh* [1996] 3 MLJ 240. However, if the certificate of proof as prescribed by section 90A (2) of the EA is issued, then it is admissible as prima facie proof of all matters stated therein without proof of signature of the person giving the certificate as provided by the section 90A (3)(b) of the EA.

The case of *Gnanasegaran Pararajasingam v PP* [1997] 3 MLJ 1; [1997] 4 CLJ 6was also cited by the court in order to point out that despite the section 90A of the EA has seven subsections but it should not be read disjointedly as all of these form one whole provision for the admissibility of documents produced by computers, and the certificate of proof for the computer evidence is not necessary especially when

the oral evidence has been tendered by a person who is in charge of the operations of the computer and/ or has nexus to it. Anyways, in weighing the computer evidence admitted under section 90A of the EA, the court is guided by section 90B of the EA where the reasonable inference from circumstances relating to the document, including the manner and purpose of its creation or its accuracy or otherwise may also be drawn.

H. Non-Obstante Clauses

In spite of the court had found that the documentary evidences tendered by the prosecution were inadmissible at the preliminary stage, but subsequently the court held that such documentary evidences were admissible notwithstanding that the prosecution failed to comply with the rules of proof of the documents as provided by the EA. The court explained that the admissibility of these documents was in fact allowed by the section 71 of the AMLATFPUAA (Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001) and section 41A of the MACC Act (Malaysian Anti-Corruption Commission Act 2009).

It is indispensable to read through the section 71 of the AMLATFPUAA which provided that "Where the Public Prosecutor or any enforcement agency has obtained any document or other evidence in exercise of his powers under this Act or by virtue of this Act, such document or copy of the document or other evidence, as the case maybe, shall be admissible in evidence in any proceedings under this Act, notwithstanding anything to the contrary in any written law" and the section 41A of the MACC Act stated that "Where any document or a copy of any document is obtained by the Commission under this Act, such document shall be admissible in evidence in any proceedings under this Act, notwithstanding anything to the contrary in any other written law."

In this context, it is obvious to reveal that both of the section 71 of the AMLATFPUAA and section 41A of the MACC Act have provided the non obstante clauses which permitted the admissibility of the documents in any proceedings conducted under the AMLATFPUAA and the MACC Act regardless any inconsistency or contrary provided by any written law. According to the case of *Dato' Sri Mohd Najib Hj Abdul Razak v PP* [2019] 5 CLJ 93, the true objective and legal effect of the non-obstante clauses is unquestionable to give the overriding effect to the specific provisions which contained the non-obstante clauses over all other written laws which are in conflict and contrary to the underlying specific provisions.

On this basis, the approach employed by the court in interpretation the relevant provisions of the statutes were coincident with the cardinal principle of interpretation of *generalibus specialia derogant* which basically means that where a special provision is made in a special statute, that special provision excludes the operation of a general provision in the general law. Within this legal framework, the court observed that the EA is not the exclusive legislation or statute in regulating and governing the rules of evidences in this country, it is only the legislation which provided the general rules for the evidence law, and it must be subjected to the application of the other specific laws for the same aspects such as the AMLATFPUAA and the MACC Act. From that reason, the court accepted the submission presented by the prosecution that whatever irregularities in the compliance with the provisions of the Evidence Act 1950 of the prosecution on the issue of the admissibility of the documentary evidences as highlighted by the defence were unsustainable since the non-obstante clauses provided by the section 71 of the AMLATFPUAA and section 41A of the MACC Act would

render all such documents admissible and superseded the section 60 to 67 of the EA.

However, as expressed by the Federal Court in *Ho Tack Sien & Ors v Rotta Research Laboratorium SpA & Anor (Registrar of Trade Marks, Intervener)* [2015] 4 MLJ 166; [2015] 4 CLJ 20, the non-clauses must be subjected to the limitation of the same section as well and cannot be read as excluding the whole Act and standing by itself. Accordingly, it was emphasised by the court that non-obstante clauses provided by the section 71 of the AMLATFPUAA and section 41A of the MACC Act would only exclude the basic threshold set up by the EA for the admissibly of the documentary evidences, but the reception of these documents in evidence was definitely did not constitute proof of the truth of the contents of these documents.

CONCLUSION

After hearing of the submissions from both of the prosecution and the defence with the critical evaluation of the evidences, the court had come out with the decision that the case had been successfully proved beyond reasonable doubt by the prosecution against the accused and the defence failed to raise any reasonable doubt in favour of the accused, thus, the court found that the accused was guilty of the offences charged and convicted him on all seven charges.

The basis of the convictions was substantially founded on the establishment of the elements of crime for the relevant charges of offences proved by the prosecution against the accused. Moreover, all of these criminal elements proved by the credible evidences tendered by the prosecution. Under this circumstance, despite the defence had touched on several legal issues and tried to convince the court to agree that the documents evidences tendered by the prosecution were inadmissible and shall be rejected, but it was declined by the court.

Therefore, at the present moment, it is pragmatic to reiterate the proposition of law which had been formulated by the court in determining the issues pertaining to the aspects of the documentary evidence, documentary hearsay evidence and the digital signature.

The crux for the resolution of the issue pertaining to the admissibility of the documentary evidence is always having the inextricable relationship with the best evidence rule. It is undisputed that only the best documentary evidence can only be admitted in evidence unless it is otherwise provided by the law. It is also understandable that failure to comply with the best evidence rule or procedural requirement set up by the statute shall be fatal to the admissibility of the documentary evidence regardless it has been marked as exhibit by the court, by referring to the case of *Chong Khee Sang v Pang Ah Chee* [1984] 1 MLJ 377.

In respect to the criteria of the documentary hearsay evidence, by following the trite rule that since the documentary hearsay evidence is in fact hearsay in nature, thus, it is generally inadmissible as in consonance with Peters (2013). In other words, in the case of *Myers v DPP* [1964] 2 All ER 881, the documentary hearsay evidence is basically no different from the unsworn written assertions or statements which are made by unknown, unraced, and unidentified persons; therefore, it is clearly that such hearsay evidence must be inadmissible. Nonetheless, this cardinal rule of documentary hearsay is only applied for the evidence which is used as the proof of the contents of the documents; in contrast, the evidence will not be construed as hearsay and is admissible when it is proposed to prove the fact that it was made but not to establish the truth of the statements or the contents of the documents as in the case of *Subramaniam v PP* [1956] 1 MLJ 220; [1956] 1 LNS 115. Likewise, the more liberal approach also interpreted that documentary hearsay

evidence may also be constituted or admitted as the circumstantial evidence in proving the relevant facts of the case if the purpose of tendering such documentary hearsay evidences is not aimed to prove the truth of its contents but to establish the other relevant facts, by referring to *R v Rice* [1963] 1 All ER 832.

Next, it is correct for the court to interpret the relevant provisions of the EA with the purposive approach in dealing with the legal question of the digital evidence. As stated by the court, section 67 of the EA itself has not provided a definite manner in proving the signature of a person in executing a document. Although the section 67 of the EA must read together with other provisions of the same Act which provided the manners of proof for the authenticity of such signature, but all of these methods may neither be exhaustive and nor have the legal effect to bar the court in examining the authenticity or originality of the signature singed on the documents by adopting other reasonable approaches as long as it is made with the aim to uphold the justice and without prejudice to the substantial rights of the party. Another speaking, all of the valid and admissible evidences may be taken into consideration by the court in satisfying itself that the accused had signed the documents for its execution regardless it is direct evidence or circumstantial evidence. The amendment of the EA by the insertion of the sections or legal provisions in connection with the admissibility of the computer-generated documents such as section 90A and section 90B of the EA had obviously to demonstrate the intention of the legislation to relieve the rigidity and stiffness of the traditional rules of admissibility for the documentary evidences (Gita Radhakrishna 2009). Consequently, it is no wrong and inappropriate for the court in observing that the signature which attached or required for the execution of the documents may be done by the way of the digital signature with the cut and paste manner since it is the prevalent practice in this modern era.

Besides that, the most decisive factor in this case was concerned with the application of the legal concept of *generalibus specialia derogant* by the court in allowing the documentary evidences which had been tendered without complying with the statutory requirements provided by the general law of the EA to be admitted as the evidences in this case under the light of the non obstante clauses expressed by the specific provisions of the section 71 of the AMLATFPUAA and section 41A of the MACC Act. In addition, it was also rightly pointed out by the court that even though such documents were admitted in evidences by the court, but such admissibility would not affect the existing weight of credibility of such documentary evidences. Strictly speaking, the evidentiary weight of such documentary evidences would still being put on the yardstick of the rules of weight by the court albeit it had been smoothly bypassing the conventional admissibility rules for the original document in term of the best evidence rule and documentary hearsay (Barzun 2008).

NOTES

[1] Section 180(4) Criminal Procedure Code 1999 (Act 593).
[2] *PP v Dato Seri Anwar Ibrahim (No. 3)* [1999] 2 MLJ 1.

REFERENCE

Barzun, C. L. 2008. Rules of weight. *Notre Dame Law Review* 83(5): 1957-2018.

Gita Radhakrishna. 2014. Distinguishing between admissibility and authenticity of electronic evidence. *Malayan Law Journal Articles* 6(1): 35-52.

Gita Radhakrishna. 2009. Legal issues in electronic evidence. *Malayan Law Journal Articles* 4(1): 65-80.

Gita Radhakrishna, Myint Zan, and Dennis Khong Wye Keen. Computer evidence in Malaysia: where are we?" *Malayan Law Journal Articles* 3(1): 33-41.

Habibah Omar, Siva Barathi Marimuthu, and Mazlina Mahali. 2018. *Law of Evidence in Malaysia*. Ed. ke-2. Subang Jaya: Sweet Maxweel.

Murtala Ganiyu Murgan, Abdul Ghafur, and Abdul Haseeb Ansari. 2015. Operation of judicial precedent in Malaysia and Nigeria: a comparative analysis. *International Journal of Law* 1(1): 29-35.

Peters, M. 2013. *Law of Evidence in Malaysia*. Petaling Jaya: LexisNexis Malaysia Sdn Bhd.

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