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KUALA LUMPUR, MARCH 26 (BERNAMA) -- A LAWYER CLAIMED IN THE HIGH COURT HERE TODAY THAT THE HOME MINISTRY'S WITHHOLDING AND SUBSEQUENT RELEASE OF A FOREIGN MAGAZINE CARRYING AN ARTICLE ALLEGING DISCUSSIONS ON THE POSSIBLE SALE OF LIMBANG IN SARAWAK TO BRUNEI DARUSSALAM MEANT +CONSENT+ TO THE ARTICLE BY THE HOME MINISTER.

+IF THIS IS NOT CONSENT, I DON'T KNOW WHAT YOU CALL IT,+ ENCIK MUHAMMAD SHAFEE ABDULLAH, APPEARING FOR THE FAR EASTERN ECONOMIC REVIEW AND ITS EDITOR PEREK DAVIES, SAID. THE FEER AND ITS EDITOR ARE BEING SUED BY PRIME MINISTER AND HOME MINISTER DATUK SERI DR MAHATHIR MOHAMAD OVER THE ARTICLE THAT APPEARED IN ITS MAY 21 1987 ISSUE.

COUNSEL SAID AN OFFICER WHO SEIZED THE MAGAZINE AT THE AIRPORT HAD REFERRED THE ARTICLE TO THE MINISTRY.

+THE MAGAZINE WAS WITHHELD FOR AT LEAST SIX DAYS BUT IT WAS LATER RELEASED WITHOUT ANY ERASURE BY THE MINISTRY,+ ENCIK SHAFEE SAID IN ARGUING THAT THIS CONSTITUTED CONSENT TO THE ARTICLE BY THE MINISTER.

ENCIK SHAFEE WAS SUBMITTING ON THE APPLICATION BY THE TWO DEFENDANTS TO INCLUDE THE HOME MINISTER AND THE GOVERNMENT AS THIRD PARTIES IN THE LIBEL SUIT FILED AGAINST THEM BY DATUK SERI DR MAHATHIR LAST AUGUST.

IN ANOTHER APPLICATION, THE PRIME MINISTER IS ASKING THE DEFENDANTS TO SPECIFY THE NAME OF THE SOURCE OR SOURCES WHICH THEY CLAIMED HAD IN THE PAST PROVED TO BE WELL-INFORMED AND RELIABLE. -- MORE

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AMONG OTHER THINGS, THE DEFENDANTS, IN THEIR DEFENCE FILED LAST OCTOBER, CLAIMED THE ARTICLE WAS PUBLISHED AS A RESULT OF INFORMATION RECEIVED FROM SOURCES WHICH HAD IN THE PAST PROVED TO BE WELL-INFORMED AND RELIABLE.

DATUK SERI DR MAHATHIR WANTS PARTICULARS OF EACH AND EVERY OCCASION THE DEFENDANTS CONTENDED THE SAID SOURCE OR SOURCES HAD PROVED TO BE WELL-INFORMED AND RELIABLE, WHEN AND WHERE THE INFORMATION WAS RECEIVED AND IN WHAT FORM IT WAS CONVEYED.

THE HONG KONG-BASED MAGAZINE IN ITS MAY 21 1987 ISSUE HAD CARRIED AN ARTICLE ALLEGING THE PRIME MINISTER HAD DISCUSSED THE POSSIBLE SALE OF LIMBANG TO BRUNEI DARUSSALAM AT A STARTING PRICE OF US\$6 BILLION (M\$15 BILLION) DURING HIS VISIT TO THE SULTANATE IN MARCH LAST YEAR.

IN THE SUIT, DATUK SERI DR MAHATHIR AMONG OTHER THINGS, CLAIMED THAT THE WORDS IN THE ARTICLE CONCERNING HIM IN THE WAY OF HIS OFFICE AS PRIME MINISTER, IN THEIR ORDINARY MEANING, ARE UNDERSTOOD TO MEAN HE WAS ENGAGED IN AN UNCONSTITUTIONAL AND SURREPTITIOUS ATTEMPT TO SELL TO BRUNEI A PART OF THE TERRITORY OF SARAWAK WHICH IS A COMPONENT OF MALAYSIA.

DATUK SERI DR MAHATHIR SAID BECAUSE OF THE PUBLICATION OF THE SAID WORDS, HE HAD BEEN DAMAGED IN HIS CHARACTER AS PRIME MINISTER AND HAD BEEN BROUGHT INTO PUBLIC SCANDAL, ODIUM AND CONTEMPT. -- MORE
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THE FEER AND ITS EDITOR, IN THEIR DEFENCE, DENIED THE ARTICLE WAS MEANT TO DEFAME THE PRIME MINISTER.

THEY CLAIM THAT IF THE WORDS WERE DEFAMATORY, THEY WERE PUBLISHED UPON AN OCCASION OF QUALIFIED PRIVILEGE, CONTENDING, AMONG OTHER THINGS, THAT DATUK SERI DR MAHATHIR, WHO REPRESENTS THE CABINET AND THE GOVERNMENT, IS A PUBLIC FIGURE KNOWN IN MALAYSIA, NEIGHBOURING COUNTRIES AND THROUGHOUT THE WORLD.

ENCIK SHAFEE SAID THE MINISTRY HAD ALSO RELEASED THE SECOND EDITION OF THE MAGAZINE WHICH PUBLISHED AN APOLOGY (RELATING TO THE ARTICLE) WHICH HE CONTENDED WAS +ALMOST AS DEFAMATORY.+

HE SAID THAT IF A PUBLIC OFFICER SUSPECTED AN ARTICLE TO BE INFRINGING SECTION 9 (1) OF THE PRINTING PRESSES AND PUBLICATIONS ACT 1984, HE WAS DUTY BOUND TO INVESTIGATE OR TO +ACT ON IT+.

SECTION 9 (1) OF THE ACT IN PART SAYS THAT A SENIOR AUTHORISED OFFICER MAY REFUSE THE IMPORTATION INTO MALAYSIA WITHOUT DELIVERY OR RETURN TO THE SENDER OUTSIDE MALAYSIA, ANY PUBLICATION WHICH HE IS SATISFIED CONTAINS, AMONG OTHER THINGS, ANY ARTICLE LIKELY TO BE PREJUDICED TO PUBLIC ORDER, MORALITY AND SECURITY, OR WHICH IS LIKELY TO BE CONTRARY TO ANY LAW OR PREJUDICIAL TO PUBLIC OR NATIONAL INTEREST.

THE HEARING BEFORE JUSTICE DATUK AJAIB SINGH CONTINUES ON MONDAY. -- BERNAMA
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