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COURT-FEER

KUALA LUMPUR, MAY 4 (BERNAMA) -- THE HIGH COURT HERE WAS TOLD TODAY IT HAD NO DISCRETION TO DECIDE, AT THE INTERLOCUTORY STAGE, WHETHER THE FAR EASTERN ECONOMIC REVIEW AND ITS EDITOR SHOULD REVEAL THEIR SOURCES RELATING TO THE REPORT ON THE PURPORTED PROPOSAL TO SELL LIMBANG TO BRUNEI DARUSSALAM.

LAWYER MUHAMMAD SHAFEE ABDULLAH SAID EVEN AT THE HEARING OF THE LIBEL SUIT OVER THE REPORT BROUGHT BY PRIME MINISTER DATUK SERI DR MAHATHIR MOHAMAD AGAINST THE MAGAZINE AND ENCIK DEREK DAVIES, IT WAS NOT A MUST THAT A JUDGE COMPEL THEM TO DISCLOSE THE SOURCES.

HE WAS SUBMITTING IN AN APPLICATION TO GET THE TWO TO DISCLOSE THE NAME OF THE SOURCE OR SOURCES, PARTICULARS OF EACH AND EVERY OCCASION WHEN THEY CONTENDED THE SAID SOURCE OR SOURCES PROVED TO BE WELL-INFORMED AND RELIABLE, WHEN AND WHERE THE INFORMATION WAS RECEIVED, AND IN WHAT FORM IT WAS CONVEYED.

CITING CASES TO BACK UP HIS CONTENTION, HE SAID THE JUDGE COULD ONLY USE HIS DISCRETION AND ORDERED THE TWO TO REVEAL THE SOURCES AND THE OTHER INFORMATION SOUGHT IF THE PLAINTIFF COULD PROVE THAT THERE WAS SERIOUS MISCONDUCT ON THE PART OF THE JOURNALIST OR THE SOURCES.

THE PARTICULARS ARE SOUGHT BY DATUK SERI DR MAHATHIR, WHO IS SUING THE MAGAZINE AND ENCIK DAVIES FOR LIBEL OVER THE ARTICLE THAT APPEARED IN THE MAGAZINE'S MAY 21 ISSUE LAST YEAR. -- MORE
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IN THE SUIT, HE IS ALSO SEEKING UNSPECIFIED DAMAGES FOR LIBEL CONTAINED IN AN APOLOGY AND RETRACTION RELATING TO THE ARTICLE PUBLISHED BY THE MAGAZINE ON JUNE 4 LAST YEAR.

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

HE 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.

THE MAGAZINE AND ITS EDITOR, IN THEIR DEFENCE, DENIED THE ARTICLE WAS MEANT TO DEFAME THE PRIME MINISTER, ADDING THAT IF THE WORDS WERE DEFAMATORY, THEY WERE PUBLISHED WITH QUALIFIED PRIVILEGE AS DATUK SERI DR MAHATHIR IS A PUBLIC FIGURE KNOWN IN MALAYSIA AND THE WORLD.

ENCIK MUHAMMAD SHAFEE ALSO TOUCHED ON ORDER 78 RULE 6 OF THE RULES OF THE HIGH COURT. -- MORE
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THE RULE SAYS THAT IN AN ACTION OF LIBEL OR SLANDER WHERE THE DEFENDANT PLEADS THAT THE WORDS OR MATTER COMPLAINED OF ARE FAIR COMMENT ON A MATTER OF PUBLIC INTEREST OR WERE PUBLISHED ON A PRIVILEGED OCCASION, NO INTERROGATION AS TO THE DEFENDANT'S SOURCES OF INFORMATION OR GROUNDS OF BELIEF SHALL BE ALLOWED.

HE SUBMITTED THAT THE DEFENDANTS HAD PUT UP A DEFENCE OF FAIR COMMENT AND QUALIFIED PRIVILEGE AND THIS DEFENCE WOULD THEREFORE BE WITHIN THE RULES OF ORDER 78.

THE RULE, COUNSEL SAID, WAS A SPECIAL ONE CREATED PERTAINING TO DEFAMATION ACTION .

ENCIK MUHAMMAD SHAFEE ALSO CON TENDED THAT THE ISSUES INVOLVED WERE +VERY MUCH A PUBLIC INTEREST ISSUE.+

HEARING BEFORE JUSTICE DATUK AJAIB SINGH CONTINUES TOMORROW. --
BERNAMA

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