

15 MAY 1996  
LEAD Court-Yong  
YONG AND FOUR OTHERS PLEAD GUILTY, FINED RM1,000

KOTA KINABALU, May 15 (Bernama) -- Sabah Deputy Chief Minister Datuk Yong Teck Lee today pleaded guilty to an amended charge of taking part in an unlawful assembly and was fined RM1,000, clearing the way for his expected appointment as the next Chief Minister.

Four others jointly charged with him also pleaded guilty to the amended charge.

All of them paid the fine.

Magistrate Anita Harun convicted Yong, Gaya MP Philip Yong Chiew Lip, businessmen Awang Lamin Deramin, Peter Wong Kui Sing, and Akmat Umal Basah under Section 143 of the Penal Code which provides a jail term up to six months or a fine or both.

They were originally charged under Section 27(5) of the Police Act for participating in an illegal procession along Gaya Street here on Oct 11, 1990 when they accompanied Philip Yong to file his nomination papers as the Parti Bersatu Sabah (PBS) candidate in the parliamentary election for the Gaya constituency.

The offence is punishable under Section 27(8) of the same Act which carries a minimum fine of RM2,000 and jail up to one year upon conviction.

Under the federal and state constitutions, a fine of RM2,000 would have disqualified Yong Teck Lee and Philip from continuing as elected representatives.

Yong Teck Lee, who in 1990 was a PBS deputy president, left the party during a leadership crisis before the February 1994 state elections.

He formed the Sabah Progressive Party (SAPP) as president, together with Philip Yong and other former PBS leaders, and SAPP was admitted into the Barisan Nasional (BN) just before the 1994 elections.

Yong Teck Lee retained his state seat of Likas in 1994 while Philip Yong was returned in Gaya in last year's general election.

Yong Teck Lee, who is also state Finance Minister, was to have faced another charge under Section 27(4) of the Police Act for defying a police order to disperse from the procession at the same place and time.

That charge is punishable under Section 27(8) of the Act which stipulates a fine of not less than RM2,000 but not exceeding RM10,000 and jail of up to a year.

Prime Minister Datuk Seri Dr Mahathir Mohamad recently announced that Chief Minister Datuk Salleh Keruak had tendered his resignation and named Yong as the successor under the rotation system for the post.

The rotation of the post every two years among leaders of the three main Sabah communities -- Muslim Bumiputera, non-Muslim Bumiputera and Chinese -- was promised by Dr Mahathir during the 1994 state elections campaign.

However, Dr Mahathir held back fixing a date for Yong to be sworn in pending the outcome of his court case.

The potential legal obstacle has now been removed by the magistrate's verdict.

The trial of Yong and the four others was postponed on April 26 after a week-long hearing because the magistrate fell ill.

Four police witnesses including former Kota Kinabalu OCPD Kamaruddin Alias had testified.

On resumption of the hearing today, Senior Federal Counsel Datuk Abdul Gani Patail applied to have the charge amended and it was granted.

Yong's counsel Clement Skinner, in his mitigation, asked the court to either discharge all the accused or impose a nominal fine.

He said the court should consider the extenuating circumstances when the offence was committed, pointing out that the occasion was to file the nomination papers of Philip Yong with Yong Teck Lee as the proposer.

It was normal for the seconder and a large crowd of supporters to accompany him to the nomination centre, he added.

"In fact, this practice of processions going to nomination centres had become a norm on nomination day in Sabah so much so that any person taking part in such procession may be forgiven if he was under the impression that it was quite all right to take part," he said.

Skinner said the facts of the case showed it did not require a deterrent or a custodial sentence.

Gani said he would leave it to the court to exercise its discretion to mete out the sentence against the accused by taking into account the nature of the case as the punishment under Section 143 of the Penal Code may extend to six months.

The abrupt end to the case contrasts sharply with the long legal battle preceding it to stop it from coming to trial.

The case was first brought up in the magistrate's court on Dec 21, 1990.

The five had in May 1992 challenged in the High Court the jurisdiction of the magistrate's court to hear the case and at the same time sought a High Court declaration that the Police Act 1967 (Revised 1988) was ultra vires the Federal Constitution.

On Sept 15, 1992, High Court judge Datuk Syed Ahmad Idid Syed Abdullah dismissed the application and sent the case to the magistrate's court for trial.

When the case came up for trial before magistrate Steve Ritikos on July 20, 1993, the five applied to the court to decline hearing the case arguing it had inherent jurisdiction to do so on the ground of abuse of the process of the court.

Ritikos, however, ruled he had no jurisdiction to decline hearing the case which prompted the five to take the case again to the High Court seeking leave for a judicial review of the magistrate's decision and sought a prohibition order to be issued to the magistrate's court not to hear the case.

On Nov 14, 1994, High Court judge Datuk Suleiman Hashim upheld Ritikos's decision and, on Dec 7, 1994, they filed their appeal against Suleiman's decision in the Court of Appeal.

When the Court of Appeal rejected their appeal, they brought the case to the Federal Court which also dismissed their appeal on April 16 this year, and finally the case went to trial in the magistrate's court. --

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