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`SB interrogation of Umami, Azizan upset ex-CID head'

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KUALA LUMPUR, Fri. - It was extraordinary for the Special Branch to interrogate Umami Hafilda Ali and Azizan Abu Bakar, and former Criminal Investigation Department director Datuk Ismail Che Rus was dissatisfied about this, the High Court heard today.

CID deputy director SAC I Musa Hassan said Ismail expressed his dissatisfaction when he (Musa) told him about the arrest and interrogation of Umami and Azizan.

Umami and Azizan were interrogated to get them to retract allegations of sodomy and adultery they made against Anwar, the retractions were allegedly ordered by the sacked Deputy Prime Minister Datuk Seri Anwar Ibrahim.

Musa, the 13th prosecution witness, was testifying in Anwar's trial which started at 9.15am, seconds after the accused was ushered into the court.

Like yesterday's afternoon session, Anwar's wife Datin Seri Dr Wan Azizah Wan Ismail and her eldest daughter Nurul Izzah were not in court today.

The other daughter Nurul Nuha and other relatives were present.

Continuing his examination-in-chief of Musa, the investigating officer in the case, senior deputy public prosecutor Azahar Mohamad asked what he did to the letter Talqin Terbuka Untuk Anwar Ibrahim (Last rites for Anwar Ibrahim), P15, after it was given to him by Anwar's then ADC ASP Zull Aznam Harun.

Musa said he gave it to his officer ASP Zulkifli Mohamed to assist in the investigation under section 4(1)(c) of the Sedition Act. They were in the office of former Special Branch director Datuk Mohd Said Awang (SP1).

Azahar: Did Mohd Said tell you anything about P15?

Musa: He said he knew that two suspects were involved and the SB was trying to trace them. He asked for a CID arresting team to stand by.

Azahar: Did SP1 tell you the next course of action to be taken after the CID arrested them?

Musa: SP1 also told me that the SB would like to interview the suspects after they were arrested for intelligence information on P15.

To a question by the DPP, Musa said about 2pm on Aug 17, 1997, SB officer ACP Mazlan Mohd Din called him about the CID arresting team as the SB might be able to trace the suspects that day.

Musa said he told Mazlan that the team was ready and he could contact its leader Zulkifli.

The witness said about 8.30pm the same day, he got another call from Mazlan who asked him to go to Dr Ristina Majid's house in Bangsar as he had initial problems getting into the house.

Later, when they got in, the occupants had locked themselves in the master bedroom upstairs.

Azahar: Why did Mazlan want to enter the house?

Musa: To arrest the suspects, Umami Hafilda Ali and Azizan Abu Bakar who were known to be in the house.

Azahar: What did you do next?

Musa: I went to the house and arrived about 9pm or 9.15pm. It is a double-storey bungalow with a big compound. When I arrived, I found that SB officers led by Mazlan and CID officers led by Zulkifli were already in the house.

Musa said he entered the house and was told that Dr Ristina, her two children, her maid, Ummi and Azizan had locked themselves inside the master bedroom.

The witness said he asked Dr Ristina to open the door and told her that the police wanted to arrest Ummi and Azizan.

Azahar: How did you communicate with Dr Ristina?

Musa: I spoke to her through the closed door of the bedroom.

Azahar: What was her response?

Musa: Initially, she did not trust the police as she was suspicious of them since two or three days earlier, strangers were following her, Ummi and Azizan.

To a question, Musa said he introduced himself and heard Dr Ristina calling someone on the telephone.

He said Dr Ristina agreed to open the door later but the lock was jammed and he had to call a locksmith who also failed to open the door.

Azahar: Do you know why the door jammed?

Musa: Maybe before I arrived, the police tried to force open the door.

Musa said after the locksmith failed to open the door, he told Dr Ristina and those in the room to get out using the balcony.

Asked if he knew who Dr Ristina called, Musa said it was Deputy Inspector-General of Police Tan Sri Norian Mai "who confirmed that I was a police officer" and asked her to co-operate.

Musa said there were no other occupants in the house except for Dr Ristina, her children, maid, Ummi and Azizan.

Musa said Zulkifli arrested Ummi and Azizan soon after they were out of the room and they were taken to police headquarters in Bukit Aman by Mazlan.

Azahar: Who else were in the house apart from the five and the police?

Musa: The others in the house were Dr Ristina's former husband and Datuk Jamil Johari (director of management at Bukit Aman).

Azahar: Do you know when they came to the house?

Musa: Dr Ristina's ex-husband was there before I arrived and Jamil came after I arrived.

Azahar: Do you know why Dr Ristina's ex-husband came?

Musa: I do not know.

Questioned by Azahar, Musa said at 1.30am on Aug 18, 1997, he went to Mohd Said's office and was told that the SB wanted to interview Ummi and Azizan for intelligence information and they would be handed over to the CID about 9.30am or 10am that day.

Azahar: Did you brief your superior Datuk Ismail Che Rus at 9.30am on Aug 18, 1997, about the arrest?

Musa: Yes.

Musa said Ismail expressed his dissatisfaction over the SB's move to interview Ummi and Azizan, saying the CID should be the one to interrogate the two.

Musa: Anyway, I told Datuk Ismail that SP1 wanted to interview the two for intelligence information on P15.

Azahar: Was it a normal procedure for the SB to be involved in any CID investigation?

Musa: This is an extraordinary process in which the SB was involved in a CID investigation.

To a question, Musa said on the same day about 9.30am, Mohd Said asked him to go to his office and when he got there, Mohd Said told him that they had completed interviewing Ummi and Azizan and would hand them over to the CID.

Musa said the two were handed to the CID about 10am on Aug 18, 1997 and about 11am the same day, Zulkifli told him he had gone to Ummi's office

and seized several documents.

Azahar: What documents?

Musa: They were a draft of the letter Perihal Salah Laku Timbalan Perdana Menteri (The matter of the DPM's misconduct) in Ummy's handwriting, a computer diskette containing the letter and Azizan's (sworn) statement and a memo to the Prime Minister.

Azahar: Did Zulkifli show you the exhibits?

Musa: Yes.

When Azahar showed Musa the diskette (ID35), judge Datuk S. Augustine Paul asked if he was calling Ummy. The DPP looked at senior DPP Datuk Abdul Gani Patail who sat next to him, and after saying something to the leading prosecutor, Azahar said Musa had custody of the exhibit.

Paul said the diskette was not a public document and Azahar replied that he would argue later on the tendering of exhibits through Musa. In the meanwhile, he would leave the diskette to be marked as an ID.

The DPP showed Musa three other exhibits including a document which Musa said was handwritten by Ummy.

Counsel Gurbachan Singh objected, contending that Musa would not know that the document was written by Ummy since he was not present when it was written. Azahar asked Musa how he knew that the document, ID38, (the draft of Perihal Salah Laku Timbalan Perdana Menteri) was in Ummy's handwriting.

Musa said Ummy told him about it.

Gurbachan: I object, on the grounds that it was hearsay!

Judge: But she told him.

Gurbachan: She must state that she wrote it.

Azahar said parties should not be confused between admissible evidence and its weight. He said the document was admissible under section 60 of the Evidence Act.

Gurbachan said the section was not applicable, and citing another section of the Act, counsel said such evidence had to be a direct one.

Paul ruled that Ummy should explain it to the court.

Continuing his examination-in-chief, Azahar asked Musa what happened about noon on Aug 18, 1997, the witness said Mazlan told him that he had gone to Azizan's house and seized some documents.

When shown three documents, including the sworn statement, Musa said they were the same documents given to him by Zulkifli and Mazlan.

Azahar applied for the documents - Ummy's cover letter to the Prime Minister (ID14A) and the letter Perihal Salah Laku TPM (ID14B) - to be tendered through Musa.

Paul said, unlike a police report, these documents were not public documents and had to be tendered through the makers, unless there were other authorities allowing them to be tendered through the witness.

Judge: My mind is open to changes.

Azahar: We will try to change Your Lordship's mind.

Continuing his evidence, Musa said ID14A and P14C (Azizan's sworn statement) were the documents given to him by Zulkifli and Mazlan, but ID14B was not given to him.

To a question, Musa said Mohd Said called him about 1.30pm on Aug 18, 1997, to return Ummy and Azizan to the SB for further action. Musa said he told Zulkifli and Mazlan to hand the two to Mohd Said.

Azahar: When?

Musa: Azizan about 4pm and Ummy at 2pm that day.

Azahar: Did the SB return them to the CID later that day?

Musa: At 8.30pm, my officers and I went to SP1's office to find out about Ummy and Azizan and later, the SB handed them over to the CID. The SB also said Ummy and Azizan had written an apology to the Prime Minister for writing Perihal Salah Laku TPM. The SB also said they did not want to

extend their (Umami's and Azizan's) detention and asked that they be released.

At this juncture, Paul said most of the evidence had been adduced earlier through other officers, to which Azahar said Musa's testimony was to complete the flow of evidence.

To a question, Musa said he then released Umami and Azizan.

The court took a short break and when hearing resumed, Musa, when asked by Azahar, said the then Special Branch deputy director Datuk Amir Junus gave him copies of letters of apology from Umami and Azizan, Umami's cover letter to the Prime Minister Datuk Seri Dr Mahathir Mohamad, the letter Perihal Salah Laku TPM and Azizan's sworn statement.

Questioned by the DPP, Musa said he read the documents and the investigation into the letter Talqin was pursuant to Zull Aznam's report. Musa said he found the documents contained allegations of sexual misconduct and homosexuality.

Asked if he knew who was responsible for the letter Talqin, Musa said he did not know. However, he agreed that page five of the letter carried a list of organisations purportedly responsible for writing it.

To another question, Musa said ID14A, 14B and P14C were written by Umami and Azizan respectively.

Azahar: What was your next action?

Musa: I wanted to proceed with my investigation to find out the truth of the allegations against the Deputy Prime Minister.

Musa said he made an appointment to see Anwar on Aug 19, 1997, at his house to ask about the allegations and to record his statement.

Musa said on Aug 30, 1997, about 9.30am, Ismail told him that Anwar has asked to see him (Ismail) at his (Anwar's) office.

Musa: I was asked to be present.

Azahar: Did you go?

Musa: Yes, I did and met the accused that day.

Azahar: Who else were there besides you and Ismail?

Musa: The Attorney-General Tan Sri Mohtar Abdullah was also there.

Musa said he met Mohtar in the guest room at Anwar's office, but they did not speak. The witness said he did not know that the A-G was going to be there then.

Azahar: What happened in the room?

Musa: The accused asked me about the investigation on P15 and I told him that the police would carry out a thorough investigation to ascertain if the allegations were true or false.

Azahar: Did you tell him if at that stage the investigation was completed?  
early stage.

Azahar: What was the accused's response?

Musa: The accused said there was no need to investigate the matter further.

Anwar's other counsel Christopher Fernando objected, saying that the evidence was irrelevant, highly prejudicial and it had no probative value as far as the charges were concerned.

Azahar contended that the evidence was "very" relevant to the prosecution to show that Anwar had given certain directives to the investigation officer of the case in front of the A-G and CID director who could make decisions pertaining to the investigation of the case.

The DPP said the evidence was relevant to the present charges that Anwar had "some kind of advantage".

Fernando said it did not matter whether the evidence was favourable to the defence or the prosecution, it should be adduced based on the rule of relevancy.

Counsel said the court should reject the evidence even if it was admissible if the prejudicial value outweighed the probative value.

Paul asked Fernando to look at the charges and said Anwar had caused retractions to be obtained from Azizan and Ummi and asked what advantage did he get from this.

Fernando said that according to the charge, the advantage was that he (Anwar) would not be prosecuted.

Paul asked counsel if this was relevant to the charges and told counsel that he should not misunderstand the concept of prejudice.

Judge: If it is relevant to the charges, they have to adduce it. Otherwise, how will it be proved?

Fernando said the charges specifically stated that Anwar had asked Mohd Said and Amir to get the retraction, but here another person was brought in.

After several minutes of discourse between the judge and counsel, Paul overruled the objection.

Before Azahar continued to question Musa, Fernando pointed out that the evidence sought to be adduced was outside the ambit of the charges.

Once again, the judge overruled the objection.

Azahar then repeated his question to Musa who said Anwar told them that to continue with the investigation would go against the Prime Minister's findings that the allegations were mere slander.

Azahar: Did the A-G say anything?

Musa: Right, Datuk ... sorry, My Lord (there was laughter in court). The A-G advised the accused that it would be better for the police to continue the investigation to find out if the allegations were false so that action could be taken against the writer.

Azahar: Did the accused say anything about Ummi and Azizan?

Musa: Yes. He said he did not want to take any action against them.

Musa said he, Ismail and the A-G left Anwar's office after the meeting and when they met outside, the A-G asked why he was not informed about the investigation since it was a public interest case involving the Deputy Prime Minister.

Hearing was adjourned to Monday.