

30 JAN 1999

Court-Anwar (Witness)

ANWAR'S LAWYERS TO TAKE STATEMENTS FROM MAHATHIR AND DAIM

KUALA LUMPUR, Jan 30 (Bernama) -- The High Court here today allowed defence lawyers in the Datuk Seri Anwar Ibrahim trial to record statements from witnesses offered to them including Datuk Seri Dr Mahathir Mohamad and Tun Daim Zainuddin.

Justice Datuk S. Augustine Paul said the defence should use a eight-day break in the trial to record the statements, and requested the prosecution to bring the witnesses within easy reach of the defence.

He allowed the request by the defence after ordering Anwar to enter his defence on four amended charges of corrupt practice on the 50th day of the trial which began on Nov 2.

Defence counsel Christopher Fernando told reporters later that Anwar would be the first defence witness and he would probably be followed by Dr Mahathir.

Anwar's leading counsel Raja Aziz Addruse told the court earlier that the defence would like to record statements from witnesses offered to it "for the purpose of determining whether they will be helpful before we embark upon the defence".

Raja Aziz said defence lawyers had not actually gone into taking the statements from the witnesses as it would have been premature to do so until the court decided to call for the defence, and requested that the defence be allowed begin to present its case two weeks from next Monday.

Paul, however, felt two weeks was too long and fixed Aug 8 to hear the defence case.

In replying to the defence request to record statements from the witnesses, senior Deputy Public Prosecutor Datuk Abdul Gani Patail said the court should invoke Section 136 of Evidence Act 1950.

Under the provision, the court may ask the party proposing to give evidence of any fact in what manner the alleged fact, if proved, would be relevant, and only admit the evidence if it thinks it would be relevant.

"There is no law to compel a witness to give a statement to the defence. We can make them available but I cannot say that the statements can be recorded as a matter of right," said Gani.

He said the defence should explain to the court as to the materiality of its evidence and the relevancy.

"There are four to five witnesses who are public figures who have duties to perform involving the public and as a necessity, our submission is that the defence must be very clear as to what they want from the witnesses. Though we have made them available to the defence, I ask that my learned friends consider these factors too.

"If the evidence is not material or relevant then they can leave these witnesses to go about their duties. I also want to inform the court that though I have obtained the subpoenas for the five witnesses, we have not served the subpoenas on them," he said.

He said the witnesses are Dr Mahathir, Daim (Special Functions Minister), Domestic Trade and Consumer Affairs Minister Datuk Seri Megat Junid, Inspector-General of Police Tan Sri Abdul Rahim Noor and Attorney-General Tan Sri Mohtar Abdullah.

"We did not serve the subpoenas because we did not see them as material witnesses for the prosecution," Gani said.

He submitted that from the evidence adduced before court, there was nothing that could show that they could give any evidence which was

material.

Dr Mahathir, Daim and Megat Junid were among 47 witnesses offered by the prosecution to the defence.

The defence told the court on Jan 5 that it planned to call 22 witnesses from the list and others including International Trade and Industry Minister Datuk Seri Rafidah Aziz.

Approached by reporters, Raja Aziz said the defence would maintain that Anwar was a victim of a political conspiracy at the highest level.

In his reply to Gani's submission, Raja Aziz said the defence could not show how the witnesses were material until it had recorded the witnesses' statements.

"My learned friend cannot say that the witnesses are busy. That's for us to decide. I know they are busy people but they are on the witness list.

"On the question of relevancy and materiality, we are not going to talk about relevancy and materiality. We have seen irrelevant evidence being given and expunged," he said followed by whispers of approval from the public gallery.

Commenting on Section 136, Paul said the court had the power to inquire in what way the evidence of a proposed witness was relevant and to exclude the proposed evidence if it was not satisfied that the evidence was relevant.

"They may feel that a particular witness knows a certain thing, so they would be able to decide that the witness is relevant after having a discussion with the witness. After taking the statement, they may not decide to call them," he said.

Anwar, 51, faces four amended charges of abusing his position to interfere with police investigations into allegations of sexual misconduct against him.

The former Deputy Prime Minister and Finance Minister is charged under Section 2 (1) of the Emergency (Essential Powers) Ordinance No 22 of 1970 which carries a maximum jail term of 14 years or fine of RM20,000, or both, on conviction.

Anwar's wife Datin Seri Wan Azizah Wan Ismail, when met by reporters, expressed regret that the defence was allowed only a week to prepare its case.

Some 500 supporters of the "Reformasi" movement initiated by Anwar gathered near the court in support of him.

They were however ordered to disperse by the police.

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