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Anwar: I received complaints of corruption against ministers

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KUALA LUMPUR, Mon. - Datuk Seri Anwar Ibrahim today took the stand to defend himself on four corrupt practice charges, giving evidence to establish his case of a conspiracy against him.

Laying the foundation to show there was antagonism against him for going against decisions to close corruption investigations, Anwar testified he had received complaints of corruption against ministers, including the Prime Minister.

Accepting them in his capacity as chairman of the Cabinet Committee on management and good governance, he forwarded the complaints to the Anti-Corruption Agency for investigation.

He said in cases involving political leaders and senior government officers, the ACA had to wait for the Prime Minister's directive before it could send the file to the Attorney-General's Chambers for possible prosecution.

He said the file would be sent "on the assumption that the investigation was not obstructed or closed on the PM's orders", adding that the ACA would inform him if investigations were "obstructed".

At this point, Anwar was stopped from testifying further when the prosecution objected on grounds of irrelevance and hearsay.

Judge Datuk S. Augustine Paul upheld the objection after extensive arguments with the defence, dismissing the latter's arguments that the evidence was necessary to show "ill-will and bad motive" for the prosecution.

Anwar's leading counsel Raja Aziz Addruse argued that Anwar's actions, which went against decisions to close investigations, had given rise to antagonism and a motive for a prosecution "without any evidence".

However, Paul ruled that ill-will was not a defence, prompting Raja Aziz to burst out with: "The defence is faced with disadvantages all the way."

Anwar also alluded to his "political foes who would stop at nothing to achieve their agenda" and said he was briefed about the involvement of the Prime Minister's political secretary Datuk Aziz Shamsuddin.

"Within the Umno leadership, it is generally known that he (Aziz) harbours enmity towards me," Anwar said.

Anwar is charged with using his government position to direct former Special Branch director Datuk Mohd Said Awang and deputy Datuk Amir Junus to get Ummi Hafilda Ali and Azizan Abu Bakar to retract their allegations.

Ummi had alleged that Anwar had an affair with her brother's wife while Azizan claimed Anwar had sodomised him. Ummi wrote the allegations in a letter addressed to the Prime Minister in 1997.

Anwar testified that the Prime Minister had given him a "milder and shorter" version of Ummi's letter, told him to destroy it after reading and advised him to ignore the matter.

Speaking with confidence, Anwar settled to a comfortable pace after rushing out the first few answers and laced his testimony with subtle wit.

A spark of anger, however, flashed when Attorney-General Tan Sri Mohtar Abdullah, now leading the prosecution team, made a remark when Anwar switched from using Bahasa Malaysia to English.

Mohtar's comment about the "champion of the national language", prompted Anwar to say: "I am beyond such pettiness."

Anwar began in Bahasa Malaysia but switched to English when his counsel did.

On his "directive" to Mohd Said and Amir, Anwar said he told them to "investigate thoroughly" and did not ask for Ummi or Azizan to be arrested.

(Ummi and Azizan were arrested and interrogated to get their retractions).

Anwar explained that he was reluctant to lodge a police report against Ummi's allegations because the Prime Minister had advised him to ignore it.

Moreover, other ministers also did not lodge reports about allegations against them, he said.

Elaborating, Anwar said there were allegations that the Prime Minister had married a Chinese woman and there was also a videotape of him (Dr Mahathir) as alleged by former Umno supreme council member Marina Yusof.

"There was also an allegation against (Datuk Seri) Megat Junid (Megat Ayob, Domestic Trade and Consumer Affairs Minister) who was said to be involved with the murder of a woman called Mustakizah," Anwar said. "None of them lodged police reports."

Today's hearing began with the A-G announcing he would lead the prosecution team.

Judge: (speaking in Bahasa Malaysia) Before I begin proceedings, I would like to advise the defence not to give any Press statements about any aspect of the case, especially comments on the evidence or court rulings.

This is against the Legal Profession (Etiquette and Practice) Rules, and many also tarnish the image of the Bar Council.

It may also be against my ruling on Oct 5, 1998 that no statements should be made about the guilt or innocence of the accused. A lawyer should be an example to all to ensure that court rulings are obeyed.

A-G: I take this opportunity to draw the court's attention to this. My team obtained information from the Internet that defence lawyers Zulkifli Noordin and Pawancheek Merican have been giving speeches in the UK and US on Sept 2, 1998. They were said to have talked to law students in Cambridge University.

(Mohtar then hands copies of Internet report over to the judge and defence counsels).

I am not telling this to the court to take contempt proceedings but based on what Your Lordship has just said. But if necessary, if ordered by the court or from my own consideration later, I might decide to take action.

The statements (of Zulkifli and Pawancheek) were on the trial and Your Lordship. I won't say any more. Perhaps Your Lordship can give me guidance.

Paul commented that the statements were serious.

The A-G said while he had advised government servants not to make such statements in public, "here is the defence team going on a spree in the US and UK, saying whatever they like."

Asked by the judge, Raja Aziz said he did not know about this.

On the issue of contempt, he had raised more serious matters which happened in the country where the "highest authority" have made statements to the effect that Anwar should be found guilty if the country was to have peace.

The court, Raja Aziz said, had declined to take action and instead suggested that it be left to the Attorney-General.

He also said the A-G had mentioned two show-cause notices - to Bar Council vice-chairman R. Chelvarajah and former Minister in the Prime Minister's Department Datuk Nazri Aziz.

"While Chelvarajah's explanation was accepted, it was said at that time that Nazri did not reply and apparently refused to," Raja Aziz said.

He said not much store could be set by the A-G's current move, and Zulkifli and Pawancheek's alleged speeches were not even made in the country.

A-G: Let me assure the court that the Public Prosecutor's office is seriously looking into the matter (of statements by people not involved in the case) and will take appropriate action after the trial.

We don't want to do anything to impede the progress of the trial. We will take action if the evidence warrants.

What my learned friend has failed to note is that we are not talking about statements by the government, opposition or reformasi leaders. We are talking about officers of the court, members of the defence team who are making remarks outside this hall of justice.

Paul said he accepted the A-G's explanation about remarks by other people and agreed that the court should be more concerned about statements by persons involved in the trial.

While he left the matter to the A-G, Paul said his preliminary view was this: "There is no shelter for committing the offence overseas as it concerned a matter in Malaysia."

Raja Aziz: On the A-G leading the prosecution, we are concerned because he was one of the witnesses on the prosecution's list. In the evidence of PW13 (SAC I Musa Hassan) about his meeting with the accused, the A-G was present.

Although he was not called by the prosecution, that fact will be touched upon in our final submission. In the evidence we will present, the A-G will be featured at various meetings.

A-G: (cites the Federal Constitution and Criminal Procedure Code on his right to conduct criminal prosecutions). Yes, my name was on the list specifically at my direction. I was a potential witness because I had some personal knowledge about some aspects. I elected not to lead the prosecution case. There is nothing in law that the A-G must be impartial. But I have to be fair and just.

At the end of the prosecution stage, the A-G was made available to the defence and they had politely declined to accept me as a defence witness. For the record, I am no longer a witness.

They had no use for me...they had never applied for a subpoena for me, they applied for the PM, Tun Daim (Zainuddin, Finance Minister), Megat Junid, Tan Sri Rahim (Noor, former Inspector-General of Police) but Tan Sri Mohtar Abdullah, the A-G, they don't want him.

Raja Aziz argued that no one can appear as counsel, including for the prosecution, if he had been involved in events in the case.

"If anything is said (at defence stage) about the A-G, is he going to say it is not true?" Raja Aziz said. "That's where the conflict arises."

The A-G replied that as the Public Prosecutor, he was involved in prosecution of all major cases and gave an assurance that if a conflict arose, he would withdraw.

Judge: My ruling: In law, the A-G is entitled to conduct prosecution of any case and the court cannot question the exercise of his discretion. The court is also not entitled to preclude any advocate or solicitor from appearing. If there is any breach, it is for the Bar Council to take action.

The part played by the A-G in the case is like that in any other case. He is no longer a witness as the defence did not elect to call him. If the defence feels prejudiced by his conduct of the prosecution, submission may be made and the court will consider (and rule) accordingly.

Raja Aziz: I call the accused as the defence's first witness.

Anwar left the dock, carrying his briefcase and gave the thumbs-up to his family as he walked to the witness box. He took the oath in Bahasa

Malaysia.

He gave his name and age to the judge.

Judge: Address?

Anwar: Penjara Sungai Buloh.

(Anwar then asked for paper and a pen to jot down "complicated" questions).

Raja Aziz: (in Bahasa Malaysia) When did you become an Umno member?

Anwar: (in Bahasa Malaysia) In 1967 but became active only in 1982.

Raja Aziz: What posts did you hold?

Anwar: I held the posts of Umno Youth chief in 1982, vice-president from 1987 to 1993, and I was deputy president. I am now sacked.

Asked to name his Government posts, Anwar said in 1982, he was Deputy Minister in the Prime Minister's Department, in 1983 Youth, Sports and Culture Minister, in 1984 Agriculture Minister, in 1986 Education Minister, in 1991 Finance Minister and in 1993 Deputy Prime Minister.

"Now, I am jobless," he said.

As Finance Minister, he said his duties were economic management, national revenue and taxation, national budget, supervision of Bank Negara and financial institutions, and securities industry.

As DPM, he assisted the PM and carried out functions as instructed by the Cabinet. Anwar said he could not take decisions without the PM's approval except when permitted under law or carrying out a Cabinet decision.

On his Cabinet functions, he said he was chairman of various Cabinet Committees including on management and good governance, and adhoc committees on Bakun and KLIA.

"The problematic projects I normally handle," Anwar said.

On the committee on good governance, Anwar said it was to ensure smooth administration, efficient financial management and to fight corruption in the government. Among its main functions was to study the Auditor-General's report.

Anwar said he was chairman from the time the committee was formed in 1992 until he was sacked on Sept 2, 1998. Its members were four ministers, Chief Secretary to the Government, A-G, Anti-Corruption Agency director-general and two secretaries-general.

Anwar said as chairman, he received reports from the ACA and Mampu, and advice from the Chief Secretary, A-G and other senior officers.

(As DPM, he often met senior officers like the Economic Planning Unit director-general and Special Branch director).

Of these people, Anwar said the EPU director, Chief Secretary, A-G and IGP were directly under the PM's authority.

Raja Aziz: Why don't they meet the PM himself?

Anwar: They meet the PM as well...but sometimes they might find it difficult to meet the PM who is busy with big projects and thus, they are specifically my duties. They realise that I do not have the authority or jurisdiction.

Raja Aziz: Do you know why they met you when you had no authority?

Anwar: From what they told me, it is because it is easier to meet me and sometimes, they want me to send the information to the PM because they know that my relationship with the PM is very close.

Raja Aziz: What are your duties as chairman of the committee on good governance?

Anwar: The duties are very heavy and complicated, and not welcomed by many parties. This was admitted to by the ACA and A-G. This is because the committee receives the most complaints about government mismanagement and corruption, including allegations against Ministers, senior officers and the PM himself.

Anwar said the committee had decided that all such allegations be referred to the ACA and not discussed at its meetings.

Allegations on disciplinary problems were referred to the Chief Secretary and on finance, to the Finance Ministry.

The committee also seeks explanations from those reprimanded in the Auditor-General's report, including for wastage of billions of ringgit.

A-G: I would like to (offer) advice: if specific examples infringes the Official Secrets Act, I think he should be warned.

Anwar said his answer was based on widely-known facts, citing the wastage in the store division of the Public Works Department and Defence Ministry.

On allegations of corruption, he said the ACA investigated them and submitted progress reports to him and the PM.

"I personally received complaints," Anwar said, "because of public perception that serious allegations would not be covered up."

Raja Aziz: Do the ACA's reports contain recommendations?

Anwar: Usually, it provides the progress of the investigation, whether the case was considered serious but decisions on whether to take action are referred to the A-G's Chambers.

Raja Aziz: By whom?

Anwar: The ACA. This is on the assumption that the investigation was not obstructed or asked to be closed on the PM's orders.

Raja Aziz: The ACA gives the report to you and PM, and then how does it refer to the A-G?

Anwar: Normal cases are referred to the A-G. But in certain cases, the ACA has to wait for the PM's directive before referring it to the A-G.

Raja Aziz: The reason?

Anwar: Because it involves political leaders or senior government officers.

Raja Aziz: After the PM's decision, the matters are sent to the A-G?

Anwar: I don't know if the ACA refers all cases to the A-G, because the ACA always informs me if there are obstructions to further investigations.

Raja Aziz: Can you explain what you mean by "obstructions"?

Immediately, Senior Deputy Public Prosecutor Datuk Abdul Gani Patail objected.

"What has this to do with the case?" he asked. "If we carry on like this, we will be talking about the government, politics and all, except the case."

Raja Aziz replied that as chairman of the committee, Anwar had a very unpleasant task.

A-G: We all have unpleasant tasks. I have the most unpleasant task in this prosecution. Like traffic (cases), we can't say that all are speeding to justify that I am speeding ...I have given him a warning. Be careful, you are treading where angels fear to tread.

Asked by Paul the relevance of his question, Raja Aziz said it was to show motive and conspiracy.

"If we have to justify every question, we may as well tell the defence case," he said.

Raja Aziz and Paul argued on the relevance until the court took a break. During that time, Anwar spoke to his family and, turning to a foreign reporter, said the defence would try to switch to using English.

When hearing resumed, Raja Aziz said his question was to show obstructions to the ACA investigation, "obstructions which could only have been by the PM".

Again, the judge asked the relevance and counsel said it showed motive and conspiracy. After extensive argument, the judge disallowed the question.

Raja Aziz then asked Anwar about specific instances of obstructions to ACA investigations but Paul interjected, ruling that it was the same line of questioning.

Counsel asked if the court was taking the stand that the defence could not set out the background for establishing its case of conspiracy.

But Paul said such matters were only allowed if they were relevant to the facts in issue.

Raja Aziz said the evidence was to show that Anwar had to take decisions which went against others' decisions to close investigations, and, thus, had caused people to be antagonistic towards him.

"That provides the motive against the accused," he said.

Judge: What kind of motive?

Raja Aziz: To prosecute, to make sure he gets convicted ... to show that this prosecution was instituted without any evidence ... this was also part of our argument about amending the charges because the prosecution could not prove its original charges.

Gani: My learned friend should be aware that the amendments did not mean that we could not prove the charges. On motive, it cannot be proven by hearsay.

I have to say that if this kind of evidence is going to come up, it's within the chambers' knowledge that the accused has come to the chambers to ask for some things to be done and that's obstruction.

When I say this, they go ahhhhhh! (in protest), but if they say it, why no Ahhhhhh. What's good for the goose is good for the gander.

Raja Aziz: I don't understand that argument. What we are saying is that the prosecution was instituted because of ill-will and bad motive caused by the accused performing his duties. If there is ill-will, the whole fabric of the prosecution case becomes an issue.

The A-G objected that the evidence to be given by Anwar was hearsay.

A-G: (If they want the evidence) call the government servant (who told Anwar of the "obstruction") and we will cross-examine. We can't have hearsay pouring from the accused's mouth. I can also mention instances where the accused had done certain things but I am not going into it.

Raja Aziz: If necessary, we will call ... there are documents to back it up.

A-G: Can he give an undertaking that he will call and name them?

Raja Aziz: If necessary.

After further argument, the judge said the allegation of ill-will and bad motive was not a defence. If defence wanted to pursue it, they should have applied to quash the charges at the initial stage.

"I rule that since your argument to go into such evidence is based on wrong reasoning, such questions are disallowed," he said. "The law is clear and my hands are tied by the law."

Raja Aziz: We are facing disadvantages all the way. Any evidence that is favourable to us is expunged. This is the first time I have seen charges amended and evidence expunged. We have to be very careful that a ruling is made properly, not such that the defence's hands are tied.

Judge: Does following the law tie your hands?

A-G: The prosecution is equally unhappy about the expunging. If they feel their hands are tied, our legs are tied but we obeyed the ruling.

The judge ordered Raja Aziz to proceed to another topic.

Raja Aziz: (in English) Did PW1 and PW11 (Mohd Said and Amir) come to see you often?

Anwar: (in English) Yes.

Raja Aziz: I am sorry, do you prefer to speak in English or Bahasa Malaysia?

Anwar: If you ask in English, I will reply in English.

A-G: I would like to make note that the champion of the national language (has elected to speak in English).

Raja Aziz: That's so petty.

Anwar: I have gone beyond such pettiness. If the question is in Bahasa, I will reply in Bahasa.

To questions, Anwar said in English that Mohd Said and Amir had seen him regularly before and after 1997, to brief him on political and economic issues and the general public reaction to government policies and leadership.

They saw him because they did not have easy access to the PM, and Mohd Said had said it was difficult to present critical reports to the PM, he said.

Anwar said Mohd Said told him that PM was not positive about reports on the SB's views of his remarks, citing two examples - perceptions of rampant and pervasive corruption in the country and the lack of action, and the PM's outburst against ulamak, religious scholars and Islamic law which was viewed negatively by the Muslim community.

Raja Aziz: These meetings with the SB, were they at fixed times?

Anwar: A minimum of once a month but on occasions we have more meetings. Because of my busy schedule, I normally see them at home after a function or dinner. This is not unusual ... I have met the Bank Negara governor or EPU DG at these times although Datuk Gani mentioned that he thought this odd.

Anwar said the meetings were about 9.30pm to 10pm, or later, and were "cordial, informal and friendly, like most of my meetings with the A-G."

He said he had met Mohd Said at his office, and the appointments were made by his former private secretary Mohamed Azmin Ali or ADC ASP Zull Aznam Harun.

Asked about the sex allegations against him, he said it was common to receive "flying letters" before an Umno general assembly against every leader. The PM, he said, had given him a letter containing shorter and milder allegations by Ummi, and which also mentioned her brother Azmin.

Raja Aziz: Did you read the letter?

Anwar: Yes. The PM told me to read and destroy. He gave me a short lecture on how to deal with these matters, saying even he had received serious allegations ... about him being married to a Singapore Chinese girl. He said he always ignored these letters and advised me to learn to ignore them too.

When hearing continued after the lunch break, Anwar said he took the letter to his office, read it and confided in Azmin, telling the latter to shred it, which he did.

Anwar said he saw Ummi's letter (Perihal Salah Laku Timbalan Perdana Menteri) several days after he met the PM, but could not remember how he came across it.

Anwar: I can recollect that the first serious discussion on it was when Mohd Said and Amir came to see me during a scheduled briefing in my office.

Anwar said the briefing was on either the Shi'ite or Arqam movement, and was held on the instructions of the PM and National Security Council. He said it was an official meeting and Mohd Said was alone.

Anwar said he asked Mohd Said to stay back after the meeting and asked him about it. He said he had not seen the letter but was told about it.

Raja Aziz: What did you ask PW1 (Mohd Said) about the letter?

Anwar: I merely asked him if he was aware of a letter the PM had given to me which contained allegations against me ... at that time, I did not know about P14 (Ummi's letter).

Raja Aziz: What did PW1 tell you?

Anwar: He said he would find out more and brief me later, and also mentioned that he would bring Amir along.

Asked what happened next, Anwar said Mohd Said and Amir briefed him on the letter either that night or the following night.

Anwar: If I can be shown a copy of my diary ... this is my personal diary, but it was kept by the Government for four months.

After referring to it, Anwar said the meeting on Aug 11, 1997 was at 8.45am and not 9am. The meeting in the evening was not entered in the diary, he said.

Anwar: I wish to clarify that the meeting at night with the Special Branch or other officers were not recorded in the diary.

Raja Aziz: Why is that so?

Anwar: Most of the meetings were conducted at home at night and they were private meetings and not under the jurisdiction of my governmental responsibilities and I considered my meetings with PW1 and PW11 (Mohd Said and Amir) as private and personal.

Anwar said Mohd Said and Amir told him that the IGP had received Ummi's letter from Megat Junid.

Anwar: I looked at P14 (Ummi's letter) and told them that this was not the letter which I received from the PM.

Anwar said the two officers expressed their concern on the timing of the letter which coincided with the Umno general assembly.

He told the officers about the PM's advice and considered the allegations as "malicious, scurrilous and irresponsible." Anwar said he denied the allegations vehemently.

Anwar: They said they were not interested in the allegations, but suspected there were attempts by some politicians to smear my reputation and that's when I told them to investigate thoroughly.

Anwar also said the IGP had seen the letter.

Anwar: My impression was that the IGP was fully aware of what they intended to do.

Asked why the officers were concerned with the timing, Anwar said they believed that others were involved and this would affect national security since it concerned the smearing of government leaders.

Raja Aziz: What were their reactions?

Anwar: They were keen to find out the personalities involved and those who orchestrated from behind. I fully agreed because I know fully well the malicious intention of the writer and that I have political foes who would stop at nothing to achieve their agenda.

Asked by counsel if he knew about the anonymous letter Talqin Terbuka Untuk Anwar Ibrahim (Final Rites for Anwar Ibrahim), Anwar said he did and but was uncertain if the matter was brought up during the discussion.

Anwar said he had seen the Talqin several times, the first time being on or about Aug 11, 1997.

Raja Aziz: What is your feeling (about the Talqin)?

Anwar: Some of the allegations were similar to those in P14 (Ummi's letter) and that was why P15 (Talqin) and P14 were discussed together.

Anwar said he did not believe the organisations, including Abim whose names were found on the Talqin, were involved. Mohd Said and Amir agreed with him.

Anwar said they proposed that he lodge a report to facilitate investigations.

Raja Aziz: Were you happy to lodge a report?

Anwar: Not initially, because we receive hundreds of such letters and I thought the PM was right then when he advised me to ignore such letters. Furthermore we had similar allegations against other Ministers who did not lodge any police report.