

30 AUG 1999

Court-Suit (Anwar)

ANWAR FAILS IN DEFAMATION SUIT AGAINST PM

KUALA LUMPUR, Aug 30 (Bernama) -- The High Court here today struck out the RM100 million defamation suit brought against Prime Minister Datuk Seri Dr Mahathir Mohamad by his former deputy, Datuk Seri Anwar Ibrahim.

Justice Datuk Dr R.K.Nathan, in allowing Dr Mahathir's application to strike out the suit, held that the suit is frivolous and vexatious and an abuse of the process of the court.

"I grant the defendant's application and order the suit to be struck out under Order 18 Rule 19 (1)(a),(b),(d) of the Rules of the High Court and also under the inherent jurisdiction of the court.

"The defendant will have his costs," he said.

Anwar filed his suit on Jan 25, claiming that the Prime Minister had falsely and maliciously spoken to local and foreign reporters in a news conference held at the Prime Minister's Department accusing him of committing immoral act.

The former deputy prime minister claimed that Dr Mahathir uttered the words knowing that they would be published locally and internationally.

In his statement of defence filed on March 22, Dr Mahathir contended that he spoke the words as prime minister on an occasion of qualified privilege.

He said the words were published in the course of discussion of government and political matters which concerned Anwar in relation to his suitability for the office he held and after due inquiry and investigation into the matter.

Anwar, in his reply, said the defence of qualified privilege was not open to the prime minister because he had acted maliciously and in bad taste by uttering and causing the offending words to be published and re-published.

Besides damages, interest and costs, Anwar wanted an injunction restraining Dr Mahathir from further uttering such words against him.

Nathan, in his 25-page judgment, said that having considered all the issues raised by both parties he had no hesitation in concluding that Anwar's claims were "obviously unsustainable".

He said Dr Mahathir's words were in response to the call on him to explain the removal of Anwar as the DPM as well as the deputy president of Umno.

"This to my mind indicates a mind devoid of malice," he said.

In relation to the words spoken at the news conference on Sept 22, 1998, the judge said he had no hesitation in concluding that the prime minister's words were merely statements of facts already widely published before the impugned words were spoken.

"Even though the defendant had been briefed by the police much earlier, he, however, did not make any statement in regard to this until this information had been widely published in all newspapers following the conviction of Munawar and Sukma," Nathan said.

Dr Munawar Ahmad Anees, Anwar's former speechwriter, and Sukma Darmawan Sasmitaat Madja, Anwar's adopted brother, were each sentenced to six months' jail by different session courts on Sept 19 last year for allowing Anwar to sodomise them.

The judge said it was clear that Dr Mahathir's words were based on the information gathered by him from the sources identified by him in the words spoken at the press conference together with the acquisition of the news

relating to the convictions of Munawar and Sukma carried in all newspapers on Sept 20, 1998, two days before the words were spoken.

He said it was also evident from the charge, the facts of the case as admitted by Munawar and the notes of proceedings and the grounds of judgment that Anwar played an active role in the act of gross indecency with which Munawar was charged. Besides, the said offence as stated had taken place at Anwar's house.

"In the circumstances, it is my finding that all these facts relating to Munawar's charge and conviction point directly to the involvement of the plaintiff and indeed confirm the defendant's words to be true in substance and in fact.

"It is my judgment therefore that the defence of justification is obviously available to the defendant," he said.

He said that in Sukma's case, there was also a confession signed by him and tendered in court as part of his plea in mitigation.

It was clear that the acts of gross indecency committed by Munawar and Sukma involved two persons and "that the other person involved in both instances was none other than the plaintiff himself", he said.

The judge said Dr Mahathir's words spoken in the press conference did not state anything by way of news for the first time as Munawar and Sukma being charged and convicted were very much of public knowledge.

He said Dr Mahathir was duty-bound to inform the public on Anwar's removal.

"It is my judgment therefore that, given the indisputable facts before him based on the events that took place prior to the defendant speaking the said words, and the calls made on the defendant to explain the removal of the plaintiff as the deputy prime minister and the deputy president of Umno, the defendant, as the prime minister of the country, was indeed duty-bound to have disclosed the information concerning his ex-deputy," he said.

He said the criminal proceedings relating to Munawar and Sukma which clearly identified Anwar as the active partner and the news item relating to the proceedings, carried by all the newspapers in circulation in the country, no doubt excited public interest, including that of the journalists who wanted to question Dr Mahathir on the news which was undoubtedly of national interest.

He said the said words were in response to questions put to the prime minister.

Nathan also held that the defendant, as the prime minister and president of Umno, was obliged and indeed compelled to respond to Anwar's attacks against the government, himself and Umno, on the "political conspiracy of the highest level".

He said Dr Mahathir's words were uttered with the view to repelling the charges made by Anwar and that they were bona fide and were relevant to the accusations made by Anwar.

Nathan held that the defendant's words were spoken on an occasion of qualified privilege and concerned the government and the political affairs of the country which related to Anwar's removal from both the cabinet and Umno.

"The defendant's words, I find, indeed concerned the question as to the plaintiff's fitness for the public offices he had previously occupied and to my mind, this, therefore, clearly became a matter of public interest," he said.

He said it was clear that Dr Mahathir could have spoken the words complained of as soon as he was informed by the police but he did not do so and he only spoke the words complained of following the convictions of Munawar and Sukma.

"It is important that the primus inter pares of the country and his

cabinet colleagues be protected from such frivolous, vexatious and abusive suits.

"Otherwise, rather than running the country towards achieving peace and prosperity for its citizens, the officials of the government will forever be looking over their shoulders for fear of being dragged to court with an unwanted, but well heralded suit," he said.

Dr Mahathir was represented by counsel Datuk Mohamed Adnan Shuaib, Cecil Abraham and N. Chandran while Anwar was represented by Karpal Singh.

Karpal Singh, when met later, said Anwar would appeal against the decision.

-- BERNAMA

NHD JK