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Aug 30 decision on PM's application

KUALA LUMPUR, Mon. - The High Court will decide on Aug 30, an application by the Prime Minister to strike out a defamation suit filed against him by Datuk Seri Anwar Ibrahim.

Judge Kamalanathan Ratnam said this after hearing submission by counsel for both parties today.

Datuk Mohd Adnan Datuk Shuaib, for Datuk Seri Dr Mahathir Mohamad, said the Prime Minister's main defence was of justification and qualified privilege.

He said the words complained of (which were spoken by Dr Mahathir to journalists on Sept 22 last year) were justified as they were true in substance and in fact (which is an absolute defence in a defamation suit).

Adnan said Anwar's former speech writer Dr Munawar Ahmad Anees and his (Anwar's) adopted brother Sukma Darmawan Sasmitaat Madja were convicted two days before Dr Mahathir spoke to the journalists.

Munawar and Sukma were jailed six months each on Sept 19 last year for allowing Anwar to sodomise them.

In his suit filed on Jan 25, Anwar claimed, among others, that Dr Mahathir had on Sept 22 last year "falsely and maliciously" spoken to local and foreign reporters accusing him of committing immoral acts.

Adnan said that when Dr Mahathir spoke the words, both Munawar and Sukma's criminal proceedings, including their convictions, had already become public knowledge, given the wide media coverage.

Adnan said what Dr Mahathir said to the journalists was information received from the police relating to the gross indecency committed by Anwar on the two, as admitted by them in their respective criminal proceedings. (Dr Mahathir was the Home Minister at the time.)

Relying on the defence of qualified privilege, Adnan said Dr Mahathir was duty bound to make the statements given his position and the pressure on him to explain to the nation the reasons for having removed Anwar from his Cabinet and political positions.

He also said that if the court allowed Anwar to proceed with the suit, it would mean re-opening matters relating to Munawar's and Sukma's criminal proceedings, i.e. re-litigation.

Karpal Singh, for Anwar, said when Dr Mahathir raised the defence of justification or fair comment, he was clearly entitled to rely on Munawar's and Sukma's convictions. However, he said, Dr Mahathir was not patient enough to wait for the trial.

"He wants to deprive the plaintiff of his day in court by seeking to have the action struck out ... "

Karpal said Dr Mahathir could not at this stage say he relied on information given to him by the police; the publicity relating to the criminal proceedings against Munawar and Sukma; and the publicity of Anwar's attack on himself, the Government and Umno.

Karpal said Dr Mahathir was at liberty to do so at the trial proper.

He further said that Sukma was not referred to in the amended statement of claim and amended statement of defence and thus it was irrelevant to advert to Sukma's case.

Karpal said the words had in fact gone beyond the facts and included another offence.

On the point of re-litigation, Karpal said Anwar had nothing to do with Munawar's case except for the fact that Munawar had implicated him and

thus what was said by the Prime Minister could not be regarded as justification.

He said there were triable issues and that what Adnan had submitted was insufficient to dismiss the application.

Cecil Abraham and N. Chandran also appeared for Dr Mahathir.

(END)