

31 MAR 1999

Court-Anwar (Submission)

CASE SMACKS OF POLITICS, SAYS DEFENCE

KUALA LUMPUR, March 31 (Bernama) -- Datuk Seri Anwar Ibrahim's defence counsel submitted at his corruption trial in the High Court here today that the case smacks of politics.

"Whether we like it or not, this case smacks of politics," said Gurbachan Singh, who resumed his submission from yesterday.

He said Anwar had testified that he was given the ultimatum by Prime Minister Datuk Seri Dr Mahathir Mohamad either to resign or face charges on Sept 2, last year, on the day he was dismissed from his office as deputy prime minister and minister of finance.

"It is a wonder how the honorable PM could give Datuk Seri Anwar Ibrahim such an ultimatum on the 2nd of September, 1998, when the police's Section 112 statements of (former Special Branch director) Datuk Mohamed Said Awang and (his deputy then) Datuk Amir Junus were taken in September/October 1998.

The statements refer to those taken from any witnesses by the police under Section 112 of the Criminal Procedure Code during police investigation in a case which can be used as evidence against the accused in a trial.

In this case, Gurbachan said police carried out their actual investigation into the charges now faced by Anwar only after his dismissal based on statements from Mohamed Said and Amir on how Anwar allegedly abused his position to obtain retraction letters from Ummi Hafilda Ali and Azizan Abu Bakar, who accused him of sexual misconduct.

"Furthermore, how could (First Finance Minister) Tun Daim (Zainuddin), on Aug 12, 1998, had informed Datuk Seri Anwar Ibrahim that he will be charged," he said.

He said that several documents clearly showed that politics was involved in the case.

Gurbachan Singh said the fact that Anwar was a victim of conspiracy was beyond any shadow of doubt by the fact that a poison-pen letter which appeared to be written by several Islamic organisations including Abim, the Malaysian Islamic Youth Movement, was refuted by its president who stated in no uncertain terms that Abim played no part in producing the letter.

Counsel said that there was also ample evidence of police conspiracy against Anwar.

He said this could be seen by the attitude of the whole police force who were in favour of Anwar in 1997.

At that time, there was even intention to prosecute Ummi Hafilda Ali, the writer of the letter "Perihal Salahlaku Timbalan Perdana Menteri" (The Matter Of The Misconduct Of The Deputy Prime Minister), and Azizan Abu Bakar, the former driver of Anwar's wife Datin Seri Dr Wan Azizah Wan Ismail, who made a sworn statement in which he alleged that he had been sodomised by Anwar, sent to the prime minister.

The change of attitude of the police towards Anwar could be seen when they were investigating his complaints on the book "50 Dalil Mengapa Anwar Ibrahim Tidak Boleh Jadi PM" (50 Reasons Why Anwar Cannot Become PM) when Anwar, as the complainant, instead became the accused.

Gurbachan Singh said the police also carried out investigations under the Emergency Ordinance for corruption despite there having been no complaint of misuse or abuse of power by Anwar.

He said the police had carried out the actual investigation in respect

of the charges now faced by Anwar only after his dismissal by virtue of statements from the prosecution's key witnesses, Mohamed Said and Amir.

Gurbachan Singh said Anwar also had differences with the prime minister who was then also home minister, who controls the police department.

He said the fact that Anwar suffered assault on the very first day of his arrest on Sept 20, last year clearly showed the attitude, hatred and malice of the police towards him.

Gurbachan Singh also submitted that an unsigned report marked D123 by the court was in fact the second report to the prime minister regarding allegations of sexual misconduct which the defence had earlier, during the prosecution stage, alleged contained the names of the personalities who conspired to topple Anwar.

At this juncture, Justice Augustine Paul ordered the defence and the prosecution to submit on whether the document is to be regarded as a document of proof or only to show that it was received by Anwar.

Gurbachan Singh submitted that the court ought to consider the similarity in the content of the document with the first report sent to the prime minister by the Special Branch.

He said even Mohamed Said who testified on the matter was in no position to deny that the document was a report made by the Special Branch.

Senior Deputy Public Prosecutor Datuk Abdul Ghani Patail told the court that Mohamed Said, in his evidence, had emphatically denied there was a second report, signed or unsigned, by the Special Branch to the prime minister.

Justice Augustine Paul then held that the document is not to be regarded as a document to establish the truth.

In his conclusion, Gurbachan Singh said the prosecution had failed to discharge the burden of proof which was incumbent upon it and that the defence had cast more than a reasonable doubt.

He said: "It may be pertinent to remember what Sir Thomas Moore, the former Lord Chancellor of England, said at the conclusion of his trial on a trumped-up, false and fabricated case in which the witnesses for the prosecution gave perjured evidence."

In relation to the perjured evidence given against him by the then Attorney General of Wales, Sir Thomas Moore said: "One does sell one's soul for the whole world and you did it for Wales."

Gurbachan Singh said in the case, all those who gave perjured evidence against Sir Thomas including the Attorney-General of Wales were all tried for perjury, found guilty and executed within five years.

"But Sir Thomas Moore, though executed, became a legend and lived on," he said.

Meanwhile, Christopher Fernando, who was the last to submit for the defence team, said the only crime Anwar might have committed was being courageous, selfless and brave enough to stand up against powerful politicians to uphold justice.

He was saying that Anwar was trying to make the country a better place for people to live before Justice Augustine Paul stopped him from making such a political speech.

Fernando then submitted that Anwar did not gain any advantage by instructing the two senior police officers, Mohamed Said and Amir, to obtain retraction letters from Ummi Hafilda and Azizan.

He said: "It is my submission that unless or until the prosecution proves that the allegations contained in the letter purportedly written by Ummi and Azizan were true, the charges against Datuk Seri Anwar Ibrahim under the Emergency Ordinance are not sustainable."

He said there was no necessity whatsoever to get the retraction letters to protect himself from criminal action.

Fernando said the amendments to the charges were illogical and mind-boggling because they included the words "to save himself from embarrassment".

He said there was no necessity whatsoever for Anwar to get the retraction letters to protect himself from criminal action because in this case he was the victim and not the offender.

Fernando said at that time there was no criminal proceedings being contemplated by the police against him because there were zeroing in on Ummi Hafilda and Azizan.

"So where is the need to protect himself," he said.

-- BERNAMA

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