

19 JUN 1999

Court-Anwar (Mahathir)

COURT ALLOWS APPLICATION TO COMMIT PM TO JAIL FOR CONTEMPT

KUALA LUMPUR, June 19 (Bernama) -- The High Court here today allowed the defence in the Datuk Seri Anwar Ibrahim sodomy trial to file an application to commit Prime Minister Datuk Seri Dr Mahathir Mohamad to prison for contempt.

Justice Datuk Arifin Jaka in allowing the application said that it would be proper for the defence to file a formal application than to make an oral one before him.

"I did not say that the PM did not commit contempt. I can't decide now and I don't know whether I'm hearing it. But, file a proper application and let the court decide properly on it," he told counsel Karpal Singh.

Karpal earlier informed the court that he had been engaged by Anwar as co-counsel in the joint trial of the former deputy prime minister and his adopted brother, Sukma Darmawan Sasmitaat Madja. He had been representing Sukma since the trial began on June 7.

In his oral application, Karpal argued that Dr Mahathir, in his speech at the Umno general assembly yesterday, had spoken about Anwar's moral and behaviour which he claimed amounted to "pre-determining the court's decision" (on the case).

"This court should direct him to present himself in court to show cause on why he should not be sent to jail for contempt," Karpal said.

Referring to Dr Mahathir's speech text, Karpal said the most damaging part of the prime minister's speech was when he said that "it was Anwar's moral and behaviour that prevented him from being the Umno president".

Objecting to the application, Attorney-General Tan Sri Mohtar Abdullah said the issues of Anwar's dismissal from his positions and Umno were issues of public knowledge and domain, and which Dr Mahathir, as the leader of Umno and prime minister, should be allowed to clarify.

In fact, he said, Anwar's conviction for corruption two months ago, which also hinged on his character, was also in the knowledge of the public.

Submitting that there was nothing contemptuous about the speech, Mohtar contended that it also was not proper to make an application in the midst of a trial.

"If the defence is concerned that there's contempt, then they should make a proper application to the High Court and the chief justice will then decide who should hear it.

"But you cannot make an application from the bar. You can't say bad faith or contempt as all the honourable prime minister was doing was in the course of his duty to the country," he said.

Anwar, 51, and Sukma, 38, face separate charges of sodomising Azizan Abu Bakar at unit no 10-7-2, Tivoli Villa, Jalan Medang Tanduk, Bangsar, here, at about 7.45pm between January and March, 1993.

Sukma, a boutique owner, faces a second charge of abetting Anwar in committing the offence at the same place and time. Azizan is the former personal driver of Datin Seri Dr Wan Azizah Ismail, Anwar's wife.

Replying to Mohtar's remark on the proper timing for the filing of the application, Karpal quoted the case of defence counsel Manjeet Singh Dhillon who was asked to show cause why he should not be sent to jail for contempt.

Manjeet was issued a warrant of arrest over a document pertaining to his conversation with two senior deputy public prosecutors (DPPs) used by

Anwar in support of his application to stop the two officers from further conducting his corruption trial.

Manjeet was then representing Datuk S. Nallakaruppan, Anwar's tennis partner, who was facing a charge under the Firearms Act.

"What's the difference between him (Manjeet) and the prime minister? If that procedure was adopted, then this is the proper procedure.

"My Lord should do something so that the majesty of law can be publicly defended," Karpal said.

Replying to this, Mohtar said in Manjeet's case, the document was before the court and the application was made in relation to an issue before that court. "In this case, the prime minister was speaking at a different forum and not before the court," he said.

The attorney-general said that it was the defence themselves who had asked for the lifting of a "gag order" given by another judge in respect of the same case, which permitted anyone to say, write or report anything about Anwar's case.

Mohtar also told the court that a police report had been lodged by the wife of the prosecution's second witness, Dr Mohamaed Fadzil Man, pertaining to "interference" by a member of the defence team.

Replying to this, Karpal said the defence would not resort to threatening any witness and assured Mohtar that the law should take its own course.

On the gag order, the counsel said if the prime minister had said something he should not have said, then it was contempt of court.

"And I'm of the view that what he said will affect the fair trial of the accused, particularly Anwar," he added.

-- BERNAMA

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