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Court sets aside notice of contempt on Chandra

Satwant Singh

KUALA LUMPUR, Sat. - The High Court today set aside a notice issued to Parti Keadilan Nasional deputy president Dr Chandra Muzaffar to show cause why he should not be cited for contempt of court.

Judge Datuk Arifin Jaka, in his decision, said he found there was no proof that an alleged statement which was downloaded from the Internet could be attributed to Chandra.

In allowing Chandra's application to set aside the notice, he said the extract from the Internet was not admissible and therefore could not form the basis on which the notice was issued.

Arifin made the decision after hearing brief submissions from deputy public prosecutor Tun Abdul Majid Tun Hamzah and Chandra's counsel Karpal Singh.

On Aug 2, Arifin issued the notice to Chandra over a statement purportedly made by him after Attorney-General Tan Sri Mohtar Abdullah drew the court's attention to a paragraph in the statement.

The matter arose in the trial of sacked Deputy Prime Minister Datuk Seri Anwar Ibrahim and his adopted brother Sukma Darmawan Sasmitaat Madja who are jointly charged with sodomising former driver Azizan Abu Bakar.

Sukma also faces a second charge of abetting Anwar in sodomising Azizan who was at one time driver to Anwar's wife, Datin Seri Dr Wan Azizah Wan Ismail.

The paragraph read: "It is a shame that elements in the police force, in the Attorney-General's Chambers, in the courts and in the media are prepared to be subservient tools in this massive conspiracy hatched by Prime Minister Mahathir Mohamad and his cohorts".

Mohtar had then tendered a copy of the statement which was extracted from Keadilan's "official" web site.

The statement, titled "Confession and Conspiracy" and dated July 31, also appeared in the Aug 2 issue of Harakah, the official publication of Pas.

Mohtar drew attention to the words "elements in the courts", contending that this was a clear contempt and warranted immediate action against the person responsible.

However, on Aug 10, Chandra filed an application (a notice of motion) to set aside the show-cause notice.

On Aug 16, Arifin, who heard the application by Chandra, told parties to continue further submissions today.

When submissions resumed today, Arifin told Tun Abdul Majid to submit on whether the extract which was downloaded from the Internet was admissible and on whether a notice could be issued based on it.

Tun Abdul Majid contended that Chandra, who was present in court, could be asked to explain the statement but Arifin said he was not hearing the show cause yet.

The judge said they were there (today) to determine whether the notice was wrongly issued based on inadmissible evidence.

"I adjourned this matter (to today) because I wanted you all to address me on it ... on whether it was properly issued," he said.

Tun Abdul Majid said: "Chandra is here, therefore he can explain ... If he says 'no', that's the end of the matter".

He said they did not file an affidavit as they were of the view that the A-G had reported the matter to the court.

Arifin, however, said he thought the prosecution would file an affidavit on who was the source.

Tun Abdul Majid then said: "In that case ... I leave it to the court. I have nothing more to add".

Karpal said in Chandra's application it was clearly stated that one of the grounds on why the notice should be set aside was that it was based on inadmissible evidence.

This, he said, meant that the A-G was obliged to contradict it, to which Arifin interjected by saying: "That's why I was surprised they did not file an affidavit ... there must have been a source".

Karpal, who agreed with this, added that the prosecution also had the might of the entire police force.

He said having not filed an affidavit meant that they were not disputing the matter, adding "obviously the A-G has shot himself in the foot".

After delivering his decision, Arifin (looking at Tun Abdul Majid) said it did not necessarily mean the matter had ended.

Tun Abdul Majid then said he had been informed that a police report had been lodged on the matter.

Karpal then replied that "We will take them on".

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