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Court strikes out Anwar's libel suit against PM

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KUALA LUMPUR, Mon. - The High Court today struck out Datuk Seri Anwar Ibrahim's RM100 million libel suit against Prime Minister Datuk Seri Dr Mahathir Mohamad.

Judge Datuk Kamalanathan Ratnam, who awarded costs to Dr Mahathir, held that Anwar's claim was "obviously unsustainable".

Kamalanathan said it was important that Cabinet ministers 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.

"I, therefore, hold that this is a frivolous and vexatious suit and an abuse of the process of the court."

He ordered the suit to be struck out under Order 18 Rule 19(1)(a) and (d) of the Rules of the High Court which allows the action to be dealt with as a preliminary issue without going for a full trial.

Anwar's counsel Karpal Singh later told the Press that his client would appeal and a notice would be filed on Wednesday.

The sacked Deputy Prime Minister filed his suit on Jan 25, claiming, among other things, that Dr Mahathir had, on Sept 22 last year, "falsely and maliciously" spoken to local and foreign reporters accusing him of committing immoral acts.

He said the words were defamatory in their ordinary meaning and in the context they were spoken.

Dr Mahathir, in his statement of defence, filed on March 22, contended that he had spoken the words in his capacity as the Prime Minister on an occasion of qualified privilege.

Subsequently, the Prime Minister, who was represented by Datuk Mohd Adnan Shuaib, Cecil Abraham and N. Chandran, applied to strike out the suit under Order 18.

In a 25-page judgment, the judge said while no one was above the law, the court must always be vigilant, "never indolent, ever watchful, never fearful" of its duty to check any conspiracy by those intent on dragging top officials to court to embarrass them.

Kamalanathan dealt at length on the widely publicised sodomy cases of Anwar's adopted brother Sukma Darmawan Sasmitaat Madja and former speech writer Dr Munawar Ahmad Anees.

(Sukma and Munawar were sentenced to six months' jail each after they admitted allowing Anwar to sodomise them.)

He said it was clear that the Prime Minister, who was also the Home Minister, was informed about Anwar's homosexual activities as early as 1993 and about his (Anwar's) homosexual relationships with Sukma and Munawar.

"I have no hesitation in concluding that the words spoken by the defendant were merely statements of facts already widely published before the impugned words were spoken," he said.

The judge said Dr Mahathir did not make any statement about the matter until it was widely published, even though the police had informed him about it much earlier.

He said the words spoken by Dr Mahathir were true as reflected by the convictions of Sukma and Munawar which were published in all newspapers on

Sept 20 last year, two days before the Prime Minister made the statement.

"If the words as spoken are borne out by the facts, then the defence of justification will clearly be available to the defendant.

"In other words, the defendant's words must be construed and determined in their context as spoken," he said.

Kamalanathan said as the Prime Minister, Dr Mahathir was duty-bound to disclose the information concerning his ex-deputy since it was a matter of public and national interest.

The judge said it was settled law that in a defamation suit, justification was a complete defence and Dr Mahathir had shown that he was justified in making the statement.

"Having considered all the matters, I hold that the defence of justification is clearly open to the defendant and on this ground alone this claim ought to be struck out," Kamalanathan said.

On the defence of qualified privilege, he said as the Prime Minister and Umno president Dr Mahathir was obliged and compelled to respond to Anwar's verbal attack against him.

Anwar, who was sacked as the DPM on Sept 2 last year and as Umno's deputy president the following day, had alleged that there was a high-level political conspiracy to topple him.

"It is my judgment that the defendant's words were uttered with a view to repelling the charges made by the plaintiff and that they were made bona fide and were relevant to the accusations made by the plaintiff. I, therefore, hold that the defendant's words were spoken on an occasion of qualified privilege," he said.

The judge also ruled that there was no malice on the part of the Prime Minister when he spoke the impugned words.

"To my mind, there is no place at all in this case for the plea of malice," he said.

Kamalanathan said Dr Mahathir's words were also in response to the calls on him to explain Anwar's removal.

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

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