

03/04/1999

Dr M's statement of defence says his remarks had 'qualified privilege'

Ruslaini Abbas

KUALA LUMPUR, Fri. - The alleged "offending words" published by Prime Minister Datuk Seri Dr Mahathir Mohamad against Datuk Seri Anwar Ibrahim were made in his capacity as the Prime Minister on an occasion of qualified privilege.

They were said in response to Anwar's public statements to Malaysians and "the world in general" following his dismissal from the Cabinet on Sept 2, last year and expulsion from Umno the following day.

These are two of 20 grounds in Dr Mahathir's statement of defence against Anwar's RM100 million libel suit. The statement of defence was filed on March 22 and released to the Press yesterday.

Anwar, who filed his action on Jan 25, has until Monday to reply to the statement of defence.

The former Deputy Prime Minister is also seeking an injunction to restrain Dr Mahathir, his agents and/or servants from further uttering the "offending words" or words to the effect about him (Anwar).

He is also asking for interests, costs and other relief.

In his suit, Anwar claimed that Dr Mahathir had on Sept 22, last year, "falsely and maliciously" spoken to local and foreign reporters, including Dorina Elliot from Newsweek, accusing him of committing immoral acts.

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

Anwar said Dr Mahathir had uttered the words with the intention of disparaging him in his private and official capacities as the Finance Minister and Deputy Prime Minister.

He said Dr Mahathir had spoken the words knowing that, and/or with the intention, that it would be published by the local and international print and electronic media, including The Sun newspaper, Newsweek and CNN International, and re-published elsewhere.

Anwar said the "offending words" were published in The Sun on Sept 23, last year, headlined "Anwar's behaviour despicable: PM" and Newsweek on Oct 5, last year under the heading "HERE'S MUD IN YOUR FACE - Accusations of sexual misconduct and corruption in an Asian Smear war that rivals even Washington's".

He said the words were also televised worldwide "causing irreparable damage" to his reputation.

Anwar said the publication and re-publication of the "offending words" had gravely injured his character, credit and reputation nationally and internationally.

It had also brought him into public scandal, odium and contempt and he had suffered loss and damage, entitling him to damages.

In his 26-page defence, Dr Mahathir, who is relying on section eight of the Defamation Act 1952, said the Press conference was held on Sept 22, last year two days after Anwar was arrested and detained under the Internal Security Act, during which he was asked about the event.

Dr Mahathir also mentioned in his defence the fact that Anwar was later charged with 10 counts of corrupt practices and sodomy.

(Four of the corrupt practice charges are pending decision on April 14 while hearing for the remaining charges is yet to be fixed.)

Dr Mahathir denied that the words were defamatory or bore the meanings claimed by Anwar, contending that they "are true in substance and facts".

Dr Mahathir also mentioned the case of consultant Dr Munawar Ahmad Anees

who was sentenced to six months' jail after he admitted allowing Anwar to sodomise him in 1993.

He also stated in his statement of claim the case of Anwar's adopted brother Sukma Darmawan Saasmitaat Madja who was also jailed six months for allowing Anwar to sodomise him last year.

Dr Mahathir also mentioned the particulars of the sodomy charges against Anwar.

He pointed out several Press statements and speeches made by Anwar in which he had, among others, said "the defendant was afraid of a potential challenge from the plaintiff to his position as Umno president" and "the defendant had removed the plaintiff from his positions within the government and/or within the Umno party to prevent or stifle investigations concerning corruption within the government and/or UMNO."

Dr Mahathir said he had uttered those words to discharge his duty and maintain peace and public order and not to disparage Anwar in any capacity.

He urged the court to dismiss the suit with costs.

(END)