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A-G: Clear evidence against Anwar, Sukma

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KUALA LUMPUR, Wed. - There was cogent and clear evidence that Datuk Seri Anwar Ibrahim and his adopted brother had sodomised former driver Azizan Abu Bakar, the Attorney-General told the High Court today.

Tan Sri Mohtar Abdullah said after discounting some "minor" discrepancies, the totality of the evidence proved beyond reasonable doubt the allegations against the accused, which warrant them to enter their defence.

He was submitting at the end of the prosecution's case in which Anwar and his adopted brother Sukma Darmawan Sasmitaat Madja are accused of sodomising Azizan in 1993.

Sukma, a businessman, is also facing a second charge of abetting Anwar in sodomising Azizan who is the former driver of Anwar's wife, Datin Seri Dr Wan Azizah Wan Ismail.

Mohtar said the prosecution was not only relying on Azizan's evidence, but on "seven pillars" to buttress its case.

Apart from Azizan's testimony, the "seven pillars" also included the evidence of Sukma's confession of homosexual relation with Anwar and the evidence of former Inspector-General of Police Tun Hanif Omar.

(Sukma was sentenced to six months' jail by the Sessions Court last year after he admitted allowing Anwar to sodomise him. The confession was made in relation to the case.)

Mohtar said Hanif had said that he was informed by the police's Special Branch about Anwar's homosexuality in 1993 and he told Prime Minister Datuk Seri Dr Mahathir Mohamad about it.

Soon after that Anwar called Hanif to his office to find out if anyone else knew about it and whether the police would blackmail him.

"He (Anwar) did not deny it, but was more interested to find out if anyone else knew about it or if the police would blackmail him," Mohtar said.

Mohtar said if Anwar was not involved in the unholy activities, he would have strongly denied it, but he had not.

On Sukma's confession, Mohtar said it should be distinguished between other forms of statements under the Criminal Procedure Code made to the investigating authorities.

He said the confession was made to a magistrate and the court had ruled it to be voluntary.

At this juncture, Judge Datuk Arifin Jaka drew Mohtar's attention to the defence contention that the confession had not complied with provisions of the CPC since a copy of it was given to investigating officer SAC1 Musa Hassan.

To this, Mohtar said giving a copy to the police was not violation of the law since the confession formed part of evidence or information which the investigating authorities had to gather in their investigation for submission to the prosecuting authorities for further action.

Mohtar said the prosecution was also relying on Azizan's evidence in Anwar's previous trial, which was raised by the defence in the present case.

(In the previous case, Anwar was sentenced by the High Court to six years' jail on each of four counts of corrupt practice. The court then had ordered the sentences to run concurrently. Anwar is now serving the sentences since he was refused bail pending appeal.)

He said Azizan had from the beginning been saying that Anwar and Sukma had sodomised him, but "nobody would listen to him" until he met the Prime Minister last year.

The A-G further said the prosecution was also relying on the evidence of psychiatrist Dr Fadzil Man who examined Sukma on Nov 10, 1994.

Dr Fadzil had said Sukma told him that he had a homosexual relationship with his adopted brother, Mohtar said, adding that it was a known fact that Anwar was Sukma's adopted brother.

Anwar's leading counsel Christopher Fernando objected to this, contending that Dr Fadzil did not identify the adopted brother.

Mohtar said it was undisputed that Anwar was Sukma's adopted brother.

The other "pillar" which the prosecution was relying on was the fact that Anwar had told Azizan to deny their homosexual activities in the event he (Azizan) was questioned by the police.

Police investigation was on-going when Anwar said this to Azizan, Mohtar said, adding that this evidence was important to show the consistency of Azizan's testimony.

After a lengthy submission, Mohtar concluded that the prosecution had established its case beyond reasonable doubt and urged the court to order Anwar and Sukma to enter their defence.

After the A-G completed his submission, Anwar's other counsel Karpal Singh made an application that the defence reply be postponed to Friday.

Karpal Singh said he had a case in Penang tomorrow and, moreover, he had to study the authorities cited by the prosecution in its submission.

Counsel said the authorities were only made known to the defence today.

This led to some discourse between Karpal Singh and Arifin who insisted that the defence reply tomorrow after the completion of the evidence of the Malacca assistant registrar of the Lower Syariah Court.

Fernando also applied for an adjournment to Monday to enable him to prepare a comprehensive reply, but his application was also dismissed.

Hearing continues.