

18 OCT 1999

Anwar-Defence

HIGH COURT ORDERS ANWAR AND SUKMA TO ENTER DEFENCE

KUALA LUMPUR, Oct 18 (Bernama) -- The High Court here today ordered former deputy prime minister Datuk Seri Anwar Ibrahim and his adopted brother, Sukma Darmawan Sasmitaat Madja to enter their defence on separate charges of sodomising Azizan Abu Bakar, the former driver of Anwar's wife.

Justice Datuk Arifin Jaka said the prosecution had proved its case beyond reasonable doubt.

"After a maximum evaluation of all the admissible evidence by the prosecution, I am satisfied that the prosecution has proved its case beyond reasonable doubt against accused 1 (Anwar) and accused 2 (Sukma)," he said.

He accordingly ordered Anwar to enter his defence on the sodomy charge and Sukma on both the sodomy and abetment charges.

The decision was delivered at 9.10 am.

Justice Arifin also dismissed the application by Anwar's counsel, Karpal Singh, for the court's reasons for its decision.

"I am not obliged to give my reasons for calling the defence at this stage. I searched my conscience and I say that this is not a complicated case. This is just an ordinary criminal case of sodomy under the Penal Code," he said.

Anwar, 52, and Sukma, 38, are jointly tried with sodomising Azizan, 39, at Sukma's apartment in Tivoli Villa, Bangsar, here, one night at 7.45pm between January and March, 1993.

Sukma, a businessman, faces another charge of abetting Anwar in sodomising Azizan at the same place and time.

Justice Arifin said the public thought that this was a high profile case as it involved a former deputy prime minister of the country.

"But I don't think so," he said.

He said this was just like any other criminal case and the decision of the court depended on the evidence adduced.

Arifin said: "The defence is of the view that the case is complicated because of the evidence by Azizan Abu Bakar.

"The question of whether Azizan is a reliable and truthful witness is for the court to decide."

He said there was nothing unusual or complicated in the evidence of Azizan.

Karpal Singh had asked Arifin to give the reasons by using his discretion as a trial judge, claiming that this was a "complicated and a high profile case".

Karpal Singh said Arifin must search his conscience before making a decision.

Attorney-General Tan Sri Mohtar Abdullah said he was surprised by Karpal Singh's application because it was up to the court whether or not to give its reasons and the Criminal Procedure Code stated this very clearly.

"There is no statutory provision that gives the accused the so-called right to demand the reasons for them to be called to enter their defence," he said.

He then urged the court to dismiss the application.

Arifin fixed Thursday to hear the defence after Anwar and Sukma chose to give evidence on oath.

High Court Deputy Registrar Rozilah Salleh had earlier explained that they could either give evidence on oath, make a statement from the dock or choose to remain silent.

Earlier, the defence applied for two weeks' adjournment to interview witnesses to prepare "a meaningful defence of alibi and conspiracy" because of the seriousness of the offence.

Counsel Christopher Fernando said the defence did not expect the court to call for the defence and as such was "dumbfounded and flabbergasted" by the decision.

He said one of Anwar's counsel, had even shaven his head to celebrate the decision which was expected to favour the defence.

At this juncture, Arifin said the defence should have been prepared to face the possibility of Anwar and Sukma being called to make their defence and Nair should not have shaven his head before the court had decided on the matter.

Meanwhile, Karpal Singh, in supporting Fernando's application, said the judge could use his discretion under section 259 of the Criminal Procedure Code to allow an adjournment of at least a week.

He also said that the defence would call Prime Minister Datuk Seri Dr Mahathir Mohamad as its witness as well as 20 witnesses offered by the prosecution.

"The PM is a material witness as he was the second person Azizan made the complaint to, apart from Ummi Hafilda (Ali)," Karpal Singh said.

Sukma's counsel, Gobind Singh Deo also asked for an adjournment saying that he needed time to interview Anwar regarding his movements as they were putting up a defence of alibi.

He also wanted to interview the prime minister, he added.

Mohtar objected to the application, saying that before raising the matter, the defence should inform the court on what option Anwar and Sukma has chosen for their defence.

"That should be done now before the court decides on the postponement. Only after the election...", he said, to which Karpal Singh interjected and asked what he meant by election.

Mohtar said he meant the option by the two accused on presenting their defence.

An argument ensued among Karpal Singh, Mohtar, Arifin and Anwar after the attorney-general said that two months had been wasted because the defence was trying to delay the trial after the prosecution had closed its case.

"Two months went down the drain and nothing had been done and now they want another two weeks..." Mohtar said and Arifin agreed. This brought Anwar to his feet, saying: "How do you know nothing had been done? Don't pre-judge me, my Lord."

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Arifin chided Anwar and told him that he should inform his counsel if

he wanted to say something but Karpal Singh said the judge should not have sided with Mohtar on the issue.

"You should not have said that. Restrain yourself from pre-judging although I believe you have pre-judged. You can't blame Datuk Seri Anwar from jumping up," Karpal Singh said.

Mohtar then submitted that the defence did not have strong grounds to delay the case by two weeks because they knew from the start that they were putting up a defence of alibi and conspiracy.

He said the defence also did not use the hour given by the court to discuss further action with their client.

To this, Karpal Singh said he did not know that Mohtar was a "secret agent" spying on the actions of the defence when the court was in recess but Mohtar quipped that he was in court and saw what happened.

However, Arifin said he did not know what happened after the court recessed.

At one stage, Arifin rapped Anwar for speaking so loudly in the dock that it disrupted his recording of the submissions from both parties.

The prosecution closed its case on Aug 20 after calling nine witnesses including former Inspector-General of Police Ketua Polis Negara Tun Haniff Omar and offered the defence 21 witnesses including Karpal Singh whose name was later deleted from the list.

Present at the trial which entered its 61st day today were Anwar's wife, Datin Seri Dr Wan Azizah Ismail, their eldest daughter, Nurul Izzah, and Anwar's father, Datuk Ibrahim Abdul Rahman.

Anwar is currently serving six years' jail for corrupt practice.

-- BERNAMA

SBB NHD JK