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Judge, Karpal argue over `contempt' actions

Ruslaini Abbas; Satwant Singh

KUALA LUMPUR, Thurs. - "I am not afraid of the Prime Minister!" High Court Judge Datuk Arifin Jaka said today when refuting a remark by lawyer Karpal Singh who said the judge was subservient to the Prime Minister.

Arifin, who refused to take any action against the Prime Minister for allegedly setting conditions for his impending testimony in the sodomy trial of Datuk Seri Anwar Ibrahim, repeatedly told Karpal Singh to withdraw his statement or face the music.

The judge said he felt hurt by Karpal Singh's remarks and told counsel that he would consider initiating contempt proceedings against him.

Karpal Singh stood his ground and argued that the court had a duty to stop people from making remarks that undermined the integrity of the court.

Counsel was referring to Datuk Seri Dr Mahathir Mohamad's statement on Tuesday that he would testify only if the questions asked were relevant to the sodomy case.

The Prime Minister, who had been subpoenaed by the defence, had reportedly said that if the questions were about arsenic poisoning or conspiracy, they were not relevant.

(In August, Karpal Singh tendered the result of a test on Anwar's urine sample which showed "an alarming" level of arsenic.

(Hospital Universiti Kebangsaan Malaysia, where Anwar was admitted following Karpal Singh's revelation, has since concluded that the arsenic in his urine sample was below the dangerous level.)

Anwar and his adopted brother, businessman Sukma Darmawan Sasmitaat Madja, are jointly charged with sodomising former driver Azizan Abu Bakar in 1993.

Sukma 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.

Earlier, referring to the Prime Minister's statement, Karpal Singh said he had not heard of any instance where a witness laid conditions before giving evidence in court.

"He is assuming the role of a judge!", Karpal Singh said, adding that only a judge could make any ruling on the relevancy of any question posed to a witness.

Karpal Singh said Dr Mahathir's act "clearly amounts to contempt of court" and urged Arifin to exercise the court's inherent jurisdiction and take appropriate action.

Counsel also referred to a statement by acting Umno Youth chief Datuk Hishamuddin Hisham who reportedly accused him (Karpal Singh) of fabricating evidence in the case.

At this juncture, Arifin said he was not prepared to hear any side applications.

Karpal: Some of the statements are in contempt in the face of the court!

Arifin: He is entitled to say what he wishes.

The judge told Karpal Singh to make a proper application and bring those responsible to court and ask them for an explanation.

"I am not denying you ... go ahead and take appropriate action," Arifin said, reiterating his stand earlier that the court would not exercise its inherent powers based on newspaper reports.

Karpal: It is now necessary for the court to take action; otherwise Your

Lordship would be abdicating your duties and conscience and this would amount to a misconduct!

When Karpal Singh tried to speak about a newspaper report on a statement made by businessman Tan Sri Vincent Tan, Arifin cut him short and asked Anwar's leading counsel Christopher Fernando if he subscribed to Karpal Singh's contention.

Fernando said that he did, in view of the circumstances in which politicians were making various statements on the case despite the court's ruling.

Karpal Singh said the entire defence team took the same stand as a matter of principle.

Arifin once again said that he was not prepared to deal with the matter in the trial.

Karpal Singh argued that the court had once allowed the prosecution's oral application to show cause against Parti Keadilan Nasional deputy president Dr Chandra Muzaffar.

Karpal: This court has become a laughing stock. I got the impression that the court and, especially Your Lordship, is afraid of the Prime Minister!

Arifin: I am not afraid of the Prime Minister!

Karpal: Why is it so difficult for the court to take action? The court has become subservient to the executive!

Arifin: You just bark and bark! Why don't you bite and see. Maybe the comments against you might stop!

Karpal: It is the court which should bite!

Arifin told Karpal Singh to retract his statement and when counsel refused, the judge said he might consider citing him for contempt "not now, but at the end of the trial".

The judge then ordered the trial to proceed.

All this drama happened when the court sat at about 10.30am before Anwar resumed his evidence-in-chief which was handled by Fernando.

Hearing continues.