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Postponement of two weeks rejected

Ruslaini Abbas; Satwant Singh

KUALA LUMPUR, Mon. - The High Court today dismissed the defence application to postpone Datuk Seri Anwar Ibrahim's defence on a sodomy charge by two weeks. He has to give his evidence on Thursday.

In adjourning the proceedings, Judge Datuk Arifin Jaka said he would disallow any further adjournment unless there were very serious problems.

The judge made the ruling after hearing submissions by Anwar's counsel Christopher Fernando and Karpal Singh, who wanted a two-week adjournment, and the Attorney-General Tan Sri Mohtar Abdullah.

Anwar and his adopted brother businessman Sukma Darmawan Sasmitaat Madja were ordered by Arifin to enter their defence on charges of sodomy and abetment.

In his application, Fernando said the defence required two weeks to interview witnesses it intended to call.

"We also need time to interview our client since we did not expect the defence to be called - we are dumbfounded and flabbergasted! It is beyond our wildest expectation," he said.

Counsel said Anwar's other counsel, S.N.Nair, had in fact shaved his headbald in anticipation of defence not being called.

Fernando said the allegations against the accused were serious and counsel had insufficient opportunity to consult Anwar while the prosecution's case was on.

Moreover, he added, the prisons authorities barred anyone from visiting Anwar after 4.30pm.

Fernando pointed out that even Arifin required time before deciding whether defence should be called and added "justice hurried is justice buried and, similarly, justice delayed is justice denied."

Counsel said some of the witnesses were overseas and "since we have waited for so long we might as well wait for two more weeks" as this was not a straight forward case.

Karpal Singh said section 259 of the Criminal Procedure Code empowered the court to adjourn proceedings if there were valid reasons.

He said the prosecution had offered to the defence 21 witnesses, including himself, and the defence intended to call Prime Minister Datuk Seri Dr Mahathir Mohamad and the Attorney-General.

"They should have been called by the prosecution since Azizan (Abu Bakar, the alleged victim) had mentioned the Prime Minister in his evidence," he said, adding that the other person whom the prosecution should have called was businesswoman Ummi Hafilda Ali.

Karpal Singh said the defence required time to interview the Prime Minister.

"We have to go through the defence as a whole with our client and this was not possible when the prosecution's case was in progress," he said, adding the notion that the accused should have prepared the defence by now was misplaced.

In objecting to the application, Mohtar said it should not be made before the accused were asked to elect their mode of defence, either to testify under oath, from the dock or to remain silent.

He said there was no issue of hurrying the trial. The accused should be prepared the moment defence was called.

"The delay (in the proceedings) was not caused by the court or the prosecution, but by the defence one way after another," Mohtar said,

adding that a genuine defence should be ready any time in the event defence was called.

He said section 259 of the CPC should be exercised judicially for valid reasons.

Mohtar said the defence team should not be over confident that defence would not be called and decide not to prepare its case.

"The prosecution offered 21 witnesses. Two months have gone down the drain and not a single witness was interviewed. Now they are asking for two weeks more," he said.

At this juncture, Anwar stood up from the dock and asked Mohtar how he knew that the defence had done nothing.

This led to some exchanges and the judge said: (Looking at Mohtar) "Yes! Yes! I agree with you!."

Anwar got up and said that the judge had pre-judged the whole issue.

Arifin told Anwar to stop interfering and said he could instruct his counsel if he wished to address the court.

To this Karpal Singh said he did not blame Anwar for showing his concern since he was fighting for his life and more so because the judge appeared to agree with the prosecution.

"I hope you will restrain yourself," Karpal Singh told Arifin.

The judge told Mohtar to continue with his argument and the A-G said there was no valid ground to adjourn the case.

After hearing the rest of Mohtar's submission and further arguments from Karpal Singh, Arifin told the parties that he wished to see leading counsel from each side in his chambers.

Proceedings were stood down and Mohtar and Fernando went to meet the judge. When hearing resumed, Arifin adjourned proceedings to Thursday.