

Anwar's SUN 24 FEB 2001 appeal to sue PM dismissed

Judge was right to strike out
RM100m action: Federal Court

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KUALA LUMPUR, Fri: Datuk Seri Anwar Ibrahim's final bid to pursue his RM100 million defamation suit against Prime Minister Datuk Seri Dr Mahathir Mohamad failed today when his application for leave was dismissed with costs by the Federal Court.

In a unanimous decision, Chief Justice Tun Mohamed Dzaiddin, Chief Judge of Malaya Datuk Wan Adnan Wan Ismail and Federal Court judge Datuk Abdul Malek Ahmad held that the High Court was right in striking out the suit without a full trial.

Mohamed Dzaiddin said he found that High Court judge Datuk R.K. Nathan had correctly addressed the issues of justification and qualified privilege raised by Mahathir in his defence.

He said Nathan was right to conclude that Mahathir's words were justified by the facts of the case and the confession of Pakistani Dr Munawar Anees and Indonesian Sukma Darmawan Sasmitaat Madja, who both had pleaded guilty to allowing Anwar to sodomise them.

"On qualified privilege, we also find that the learned trial judge had applied the correct test and law and circumstances of the case," he said.

He agreed with the contention that in an application

for leave, the applicant has only to show that on first impression the appeal might succeed. But this is not so in this case.

"Having agreed with the reasons and conclusion of the trial judge on the defence of justification and qualified privilege and after applying the law to the factual matrix of the case, it is our provisional view that should leave be granted, the applicant would not have any prospect of success," he said.

On Jan 25, 1999, Anwar filed a suit against Mahathir claiming that Mahathir had damaged his reputation in a press conference on Sept 22, 1998 by accusing him of sexual misconduct.

However, on Aug 30, 1999, Nathan allowed Mahathir's application to strike out the suit.

In a 25-page written judgment, Nathan held that, among others, the words spoken by Mahathir were merely statements of fact already widely published before the words were spoken in the trial of Sukma and Munawar.

The decision was upheld on Dec 9 last year by Court of Appeal judges Datuk Ahmad Fairuz Sheikh Abdul Halim (now a Federal Court judge), Datuk Mokhtar Sidin and Denis Ong.

Anwar was represented by Karpal Singh, Sankara Nair and Zulkifli Nordin.

Datuk Adnan Shuaib and N. Chandran appeared for Mahathir.