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Anwar suit: Decision upheld

Carolyn Hong

KUALA LUMPUR, Sat. - The Court of Appeal today upheld the High Court's decision to strike out Datuk Seri Anwar Ibrahim's RM100 million defamation suit against Datuk Seri Dr Mahathir Mohamad.

Federal Court judge Datuk Ahmad Fairuz Sheikh Abdul Halim said the court was unanimous in dismissing Anwar's appeal with costs as his claim was "obviously unsustainable".

The court found the Prime Minister's defence was bound to succeed and it would have been an abuse of the court process to allow Anwar's suit to continue to trial.

The court also found that Dr Mahathir was "sheltered" by the defences of justification (that his words about Anwar were true in fact and substance) and qualified privilege (that he spoke in his capacity as Prime Minister and his words were on government and political matters concerning Anwar).

"It is plain and obvious that the claim of the appellant (Anwar) is unsustainable," Ahmad Fairuz said in the 12-page judgment.

Anwar was not present. The Court of Appeal panel, comprising Ahmad Fairuz, Datuk Mokhtar Sidin and Denis Ong, heard the appeal in August and reserved decision.

Anwar had sued Dr Mahathir over a Press conference on Sept 22, 1998 where the Prime Minister had explained Anwar's dismissal and disclosed certain things which the police had told him about Anwar and Dr Munawar Anees.

(Munawar was one of the two men sentenced to six months' jail for allowing Anwar to sodomise him. The other is Sukma Darmawan Sasmitaat Madja.)

In his defence, Dr Mahathir said his statement was based on matters already in public knowledge and on information given to him by the police. He also contended that it was true in fact and substance.

High Court judge Datuk R.K. Nathan had struck out the suit without proceeding to full trial as he found that the claim was "obviously unsustainable".

Ahmad Fairuz said Nathan was right in taking into account the convictions of Munawar and Sukma to find that Dr Mahathir's words were true in substance and fact.

"The convictions of Munawar and Sukma are conclusive and final," he said.

Ahmad Fairuz also found that Nathan was right in finding that Dr Mahathir was speaking "on an occasion of qualified privilege" and that the Prime Minister's mind was devoid of malice when he uttered the words.

Dr Mahathir's lawyer Datuk Adnan Shuaib had argued that it was the Prime Minister's duty to explain Anwar's dismissal as it was a matter of public interest, especially as there were fervent calls for an explanation.

Adnan also told the court of incessant attacks by Anwar against Dr Mahathir, Umno, the government, police and Attorney-General, and thus, the Prime Minister had a right to reply.

Based on these two defences, Ahmad Fairuz said the court felt it was clear Anwar's case was unsustainable.

Dr Mahathir was also represented by N. Chandran and Anwar by Karpal Singh, M. Manoharan, S.N. Nair, Gobind Singh Deo and Ram Karpal Singh Deo.

(END)