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Court orders Anwar's suspended sodomy trial to proceed

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KUALA LUMPUR, Mon. - The Court of Appeal today struck out Datuk Seri Anwar Ibrahim's appeal against a ruling that Prime Minister Datuk Seri Dr Mahathir Mohamad need not testify for the defence in his sodomy trial.

The court threw out the appeal without going into its merits after submissions by counsel from both sides following a preliminary objection from the prosecution.

Without giving any reasons, President of the Court of Appeal Tan Sri Lamin Yunos allowed the prosecution's objection and ordered the suspended sodomy trial to proceed.

Anwar's lawyers Christopher Fernando and Karpal Singh later told reporters that the defence would file a notice of appeal to the Federal Court soon.

Anwar and his adopted brother Sukma Darmawan Sasmitaat Madja are on trial for sodomy and abetment.

Hearing has been stayed pending the disposal of their appeals against the April 21 court's ruling which denied the defence to call Dr Mahathir.

Submissions in the appeal before Lamin and judges Datuk Ahmad Fairuz Sheikh Abdul Halim and Denis Ong, were made by Karpal and Gobind Singh Deo who appeared for Anwar and Sukma respectively.

Attorney-General Tan Sri Mohtar Abdullah appeared for the prosecution.

Among other things, Mohtar said the ruling was not appealable since it was not final in respect of the accused's guilt or innocence.

"The ruling did not affect the principal issue and any judgment on interlocutory matter is not appealable," Mohtar said, adding that calling a witness was not the crux of the case against Anwar and Sukma.

Mohtar said even if the ruling was final, the court could always review it later by calling Dr Mahathir as a witness of the court.

He said the calling of a witness in a trial was not an absolute right for any party.

"It is not the right of the defence or the prosecution to call any witness they like... the calling of a witness depends on the rules of evidence and procedures," he said.

Mohtar urged the court to dismiss the appeal.

In reply, Karpal said the right to call a witness was not the discretion of the court.

"It is the right of an accused person to call a witness," he said, adding that the court could not deny the defence any witness, especially if the witness could assist it.

Adopting Karpal's submission, Gobind said it was useless to order Sukma to enter his defence when at the same time he was denied the right to call a witness.

He said the question of calling Dr Mahathir as a witness of the court did not arise since Sukma had completed his defence, accept for Dr Mahathir's evidence to rebut the allegations by Azizan Abu Bakar (the alleged sodomy victim.)

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