

23 MAR 2000

Court-Anwar

DR MAHATHIR'S EVIDENCE RELEVANT TO TEST AZIZAN'S CREDIBILITY, SAYS
COUNSEL

KUALA LUMPUR, March 23 (Bernama) -- Datuk Seri Dr Mahathir Mohamad is a material witness in the sodomy trial of his former deputy as his evidence is relevant to test the credibility of Azizan Abu Bakar who claimed that he has been sodomised by Datuk Seri Anwar Ibrahim, the High Court heard today.

Gobind Singh Deo, counsel of Sukma Darmawan Sasmitaat Madja, who is being tried together with Anwar, said in sexual offence cases, the credibility of the complainant was material.

As Azizan had once denied any involvement in sexual activities with Anwar to the prime minister through a letter, Dr Mahathir had to be called to establish the fact, he said.

The counsel was submitting on the issue of the relevancy of Dr Mahathir's evidence to the trial after Sukma and Anwar filed affidavits to support their application to have Dr Mahathir as the defence witness.

Last Feb 18, Justice Datuk Arifin Jaka, who heard the case, ordered the defence to provide the grounds for relevancy before calling the prime minister to the witness stand in his personal capacity.

Gobind Singh said that a press report also quoted the prime minister as saying that the writer of the letter which contained the allegations of Anwar's sexual misconduct had denied the truth of the allegations.

He said that as Dr Mahathir did not mention the identity of the writer of the letter, the prime minister was the most material witness to establish that the writer was Azizan.

Gobind Singh said Dr Mahathir's evidence on this matter was important to support Sukma's defence that the charge preferred against him and his adopted brother, Anwar, was false and concocted.

Anwar, 52, and Sukma, 39, are separately charged with sodomising Azizan, 39, at Sukma's apartment in Tivoli Villa, Bangsar, here, at 7.45pm, between January and March, 1993.

Sukma, a businessman, faces another charge of abetting Anwar in sodomising Azizan, the former driver of Anwar's wife, Datin Seri Dr Wan Azizah Wan Ismail, at the same time and place.

The prosecution has objected to the defence's move to have the prime minister in the witness stand and applied to have the court invoke Section 136 of the Evidence Act 1950 before deciding whether to call the prime minister.

Senior DPP Datuk Abdul Gani Patail said there was no evidence to show that the prime minister knew or was acquainted with Sukma and Sukma himself, in his evidence, never raised the issue of Azizan's meeting with Dr Mahathir.

"Neither was Azizan cross-examined on this matter. Why then suddenly there is this claim by Sukma in his affidavit that Azizan went to see Dr Mahathir?" he said.

Abdul Gani said the evidence that Azizan went to see the prime minister was adduced by the investigating officer, SAC 1 Musa Hassan who admitted he knew about it through a press report.

"The defence should have cross-examined Azizan extensively on that matter but it was not done," he said.

The court should consider the application by Sukma as irrelevant, he said.

Abdul Gani would submit on Anwar's affidavit tomorrow.

The defence has objected to his submission on the ground that he has no

locus standi as the prime minister was subpoenaed in his personal capacity and the prosecution's presence in the court at the moment was just as "amicus curae" or friend of the court.

However, Arifin overruled their objections and concurred with Abdul Gani that the issue before the court now was not a separate matter from the trial.

Earlier, Anwar's counsel, Karpal Singh, said the prime minister should be called to give evidence pertaining to matters contained in the affidavit filed by his former deputy.

Karpal Singh said among others, Anwar was convinced that Dr Mahathir had a lot of information and evidence to show that he was innocent and the allegations against him were baseless as reported by local newspapers in 1997.

At the outset of the trial, counsel Francis Ng who held a watching brief for Finance Minister Tun Daim Zainuddin and Deputy Education Minister Datuk Aziz Samsuddin told the court that subpoenas had been issued and served on his clients to have them appear as defence witnesses.

However, he informed the court that both Daim and Aziz had filed the applications to set aside the subpoenas and Arifin then fixed Tuesday to hear the matter.

Hearing continues tomorrow.

-- BERNAMA

NHD/SBB RM