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Court-Anwar

HIGH COURT'S DECISION ON ANWAR'S DEFAMATION SUIT AGAINST PM UPHELD

KUALA LUMPUR, Dec 9 (Bernama) -- The Court of Appeal here today upheld the High Court's decision to strike out a RM100 million defamation suit filed against Prime Minister Datuk Seri Dr Mahathir Mohamad by his former deputy, Datuk Seri Anwar Ibrahim.

The three-member panel led by Federal Court judge Datuk Ahmad Fairuz Sheikh Abdul Halim unanimously dismissed with costs Anwar's appeal against the High Court's decision striking out the suit. The other two judges were Justice Datuk Mokhtar Sidin and Justice Denis Ong Jiew Fook.

The judgment was delivered today by Justice Ahmad Fairuz and Justice Ong. Justice Ahmad Fairuz has said that Justice Mokhtar could not be present in court today.

Anwar, 53, has appealed against the decision by Justice Datuk Dr R.K. Nathan to strike out his defamation suit after allowing Dr Mahathir's application to strike it out.

Justice Nathan struck out the suit with costs on grounds that it was frivolous and vexatious and an abuse of the process of the court.

Justice Nathan ruled that Dr Mahathir's words were in response to the call on him to explain the removal of Anwar as deputy prime minister as well as the deputy president of Umno.

Anwar filed his suit on Jan 25 last year, claiming that Dr Mahathir has falsely and maliciously spoken to local and foreign reporters at a news conference at the Prime Minister's Department accusing him of committing immoral act.

Anwar claimed that Dr Mahathir uttered the words knowing that they would be published locally and internationally.

In his statement of defence filed on March 22 last year, Dr Mahathir contended that he spoke the words as prime minister on an occasion of qualified privilege.

He said the words were published in the course of discussion of government and political matters which concerned Anwar in relation to his suitability for the office he held and after due inquiry and investigation into the matter.

Anwar, in his reply, said the defence of qualified privilege was not open to the prime minister because he has acted maliciously by uttering and causing the offending words to be published and republished.

Besides damages, interest and costs, Anwar also sought an injunction restraining Dr Mahathir from further uttering such words against him.

Anwar was represented by counsel Karpal Singh while counsel Datuk Mohamed Adnan Shuaib appeared for Dr Mahathir.

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

Anwar was not present in court today.

In affirming the High Court's decision to strike out Anwar's suit, Justice Ahmad Fairuz said it was clear that Dr Mahathir was sheltered by the defences of justification and qualified privilege when he uttered the offending words.

"It is very plain and obvious that the claim of the appellant (Anwar) is obviously unsustainable," said the judge in the 11-page judgment.

He said the Court of Appeal had carefully perused the trial judge's judgment ruling that Dr Mahathir spoke the statement on the occasion of qualified privilege and the Court of Appeal was unable to find anything in his judgment that could indicate that the trial judge erred in law or fact in his reasonings on that issue.

Justice Ahmad Fairuz said the Court of Appeal was also unable to

disagree with the trial judge's reasonings and conclusion that Dr Mahathir's mind was "devoid of malice" when he uttered the statement.

He said the Court of Appeal was also unable to see how the trial judge could be said to have erred in principle when he ruled that the defence of justification was available to Dr Mahathir and his statement was true in substance and in fact based on the facts of the pleas of guilt of Anwar's former speech-writer Dr Munawar Ahmad Anees and adopted brother, Sukma Darmawan Sasmitaat Madja.

Dr Munawar and Sukma were each jailed six months by the Sessions Court on Sept 19, 1998 when they pleaded guilty to allowing Anwar to sodomise them.

"We find that he (trial judge) has indeed taken into account relevant considerations -- including the matter of the two convictions and the facts (facts of the case) as related to the Sessions Courts. We also find nothing in his judgment that can indicate that he has asked himself the wrong questions.

"We also agree with the learned respondent's counsel (Dr Mahathir's counsel) that the convictions of Dr Munawar and Sukma are conclusive and final," Justice Ahmad Fairuz added.

-- BERNAMA

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