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PM need not testify, says court

THE Kuala Lumpur High Court yesterday decided that Prime Minister Datuk Seri Dr Mahathir Mohamad does not have to testify at the sodomy trial of his former Deputy, Datuk Seri Anwar Ibrahim.

Justice Datuk Arifin Jaka ruled that there was not an iota of evidence to show that the Prime Minister was involved in fabricating evidence in the alleged conspiracy to topple Anwar.

He said calling Dr Mahathir to testify in the trial would be tantamount to a confrontation of the defence own witness.

In his judgement delivered at about 9.30am, Arifin said to call Dr Mahathir to testify in the trial therefore would be an abuse of the court process and it was its duty to refrain such thing from happening.

"I therefore come to the inevitable conclusion that the defence has failed to satisfy this court on why PM should be called," he said.

Immediately after the judgement was delivered, Anwar stood up and shouted to the judge: "Dr Mahathir should have the moral courage to come to this court."

Anwar and his adopted brother Sukma Darmawan Sasmitaat Madja who are separately charged with sodomising Azizan Abu Bakar had applied to the court to have Dr Mahathir as their witness in his personal capacity.

Anwar, 52, and Sukma, 39, allegedly sodomised Azizan, 39, at Sukma's apartment in Tivoli Villa, Bangsar, in Kuala Lumpur 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 Ismail, at the same time and place.

In his ruling, Justice Arifin said: "It is to be noted that the status of Dr Mahathir as a prime minister ought to make no difference and should not be considered as a factor in determining whether he should give evidence.

"I treat Dr Mahathir just like any other citizen in this country without any privilege pertaining to his attendance in court," he said.

Justice Arifin said Dr Mahathir was entitled to form his own opinion regarding the police investigation and even if there was such a conspiracy as alleged by the defence existed, it would not be a matter for the trial.

On the available evidence produced so far at the trial, Justice Arifin said there was nothing to show or even to suggest that the Prime Minister was involved in any manner with a conspiracy to fabricate evidence of sodomy against Anwar and Sukma as alleged.

The judge said as the court accepted the Prime Minister's explanation provided in his affidavit regarding his appearance as defence witness, the subpoena issued to Dr Mahathir had to be set aside.

In his affidavit, Anwar, among other things, had raised the issue of Azizan's meeting with the Prime Minister, political conspiracy involving political figures and Ummi Hafilda Ali's letter dated August 5 1997.

Justice Arifin said the rest of the allegations made by Anwar in his affidavit against the prime minister was not relevant as they related to political and economic discussions between him as the then deputy to Dr Mahathir.

Sukma, said the judge, on the converse, had never implicated the Prime Minister in any way in his evidence and equally, there was no evidence to show that Dr Mahathir knew or was acquainted with him.

Anwar, who was clearly upset with the judgement, said: "What we have here is a judgement that makes whatever Dr Mahathir said as gospel truth. Where is the justice in this court?"

He accused the judge of not considering all his views and had allowed the Prime Minister "to hide behind his executive privilege".

"My Lord, please be fair. What privilege does Dr Mahathir have? You should be fair."

Justice Arifin responded by saying that he would not listen to Anwar and he adjourned the case when the former finance minister continued to do so even after the court warned that his outburst might amount to contempt of court.

After the court resumed at 11am, Mr Karpal Singh, who represented Anwar, said the defence regretted that there would be no appeal against Justice Arifin's ruling. Hearing continues on Wednesday.

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