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Senior DPP: Anwar would have been charged irrespective of PM's opinion

KUALA LUMPUR, Wed. - Datuk Seri Anwar Ibrahim would still have been charged based on "hard, cold facts" no matter what the Prime Minister's opinion was on the case, a senior deputy public prosecutor told the High Court today.

Datuk Abdul Gani Patail said he was perplexed by the general concern over the Prime Minister's view since it had no bearing at all on Anwar's case.

"Why should the Prime Minister's opinion or view be of any importance to the trial...the court should not take into account the opinion of the Prime Minister, but it should consider the evidence before it," he said.

Abdul Gani said the Prime Minister's view (in 1997) that the sex allegations against Anwar were false was based on "hearsay" evidence since he had formed the opinion based on a report made by someone else.

The DPP was replying to submissions by Anwar's counsel Karpal Singh on the relevance of Datuk Seri Dr Mahathir Mohamad's evidence to the defence.

Judge Datuk Arifin Jaka had ordered parties to submit on the relevance of Dr Mahathir's evidence before deciding if the Prime Minister should be called.

Anwar had filed an affidavit stating his reasons for calling Dr Mahathir who has since filed a 14-page reply.

Anwar and his adopted brother businessman Sukma Darmawan Sasmitaat Madja are charged with sodomising former driver Azizan Abu Bakar at Tivoli Villas apartment in Bangsar between January and March 1993.

Sukma is also facing a second charge of abetting Anwar in sodomising Azizan at the same time and place.

Azizan is the former driver of Anwar's driver Datin Seri Dr Wan Azizah Wan Ismail.

Continuing his submission, Abdul Gani said there was no evidence that Azizan and businesswoman Ummi Hafilda Ali had discussed the alleged sodomy with others before the alleged victim made his statutory declaration.

"Azizan was also not cross-examined on whether he had conspired to fabricate evidence," Abdul Gani said, adding that the defence should have asked Azizan about the alleged conspiracy and its nexus to Dr Mahathir.

Since the defence had failed to do so, Dr Mahathir's evidence would be "totally" irrelevant in this aspect, Abdul Gani said.

"A conspiracy to topple Anwar politically is irrelevant as it has nothing to do with the case before the court," the DPP said, adding that Anwar had other avenues to resolve the matter.

Earlier, while Karpal was continuing with his submission, Arifin warned Anwar that he could be cited for contempt for interfering in the proceedings.

During Karpal's submissions, Arifin on several occasions interjected with comments which made Anwar in the dock stand and ask Arifin if he had already decided on the relevance of Dr Mahathir's evidence before parties had completed their submissions.

This led to a heated exchange between Anwar and the judge, with Karpal saying that he did not blame Anwar for his concern over the demeanour of the judge.

However, the exchanges ended when the judge told Anwar to sit or he would be cited for contempt.

Before he sat down, Anwar said the judge was free to cite him if he

wished to and asked the judge if he had "received any instructions" from his higher ups.

Continuing his submission, Karpal said he was making a further submission in view of Dr Mahathir's reply filed last week.

"Dr Mahathir's reply clearly shows that he is a material witness who should have been called by the prosecution or by the court as its witness," he said, adding that under the Criminal Procedure Code the court could call any witness in the interest of justice.

Karpal said under the law the position of the Prime Minister should not be any different from anyone else and the manner of Dr Mahathir's affidavit showed no regard for what had transpired in court.

"If his evidence is not material, then he should not have filed an affidavit," Karpal said, adding that Dr Mahathir's affidavit should be viewed in the light of Anwar's sworn evidence and the prosecution's case as a whole.

Karpal said on the totality of the prosecution's case, there was evidence that Azizan had met Dr Mahathir and the defence wished to find out why the Prime Minister changed his stand from the one taken in 1997.

"This must be taken in the light of Azizan's withdrawal (of his allegation that Anwar had sodomised him). It is relevant to show that Azizan is capable of giving different versions," he said.

Further submissions were adjourned to Friday.

Tomorrow the court will continue with the evidence of defence witnesses.

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