

15 OCT 2003

Court-Fernandez

COURT WILL DECIDE FERNANDEZ'S FATE TOMORROW

KUALA LUMPUR, Oct 15 (Bernama) -- The Magistrate Court here will deliver its decision tomorrow in the trial of Tenaganita director Irene Fernandez who is charged with publishing a memorandum with malicious intent.

Magistrate Juliana Mohamed said this after hearing the two-day oral submission by Fernandez from the dock.

Fernandez is being tried under an amended charge, that is, publishing with malicious intent a memorandum entitled "Abuse, Torture and Dehumanised treatment of the migrant workers at the detention camps" which contained false news at the Tenaganita Sdn Bhd office at No 28C, Lorong Bonus Enam, Off Jalan Masjid India, on Aug 25, 1995.

She was arrested at home on March 18, 1996. She was allowed bail of RM3,000 and ordered to surrender her passport to the court.

In her submission, Fernandez said the Sun team, comprising three reporters headed by Steven Gan, received an award of RM3,000 and a certificate from the Prime Minister, Datuk Seri Dr Mahathir Mohamed in Oct 21, 1996 for publishing the same kind of story and conclusion as the memorandum.

"If the Sun team can get an award for the same story and truth, (and) for the same conclusion, what will I get? What did I get? Charged for publishing false news under Section 8A(1) under the Printing Presses and Publications Act 1984," she argued.

Fernandez submitted that from primary evidence given by former detainees, it showed a pattern and condition of abuse where fear was created through torture so that detainees even when they were sick, they were afraid to ask for treatment, and death was the result.

"This is the truth. The issue is not just the number of deaths in the camp but there were deaths not by accident, not by committing suicide but from a condition of abuse and torture in the camps," she said.

On the sexual abuse, Fernandez said a former detainee, Mohamad Zakir Hossain M.A.Motabil said he felt ashamed and inhuman and felt like vomiting when he witnessed four to five Myanmar detainees forced to masturbate and perform oral sex on each other while the officers laughed at them.

"Incidents of sexual abuse is no difference to how slavery existed," she said.

She said it was miserable that the prosecution failed to bring any former detainee to give evidence as they were the only ones who knew the truth, having come through the experiences of abuse, torture and dehumanised treatment.

Juliana then allowed senior practitioner, T.Ramdas, who was holding a watching brief for the Bar Council, to make a brief submission on the points of law as applied to the facts of the case since lead counsel for this case, M.Puravalen was away.

Ramdas said the "news" concerned must be proven to be false in order to determine falsity and that the court ought to look at the totality of the memorandum.

"If the substance, the memorandum is borne out by the evidence adduced in the court by the witness, then the memorandum cannot be said to be false within the meaning of Section 8A (1) of the act," he said.

Stanley Augustine is leading the prosecution, assisted by Lisa Kwan

while counsel Edmund Bon, assisted by M.Moganambal, appeared for the defence.

-- BERNAMA

CS AHH AO