

Dead detainee's mum sues government for RM27 mil
Malaysiakini.com
April 13, 2007
Fauwaz Abdul Aziz

The mother of deceased police detainee G Francis Udayappan today filed a RM27 million civil suit with the Kuala Lumpur High Court against the government and 11 others.

In her suit, G Sara Lily named the government, Attorney-General (AG) Abdul Gani Patail, the past and present inspector-generals of police Mohd Bakri Omar and Musa Hasan and the deputy internal security minister as respondents.

Six police officers of various ranks, who were either directly or indirectly connected to the arrest, detention and death of Francis were also named as respondents.

The forensics pathologist who performed the autopsy on Francis, Prof K Nadesan from Universiti Malaya Medical Centre, was also accused of having "collaborated" with the other respondents to cover up the "murder" of Francis.
Met later, her lawyer M Manoharan said the suit was filed now as it signified the third Indian New Year since Francis was arrested on April 14, 2004, at his house in Sentul Pasar, Kuala Lumpur and detained at the Brickfields police headquarters.

The highly decomposed remains of the 24-year-old despatch clerk was found a month later in the Klang River.

While Sara Lily had accused the police of having caused her son's death and dumping his body into the river, the police claimed that Francis had jumped into the river in a bid to escape.

After a protracted tussle between the mother and the authorities who maintained that the body was not that of Francis (right), the court last year identified the body as that of her son.

However, it also issued an 'open verdict' denying that there was conclusive evidence of foul play in his death. An appeal has since been filed over this.

Still unsatisfied

"I am still unsatisfied with the whole affair with what they have done with my son. He was not a bad person," Sara Lily told malaysiakini.

"After two years, they return him to me in this state (badly decomposed)," added the mother, who is still distraught over the loss of her eldest son.

In her affidavit, Sara Lily also sought the court's declaration that all the respondents:

- violated Article 5 of the Federal Constitution - which relates to the right to life - by assaulting Francis to death as well as in their refusal to release his body until the court decision of April 7, 2006;

- failed or neglected to abide by regulations contained in Sections 20, 21 and 24 of the

Police Act 1967;

Sara Lily also sought the court's declaration that the AG had failed to carry out his duties as contained in Article 145 of the Constitution and Section 376 of the Criminal Procedure Code (CPC).

The AG had also failed to order and supervise a detailed, transparent, fair and balanced investigation into various aspects of the affair while the police officers had failed to carry out independent investigations, read her affidavit.

"Twenty-five police reports have been filed by Sara Lily, but none of these requests have been fulfilled," said Manoharan.

Sara Lily had filed the suit via another lawyer P Uthayakumar. Met later, the lawyer said a declaration was also sought that Magistrate Mohd Nazran Mohd Sham who had acted as coroner in the inquest acted beyond his duty in determining the body to be that of Francis.

"Under Section 333 (of the CPC), the coroner is supposed to determine where, when, how and in what manner a death had occurred.

"There is nothing in the Criminal Procedure Code (for the magistrate) to decide this (body) was (that of) Francis or not," he said.

The court will also be sought to declare that only an Independent Police Complaints and Misconduct Commission (IPCMC) can carry out an independent investigation into Francis' death.

Copyright © 1999-2007 Mkini Dotcom Sdn. Bhd.
Source : <http://www.malaysiakini.com/news/65912>