

Sedition trial: Karpal wants Mahathir subpoenaed

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By Hafiz Yatim

Veteran lawyer Karpal Singh wants former prime minister Dr Mahathir Mohamad and four others to be subpoenaed by the High Court to explain why they were not charged with sedition for what they said during the parliamentary debate on the 1993 constitutional amendment that removed the immunity of the Malay Rulers.

In his sedition charge defence before the High Court in Kuala Lumpur today, Karpal requested that subpoenas be issued for Mahathir and the others, or consider striking out the charge against him.

He has applied to strike out the charge on the grounds the attorney-general had not used use his powers fairly.

Karpal was accused of sedition for saying at a Feb 6, 2009, press conference that legal action could be instituted against the Perak sultan for his role in the state constitutional crisis earlier that year.

He said Mahathir, former Perlis menteri besar Shahidan Kassim, then Arau MP, Perkasa president Ibrahim Ali and former Pendang MP Othman Abdul had said harsher things about the Malay rulers in Parliament during the debate on the constitutional amendment.

The senior lawyer also pointed out that lawmakers were not immune from sedition when tabling or debating laws in Parliament or state assemblies.

This was because Article 63 (4) of the federal constitution states that while no person shall be liable to legal proceedings in court on what transpired in Parliament or legislative assemblies, this immunity did not apply to offences under the Sedition Act 1948.

Arguing that his rights to equality before the law, as protected under the constitution, were being violated by the charge against him, Karpal said he wanted Mahathir, Shahidan, Ibrahim and Othman subpoenaed because he needed to learn why no action had been taken against them for saying things much worse than what he was accused of.

The senior lawyer also wants then attorney-general Abu Talib Othman subpoenaed as well for not prosecuting the four.

Karpal, who is also Bukit Gelugor MP, said in reading the Hansard of Parliament that Mahathir in tabling the constitutional amendment in 1993 called for the immunity given to the Malay Rulers to be abolished as Malaysia was a constitutional monarchy.

"The three previous prime ministers had advised the rulers many times. I know this as this is reported in the cabinet and also at the Umno supreme council meetings.

'Not a licence to commit crime'

"Even Hussein Onn had issued a stern warning but the advice was not successful as they (the rulers) continued with their actions, and in fact it escalated further," Karpal said, quoting the Hansard on what Mahathir had said during the debates on Jan 18 and 19, 1993.

Mahathir in his debate also cited a passage from a Straits Times issue of 1946 calling on the Malay royalty to withdraw themselves altogether and questioned if such were the feelings then, those could also be the views held in 1993.

The former PM had also said while immunity placed the rulers in an esteemed position this privilege was not a licence for them to commit crime.

Karpal went on quoting Mahathir, from the Hansard, citing incidents of a Johor ruler hitting the rakyat and calling for the need for the government to take a strong stand that it could not be discriminated by the rulers.

Mahathir also had strong words about Raja Azlan Shah when he was the Lord President of the then Supreme Court, who had said the Malay rulers had to play their roles in line with the constitution.

However, when Raja Azlan Shah became the Sultan of Perak, and later the Agong, he failed to advise the rulers.

"Has Raja Azlan Shah's wisdom of the law changed when he became the King, resulting in him losing his wisdom?" Mahathir asks in the Hansard.

Shahidan in debating the matter went on to list the wrongdoings of the Johor royal family, including carrying out several assaults, some resulting in death, and rape as well among the incidents that were reported and not officially reported, according to the Hansard as read out by Karpal.

Ibrahim in debating the matter had wanted to know whether any of the rulers or members of royal families had asked for logging concessions, projects or wanted excessive renovations to their palaces.

Osman also questioned the character of the rulers, describing them as though they had been motivated by Satan in killing, raping, running away with somebody else's wife and seizing properties.

Prosecution may raise objections

The prosecution led by DPP Noorin Badaruddin has indicated it may object to the application for subpoenas.

Another DPP, Azlina Rasdi, said the attorney-general has the discretion of who to charge, as governed by Article 145 of the federal constitution.

Azlina also submitted that the court could not, in the defence stage, strike out application as it had not heard the arguments from the prosecution.

She also told the court that equality before the law could not be applied in all cases as the AG is given that discretion.

“What has been submitted are mere allegations and it is not necessary to issue subpoenas to call them,” she said.

She then moved that the court dismisses Karpal's application.

Judice Azman Abdullah fixed Aug 24 for continued submission on the issue of subpoenas.

Present at the trial were DAP parliamentary leader and Ipoh Timor MP Lim Kit Siang and Bukit Bintang MP Fong Kui Lun.

Appearing together for Karpal are Ramkarpal Singh, Gobind Singh Deo, Jagdeep Singh Deo and Sangeet Kaur.

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