

Karpal fails in bid to subpoena Dr M
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By Aidila Razak

The Kuala Lumpur High Court today rejected DAP national chairperson Karpal Singh's application to subpoena former premier Dr Mahathir Mohamad for the ongoing sedition trial against the former.

The court also struck out Karpal's application to subpoena former attorney-general Abu Talib Othman and his successor Abdul Gani Patail.

"A subpoena can only be issued for (senior federal counsel) Kamaluddin Md Said," Justice Azman Abdullah said.

In his written judgment, Azman said Kamaluddin can be subpoenaed to support the defendant's case, following Kamaluddin's view that the a civil suit can be undertaken against the Perak sultan.

Azman found the trio's testimonies were irrelevant as Article 145(3) of the federal constitution gives the attorney-general discretionary powers to "commence or halt any criminal proceeding".

As such the court need not study why Mahathir was not charged with sedition over statements he had made in Parliament, nor does it need to compare his statements with that made by Karpal.

Striking-out bid rejected

In keeping with this, the judge also rejected Karpal's bid to strike out the sedition charge levelled against him.

In his application, Karpal said the fact that the then-AG chose not to charge Mahathir goes against Article 8(1) of the federal constitution which guarantees equal protection under the law.

Azman found Article 145(3), which provides the AG's discretionary powers, can be exercised without contravening Article 8.

"The attorney-general is in touch with the police and other investigating agencies, and he has information not available to the courts on which to base his decision on whether or not to prosecute and if so on which charge," he said.

He added that "it must not be thought that he may act dishonestly" and if indeed he was dishonest in his duty, "the public would be able to show their disapproval".

However, he said, this disapproval should not be shown in the courts but "elsewhere and in the last resort by voting against the party of which he is a member".

Karpal will need to enter his defence on Nov 2.

Speaking to reporters later, Karpal said that he will file an appeal on both the decisions at the Court of Appeal on Monday.

The veteran politician, who is also Bukit Gelugor MP, is charged under Section 4(1)(b) of the Sedition Act, and can be fined up to RM5,000 or imprisoned for three years, or both.

He is accused of committing the offence by saying at his 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.

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