

Probe into Najib's accounts must be allowed to continue

MalaysiaKini.com

Jan 29th, 2016

The Malaysian Anti-Corruption Commission and attorney-general (AG) Mohamed Apandi Ali should allow the files on investigations into Prime Minister Najib Abdul Razak's personal bank accounts to remain open, says a DAP parliamentarian.

Puchong MP Gobind Singh Deo, who is also chairperson of DAP's national law bureau, also opined that the Federal Constitution does not empower Apandi, as the AG, to close a case.

“The investigations into PM Najib's accounts should be allowed to continue. Article 145(3) gives the AG powers to institute, conduct or discontinue criminal proceedings. There is no express mention of any power on his part to close a case,” Gobind told Malaysiakini today.

A lawyer by profession, he said even in a case where prosecution begins and is subsequently discontinued, a case discharge order, not amounting to an acquittal, will not stop the prosecution from re-opening the case, unless the court specifically orders an acquittal.

'Case can be reopened with new evidence'

“It is only where a person has been acquitted that Article 7 of the Federal Constitution protects him or her from further proceedings in respect of the same subject matter.

“So, the short of it is that a file will remain open and the prosecution may well reopen the case at any later stage if the circumstances warrant it, for example where new evidence is obtained.

Gobind said this when asked whether the files on Najib should remain closed as ordered by Apandi and whether the AG has the authority to do so.

Former Bar Council chairperson Lim Chee Wee, who is also an MACC operations review panel member, said today Apandi has no right to order a case to be closed.

Lim said the attorney-general is in fact obliged to allow MACC's request, made under the Mutual Legal Assistance treaties, to go overseas to gather documents and evidence.

Yesterday, veteran lawyer and former United Nations special rapporteur Param Cumaraswamy, who was also a Malaysian Bar president in the 1980s, and former attorney-general Abu Talib Othman also expressed their views that Apandi has no power to order a case to be closed.

Copyright © 1999-2012 Mkini Dotcom Sdn. Bhd

Source: <https://www.malaysiakini.com/news/328690>