Najib's defence wants parts of ex-1MDB CEO's witness statement removed

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Najib Abdul Razak's defence team has applied for the removal of parts of a written witness statement by former 1MDB CEO Mohd Hazem Abdul Rahman, the Kuala Lumpur High Court heard this afternoon.

During the former prime minister's RM2.28 billion 1MDB corruption trial, lead defence counsel Muhammad Shafee Abdullah argued that this is because the 118-page document contained multiple hearsay allegations.

Referring to the court document which contained 224 paragraphs, Shafee claimed that certain portions of it breached the rule against hearsay evidence.

Under the law, hearsay refers to a testimony by a witness on what someone else allegedly told the witness.

Referring to one of various highlighted paragraphs of Hazem's written witness

statement, Shafee said one of it referred to what 1MDB-linked businessperson Low Taek Jho, or Jho Low, had allegedly told Hazem.

Shafee argued that the portion, which contained an allegation on the purpose of the establishment of 1MDB being linked to a certain political party, is a very serious claim which requires Jho Low to be called to testify on it himself.

“This is inadmissible as he (Hazem) alleged that Jho Low told him this was the purpose of 1MDB,” Shafee said, adding that this was compounded by the fact that the prosecution would not be calling Jho Low to verify or refute this.

It was previously reported that the authorities are still trying to trace the whereabouts of Jho Low in order to assist investigation into the 1MDB affair.

In raising the defence's objection, Shafee submitted that the said portion of Hazem’s witness statement may only be admissible if Jho Low comes to court, takes an oath, and testifies based on his (Jho Low) personal knowledge on the matter.

“(As Jho Low is not set to come to court to testify), then I cannot cross-examine him (Jho Low) on whether he is telling the truth,” Shafee told the court.

“I am making an application for the parts of the witness statement highlighted in yellow to be removed,” the veteran lawyer added.

DPP Ahmad Akram Gharib then counter-submitted that Hazem’s witness statement on a whole is still admissible to be tendered as evidence because it is in line with Sections 5, 6, and 10 of the Evidence Act for evidence that forms part of a transaction contained in the charges.

Najib is on trial over four counts of abuse of power and 21 counts of money laundering involving RM2.28 billion of funds from sovereign wealth fund 1MDB.

The sections cited from the Evidence Act refer to the admissibility of evidence in court proceedings.

“At the end of the day, what needs to be proven is that the accused committed (alleged) acts (contained in the 25 charges).

“For us to show that, we (the prosecution) need to call all these witnesses to testify how the accused (allegedly) did all the things mentioned in the charges.

“In doing that, they (witnesses like Hazem) have to tell their story. Whatever (portions) of the witness statement highlighted by the defence, that is the way

they tell their story," Akram said.

The DPP added that while the prosecution would not be calling Jho Low, he said the witnesses should be allowed to unfold the narrative of their story which relates back to the charges, among others.

After nearly two hours of submissions by the prosecution and defence, judge Collin Lawrence Sequerah announced that the court would make a decision on the application tomorrow afternoon when the trial resumes.

At this juncture, Akram informed the court that the prosecution would seek to try to get lead DPP Gopal Sri Ram to submit further legal points against the defence's application tomorrow.

It is understood that Sri Ram was not present at Najib's trial today as he was conducting a separate criminal case at another court.

It was reported that Hazem was initially scheduled to testify today as the 10th prosecution witness, following ninth prosecution witness and former 1MDB CEO Shahrol Azral Ibrahim Halmi having wrapped up his testimony last week.

However, due to the submissions from the parties over the defence's application

to remove certain parts of Hazem's written witness statement heard by the court this afternoon, he (Hazem) is yet to take the witness stand today.

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