

## **'Ex-1MDB CEO's witness statement still admissible in Najib's graft trial'**

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1MDB TRIAL | The alleged hearsay aspects of former 1MDB CEO Mohd Hazem Abdul Rahman's witness statement are still admissible in Najib Abdul Razak's RM2.28 billion 1MDB graft trial, the Kuala Lumpur High Court heard today.

Lead DPP Gopal Sri Ram submitted this afternoon that this was as the current situation was allowed by Section 32 (1)(b) of the Evidence Act 1950.

Yesterday, former prime minister Najib's lead defence counsel Muhammad Shafee Abdullah applied for parts of 10th prosecution witness Hazem's 118-page written witness statements to be removed due to hearsay allegations.

Among the disputed portion of the witness statement was that 1MDB-linked businessperson Low Taek Jho or Jho Low allegedly having told Hazem about the purpose of the establishment of 1MDB being linked to a certain political party.

Shafee yesterday had argued that the disputed portions should be removed as Jho Low, among others, would not be called to court to verify or rebut what was allegedly told to Hazem.

Section 32 of the Evidence Act, in general, refers to cases in which a statement of relevant fact by a person, who is dead or cannot be found among others, is relevant. Section 32(1)(b) states that among these situations are when the statement was made by any such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business or in the discharge of professional duty; or of an acknowledgement written or signed by him for the receipt of money, goods, securities or property of any kind; or of a document used in commerce, written or signed by him, or of the date of a letter or other document usually dated, written or signed by him.

Sri Ram submitted that the provision also allows the disputed portions of the witness statement to be tendered as evidence in a trial because Jho Low and other 1MDB-linked personalities could not be traced by the authorities to testify in court.

“Jho Low, Terrence Geh, Jasmine Loo and other cohorts could not be found. Through the investigation officer, it would be established that they could not be

located.

“We will submit that our case comes under Section 32 (of the Evidence Act),” Sri Ram said.

The former federal court judge added that the prosecution’s stance is supported by a 2008 Federal Court ruling in *Tan Mooi @ Tan So Tin & Others versus Tengku Mohd Saad & Others*.

Sri Ram said that the 2008 apex court ruling held that Section 32(1)(b) extends to not only written statements but verbal statements as well, such as in the present one of Jho Low’s alleged oral words to Hazem contained in the witness statement.

Shafee then applied for the defence to be given enough time to prepare a counter-submission against today’s submission by the prosecution.

The judge then allowed the application and adjourned proceedings for today to Thursday this week.

On Thursday, the defence team is expected to submit their counter-submission.

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.

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