

## **It's Najib, not Zeti on trial in 1MDB case – prosecution**

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1MDB TRIAL | It is former prime minister Najib Abdul Razak on trial in the RM2.28 billion 1MDB corruption case, not former Bank Negara governor Zeti Akhtar Aziz, the prosecution contended.

DPP Gopal Sri Ram submitted this during the High Court hearing in Kuala Lumpur on Najib's application for banking documents involving Zeti's family, among other documents.

Through the application, Najib's legal team is seeking documents allegedly showing Zeti's family having received monies from 1MDB-linked fugitive Low Taek Jho or Jho Low, in order to bolster the former prime minister's defence against the criminal charges. Zeti has denied the allegation.

Sri Ram today submitted that it is premature for Najib to make the discovery application now, as the court could only determine the credibility of any

prosecution witness after having heard their actual testimony during the trial.

“The principal charges posits the accused (Najib) as having abused his position to receive a pecuniary advantage.

“Firstly, in relation to the (discovery) application, Zeti is not on trial.

“Secondly, whatever amount of weight to be given (by the court) to Zeti’s evidence (testimony), it is for your lordship (judge Collin Lawrence Sequerah) to determine after hearing it (in the trial).

“Yang Arif cannot make an interim finding on the credibility (of Zeti or any other prosecution witnesses) in a criminal case now.

“The court has to look at the evidence as a whole (after witnesses have testified for the prosecution and cross-examined by Najib’s defence team in the trial).

“This is not the stage for the credibility of the witness to be adjudicated on. What Zeti’s family has purportedly received is not relevant at all on whether the accused (Najib) abused his position,” Sri Ram submitted.

In the ongoing trial before Sequerah, Najib faces four counts of abuse of power and 21 counts of money laundering involving RM2.28 billion of 1MDB's funds.

The accused was also previously a finance minister and chairperson of 1MDB's board of advisors. 1MDB is fully owned by the Minister of Finance Incorporated (MOF Inc).

Zeti is on the list of witnesses that the prosecution intends to call to testify during the ongoing trial.

Today's hearing is not only on Najib's discovery bid for the Zeti family-linked banking documents, but also for a second discovery application for, among others, the United States court documents on the forensic report on the handphones of Tim Leissner.

Previously before the US court, Leissner had pleaded guilty to a 1MDB-linked case, whereby in his admission he claimed to have bribed 1MDB officials, among other people.

Sri Ram asked the court to dismiss the discovery applications as they are frivolous and bad due to them amounting to a collateral attack on an issue at trial, which is not permissible under Malaysian law.

Under the law, a collateral attack is a legal bid that seeks to challenge a ruling in another separate court proceeding.

Sri Ram pointed out that whether Zeti's family received the money or not is irrelevant and has no bearing on the prosecution's case against Najib.

"Our case is that the accused (Najib) was a shadow director of 1MDB and had used these 'boys' as agents through Jho Low. Jho Low was the mirror image of Najib, whereby he (Najib) used Jho Low," Sri Ram submitted on the basis of the prosecution's case against Najib.

The 'boys' in question is believed to refer to a few prosecution witnesses who previously testified, such as former 1MDB CEO Shahrol Azral Ibrahim Halmi.

In the previous 1MDB trial, the defence team heavily cross-examined Shahrol and other prosecution witnesses, such as Najib's former special officer Amhari Efendi Nazaruddin, on whether they were in cahoots with Jho Low in the whole affair, of which Najib claimed he has no knowledge about.

The DPP, though, reminded the court that it would only decide at the end of the prosecution's case much later on the shadow director issue and on the credibility of Zeti, among other evidence.

Sri Ram added that the discovery applications were not necessary as the defence team could cross-examine Zeti on the Jho Low-linked allegation when the former Bank Negara governor takes the stand during the 1MDB graft trial.

However, lead defence counsel Muhammad Shafee Abdullah countered that the bank documents are necessary at this stage as it involves the credibility of a critical prosecution witness, Zeti.

Shafee submitted that the defence is not asking the court to make an early finding now on the credibility of Zeti, as the discovery applications merely seek to assist the defence cross-examination of the witness when she takes the stand later.

The lawyer submitted that the stance of the defence is that the prosecution witnesses are not to be believed as they have allegedly been bribed, such as hinted by Leissner's claim that he bribed several 1MDB officials.

Shafee submitted that the bank documents were necessary for the defence's contention that Najib had no knowledge about the 1MDB affair at various levels, such as the 1MDB board and its management, as well as Bank Negara, as they failed to raise red flag over the monetary transactions in the case.

"The whole system failed and not because it was made to fail, but there was some

level of compromise and conspiracy in these institutions and relationship of these institutions,” Shafee contended.

The lawyer added that it is incumbent on the court to allow the discovery bids as Najib is merely a single individual accused facing the entire machinery of the government.

“He (Najib) is one man here. He is pitted against the whole machinery of the government in what evidence is tendered in court,” Shafee claimed.

Meanwhile, Sri Ram informed the court that the prosecution will later file an application to recall Amhari to the stand to confirm audio recordings that purportedly showed Najib in conversation with several others linked to 1MDB.

At the end of the proceedings, Sequerah fixed July 12 for the decision on Najib’s two discovery applications.

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