

Anwar vs IGP: Does PC enjoy immunity?
Malaysiakini.com
July 07, 2010

Anwar Ibrahim's application to strike out a defamation suit brought by the inspector-general of police (IGP) Musa Hassan has raised the sticky question of whether the protection of 'absolute privilege' - that is, immunity from libel - which applies to a police report, extends to what is said at a press conference that is made based on that report.

By law, contents of a police report receive immunity and cannot be a basis for libel, but it is unclear whether the Anwar's press conference held after lodging the report enjoys the same protection.

Musa's (left) lawyers have argued that such protection does not extend to subsequent media reports or press conferences after a report is lodged.

The IGP suing Anwar for defamation, as he claimed Anwar had acted mala fide in lodging the police report and making public the details of the report lodged against him and attorney-general Abdul Gani Patail, over the opposition leader's allegations that the two had fabricated evidence in the 'black eye' incident of 1998.

Musa has also applied for an injunction to stop the PKR de facto leader or his agents from further repeating the defamatory remarks contained in the police report.

'Against public policy'

Musa's lawyer Kamarul Hisham Kamaruddin compared the 'absolute privilege' situation with the qualified privilege accorded to members of parliament.

"MPs enjoy absolute privilege (when) they are debating in Parliament. However, once outside (the House), MPs do not enjoy such immunity," he said.

He also cited the defamation suit against New Straits Times reporter Joceline Tan, in which the Court of Appeal decided it was wrong for a report to be made based on court documents which had not been made public.

Although court documents are classified as privileged documents, it could only be reported once it had been produced in an open court.

Kamarul Hisham agreed that while police reports have absolute privilege, it does not make it right for someone to lodge something defamatory, and then hold a press conference and subsequently claim immunity.

"This is not right for public policy," he said.

Discouraging police reports

Meanwhile, Anwar's (left) counsel Sankara Nair argued that since police reports enjoy absolute privilege, it also extends to the press conference made regarding that report.

He argues this based on the fact that the contents of both were the same.

He also argued that if Musa, as claimed, is concerned about public policy, then disputing that the words drawn from the police report enjoy immunity works against public interest.

"If actions can be brought against complainants who lodge police reports, then it would discourage the reporting of crimes to the police. This thereby places detection and punishment of crime at serious risk," said the lawyer.

"Furthermore, the criminal law readily provides for a remedy against persons who make false police reports," he said.

Judicial Commissioner Prasad Sandosham Abraham has set July 14 for further clarification on this point.

A ruling on this contentious issue would certainly have an impact on reporters covering a press conference after a police report has been lodged.

Khairy case for December

Meanwhile, in an unrelated development, Prasad fixed Dec 8 and 9 to hear Anwar's defamation suit against Umno Youth chief Khairy Jamaluddin, over what the Rembau MP had said in Kuala Kangsar three years ago.

khairy jamaluddin kj interview 190310Anwar filed the suit on Sept 7, 2007 claiming Khairy (right), who was then Umno Youth deputy chief, had defamed him in slanderous statements on August 2007.

Khairy's statements had portrayed the Permatang Pauh MP as a politician who could not be trusted by the Malays, who the Malay struggles and rights, and that he would betray the Malays just to get the support of the non-Malays in the country.

He also said that Khairy had made the statements to insinuate that he (Anwar) was a political agent of the United States of America and the Jews, allegedly to ruin his political career.

Copyright © 1999-2007 Mkini Dotcom Sdn. Bhd.
Source : <http://www.malysiakini.com/news/136707>