

Sodomy II: Anwar's bid to dismiss charge postponed
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The Court of Appeal has postponed the hearing of Opposition leader Anwar Ibrahim's second application to strike out his sodomy charge, to next Monday.

The decision was made after the prosecution raised a "surprise" preliminary objection that the High Court ruling on Aug 16 that dismissed Anwar's application should be the end of the whole matter.

"The matter is not appealable as it does not violate the rights of the accused. Hence, there is no need to hear the merits of the case," solicitor-general Mohd Yusof Zainal Abiden told the court during his objection.

NONEAnwar's latest bid to strike followed allegations of an affair between DPP Farah Azlina Latif and star witness and complainant Mohd Saiful Bukhari Azlan.

Defence counsel Karpal Singh (left) told the court that he was not aware of the prosecution's preliminary objection, and was not ready to argue on this point.

"This application (striking out) is not an interlocutory application and hence it is appealable," argued Karpal.

"The prosecution had also (stated) in its written submission today that a decision taken to strike out would render the termination of the prosecution's case against Anwar.

"However, if the prosecution wants to raise the issue (of appealability), we are not prepared to answer the preliminary objection. Hence, the court should fix Monday to hear the matter," he said.

Anwar has also lamented that the prosecution had sprung the objection without giving notice to the defence.

'No notice given'

Mohd Yusof however maintained that the prosecution was standing by its preliminary objection and requested instead that the court hear their submission at 3pm this afternoon.

Karpal argued that he was not prepared to submit within several hours.

After a short break, Justice Ahmad finally decided to hear both the preliminary objection and Anwar's appeal on Monday.

The panel of judges included justice Sulaiman Daud and justice Azhar Ma'ah.

anwar ibrahim sodomy allegation saiful bukhari azlan first day in court 070808 sankara nairLawyer Sankara Nair (right) added that as a result of the new development, the date of mention that High Court Justice Mohamad Zabidin Mohd Diah had set on Monday will now be fixed on Tuesday.

Mohamad Zabidin had on Aug 16 dismissed Anwar's second application to strike out the

charge, ruling that the alleged affair would not compromise the prosecution's case and that it would not prejudice the opposition leader.

While he initially ordered the trial to resume, he later allowed a stay application pending appeal at the Court of Appeal, noting in his decision that Anwar's statement on the alleged affair was not hearsay as the prosecution had not rebutted it.

Last November Anwar had first attempted to have the charge struck out when Kuala Lumpur Hospital concluded in their medical report on Saiful that they had found no sign of anal penetration.

Zabidin had however dismissed the application, a decision that was subsequently upheld by both the appellate and the federal courts.

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