

Sodomy II: Karpal furious with HKL doctor
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Hospital Kuala Lumpur forensic pathologist Dr Siew Sheue Feng, faces being held in contempt of court, after falling foul of lead counsel Karpal Singh in the sodomy trial against Anwar Ibrahim.

Karpal asked the Kuala Lumpur High Court to act against Siew for referring to his notes relating to complainant Mohd Saiful Bukhari Azlan, while the court was in recess today. Siew had maintained yesterday and again today that he did not want to look at the notes, to refresh his memory while on the stand.

NONE After the break, Karpal asked Siew if he had looked at the "pro-forma" form in which he had filled Saiful's particulars. The doctor responded in the affirmative.

Karpal proceeded to ask whether Siew wanted to use the same notes to refresh his memory on the witness stand, to which he said 'No'.

In making his application to the court, the lawyer submitted that Siew had committed an offence under the Penal Code and asked for a contempt order to be handed down.

"I ask the court to investigate the witness for contempt as he had looked at his notes during the break but refused to do so when placed on the stand.

NONE "There are two offences, firstly contempt of court and interfering with the course of justice, an offence under the Penal Code. Witnesses cannot be allowed to refer to any documents during the break. They can refer to them before the start of the trial but not during a break."

Solicitor-general II Mohd Yusof Zainal Abiden in his reply said there is nothing in law to bar witnesses from looking at their notes during a recess. Hence, the application should not be entertained.

Justice Mohamad Zabidin Mohd Diah, who initially wanted to deliver his ruling in the afternoon, agreed to postpone it to tomorrow after Karpal said he had to attend to a drug trafficking case.

Bid to recuse judge

Karpal had earlier told the court that the defence team had received instructions to submit an application, its second, to have the judge recused from hearing the trial any further. This was on the ground that the judge is biased against Anwar.

Karpal also said the court has not been abiding by the Supreme Court ruling, as the judge has prevented the defence from accessing the pro-forma notes.

The pro-forma notes are a set of questions and procedures which doctors use in handling cases of sexual assault.

Siew had brought a sample of the form from HKL when proceedings started today, but refused to hand it over or look at the form while testifying, despite being unable to answer

questions.

NONEJustice Zabidin (left) had yesterday blocked access to the clinical notes. Today, Karpal again applied to get it based on Section 45 of the Evidence Act.

Karpal had wanted the judge to compel Siew to bring the document to back his testimony.

"We are not plucking this requirement out of thin air but are relying our application on a Supreme Court decision in 1993, which is equivalent to the Federal Court, the highest court in the country. An expert witness must be required to show the documents on which he bases his findings."

Yusof said that all the doctors did was to collect specimens and give them to the chemist.

"The witness cannot testify on behalf of the chemist on the findings," he said.

Justice Zabidin shot down the application and at one point, also threatened Karpal with contempt for wanting to recuse him.

muslim lawyers meeting 130706 zainur zakariaThe judge reminded Karpal of the Zainur Zakaria contempt case as an example.

Zainur (left) had been sentenced to three months' jail for contempt, for failing to apologise to the court for filing an application on behalf of Anwar in 1999, to remove Abdul Gani Patail and Azhar Mohamad from the prosecution team in a previous trial. The Federal Court absolved Zainur of the offence in 2001.

Karpal responded that he is bound by his client's instructions to initiate the recusal bid and that the application would be submitted tomorrow.

"I advise my client and he at the same time gives instructions. I take exception to what you (the judge) said about contempt," said Karpal.

This prompted the judge to withdraw his statement and to state that he may hear the recusal application tomorrow.

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