

Dr M vs judge: Tit-for-tat continues
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The verbal jousting between Dr Mahathir Mohamad and High Court Judge Ian Chin continued today with even more bizzare allegations of a conspiracy between the judge and the government.
MCPX

At a hastily arranged press conference at his Petronas Twin Towers office today where he is the oil giant's adviser, Mahathir alluded Justice Chin made several damning allegations against him to divert attention and avoid being put on a tribunal for alleged breach of judges' code of ethics.

mahathir pc 260608 01 "I think he is trying to save his skin. He thinks that by running me down, demonising me, he would be favoured by the government and no tribunal would be set up to dismiss him," he told reporters.

The breaches in ethics were allegedly made during the course of the case Sabah Foundation & 2 Ors vs Datuk Syed Kechik Syed Mohamed & Anor, involving two related cases heard simultaneously, which Chin had ruled in favour of the plaintiff in Sept 1999.

He alluded that Chin's history with Syed Kechik developed since the 1970's when now-defunct political parties Berjaya and then-ruling United Sabah National Organisation (Usno) were clashing over control of Sabah.

The former premier said Berjaya's objective as stated in their manifesto was to expel Syed Kechik from Sabah. He said that Chin had lost twice at the polls as a Berjaya candidate and would be familiar with "Berjaya's hatred for Syed Kechik".

Mahathir's contention is that Chin did not disclose during the hearing that his father and brother were arrested by Chief Minister Mustapha Harun's government, where Syed Kechik served as advisor to the chief minister.

"Chin also said in his judgment that Syed Kechik wielded too much power for anyone to believe that any bureaucrat would oppose him'. He (Chin) concluded with dismissing with cost the application to strike out the injunction.

"It became obvious that Chin was biased against Syed Kechik. Yet he did not reveal his father's and brother's arrest during the time of Mustapha's government and his belief that Syed Kechik...was responsible for this arrest when hearing the case concerned," said Mahathir in a prepared text.

Based on police report, judgment

Mahathir's assertions were based on a police report lodged by second defendant in the case Zara Sdn Bhd's director Benjamin Hwa Yong in 2005.

Only the first page of the report proper was appended to the press statement that was distributed to the press today, thus Mahathir's assertions of the report's contents could not

be verified.

To support his argument, Mahathir referred to the March 25, 2008 Federal Court judgment on the same case and quotes the following:

ian chin ian hn chin judge "Without evidence or justification, the learned judge (Chin) wrongly held that Syed Kechik made these decisions. We find that the learned judge's findings were based on unjustified inferences, speculation, his own preconceived impressions and prejudice", and:

"We find the learned judge's attack on the credibility of Syed Salem Al Bukhary (Syed Kechik's younger brother) as unwarranted and does not stand up to examination having regard to the extremely prejudiced view he held about Syed Salem's conduct as apparent in his judgment".

While not mentioned by Mahathir, in 2003 the three-member panel at the Court of Appeal led by then Court of Appeal Judge Siti Norma Yaakob unanimously upheld Chin's decision.

Similarly, in 2008, the three member panel at the Federal Court led by Federal Court Judge Zulkefli Makinudin dismissed the defendants's applications.

Compared with Lingam inquiry

Mahathir said it would be "interesting to see" if the government would set up a tribunal to examine "the charges" against Chin based on the police report and the Federal Court judgment.

"I suspect that it (the government) will not. And so this judge who obviously breached the judges' code of ethics by 'being a judge in his own cause' will simply get away with his unethical behaviour while presiding over a case.

"The public should question how a person such as Chin should have been recommended to become a judge. I cannot remember recommending him.

"He is a disgrace to the judiciary and to the legal profession," said Mahathir, reading from his prepared text.

Ian Chin was appointed judicial commissioner on Feb 26, 1992 and since then has served in the High Court in Sabah and Sarawak. He is, at present, a resident judge at the High Court in Kota Kinabalu.

When quizzed by reporters, Mahathir said that those behind the allegations against Chin had submitted documents to other judges, the chief justice, prime minister and the Malaysian Human Rights Commission.

He said that the allegations against Chin were a "clear cut abuse of his position", but thus far the matter had been ignored by the authorities.

"In the case of Anwar's accusation against Lingam. Immediately they set up a royal commission, which works on the basis of possibilities. If it is possible that you are wrong, then you must be wrong. That is the new standard of justice," he said.

Mahathir had also took the government to task for "rushing to accept" Chin's story.

"But other judges had refused to endorse his statements about threats by the prime minister, casting doubt on its veracity," he added.

Devil's incarnate

The spat between Mahathir and Chin started when the judge on June 8, made accusations of executive interference in the judiciary opening during his opening remarks of the Sarikei election petition.

The petition was filed by DAP candidate Wong Hua She who wanted the March 8 contest for the seat 'null and void'. Barisan Nasional candidate Ding Kuong Hing had won the seat with a slim majority of 51 votes.

Chin had alleged that Mahathir made 'thinly veiled threats' against judges during a conference in 1997 to toe the government line and packed off selected judges to a 'boot camp' and were told to make pro-government decisions.

A week later, Mahathir retorted that the 'boot camp' was a tata negara (national creed) work camp and that Chin had absconded from the event. He also denied ever issuing 'veiled threats'.

When the election petition hearing continued on Tuesday, Chin hit back at a fellow anonymous judge for telling the New Straits Times that "Chin took the opportunity to speak from the bench because he thought Dr Mahathir was responsible for blocking his promotion".

In a lengthy rebuttal against the unnamed judge, Chin stressed that he did not harbour any intention of being promoted and provided two letters to senior judges as proof as his claim.

Chin had also called Mahathir the "devil's incarnate" and asked lawyers from both parties in the election petition if he should continue hearing the case in light of the attacks against his integrity in the media.