

Minor Victory For Anwar As Judge Disallows Items As Evidence
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KUALA LUMPUR -- The High Court today allowed the application of Anwar Ibrahim to exclude as evidence the three items obtained from the cell where he was detained overnight on July 16 2008.

Also to be expunged are the samples taken from them which the prosecution had said matched the DNA profile of Male Y, whose semen was found in the anus of complainant Mohd Saiful Bukhari Azlan, Anwar's former personal aide.

Justice Mohamad Zabidin Mohd Diah found that the three items -- a Good Morning towel, a mineral water bottle and a toothbrush -- had been obtained by unfair means.

"Thus, the three items and any evidence related to the DNA analysis are to be excluded as part of the exhibits," he said in his oral judgement.

This means that the testimony of chemist Nor Aidora Saedon who had taken DNA samples from the items is to be excluded as evidence.

The same goes for the testimony of the head of the CSI Laboratory division in Cheras, Supt Hamidon Adnan, who had lifted the three items from the cell at the Kuala Lumpur police headquarters.

Justice Mohamad Diah had allowed the defence's application for a trial within a trial on the grounds that Anwar's arrest was unlawful and the three items had been obtained illegally.

The defence had called Anwar and his two counsel, S.N.Nair and R.Sivarasa, to the stand while only the arresting officer, Superintendent Ahmad Taufik Abdullah, testified for the prosecution.

Karpal Singh, at the start of today's proceedings, had maintained that police had obtained the items through "improper and unfair means" after Anwar had refused to give them his DNA profile.

He said that the court should follow Malaysian - rather than American or British or other foreign -- case laws in deciding whether to allow the items to be included as evidence.

General Solicitor-General II Mohamed Yusof Zainal Abiden had yesterday cited American, British, Jamaican and African case laws to argue that evidence that was relevant should be allowed even if it might have been illegally obtained.

After his ruling, Justice Mohamad Zabidin asked the prosecution to continue with the trial of Anwar, 63, who is charged with sodomising Mohd Saiful, 25, at the Desa Damansara Condominium in Bukit Damansara between 3.01pm and 4.30pm on June 26, 2008.

Mohamed Yusof, however, said the prosecution was not ready to proceed as witnesses had not been called today.

Mohamed Yusof said the prosecution would call three witnesses, including investigating officer DSP Judy Balicious Pereira.

Justice Mohamad Zabidin adjourned the trial to tomorrow.

(Bernama)

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