

# NAJIB'S 2ND BID TO DISQUALIFY SRI RAM FAILS

**Court of Appeal rules matter not appealable, finds ex-PM's right to fair trial not affected**

PUTRAJAYA

**F**ORMER prime minister Datuk Seri Najib Razak has failed in his appeal to disqualify former Federal Court judge Datuk Seri Gopal Sri Ram as lead prosecutor in his Malaysia Development Bhd (1MDB) case.

A three-member Court of Appeal bench, comprising Datuk Zabariah Mohd Yusof, Datuk Rhodzariah Bujang and Datuk Lau Bee Lan, ruled that the matter was not appealable by virtue of Section 50(1) read with Section 3 of the Courts of Judicature Act 1964.

In delivering the decision, Zabariah said the court allowed the prosecution's preliminary objection to strike out Najib's appeal.

She said the court was of the view that the High Court's decision to disallow the defence to see Sri Ram's letter of appointment and for Sri Ram to continue to act as prosecutor in Najib's case was made in the course of the trial and did not finally dispose his rights.

"We fail to see how this would affect the appellant's (Najib's) right to have a fair trial."

Zabariah said, assuming they were wrong in their determination on the preliminary objection, they also proceeded to consider the merits of Najib's appeal.

She said since Sri Ram's letter of appointment was shown to Najib's counsel, hence the court did not see the basis of his (Najib's) application for the production of the letter of appointment.

"We find that the High Court judge did not err in his finding that the prosecution is not obliged to produce Sri Ram's letter of appointment to Najib."

Zabariah said there was also no evidence to show that Sri Ram was involved in the investigation against Najib apart from the bare allegation made by him (Najib).

She said Sri Ram, like any deputy public prosecutor, was entitled to supervise and oversee an investigation of a particular case, but not to investigate the case himself.

"(There is) nothing before the court for now to show there is a real danger of bias by Sri Ram if he continues to act as pros-



*Tan Sri Muhammad Shafee Abdullah*

ecutor in this case. What was alleged was mere general suspicion and not based on specific facts," she said, adding that in order to disqualify a prosecutor, the burden was on Najib to show cogent evidence of certainty of biasness and not mere bare allegation.

However, she said Najib was not prevented from making a similar application in the future if there were facts to substantiate his claim.

After the decision, Najib's lawyer, Tan Sri Muhammad Shafee Abdullah, informed the court that they would be appealing the decision to the Federal Court and would be requesting for a seven-member bench to hear the appeal.

He requested the court for a stay of the trial on Najib's 1MDB charges, but deputy public prosecutor Ahmad Akram Gharib objected saying the trial was in August and the Federal Court could hear Najib's appeal by then.

Zabariah, however, told Shafee to make a formal application.

Najib, 66, was appealing against the High Court's decision on March 1, this year to dismiss his application to disqualify Sri Ram as the senior deputy public prosecutor.

The Pekan member of parliament is facing four counts under the Malaysian Anti-Corruption Commission (MACC) Act and 21 counts of money laundering involving 1MDB funds, amounting to RM2.28 billion.

He is alleged to have committed the offences at Amlslamic Bank Bhd, No 55, Jalan Raja Chulan, Bukit Ceylon, between 2011 and 2014.

The High Court had set Aug 19 for trial in Najib's 1MDB cases. **Bernama**