

# Court to decide on Najib's bid to dismiss charge

The Star - 24/7/2020  
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**KUALA LUMPUR:** The High Court here has fixed Aug 7 to decide on former prime minister Datuk Seri Najib Razak's bid to strike out his charge of tampering with the 1Malaysia Development Bhd (1MDB) audit report.

Justice Mohamed Zaini Mazlan set the date after hearing submissions from ad hoc prosecutor Datuk Seri Gopal Sri Ram and Najib's lead counsel Tan Sri Muhammad Shafee Abdullah here yesterday.

Najib's team had contended that his charge under Section 23 of the Malaysian Anti-Corruption Commission (MACC) Act 2009 was "oppressive".

In his submission, Shafee said the prosecution must prove that Najib had misused his office to obtain gratification in the case.

In order to fulfil the element of misuse of office, the prosecution needed to prove that Najib had the necessary authority over the auditor-general (AG) who prepared and finalised the Audit Report for 1MDB or that the AG was pressured or threatened into arriving at any decision in relation to the audit report prepared by him.

"We submit that the AG acted under the powers vested in him by Article 106 of the Federal Constitution as well as Section 7 of the Audit Act 1957, which explicitly provides that the AG performs his functions under the Federal Constitution," Shafee said.

"Based on the testimony by for-



## Marking moments:

Najib celebrating his birthday with his supporters at the court lobby in Kuala Lumpur. — AZLINA ABDULLAH/The Star

mer AG Tan Sri Ambrin Buang, former National Audit Department (NAD) director Saadatul Nafisah Bashir Ahmad and NAD officer Datuk Nor Salwani Muhammad, it is clear that Ambrin had exercised his own prerogative power as the AG in effecting the amendments before the final 1MDB audit report was tabled before the Public Accounts Committee."

Shafee said Ambrin had exercised his powers independently from any purported instruction from Najib who was the prime minister and finance minister.

Meanwhile, Sri Ram submitted

that Najib's application to strike out the charge against him should be dismissed as the prosecution was still at the preliminary stage of presenting evidence before the court.

Sri Ram said it was premature for the court to conclude that the charge was an abuse of process.

To date, seven prosecution witnesses have testified in the trial.

Sri Ram said the prosecution had yet to call other witnesses and produce evidence to show the alleged gratification committed by Najib.

"Najib must prove that the prosecution's actions against him, through the charge, are very

oppressive," he added.

Najib, 67, is accused of abusing his position to order amendments to the 1MDB final audit report to prevent any action being taken against him while former 1MDB CEO Arul Kanda Kandasamy is charged with abetting Najib in making the amendments to the report.

Both of them were charged under Section 23(1) of the MACC Act 2009, which provides a jail term of up to 20 years and a fine of no less than five times the amount of gratification or RM10,000, whichever is higher, upon conviction.