

NAJIB, ARUL KANDA FREED OF CHARGES

No evidence ex-PM explicitly directed amendments to 1MDB audit report, says judge

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THE High Court yesterday acquitted and discharged Datuk Seri Najib Razak from charges of abuse of power for allegedly amending the 1Malaysia Development Bhd (1MDB) audit report.

Also acquitted was former 1MDB chief executive officer Arul Kanda Kandasamy, who was charged with abetting Najib.

In his ruling yesterday, judge Mohamed Zaini Mazlan said there was no evidence to suggest that Najib had explicitly directed the amendments made in the 1MDB audit report to exonerate him from any civil or criminal liability.

Zaini, who has since been elevated to the Court of Appeal, said there was no causal link between the amendments made and the gratification alleged.

He said the former prime minister was merely concerned that the report could be spun politically.

"In my opinion, the items taken out or amended from the earlier audit report would not expose or give rise to any civil or criminal liability to Najib," he said.

"The amendments, as stated by the then auditor general (AG) (Tan Sri Ambrin Buang), were justified.

"It is apparent that the AG was not forced nor coerced to make the changes to the earlier audit report."

He said the AG retained the ultimate discretion of accepting any proposed amendment to the earlier report.

Najib was accused of using his position as the then prime minister to instruct for the final audit report on 1MDB to be amended before it was presented to the parliamentary Public Accounts Committee (PAC).

The amendments that were made were:

THE removal of mention of Na-



Datuk Seri Najib Razak's lawyer, Tan Sri Muhammad Shafiee Abdullah, speaking at the Kuala Lumpur Courts Complex yesterday. BERNAMA PIC

jib's 2009 meeting with the Yang di-Pertuan Agong;

NAJIB'S failure to disclose his agreement to delay a RM5 billion fundraising exercise to the cabinet;

THE removal of mention of fugitive businessman Low Taek Jho's presence at a 2009 1MDB board meeting; and,

THE removal of mention that 1MDB had two versions of the financial statement for the same 2014 financial year or that the two financial statements had differing information.

Zaini said the amendments were made under the AG's judgment and agreement based on further information and documents from Arul Kanda.

"This would not have been necessary if 1MDB's management had been more cooperative before the publication of the earlier audit report.

"That the information came later from the first accused (Arul Kanda) on 1MDB's behalf is also not extraordinary, as the AG accepted that an auditee could participate in discussions on an audit report," he said, adding that the AG was a very principled and no-nonsense person.

Zaini said the AG was determined to carry out his duties diligently and did not suffer fools gladly.

"He would answer any questions posed to the point and did

not mince his words where required. He is the epitome of professionalism," he said.

Meanwhile, Zaini said Arul Kanda was honest and consistent throughout his testimony.

He said Arul Kanda's testimonies were compatible with the documents produced and the testimonies of the other witnesses.

"I was mindful that he may have attempted to minimise his part and amplify any of Najib's wrongdoings, but he did not.

"The prosecution never challenged any of the answers he had given that favoured Najib, nor was there any attempt to treat him as a hostile witness.

"He (Arul Kanda) did not attempt to camouflage the shenanigans surrounding 1MDB.

"It is general knowledge that he had been publicly vilified for the 1MDB affairs, perhaps unfairly, as many of the problems caused were before his time," he said.

Zaini then ordered that a certificate of indemnity under the seal of court be issued to Arul Kanda after the latter had made a true and full discovery of all things under Section 63(3) of the Malaysian Anti-Corruption Commission Act 2009.

"This certificate shall be a bar to all legal proceedings against him in respect of the matters arising from the charges in this case," he added.

