

Najib granted DNAA in RM6.6 billion CBT case

> Prosecution did not fully comply with provisions under Criminal Procedure Code, resulting in excessive delay: High Court judge

KUALA LUMPUR: The High Court yesterday granted a discharge not amounting to an acquittal (DNAA) to former prime minister Datuk Seri Najib Abdul Razak and former Treasury secretary-general Tan Sri Mohd Irwan Serigar Abdullah for six charges of criminal breach of trust involving government assets worth RM6.6 billion.

Judge Datuk Muhammad Jamil Hussin made the decision after allowing a DNAA application submitted by lawyers Tan Sri Muhammad Shafee Abdullah and Datuk Seri K. Kumaraendran, who acted for Najib and Mohd Irwan respectively.

"Based on the facts and arguments presented by both counsels, as well as the circumstances of the case, I am exercising my inherent power to discharge not amounting to acquittal the first (Najib) and second accused (Mohd Irwan) from all six charges," the judge said.

In his brief judgment, Muhammad Jamil said there were three reasons considered by the court in making the decision.

"The first reason is that the prosecution did not fully comply with the provisions under the Criminal Procedure Code (CPC). The second reason is that the DNAA order does not prejudice the prosecution, as they can recharge both accused.

"The third reason is that this case was registered in 2018, but the trial could not proceed despite several scheduled dates because the prosecution did not fully comply with the provisions of Section 51A of the CPC. This is an excessive delay."

Section 51A of the CPC stipulates that the prosecution must provide certain documents to the defence before the trial begins, Bernama reported.

Muhammad Jamil also ordered the RM1 million bail to be returned to both Najib and Mohd Irwan.

Earlier, Muhammad Shafee and Kumaraendran submitted that the court could exercise its inherent power to issue a DNAA order, although no application had been made by the prosecution, on the

grounds that the prosecution had still failed to provide the documents requested by the defence.

"This case has been going on for too long, it has been six years," said Kumaraendran.

Last Monday, DPP Muhammad Saifuddin Hashim Musaimi told the court that the prosecution does not have control over classified documents that will be declassified before being used in the trial because it is subject to the relevant agencies that hold the documents.

He said the documents involved were from Cabinet meetings, the Finance Ministry, Energy and Water Transition and Transformation Ministry and the Land Public Transport Commission (now the Land Public Transport Agency) under the Road Transport Department.

The trial was postponed four times this year, namely to June 4 and 19, July 22 and Nov 25, to give the prosecution time to declassify the documents.

Najib and Mohd Irwan Serigar were alleged to have committed the offences at the Finance Ministry Complex in Putrajaya between Dec 21, 2016 and Dec 18, 2017.

They were charged under Section 409 of the Penal Code, read together with Section 34, which provides a maximum jail term of 20 years and whipping and a fine, if convicted.