

Muhyiddin's graft review rejected

Former PM fails in bid to quash reinstatement of abuse of power charges

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PUTRAJAYA: Former prime minister Tan Sri Muhyiddin Yassin has failed in his bid to review the decision by a previous Court of Appeal panel that reinstated four abuse of power charges against him linked to the misappropriation of RM232.5mil.

A five-member panel at the Court of Appeal, chaired by Justice Azizah Nawawi, said the earlier panel had the jurisdiction to hear and adjudicate the prosecution's appeal brought before them then.

"Therefore, the application for review is dismissed," she said here yesterday.

Other judges on the bench were Justices Che Mohd Ruzima Ghazali, Ahmad Zaidi Ibrahim, Azman Abdullah and Azhahari Kamal Ramli.

The panel's decision means Muhyiddin will have to face his criminal case that has been remitted back to the Kuala Lumpur Sessions Court.

The Bersatu president had previously been acquitted by the High Court, which granted his application to quash the charges before the Sessions Court trial began.

The prosecution then appealed against the acquittal at the Court of Appeal and on Feb 28, a three-



Court day: Muhyiddin (centre) appearing at the Court of Appeal, Palace of Justice, in Putrajaya. — Bernama

judge panel overturned the acquittal and sent the case back to the Sessions Court.

In the unanimous decision yesterday, Justice Azizah said Muhyiddin's application for review was premised on the issue of lack of jurisdiction, as he claimed the previous three-member appellate court panel had acted in excess of its statutory conferred jurisdiction.

She said by applying a literal interpretation, Muhyiddin had contended that the decision by the High Court judge (who acquitted him) in invoking the judge's

inherent jurisdiction to quash his charges did not fall within the ambit of Subsection 50(1) of the Court of Judicature Act (CJA) 1964, as the High Court was not exercising its revisionary powers regarding any criminal matter decided by the Sessions Court.

"We are of the considered opinion that such interpretation will lead to an absurdity that was not intended by the Parliament.

"If the applicant is correct that there can be no appeal against the decision of the learned judge in dismissing the charges and acquitting the applicant, it would simply

mean that the High Court has an unlimited jurisdiction to quash a criminal charge and acquit an accused person without trial.

"Further, it would lead to an absurd situation where the prosecution is left without any remedy, as the propriety and correctness of the said decision by the High Court judge can never be challenged," Justice Azizah said.

The panel said Subsection 50(1) of the CJA could not be read in isolation and that all the relevant provisions on revisionary powers of the High Court must be read together as a whole and construed harmoniously with one another to avoid ambiguity or absurdity in the application of law.

"For the aforesaid reasons, we are of the considered opinion that the respondent's (prosecution's) appeal against the decision of the learned High Court judge falls within the ambit of Subsection 50(1) of the CJA," Justice Azizah said.

On Aug 15, 2023, High Court judge Justice Muhammad Jamil Hussin acquitted and discharged Muhyiddin on four counts of abuse of power, involving RM232.5mil, in connection with the Jana Wibawa project. The prosecution filed an appeal on the same day with the Court of Appeal.

On Feb 28 this year, a three-member panel at the Court of

Appeal overturned Muhyiddin's acquittal and ordered that the charges be reinstated.

Muhyiddin's lawyers wrote to the Court of Appeal president on April 19, requesting a five-member panel to hear his application for a review due to significant jurisdictional legal issues.

In the notice of motion, Muhyiddin said the decision of the Court of Appeal was a nullity or illegality as it was made without the jurisdiction as required under Section 50(1) of the CJA.

Muhyiddin, 76, was charged with using his position as the then prime minister and Bersatu president to obtain bribes amounting to RM232.5mil from three companies, namely Bukhary Equity Sdn Bhd, Nepturis Sdn Bhd and Mamfor Sdn Bhd, and also from one Datuk Azmah Yusoff, for the party.

He was charged with committing the offences at the Prime Minister's Office, Bangunan Perdana Putra, Federal Government Administration Centre in Putrajaya between March 1, 2020, and Aug 20, 2021.