

Razak Baginda's acquittal sets legal precedent, says Karpal
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KUALA LUMPUR, March 7 — The High Court has provided a precedent for the acquittal of a person with a motive to murder and charged with abetment without calling his defence, Karpal Singh said today, based on the stunning grounds of the judgment in the Altantuya Shaariibuu trial which was released yesterday.

The prominent criminal lawyer observed that trial judge Datuk Mohd Zaki Md Yasin had accepted an out-of-court sworn statement from the Mongolian beauty's one-time lover, Abdul Razak Baginda, as proof to acquit him from a charge of abetting two Special Action Squad members to commit the crime in 2006.

The ex-political analyst was a close associate of Prime Minister Datuk Seri Najib Razak and the two men, Azilah Hadri and Sirul Azhar Umar, had been assigned as his bodyguards after the married Razak Baginda complained of being harassed by Altantuya in 2006.

"It's the first time in this country that an affidavit used for the purpose of bail and later tendered as an exhibit was used to acquit an accused person," Karpal told The Malaysian Insider when contacted today.

"It's a precedent which could be used in future cases," he said.

An affidavit is a written declaration voluntarily made by a person and affirmed by another who is authorised to do so under the law.

Karpal said, "It is up to court to accept or not."

He stressed that the court case for Abdul Razak was over as the public prosecutor did not lodge an appeal against the latter's acquittal.

In his 70-page judgment, Mohd Zaki said that even if it were to be interpreted that Abdul Razak had "motive" based on the blackmail letters the deceased had sent, the note itself cannot be the basis for a conviction without direct or circumstantial evidence.

The judge said he had no reason to disagree with Abdul Razak's affidavit saying ex-lover Altantuya was blackmailing him.

On January 5, 2007, affidavit Abdul Razak admitted to having sexual relations with the Mongolian whom he met in November 2004. He also claimed Altantuya was demanding money as a result of the relationship.

The judge said he had gone over the whole affidavit and it was corroborated in material particulars by private investigator P. Balasubramaniam, Altantuya's cousin Burmaa Oyuchimeg, Lance Corporal Rohaniza Roslan and Abdul Razak's secretary Siti Aishah Mohd.

The murder was committed between 10pm on October 19, 2006 and 1am the following day

at a clearing in Shah Alam's Mukim Bukit Raja.

While Abdul Razak was acquitted, his co-accused — Azilah and Corporal Sirul Azhar Umar — were found guilty.

Mohd Zaki said both guilty men had only the defence of denial with each blaming the other for the crime.

Azilah could provide no alibi for his claim that he was somewhere in Kuala Lumpur's Wangsa Maju area when the murder occurred.

He also claims he had handed Altantuya over to Sirul Azhar who was to have sent her back to Hotel Malaya.

Sirul also claims in his unsworn statement that he was not at the crime scene, but at Sri Hartamas' Devi's Corner restaurant instead.

He denies that Azilah handed Altantuya over to him for a lift back to her hotel.

Both policemen were convicted for failing to raise any reasonable doubt in the prosecution's case, Mohd Zaki said.

This Friday, the Court of Appeal will decide a date to hear the appeal by both men against their death sentences.

The case has stalled over the last two years while waiting for Mohd Zaki's written judgment.

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