

Anwar wants High Court to hear Bersih trial strike-out
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By Ida Lim

KUALA LUMPUR, Sept 3 — Lawyers for Datuk Seri Anwar Ibrahim today filed to get the High Court to hear the application to strike out the Bersih trial against the opposition leader, arguing that it was beyond the Sessions Court's jurisdiction as it involved interpretation of the Federal Constitution.

Anwar has claimed trial to participating in an illegal street rally here during the controversial April 28 Bersih assembly but has applied to strike out the charges against him, claiming they were issued based on an "invalid" court order barring the use of Dataran Merdeka for the sit-in protest.

Anwar, accompanied by his wife Datuk Seri Dr Wan Azizah Ismail, leaves the court after the hearing on September 3, 2012. — Picture by Saw Siow Feng
The de facto PKR head's defence team had told the Sessions Court last May 28 that the charge was a breach of the Federal Constitution, which guarantees the right to freedom of assembly.

The defence team argued today that only the High Court has the power to decide on its application to strike out the case as it involved the "interpretation of the Constitution," referring to the country's supreme law.

However, the prosecution led by Datuk Abdul Wahab objected to the transfer.

He also noted that the application to have the High Court decide on the strike-out was "last minute" as it was only filed this morning.

Sessions Court judge Mahmud Abdullah then fixed September 13 to hear the prosecution's objections to transferring the case to the High Court.

The 64-year-old Permatang Pauh MP was charged last May 22 with taking part in an illegal rally and breaching section 4(2)(c) of the Peaceful Assembly Act, less than a month after the new law aimed at allowing public gatherings "in accordance with international norms" was enforced.

Also claiming trial were PKR deputy president Azmin Ali and Rembau PKR chief Badrul Hisham Shaharin, who were slapped with similar charges.

The three were also hit on May 28 with two additional charges — the first with abetting to incite three PKR members, named as Tangam Raju, Rajesh Kumar Gejinder and Farhan Ibrahim @ Alias, to open the police barricade enclosing Dataran Merdeka during the April 28 Bersih 3.0 rally for electoral reforms.

The other charge is under section 109 of the Penal Code with abetting Tangam Raju, Rajesh Kumar and Farhan to oppose a court order barring the use of Dataran Merdeka for the April 28 sit-in rally for electoral reform.

In a video posted online, Anwar is seen gesturing towards Azmin moments before the crowd breached a police cordon around the square.

Anwar and Azmin have denied the exchange of signals was an order to break past the police barrier, with the former insisting these were to direct the Selangor PKR chief to negotiate with police.

Anwar said the rolling motion he made with his hands directed at Azmin meant to "nego, nego" (negotiate).

Azmin said he then jerked his thumb over his shoulder and nodded to the former deputy prime minister to say "I had already negotiated with police."

A few members of the crowd sandwiched between the square and Kuala Lumpur City Hall building begin chanting "masuk, masuk (enter, enter)" and a man is seen pushing the metal gate aside, allowing the crowd to burst through.

Police had obtained a court order barring members of the public from entering the historic square. Bersih leaders had also told supporters not to defy the order and instead hold their sit-in rally for free and fair elections at the point they were stopped by police.

But some demonstrators still breached the barrier, prompting police to fire tear gas and water cannons at them. This led to spiralling chaos as police chased Bersih supporters down several streets and some rally-goers retaliated and attacked riot police.

Prime Minister Datuk Seri Najib Razak had said when tabling the Peaceful Assembly Act in Parliament last year that it would be "revolutionary" and allow Malaysians to participate in public gatherings "in accordance with international norms."

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