

PKR Leaders Fail To Strike Out Charges

Bernama

19 April, 2013

KUALA LUMPUR, April 19 (Bernama) -- Parti Keadilan Rakyat (PKR) deputy president Mohamed Azmin Ali and Rembau PKR chief Badrul Hisham Shaharin, or 'Chegubard', failed in their application to strike out two of three charges against them relating to the Bersih 3.0 rally at Dataran Merdeka on April 28 last year.

High Court judge Kamardin Hashim ruled Friday that the application by the two opposition leaders had no merit.

The duo filed their application last year to strike out the charges against them under the Peaceful Assembly Act (PAA) 2012 on the grounds that the order issued by Magistrate Zaki Asyraf to ban the rally was ultra vires the PAA 2012 enforced on Jan 30, and that the magistrate had acted beyond his jurisdiction.

They contended that the police, and not Kuala Lumpur City Hall (DBKL), as stated in the court order, were the rightful authority to restrict the public from holding the rally.

However, Justice Kamardin held that based on the affidavits, facts and urgency of the circumstances, it was justifiable for the magistrate to issue the order, and that it did not contravene the federal constitution.

He said the order issued by Zaki on April 26 last year banning any rally at Dataran Merdeka between April 28 and May 1, 2012 and warning anyone against attending or participating in one, was lawful under Section 98 of the Criminal Procedure Code (CPC).

Although the public had the the right under the PAA 2012 to organise and participate in a peaceful assembly, Section 98 of the CPC was still applicable and had not been repealed by parliament, said the judge.

The judge further held that the action by the DBKL to forbid the rally organisers from using Dataran Merdeka as their venue was proper, as it was provided for under its by-laws.

"The police cannot be said to have acted arbitrarily in banning the planned rally including getting the order from the magistrate.

"The ban or restriction by the police was based on the DBKL's decision to disallow the rally to be held at Dataran Merdeka as requested by the organiser," said Kamardin.

On Jan 18 this year, the same court rejected the application by opposition leader Datuk Seri Anwar Ibrahim to strike out two of three similar charges he was facing under the PAA 2012.

At the proceedings today, the prosecution was represented by deputy public prosecutors Abdul Wahab Mohamad and Datuk Mohamad Hanafiah Zakaria while the applicants were represented by counsel S.N Nair and Datuk Mohamed Yusof Zainal Abiden.

-- BERNAMA

Copyright © 2013 BERNAMA

Source: <http://www.bernama.com/bernama/v7/newsindex.php?id=943550>

