

## **Chronology Of Anwar's Second Sodomy Case**

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KUALA LUMPUR, Feb 9 (Bernama) -- Tomorrow, the Federal Court in Putrajaya is to pronounce its verdict in the final appeal by Opposition Leader Datuk Seri Anwar Ibrahim to set aside his conviction and five-year jail sentence on the charge of having sodomised his former aide Mohd Saiful Bukhari Azlan, seven years ago.

Following is the chronology of the case:

### **2008 :**

June 28 : Anwar's former aide, Mohamad Saiful Bukhari Azlan, 23, made a police report alleging that he had sodomised him at a condominium in Damansara. The report was made, two days after the alleged incident.

June 30 : Anwar, 60, filed a defamation suit against Mohd Saiful for lodging a police report against him for sodomy, claiming that the report was false and malicious.

Aug 7 : Anwar, who is also Parti Keadilan Rakyat (PKR) adviser pleaded not guilty in the Sessions Court here on a charge of sodomising Mohamad Saiful Bukhari at Unit 11-5-1 Kondominium Desa Damansara, Jalan Setiakasih in Bukit Damansara between 3.10pm and 4.30pm on June 26, 2008.

He was charged under section 377B of the Penal Code which carries a maximum 20 years' jail and whipping on conviction.

Judge S. M. Komathy Suppiah allowed Anwar to be released on personal bond of RM20,000 without surety, pending the disposal of the case.

Nov 7 : Sessions Court judge S. M. Komathy Suppiah ruled Anwar's sodomy case to be tried at the Sessions Court after finding that the certificate to transfer the case to the High Court, signed by Attorney-General Tan Sri Abdul Gani Patail, was invalid.

In dismissing the prosecution's application, Komathy held that the certificate was tantamount to a breach of the legal expectation of Anwar that Abdul Gani would not be involved in the case.

### **2009 :**

March 5 : The High Court ruled the sodomy case to be tried in the High Court, and not the Sessions Court. Judge Datuk Mohamad Zabidin Mohd Diah made the ruling in favour of the prosecution which sought to revise the Sessions Court's decision to retain the trial at the Sessions Court.

He held that Sessions Court judge S. M. Komathy Suppiah had erred in law in ruling that the certificate transferring the case to the High Court, which was signed by Abdul Gani, was invalid.

March 6 : Anwar filed an appeal at the Court of Appeal against the High Court's order that his sodomy case be tried in the High Court.

March 10 : The High Court fixed July 1-24 for the sodomy trial.

June 17 : Anwar had filed an application to set aside his sodomy charge at the High Court.

Nov 6 : The Court of Appeal dismissed Anwar's application to obtain key documents and DNA samples which he claimed were crucial for his defence in a sodomy trial.

Among the key documents were the recorded witness statements of Mohd Saiful, Dr Osman Abdul Hamid from Pusrawi Hospital, condominium owner Hassanuddin Abdul Hamid, statements of three doctors from Kuala Lumpur Hospital, a chemist's notes and medical reports.

Dec 1 : The High Court ruled that it could not strike out the sodomy charge against Anwar, based solely on medical reports that there was no penetration.

In dismissing Anwar's application to quash his sodomy charge, Justice Mohamad Zabidin said medical reports could not serve as the basis for the court to use its inherent powers to strike out the charge.

## **2010 :**

Feb 3 : The sodomy trial opened with Mohd Saiful taking the stand as the first witness. The trial before Justice Mohamad Zabidin took place, 18 months after Anwar was charged in August 2008.

In his testimony, Mohd Saiful revealed that Anwar, whom he had accused of sodomising him, had invited him to engage in carnal intercourse against the order of nature.

Mohd Saiful said the incident took place on June 26, 2008 after he and Anwar had completed discussing their work schedule at a unit of the Desa Damansara Condominium here.

Feb 5 : Mohd Saiful told the High Court that he did not pass motion for two days after he was sodomised by Anwar. He also testified that a pair of trousers he was wearing on the day of the incident was a gift from Anwar.

Feb 9 : The sodomy trial was postponed again to enable the defence to file a response to the prosecution's affidavit-in-reply to Anwar's recusal application.

It was adjourned after the defence applied for Justice Mohamad Zabidin to recuse himself from hearing the case on grounds of bias.

Feb 18 : Anwar failed in his bid to recuse Justice Mohamad Zabidin from hearing his sodomy trial.

Mohamad Zabidin, in dismissing the application, ruled that there was no reason for him to recuse himself from continuing to preside over the case and that if he were to do that, it would be tantamount to running away from his responsibility.

Feb 25 : Anwar lost his final legal challenge to procure key documents, including Mohd Saiful's DNA specimen sample, before the commencement of his sodomy trial after the Federal Court rejected his application.

March 3 : During cross-examination by Anwar's lawyer, (the late) Karpal Singh, Mohd Saiful told the High Court that he did not wash his anus after the alleged incident on June 26, 2008 as he wanted to "simpan bukti" (preserve evidence).

Mohd Saiful, the star witness in the opposition leader's sodomy trial, also said that he did not take a bath after the incident and only rinsed his body.

He had taken a bath in the morning prior to the incident, he said.

Aug 16 : Anwar failed in his second attempt to drop the sodomy charge against him after his application to strike out the charge was dismissed by the High Court.

In his bid to drop the charge, Anwar claimed that the integrity and impartiality of the entire prosecution team had been compromised because of an alleged affair between star witness Mohd Saiful and a member of the prosecution team.

Sept 20 : The Court of Appeal dismissed an appeal by Anwar over his second application to strike out the sodomy charge against him, ruling that it had no jurisdiction to hear and determine the matter.

Dec 6 : Anwar Ibrahim failed in his second bid to recuse Justice Mohamad Zabidin from continuing to preside over his sodomy trial after the court dismissed his application.

Anwar had applied to recuse the judge, following the judge's refusal to cite news daily, Utusan Malaysia, for contempt over a news report the defence claimed was prejudicial to the case.

Dec 14 : Mohd Saiful's father, Azlan Mohd Lazim appealed to the Yang di-Pertuan Agong, Tuanku Mizan Zainal Abidin, to help speed up the court case involving his son.

**2011 :**

Jan 14 : The Court of Appeal rejected the opposition leader's appeal to set aside the judge's refusal to recuse himself from hearing the trial.

May 16 : The High Court ordered Anwar to enter his defence on a sodomy charge against Mohd Saiful after finding that the prosecution had proven a prima facie case against Anwar.

In his verdict, Justice Mohamad Zabidin held that key witness Mohd Saiful was a truthful, credible and reliable witness.

June 6 : Anwar failed in his third attempt to have Justice Mohamad Zabidin recuse himself from hearing his ongoing sodomy trial. He filed the application on grounds that there were prejudgment and bias by him (the judge) when he ruled Mohd Saiful to be a truthful witness at the end of the prosecution's case.

Aug 22 : Anwar, who opted to give evidence from the dock when reading his 32-page statement, denied he had sex with Mohd Saiful.

Anwar had three options -- to give his evidence from the witness stand, which means he can be cross-examined by the prosecution; to give his evidence from the dock which means he cannot be cross-examined by the prosecution but in coming up with a decision the court takes into account the fact that the prosecution has not cross-examined the accused; or, to elect to remain silent.

In his first sodomy case in 1998, Anwar gave evidence from the witness box.

Oct 6 : The High Court ruled that there was no need for Prime Minister Datuk Seri Najib Tun Razak and wife, Datin Seri Rosmah Mansor, to testify as defence witnesses in Anwar's sodomy trial.

The court made the ruling after allowing Najib and Rosmah's application to set aside the subpoenas compelling them to be witnesses in Anwar's defence case.

Justice Mohamad Zabidin said after going through the affidavits, submissions and authorities from the parties, the court agreed with the counsel representing Najib and Rosmah that Anwar had failed to show the relevancy and materiality in serving the subpoenas on the prime minister and wife.

## **2012 :**

Jan 9 : The High Court acquitted and discharged Anwar of sodomising Mohd Saiful. In the 80-page written judgment, Justice Mohamad Zabidin reveals there was penile penetration but it was uncorroborated by other evidence.

He said the court could not be 100 per cent certain on the integrity of samples taken for DNA testing from Mohd Saiful as the samples could have been compromised before they

reached the chemistry department for analysis.

July 9 : The prosecution filed its petition of appeal which contained nine grounds, among others, to have Anwar convicted on a sodomy charge under Section 377B of the Penal Code.

Sept 12 : Anwar had withdrawn his suit against Mohd Saiful for lodging a police report against him for sodomy, claiming that the report was false and malicious.

### **2013:**

Feb 22 : The Court of Appeal has set two days from July 22, 2013 to hear the prosecution's appeal over Anwar's acquittal.

Sept 18 : The Court of Appeal rejected Anwar's first application to disqualify senior lawyer Tan Sri Muhammad Shafee Abdullah from appearing as public prosecutor to lead the prosecution in its appeal against his acquittal on a sodomy charge.

Oct 2 : The Court of Appeal fixed two days from Dec 11, to hear the prosecution's appeal over Anwar's acquittal.

Nov 21 : Anwar failed in his appeal at the Federal Court to disqualify Muhammad Shafee Abdullah from appearing as public prosecutor to lead the prosecution in its appeal.

He filed the application as he said Muhammad Shafee could not appear as public prosecutor in the appeal because he (Muhammad Shafee) was a material witness in the sodomy trial.

Dec 11 : Anwar filed his second attempt to disqualify Muhammad Shafee.

Dec 20 : Anwar failed in his second attempt to disqualify Muhammad Shafee as lead prosecutor. In dismissing Anwar's application, Court of Appeal ruled that Anwar's application was devoid of any merit.

This time, Anwar used information from ex-Kuala Lumpur CID chief Datuk Mat Zain Ibrahim's statutory declaration (SD) as grounds to file the application.

### **2014 :**

March 6 and 7 : The Court of Appeal heard submissions from Muhammad Shafee and lawyer Karpal Singh.

March 7 : Anwar was sentenced to five years' jail by the Court of Appeal after the court found him guilty of sodomising Mohd Saiful, six years ago.

Justice Datuk Balia Yusof Wahi, who led a three-man panel in hearing the prosecution's appeal in the case, however, granted Anwar's application for a stay of the sentence, pending appeal with bail of RM10,000 in one surety.

In overturning the High Court's decision in acquitting Anwar, Balia said the panel unanimously held that the trial judge had erred in his findings that the integrity of DNA samples used in the case had been compromised.

Karpal Singh, speaking to reporters later, said that with this ruling, Anwar could not file his nomination papers for the Kajang state seat by-election on March 10.

April 24 : The opposition leader filed a petition of appeal against his five-year jail sentence for sodomy at the Federal Court Registrar's Office, citing 35 grounds why his conviction and sentence should be set aside.

Aug 14 : The Federal Court fixed Oct 28 and 29 to hear Anwar's final appeal. Datuk Sulaiman Abdullah, a senior lawyer, would lead the defence team, following the death of lawyer Karpal Singh in a road accident on April 17.

Oct 14 : The Federal Court ruled that Muhammad Shafee was a proper and fit person to lead the prosecution team in Anwar's appeal on Oct 28.

A five-man bench headed by Chief Justice Tun Arifin Zakaria in a unanimous decision said a proper mode for Anwar to challenge Muhammad Shafee's appointment should be by way of judicial review, and not by notice of motion.

Oct 28 : The Federal Court heard Anwar's final appeal to set aside his five-year jail sentence for sodomising Mohd Saiful.

The hearing was initially set for two days from Oct 28, dragged on for eight days as the defence and prosecution presented lengthy submissions and many legal cases were cited.

The court had first heard submissions from the defence team.

On the first day of hearing, senior lawyer Datuk Seri Gopal Sri Ram, a former Federal Court judge, who led the 15-strong defence team questioned whether there was penetration in the alleged sodomy case as Mohd Saiful's testimony was inconsistent over the existence of a lubricant called KY Jelly in the act.

Meanwhile, co-counsel N. Surendran submitted that the sodomy charge against Anwar was a conspiracy.

Oct 29 : Lawyer Sangeet Kaur Deo told the Federal Court that the DNA profile of a person identified as 'Male Y' found in the rectum of Mohd Saiful did not belong to Anwar as there was no evidence at all to link 'Male Y' to Anwar.

While, Ramkarpal Singh Deo raised there were possibilities that analyses carried out by two chemists on swab samples handed over to them by investigation officers might have belonged to someone else, and not Mohd Saiful.

Oct 30 : Ramkarpal told the apex court that there was no conclusive evidence to confirm penetration into the anus of the complainant, Mohd Saiful as it was confirmed by four doctors who examined him.

He argued that medical notes of Dr Mohamed Osman Abdul Hamid from Pusrawi Hospital confirmed there were no injuries in the anus of the complainant when he was examined, two days after the alleged incident.

Oct 31 : Lead prosecutor Tan Sri Muhammad Shafee Abdullah countered the defence's argument saying that Mohd Saiful could not have fabricated evidence as there was overwhelming truth in his entire testimony over his alleged sodomy act by Anwar.

Muhammad Shafee said Mohd Saiful had answered spontaneous questions posed to him in court and had extensively explained one by one what happened before and after the alleged sodomy.

He also submitted that Mohd Saiful was sexually harassed by Anwar in his workplace prior to the incident where he had been subjected to a dominant, influential and charismatic person.

Nov 3 : Muhammad Shafee contended that the DNA profile known as 'Male Y' found in Mohd Saiful's rectum belonged to his former boss, Anwar.

Muhammad Shafee said this was based on the DNA analysis on three items, namely a toothbrush, 'Good Morning' towel and mineral water bottle recovered in the cell where Anwar was detained overnight at the city police headquarters from July 16 to July 17 in 2008, conducted by chemist Dr Nor Aidora Saedon.

He also said that Mohd Saiful's testimony pertaining to his alleged previous sexual encounters with Anwar was admissible in the present sodomy case as it reflected Mohd Saiful's state of mind and conduct before, during and after the alleged sodomy act.

Nov 4 : Muhammad Shafee submitted that Anwar should have undergone a DNA test to prove that the unknown profile of 'Male Y' found on Mohd Saiful's rectum was not his.

He also said Anwar should have called his alibi witnesses to prove he was not at the condominium unit when the alleged sodomy involving him and Mohd Saiful took place.

Muhammad Shafee Abdullah said Anwar, through his solicitor, had listed 13 names, including the opposition leader's wife, PKR president Datuk Seri Dr Wan Azizah Wan Ismail, condominium unit owner, two maids and a professor but none of them were called to give evidence in court to support his alibi that he was not at the condominium at that time.

Nov 6 : In replying to the prosecution's argument, Ramkarpal requested the Federal Court

to discharge and acquit Anwar from the sodomy charge as the prosecution's case was riddled with doubts and unaccounted coincidences.

Referring to Mohd Saiful Bukhari's meeting with a senior police officer and the then Deputy Prime Minister Datuk Seri Najib Tun Razak two days prior to the alleged sodomy incident, he said it could not be a coincidence.

Nov 7 : While Sri Ram told the Federal Court that the PKR adviser should not be blamed for opting to make a statement from the dock in his defence during his sodomy trial.

In his closing argument in the appeal, he said Anwar chose to do so due to his past experience where the lower courts had convicted him on a similar charge (of having sodomised his family driver, Azizan Abu Bakar).

The Federal Court then reserved judgment on the appeal after hearing submissions from both side.

## **2015 :**

Jan 26 : The Federal Court set Feb 10 to deliver its verdict. The date of the decision was announced in the Malaysian Judiciary Twitter account.

The announcement stated the time of handing down the decision as 9 am.

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