

Lawyer: RM9.5m expose makes no difference to Anwar case

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Surendra Ananth tells a forum Shafee argued on the basis of evidence.

PETALING JAYA: A lawyer has voiced doubt that Anwar Ibrahim's conviction for sodomy can be reversed even if it is true that Prime Minister Najib Razak paid Muhammad Shafee Abdullah RM9.5 million to conduct the prosecution at the appeal stage.

Referring to Sarawak Report's allegation about the payment, lawyer Surendra Ananth said it had no significant effect on the evidence used to convict the opposition leader.

"I don't think the RM9.5 million allegedly paid to Shafee means there was procedural misconduct when prosecuting the appeal because at that stage the trial was complete," he said. "All Shafee did was argue on the basis of evidence."

Surendra gave this view yesterday at a forum on the impact of Sarawak Report's claim on the Sodomy II case. The forum was held at Gerakbudaya here.

The High Court acquitted Anwar of the sodomy charge in 2013 with judge Zabidin Mohamad Diah saying that the DNA evidence offered by the prosecutors was unreliable and that in sex-offence cases the court was reluctant to convict on uncorroborated testimony alone.

However, in 2014, the appeal court reversed the decision.

Surendra said what Sarawak Report had claimed would, at most, have created grounds to argue for a mistrial as it could bolster the defence's argument of political conspiracy.

"If these payments had come to light earlier, it would have made a difference in strengthening the argument for political conspiracy, but would the defence have won this argument?"

Surendra conceded that there were two schools of thought that would apply in such a scenario. One of these would see abuse of the system as adequate to call for mistrial. Those subscribing to the other school of thought would argue "on the side of compelling evidence".

"That's the balancing act for a lot of courts all over the world," he said.

“Imagine, for example, a rape trial where the conviction has already been made. Then there’s found to be procedural misconduct, with the police having tampered with the evidence.

“Does that mean the rapist goes scot free and we ignore all other evidence, including eye witness accounts?”

Last Friday, Shafee avoided questions from reporters who pressed him for answers over the allegation, saying he would issue a statement later. That was the first time he had appeared in public since Sarawak Report published documents showing two purported transaction slips, dated Sept 11, 2013, and Feb 17, 2014, to back its claims.

An hour before Shafee’s encounter with reporters, Anwar had filed a suit at the High Court in Kuala Lumpur against the Malaysian government, saying the alleged payment meant that he had been denied a fair trial.

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