

MALAYSIA
DALAM MAHKAMAH DI SHAH ALAM
NEGERI SELANGOR

PERMOHONAN JENAYAH NO: 88-10-2009

TEOH BENG HOCK

LAPORAN MATI MENGEJUT
[22/2009]

NOTA KETERANGAN

29 JULAI 2009

Koroner : Tuan Azmil Muntapha bin Abas

Timbalan Pendakwaraya (TPR) : Tuan Idham bin Abdul Ghani
(dilantik oleh Kerajaan Malaysia) Encik Tan Hock Chuan
Encik Cains Tan
Encik Justin Wee

Peguam Pemerhati
(untuk keluarga simati) : Encik Gobind Singh Deo
Encik S.N Nair
Encik Ram Karpal
Encik Lim Lip Eng

Peguam Pemerhati
(kerajaan Negeri Selangor) : Encik Malik Imtiaz Sarwar
Cik Asma binti Mohd Yunus
Encik Ashok Kandiah

Peguam Pemerhati
(Majlis Peguam) : Encik Hisyam Teh Poh Tek

Encik Raj Pal Singh
Encik Salim Bashir
Encik Richard Wee Lopez
Encik Cheow Wee

Mahkamah : Mahkamah bersidang di Mahkamah Terbuka pada 29/7/2009, 9:00 pagi untuk kes Inkues nombor 88-10-2009.

Saya ditugaskan sebagai coroner yang mengendalikan inkuse kematian Teoh Beng Hock bawah Seksyen 337 (KAJ) untuk mengetahui bila, di mana, bagaimana dan apacaranya si mati itu menemui ajalnya, dan sama ada mana-mana orang yang terlibat secara jenayah dalam sebab-sebab kematian itu.

Sebelum mula prosiding ini, saya ingin mengingatkan tuan-tuan dan puan-puan (terutama di kawasan galeri awam) supaya tidak membuat bising, kekecohan atau apa-apa kelakuan yang boleh mengganggu prosiding inkues ini.

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Timbalan Pendakwaraya :

Nama saya Tan Hock Chuan seorang peguambela dan peguamcara, dilantik pihak kerajaan Malaysia dengan kebenaran bertulis Peguam Negara pada 27 haribulan Julai 2009 untuk membantu Mahkamah dalam siasatan jenayah berhubung dengan kematian Encik Teoh Beng Hock. Sebelum saya memperkenalkan rakan-rakan saya yang lain.

Saya kemukakan surat untuk Tuan Majistret -the written authorization by Public Prosecutor surat perlantikan tanda sebagai A kalau setuju.

(Kemukakan surat lantikan) – ekshibit A,

Saya dibantu oleh Tuan Mohd Idham bin Abdul Ghani dan juga oleh peguambela dan peguamcara Encik Cains Tan dan Encik Justin Wee. Rakan saya yang bijaksana Encik Gobind Singh Deo mewakili keluarga si mati mungkin beliau boleh memperkenalkan rakan-rakan saya yang lain.

Encik Gobind Singh Deo :

Untuk rekod peguam kanan (lead counsel) si keluarga si mati ialah Encik Karpal Singh. Encik S. N. Nair dan Encik Ram Karpal Singh akan hadir sebentar lagi .Untuk Kerajaan Negeri Selangor, Encik Malik Imtiaz bersama dengan beliau Cik Asmah Mohd Yunus. Dengan juga izinkan saya memperkenalkan wakil-wakil yang hadir dari pihak Bar Council, Encik Hisyam Teh Poh Tik dan Encik Rajpal Singh, Encik Salim Bashir, Encik Richard Wee dan Encik Cheow Wee.

Izinkan saya buat beberapa permohonan tapi saya percaya permohonan isu utama untuk diputuskan oleh Mahkamah adalah berkenaan dengan kehadiran pihak-pihak.

Tuan Majistret, saya buat permohonan supaya diberi status sebagai peguam pemerhati dengan kepentingan bagi pihak keluarga. Harap permohonan dapat diluluskan , itu bermakna saya dibenarkan ambil bahagian. Pihak yang berkepentingan dalam bahasa inggeris “interested parties”. Membawa maksud tanpa sebarang keraguan mengambil bahagian prosiding dengan kebenaran Mahkamah.

Encik Karpal dan saya, Encik Nair dan Encik Ram bagi pihak Keluarga simati.

Dengan permohonan yang sama juga dibuat untuk Kerajaan Negeri Selangor dan bagi pihak Majlis Peguam, sebagai “watching brief” dengan juga status pemerhati. Status pemerhati kepentingan.

Dalam keadaan keluarga simati, saya rasa jelas tidak perlu saya teruskan on that fact alone memberikan kami, pohon ruling bagi pihak keluarga.

Coroner _____ : TPR ada bantahan?

Timbalan Pendakwaraya :

Bagi pihak keluarga berpandukan arahan amalan No. 1 tahun 2007, dimuka surat 6.

Di muka surat 6. Di bawah heading inquest and para B, bawah kepada kecil ‘entitlement to examine witnesses’ may I read dalam bahasa asal).

“There are no ‘parties’ to an inquest as there are in accusatorial or adversarial proceedings such as a trial. Instead there are only “interested persons”. The Magistrate should exercise his discretion to determine who shall have the right to examine the witnesses”.

In fact, under para A protocol for examining witnesses;

“The Magistrate who sits as a Coroner has control of the proceedings, and therefore, it is the Magistrate who shall examine firstly the witnesses, to be followed by others who have the right to participate in the inquest. The Magistrate is assisted by a Prosecution Officer”

Dalam para C, Persons who have the right to examine witnesses; rakan saya Encik Gobind will come under para A, “..parent, child, spouse and any personal representative of the deceased.” Maka pihak pendakwaan tiada bantahan terhadap permohonan beliau. Bagi rakan saya Encik Malik Intiaz, saya fikir pihak pendakwaan boleh setuju

bahawa beliau “fall under paragraph C,” we can agree because he’s acting for state government.

Mahkamah : Juga tiada bantahan. (TPR setuju untuk En Malik diberi status peguam interested party.)

Timbalan Pendakwaraya :

Juga tiada bantahan, bagi dari Encik Malik Intiaz bagi pihak Kerajaan Negeri Selangor.

Untuk rakan-rakan saya yang mewakili pihak Majlis Peguam, berdasarkan perenggan C, para a, b dan c tidak terpakai. Makna hanya ada perenggan D (page 6) which reads; “Any other person who, in the opinion of the coroner, is a properly interested person.” Tidak ada definisi “properly interested person” di bawah Arahan Amalan ini

Timbalan Pendakwaraya :

Untuk category “properly interested person” dibawah amalan ini. Rakan-rakan saya mewakili Majlis Peguam memberitahu saya pagi ini bahawa mereka ingin membuat hujahan. Saya tidak diberi notis, pihak kerajaan tidak diberi notis tentang legal argument dan tidak bersedia untuk legal argument tentang “interested person.”

Mahkamah : Adakah pihak Majlis Peguam akan berhujah berkenaan isu ini?

Peguam Pemerhati : We take the position that we are Interested Party.
Kami sedia dengan hujahan.

Mahkamah : Do we need to hear their submission dahulu?

Timbalan Pendakwaraya :

Di dalam suatu siasatan jenayah, words case is "Inquiry". Pada hakikatnya kesemua soalan mesti harus dibuat melalui Mahkamah. Jadi pandangan anak guam saya (kerajaan Malaysia). Kami ingin mulakan siasatan / inquiries ini secepat mungkin. Jadi, instead of getting embroiled in legal argument, can I suggested that my learned friend from Bar Council be recorded as council watching brief to which the prosecution has no objection if they have any questions, they can frame all questions to court just like myself, Gobind and Malik Imtiaz. The last thing the government wants is to delay the inquest.

Encik Hisyam Teh Poh Tek:

I think the government the prosecution has informed coroner that the Bar Council have a right to participate, we want to participate there might be questions we want to ask to the witnesses who come forward and we give (coroner) the assurance that all questions asked will be relevant and we will address there questions to the court. I'm obliged.

Mahkamah : Saya benarkan pihak Majlis Peguam sebagai Watching Brief dan kebenaran untuk menyoal dengan "leave of court."

Encik Malik Imtiaz : Tuan Hakim boleh saya kemukakan surat perlantikan.

Di sini tuan Majistret, terdapat 4 peguam yang telah dilantik, Myself , Encik Sreekant Pillai, Encik Ashok Kandiah, Cik Asma binti Mohd Yunus.

(Ditandakan sebagai exhibit B)

Encik Hisyam Teh Poh Tek:

Bar council have a team of 15 lawyers, we take turn to come and some of these days different faces will appear before tuan.

Mahkamah : Noted.

Encik Gobind Singh Deo :

2 perkara sebelum saya mulakan, Encik Lim Eng untuk keluarga. Boleh saya minta mesin ini dipindahkan ketempat lain kerana bunyinya seolah-olah saya disiasat oleh pihak berkuasa dan mental torture.

Mahkamah : Not sure what's the purpose of it. Can closed that down. Switch off the power, if its distracting, we can remove it.

Encik Gobind Singh Deo :

..berkenaan isu substantive. Firstly, kami ingin rakamkan bahawa keluarga si mati menghadiri prosiding ini "in protest". "In protest" ini bertujuan bukan untuk menghina Mahkamah dalam apa-apa keadaan tapi adalah untuk menentukan pendirian kami bahawa sebenarnya, keluarga si mati berharap bahawa isu berkaitan dengan sebab kematian Teoh Beng Hock dapat juga diputuskan di dalam Royal Commission Of Inquiry. Wish to put in record, appearance this morning in protest because the family of deceased express hope that issues, cause and circumstances surrounding death to be included, in term of reference under royal commission inquiry. We made appeal and ask Prime Minister to reconsider his decision. Of course we would ask the proceeding to be stay pending an answer to our request because if Prime Minister agrees this inquest pending would become unnecessary. Our view royal commission inquiry would be able to dwell into matter at greater length and detail.

We wish to make on application for adjournment on following grounds. First, we not been given documents and not given copy post mortem report, CCTV recording, forensic report and also DNA report given the ruling in case of Dato' Seri Anwar Ibrahim, recently, all statement taken from witnesses, its my submission, Seksyen 51A

in CPC applies in case of "**Retnarasa Annarasa v P.P**" page 43 the bundle. May I read from page 45 paragraph 3. Basically this motion is an application for disclosure of documents. The position in law on this issue and subject-matter is governed by two provisions of the law, namely:-

- 1) **Practice Direction No. 1 of 2007, with the heading "GUIDELINES ON INQUEST", and**
- 2) **Section 51A of the Criminal Procedure Code.**

Paragraph 4;

"This Practice Direction is dated 5 January 2007 and is so worded that it "shall be followed..." with effect from 1 February 2007. It was issued by the then Chief Judge of Malaya, Tan Sri Dato' Siti Norma bt Yaakob. It is therefore imperative for Magistrates to abide by the direction. To remove any doubt, I must note Practice Directions issued by the Chief Judge of Malaya do have the force of law. This is so because the Chief Judge do have supervisory powers over the Subordinate Courts. This can be seen in section 4, section 59(4) and section 76(3) Subordinate Courts Act 1948 and of which such powers has to be read with section 35 of the Courts of Judicature Act 1964."

Paragraph 6;

"It comprises a very comprehensible guideline for Magistrates to follow in an inquest. The relevant provision is para D under the heading disclosure of documents, ...The Magistrate have the discretion with regard to the release of documents. This discretion should in general be exercised in favour of release."

"Here from the wordings, the general rule; is to release the documents and not releasing the document will be an exception. That being so, any refusal to release must be justified with reasons for such a refusal."

Then there the application of section 51A CPC, im not gaoin to read all four paragraphs but to make a point that that section applies.

Sehubungan dengan ini, its not just a question of just us being given the documents, documents are givrn to us for a purpose, so as to enable us to study them, and we study them for the purpose of deciding whether or not we require independent opinion on them. Here in the event documents such as post mortem report, forensic report, DNA report are given to us,we require time because we have a right to have our experts look at them. Its only with the guidance of these experts, independent opinion that we will be able to effectively participate in this proceedings. No point coming here and just tell us lets proceed now, it doesn't work that way. There's a reason behind it and my friend says that the last thing the government wants is to delay this proceedings, we are interested with the most important which is justice and I don't understand why this inquest is being rushed. In fact it is a fact that investigation only finished yesterday, im geven to understand that the post mortem is only received last night. Im not sure if there is even in existence yet a forensic report which is most material to this case. Ive been informed by at least 2 person that only yesterday have they been asked to provide DNA sample, so obviously the report is not ready cause they haven't even given the samples. The DNA samples which are given are of immense importance because they may implicate certain witnesses in this trial. I think it is best that these reports be finalized, completed so at least those witnesses know whether or not they are to be implicated in this inquest. And if they are then they should be entitled to legal representation, they should be allowed every latitude to engage counsel to attend this proceedings on their behalf. There's no point proceeding half way through and then suddenly realizing only at that stage and asking them to appoint counsel. In addition to that I believe the nature of the questions that would be posed by all parties will defer depending on these reports. I had these experience and I recognize that the reports, nature of questions change the direction, the questioning, will take. It all depends on the reports and here we left in the dark, no idea, it is strange how the Attorney General, without having studied the whole file, the results of investigation, already decided that he cannot tell the cause of death and placed it on the lap of this court. To my mind, the Attorney General should study a full report first, decide whether he can find the cause of death, if only when he cannot that he directs an inquest. Of course after the Prime Minister said it the next day the AG

straight away acted under section 339 CPC but that is another occasion. In addition to this I take to section 331 and 332 CPC at page 4; “post mortem examination of body”.

- (1) Upon receiving the information referred to in section 330 a Government Medical Officer shall, as soon as practicable, make a post-mortem examination of the body of the deceased.***
- (2) The Medical Officer, if it is necessary in order to ascertain the cause of death, shall extend the examination to the dissection of the body and an analysis of any portion of it, and may cause any portion of it to be transmitted to the Institute for Medical Research.***

Section 332, Report of Government Medical Officer :

- (1) The Medical Officer making any such examination shall draw up a report of the appearance of the body and of the conclusions which he draws from it, and shall certify as to the cause of death and shall date and sign the report and transmit it to the officer in charge of the police district who shall attach it to the report forwarded under subsection 329(5).***

What is clear is this, the Government Medical officer referred to in section 332 is the person who conducts the post-mortem and the report they speak about is the post mortem report. As I said earlier, the post mortem report is only obtained last night, I don't think there's a dispute to that, that being the case and as I said earlier I read the case of Retnarasa Annarasa where magistrates are bound by Practice Directions and they have the force of law and I come to page 17 of my bundle, paragraph C of that very guideline in respect of notice of an inquest, mandatory and must be complied with according to Justice Apandi. There are provision which are mandatory ...

C. Notice of an inquest

“The magistrate should arrange to notify the family members/next of kin regarding the holding of an inquest, as to the date, hour and place of inquest. A minimum of 2 weeks notice should be given.”

No notice yet, more importantly in page 18...

“As for the first mention date, a maximum of 3 weeks will be given for parties to appear before the magistrate, calculated from the date of the receipt of the report from the Government Medical Officer.”

..which is referred to in section 332, which is only received last nite. Its mandatory these provisions under the guidelines and the significance is obvious, all parties to be given time to prepare not just the AG Chambers. There's been no compliance of that, as far as im concerned no notice, written notice been given to me or the family, just like that we read from the newspaper then tomorrow phone call, “please come to court”, cant do that, this is not a joke. Second part is very important, from date of post mortem, 3 weeks, read together with section 51A we ask ourselves why do these provisions exist, the guidelines recognized notice ..3 weeks , section 51 says you're entitled to documents , why..for simple reason that we are entitled to prepare. This inquest is an inquest of national importance, everyone is watching and everyone is expecting the best of standards and results. So in the circumstances I say that we are entitled to the documents and we are entitled to prepare ourselves before we proceed, not that we want a 6 months adjournment, maybe even a week, that's all im asking for, lets us have the weekend to sit down with our experts , even Bar Council ,they have not been informed of anything relating to this inquest. So here I make this application for a short adjournment as a matter of right because the guideline says that we are entitled to it and section 51 says that we are entitled to the documents and that is the law whether we like it or not. We abide by the law .As said earlier, we have made an appeal for the Prime Minister consider having a Royal Commission determine the cause of death and I tie it , with this time perhaps even that the matter could be resolved. Its not my intention to delay, time is required for a specific purpose ie to make sure that this proceedings are intelligently conducted, properly conducted and every party to it are given sufficient

time to prepare themselves. I think that is in the interest of this honourable court at the end of the day. In those circumstances I make this application and I believe my learned friend Malik Imtiaz and members of the Bar Council would support this submission.

Encik Malik Imtiaz Sarwar:

Dengan izin tuan I support the application Encik Gobind Singh in respect of the documents and in that regard if I also adopt the submission made if I could add to that a little bit by referring to page 43 case of Retnarasa, the headnotes (peguam membaca ringkasan fakta kes) the point im making is that the application is allowed and the order was set aside and its important to note is that there was a suggestion made that perhaps when those witnesses came to give testimony then the reports could be supplied then suggesting therefore that the proceedings could carry on but the court took a different view saying that the requirements of these documents are essential and that supports what my learned friend is trying to say going to meaningful opportunity given to interested parties to consider these documents. Now in that regard, at page 46 of the bundle, same report, I would just stress what the learned judge said :

“After all, an inquest is inquisitorial in nature as compared to a trial, which is adversarial in nature. If in an adversarial proceedings pre-trial discovery is allowed, there is no reason not to allow such discovery in an inquisitorial proceeding. In an inquisitorial proceedings, such as an inquest, there is no question of prejudice or embarrassment. Not to allow will be prejudicial to the right to know the truth. After all we are living in an era of transparency.”

When my learned friend submits that there is a need for time I support that because in order for us to establish what the truth is we will have to consider these reports carefully. Now in that regard my instruction are the state is prepared to engage experts to consider these reports so the suggestions that my learned friend makes for time is a good one cause it will allow us not only to consider these documents also to engage the experts because ultimately this is a matter of national interest, it is in the interest of all of us here today to find the truth and only through meaningful opportunity to address the

fact pattern of the case that we will be allowed to find the truth. We would ask for reasonable time to consider and we would ask that the inquest be differed and not started with so call formal witnesses because we don't know who will be formal or not, only when the time comes, already this morning there are people who approached me who said what do I do and so on so forth because we must not lose sight of the fact that death occurred in the context of investigation of the wider nature and there's already tremendous speculation in the media about causes and so on so forth, all of which we should not in any way give further fuel to by allowing for ambiguity.

Encik Hisyam Teh Poh Tek:

Bar Council supports the application made by my learned friend Mr Gobind Singh and Mr Malik Imtiaz I just like to add a few words on the application. Refer to Practice Direction no1 of 2007, in particular page 3 of said guidelines, under para D sub para 3, under the heading categories of cases in which an inquest should usually be held;

(3) Any deaths in which the views of the family or other significant members of the public are such that an inquest is likely to assist maintain public confidence in the administration of justice, health services or other public agencies.

..and justice can only be maintain if adequate time be given to all parties to prepare the case in question. Our criminal justice should be second to none. With this we support this application.

Encik Salim Bashir _____ :

I would like to invite the court to take a Common Law approach as per section 5 of the CPC, look at the English Coroners Rules 1984, rule 57

“A coroner shall on application and payment of prescribed fee, supply to any person who in the opinion of the coroner is a properly interested person, a copy of any report of a post mortem examination including one made under section 19 of the 1988 act, for

special examination or any notes of evidence or any documents put in evidence at an inquest.”

This is actually adopted in Sara Lily’s case and coupled with the fact that it need to be read with rule 37 of the Coroners Rule 1984 sub section 3(d);

“Subject to paragraph 4, before admitting such documentary evidence, the coroner shall at the beginning of the inquest announce publicly, that any person who in the opinion of the coroner is within rule 20 sub section 2 is entitled to see a copy of any such documentary evidence if he so wishes.”

Timbalan Pendakwaraya :

I have asked the investigating officer to make a full sets of the copies of documents which will be tendered in this inquiry to be made available to the counsel family of the deceased, we have spare copy and will pass it to Mr Malik and my friends from the Bar can arrange with Gobind to get it.

From my appointment, I was only appointed 2 days ago, so the idea is to try to hold this inquest ...refer to Practice Direction page 8:

Para J Inquest should be prompt

“Public interest requires that inquiries into deaths should be held more promptly than has been the case in the past. Inquest should be done at the very earliest moment after death. Inquest should be best conducted continuously until the end with the most minimal of post ponements in between.”

I really have to distinguish the cases which my learned friend submit because Retnarasa and all that , those are cases that reports are not given to them, we are giving it to u, today of course, this is not such instance that we’re not giving documents, section 51 referred, I’d wish that witness statement would also be supplied to the defence, but that is not the law , please look at 51A, he’s asking for copies of statement

of witnesses, that one the prosecution is not giving, we're giving copies of all documents which will be tendered at the inquiry, all. Everything will be given to them but not copies of statement of witnesses. Look at 51, I got no problem extending the word trial to include inquiry, section 51A(1)a, copy of first information report we will give, (b) copy of document to be tendered as part of evidence , in this case its not a trial, (c) does not apply because no one is charged. I just need to correct this, sec.51A nowhere speaks about statement of witnesses, its not the law, I just wanna stress one thing. The inquest is conducted in accordance to Chapter xxxii of the CPC, that is the law. Whether you're in the government or not, even the government must comply with the law. Chapter XXXii is the law governing inquest. My learned friend referred to the English rules , section 5 says , as regards matters of criminal procedure for which no special provision has been made by the CPC, then you look at England. We have Chapter XXXii here, so the Coroner Rules does not apply, we have to look at the law. I totally agree with what Mr Hisyam says, in fact it comes under categories of cases in which an inquest should be held, so this is one such case.

As for adjournments, basically we have no strong objections, we got no objections in fact, we will give the documents, we will leave it to the court on the inquest, the timing of the inquest, but for the government , we are ready to proceed.

Encik Gobind Singh Deo :

Rakan saya merujuk kepada perenggan J in the guideline at page 20, it says that inquest should be prompt but it does not say that inquest should be immediate, in addition to that para J must be read together with C page 5, walaupun prompt we still have to consider the requirement of notice and most important is the second part of C which is 3 weeks from receipt of report from government medical officer, we cannot read them in isolation. There is the decision of the High Court which clearly says section 51A is to be read with section 51 , maknanya it applies to inquest. Whether we like it or not that is the law, we are bound by decisions of higher court. Ada sebab, tujuan mengapa dokumen perlu diserahkan, we need time to look, examine it and decide what

to do with it. In respect of the argument that it does not apply to witness statement, can I produce perintah Mahkamah dalam kes **Dato' Seri Anwar Ibrahim**, second last page;

“Dengan ini diperintahkan salinan kenyataan saksi Mohd Saiful Bukhari bin Azlan...names are given, it is the law that we are entitled to witness statement, if at all there is a dispute, at this point we are quite comfortable if we are given just have of those who interrogated Teoh Beng Hock. We want their statements, because those are the persons closes, connected to the circumstances leading to his death. Even the rules under F terdapat peruntukan berkenaan dengan self incrimination...

“No witness at an inquest shall be obliged to answer any question tending to incriminate himself. Where it appears to the magistrate that a witness has been asked such a question, the magistrate shall inform the witness that he may refuse to answer”

Here its not something that is significant to the witness alone but significant also to the court, if we have all the reports and we studied them, and we know which report implicate whom, we are in position to guide the court when it comes to those matters, so without item such as the DNA report, if we rushed this inquiry it may work against the interest of justice. We been pressing all along , justice for Beng Hock, there's a campaign and we definitely don't want to delay, but also we don't want to compromise on established principles of law and justice. In those circumstances , I ask for short deferment maybe 10 days.

Timbalan Pendakwaraya :

We are prepared the moment the court stands down to supply full sets of documents, whatever we have, adjournment I leave to court but the state ready to start with courts permission, statements of witnesses, my instructions are: prosecution is not giving because the order of Justice Zabidin is now pending for appeal in the Court of Appeal, I don't want to touch on hot potato cases, there's a stay order in the High Court which my learned friend did not mention, (Mr Gobind and Mr Malik confirms about the stay) everything else we are going to give, we are hoping to start inquest as promptly as the rules require but if my friends need sometime I leave it to the court.

Mahkamah : So you are prepared to supply to all parties? All documents except the witness statement..

Encik Gobind Singh :

Let me confirm here are post mortem report, forensic report and DNA report ready? I just wanna be specific, we are concerned with these there reports.

Timbalan Pendakwaraya :

Certainly we are not just giving photos, we are giving a lot, post mortem reports there are 2 , I've yet to see them as well, I've seen the Chemist report and there's a DNA report, there's a toxicology report, forensic I was told its ready, CCTV we have..

Mahkamah : all these are ready by today?

Timbalan Pendakwaraya :

Yes, also criminology report, before my friend (Mr. Gobind) make some more noise we will supply to him first, we are giving you, whatever I have you have,

Mahkamah : And that point, saya benarkan permohonan untuk.., setelah pihak pendakwaraya bersetuju untuk membekalkan semua dokumen tetapi tidak termasuk witness statement dan saya juga bersetuju dengan cadangan Timbalan Pendakwaraya

Encik Gobind Singh Deo :

the argument here because its on stay, let us wait for that dan kalau Mahkamah Rayuan setuju dengan keputusan Justice Zabidin..

Mahkamah : I would not make a ruling on that point (witness statement).

Mahkamah : For the issue of adjournment, mengikut kepada Practice Direction no 1 tahun 2007, menyatakan notis harus diberikan kepada pihak keluarga dan next of kin, on this, saya perlukan masa untuk semakan dengan pihak pendaftaran untuk memastikan mahkamah ada mengeluarkan apa-apa surat atau notification, to confirm that I need just half an hour to stand down, so we have a recess for half an hour.

t.t Azmil Muntapha bin Abas

11:45 am

Dengan izin tuan kes dipanggil semula 88-10-2009 kes inquest.(Jurubahasa)

Encik Gobind Singh Deo :

Tuan Majistret pihak-pihak seperti tadi.

Timbalan Pendakwaraya :

Pihak pendakwaan telah serve/ menyerahkan dua salinan dokumen-dokumen yang akan dikemukakan kelak kepada Encik Gobind Singh Deo dan Encik Malik Intiaz.

Tuan, saya ingin juga memaklumkan tuan majistret sebagai koroner bahawa mengikut laporan DNA yang pertama. (petik dalam bahasa asal)

“DNA profile derived from swab taken off the back outer sided of blazer worn by the deceased Teoh Beng Hock consisted of a mixture of male DNA types from 2 individuals. One concordant with that the blood stain specimen of diseased Mr. Teoh and one unknown male individual” (male 1).

I also informed the court :-

“Another DNA profile derived from swab taken at the tear region of waist belt worn by deceased Mr. Teoh consisted of mixture of male DNA types and indicated concordance

with the blood stain specimen Mr, Teoh and at least one other male contributor and also male 1. The last 2 days, Monday and Tuesday, swab taken from 102 person to determine whether any of them conform of this unknown male persons.

First DNA report ready, this is tindakan susulan. I been told by the chemist , result of 90 people ready, further test conducted on remaining 12 male person.

I also be informed by the I.O that the 2 person have refused to give their sample swab and that's holding up the second DNA report. I should be inform tuan coroner, other than that we are prepared to come out report for the 90 persons and eleven plus 2 more.

Encik Gobind Singh Deo :

In this respect, we wish to know if any off those 90 specimen match the DNA of unknown male 1 as stated in this report. Most important, all want to is there a match.

Timbalan Pendakwaraya :

I just want to explain the scenario, whether they match or not I think is better explained by the expert, not at the Bar table, let the chemist get his report ready, and he or she gives the evidence,

Encik Gobind Singh Deo:

And I let me say, this is all the more reason why we need to wait for this report. Those 2 who has not given the sample, to my knowledge they only ask to go and provide samples yesterday afternoon. I would be grateful if my learned friend could extent a copy of the new report especially if there's a match..

Timbalan Pendakwaraya :

I will give a copy to Mr. Gobind irrespective of whether there's a match or not. I'm just instructed to say that I know the documents just been given to them today, the prosecution is ready with at least the early witness but at the end of the day I leave it to court.

Mahkamah : One of the issue adjournment, Mahkamah telah menimbangkan hujahan pihak peguam untuk keluarga dan juga hujahan oleh Timbalan Pendakwaraya dan merujuk kepada arahan amalan No. 1 tahun 2007. Saya membenarkan penangguhan selama tempoh 1 minggu dan Mahkamah akan bersidang semula pada 5 Ogos 2009 dan saya juga akan membuat ruling on the issue of witness statement sebelum kita memulakan saksi dan itu adalah diperlukan for the start.

Encik Gobind Singh Deo :

Pihak kami akan sediakan hujahan dengan isu itu . Terima kasih Tuan Majiistret.

Mahkamah : Untuk rekod kehadiran saksi adakah perlu direkodkan berapa ramai yang disapina untuk hari ini?

Timbalan Pendakwaraya:

We have given a list to Pendaftar Mahkamah Rendah , I got a list of 89 witnesses disapina kecuali chemist and pathologist, I believe they are all here. 80 saksi hadir.

Encik Gobind Singh Deo:

Tuan Majistret sebelum Mahkamah bersurai. terdapat 80 saksi jumlah ramai, samada ada list mana saksi akan dipanggil on hari mana so not all of them have to come,

Mahkamah : We will decide on the next hearing.

Encik Gobind Singh Deo:

I leave it to court A lot people the side.

Timbalan Pendakwaraya :

Menurut Bab 32 Kanun Tatacara Jenayah Tuan Majistret lah yang mengendalikan inkues ini. Jika bantuan pendakwaan dikehendaki, we are ready to help to indicate witnesses but basically its tuan's call.

Mahkamah : Berikan saya senarai kehadiran saksi dan akan putuskan yang mana akan dipanggil dahulu.

5 Ogos 2008 (Bicara)

12:00 tengahari.

t.t Azmil Muntapha bin Abas