

IN THE HIGH COURT OF MALAYSIA AT KUALA LUMPUR
(APPELLATE DIVISION)

CRIMINAL APPEAL NO: 42 – 188 – 2010

BETWEEN

PUBLIC PROSECUTOR

...APPELLANT

AND

ROSLI BIN DAHLAN

...RESPONDENT

RESPONDENT'S AFFIDAVIT

I, **ROSLI BIN DAHLAN (NRIC No: 610819-71-5855)** a Malaysian citizen of full age and residing at No. 33 Jalan PJU 3/15, Damansara Indah Resort Homes, 47410 Petaling Jaya, Selangor Darul Ehsan, do hereby sincerely and truly affirm and say as follows:-

1. I am the Respondent above-named. I am an advocate and solicitor of the High Court of Malaya and currently practicing as a partner in the law firm of Messrs Lee Hishammuddin Allen & Gledhill.
2. Save where stated to the contrary, the facts deposed to herein are within my personal knowledge or derived from documents and records in my possession. My affidavit also sets out information which I verily believe to be true and the sources and grounds thereof.
3. I crave leave to refer to the Affidavit of Dato' Pahlawan Ramli Bin Yusuff ("**Ramli Yusuff**") affirmed and filed herein. I believe the averments therein contained to be true and adopt the same.

The Charge

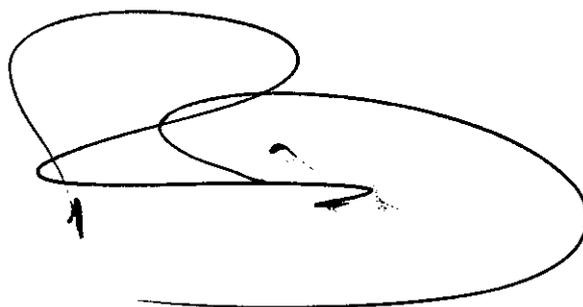
4. The Public Prosecutor served two (2) notices on me dated 17.7.2007 and 16.8.2007 ("**Rosli Dahlan Notices**") pursuant to Section 32(1)(b) of the Anti-Corruption Act, 1997 ("**the Act**"). The Rosli Dahlan Notices were issued by the Public Prosecutor premised on the allegation that I was an associate of one Ramli Yusuff (as defined under the Act).
5. I deny that I was an associate of Ramli Yusuff at any time. When I queried the import of the Rosli Dahlan Notices, I was charged before the Kuala Lumpur Sessions Court vide Kuala Lumpur Sessions Court Arrest Case No. 62-449-2007 for failing to respond to the said notices as provided for under Section 32(5) of the Act.
6. I am informed by Ramli Yusuff and I verily believe that the investigation against him by the Anti-Corruption Agency, now known as the Malaysian Anti-Corruption Commission ("**MACC**"), was tainted and unlawful. The charges brought against Ramli Yusuff were dismissed and Ramli Yusuff was acquitted, inter alia, on the grounds that the Public Prosecutor had acted without reasonable grounds in issuing two (2) notices against the said Ramli Yusuff.
7. I therefore respectfully say that the Rosli Dahlan Notices which were premised and predicated upon the Public Prosecutor having reasonable grounds to believe that an offence had been committed by Ramli Yusuff. Since the High Court has found that the Public Prosecutor had no grounds to believe that an offence had been committed by Ramli Yusuff, the Rosli Dahlan Notices are likewise tainted, unlawfull, void and of no effect

Further and Recent Events

8. Sometime in January and February 2012, I received telephone calls from Dato Abdul Razak Musa, the Director of Prosecution of the Malaysian Anti-Corruption Commission. During these tele-conversations Dato Abdul Razak Musa admitted that the Appellant's appeal herein was weak and without merit. In answer to my query on why the Appellant was not inclined to withdraw the present appeal, Dato Abdul Razak Musa told me that the Attorney General was only willing to withdraw the appeal on condition that I withdrew the KLHC Suit ("the Withdrawal Offer"). In a meeting with Dato Abdul Razak Musa on 2nd March 2012, he said that I should not have been charged and would not have been charged had he been the Director of Prosecution at that time. Dato Razak also blamed Dato Nordin Hassan and Kevin Anthony Morais for the events that befell me. Dato Razak repeated the Withdrawal Offer more explicitly by stating that he is 90% convinced I should be let off.
9. I verily believe that in the circumstances, the present appeal is also being used by the Appellant and the Attorney General for an ulterior motive. Clearly Dato Abdul Razak Musa's entire aim in the aforesaid Withdrawal Offer was to use the present appeal as a 'bargaining chip' to coerce me into withdrawing the KLHC Suit and giving up my lawful rights to seek redress against those who have wronged me.
10. Clearly therefore the continuance of the present appeal in light of the matters I have outlined above amounts to a further abuse of prosecutorial discretion, malicious prosecution and prosecutorial misconduct.

I file this Affidavit to record the events referred to and are relevant for purposes of this Appeal.

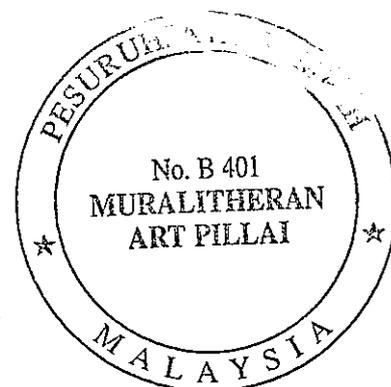
To an affidavit by one deponent named)
ROSLI BIN DAHLAN affirmed on)
this day of **1 AUG 2012**, 2012)
Puchong, Selangor D.E. at **1.30 am**/pm)
[Through interpretation by.....])
[Interpretation not required])



Before me,



Commissioner for Oath



61, Jalan 23, Taman Bukit Kuchai,
47100 Puchong,
Selangor D.E.

This **RESPONDENT'S AFFIDAVIT** is filed by Messrs Kumar Partnership, solicitors for the Appellant whose address for service is at Suites 12.01-12.03, 12th Floor, Wisma E & C, No. 2 Lorong Dungun Kiri, Damansara Heights, 50450 Kuala Lumpur.

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(Ref: 01.2.3422.09.RD)