



Former prime minister Datuk Seri Najib Razak and lawyer Tan Sri Muhammad Shafee Abdullah arriving at the Kuala Lumpur Courts Complex. FILE PIX

## FEDERAL COURT

# BID TO DISQUALIFY SRI RAM: LEAVE APPLICATION DISMISSED

Najib, Shafee fail in bids to obtain leave to appeal against court decisions

## PUTRAJAYA

**F**ORMER prime minister Datuk Seri Najib Razak and lawyer Tan Sri Muhammad Shafee Abdullah failed in their bids to obtain leave to appeal against the dismissal of their judicial review application to disqualify Datuk Seri Gopal Sri Ram from prosecuting in their respective court cases.

The Federal Court three-member panel, led by judge Datuk Seri Mohd Zawawi Salleh, unanimously dismissed their applications with no order as to costs.

Zawawi, who sat with Datuk Nallini Pathmanathan and Datuk Vernon Ong Lam Kiat, said the

legal questions that Najib and Shafee sought the court to consider had already been decided by the Court of Appeal in the case of Public Prosecutor vs Datuk Seri Anwar Ibrahim in 2014 and endorsed by the Federal Court.

He said the law was settled on the appointment of an advocate as deputy public prosecutor and the court had no reason to depart from that decision.

In civil cases, a litigant must first obtain leave before he can proceed with the appeal in the Federal Court.

In Anwar's case, he sought to remove Shafee as ad hoc prosecutor, leading the prosecution team in the prosecution's appeal in Anwar's sodomy 2 case.

Zawawi said the plain reading and construction of Section 376 (3) and Section 379 of the Criminal Procedure Code pertained to two modes of appointment, firstly direct appointment by the public prosecutor and Section 379, by fiat of the prosecutor.

Najib had filed a judicial review

application to disqualify Sri Ram as the senior deputy public prosecutor in his 1Malaysia Development Bhd (1MDB) case in December 2018.

Shafee, who is also Najib's counsel, filed a similar application to recuse Sri Ram from prosecuting in his RM9.5 million money laundering trial.

They are seeking a court order to revoke Sri Ram's appointment or recuse him, saying that his letter of appointment was invalid.

Najib and Shafee were also seeking a declaration that there was a conflict of interest in Sri Ram's appointment and requested for an order to prohibit him from leading the prosecution team in all of their cases, including on corruption, abuse of power and money laundering.

Both Najib and Shafee's judicial reviews were dismissed by the High Court in 2020 and they lost their appeals at the Court of Appeal last year.

In yesterday's proceedings, which were conducted online,

Najib's counsel, Shafee, and lawyer Harvinderjit Singh, representing Shafee, said there were novel legal questions and of public interest for the Federal Court to consider.

Among the legal questions posed for the Federal Court to consider were those related to the appointment of an advocate as deputy public prosecutor under Section 376 (3) and Section 379 of the Criminal Procedure Code.

One of the questions was on whether the public prosecutor could appoint an advocate as a senior deputy public prosecutor without his appointment as deputy public prosecutor being made in the first place under Section 376 (3) of the Criminal Procedure Code.

Senior Federal Counsel Shamsul Bolhassan, representing the government of Malaysia, the prosecution and Sri Ram, objected to the leave application saying that the questions had already been decided by the Federal Court in Anwar's case. **Bernama**