

## **A TURNOVER OVERTURNED**

### **(Munawars' long legal battle)**

Dr. Munawar Anees is, and has always been, a full blooded heterosexual with a wife and two lovely children. His only mistake in life was to be associated with Datuk Seri Anwar Ibrahim as his speech writer and friend. A person Anwar could bounce ideas off and expect an intelligent response. Who would ever have anticipated the repercussions of this 'indiscretion' in light of the turmoil this has caused Munawar for the past 12 years? The events which have taken place over this period surely make for a great plot in a farfetched and surrealistic novel authored by someone with a mind for the fantastic. But sometimes fact does indeed turn out to be stranger than fiction, especially when it is interposed with the coarse machinations of a third world despotic regime and a politically compliant judiciary.

Munawar has already logged the circumstances leading to his conviction for a charge of sodomy in an exhaustive and very detailed account of the obvious complicity between the police, the prosecution, the so called defence and the judiciary in securing his conviction at all costs. This detailed story is contained in his exhaustive 205 paragraph statutory declaration which is available [here](#). I need not elaborate. It makes sickening reading.

The conspirators thought they had their job done, and done well. Immediately after Munawar's conviction at the Sessions Court, Kuala Lumpur, they rubbed their hands together in glee and walked away as Munawar was shackled and escorted to the Kajang Prison to serve his 6 month sentence. What they didn't anticipate were two things. One, Munawars admission to the Cardiac Care Unit of the Hospital Kuala Lumpur and secondly, the arrival on the scene of the fearless Mr. Manjeet Singh Dhillon, Barrister extraordinaire and champion of the underdog.

When this happened, the conspirators went into a tail spin from which they could theoretically never have recovered if it were not for their friends and co conspirators on the Bench.

It is a basic principle of any civilized battle that the two warring factions are guided by a set of rules enforceable by a referee. However mayhem ensues when this arbiter of fair play decides, for some reason or another, that his judicial sentiments are to be less than objective and ought to lie lopsided in favour of not so unseen and powerful personalities whose interests are to be protected at any cost.

So as Munawar lay in his hospital bed recovering from an exhausted heart and as Manjeet was preparing the requisite voluminous paperwork associated with a formal appeal to a higher Court in the hope this calamity of injustice could be rectified in the appropriate way, the conspirators, in their state of panic, were accosting Munawar as he lay in his sick bed. They wanted Manjeet out of the picture. They wanted the status quo to be preserved. They needed Munawar's conviction for ulterior purposes. They needed to nail Datuk Sri Anwar Ibrahim to the wall and what better way to do this than produce a compliant complainant before the Court in which Anwar was being charged for a similar offence. Bingo. They thought they had it all organized and zipped up so much so they were confident enough to arrange the arrest of Anwar Ibrahim the evening following Munawar's conviction.

But that damned last number just wouldn't come up. Manjeet headed off the onslaught with his inimitable ferocity born of the generations of ancestral Greek warriors and that special blood which coursed through his veins. They finally gave up and retreated with their tails between their legs.

It was obvious Munawar was going to be a non starter as a witness in Anwar's case. Another fall guy had to be secured and fast. They had also lost Sukma because that other Sikh warrior disguised as a lawyer, The Right Honourable Mr. Karpal Singh MP, had already swooped in and scooped up Sukma from the ruins of another sodomous farce in which Anwar was accused of playing a major, if not active role, and in which Sukma was supposedly designated the passive participant, not dissimilar to Munawar's alleged indiscretions.

The same modus operandi had been affected in securing a 'confession' from Sukma at the same time Munawar was being coerced to cooperate with their shenanigans. Both were charged with being the victims of Anwar's ubiquitous rapes of his subordinates, at the same time on the same day in the KL Sessions Court, albeit in different Court rooms. The 'victims' of these supposed 'rapes' were being charged. The perpetrator of these heinous crimes against humanity and the order of nature was in the meantime being prepared for a tsunami of charges involving a variety of conjured up victims who were unfortunately slowly beginning not to play ball and ruining the plot in the process.

In any best devised plan there is always a cock up. It's called 'Murphy's Law'. If anything can go wrong it will. In this case everything began to fall apart because the Sikh-Greek warriors were parachuted in.

So another scapegoat had to be found and fast. There were two possible players. The first being the infamous 'no, Anwar did not sodomize me x 3 driver aka Azizan, and the other, Anwar's tennis partner and long time friend Mr. Nallakaruppan.

Some may call it 'hedging one's bets' or 'casting the net far and wide'. Whatever interpretation one puts on the unfolding events at that time, it would have been insufficient to describe the delinquent attempts at perverting the course of justice by the contemporaneous action of the police and the prosecutors as anything less than shameful.

Old Nalla was in a tight spot. He was unfortunately Anwar's friend. Even more unfortunately, he was found with some bullets in his safe at home. These bullets didn't match the gun for which he was licenced to possess. They were the bullets which belonged to his old gun. He didn't have this old gun anymore but this did not deter the police and the prosecutors from concluding that he posed a severe threat to the nation as he could potentially throw these bullets at people he didn't care for and they could have caused some minor bruising as a result. This is a serious offence in Malaysia. Only a little more serious than sexual gratification in contravention of archaic standards of interpretation of the God given word called 'nature'. Therefore this offence (potential bullet throwing) attracted nothing less than the death penalty once a finding of guilt was made, which would have been a foregone conclusion bearing in mind the complicity of the prosecutor, the police and the Judge, again.

What this pack of conspirators did not anticipate was the fact that two members of the flying squadron of Sikh lawyers, none other than Manjeet Singh Dhillon and Balwant Singh Sidhu were also tasked with the job of defending Nalla against these spurious charges. And this is where the fun began. These miscreants were no match for Manjeet and Balwant.

The plan of action had always been to get Nalla to confess to supplying women of disrepute to meet the sexual fantasies of the homosexually orientated Anwar Ibrahim. What a stud. Young and old men were not enough to satiate his desires. He had to have women as well. And Viagra hadn't even been invented yet.

Being the reasonable lawyer Manjeet is, he trotted off to the Attorney General's office to try and see if he could get the prosecutors to see reason. He felt a rap on the knuckles would be sufficient to deter Nalla from any future indiscretion in relation to dud bullets kept in his safe and that hanging by his neck until he was dead was a little 'over the top'.

Manjeet was pleasantly surprised to find the prosecutors amenable to a discussion. Chief Prosecutor, Mr. Gani Patail, was in top form. He made it known to Manjeet, in no uncertain terms, that he could quite easily arrange a rather soft rap on the knuckles in exchange for Nalla's confession that he did arrange women for Anwar. When Manjeet explained to old Gani that this would not be possible as it was a lie, Gani told Manjeet that was not their concern as all they wanted was the confession whether it was true or not.

Having got nowhere with reasonable trading, Manjeet left the AG's office on his Norton 500cc with back pack securely fastened to his torso, for in this piece of luggage was a tape recorder with a perfect audio recording of the conversation he had with Gani. In any civilized nation, this would have been the last nail in the coffin of Gani Patail's career. Not so in Malaysia. Gani Patail is now the Attorney General and the lawyer who used the contents of this tape recording in Anwar's trial, Zainur Zakaria, was sentenced to jail for contempt of Court. Why? Because he wanted the Court to get rid of Mr. Patail from the prosecuting team. Fair request one may think. You broke the rules so you should be sent off on a red card. But the umpire sent off the wrong player! The guy who fouled was still on the pitch!

Yes, but, we are an independent nation now. We have struggled to rid ourselves of the shackles of British colonialism. We now look East instead of towards the setting sun. We no longer require the archaic principles of ancient British law to guide us any longer. We are capable of creating our own common law to suit our own culture and our own traditions and our own way of life. Why should we prostrate ourselves in subservience to life guiding principles devised from hundreds of years of scribed experience and philosophy in dispute resolution? We have our own way of doing things here in Malaysia and that is why we told the Privy Council to go to hell.

With these sentiments foremost in the minds of those of us who matter, the rules of the game were amended to accommodate the desired result. 'Amended' is a rather inappropriate description of the excruciatingly blatant twists and turns and the very dubious legal gymnastics deployed to secure a conviction of Anwar Ibrahim at any and all costs. The law books were all hurled out the Court room windows and the Judge transformed himself into a pseudo legal pugilist with the defence team as his punching bag.

When the blood bath ended, Anwar was in jail for 6 years and Mahathir could continue governing the country His way and without distraction. It mattered not what the rest of the world thought of him.

Sticks and stones could have broken his bones but words would never have hurt him. He was back firmly entrenched in the driver's seat rapidly heading for hell with a gunny sack full of black sin.

Meanwhile back at the proverbial ranch, a disenchanted Munawar had put into play his attempts to vindicate himself of all the rubbish that had been piled on him by the guardians of public well being . Remember the story of the prosecutor, the defence lawyer, the police and the Judge all working blatantly in cohorts to secure Munawar's conviction of an offence he never committed? Well let's continue from there.

### **What happened after the Sessions Court conviction**

While Munawar was lying in his sick bed at the Kuala Lumpur Hospital Cardiac Care Unit, he was in fact still in prison serving his 6 month sentence for allowing Anwar to have his way with him, even though he didn't, but when the law says you did, who are you to argue this with?

A Judge of the High Court of course.

When Munawar was charged in the Sessions Court for having carnal knowledge with Anwar against the order of nature, he was supposed to have been the subservient party, if you get the drift. The fact sheet tendered to Court was rather extensive and detailed. Munawar's uninvited counsel, Mr. Yacob Karim, devoted much time in mitigation, to describing why Munawar allowed this to happen and the reasons put forth were basically that Anwar was a man of influence and Munawar depended on him for his livelihood. This part in effect demonstrated some resilience to active participation. Any Judge in his or her right thinking judicial mind ought to have been put on alert by this, and should have asked himself or herself whether the ingredients of the offence being admitted to had been established, before passing sentence. It behoves any Judge in similar circumstances to question the prosecution and the defence about the bona fides of the charge and the accused's plea of guilt, irrespective of whether the accused agrees to a conviction because not all accused persons are conversant with the intricacies of the Penal Code and the ingredients that go to make up each individual offence therein and that is why there is a 'Judge'. A Judge is not an extension of the Public Prosecutors office. A judge is a fair minded unbiased personality whose sole interests in proceedings of this nature are to ensure justice and fair play.

On the face of the record, Munawar was alluding to the fact that he had been coerced into performing this 'illegal' act and therefore ought to have been treated as a victim of homosexual rape. This was tantamount to charging a victim of rape for the substantive offence and ignoring the rapist.

The Judge should have asked the prosecution why the actual rapist was not in Court being charged instead. This she did not do because it was not part of the 'plan' to which she was a party. Her role was to record the plea of guilt and sentence Munawar to a 6 month jail term, period. The sentence had been pre arranged by the prosecution and this information transmitted to this rubber stamp called 'the Judge'. She failed miserably at the job she was entrusted with and should be held accountable for a grave injustice, if not in this world, then in the next.

Similarly, the so called 'defence lawyer', Mr. Yacob Karim, appointed by the police to ensure this stage managed persecution of an innocent man proceeded along the lines of a pre arranged script, ought to be questioned by the body that governs the behavior of its' members, The Bar Council, and an inquiry held to determine whether this lawyer ought to be allowed to continue to practice law for ever more. I will explain why.

It is the cornerstone of the legal profession in any country in this world, that your clients' best interests must be protected at all times. If there is any possibility your client may be innocent of a criminal charge, your duty is to defend him so he doesn't go to jail. This you must do at all costs. Even if your client wants to plead guilty to a charge and you, as his counsel, feel he has a defence to it, you must advise him of this defence and that he ought not plead guilty. This is a basic and sacrosanct pillar of a lawyer's professional duty to his client.

In Munawars case, this 'counsel' was secured through the machinations of the Special Branch. This gentleman coincidentally, just happened to be an ex police officer, who was parachuted in as soon as Munawar had been coerced into confessing his 'crime' after 5 long days of incarceration and intolerable physical and mental torture at the hands of our home grown Gestapo. This lawyer's job was to do all the talking in Court the next day, according to the script provided to him. Munawar was just supposed to say two things. 'Guilty' and agree to the facts presented, which he did.

This dubious character called Yacob Karim, masquerading as Munawar's counsel, then read out to the court a 'plea in mitigation' which is generally designed to persuade the Judge to temper justice with mercy and not impose a harsh sentence. This plea in mitigation indicated Munawar was raped by Anwar.

The Judge, upon being enlightened to these facts, ought to have stopped the proceedings there and then and rejected the plea of guilt. That would have been the right thing to do but doing the right thing is anathema to any best planned and politically motivated conspiracy founded on lies and deceit.

So when Manjeet filed an Appeal to the High Court against conviction and sentence, the panic button in the political headquarters was pushed with gusto. As Munawar lay in his hospital bed recovering from an exhausted and stressed heart, he was paid numerous visits by officers of the Special Branch with his 'counsel' in tow. The main objective of these unsolicited visits was to not so subtly persuade Munawar to withdraw his appeal. What resulted was a cat and mouse game in the Cardiac Care Unit of the Hospital Kuala Lumpur between Manjeet and these Special Branch officers with 'counsel' in tow.

In fact 'counsel in tow' ought to have been supporting Munawar's appeal, not trying to persuade him to withdraw it and continue his incarceration in prison. The mind boggles at what this 'counsel' must have been thinking. He must have either been a complete idiot or an imposter or both. He could not possibly have been representing himself as a member of the legal profession.

Once Munawar was able to shake off the after effects of the mental and physical torture endured at the hands of the Malaysian Gestapo, his mind became focused on persevering vehemently his attempt to undo all the horror perpetrated on him and to clear his name with the assistance of our Judicial System, in particular, the Court to which he had appealed this nonsense.

That was the theory.

What Munawar eventually came to realize was the extent to which the Malaysian Judiciary had become decomposed, rotten to the core, and totally emasculated by political subservience.

In support of Munawar's appeal Manjeet needed to show that the plea of guilt which Munawar tendered to the Sessions Court was equivocal. This means it was not meant to be a plea of guilt. There was something which made Munawar plead guilty against his will and that the facts of the charge indicated that he was forced to commit this cooked up crime. This would have been obvious to any idiot.

When a person is incarcerated legally by the police or in one of His Majesty's gaols, his movements are supposed to be monitored. If he is in the process of being interrogated, the police are required to keep a record of the times he is brought out of his cell to be 'interviewed' and the times he is returned to his cell. The purpose of these records are to show that any eventual confession made by the 'suspect' was

made voluntarily and without undue pressure in the form of sleep deprivation, beatings, torture, mental anguish and physical discomfort. These records are to be meticulously kept in what are known as the 'lock up diaries' and are to be kept in accordance with the 'lock up rules'. These diaries are supposed to prevent any over enthusiasm on the part of the police at solving crimes at the expense of the physical and mental well being of a suspect. They are the rules of the game so to speak.

They are hardly ever followed.

If a person has been convicted of a crime and sentenced to spend some of his life behind bars as a form of societal retribution, the prison authorities are obliged to keep a record of the prisoner's movements and of his visitors. Dates, times, places and persons all form part of this record.

Manjeet wanted both these records, ie before and after Munawar's conviction, for the purposes of showing the Appellate Court the dastardly acts perpetrated by those involved. This, combined with a variety of other factors were to be used to persuade the Judge hearing the appeal that Munawar's conviction was unsafe and that the matter ought to be remitted back to the Sessions Court so that a plea of not guilty could be taken and the matter proceed for full hearing. There was enough legal precedent in support of this proposition.

Now the prosecution could never ever allow this to happen because they knew they would lose the case and Munawar would be acquitted. The collateral damage from this would be the exposure of all the shenanigans that went on in securing Munawar's false confession and this would hardly have helped change the already tattered public perception of the bona fides of the ongoing Anwar trial or of the Judge hearing it. So the lid had to be kept on Munawar at all costs.

Manjeet wrote numerous letters to the relevant authorities including the Attorney General's chambers seeking disclosure of the relevant parts of the lock up diary and the prison records. Unsurprisingly he did not receive favourable responses as the prosecution obviously had something to hide. This necessitated making a formal application to Court to compel the relevant authorities to release these documents. The Appeal proper was put on hold while these applications were attended to.



### **We are now in the High Court**

Needless to say, the Kuala Lumpur High Court, coincidentally presided over by the Honourable Attorney General's very own brother, threw the application out of Court faster than you could say 'travesty' on the spurious grounds that the Applicant himself was not present. What this has to do with the price of guavas in Guatemala is anyone's guess.

The fact that the Applicant was living in the USA, having hastily departed from this insanity immediately after his release from prison, which is completely understandable in the circumstances, and having to undergo intensive psychiatric treatment for his mental trauma, was no excuse for not being present in Court on those numerous occasions the matter was called up for disposal, but not disposed of.

Even an email tendered to the Honourable Judge by Manjeet explaining the Applicants predicament was obnoxiously discarded on the flimsy grounds there was no proof it was sent by the Applicant and received by his counsel, despite the word of counsel that it had.

Neither was it a sufficient excuse that the Applicant was well represented by a very senior and capable lawyer who was acting in his best interests, unlike some other lawyers we know of.

Neither was it of any consequence that the application for these diaries was merely an interlocutory matter where litigants seldom waste time turning up in Court unless they want to, not because they have to.

Neither did the Judge, anywhere in his lop sided judgment, ever address his mind to the justice that the application ought to have attracted.

What the Judge did in essence was to mould his judgment around the requirements of the prosecution (read: 'being political correct and subservient to the powers that be') and to put his official stamp on the piece of rubbish he tried to disguise as a well thought out and balanced opinion on the merits of the application. Who was he trying to kid?

Inevitably, an appeal to the Court of Appeal was filed against this decision.

In the meantime, another similar application was filed in the High Court for the same relief, which eventually suffered the same fate and therefore as a matter of course, ended up as an appeal before the Court of Appeal also.

Therefore, at this stage there were two appeals pending before the Court of Appeal relating to the refusal to release the lock up and prison diaries.

Why were these documents so important to Munawar?

The answer is simple. They would have established gross impropriety on the part of the police, the prosecution and the defence lawyer. That is why they couldn't be allowed to see the light of day.

If Munawar's statutory declaration is referred to, it will be seen that the police and the defence lawyer were harassing Munawar whilst he lay in his hospital bed, which was also his prison cell. Anyone calling to visit him would have their particulars recorded by the prison guard on duty outside the ward. This would form part of the prison records. This document would prove visits by officers of the Special Branch with Yacob Karim in tow, which in turn would corroborate what Munawar was accusing them of trying to do....persuading him to withdraw his appeal. Yes, even his own 'counsel'! There is absolutely no reason for a police officer to visit a convicted person in jail unless he was being interviewed in respect of another offence, which he wasn't, let alone with his own counsel, whose dubious 'retainer' had ended at the Sessions Court.

### **Back To the High Court and the Appeal Proper**

Munawar was fast becoming a thorn in the flesh of the entire corrupted system. He just wouldn't go away. His persistence was becoming tiresome to many interested parties. This system was however stuck with him whether they liked it or not.

So what better way to get rid of him than by a display of judicial subterfuge.

After numerous adjournments of the hearing of the appeal, the Judge insisted it proceed. Fair enough. No one wants files unnecessarily hanging around cluttering up the smooth running of the appellate system. But sometimes, just sometimes, this is inevitable, especially when you are waiting for a Higher Court to deliver decisions on two appeals which would have a direct bearing on the issues before the High Court.

This was no excuse.

Munawar was not present in Court so the Judge took advantage of the situation and dismissed his appeal despite protestations from Manjeet.

The arguments were totally ignored by the blinkered and programmed Judge who had his judicial mind short circuited and forced focused on one aspect and one aspect alone. This was a window of opportunity to bury Munawar for good. Reliance was placed on a section in the Criminal Procedure Code (s.313 (2)), which said a Judge of an Appellate Court was entitled to throw out an appeal brought by a convicted person if he does not show up in court.

Munawar was jobless and undergoing psychiatric treatment in the United States. He could not afford the time nor the expense to travel to Malaysia every time his appeal was called up, and there were many.

Munawar was represented by two diligent counsel, Manjeet and Balwant.

Munawar had already completed his sentence. In other words, there had been no stay of execution of sentence after his conviction in the Sessions Court. He would not have had to go to jail if he lost his appeal. There was no fear of him absconding from an unspent conviction and sentence. He had paid his debt to society. For what, we do not know, but that is the philosophy.

The only delay in the appeal was caused by the Court of Appeal not fixing a date to hear the two side appeals. This was not Munawar's fault. All he was asking for was to have his appeal heard on the merits and this could only have happened if he had the prison diaries and the lock up register produced before the Court. Why the secrecy? Why were the Courts determined not to allow these logs to surface?

This situation did not impress the High Court Judge. He was probably more impressed with the instructions he had received to get rid of Munawar because he was becoming an embarrassment to Mahathir's government.

So on the flimsiest of grounds and based on a completely wrong interpretation of law, both statutory and common, he found that Munawar's absence in Court on that day entitled him to dismiss the appeal. As a rider, the learned Judge, in an act of utter benevolence, stated that he was in effect doing Munawar a favour by dismissing the appeal because he was entitled, under the provisions of the Criminal procedure Code, to enhance the sentence if he had heard the appeal. This was despite the fact that the prosecution had at no time, indicated they were pursuing an application to enhance sentence.

The learned Judge felt vindicated in his illogical judgment by making reference to two decided cases in which the Judges had adopted a similar course of action. He failed miserably to appreciate a very fundamental difference between those cases and Munawar's.

Both the appellants in the cases the Judge relied on had been convicted of offences in the Lower Courts and were both on bail with stays of execution of their sentences pending the outcome of their respective appeals to the High Court.

Munawar had completed his sentence.

This learned Judge also completely ignored that part of the section of the Criminal Procedure Code, upon which he was relying to dismiss Munawar's appeal, which unequivocally states that the Judge is obliged to give directions before he takes the drastic step of dismissing an appeal and depriving an appellant of his God given right to be heard. This he did not do. He never issued the required threat that the appeal would be dismissed if Munawar did not turn up at the next hearing date. He never gave Munawar a chance.

Therefore an appeal against this decision was lodged in the Court of Appeal. There were now three appeals before the Court of Appeal. Munawar refused to go away.

### **The Fiasco in the Court of Appeal**

Many many years later, Munawar's substantive appeal was finally called up for disposal. Perhaps they had hoped Munawar had disappeared off the radar. He hadn't. He presented himself in the Court of Appeal at that ostentatious building in Putra Jaya they call 'The Palace of Justice'. The irony of it all.

Everything went according to plan. Their plan.

The appeal was called up, counsel from both sides submitted. The Court dismissed the appeal. Short and sweet.

Reasons: None.

Grounds of decision: None.

Two side appeals: Still pending

Where does one go from here?

To the Federal Court of course.

### **At the Federal Court**

This is the apex Court of the Malaysian judicial system. You can't go any higher. This Court is presided over by the crème de la crème of judicial minds. Handpicked men and women chosen for their legal knowledge, prowess, fair mindedness, dedication and commitment to upholding the rule of law. These men and women are the protectors of the constitution. They are lumbered with the onerous task of keeping society on track and protecting the rights of the ordinary citizen, if there are any to protect. More often than not there aren't. This makes their judicial lives a little easier.

To keep the riff raff away, these justices of the Federal Court are also empowered to act as judicial traffic cops. This means they are able to let in only those they feel like entertaining. Therefore applications for invitations have to be made in advance and in most circumstances.

To get past these 'security guards' an aspiring appellant would have to convince them that he or she is entitled to present his or her grievances at this level. The requirement that justice has been in short supply is totally irrelevant.

Invitations to present these grievances are rarely granted as otherwise this would open the flood gates to thousands of justice seekers whose presence before the Honourable Justices Almighty would necessitate tedious written excuses for supposed reasoned decisions, primarily inclined to preserve the status quo of their political masters also known as the Government of the Half Century, upon whom their positions, titles and salaries depend. And besides, the carpets would get dirty.

So Munawar found himself in a position where he had to file an application to the Federal Court to be allowed to present his appeal, against the decision of the Court of Appeal, before those Honourable Justices.

This was necessary as his 'matter' had ostensibly begun at the Sessions Court and should have ended at the Court of Appeal. That's the law. But with any good piece of Malaysian law, there is always a way to get around it. It's called a 'loophole' or a 'lacuna'. You can easily create one, depending on who you are. Munawar was not one of the chosen few. His application was doomed from the start.

Their Honourable Justices surprised all involved by actually presenting Munawar with a written judgment dismissing his application for leave to bring his substantive appeal before them. This would have been totally acceptable if their Lordships had not chosen to embark on a frolic of their own by embellishing the decision of the High Court and sanctifying it.

This they were not asked to do.

### **Back to the Court of Appeal**

At about the same time Munawar was scratching his head over the latest blow to his expedition in search of justice and fair play, a decision was made by the Court of Appeal to the effect that a disgruntled appellant could actually seek a review of a decision made by that court if it was found the merits of the appeal had not been addressed. A very brave and trail blazing judgment. You don't get decisions like this very often, especially when it involves something extremely difficult to grasp in terms of concept, something called 'justice'.

Remember the Court of Appeal had previously dismissed Munawar's appeal without delivering a written judgment. No one knew why. No one was able to decipher the reasons without one.

This prompted an application for a review of this previous decision. If there wasn't a decision, then it could be argued that the merits of the appeal had not been addressed. Fair enough.

But in any good application of this nature, there is a minefield to cross first and the chances are you will become a victim of judicial C4.

For the uninitiated, there is something an uninspired Judge will always look for as a means of avoiding ground breaking and judicially conscious material, irrespective of whether the situation necessitates this. This escape plan is founded on the principle of '*stare decisis*'. What this piece of Latin obfuscation

means in simple terms is that a Judge of a lower Court is totally emasculated from making up his own mind as long as a decision of a similar nature has been made, albeit wrongly, by a higher court.

The philosophy behind this customary discretion is based on the premise that Judges of a higher court know what they are talking about and those on a lower rung don't.

Maybe this worked well for ancient Romans but it doesn't really work that way in modern day Malaysia. Here, no matter what rung you are on in the judicial hierarchy, you still have no idea what you are talking about.

Nevertheless, if we recall, the Federal Court had decided to refuse Munawar's application to present his appeal before that Court. That's where the matter ought to have ended, but their Lordships, in their infinite wisdom, went further and said the High Court Judge was right in dismissing the appeal. They did this without hearing any substantive arguments in relation to this point, which wasn't a point before the Court in the first place. The only issue before that Court was whether Munawar would be allowed to bring his appeal before it.

Therefore the Judges of the Court of Appeal jumped on this and said that they were unable to consider the application for review because they were bound by the gratuitous decision of the Federal Court, which, by extrapolation, had studied the merits of the appeal and decided there weren't any, so goodbye folks.

That ought to have put the final nail in the coffin of Munawars' quest for justice.

But it didn't.

Manjeet, who had by this stage, spent 11 years, or rather, more than a quarter of his career at the Bar, pursuing the elusive search for justice for Munawar, came up with another brain wave. Let's go back to the Federal Court and ask them to expunge all that part of their judgment which relates to the actual substance of the appeal and then there won't be any more of this '*stare decisis*' thingy for the Court of Appeal to rely on. Fair enough. The Federal Court should not have gone into the merits of the appeal if they said they couldn't hear it. The fact that they did, borders on hypocrisy. But that is another issue for another day.

### **Back to the Federal Court**

So another application was filed in the Federal Court to expunge all that part of the judgment which related to the merits of Munawars appeal.

The matter was heard in due course and after much judicial deliberation, which must have extended to at least a couple of minutes, Munawar was told in no uncertain terms that the Court would not consider entertaining this frivolous request.

And there ended almost 12 years of misery for Munawar in his futile attempts to regain his dignity and his sanity which he lost through a conviction for a crime he did not commit.

That is how the machinations of our judicial system function.

It matters not that you have been an innocent victim of political manipulations. What matters more is that you have been forcefully sacrificed for the political good of a few bad men and for this you should remain eternally grateful. You are our hero, so be thankful.

Hidup Malaysia! (Long live Malaysia). The country is indebted to you for your sacrifice.

### **Reflections**

It is almost impossible to imagine the psychological impact all this must have had on Munawar. Is the extent of his perseverance indicative of someone who is guilty? What guilty person in his right mind and who had already served his sentence, would persevere as vehemently as Munawar has done, an opportunity to ensure that his dignity was restored and the record set straight. He was never guilty of the offence he was forced to admit to. That is more than obvious to any reasonable person superficially fluent with the situation but what is equally as obvious is that this state of affairs seemed to completely escape those entrusted with the powers to rectify injustices.....The Judges themselves.

Shame on you all.



It is also incredible how efficient the Malaysian Special Branch are in successfully 'turning over' a completely innocent person and converting him into a blubbing shadow of his formal self, prepared to say anything and admit to everything and at the same time knowingly exposing himself to incarceration.

Aren't the Special Branch supposed to be a group of sophisticated and highly trained police officers of an elite section of the Royal Malaysian Police Force dedicated to preserving the security of the nation and ridding society of thieves, robbers, murderers, thugs, pimps and general scoundrels? If this is so, they have failed and continue to fail, miserably. What appears to have happened is that their job description has been read to them upside down and back to front, so much so they are unable to distinguish the good guys from the bad.

Are they so beholden to a few bad apples that they are unable to disassociate themselves from the evil they perpetrate? Are they able to sleep at night knowing they have done the wrong thing? That what they do is bad? That decent human beings don't behave this way? Don't they appreciate the harm they are inflicting on perfectly innocent members of society? Does this all really not matter to them? Has their judgment really been so clouded by their subservience to political heavyweights that they are no longer capable of seeing the real from the unreal? Right from wrong? Good from bad? What has turned these people into Satan's disciples?

Maybe they themselves are victims of brainwash.

Munawar's fight has not ended. It will go on in perpetuity and perhaps at a different karmic level until something gives. It has to. Munawar is not a padi planter's son from the depths of the Terengganu hinterland. He is not going to go away with his tail between his legs and accept what has happened to him as God planned fate. This time they picked the wrong guy.

Munawar is not going to go away any time soon.

Which brings us to 'sodomy II'.

Why was it necessary to find another victim of Anwar Ibrahim's supposed carnally convoluted desires? They had Munawar all ready and nicely packaged. It would have been so much easier. He had already confessed to allowing Anwar to have his way with him. He pleaded guilty to this indiscretion and three tiers of judicial intervention had confirmed this as being the truth. What was stopping Anwar being charged using Munawar as the cornerstone of the potential prosecution? It could have been an open

and shut case. In theory anyway. But they didn't. Why? Because they could never have survived the onslaught that would have erupted.

Manjeet would have seen to that.

It was far easier to strike a deal with an impressionable 24 year old dropout than to deal with the formidable Munawar and his legal team.

The cowardice of it all.

Americk Sidhu