



BANI PRAKASH & CO.
ADVOCATES & SOLICITORS

BANI PRAKASH & CO.

FIRM PROFILE



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9.00am-5.30pm Monday to Friday



INTRODUCTION

Bani Prakash & Co was formed in 2013 by Mr Bani Prakash under the guidance and tutelage of prominent Human Rights lawyer and former Member of Parliament Mr N. Surendran. Mr Bani Prakash worked with most distinguished legal practitioners from the day he was called to the Malaysian Bar. Bani Prakash & Co uniquely positioned as a pioneering commercial legal practice, we have had a varied and prestigious client base from the very beginning and continue to maintain our position as one special firm in Selayang, Selangor Darul Ehsan.

WHY CHOOSE US

We have a reputation for providing an exceptional legal service. We are renowned for our commitment to excellence and for our ability to find innovative solutions to the most complex of legal problems. Our clients recognise and value this. To-date, Bani Prakash & Co continues to distinguish itself as a top-rated business law firm in this Country. Our clients are leading local across the financial services, hospitality and leisure, real estate and construction, private equity, information technology and manufacturing and industrial sectors and intellectual property agents.

PROFESSIONAL REGISTRATION

Bani Prakash & Co is run by Mr Bani Prakash as sole proprietor with the assistance of associates from other firms.

BUSINESS REGISTRATION

Bani Prakash & Co run by approved and allowed by the Malaysian Bar effective from 2nd May, 2013.

PRACTICAL AREAS

We are a full-service law practice with market-leading expertise in Islamic banking and finance, capital markets, projects and infrastructure, corporate and commercial law, liquidation and post liquidation, employment and employee benefits, matrimonial and family proceedings, real estate and conveyance, non-profit organizations and commercial and civil dispute resolution and also human rights litigation.



Bani Prakash is specialised in Defamation,

Negligence, Commercial dispute resolution and

Arbitration and Real Estate, Matrimonial, Construction, Islamic

Banking, Human Rights, Constitutional issues, Land, Contract,

Industrial relation, Intellectual property and conveyancing matter. He

also participated in several landmark cases in the fields of banking, contract,

real estate, tort and constitutional law and in specialized spheres of law such as

public interest, expropriated properties, utilities law, employee benefits. In a

highlight dispute, Islamic banking cases involving 36 million against a construction

company in the state of Johor Bharu and successfully obtained a Judgment in favour

of Bank Muamalat (M) Berhad in the year 2009 which involves complex Islamic

Banking law issues and another public interest cases involving rights of a

mother of a deceased in police custody which was taken up to the

Federal Court of Malaysia touching sensitivity of the claim can be

brought by families of victims of custodial death which

eventually alerted the government to form committee

to monitor the custodial death cases. Bani Prakash

was one of the counsels (then) for Parti

Keadilan Rakyat leader, Datuk Seri Anwar

Ibrahim in several defamation suits

filed him against prominent

politician (refer to

the online news

excerpts attached

in appendix).



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Apart from that, he also represented former Kapar Member of Parliament, Mr. Manikavasagam in relation to defamation suit brought by OCPC Sentul (then) on the death of an actress, Sujatha. In another controversial, defamation suit brought by Tan Sri Nadarajah against former member of Pakatan Keadilan Rakyat involving the allegation of fraudulent transaction in Batu Caves Temple management. Bani Prakash also represented current Selangor Exco Tuan Ganapathy Rao in a defamation suit against prominent politician and lawyer Mr. Manoharan Malayalam. In early days of his practice, Bani Prakash was assisting his master Mr. Dhanaraj Sivasampu of Messrs. Hakim Arabi & Associates in the liquidation of famous shopping complex in Jalan Tunku Abdul Rahman, known as Globe Silk Stores.

Bani Prakash holds a bachelor degree in laws (LL.B) from University of London, passed Malaysian Bar Exam (CLP) from Legal Profession Qualifying Board, Malaysia in year 2004, called to the Malaysian Bar on October, 2005 and holds Master degree in Islamic Banking and Finance from International Islamic University, Malaysia and pursuing his doctorate (Phd) on a part time basis.



SOME OF THE CASES

Appended below some of the cases reported in **Malaysian Law Journal** handled by Bani Prakash:

1. BANK MUAMALAT MALAYSIA BHD V KONG SUN ENTERPRISE SDN BHD & ORS [2012] 10 MLJ 665; [2012] MLJU 141; [2012] 6 CLJ 266; [2012] 4 AMR 833
2. KETUA POLIS NEGARA & ORS V NURASMIRA MAULAT BT JAAFAR & ORS (MINORS BRINGING THE ACTION THROUGH THEIR LEGAL MOTHER AND NEXT FRIEND ABRA BT SAHUL HAMID) AND OTHER APPEALS [2018] 3 MLJ 184
3. DATUK SERI KHALID BIN ABU BAKAR & ORS V N INDRA A/P P NALLATHAMBY — [2014] MLJU 932 6
4. N INDRA A/P NALLATHAMBY (ADMINISTRATRIX OF THE ESTATE AND DEPENDANT OF KUGAN A/L ANANTHAN, DECEASED) V DATUK SERI KHALID BIN ABU BAKAR & ORS [2013] MLJU 697
5. DATO' CAPT MOHD NAJIB BIN ABDULLAH V NATARJAYA SDN BHD & ORS [2015] MLJU 1143
6. MAHESWARAN A/L EKAMBRAN (BERNIAGA SEBAGAI KEJURUTERAAN ELEKTRIK KERIS TIGA) V GLOBAL LIGHTING TECHNOLOGIES (M) SDN BHD [2018] MLJU 1647
7. TAN SRI DATUK NADRAJA A/L RATNAM V MURALI A/L SUBRAMANIAM — [2016] MLJU 1877
8. K3-SYNERGY HOLDINGS (M) SDN BHD V HICOM INDUNGAN SDN BHD — [2018] MLJU 1364
9. MALAYAN BANKING BERHAD & ORS V PANG SOR TIN — [2015] MLJU 395
10. BINTANG MERDU SDN BHD V TAN KAU TIAH @ TAN CHING HAI AND ANOR — [2009] MLJU 585
11. KONG SUN ENTERPRISE SDN BHD V BANK MUAMALAT MALAYSIA BHD — [2011] MLJU 972
12. KETUA POLIS NEGARA & 2 LAGI V NURASMIRA MAULAT BINTI JAAFAR & 2 LAGI AND ANOTHER APPEAL — [2017] MLJU 1763

Bani Prakash has closely worked with prominent lawyers of this country such as R.Sivarasa, a former Human Right lawyer and a current Deputy Minister for Urban Development in a high profile custodial death case as stated above. Bani Prakash was closely guided by Mr N. Surendran, a prominent Human Right lawyer and also former Member of Parliament for Padang Serai. Bani Prakash worked along with Puan Latheefa Koya in several human right matters who is the newly elected Chief of Malaysian Anti-Corruption Commission. Bani Prakash also has the privilege of working with senior practitioner such as Dato Bastian Vendagon and Dato N. Chandran who were in the legal fraternity for more than forty years. Mr. Bani Prakash will be successfully completing 15th years of his practice this October, 2019.

BILLING

Billing by advocates & solicitors in Malaysia is governed by the Solicitor Remuneration Act. Therefore the firm's policy of billing its clients is favourable and is tailored to suit our client's needs. Our approach is both flexible and transparent and the funds are accounted for at the end of each assignment.

SERVICE DELIVERY

Bani Prakash & Co recognise the value of efficient, effective and quality services to our clients. In seeking to provide these services, we are guided by our core values of integrity, teamwork, quality/diligence and commitment. These core values underpin our service delivery standards set out below.

Action and delivery period

- Answering telephone calls within 15 seconds of ringing.
- Returning telephone calls within the same working day.
- Acknowledging receipt of emails
- Instructions within 24 hours of receipt.
- Replying to routine correspondences within two days of receipt.
- Preparation of standard form documentation (e.g. leases) within two days of receipt of instructions.

Anwar’s defamation suit over wife harassment case set for Dec 3



By M. MAGESWARI

NATION

Tuesday, 11 Sep 2012 12:00 AM MYT

KUALA LUMPUR: The High Court has set Dec 3 to hear a RM10mil defamation suit by Datuk Seri Anwar Ibrahim against Deputy Plantation Industries and Commodities Minister Datuk Hamzah Zainuddin over a “wife-harassment” issue.

Justice Rosilah Yop set the date after meeting the parties in chambers.

Lawyer Bani Prakash acted for the Opposition Leader while Datuk S. Satharuban represented the deputy minister.

Speaking to reporters later, Satharuban said the judge directed the parties to file their witness statements by Nov 28.

Anwar had filed the suit in August 2008 over Hamzah's allegations that he (Anwar) had harassed his (Hamzah's) wife in 1998.

Hamzah, who is Larut MP, had allegedly made the comment when campaigning during the Permatang Pauh by-election in August 2008.

In April 2010, the High Court rejected Anwar's application to strike out Hamzah's defence statement against the claim.



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Judicial Commissioner Dr Prasad Sandosham Abraham had held that it was unfair to strike out the defence at interlocutory stages and ordered the case to go for full trial.

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Anwar-Chandra suit on after no out-of-court settlement



NATION

Friday, 20 Apr 2012 12:00 AM MYT

KUALA LUMPUR: Parties in the RM10mil suit filed by Opposition leader Datuk Seri Anwar Ibrahim against academic Dr Chandra Muzaffar do not want to settle the matter out of court.

Given this, High Court judge Justice Nik Hasmat Nik Mohamad fixed a two-day trial on Sept 10 and 11.

Justice Nik Hasmat made the order in chambers after meeting counsel Bani Prakash and Mohd Zaharudeen Harun who acted for Anwar and Chandra respectively.

Bani told reporters yesterday the case was initially scheduled for mediation for an out-of-court settlement between both parties.

However, the trial date was fixed after both refused arbitration.

Anwar had filed the suit against the International Movement for a Just World (JUST) president on March 6, 2008.

He claimed that Dr Chandra had falsely and maliciously spoken about his conduct at a forum at Menara Star in Petaling Jaya.



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He said the alleged defamatory/libellous comments had been published by newspapers on March 5, 2008.

In his statement of defence, Dr Chandra denied making defamatory comments against Anwar.

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'I saw Kugan being hit'



By M. MAGESWARI

NATION

Wednesday, 23 Jan 2013 12:00 AM MYT

KUALA LUMPUR: A policeman told the High Court here he saw a former constable beating suspected car thief A. Kugan but did not record it in the station diary.

Mohd Haizan Hamid, 30, admitted that he made a mistake in not recording the alleged incident but told the court he had no intention of covering up the matter.

The incident allegedly took place at the Taipan police station in Subang Jaya on Jan 16, 2009.

"I did not record it in the station diary as Kugan told me he was in good condition when I asked him (about the alleged assault)," said Mohd Haizan, who is currently attached with the escort branch of Kajang magistrate's court.

He was testifying in a RM100mil civil suit filed by Kugan's mother N. Indra against the police and the Government over the death of her son in police custody.

Indra, 46, named Deputy Inspector-General of Police Tan Sri Khalid Abu Bakar, former constable V. Navindran, late Subang Jaya OCPD Asst Comm Zainal Rashid Abu Bakar, the Inspector-General of Police and the Government as defendants.

She filed the suit on Jan 13 last year, seeking damages over negligence, assault, false imprisonment and misfeasance of public office as well as breach of statutory duties.



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Navindran is appealing against a three-year jail term imposed in June last year by the Shah Alam Sessions Court for causing hurt to Kugan.

Questioned by Senior Federal Counsel Azizan Md Arshad, Mohd Haizan said he and another policeman, only named as "James", were in the interrogation room with Kugan from 4am to 8am on Jan 16, 2009.

He said Navindran came into the room at about 7am and talked to Kugan.

Mohd Haizan said shortly after he and James left, they heard loud voices and returned to the room to see what was happening.

He said he saw Kugan, in handcuffs, warding off the beatings by the constable.

"We pulled Navindran out of the room," he said.

Questioned by Navindran's counsel R. Ramesh Sivakumar, he said Navindran had gone to meet Kugan on his own.

"I thought Navindran was replacing my shift," added Mohd Haizan, admitting he had not lodged a police report that he had witnessed Navindran beating Kugan.

Questioned by Indra's lawyer R.L. Bani Prakash, Mohd Haizan agreed Kugan would not have 45 injuries on his body if he was said to be in a good condition while being under police custody.

High Court judge Justice V.T. Singham set Feb 28 to give directive on submissions after the police and government closed their case yesterday.

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Courts & Crime , Government , Kugan , Custody , Civil Suit

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Ex-cop: Police and Government fully responsible to pay damages



By M. MAGESWARI

NATION

Saturday, 08 Nov 2014 12:00 AM MYT

PUTRAJAYA: A former police constable is contending that the police and the Government are fully responsible to pay damages to the family of suspected car thief A. Kugan, who died while in police custody.

V. Navindran said that being his former employer, the two parties could not abdicate their duty and responsibility to their employee.

He claimed that this was because the Court of Appeal in its Aug 8 ruling had held that then Selangor police chief Tan Sri Khalid Abu Bakar (now Inspector-General of Police), former Subang Jaya OCPD Asst Comm Zainal Rashid Abu Bakar (deceased), the Inspector-General of Police and the Government, named as defendants in the civil suit, were vicariously liable in the case.

The Court of Appeal, he said, had rightly found the defendants liable as they, especially his superiors, were in a better position than him to supervise and prevent the loss.

Navindran said the court had to consider that no action had been taken against other officers who had ordered and authorised the alleged offensive practices against Kugan.

His lawyer R. Ramesh Sivakumar stated these grounds in his papers asking the court to clarify the portion of his liability.

Yesterday, Court of Appeal judge Justice Mohamad Ariff Md Yusof, who chaired a three-man panel, set Nov 18 for clarifications over the issue of liability.



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Senior Federal Counsel Habibah Haron appeared for the Government and the police while lead counsel R. Sivarasa and R.L. Bani Prakash appeared for Kugan's family.

In the ruling, the Court of Appeal had decided that Navindran was responsible partly for Kugan's death, thus his liability was reduced to 45%.

When met later, Ramesh said the proportionate liability regime did not affect the liability on the part of the police and Government.

Meanwhile, Bani said the Federal Court had set Nov 10 for case management over the Government and Navindran's application for leave to appeal against the ruling.

In the ruling, the appeal court upheld the High Court's decision that the police, Navindran and the Government were liable for Kugan's death while being detained at the USJ Taipan police station on Jan 20, 2009.

It also reduced the amount of damages from RM801,700 to RM701,000 after setting aside the RM100,00 in damages awarded by the High Court for false imprisonment.

Kugan's mother N. Indra filed a RM100mil suit seeking damages over alleged negligence, assault, false imprisonment and misfeasance of public office as well as breach of statutory duties.

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Apex court rules out exemplary damages for death in lock-up cases

Dissenting judge Zainun Ali says the family members are entitled to exemplary or aggravated damages when the state has deprived the victim of his life.

Vanhdagan - 06 Nov 2023, 9:38PM

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Lawyers Shazana Bantah and Rani Prakash explaining to N Indra the outcome of today's Federal Court ruling.

PUTRAJAYA: The Federal Court, in a majority decision, today held that the families of persons who in custody are not entitled to exemplary damages for a breach of a constitutional right.

Justice Zaharah Ibrahim said the Federal Constitution did not give the Malaysian courts the same power as other jurisdictions.

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In the cases of Romanoop (Trinidad and Tobago) and Merson (Bahamas), the constitutions of both countries allowed aggrieved parties to make claims for exemplary damages for breach of constitutional right.

"As our constitution does not have provisions similar to those utilised in Romanoop and Merson, a claimant has to look elsewhere for redress," said Zaharah in allowing the government's appeal against the next of kin of three deceased persons.

One of the claimants is housewife N Indra, whose son A Kugan died in a police lock-up in 2009.

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As a result, Indra is only entitled to RM450,000 in general damages, down from RM851,000 awarded by the High Court in 2013.

Others in the majority were Justices Ahmad Maarop, Suriyadi Halim Omar and Azahar Mohamed.

The sole dissenting judge was Justice Zainun Ali.

Zaharah said Sections 7 and 8 of the Civil Law Act (CLA) 1956 stopped the three respondents from bringing the suits.

A claimant usually files a dependency claim under Section 7 and an estate claim under Section 8 of the CLA.

In her dissenting judgement, Zainun said the death of an individual was a clear violation of the most fundamental liberty entrenched in Part 11 of the constitution.

She said the role of the court was to examine the award against the totality of the circumstances, including having regard to the conduct of the tortfeasor.

"It is recognised by the Common Law of England that the violation of a constitutional right entitles the court to award damages that seek to punish the tortfeasor," she said.

Zainun said the family members were entitled to exemplary or aggravated damages when the state had deprived the victim of his life.

She said the CLA, being a pre-Merdeka law, must give way to the fundamental right enshrined in the constitution.

Zainun said it was the duty of the court to modify the CLA to bring it into accordance with the constitution.

She said Section 8 (2)(a) of the CLA should not be applied to deny damages to the estate of the deceased for the violation of the right to life.

"Custodial death should not ever become a new normal; for something is seriously wrong with a society if it does not find senseless loss of lives abhorrent," she said.

The bench, however, upheld the finding of the trial judge that former Selangor police chief Khalid Abu Bakar and his police officers were responsible for the death of Kugan.

Trial judge VP Singham, in his 2013 judgment, said there was overwhelming evidence to establish a claim of assault, referring to the nature of injuries which "spoke volumes".

Singham, who passed away last year, said Khalid was liable for misfeasance as he failed to carry out his duty as required of a senior civil servant.

The judge had said the injuries Kugan suffered could not have been done by one person and that the senior officers could not plead ignorance.

Indra filed a RM100 million suit against Khalid, former constable V Navindran, former Subang Jaya OCPD Assistant Commissioner Zainal Rashid Abu Bakar (deceased), the inspector-general of police, and the government.

Khalid was subsequently promoted to IGP.

Indra alleged that the defendants failed to ensure the safety, health and welfare of her son while he was in custody.

Kugan, then 22, was arrested in Puchong on Jan 14, 2009, and held overnight at the Puchong Jaya police lock-up before police obtained a remand order.

He was taken to the Taipan USJ, Subang Jaya, police station two days later for questioning and was found dead on Jan 20, 2009.

Navindran began a three-year jail term from May 22, 2015 after the Court of Appeal upheld the findings of the Sessions Court for causing hurt to Kugan.



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