

Practice in production, removal and committal of accused persons in Emergency Criminal Cases.

The Chief Justice has had occasion recently to notice that the particulars furnished under Section 147 of the Criminal Procedure Code leave much to be desired. In one case, for example, the accused was arrested on 30.8.1948 and first produced before the Magistrate on 29.10.48. There was nothing to show where, how, on what grounds and on what authority the accused was detained and not produced in Court till two months after his arrest.

2. Attention is drawn to the following provisions of the Emergency Regulations, 1948 (G.N.1955 of 15.7.48)

- Regulation 17(1) - Under which the Chief Secretary may order detention for a period not exceeding one year.
- " 23 - Power of arrest.
- " 24(2) - Power of Detention for 24 hours.
- " 24(2) proviso - Power of Detention for 48 hours, and an additional 7 days if enquiry is not completed.
- " 24(3) - Place of detention to be authorised by Chief Secretary.

3. These Emergency Regulations do not absolve a Magistrate from inquiring into and recording the reasons for any infringement of Sections 28, 117, and 259 of the Criminal Procedure Code. Such an inquiry should always be made and a note entered in the form of particulars (Courts 192) to be furnished to the Supreme Court.

4. In para 5 of the Memorandum on Emergency Procedure issued by this Registry on 15.7.48 and addressed to all District Judges and Magistrates it is stated that no particulars under Section 147 are required under Subsections (j), (m) and (n). This memorandum is hereby amended by restoring (j). A sample form is attached giving particulars of a hypothetical case.

5. Another point to which special attention is hereby drawn is the provisions of Regulation 8(1) of the Emergency (Criminal Trials) Regulations, 1948 (G.N.1961 of 17.7.48). It is obligatory under this Regulation that upon production of a certificate under Regulation 7, that the Magistrate should forthwith commit the accused for trial by the High Court, as prescribed under this Regulation. There should not be any delay at all in ordering the committal when once the certificate is produced.

Federal Registry,
Supreme Court,
Federation of Malaya,
Kuala Lumpur, 21st January, 1949.
(RSC.64/48)

REGISTRAR.

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