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PEKELILING PENDAFTAR NO: 4/1972
INQUIRIES OF DEATH

I am directed by the Honourable the Chief Justice to remind all Magistrates to read up Chapter XLXII of the Criminal Procedure Code concerning INQUIRIES OF DEATHS and bear in mind particularly at all times the provisions of sections 328 and 333.

2. The attention of all Magistrates is directed primarily to section 333. Once a Magistrate is "satisfied as to the cause of death without holding an inquiry", he shall proceed as directed by sub-section (i).

3. Sub-section (ii) only becomes applicable where the cause of death is unknown, or the Magistrate receiving the police report is not satisfied as regards the cause of death.

4. It is pointed out that, if the cause of death is known, or the Magistrate is satisfied thereon, it is not his duty to go on to satisfy his curiosity about how the death was caused or who caused or contributed to it. It is entirely outside the purview of his duties as coroner, to express his views on criminal negligence, culpability, or civil liability on the part of any person or persons.

5. For instance, homicide may be accidental, as happens daily on the roads. The cause of death is then quite clear and no inquiry is necessary. It may be that whoever caused the death may be liable for civil or criminal negligence. Still, the Magistrate's views count for nought. A claim for damages must be made by civil action, wherein the Magistrate's opinion is wholly irrelevant. If any criminal proceedings in such cases should be considered necessary, the decision rests entirely with the Public Prosecutor, or his deputy, whether or not to prosecute.

6. In all other instances of homicide, where the offender is arrested, any inquiry into death is manifestly unnecessary - since a charge would be preferred by the Public Prosecutor as he deems fit.

7. Where a dead body is found in mysterious circumstances, and/or the cause of death requires to be ascertained, then an inquiry must naturally be carried out. Nevertheless, it is no part of a Magistrate's duty to say any more than that the death was caused by X. (if known) or by a person or persons unknown. Whether an offence (if any) is committed, in contravention of any section of the Penal Code, remains to be decided by a competent Court - should the Public Prosecutor decide to prosecute.

8. In particular, as reported recently in the Press, it is deplored that a Magistrate should have arrogated to himself the right to say, of a doctor giving a penicillin injection which resulted in the patient's sudden death, that he was negligent. The verdict should have been confined strictly to the cause of death - anaphylactic shock as the result of the injection -

was the sole object of the inquiry. In that particular case, the
of death was never in doubt and the inquiry was one more exercise in
ty, against which Magistrates have repeatedly been cautioned.

If in doubt whether or not to hold an inquiry the Magistrate
learned should refer the matter to a Judge or Deputy Public Prosecutor
or instructions. This will save considerable wastage of the Courts'
time and expense of public funds.



(MOKHTAR BIN HAJI SIDIN)
PEM: PENDAFTAR.

s.k.

Semua Setiausaha2 Kapada Tuan2 Hakim.

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