

Jabatan Kehakiman,
Mahkamah Tinggi,
Kuala Lumpur.

6hb. Februari, 1980

All Presidents. Sessions Courts;
All Magistrates, Magistrates Courts;
All Senior Assistant Registrars/Assistant Registrars.
High Court,
West Malaysia.

Magistrates' Circular No. (U) 1 of 1980

(Jurisdiction of Magistrates' Courts)

Attention of the Hon. the Chief Justice, Malaya, has been drawn to the fact that some Presidents and Magistrates are in doubts whether Magistrates' Courts have the jurisdiction to try offences under certain laws which have the following or similar provision:

"Notwithstanding the provisions of any written law to the contrary, a Sessions Court shall have jurisdiction to try any offence under this Act and to award the full punishment for any such offence."

2. In order to clarify the position, the Hon'ble the Chief Justice has directed me to draw your attention to the case of Ratnasamy v.P.P (1948) MLJ.161 in which it was held that such a provision is only permissive and not obligatory. It hereby increases the power of punishment for a Session Court when trying cases under the relevant Act, but does not oust the jurisdiction from nor affect the power of punishment of a Magistrate's Court when trying such cases.

3. The object of these provisions when they were made was that:

- i) such cases need not be heard in the High Court for the full punishment to be inflicted although the Sessions Court had jurisdiction e.g. Sections 5, 7, 8, and 9 of the Prevention of Corruption Act 1961 where the maximum penalty is 7 years imprisonment, the Sessions Court having jurisdiction it being below 10 years imprisonment but its powers of punishment then was limited to 5 years imprisonment; or
- ii) in certain cases e.g. section 4(?) and section 6(1) of the Law Refer (Eradication of Illicit Samsu) Act, 1976 and sections 3 & 4 of the Prevention of Corruption Act, 1961 where the Magistrates Court had jurisdiction as the penalty did not exceed 5 years imprisonment but its power of punishment was limited to two years imprisonment.

4. With effect from 1st. July, 1978, however, the jurisdiction of the Magistrates and Sessions Courts have been increased considerably and these provisions must now be read in the light of the increased jurisdictions.

5 For practical purposes now, all laws with such provisions should be applied as follows:

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- i) Where the Magistrate has jurisdiction to try the offence and also powers to award the full punishment prescribed for the offence, then the case should be registered and tried in the Magistrate's Court.
 - ii) Where the Magistrate has jurisdiction to try the offence but does not have powers to award the full punishment prescribed for the offence then the prosecution may elect to either -
 - a) Prosecute the case in the Magistrate's Court and be content with the limited punishment;
 - or
 - b) Prosecute the case in the Sessions Court so that the maximum penalty may be imposed

6. In this regard, all Corruption Cases except minor ones under section 3 of the Prevention of Corruption Act 1961 (e.g. Member of the public alleged to have offered a \$2 bribe to a policeman) should continue to be heard in the Sessions Court because of the complexity of such cases and shortage of D.P.P.s at present. There is, however, no reason why cases under the

- i) Excise Act 1961;
 - ii) Lembaga Rudi & Beras Negara Act 1971 (Act 47);
 - iii) Law Reform .. (Eradication of allieit Samsu) (Act 1976 (Act 165); and
- such other laws should not be prosecuted in the Magistrate's Court in accordance para 5 above.

(HJJI WAN MOHAMED BINHAJI WAN
MUST.PH.)
Ketua Pendaftar.

c.c

1. Hon'ble the Lord President,
Federal Court, Malaysia,
Kuala Lumpur.
2. Y.B. Peguam Negara Malaysia,
Jabatan Peguam Negara, K.Lumpur.

- 3) Hon'ble the Chief Justice, Malaya,
High Court,
Kuala Lumpur.
- 4) Hon'ble the Chief Justice, Berneo,
High Court, Kuching,
Sarawak.
- 5) Hon'ble Judges of the Federal Court,
Malaysia, Kuala Lumpur.
- 6) Hon'ble Judges/Judicial Commissioner,
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- 7) Hon'ble the Solicitor General,
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- 8) Ketua Polis Negara,
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