

INCONSISTENCIES IN THE EXECUTION
OF DEATH SENTENCE

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CHAPTER I

(A) ADMINISTRATION OF CRIMINAL JUSTICE IN MALAYSIA

Administration of criminal justice in Malaysia is governed by the Criminal Procedure Code (F.M.S. Cap 6). Section 15 of the said code briefly explained how arrest are made. If such person forcibly resist endeavour to arrest him or attempt to evade the arrest such Officer or other person may use all means necessary to effect the arrest. The section does not give the right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

(B) PRELIMINARY ENQUIRIES INTO CASES TRIABLE BY THE HIGH COURT

(CHAPTER 27 OF CPC)

Section 139 of Criminal Procedure Code (CPC), the Magistrate shall hear the case for the prosecution and take all such evidence as may be produced in support and other evidence as the Magistrate may think fit to call for. Section 140 (1) of CPC further stated that when the evidence referred to in the last proceeding section has been taken, the Magistrate shall if he finds that there are not sufficient grounds for committing the accused person for trial discharge him, unless it appears to the Magistrate that such person should be tried before himself or before such other Magistrate in which case he shall either:-

- (a) forthwith frame a charge or charges in writing and call upon the accused to plead thereto; or
- (b) order the accused to be tried before some other Magistrate.

The action of the Magistrate shall proceed as a summary trial, provided that ¹

- (1) it shall not be necessary for the Magistrate to recall and reexamine the witness for the prosecution;
- (2) the accused may require that any witness called for the prosecution may be recalled for further cross-examination.

The Magistrate shall not be prevented from discharging the accused at any previous stage of the case if he considers the charge to be groundless.²

If after taking the evidence for the prosecution the Magistrate is of the opinion that on the evidence as it stands, there are sufficient grounds for committing the accused for trial he shall frame a charge under his hand declaring with what offence or offences the accused is charged.³ However if he finds that there are not sufficient grounds for committing him for trial discharge the accused⁴, but if he finds that there are sufficient grounds for committing him for trial commit the accused for trial before the High Court.⁵

A Magistrate holding a preliminary enquiry into an alleged offence with a view to the committal of any person for trial by the High Court may if satisfied that all evidence before the court consists of written statement tender to him⁶