

Appeals court rules MACC not limited to own Act for remand cases

Panel overturns a previous High Court decision, saying there is provision for the agency to use alternative legislation to gain more time to question suspects.

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The Court of Appeal today ruled that the MACC can use the Criminal Procedure Code to apply for remand orders during the course of investigations.

PUTRAJAYA: The Court of Appeal today overturned a decision made by the Temerloh High Court, which had barred Malaysian Anti-Corruption Commission (MACC) officers from using the Criminal Procedure Code (CPC) to remand suspects for further investigations.

Instead, the court's three-man bench – comprising Justices Vazeer Alam Mydin Meera, Azman Abdullah and Azmi Ariffin – set aside the decision of the then judicial commissioner (now High Court judge) Roslan Mat Nor that the commission must rely on the MACC Act

2009 to apply for remand of suspects if its investigation is not complete within 24 hours of arrest.

In delivering the court's unanimous decision, Justice Vazeer said Roslan had erred in his interpretation of Section 49 of the MACC Act.

"We note there is no specific provision in the MACC Act as to the course of an investigation not completed within 24 hours," he said.

He further said MACC officers can use Section 29(3) of the MACC Act and apply to the magistrate for a remand order under Section 117 of the CPC if the investigation cannot be completed within 24 hours.

In his grounds of judgment dated May 11 this year, Roslan ruled that the MACC cannot use the CPC to remand suspects for further investigations and the commission must use Section 49 of the MACC Act 2009, which gives the commission the specific powers to do so.

He said MACC officers can make an arrest under Section 49(2) of the MACC Act and can ask for a remand order under Section 49(3) of the same Act.

Roslan, in exercising his revisionary power, ruled that the remand order issued by a senior assistant registrar of Temerloh High Court against six policemen, including an inspector, under Section 117 of the CPC did not comply with the law and hence cancelled it.

Deputy public prosecutor Dusuki Mokhtar, appearing for the MACC, argued today that Roslan had erred when he decided that Section 49 of the MACC Act is the sole provision that the MACC officers should rely on for the investigation and remand of suspects.

He said that the provisions under the MACC Act and the CPC were applicable for any investigation carried out against suspects for offences under the MACC Act.

Lawyer Geethan Ram Vincent, representing three of the policemen, countered by saying that the policemen were arrested for an offence allegedly committed under the MACC Act and as such the provisions of the MACC Act should apply to the case, and not the CPC.

Lawyers Revin Kumar Shasai Kumar, Lavanyia Raja and Eu Kah Mun have been appointed to represent each of the three other policemen.