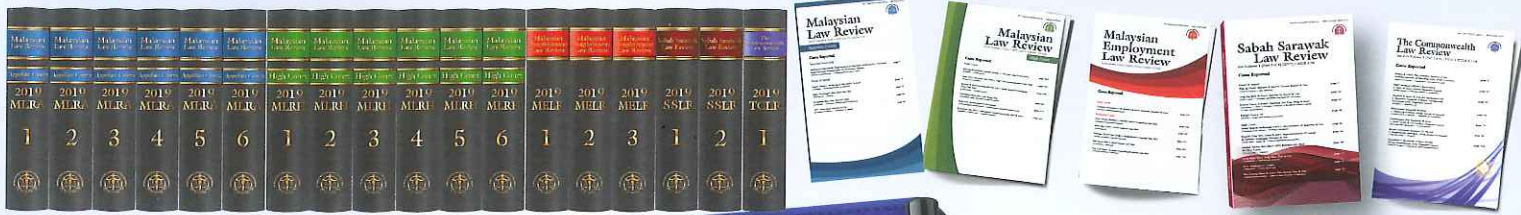
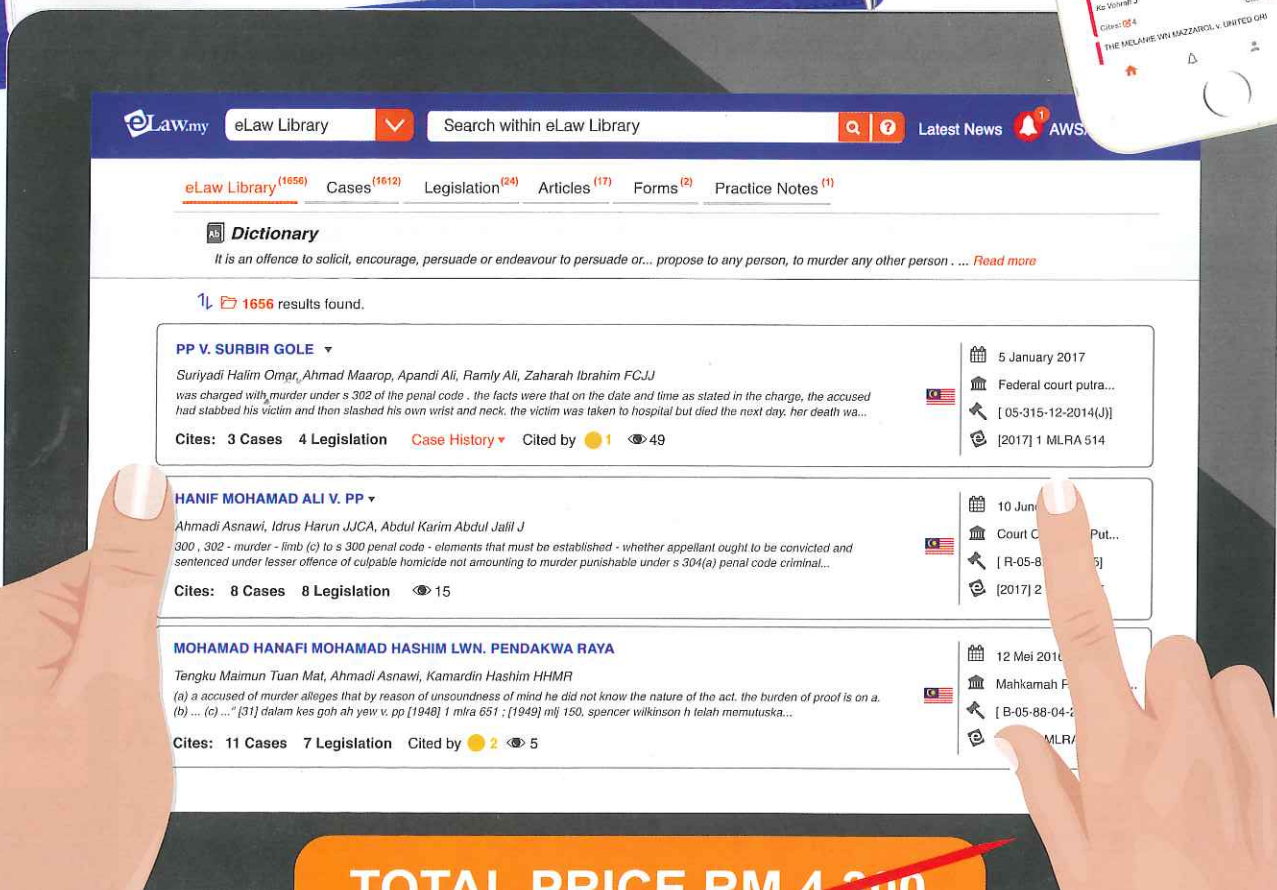
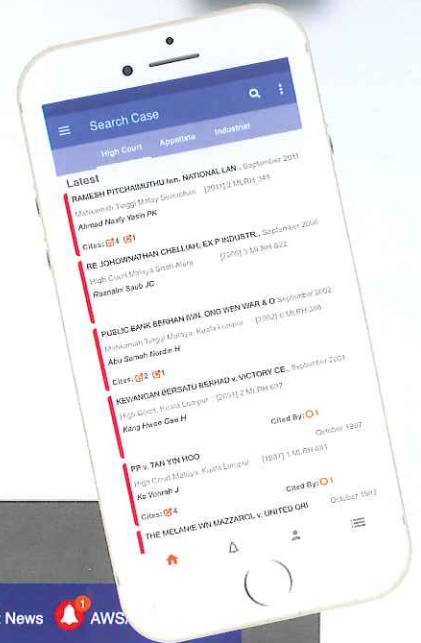


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pp v. azilah hadri & anor criminal law : penal code - section 302 read with s 34 - murder - common intention- appeal against acquittal and discharge of respondents - circumstantial evidence - whether establishing culpability of respondents beyond  
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membunuh orang (murder) jika perbuatan tersebut terjumlah dalam salah satu daripada kerangka-kerangka (limb) seperti di "envisaged" dalam s 300 (a) atau (b) atau (c) atau (d) atau mana-mana kombinasi daripadanya. seksyen 302 pula adalah hukuman bagi kesalahan me...  
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Thomson CJ, Hill J, Smith J  
...some degree to conviction for murder and to hanging, it is possible to think of a great variety of ... If the ordinary rule that in a criminal prosecution the onus lies upon the prosecution to prove every... fine or forfeiture except on conviction for an offence, in other words, it can be said at this sta...  
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[2016] 3 MLRH 145

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High Court Malaya, Ipoh  
Hayatul Akmal Abdul Aziz JC  
[Judicial Review No: 25-8-03-2015]  
28 March 2016

Civil Procedure - Judicial review - Application for - Restrictive order - Non-compliance of Prevention of Crime Act 1959 - Validity of remand order - Whether remand order complied with - Whether appointment of Inquiry Officer authorised - Whether establishment of Prevention of Crime Board proper - Whether copy of decision failed to be served - Whether discrepancy in statement in writing by Inspector and finding of Inquiry Officer rendered detention a nullity

In this application for judicial review, the applicant prayed for the following orders: (a) an order of certiorari and/or declaration to quash the decision of the 1st respondent; and (b) an order of certiorari and/or declaration to quash the decision of the respondents for an order to place the applicant under restricted residence with police supervision pursuant to s 15(1) of Prevention of Crime Act 1959 ("POCA"). The applicant challenged the validity of the said police supervision order and contended that there was non-compliance by the respective respondents concerning not only his arrest and remand but also the subsequent steps in the process which among others led to the making of the police supervision order which the applicant alleged was null and void. The grounds relied on to challenge included: (i) the invalidity of the remand order issued against the applicant; (ii) the non-compliance of the remand order which stated that he was remanded at Balai Polis Bercham; (iii) the unauthorised appointment of the Inquiry Officer; (iv) the failure of the Prevention of Crime Board ("the Board") to comply with s 7B of POCA in respect of its establishment; (v) the non-compliance of s 10(4) of POCA based on the failure of the Board to serve a copy of its decision; and (vi) the discrepancy in the statement in writing by the Inspector and the finding of the Inquiry Officer.

Held (dismissing the application with costs):

(1) The remand order was not an issue to be tried because the leave granted was only confined to the police supervision order by the Board. There was no complaint filed or any appeal made regarding the two remand orders given by the Magistrate and the applicant could not protest detention pursuant to the said remand orders. Furthermore all the necessary requirements in making the application for remand had been complied with and no irregularity in terms of procedure which could taint the legality of the remand order. (paras 20, 21 & 25)

(2) The applicant averred that the log book would show that he was not remanded at Balai Polis Bercham (as per the remand order). The production of the log book was irrelevant. The applicant had never applied for discovery of documents and for the applicant to raise the issue was unfair to the respondents. The evidence remained as per the application, statement, affidavit in support, affidavits in opposition, affidavit in reply and the exhibits produced. Based on the evidence available, the applicant was

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