



**Public Prosecutor**

**AND**

**Khairul Bin Haji Kula (D1)  
Abdul Hadzi Bin Haji Kula (D2)**

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**(High Court of Brunei Darussalam)  
(Criminal Trial No. 14 of 2014)**

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**Steven Chong, J.  
14 October 2014**

Criminal law – Whether the Intermediate Courts have jurisdiction to try a person charged with offence under section 29 of the Children and Young Persons Act – General supervisory and revisionary jurisdiction of the High Court.

DPP Dk Siti Nurul Fairuz Bte Pg Rosli for the Public Prosecutor.  
D1 and D2 unrepresented.

**Steven Chong, J.:**

This case was remitted to the High Court for trial by a Judge of the Intermediate Courts on the ground that the Intermediate Courts have no jurisdiction to try an offence under section 29 of the Children and Young Persons Act.

D1 and D2 were jointly charged before the Intermediate Court Judge with two offences under the Penal Code: theft contrary to section 379 and criminal trespass contrary to section 442. Additionally, D1 also faced a charge of causing two children under his care to commit house trespass contrary to section 29 of the Children and Young Persons Act.



Part VI of the Children and Young Persons Act concerns offences relating to the health and welfare of children and young persons. Section 27 of Part VI states:

*“Offences under this Part are triable only by the High Court.”*

The section 29 offence falls under Part VI.

Does this mean that anyone charged under section 29 can only be tried by the High Court and that the Intermediate Courts have no jurisdiction over this offence?

The answer is a definitive no because section 13 of the Intermediate Courts Act states:

- “(1) Notwithstanding any other written law but subject to subsection (3), Intermediate Courts in the exercise of their criminal jurisdiction shall have (concurrently with the High Court) all the jurisdiction, powers, duties and authority as are vested, conferred and imposed on the High Court in the exercise of its original criminal jurisdiction.*
- (2) For the purpose of subsection (1), all such written laws shall be construed subject to such modifications as may be necessary to bring them into conforming with this Act.*
- (3) Intermediate Courts shall not have jurisdiction –*
  - (a) in respect of any offence punishable with death or with imprisonment for life; or*
  - (b) to impose a period of imprisonment longer than 20 years in respect of any offence.”*

Thus, notwithstanding what is stated in section 27 of the Children and Young Persons Act, it is plain from reading the wording in section 13 of the Intermediate Courts Act that this is an overriding provision conferring jurisdiction on the Intermediate Courts to try all criminal offences triable by the High Court save those offences punishable with death or life imprisonment.



The jurisdiction of the Intermediate Courts to try offences which fall under Part VI of the Children and Young Persons Act is no different to the jurisdiction of the Intermediate Courts to try offences under the Penal Code triable by the High Court. I shall explain.

Although section 8 of the Criminal Procedure Code provides that offences under the Penal Code may be tried by the High Court and the Magistrate's Court (where such offence is shown in the eighth column of the First Schedule to be so triable), and there is no mention of the Intermediate Courts having jurisdiction to try any offence under the Penal Code, the Intermediate Courts have routinely tried offences under the Penal Code, including those offences triable only by the High Court (except for those offences punishable with death or life imprisonment), for example, housebreaking to commit theft contrary to section 457, by virtue of the jurisdiction conferred upon the Intermediate Courts pursuant to section 13 of the Intermediate Courts Act.

In exercise of the general supervisory and revisionary jurisdiction of the High Court over all Intermediate Courts and Subordinate Courts in accordance with section 20D of the Supreme Court Act, I transfer this case back to the Intermediate Courts and direct the Intermediate Court Judge concerned to try all the three charges against the defendants.

**DATO PADUKA STEVEN CHONG**  
Judge, High Court