

Cyber Law

Offensive remark made against Sultan of Perak – Account and computer registered in the name of appellant – Whether appellant was in fact person who posted those remarks – Communications & Multimedia Act 1998, section 233

Rutinin Suhaimin v PP

[2015] 3 CLJ 838, High Court Sabah & Sarawak, Kota Kinabalu

Facts The appellant was convicted for an offence under section 233 of the Communications and Multimedia Act 1998 for posting an offensive remark against the then Sultan of Perak. He was acquitted at the Sessions Court without his defence being called. On appeal, the High Court decided that there was a *prima facie* case and, therefore, sent it back to the Sessions Court for trial. The appellant was convicted and now he appeals against his conviction. His contention was that although the computer and the Internet account belonged to him, it was an undisputed fact that they were accessible by third parties. He thus denied posting those remarks.

Issues The issue before the High Court was whether the appellant's defence should have been accepted.

Held In acquitting the appellant, it was held that there was hardly any consideration by the trial judge of the probable defence, based on the undisputed fact that the computer and the Internet account of the appellant were accessible by third parties. Thus, there was no actual evidence that the appellant had actually made and initiated the transmission of the impugned entry. It was merely inferred to be him since the computer and the Internet account belonged to him.