

Federal Court rules 16 provisions in Kelantan criminal enactment unconstitutional in Muslim duo's challenge

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PUTRAJAYA, Feb 9 — The Federal Court has today struck down 16 out of 18 provisions under the Kelantan Shariah criminal enactment as unconstitutional, ruling that the Kelantan State Legislature does not have the power to enact laws on said offences because there are federal laws covering the same.

Chief Justice Tun Tengku Maimun Tuan Mat, who is leading a nine-member panel of judges, delivered the majority verdict of 8-1 in the constitutional challenge filed by two Muslim women.

Chief Judge of Sabah and Sarawak Tan Sri Abdul Rahman Sebli was the only judge who dissented or disagreed with the majority.

Other judges on the nine-member panel are President of the Court of Appeal Tan Sri Amar Abang Iskandar Abang Hashim, Chief Judge of Malaya Tan Sri Mohamad Zabidin Mohd Diah; Federal Court judges Tan Sri Nallini Pathmanathan, Datuk Mary Lim Thiam Suan, Datuk Harmindar Singh Dhaliwal, Datuk Nordin Hassan and Datuk Abu Bakar Jais.

Nik Elin Zurina Nik Abdul Rashid, a native of Kelantan, along with her daughter Tengku Yasmin Nastasha Abdul Rahman, filed a petition directly with the Federal Court under Article 4(4) of the Federal Constitution, naming the Kelantan government as the sole respondent in this case.

The duo are challenging the constitutionality and validity of 18 provisions under the Kelantan Syariah Criminal Code (I) Enactment 2019, claiming that the Kelantan State Legislature does not have the power to enact laws on these offences because there are federal laws covering the same.

Through the court challenge, the two women are seeking the Federal Court to declare that 18 provisions of Kelantan's Shariah Criminal Code (I) Enactment 2019 are invalid, arguing that the Kelantan state legislative assembly had overstepped its powers or had no powers to make such laws.

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