

Prima Facie Explained

A visual flowchart of the prosecution's opening case — and when it doesn't hold up.

 **Criminal Procedure Code (Act 593)**

In a Malaysian criminal trial, the prosecution must first present enough evidence to show that the accused has a case to answer. This threshold — called *prima facie* — can end a trial before the defence is even called. The flowchart below outlines the typical stages of a High Court criminal trial, following the Criminal Procedure Code (Act 593).

SECTION 178

Accused either pleads guilty (plea will be recorded and he may be convicted on it), **or does not plead, refuses to plead or claims trial** → case proceeds.



SECTION 179

Prosecution opens its case. States the nature of the offence and the evidence it proposes to prove guilt. Witnesses examined, cross-examined, and re-examined if necessary.



CLOSE OF PROSECUTION

Prosecution closes its case. All evidence has been presented.

⚖️ THE GATEKEEPER

Prima Facie Decision Section 180

One question: Has the prosecution adduced **credible evidence proving each ingredient** of the offence, which if unrebutted or unexplained would warrant a conviction?

⬇️ **NO**

Acquittal (Section 180(2))

The court records an order of acquittal.

⬅️ **END** Trial ends. Accused discharged without entering a defence.

⬇️ **YES**

Defence Called (Section 180(3))

Court finds *prima facie* case made out. Accused is called upon to enter their defence.

➡️ Trial continues.

SECTIONS 181–183A

Trial continues to verdict. Defence presents its case → Prosecution replies → Court evaluates all evidence.

The final question: Has guilt been proven beyond reasonable doubt?

YES → Guilty
Conviction + Sentence &
Victim Impact Statement

NO → Not Guilty
Acquittal

What is *Prima Facie*?

The *prima facie* test is a safeguard. It requires the prosecution to present **credible evidence on every element of the crime**. If the evidence on even one element is missing or too weak, the case stops. The accused does not need to answer a baseless accusation. This rule is particularly important in capital cases, where the consequences of a wrongful conviction are irreversible.

In drug-trafficking cases, for example, the prosecution must prove “**exclusive control**” over the drugs. If the accused did not own the premises, did not have the drugs in a personal bag, and did not hold keys to the room where they were found, the *prima facie* threshold may not be met — as shown in the case of Emily Leong Jo Yee, who was acquitted after more than two years on remand.

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