

**CRIMINAL LIABILITY AGAINST THE CRIMINAL ACTION OF
MOTOR VEHICLE THEFT (STUDY OF DECISION NO.
239/PID.B/2021/PN.KBU)**

**TANGGUNG JAWAB PIDANA TERHADAP TINDAKAN PIDANA
PENCURI KENDARAAN BERMOTOR (STUDI PUTUSAN NO.
239/PID.B/2021/PN.KBU)**

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ABSTRACT

Criminal liability regarding the Crime of Motor Vehicle Theft that this crime was committed by 2 people in which the defendant's actions were regulated and also threatened in Article 365 paragraph (2) of the 2nd Criminal Code. However, in this case there are still many people who commit the crime of motor vehicle theft in various ways even though the government has issued such regulations or legislation. As will be examined in this article, namely how is the criminal responsibility of the perpetrators against the perpetrators of the crime of motor vehicle theft in Decision No. 239/Pid.B/2021/PN.KBU? What is the basis for the judge's consideration in deciding the case against the perpetrators of the crime of motor vehicle theft in Decision No. 239/Pid.B/2021/PN.KBU? The author in this study used empirical juridical research methods and normative juridical research. In empirical research, the author conducts interviews with related sources and in normative research, including literature, legislation, legal theory, and also judges' decisions. Also, empirical legal research includes legal identification, legal effectiveness, and law implementation. From the results of the research, criminal liability against the perpetrator is a criminal act that is proven guilty and convinces the judge to convict the defendant with a criminal act of motor vehicle theft as regulated in Article 365 paragraph (2) of the 2nd Criminal Code, and the defendant fulfills the element of criminal responsibility. And the basis for the judge's consideration is to consider 2 (two) considerations, namely juridical considerations and non-juridical considerations. Based on this, the punishment should be adjusted to the threats that have been stipulated in

the applicable legislation, and the judge should also pay attention to the impact of this crime even though in this case it did not take any lives but must be punished according to the regulations in order to provide a deterrent effect and reduce the level of crime. his crime.

Keywords: Liability, Crime, Theft.

ABSTRAK

Pertanggungjawaban pidana terhadap Tindak Pidana Pencurian Kendaraan Bermotor bahwa tindak pidana ini dilakukan oleh 2 orang yang perbuatan terdakwa diatur dan juga diancam dalam Pasal 365 ayat (2) ke-2 KUHP. Namun dalam hal ini masih banyak masyarakat yang melakukan tindak pidana pencurian kendaraan bermotor dengan berbagai cara meskipun pemerintah telah mengeluarkan peraturan atau peraturan perundang-undangan tersebut. Seperti yang akan dikaji dalam artikel ini yaitu bagaimana pertanggungjawaban pidana pelaku terhadap pelaku tindak pidana pencurian kendaraan bermotor dalam Putusan Nomor 239/Pid.B/2021/PN.KBU? Apa yang menjadi dasar pertimbangan hakim dalam memutus perkara pelaku tindak pidana pencurian kendaraan bermotor dalam Putusan Nomor 239/Pid.B/2021/PN.KBU? Penulis dalam penelitian ini menggunakan metode penelitian yuridis empiris dan penelitian yuridis normatif. Dalam penelitian empiris, penulis melakukan wawancara dengan narasumber terkait dan dalam penelitian normatif, meliputi literatur, peraturan perundang-undangan, teori hukum, dan juga keputusan hakim. Selain itu, penelitian hukum empiris meliputi identifikasi hukum, efektivitas hukum, dan pelaksanaan hukum. Dari hasil penelitian, pertanggungjawaban pidana terhadap pelaku merupakan tindak pidana yang terbukti bersalah dan meyakinkan hakim untuk memvonis bersalah terdakwa dengan tindak pidana pencurian kendaraan bermotor sebagaimana diatur dalam Pasal 365 ayat (2) ke-2 KUHP. , dan terdakwa memenuhi unsur pertanggungjawaban pidana. Dan dasar pertimbangan hakim adalah mempertimbangkan 2 (dua) pertimbangan, yaitu pertimbangan yuridis dan pertimbangan non yuridis. Berdasarkan hal tersebut hendaknya pemidanaannya disesuaikan dengan ancaman yang telah diatur dalam peraturan perundang-undangan yang berlaku, dan hendaknya hakim juga memperhatikan dampak dari tindak pidana tersebut walaupun dalam hal ini tidak memakan korban jiwa melainkan harus dipidana sesuai dengan ketentuan yang berlaku. terhadap peraturan guna memberikan efek jera dan mengurangi tingkat kejahatan. kejahatannya.

Keywords: Kewajiban, Kejahatan, Pencurian.

I. INTRODUCTION

The context of the state of law stipulates that everything and the behavior of the people must refer to the laws and regulations so that peace can be created, survive and always be maintained so that life is created as implied in the foundation of the life of the Indonesian nation, namely the 1945 Constitution and the Pancasila ideology where every Every people has the right to be free from various crimes and can feel safe.

Law is a rule that can be in the form of norms or sanctions that are created to create goodness, ensure justice and order in people's daily lives. Overall it is based on rules that are binding or coercive. The existence of law is due to the existence of society and if there is no society of course there will be no law. Law can be interpreted as a set of regulations both in written and unwritten form that can regulate various problems that exist in society.

Every country always gives its people protection to everyone in its jurisdiction. The form of protection is usually adapted to the needs and customs of the country. One of them is by presenting the law as a form of protection carried out by governments that aim to protect their people.

Government instructions and the will of the state are enacted into law to ensure the safety and security of its citizens. People in different communities may have different levels of security offered by a country, because laws are also a product of their habits. As a result, every society must be different.

Although it has been explained that the context of the rule of law must be based on the applicable laws and regulations, it does not rule out the possibility for someone to continue to commit crimes. A phenomenon that is very difficult to remove from any country is crime, which is a social phenomenon that always exists in society.

The purpose of law in laws and regulations is to provide a deterrent effect and maintain security from a crime, with the establishment of a judicial institution in which everyone who commits an act that is against the law or commits a criminal act must be held accountable for his actions and can be resolved through a court process as stipulated in the law. existing law.

When someone commits a crime that is contrary to the law, he will usually be given a criminal penalty when what he did is in accordance with what is stated in the law and meets the requirements for a criminal sentence. In order to determine whether a person deserves to be sentenced or not, criminal liability is held.

Criminal liability is considered to be responsible for what is violated by the provisions of the law and the punishment is in accordance with what has been determined. In other words, criminal liability is a way to determine whether a person deserves a criminal sentence or is entitled to be released.

Only actions performed with knowledge of the consequences carry criminal guilt (*dolus*). If the offense of *culpa* is specifically determined by law, then it will only be surprising (unless) if it is punished. Criminal guilt is based on the fault of the maker, not just the crime he committed. The prospect of punishment increases a person's liability for some of the consequences of a criminal act, but only if it is reasonable to expect such repercussions or if negligence is absent. In connection with the things that have been explained, it is interesting for the author to put it into a book entitled "Analysis of Criminal Liability Against the Criminals of Motor Vehicle Theft (Study of Decision No. 239/Pid.B/2021/PN.KBU)".

II. METHOD

In conducting the preparation of the authors using the type of empirical juridical research and normative juridical. Where empirical juridical research is by collecting primary data obtained directly which includes legal identification, legal effectiveness, and law implementation. In addition,

normative juridical research is carried out through learning, observation and to gain an understanding of the topics of discussion which is carried out by researching and reading materials related to this, be it related literature, criminal law theory, legislation, the Criminal Code, and judge's decision.

III. ANALYSIS AND DISCUSSION

Basis for Judges' Consideration in Deciding Cases Against Perpetrators of the Crime of Motor Vehicle Theft in Decision No. 239/Pid.B/2021/PN.KBU

According to article 1, paragraph 1 of Law Number 48 of 2009 concerning Judicial Power, that judicial power is the power of an independent state administer the justice enforce to Pancasila and the 1945 Constitution so that the State of Law of the Republic of Indonesia can be implemented. (Law Number 48 of 2009 concerning Judicial Power). The decision made by the judge must be not lower than the minimum and not higher than the maximum and the sentence taken is based on the regulations and laws. Therefore, the value of the decision taken by the judge must contain justice so that it must be considered very carefully.

When deciding cases on Decision No. 239/Pid.B/2021/PN.KBU judges need to pay attention to 2 forms of consideration including:

1) Juridical considerations

The facts that underlie the judge's considerations that are seen in court will determine whether the perpetrator will be sentenced or not. The basis of the juridical considerations are as follows:

a. Indictment of the Public Prosecutor

In decision No. 239/Pid.B/2021/PN.KBU Defendants I and Defendants II, namely Ismari Muin bin Hanafiah and Prijal Santoso bin Romli were charged with a single charge because they were legally proven guilty and believed to have committed the crime of theft use violence in aggravating conditions as has violated Article 365 paragraph (2) 2 of the Criminal Code. Sentencing 6 years imprisonment reduced as long as the defendants are in detention with the order that the defendant remains detained.

Evidence in the form of 1 unit of Mio Soul GT motorcycle in black green Noka:MH31KPDD1CK125674, Nosin:1KP-125819 which was returned to child witness Vhio Artadinata bin Adeki Suwardi and 1 unit Honda Beat black motorcycle Number: BE 3758 YN with Number: MH1JF5111AK254730 and Nosin: JF51E-1263029 the proceeds of their crime of violent theft which Defendant I sold in Pubian Village, Pubian District, Central Lampung Regency to Mr. Atari (DPO) for Rp. 1,800,000.

b. The Defendant

At the time of trial, everything that was given and explained to the public did not include confessions which were considered as evidence in a judicial process.

The statements of the defendants in this case are:

During the trial Defendant I and Defendant II gave true information which was the defendant's statement that it was true

that on Saturday April 10, 2021 they carried out their action in which they had forcibly taken 1 type of Honda Beat motorcycle. colorblack Nopol: BE 3758 YN with Noka: MH1JF5111AK254730 and Nosin: JF51E-1263029 belonging to the victim (Ayu Masitoh) by first pretending to ask where this road will go.

c. Witness Statement

Everything that is heard or seen by the witness, accompanied by the reason for the existence of such knowledge issued by the witness, becomes evidence of a criminal incident.

In this case, under oath, in essence, witness Ayu Itoh bin Zaman and also Taziah Pipit Binti Zaman (victim) correctly explained that the defendant carried out his action on April 10, 2021 by pretending to ask for a way and immediately threatened them and then hit them on the head with their hands. 1 time which resulted in their motorbike being forcibly taken, namely a black Honda Beat motorcycle Nopol: BE 3758 YN with Noka: MH1JF5111AK254730 and Nosin: JF51E-1263029.

d. Evidence

Items presented at the trial were:

1 unit of Mio Soul GT motorcycle, black green Noka: MH31KPDD1CK125674, Nosin:1KP-125819. 1 unit of black turbo brand motorcycle without a body and without a registration number. 1 blade of laduk type sharp weapon, which has been seized and destroyed.

2) Juridical

Considerations Non are an factor that must be by judges in cases considered - Some of the non-juridical considerations include:

a. Background of the Defendant

In the decision No. 239/Pid.B/2021/PN.KBU the defendant and his partner have fulfilled the elements of Article 365 paragraph (2) of the 2nd Criminal Code in which they have committed a criminal act of theft of a motor vehicle by threatening and also hit the victim's head with the right hand 1 time.

b. The Consequences of the Defendant's Actions

In this case, although the crime of motor vehicle theft did not cause casualties, in this case it had a bad influence on the community at large, besides that it also caused anxiety for the community in carrying out daily activities and the defendant's family would feel ashamed or even feel ostracized from the association of the surrounding community.

c. Condition of the Defendant

In this case, the condition is meant to be about the state of the soul, physical, age, and so on. After an interview with one of the judges appointed by the judge presiding over this trial, according to the judge, the defendant in Decision No. 239/Pid.B/2021/PN.KBU had a mental condition and was also mentally sane (not mentally ill), aged who was quite mature, and during the trial the defendant was also aware of and admitted to the actions he had committed.

IV. CONCLUSION

From the research and discussion, conclusions can be drawn as follows:

1. Based on the description above and after an interview with one of the judges at the Kotabumi District Court, the basis for the panel of judges sentenced the study decision No. 239/Pid.B/2021/PN. KBU is paying attention to the facts that occurred in the trial starting from juridical and non-juridical considerations, then the elements of criminal responsibility and the elements contained in Article 365 paragraph 2 2 of the Criminal Code which can be proven at trial.
2. Based on the description described above that in the case in the decision No.239/Pid.B/2021/PN.KBU the defendant has fulfilled the elements of criminal responsibility, these elements are:
 - a. There is a crime.
 - b. There is an element of error.
 - c. No excuses sorry.

In addition to the element of criminal responsibility, the defendant has also fulfilled the elements contained in Article 365 paragraph 2 of the 2nd Criminal Code which can be proven in court. These elements consist of:

1. Whoever
2. Taking something that is wholly or partly owned by another person
3. With the intention of
4. Unlawfully
5. What is preceded or accompanied or followed by violence or threats of violence with the intention of preparing to facilitate theft or if caught red handed there is an opportunity to escape or to keep the stolen goods with him
6. What is done by 2 or more people in alliance

The fulfillment of these elements causes the defendant to be found guilty of committing a criminal act of motor vehicle theft and negligence will understand about the crime of motor vehicle theft, causing the defendant to be punished in accordance with applicable regulations.

REFERENCE

- Anwar, H.A.K Moch, Hukum Pidana Bagian Khusus, Bandung: Citra Aditya Bakti, 2011.
- Chazawi, Adami, Pelajaran Hukum Pidana Bagian 1, Jakarta: Sinar Grafika, 2011.
- Efritadewi, Ayu, Modul Hukum Pidana, Tanjung pinang: Umrah Press,2020.
- Mahrus, Ali, Dasar-Dasar Hukum Pidana, Jakarta: Sinar Grafika, 2011.
- Nurahman Dwi, Hukum Pidana Dalam Prospeksi dan Teori, Bandar Lampung: Aura Publishing, 2017.
- P.A.F Lamintang, Delik-Delik Khusus, Jakarta: Sinar Grafika.2011.
- Prodjodikoro, Wirjono, Asas-Asas Hukum Pidana di Indonesia, Jakarta: Refika Aditama, 2010.
- Rusianto, Agus, TindakPidana dan Pertanggungjawaban Pidana, Jakarta: Prenamedia group, 2016.
- Saleh, Roselan, Perbuatan Pidana dan Pertanggungjawaban Pidana, Jakarta: Aksara Baru, 2017.

- Septa, ***KonsepPertanggungjawabanPidanaDalamHukumPidana Nasional Yang Akan Datang***, JurnalCitaHukum, Vol.1 No.1, Jakarta :Universitas Muhammadiyah Jakarta, 2013.
- Sofyan, Andi, Azisa, Nur, Buku Ajar Pidana, Jakarta: Pustaka Pena Press, 2016.
- Surbakti, Sudaryono Natangsa, Hukum Pidana dan Dasar Hukum Pidana, Surakarta: Muhammadiyah University Press, 2011.
- Suyanto, Pengantar Hukum Pidana, Yogyakarta: Cv.Budi Utama,2018.
- Widnyana, I Made, Asas-Asas Hukum Pidana, Jakarta: PT. Fikahah Aneska,2010.
- Wirasila, Ngurah, A.A, Tindak Pidana Tertentu Dalam KUHP, Denpasar: Universitas Udayana, 2017.