

CRIMINAL LIABILITY OF PERPETRATORS OF ABUSE THAT CAUSE SERIOUS INJURIES (ANALYSIS OF DECISION NUMBER 14/Pid.B/2016/PN. Bil)

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Abstract

Given the many types of persecution regulated in the Criminal Code, of course, law enforcers, both investigators and judges must be careful and able to understand the criteria for persecution contained in the Criminal Code based on decision Number 14 / Pid.B / 2016 / PN. Bil. Therefore, it is very interesting and important to study more about how to solve the criminal act of perpetrators of abuse that causes serious injury? and whether the criminal liability of perpetrators of persecution who caused serious injury in Decision Number 14/Pid.B/2016/PN. Bil) is it in accordance with the provisions of laws and regulations? To answer these problems, normative juridical legal research methods are used with statutory and conceptual approach methods. Data obtained from primary, secondary, and tertiary legal material sources were collected which were then analyzed by qualitative data analysis techniques. From the results of the study, it was found that the approach or concept of restorative justice or restorative justice focuses more on the participation or direct participation of perpetrators, victims and the community in the process of solving criminal cases. There are two types of factors that trigger a person to commit acts of molesting someone that implicate serious injuries, namely internal and external factors. This decision is also based on the absence of reasons in his actions to be abolished under criminal law, both in the form of instruments that justify the intention to forgive related actions, because the defendant is proven to meet all elements stipulated in Article 351 paragraph 2 of the Criminal Code (KUHP)

Keywords: Criminal Offences, Mistreatment, Serious Injury

Abstrak

Remember many type orchestrated abuse in the Criminal Code , of course the enforcers law , fine That investigator nor the judge must thorough and capable understand about criteria existing abuse in the Criminal Code based on decision Number 14/ Pid.B /2016/PN. Num. Therefore very interesting and important For study more carry on about How solution follow criminal perpetrator abuse that causes wound heavy ? and whether accountability criminal perpetrator abuse that causes wound heavy in Decision Number 14/ Pid.B /2016/PN. Num) has in accordance provision regulation legislation ? For answer problem mentioned , is used method study law juridical normative with method approach regulation statutory and conceptual . Data obtained from source material primary, secondary and tertiary law collected later analyzed with technique qualitative data analysis . From the results study obtained that Approach or draft justice restorative or justice more restoration (restorative justice). focuses on existence participation or follow as well as direct from perpetrators , victims and society in the process of being resolved case criminal . There are two types triggering factors somebody in do action persecute someone with implications wound heavy ie factor inside and outside . This decision is also based absence reason in his actions deleted in a way law criminal , fine in form justifying instrument want to eat in forgive action related , because Defendant proven fulfil all regulated elements in Article 351 paragraph 2 of the Criminal Code (KUHP)

Keywords : Action Criminal , Harassment , Serious Injury

INTRODUCTION

Crime is something complex phenomenon. Therefore that, deep reality social there is various perspective related something incident different crimes One with others. Crime in variety the shape will still found, both in developed countries as well as in developing countries, only just different the amount.

Crime No born with yourself, you can said crime is deviation behavior by individuals public to agreed rules. Act behavior or pattern rule individual affected by some things, as explained by Arif Gosita as following : ¹,

1. Interest or interest that arises motivation in behave and act ;
2. Social institutions like family, school, madrasah, home places of worship, institutions government and so on ;
3. Values social ;
4. Norms;
5. Status;
6. Role.

Indonesia is one of the countries that really prioritizes this law . This matter as has explained in a way firm inside 1945 Constitution . The Indonesian state has rule law positive in effect For build a safe , peaceful and peaceful life . One of field the law used in effort guard order and security Indonesian citizens in life social that is law criminal . With achieved order based society enforcement law , society can feel safe and peaceful .

In the law criminal , in fact commonly used For determine which actions are not can done , which is prohibited with accompanied threat or penalty for those who violate it . As containing rules legal sanctions criminal naturally own objective from he determined penalty the for those who violate it . Penalty in law criminal also called penalty criminal . The purpose of penalty criminal according to Bemmelen is For maintain order society , and have objective combination For scary , fix , and for crime certain destroy .

Criminal law in Indonesia is one of them main guideline in realize something justice . Something formed actions become crime and formulated in Constitution If deed the assessed by the former Constitution as dangerous act something interest law . With exists determination prohibition For do something deed with accompanied threats / sanctions criminal for whoever violates it , means Constitution has give protection law on interests law the .

Crime is contradictory actions with ethics and morals so something crime committed somebody can harm others as subject law . There is various follow perceived crime as something deed criminal . One of form frequent crimes

¹ Arif Gosita , *Victimology and the Criminal Procedure Code, which regulates compensation for damages Victim's Party* , (Jakarta: Akademika Pressindo , 1995) , p . 11.

happening around We ie crime in form violence like persecution . Every crime threatened with punishment or penalty criminal , sanctions criminal the can dropped to someone who can charged accountability in a way criminal . Error is one of very essential factor in the determine somebody the can charged accountability criminal or No . Related with exists the principle of “Geen Straff Zonder Schuld” exists there are 2 (two) things in question in meaning the among others:

1. If anything prohibited acts or neglect something that is required and threatened with criminal , then deed or neglect the must listed in Constitution Criminal .
2. Provision the No can applies recede , with One exceptions listed in Article 1 paragraph (2) of the Criminal Code (KUHP).

It's rampant action our persecution Look from various source Good via electronic media as well as print media signifies that persecution the No free from behavior poor society controlled Good because low level education and influence poor environment Good . Frequent abuse happen like beatings and violence physically able result happen injury to the part body or member bodies of abuse victims . Influence association and delinquency , thuggery , jealousy social , pressure and inequality economics , competition and conflict interest can become factor happen something persecution . The dispute that occurred Good personally or caused group a number of factor like revenge , pollution Name good , and feel price self and dignity harassed could also be one possible factors inviting happen something follow violence that leads to persecution . Persecution form violence to physique can We meet in the environment House ladder or family , place public and places others who can override Who just if currently own conflict with other people.

In the Criminal Code , offense persecution is something possible actions harming others is good in a way physical and able result wound heavy must seen as something very detrimental act the victim as subject proper law For get justice . Penalty criminal or Sentencing Of course have A goals , G. Peter Hoefnagels put forward that objective punishment is For finish conflict , influencing the offenders and other people to direction lacking actions more in accordance with law .²

Remember many type orchestrated abuse in the Criminal Code , of course the enforcers law , fine That investigator nor the judge must thorough and capable understand about criteria existing abuse in the Criminal Code, so as not to happen error in giving punishment to perpetrator . So that in give purposeful punishment For give effect deterrent to perpetrators , enforcers law must truly elaborate the

² Marlina, *Penitentiary Law* , (Bandung: Refika Aditama , 2011), p . 24.

elements contained in offense persecution . Because each element follow criminal persecution No can generalized as follow persecution normal .

In terms of This is a wound the weight becomes problematic juridical for practitioner law when those parameters influential to decision in Court . Implementation in the trial process to defendant follow criminal persecution , the judge is necessary analyze in a way carefully in give the verdict with determine group persecution . Because p the influential to weight punishment received defendant on his actions with serve tool proof especially sourced from the physical condition of the victim target persecution . Here the judge is tested on quality the analysis with 7 aspects of science in each contributing areas in reach the fairest possible decision for defendant as well as victims.

The judge must truly consider all fact law in the evidentiary process at trial with use tool existing evidence in Article 184 (1) of the Criminal Procedure Code, among other things, information witness , statement experts , letters , instructions , and information defendant . Article 183 of the Criminal Procedure Code provides provision that the Judge did not can drop criminal to somebody except if at least lack of two tools valid evidence He obtain confidence that something follow criminal truly happened and that the defendant is guilty do it .

In revealing something follow criminal about body , post mortem et repertum required To use explained something follow criminal as well as perpetrator follow criminal . Like in case This , the judge included *post mortem et repertum* as base determine wound heavy . Own wounds can caused by various type things , but in general wound can happen caused exists object blunt or sharp . Besides that wound classified based on structure anatomy , nature , healing process and healing time .³ Although *post mortem et repertum* only assist the judge in explained something follow criminal Because all returned again on the judge's beliefs , but if quality *post mortem et repertum* That OK , then will make things easier for judges consider it . Therefore , if the judge in determine his belief there is doubt or there is error , then will happen resulting error the judge's decision was no fair .

Problem the main thing will be researched and disclosed in writing This is as following :

1. How solution follow criminal perpetrator abuse that causes wound heavy ?
2. is accountability criminal perpetrator abuse that causes wound heavy in Decision Number 14/ Pid.B /2016/PN. Num) has in accordance provision regulation legislation ?

RESEARCH METHODS

³ Adonara , Firman Floranta , “ Principles Judge's Freedom to Decide Case As a Constitutional Mandate , Journal Constitution ”, Vol 12, Number 2, 2016, p . 244.

Types of research This is study law juridical normative . Study law juridical normative this can also be called as study law doctrinal . Dogmatic Legal Science reviewing , maintaining and developing building law positive with building logic , the so -called “ doctrinal ” studies or also called study “ normative ” law . Approach study use method approach legislation (statute approach), approach case (case approach) and approach conceptual . The type of data in this research is Secondary Data. This is a very important factor, because the data source will relate to the quality and results of the research. Therefore, the data source is a consideration in determining the data collection method. Data collection techniques used in study This is technique study bibliography ((library research). Data collection tools can in the form of document study or studies References or study bibliography (library research) for obtain secondary data .

RESULTS AND DISCUSSION

A. Completion Act Criminal Perpetrator Assault Causing Serious Injuries

One of aspect existential man is realization of a sense of justice in life social . In perspective knowledge social , concept justice enter to in number philosophy . Regarding with law , of corner look knowledge social , according to Lawrence Friedman, justice interpreted as How law treat society and how law distribute profits and costs .⁴ Next Fried Man, stated that every function law Good in a way general or specific nature allocative .⁵

In lots literature stated that objective law or wish law nothing other than justice . Gustav Radbruch , among others state that wish law nothing other than justice .⁶ Furthermore He states , “ *Est autem jus a justitia, sicut a matre sua ergo prius fuit justitia quam jus .*” According to *Ulpianus Jus titia est perpetua et constans voluntas jus suum cuique tri buendi* that if translated in a way free justice is something persistent and constant desire For give to people what becomes his rights .⁷

In life social , yes regulation in the form of norms and sanctions created with agreement together . Laws are made with objective organize and maintain order , justice so that chaos Can under control or prevented . Regulation law determined by the institution or competent authority . Regulation legislation No made by everyone , but not by institutions or the body that owns it power For set binding regulations public wide . Enforcement law That must . The law doesn't made For violated , but made For obeyed . For compliance is also regulated authorized apparatus For control and fulfill it though in matter action repressive .⁸

Classification law based on the shape can classified become law written or not written . Written law is listed laws in various state regulations . Generally , legal written nature rigid , firm , and guaranteed certainty law . Example law written is Laws , Presidential Decrees , Regional Regulations , Regulations Government , and so on . The law doesn't written can interpreted as laws that apply and are believed by society certain . Its existence No written or No formed formally , however still obeyed . For example is law custom .⁹

By general can said that There is a number of function law in public that is :¹⁰

- a. Function Facilitate , In case This including facilitate between parties certain so that achieved something order .

⁴Prof. DR. Peter Mahmud Marzuki, SH, MS, LL.M., *Introduction Legal Science* , (Jakarta: Kencana , 2017), p . 115.

⁵ *Ibid* .

⁶ *Ibid* , p . 121.

⁷ *Ibid* .

⁸Pandu, " Getting to Know Written Law and Examples " , <https://www.gramedia.com/literasi/> , accessed on January 24 2024 at 22.10 WIB

⁹Hukumonline Team , “ Legal Classification based on Categories ” , <https://www.Hukumonline.com/> , accessed on January 24 2024 at 22.14 WIB.

¹⁰P. Sukowati , "Meaning, Purpose, Function of Law in Society", <https://eprints.unmer.ac.id/276/2/CHAPTER%201.pdf> , p . 23, accessed on January 24 2024 at 22.40 WIB.

- b. Function Repressive , In terms of This including use law as tool for the ruling elite For reach his goals .
- c. Function Ideological , Function This including ensure achievement legitimacy , hegemony , domination , freedom , independence , justice and others.
- d. Function Reflective , In terms of This law reflect desire together in public so that it should law nature neutral .

By conceptual meaning of enforcement law lies in activity harmonize connection the values outlined in it rules that are stable and manifest as well as attitude follow as Suite description mark stage end , for create , maintain and defend peace association life .¹¹In upholding law There is three necessary elements noticed namely : certainty law , expediency , and justice . Certainty law is protection *justifiable* to action arbitrary , meaning that somebody will can obtain something to hope for in circumstances certain . Society expects exists certainty law , because with exists certainty law public will more orderly . The law is on duty create certainty law Because aim For order public .¹²

Enforcement law criminal within the country is carried out in a way preventive and repressive . Enforcement law in a way preventive held For prevent it from happening done violation law by citizens society and duties this in general given to executive and police agencies . Enforcement law criminal repressive done if business preventive has done it turns out it 's still there violation law . In terms of This law must enforced in a way repressive by tools enforcer law . In terms of This law must enforced in a way repressive by tools enforcer given law task judicial . Enforcement law criminal repressive in level its operations supported and through various institutions that are organizational separated One with others , however still is at in framework enforcement law . At stage First , enforcement law criminal repressive started from institution police , next prosecutor's office , then continued to institution courts and ends in institutions correctional .¹³

Completion process case shared into two methods , namely litigation and non-litigation . Litigation is the completion process things carried out through court , that is something solution things carried out with proceedings in court where the authority For organize and decide implemented by the judge. Completion process case This result all litigants each other face to face One each other for maintain his rights in advance court .

- a. Settlement flow case criminal in a way litigation
 - 1) Reports and Complaints
 - 2) Investigation
 - 3) Investigation

¹¹ Soerjono Soekanto , *Influencing Factors Law Enforcement* , (Jakarta: PT. Raja Grafindo Persada , 2007), p . 5.

¹² Sudikno Mertokusumo , *Getting to Know the Law Introduction* , (Yogyakarta: Liberty, 2007), p . 160.

¹³ Akbar Sanjaya, “ Completion Criminal Persecution By means of peace between the perpetrator and the victim”, Vol 5 No 2 (2023): Journal Legal Dialectics , p . 5.

- 4) Pre Prosecution & Prosecution
 - 5) Reading Indictment
 - 6) Exception 7 Proof
 - 7) Reading of Demand Letter
 - 8) Pledoi (Defense)
 - 9) Judge's ¹⁴Decision
- b. Legal flow in a way litigation criminal for victims of abuse
- 1) The victim reported to the police on the spot incident case
 - 2) Get a Letter of Acceptance Report
 - 3) Checked by a doctor at home Sick For get post mortem et repertum
 - 4) Examined by the Investigator and a Minutes of Investigation (BAP) made
 - 5) Called prosecutor general For testify at trial local District Court
 - 6) Accompanied translator if the victim does not Can hear or No Can talk .¹⁵

By litigation enforcement law to follow criminal persecution held with a long process starting from the process of inquiry , investigation , prosecution through prosecutor's office , court examination , decision until with execution decision criminal . Indonesia knows a number of type penalty criminal , that is criminal death , imprisonment , confinement , closure , and fines . Penalty from persecution based on Articles 351 and 354 of the Criminal Code starting from criminal fine until with imprisonment , for a long time start from two years eight month until with ten year depends from type wound the victim.

Satjipto Raharjo stated that solution case through system trial that results in a verdict court is something enforcement law (*law enforcement*) to direction track slow . This matter because enforcement law That through distance long journey , through various level start from Police , Prosecutor's Office , District Court , High Court even until to The Supreme Court ultimately impact on accumulation number of things No little in court .¹⁶ So that cause system Justice criminal not enough maximum road its implementation . Apart from that , justice is expected through it turned out to be a formal way Not yet Of course reflects a sense of justice , because expensive , prolonged , tiring and not finish problem and more critical Again is in it full with practice corruption , collusion and nepotism . What makes law Indonesia is considered No have soul justice .¹⁷

Completion dispute through external processes court produce an agreement that is a " *win-win solution* " , guaranteed confidentiality disputes between the parties , avoided resulting delays Because matter procedural and administrative , complete problem in a way comprehensive in togetherness and permanence guard connection Good . The only one advantages of the non-

¹⁴ *Ibid* , p . 6.

¹⁵ *Ibid* .

¹⁶ Satjipto Rahardjo, *Other Sides of Law in Indonesia* , (Jakarta: Kompas, 2003), p . 33

¹⁷ Sudikno Mertokusumo , *Getting to Know the Law: An Introduction* , (Yogyakarta: Atmajaya University , 2010), p . 80.

litigation process This characteristic confidentiality , because of the trial process and even results not even the decision published .¹⁸

Scope solution dispute non-litigation is wide room scope method solution dispute law except nature laws force and law public . With thereby can said that room scope from solution dispute non-litigation is covers deed law or action the law can encourage people to choose solution problem the law in a way peace , because of the parties realize that choice method non-litigation is the most effective , efficient and safe for completion the dispute .¹⁹

Completion process case criminal in a way non-litigation with road peace can also be linked with justice restorative or other terms are often used justice restoration (*restorative justice*) which is something method approach new in effort solution case criminal . Approach or draft justice restorative or justice restoration (*restorative justice*) more focuses on existence participation or follow as well as direct from perpetrators , victims and society in the process of being resolved case criminal . so that approach This popular also called the term " *non-state justice system* " where the role of the State in solution case criminal become small or even No There is The same very . However thus , presence approach or draft justice restorative or justice there is a lot of restorative *justice* colored various question Good in a way theoretical nor in a way practical .²⁰

Problem main For enforce or implement approach or draft justice restorative (*restorative justice*) in A system law in general and on the system Justice crime in particular lies in the mechanism solution offered by the approach or draft justice restorative (*restorative justice*) is different with mechanism solutions offered by the system Justice existing crimes moment This so that Still difficult For accepted . This matter because mechanisms offered by the approach or draft justice restorative (*restorative justice*) more put forward draft peace , the concept of “ mediation ” and concepts reconciliation where the perpetrator , victim, authorities enforcer law and society wide participate in a way direct in finish case criminal naturally compare backwards or contradictory with system Justice criminal traditional already enforced has been around for a long time and is valid until moment This .²¹

Mediation criminal (*Penal mediation*) in practice law criminal often used by investigators National Police in finish case criminal in a way kinship / deliberation consensus For creates a feeling of security , peace and harmony for the parties through report complaint society (Dumas) and not through Police Report (LP). Likewise with the officers The National Police in the village (Bhabinkamtibmas) with the litigants , together Hamlet Head , Village Head finished something case criminal including case civil and others through mediation , negotiation , consolidation , facilitation and coordination . Throughout solution case criminal the No give rise to anxiety public and/ or case that became attention general / Govt but on the contrary give rise to taste safe

¹⁸Dewi Tuti Muryati & B. Rini Heryani , “ Regulation and Mechanism Completion Dispute Nonlitigation in the Field Commerce ”, Journal Dynamics Volume 13 Number 1, June 2011, p . 51.

¹⁹ *Ibid* , p . 51

²⁰Akbar Sanjaya, *Op. Cit* , p . 7-8.

²¹ *Ibid* , p . 8.

, peaceful , no leave revenge and hatred from the parties litigious society . According to Prof. Barda in interactive dialogue mediation Banking at Bank Indonesia Semarang stated : *Victim-Offender Mediation* “(VOM) or *Tater-Opfer-Ausgleich* (TOA). Penal Mediation is often also called with various term including : " *mediation in criminal cases* " or " *mediation in penal matters* " . term Dutch called *strafbemiddeling* , in the German term is called “ *Der Aubergerichtliche Tatausgleich* ”.²²

Act criminal persecution basically follow the intended crime to body man . In the Criminal Code (KUHP) no explain the meaning of persecution . Mr MH Tirtaamidjaja make the meaning of " persecution " as following . “ torturing ” is with on purpose cause Sick or injury to others. However something the act that causes it Sick or injuries to others are not can considered as persecution if deed That done For guard body safety .²³

According to Leden Marpaung , in explanation of the Minister of Justice at the time establishment of Article 351 of the Criminal Code for persecution formulated among others:²⁴

- a. Each the act done by on purpose for give bodily suffering to others, or
- b. Each the act done by on purpose for detrimental other people's body condition .

Wounds in the Criminal Code (KUHP) are divided become wound serious and injured light , serious injuries according to Article 90 of the Criminal Code is :²⁵

- a. fell ill or get wounds that are not give hope will get well same once , or that causes danger death ;
- b. no able continuous for run task department or job search ;
- c. lose one senses ;
- d. get handicapped weight
- e. suffer ill paralysis ;
- f. disturbed Power think during four Sunday more ;
- g. fall or his death content a Woman .

See interpretation authentic from fill provisions of Article 354 of the Criminal Code (KUHP), then can concluded that condition main exists persecution heavy is deliberate For do and if result someone else's death , then deed the culprit threatened punishment in accordance with Article 354 of the Criminal Code (KUHP).

Procedure peace is effort solution case criminal in a way non-litigation carried out with method negotiation and mediation , Negotiation , namely the settlement process case criminal in a way volunteer among the parties facing each other advance in a way direct For obtain possible agreement accepted second split party about something issue or problem certain . Negotiation held with road deliberation , talk stare eye between perpetrator and victim without attended party third from party police . Negotiation method generally held with bargaining around change make a loss

²² *Ibid* .

²³Leden Marpaung , *Act Criminal to life and body* (eradication and prevention), (Jakarta: Sinar Graphics , 2002), p. 5.

²⁴ *Ibid* , p . 6.

²⁵Indonesia, Law Republic of Indonesia Criminal Code Book First Article 90.

Good loss material nor psychological from the victim, if succeed the victim did not will report to party police .²⁶

Consideration party police determine appropriateness that persecution Good heavy nor light the worthy resolved through procedure peaceful (*non-litigation*) and not direct through court Can use a number of type theory , like principle justice , purpose law and theory expediency in enforcement law . The principle of benefit means the perpetrator and also the victim expect benefit in implementation enforcement law . Law is For man , don't until precisely Because the law held or enforced arise anxiety inside public . In terms of accountability on deed crime committed by the perpetrator can minimized with effort *diversion* . *Diversion* efforts This is diversion things outside judiciary , so perpetrators and victims do not You're welcome aggrieved , the victim is harmed by an act si perpetrators and perpetrators disadvantaged Because convicted .²⁷

The author is of the opinion that in resolving criminal acts of perpetrators of abuse which cause serious injuries, it is very appropriate if the concept of diverting cases outside of court as an alternative for resolving criminal acts is immediately implemented in Indonesia as an effort to reform the law. This is because the concept of diverting cases outside of justice is an approach that focuses more on conditions for creating justice and balance between the perpetrator of the crime and the victim. Criminal justice mechanisms and procedures that focus on punishment are transformed into a dialogue and mediation process to create an agreement on the resolution of criminal cases that is fairer and more balanced for both victims and perpetrators.

B. Accountability Criminal Perpetrator Persecution Causing Serious Injury to the Judgment Number 14/ Pid.B /2016/PN. Num) Appropriate Provision Regulation Legislation

1. Causal Factors Perpetrator Do Act Criminal Persecution Resulting in Serious Injury (Study Decision 14/ Pid.B /2016/ PN.Bil)

Emergence action criminal crime is results from various factors , including them action pindana that is persecute someone who implicates the victim has wound heavy . In fact , deep life everyday , human tend show deviant action from the existence of norms in the middle public . On context applicable legal domain , action persecute the victim so have wound heavy considered as crime or the offense charged penalty punishment . Crime , as problem social , always accompanying him in the middle life community , involve member public as perpetrator and victim. With Thus , treatment and prevention crime is integral aspect in dynamics life crucial community quick handled by relevant stakeholders .²⁸

Attention to issue structural become important in evaluation follow crime in Indonesia especially in problem poverty . In criminology , poverty defined as form detrimental structural violence Lots party . Crisis economics , inequality income , and injustice economy become factor

²⁶Akbar Sanjaya, *Op. Cit* , p . 10

²⁷ *Ibid* .

²⁸ Adi Thoriq , “ Accountability Act Criminal Persecution Resulting in Serious Injury (Decision Study Number : 76/ Pid.B /2023/PN Gdt)”, Volume 22 Number 1, January 2024, p . 5.

main contributor to appearance follow crime in Indonesia. With identify and understand root problem structural This is expected can taken steps strategic For minimize impact crime in society²⁹.

By overall , As for found various trigger that causes action crime , esp follow criminal in persecute someone who causes wound weight , the factors in question in case This is :

a. Internal factors

Refers to factors formed originate from in self performer , play role significant in understand the motivation behind happen follow crime . Related tightly with condition mental or psychological actors , internal factors focus on assumptions that every man own trend For behave deviate , and p This reflected in thinking emerge spontaneously in self somebody . With So , understanding deep to internal factors essential For detail dynamics encouraging psychology somebody do follow crime .³⁰Which include in Internal factors include :³¹

1) Perpetrator's Morals

Morality , which includes levels of vigilance to various normals that form in the middle society , forming base important For understand behavior individual . As one can categorized as as internal factors , awareness law somebody become guidelines in determine individual the tend do various actions that deviate from normal society or No . In perspective this , moral understanding and awareness law No only become the individual's internal mirror , but also reflects dynamics complex in understand and internalize the social norms that shape them framework ethics and behavior .

2) Perpetrator's Intentions

Something deed started from intention and intention from perpetrator is frequent factors appear as beginning happen follow criminal persecution result wound heavy . Usually before do follow criminal persecution result wound heavy , perpetrator intend How will do his actions .

Deep intention self perpetrator become factor main reason happen case persecution result wound heavy This is because beginning start exists case This that is is exists accusation MA perpetrators to witness S has riding together with victim H, so Direct MA perpetrator slash weapon sharp type sickle (spit) that hits thigh right part over H after That defendant return slashed at S but S parried with hand left so that weapon sharp the hit the part wrist hand left After it's S running away yourself and be helped by the people around you whereas defendant along with goods related evidence with follow criminal brought to Police Winding for the next process .

From exposition previously , obtained understanding that role intention own impact significant in determine is somebody will involved in follow criminal or No . In context deed

²⁹Indah Sri Utami, *Schools and Theories in Criminology* , (Yogyakarta: Thafa Media, 2012), p . 56.

³⁰Erlina, B., Prasetyawati and Yolanda, N., “ Analysis Accountability Act Criminal To Act Criminal Transportation of Protected Animals While Alive Illegal (Decision Study Number : 592/ Pid.B / Lh /2020/ Pn . Tjk)”, Widya Yuridika Law Journal , Vol.4 No.1, 2021, p . 153.

³¹Adi Thoriq , *Op. Cit* , p . 6.

persecution, establish that something crime has happen need exists explicit intention For on purpose causes pain or wounds on the body someone, or intention damage health individual other. In other words, intention bring up dimensions critical in assess and measure involvement perpetrator in something deed criminal, depicting that element psychological This play role central in characterization follow criminal persecution.

b. External Factors

By essential, factor external refers to influence from environment beyond that push somebody For involved in behavior crime. Factors this, which involves condition economy, environment place stay, and dynamics family performer, play role crucial in form trend individual going to action criminal. Therefore that, understanding deep to external factors This become key in analysis and design of prevention strategies crime, along with effort For create supportive environment application all the form of norms that develop in the middle public.

Role family stand out role in a way crucial in form Act in demand individual. Family considered as base beginning where the individual obtain knowledge and skills social, give rise to assumption that the relationship formed between both parents with child will strengthen and validate deed child or How child socializing in life social. This matter show that family role as agent main in form base beginning behavior social and play integral role in formation character individual in public. Which include factors external is:

1) Environment Residence

From the explanation that has been given displayed, can interpreted that the surrounding environment place stay from perpetrator crime generally located in the area with level association low social, moral low population, and often violation as well as forgetfulness to social norms. Environment This, as an environmental factor, becomes trigger main criminogen (cause crime). This conclusion confirm that characteristics environment own significant impact in form trend happen follow crime in an area.

2) Family Perpetrator

Family interpreted as entity social ties bound by interaction and mutuality influence, even without bond blood in between its members. Success build family harmonious demand openness between all member family, especially among husband and wife. Openness This considered as key For grow trust, prevent suspicion and prejudice between second split party, creating solid foundation For sustainability connection healthy and intact family.

2. Accountability Perpetrator Act Criminal Persecution Resulting in Serious Injury (Decision Study Number 14/ Pid.B /2016/ PN.Bil)

Related base conceptually, law own intended goals and objectives as an integral part of function social. The main purpose law is form something order in a society based on order

and balance .³² Persecution Resulting wound heavy arranged in Article 351 paragraph 2 of the Criminal Code with threat maximum five years prison .

Based on activity in trial that shows related fact in a way juridical can interpreted that existing elements as form responsibility from perpetrator who has in accordance with qualifications , explained as following :

- a. Able to be responsible For exists ability responsible must be fulfil elements :
 - 1) Circumstances His soul
 - a) Not bothered by disease Keep going continuously or temporary .
 - b) No defects in growth .
 - c) Not distrubed Because shock , hypnosis , overflowing anger , influence lower conscious , delirious and so on .
 - 2) Ability His soul
 - a) Can realize essence from his actions
 - b) Can determine will on action that , whether will held or No .
 - c) Can know disgrace from action the .³³

In the end , the defendant was involved in follow criminal persecution , which produces wound the weight it has excellent good health in a way physical and mental as well aware to behavior that has been made it . Principle assumption law *de iure* confirm that every individual considered know law , and with thus , consciousness to his actions become something things that don't inevitable . This conclusion highlighting fact that awareness law related follow criminal become an integral part of not quite enough answer individual must acknowledged and accounted for within realm law .

In terms of physical , perpetrator No have lack in physical or not own disease got it influence his health . Therefore it's , related follow the crime he faces , the defendant can accountable in a way criminal in accordance with the provisions of Article 351 paragraph 2 of the Criminal Code regulate about resulting abuse wound heavy .

b. Error

If something action intentional or caused by negligence in context law criminal , and productive consequences that violate norms prohibited by law criminal , then deed the considered as error . Important For noted that perpetrator must own capacity For responsible on the deeds carried out , confirmed that aspect ability responsible become element important in evaluate something deed as error according to law criminal .

With refers to the facts revealed in the judge related case that , you can concluded that Defendant MA convincing proven do error in form deliberate . This matter manifested through follow criminal persecution carried out with purposeful and deliberate result wound heavy . Concerning element error , ie deed criminal , the Supreme Court defendant was

³²Hibnu Nugroho, " Legal Protection for Victims of "Illegal Banks", Journal Legal Dynamics , Faculty of Law, Unsoed , Vol. 9, 2009, p . 19.

³³Adi Thoriq , “ Accountability Act Criminal Persecution Resulting in Serious Injury (Decision Study Number : 76/ Pid.B /2023/PN Gdt)”, Volume 22 Number 1, January 2024, p . 11.

proven has violates Article 351 paragraph 2 of the Criminal Code, where all regulated elements in chapter the fulfilled in context the actions he did . Namely :³⁴

1) Element goods Who

In context law , it's important For confirm that element " goods who " is not related elements with follow criminal , but rather is element referring article to subject law , that is man as holder rights and obligations on follow the crime alleged . More far away , Defendant Y convincing has give information about identity , in line with information listed in letter indictment Reg. Perk . No. 14/ Pid.B /2016/ PN.Bil January 6 , 2016. Therefore that , you can concluded that No there is error related subject law (*error in persona*), so element This can considered fulfilled with clear and convincing .

2) With on purpose do persecution result injuries heavy

The definition of " persecution " refers to an intentional act For Cause discomfort , sensation sick , or physical injury individual , incl give impact negative impact on health . In his capacity as offense material , solution follow criminal This considered happen If there is results direct from action perpetrator . Article 90 of the Criminal Code set boundary " wound heavy ," which includes condition like disease without hope healing , risk death , incapacitation in carry out what to be its obligations include five senses , defective weight , paralysis , or disturbance Power think during four Sunday .³⁵

3) n't any reason forgiving Related

Context accountability criminal , reason forgiveness become relevant as elimination mechanism error someone who does action criminal , which is comprehensive explained following :

- a) Not covered answer
- b) Defense forced to go beyond limits
- c) Force

With referring to the evidence revealed in trial , yes concluded that The defendant MA has proven guilty on follow criminal persecution yan result wound heavy . This action in a way firm violates Article 351 paragraph 2 of the Criminal Code, with all over elements contained therein fulfilled . Remember situation this , the Supreme Court Defendant did not can submit reason forgiving For muffle mistakes that have been made did it . With Thus , the Supreme Court defendant is worthy For accountable in a way criminal in accordance with the provisions of Article 351 paragraph 2 of the Criminal Code regulate about persecution result wound heavy .

After research with carefully testimony and summarizing proof in context activity trial , the Panel of Judges decided For drop punishment prison for 2 years to Defendant . This decision , as reflected from chronology case , interpreted as manifestation from a sense of justice that wants enforced . Consideration The panel of judges involved

³⁴ *Ibid* , p . 12-13.

³⁵ Indonesia, Law Republic of Indonesia Criminal Code Book First Article 90

evaluation on level severity and potency threats that arise from deed crime committed by the defendant . Giving punishment This No simply as form sanctions , but rather as step educational and coaching for perpetrators . So , verdict prison for 2 years considered as balanced response to the action that occurred .

Through description above , yes justified that form from accountability from abusive actions someone who has an impact wound heavy has fulfilled , as set in Decision Number : 14/ Pid.B /2016/ PN.Bil . As a consequence , the Defendant MA with valid and convincing proven guilty , and, appropriate provision in Article 351 paragraph 2 of the Criminal Code concerning resulting abuse wound heavy , yes accountable in a way criminal on his actions

Based on this description, according to the author, in this case, the judge's decision in giving a criminal verdict against the defendant was quite fair even though it differed between the demands of the Public Prosecutor in the alternative indictment which is punishable by Article 351 paragraph (2) of the Criminal Code concerning criminal acts of abuse that result in serious injury or Article 351 paragraph (1) of the Criminal Code concerning criminal acts of abuse with a maximum prison sentence of 2 (two) years and 8 (eight) months reduced by the time the defendant is in detention with the decision of the Panel of Judges which is decided by Article 351 paragraph (2) of the Criminal Code concerning criminal acts of ill-treatment which result in serious injury with a prison sentence of 2 (two) years reduced to the time the defendant is in custody.

Even though in Article 351 paragraph (1) of the Criminal Code regarding the criminal act of abuse, it is punishable by a maximum prison sentence of 2 (two) years and 8 (eight) months, whereas in the decision of Article 351 paragraph (2) of the Criminal Code regarding the criminal act of abuse which results in serious injury, it is only a prison sentence. for 2 (two) years minus the time the defendant is in detention under the threat of imprisonment in Article 351 paragraph (1) of the Criminal Code concerning criminal acts of abuse, but is sufficient to fulfill legal and criminal objectives.

In this case, it seems that what the judge has done in the criminal decision that has been handed down is in accordance with the provisions required in Article 197 Paragraph (1) of the Criminal Procedure Code which regulates the detention status of a defendant after the judge's decision. It is known that this criminal decision was actually handed down because the judge was of the opinion that the criminal act was charged against the defendant by the public prosecutor has been legally and convincingly proven guilty and the defendant has never submitted an application to be excused from paying court costs, the defendant must also be charged with paying court costs, the amount of which will be determined in the decision in accordance with article 222 paragraph (1) and paragraph (2) Criminal Procedure Code.

CONCLUSION

1. In upholding law There is three necessary elements noticed namely : certainty law , expediency , and justice . Certainty law is protection justifiable to action arbitrary , meaning that somebody will can obtain something to hope for in circumstances certain . Completion process case shared into two methods , namely litigation and non-litigation . Litigation is the completion process things carried out through court , that is something solution things carried out with proceedings in court where the authority For organize and decide implemented by the judge. Completion process case This result all litigants each other face to face One each other for maintain his rights in advance court . Satjipto Raharjo stated that solution case through system trial that results in a verdict court is something enforcement law (law enforcement) to direction track slow . This matter because enforcement law That through distance long journey , through various level start from Police , Prosecutor's Office , District Court , High Court even until to The Supreme Court ultimately impact on accumulation number of things No little in court . Completion dispute through external processes court produce an agreement that is a " *win-win solution* " , guaranteed confidentiality disputes between the parties , avoided resulting delays Because matter procedural and administrative , complete problem in a way comprehensive in togetherness and permanence guard connection Good . The only one advantages of the non-litigation process This characteristic confidentiality , because of the trial process and even results not even the decision published . With thereby can said that room scope from solution dispute non-litigation is covers deed law or action the law can encourage people to choose solution problem the law in a way peace , because of the parties realize that choice method non-litigation is the most effective , efficient and safe for completion the dispute .
2. With referring to the evidence revealed in trial , yes concluded that The defendant MA has proven guilty on follow criminal persecution yan result wound heavy . This action in a way firm violates Article 351 paragraph 2 of the Criminal Code, with all over elements contained therein fulfilled . Remember situation this , the Supreme Court Defendant did not can submit reason forgiving For muffle mistakes that have been made did it . With Thus , the Supreme Court defendant is worthy For accountable in a way criminal in accordance with the provisions of Article 351 paragraph 2 of the Criminal Code regulate about persecution result wound heavy . After research with carefully testimony and summarizing proof in context activity trial , the Panel of Judges decided For drop punishment prison for 2 years to Defendant . This decision , as reflected from chronology case , interpreted as manifestation from a sense of justice that wants enforced . Consideration The panel of judges involved evaluation on level severity and potency threats that arise from deed crime committed by the defendant . Giving punishment This No simply as form sanctions , but rather as step educational and coaching for perpetrators . So , verdict prison for 2 years considered as balanced response to the action that occurred .

Suggestion

1. Rule *restorative justice* must made in one paying the same law To use avoid deviant policies draft restorative justice teachings as well spirit justice restorative must strengthened in product Constitution Good in law formal nor law material as well as substance in rule legislation the arrange limitation threat criminal maximum and magnitude loss consequence follow criminal in nature casuistry depends type and category follow criminal Good follow criminal related treasure objects , related body and life , as well to follow resulting crime Because negligence .
2. Accountability criminal to perpetrator follow criminal persecution expected can held in a way appropriate with browse in a way direct is element accountability criminal can fulfilled or no , so the legal process can next to stage next , Judge in disconnect case must notice penalty criminal For increase more punishment heavy to perpetrator follow criminal persecution with consider various causal aspect emergence persecution . This is very important implemented for sanctions the sentence imposed to defendant truly fair and expected can reduce action persecution in Indonesia.

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