

The Criminal Responsibility or Sending Fictive Packages with Cash on Delivery Payment Method to Victims

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Abstract. *This study aims to analyze the Causal Factors and Legal Handling Mechanisms in cases of sending fictitious packages with the Cash on Delivery payment method, with reference to Law No. Article 378 of the Criminal Code concerning fraud, Law No. 19 of 2016 concerning Information and Electronic Transactions (UU ITE), and Law No. 27 of 2022 concerning Personal Data Protection (UU PDP). With the development of the era and technological advances, the phenomenon of fraud through sending fake packages with the Cash on Delivery payment method has become one form of crime that is increasingly rampant in various regions. This modus operandi is carried out by the perpetrator by sending goods that were never ordered by the victim. Although there are related regulations, the sending of fake packages continues to occur. This study uses a normative juridical method that analyzes theories, concepts, legal principles, and relevant regulations. The findings of this study conclude that criminals exploit weaknesses in the system, such as personal data leaks, minimal identity verification, and lack of digital literacy among consumers in purchasing goods online, therefore Handling this phenomenon requires collaboration between e-commerce parties, consumers, and law enforcement officers.*

Keywords: *Cash; Delivery; Fraud; Theft.*

1. Introduction

Humans as social beings or often called zoon politicon, are entities that cannot live alone without help or interaction with other humans. This tendency has become a fundamental characteristic in human life since ancient times. As social beings, humans have a bond with each other to fulfill their life needs, be it basic needs such as food, clothing, and shelter, or needs that are social, emotional, or spiritual, because they have different needs that are the main factors for humans, then in primitive times they

made agreements by means of Barter Trade.¹To meet their living needs, every trading activity basically involves interaction between two main parties, namely sellers and buyers. The seller acts as a party that offers goods or services to consumers, both on a small scale such as traditional traders and on a large scale such as retail companies or e-commerce platforms. On the other hand, buyers are parties who need the goods or services to meet their needs or desires.²In Article 1457 of the Civil Code (hereinafter referred to as the Civil Code), a sales and purchase agreement is an agreement in which the seller commits to hand over the rights to goods to the buyer, who is obliged to pay the price of the goods.³

In the development of modern times, technology has an important impact on the way of life of humans. Current technology is increasingly advanced, allowing easier access to information and the latest news. This development does not only occur in print media, but also in Electronic Shopping which is hereinafter referred to as (E Commerce). The Internet, supported by technological advances, has proven to be an efficient and effective means, facilitating access to information anytime and anywhere.⁴With the development of technology in society, many entrepreneurs can easily sell their goods or services to attract customers.⁵As for the business world continues to experience rapid development, one of which is marked by progress in the field of trade which is now known as e-commerce or electronic commerce. e-commerce refers to the activity of buying and selling goods, services, or exchanging information through electronic media, especially using internet technology. In other words, e-commerce is the integration of digital technology into traditional trading systems, which allows interaction between sellers and buyers to occur without geographical and time limitations.⁶As for the definition of E-Commerce is different from the term Marketplace. E-commerce refers to all types of transactions carried out through electronic media. Meanwhile, Marketplace is one of the models of E-Commerce that functions as an intermediary between sellers and buyers. Examples include Shopee, Tokopedia, Lazada, Blibli, Bukalapak, and others. E-Commerce has several popular payment methods, namely: E-wallet or electronic wallet, Virtual

¹Putu S Mahardika & Dewa G Rudy, Responsibilities of Online Store Owners in Online Buying and Selling (E-commerce) Reviewed Based on Consumer Protection Law, (Journal of Legal Studies, Vol. 2, No. 5), Faculty of Law-Udayana University, p. 2-3

² Andrian, P., (Patilus Andreant, 2024)Berlianty, T., & Kuahaty, SS (2024). Responsibilities of Business Actors in Sales Using Fake Orders in Online Buying and Selling. PATTIMURA Law Study Review, 2(1), p. 116

³Puteri Asyifa Octavia Apandy et al., (Puteri Asyifa Octavia Apandy, 2021), Faculty of Sharia, Bandung Islamic University, Vol. 3. No. 1. July 2021, p. 14.

⁴Cholik, Cecep A. "The Development of Information Communication Technology / ICT in Various Fields." Journal of the Faculty of Engineering, UNISA Kuningan, vol. 2, no. 2, 2021, p. 39-40

⁵Budiarto, R., Putero, SH, Suyatna, H., Astuti, P., Saptoadi, H., Ridwan, MM, & Susilo, B. (2018). Development of MSMEs between conceptual and practical experience. Ugm Press. p. 72

⁶<https://www.djkn.kemenkeu.go.id/kpknl-palembang/baca-artikel/15814/Meutilkan-E-Commerce-dengan-Benar.html> Accessed November 8, 2024

account, Direct debit, Transfer, Paylater, Credit card, COD or cash on delivery, Cash retail.⁷

The Cash On Delivery payment system is one of the most frequently used payment methods by people in buying and selling transactions, especially in online shopping. Simply put, Cash On Delivery is defined as a payment method where buyers make payments in cash when the order has arrived at the destination location. In this process, payments are not made directly to the seller, but through intermediaries, namely couriers or delivery services that deliver the goods to the buyer. The main purpose of implementing the Cash on Delivery payment system is to provide a more flexible and inclusive payment alternative, so that it can reach various groups of people, including those who are not yet accustomed to using digital technology in daily transactions. Thus, this method also contributes to the growth of the digital economy, especially in areas that still have limited access to modern financial infrastructure.⁸ Because the Cash On Delivery payment system is the one most often used for payments by the public, the Cash On Delivery system is also often used by sellers for fraud attempts, especially in the context of sending fictitious packages.

Along with the development of the times and technological advances, the phenomenon of fraud through sending fictitious packages with the Cash on Delivery payment method has become one form of crime that is increasingly rampant in various regions. This modus operandi is carried out by the perpetrator by sending goods that were never ordered by the victim, utilizing the Cash on Delivery system which requires the recipient to pay a certain amount of money to the courier before knowing the contents of the package. As a result, victims who do not feel like they have made an order are trapped and forced to pay for goods that they do not actually need or ask for.

In practice, this fraud often results in material losses for the victim. One example was experienced by a TikTok content creator named Putri Ayu Febrianti. Through her TikTok account @putri_paf22, she shared her experience of receiving a fake package paid for by her family because she was not at home. The package contained a used small bag that did not match the price paid, which was IDR 107,000. Putri also revealed that after trying to trace the seller's identity through the phone number or store information available, she did not find any clues, making it difficult to report the incident.

A similar case was also revealed by an account user X named @Nerokumaaa. In his upload, he said that his mother received a number of items that were never ordered through an e-commerce platform. One of the items received was socks priced at IDR 60,000. Furthermore, he shared photos of the mysterious items that included the logo

⁷<https://money.kompas.com/read/2024/01/04/150109026/8-method-bayaran-paling-popular-di-e-commerce?page=all> Accessed November 8, 2024

⁸Rokfa, AA, Tanda, ARP, Anugraheni, AD, & Kristanti, WA (2022). Settlement of Disputes in Cash on Delivery (COD) Payment Systems on E-Commerce Media. *Jurnal Bina Mulia Hukum*, 6(2), 161-173, p. 162

of an e-commerce platform. After speaking with the courier who delivered the package, he learned that there were 13 similar packages received by his mother. This shows how organized the fraud mode is.

This phenomenon raises serious concerns because in addition to harming consumers financially, this practice also has the potential to damage public trust in online shopping systems, especially those using the COD method. In this case, the role of e-commerce platforms is very important to improve security and ensure a stricter verification process for sellers who use their services. In addition, consumers are expected to be more vigilant, always recheck information related to orders, and do not hesitate to refuse to accept packages that they did not order. Preventive measures and consumer education are key to minimizing the impact of this type of fraud.

Therefore, the author will analyze the factors causing the rampant practice of sending fake packages using the Cash On Delivery method in e-commerce transactions and the mechanism for handling fraud cases in the form of sending fake packages using the Cash On Delivery method in e-commerce transactions. The results of this study are expected to contribute to the development of legal science.

2. Research Methods

In this study, the author adopts the Normative Juridical Research method, which is a legal research approach that emphasizes the analysis of library materials or secondary sources. This method focuses on the study of laws and regulations, legal doctrines, court decisions, and other literature or scientific works that are relevant to the legal problems being studied. This study does not involve factual or social elements that are directly related to the application of law in people's lives.

The main objective of normative legal research is to understand, describe, and explain in depth the content, meaning, and implementation of legal norms in the applicable legal system. With this approach, the author aims to provide a clearer picture of the legal basis that regulates certain problems, as well as to evaluate the effectiveness and consistency of its application in the field.⁹

This study adopts a Conceptual Approach that begins with an in-depth study of the basic concepts and doctrines recognized in legal science. This approach relies on the evolving legal views and legal theories that form the basis for formulating criminal regulations, such as the doctrine of consumer rights protection and the principles of personal data protection. Through the use of established legal literature and academic theories, the main objective of this approach is to provide a deeper perspective that can be used as a basis for analyzing and resolving existing legal problems, especially those related to technology-based crimes.

⁹Soejono Soekanto and Sri Mamudji "Normative legal research: a brief review", ed.1, 1st edition
10. Jakarta: Raja Grafindo Persada, 2007, p. 13

In addition, this study also applies the Statute Approach. This approach is used to examine various laws and regulations relevant to the crime of fraud and personal data protection. This review process includes an analysis of the legal provisions contained in the Criminal Code (KUHP), the Electronic Information and Transactions Law (UU ITE), and the Consumer Protection Law. Through this approach, the study aims to understand how legal norms are formulated and implemented to provide effective legal protection, while also assessing whether there are legal gaps that allow the development of these crimes.¹⁰

3. Results and Discussion

3.1. Factors Causing the Rampant Practice of Sending Fictitious Packages Using the Cash On Delivery Method in E-Commerce Transactions

In the increasingly developing digital era, e-commerce transactions have become the main choice for people to meet their daily needs. The existence of a Cash on Delivery (COD) payment system in e-commerce transactions, which allows consumers to pay for goods when receiving the package, provides convenience and a sense of security for buyers. However, this convenience actually opens up loopholes for criminals to carry out fraudulent practices, one of which is sending fictitious packages. This mode is increasingly common along with the high number of e-commerce users who do not fully understand the risks behind the COD method, which exploits loopholes in the payment system that allows buyers to pay for goods when receiving the package. However, in reality, the contents of the package are not as promised, but are fictitious. This phenomenon is detrimental to consumers and causes unrest in the digital trade ecosystem.

The act of sending fake packages that harm consumers in e-commerce transactions can be categorized as a criminal act of fraud. This is regulated in Article 378 of the Criminal Code (KUHP) which states that anyone who commits fraud by means of trickery, using a fake name or identity, or a series of lies to benefit themselves unlawfully, can be subject to a maximum prison sentence of four years. This provision is the main legal basis for prosecuting perpetrators of sending fake packages.¹¹

Fraudulent package senders often exploit leaks of consumers' personal data as a basis for carrying out their fraudulent actions. The leaked data, which is usually obtained from previous transactions on e-commerce platforms, is then used to send random goods to consumers with the Cash on Delivery (COD) payment method. In this case, consumers who receive the goods have never placed an order and are surprised when they are asked to pay for goods they do not want. This type of fraud case has been in the public spotlight, as revealed in a public

¹⁰BOOKS, I. Amiruddin and H. Zainal Asikin., Introduction to Legal Research Methods. (Amiruddin, 2004), op. cit., p. 167

¹¹ Sudin, PP, Magdalena, R., Priowirjanto, ES, & Soeikromo, D. (2022). Abuse of Instagram Accounts Regarding Online Buying and Buying Fraud Review of The ITE Law and Article 378 KUHP Concerning Frau. Journal of Education, Humaniora and Social Sciences (JEHSS), 5(1), 20-26.

upload on social media X. A victim shared his bad experience, where the victim received a package containing goods that he had never ordered through e-commerce, with the contents of the package being socks worth IDR 60,000. This experience was widely shared on social media, gaining public attention with more than 9,800 shares.¹²

The spread of this case through social media has a major impact on public awareness of the potential risk of personal data leaks in e-commerce transactions. Personal data leaks, which are one of the main factors in this fake package delivery fraud, also show the need for stricter policies in terms of personal data protection. The perpetrators of fake package delivery by stealing consumers' personal data violate the provisions of Article 65 paragraph (1) and (3) in conjunction with Article 67 paragraph (1) and (3) of the PDP Law. Everyone is prohibited from unlawfully obtaining or collecting personal data that does not belong to them with the intention of benefiting themselves or others, which can result in losses for the subject of personal data. If they violate these provisions, the perpetrator can be punished with a maximum imprisonment of 5 years and/or a maximum fine of IDR 5 billion. In addition, everyone is also prohibited from using personal data that does not belong to them unlawfully, with the same criminal sanctions, namely a maximum imprisonment of 5 years and/or a fine of up to IDR 5 billion. Not only that, perpetrators who violate these provisions can also be subject to additional penalties in the form of confiscation of profits or assets obtained from the crime, and are required to pay compensation to the injured party.¹³

Another factor in fake package delivery fraud is caused by the low level of identity verification between buyers and sellers in e-commerce transactions, allowing fraudsters to use fake identities. This makes it difficult for authorities to track perpetrators after the fraud occurs, because perpetrators can easily create new accounts and continue their actions without being detected. To overcome this, implementing two-factor verification on every transaction involving consumer personal data is very important.¹⁴ Furthermore, the lack of consumer education and awareness regarding the risks of e-commerce transactions using the COD method has worsened the situation. Many consumers, especially in areas with low digital penetration, tend to be less careful when making transactions. Consumers are easily tempted by cheap price promotions and do not conduct further checks regarding the authenticity of the

¹²Kompas. (2021). Viral, Story of Victim of Fictitious COD Package Fraud, Lazada. https://www.kompas.com/tren/read/2021/10/19/120000765/viral-cerita-korban-penipuan-paket-cod-fiktif-ini-tanggapan-lazada#google_vignette (December 13, 2024)

¹³ Al-Ghifari, MG (2023). Sanctions for criminal acts of theft of KOMINFO databases according to PDP Law number 27 of 2022 articles 1-3 from the perspective of Islamic Criminal Law (Doctoral dissertation, UIN Sunan Gunung Djati Bandung).

¹⁴ Septiriani, V., Sofyan, T., & Rosari, WN (2024). Business Actors' Responsibilities for Leakage of Consumer Personal Data Information in the Implementation of Electronic Commerce (E-Commerce). *Kutei Scientific Journal*, 23(1), 127-136.

seller or the products offered. This lack of knowledge is exploited by perpetrators to send fictitious goods or products that are not appropriate.¹⁵

Thus, the rampant delivery of fake packages through the COD method in e-commerce transactions is caused by various factors, such as personal data leaks, weak identity verification and low consumer education. Fraudsters always have a variety of increasingly sophisticated modus operandi, utilizing digital platforms that are difficult to detect directly. This provides an opportunity for perpetrators to develop fraud methods that may never have been imagined by the general public. In general, this crime is not created directly by the victim, but is triggered by certain conditions or situations that encourage the perpetrator to commit a crime.¹⁶

In this context, it can be concluded that the existence of the victim is inseparable from the crime itself. In other words, the victim is the main participant who has an important role in the process of resolving the fictitious package fraud of e-commerce transactions. Online fraud is usually carried out with several modes that aim to deceive consumers to feel safe and trust. One common mode is that the perpetrator tries to make consumers trust first, usually by building a good image or reputation through an e-commerce site. Not infrequently, the price offered is very cheap and much lower than the market price, which makes consumers tempted to immediately make a transaction. This mode is often used with fake proof of delivery, which further convinces the victim that the transaction is legitimate and safe, even though in reality the goods sent are not as promised.¹⁷

3.2. Mechanism for Handling Fraud Cases in the Form of Fictitious Package Delivery with the Cash On Delivery Method in E-Commerce Transactions

In recent years, e-commerce has become one of the main ways for people to shop, providing convenience and comfort for consumers. However, along with the increase in online transactions, various risks have also emerged, one of which is fraud through fake package delivery with the Cash on Delivery (COD) method. This crime occurs when the perpetrator sends goods that do not match those ordered by the consumer or the consumer receives a fake package delivery even though they did not order it, but the consumer is still asked to pay when the package is received. This type of fraud not only harms consumers, but can also damage the reputation of the e-commerce platform and reduce the level of public trust in online transactions. Therefore, it is important to understand the mechanism for handling this fraud case so that appropriate preventive and resolution measures can be implemented.

¹⁵ Perwira, RAS, & Rosando, AF (2022). Legal Protection for Couriers When Buyers Do Not Make Payments on the COD (Cash On Order) System. *Socialite*, 1(1), 22-37.

¹⁶ Fadhila, AP (2021). Criminological Review of Ecommerce Fraud Acts Based on Legislation During the Covid19 Pandemic in Indonesia. *Suara Hukum Journal*, 3(2), 274-299.

¹⁷Ibid.

As happened in the case of a victim of a package delivery fraud with the Cash on Delivery (COD) method, who recently shared her mother's experience on social media via the account @Nerokumaaa. The victim revealed that this fraud took advantage of an e-commerce data leak that occurred some time ago. With this data, the fraudster sent unreasonable items, such as cheap items in large quantities or items with high prices that were never ordered by the victim. The victim received a shipment of items that were not ordered, such as socks for Rp. 60,000. The victim even shared photos of the mysterious items received, which appeared to be from Lazada, because there was a Lazada logo on the packaging. After communicating with the courier delivering the package, the victim learned that the courier had sent 13 similar packages to her mother. Responding to the problems circulating on social media, the e-commerce Lazada through its spokesperson, Farid Suharjo, explained that Lazada had investigated this case seriously. Farid stated that Lazada would follow up on actions that violated their platform's terms, and would immediately sanction stores by deactivating the accounts of sellers or customers who were suspected of violating them. In addition, Farid also appealed to consumers to reject packages that were not ordered, as a further preventive measure against similar fraud.¹⁸

Based on the case, the act of fraudulent fake packages carried out through an e-commerce platform, the perpetrator can be charged with Law No. 19 of 2016 concerning Information and Electronic Transactions (UU ITE). Article 28 paragraph (1) of the ITE Law states that anyone who intentionally spreads false or misleading information that is detrimental to consumers in electronic transactions can be punished with a maximum prison sentence of six years and/or a maximum fine of IDR 1 billion. This provision broadens the scope of criminal liability, especially in cases involving digital technology.¹⁹

Therefore, victims of fake package fraud that occurs through the Cash on Delivery (COD) method can report the incident to the police by following several clear and systematic steps. First, victims can go to the nearest police station, such as Polsek, Polres, Polda, or even Mabes Polri, according to the location of their residence or the scene of the crime. After that, victims can look for the SPKT (Integrated Police Service Center) section to start the reporting process.²⁰ Next, the victim must convey the purpose and objective of their visit, namely to report the fraud they experienced. After that, the victim will be asked to fill out the police report form provided. In the form, the victim is required to explain the chronology of the incident in detail, including the time, place, and actions taken by the perpetrator. If the victim has evidence to support the report, such as photos of the goods received or conversations

¹⁸CNN Indonesia. Lazada Clarifies COD Fraud on Its Platform. <https://www.cnnindonesia.com/technology/20211022112754-206-710884/lazada-klarifikasi-soal-penipuan-cod-di-platformnya>. (December 14, 2024)

¹⁹ Dzulkifli, Dzulkifli. Legal Review of Online Fictitious Arisan Crimes in the Application of Article 28 Paragraph (1) in conjunction with Article 45A Paragraph (1) of the ITE Law (Case Study of Decision Number 1621/Pid. Sus/2022/PN Sby). Diss. Bhayangkara University Surabaya, 2023.

²⁰ Rantesalu, H. (2022). Combating Online Shopping Fraud Crimes in the East Java Regional Police Area. *Janaloka*, 1(2), 70-94.

with the seller, the evidence must be submitted to the officer. Finally, after the report is completed, the victim will receive a receipt for the police report as proof that the report has been received and is being processed. These steps will make it easier for the police to conduct further investigations into the fraud case experienced by the victim.²¹

Victims of fake package fraud who have reported to the police will undergo an investigation procedure in accordance with the mechanism stipulated by Perkapolri No. 6/2019. After the investigation warrant is issued, the first step is to prepare a Notification Letter of Commencement of Investigation (SPDP), which is then sent to the public prosecutor, the reporter or victim, and the reported party within a maximum of 7 days after the warrant is issued. If the investigator determines a suspect after more than 7 days, a notification letter of suspect determination along with the previous SPDP will be sent. Furthermore, if within 30 days the case files have not been submitted to the public prosecutor, the investigator is required to provide notification of the progress of the case by attaching the SPDP.²² Before the investigation process begins, investigators are also required to prepare an investigation plan that must be submitted to the investigator's superior in a hierarchical manner. By following this investigation procedure, it is hoped that the legal process can run smoothly and in accordance with applicable provisions, so that justice can be upheld for victims of fraud.²³

As a step to overcome and protect victims of fake package delivery fraud using the Cash on Delivery (COD) method, it is important for all parties to understand the applicable reporting and investigation procedures. By following the correct reporting mechanism at the police and investigations in accordance with regulations, it is hoped that fraud cases can be investigated immediately. In addition, the public also needs to be more aware of the risks that arise in e-commerce transactions and increase awareness of the importance of protecting personal data and using adequate security systems. These steps not only provide a sense of security for consumers, but also maintain the integrity and trust in the ever-evolving digital trading system.

4. Conclusion

Fake package delivery fraud using the Cash on Delivery (COD) method is a significant threat in rapidly growing e-commerce transactions. This mode not only causes financial losses for consumers, but also creates a negative impact on the reputation of e-commerce platforms and reduces public trust in digital transactions. Criminals exploit weaknesses in the system, such as personal data leaks, minimal identity verification, and lack of digital literacy among consumers. From a legal perspective, this action can be processed under Article 378 of the Criminal Code

²¹Indonesian Police Public Relations. Procedure for Reporting Criminal Acts. <https://mediahub.polri.go.id/image/detail/23224-prosedur-melaporkan-tindak-pidana>. (December 15, 2024)

²² Saputra, T., & Hutagalung, JM (2022). The Importance of a Letter of Notification of Commencement of Investigation (Spdp) for the Parties in Order to Create Due Process of Law. *Iblam Law Review*, 2(2), 1-16.

²³ Afrizal, R. (2020). Strengthening the Criminal Justice System Through the Obligation to Submit a Notification Letter of Commencement of Investigation. *Judicial Journal*, 13(3), 391-408.

concerning fraud, Law No. 19 of 2016 concerning Information and Electronic Transactions (UU ITE), and Law No. 27 of 2022 concerning Personal Data Protection (UU PDP). The penalties imposed include imprisonment of up to six years, a fine of up to IDR 5 billion, and additional sanctions in the form of confiscation of illegally obtained profits. Handling this phenomenon requires collaboration between e-commerce parties, consumers, and law enforcement. E-commerce platforms must improve system security, tighten user identity verification, and adopt reliable data protection technology. Consumers need to be more vigilant in making transactions, especially with the COD method, and immediately report suspicious incidents to the authorities. Law enforcement officers must also carry out the reporting and investigation process professionally in accordance with the provisions of Perkapolri No. 6/2019 to ensure justice for victims. In addition, efforts need to be made to increase digital literacy in the community so that they better understand the risks of online transactions and the importance of protecting personal data. Strengthening data protection policies and e-commerce system security must also continue to be carried out to create a safer, more transparent, and more sustainable digital trading ecosystem for all parties involved.

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