

Analysis of Judge's Decisions Regarding Fraud Crimes in the City of Semarang (Study Decision Number 495/Pid.B/2021/PN Smg)

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Abstract. *This article is entitled "Analysis of the Judge's Decision Concerning the Crime of Fraud in the City of Semarang" (Decision Study Number 495/Pid.B/2021/PN. Smg) with background Indonesia is a country that upholds the law. Realizing the goals of the Indonesian State is not as easy as turning the palm of your hand because there are many problems that must be faced, especially legal problems. Basically, law is something abstract, giving rise to different perceptions about the meaning of law depending on the angle from which they view it, especially law enforcement officials as parties who implement statutory regulations, causing errors to often occur in interpreting criminal acts, especially criminal cases. The problems in this research are: What is the analysis of the application of material criminal law to criminal acts of fraud in Decision Number 495/Pid.B/2021/PN Smg? How is the analysis of the judge's consideration in handing down a decision regarding the criminal act of fraud in Decision Number 495/Pid.B/2021/PN Smg, is it in accordance with formal criminal law and material law? This research aims to know, study and analyze the application of material criminal law to criminal acts of internal fraud Decision Number 495/Pid.B/2021/PN Smg, as well as to find out, study and analyze the suitability between legal considerations in handing down a decision regarding the criminal act of fraud in decision Number 495/Pid.B/ 2021/PN Smg with formal criminal law and material criminal law. This research uses a normative juridical approach, namely an approach that explains a statement that exists in the field based on legal principles, legal rules, or applicable legislation and is related to the problem being studied. with descriptive analysis specifications. Data was obtained using literature study and processing of Decision Documents. The data was then analyzed qualitatively. The results of this research are (1) Decision number: 495/Pid.B/2021/PN.SMG is in accordance with the criminal provisions in the Criminal Code, namely article 378 of the Criminal Code, namely the crime of Fraud and Law Number 8 of 1981 concerning The Criminal Procedure Law and*

other relevant laws and regulations and the Public Prosecutor's demands are in accordance with the alleged articles and the facts revealed at the trial. (2) The judge's decision has an inkraht decision (having permanent legal force), which has described carefully, clearly and completely both the identity of the defendant and the description of the actions committed by the defendant and is accompanied by the time and date of the action and the place of the action.

Keywords: Criminal; Decision; Fraud; Judge.

1. Introduction

Indonesia is a country that upholds the law. Law is the highest power to regulate society and can be used as a coercive tool for someone who has violated the law. Law is a series of regulations regarding human behavior as members of society, while the aim of law is to establish order, safety, security and tranquility in society. According to Frans Magnis-Suseno, legal norms are a collection of norms of human behavior in society whose implementation can be demanded and whose violations are dealt with decisively by the government.¹

In realizing the goals of the Indonesian State as stated in the 1945 Constitution, it is not easy to turn one's hand because there are many problems that must be faced, especially legal problems. The consequence of Indonesia's rule of law is that every attitude, policy and behavior of the state apparatus and the population must be based on law while preventing arbitrariness and arrogance of power, whether carried out by the state apparatus or the population.²

Equality before the law is one of the important principles in modern law, where it is one of the cornerstones of the Rule of Law doctrine in developing countries like Indonesia, so that this principle is used as a basis for every human being in enforcing the law.³

The law provides protection for human interests which regulates all relationships between individuals, individuals and groups, and individuals and the government. Legal provisions are made to avoid disputes that arise in society. By

¹Muhamad Erwin, (2016), *Legal Philosophy: Critical Reflections on Indonesian Law and Jurisprudence (in the Dimensions of Ideas and Applications)*, Jakarta: PT Raja Grafindo Persada, p. 146.

²Achmad Sulchan, (2016), *General Election Criminal Cases Worthy of Justice*, Semarang: SINT Publishing, p. 1.

³Muhammad Dani Hamzah, "Law Enforcement in Cases of Criminal Traffic Accidents Which Cause the Loss of People's Lives", *Journal of Sovereign Law* Vol 1 No 1 (2018) p.43, url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/2563/1920> accessed 28 August 2023

establishing legal norms, it is clear what actions may or may not be carried out in society, thereby creating order in society.⁴

The definition of law is: "A set of rules or measures arranged in a system that determines what humans can and cannot do as citizens in social life. "This law originates both from the community itself and from other sources that are recognized as valid by the highest authority in that community, and are actually enforced by the citizens of the community as a whole in their lives for the highest authority to impose sanctions that are external in nature."⁵

A criminal act itself is an act that is prohibited by a rule of law, a prohibition which is accompanied by threats (sanctions) in the form of certain penalties for anyone who violates the prohibition. Criminal acts are a basic definition in criminal law (normative juridical). Crimes or evil acts can be interpreted juridically or criminologically. Crimes or evil acts in the normative juridical sense are acts as manifested in the abstract in criminal regulations, while crimes in the criminological sense are human acts that violate concrete norms living in society. Criminal acts whose implications have an impact on the truth and trust of people are aimed at obtaining benefits for themselves. To prove forgery or fraud in the perpetrator's actions.⁶

Protection of society arises because of the existence of legal norms that require everyone to behave in such a way and if these norms are violated, those who violate them will be subject to sanctions.⁷

The sociological basis is that the defendant in this case is named Agung Priyono bin Bambang Sutahar, who on Wednesday 17 June 2020 or at least in 2020 was located at the Peradi Perjuangan DPD Office, Central Java, Semarang. With the intention of benefiting himself or another person unlawfully, by using a false name or false deception, by using deceit or a series of lies to encourage another person to give something⁸

The problems in this research are (1) How is the analysis of the application of material criminal law to criminal acts of fraud in Decision Number 495/Pid.B/2021/PN Smg? (2) How is the analysis of the judge's consideration in handing down a decision regarding the criminal act of fraud in Decision Number

⁴Sudikno Mertokusumo, (2005), *Understanding Law as an Introduction*, Yogyakarta: Liberty, p. 1.

⁵Achmad Ali, (2008), *Revealing the Veil of Law*, Bogor: Ghalia Indonesia, p. 30.

⁶Eko Adi Susanto, "Criminal Liability for Using Fake Documents in View of Article 263 Paragraph (2) of the Criminal Code", *Journal of Daulat Hukum* Vol 1 No 1 (2018) p.1, url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/2558/1916> accessed 28 August 2023

⁷Retnowulan Sutanto, (2002), *Civil Procedure Law in Theory and Practice*, Bandung: Mandar Maju, p. 5.

⁸Decision Number 495/Pid.B/2021/PN Smg.

495/Pid.B/2021/PN Smg, in accordance with formal criminal law and material law?

The objectives of this research are (1) Forknow, study and analyze the application of material criminal law to criminal acts of internal fraud Decision Number 495/Pid.B/2021/PN Smg. (2) To find out, study and analyze the suitability between legal considerations in making decisions regarding criminal acts of fraud in decision Number 495/Pid.B/ 2021/PN Smg with formal criminal law and material criminal law.

Theoretically, this research is useful (1) for legal science, that is, it is useful for developing legal knowledge by providing input and contributing ideas, especially to Indonesian criminal law regarding cases of criminal acts of fraud. (2) For academics, this research is expected to increase students' knowledge as reference and reading material, as well as to understand the impacts caused by criminal acts of fraud. Practically, this research is useful (1) for the community, namely it can provide information to the public so that they do not commit criminal acts of fraud because there are many problems and detrimental impacts on themselves and others. (2) For religious figures, this can be very valuable input for some religious figures to provide advice to the public not to engage in fraudulent behavior. (3) For the Government, this research is to provide policies in the form of regulations that can become a legal umbrella that protects victims and provides sanctions for perpetrators of criminal acts of fraud.

2. Research Methods

The specifications of this research are analytical descriptive, which reveal the legal regulations relating to legal theories which are the object of research and to obtain a complete picture of the legal situation or legal events on a particular object⁹, as well as juridical phenomena that occur in society, especially regarding criminal act of fraud. The type and source of data used is data collection obtained from library research supported by field research. Library research is collecting data by reviewing library materials or secondary data which includes primary legal materials and secondary legal materials.¹⁰ The legal materials used in this research are (1) Primary Legal Materials, namely binding legal materials. (2) Secondary Legal Materials are legal materials that provide explanations regarding primary legal materials, such as: research results and scientific works from legal circles, as well as journals relating to the Analysis of Judges' Decisions Concerning the Crime of Fraud in the City of Semarang (Case Study Decision

⁹Soerjono Soekanto and Sri Mamudji, (2004), Normative Legal Research A Brief Overview, eighth printing, Jakarta: Sinar Graphics, p. 24.

¹⁰Soerjono Soekanto and Sri Mamudji, (1995), Normative Legal Research A Brief Overview, Jakarta: Rajawali Press, p. 39.

Number 495/Pid.B/2021/PN Smg).

3. Results and Discussion

3.1. Analysis of the Application of Material Criminal Law to Fraud Crimes in Decision Number: 495/Pid.B/2021/PN.Smg

1. Case Position

Based on decision Number: 495/Pid.B/2021/PN.Smg regarding a case regarding the Crime of Fraud. The defendant in this case is named Agung Priyono Bin Bambang Sutahar, who on Wednesday 17 June 2020 or at least in 2020 was located at the Peradi Perjuangan DPD Office, Central Java, Semarang. With the intention of benefiting himself or another person unlawfully, by using a false name or false deception, by using deceit or a series of lies to encourage another person to give an item, which the defendant did in the following way (1) That initially around March 4 2020 the defendant Agung Priyono Bin Bambang Sutahar, who claimed to be named I Kadek Dwi Setiawan, sent a message via Instagram to witness Galuh Lintang and admitted that he worked as a supervising advocate at the DPD Peradi Perjuangan Jateng office in Semarang. After getting acquainted via Instagram, they exchanged cellphone numbers, then agreed to continue the conversation via WA. Around June 10 2020, I Kadek Dwi Setiawan via WA message offered the witness information about a toll lane ASN locker as a Primary Expert Computer Officer for the Ministry of Law and Human Rights for 2020 with an initial fee of 150,000,000 (one hundred and fifty million rupiah). That at that time the defendant told witness Galuh Lintang via telephone "Luh, here's the info on toll road civil servant job vacancies, (2) That as a completeness for registration, apart from IDR 100,000,000.00 (one hundred million rupiah), witness Galuh also submitted a legalized photocopy of the family card; Photocopy of ID card; original SKCK; Legalized photocopy of diploma and score list; Color photos 2x3 6 sheets, 3x4 6 sheets, 4x6 6 sheets; The KEMENKUMHAM CPNS registration letter. All of these were submitted at the DPD Peradi Perjuangan Jateng Office in Semarang on June 17 2020. While at the DPD Jateng Peradi Perjuangan Office Semarang City, the defendant once said "if anything happens I am ready to be put in prison and ready to return the money ." (3) Then on Wednesday 25 June 2020, the defendant came to the house of witness Galuh Lintang at Perum Korpri Tanjungsari Rt 02/08 Kel. Tanjungsari Kajen District. Pekalongan to borrow IDR 50,000,000,

2. Public Prosecutor's demands

The public prosecutor's demands essentially asked the panel of judges to decide: (1) Declare that the defendant Agung Priyono Bin Bambang Sutahar has been legally and convincingly proven guilty of committing the crime of "fraud" as

regulated and punishable in the First Indictment Article 378 of the Criminal Code; (2) Sentenced the defendant Agung Priyono Bin Bambang Sutahar to a prison sentence of 1 (one) year and 6 (six) months in prison minus the time the defendant was in custody with an order to remain detained; (3) Declare evidence in the form of 1 (one) sheet of Agreement Letter number: 001/DPDPERADI/2020 with a stamp; 1 (one) sheet of Letter of Receipt of Report of Loss of Letters and Goods number: STPL-C/2880/1X/2020/Sek Densel dated 14 September 2020; 1 (one) letter containing the Ministry of Law and Human Rights CPNS registration with a stamp; 1 (one) sheet of Police Record Certificate (SKCK) in the name of Galuh Lintang Sari; 1 (one) sheet of Agreement Letter No: 001/DPDPERADI/2020, dated 17 June 2020, stamped; 2 (two) pieces of Decree of the Minister of Law and Human Rights Number: AHU-0000249.AH.01.08 OF 2020 concerning Approval of Changes to the Legal Entity of the Indonesian Struggle Advisor Association, stipulated in Jakarta on March 12 2020. Confiscated for destruction; (4) Determine that the defendant pay court costs of IDR 2000.00 (two thousand rupiah). 17 June 2020 with the stamp; 2 (two) pieces of Decree of the Minister of Law and Human Rights Number: AHU-0000249.AH.01.08 OF 2020 concerning Approval of Changes to the Legal Entity of the Indonesian Struggle Advisor Association, stipulated in Jakarta on March 12 2020. Confiscated for destruction; (4) Determine that the defendant pay court costs of IDR 2000.00 (two thousand rupiah). 17 June 2020 with the stamp; 2 (two) pieces of Decree of the Minister of Law and Human Rights Number: AHU-0000249.AH.01.08 OF 2020 concerning Approval of Changes to the Legal Entity of the Indonesian Struggle Advisor Association, stipulated in Jakarta on March 12 2020. Confiscated for destruction; (4) Determine that the defendant pay court costs of IDR 2000.00 (two thousand rupiah).

3. Announcement of Decision

The ruling in case Number: 495/Pid.B/2021/PN.Smg is as follows:

JUDGE

(1) Declare that the defendant Agung Priyono Bin Bambang Sutahar has been legally and convincingly proven guilty of committing the crime of 'fraud' as in the First indictment;

(2) Sentencing the Defendant to imprisonment for 1 (one) year and 3 (three) months;

(3) Determining that the period of arrest and detention that the Defendant has served shall be deducted entirely from the sentence imposed; (4) Order the Defendant to remain detained; (5) Determine as evidence 1 (one) sheet of Agreement Letter number: 001/DPDPERADI2020 with stamp; 1 (one) sheet of

Receipt of Report on Loss of Letters and Goods number: STPL-C/2880/1X/2020/Sek Densel dated 14 September 2020; 1 (one) letter containing the Ministry of Law and Human Rights CPNS registration with a stamp; 1 (one) sheet of Police Record Certificate (SKCK) in the name of Galuh Lintang Sari; 2 (two) pieces of Decree of the Minister of Law and Human Rights Number: AHU-0000249.AH.01.08 of 2020 concerning Approval of Changes to the Legal Entity of the Indonesian Struggle Advisor Association, stipulated in Jakarta on March 12 2020. Seized to be destroyed; (6) Charge the Defendant to pay court costs in the amount of IDR 2,000, (two thousand rupiah).

4. Author's Analysis

Based on the articles decided by the judges which have been outlined in decision number: 495/Pid.B/2021/PN.Smg, this is in accordance with the criminal provisions in Article 378 paragraph (1) of the Criminal Code, namely: "Whoever with the intent to benefit oneself or others by harming others, deliberately misleading people, by using lies or talk or by using false documents or by other means, committing deception, will be punished for fraud, with a maximum imprisonment of four years or a maximum fine of nine hundred rupiah."

In this article, it is explained that fraud is the act of a person who deliberately misleads another person by using lies, talk, fake letters, or other deception, with the intention of benefiting himself or another person and harming the person being deceived.

Procedurally, decision making has also been carried out in accordance with Law Number 8 of 1981 concerning Criminal Procedure Law, namely the Law which regulates various aspects related to the procedures for administering criminal justice in Indonesia. Before making a decision, in this case the following procedure has been carried out:

- a. Investigation: is the authority of the investigator, starting from the process of collecting evidence, examining witnesses, and other investigative actions.
- b. Arrest and Detention: procedures for arresting and detaining suspected criminals.
- c. Examination: examination procedures in court, including examination of witnesses, experts, defendants, and various other aspects of the trial.
- d. Evidence: types of evidence admissible in court, collection procedures, and use of evidence in trials.
- e. Court Decision: the decision that can be given by the court, the procedure for

reading the decision, and the rights of the defendant and victim in this process.

f. Implementation of the Decision: implementation of the court decision, including the implementation of punishment and compensation to the victim.

g. Judges and the Rights of the Defendant: the authority, rights and obligations of the judge in deciding criminal cases, as well as the rights that the defendant has during the trial.

The Public Prosecutor's demands are in accordance with the articles alleged against the defendant Agung Priyono bin Bambang Sutahar and the facts revealed at the trial. This is because the defendant was truly proven before the trial based on testimony from witnesses and legal facts that the defendant had fulfilled the elements of Article 378 of the Criminal Code.

Thus, it can be concluded that the decision number: 495/Pid.B/2021/PN.Smg regarding the Agung Priyono bin Bambang Sutahar fraud case, has been carried out in accordance with the procedures in Law Number 8 of 1981 concerning Criminal Procedure Law, as well as the decision made by the judges is also in accordance with the criminal provisions in Article 378 paragraph (1) of the Criminal Code.

3.2. Analysis of Judges' Considerations in Handing Down Decisions on Fraud Crimes in Decision No. 495/Pid.B/2021/PN.SMG

1. Judge's Legal Considerations

After the trial examination process is complete, the judge must make an appropriate decision. To previously impose criminal sanctions. Judges are required to take action, namely to first examine the truth of the events presented to them by looking at the existing evidence and accompanied by their beliefs. After that, consider and provide an assessment of the events that occurred and relate them to the applicable law and then provide a conclusion by determining a criminal sanction for the act committed.

The thing that the judge took into consideration in imposing a crime on the defendant was considering that to the Public Prosecutor's accusation, the Defendant did not raise any objections and considering that to prove his accusation the Public Prosecutor had presented witnesses. Based on the testimony of witnesses, the defendant confirmed that regarding these elements the Panel of Judges considers the following (1) Whose: Considering, that what is meant by whom is every person, namely every supporter of rights and obligations, in this case a person as a human being, in addition to the inclusion of this element by making the law is a form of avoiding the wrong person being

brought before the court; Considering, that based on the facts at the trial, the human person in question is Agung Priyono Bin Bambang Sutahar, whose identity is the same and in accordance with that contained in the Public Prosecutor's indictment and has also confirmed by the defendant, so that there is no wrongdoing in this case; Considering, that based on the considerations above, this element has been fulfilled, However, whether the defendant can be blamed still needs to consider the following elements. (2) Committing a criminal act with the intention of unlawfully benefiting oneself or another person. Considering, that this element requires that the perpetrator's actions result in him gaining benefits either for himself or for others; Considering, that based on the facts it turns out that the defendant's actions had promised the victim witness, namely Galuh Lintang Sari, to become a CPNS for the Ministry of Law and Human Rights formation in 2019 with the position as the first expert computer officer, with the condition that the Defendant handed over IDR 100,000,000.00 to the Defendant, and the Defendant was also there borrowed IDR 50,000,000.00 from the Defendant; Considering that the victim witness Galuh Lintang Sari handed over IDR 150,000,000.00 to the Defendant; Weigh,

Considering, that in order to impose a crime against the Defendant, it is necessary to first consider the aggravating and mitigating circumstances of the Defendant; Aggravating circumstances include the defendant's actions causing harm to the victim witness and the defendant enjoying the victim witness' money. Meanwhile, mitigating circumstances include the defendant admitting his actions and regretting it and the defendant having never been convicted;

2. Author's Analysis

After the author examined the judge's decision in the case above, the judge's decision has an *inkracht* decision (having permanent legal force), which has explained carefully, clearly and completely both regarding the identity of the defendant and a description of the actions carried out by the defendant and is accompanied by the time and date of the act and the place where the act took place, so that according to the author the decision has formally fulfilled the requirements in accordance with Article 378 of the Criminal Code for proof regarding the elements of the criminal act charged, the nature of being against the law (*wederrechtelijkeheid*) in legal science (*wederrchtelijkeheid*) and the nature of being against formal law (*formil wederrechtelijkeheid*).

The nature of being against material law is the nature of being against the broad law, namely going against the laws of some elements which are not only against written law, but also against unwritten law (the basics of law in general). So even though the law does not mention it, breaking the law is still an element of every criminal act. Meanwhile, the nature of going against formal law is that it is an element of written positive law only so that it is only an element of a criminal act

if it is explicitly mentioned in the formulation of a criminal act, as in this case which has been described in the first paragraph.

The nature of being against the law of material consists of a positive function and the nature of being against the law in a negative function. The definition of being materially unlawful in a positive sense would be a violation of the principle of legality, in Article 1 paragraph 1 of the Criminal Code, which means the teaching of being unlawful in a positive function, namely, even though an act is materially unlawful if there are no written rules in criminal legislation, This act cannot be punished. The doctrine of material unlawfulness is only accepted in its negative function, in the sense that an act can lose its nature as unlawful, if the action is not materially contrary to the law.

Seeing the application of the law charged by the public prosecutor based on the facts revealed in the trial, then as it is known that the defendant was brought before the trial with an alternative charge, the public prosecutor proved the charge that is most considered proven, namely the first charge of Article 378 of the Criminal Code, the elements of which are as follows:

1. Whoever.
2. Committing a criminal act with the intention of unlawfully benefiting oneself or another person:
3. By using a false name or false dignity, by deceit, or by a series of lies to induce another person to hand over something to him, or to give a debt or write off a receivable:

If related to the position of the case discussed previously, the defendant's actions fulfill the elements of Article 378 of the Criminal Code, namely that what is meant by 'whoever' here is any person or legal subject who commits the act and can be held responsible for his or her actions. Whereas based on the facts revealed at the trial, the human person in question is Agung Priyono Bin Bambang Sutahar, whose identity is the same and in accordance with that contained in the Public Prosecutor's indictment and has also been confirmed by the defendant, so there is no wrongdoing in this case. Based on the facts above, the element of 'whoever' is fulfilled legally and convincingly according to the law.

Elements with the intention of benefiting oneself or another person unlawfully, that based on the facts revealed in the trial, both obtained from the statements of sworn witnesses and from the statement of the defendant himself, which in essence shows that it is true that the actions of the defendant who promised to be a victim witness namely Galuh Lintang Sari to become a CPNS Kemenkumham formation in 2019 with the position as the first expert computer officer, with the

condition that the Defendant hand over IDR 100,000,000 to the Defendant, and the Defendant also borrows IDR 50,000,000 from the Defendant and the victim witness Galuh Lintang Sari handed over IDR 150,000,000 to the defendant and the defendant admitted that the entire amount had been used by the defendant for his own interests. Based on the facts above, the element 'with the intention of unlawfully benefiting oneself or another person' has been legally and convincingly proven according to the law.

The element 'by using a false name or false dignity, by means of art or deceit, or a series of lies, induces another person to hand over an item or to create a debt or receivable'. That based on the facts revealed at trial, both obtained from the statements of sworn witnesses and from the defendant's own statement, which in essence explains that it turns out that witness Galuh Lintang Sari knew the defendant as I Kadek Dwi Setiawan, as did witness Nugroho Tjahajono and witness Siti Zuhriyah who knows the Defendant as I Kadek Dwi Setiawan, but in fact the Defendant's name is Agung Priyono Bin Bambang Sutahar: And the Defendant claims to be an administrator at Peradi Perjuangan Semarang and also registers as a Junior Prosecutor,

Witness Nugroho Tjahajono and witness Siti Zuhriyah stated that the Defendant had worked at the Peradi Perjuangan DPD Office for only ± 2 weeks as a casual worker at that office and was able to work in the witness's office because he was invited by Mega and the Defendant had convinced witness Galuh Lintang Sari by stating "Luh, here is some information. Civil servant lockers on toll roads, the position of First Expert Computer Officer at the Ministry of Law and Human Rights, costs 150 million, guaranteed passage, if anything happens I am responsible."

The defendant also made a letter of agreement with PERADI Perjuangan letterhead number 001/DPDPERADI/2020, to guarantee that he could work as an ASN at the Ministry of Law and Human Rights as the first expert computer officer. When Br. I Kadek Dwi Setiawan did not fulfill his obligations in guaranteeing Br. Galuh Intang Sari S. Kom. Becoming an ASN at the Ministry of Law and Human Rights as a computer expert, Br. I Kadek Dwi Setiawan will be able to accept applicable legal sanctions and be able to return the money that has been received.

The defendant was also the one who made the Kemenkumham National Civil Service Candidate registration letter for Mr. Galuh Lintang Sari addressed to the Chief Secretary of the Ministry of Law and Human Rights. And until the witness reported the defendant's actions, witness Galuh Lintang Sari had not yet received clarity regarding whether or not witness Galuh Lintang Sari would be accepted as a CPNS at the Ministry of Law and Human Rights. That the money received by the defendant amounted to IDR 150,000,000.00 (one hundred and

fifty million Rupiah), where the defendant used the money for the defendant's needs.

Based on the description above, the defendant has been legally proven guilty of committing the crime of fraud in accordance with Article 378 of the Criminal Code. From the judge's considerations above, it has fulfilled the elements contained in Article 378 concerning FRAUD, so it has fulfilled the formulation of the Material Criminal Law. So the defendant must be legally and convincingly proven guilty of committing the crime of fraud. "In handing down a decision, the judge will consider matters in accordance with the facts in the trial. "Apart from that, we also consider the elements in the criminal provisions that are applied. If all the elements are met then they must be punished."

The panel of judges handed down a criminal sentence for fraud, taking into account Article 378 of the Criminal Code concerning Fraud and the Criminal Procedure Law (KUHAP). Before handing down a criminal verdict, the public prosecutor on October 4 2021 demanded that the panel hand down the following decision:

1. Declare that the defendant Agung Priyono Bin Bambang Sutahar has been legally and convincingly proven guilty of committing the crime of "fraud" as regulated and punishable by crime in the First Indictment Article 378 of the Criminal Code;
2. Sentencing the defendant Agung Priyono Bin Bambang Sutahar in the form of imprisonment for 1 (one) year and 6 (six) months in prison reduced to the time the defendant was in custody with an order to remain detained;
3. State evidence in the form of:
 - 1 (one) sheet of Agreement Letter number: 001/DPDPERADI/2020 with stamp;
 - 1 (one) sheet of Receipt of Report on Loss of Letters and Goods number: STPL-C/2880/1X/2020/Sek Densel dated 14 September 2020;
 - 1 (one) letter containing the Ministry of Law and Human Rights CPNS registration with a stamp;
 - 1 (one) sheet of Police Record Certificate (SKCK) in the name of Galuh Lintang Sari;
 - 1 (one) sheet of Agreement Letter No: 001/DPDPERADI/2020, dated 17 June 2020, stamped;

- 2 (two) pieces of Decree of the Minister of Law and Human Rights Number: AHU-0000249.AH.01.08 OF 2020 concerning Approval of Changes to the Legal Entity of the Indonesian Struggle Advisor Association, stipulated in Jakarta on March 12 2020;

Seized to be destroyed;

4. Determine that the defendant pay court costs of IDR 2000.00 (two thousand rupiah).

Regarding the imposition of a prison sentence on the defendant, the panel of judges paid attention to the demands of the public prosecutor which were made based on the facts revealed in the trial in the form of statements from witnesses and evidence of documents that were confiscated for destruction.

During the trial examination of the Defendant's application, which basically stated that he was sorry and only asked for leniency, no justification or excuse was found so that the defendant could be held responsible and could be accused of violating the provisions of the criminal charge. So the judge still has to hand down a criminal verdict on the defendant because there is no reason to cancel the sentence.

Based on the results of the author's research, it can be concluded that the judge in handing down a decision regarding the criminal act of fraud in Decision Number: 495/Pid.B/2021/PN.Smg, was in accordance with formal criminal law and material law. Likewise, the judge in deciding the case also took into account an in-depth understanding of the legal facts, the evidence presented, relevant legal principles, and moral considerations. The following are several factors that judges consider in fraud cases:

1) Evidence at trial: The judge will evaluate the evidence presented at trial, such as testimony, agreement letters, WA, etc. The judge has also looked at the extent to which the evidence supports the fraud case.

2) Intention and purpose: The judge also analyzes the perpetrator's intention which shows evidence that the perpetrator had the intention to deceive the victim. This consideration relates to elements of fraud, where the aim is to harm others and benefit oneself.

3) Losses incurred: The judge has also considered the extent of the losses suffered by the victim. The greater the losses suffered by the victim, the more serious the criminal act of fraud will be.

4) Role of the perpetrator: Whether the perpetrator acted on his own behalf or only carried out orders and the extent to which the perpetrator was responsible for the fraudulent act that occurred has also been considered by the judge in making the decision.

5) Post-fraud actions: How the perpetrator acts after the fraud is also a consideration for the judge in making decisions. Does the perpetrator try to return the loss to the victim or admit his mistake, feel regret, etc.

6) Perpetrator's history: The perpetrator's history of committing fraudulent acts in the past or the presence of a previous criminal record is also the judge's assessment of the level of intent and criminality of the perpetrator.

7) Principles of justice: The judge will consider the principles of justice in deciding a case. This includes applying punishments commensurate with the severity of the crime committed, as well as fair treatment of all parties involved.

8) Community Interest: The judge's decision also considers the impact on society at large. Will the decision provide a deterrent effect against similar actions in the future or provide protection to the public from fraudulent acts?

9) Legal Principles: The judge has referred to the applicable legal norms, the Criminal Code, and the types of punishment that can be applied.

10) Other considerations: Judges also consider other factors such as the character of the perpetrator, the emotional impact on the victim, and the special circumstances that occurred in the fraud case.

4. Conclusion

Based on the author's description above, the author can conclude as follows (1) Application of criminal law to criminal acts of fraud in case decision No.495/Pid.B/2021/PN.Smg. The defendant was charged using the indictment, namely Article 378 of the Criminal Code and the indictment prepared by the public prosecutor met the formal and material requirements for the indictment as intended in Article 143 paragraph (2) of the Criminal Procedure Code. In his indictment, the public prosecutor charged the defendant with being guilty of committing the criminal act of fraud under Article 378 of the Criminal Code, based on legal facts, both statements from witnesses and the defendant's statements, the application of criminal law provisions in this case, namely Article 378 of the Criminal Code, was appropriate and appropriate. (2) Judge's legal considerations in applying criminal provisions against perpetrators in decision case No.495/Pid.B/2021/PN.Smg. by the panel of judges the defendant was sentenced to 1 year 3 (three) months imprisonment because he was found guilty

of committing the crime of fraud under Article 378 of the Criminal Code, different from the Public Prosecutor's demand of 1 year 6 (six) months imprisonment for being guilty of committing the crime of fraud as regulated in Article 378 of the Criminal Code. The judge's considerations in applying the criminal provisions against the perpetrator in this case were appropriate where the judge had taken into account both the juridical considerations, the facts of the trial, the statements of witnesses, the existing evidence, the judge's beliefs and supporting matters as well as the criminal sanctions imposed is still very light, not enough to cause a deterrent effect that creates fear for convicts in particular, and the general public in general, as a crime should function. The suggestions that the author can give in this research analysis are (1) The application of criminal sanctions must be carried out more optimally, integrated and directed, not only in the form of enforcement on a theoretical basis which creates a number of statutory regulations, but in practice as a real serious effort by law enforcement officers in preventing and eradicating criminal acts of fraud. (2) In addition to providing strict sanctions against perpetrators of crimes, especially fraud, it is hoped that the Panel of Judges in deciding the case will also pay attention to the non-juridical aspects of the perpetrator's actions which can mitigate and aggravate the defendant because this affects the psychology of the defendant in particular.

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