

Implementation of Criminal Sanctions Against Perpetrators of Criminal Acts of Assault (Case Study of Decision Number: 2/Pid.B/2023/PN.Smg)

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Abstract. *The crime of assault is an unlawful act committed by a person against another person with the intention of hurting either physically or mentally. The imposition of criminal sanctions for perpetrators of criminal acts, especially criminal acts of assault, is necessary in order to provide a deterrent effect for the perpetrators and it is hoped that they will not repeat the act of assault against another person or group in order to create a peaceful, safe, and secure order in the community environment in particular. This thesis aims to study and analyze: First, the Application of Criminal Sanctions to Perpetrators of Criminal Acts of Assault, Second, the Judge's Considerations in the Application of Sanctions to Perpetrators of Criminal Acts of Assault at the Semarang District Court. The approach method used in this study is the normative legal approach, the research specifications used are normative descriptive, primary and secondary data sources and using qualitative analysis. This writing is analyzed The problem is analyzed using the theory of legal interpretation and the theory of punishment. The results of the study on the application of criminal sanctions to perpetrators of criminal acts of assault as regulated in the Criminal Code Article 351 paragraph (1) concerning Assault, starting from the Public Prosecutor's Indictment, which charges with a single indictment. The basis for the examination in court is the Public Prosecutor's Indictment, then the Panel of Judges conducts an examination of the indictment, in order to prove whether the Defendant has committed a crime as stated in the article charged by the public prosecutor, whether the description of the Defendant's actions is true, which will be proven based on applicable laws. The considerations of the panel of judges in their decision, the panel of judges in their examination uses the theory of evidence and punishment, where in the Aquo case the panel of judges will prove the elements contained in Article 351 paragraph (1) concerning Assault as in the public prosecutor's indictment, then examine the statements of witnesses, linked to the Defendant's*

statements and written evidence so that trial facts will be obtained and evidence will be obtained that is mutually consistent and mutually reinforcing.

Keywords: *Criminal; perpetrators; sanctions.*

1. Introduction

Law is a basic rule in the life of society, with which law creates peace and tranquility in the life of society. The creation of a harmonious atmosphere in the life of social society is also inseparable from the law that regulates it, namely criminal acts. Criminal acts are a term that contains a basic understanding in criminal law, criminal acts can occur anytime and anywhere. Various motives for criminal acts are motivated by various interests, both individual and group. In relation to this, the government has established an agency that is authorized to address every problem of criminal acts that occur in society, namely the criminal justice system.

The criminal justice system is a system in society that aims to combat criminal acts. Combating criminal acts means controlling existing crimes so that they are different within the limits of tolerance that can be accepted by society. This system is considered successful if it is able to prevent people from becoming victims of crime and resolve crimes that occur so that society feels satisfied that justice has been upheld and the guilty have been punished.¹

In the Criminal Justice System there are investigations, inquiries, prosecutions, examinations in court and sentencing. Based on Article 1 Paragraph 5 of the Criminal Procedure Code (hereinafter referred to as the Criminal Procedure Code), an investigation is a series of actions to search for and find an event suspected of being a crime in order to determine whether or not an investigation can be carried out according to the method regulated by law. Meanwhile, an investigation is emphasized in Article 1 Paragraph 2 of the Criminal Procedure Code explaining that a series of actions carried out by investigators in accordance with the method regulated by law, to search for and collect evidence and with that evidence it becomes clear and at the same time finds the suspect or perpetrator of the crime. After that, the prosecution stage, according to Article 1 Paragraph 7 of the Criminal Procedure Code, states that prosecution is an action by the public prosecutor to transfer a criminal case to the competent district court in terms of and according to the method regulated by this law with a request that it be examined by a judge in court.²To prove the guilt or innocence

¹Chidir Ali, *Criminal Law Response: Inclusion and Combination of Criminal Acts*, Armico, Bandung, 1985, p. 83.

²<https://media.neliti.com/> accessed on November 29, 2023, at 09.21 WIB

of a defendant must go through an examination in front of a court hearing, and to prove whether or not the defendant committed the act charged, evidence is needed to obtain a verdict that imposes a sentence. The verdict read by the judge who sentenced a defendant is none other than a verdict containing an order to punish the defendant in accordance with the criminal threat referred to in the criminal article charged.

Based on Article 1 Paragraph (5) of Law Number 48 of 2009 concerning Judicial Power, what is meant by a judge is a judge at the Supreme Court and judges at judicial bodies below it in the general judicial environment, religious judicial environment, military judicial environment, state administrative judicial environment, and judges at special courts within the judicial environment. Then explained in Article 1 Point 8 of the Criminal Procedure Code (KUHP) it is stated that a judge is a state judicial official who is authorized by law to try. Where the duties and authorities of the judge are to receive, examine, and decide criminal cases based on the principles of freedom, honesty, and impartiality in court hearings in matters and according to the methods regulated in this law.

The judge in imposing the severity of the criminal sentence to be imposed on the defendant is free. The law gives the judge the freedom to impose a sentence between the minimum and maximum sentences threatened in the relevant criminal article in accordance with what is regulated in Article 12 of the Criminal Code. However, the judge's starting point in imposing a criminal sentence must be based on the threat referred to in the criminal article charged. It is up to his assessment how severe the criminal sanction is appropriate to be imposed on the defendant in accordance with the severity of the defendant's mistake in the criminal act committed.³

In imposing criminal sanctions, lawmakers have given judges the opportunity and relative freedom to choose the type of punishment, the severity of the punishment and the way in which the punishment will be implemented. In terms of the type of criminal sanctions, the opportunity and freedom of judges to choose the form of sanctions they want, is identified from the inclusion of criminal sanctions that use both alternative and cumulative systems in positive legislation.⁴

Criminalization is carried out against all types of criminal acts that disturb the community or those that do not disturb the community. One type of criminal act that disturbs the community is the crime of assault. In Chapter XX of the Criminal Code, ARTICLES 351 S/D Article 358 of the Criminal Code, there are eight Articles that explain assault if viewed from Article to Article and from paragraph to paragraph there are differences in the types and legal threats given.

³<https://eprints.uns.ac.id/> accessed on November 29, 2023, at 09.45 WIB.

⁴<https://repository.usu.ac.id/> accessed on November 29, 2023, at 10.01 WIB

There are several forms of sanctions for abuse, for example sanctions for minor abuse which are regulated in Article 352 of the Criminal Code (KUHP), which reads:⁵

1. Except for those mentioned in articles 353 and 356, then abuse that does not cause illness or obstacles to carrying out official work or search, is threatened, as light abuse, with a maximum imprisonment of three months or a maximum fine of Rp. 4,500. The penalty can be increased by one third for a person who commits the crime against someone who works for him, or is his subordinate.
2. Attempts to commit this crime are not punishable. Meanwhile, sanctions for serious assault are regulated in Article 354 of the Criminal Code (KUHP), namely:
 - a. Anyone who intentionally causes serious injury to another person is threatened with committing serious assault with a maximum prison sentence of eight years.
 - b. If the act results in death, the guilty party is threatened with a maximum prison sentence of ten years.

The criminal incident regulated in Article 352 of the Criminal Code is called "minor assault" and is included in "minor crimes". Included in Article 352 is assault that does not:

1. Make it sick
2. Prevented from carrying out his/her daily duties or work.

For example, if A slaps B three times on the head, then B feels pain (*ijn*), but does not fall ill (*ziek*) and can still do his daily work, then A is included in the act of "minor assault".

Meanwhile, serious assault is regulated in Article 354 of the Criminal Code, R. Soesilo explained that in order to be subject to this article, the perpetrator's intention must be aimed at "causing serious injury", meaning that "serious injury" must be intended by the perpetrator. If it is not intended and the serious injury is only a consequence, then the act falls under "ordinary assault resulting in serious injury" (Article 351 paragraph (2) of the Criminal Code).

Based on the description above, it can be seen that what is more emphasized is whether the abuse causes pain that makes the victim unable to do his job or not. If the abuse causes the victim to be unable to do his job because of the pain (*pijn/pain*) experienced, but does not result in serious injury or is not intended to cause serious injury, then the abuse can be punished under Article 351 paragraph (1) of the Criminal Code.

⁵R. Soesilo, Criminal Code (KUHP), and Complete Article by Article Commentaries, (Bogor: Politea, 1994), p. 246

Attempts to commit this crime are not punishable. Regarding persecution in Article 351 of the Criminal Code, it explains that the law does not provide provisions on what is meant by "persecution". According to jurisprudence, "persecution" is intentionally causing discomfort (suffering), pain, or injury. According to paragraph 4 of this article, the definition of persecution also includes "intentionally damaging someone's health".

For example, what is meant by "uncomfortable feeling", "pain", "injury", and "damage to health".⁶

This act of abuse can be found everywhere such as in the household or family environment, in public places or in other places and can happen to anyone. This can happen allegedly related to various factors such as the influence of socializing and delinquency, thuggery, social jealousy, economic pressure and disparity, disharmony in household relationships or with others, competition, conflict of interest and others.

As in the case of abuse carried out by Mario Dandy, who is the son of a tax official named Rafael Alun Tri sambodo. The case began with the abuse carried out by Mario Dandy against David on the night of February 20, 2023. David, who was at his friend's house, received a WhatsApp from his ex-girlfriend named Agnes who wanted to return his student card. When David came out of his friend's house, Dandy and his friends were waiting for David in a Jeep Wrangler Rubicon. Dandy asked David to get in the car and took him to a dark alley. It was in this alley that the abuse against David took place. Where Dandy beat David's head and face.

The actions carried out by Dandy included abuse which nady had the intention to do "seriously injuring", meaning "seriously injuring" David and as a result of the abuse David suffered injuries and was unable to carry out his activities.

In addition to the above factors, abuse is carried out by some people or a group of people intentionally to others caused by several factors such as revenge, defamation, feelings of betrayal or harm, feeling that their self-esteem and dignity are being degraded or abused and other motives. In addition, abuse can occur unintentionally due to disagreements, fights or quarrels.⁷

The imposition of criminal sanctions for perpetrators of criminal acts, especially criminal acts of abuse, is necessary in order to provide a deterrent effect for the perpetrators and it is hoped that they will not repeat acts of abuse against another person or group in order to create a peaceful, safe and secure order in the community, especially in the Semarang District Court area and taking 1 sample of Decision Number 2/Pid.B/2023/PN Smg.

⁶Ibid

⁷Lenti, GM (2018). Crimes Against the Body in the Form of Abuse According to Article 351 Paragraphs 1–5 of the Criminal Code. *Lex Crimen*, 7(4). P. 55

The case of the position began with Winarno (Defendant) together with Donny going to work with Donny as the driver while the Defendant was riding pillion in the back. Then when they were on Jalan Kelud Raya, Petompon Village, Gajahmungkur District, Semarang City, suddenly a car belonging to Nur Puji Kurniawan from the opposite direction turned back towards Sampangan, making the Defendant and Donny shocked and about to hit Nur's car.

During the incident, there was Daryanto as a police officer who broke it up by ordering them to move forward immediately. Although they had been broken up by ordering them to move forward, Donny was ordered by the defendant to block and press against Nur Puji Kurniawan's car so that when in front of the Lesehan Aldan Restaurant on Jalan Kelud Raya, when Nur Puji Kurniawan opened his car window, the defendant hit Nur Puji Kurniawan's head with a clenched fist twice and hit Nur Puji Kurniawan's forehead so that he suffered injuries and bruises.

Based on the description of the background, the author is interested in conducting legal research related to this problem with the title "Implementation of criminal sanctions against perpetrators of criminal acts of assault (Case study of decision Number 2/Pid.B/2023/PN Smg)".

2. Research Methods

The approach method used in this research is a sociological juridical approach. the normative legal approach is legal research conducted by examining library materials or secondary data as basic material for research by conducting searches of regulations and literature related to the problem being researched.⁸ Data collection is done through primary and secondary data sources and using qualitative analysis. This writing is analyzed The problem is analyzed with the theory of legal interpretation and theory of punishment. The data analysis technique is qualitative analysis in the form of exposure, description, and description of the research results.

3. Results and Discussion

Implementation of Criminal Sanctions Against Perpetrators of Criminal Acts of Abuse in Decision Number 2/Pid.B/2023/PN.Smg. The results of the research studied in the legal analysis of this case the author uses a case study approach. Case studies come from the English translation "A Case Study" or "Case Studies". The word case is taken from the word case which according to the Oxford Advanced Learners Dictionary of Current English, is interpreted as 1). Instance or example of the occurrence of sth, 2). Actual state of affairs situation, 3). Circumstances or special conditions relating to a person or thing. In sequence, the meaning is 1) an example of something happening, 2) the actual condition of the situation or circumstances and 3) a certain environment or condition about a

⁸Soerjono Soekanto & Sri Mamudji, Normative Legal Research (A Brief Review), Jakarta, Rajawali Pers, pp. 13-14

person or something.⁹Based on this, in this case, it describes the decision of case number 2/Pid.B/2023/PN Smg through the case study method. In essence, a case study of a criminal assault case means studying an example of a real incident, in the form of a legal event that clearly becomes a legal fact after the collection of evidence and information by criminal investigators, then the transfer of the criminal case is continued to the case examination at the Semarang District Court. Based on the investigation and investigation of law enforcement officers, the following description of the legal event was obtained:

- Case Position that began on Wednesday, October 26, 2022 at around 06.45 in front of the Lesehan Aldan Restaurant, Jalan Kelud Raya Number 46, Petomponn Village, Gajahmungkur District, Semarang City, the defendant Winarno had committed an assault that resulted in minor injuries to Nur Puji Kurniawan, the act was carried out by the defendant by pushing the victim's car and stopping because it was blocked by the defendant, then the defendant got out and approached the victim then opened the car window and the victim was still sitting in the driver's seat of the car, then the defendant beat him with his bare hands, not using tools or clenched fists towards the victim's head 2 times hitting the victim's forehead and nose so that he suffered injuries and bruises as per the results of Visum Et Repertum No. 74 / UN7.L.1 / TU / IX / 2022 dated November 7, 2022 signed by Dr. Galang Perdamaian.

The defendant's actions as regulated and threatened with criminal penalties in Article 351 paragraph (1) of the Criminal Code concerning the Crime of Assault. Legal facts collected during the investigation and inquiry process by investigators. That the Defendant can be declared to have committed the crime charged to him by the Public Prosecutor with a single charge as regulated in Article violates Article 351 of the Criminal Code.

The application of criminal sanctions in the A quo case, the author of the analysis begins with a study of legislative policy (statutory policy) which contains the formulation of criminal provisions in the Criminal Code (KUHP) of the Republic of Indonesia concerning Abuse. The analysis is in Article 351 paragraph (1) "Assault is punishable by a maximum imprisonment of two years and eight months or a maximum fine of four thousand five hundred rupiah.

Furthermore, a study of the application of criminal sanctions against perpetrators of the crime of abuse in case number 2/Pid.B/2023/PN.Smg, which describes the process of proving a legal event to be a criminal act and the application of criminal articles through the decision of the panel of judges.

Explanation of Article 351 paragraph (1) based on the understanding of systematic construction, what the author means is a criminal provision that contains a formulation stating criminal provisions for violations of provisions

⁹Mudjia Raharjo, 2017, Case Study in Qualitative Research: Concept and Procedure, State Islamic University of Maulana Malik Ibrahim, Malang, p. 3.

containing prohibition norms or orders. Construction is the arrangement and relationship of words in a sentence or group of words. While systematic means orderly, according to the system, using a system, in a well-regulated manner. thus the essence of the criminal article (criminal act) and the criminal sanctions for the act are not only regulated in the article, which is often referred to as the parent article and its derivative articles. In this subsection, the author examines the substantive criminal punishment system contained in the criminal article formulated in Article 351 paragraph (1) of the Criminal Code concerning assault. The substantive criminal punishment system is essentially a criminal provision in the law being studied which is part of the entire criminal punishment system or criminal law system that is currently in effect.

Based on the above understanding, the systematic construction of Article 351 paragraph (1) of the Criminal Code can be explained, the legal formulation as previously formulated, then the pattern of punishment or the arrangement or formulation of criminal penalties in this article explains;

- Legal Subject; Every person
- Criminal acts: Intentionally causing discomfort, pain or injury
- Criminal sanctions: punishable by imprisonment for 6 (six) months and a fine of Rp. 200 (two thousand) rupiah.
- It seems that the systematic construction of Article 351 paragraph (1) of the Criminal Code has a formulation pattern: the address is formulated as follows; each person then alternatively cumulatively criminal sanctions in the form of imprisonment and/or fines. The element of intentionally causing discomfort, pain or injury means that the perpetrator wants and knows consciously that his actions are carried out without rights, in other words the perpetrator consciously wants and knows that his actions are prohibited by law.

The consideration of the panel of judges based on Article 351 paragraph (1) of the Criminal Code concerning abuse has been determined that "abuse is punishable by a maximum imprisonment of two years and eight months or a maximum fine of four thousand five hundred rupiah. That in the revealed legal facts the defendant was on Wednesday, October 26, 2022 at around 06.45 WIB right in front of the Lesehan Aldan Restaurant, Jalan Kelud Raya Number 46, Petompon Village, Gajahmungkur District, Semarang City, committing a criminal act of abuse. Therefore, the defendant's actions have violated the law as in accordance with the authority and provisions of violating Article 351 paragraph (2) of the Criminal Code.

In this case, the public prosecutor's indictment was fully accepted, but the author believes that the judge's decision and the public prosecutor's indictment were too light. The author in this case, who works as a police officer who is tasked with enforcing the law, believes that in a mistake, there needs to be a

lesson and an effort so that the act is not repeated or other people who have not committed a crime in the sense of a crime of modifying a vehicle that is not in accordance will not try the crime. The judge decided the case in this case with a criminal sentence of 6 (six) months in prison because of the consideration that in this case it meets the elements of Article 351, but by imposing a sentence of 6 (six) months in this case it is very inconsistent with what is stated in Article 351 paragraph (1) or in theory that this has met the elements of Article 351 paragraph (1) but the decision is very far from what is stated in the Article which provides a penalty for perpetrators of criminal assault with a maximum prison sentence of 2 years and 8 months. Although the purpose of punishment is more focused on educational or learning purposes with the intention that the defendant will repent and be aware later after completing his sentence, it is also necessary to consider the losses to the victim that result in the victim experiencing injuries. This means not only to uphold its educational purpose but also to uphold the application of rules that are appropriate and fair.

4. Conclusion

The application of criminal witnesses to the perpetrator of the crime of abuse in the Semarang District Court is an act of intentionally causing discomfort, pain, or injury is a crime of abuse. In the decision of case Number 2/Pid.B/2023/PN.Smg the judge considered that the defendant had fulfilled the elements of the act as per Article 351 paragraph (1), namely Abuse is punishable by a maximum imprisonment of 2 (two) years and 8 (eight) months or a maximum fine of Rp. 4,000.00 (four thousand five hundred rupiah). Judge's considerations in applying criminal sanctions to perpetrators of criminal acts of abuse at the Semarang District Court. The judge examined, decided and tried case number 2/Pid.B/2023/Pn.Smg based on the law and his beliefs, not based on legal logic. In its examination, it is in accordance with the theory of evidence and punishment, where in the Aquo case, the panel of judges will prove the elements contained in Article 351 of the Criminal Code concerning assault as in the public prosecutor's indictment, then examine the statements of witnesses, linked to the defendant's statements and written evidence. The panel of judges in its considerations will look at the defendant's circumstances, both mitigating and aggravating factors and the defendant's ability to take responsibility.

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