

Legal Analysis of Criminal Responsibility of Perpetrators of Violent Extortion

Hanif Aryoseno¹⁾ & R. Sugiharto²⁾

¹⁾Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: hanif.arysno@gmail.com

²⁾Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: r.sugiharto@unissula.ac.id

Abstract. *Indonesia is a country of law as referred to in Article 1 paragraph (3) of the 1945 Constitution. Technological developments affect human behavior and mindset in national and state life, so that they have an impact on life, namely giving rise to treatment that is not in accordance with existing norms or regulations. One of the criminal acts and crimes that often occur in community life is violent extortion. This thesis aims to analyze the criminal responsibility of perpetrators of violent extortion and the analysis of the judge's considerations in sentencing in decision number 67/pid.B/2022/pn. Mgg. The approach method used in this study is the normative legal approach. The research specifications used are descriptive analysis, primary and secondary data sources and this research will be processed using qualitative analysis. The problem is analyzed using the theory of responsibility and the theory of justice. Based on the results of the study, criminal liability for the perpetrators of violent extortion in Decision Number 67/Pid.B/2022/PN.Mgg has fulfilled the value of criminal liability in accordance with the provisions of actus reus and mens provisions, because these two elements have been fulfilled, then criminal liability has been fulfilled so that based on these provisions the defendant must be held responsible for his actions by undergoing a sentence or criminal sanction. The judge's considerations in sentencing the defendant in the Decision of the Criminal Case Number 67/Pid.B/2022/PN.Mgg Defendant Achmad Rizky Pratama Alias Benjo Bin Anwar Achmad was sentenced to imprisonment for 1 (one) year and 6 (six) months. because he was proven guilty of committing a crime contained in Article 368 paragraph (1) of the Criminal Code. The judge's considerations in applying criminal provisions to the perpetrator in this case have been appropriate, where the judge has considered both legal and non-legal considerations, facts in the trial, witness statements, existing evidence, the judge's beliefs and supporting matters as well as the criminal sanctions imposed.*

Keywords: *Criminal; Extortion; Liability; Violence.*

1. Introduction

Indonesia is a country based on law as referred to in Article 1 paragraph (3) of the 1945 Constitution. To realize a country based on law, a legal system is needed that regulates balance and justice in all areas of life and community life through statutory regulations, without ignoring the function of legal science. This shows that law plays an important role in the Indonesian country based on law.¹

The development of technology affects human behavior and mindset in national and state life, so that it has an impact on life, namely giving rise to treatment that is not in accordance with existing norms or regulations and will trigger the emergence of crime in various environments. Every violation of existing legal regulations will be subject to sanctions in the form of punishment as a reaction to actions that violate the legal regulations that are carried out.² With the advancement of science and technology or what is commonly called IPTEK, this now provides an opportunity for criminal acts to occur which are increasingly high, including various criminal violations.³

Crime can happen anywhere and can happen to anyone from children to adults, including the perpetrators. Crime is a form of deviation that always exists and is inherent in all forms of society.⁴ Criminal acts and crimes in human life are social phenomena faced by every person and even every country at all times.

One of the crimes and crimes that often occur in community life is extortion with violence. This crime is one of the crimes of society that must be eradicated in order to realize a peaceful and calm community life. Extortion is an act carried out by a person or institution by carrying out acts that frighten with the hope that the extorted will be afraid and hand over a number of things requested by the extortionist, so there is an element of fear and coercion from the extorted.⁵

Moeljanto also argued that the extortion problem contained in Article 368 of the Criminal Code is formulated as a criminal act of extortion and threats, handing over other people's goods. However, the intention to hand over goods by means of coercion and threats and against the law. However, if seen from the unlawful nature in Article 368, the act depends on the intention of the other person who takes the goods.⁶

¹Hestu Cipto Handoyo, 2003, Constitutional Law, Citizenship & Human Rights, Atma Jaya University, Yogyakarta, p. 5.

²Adam Chazawi, 2002, Criminal Law Lesson I, PT Raja Grafindo Persada, Jakarta, p. 2.

³Andri Winjaya Laksana, Cybercrime Criminalization in the Perspective of Positive Criminal Law, Journal of Legal Reform Vol. 3, 2017.

⁴Muladi and Barda Nawawi Arief, 2013, Criminal Theories and Policies, Bandung, Alumni, p. 42.

⁵<https://www.dictio.id/t/apa-yang-dimaksud-dengan-pemerasan/3515/2> accessed on Monday, July 15, 2024 at 12:14.

⁶Moeljatno, 1985, Understanding the Principles of Criminal Law, Jakarta, p. 62.

One example of a case studied is the case of ARP Bin AA, a resident of Jaranan Village, Reowinanun, Magelang City, based on decision Number 67/Pid.B/2022/PN.Mgg, who was legally and convincingly proven guilty of committing the crime of extortion as regulated and subject to criminal penalties under Article 368 paragraph (1) of the Criminal Code.

The imposition of severe sentences or sanctions on the perpetrators does not create a deterrent effect, even many perpetrators who have been released from their prison sentences still repeat the same actions. This may occur due to economic factors and low education of the perpetrators or even because the sentences or sanctions given by the judge are too light so that the perpetrators do not hesitate to commit the act again. Based on the problems above, it is an attraction for the author to study this in more depth by conducting research, for writing a thesis entitled "Legal Analysis of Criminal Responsibility for Perpetrators of Violent Extortion (Study of Decision Number 67 / Pid.B / 2022 / PN Mgg)".

2. Research Methods

The approach method used by the author in compiling the journal uses the normative legal method. The research specifications used in this study are descriptive analysis type. In this study, the author uses two types of data sources, namely primary data which is data obtained directly from the field, especially from people who are related to the problem that will be studied in this writing, and secondary data, namely library research and primary materials in the form of applicable laws and secondary materials in the form of expert opinions, law books, journals and magazines.

data collection conducted in this study using literature study, by collecting data from the results of reviewing library materials and secondary data including primary legal materials, secondary legal materials and tertiary legal materials. Data analysis techniques in this study were carried out with qualitative data analysis, namely data collection using laws, theories and legal principles.

3. Results and Discussion

3.1. Criminal liability of perpetrators of violent extortion in decision number 67/Pid.B/2022/pn.Mgg.

Criminal liability in English is called responsibility, or criminal liability. According to Roeslan Saleh, criminal liability is defined as the continuation of objective blame that exists in a criminal act and subjectively meets the requirements to be punished for his actions.⁷The concept of criminal responsibility has an important meaning in the field of criminal law, because in matters concerning guilt, responsibility and punishment, these are matters that must be in accordance with the moral, religious and legal context.⁸

⁷Criminal liability in English is called responsibility, or criminal liability.

⁸Amir Ilyas, 2014, Principles of Criminal Law, Rangkang Education, p. 72

The concept of criminal responsibility has an important meaning in the field of criminal law, because in matters concerning guilt, responsibility and punishment, these are matters that must be in accordance with the moral, religious and legal context.⁹

In the Decision of the Magelang District Court Number 67/Pid.B/2022/PN.Mgg on behalf of the Defendant Achmad Rizky Pratama alias Benjo Bin Anwar Achmad has been proven legally and convincingly guilty of committing the crime of Extortion with Violence. The defendant has committed the crime of fraud under Article 368 paragraph (1) of the Criminal Code. In describing the formulation of the crime into its elements, an act or action will be found that is prohibited by law. The following are the elements of Article 368 paragraph (1) of the Criminal Code:

- a. Whoever Element
- b. Elements with the intention of benefiting oneself or others by violating rights.
- c. The element of forcing people with violence or threats of violence to give goods.
- d. The elements of the goods are wholly or partly owned by another person or in order to create debt or write off receivables.

Referring to this case, according to the author, the criminal responsibility of the defendant Achmad Rizky Pratama alias Benjo Bin Anwar Achmad can be described as follows:

- a. The element of responsible ability, based on the author's explanation, the defendant has fulfilled this element. This can be seen in the suspect's statement which strengthens the testimony of the witnesses, namely that the suspect was right in his actions. From the defendant's confession, it can be seen that the defendant is able to distinguish between good and bad deeds according to laws and regulations, and the defendant is also aware that his actions are wrong and against the law, his actions are not based on the consequences of his mental defects, the panel of judges also said in the examination procedure that the defendant is physically and mentally healthy.
- b. In the actions carried out by the defendant, it can be seen that there is an element of error, in this case in the form of intent, namely the defendant deliberately carried out an act of blackmail against the victim witness and threatened to use a machete, the defendant carried out blackmail with threats of violence.
- c. The defendant does not have an element of reason for forgiveness, namely because the element of the perpetrator's guilt in the criminal act or crime has been removed.

⁹Roeslan Saleh, 1998, *Thoughts on Criminal Responsibility*, Jakarta, Ghalia Indonesia, p. 256

d. Based on the existing reasons, the author has concluded that the suspect does not fulfill the elements contained in Article 44 of the Criminal Code and has fulfilled the subjective elements of the crime, namely the Defendant has the ability to be responsible where the defendant is not insane or suffering from a mental illness, fulfills the elements of guilt for the actions he has done, and also does not have a reason for forgiveness that can eliminate his guilt, then the suspect can then be punished based on the actions he has committed if the elements of criminal responsibility have been fulfilled.

Because all the elements of Article 368 paragraph (1) of the Criminal Code have been fulfilled, according to the author, the Defendant has been proven legally and convincingly to have committed the crime of extortion with violence. Then in the trial the Panel of Judges did not find any justification or excuse. The defendant is an adult, physically and mentally healthy, so the defendants must be held accountable for their actions as stated in Article 368 paragraph (1) of the Criminal Code. Based on these provisions, the defendant must be held accountable for his actions by undergoing a sentence or criminal sanction in the form of imprisonment.

3.2. The Judge's considerations in issuing a verdict on the crime of extortion with violence in decision number 67/Pid.B/2022/PN.Mgg.

The Judicial Power Law in Article 3 Paragraph (2) regulates the freedom of judges in determining the imposition of criminal penalties, where the judge's decision cannot be interfered with by any party and is free from intervention by any institution.¹⁰The judge's decision that needs to be considered is the legal considerations, so that anyone can assess whether the decision handed down has sufficient objective reasons or not.¹¹The Panel of Judges in its decision tried the Defendant based on legal considerations and philosophical or non-legal considerations. Legal considerations are considerations based on legal facts revealed in the trial and are stipulated by law as things that must be included in the decision. While non-legal or philosophical considerations are considerations that are based on the detrimental and damaging impacts on the order of life in society, nation and state.¹²

Based on the facts of the case, it can be concluded that the public prosecutor's indictment, the public prosecutor's demands, and the judge's considerations when handing down his verdict have met all the components and requirements for the

¹⁰Andri Rico Manurung, et al., Legal Analysis of Judges' Decisions Against Narcotics Crime Perpetrators in the Jurisdiction of the Rantau Prapat District Court (Study of Decisions Number 599/Pid.Sus/2018/PN.Rap; 1234/Pid.Sus/2018/PTMDN; 2332/K/Pid.Sus/2019 and Number 943/Pid.Sus/2019/PN.Rap; Number 841/Pid.Sus/2020/PN.Rap), *Locus: Journal of Legal Science Concepts* Vol.2, No.3, September 2022, pp. 106

¹¹Muh. Ibnu Fajar Rahim, Attorney Dr. Ibnu, 2022, Notes on 3 Years of Prosecution (Edition of the Bekasi Regency District Attorney's Office, H Makasar: *umanities Genius*, p. 292

¹²Elrick Christovel Sanger, *Law Enforcement Against Drug Trafficking Among the Young Generation*, *Lex Crimen*, Vol II No 4, August 2013, p. 8.

defendant to be convicted. This is based on the examination at the trial, where the information from all the evidence provided by the Public Prosecutor includes information from witnesses and information from the defendant, all of which are interconnected. From the suspect's testimony, the defendant admitted his actions and regretted his actions.

Judges in carrying out their duties are not like mouthpieces of the law that can only be regulated in the law, but must also be able to implement the law in full. The judge's consideration can be said to be an important aspect in determining the realization of a value from a judge's decision that contains justice (*ex aequo et bono*) and also needs to contain legal certainty. The judge's consideration is the judge's argument/reason used by the judge as a legal consideration that is the basis before deciding a case. The judge's *ratio decidendi* can be enriched as a judge's thinking that will determine a judge in making a verdict. In every judge's decision there are reasons that determine the core that determines in making the decision.

The purpose of criminal law is to fulfill the sense of justice, to educate, to improve people who have committed crimes, so that they become people with good character so that they are useful for society. Therefore, the Judge of the Magelang District Court stated in his decision that the suspect was proven legally and convincingly to have committed the crime of attempted extortion with violence using sharp weapons, and during the examination of the Defendant in court there was no justification or excuse for the unlawful nature of the act, so therefore the Defendant must be held responsible for his actions and also punish the suspect with imprisonment for 1 (one) year 6 (six) months.

The judge's consideration in applying criminal provisions to the perpetrator in this case according to the author has been appropriate where the judge has considered both legal considerations, facts in the trial, witness statements, existing evidence, the judge's beliefs and supporting matters and the criminal sanctions imposed. The sanctions given by the judge to the defendant have given a deterrent effect to the defendant in accordance with the theory of punishment which is a way or process to impose sanctions or punishments for someone who has committed a crime or violation. Because the purpose of the punishment itself is to improve and educate people who have committed crimes, so that they become better people, so that criminal sanctions are very appropriate to be imposed on the defendant in accordance with the criminal acts that have been committed by the defendant.

4. Conclusion

Criminal liability for the perpetrators of violent extortion in Decision Number: 67/Pid.B/2022/PN.Mgg has fulfilled the value of criminal liability in accordance with the provisions of the *actus* because the Defendant Achmad Rizky Pratama Alias Benjo Bin Anwar Achmad has committed a prohibited act in accordance with that contained in Article 368 paragraph (1) of the Criminal Code. Then in accordance with the provisions of *mens rea* which is due to the existence of evil

intentions that can be seen or have been proven by the Panel of Judges in the trial. So these two elements have been fulfilled, then criminal liability has been fulfilled so that based on these provisions the defendant must be responsible for his actions by undergoing a sentence or criminal sanction.

Judge's considerations in sentencing in the Criminal Case Decision Number 67/Pid.B/2022/PN.Mgg. By the panel of judges, the defendant Achmad Rizky Pratama alias Benjo Bin Anwar Achmad was sentenced to imprisonment for 1 (one) year and 6 (six) months. because he was proven guilty of committing a crime contained in Article 368 paragraph (1) of the Criminal Code. The judge's considerations in applying criminal provisions to the perpetrator in this case have been appropriate where the judge has considered both legal and non-legal considerations, facts in the trial, witness statements, existing evidence, the judge's beliefs and supporting matters and the criminal sanctions imposed.

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