

## Construction of Evidence by the Public Prosecutor on the Criminal Act of Fraud Arising from Contractual Relationships (Study of the Banyumas District Prosecutor's Office)

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**Abstract.** *The many cases of default in Indonesia have now become something that has many interpretations because many people assume that when the default can be resolved through criminal channels because they feel they have suffered losses without first knowing how something can be said to be in the realm of criminal law such as fraud arising from a contractual relationship. This study aims to determine, examine, and analyze the authority of the public prosecutor in proving a criminal case, the characteristics of fraud arising from a contractual relationship and the Construction of evidence by the Public Prosecutor in proving a case of Fraud arising from a contractual relationship. The approach method used in this study is sociological juridical. The specifications of this study are descriptive analytical. The data sources used are secondary data consisting of primary legal materials, secondary legal materials, and testier legal materials. Based on the research results, it can be concluded that the authority of the Public Prosecutor in proving a criminal case is in line with the purpose of proving in court for the public prosecutor, namely as a form of effort to convince the judge based on valid evidence that the defendant is guilty according to the indictment charged to him so that it can be proven that a criminal event has occurred and the defendant is guilty of doing it in accordance with the procedures permitted by law in proving a crime. Characteristics of the Criminal Act of Fraud arising from a contractual relationship, namely when the defendant's actions containing elements of the crime of fraud are carried out before the contract or agreement is closed (ante factum). Construction of evidence by the public prosecutor in a criminal case of fraud arising from a contractual relationship, the Banyumas District Attorney's study by assessing evidence based on Article 184 paragraph (1) of the Criminal Procedure Code which includes witness statements, expert statements, letters, instructions and*

*statements from the defendant. So that it will prove how successful it is to prove the elements of the crime are fulfilled by being careful and precise in the assessment. So that in the study of the Banyumas District Attorney's Office as with case Number 108/Pid.B/2020/PN Bms, the Public Prosecutor succeeded in proving that the case was a case of Criminal Fraud, which in this case arose from a contractual relationship.*

**Keywords:** Contractual; Evidence; Prosecutor; Relationship.

## 1. Introduction

The Third Amendment to the 1945 Constitution of the Republic of Indonesia has changed the norm on the State of Law as stated in Article 1 paragraph 3 which states that the State of Indonesia is a State of law. Indonesia as a state of law aims to guarantee legal certainty, legal justice, and legal benefits, but from these goals, justice is the main goal of legal benefits and legal certainty. The main goal of law is to create an orderly society, to create order and balance. Every relationship between communities must not conflict with the provisions of existing and applicable legal regulations.<sup>1</sup>

One of the acts of violating legal norms committed by society is related to the denial of agreements/contracts. As an agreement is an act by which one or more people bind themselves to one or more other people.<sup>2</sup>In the Big Indonesian Dictionary, an agreement is defined as a form of written or verbal agreement made by two or more parties, each of whom agrees to comply with what is contained and regulated in the agreement.<sup>3</sup>The consequences or sanctions of default explain that every obligation to do something, or not to do something, must be resolved by providing compensation for costs, losses and interest, if the debtor does not fulfill his obligations. So that in the reimbursement of costs is a replacement for what has been issued by one of the parties.<sup>4</sup>

This breach of contract case was then filed as a fraud case in the realm of criminal law, which would only provide criminal sanctions of imprisonment and fines. While there will be no follow-up to compensation by the fraud victim.<sup>5</sup> In such conditions, the police have difficulty determining whether the case is a criminal act of fraud or breach of contract. Not a few say that a case that begins

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<sup>1</sup> Yati Nurhayati, Introduction to Legal Science (Bandung: Nusa Media Publisher, 2020), pp. 63-64.

<sup>2</sup> Civil Code, Article 1313.

<sup>3</sup> Department of National Education, Big Indonesian Dictionary, Third Edition, Jakarta, Balai Pustaka, 2005, p. 458.

<sup>4</sup> Ibid, Article 1239.

<sup>5</sup> Abdul Aziz and Yasaman, Op.Cit.

with an agreement is a breach of contract, but there are also those who say that it does not always result in a breach of contract, it can also be a fraud.<sup>6</sup>

Legal Facts that occurred in the jurisdiction of the Banyumas District Attorney's Office, as in the case of a criminal act arising from a contractual relationship, namely in case Number 108 / Pid.B / 2020 / PN Bms, the actions carried out by the Defendant KJH on Wednesday, April 25, 2018 to August 7, 2018 for a time that can no longer be remembered or at least at other times in April 2018 to August 2018 or in 2018, which took place in the Manayo restaurant area located at Jalan Baturraden Timur, Banteran Village, RT 006 RW 007, Sumbang District, Banyumas Regency, witness ANE to hand over something to him, or to give debt or write off receivables, which in short that the chronology of the case began on April 24, 2018 at around 13.30 WIB, witness ANE together with witness CYS came to the Village Head's Office Pandak, address Jalan Sadewa No. 1, Pandak Village, Rt. 04/01, Baturraden District, Banyumas Regency, to find out the truth regarding the Pandak Tourism Ride Project, there has been cooperation between Pandak Village and PT Kokoria to build Mannayo Resort Pandak, confirmed by witness r showing 1 (one) bundle of cooperation deed number 05 dated June 15, 2017 between the Pandak Village government and PT. Kokoria Mannayo in the construction of restaurants and tourist rides.

The defendant also explained the various facilities that would be built in the tourist attraction, Wednesday, April 25, 2018 at around 13.00 WIB, witness ANE together with witness HCR as part of the administration of CV. Sukses Maju Bersama came to meet the Defendant KJH at the Mannayo Restaurant to send an offer letter and at the time the witness who broadcast it was the Defendant whose contents were the Mannayo Resort Pandak development plan so that after witness ANE saw it, the broadcast increased her trust in the investment that would be made by the Defendant KJH.

Defendant KJH said he agreed to buy iron material from CV Sukses Maju Bersama and promised to pay the invoice for one month, then witness ANE heard all the Defendant's words so that witness ANE believed it more and then witness ANE represented CV Sukses Maju Bersama and Defendant KJH made a sales and purchase agreement for materials (Iron, Natural Materials and Building Construction) dated June 1, 2018. However, it turned out that from all the Cooperation agreements, defendant KJH did not make payment for the goods that had been received, so that ANE suffered a loss of IDR 2,347,764. 682.00 (two billion three hundred forty seven million seven hundred sixty four thousand six hundred eighty two rupiah) with a penalty/compensation value of IDR 114,996,160.00 (one hundred fourteen million nine hundred ninety six thousand sixty rupiah).

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<sup>6</sup>Medika Andarika Adati, Breach of Contract Which Can Be Punished According to Criminal Law, *Lex Privatum Journal*, Vol VI No 4, June 2018.

Due to the defendant's actions, the Public Prosecutor of the Banyumas District Attorney's Office charged him with an alternative charge, namely the first alternative charge is subject to criminal penalties in Article 378 of the Criminal Code, namely committing a crime of fraud or Article 372, namely committing a crime of embezzlement. Based on the background that has been described, it is an attraction for the author to study this in more depth by conducting a study on the Construction of Evidence by the Public Prosecutor Against Criminal Acts of Fraud Born from Contractual Relations (Study of the Banyumas District Attorney's Office).

## **2. Research Methods**

The approach method used in this study is sociological juridical. The specifications of this study are descriptive analytical. The data sources used are secondary data obtained from literature study research consisting of primary legal materials, secondary legal materials, and testier legal materials.

## **3. Results and Discussion**

### **3.1. The Authority of the Public Prosecutor in Proving a Criminal Case**

Evidence in Criminal Procedure Law is very important in the process of examining criminal cases in court, this is because at this stage of evidence the truth will be sought regarding what is the goal of the criminal procedure law. In order to find the truth in a case, evidence is the most important way used by judges to determine whether or not the defendant is right in committing the alleged act or to obtain the basis for making a decision in resolving a case.<sup>7</sup>

The purpose of proof is to provide a description of the truth of an event, so that from that event a truth can be obtained that can be accepted by reason.<sup>8</sup>Therefore, the Judges and the Public Prosecutors must instill caution, precision and maturity in making assessments and considering the issue of evidence. Evidence in criminal cases begins from the preliminary stage, namely investigation and inquiry, even later in the trial process as of course the Public Prosecutor will have the burden to provide evidence to what has been suspected.

Based on the results of the interview with Dimas Sigit Tanugraha, SH as the Public Prosecutor of the Banyumas District Attorney's Office, he said that regarding the authority of the Public Prosecutor in the process of providing evidence in a criminal case to prosecute, it can be seen from the role of the victim in the occurrence of the crime, which is a goal of the evidentiary system contained in the criminal procedure law (KUHP), namely to assess the evidence

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<sup>7</sup>Fahrul Rozi, Evidence System in the Trial Process in Criminal Cases, Unaja Juridical Journal Vol 1 No 2, December 2018.

<sup>8</sup>Martiman Prodjohamidjojo, Commentary on the Criminal Procedure Code: Criminal Procedure Code, (Pradnya Paramitha), Jakarta, 1984, p. 11.

in the case being examined which will later contain provisions regarding the procedures permitted by law in proving a crime charged against the defendant whether the defendant is guilty or not. However, before carrying out a series of evidence, in the trial sequence, the authority of the Public Prosecutor will first read the indictment, file exceptions and respond to exceptions, after which it enters the evidentiary stage.<sup>9</sup>

The public prosecutor in conducting proof as with evidence and evidence. As evidence is everything that can be used to prove the truth of an event in court. Regarding valid evidence is regulated in Article 184 of the Criminal Procedure Code paragraph 1, namely consisting of witness statements, expert statements, letters, instructions, and statements from the defendant.<sup>10</sup>Evidence includes evidence, namely goods used by the defendant to commit a crime or the result of a crime. The goods in question are goods confiscated by investigators as evidence in court.<sup>11</sup>

Thus, the purpose of carrying out the evidentiary activity as regulated in Article 183 of the Criminal Procedure Code is to impose or take a decision in casu to appeal the verdict by the panel of judges. Evidence is carried out first in an effort to achieve the highest degree of justice and legal certainty in the judge's decision. So that evidence is not only intended to impose a criminal penalty based on the minimum requirement of two pieces of evidence that must be met in terms of evidence to impose a criminal penalty.<sup>12</sup>

In relation to the theory of proof, Sudikno Mertokusumo has a different opinion, namely, what is meant in the legal sense of the context of proof is an effort to provide sufficient grounds to the judge examining the case in question in order to provide certainty about the truth of the legal event being submitted.<sup>13</sup>The purpose of the proof itself is to provide a picture that is related to the truth of an event, so that later from the event a truth can be obtained that can be accepted by the mind.<sup>14</sup>

In relation to the theory of proof above, the Public Prosecutor has the burden to provide proof of what has been suspected, so that with a series of authorities granted by the Law, especially in the criminal field, the Prosecutor carries out prosecution in the context of law enforcement, this is in line with the purpose of proof in court for the public prosecutor, namely as a form of effort to convince

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<sup>9</sup>Results of Interview with Public Prosecutor at Banyumas District Attorney's Office on January 22, 2025.

<sup>10</sup>Rusyadi, The Power of Evidence in Criminal Trials, PRIORIS Law Journal, Vol 5 No 2, 2016.

<sup>11</sup>Josua DW Hutapea, Duties and Authorities of Prosecutors in the Investigation of Corruption Crimes, *lex crimen*, Vol. VI No.2, March-April 2017.

<sup>12</sup>Fachrul Rozi, *Op.Cit.*

<sup>13</sup>Sudikno Mertokusumo, *Op.Cit.*, p. 135.

<sup>14</sup>Martiman Prodjohamidjojo, *Op.Cit.*, p. 11.

the judge based on valid evidence that the defendant is guilty according to the indictment charged to him, meaning that the Public Prosecutor is given the authority to submit all efforts to prove that a criminal incident has occurred and that the defendant is guilty of doing so. Furthermore, the authority of the Public Prosecutor in providing evidence is the implementation of one of the functions of the Prosecutor's Office from a repressive aspect in the form of conducting prosecution, implementing the determination of judges and court decisions, supervising the implementation of conditional release decisions and completing certain case files originating from investigators as stipulated in Article 30 of Law of the Republic of Indonesia Number 11 of 2021 concerning Amendments to Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.

### **3.2. Characteristics of Criminal Acts of Fraud Arising from Contractual Relationships**

The increasing number of fraud cases reported to the Police, is a challenge especially for the prosecution institution in this case the Attorney General's Office of the Republic of Indonesia to be more careful in handling cases so that a balanced judicial process and justice are achieved for the reporter as the victim and the perpetrator who is reported. The challenge is the existence of a thin line between the crime of fraud and acts against civil law as a result of the validity of an agreement between the two parties. This is coupled with the understanding that civil matters arising from an agreement are separate acts from criminal acts or punishment. Not infrequently in practice, a case of fraud that is processed in criminal court is then also filed a civil lawsuit on the grounds that the incident that occurred between the two parties was a civil agreement between individuals and not a crime or falls within the scope of criminal law.

Until now, there has been no prohibition or legal provision that requires a case of alleged fraud to receive a final and binding criminal court decision or *incracht van gewijsde* before a civil lawsuit can be filed. However, it should be emphasized that in the context of criminal law, alleged fraud is not merely suspected but must be proven through a prosecution process before the court, namely proof of a series of lies or tricks. However, on the other hand, there are many complaints received by the Attorney General's Office of the Republic of Indonesia, which in essence are many reports related to alleged fraud that are not accepted by investigators at the Police on the grounds that the reported act is a civil matter.

Supreme Court Jurisprudence No. 4/Yur/Pid/2018 contains a legal principle as stating that the parties who do not fulfill their obligations in a legally made agreement are not fraud, but a breach of contract that falls into the civil realm, unless the agreement is based on bad faith/bad intentions. So in this case, the elements that must be met if a breach of contract is reported as a criminal act of

fraud are if the agreement has been made using a false name, false dignity/false circumstances, trickery or a series of lies.<sup>15</sup>

Along with the development of criminal law and criminal liability related to the crime of fraud ex-Article 378 of the Criminal Code, today there have been changes and shifts. Business and business activities that are carried out always intersect with legal relations, namely legal relations of contracts or agreements. Contracts made by both parties, sometimes obligations are not carried out by one party, resulting in losses for one party. So the party who does not carry out its obligations will be held criminally responsible.<sup>16</sup>

The general provisions in the Indonesian Criminal Code still adhere to the general principles that anyone who commits a crime will receive criminal sanctions through the criminal justice process. In practice, cases related to contractual relationships are often found which are handled by the Indonesian National Police. After an investigation is carried out based on Article 184 of Law Number 8 of 1981 concerning Criminal Procedure, the act can be proven to have elements as a criminal act of fraud ex-Article 378 of the Criminal Code.

During the handling process, before the case file is submitted to the Public Prosecutor as the Prosecutor, the reporter or victim has withdrawn his/her report/complaint to the investigator on the grounds that the losses experienced have been fulfilled by the perpetrator. Between the victim and the perpetrator, there has been a peace, sometimes the peace is made through a notarial deed in front of a notary, sometimes it is made underhand. The reporter/victim does not want his/her case to be continued to the prosecution and trial process. This settlement model is not known in the Indonesian Criminal Code, this model is a shift in concept to realize the desired criminal law (*ius constituendum*).<sup>17</sup>

As is known, the first requirement to form an agreement or contract is the existence of an agreement desired by one party and the other party as referred to in Article 1320 of the Civil Code. However, when there is a party who has bad intentions as having realized the impact of not fulfilling the contents of the agreement, then it is a breach of contract. The weakness of this civil path is often used as a mode for fraud. As usual, there is an underhand agreement that has a high tendency for vulnerability. It can occur with trickery/tricks, lies, using a fake name or fake dignity of one of the parties in closing the contract. This is also one of the reasons for the existence of criminal acts of fraud that arise from contractual relationships.

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<sup>15</sup> Law Online, Can a Default Case Be Reported as Fraud?<https://www.Hukumonline.com/klinik/a/whether-case-wanprestasi-bisa-dilaporkan-jadi-penipuan--lt4df06353199b8/>, accessed on January 22, 2025 at 11.48 WIB.

<sup>16</sup>Roknel Maadia, Op.Cit.

<sup>17</sup>Ibid.



The phenomenon of the reality of law enforcement in Indonesia still appears related to the application of the concept of default and criminal acts of fraud arising from contractual relationships in jurisprudence do not yet have a definite and concrete reference, so that in the understanding and interpretation of law enforcement officers are not yet in harmony. So it can be concluded that the characteristics of criminal acts arising from contractual relationships themselves are when there is a contract that was previously closed there is deceit, false circumstances and a series of lies from the perpetrator that can cause harm to other people or victims, this is fraud.<sup>18</sup>

Based on the results of the interview with Dimas Sigit Tanugraha, SH as the Public Prosecutor of the Banyumas District Attorney's Office who handled the case as described by the author, namely case number 108/Pid.B/2020/PN Bms which was charged by the public prosecutor related to alternative charges, namely Article 378 of the Criminal Code concerning the crime of fraud or Article 372 of the Criminal Code concerning the crime of embezzlement, an example of this case is seen from the chronology to the decision of the first instance court which is a criminal case arising from a contractual relationship, with the main characteristics that there is a breach of contract in which there is trickery, false circumstances and a series of lies from the perpetrator that can cause harm to others or the victim. As a result of the defendant's actions, the victim suffered a loss of IDR 2,347,764. 682.00 (two billion three hundred forty-seven million seven hundred sixty-four thousand six hundred and eighty-two rupiah) with a penalty/compensation value of IDR 114,996,160.00 (one hundred and fourteen million nine hundred and ninety six thousand and sixty rupiah).<sup>19</sup>

Associated with the theory of combined punishment put forward by Pellegrino Rossi, it is stated that this theory is rooted in contradictory thinking between absolute theory and relative theory. So it can be concluded that the purpose of punishment, namely in addition to imposing a sentence, must also be able to create a deterrent effect, must also provide protection and education for the community and the convict. So that with the defendant's actions in case number 108 / Pid.B / 2020 / PN Bms with the verdict handed down by the judge as in accordance with the indictment of the Public Prosecutor, namely the first alternative indictment stating that the defendant KJH was legally and convincingly proven guilty of committing the crime of Fraud, sentenced to 1 (one) year in prison. In addition, the purpose of punishment with this theory is to provide education to the community and convicts that criminal acts can also arise from contractual relationships and is proven by the main characteristics that there is a breach of contract in a contractual relationship that involves

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<sup>18</sup>Junaidi, Crime of Fraud that Begins with a Contractual Relationship, *Thengkyang Journal*, Faculty of Law, Sjakhyakirti University, Palembang, Vol 4 No 1, June 2019.

<sup>19</sup>Results of Interview with the Public Prosecutor of the Banyumas District Attorney's Office on January 22, 2025.



trickery, false circumstances and a series of lies from the perpetrator that can cause harm to other people or victims by also fulfilling the elements of the crime of fraud itself.

### **3.3. Construction of Evidence by Public Prosecutors in Fraud Cases Arising from Contractual Relationships (Study of the Banyumas District Attorney's Office)**

At the stage of settling a case in court, the evidentiary procedure is the most important stage to prove the truth of the occurrence of a certain event or legal relationship, or the existence of a right, which is used as the basis for the plaintiff to file a lawsuit in court. At the evidentiary stage, the defendant can also use his right to deny the arguments submitted by the plaintiff. Through the evidentiary process using these evidences, the judge will obtain the basis for making a decision in resolving a case.

Based on the results of the interview with Dimas Sigit Tanugraha, SH as the Public Prosecutor of the Banyumas District Attorney's Office who handled the case, said that related to the authority of the Public Prosecutor in the process of providing evidence in a criminal case to carry out prosecution can be seen from the role of the victim in the occurrence of the crime, is a goal of the evidentiary system contained in the criminal procedure law (KUHAP), namely to assess the evidence in the case being examined which will later contain provisions regarding the procedures permitted by law in proving a crime charged against the defendant whether the defendant is guilty or not. However, before carrying out a series of evidence, in the trial sequence, the authority of the Public Prosecutor will first read the indictment, file exceptions and respond to exceptions, after which it enters the evidentiary stage.<sup>20</sup>

Based on the evidence above, the Public Prosecutor is confident in proving the defendant's guilt as charged in the Alternative indictment, that first the defendant violated Article 378 of the Criminal Code or Article 372 of the Criminal Code. As Article 378 of the Criminal Code as the first Alternative chosen, the elements of which are as follows:

- 1) Whoever;
- 2) With the intention of benefiting oneself or others in an unlawful manner;
- 3) By using a false name or false dignity or by deception or a series of lies;
- 4) Motivate another person to hand over something to him, hand over something to him, or to give a debt or write off a receivable.

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<sup>20</sup>Results of Interview with the Public Prosecutor at the Banyumas District Attorney's Office on January 22, 2025.

Based on the results of the interview with Dimas Sigit Tanugraha, SH as the Public Prosecutor of the Banyumas District Attorney's Office who handled the case, the proof of the crime of fraud which in this case arose from a contractual relationship as the indictment charged in relation to Article 378 concerning the Crime of Fraud has all fulfilled its elements. Therefore, after going through the process of proof by the Public Prosecutor which has been assessed, the next stage is to make the value of the proof a consideration in providing a charge in the case, namely declare that Defendant KJH has been proven legally and convincingly guilty of committing a crime with the intention of benefiting himself or another person unlawfully, by using a false name or false dignity, by trickery, or a series of lies, moving another person to hand over something to him, or to give debt or write off receivables, as regulated and threatened with criminal penalties in Article 378 of the Criminal Code and impose a penalty on Defendant KJH with imprisonment for 4 (four) years.<sup>21</sup>

Results of the decision of the Banyumas District Court as in case Number 108/Pid.B/2020/PN Bms stated that the Defendant KJH was proven legally and convincingly guilty of committing the crime of Fraud as in the First Alternative indictment, namely Article 378 of the Criminal Code, sentenced the Defendant therefore with a prison sentence of 1 (one) year, determined that the period of arrest and detention that the Defendant had served was deducted in full from the sentence imposed, determined that the Defendant remained in detention, determined the evidence, charged the Defendant to pay court costs of IDR 5,000.00 (five thousand rupiah).

Based on the results of the interview with Dimas Sigit Tanugraha, SH as the Public Prosecutor of the Banyumas District Attorney's Office who handled the case, the proof of the criminal act of fraud which in this case arose from a contractual relationship that had been decided by the Banyumas District Court Judge, was rejected by the Defendant's Legal Counsel so that an appeal was made to the Semarang High Court with the result that Decision Number 29 / Pid / 2021 / PT SMG which tried accepted the appeal request from the Defendant and the Public Prosecutor and canceled the decision of the Banyumas District Court dated December 15, 2020 Number 108 / Pid.B / 2020 / PN Bms which was requested for an appeal. The Semarang High Court tried itself, stating that the actions charged to the Defendant were proven, but the actions did not constitute a crime, declaring the Defendant free from legal charges, releasing the Defendant from detention, restoring the Defendant's rights in terms of ability,

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<sup>21</sup>Results of Interview with the Public Prosecutor of the Banyumas District Attorney's Office on January 22, 2025.

position and dignity, determining evidence, and charging the court costs for both levels of trial to the State.<sup>22</sup>

Dimas Sigit Tanugraha, SH as the Public Prosecutor of the Banyumas District Attorney's Office who handled the case, the proof of the criminal act of fraud which in this case arose from a contractual relationship that had been decided by the Banyumas District Court Judge, did not only stop at the Appeal, but was also submitted to the third level of court, namely the Cassation. As at the cassation level with the Cassation Decision Number 595 K/Pid/2021, with the cassation decision ruling:

- 1) Granting the cassation request from the Cassation Applicant/PUBLIC PROSECUTOR AT THE BANYUMAS DISTRICT PROSECUTOR'S OFFICE;
- 2) Canceling the Decision of the Semarang High Court Number 29/Pid/2021/PT SMG., dated February 4, 2021 which canceled the Decision of the Banyumas District Court Number 108/Pid.B/2020/PN Bms, dated December 15, 2020;

JUDGE YOURSELF:

- 1) Declaring that the Defendant KANG JUN HO alias MR. KANG, son of KANG HAE WON, has been proven legally and convincingly guilty of committing the crime of "Fraud";
- 2) Sentencing the Defendant to imprisonment for 2 (two) years and 6 (six) months;
- 3) Determine that the period of detention served by the Defendant is deducted in full from the sentence imposed;
- 4) Stating the evidence in the form of: Complete evidence as in the ruling of the Banyumas District Court Number 108/Pid.B/2020/PN Bms, dated December 15, 2020;
- 5) Charge the Defendant with paying court costs at the cassation level of IDR 2,500.00 (two thousand five hundred rupiah);

Can be concluded that the construction of evidence by the Public Prosecutor in the case of Fraud arising from a contractual relationship, the Banyumas District Attorney's study by assessing the evidence by referring to Article 184 paragraph (1) of the Criminal Procedure Code which includes witness statements, expert statements, letters, instructions and statements from the defendant. So that it will prove how the success in proving the elements of the crime is fulfilled by being careful and precise in the assessment. So that in the Banyumas District

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<sup>22</sup>Results of Interview with the Public Prosecutor of the Banyumas District Attorney's Office on January 22, 2025.

Attorney's study as with case Number 108/Pid.B/2020/PN Bms, the Public Prosecutor succeeded in proving that the case was a case of Fraud, which in this case arose from a contractual relationship.

According to the penlis, if associated with the first theory, namely clear evidence that in evidence is an effort to provide sufficient grounds to the judge examining the case in question in order to provide certainty about the truth of the legal event submitted. So it is clear according to the author the importance of the evidence process by the Public Prosecutor in a case which in this case is a case of Fraud arising from a contractual relationship, as with the caution and accuracy of the Public Prosecutor can finally consistently produce results that what is charged as a Fraud Crime is proven to be Accepted or granted at the Cassation stage.

If the author also relates it to the theory of combined punishment put forward by Pellegrino Rossi, it is stated that this theory is rooted in contradictory thinking between absolute theory and relative theory. So it can be concluded that the purpose of punishment, namely in addition to imposing a sentence, must also be able to create a deterrent effect, must also provide protection and education for the community and the convict. So that with the defendant's actions in case number 108 / Pid.B / 2020 / PN Bms with the verdict handed down by the judge as in accordance with the indictment of the Public Prosecutor, namely the first alternative indictment stating that the defendant KJH was legally and convincingly proven guilty of committing the crime of Fraud, sentencing him to 1 (one) year in prison. And the Supreme Court's Cassation Decision Number 595 K / Pid / 2021 was also granted by trying it themselves and sentencing the Defendant to 2 (two) years and 6 (six) months in prison.

In addition, the purpose of punishment with this theory is to provide education to the community and convicts that criminal acts can also arise from contractual relationships and is proven by the main characteristics that there is a breach of contract in a contractual relationship that involves trickery, false circumstances and a series of lies from the perpetrator that can cause harm to other people or victims by also fulfilling the elements of the crime of fraud itself.

Thus, the defendant's actions containing elements of fraud were carried out before the contract or agreement was concluded (*ante factum*). In other words, the contractual legal relationship or agreement made by the defendant is only a cover or camouflage or can also be a *modus operandi* in committing a criminal act of fraud. So that the construction of evidence by the Public Prosecutor in resolving the case of the Criminal Act of Fraud that arose in a contractual relationship requires caution, precision, and a process that is designed in such a way as to realize justice in society.

#### 4. Conclusion

The authority of the Public Prosecutor has the burden to provide evidence to what has been suspected, so that with a series of authorities granted by the Law, especially in the criminal field, the Prosecutor carries out prosecution in the context of law enforcement, this is in line with the purpose of proof in court for the public prosecutor, namely as a form of effort to convince the judge based on valid evidence that the defendant is guilty according to the indictment charged to him, meaning that the Public Prosecutor is given the authority to submit all efforts to prove that a criminal incident has occurred and that the defendant is guilty of doing so. Furthermore, the authority of the Public Prosecutor in providing evidence is the implementation of one of the functions of the Prosecutor's Office from a repressive aspect in the form of conducting prosecution, implementing the determination of judges and court decisions, supervising the implementation of conditional release decisions and completing certain case files originating from investigators as stipulated in Article 30 of Law of the Republic of Indonesia Number 11 of 2021 concerning Amendments to Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. Characteristics of Criminal Acts of Fraud arising from contractual relationships, namely when the defendant's actions containing elements of the crime of fraud are carried out before the contract or agreement is closed (*ante factum*). In other words, the contractual legal relationship or agreement made by the defendant is only a cover or camouflage or can also be a *modus operandi* in committing criminal acts of fraud in which there is trickery, false circumstances and a series of lies from the perpetrator that can cause losses to other people or victims by also fulfilling the elements of the criminal act of Fraud itself. The construction of evidence by the public prosecutor in cases of criminal acts of fraud arising from contractual relationships is studied by the Banyumas District Attorney by assessing evidence based on Article 184 paragraph (1) of the Criminal Procedure Code which includes witness statements, expert statements, letters, instructions and statements from the defendant. So that it will prove how successful it is to prove that the elements of the crime are fulfilled by being careful and precise in the assessment. So that in the study of the Banyumas District Attorney's Office as with case Number 108/Pid.B/2020/PN Bms, the Public Prosecutor succeeded in proving that the case was a case of Criminal Fraud, which in this case arose from a contractual relationship.

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**Interview:**

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