

Juridical Analysis of Criminal Punishment of Perpetrators of The Criminal Act of Embezzlement Based on Justice (Study of Decision Number: 96/Pid.B/2023/Pn Pkl)

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Abstract. *The crime of embezzlement stems from the abuse of trust over property legally under the perpetrator's control and raises questions regarding the appropriateness of punishment and the fairness of the decision. This study aims to analyze the application of punishment and the judge's considerations for perpetrators of embezzlement based on justice in Decision Number 96/Pid.B/2023/PN Pkl. This research uses a normative legal approach with descriptive analytical specifications. Data in the form of primary, secondary, and tertiary legal materials were collected through library research and documentation. The analysis was conducted qualitatively through legislative, conceptual, and case studies, particularly regarding Article 372 of the Criminal Code, related provisions in the National Criminal Code, and the decisions that were the subject of the research. The results of the study indicate that the application of Article 372 of the Criminal Code and a two-year prison sentence is in accordance with applicable law when the act was committed because the defendant pawned a rental vehicle without the owner's consent, so that all elements of embezzlement are fulfilled. However, the punishment does not fully reflect substantive justice because the decision has not detailed the extent of the victim's losses, abuse of trust, the defendant's profits, recovery of losses, and the purpose of development. The judge's considerations have been legally adequate based on the indictment, witness and defendant statements, evidence, and aggravating and mitigating circumstances, but the philosophical and sociological aspects regarding the proportionality of the sentence still need to be strengthened.*

Keywords: *Criminalization; Embezzlement; Judge's Considerations; Justice.*

1. Introduction

Law occupies a crucial position in social life, serving as a means to achieve justice, order, peace, and order, while also ensuring legal certainty. Law arises from the will and awareness of each individual in society, with the aim of ensuring that it operates as desired by all, namely, maintaining harmony and peace in social interactions.

Criminal law is essentially the entire set of regulations governing conduct, both those that order certain actions and those that prohibit certain actions, as stipulated in laws and regional regulations, accompanied by the threat of criminal sanctions. In Indonesia, applicable criminal law can be divided into two types: general criminal law contained in the Criminal Code (KUHP) and special criminal law regulated outside the KUHP.¹

It should be emphasized that the Indonesian criminal law system is entering a fundamental new phase. Through Law Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the National Criminal Code), which came into effect on January 2, 2026, Indonesia officially abandoned the *Wetboek van Strafrecht* (WvS) colonial legacy and replaced it with a national criminal law based on Pancasila and the 1945 Constitution of the Republic of Indonesia. At the same time, reforms also occurred in the realm of procedural law through Law Number 20 of 2025 concerning the Criminal Procedure Code, which replaced Law Number 8 of 1981. Therefore, the study of a crime during this transitional period requires a paired reading, namely by juxtaposing the provisions of the Criminal Code (WvS) with their equivalents in the National Criminal Code.²

As a developing country, Indonesia cannot escape the problem of property crimes, particularly motor vehicle theft. The rate of property crimes remains relatively high, although compared to conditions in developed countries, it still appears within reasonable limits. This situation is inextricably linked to the economic and social standard of living and the level of legal awareness of the public. Therefore, it is not surprising that crime in Indonesia is often viewed as a consequence of the dynamics of its own society.

One form of property crime that frequently occurs in society is embezzlement, for example, the embezzlement of four-wheeled motor vehicles. According to Lamintang, embezzlement is essentially an abuse of rights or an abuse of trust that is obtained by someone without any unlawful element at the time of possession of the property. This trust can arise through an agreement, either

¹Moeljatno, *Principles of Criminal Law*, Rineka Cipta, Jakarta, 2015, p. 1.

²Law Number 1 of 2023 concerning the Criminal Code is valid for 3 (three) years from the date of its promulgation on January 2, 2023, namely starting January 2, 2026, while Law Number 20 of 2025 concerning the Criminal Procedure Code was stipulated on December 17, 2025 and is valid from January 2, 2026.

written or unwritten, between the perpetrator and the victim, before the property is ultimately embezzled by the perpetrator.³

The development of crime today is increasingly frequent in line with the advancement of modern times. This development has influenced some parties to resort to various means to fulfill their desires, even justifying any means that ultimately cause harm to others. One form of loss experienced by victims of crime is the loss of their assets. To protect everyone's assets, the Criminal Code defines acts that can cause loss to assets as crimes against assets, as regulated in Book Two of the Criminal Code.

More specifically, the crime of embezzlement in the Criminal Code (WvS) is regulated in Chapter XXIV of Book Two, which is contained in Articles 372 to 377. In its basic form, Article 372 of the Criminal Code formulates that anyone who intentionally and unlawfully owns an item that is wholly or partly owned by another person, which is in his control not because of a crime, is threatened for embezzlement with a maximum imprisonment of four years or a maximum fine of nine hundred rupiah. The series of provisions include embezzlement in the main form (Article 372), minor embezzlement (Article 373), aggravated embezzlement (Article 374 and Article 375), embezzlement within the family environment (Article 376), and additional penalties (Article 377).⁴

The entire series of provisions now have their equivalents in the National Criminal Code, namely the crime of embezzlement which was originally regulated in Articles 372 to 377 of the Criminal Code (WvS) has been changed to Articles 486 to 491 of the National Criminal Code. Embezzlement in its principal form which was previously regulated in Article 372 of the Criminal Code (WvS) is now contained in Article 486 of the National Criminal Code; minor embezzlement (Article 373) becomes Article 487; embezzlement with aggravation due to work or position relationships (Articles 374 and 375) becomes Article 488 and Article 489; embezzlement within the family environment (Article 376) becomes Article 490; while the additional criminal provisions (Article 377) became Article 491. Although substantially both regimes regulate the same acts, the National Criminal Code presents a number of updates, including replacing the phrase "whoever" with "Every Person", changing the phrase "not because of a crime" to "not because of a criminal act", as well as updating the criminal fine system which no longer mentions the outdated nominal amount, but instead refers to categories, namely category IV with a maximum value of two hundred million rupiah.⁵

³PAF Lamintang and Theo Lamintang, *Special Crimes Against Property*, Sinar Grafika, Jakarta, 2009, p. 105.

⁴See Articles 372 to 377 of the Criminal Code (Wetboek van Strafrecht).

⁵See Articles 486 to 491 in conjunction with Article 79 of Law Number 1 of 2023 concerning the Criminal Code; compare with Articles 372 to 377 of the Criminal Code (Wetboek van Strafrecht).

From an Islamic legal perspective, there is no specific term for embezzlement. However, when viewed from the perspective of the act and its elements, there are points of intersection between the crime of embezzlement and several acts regulated by Islamic law, such as *ghulul*, *ghasab*, *sariqah*, and treason. In the treasury of Islamic jurisprudence, embezzlement is equated with breach of trust (*djahidu wadi'ah* and *djahidu 'ariyah*), namely denying the possession of entrusted or borrowed goods. Thus, embezzlement is essentially the act of someone who, without the consent of the owner of the property, transfers the property to themselves or to another person.⁶

Thus, the crime of embezzlement always stems from trust placed in the perpetrator. When compared to theft, embezzlement has a fundamental difference. Although both are crimes against property and involve goods that are partially or wholly owned by another person, in embezzlement the goods are already in the perpetrator's legal possession, not as the proceeds of a crime; conversely, in theft the goods are initially in the victim's possession and are only transferred through an unlawful act of appropriation.

Embezzlement is a crime against property that continues to develop in society, even leading to increasingly sophisticated methods. Anyone who commits a crime is fundamentally responsible for their actions if they are found to be at fault. A person is considered guilty if, from the perspective of society, at the time of the act, there appears to be a normative assessment of the crime, making the act condemnable and liable for accountability.⁷

The increasing public demand for cars as a means of transportation has also increased the risk of criminal violations by groups of criminals through the misuse of these vehicles. One form of this crime is the crime of car embezzlement through the guise of renting or leasing. The rise of this crime is due to the ease with which individuals can rent their cars to others based solely on trust. This abuse of trust is the main element of the crime of embezzlement, for example, when someone borrows or rents a car for a specific reason, then the unsuspecting owner hands it over according to the agreement, but the borrower or renter does not return the vehicle and even sells it to another party.

The problem as described above is reflected in the case that is the object of study in this writing, namely the embezzlement case tried by the Pekalongan District Court through Decision Number 96/Pid.B/2023/PN Pkl. In this case, the Defendant was declared legally and convincingly proven to have committed the crime of embezzlement as a single charge that violates Article 372 of the Criminal Code. The Defendant originally intended to rent a four-wheeled motorized

⁶Ahmad Wardi Muslich, *Islamic Criminal Law*, Sinar Grafika, Jakarta, 2005, p. 81.

⁷Roeslan Saleh, *Criminal Acts and Criminal Responsibility: Two Basic Concepts in Criminal Law*, Aksara Baru, Jakarta, 1983, p. 75.

vehicle belonging to the victim for one month with a certain rental fee, but later the vehicle was not returned and instead used as collateral for debt to another party without the owner's knowledge, so that the victim suffered a significant loss. For this action, the Panel of Judges sentenced him to two years in prison.⁸

In the context of legal reform, it is important to emphasize that the prosecution of the case in question is still based on Article 372 of the Criminal Code (WvS), as its future equivalent in Article 486 of the National Criminal Code, with the procedural process, since January 2, 2026, subject to Law Number 20 of 2025 concerning the Criminal Procedure Code. This demonstrates that the assessment of the fulfillment of the elements of criminal responsibility cannot be separated from the legal framework that serves as its container. The extent to which fault or criminal responsibility is imposed must always consider the balance between individual interests and the interests of the wider community.⁹

The failure to fulfill the elements of criminal responsibility in Article 372 of the Criminal Code (Wetboek van Strafrecht), which now has its equivalent in Article 486 of the National Criminal Code, clearly and convincingly by law enforcement has the potential to create legal uncertainty which in turn has an impact on disrupting the value of justice. Such a situation is deemed necessary to be studied more deeply, especially regarding the fulfillment of the elements of criminal responsibility in the crime of embezzlement, both according to the provisions of Article 372 of the Criminal Code (WvS) and Article 486 of the National Criminal Code, so that the decisions handed down truly reflect justice and legal certainty simultaneously.¹⁰

The freedom of judges to examine and adjudicate a case is a crown that must be protected and respected by all parties without exception, so that no party can intervene in the performance of their duties. In rendering a decision, the judge must consider many factors, both related to the case being examined, the level of the perpetrator's actions and culpability, the interests of the victim and their family, and the community's sense of justice. The judge's decision must be based on an interpretation of the law that is in harmony with the sense of justice that grows, lives, and develops in society, while also taking into account the surrounding cultural, social, economic, and political factors.¹¹

Based on the description above, the many phenomena of embezzlement crimes require public awareness and vigilance, especially for those who do not yet

⁸Pekalongan District Court Decision Number 96/Pid.B/2023/PN Pkl.

⁹Law Number 20 of 2025 concerning the Criminal Procedure Code came into effect on January 2, 2026 and replaced Law Number 8 of 1981 concerning Criminal Procedure Code.

¹⁰See Article 372 of the Criminal Code (Wetboek van Strafrecht) in conjunction with Article 486 of Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code).

¹¹Ahmad Rifai, *Legal Discovery by Judges in the Perspective of Progressive Law*, Sinar Grafika, Jakarta, 2011, p. 103.

understand the applicable legal provisions, as illustrated in the case registered at the Pekalongan District Court Number 96/Pid.B/2023/PN Pkl. This is a particular attraction for the author to study it in more depth through research, which is outlined in the writing of a thesis entitled "Juridical Analysis of Criminalization of Perpetrators of Embezzlement Crimes Based on Justice (Study of Decision Number 96/Pid.B/2023/PN Pkl)".

2. Research Methods

The approach used in this research is a normative juridical approach. A normative juridical approach is legal research conducted by examining library materials or secondary data solely. Normative legal research positions law as a system of norms. The normative system in question concerns the principles, norms, and rules of legislation, court decisions, agreements, and doctrines (teachings).¹²

3. Results and Discussion

3.1. Criminalization of the Implementation of Criminalization for Perpetrators of Criminal Acts of Embezzlement Based on Justice (Study of Decision Number 96/Pid.B/2023/PN Pkl)

Embezzlement is fundamentally classified as a crime against property that is deeply intertwined with the abuse of trust. This unlawful act typically originates from a legally sanctioned transfer or possession of goods from an owner to a perpetrator based on an established legal relationship, such as custody, a loan, a rental agreement, an employment contract, professional practice, or wage-based responsibilities. Once the property is securely in the perpetrator's hands, they unlawfully treat it as if it were their own personal asset.

Beyond generating direct economic damage, embezzlement severely erodes the foundational trust existing between the property owner and the party entrusted with its control. Consequently, the legal interest safeguarded under the crime of embezzlement encompasses not only an individual's fundamental property rights, but also the underlying trust that facilitates the initial transfer and custody of goods. Legal scholars such as Tongat emphasize that embezzlement possesses unique characteristics because the incriminating object is already legally situated within the perpetrator's control.

Adami Chazawi further clarifies that embezzlement constitutes a direct attack on a person's legal rights to their property, distinguishing itself by the lawful manner in which control is initially acquired before a dishonest intent to possess it arises. This means the offense does not inherently require physical concealment or stealthy acquisition. Instead, the core of the wrongdoing manifests when

¹²Ibid, pp. 12-13

someone unlawfully possesses, sells, transfers, uses, consumes, or treats another party's property as their own without authorization.

Within Indonesia's constitutional framework as a state based on the rule of law under Article 1 paragraph (3) of the 1945 Constitution, every punishable act must be strictly codified in statutory regulations. Law enforcement processes must follow proper legal channels, meaning an individual cannot face criminal punishment merely for actions deemed socially inappropriate unless those behaviors precisely fulfill statutory definitions. The regulation of embezzlement has historically evolved, transitioning into the National Criminal Code under Articles 486 through 491, while maintaining transitional frameworks for prior offenses.

The practical application of these legal principles is clearly demonstrated in Pekalongan District Court Decision Number 96/Pid.B/2023/PN Pkl. In this case, the defendant, M. Sofian alias Riyan (MS), initially contacted witness Ismail in May 2022 to rent a Toyota Avanza Veloz for a monthly fee of Rp 5.000.000. The transaction began as a completely lawful rental agreement executed in the parking lot of the Pekalongan City DPRD office.

However, as the rental period progressed, the defendant failed to maintain the monthly rental payments and unlawfully pawned the vehicle to a third party, witness Harnoto, for Rp 60.000.000 without the owner's knowledge or consent. This unauthorized pledge of the vehicle escalated the civil rental dispute into a criminal matter of embezzlement, ultimately causing a substantial cumulative financial loss of Rp 150.000.000 for the victim.

The Public Prosecutor formally charged the defendant under Article 372 of the old Criminal Code, presenting robust evidence including bank installment bundles, vehicle registration certificates, vehicle keys, and direct witness testimonies. The trial proceedings successfully established all legal elements of embezzlement: the defendant qualified as a capable legal subject, intentionally and unlawfully exercised ownership control over another person's property, and held the vehicle initially through lawful means rather than theft.

In evaluating the case, the Panel of Judges carefully weighed both aggravating and mitigating circumstances before rendering their verdict. The aggravating factors highlighted that the defendant's actions caused significant public disturbance and inflicted direct material harm upon the victim. Conversely, the mitigating factors recognized the defendant's polite demeanor during the trial, open admission of guilt that streamlined proceedings, and lack of any prior criminal record.

Ultimately, the court declared the defendant legally and convincingly guilty of embezzlement, sentencing him to 2 years of imprisonment alongside an order to return the physical evidence to the victim. While this ruling aligns with the

retributive or absolute theory of punishment—which dictates that sanctions must serve as absolute moral retribution for committed crimes [18]—the 2-year sentence appears disproportionate when juxtaposed against the massive financial loss of Rp 150.000.000 suffered by the victim.

This noticeable disparity underscores the ongoing challenge within criminal justice systems to balance retributive penal measures with equitable victim protection. Ensuring that future judicial decisions achieve true proportionality requires a deeper, more nuanced consideration of economic restitution and societal harm, thereby reinforcing both the deterrent objectives of criminal law and the preservation of genuine justice.

3.2. Judges' Considerations in Sentencing Perpetrators of Embezzlement Based on Justice (Study of Decision Number 96/Pid.B/2023/PN PKI)

In determining the severity of a sentence, a judge must base it on the facts revealed during the trial and consider a number of aggravating and mitigating factors. The judge's primary function is to receive, examine, render a decision, and resolve a case submitted to him. The decision rendered by a judge in a case is considered crucial and influential, as judges are law enforcement officers obligated to uphold the values of justice. Therefore, in every decision, judges must also consider the values prevailing within society. Judges have a significant responsibility because they are required to issue decisions that reflect a sense of justice, guarantee legal certainty, and benefit society.

Therefore, judges have considerations in deciding cases, and these considerations will influence the differences in judges in imposing a sentence on the perpetrator. Judges in trying a criminal case must try to find and prove material truth based on the facts in the trial, with sufficient reasons and considerations as the trial facts, convincing the judge that a crime has occurred and the defendant is guilty of committing the crime.¹³

The provisions regarding the judge's considerations in the Old Criminal Procedure Code are regulated in Article 197 paragraph (1) letter d which stipulates: Considerations are compiled briefly regarding the facts and circumstances along with the evidence obtained from the examination at trial which is the basis for determining the defendant's guilt. Meanwhile, in the New Criminal Procedure Code it is regulated in Article 250 paragraph (1) letter d of the National Criminal Procedure Code. This provision stipulates that the criminal decision at the first level must contain considerations that are compiled clearly and completely regarding the facts and circumstances along with the evidence obtained from the examination at trial which is the basis for determining the defendant's guilt. The judge's considerations consist of legal considerations and

¹³<http://digilib.unila.ac.id/64577/3/3.pdf> health check on Wednesday, September 25, 2024 at 14.31 WIB.

facts in the trial. In addition, the panel of judges must master or be familiar with the theoretical and practical aspects, jurisprudence and the case position being handled.¹⁴

The judge's consideration is one of the most important aspects in determining the realization of the value of a judge's decision that contains justice (*ex aequo et bono*) and contains legal certainty, in addition to also containing benefits for the parties concerned so that the judge's consideration must be addressed carefully, well, and carefully. If the judge's consideration is not careful, good, and careful, then the judge's decision derived from the judge's consideration will be annulled by the High Court/Supreme Court.¹⁵

The judge's considerations in issuing a conditional sentence must be based on interrelated theories and research findings to achieve optimal and balanced results in both theory and practice. One way to achieve legal certainty through firm law enforcement is through the judiciary, where judges are law enforcement officers whose decisions can serve as a benchmark for achieving legal certainty.

In the case of decision Number 96/Pid.B/2023/PN Pkl defendant MS alias RYN has committed the crime of embezzlement. The defendant's actions were carried out on May 8, 2022 at approximately 21.00 WIB. The defendant contacted Witness ISML by telephone intending to rent 1 (one) unit of KBM Toyota Avanza 1.3 Veloz Nopol G 9486 NM belonging to the witness for 1 (one) month with a rental fee of Rp. 5,000,000,- (five million rupiah). Then on Monday, May 9, 2022, the defendant met Witness ISML in the parking lot of the Pekalongan City DPRD, Jalan Mataram No. 3 Podosugih Village, West Pekalongan District, Pekalongan City to pick up the car to be rented and Witness ISML handed over 1 (one) unit of KBM Toyota Avanza Veloz 1.3M/B Number plate G 9486 NM Year 2017 black Noka: MHKM5EA4JHK023759 Nosin: 1NRF363709 in the name of SRI HARYATI address Jalan Agung No. 16 RT 02 RW 05 Mulyoharjo Village, Pemalang District, Pemalang Regency. The defendant paid the rental fee to Witness ISML every month since May, June, July and August 2022.

. The judge's considerations of a legal nature are the judge's considerations that are based on the legal facts revealed in the trial and have been determined by law as matters that must be included in the decision, the author will describe the legal analysis of the judge's decision with the following description:

1. Public Prosecutor's Indictment

¹⁴Lilik Mulyadi, 2007, *Judge's Decisions in Criminal Procedure Law*, PT Citra Aditya Bakti, Bandung, pp. 193-194.

¹⁵Mukti Arto, 2004, *Civil Case Practice in Religious Courts*, 5th edition, Pustaka Pelajar, Yogyakarta, p. 140

The indictment is the legal basis for criminal procedure because it is the basis for the examination in court. In addition to identifying the defendant, the indictment also contains a description of the crime being charged, stating the time and place of the crime. In case number 96/Pid.Sus/2023/PN, defendant MS, also known as RYN, was charged with a single charge, namely Article 372 of the Criminal Code concerning embezzlement.

2. Defendant's Statement

The defendant's testimony is what the defendant states in court about the actions he or she committed, knew about, or experienced. Considering various court decisions, it appears that the defendant's testimony is a consideration for the judge, and it is appropriate to include it in the considerations, as this is the law's intent.

That in the case of decision Number 96/Pid.B/2023/PN Pkl defendant MS alias RYN in his statement of embezzlement reported by Victim Witness Ismail regarding the object of the case in the form of 1 (one) unit of KBM Toyota Avanza Veloz, 1.3M/B, Nopol: G 9486 NM, year 2017, black, that the Defendant admitted that the motorized vehicle unit in the form of a car belonged to Victim Witness ISML. The Defendant admitted that he had carried out the obligation to pay the contract rental for the motorized vehicle unit in the form of the car for approximately 4 (four) or 5 (five) months, but then the Defendant did not pay the contract rental for the motorized vehicle unit in the form of the car. That the Defendant pawned the motor vehicle unit in the form of a car to Witness HNT for the amount of IDR 50,000,000 (fifty million rupiah) and the Defendant admitted that the money from pawning 1 (one) motor vehicle unit in the form of a Toyota Avanza Veloz, 1.3M/B, Nopol: G 9486 NM, year 2017, black, mentioned above, to Witness HNT had been used up by the Defendant for the Defendant's personal needs.

3. Witness Statement

A witness is someone who testifies before a judge, having seen and heard the events being contested. Witness testimony is a form of evidence in a criminal case, consisting of a witness's statement about a criminal event that they themselves heard, saw, and experienced, stating their reasons and knowledge.¹⁶

Based on the Constitutional Court Decision Number 65/PUU-VIII/2010 on the judicial review of the Criminal Procedure Code, it states that the definition of a witness also includes a person who can provide information in the context of investigation, prosecution, and trial of a criminal act that he does not always hear himself, he sees himself and he experiences himself, but also every person who has knowledge that is directly related to the occurrence of a criminal act

must be heard as a witness for the sake of justice and balance of investigators who are dealing with suspects/defendants.

The purpose of criminal punishment, besides ensuring order and peace, is also to ensure legal certainty, or *rechtzekerheid*, in human relations. Van Kan argued that the law aims to safeguard the interests of each individual so that those interests cannot be violated. Therefore, the purpose of criminal punishment is to achieve order, peace, and justice through the imposition of concrete sanctions.¹⁷ Therefore, criminalization is not merely a punishment for perpetrators of criminal acts, but also a weapon for the state to eradicate or prevent criminal acts from occurring.

Based on the theoretical analysis described above, it can be concluded that the considerations of the panel of judges in issuing a verdict reflect the principle of justice, as evidenced by the fulfillment of the elements charged by the public prosecutor and the existence of error in a violation of the act. Therefore, the defendant must be held accountable for his actions. Criminal responsibility is carried out based on the legal principle that there is no crime without error. Considering that criminal responsibility can only occur if there is a criminal act, this principle is also implied, there is no criminal responsibility without error. The existence or absence of a crime does not depend on whether someone commits the act. Thus, it does not depend on the existence of criminal responsibility of the perpetrator. Criminal responsibility is implemented through punishment, which aims to prevent the commission of crimes by enforcing legal norms for the protection of society. Criminal responsibility is a mechanism to determine whether a defendant or suspect is held responsible for a criminal act that occurs or not.

4. Conclusion

1. The application of the criminal penalty to the defendant in Decision Number 96/Pid.B/2023/PN Pkl is in accordance with the legal provisions in force at the time the crime was committed, namely Article 372 of the old Criminal Code. The defendant was proven to have legally obtained the victim's vehicle through a rental relationship, but then pawned it to another party without the owner's permission and used the proceeds for personal gain. Therefore, all elements of the crime of embezzlement have been fulfilled and the imposition of a two-year prison sentence has a valid legal basis. However, the application of the criminal penalty does not fully reflect justice as considerations regarding the extent of the victim's loss, abuse of trust, the defendant's profits, the victim's recovery from the loss, and the defendant's development goals have not been explained in

¹⁷RO Siahaan, 2009, *Criminal Law I*, Rao Press, Cibubur, p. 18.

depth. The National Criminal Code is not the basis for the criminal penalty in this case because the crime was committed in 2022, but the provisions of Articles 53 and 54 of the National Criminal Code can be used as a benchmark to assess that just punishment must balance legal certainty, the interests of the victim, the perpetrator's circumstances, and community protection. 2. The judge's considerations in sentencing the defendant essentially met the legal requirements because they were based on the prosecutor's single indictment, witness testimony, the defendant's testimony, evidence, and the facts revealed at trial. The judge proved that the vehicle belonged to another person, was in the defendant's possession not due to a criminal act, and was then unlawfully seized by pawning it without the owner's consent. The judge also considered aggravating circumstances, namely that the defendant's actions harmed the victim and disturbed the community, as well as mitigating circumstances, namely that the defendant was polite, admitted his actions, facilitated the trial, and had never been convicted. However, the philosophical and sociological considerations in determining the two-year prison sentence have not been comprehensively explained, especially regarding the reasons for the sentence being considered proportional to the victim's losses and the defendant's level of culpability. Thus, the decision has provided legal certainty, but the sentencing arguments still need to be strengthened to better reflect substantive justice in accordance with the spirit of Articles 53 and 54 of the National Criminal Code and the principle of clear and complete decision considerations in Article 250 of the National Criminal Procedure Code.

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