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**JUDGE'S JUDGMENT ON CRIMINAL OFFENSE AGAINST PERPETRATORS OF
CRIMINAL EXTORTION WITH THE VIOLENCE AGAINST OTHER PEOPLE'S
MOTORCYCLES**

(Verdict Study Number: 237/Pid. B/2018/PN Kla)

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Abstract

A crime or criminal act, usually perpetrators of criminals because of an encouragement based on the importance of fulfilling the necessities of life that is relatively difficult to fulfill. In principle the crime problem does not stand alone, but it relates to other issues such as social, economic, political and cultural which is as a phenomenon that affects each other. To tackle crimes and criminal acts such a thorough enforcement and anticipation policy is required. One of the most common criminal acts in the community is the violence of violent blackmail. Perpetrators can be assessed by the community, therefore it is necessary to be handled by the law enforcement officers intensively with the severity of the criminal that was dropped. The problem in this study is how the judge's consideration in dropping a criminal against perpetrators of criminal offenses with violence against motorcycles belonging to others, what are some factors causing perpetrators of criminal extortion with violence. The method of study used is the normative juridical approach and empirical approach obtained directly at the District Court of Kls II Kalianda, state Attorney of South Lampung. Based on the results of the study can be concluded that the judge's judgment in the criminal offence against the perpetrator of violent criminal offence is in accordance with the element contained in article 368 paragraph (1) of the criminal CODE and was sentenced to 2 years imprisonment. Factors affecting the cause of perpetrators of criminal extortion in violence are environmental factors, economic factors on society, the law enforcement. The advice given is to be expected to the Tribunal, the attorney general and the police in providing or establishing the article can be in accordance with its elements and actions, to the rationing punishment against the defendant is considered fair and give a deterrent effect so that the defendant can not repeat it again. There is cooperation between law enforcement and the community in minimizing the crimes that occurred.

Key words: Consideration of judges, criminal acts, violent extortion

I. Introduction

Wickedness is an integral part of human life in the world. Every human activity of both politics, social and economics, can be a crime. So that the existence of crime does not need to be repented of, but should always sought efforts how to handle it like trying to suppress the quality and quantity as low as possible according to the situation and conditions. In principle the crime problem does not stand alone, but it relates to other issues such as social, economic, political and cultural which is as a phenomenon that affects each other. Therefore, crime is the result of interactions caused by the interrelationship between existing and influencing phenomena, interaction as a phenomenon participating in the occurrence of evil, and having a functional relationship with each other¹

Crimes according to the Bahasa Indonesia dictionary are behaviors that contradict the prevailing values and norms that have been ratified by the written law². The purpose of law is the law of devoted to the country's purpose in which it brings prosperity and happiness to its people. According to Apple Dorn that the purpose of the law is to govern the association of human life peacefully³

Criminals can perform their actions in various ways. Such circumstances cause us to hear often "modus operandi" (the implementation model of the crime) that differ between the crimes of each other. With the advancement of Technology today, modus operandi criminals also lead to the advancement of technological sciences. The factors that backed the crime, according to Mulyana W. Kusumah can basically be grouped into 4 (four) factors, namely: ⁴

1. The basic factor or socio-structural factors, which generally include cultural aspects as well as aspects of important relationship patterns in society.
2. Factors of social interaction, covering all aspects of dynamic and prosesusal in society, which has the way of thinking, behave and act as individuals in relation to crime.
3. The trigger factor (precipitating factors), which concerns the individual and situational aspects related directly to the crime.
4. The social reaction factor that in its scope includes the overall response in the form of attitudes, actions and wisdom that is carried out by the elements of the criminal justice system in particular and the variation of the response, which is "informal" is demonstrated by citizens.

¹ Arif Gosita. 1983. The problem of crime victims. C. V Akademika Pressindo, Jakarta. P. 3

² Firganefi and Deni Achmad. 2013. The Book of Criminology law. University of Lampung, Bandar Lampung. The P 11

³ R. Subekti and Tjitrosoedibyo. 1992. Legal dictionary. Pradya Paramitha, Jakarta. P. 119

⁴ Mulyana W. Kusumah. 1991. Clipping Service legal field. Gema Magazine, Issue 24. P. 10

Article 365 of the criminal CODE does not mention what is the name of the crime. But in this doctrine, criminal acts are generally referred to as criminal acts of theft by violence.

Criminal offence is formulated in article 368 paragraph (1) of the Penal Code, namely:

"Whosoever is with the intent to benefit oneself or others against the law, forcing a person with violence or threats of violence to give things, wholly or partly belonging to the man or another, or in order to make debts or to abolish receivables, is threatened by a prison extortion for a period of nine years."

According to the formulation of article 368 paragraph (1) the criminal CODE has been mentioned that as a criminal offence extortion. From the name given to the two criminal acts are different. However, by looking at the local formula, it turns out that both have certain similarities. An act closely related to both chapters is a robbery criminal act. That the term robbers is not mentioned in the criminal CODE. The term is a daily conversation to show the act of violence, forcing someone to hand over an item to him.

This action often uses sharp weapons or firearms to threaten someone. The action of this robbery is an action that contains elements using violence or threats of violence and elements relating to the property, that is, that it may obtain an item or money from others ⁵

Based on the background above, the problem is: 1) How does the judge's consideration in criminal prosecution against perpetrators of criminal extortion with violence against motorcycles belonging to another person (verdict study No. 237/Pid. B/2018/PN Kla), 2) What are the factors that affect the cause of the perpetrator to commit criminal acts of extortion by force.

The research methodology used is normative juridical approach by reviewing the methods or norms, the rules relating to the problems that will be addressed. The approach is intended to collect a variety of legislation, theories or literature closely related to the consideration of judges and accountability to criminal acts of extortion with violence, and empirical approaches that directly carried out research objects to be researched through observation and interviews with respondents or interviewees relating to the criminal acts of blackmail.

II. DISCUSSION

⁵ Riand Tambingon. 2016. Robbery from a criminal offence angle with violence and extortion. LexCrimen Volume V, number 1. Pp. 138

A. Consideration of judges in the criminal prosecution against perpetrators of criminal extortion with violence against motorcycles belonging to others (study verdict number: 237/Pid. B/2018/PN Kla)

In the indictment required by the public Prosecutor is an alternative form, so that the Tribunal judges by noting the facts of the law exist then the tribunal judges elect such indictment as set forth in article article 368 paragraph (1) of the CRIMINAL code, which its elements is as follows:

1. whosoever;
2. With the intent to benefit oneself or others against the law;
3. Forcing persons with violence or violent threats to give goods that are wholly or partially belonging to the person or others, or to make debts or to abolish receivables;

By consideration:

1. The element of whosoever

That understanding of whosoever in this element refers to human beings as the subject of the law supporting the rights and obligations that have the ability to be responsible for all the deeds it does; That in this case that is the subject of the law as referred to in the prosecution is the defendant and based on the information of the witnesses, the letter and description of the defendant himself at the court of identity of the defendant is true as it contains the indictment of the public prosecutor so that in this case there is no error in personal that was filed in advance of the proceeding, that on the question of the Tribunal of the judges during the trial, the defendant was able to respond and firmly answered the question posed to him so that the tribunal argued that the defendant was seen as the person or subject of the law in response to his actions; Based on the consideration, the element of "whosoever" has been fulfilled;

2. With the intent to benefit oneself or others against the law

That what is meant by unlawful is contrary to law or contrary to the rights of others; Based on the testimony and description of the defendant himself at the trial and connected with evidence, acquired the fact that the defendant was proven; The defendant did his actions by pursuing a witness using his motorcycle by carrying a sharp machete-type weapon; Accused of taking a motorcycle belonging to witnesses without permission and without the knowledge of witnesses; Based on the explanation above, the element "with the intention to benefit oneself or others as a law" is fulfilled;

3. Forcing persons with violence or violent threats to give goods that are wholly or partially belonging to the person or others, or to make debts or to abolish receivables

"Forcing" is to do the pressure on the person, so that the person does something contrary to his own will. Based on a description of the tribunal's decision to argue that "forcing a person with violence or violent threats to give something wholly or partially belongs to that person or another person, or to make debts or to abolish receivables", has been fulfilled; All elements of article 368 paragraph (1) of the criminal CODE have been fulfilled, then the defendant must be declared to be legally and conclusive to commit a criminal offence as in the second alternative indictment;

Based on the results of interviews conducted on the police and the public prosecutor, then there can be some efforts on the consideration of judges in the criminal offense against perpetrators of blackmail extortion with violence, namely:

1. Police authorities

Speaking in the effort of the police on duty and have the authority to serve and to the community, provide comfort and tranquility for the community. Crime cannot be separated from police duty, as it is known that the status and scope of police duty has been affirmed in article 13 of Law No. 2 of 2002 concerning the Indonesian National Police that:

- a. Maintain community safety and order
- b. enforcing the law; and
- c. Provide protection, Pengayoman, and service to the community.

Addition, police duties are confirmed at article 19 of Law No. 2 of 2002 which reads:

- a. In carrying out its duties and authorities, the officials of the Republic of Indonesia police have always acted on the legal norm and heeded the religious norms, politeness, morality, and uphold human rights;
- b. In the performance of duties and authorities as referred to in paragraph (1), the State Police of the Republic of Indonesia prioritizes precautions.

Prevention in the widespread of violent blackmail crimes, can be through efforts:

- a. Preventative
 - 1). Patrol in an integrated;
 - 2). Putting the police dressed in the service of crime prone places;

- 3). Conducting Kamling post activities by empowering the community.
- b. Pre-emptive
 - 1). To give knowledge to the public to understand the prevailing law;
 - 2). To invite the Community to participate actively in overcoming and counteract any criminal act that occurred.
- c. Repressive
 - 1). Conduct an investigation into the perpetrators of the crimes until the trial proceedings;
 - 2). To arrest against perpetrators of criminals.

It can be concluded that law enforcement authorities such as police officers are the first to know the occurrence of a criminal act, can establish a good relationship to the community that can be used as a source of information to help carry out police duties during investigation and investigation.

2. Court parties

Crime prevention efforts are contained in article 30 of the Law number 16 year 2004, namely:

- a. Criminal, prosecutors have duties and authorities:
 - 1). prosecution;
 - 2). Perform the determination of the judges and the judgment of the courts that have acquired the power of fixed law;
 - 3). supervise the conduct of the conditional criminal ruling, the supervisory criminal verdict, and the conditional prison decision;
 - 4). to investigate certain criminal acts under the law;
 - 5). Complete the file of a particular matter and therefore can perform additional checks before being bestowed on the court in which the implementation is coordinated with investigators.
- b. In the field of civil and State administration, prosecutors with special powers can act both in and out of court for and on behalf of the State or government.
- c. In the field of order of public tranquility, the prosecutor also organizes activities:
 - 1). Increased awareness of public law;
 - 2). securing law enforcement policies;
 - 3). Monitoring of the distribution of printed goods;
 - 4). Surveillance of the flow of trust that can harm society and the country;
 - 5). Prevention of abuse and/or blasphemy;
 - 6). Research and development of legal and criminal statistics.

The efforts by the Prosecutor as his duty and authority impose sanctions on the perpetrators who assist the judge in dropping the ruling against the perpetrators of blackmail extortion with the violence with their respective imprisonment for 3 (three) years minus the detention period he has been running with the order of the perpetrator remained in custody. In the proceedings by the prosecutor on indictment :

- a. Perpetrators of criminal acts of extortion in accordance with the information on the allegation letter of the alleged perpetrators are subject to criminal threats as in article 365 paragraph (2) of the criminal CODE.
- b. Perpetrators of criminal acts of extortion in accordance with the information on the second indictment of the perpetrator is subject to criminal threat as in article 368 paragraph (1) of the criminal CODE.
- c. Perpetrators of criminal acts of violence in accordance with the information on the third indictment then the perpetrator is subject to criminal threats as in article 378 paragraph (1) of the criminal CODE.
- d. Perpetrators of criminal acts of extortion in accordance with the information on the fourth indictment then the perpetrator is subject to criminal threat as in article 372 of the criminal CODE.

The efforts of the Prosecutor in dealing with a lawsuit is to prosecute according to the weight of the studies conducted by the defendant under the criminal CODE and can also prosecute a person who is guilty and doing a act contrary to the law, then a prosecutor must be firmly and wisely to enforce the laws in Indonesia in accordance with the provisions of the law. By doing the demands that are considered fair in the eyes of God, the law, and the community regardless of the status and rank of the person to be in demand.

3. Attorney party

And in that case the judge dropped the criminal against the perpetrator then it is necessary to consider the condition that incriminated and relieve the perpetrator, namely:

a. Incriminated circumstances

Who become the weight of perpetrators deeds are certainly disturbing the community and the impact of society is not calm. Uncomfortable in his neighborhood.

b. Circumstances that alleviate

The judge is considered to relieve the defendant being kind and polite during the trial. Answering the question honestly and acknowledging that the defendant

regretted his actions and the defendant promised not to repeat the action. And the judge weighed that the defendant had never been punished.

B. Factors causing the violence of violent blackmail crimes

Violent extortion with violence occurring in the community is not a state of being alone, the crime arises because of certain circumstances that are behind a crime, especially about violence in a crime. The higher the level of living in the community to fulfill daily needs, can be frustrating in some citizens.

The community will tend to overcome the problem by doing some form of self-adjustment that is distorting or deviating from the prevailing norms. Based on the results of research conducted by the authors can be known there are several factors that cause violent extortion crimes are:

1. Environmental factors

The view of the Community commits violent extortion due to lack of communication with parents, lack of communication between husband and wife resulting in an unharmonious household, which is often the case of quarrel caused by the husband to lose the job of termination of employment (LAYOFFS) so as not to have income that can meet the needs of family life. And for the unmarried can be caused by the surrounding environmental factors, associations and also the economy that is not sufficient.

The disharmony of life in the family also results in children becoming victims, where parents are less considerate of children and during developmental phases, children do not adapt the guidance of parents, economic needs and psychokologi (affection) less than parents, so that children have an unusual adjustment to the surrounding environment. Triggering a poor health, which means the child is not able to align needs with the surrounding situation.

The habits of society were often out of the night and gathered to be together with their friends and sometimes ordained money asking from their wives or parents to buy drinks and play gambling. The situation makes them desperate and no longer has work and income, then they will be tempted to call friends who can fulfill their needs in the shortest time, by means of committing criminal acts of blackmail.

From the explanation above, it can be concluded that the negative impact on the environmental factors as a result of the association of people in the environment can cause the person to take action that deviates from the existing norm can not provide an exit to improve his life, so that they perform the actions that deviate from the norms that exist in the society.

2. Economic factors in society

The most prominent cause of extortion crimes is affecting the unfulfilled economic factors. Many of the things they do in this crime because of the desire within him, then because of the wrong association such as the people who do associate with people whose lives are fulfilled so that it can not participate then it is a community that arose to do evil blackmail with violence to get what he wanted. The role of parents who are poorly-spoken and understanding can also negatively impact.

3. Law enforcement officers

The community is frustrated and no longer believes in law enforcement officials, where law enforcement officers can be used as a role model to enforce the law fairly and wisely have committed acts contrary to the law such as giving punishment to perpetrators of extortion with violence does not give a deterrent effect so that the perpetrators will repeat the deeds.

Underprivileged law enforcement officers, low criminal sanctions, and still lack of public awareness of the law. As well as lack of public knowledge will rule the law in Indonesia so that people can commit crimes. At the crime of extortion with violence can also be the people who are forced to commit crimes to fulfill their needs.

III. CONCLUSION

A. Conclusion

1. The judgment of judges in the criminal offence against perpetrators of blackmail extortion with violence is in accordance with the element contained in article 368 paragraph (1) of the criminal CODE and was sentenced to 2 years imprisonment. To determine the arrest and detention that the perpetrators have undertaken are deducted entirely from the criminal being dropped.
2. Factors affecting the cause of the perpetrator to conduct criminal offense with violence are environmental factors, economic factors on the community, the law enforcement Agency factor

B. Suggestions

1. Expected to the Tribunal judges, the Attorney General Prosecutor and the police in providing or establishing the article can be in accordance with its elements and actions, to the rationing punishment against the defendant is considered fair and give a deterrent effect so that the defendant can not repeat it again.
2. The cooperation between law enforcement and the community in minimizing the crimes that occurred.

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