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# ANALYSIS OF CRIMINAL RESPONSIBILITY OF CRIMINAL ACTIVITIES OF THE EIGHTS AND EXTENSION OF CAR

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## Abstract

One of the crimes concerning the misuse of car vehicles is the crime of embezzling cars as the crime is rampant in Indonesia, one of which is in case Number 839/Pid.B/2018/PN.Tjk in 2018. The problem in research is why the perpetrators commit criminal acts embezzlement and imposition of cars based on Decision Number 839/Pid.B/2018/PN.Tjk and how the criminal responsibility of the perpetrators of criminal acts of embezzlement and detention of cars is based on Decision Number 839/Pid.B/2018/PN.Tjk. The research method uses a normative and empirical juridical approach, the normative juridical approach is carried out by studying legal norms or rules, legal principles, while the empirical approach is carried out by direct interviews with informants who will relate to research problems, data analysis used is qualitative analysis. The results of the study indicate that the factors causing the perpetrators to commit criminal acts of embezzlement and car detention are based on Decision Number 839/Pid.B/2018/PN.Tjk opportunity factors and economic needs factors. This factor is due to the defendant's desperate need for a certain amount of money at a fast time so that the defendant made a shortcut by making embezzlement and overcoming the car. The criminal liability of the defendant who commits a crime of manipulating and imposing a car based on Case Number 839/ Pid.B/2018/PN.Tjk Year 2018 is that the sentence of imprisonment for 8 (eight) months is reduced as long as the defendant is temporarily detained.

**Keywords: criminal responsibility, embezzlement,**

## INTRODUCTION

Indonesia is a country based on law, as stipulated in Article 1 paragraph (3) and Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia and Article 28 D paragraph (1) of the 1945 Constitution of the Republic of Indonesia namely "everyone has the right to recognition, guarantee, protection and fair legal certainty and equal treatment before the law." Based on the article, any conflicting actions against Pancasila and the 1945 Constitution as the most basic legal basis besides products-other legal products.

Criminal acts at this time are very diverse in motives such as physical violence or abuse, psychological violence, and many other motives for criminal acts. Crime can be said as a form of behavior of someone who violates the provisions of the law and legal norms that apply in society.

The issue of crime that is very important should be discussed which is a concern for the security value for the people of Indonesia. Many phenomena of crime that arise in various regions in Indonesia are a polemic for all people. Crimes committed by perpetrators of crime are social phenomena that occur in society. Every day in the mass media we always meet various kinds of criminal acts that occur in this country.

The law must always be upheld in order to achieve the ideals and goals of the State of Indonesia which is stated in the opening of the fourth paragraph of the Constitution of the Republic of Indonesia, namely to establish an Indonesian state government that protects the entire Indonesian nation and spills Indonesia's blood and for advancing public welfare, educating life nation and participate in carrying out world order based on the independence of eternal peace and social justice. However, the law in reality (*das sein*) is not always in accordance with what is written in the legislation (*das sollen*)<sup>1</sup>.

Factors of economic problems that have occurred in Indonesia have shown a negative effect with the large number of people doing wrong actions solely aiming to fulfill their needs. Now, in order to make ends meet, a person does not think about the cause of his actions. This has been

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<sup>1</sup> Moeljatno. 2000. *Asas Asas Hukum Pidana*. Rineka Cipta. Jakarta. hlm 93

contrary to moral values in the Pancasila. Even for some criminal offenders, they are not afraid of law enforcement agencies that regulate security and public order.

Even criminal law is "regulating and coercive" as if it has been ruled out and is unable to cope with the growing crime in this era. From the legal aspect with the development of all crimes that occurred during this period it seems very necessary to study an application of criminal law against perpetrators of crime and analyze in terms of criminology about the causes of the crime. In addition there are also causes of increasingly advanced times resulting in the weakening of extended family and community kinship networks which are manifested in new phenomena such as the emergence of vulnerable groups. This happens because the more progressive times, the more the needs to complement one's life are added.

Crime is an act that is prohibited by law and whoever does something that violates the law will be punished. Besides that crime is also a form of violation of social rules. Violations are determined within the limits of values that are upheld in a society. In almost all communities where life and property are valued. The problem of crime is a human problem which is a social reality whose problem

causes are poorly understood because the study is not yet in the right proportion in a dimensional manner<sup>2</sup>.

The development or increase in crime as well as a decrease in the quality or quantity of crime, both in large cities and in villages, are relative and intrinsic in nature. It can be understood that crime is the shadow of civilization, is a shadow of the war and there is even a theory that says that crime is the product of society. The location of crime is in the community, not in individuals<sup>3</sup>.

Indonesia is a developing country, in developing countries, motor vehicles, especially cars, are very important facilities for their people. With the increasing public demand for cars as a means of transportation, the higher

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<sup>2</sup> Soedjono D. 1976. *Penanggulangan Kejahatan (Crime Prevention)*. Alumni. Bandung. hlm 27

<sup>3</sup> Ridwan Hasibuan, 1994. *Kriminologi dalam Arti Sempit dan Ilmu-Ilmu Forensik*, USU Press, Medan, hlm 5.

the risk of violations of law by a group of perpetrators of crimes against car abuse. Although the crime of embezzling four-wheeled vehicles is still rare, this can cause concern from car owners if they do not get a serious response from law enforcement. If left unchecked, it will lead to a decrease in the trust of car owners to the community, which in turn will harm the community itself as a party that needs a vehicle rental service.

Article 372 of the Criminal Code (KUHP) states that "Anyone who deliberately has against the law the right of an item at all or part of it belongs to someone else and the item is in his hand not because of crime, punished for embezzlement, with punishment imprisonment for a maximum of four years or a fine of at most nine hundred rupiahs. "But in reality the crime of embezzling the rental car continues to occur.

Lately, many consumers have been in arrears and even committed fraud by violating the previous agreement. The theoretical foundation used is general agreement theory, rights and obligations, criminal acts of embezzlement, embezzlement with disclosure and Article 372 and 374 of the Criminal Code. The results show that consumers commit embezzlement and enter as a general provision set out in Article 372 of the Criminal Code concerning Emblem.

One of the crimes concerning the misuse of car vehicles is the crime of embezzling cars as the crime is rampant in Indonesia, one of which is in case Number 839/Pid.B/2018/PN.Tjk 2018. On Decision Number 839/Pid.B/2018/PN. Tjk defendant Koko Mancini, SH. the child of Zobel Lumbanbatu violated Article

372 of the Criminal Code Jo Article 55 paragraph (1) 1st of the Criminal Code and Article 378 of the Criminal Code Jo of Article 55 paragraph (1) of the Criminal Code, stated that defendant Koko Mancini, SH. the child of Zobel Lumbanbatu proved legally and convincingly guilty of committing a criminal act of "Darkening" as regulated and threatened with criminality in the First Article

372 of the Criminal Code, as in the Public Prosecutor's indictment. Imposing criminal charges against defendant Koko Mancini, SH. the son of Zobel Lumban with a sentence of imprisonment for 8 (eight) months was reduced

as long as the defendant was in temporary detention, with the order of the defendant being detained. Evidence in the form of: 1 (one) unit of four-wheeled vehicles, Daihatsu brand, Xenia type 1.3 XM/T, Police Number BE 1226 CL, Engine Number 1NRF184852, Order Number MHKV5EA1JGK012573, white color and year of manufacture 2016, 1 (one) child duplicate key with the "Daihatsu" logo, 1 (one) sheet An.Anton Hidayat STNK with vehicle identity 1 (one) four-wheeled vehicle unit, Daihatsu brand, Xenia 1.3 XM/T type, Police Number BE 1226 CL, Engine Number 1NRF184852, Order Number MHKV5EA1JGK012573, white color and year of manufacture in 2016, 2 (two) keys with the 'Daihatsu' logo. Returned to witness victims Herman Bin Hatibi. Determined that the defendant be burdened to pay court fees of Rp. 2,000 (two thousand rupiah).

The research method uses a normative and empirical juridical approach, the normative juridical approach is carried out by studying legal norms or rules, legal principles, while the empirical approach is carried out by direct interviews with informants who will relate to research problems, data analysis used is qualitative analysis.

## **II. DISCUSSION**

### **A. Causes of Actors Conducting Crimes of Embezzlement and Car Piling**

Crime of embezzlement is almost the same crime as theft in article 362. The difference is in the theft of goods that have not been in the hands of thieves and still have to be "taken" while in the embezzlement of time they have been in the hands of the maker not by crime. The term embezzlement as often used by people to refer to the types of crimes contained in book II of Chapter XXIV of the Criminal Code is one of the crimes regulated in the Criminal Code. Darkness in Dutch is called "*verduistering*". This criminal act is regulated in Articles 372-377 of the Criminal Code.

There are several factors that can be the cause of a crime. Factors of economic problems that have occurred in Indonesia have shown a negative effect with the large number of people doing wrong actions solely aiming to fulfill their needs. Now, in order to make ends meet, a person does not



think about the cause of his actions. This has been contrary to moral values in the Pancasila. Even for some criminal offenders, they are not afraid of law enforcement agencies that regulate security and public order.

Crime of embezzlement can be caused by several supporting factors. As is known, that embezzlement is included in the criminal acts stipulated in the Criminal Code (book two) Article 372-377. Emblem is included in the type of crime against property. Crimes that occur in social life become a phenomenon that continues to be in the spotlight. Speaking of the emergence of embezzlement, it cannot be separated from the causes of the occurrence of the crime itself. This is because the embezzlement as described previously is part of the criminal act stipulated in the Criminal Code. Therefore, the causes of embezzlement cannot be separated from the theories in criminology about the emergence of criminal acts or causes that encourage someone to commit a criminal act in general. This is called "ordinary embezzlement". Darkness is almost the same as theft in Article 362. The difference is that in the theft of property it is still not in the hands of thieves and still has to be "taken", while embezzling the time of possession of the goods is in the hands of the wicked not by evil.

Crime of embezzlement is the misuse of rights or misuse of trust by a person whose trust is obtained without any elements against the law, with the mention of misuse of rights or misuse of trust which makes it easy for everyone to know what is actually prohibited and threatened by criminal provisions.

Based on the description above, it can be analyzed that the factors causing the perpetrators to commit criminal acts of embezzlement and imposition of cars based on Decision Number 839/Pid.B/2018/PN.Tjk opportunity factors and economic needs factors. This factor is due to the defendant's desperate need for a certain amount of money at a fast time so that the defendant made a shortcut by making embezzlement and overcoming the car.

## **B. Criminal Liability of Actors for Evictions and Mobilization based on Decision Number 839/Pid.B/2018/PN.Tjk**

Criminal liability is defined as an obligation to pay retaliation that will be received by the perpetrator from someone who has been harmed, according to him also that the accountability carried out is not only about legal issues but also concerns the moral values or morality in a society. Criminal liability is defined as Pound is an obligation to pay retribution that will be received by the perpetrator of someone who has been harmed, according to him also that the accountability carried out is not only about legal issues but also concerns the moral or moral values that exist in a society.

Based on the results of the interview above, it can be analyzed that the criminal liability of the defendant who committed a crime of manipulating and controlling the car based on Case Number 839/Pid.B/2018/PN.Tjk Year 2018 is that the imprisonment for 8 (eight) months is reduced during the defendant was in temporary detention, with the defendant's order being detained.

## **III.CONCLUSIONS AND RECOMMENDATIONS**

Based on the results of research and discussion, it can be concluded as follows:

1. Factors causing the perpetrators to commit criminal acts of embezzlement and detention of cars based on Decision Number 839/Pid.B/2018/PN.Tjk opportunity factors and economic needs factors. This factor is due to the defendant's desperate need for a certain amount of money at a fast time so that the defendant made a shortcut by making embezzlement and overcoming the car.
2. The criminal liability of the defendant who commits a crime of manipulating and controlling the car based on Case Number 839/Pid.B/2018/PN.Tjk 2018 is that the sentence of imprisonment for 8 (eight) months is reduced as long as the defendant is temporarily detained. the accused remained detained.

## **B. Recommendations**

Based on the conclusions above, suggestions can be given as follows:

1. For the Judges in carrying out consideration, prioritizing a sense of justice for victims, defendants and the public. In addition, judges should carefully pay attention to matters that can alleviate or incriminate defendants other than judges who have also been given the freedom to make decisions in order to enforce law and justice so that judges do not have to depend on public prosecutors' demands in determining crimes for defendants.
2. To the Public Prosecutor in applying the criminal or in giving a claim to the defendant must be in accordance with or in accordance with the actions of the defendant because this is the judge's reference in making his decision. In addition, the Public Prosecutor should also have material legal knowledge so that there are no more errors or nonconformities in applying the crime against the accused.

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