Imposition Of Criminal Sanctions for Minor Criminal Actions of Theft (A Case On Judgement Number 826/Pid.B/2023/Pn.Mtr)

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Article Info

Received: 2024-8-14
Revised: 2024-12-22
Accepted: 2024-12-24

Keywords:
Legal protection; Geographical Indications; Robusta Coffee; West Lampung; Economic Boost

Abstract

The imposition of criminal sanctions for minor criminal actions, such as theft, presents a complex and multifaceted challenge for legal systems worldwide. This study examines the imposition of criminal sanctions for minor theft offenses, with a specific focus on the case adjudicated under Judgment Number 826/Pid.B/2023/Pn.Mtr. The research aims to analyze the legal reasoning behind the court's decision, the proportionality of the sanctions imposed, and the broader implications for the criminal justice system. Utilizing a qualitative approach, this study involves a detailed case analysis, reviewing court documents, and interviews with legal experts. Findings indicate that while the court adhered to statutory guidelines, there were significant considerations regarding the socio-economic background of the offender and the value of the stolen property. The study concludes that although the sanctions imposed were within legal parameters, there is a need for a more nuanced approach that considers restorative justice principles. This research contributes to the ongoing discourse on criminal justice reform, particularly concerning minor offenses, and advocates for policy adjustments that balance deterrence with rehabilitation.

I. Introduction

The rights and obligations of citizens or commonly abbreviated as human rights are essential requirements of a country's legal democracy and must be implemented by every citizen. Indonesia is a rule of law country, where all regulations are based on law in accordance with applicable law. Citizen's rights are something that citizens of that country must obtain. while civic obligations are everything that must be carried out by every citizen. In fact, rights and obligations cannot be separated, but we must carry out our obligations first so that we can get rights. The rights and obligations of citizens have been written in the 1945 Constitution.

That is why it was emphasized (in the explanation of the 1945 Constitution, before the amendments), that "the Indonesian State is based on law (rechtstaat), not based on mere power (machtstaat)". From this term, the term "Supremacy of Law" emerged. In the development of the 1945 Constitution after the 3rd amendment/2001, the supremacy of law was confirmed in Article 1 paragraph 3 which states "The State of Indonesia is a State of Law".

The important thing in a rule of law is respect and commitment to upholding human rights and guaranteeing all citizens their position under the law (equality before the law). Article 27 paragraph (1) of the 1945 Constitution confirms:
"All citizens are equal under the law and are obliged to uphold the law and government without exception." The purpose of the explanation of the article above is that all citizens have the right to be treated equally before the law and are obliged to implement the law without exception. Ideally, such principles should not only be contained in the 1945 constitution and legislation. However, what is more important and important is in its execution or implementation.

In essence, humans are the most noble creation of God, humans have hearts, intelligence and also various potentials to grow and develop with perfection. The Qur'an describes humans as creatures who are califar on earth. Since birth, it is human nature to have rights. Rights are given by Allah God with the aim that humans can make good use of them, and so that humans can carry out their duties as caliphs on earth. The rights and obligations of citizens or commonly abbreviated as human rights are essential requirements of a country's legal democracy and must be implemented by every citizen. Indonesia is a rule of law country, where all regulations are based on law in accordance with applicable law. Citizen's rights are something that citizens of that country must obtain. while civic obligations are everything that must be carried out by every citizen. In fact, rights and obligations cannot be separated, but we must carry out our obligations first so that we can get rights. The rights and obligations of citizens have been written in the 1945 Constitution.

Talking about law, especially criminal law, often makes people imagine everything that is evil, dirty and full of deceit. Basically, when people talk about criminal law, what they imagine is the crackdown on crime by the police, prosecutors and judges. Criminal law is present in society as a means for society to eradicate crime (Garland, 2001; Nasution et al., 2022). The Criminal Code has three books, including book I which regulates General Rules, Book II which regulates Crimes and Book III which regulates Violations. Regarding the crime of theft, it is regulated in Book II, Chapter XXII concerning Crimes Against Property, Articles 362 to 367 of the Criminal Code concerning theft. The crime of theft is a crime against people's assets.

The imposition of criminal sanctions for minor criminal actions, such as theft, presents a complex and multifaceted challenge for legal systems worldwide. While the primary aim of criminal sanctions is to deter criminal behavior and uphold societal order, the application of these sanctions must balance justice, fairness, and proportionality. Minor theft offenses, often committed out of necessity or opportunism, raise critical questions about the appropriate level of punishment and the broader implications for offenders and society (Apel, 2013; Clarke & Cornish, 2017; Copes & Vieraitis, 2009a).

The crime of light theft itself is regulated in Article 364 of the Criminal Code (Karya & Zarzani, 2022; Mabsuti & WN, 2023); the article reads: "The acts described in Article 362 and Article 363 point 4, as well as the acts described in Article 363 point 5, if not carried out in a house or closed yard where the house is located, if the price of the goods stolen does not exceed twenty-five rupiah, are threatened with for minor theft with a maximum imprisonment of three months or a maximum fine of two hundred and fifty rupiah."

Minor criminal offenses in Article 205 paragraph (1) of Law Number 8 of 1981 concerning Criminal Procedure Law are those that are examined according to the examination procedure for minor criminal offenses, namely cases that are threatened with imprisonment or imprisonment for a maximum of three months/or a maximum fine. Rp. 7,500.00 and light insults. Not only is it a polemic in society regarding perpetrators of theft of goods that are not worth much which are processed by the police until the trial process gives rise to a lack of sense of justice for the small community even though they are perpetrators of criminal acts, but perpetrators of criminal acts also have the same rights to be treated fairly. human. To the extent that this problem has inspired the Supreme Court to issue new regulations regarding minor crimes, namely Article 1 of Supreme Court Regulation No. 2 of 2012 concerning the Settlement of Limits for Minor Crimes and the Number of Fines in the Criminal Code (PERMA No. 2/2012) which explains that the provisions for criminal fines, one of which, for the criminal offense of Article 364 of the Criminal Code (KUHP) is IDR. 2,500,000.00.

The purpose of this research is to analyze the legal considerations regarding the imposition of criminal sanctions for the crime of light theft and also to know and understand the arrangements for the imposition of criminal witnesses for the crime of

light theft.

2. Research Method

This type of research is Normative-Empirical legal research or doctrinal legal research, which is a type of research that examines norms, principles, jurisprudence and values contained in statutory regulations, which reflects legal problems in the form of the absence of norms, vagueness of norms, and norm conflict. this hybrid approach aims to provide a more comprehensive understanding of law by examining not only the legal norms and principles but also how these norms are applied and perceived in real-world contexts (Johnny Ibrahim, 2005; Marzuki, 2021; Syahrum, 2022). In this research, law is conceptualized as what is written in legislation (law in book) or law is conceptualized as rules or norms which are benchmarks for human behavior that is considered appropriate. In this research, law is positioned as a system of norms. The norm system in question is about principles, rules, court decisions, agreements and doctrine.

3. Results and Discussion

The use of the term criminal itself is interpreted as criminal sanctions. For the same meaning, other terms are also often used, namely punishment, condemnation, punishment, criminal imposition, punishment, and criminal punishment. A criminal act can cause harm or suffering to other people, namely the victim of the criminal act (Rauzi et al., 2023)

These losses and suffering take the form of material loss, physical suffering and psychological suffering. Material losses are losses involving economic problems suffered by victims of criminal acts. Physical suffering is suffering that lies in the physical condition of the victim of a crime. Psychological suffering is suffering that concerns the mental health of victims of criminal acts. A criminal act can also result in the perpetrator of the criminal act being subject to criminal penalties. Criminal threats are punishments or criminal sanctions given to perpetrators of criminal acts (Harun et al., 2023). A criminal act can also result in the perpetrator of the criminal act being subject to criminal penalties. Criminal threats are punishments or criminal sanctions given to perpetrators of criminal acts. According to the Criminal Code (KUHP) CHAPTER II Article 10, sanctions for criminal acts are:

a. Principal Crime:
1) Death penalty;
2) Imprisonment;
3) Confinement;
4) Fines.
b. Additional penalties:
1) Revocation of certain rights;

2) Confiscation of certain items;
3) Announcement of the judge's decision.

Even though it has been regulated in law, a person cannot yet be sentenced to a crime because it still has to be proven whether he is guilty or not. The principle in criminal liability is Actus non facit reumnisi sist rea, which means that there is no penalty if there is no mistake. The definition of error consists of:

1. Responsibility
2. There are forms of errors in the form of intentional and culpable errors
3. There is no reason for eliminating errors

Criminal act or strafbaar feit in Dutch means criminal act, delict, criminal act or criminal act (Copes & Vieraitis, 2009b; Hakim & HADRIAN, n.d.; Laela & Painan, 2022; Roef, 2001). A person can be said to have committed a criminal act, if the act has been regulated by law, in accordance with the Principle of Legality in Article 1 paragraph (1) of the Criminal Code which states, no act can be punished except for the strength of criminal regulations in existing legislation, before the action is carried out.

A criminal act is an act that is prohibited by a prohibitive legal regulation which is accompanied by threats (sanctions) in the form of certain penalties, for anyone who violates the prohibition. According to Lamintang, every criminal act in the Criminal Code can generally be broken down into 2 (two) types, namely subjective elements and objective elements (Manthovani, 2021; Sembiring et al., 2024). Subjective elements are elements that are inherent in the perpetrator or are related to the perpetrator and include everything that is contained in his heart. Objective elements are elements that are related to circumstances, namely the circumstances in which the action of the actor must be carried out (Muhajirin & Ismail, 2020).

In criminal law, theft is the unlawful taking of another person's property without the owner's permission. The word is also used as an informal term for a number of crimes against other people's property, such as home burglary, embezzlement, looting, burglary, shop theft, fraud and sometimes criminal exchange. A person who commits acts or makes a career of theft is called a thief, and his actions are called stealing. To be clearer, if detailed, the formulation consists of objective elements (the act of taking, the object being an object, and elements of circumstances attached to the object to be owned in part or in whole by someone else) and subjective elements (the existence of an intention, which is aimed at to possess, and against the law).

The elements of the crime of theft according to the Criminal Code Article 362 of the Criminal Code concerning theft states "Any person who takes something, which wholly or partly belongs to another person, with the intention of possessing it unlawfully, is threatened with theft, with a maximum imprisonment of five years or a maximum fine of nine hundred rupiah."

Based on Article 364 of the Criminal Code which reads "The acts described in

Article 362 and Article 363 point 5, if not carried out in a house or closed yard where there is a house, if the price of the goods stolen is not more than twenty-five rupiah, is threatened with theft light with a maximum penalty of three months or a fine of two hundred and fifty rupiah." From the formulation of the criminal provisions above, it can be seen that what is meant by the crime of petty theft can be:

a. The crime of theft in the main form;
b. Theft committed by two or more people together;
c. The crime of theft, in which to gain access to the place of crime or to obtain the object to be taken, the guilty person does not carry out dismantling, vandalism, climbing or using false keys or false attacks.

The Supreme Court Regulation (PERMA) adjusts the value of goods in Articles 364, 373, 379, 384, 407 paragraph (1) and 482 of the Criminal Code to Rp. 2,500,000.00 (two million five hundred thousand rupiah). Therefore, cases that meet the elements of these articles and contain an item value of no more than Rp. 2,500,000.00 (two million five hundred thousand rupiah) is handled using procedures for resolving minor crimes.

In Article 2 paragraph (2) PERMA No. 02 of 2012 stipulates that cases with the value of goods or money that are the object of the case do not exceed Rp. 2,500,000.00 (two million five hundred thousand rupiah) was checked using a quick inspection procedure. It is more clearly explained that:

1. In accepting the delegation of cases of theft, fraud, embezzlement, and deception from the public prosecutor, the chairman of the court is obliged to pay attention to the value of the goods or money that is the object of the case and pay attention to article 1 above;
2. If the value of the goods or money is not more than IDR 2,500,000 (two million five hundred thousand rupiah) the head of the court immediately appoints a single judge to examine, try and decide the case using a speedy hearing as regulated in article 205 - 210 Criminal Procedure Code;
3. If the defendant was previously detained, the head of the court shall not determine detention or extension of detention.

The regulatory function of the Supreme Court gives rise to the authority to issue Supreme Court Circular Letters (SEMA) and Supreme Court Regulations (PERMA) in order to expedite the administration of justice which is often hampered. In the process of handling minor criminal cases, PERMA is used as a complement to statutory provisions that do not clearly regulate matters related to procedural law, as advice for legal discovery, and as a means of law enforcement (Arifin et al., 2024; Suparto & Zulkifli, 2022).

The legal basis is contained in Article 79 of Law Number 14 of 1985 concerning the Supreme Court in conjunction with Law Number 4 of 2004 concerning the First Amendment to Law Number 14 of 1985 concerning the Supreme Court in conjunction with Law Number 3 of 2009 concerning the Second Amendment to the Law. Law Number 14 of 1985 concerning the Supreme Court which states: "The Supreme Court can further

regulate matters necessary for the smooth administration of justice if there are matters that are not sufficiently regulated in this law.

In the case example, namely in Decision Number 826/Pid.B/2023/Pn Mtr which in consideration of the Decision of the Panel of Judges stated that the Defendant had taken 1 (one) Redmi Note 9 brand cell phone, Onyx black color belonging to the victim on Saturday 29 April 2023 at around 05.00 WITA, located in the Pagutan Regency housing complex on Jalan Batu Bolong V No. 30, Pagesangan Barat Village, Mataram District, Mataram City, namely that the action started when the defendant saw the gate of the victim witness's house open, then the Defendant entered the victim witness' house, then the Defendant tried to open the door of the house which was not locked, then the defendant entered the victim witness' house and saw several people. fell asleep with his cellphone next to him, then the defendant took 1 (one) Redmi Note 9 brand cellphone, Onyx black, which was being charged and immediately left the house. Then the defendant sold 1 (one) Redmi Note 9 cellphone, Onyx black, for Rp. 1,000,000;- (One Million Rupiah), therefore, in the consideration of the Panel of Judges, the Defendant has fulfilled the elements of Article 363 Paragraph (1) 3 of the Criminal Code, which in this case states that the defendant has been legally and convincingly proven to have committed a criminal act as stated in charged in the single indictment of the Public Prosecutor, so that upon consideration of the verdict, the Panel of Judges in its Decision stated that the Defendant had been legally and convincingly proven guilty of committing the Crime of Theft under aggravating circumstances as in the single indictment of the Public Prosecutor and sentenced the defendant to 2 years.

4. Conclusion

Based on what has been described above, the author can find several things that are problematic, including those related to the imposition of criminal sanctions for the crime of petty theft, which, if examined from the provisions of the applicable laws and regulations, found that there is a discrepancy between one regulation or rule and another. conflict with each other regarding the provision of criminal sanctions to someone who commits a minor crime whose total value of the crime does not exceed Rp. 2,500,000, so that in this case the researchers found that there was discrimination in giving criminal sanctions to someone who committed a minor crime in accordance with court decision Number 826/Pid.B/2023/Pn Mtr.

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