The Implementation of the *Res Judicata Pro Veritate Habetur* Principle to the Investigation of Money Laundering

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Abstract

This study aims to determine the position of court rulings on predicate crimes under the principle of Res Judicata Pro Veritate Habetur in money laundering cases, along with the legal rationale utilized by judges in adjudicating TPPU cases involving predicate crimes as specified in Article 127 paragraph (1) of the Narcotics Law. This study utilizes a normative-empirical approach through a case study method. This research is supported by the review of case files, the observation of trial proceedings, and the analysis of literature from various criminal law sources and relevant statutes and regulations. The utilized data analysis method is judicial-normative. The findings of this study reveal a violation of the principle of Res Judicata Pro Veritate Habetur in the evaluation of money laundering offenses, as demonstrated by the Mataram District Court Decision No. 516/Pid.Sus/2022/PN.Mtr, alongside the NTB High Court Decision No. 23/PID.Sus. 2023/PT.MTR, and the MARI Decision No. 4075 K/PID.Sus/2023, which neglected to account for the legally binding narcotics criminal ruling that serves as the predicate crime for the money laundering allegation. Both panels of judges committed errors in their legal reasoning by inadequately and incompletely assessing the predicate crime of narcotics offenses under Article 127, paragraph 1 of the Narcotics Law, concerning the evidence of 0.17 grams in relation to the sentencing and confiscation of the defendant's assets.

I. Introduction

Money laundering is an offense that cannot exist independently of a predicate crime. The occurrence of money laundering enables law enforcement to confiscate assets believed to be derived from criminal activities (Levi, 2015; Levi & Reuter, 2006). The investigation of money laundering may occur concurrently with the underlying offense, may precede it, or may follow the court's adjudication of the predicate crime.

Article 1, Paragraph of Law No. 8 of 2010 regarding the Prevention and Eradication of Money Laundering defines money laundering as any act that satisfies the elements of a crime as stipulated by this law(Bayuaji & Hidayat, 2017; Charles, n.d.). The identification of acts designated as predicate offenses is outlined in Article 2 of Law No. 8 of 2010 regarding the Prevention and Eradication of Money Laundering, which specifies that the proceeds of a crime are assets derived from criminal activity, including narcotics as referenced in subsection "c". According to the stipulations of Article 3 and Article 4 of Law No. 8 of 2010 regarding the Prevention and Eradication of Money Laundering Crimes, individuals penalized as perpetrators of money laundering are those who place, transfer, divert, spend, pay, grant, deposit, export, alter the form, exchange for currency or securities, or engage in other actions concerning assets that are known or reasonably suspected to be derived from criminal activity (Georgieva, 2020; Levi & Soudijn, 2020).

The Constitutional Court Decision No. 90/PUU-XIII/2015 elucidates that Money Laundering crimes are subsequent offenses that arise from a predicate crime, which is defined as a crime that generates money or assets that are subsequently laundered (Korejo et al., 2021; Pavlović & Paunović, 2019). The Constitutional Court Decision No. 77PUU-/XII/2014 underscores that money laundering offenses are inherently linked to predicate crimes, asserting that "... the crime of money laundering does not exist in isolation, but must be associated with the predicate crime." How may money laundering be considered a crime in the absence of a predicate offense?

The two aforementioned Constitutional Court decisions illustrate that the offense of money laundering is intrinsically linked to the predicate crime, which serves as the source of illicit wealth. Consequently, only assets that are derived from or are reasonably suspected to be derived from criminal activity may be subjected to money laundering. Therefore, not all judicial rulings in criminal cases can be utilized as predicate crimes for money laundering, and not all provisions of criminal acts are applicable as predicate crimes in such cases. If the criminalized act does not yield financial gain, it cannot serve as a predicate offense for money laundering.

In narcotics cases, perpetrators face criminal penalties for engaging in financially lucrative narcotics offenses, specifically under Article 114 paragraphs (1) and (2) and/or Article 112 paragraphs (1) and (2) in conjunction with Article 132 paragraph (1) of Law No. 35 of 2009 regarding Narcotics. Additionally, individuals may incur criminal

penalties for financially detrimental offenses by violating Article 127 of the same law. Individuals convicted of offenses under Article 127 of Law No. 35 of 2009 regarding Narcotics should not be implicated in money laundering, as logically, such offenders do not generate illicit funds for property acquisition but rather expend their resources on narcotics. However, in practice, there are narcotics offenders, convicted for personal use as delineated in Article 127, who are nonetheless prosecuted for money laundering, exemplified by the narcotics case that is the focus of this research.

In June 2020, NTB Police Investigators apprehended and designated an individual with the initials MR as a suspect in connection with a Class (1) Narcotics offense, as delineated in Article 114 paragraphs (1) and (2) and/or Article 112 paragraphs (1) and (2) in conjunction with Article 132 paragraph (1) of Law No. 35 of 2009 regarding Narcotics. The evidence comprised 0.27 grams of crystal methamphetamine, and the urine analysis yielded a positive result for crystal methamphetamine use.

The suspect has been detained by the NTB Police Narcotics Investigation Unit since June 23, 2020, following the identification of the suspect. The trial process for criminal case Number 764 / Pid.Sus / 2020 / PN.Mtr, which was initiated on December 28, 2020, has been continued at the Mataram District Court. The Defendant has been found legally and convincingly guilty of the offense of "abusing class 1 narcotics for himself" with evidence of narcotics in the form of crystal methamphetamine weighing 0.27 (zero point twenty seven) grams of crystal methamphetamine. Consequently, the Defendant has been sentenced to imprisonment for 2 (two) years and 6 (six) months. The case has been resolved. This decision has been fortified by the Mataram High Court's decision No. 10 / PID.SUS / 2021 / PT.MTR, dated February 18, 2021, and the Supreme Court's decision No. 34421 K/Pid.Sus/2021, dated October 6, 2021, which reduced the criminal sentence against the defendant to 1 (one) year and 6 (six) months. The criminal case a-quo has legal certainty and enduring legal force as a result of the Supreme Court of the Republic of Indonesia's decision.

The principle of *res judicata pro veritate habetur* is a legal principle in criminal law that mandates that the decision of the judge must be held to be accurate and implemented. The significance of this principle is particularly evident in the context of the investigation of money laundering cases that have been determined by court decisions that have enduring legal implications (Bettoni, 2008; Rimanque, 1999; Zarafiu & Sologon, 2024).

The public prosecutor asserts in his indictment that the predicate crime in the A-quo case is a crime that the defendant has committed, as stated in the decision of the Mataram District Court number: 764/Pid.Sus/2020/PN.Mtr dated December 28, 2020, in conjunction with the criminal case that is the subject of this research. Decision of the Mataram High Court, Number: 10/PID.SUS/2021/PT.MTR, dated February 18, 2021 In the case of Jo. Decision of the Supreme Court of the Republic of Indonesia no. 3421K/Pid.Sus/2021, the defendant was legally and convincingly proven to have

committed the offense of drug abuse for himself. The evidence presented was 0.27 grams of crystal methamphetamine.

The original crime, possessing permanent legal force, must be deemed accurate and utilised as the foundation for establishing the legal status of the money laundering offence presented for judicial consideration, in accordance with the principle of res judicata pro veritate habetur. This indicates that the defendant ought to have been exonerated from the charges and requests of the Public Prosecutor in the money laundering case, as the initial offence was a class one drugs felony involving 0.27 grammes of crystal methamphetamine for personal use. The Mataram District Court ruled that the defendant was guilty of money laundering, resulting in the confiscation of the defendant's assets for the state. Thus, the Mataram District Court's ruling on this money laundering offence is very compelling.

The focus of this study, as based on the background previously described, is directed at answering two main problems. First, it seeks to examine the position of the original criminal decision in the context of a money laundering case, particularly through the lens of the principle *Res Judicata Pro Veritate Habetur*. Second, it aims to analyze the legal considerations employed by the panel of judges at the Mataram District Court in deciding the money laundering case under study. Through this formulation, the research intends to provide a comprehensive understanding of how prior criminal decisions and judicial reasoning influence money laundering adjudications.

2. Research Method

This study employs a normative-empirical research methodology using a case study approach, facilitating a comprehensive examination of the application and interpretation of legal standards in real court practice. The normative dimension entails the examination of legal principles, statutory provisions, and doctrinal interpretations within the context of criminal law(Johnny Ibrahim, 2005). The empirical dimension enhances this by analyzing actual legal procedures to comprehend the implementation and contestation of these rules in practice (Adiyanta, 2019). Data collecting is performed via several sources. The review of case files in the investigative stage offers insight into the procedural elements and legal rationale utilized during the initial phases of criminal adjudication. Secondly, firsthand observation of trial proceedings allows the researcher to assess the presentation, challenge, and evaluation of evidence, especially witness testimonies, in court. This phase is essential for recognizing discrepancies between legal theory and judicial practice.

A thorough literature assessment is undertaken, including scholarly books, legal analyses, journal articles, and prior court decisions. This literature establishes the theoretical framework and facilitates the identification of critical legal issues pertinent

to the case under examination. The study is contextualized by analyzing pertinent laws and regulations, including statute law and judicial norms. The data analysis employs a judicial-normative method, highlighting doctrinal legal reasoning and contextual comprehension based on empirical observation (Marzuki, 2021). This method enables the researcher to evaluate the alignment of judicial interpretations with normative legal norms and the amount to which external circumstances may affect legal results. This methodology integrates doctrinal research with empirical analysis, providing a comprehensive perspective on the legal process, so augmenting the study's legitimacy and its capacity to influence legal reform or academic discourse.

3. Results and Discussion

3.1. The stance of the initial judicial ruling predicated on the concept of Res Judicata Pro Veritate Habetur in cases of money laundering.

The principle of *Res Judicata Pro Veritate Habetur* asserts that a judge's ruling must be regarded as accurate. If the defendant introduces witnesses and documents that are potentially fraudulent, the judge must render a decision based on these questionable witnesses and materials (Blume, 2008; Wistrich et al., 2004). The decision made based on potentially false evidence must be regarded as valid until a subsequent ruling declares it incorrect and substantiates that the supplied evidence is indeed untrue. This necessitates that all individuals must comply with and adhere to the judge's ruling in the trial.

In criminal trials, the judge plays an active role and renders decisions based on personal conviction; nevertheless, this judgment must be substantiated by a minimum of two pieces of evidence, which collectively establish the defendant's guilt or innocence in a legally compelling manner. The panel of judges is mandated to render a decision based on the evidence stipulated in the criminal procedure code (Commission, 2011; Ingram, 2021).

Judicial rulings that have acquired permanent legal authority are not subject to contestation. Court rulings are to be regarded as legal veracity, hence they cannot be contested or challenged. The idea of Res Judicata Pro Veritate Habetur underscores the necessity of honoring the enduring legal authority of a court ruling, regardless of the perceptions of fairness by specific parties, in order to uphold legal certainty and order for those pursuing justice.

The principle of Res Judicata Pro Veritate Habetur serves to preclude baseless legal actions that merely complicate issues, thereby expediting case resolution and averting legal disorder. This ensures that the community feels secure and safeguarded by the law.

In judgement No. 90/PUU-XIII/2015, the Constitutional Court stated that money laundering is a derivative offence arising from the predicate crime that produces the illicit cash or assets that are later laundered. Therefore, TPPU cannot

manifest without the antecedent commission of the original offence. The Court asserts that an investigation, prosecution, and examination in a TPPU case necessitate the prior existence of a predicate crime. However, the foundational offence does not need to be demonstrated initially.

Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering states that Money Laundering is not a standalone crime but a derivative offence arising from a predicate crime. Money laundering necessitates the existence of a predicate crime, irrespective of whether the investigation of the predicate crime occurs simultaneously with the TPPU, before it, or follows it. Under the concept of Res Judicata Pro Veritate Habetur, in money laundering situations when the predicate offence has been adjudicated by a court with a definitive and binding ruling, the decision regarding the predicate offence must underpin the resolution of the money laundering case.

3.2. Legal considerations of the Panel of Judges of the Mataram District Court in deciding the Money Laundering Crime case.

1. **The panel of judges' legal considerations were not grounded in the trial facts.**

There exist a minimum of four legal considerations by the panel of judges in the money laundering case that are inconsistent with the trial's facts, including: Initially, on page 68, the opening paragraph delineates the legal considerations articulated by the panel of judges, stating: "Considering that the items discovered during the Defendant's arrest ..., evidence was identified as follows: 1 (one) package of white crystal encased in a transparent clip, weighing 0.27 (zero point two seven) grams; 1 (one) black Samsung Galaxy A80 cellphone." One notebook; one bong/shabu smoking apparatus constructed from a three-legged air freshener bottle, featuring two plastic pipettes on the lid, with one glass pipette at the end of a plastic pipette, suspected to contain shabu; one pressing tool; eighteen packages of white crystal, suspected to be shabu narcotics, encased in transparent plastic; one pack of red Marlboro cigarettes containing one pocket of white crystal, suspected to be shabu-type narcotics, wrapped in transparent plastic clips; and cash totaling Rp. 3,000,000 (three million rupiah).

The evidence referenced in the legal considerations of the panel of judges on page 68 is absent from the case file under examination; it pertains to the Defendant, specifically I Ketut Sudarsana, I Gede Ari Anggara, and Muhammad Jaelany Sukron, who were apprehended and interrogated in an unrelated case.

Furthermore, the evidence was never presented in court and was not utilized in the assessment of the original crime, specifically in the ruling of criminal case Number 764/Pid.Sus/2020/PN.Mtr dated December 28, 2020, in conjunction with No. 10/PID.SUS/2021/PT.MTR dated February 18, 2021, and Number 3421/KPid.SUS/2021 dated October 6, 2021. Consequently, it is established that the evidence lacks any legal connection to the Defendant.

The evidence in criminal case Number 764/Pid.Sus/2020/PN.Mtr dated December 28, 2020, jo. No. 10/PID.SUS/2021/PT.MTR dated February 18, 2021, in conjunction with Number 3421/KPid.SUS/2021 dated October 6, 2021, explicitly identified by the Public Prosecutor as the predicate crime in the Aquo case consists of "1 (one) package of white crystals wrapped in a transparent clip weighing 0.27 (zero point two seven) grams; 1 (one) blue long-sleeved shirt; 1 (one) black Samsung Galaxy A80 cellphone; and 1 (one) notebook." There is no evidence beyond this.

In adjudicating the case, the panel of judges must reference the evidence presented by the Public Prosecutor's Office and consider the ruling of the underlying criminal case, specifically the decision in criminal case Number 764/Pid.Sus/2020/PN.Mtr dated December 28, 2020, in conjunction with No. 10/PID.SUS/2021/PT.MTR dated February 18, 2021, and jo Number 3421/KPid.SUS/2021 dated October 6, 2021, without formulating independent arguments or introducing evidence not submitted by the Public Prosecutor during the trial.

Secondly, the legal factors on page 70 of the initial paragraph indicate, "considering that, according to the testimony of witness Muhammad Jaelani Sukron, also known as Elan, the Defendant was involved in drug dealing or acted as a courier, etc."

The legal considerations contradict the indictment filed by the Public Prosecutor, which asserts that the money laundering case originated from criminal case Number 764/Pid.Sus/2020/PN.Mtr dated December 28, 2020, jo. No. 10/PID.SUS/2021/PT.MTR dated February 18, 2021, in conjunction with Number 3421/KPid.SUS/2021 dated October 6, 2021, wherein the Defendant was found to possess 0.27 grams of crystal methamphetamine intended for personal use, not for sale or distribution. The Defendant was determined to possess 0.27 grams of crystal methamphetamine in a single pouch, contrary to the assertion of 19 pouches in the panel of judges' legal considerations. Consequently, the claim that the Defendant owned 19 pouches of crystal methamphetamine was not substantiated by trial evidence and contradicted the Court's decisions: Number 764/Pid.Sus/2020/PN.Mtr dated December 28, 2020, in conjunction with No. 10/PID.SUS/2021/PT.MTR dated February 18, 2021, and Number 3421/KPid.SUS/2021 dated October 6, 2021, which possess final legal authority and serve as the predicate crime in the money laundering case.

In the verdict of the money laundering case, on pages 44 to 47, witness Muhammad Jaelany Sukron did not state that the Defendant was the owner of 19 packets of crystal methamphetamine or 25 to 30 packets of crystal methamphetamine, nor did he provide information that the Defendant received money from the sale of narcotics from I Ketut Sudarsana, nor did he mention that

the Defendant handed over money from the sale of narcotics to Bohari known as Boh, as stated in the legal considerations of the panel of judges.

Based on the trial facts, there were no witnesses named Bohari Irfan known as Boh and Sri Fatmawati known as Fat who were examined and gave testimony in the money laundering case, and witness Moh. Zaelani Sukron or Elan never provided information as stated in the legal considerations of the panel of judges on page 70 of the verdict of the case.

Third, the legal considerations of the panel of judges on pages 72-73 which state "Considering, that the defendant acted as the owner of the narcotics (Shabu) obtained by purchasing from Bohari Irfan known as Boh and received money from the sale of shabu narcotics from witnesses I Ketut Sudarsana known as Kesut and I Gede Ari Anggara known as Ari through Ni Wayan Kismiati known as Mia who is the defendant's sister-in-law and then the defendant handed over the money from the sale of the Shabu narcotics to Sri Fatmawati known as Fat and then Sri Fatmawati known as Fat handed over the money to Bohari Irpan known as Boh...".

The legal considerations stating that the defendant was the owner of the goods were not based on the facts of the trial because Sri Fatmawati and witness Bohari Irfan known as Boh were never made witnesses and examined in the trial of the case. These legal considerations also contradict common sense because if the defendant had bought the goods from Bohari known as Boh to sell, then why was the money from the sale given to Bohari Irpan known as Boh. If the Defendant is the owner of the narcotics, the proceeds from the sale will not be handed over to Bohari Irpan known as Irpan.

Based on the decision of the original criminal case, namely case Number 764 / Pid.Sus / 2020 / PN.Mtr dated December 28, 2020, jo. No. 10 / PID.SUS / 2021 / PT.MTR dated February 18, 2021, jo Number 3421 / KPid.SUS / 2021 dated October 6, 2021, the Defendant was proven to have 1 packet of methamphetamine weighing 0.27 grams which was used for himself, not for sale or distribution;

In accordance with the narcotics criminal case in the name of Bohari Irpan known as Boh as stated in the Decision of the Mataram District Court Number: 502 / Pid. Sus / 2021 / PN.Mtr dated November 15, 2021 jo. 148/PID.SUS/2021/PT MTR jo. 3320 K/Pid.Sus/2022 was proven to be a narcotics seller and received the proceeds of narcotics sales from witnesses I Ketut Sudarsana and I Gede Ari Anggara with evidence in the form of 19 packets of crystal methamphetamine and cash of Rp. 3,000,000 (three million rupiah). So based on the court's decision, it is clear that the owner of the 19 packets of crystal methamphetamine sold by Iketut Sudarsana and I Gede Ari Anggara is not the Defendant.

In the Criminal Case Decision 767/Pid.Sus/2020/PN Mtr jo. 11/PID.SUS/2021/PT MTR jo. 3132K/Pid.Sus/2021 on behalf of the defendant I Ketut Sudarsana known as Kesut and I Gede Ari Anggara with evidence in the form of

19 packets of crystal methamphetamine and cash of Rp. 3,000,000 (three million rupiah), so that based on the court's decision, it is clear that the owner of the 19 packets of coconut fiber sold by Iketut Sudarsana and I Gede Ari Anggara is not the Defendant. Fourth, the legal considerations of the panel of judges on page 73 which states: "Considering, that witnesses Muhammad Jaelani Sukron known as Elan and Ni Wayan Kismiati after opening a BCA account in the names of the witnesses were immediately asked by the Defendant to submit a savings book and ATM card; Considering that from a number of proceeds of money received and placed in the account by the Defendant were the proceeds of a criminal act of selling narcotics in the form of crystal methamphetamine from witnesses I Ketut Sudarsana and witness I Gede Ari Anggara were also used by the Defendant to buy or spend or own a number of goods from 2019 to 2020, namely goods in the form of ..."

In the trial of criminal case Number 764/Pid.Sus/2020/PN.Mtr dated December 28, 2020, jo. No. 10/PID.SUS/2021/PT.MTR dated February 18, 2021, jo Number 3421/KPid.SUS/2021 dated October 6, 2021, no evidence in the form of a bank account book belonging to Ni Wayan Kismiati or Muhammad Jaelani Sukron was discovered with the Defendant. Additionally, no ATM was confiscated from the Defendant. The only item present was a notebook unrelated to narcotics, which could neither store nor facilitate the withdrawal of funds from a bank account. The account books attributed to Muhamad Jaelani Sukron and Ni Wayan Kismiati, which the Public Prosecutor claimed belonged to the Defendant, were confirmed to be owned by Muhamad Jaelani Sukron and Ni Wayan Kismiati. These books were seized from the residence of Muhammad Zaelani Sukron, also known as Elan, rather than from the Defendant's home, as corroborated by witnesses Lalu Nur, Yoga Hardianto, and Muhamad Jaelani Sukron or Elan.

During the money laundering trial, Ni Wayan Kismiati was neither presented nor examined as a witness; nevertheless, the panel of judges incorporated her name into the legal considerations, creating the impression that she had provided testimony in the case, which was subsequently utilized as a foundation for the legal determinations. The panel of judges' conduct are unequivocally indefensible under the law.

2. **The legal considerations of the panel of judges are contrary to the principle of *Res Judicata Pro Veritate Habetur.***

The panel of judges must consider at least two legal aspects in the evaluation of the money laundering case, which may indicate a violation of the principle of *res judicata pro veritate habetur* (Agustine, 2016; Alkhayer & Gupta, 2024; Van Den Wyngaert & Stessens, 1999). Firstly, the legal considerations articulated on page 74, in the final paragraph, assert that "in the context of the Crime of Money Laundering,

the predicate offense is irrelevant in both resolved and unresolved cases; it is not a prerequisite for establishing the elements of the statute concerning Money Laundering, as mere suspicion and the presence of assets suffice." The legal considerations of the panel of judges are inconsistent with the stipulations of Article 69 of Law No. 8 of 2010, which asserts that for the investigation, prosecution, and judicial examination of money laundering offenses, it is not requisite to first establish the underlying crime. Additionally, the Constitutional Court Decision No. 90/PUU-XIII/2015 clarifies that money laundering is a derivative offense stemming from the predicate crime, which generates the funds or assets subject to laundering. Furthermore, Constitutional Court Decision No. 77/PUU-XII/2014 emphasizes that money laundering is not an isolated offense but must be connected to the predicate crime. How may money laundering occur in the absence of a predicate offense?

Money laundering is not an independent offense; rather, it is a secondary criminal stemming from a predicate offense (Mugarura, 2011; Rusanov & Pudovochkin, 2018; Syakur, 2023). Money laundering cannot occur without a predicate crime, regardless of whether the examination of the predicate crime is conducted concurrently with the TPPU, precedes it, or follows it; thus, the legal reasoning of the judicial panel is fundamentally flawed. The legal considerations of the panel of judges are inappropriate if linked to a predicate crime that has been adjudicated and has attained finality, specifically the drugs offense under Article 127 paragraph 1 involving 0.27 grams of evidence. Individuals convicted of this money laundering offense are those who have engaged in drugs transactions, subsequently profiting from them, and utilized the proceeds to acquire assets or augment their fortune.

In the narcotics criminal case which is used as the predicate crime in a-quo, Article 114 paragraph (1) and (2) and or Article 112 paragraph (1) and (2) Jo. Article 132 paragraph (1) of Law No. 35 of 2009 concerning Narcotics, which was charged by the Public Prosecutor against the Defendant has been declared not legally and convincingly proven, so that matters regarding the origin of the assets owned by the defendant cannot be linked to the crime of narcotics trafficking, because the charges have been declared not proven based on the predicate crime decision which has permanent legal force.

Second, the legal considerations of the panel of judges on page 77 paragraphs 1 and 2 essentially state "Considering that what is meant by what is known or reasonably suspected to be the result of a crime is that the defendant

must know or at least be able to suspect that his actions are related to the results of a crime, namely one of the crimes of a. corruption; b. bribery; c. narcotics ... in Article 2 paragraph (1)". The legal considerations of the panel of judges are not appropriate to be used in this money laundering case, because the case used as the predicate crime is a case that has permanent legal force, namely criminal case Number 764/Pid.Sus/2020/PN.Mtr dated December 28, 2020, jo. No. 10/PID.SUS/2021/PT.MTR dated February 18, 2021, jo Number 3421/KPid.SUS/2021 dated October 6, 2021, which in essence states that the Defendant was proven guilty as a narcotics user with evidence of 0.27 (one point twenty seven) grams of crystal methamphetamine, and the Defendant has never been convicted other than as a narcotics user. For Money Laundering Crimes whose predicate crimes have been decided and have permanent legal force, the panel of judges must still refer to the predicate crime filed by the public prosecutor, not look for other reasons or criminal acts that are not related to be used as reasons in the examination of the case. In the case of money laundering crimes that are the object of this research, since the investigation stage, the Defendant has filed a pretrial motion against the investigation process because the investigator has determined the suspect status in the money laundering crime case against the Defendant with the predicate crime of Article 127 of the Narcotics Law with evidence of 0.27 grams, and in the pretrial process there were no other crimes filed by the Investigator, and likewise at the prosecution stage, the public prosecutor has also used the same case decision as that used by the investigator as the basis for compiling the indictment, so it is very strange when the Panel of Judges actually denies the court decision that has permanent legal force that is used as the predicate crime, then looks for other reasons that are completely contrary to the predicate crime decision to be used as the basis for deciding the money laundering crime case.

The public prosecutor has requested that the defendant be established as legally and demonstrably guilty of Money Laundering as per the First indictment. The Public Prosecutor contravened Article 3 of Law No. 8 of 2010 regarding the Prevention and Eradication of Money Laundering offenses. The provisions in Article 3 of Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering can no longer be used to ensnare the Defendant, because the Defendant's legal status is certain based on the decision that has permanent legal force, namely the decision of the Mataram District Court No. 764 / Pid.Sus / 2020 / PN.Mtr dated December 28, 2020 in conjunction with the Decision

of the Mataram High Court No. 10 / PID.SUS / 2021 / PT.MTR dated February 18, 2021, in conjunction with the Decision of the Supreme Court of the Republic of Indonesia No. 3421 K/Pid.Sus/2021 dated October 6, 2021, which in essence states that the Defendant was legally and convincingly proven guilty of committing the crime of "drug abuse class 1 for himself" with evidence of 0.27 grams of crystal methamphetamine, not as a drug dealer who can generate wealth, so that it is clear that based on the original criminal decision, the assets owned by the defendant have nothing to do with narcotics crimes, because the Defendant is not a drug dealer whose activities can generate money to buy the confiscated assets.

The investigative procedure for the initial offense in a Money Laundering case may be conducted through the following methods: 1. The original crime is analyzed prior to the TPPU examination. 2. The original crime and TPPU are analyzed concurrently. 3. The original crime is analyzed subsequent to the TPPU examination. The investigator and public prosecutor have opted to address the original crime first, which has been adjudicated based on the Mataram District Court Decision No. 764/Pid.Sus/2020/PN.Mtr dated December 28, 2020, in conjunction with the Mataram High Court Decision No. 10/PID.SUS/2021/PT.MTR dated February 18, 2021, and the Supreme Court of the Republic of Indonesia Decision No. 3421 K/Pid.Sus/2021 dated October 6, 2021. These rulings collectively affirm that the Defendant was legally and convincingly found guilty of the offense of "abusing class 1 narcotics for personal use," supported by evidence of 0.27 grams of crystal methamphetamine.

According to the principle of Res Judicata Pro Veritate Habetur (the Judge's Decision is deemed correct), the ruling on the initial offense must serve as a reference and foundation for evaluating and establishing the Defendant's legal status. The panel of judges must adhere to established principles in executing the law enforcement process, as a decision with permanent legal force can only be altered through the PK process. Consequently, if the Public Prosecutor seeks to modify the status of a Defendant with a decision that has permanent legal force based on the original criminal ruling, the Public Prosecutor must initiate a PK against that decision to be applied as the original offense in the money laundering case.

4 Conclusion

The indigenous knowledge of the Lombok community has promise for the advancement of Tourism Law, encompassing the creation of legal substance, legal structure, legal culture, and local wisdom as an alternative means of dispute settlement. The evidence indicates that the Sasak population in Lombok continues to adhere to their local wisdom, rendering it a pertinent component in the evolution of legal frameworks, particularly concerning tourism law. The Sasak indigenous community of Lombok continues to utilize local wisdom in formulating various tourism regulations, although they usually lack the capacity to implement formal legal frameworks. Consequently, the state's involvement is crucial in harnessing local expertise and translating it into rules and regulations. The formulation of tourism legislation that leverages local wisdom can be executed through several measures, including: 1) Reevaluation of the role and significance of local wisdom in safeguarding and conserving tourism assets, 2) Transformation of local wisdom potential into regional tourism regulations, 3) Integration and adaptation of local wisdom in the resolution of tourism-related business disputes, 4) Revitalization of local wisdom to uphold the security and order of tourism development.

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