



Application of Material Criminal Law in the Decision of Case No. 2531/Pid.Sus/2019 / PN Mdn in the Crime of Carrying and Storing Sharp Weapons

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ABSTRACT

The potential for crime that can arise from the possession or carrying of sharp weapons outside the home is very large so that the existence of emergency laws is maintained with a serious criminal threat. The act of carrying and storing sharp weapons that can be categorized as a criminal offense based on the theory of elements of criminal acts and the emergency law of the Republic of Indonesia number 12 of 1951 the research method was to use normative methods. This study was conducted by searching and understanding the literature or information security related to social media and literature research. Application of material criminal law in the decision of Case No. 2531/Pid.Sus / 2019 / PN Mdn is in accordance with the application of the law and meets all the elements of Article 2 Paragraph (1) of Law No.12 emergency year 1951, based on the legal facts revealed at the time of the trial in court took place both witness testimony, testimony of the defendant and the evidence the defendant must account for his actions. The defendant who is considered healthy and performs his actions on the basis of his consciousness and is considered able to account for his actions in accordance with the verdict handed down by the panel of Judges, namely 10 (ten) months imprisonment.

INTRODUCTION

The crime of criminal acts that cause insecurity for each community. This evil is the work of man. But humans inherently have a desire to live in a sense of security and peace, so many citizens or civilians are in various ways to protect themselves, one of the efforts made by citizens is to have a means of self-protection, namely sharp weapons.

One of the crimes that need attention is the crime of carrying and storing stabbing weapons, or often abbreviated as sharp weapons. Possession or carrying a stabbing weapon at an inappropriate place and time is often a sign that there will be other criminal acts that will be carried out by the carrier, because usually in these conditions the function of a sharp weapon or to defend oneself or to physically attack others. In addition, possession of a piercing object can encourage a person's intention to use it to attack others, so that possession or carrying a piercing weapon is classified as a criminal offense.

The crime of possession of sharp weapons can provide a very large share for armed crime. Sharp weapons as a product resulting from this crime is very popular because these sharp weapons are not registered so that they are difficult to trace, especially easy to make for those who do have special skills and expertise in this field. Illegal possession of sharp weapons and sharp weapons is an issue that is hotly discussed. Illegal what is meant here is not legal, or not valid according to law.

Prohibited acts are divided into several scopes, namely general crimes and special crimes, generally regulated in the criminal code so that the general criminal law is only limited to the Criminal Code, while the special is a criminal offense outside the Criminal Code. Special Criminal Law is located outside the Criminal Code and has a number of special provisions (deviations) against the Criminal Code. Basically, the general criminal law also applies to laws outside the Criminal Code as long as it is not otherwise specified in laws outside the Criminal Code (vide Article 103 of the Criminal Code).

The crime of possession of sharp weapons is not in accordance with the laws and regulations is very dangerous for security and safety which not only can eliminate someone's life, but many eliminate many people's lives. Emergency Law No. 12 of 1951. Speaking of stabbing weapons, it is usually a description of objects or those used to defend themselves or attack others. Objects or tools that can function as weapons but are not used for self-defense or attack purposes, have their own designations that are neutral. For example, a knife or machete/Cleaver is a neutral name for a cutting tool.

But if it is used to attack others, the knife or machete turns into a sharp weapon. Likewise with swords and samurai are sharp weapons or stabs, because they are made for attacking purposes. So, tools or objects made for use to attack other parties by their users, this is what is called a stabbing weapon.

Sharp weapons in a positive sense is a tool to defend themselves, defend state sovereignty, law enforcement, but in a negative sense the use of sharp weapons and against the law will disrupt public order (criminal acts) and is a threat to the Unitary State of the Republic of Indonesia. The problem of misuse of firearms is a very dangerous and high-risk thing. Where the abuse of sharp weapons can result in the loss of life of a person or 2 people. The law that regulates the classification of sharp weapons is the Drt law. No. 12/1951 that reads: Anyone who without the right to enter Indonesia, make, receive, attempt to obtain, deliver or attempt to deliver, possess, carry, have supplies on him or have in his possession, store, transport, hide, use or remove from Indonesia any weapon of beating, stabbing weapons, or piercing weapons (slag -, steek -, of stootwapen), shall be punished with a maximum prison sentence of ten years.

Although sharp weapons and sharp weapons are very useful and necessary in terms of Defense and security of the state and arm themselves or defend/defend themselves from life-threatening things, but if misused or its use is not in accordance with applicable law, especially with the circulation of sharp weapons that are done illegally, it will cause very detrimental consequences for individuals and, it can even pose a greater danger to the life and cultural values of the nation which can ultimately weaken national resilience. The increase in crime as a result of the possession of sharp weapons will cause great harm to the interests of society.

The prohibition in the possession of stabbing weapons has been a classic problem that has been applied for a very long time considering the danger that can be caused from stabbing weapons or the like that can encourage the intention or desire of a person to commit other crimes such as violent crimes against others. There are many criminal acts in the form of violence by using stabbing weapons, either to defend themselves or to attack others, where evil intentions will easily arise if there is a stabbing weapon attached to someone's body. The ban on stabbing weapons is regulated in emergency law No. 12 of 1951. In Article 2 Paragraph (1) it is stated: "Whoever without the right to enter Indonesia, make, receive, try to obtain it, hand over or try to hand over, take possession, carry, have

supplies on him or have in his possession, store, transport, hide, use or remove from Indonesia any weapon of beating, stabbing weapons, or stabbing weapons (slag-, steek-, of stootwapen), shall be punished with a maximum prison sentence of ten years”.

But in reality there are still many people who freely own weapons. One of them is that there are organizations or communities that have sharp weapons used as collections. The problem is if the sharp weapon is misused to commit a crime. There needs to be a more serious handling of the possession of sharp weapons that occur among the community. The authorities must be able to suppress the rate of spread of sharp weapons that occur in Indonesia both officially and unofficially licensed in order to create a safe and peaceful life in society. One of the cases of Mulyono alias ono on Saturday, July 06, 2019, approximately at 01.00 Wib or at least at another time in July or in 2019, located on Jalan Sekata Lorong VI ex. Coral Wavy District. Medan west of Medan city with suspicious movements were sitting by the river when the police patrol. Based on the background of the problems that have been mentioned clearly, the researcher wants to examine and examine the problem of” Juridical analysis of the crime of carrying and storing sharp weapons”

METHOD

The research used is juridical normative, where research is done by tracing legal material through literature studies. This research is descriptive Analytical that is to analyze data systematically, factual and accurate about the problem under study. With the nature of the research conducted is the nature of descriptive research analysis is to provide data as thorough as possible research on the level of public confidence in the National Police. The data collection tools used, namely: primary, secondary and tertiary legal materials which are then analyzed by Qualitative Analysis and then presented descriptively, namely by explaining, outlining, and describing the problems and solutions related to the formulation of the problem made.

RESULTS AND DISCUSSION

A. Application of Matril criminal law against perpetrators of Criminal Teindak possession of sharp weapons in the city of Medan

In this criminal case, the defendant is charged by the public prosecutor in violation of Article 2 Paragraph (1) of law no.12 emergency of 1951 with

charges of imprisonment for 1 (one) year. Based on the facts revealed at the hearing and based on the assessment. The panel of judges, then the panel of judges decided the defendant was legally proven to violate Article 2 Paragraph (1) of law no.12 emergency in 1951 and sentenced to imprisonment for 10 (ten) months.

By knowing the facts that have been proven at the trial, the evidence of the elements of the criminal offense charged against the defendant has been fulfilled as stipulated in Article 2 Paragraph (1) of law no.12 Emergency Of 1951. Then the researcher argues that the application of the material criminal law against criminal acts for possession of sharp weapons without permission in decision number 2531 / Pid.Sus / 2019 / PN Mdn namely Article 2 Paragraph (1) of law no.12 emergency of 1951 has been in accordance with applicable laws and regulations.

With the disclosure of the facts in the trial, the defendant on behalf of Mulyono alias Ono, have in his possession a stabbing weapon without rights in this case is a sharp weapon type red gloved knife evidenced by the testimony of witnesses who stated that the defendant was arrested and at that time suddenly the defendant threw 1 (one) red gloved knife blade toward the front of the defendant so that the witnesses immediately arrested the defendant and secure evidence save the accused to guard themselves. Then the defendant has fulfilled all the elements mentioned in the indictment.

Then the charges filed by the public prosecutor, namely imprisonment for 1 (one year) and the verdict given by the panel of Judges, namely imprisonment for 10 (ten) months, are in accordance with the provisions of the applicable legislation in this case Article 2 Paragraph (1) of law no.12 emergency of 1951, for which the criminal penalty in the article is a maximum prison sentence of ten years.

In the imposition of criminal sanctions, the judge must be based on two valid pieces of evidence, then the evidence by the judge obtains confidence that the alleged criminal act actually occurred and the defendant committed it. This is provided for in Article 183 of the code of Criminal Procedure. The judge in this case then decided to give criminal sanctions lighter than the demands of the Public Prosecutor. In the demands of the public prosecutor demanded a prison sentence of 1 (one) year while the judge's verdict is a prison sentence of 10 (ten) months. The consideration of the judge decided lighter than the demands of the public prosecutor is that there are things that relieve.

This decision is the result of the deliberation of the panel of judges who handled this case.

Regarding the criminal sanctions imposed, they are lighter than the demands of the Public Prosecutor, because there are mitigating matters at the time of the trial. First, the defendant admitted frankly to his actions. The defendant knew consciously that his actions could unsettle and endanger the surrounding community. Secondly, the defendant during the course of the trial acted courteously. Then the judge does not see any justifying or forgiving reason to be the reason for the abolition of the crime against the act committed by the defendant. The panel of judges saw the existence of burdensome things, namely the actions of the accused disturbing the community and endangering the community.

In Decision No. 2531/Pid.Sus / 2019 / PN Mdn, the decision-making process carried out by the panel of judges according to the researcher is in accordance with applicable legal rules and in accordance with valid evidence, where in this case, the evidence used by the judge is the defendant's statement, witness statements and evidence in the form of sharp weapons of the red gloved knife type. Then consider the responsibility for the actions of the defendant with the consideration that at the time of committing the act, the defendant was aware of the consequences caused.

Based on the results of research conducted by the researcher, through the study of the literature of the relevant documents, the researcher can conclude based on Decision No. 2531/Pid.Sus / 2019 / PN Mdn, the researcher agreed with the panel of judges who considered that the defendant was found guilty of the indictment from the public prosecutor in violation of Article 2 Paragraph (1) of the Indonesian law No.12 emergency of 1951 because the elements of the crime have been fulfilled and proven as a fact before the court.

However, the leniency of the punishment given by the judge in this case, according to the researcher, is less effective and does not provide a deterrent effect to the accused and to ensnare other perpetrators who commit similar crimes. Researchers emphasize more severe punishment considering that this crime is the starting point of other more serious crimes, such as murder, theft with violence, persecution of course there must be victims both injured and dead victims. Therefore, researchers argue that the crime of possession of firearms is heavier than what the judge gave in case No.2531/Pid.Sus / 2019 / PN Mdn.

B. Legal Consideration Of The Judge Against The Perpetrators Of The Crime Of Possession Of Sharp Weapons In Medan District Court

Consider, that the word whoever or anyone indicates to whom the person who should be responsible for the alleged act/incident or at least about who the person who is the defendant in this case. Strictly speaking, the word "whomever" or "Hij" according to the manual on the implementation of tasks and administration of Book II, revised edition of 2009, page 208 of the Supreme Court of the Republic of Indonesia and the Supreme Mahkamah decision number: 1398 K/Pid/1994 dated June 30, 1995 Terminology of the word "whomever" or "Hij" as anyone who should be made the defendant/dader or any person; Considering, that therefore the word "whomever" or anyone historically chronologically, human beings as subjects of law have by themselves the ability to be responsible unless expressly law specifies otherwise; considering, that the logical consequence of this factor is the existence of the ability to be responsible (Toerekeningsvaabaarheid) does not need to be proved again because every subject of law is closely attached to the ability to be responsible as asserted in the Memorie van Toelichting (MvT) Memorie van Toelichting.

Considering, that based on the testimony of witnesses in front of the Medan District Court trial, the defendant's statement, a warrant for investigation against the defendant, then the indictment and criminal charges of the prosecutor/Public Prosecutor, and the defendant's own Pleidooi in front of the trial and the defendant's justification for the examination of his identity at the first trial as contained in the minutes of the trial in this case and the justification of the witnesses who were faced in front of the trial that was being tried in front of the Medan District Court trial was Persona in trying this case; considering, that thus the elements of whoever has been fulfilled; considering, that with the proof of all the elements as considered above, the defendant has been found guilty of committing a criminal act in violation of Article 2 Paragraph (1) of law no. 12 of 1951. As charged by the public prosecutor in his sole indictment.

This case is clear that the defendant has been proven guilty while during the trial was not found to be a reason that can release criminal responsibility for themselves or their actions either for justifying or forgiving reasons, then the defendant must be declared to have been proven legally and convincingly guilty of committing a criminal offense "without the right to enter into Indonesia, make, receive, try to obtain, deliver or try to deliver, master,

carry, have supplies on him or have in his possession, store, transport, hide, using or removing from Indonesia a weapon of beating, stabbing or stabbing weapons", so that it should therefore be punished commensurate with his actions; considering, that because the defendant was found guilty of the crime he was charged with, he should be sentenced to a crime commensurate with his actions; considering, that the defendant is in custody and based on the provisions of Article 22 paragraph (4) ; Considering that because the defendant was detained and his detention was based on sufficient grounds while the crime was imposed longer than the period the defendant was in custody, based on the provisions of Article 193 paragraph (2b) of the Code of Criminal Procedure (KUHAP) the panel of judges determined that the defendant remained in custody.

Evidence in this case in the form of: 1 (one) knife blade, 1 (one) red gloves, based on the provisions of Article 194 paragraph (1) Code of Criminal Procedure (KUHAP) because based on legal facts in the trial is an item that is used to commit a crime then against the evidence the panel of judges determined to be seized to be destroyed until it can; Considering that because the defendant was sentenced to a crime and the defendant had not previously applied for exemption from paying the costs of the case, then under the provisions of Article 222 of the Code of Criminal Procedure (KUHAP) , the defendant must be burdened to pay the costs of the case, the amount of which will be determined in the amar of this decision; considering that the crime imposed on the defendant as mentioned in the amar of this decision, is appropriate, proper and fair with the proven guilt of the defendant.

Before making a decision against the defendant, the panel of judges will first consider things that incriminate and relieve the defendant; things that incriminate the defendant's actions can encourage other criminal acts; the defendant has been convicted of committing a criminal offense; things that relieve : the defendant admitted frankly to all his mistakes and promised not to repeat his actions in the future; the; Considering the provisions of Article 2 Paragraph (1) of emergency law No.12 Of 1951, Law No.8 of 1981 on the Code of Criminal Procedure (KUHAP), Law No. 49 of 2009 on the General Court , Law No. 48 of 2009 on Judicial Power and applicable laws and regulations relating to this case;

Researchers see that the consideration of the judge on the decision number 2531 / Pid.Sus / 2019 / PN Mdn has fulfilled the basic consideration of judges in general which includes witness statements, expert statements, letters. Instructions, testimony of

the accused, and balanced with its subjective and objective aspects A. Subjective 1. A priori behavioral attitudes, often judges in trying a case from the beginning are faced with a prejudice or suspicion that the suspect or accused is guilty, so they must be punished or declared the wrong party. RES JUDICATA, this attitude is clearly contrary to the principle upheld in the judiciary, namely the presumption of innocence. 2. The attitude of emotional behavior, the behavior of judges who are easily offended or angry will be different from the behavior of judges who are understanding, patient and thorough in handling a case. This will obviously affect the outcome of his decision. 3. Arrogant behavior attitude, judges who have an arrogant attitude feel themselves powerful and clever above others often influence their decisions. 4. Moral, this factor is a very vital foundation for law enforcement and justice, especially judges. B. Objectives 1. Professionalism which includes knowledge, insight, and expertise supported by accuracy is a factor that affects the way judges make decisions. The problem of professionalism is also often associated with the code of ethics in the judicial environment, therefore judges who handle a case by adhering to professional ethics will certainly produce a more accountable decision, when compared to judges who pay less attention to professional ethics. Both of them have the same goal of solving cases, enforcing the law and providing justice. 2. These factors, according to the author, are very relevant if they are associated with the imposition of a criminal offense. If a judge has a priori, emotional, or arrogant attitude, then the punishment can be aggravated. However, if a judge has a wise and wise attitude, then the judge will consider many factors, especially in terms of social values and human values, can cause the judge to impose a crime that can relieve the defendant. The courteous attitude of the defendant, the defendant's long-term future, and the cause of the defendant committing a criminal offense must be used as a basis for separate consideration by the judge.

CONCLUSION

Application of material criminal law in the decision of Case No. 2531/Pid.Sus / 2019 / PN Mdn is in accordance with the application of the law and meets all the elements of Article 2 Paragraph (1) of Law No.12 emergency year 1951, based on the legal facts revealed at the time of the trial in court took place both witness testimony, testimony of the defendant and the evidence the defendant must account for his actions. The defendant who is considered healthy and performs his actions on the

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