



Legal Analysis of Acts of Embezzlement in the Family (Study of Decision Number Number 1314 / Pid.B / 2024 / PN Mdn)

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ARTICLE INFO

Keywords:

Credit Agreement,
Embezzlement,
Family.

Date received : 3 Des 2024
Revision date : 13 Jan 2025
Date published : 29 Jan 2025

ABSTRACT

This study aims to look criminologically and juridically about crime in human action which compromises the basic norms of society. Actions elements that violate the rules of living and growing in the community. The type of research used is descriptive analytical about juridical normative, the main material in this study is secondary data conducted by collecting materials in the form of : Primary legal materials, namely legal materials in the form of legislation, official documents have authority related to the problem, namely the Criminal Code. Secondary legal materials, namely all materials laws that are the publication of unofficial documents include books, scientific works. Tertiary Law Materials, that is, the material that provides and explanation of the primary legal material and secondary legal material, such as general dictionaries, legal dictionaries, scientific journals, magazines, newspapers and the internet are still relevant to this study, the results of research and discussion to explain the elements of the crime of embezzlement applied in Decision No. 1314 / Pid.B / 2024 / PN Mdn consists of elements of a subjective offense in the form of a deliberate violator in order to embezzle someone else's property as defined in this article of the law through the wording: intentional and objective violation element it consists of: anyone element, unlawfully mastered element, object element, partial or complete element owned by others and the element of the object there is not for evil.

INTRODUCTION

Embezzlement in the formulation of the criminal code is a crime that includes elements: intentionally; whoever; takes; an object; partly / wholly possession of another person; possession of the thing against the law; and the thing that which is in his power is not because of evil. According to Cleiren the essence of embezzlement offense is the abuse of trust. Always regarding unlawfully have an item entrusted to the one who darkened it. The classic boundary between theft and embezzlement is theft "takes" goods that do not yet exist to him, while in embezzlement it's already in his power. The offense of embezzlement is the offense with Act or commission. Time and place of occurrence of embezzlement is the time and place of implementation of the will that has been real.

Embezzlement is almost the same crime as the theft described in Article 362. On the theft of goods owned it is still not in the hands of perpetrators and still have to be taken, being on time embezzlement of goods it is already in the hands of the offender not by the path of crime. According to the Criminal Code of embezzlement distinguished on five kinds, namely: First, the crime of embezzlement in the form of principal; second, criminal acts light embezzlement; third, the crime of embezzlement with elements incriminating; fourth, the crime of embezzlement by guardians and others; fifth, the act criminal embezzlement in the family.

The elements contained in Article 372 of the criminal code consists of elements objective and subjective: subjective elements that are intentional elements; contain understanding knowing and wanting. In contrast to the crime of theft that is not include elements of deliberate or "opzettelijk" as one of the elements of action criminal theft. The formulation of Article 372 of the Criminal Code includes elements of deliberate on the crime of embezzlement, so easily people say that embezzlement constitutes opzettelijk delict or deliberate delict.

While the objective element consists of: First, Whoever; as has been described in the crime of theft, the word "whomever" indicates the person. Someone has met all the elements of the crime of embezzlement then he can called doer or "dader". In other words, the rule of law against have); Minister of Justice of the Government of the Kingdom of the Netherlands, explaining the purpose this element is unilateral control by the holder of an object as if is

the owner, contrary to the rights that make the object is to him. Third, a thing; is a thing that by its nature can be moved- move or in practice often called "moving objects". Fourth, The Entire or part of it belongs to someone else. Fifth, objects that are in his power not because of crime; that is, there must be a direct relationship of a real nature between perpetrators with an object in the crime of embezzlement.

Each crime is regulated in the Criminal Code and regulated in the legislation-other invitations have elements that must be met in accordance with the done. To be able to put forward the elements of crime embezzlement, then must be met the following elements: First, the guilty must mean to own the thing; secondly, the thing must belong to someone else, either in whole or in part, thirdly, the thing should already be in the hands of the doer the deed, not the possession of the thing must be without right.

The city of Medan has become a host for seekers who are legally and responsibly to carry out criminal actions "Rehabilitation in the family" in accordance with Decree no. 1314 / Pid.B / 2024 / PN Mdn in applying the law and exercising Justice, judges have justice which is very important. In understanding and understanding a problem a lot of things consideration of the judge to be able to produce a decision that is as fair as possible, both for the victims, thanks, and the general public. The reason and thought used by judges is very complex in judging and punishing a verdict in setting certain responsibilities in order to produce a verdict acceptable for acceptable and society and in accordance with legal purposes namely justice, fairness, and legal justice. The authors want to know the factors- factors that are used as the basis for the consideration of judges in investigating and deciding cases. The author also wants to know the sanction of the case filed by the judge against the rules applicable code of Criminal Procedure.

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

paragraph 1 of the Criminal Code); e. It is not possible(44). Power forced (Article 48 of the Criminal Code); g. The defense was forced to exceed the limit (Article 49 paragraph 2 of the Criminal Code); h. Carry out orders of legitimate office (Article 51 paragraph 2 of the Criminal Code).

Based on the above description when seen what someone does embezzlement is not due to any reason but the elimination of criminal all right. Against the law is also an element can be requested criminal liability of a person who commits a crime of embezzlement as provided for in the Criminal Code. Against the law itself is a lot of understanding. against the law can also be interpreted as Without own rights (zonder eigen recht), there also that means contrary to the rights of others (tegen eens anders recht), and also there are those who interpret with, contrary to objective law (tegen het objectieve recht). clearly, against the law is a core part (bestanddeel) offense, the meaning is clearly formulated in the formulation of offense. on his way to fight the law can be divided into: a. Against the formal law is the act contrary to law; b. Against the material law is the act an act that is reprehensible and contrary to the sense of Justice of society.

Against the material law is divided back into : a. Against the law in the function negative that is, although the Act meets the elements of a criminal offense but does not contradict if you do not have the right to do so, you will not be able to do so; b. Against the law in a positive function that is, although the Act does not meet the elements of a criminal offense, but if the act is considered reprehensible because it does not fit the sense of justice or norms in community, then the act can be punished.

C. Constraints And Efforts In Law Enforcement Against Criminal Acts Embezzlement In Medan City

Briefly The Crime Of Embezzlement That Occurred In Accordance With Decision No. 1314/Pid.B / 2024 / PN Mdn: That the defendant Bayu Kurniawan Manalu on Wednesday the 22nd May 2024 approximately at 16.00 wib or at least at some time in the month of May 2024 is located at Jalan Kapten Muslim gang Sadar No.29-D Helbetia village Medan Helvetia subdistrict Medan City or at least- whether somewhere else is still included in the area of law Medan District Court " deliberately and against the law has goods something wholly or partly belongs to another person, but is in his power not because of a crime committed in family",

Starting on Wednesday, May 22, 2024 at around 08: 00 wib on when the defendant Bayu Kurniawan Manalu was at home on Jalan Kiwi Sunggal Medan District and witnesses the image of the victim Adisti Manalu the defendant's brother was charged with 5 (five) clothing package towards Binjai by using a Honda Motorcycle Beat in 2023 Green Police number BK 4231 ale belonging to the victim's witness then approximately at 12: 00 pm the defendant returned home and at that time the defendant has delivered 3 (Three) Clothing packages and the remaining 2 (two) packages clothes again. Then approximately at 13: 00 pm, Kasiani witnesses who are the defendant's mother then told the defendant to deliver the cake to the Millennium, after that the defendant along with the defendant's mother witnesses Kasiani and friends the defendant is a witness Muh. Khaidir Ali went to a house on the street Captain Muslim Gang Aware No.29-D Kelurahan Helbetia Kecamatan Medan Helvetia Medan city with the aim of cleaning the finished house renovated to be re-occupied by the accused and the victim's witnesses as well as witnesses Kasiani.

Then approximately at 16.00 wib defendant invited witnesses Muh. Khaidir Ali to mnemani defendant deliver 2 (two) packages of clothing the rest of the way to Binjai then accused and witnesses Muh. Khaidir Ali goes on a ride towards Binjai using Honda Beat motorcycles in 2023 Green Police number BK 4231 ale belonging to the victim's witness, then after completion deliver clothes approximately at 22: 00 pm, the defendant along with witnesses Muh. Khaidir Ali stopped by to play at an internet cafe located on Jalan Pasar 1 Setia Luhur Medan until the next day on Thursday, May 23 2024 approximately at 03.00 wib The defendant delivered muh witnesses. Khaidir Ali return home but at that time the defendant did not return home but go back to the cafe to play the game. At about 14: 00 a.m.

The accused go to Jalan Setia Luhur Gang Arjuna Dwikora Village Medan District Helvetia to mortgage a motorcycle belonging to the victim witness to a men named Peg (not yet caught) but peg want if the motorcycle was sold broke up so that the defendant offered a sale price Honda Beat motorcycle year 2023 green color Police number BK 4231 ALE owned by the victim's witness for Rp.4,000,000 (four million rupiah) to the last peg Peg handed over money of Rp. 4.000.000, - (four million rupiah) to defendant without the consent and knowledge of the victim's witnesses. Next the defendant used the money from the sale of the victim's motorcycle for the personal needs of the

defendant and played online gambling. Then on Thursday, May 30, 2024 at approximately 11.00 wib when the defendant was in the cafe Jalan Setia Luhur, Dwikora village, Sub-District Medan Helvetia Medan City came witness with witness Kasiani victim securing the defendant then after knowing the witness's motorcycle the victim has been sold by the defendant and the victim's witness along with the defendant's sister with witness Kasiani namely the defendant's mother handed the defendant to the police station Helvetia field to account for his actions. That as a result defendant's actions, the victim witnesses suffered losses more or less RP. 13.550.000, - (thirteen million five hundred and fifty thousand rupiah). The defendant's actions are regulated and criminalized in Article 376 Criminal code. Brief description diats formulate several constraints.

The main obstacle to law enforcement of embezzlement is the pattern and form and modus operandi of embezzlement crimes are growing in accordance with the Times. This situation gives the consequences of non-compliance with regulations related in regulating the crime of embezzlement; technological developments more advanced also be a means for those who are not responsible for commit crimes of embezzlement and other crimes; the difficulty of finding tools evidence. Another thing related to the obstacles in law enforcement of embezzlement is the difficulty of finding evidence as a follow-up implementation criminal liability of the embezzler himself. Steps and strategies that are very urgent (urgent) to do at this time as a solution to the problem is to reform and arrangement against the existing legal system. As a community of Indonesia, this country needs enforce the law fairly and firmly. There is no discrimination in enforcement, the people of Indonesia are so thirsty for fair law enforcement.

The principle of law enforcement actually lies in other factors that may affect it. These factors have a neutral meaning, so that the impact positive or negative lies in the content of these factors (Soekant, 1986). Factor- these factors are, as follows: the legal factor itself, in this case, is limited on the law alone; law enforcement factors, namely the parties that form nor apply the law; factor facilities or facilities that support enforcement law; community factors, namely the environment in which the law applies or applied; cultural factors, namely as a result of work, creation, and a sense of based on the will of man in the Association of life.

These five factors are interrelated with the closeness, therefore it is essence of law

enforcement, is also a measure of the effectiveness of enforcement law. Thus, the five factors will be discussed further with examples taken from the life of the Indonesian people.

There are some obstacles that may be encountered in the implementation of the role should of golngan target or law enforcement, these obstacles, are: limited ability to put yourself in the role of the other party with whom he interacted; the level of aspiration is relatively high yet; excitement that very limited to think about the future, so it is very difficult to make projection; there has been no ability to delay the satisfaction of a particular need, especially the material needs; lack of innovative power which is actually a couple conservatism. These obstacles can be overcome by getting used to the attitude- attitude, as follows: an open attitude to the experience and discovery New; always ready to accept changes after assessing the existing shortcomings at that time; sensitive to the problems that occur around it; always have as complete information as possible about the establishment; orientation to present and future is actually a sequence; realize will potential that exists in him; hold on to a plan and not surrender on fate; believe in the ability of Science and technology in improve the welfare of mankind; realize and respect the rights, obligations, and honor of themselves and other ihak; hold fast to the decision- decisions are made on the basis of solid reasoning and calculation.

Factor facilities or facilities, in the absence of certain facilities or facilities, it is not perhaps law enforcement will run smoothly. The facility or facilities among other things, includes human resources who are educated and skilled, organizations good, adequate equipment, sufficient finance, and so on. Facilities or facilities have a very important role in enforcement law. Without the means or facilities, it will not be possible law enforcement align the role that should be with the actual role. Especially for means or facilities tersebut, should be adopted the way of mind, as follows: which is not there is-held a new right; that is broken or wrong-repaired or corrected; that less-added; which jammed-rolled; which retreated or degenerated-advanced or improved; community factor. Law enforcement comes from the community, and aims to achieve peace in society. Viewed from a certain angle, then society can affect the enforcement of these laws. Indonesian society has a great tendency to interpret law and even identify it with the officer (in this case the enforcer law as a person). One of the consequences is, that

the good and bad of the law always associated with the pattern of behavior of law enforcement.

Cultural factors, culture (system) law basically includes the value- values underlying applicable law, values that are abstract conceptions about what is considered good (until embraced) and what is considered bad (thus avoided). Pairs of values that play a role in the law, are as follows : The value of order and the value of peace; the value of physical/material and value spiritual / moral; the value of permanence / conservatism and the value of novelty / innovatism. Aware of the high level of crime, then directly or indirectly also encourage the development of reactions to crime and perpetrators crime is essentially related to the purpose and purpose of the effort countermeasures against such crimes.

The role of government is so broad, the key and strategic in tackling crimes include social inequality, National discrimination, low living standards, unemployment and ignorance among large segments of the population. That effort elimination of the cause of the condition giving rise to crime should be a strategy basic crime prevention. Narrowly institutions responsible for crime prevention efforts is the police. However, due to limited facilities and infrastructure owned by the police have resulted in the ineffectiveness of their duties. Further the police also did not allows achieving the ideal stage of government, facilities and infrastructure related with crime prevention efforts. Therefore, community participation in crime prevention activities are expected. Crime is a social phenomenon that is always faced by every community in this world. Crime in existence is felt very troubling, in addition also disrupt order and tranquility in society to the maximum extent maybe to stop the crime. Crime prevention efforts have been and continue to be carried out by the government and society. Various programs and activities have been carried out while continuing constantly looking for the most appropriate and effective way to solve the problem.

CONCLUSION

Liability perpetrators of embezzlement in Medan District Court area includes the element of intent (dolus) or negligence (culpa) committed by a perpetrator of embezzlement, absence reasons for the abolition of crime against the perpetrators of embezzlement, and actions embezzlement is an act against the law as set forth in Criminal KUH. Constraints in law enforcement against criminal acts of embezzlement in Medan District Court is the

pattern and form and modus operandi embezzlement crime is growing, technological developments are increasingly forward and the difficulty of finding evidence. Law enforcement efforts against criminal acts embezzlement in the territory of the Regional Court Medanrelated in Decision No. 1314/Pid.B/2024 / PN Mdn is right by imposing imprisonment for 10 (ten) months to provide a deterrent effect.

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International Asia Of Law and Money Laundering

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