



Analysis of Money Laundering Using Banking System with Criminal Origin of Fraud (Supreme Court Decision Study No. 2770 K / Pid.Sus / 2024)

Mhd. Hasbi Simanjuntak ^{1*}

¹Fakultas Hukum Universitas Haji Sumatera Utara, Medan, Indonesia

 : hasbi.simanjuntak@gmail.com

Corresponding Author*

ARTICLE INFO

Keywords:

Banking,
Fraud,
Money Laundering.

Date received : 25 January
2025

Revision date : 23 Februari
2025

Date published : 25 April 2025

ABSTRACT

Money laundering not only threatens economic stability and System Integrity financial, but also endanger the joint life of society, nation, and state based on Pancasila and the Constitution of the Republic of Indonesia in 1945 Money laundering is done to disguise the proceeds of crime. In this case, will be appointed based on criminal origin fraud. Related to case studies based on the decision of the Supreme Court Number 2770 K / Pid.Sus/2024. Fashion crime in the sector banking, in this case, using banking services. Predicate crime (origin of crime) it is a fraud defendant Tayo Tolu Omodaratan alias Adam has been proven legally and convincingly guilty of committing the act Criminal where "participated in fraud and laundering Money"

INTRODUCTION

In general, money laundering is carried out in the banking sector. As for the form, the perpetrators of criminal acts trying to hide or disguise the origin of wealth which is the result of criminal acts in various ways so that the proceeds of crime are difficult to trace by law enforcement officers so that freely utilize these assets both for legitimate activities and invalid. Money laundering activities almost always involve banking because of the globalization of banking through payment systems, especially electronic (electronic funds transfer), funds proceeds of crime are generally in large quantities will flow or even move beyond state borders by utilizing factors bank secrets that are generally held in high esteem by banks.

Money laundering or in English is called Money Laundering not only threaten the stability of the economy and the integrity of the financial system, but also endanger the joints of life in society, nation, and state based Pancasila and the Constitution of the Republic of Indonesia in 1945. Washing money is done is to disguise the proceeds of crime . In this case, will be raised about the criminal offense of fraudulent origin. Disguised fraud is money that is changed to form another. however, the transfer of money through the banking system and change the form to other forms so that the original crime that is continued is called money laundering.

That the decision of the High Court of DKI Jakarta number 263/PID.SUS/2023 / PT DKI dated October 31, 2023 which strengthens East Jakarta District Court Decision Number 365 / Pid.Sus / 2023/PN JKT Tim, dated September 19, 2023 which stated that the defendant Tayo Tolu Omodaratan alias Adam has been proven legally and convincing guilty of committing a crime "participate in Fraud and money laundering " therefore impose a criminal to the defendant with imprisonment for 4 (four) years and a fine of Rp1, 000, 000, 000.00 (one billion rupiah) provided that if the fine is not paid.

Further In Decision No. Number 2770 K / Pid.Sus/2024 rejected the cassation appeal of the Cassation applicant I/ defendant Tayo Tolu Omodaratan alias Adam and petitioner Cassation II/ Public prosecutor at the East Jakarta District Attorney.

Based on the above it can be seen that there is a relationship between money laundering and world crime drug crime. As a result, Money Laundering With the crime of the origin of the criminal act of Tppu with the origin of fraud Supreme Court Decision No. 2770 K/Pid.Sus/2024 important to

review and investigated because there are some interesting issues in it.

METHOD

This study uses the type of Social Research juridical. The nature of this research is exploratory. Exploratory research was conducted to search for new ideas or relationships of certain phenomena. Researchers are trying to find relationship of symptoms to be studied and try to figure out The Shape of the relationship. Types and sources of data used by researchers are primary data obtained or sourced through direct interviews with relevant sources and secondary data obtained from books and writings writings related to this study. The method used in this study is based on the method used in the literature (Library method) and field method (Field Methode). In accordance with the problem to be answered and the objectives to be achieved in this study, then all the collected legal material is analyzed qualitatively, then described to answer the problems in this study.

RESULTS AND DISCUSSION

Definition of criminal acts of fraud: articles 378-395 of the Criminal Code Chapter XXV mention the term "bedrog", which refers to fraud in a broad sense, while Article 378 of the criminal code mentions the term "oplichting", which refers to fraud in a narrow sense. Fraud, according to Kamus Besar Bahasa Indonesia, is the act of deceiving or deceiving, saying things that are not honest, false, and so on with the intention to mislead and/or benefit from it. Using a false identity or using deception to force another person to hand over goods or objects is punishable by four years in prison, according to Article 378 of the Criminal Code. In Soesilo's book entitled The Principal of General Criminal Law and special offense, he formulated the following actions against fraud "bedrog" according to Article 378 of the Criminal Code:

- a) Fraud is a crime in which someone invites or begs someone to believe and give something, make a debt, or get rid of a debt. The purpose of this seducing and deceiving is to benefit oneself in an unlawful way.
- b) Objects that want to be owned must be objects owned by others and have a deliberate purpose.

The TPPU law defines Money Laundering as "any act that meets the elements of a criminal offense in accordance with the provisions of this law". So what is meant by the crime of money laundering

are all actions that are prohibited under the law, such as: placing, transferring, spending, paying, giving, depositing, carrying abroad, changing the form, exchanging currency or securities, hiding or disguising the origin, source, location, designation, transfer of rights, or actual ownership of property resulting from a criminal offense. Elements of money laundering, in general, include: First, there is money from illegal sources; second, dirty money is processed in a certain way by legitimate institutions; and third, the purpose is to eliminate traces so that the source of the money can not be known or traced. So it can be concluded that money laundering is a way or process of converting income derived from illegal or illegal activities into assets that appear legitimate according to law.

In the Supreme Court decision Number Number 2770 K / Pid.Sus/2024 the judge in deciding this case considers aspects of juridical and non-juridical considerations.

The accused is under state house arrest (RUTAN) since January 12, 2023 until now; Defendant filed before the Jakarta District Court trial East for being charged with the following charges: First : the defendant's actions are regulated and punishable in Article 45 a paragraph (1) of Law No. 19 of 2016 on Amendment to Law No. 11 of 2008 juncto Article 55 paragraph (1) to-1 of the Criminal Code.

The defendant's actions are regulated and punishable in Article 378 juncto Article 55 Paragraph (1) to-1 of the Criminal Code and the actions of the accused are regulated and criminalized in Article 372 of the criminal code in conjunction with Article 55 Paragraph (1) 1 of the Criminal Code and the actions of the defendant are regulated and punishable by criminal penalties in Article 3 Law No. 8 of 2010 on prevention and combating money laundering juncto Article 55 Paragraph (1) to-1 of the Criminal Code.

Read the criminal charges of the public prosecutor at the State Prosecutor's Office East Jakarta on August 14, 2023 as follows:

- a) The defendant Tayo Tolu omodaratan alias Adam proved legitimately and convincingly guilty of committing a criminal offense " they the one who does, the one who commands and the one who joins do, with the intent to benefit themselves or others others unlawfully, by using a false name or dignity false, with deceit, or a series of lies, encouraging others to give up something to him, or to give debt or eliminate receivables and those who do, who ordered to do and who participated do, who put, transfer, divert, expend, pay, entertain, leave, bring

abroad, change shape, change with currency or securities or other acts of property wealth, which he knew or should have expected was the result criminal acts as Article 2 Paragraph (1), with the aim hide or disguise the origin of wealth" as provided in Article 378 juncto Article 55 Paragraph (1) to-1 Criminal Code and Article 3 of Law No. 8 of 2010 on Prevention and Eradication of money laundering juncto Article 55 Paragraph (1) to-1 of the Criminal Code, according to the first indictment First Second and second.

- b) Convict Tayo Tolu Omodaratan alias Adam with imprisonment for 6 (six) years reduced completely as long as the defendant is in temporary custody, by order of the defendant remains in custody.
- c) Convict Tayo Tolu Omodaratan alias Adam in the form of a fine of Rp1.000.000. 000,00 (one billion rupiah) subsidiary 6 (six) months of confinement.

Next read the decision of the High Court of DKI Jakarta number 263/PID.SUS/2023 / PT DKI dated October 31, 2023 which is complete as follows:

- a) Receive a request for appeal from the public prosecutor and Defendant;
- b) Strengthen The Decision Of The District Court Of East Jakarta Number 365 / Pid.Sus/2023/PN.Jkt.Tim., dated September 19, 2023 appealed the appeal;
- c) Determined that the length of detention that has been served The defendant is fully deducted from the imposed criminal ;
- d) Ordered that the accused be detained;
- e) Charge the defendant to pay the costs of the case in in both levels of court, which for a number of appellate level Rp2, 500.00 (two thousand five hundred rupiah);

Cassation grounds submitted by the applicant Cassation I / the defendant and the applicant Cassation II / The Public Prosecutor, The Supreme Court held the following:

- a) That the reason for the appeal of Cassation I / defendant regarding the existence of error in the application of the law or the application of the law is not as should be done by the High Court of Jakarta on Law of evidence on the supposed indictment of the Public Prosecutor not proved unjustified because the High Court of Jakarta Jakarta is not wrong to apply the law in prosecuting the accused;

- b) That the reason for the appeal of Cassation II/Public Prosecutor regarding the existence of error in the application of the law or the application of the law is not as should be done by the High Court of Jakarta on punishment of the accused cannot be justified because DKI Jakarta High Court is not wrong to apply the law in prosecute the accused;
- c) That the decision of the High Court of DKI Jakarta number 263/PID.SUS/2023 / PT DKI Jakarta dated October 31, 2023 which strengthens East Jakarta District Court Decision Number 365 / Pid.Sus / 2023/PN JKT Tim, dated September 19, 2023 which stated that the defendant TAYO TOLU OMODARATAN alias ADAM has been proven legally and convincing guilty of committing a crime "participate in Fraud and money laundering " therefore impose a criminal to the defendant with imprisonment for 4 (four) years and a fine of Rp1, 000, 000, 000.00 (one billion rupiah) provided that if the fine is not paid, it must be replaced by imprisonment for 4 (four) months based on correct legal considerations, namely:
- Consideration of the proven elements of criminal acts public prosecution against the accused on the basis of facts the true law that was revealed at the trial as a result verification of evidence and evidence presented at the trial, in particular, the fact that the defendant together with PAUL (DPO) on orders from THOMAS JAMES (DPO) has conducted a meeting with witness LIANA KRISTA.L.R 3 (three) times, which in the defendant claimed to be a diplomat bring a certificate of" notification of funds release " which then witness to Christ.L.R that amount of money USD1, 500, 000.00 has been in the US Embassy in Jakarta and need to register for the clearance process, the defendant also convey to the victim the account number requested to The victim so that the registration payment is transferred to the account.
 - That witness LIANA KRISTA.L.R has already met the demand of The accused and Mr. PAUL (DPO) to transfer up to amounted to approximately Rp1, 857, 250, 000 (one billion eight hundred fifty-seven million two hundred and fifty thousand rupiah), but Witness LIANA KRISTA.L.R still has not earned the money promised the defendant and MR PAUL (DPO) of USD1, 500, 000.00 (one million five hundred thousand);
 - That the defendant together with Mr. PAUL (DPO) using transactions in cash on the proceeds of action court, and the defendant admitted to having received more or less Rp150, 000, 000.00 (one hundred and fifty million rupiah) from Mr. PAUL (DPO) in cash / cash which acts using cash transactions are made to break the chain transactions and eliminate the relationship of transactions between themselves perpetrators of crime with transactions on accounts on behalf of other parties;
 - That the defendant benefited from Mr. PAUL (DPO) is approximately Rp150, 000, 000.00 (one hundred and fifty million rupiah) given in cash increments of Rp5, 000, 000.00 (five million rupiah), Rp10, 000, 000.00 (ten million rupiah) and Rp20, 000, 000.00 (twenty million rupiah) given by Mr. PAUL To the defendant several times get a total of Rp150, 000, 000.00 (one hundred and fifty million rupiah) where to hide or disguise money the proceeds of crime by the defendant used for various it is as if the money was obtained from legitimate activities so that money from the crime becomes unclear its origin all of the money was used to pay day-to-day and pay the child's tuition;
 - That therefore all elements of Article 378 juncto Article 55 paragraph (1) the 1st criminal code and Article 3 of Law No. 8 of 2010 on the Prevention and Eradication of laundering Money juncto Article 55 paragraph (1) to 1 of the Criminal Code has been met, then The defendant must be proven to have acted lawfully and convincing commit a crime as charged in the indictment of the Public Prosecutor;
 - Consideration of the defendant's proven guilt in commit a crime based on an assessment of the defendant's ability to done, and there is no reason justifying and forgiving reason in the person and actions of the accused;
 - Considerations regarding the imposition of a criminal charge against the defendant who have considered burdensome things and lighten proportionally;
 - That the reason for the Cassation of the applicant Cassation I / defendant regarding the existence of violation of the principle of "miranda rule" related to the application of

Article 56 Paragraph (1) Criminal Procedure Code, the investigator shall appoint legal counsel can not justified, because after studying the case file a quo, in police report file found a letter from the Directorate of Investigation Polda Metro Jaya Special Criminal signed by the criminal Director Special ub Kasubdit IV Cyber Tipid number B / 196 / I/RES 2.5./2023/Ditreskrim sus dated January 12, 2023, regarding the application Help With The Appointment Of Legal Counsel. Attached is also a statement letter Defendant (D / H suspect) regarding refusal accompanied by counsel legal and minutes rejection accompanied by counsel Law / lawyer dated January 12, 2012, signed by the defendant (d/H suspect), thus, the investigation has been appropriate investigator procedure and code of Criminal Procedure (KUHAP);

- That the reason for the Cassation of the second Cassation applicant / Public Prosecutor can not justified, because it concerns the severity of the crime imposed, it is thus not subject to the examination of the Cassation level, *judex facti* in his judgment, he considered the circumstances aggravating and mitigating in accordance with Article 197 Paragraph (1) letter f Law No. 8 of 1981 on Criminal Procedure Law;
- That in addition to the reason for the Cassation of the applicant Cassation I / defendant only regarding the assessment of the results of evidence that is appreciation of a fact, this kind of objection is not can be considered in the examination at the Cassation level because examination at the Cassation level only with respect to no applied a legal regulation or legal regulations applied not the way it should be, or is it not the way it should be judged implemented under the provisions of the law as referred to in Article 253 of Law No. 8 of 1981 about the Code of Criminal Procedure;
- That because the DKI Jakarta High Court is not wrong to apply law or apply the law as it should then application for Cassation from the applicant for Cassation I / defendant and applicant Cassation II / The Public Prosecutor was rejected;

Considering, that based on the above considerations and it also turns out that the verdict of *judex facti* in this matter is not contradictory by law and / or statute, the appeal of Cassation Petitioner of Cassation I / defendant and Petitioner of

Cassation II/Public Prosecutor it was declared rejected.

Considering, that because the defendant was convicted, then burdened to pay case fees at the Cassation level; Considering Article 378 juncto Article 55 Paragraph (1) to-1 of the Criminal Code and Article 3 of Law No. 8 of 2010 on prevention and Eradication Of Money Laundering In Conjunction With Article 55 Paragraph (1) 1st Criminal Code, Law No. 8 of 1981 on procedural Law Criminal, Law No. 48 of 2009 on power Judiciary, and Law No. 14 of 1985 on the court Supreme Court as amended by Law Number 5 year 2004 and the Second Amendment To Law No. 3 of 2009 and other legislation concerned.

CONCLUSION

Application of the criminal law on fraud and money laundering in the Supreme Court decision Number: Number 2770 K/Pid.Sus/2024 against the defendant (TAYO TOLU OMODARATAN alias ADAM) has been in accordance with applicable legal provisions. The defendant was convicted of fraud and money laundering, and sentenced to imprisonment for 6 years and a fine of Rp1, 000, 000, 000.00 (one billion rupiah) subsidiary 6 (six) months of confinement. This ruling also involves the seizure of assets for the recovery of the victim's losses. The defendant has reached a sufficient age to be held accountable for his actions. Articles used: the judge decided to use Article 378 of the Criminal Code (embezzlement) and Article 3 of the TPPU law (Prevention and Eradication of money laundering) based on evidence and facts of the trial. The defendant was found guilty on charges of embezzlement and money laundering. The judge considers the evidence presented, the testimony of witnesses, and the facts of the trial in deciding this case.

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Legalpreneur Journal, 3(1), 314-327.

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International Asia Of Law and Money Laundering

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