



Analysis of Money Laundering by Applying a Pyramid Scheme System in Distributing Goods” With Fraud Mode (Case Study Of Supreme Court Decision No. Number 4202 K / Pid.Sus/2023)

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ARTICLE INFO

Keywords:

Fraud,
Money Laundering,
Pyramid Scheme System.

Date received : 20 January 2025

Revision date : 15 Februari 2025

Date published : 25 April 2025

ABSTRACT

This study is intended to analyze the modus operandi used and how consideration of judges in the settlement of cases of money laundering, as well as countermeasures can be done against business fraud crimes that apply pyramid schemes in Supreme Court decision number 4202 K / Pid.Sus/2023 . Juridical method empirical is used in tracing data sourced in normative research. The results of the study produced the cause mode of money laundering with the origin of fraud businesses that implement pyramid schemes is public ignorance of good investment or wrong. Consideration of judges in the settlement of cases of business fraud that apply the scheme pyramid, stating that this crime is proven to violate the actions of the defendant as set and threatened in Article 378 of the criminal code in conjunction with Article 55 Paragraph (1) to-1 of the Criminal Code;. Attempts countermeasures can be done with pre-emptive efforts, namely the implementation of routine socialization and provision program for good investment, further preventive efforts through increased supervision and implementation of inspections of businesses that have permission or not to invest heavily in society, as well as repressive efforts in the form of sanctions, enforcement and punishment of punishment.

INTRODUCTION

Money laundering is a method used by criminals in dealing with profits from illegal activities. The goal is to obscure and cover up the origins of these gains. Perpetrators the crime of concealing the source of funds by changing its shape, such as by buying shares, or moving them to a difficult place detected by law enforcement. By washing away the proceeds of this crime, the perpetrator tried to make the funds appear legitimate. Because the assets obtained from illegal activity is the object of money laundering, laundering money cannot happen without an initial crime.

Money laundering crime can be said to be a type of crime appetite. Money laundering activity is characterized by a form of crime has a continuing nature, while the crime of money laundering origin referred to as illegal activities that generate a profit through washing mechanism performed. The main characteristic of money laundering is as a crime follow-up crime. In Article 2 Paragraph 1 of Law No. 8 year 2010 on money laundering (TPPU), corruption, bribery, narcotics, psychotropic substances, labor smuggling, migrant smuggling, banking, capital market, insurance, Customs, Excise, trade human trafficking, illegal arms trafficking, terrorism, kidnapping, theft, embezzlement, fraud, gambling, prostitution, taxation, Forestry, environment, marine, and fisheries, as well as other criminal acts often become the object of money laundering.

Money generated by money laundering comes from various sources other than corruption, one source is from crime embezzlement. The act of embezzlement is a crime related to violation of trust and moral aspects of honesty somebody. As a result, this crime begins with the victim trusting perpetrators of embezzlement and then the perpetrators hide.

One of the cases of money laundering is on the verdict Court Of The Supreme Court Number 4202 K / Pid.Sus/2023, where in the judge ruled that the defendant was legally and convinced to commit acts against the law that is doing money laundering with criminal origin fraud together apply a pyramid scheme in distribution of goods and assisting in money laundering as charged by the Public Prosecutor with impose criminal charges against the defendants each imprisonment for 12 years and a fine of Rp10, 000, 000, 000.00 (ten billion rupiah) provided that if the fine is not paid, it is replaced by imprisonment for 1 (one) year;.

Although there has been much research on the crime of laundering money" the study provides an update with a focus on the analysis of the verdict of the judge in the case of a criminal offense money

laundering with criminal origin fraud associated with pyramid schemes in the distribution of goods, which it hasn't been discussed much before. This research adds a new perspective in the study of money laundering, especially in the context application of pyramid schemes as a method of disguising the proceeds of crime.

This study also highlights the legal considerations of judges in handed down a verdict against the accused of money laundering on Supreme Court decision number 4202 K / Pid.Sus/2023. By analyzing in-depth legal considerations that the judge used in the case, this study makes a significant contribution to understanding how legal principles applied in the context of laundering money, which has not been widely described in the literature before.

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

A week in prison; from February 18, 2022 until now; the defendant's actions as stipulated and threatened in Article 105 Of Law No. 7 Of 2014 On Juncto commerce Article 55 Paragraph (1)to-1 of the Criminal Code; actions of the defendant as regulated and threatened in Article 378 of the Criminal Code continued with Article 55 Paragraph (1) 1 of the Criminal Code; the actions of the defendant as stipulated and threatened in Article 3 continued with Article 10 of Law Number 8 of 2010 On the Prevention and Eradication of crime Money laundering; defendant's actions as regulated and threatened in Article 5 Paragraph (1) juncto Article

10 of Law Number 8 2010 on the Prevention and Eradication of crime Money Laundering;

Reading Cassation Application Deed Number 66 / Deed Pid./ Cash/III/2023/PN Sby juncto number 44 / PID.SUS/2023 / PT SBY juncto Number 1466 / Pid.Sus/2022/PN Sby made by the Clerk of the court State of Surabaya, which explained that on March 21, 203, Public prosecutor at the Surabaya District Attorney filed a petition cassation against the decision of the High Court of Surabaya;

In the Cassation petition deed number 66 / deed Pid./ Cash/III/2023/PN Sby juncto number 44 / PID.SUS/2023/PT SBY juncto number 1466/Pid.Sus/2022/PN Sby made by the Clerk of the court State of Surabaya, which explained that on March 21, 2023, The defendant's legal counsel filed a cassation appeal against the Surabaya High Court decision;

Considering that the decision of the High Court of Surabaya has notified to the public prosecutor at the Surabaya State Prosecutor's Office on dated March 14, 2023 and the Public Prosecutor filed appeal on March 21, 203 and the memory of his Cassation has accepted in the Registry of the District Court of Surabaya on April 3 2023. Thus, the appeal of Cassation along with the reasons- the reason has been submitted within the grace period and in a manner according to Act, therefore the appeal of the public prosecutor's Cassation formally acceptable;

Considering that the decision of the High Court of Surabaya has notified to the defendant on March 10, 2023 and the defendant the appeal was filed on March 21, 2023 and the memory of his Cassation has been received at the Registry of the Surabaya District Court on April 4, 2023. Thus, the appeal of Cassation and with the reasons have been submitted within the grace period and with way according to the law, therefore the appeal of the defendant's Cassation is formally acceptable;

Considering that the Cassation grounds submitted by the applicant Cassation I / Public Prosecutor and Cassation applicant II/defendant in Cassation memory more contained in the case file;

Considering that against the Cassation grounds submitted by the applicant Cassation I / the public prosecutor and the applicant Cassation II / The defendant, The Supreme Court held the following:

- a) That the reasons for the Cassation of the public prosecutor and the defendant can not justified by judex facti / Surabaya High Court strengthen the verdict judex facti / Surabaya District Court not wrong in applying the law as it should be that the decision of the High Court of Surabaya has consider appropriately

and correctly appropriate legal facts judicially relevant as revealed in the trial based on valid evidence in accordance with the provisions of the law.

- b) That the defendant with Rizki Puguh Wibowo, Zainal Huda and son Wibowo established PT Trust Global Karya (PT TGK) is MLM company known as Viral Blast with products for sale E-book for forex trading education at Rp210, 000, 000.00 (two hundred and ten thousand dollars), where members to be able to use E- the book must first transfer the money so that it is given a password and can log in to the website PT TGK. Next PT TGK forex trading trading activities so that many people follow him;
- c) That after the defendant with the son of Wibowo, Rizki Puguh Wibowo and Zainal Huda Purnomo offer forex trading sales, so many members who come by depositing money into designated account, so that many people who participate become member, so that a total of 11,930 (eleven thousand nine hundred and three twenty) members;
- d) That apparently PT TGK no forex trading activities but the money deposited members by making a pyramid system (MLM) then the money members below are welcome to play again for the benefit of members in upon him and so on, while some are ordered to be deposited to the accused and his associates, then for the the defendant has also been charged with several accounts belonging to his family;
- e) That as a result of the actions of the accused and his friend raises loss to members of approximately Rp1, 802, 447, 000, 223.00 (one trillion eight hundred two billion four hundred forty seven million two hundred two twenty three rupiah);

Considering that based on these considerations and it turns out the judex facti ruling in this case is not contrary to law and / or law, then the Cassation application stated rejected;

Considering that because the defendant was convicted, it is burdened to pay the costs of the case at the Cassation level.

Considering Article 378 of the code of criminal law juncto Article 55 Paragraph (1) of the Criminal Code, Article 3 juncto article 10 of Law No. 8 of 2010 on prevention and Eradication Of Money Laundering, Law Number 8 Year 1981 on Criminal Procedure Law, Law Number 48 year 2009 on Judicial Power and Law No. 14 year 1985 the Supreme Court as amended by

law- Law No. 5 of 2004 and the Second Amendment to the Act- Law No. 3 of 2009 and other laws and regulations concerned;

Regulations in the Criminal Code relating to crime from the business world is known mode of fraud that has Piramide scheme is prohibited through Article 372 and Article 374 mengenai embezzlement and Article 378 mengenai acts bewegen by moving a loss to others to get a profit in private or lain¹. In addition, outside the provisions of the Criminal Code there are some provisions that regulate expressly and specifically the action in the event of fraudulent behavior diantaranya UU No. Year 1999 on Consumer Protection, Law No. 7 year 2014 About trade and law NO. 11 of 2008 on ITE.

In general, business activities involving direct sales or activities investing can be an act of fraud. Crimes in fraudulent acts are prohibited in principle in Article 378 of the Criminal Code. In this article, formulate and explain the nature of the crime of fraud, namely: "Anyone with the intent to benefit themselves or others other by fighting rights, either by using false names or circumstances false, both by reason and trickery and by the concoction of words-lies, deceiving people into believing, make debts, or write off receivables, convicted of fraud by imprisonment for a term of four years.

Businesses that use pyramid schemes such as fake investments, money games (money games), or raise funds from the public by other names has caused many casualties. Especially in a situation similar to the crisis on year 1997. The state of a greedy society, want high returns without aware of the risks, has led to an increase in events of this kind in various place and territory. In addition, illegal fund-raising and investment management practices increasingly widespread, resulting in many similar events in each region.

CONCLUSION

Legal considerations of judges in passing judgments against defendants money laundering in the Supreme Court Decision No. 4202 K / Pid.Sus/2023 the panel of judges showed rigor and in-depth analysis of money laundering charges against MINGGUS UMBOH. The judge's primary focus is on the proof of the public prosecutor's indictment as well as the selection of the indictment that is most relevant to the facts of the trial. The judge begins by proving elements of Article 105 of Law No. 7 of 2014 on Trade, with particular emphasis on the concept of "business actors Distribution." Subsequently, the judge considered the indictment of Article 3 Jo. Article 10 of Law No. 8 of 2010 on eradication Money

laundering, focusing on the element of "everyone," money laundering, and involvement in or out of the country RI. By detailing and analyzing the facts of the trial, the judge gives strong grounds for finding the defendant guilty such. Overall, the panel of judges presented arguments comprehensive and detailed, asserting a deep understanding of law and the facts of the trial, which resulted in a verdict that ensures justice in law enforcement related to money laundering.

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