



Analysis of the Crime of Money Laundering with Counterfeiting and Money Laundering Together and Continuing (Case Study of Supreme Court Decision No. 4857 K/Pid.Sus/2024)

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ABSTRACT

This paper departs from the problems of any criminal acts related to money laundering as supplementary crimes and is there a legal basis to apply pengga / ihan burden absolute proof (shifting burden of proof~ in the process of money laundering. Results the study concluded, that the falsification of letters that become predicate crime. Legal basis for applying the absolute transfer of the burden of proof (shifting burden of proof in the process of money laundering applied Article 263 Paragraph (1) Criminal Code juncto Article 55 Paragraph (1) to 1 Criminal Code juncto Article 64 Paragraph (1) Criminal Code, Article 3 juncto Article 10 law. Law No. 8 of 2010 on prevention and Eradication Money laundering in conjunction with Article 64 Paragraph (1) of the Criminal Code, Law- Law No. 8 of 1981 on Criminal Procedure Law, Law- Law No. 48 of 2009 on Judicial Power, and Law No. 14 of 1985 on the Supreme Court as amended by Law No. 5 of 2004 and the Second Amendment To Law No. 3 of 2009, the point is that the original crime or predicate crime is not required to be proven first.

INTRODUCTION

Application Of Criminal Law Burrow washing is a frequent correlated with corruption and acts other qualified criminal predicate crime in the Money Laundering Act. Follow results criminal which is a treasure obtained from a criminal act criminal origin (predicate crimes) in law No. 8 In 2010, the Prevention and Eradication Of Liang Laundering (additional crimes), there are not less than 26 it's like predicting crime. 26th types of criminal acts include corruption, bribery, narcotics, psychotropic substances, labor smuggling, smuggling migrant, in banking, in the market capital, in the field of insurance, Customs, Excise, trafficking in persons, illicit arms trafficking, terrorism, kidnapping, theft, embezzlement, fraud, money laundering, gambling, prostitution, in taxation, in forestry, in the field environment, in the field of marine and Fisheries, or any other criminal act that is threatened with criminal 4 (four) years or more. Article 99 of Law No. 8 of 2010 determined that at the time this law came into force, the law No. 15 of 2002 as amended by law No. 25 year 2003 tetang Changes to law no. 15 year 2002 about money laundering repealed and declared not to happen.

The dangerous nature of money laundering crimes demand the existence of a legal ideology comprehensive, because money laundering impact multidimensional negative for the economy. Coincidence, the need for law enforcement which has a paradigm of legal truth value and justice for the victims of the state in this case Indonesian people. Especially in Article 69 of Law No. 8 In 2010 it was confirmed that to be able to conducted investigation, prosecution and examination the court siding against criminal acts money laundering does not need to be proven it used to be a crime of origin. Thus the system of evidence in the crime of laundering this money is imposed reversal of the burden proof (Shifting the burden of proof) absolutely.

In the case of Andi IDRIS and SYAHRONI SALIM briefly the defendants has committed forgery by creating a fictitious internal memo the contents are not true as if there are activities at PT Agung Sedayu Group, resulting in PT Agung Sedayu Group suffered a loss of Rp78, 914, 622, 108.00 (seventy-eight billion nine hundred fourteen million six hundred twenty two thousand one hundred eight rupees). The proceeds of crime are then used by the defendants to purchase assets in the form of buildings and cars, as well as partially stored direkening the defendants.

Based on the short latarluar, then this article will make in-depth : Analysis of the results of the

auction of money with the "purchase and sale of money jointly and sustainably" (case study Supreme Court Decision No. 4857 K / Pid.Sus / 2024).

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

One of the crimes in money laundering which involves falsification of documents / letters is the case Supreme Court Decision Number Number 4857 K / Pid.Sus/2024. In this case, the defendants consisting of ANDI IDRIS (defendant 1) and Defendant 2) TYAHRONI SALIM.

From the results of the crime they committed this act of the accused as perbuatan defendants as arranged and threatened criminal in Article 263 Paragraph (1) Criminal Code juncto Article 55 paragraph (1) the 1st criminal code in conjunction with Article 64 Paragraph (1)Criminal Code; subsidiary: the actions of the defendants as regulated and threatened criminal in Article 263 Paragraph (2) of the Criminal Code juncto Article 55 paragraph (1) the 1st criminal code in conjunction with Article 64 Paragraph (1) Criminal Code.

The criminal prosecution of the public prosecutor at the State Attorney North Jakarta on October 19, 2023 as follows: The Defendant 1. IDRIS and 2. SYAHRONI SALIM, found legally guilty of committing acts Ung Republ The Supreme Court Of The Republic Of Indonesia H Agung Republic of Indonesia ik Indonesia Directory Of Decisions Of The Supreme Court Of The Republic Of Indonesia verdict.the Supreme Court.go.idpage 3 of 21 pages of Decision number 4857 K/Pid.Sus/2024 and impose penalties

on the defendants with imprisonment each for 12 (twelve) years reduced during the The defendant is in custody with orders to remain in custody and fine of Rp1, 000, 000, 000.00 (one billion rupiah), if the fine is not paid then the fine is replaced by a criminal imprisonment each for 1 (one) year.

Furthermore, The Decision Of The North Jakarta District Court Number 765/Pid.Sus/2023/PN Jkt.Utr dated December 7, 2023 complete as follows: The Defendant I. IDRIS and the other defendants. SYAHRONI SALIM, has been proved legally and convincingly guilty of " mutual- same committed the crime of mail forgery and money laundering continued"; and impose a criminal against the defendants therefore with imprisonment each for 10 (ten) years and a fine each of Rp1, 000, 000, 000.00 (one billion rupiah) with provisions if the fine is not paid then replaced with criminal confinement each for 6 (six) months.

Then The Decision Of The Jakarta High Court Number 13/PID.SUS/2024 / PT DKI dated February 2, 2024 which is complete as follows: receive requests for appeals from the public prosecutor and from counsel The Defendant I. ANDI IDRIS; 2. Strengthen The Decision Of The District Court Of North Jakarta, Number 765/Pid.Sus/2023/PN Jkt Utr., dated December 07, 2023 which appealed the appeal; 3. The time of the arrest of the accused and I Defendant II deducted entirely from the criminal imposed; 4. The defendants remain in custody; 5. Charge the cost of the case to the defendants of IDR 5,000. 00 (five thousand rupiah).

Read The Deed Of Cassation Application Number 765 / Deed Pid.Sus/2023/PN Jkt.Utr made by the Clerk of the District Court North Jakarta, which explained that on March 7, 2024 Public prosecutor at the North Jakarta District Attorney filed appeal against the decision of The Jakarta High Court.

Reading Cassation memory without date in March 2024 from Public prosecutor at the North Jakarta District Attorney as the applicant Cassation I received at the Clerk of the North Jakarta District Court on March 19, 2024; Reading the Cassation memory of March 18, 2024 from the counsel Law defendant I as a petitioner Cassation II received in North Jakarta District Court clerk on March 19, 2024; Read also other letters concerned.

Considering that the decision of The Jakarta High Court has notified to the public prosecutor at the North Jakarta District Attorney on February 22, 2024 and the Public Prosecutor filed appeal for Cassation on March 7, 2024 and the memory of the Cassation has been accepted in the North Jakarta District Court Clerk on March 19, 2024. Thus, the appeal Cassation along with the reasons have been proposed in the

grace period and in a way according to the law, therefore the appeal of the Cassation claimant The general is formally acceptable.

Considering that the decision of the High Court of Jakarta has notified to the defendant's Legal Counsel I on the 22nd February 2024 and the defendant's Legal Counsel I filed appeal of cassation on March 7, 2024 and the memory of the Cassation has been accepted in the North Jakarta District Court Clerk on March 19, 2024. Thus, the appeal Cassation along with the reasons have been proposed in the grace period and in a way according to the law, therefore the appeal of the defendant I is formally acceptable.

Considering that the Cassation grounds submitted by the Cassation applicant I / Public Prosecutor and Petitioner of Cassation II / defendant I in Cassation memory more contained in the case file; considering that the reasons for the proposed Cassation Petitioner of Cassation I / Public Prosecutor and Petitioner of Cassation II / defendant I said, the Supreme Court held the following:

- a) That the reason for the Cassation of the public prosecutor in the main is about the length of the sentence imposed on the defendants is not appropriate with the demands of the Public Prosecutor, so that the length of criminal the *judex facti* injures the sense of Justice.
- b) That the reason for the Cassation of Defendant I is principally concerning *judex facti* does not apply the law or apply the law does not as it should be, the *judex facti* wrong in consider the public prosecutor's indictment by stating I have been found guilty of doing so in the first indictment primair and third primair, based on facts the evidence presented at the trial, according to which the defendant this is the first indictment.
- c) That the reasons for the Cassation of the public prosecutor and the defendant I can not *Judex facti* states that the defendants were legally and convince guilty of committing a criminal offense "together commit the crime of mail forgery and money laundering continued", violating Article 263 Paragraph (1) of the Criminal Code juncto Article 55 Paragraph (1) 1st criminal code in conjunction with Article 64 Paragraph (1) of the Criminal Code, Article 3 in conjunction with Article 10 Law No. 8 of 2010 on prevention and Eradication of money laundering in conjunction with Article 64 Paragraph (1) Criminal code, not wrong in

- applying the law, *judex facti* has tried The defendants in the case of a quo according to the code of Criminal Procedure it does not and does not exceed its.
- d) That consideration of *judex facti* Court of Appeal taking over and enforcing the *judex facti* judgment of the court The first level is appropriate and correct, namely the defendants has committed forgery by creating a fictitious internal memo the contents are not true as if there are activities at PT Agung Sedayu Group, resulting in PT Agung Sedayu Group suffered a loss of Rp78, 914, 622, 108.00 (seventy-eight billion nine hundred fourteen million six hundred twenty two thousand one hundred eight rupees). The proceeds of crime are then used by the defendants to purchase assets in the form of buildings and the car, as well as partially stored direkening the defendants.
- e) That the reason Cassation Public Prosecutor regarding the length of criminal the defendants are basically the authority of *judex facti*, is not the domain of *judex juris*. According to SEMA number 7 of 2012, the Supreme Court will consider this when applying for a c.q. Public Prosecutor can indicate the existence of burdensome things that have not been considered by *judex facti*. The public prosecutor cannot prove the existence of a burdensome thing in the act The defendants are yet to be considered. Based on the consideration is the reason the public prosecutor is not grounded in law, for it must be rejected.
- f) That the reason for the Cassation of Defendant I is essentially the wrong *judex facti* in applying the law is unwarranted law. *Judex facti* in the case of the defendant, I was found guilty of in the first indictment primair and third primair Public Prosecutor is already under consideration 2 (two) valid evidence and based on juridically relevant facts.
- g) That the defendant's Cassation reason I can not be justified because regarding the assessment of the evidence that is an award of something real. This cannot be considered in examination of the Cassation level, because the examination of the Cassation level only in connection with the non-application of a legal regulation or the law is not applied as it should be, or how to prosecute not implemented under the provisions of the law, and has the court

overstepped its authority, as referred to in Article 253 Paragraph (1) of the code of Criminal Procedure.

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 appeal of the Cassation petitioner I / the public prosecutor and the appeal of the Cassation II / defendant I was declared rejected.

Considering that because the defendants were convicted, then each- each burdened to pay the costs of the case at the Cassation level; Considering Article 263 Paragraph (1) of the Criminal Code juncto Article 55 Paragraph (1) to-1 Criminal Code juncto Article 64 Paragraph (1) Criminal Code, Article 3 juncto Article 10 law- Law No. 8 of 2010 on prevention and Eradication Money laundering in conjunction with Article 64 Paragraph (1) of the Criminal Code, Law- Law No. 8 of 1981 on Criminal Procedure Law, Law- Law No. 48 of 2009 on Judicial Power, and Law No. 14 of 1985 on the Supreme Court as amended by Law No. 5 of 2004 and the Second Amendment To Law No. 3 of 2009 and other relevant legislation;

Furthermore, In The Supreme Court Decision No. 4857 K / Pid.Sus/2024 Rejecting the appeal of the appeal of Cassation I/Public Prosecutor the North Jakarta District Attorney and the applicant Cassation The accused I. ANDI IDRIS; - Charge the defendants to pay the costs of the case at the Cassation level of Rp2,500.00 (two thousand five hundred rupiah);

CONCLUSION

Legal analysis of acts criminal money laundering funds forgery of letters can be based on legal regulations- invitation, Article 263 Paragraph (1) Criminal Code juncto Article 55 paragraph (1) the 1st criminal code in conjunction with Article 64 Paragraph (1) Criminal Code;in Article 263 Paragraph (2) Criminal Code in conjunction with Article 55 paragraph (1) the 1st criminal code in conjunction with Article 64 Paragraph (1) Criminal Code;Article 374 criminal code in conjunction with Article 55 Paragraph (1) to-1 Criminal Code juncto Article 64 Paragraph (1) Criminal Code; origin 372 Criminal Code juncto Article 55 Paragraph (1) to-1 Criminal Code juncto Article 64 Paragraph (1) of the criminal code; so that the defendant 1. IDRIS and 2. SYAHRONI SALIM, was found legally guilty of committing the crime of "counterfeiting and money laundering jointly and severally continued" as provided in Article 263 Paragraph (1) of the Criminal Code juncto Article 55 Paragraph (1) to-1 of the criminal code in conjunction with Article 64 Paragraph (1) of the Criminal Code (indictment First Primair)

and Article 3 juncto Article 10 of Law No. 8 2010 on the Prevention and Eradication of crime Money laundering in conjunction with Article 64 Paragraph (1) of the Criminal Code (third indictment Primair); in this case it should be PT Agung Sedayu The Group must have special supervision in internal memo penning so as to minimize the chance of criminal acts.

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