

ABSTRAK

PERTANGGUNGJAWABAN PIDANA PELAKU PENCURIAN DENGAN PEMBERATAN YANG DIPUTUS BEBAS (STUDI PUTUSAN KASASI MAHKAMAH AGUNG NO. 1708 K/PID/2024)

**Oleh
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Salah satu kasus tindak pidana pencurian dengan pemberatan yang dianalisis adalah Putusan Kasasi Mahkamah Agung Nomor 1708 K/PID/2024. Terdakwa I (Adit Darmawan) diputus bebas (*vrijspraak*) karena unsur *actus reus* (perbuatan pidana) tidak terbukti secara sah dan meyakinkan. Putusan bebas ini didasarkan pada bukti surat Surat Lepas Tahanan yang membuktikan Terdakwa I masih berada di Rutan Cipinang saat kejadian, sehingga menggugurkan seluruh unsur pertanggungjawaban pidana. Sebaliknya, Terdakwa II (Supriyanto) dijatuhi pidana 2 tahun karena seluruh unsur pertanggungjawaban pidana terpenuhi.

Penelitian ini menggunakan pendekatan masalah yakni pendekatan normatif yang didukung dengan wawancara. Pendekatan normatif dilakukan dengan menelaah bahan hukum primer (KUHP, KUHPA), sekunder, dan tersier. Pengambilan data dilengkapi dengan wawancara terhadap narasumber dari Kejaksaan Negeri Bandar Lampung untuk meninjau aspek penegakan hukum.

Hasil dan pembahasan penelitian ini menunjukkan bahwa dasar pertimbangan hakim membebaskan Terdakwa I karena kegagalan pembuktian unsur pemberat "dilakukan oleh dua orang atau lebih secara bersekutu" (Pasal 363 Ayat (1) ke-4 KUHP) secara yuridis. Secara filosofis, pembebasan tersebut merupakan manifestasi dari keadilan hakiki dan kepastian hukum (*presumption of innocence*). Pembebasan Terdakwa I juga diikuti dengan pemulihan harkat dan martabatnya secara sosiologis.

Kevin Prasetio Gultom

Saran dalam penelitian adalah penguatan akurasi verifikasi bukti oleh Penyidik dan Jaksa Penuntut Umum (JPU) di tahap awal untuk mencegah kesalahan penetapan tersangka. Selain itu, disarankan agar Majelis Hakim konsisten menerapkan prinsip *in dubio pro reo* dan minimum pembuktian untuk menjamin hak Terdakwa yang tidak terbukti bersalah.

Kata Kunci: Pertanggungjawaban Pidana, Putusan Bebas (*Vrijspraak*), Pencurian dengan Pemberatan

ABSTRACT

CRIMINAL LIABILITY OF PERPETRATORS OF AGGRAVATED THEFT WHO ARE ACQUITTED (STUDY OF SUPREME COURT CASSATION DECISION NO. 1708 K/PID/2024)

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One of the criminal cases of aggravated theft analyzed is the Supreme Court Cassation Decision Number 1708 K/PID/2024. Defendant I (Adit Darmawan) was acquitted (vrijspraak) because the element of actus reus (criminal act) was not legally and convincingly proven. This acquittal was based on strong alibi evidence in the form of a Release Letter proving that Defendant I was still in Cipinang Detention Center at the time of the incident. Conversely, Defendant II (Supriyanto) was sentenced to 2 years in prison because all elements of criminal liability were fulfilled.

This research uses a problem approach, namely the normative approach supported by interviews. The normative approach is carried out by examining primary (such as the Criminal Code/KUHP, and Criminal Procedure Code/KUHAP), secondary, and tertiary legal materials. The data collection is supplemented with interviews with a resource person from the Bandar Lampung District Attorney's Office to review the practical aspects of law enforcement.

The results and discussion of this study indicate that the basis for the judges' consideration in acquitting Defendant I was the failure to legally prove the aggravating element "committed by two or more persons jointly" (Article 363 Paragraph (1) to-4 of the Criminal Code) juridically. Philosophically, the acquittal is a manifestation of substantive justice and legal certainty (presumption of innocence). The acquittal of Defendant I was also followed by the restoration of his dignity and standing sociologically.

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The suggestions in the research are to strengthen the accuracy of evidence verification by law enforcement officials, specifically investigators and Public Prosecutors (JPU), in the early stages of investigation to prevent mistaken suspect designation. Furthermore, it is recommended that the Panel of Judges consistently apply the principle of in dubio pro reo and the minimum standard of proof to guarantee the rights of the Defendant who is not proven guilty.

Keywords: Criminal Liability, Acquittal (Vrijspraak), Aggravated Theft.