

ABSTRAK

PERTANGGUNGJAWABAN PIDANA TERHADAP PEMALSUAN DATA PRIBADI NASABAH PINJAMAN ONLINE (Nomor 871/Pid.Sus/2019/PN Ptk)

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Pinjaman online hadir sebagai solusi bagi masyarakat yang membutuhkan pinjaman uang dengan cepat tanpa harus melalui proses panjang seperti di Bank Konvensional. Pesatnya perkembangan teknologi ikut membawa perubahan terhadap gaya hidup masyarakat yang kini bermacam-macam sesuatu dapat dilakukan secara cepat dan mudah menggunakan layanan berbasis online. Putusan PN Nomor: 871/Pid.Sus/2019 PN.Ptk menjatuhkan pidana penjara selama (dua) tahun 6 (enam) bulan dan denda sebesar Rp.2.000.000.000,- (dua milyar rupiah) dengan ketentuan apabila denda tersebut tidak dibayar diganti dengan pidana penjara selama 1 bulan. Berdasarkan uraian tersebut, permasalahan dalam skripsi ini adalah Bagaimanakah pertanggungjawaban pidana pelaku pemalsuan data pribadi dalam pinjaman online?. Bagaimanakah dasar pertimbangan hakim dalam memutus perkara pemalsuan data pribadi?.

Pendekatan masalah penelitian ini menggunakan dua pendekatan yaitu Pendekatan Yuridis Normatif dan Pendekatan Yuridis Empiris dengan sumber bahan hukum primer, sekunder, dan tersier. Narasumber penelitian Adalah Dosen Bagian Hukum Pidana Fakultas Hukum Universitas Lampung.

Hasil penelitian dan pembahasan ini menunjukkan bahwa: (1) Terdakwa dalam hal mempertanggungjawabkan atas apa yang telah diperbuatnya harus memenuhi unsur-unsur pertanggungjawaban pidana yaitu 1) Unsur Kesalahan, 2) Unsur Tidak Adanya Alasan Pemaaf, 3) Unsur Sifat Melawan Hukum, 4) Unsur Tidak Adanya Alasan Pembenaan, dan 5) Unsur Alasan Pemaaf. Terdakwa dapat dipertanggungjawabkan pidana sesuai bunyi pasal 51 ayat (1) Jo Pasal 35 ayat (1) UU RI No.19 Tahun 2016 tentang perubahan atas UU RI No.11 Tahun 2008 tentang Informasi dan Transaksi Elektronik. (2) Akibat hukum terhadap pelaku Adalah hakim dalam putusannya menjatuhkan pidana penjara selama 2 (dua) tahun 6 (enam) bulan dan denda sebesar Rp.2.000.000.000,- (dua milyar rupiah) dengan ketentuan apabila denda tersebut tidak dibayar diganti dengan pidana penjara selama 1 bulan.

Maulidea Tamari

Saran penulis dari permasalahan yang terjadi adalah (1) Masyarakat dihimbau untuk lebih berhati-hati dalam menjaga data pribadi, agar tidak terjadi hal yang sama seperti kasus pemalsuan data milik orang lain yang dipergunakan seseorang untuk mencari keuntungan dari memalsukan data orang lain. (2) Kepada aparat penegak hukum (Polisi, Jaksa, Hakim, dan Pengacara) agar lebih tegas dalam mengemban tugas yang diberi oleh Negara Indonesia dan saling bekerja sama dalam memberantas atau menindak lanjuti serta mencegah segala jenis perbuatan melanggar hukum.

Kata Kunci: Pertanggungjawaban Pidana, Pemalsuan Data Pribadi, Pinjaman Online.

ABSTRACT

CRIMINAL LIABILITY FOR FALSIFICATION OF PERSONAL DATA OF ONLINE LOAN CUSTOMERS

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Online lending has emerged as a solution for people who need quick access to funds without having to undergo lengthy procedures such as those required by conventional banks. The rapid development of technology has also brought significant changes to people's lifestyles, where various activities can now be carried out quickly and conveniently through online-based services. District Court Decision Number 327/Pid.Sus/2019/PN TJK imposed a sentence of 3 (three) years and 6 (six) months imprisonment and a fine of IDR 120,000,000 (one hundred twenty million rupiah), with a subsidiary imprisonment of 1 (one) month if the fine is not paid, on a perpetrator of the crime of human trafficking. The defendant sexually exploited his acquaintance (the victim) for personal gain. The disparity in this decision lies in the fact that the judge imposed a lighter sentence than that demanded by the public prosecutor. The prosecutor had sought a sentence of 5 (five) years imprisonment and a fine of IDR 120,000,000, with a subsidiary imprisonment of 1 (one) month. The research problems addressed in this study are: (1) What were the legal considerations of the judge in imposing a lighter sentence on the perpetrator of human trafficking in this case? and (2) Whether the decision was in accordance with the principle of justice.

The research employed both normative juridical and empirical juridical approaches using primary, secondary, and tertiary legal materials. The research informant was a lecturer from the Criminal Law Department, Faculty of Law, University of Lampung.

The results of the study indicate that the judge's considerations in imposing the sentence in District Court Decision Number 327/Pid.Sus/2019/PN TJK were based on juridical, philosophical, and sociological aspects. Juridically, the defendant's actions were legally and convincingly proven to constitute the crime stipulated in Article 2 Paragraph (1) of Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Human

Trafficking. Philosophically, the judge considered that the sentence should serve to rehabilitate the defendant into a better individual and that judges are obligated to explore and uphold the values of justice prevailing in society. Sociologically, the judge considered both mitigating and aggravating circumstances related to the defendant.

In deciding the case, the judge had strong reasons for the sentence imposed, particularly by considering the defendant's role in the commission of the crime. Therefore, the judge imposed a sentence deemed fair based on the sense of justice, the principle of Belief in the One and Only God, and in accordance with the applicable laws and regulations.

The study recommends that judges, while having the discretion to determine the severity of punishment, should consider factors that may create a deterrent effect on offenders, as a lighter sentence does not necessarily guarantee remorse on the part of the offender or society. It is expected that the sanctions imposed in this case will serve as a lesson for both the defendant and the public. Furthermore, judges should always take into account the values that grow and develop within society to ensure that their decisions provide justice for all parties involved.

Keywords: Criminal Liability, Personal Data Forgery, Online Lending