

ABSTRAK

ANALISIS DASAR PERTIMBANGAN HAKIM DALAM MENJATUHKAN PUTUSAN BEBAS (*VRIJSPRAAK*) PADA TINGKAT PERTAMA TERHADAP TINDAK PIDANA PENCABULAN PEREMPUAN DEWASA (Studi Putusan Nomor: 67/Pid.Sus/2022/PN. Kla)

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Tindak pidana pencabulan terhadap perempuan dewasa masih terjadi di wilayah hukum Pengadilan Negeri Kalianda dalam Perkara Nomor 67/Pid.Sus/2022/PN. Kla. Penjatuhan vonis bebas terhadap Terdakwa dinilai belum memenuhi rasa keadilan bagi korban dan masyarakat. Isu hukum yang terjadi bahwa penjatuhan pidana terhadap pelaku tindak pidana pencabulan terhadap perempuan dewasa dapat menimbulkan ketidakadilan secara substantif maupun prosedural baik bagi korban maupun keluarganya. Permasalahan yang ada dalam penelitian ini adalah: (1) Bagaimanakah pertimbangan hakim dalam menjatuhkan putusan bebas terhadap tindak pidana pencabulan terhadap perempuan dewasa (2) Apakah putusan bebas yang dijatuhkan oleh hakim Pengadilan Negeri Kalianda sudah memenuhi rasa keadilan di masyarakat berdasarkan konsep pertanggungjawaban pidana.

Penelitian ini menggunakan pendekatan secara yuridis normatif dan empiris. Jenis data yang digunakan adalah data sekunder dan data primer. Data yang diperoleh secara analisis kualitatif. Hasil analisis data dapat dilanjutkan dengan menarik kesimpulan secara induktif.

Hasil penelitian menunjukkan bahwa Pertimbangan hakim dalam menjatuhkan putusan bebas terhadap tindak pidana pencabulan terhadap perempuan dewasa meliputi dakwaan jaksa, tujuan pemidanaan, hal-hal yang meringankan dan memberatkan, motif tindak pidana, sikap pelaku, akibat yang ditimbulkan, Hakim juga sepenuhnya memperhatikan ketentuan Pasal 5 Undang-Undang Nomor 48 Tahun 2009 dan Pasal 182 ayat (6) KUHP. Putusan bebas yang dijatuhkan oleh hakim Pengadilan Negeri Kalianda dalam kaitannya terhadap rasa keadilan di masyarakat berdasarkan konsep pertanggungjawaban pidana yakni terdakwa tidak terbukti melanggar Pasal 294 Ayat (2) Ke-1 KUHP namun hakikatnya Terdakwa dikategorikan sebagai orang yang mampu bertanggungjawab, guna mewujudkan cita hukum yakni kepastian hukum, kemanfaatan dan keadilan hukum maka terdakwa harus menjalani hukuman namun sebagaimana telah diputuskan oleh Majelis Hakim terdakwa divonis bebas sehingga tidak memenuhi rasa keadilan.

Saran dalam penelitian ini adalah Hakim sebaiknya lebih memaksimalkan pidana yang dijatuhkan kepada setiap pelaku tindak pidana pencabulan terhadap perempuan dewasa, mengingat bahwa kejahatan kesusilaan di Indonesia terus meningkat sehingga hal ini dapat menjadi salah satu pertimbangan hakim dalam memberikan pidana maksimum terhadap pelaku tindak pidana.

Kata Kunci: Putusan Bebas (*Vrijspraak*), Tindak Pidana, Pencabulan.

ABSTRACT

**ANALYSIS OF THE JUDGE'S BASIC CONSIDERATIONS IN
ADDRESSING FREE RULINGS (VRIJSPRAAK) ON
FIRST DEGREE CRIMINAL OFFENSES
ABUSE OF ADULT WOMEN
(Study Decision Number: 67/Pid.Sus/2022/PN. Kla)**

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Criminal acts of sexual immorality against adult women still occur in the jurisdiction of the Kalianda District Court in Case Number 67/Pid.Sus/2022/PN. Kla. The acquittal of the defendant was deemed to have not fulfilled the sense of justice for the victim and society. The legal issue that arises is that the imposition of a crime against the perpetrator of a criminal act of sexual abuse against an adult woman can result in substantive and procedural injustice for both the victim and his family. The problems in this research are: (1) What is the judge's consideration in handing down an acquittal decision for the crime of sexual immorality against an adult woman? (2) Does the acquittal decision handed down by the Kalianda District Court judge fulfill the sense of justice in society based on the concept of criminal responsibility?.

This research uses a normative and empirical juridical approach. The types of data used are secondary data and primary data. Data obtained using qualitative analysis. The results of data analysis can be continued by drawing conclusions inductively.

The results of the research show that the judge's consideration in handing down an acquittal for the criminal act of sexual immorality against an adult woman includes the prosecutor's indictment, the purpose of the sentence, mitigating and aggravating factors, the motive for the crime, the attitude of the perpetrator, the consequences, the judge also fully pays attention to the provisions of Article 5 Act Number 48 of 2009 and Article 182 paragraph (6) of the Criminal Procedure Code. The acquittal decision handed down by the Kalianda District Court judge in relation to the sense of justice in society is based on the concept of criminal responsibility, namely that the defendant was not proven to have violated Article 294 Paragraph (2) 1 of the Criminal Code, but in essence the Defendant was categorized as a person capable of responsibility, in order to realize the ideals of the law, namely legal certainty, expediency and legal justice, the defendant must serve the sentence, however, as decided by the Panel of Judges, the defendant was acquitted so that it does not fulfill the sense of justice.

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The suggestion in this research is that judges should maximize the punishment imposed on each perpetrator of criminal acts of sexual immorality against adult women, bearing in mind that crimes of decency in Indonesia continue to increase so this can be one of the considerations for judges in giving maximum sentences to perpetrators of criminal acts.

Keywords: *Acquittal (Vrijspraak), Crime, Obscenity.*