

## Analysis of Solution Criminal Acts Theft Cases

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### Abstract

High unemployment rate in Indonesia causes more and more people to experience economic conditions around poverty line. This then causes crime in Indonesia tends to increase. Most common crime committed is theft. Motive for this theft was mostly economic insistence. Theft is not a serious crime, however, theft may be subject to criminal law. Theft can be divided into two, namely light theft and ordinary theft. There are some differences between two although boundaries should be noted. This study analyzed how judges adjudicate a theft case. Judge needs to pay attention to some points related to incriminating elements theft defendant. In this study research methods used are descriptive analytical and analyzed in accordance with secondary and primary data.

**Keywords:** Theft, Criminal Law, Criminal Limitation

## 1. INTRODUCTION

### 1) Background

In Indonesia, most common crime is theft. Many reasons can be reckless theft, most reasons a person commits theft is no cost of living, or indeed have bad habits such as gambling, drunkenness, use of illegal drugs and prostitution. Because most problems of theft are caused by economy, targets of this crime are often homes, offices and other public places, causing unrest in community.

Theft does have various motives, and these motives are classified as light motives. It is called light because this crime is usually classified as simple, does not cause danger and loss rate is relatively small. In settlement of cases whose motives are mild, law enforcement only emphasizes aspect of criminal liability of perpetrators. Where it considers liability and security without looking at how act and value object of violation that has been caused.

Theft is not a serious crime, but this crime will still be processed through law enforcement. Based On Regulations *Mahkamah Agung* RI No 2 Tahun 2012 on adjustment limits on misdemeanors and amount of fines in KUHP which provides that crime of theft is minor if value is not greater than Rp 2,500,000 (two million five hundred thousand rupiah). In addition to being charged under Supreme Court Regulation No. 2 of 2012, theft will be prosecuted under Article 362 KUHP contents matter will be threatened with a penalty of 5 (five) years.

Case theft can be done by implementing rule of law firmly so that legal certainty can be achieved. In event that judge has a fair, impartial and neutral power so that decision

made by judge will achieve purpose law, namely certainty, fairness and legal expediency. As for some considerations judge in trial must be based on facts both juridical and non-juridical.

In this study author refers to Case Number 75/Pid.B / 2024 / PN Smg, that defendant (AA) total loot in form of birds, cages and cage covers is estimated at Rp 3,000,000 (three million rupiah). This author knows juridical and non-juridical considerations of judges when trying charges of bird theft.

## 2) Problem Formula

- 1) What legal restrictions do judges use in decision on theft cases?
- 2) What consideration judge when deciding case number 75/Pid.B/2024/PN Smg?

## 3) Theoretical Basic

### a) Theft Crime

In discussion of petty theft, we must refer to Book of KUHP in Article 362 KUHP sounding:

*“Whoever takes possession of something, wholly or partly belonging to another person, with intent to be unlawfully possessed, shall be punished for theft, with a maximum imprisonment of five years or a maximum fine of nine hundred rupiah.”*

In addition, in explaining article 364, Article 363 item 4 and Article 363 Item 5 KUHP is described in article :

*“If act is not committed in a closed House or yard, and if price stolen goods is not more than twenty-five rupiah, then threat of theft is light with a maximum imprisonment of three months or a maximum fine of two hundred and fifty rupiah.”*

It is considered that figures contained in article are irrelevant, so this article is updated through Article 1 regulation Mahkamah Agung Number 02 of 2012 concerning adjustment of limits on minor crimes and amount of fines KUHP (“PERMA 02/2012”) which reads:

*“The words “two hundred and fifty rupiah” in articles 364, 373, 379, 384,407 and Article 482 KUHP read to Rp 2,500,000. 00 (two million five hundred thousand rupiah).”*

In relation to minor theft cases, perpetrator is not detained and a quick inspection event is carried out as stated in letter B regulation Mahkamah Agung No. 02 of 2012 on adjusting limits of minor crimes and amount of fines KUHP (“PERMA 02/2012”) which reads :

*“The value of money in KUHP if adjusted to conditions at this time, then handling of cases of minor crimes, among others, minor theft, minor fraud, minor embezzlement and like can be handled proportionately considering threat highest penalty that can be imposed is only three months in prison.”*

Based on rules that have been described in KUHP, acts categorized as light theft have a maximum value of losses and for this, detention cannot be carried out.

## **b) Court Decision**

In Chapter I Of Article 1 Number 11 KUHP referred to by court decision is

*“Statement judge uttered in an open court hearing, which may take form of conviction or acquittal or release from any legal claim in case and in manner provided for in this law”*

As related to content court decision set out in Article 25 of Law No. 4 of 2004 on Judicial Power which states that:

- 1. All court decisions must contain, in addition to reasons and fundamentals decision, also must contain certain articles relevant regulations or unwritten sources of law that serve as basis for judging.*
- 2. Each court decision is signed by chairman as well as judges who decide and clerks who participated in meeting.*
- 3. Resolutions, undertakings of consultative meetings and minutes of hearings signed by chairman and clerk.*

## **2. RESEARCH METHODS**

This type of research is descriptive research by utilizing qualitative data described descriptively. Type of data used is primary data and secondary data and processed through descriptive qualitative data analysis. Author uses empirical juridical approach.

## **3. DISCUSSION**

### **1) Restrictions Crime Theft**

In Case Number 75 / Pid.B/2024 / PN Smg, related to case of theft of birds, cages and covers, defendant AA has been charged with charges under Article 362 K.UHP relating to light theft. In Indictment Pdm Registration Number.34 / Semar/Eoh.2/02/2024, charged with committing a criminal offense to take something that wholly or partly belongs to another person with intention of being unlawfully owned on December 8, 2023 at around 00.30 WIB.

Based on indictment, what was done by AA has fulfilled meaning occurrence of theft under Article 362 K.UHP that sounds:

*“whoever takes an object either wholly or partly belonging to another person, with intention of being unlawfully possessed, is punished for theft, with a maximum imprisonment of five years or a maximum fine of nine hundred rupiah”*

In Indictment Registration Number Pdm.34/Semar/Eoh.2/02/2024 it was also explained that witness SW (owner) saw defendant AA stalking environment before finally combining 1 (one) black round cage with black cloth cover, 1 (one) black box cage with blue cloth cover, 1 (one) brown round cage hung on plasterboard terrace house on Jalan Salak Raya number 122 RT 01 RW 07 Sendangguwo Village, Tembalang District, Semarang.

It is known that defendant AA and witness SW did not previously know each other. Defendant AA wanted to control birds belonging to witness SW due to economic pressure. In addition, environmental factors around SW House that does not have a fence so as to make AA easily enter yard SW House and take three birds and cage.

Analyzing from available court evidence, suspect AA has been proven to have committed a criminal act in violation of Article 362 KUHP. AA drive to do so is lack of economic stability of AA's brothers so desperate to violate norms and ethics. Although damage caused is not too large, this action is an act of violation law.

Based on estimate losses incurred, suspect AA can not be categorized in a misdemeanor. As has been stated in PERMA Number 2 of 2012 which reads:

*“The words "two hundred and fifty rupiah" in articles 364, 373, 379, 384,407 and Article 482 KUHP read to Rp 2,500,000. 00 (two million five hundred thousand rupiah).”*

This means that, misdemeanor theft is theft whose estimated loss value is not greater than Rp 2,500,000 (two million five hundred thousand rupiah. Thus, in case of Case Number 75/Pid.B/2024/PN Smg classified as ordinary theft.

Unlike misdemeanor theft offense, in ordinary theft offense accused can be sentenced to up to 5 years in prison and for him there can also be detention before verdict. This also applies to Case Number 75/Pid.B/2024/PN Smg, which defendant AA has been undergoing detention with following details:

- a) Rutan by investigators: from 11-12-2023 to 30-12-2023 extended by JPU : from 31-12-2023 to 08-02-2024
- b) Prosecutor detention center: from 21-12-2023 to 09-01-2024

## **2) Juridical consideration of judges in criminal sanctions theft in case Case Number 75/Pid.B/2024/PN Smg**

The accused has been charged by Public Prosecutor with charges of a singular nature, as provided for in Article KUHP, elements of which are as follows :

- 1) Whoever
- 2) Taking an item wholly or partly belonging to another person with intention to be owned unlawfully

The explanation two elements in this case include

- Elements Whoever

This element refers to subject of law who committed a criminal act and can be held accountable for his actions. In trial, Public Prosecutor has been confronted by a person named AA and charged with criminal acts in violation of Article 362 KUHP. Defendant's testimony was consistent with testimony of witnesses. During examination and at trial, panel of judges concluded that defendant belongs to subjects of law who are able to account for his actions. Based on these considerations, elements of who this has been fulfilled.

- Taking an item wholly or partly belonging to another person with intent to be owned unlawfully

This element has meaning of taking something to be controlled and taking item and has moved. If it is connected with legal facts that have been revealed at trial relating to chronology incident, scene incident, characteristics perpetrator in incident and defendant's intention to commit theft, panel of judges considers that element of taking an item that wholly or partly belongs to another person with.

## **3) Judge decision on Case Number 75/Pid.B/2024/PN Smg**

On Decision Nomor 75/Pid.B/2024/PN Smg it was decided to prosecute:

- 1) Defendant AA was found legally and convincingly guilty of committing crime of “theft” as in indictment
- 2) Defendant AA proven legally and convincingly guilty of committing crime of “theft” as in dakwaanenkjukan Penal to defendant therefore with imprisonment for 1 (One) Year 3 (three) months
- 3) Establish period of arrest and detention that defendant has served is deducted entirely from crime imposed
- 4) Keeping accused in custody

#### **4. CONCLUSION**

1. Theft cases with economic motives and tend to be mild can be categorized into mild theft and ordinary theft. Difference between them lies in amount estimated losses victim, detention, as well as term of punishment. In case of minor theft, estimated loss victim is not more than Rp 2,500,000 (two million five hundred thousand rupiah) and no detention is carried out. Meanwhile, in case of ordinary theft, estimated loss victim is more than Rp 2,500,000 (two million five hundred thousand rupiah) and detention is carried out.
2. Decision on Case Number 75/Pid.B/2024/PN Smg, categorized in ordinary theft and defendant AA sentenced to imprisonment for 1 (One) Year 3 (three) months. This decision takes into account article 362 KUHP No. 8 of 1981 on Criminal Procedure Law and other relevant legislation

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