

The Law Enforcement on Crime of Motorcycle Theft

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Abstract.

The purpose of this research is to discuss the problems: How to Enforce the Criminal Act of Motorcycle Theft and How to Efforts to Combat the Crime of Motorcycle Theft. In this research, the method used was an empirical juridical approach. The conclusion of this study is the Law Enforcement of the Crime of Motorcycle Theft. Criminal was arrested, detained in the detention center by investigators then extended by the Public Prosecutor, so that having read the Decree of the Head of the District Court regarding the Appointment of the Panel of Judges, assembly. The judge determines the day of the trial, examines the case file, other relevant documents, hears the statements of the witnesses and the defendant's statements and pays attention to the evidence submitted at trial, then hears the reading of the criminal charges submitted by the public prosecutor. Efforts to Combat the Crime of Motorcycle Theft by carrying out preventive efforts, namely efforts that are still at the level of prevention before an act occurs by conducting socialization or counseling to the community in order to increase public legal awareness. Provide information to the public in the event of a motorcycle theft crime to immediately report it to the authorities. Repressive efforts when a crime has occurred by taking action against the perpetrators of the crime in accordance with the actions committed. In connection with the prosecution process that has been carried out by the perpetrators, the police have taken legal action in the form of arrests, detentions and the process of delegating cases to court. If the perpetrator is proven guilty, the judge will give a sentence in accordance with the demands of the Public Prosecutor or based on the consideration of the Deliberation of the Panel of Judges to be brought to the Correctional Institution to serve his criminal period.

Keywords: Crime; Enforcement; Motorcycles; Theft.

1. Introduction

The rule of law is a country in whose territory there are state equipment, especially equipment from the government in its actions against citizens and in its relationship it is not allowed to act arbitrarily, but must pay attention to the applicable legal regulations, and all people in social relations must comply with the applicable legal regulations. The purpose of law is a discourse whose study is almost as difficult as making legal meanings (legal definitions). This is because both the definition and the purpose of the law both make law which has a wide area with various aspects and aspects and is abstract as an object of study. In the Indonesian legal system, criminal law can be interpreted narrowly and can be interpreted broadly. Criminal law in a narrow sense is only material criminal law, which contains norms governing actions that are criminal acts. Meanwhile, criminal law in a broad sense consists of criminal law (substantive or material) and criminal

procedural law (formal criminal law).¹ Regarding criminal procedural law, Moelijatno's opinion needs to be stated as follows "how to maintain the procedure for prosecuting people suspected of committing criminal acts. Therefore, this part of criminal law is called formal criminal law (criminal procedure).²

Law enforcement in the criminal justice system aims to tackle every crime³. State actions must be based on applicable laws and regulations. The law should be used as a stepping stone to regulate and resolve various problems in carrying out the wheels of social, national and state life.⁴The Criminal Code gives legal powers to the state through its law enforcement officers to take action. This is a source of authority and power for the various parties involved in this process (Police, Prosecutors, Judges, Legal Advisors).⁵

In the context of law enforcement, if an event occurs which is suspected or reasonably suspected to be a criminal act, then the legal apparatus is obliged to take various actions in accordance with their respective authorities as determined by the applicable laws and regulations and then proceed with an investigation as an action to seek and collect evidence so that the criminal acts found can become clear and can find and determine the perpetrators. Every suspect has the right to be investigated on a basis in accordance with procedural law, not through an undue process. The right of due process in carrying out law enforcement actions stems from the ideals of the rule of law that upholds the rule of law which emphasizes "we are ruled by law" and not "by people" (government of law and not of men). Starting from this principle, the National Police in carrying out their functions and powers of investigation must be based on and guided by the special provisions stipulated in the Criminal Procedure Code. The National Police as the spearhead of law enforcement in the field with a limited number of personnel, it will not be possible to carry out continuous patrols so that whenever a crime occurs they can immediately find out. In principle, if a criminal incident occurs, the National Police as the spearhead in law enforcement can immediately take action.

Regarding the crime of theft, it has been regulated in the Criminal Code, which is grouped into several types of criminal acts, namely:

Ordinary theft (Article 362 of the Criminal Code), theft with weight (Article

¹Andi Hamzah, 2005, *Hukum Acara Pidana Indonesia*, Jakarta: Sinar Grafika, p. 9. Jurnal Daulat Hukum, Volume 3 Issue 3, September 2020, ISSN: 2614-560X <http://jurnal.unissula.ac.id/index.php/RH>

²Moeljatno, 2002, *Asas-Asas Hukum Pidana*, Jakarta: Rineka Cipta, p. 6 Volume 3 Issue 3, September 2020, ISSN: 2614-560X <http://jurnal.unissula.ac.id/index.php/RH>

³ Chuasanga A., Ong Argo Victoria. (2019). *Legal Principles Under Criminal Law in Indonesia and Thailand*, Jurnal Daulat Hukum, Vol 2, No 1 (2019) <http://jurnal.unissula.ac.id/index.php/RH/article/view/4218>

⁴Joko Setiyono, 2007, *Kebijakan Legislatif Indonesia, dalam Hak Asasi Manusia Hakekat, Konsep dan Implikasi dalam Prespektif Hukum dan Masyarakat*, Bandung: PT Refika Aditama, p.120. Z Arifin - 2018,

https://scholar.google.co.id/citations?view_op=view_citation&hl=en&user=X9g4c0oAAAAJ&citation_for_view=X9g4c0oAAAAJ:zYLM7Y9cAGgC,

⁵Mardjono Reksodiputro, 1994, *Hak Asasi Manusia Dalam Sistem Peradilan Manusia. Pusat Pelayanan Keadilan Dan Pengabdian Hukum*, Jakarta: Universitas Indonesia, p. 25. Z Arifin - 2018, https://scholar.google.co.id/citations?view_op=view_citation&hl=en&user=X9g4c0oAAAAJ&citation_for_view=X9g4c0oAAAAJ:zYLM7Y9cAGgC,

363 of the Criminal Code), light theft (Article 364 of the Criminal Code), theft with violence (Article 365 of the Criminal Code), and theft within the family (Article 367 of the Criminal Code). As stated in the provisions of Chapter XXII it says in article 362 of the Criminal Code which reads: "Anyone who takes something, wholly or partly belongs to another person, with the intention of being owned against the law, is threatened with theft, with a maximum imprisonment of five years or a maximum fine of nine hundred rupiahs. Article 363 of the Criminal Code explains that the theft with a weight "with a maximum imprisonment of seven years".

2. Research Methods

This research used was an empirical juridical approach with qualitative research which consists of: approach method, research specifications, data types and sources, data collection methods, population and sample determination and data analysis methods.

3. Result and Discussion

3.1. Law Enforcement of the Crime of Motorcycle Theft

This research is based on a criminal case in the Pati. District Court examining and adjudicating the theft criminal case in the first instance court, has rendered a decision in the case on behalf of: Ahmad Nur Cahyo or Yoyok Bin Suhardi.

That the defendant Ahmad Nur Cahyo was arrested and detained in the detention center by police investigators and extended by the public prosecutor and the judge of the district court. After reading the Decision of the Chairperson of the 2019 District Court regarding the Appointment of the Panel of Judges, the Determination of the Panel of Judges to determine the day of trial, case files, other relevant documents, hearing the statements of the witnesses and the statements of the Defendant and paying attention to the evidence submitted at trial and then hearing the reading of the criminal charges filed by the Public Prosecutor which basically is as follows:

Stating that the Defendant Ahmad Nur Cahyo Or Yoyok Bin Suhardi was proven guilty of committing the crime of theft in aggravating circumstances as regulated in Article 363 paragraph (1) of the 5th Criminal Code as charged;

Primair, Sentenced the Defendant Ahmad Nur Cahyo Or Yoyok Bin Suhardi with a prison sentence of 3 (three) years, reduced by the period of detention he had served with the order that the defendant remained detained in the State Detention Center (Rutan), Determined that the confiscated evidence was in the form of 1 (one) white Yamaha MioS motorcycle key and 1 (one) Yamaha MioS motorcycle key, white color, number K-6386-IG, 2018, Order No. : MH3SEE410JJ050839 and No. Machine : E3R2E1910327, on behalf of the owner according to the STNK, namely Ahmad Nur Cahyo, confiscated for the State and burdening the defendant to pay court fees in the amount of Rp. 2,500, - (Two Thousand and Five Hundred rupiah).

Based on the results of the research described above, the following are the results of the analysis in Decision Number: 39/Pid.B/2019/Pn Pti;

The action taken by the Defendant Ahmad Nur Cahyo or Yoyok Bin Suhardi is

an act that makes the community restless, because his actions makes people in carrying out daily activities not calm so they always think about the security that occurs in their surrounding environment. The defendant can also be said to be a recidivist because the act committed by the defendant is not the first time, because the defendant has experienced punishment in the same case.

In the process of the investigation stage in the police, prosecution until the decision issued by the District Court Judges, when the trial stated that the defendant Ahmad Nur Cahyo Or Yoyok Bin Suhardi, was legally and convincingly proven guilty of committing the crime of "theft in aggravating circumstances", imposing a sentence on the defendant is sentenced to 3 (three) years in prison and stipulates that the defendant remains in detention and establishes evidence in the form of 1 (one) white Yamaha MioS motorcycle key and 1 (one) unit of Yamaha MioS motorcycle, white color, number K-6386 -IG, 2018, Order No.: MH3SEE410JJ050839 and No. Machine: E3R2E1910327, on behalf of the owner according to the STNK based on consideration of the evidence and witnesses presented at the trial.

According to the author, the actions taken by Law Enforcement Officials in the analysis of the cases mentioned above, when examined with the law enforcement theory put forward by Soerjono Soekanto, that law enforcement lies in harmonizing the relationship of values described in solid rules and final attitudes to create, maintain and maintain peaceful social life.⁶ As well as being studied with the theory of justice according to Ibn Taymiyyah which states that justice is giving something to every member of the community according to their rights which must be obtained without being asked, being impartial or impartial to one party, knowing the rights and obligations, understanding what is right and what is wrong and stick to the rules that have been set.⁷ So law enforcement carried out by law enforcement officers is appropriate with legal provisions considering that in the process it has gone through the stages of investigation, arrest, detention, trial of the accused and ending with the convict's imprisonment.

3.2. Efforts to Combat the Crime of Motorcycle Theft

In dealing with the crime of motorcycle theft in the jurisdiction of the Pati District Court, the author conducted interviews with Law Enforcement Officials Satreskrim Polres Pati who explained;

- The countermeasures carried out are by carrying out preventive efforts, namely efforts that are still at the level of prevention before the act occurs by conducting socialization or counseling to the community in order to increase public legal awareness. Provide information to the public in the event of a motorcycle theft crime to immediately report it to the authorities.
- Repressive efforts when a crime has occurred by taking action against the perpetrators of the crime in accordance with the actions committed. In connection with the prosecution process that has been carried out by the perpetrators, the Pati Police have taken legal action in the form of arrests,

⁶Soerjono Soekanto. (1983). *Faktor-faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: Rajawali, p. 24

⁷<https://jamaluddinmahasari.wordpress.com/2012/04/22/pengertian-keadilan-diambil-dari-pendapat-para-ahli/>.

detentions and the process of delegating the case to court. If the perpetrator is proven guilty, the judge will give a sentence in accordance with the demands of the Public Prosecutor or based on the consideration of the Deliberation of the Panel of Judges to be brought to the Correctional Institution to serve his criminal period.

4. Conclusion

Repressive efforts when a crime has occurred by taking action against the perpetrators of the crime in accordance with the actions committed. In connection with the prosecution process that has been carried out by the perpetrators, the Pati Police have taken legal action in the form of arrests, detentions and the process of delegating the case to court. If the perpetrator is proven guilty, the judge will give a sentence in accordance with the demands of the Public Prosecutor or based on the consideration of the Deliberation of the Panel of Judges to be brought to the Correctional Institution to serve his criminal period.

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