

Termination Of Household Abandonment Case Investigation

Julkipli Ritonga*)

*) Master of Law Program, Faculty of Law Universitas Islam Sultan Agung email julkipliritonga@gmail.com

Abstract

In this study, the researcher will discuss the handling of cases of household abandonment at the Tabanan Police Criminal Investigation Unit with Police Report Number: LP/195/XII/2013/BALI/RES TBN About Household Abandonment, which was then stopped the investigation. In this case, neglect is carried out by a husband by leaving his wife and child for a long time without providing physical and spiritual support. This act is certainly a violation of the rights of his wife and children.

*An investigation was carried out on this case, but then the investigation was stopped on the grounds that there was not enough evidence with the consideration that they were having a *nyentana* marriage, where the women were *purusa* or the head of the household and the men were *predana* or housewives. The researcher's opinion is that it is necessary for the case to be delegated to the court level to obtain a judge's decision in order to obtain legal certainty so that later it can be used as jurisprudence for law enforcement. The theories and concepts used to analyze the problems in this study are the concept of stopping the investigation, the concept of domestic violence, the concept of customary offenses and the concept of marriage *nyentana*. This study uses a qualitative approach with case study research methods.*

Keywords: Cases, neglect of the household, and termination of investigation

1. Introduction

The wholeness and harmony of a happy, safe, peaceful, and peaceful household is the dream of everyone in the household. To realize this wholeness and harmony, it really depends on everyone in the household, especially the level of quality of behavior and self-control of everyone in the household. Integrity and harmony in the household can be disrupted if the quality of self-control cannot be controlled, which in turn can lead to domestic violence, thus causing injustice to different people in the household.¹

In Bali, especially in Tabanan Regency, apart from ordinary marriage, the marriage system is known as *nyentana*. *Nyentana* marriage is a form of marriage based on a change in status where the woman becomes *purusa* (head of the household) and the husband becomes *pradana* (housewife). In the event of this research case because the wife is the only child in her family, the wife's family asks / proposes to the husband who then they marry by way of *nyentana* marriage. Because the Balinese in carrying out some traditional and religious ceremonies can only be carried out by men.

The neglect of the household by the husband, who is hereinafter referred to as the Suspect, reported by the wife, hereinafter referred to as the Victim, to the Tabanan Police on Thursday, December 12, 2013. The Reported Person left the house

¹ Aryani Nur Chamidah, Ira Alia Maerani, "Effectiveness Of Investigations According To Act No. 23 Of 2004 On Domestic Violence Cases" *Law Development Journal* Vol 3, No 2 (2021): June 2021 url : <http://jurnal.unissula.ac.id/index.php/ldj/article/view/16081/5725>

and did not provide physical and spiritual support to his wife and also to his two children. The first child is a boy who is 4 years old and the second is a boy who is 3 years old, for approximately 3 months (from 27 September 2013 until the time the victim made a report to the Tabanan Police on 12 December 2013). The author is interested in researching this because the investigation into the case was finally stopped after asking for information from customary law experts.

Based on the description above, this study aims to identify and analyze the termination of investigations into cases of household abandonment with the Police Report Number: LP/195/XII/2013/BALI/RES TBN Regarding Household Abandonment by the Tabanan Police Criminal Investigation Unit.

2. Research Methods

In this study, a descriptive analysis method was used. Descriptive, namely by describing the reality, state of the object or problem,² about why the Tabanan Police Sat Reskrim stopped the investigation into the household neglect case.

This study aims to obtain clarity regarding the process of resolving child neglect through investigations carried out by the Tabanan Police Criminal Investigation Unit investigator, so that in the end the author can draw general conclusions from the materials obtained to specific conclusions about the object of the problem raised in the study.

3. Research Results and Discussion

Termination of the investigation of household abandonment cases with Police Report Number: LP/195/XII/2013/BALI/RES TBN Concerning Household Abandonment is carried out by Order of Termination of Investigation Number: SPP.Sidik/08.a/VI/2015/Reskrim dated 15 June 2015. In the Warrant it was explained that the case was terminated because the case did not have sufficient evidence as was the result of the trial conducted on May 12, 2015.

The description of the discussion is the result of research in the form of data and information that is analyzed using relevant theories and concepts to find out why the Tabanan Police Criminal Investigation Unit has stopped investigating cases of household neglect Police Report Number: LP/195/XII/2013/BALI/RES TBN About Home Abandonment Ladder.

Based on the investigation conducted by the investigator from the Tabanan Police Criminal Investigation Unit, the researcher's analysis that the case was terminated on the grounds of insufficient evidence was inappropriate because according to the researcher, several pieces of evidence had been obtained in the investigation process in accordance with Article 184 of the Criminal Procedure Code. The evidence includes, among others; witness statements, expert testimony and letters.³

² Moeloeng, J. Lexy. 2001. Metodologi Penelitian Kualitatif, Bandung : Remadja Rosdakarya

³ Republic of Indonesia, Law Number 8 of 1981 concerning Criminal Procedure Law.

Researchers will The focus is on exploring the information and opinions of experts who are considered by investigators to stop the investigation. The following is a summary of the information from each expert in his BAP and also each strengthens his statement with interviews conducted by researchers:

a. Information from Hindu Religious Experts at the Ministry of Religion of Tabanan Regency I WAYAN WIRTA.

Explain that in the event of a marriage, where a man is a *predana (nyentana)*, the rights and obligations of a husband and wife in the marriage are:

- 1) A husband despite his status as *predana (nyantana)* is still obliged to provide birth support (having a daily life) to his wife who is a *purusa*.
- 2) The obligation of a wife who is a *purusa* is to remain a housewife who is in charge of serving her husband and children
- 3) In a *nyentana* marriage, women who are *purusa* are entitled to inheritance rights from their parents.
- 4) And if there is a separation (divorce) between husband and wife, the husband does not get any rights, except for the common property that was obtained after the marriage.

b. Information from the Customary Law Expert at Udayana University WAYAN P WINDIA

Explaining that *nyentana* marriage is one of the forms of marriage known in Balinese customary law, namely (1) Ordinary marriage; (2) *Nyentana's* marriage; and (3) marriage on the *gelang. Purusa* in the context of marriage does not mean a man but a woman with the status of a man. Parties with *purusa* status have full obligations and rights for the continuity of their families or households. *Predana* in the context of marriage does not mean women, but men with the status of women. Parties with *predana* status have incomplete obligations and rights for the continuity of their families or households.

Full obligations and rights for the continuity of the family or household belong to the party with *purusa* status. Therefore, in a *nyantana* marriage, the woman or wife is fully responsible, because it is the woman or wife who has the status of *purusa*. Meanwhile, the man or husband has the status of *predana*. Because the husband was expelled by his wife where the husband is a *predana* then his act of leaving the house cannot be blamed, then because they entered into a sudden marriage, the husband is not obliged to provide a living for his family.

c. Information from Udayana University Criminal Law Expert I GUSTI KETUT ARIAWAN.

Explain that leaving his wife and children by the husband/reported is an act of neglect. The problem will not stop there, but will continue on whether the reported act is against the law, so that the reported party can be accounted for according to criminal law.

Customary law is only the basis for carrying out marriages, which in this case they do by way of marriages, but then problems that arise related to domestic violence must be resolved according to the rule of law, namely the PKDRT Law. The sudden marriage they do is only to assert their status in traditional activities in Bali. According to him, the case can be brought to court. Because the act has violated Article 9 of the

PKDRT Law and the crime is regulated in Article 49 of the PKDRT Law. Regarding whether the suspect's actions are against the law or not, of course, the judge will decide.

Then he emphasized from the results of the interview by saying that the investigator's action by conducting an investigation into the case by suspecting Article 49 of the PKDRT Law was correct. According to him, the case can be brought to court. The nature of being against the law must be proven in court. Therefore, according to him, the case should be continued until the court level is not terminated.

Based on the statements of these experts, the researchers conducted an analysis as follows: Expert on Hindu Religion at the Ministry of Religion of Tabanan Regency, I WAYAN WIRTA and information from Criminal Law expert at Udayana University I GUSTI KETUT ARIAWAN. Reinforce that the actions of the suspect I PUTU AGUS REDANA constitute an act of neglecting the family as stated in Article 49 letter a of the PKDRT Law.

Meanwhile, the Customary Law expert at Udayana University WAYAN P WINDIA gave information that tends to weaken the investigation. The following is the statement of WAYAN P WINDIA summarized by the researcher;

- a. That the suspect is not obliged to provide a living for his wife and children because he is a predana.
- b. That the suspect was innocent of leaving the house / leaving his family because his wife had been kicked out.
- c. The problem regarding the suspect leaving the house cannot be processed under the PKDRT Law, but must be carried out by customary law through an institution because their marriage is an awkward marriage.

The researcher will examine each of the points in the statements of the adat experts as follows:

- a. The statement that the suspect is not obliged to provide maintenance for his wife and children because he is a predana can be refuted by:
 - 1) This is not in line with Law No. 1 of 1974 concerning Marriage Article 31 paragraph (3) the husband is the head of the family and the wife is a housewife; Article 34 paragraph (1) The husband is obliged to protect his wife and provide all the necessities of household life according to his ability; Article 45 paragraph (1) Both parents are obliged to maintain and educate their children as well as possible.⁴
 - 2) If the suspect must be viewed as a housewife (pradana), then as a housewife who abandons her child can also be punished as referred to in Article 9 paragraph (1) of the PKDRT Law "Everyone is prohibited from abandoning people within the scope of his household, even though according to the applicable law. for him or because of an agreement or agreement he is obliged to provide life, care or maintenance for that person.⁵ then the criminal provisions are regulated in Article 49 Letter a of the PKDRT Law.
 - 3) This is also contrary to the statement of the Hindu Religious Expert at the Ministry of Religion of Tabanan Regency, I WAYAN WIRTA which explained

⁴ Republic of Indonesia, Law Number 1 of 1974 concerning Marriage.

⁵ Republic of Indonesia, Law Number 23 of 2004 concerning Elimination of Domestic Violence.

that if a marriage occurs, where a man is a *predana (nyentana)*, the rights and obligations of a husband and wife in marriage These include:

- a) A husband even though his status as *predana (nyantana)* is still obliged to provide birth support (having a daily life) to his wife who is a *purusa*.
- b) The obligation of a wife who is a *purusa* is to remain a housewife in charge of serving her husband and children.

According to the researcher's analysis, when viewed from a humanitarian point of view, if the suspect still has to be seen as a *predana* or a housewife, he is still obliged to give attention and affection to his 4-year-old and 3-year-old children. As stated in Article 45 of Law Number 1 of 1974 concerning Marriage; "Both parents are obliged to maintain and educate their children as well as possible,"⁶ which the suspect did not do as long as the suspect left the house.

- b. A statement that the suspect is not guilty of leaving the house/leaving his family because his wife has been kicked out.

This contradicts the victim's statement in the victim's BAP. It is true that the victim previously said to the suspect that if the suspect no longer wants to live in the same house, please just leave, don't make the suspect appear to be the king of the house. The victim said that because she was angry with the reported party for being rude to their child while giving the medicine, but the victim didn't really want to kick the reported person out. Prior to the incident between the victim and the reported, there had been frequent quarrels.

Then In November 2013 the victim and the victim's mother (Witness) had visited the house of the suspect's parents in the State of Tabanan Regency to be invited to return home to restore harmonious relations in their household, but the suspect did not want to because he still had problems with the victim and the suspect as well. said that he regretted marrying the victim and said he would divorce the victim.

The statement that the suspect was innocent of leaving the house / leaving his family because his wife had been kicked out was also refuted by the Criminal Law expert at Udayana University, I GUSTI KETUT ARIAWAN who said that leaving the house as a form of irritation could be done but what was forbidden was abandonment, with the suspect leaving the house without providing physical and spiritual support to his wife and children is neglect as stated in Article 9 paragraph (1) of the PKDRT Law.

The action taken by the suspect by leaving the household because of the words of expulsion as an emotional outburst of the victim at that time, according to the analysis of the researcher, this cannot be called the reason for the abolition of the crime with "forced defense" as stated in Article 49 paragraph (1) of the Criminal Code. which reads ; Not punished, whoever commits an act of forced defense for himself or for another person, moral honor or property for himself or for another person, because there is an attack or threat of attack that is very close at that time which is against the law.⁷

The elements of a noodweer defense are:

⁶ Republic of Indonesia, Law Number 1 of 1974 concerning Marriage.

⁷ Republic of Indonesia, Law Number 1 Year 1946 of the Republic of Indonesia concerning Criminal Law Regulations.

- 1) The defense is forced.
- 2) Those who are defended are themselves, others, the honor of decency, or the property of themselves or others.
- 3) There was either a flash attack or an imminent threat of attack at that moment.
- 4) The attack was against the law.⁸

In this incident, the victim's angry outburst towards the suspect was triggered by the suspect's actions which, according to the victim, had been rude to their sick child and also as an accumulative of the quarrels that had occurred so far. Moreover, the act of leaving the family which then lasted for almost 3 months by not providing a living carried out by the suspect, is not a choice that must or is forced and is not the only option that can be taken by the suspect. Moreover, at the time the words of eviction occurred, it was not followed by physical coercion or physical assault by the victim against the suspect.

- c. The statement that the problem regarding the suspect leaving the house cannot be processed under the PKDRT Law, but must be carried out by customary law through customary institutions because their marriage is a *nyentana* marriage.

The statement of the expert on customary law also contradicts the Criminal Law expert at Udayana University Dr, I GUSTI KETUT ARIAWAN, SH, MH who explained that customary law is only the basis for carrying out marriages, which in this case they do by way of marriages that are awkward. The sudden marriage they do is only to assert their status in traditional life in Bali.

So based on the researcher's analysis of the expert's statement above, the suspect's actions are against the law as stated in Article 49 letter a of the PKDRT Law. Even though the victim and suspect previously had a violent marriage, the problem of neglect of the household which later occurred by the suspect must still be subject to the PKDRT Law.

4. Closing

Based on the discussion, it can be concluded that the termination of the investigation into cases of household neglect with the Police Report Number: LP/195/XII/2013/BALI/RES TBN Regarding Household Abandonment on the grounds of insufficient evidence is inappropriate because in the investigation process there is evidence- evidence in the form of witness statements, expert testimony and letters. As for the statement of the Customary Law Expert, it cannot be immediately used as a reference to stop this case because the *nyentana* marriage is one of the customary systems that regulates a procedure for carrying out a marriage. This is in line with Law No. 1 of 1974 concerning Marriage which gives freedom to each couple to choose the desired customary procedure for carrying out a marriage in accordance with the religious law adopted.

From the conclusions above, it can be recommended suggestions Efforts should be made to improve the quality of investigators / assistant investigators of the Tabanan Police Criminal Investigation Unit, especially the Women and Children Service

⁸ Hamzah, Andi, "Asas-Asas Hukum Pidana" dalam <http://www.hukumonline.com/klinik/detail>. 2 September 2021

Unit (PPA) so that they can better understand and carry out criminal investigation steps, in accordance with the Criminal Procedure Code and Perkap Number 6 of 2019 concerning Criminal Investigations

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