



Juridical analysis of the crime of embezzlement by sales at CV. Syabil media telecommunications

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ABSTRACT

The crime of embezzlement in office is embezzlement with aggravation, which means that there are certain elements of the act that make the punishment more severe than embezzlement in its basic form as regulated in Article 374 of the Criminal Code. The formulation of the problem in this study is how the application of material criminal law to the case of embezzlement in office committed by sales, and what is the basis for the judge's consideration in imposing a prison sentence of 2 years against the perpetrator of the crime of embezzlement in office committed by sales at CV. Syabil Media Telekomunikasi in Case Study Decision Number.894/Pid.B/2023/PN SRG. This research uses normative legal research methods with a statutory approach, case approach and conceptual approach. The results showed that the application of material criminal law by the Panel of Judges against the perpetrator of the crime of embezzlement in office stated that the defendant was legally and convincingly proven guilty of committing the crime of embezzlement in office as regulated in Article 374 because the perpetrator committed the crime. The conclusion of this research is that the judge decided on a prison sentence of 2 years to the defendant for the crime of embezzlement in office based on the aggravating and mitigating circumstances revealed in the trial, and the facts revealed in the trial.

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1. Introduction

Literally humans live by doing various activities to support survival. One activity that is very important in human survival is meeting the needs of daily life. In meeting the needs of life, of course, you have to work, work is a profession (Manajemen, 2021). Talking about professions, of course, one of them is bound in a company or agency, which of course cannot be separated from the elements of work. trust (Eva et al., 2019). A person who has received trust in an agency, of course there are those who have a position or position when the element of trust has been carried out, of course someone is obliged to protect it (Fatimah et al., 2023). This is related to Article 27 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that "Every citizen has the right to a job and a livelihood that is worthy of humanity (J. Hukum et

al., 2023). However, along with the times, a person's needs are increasing and the worker's salary or wage is not sufficient to meet his needs, so it is likely that it will lead to a person's intention to commit fraudulent acts (Rima et al., 2020). In this case, of course, the fraud is an offense or criminal event. Lately, one of the behaviors of violating the rule of law that results in a person being charged and contrary to the rules of Indonesian positive law is often called crime (F. Hukum & Warmadewa, 2020). Crimes that occur in society develop along with the development of society itself because crime is a product of society and must be overcome. Crime is a complex phenomenon that can be understood from many different sides. That is why in daily life we can catch various comments about a crime event that are different from one another. In our experience, it is not easy to understand crime itself (Kurnia et al., 2020).

One example of a crime that we often encounter in companies or agencies is the crime of embezzlement in office. The crime of embezzlement is an act of dishonesty by hiding other people's goods / property by one or more people without the knowledge of the owner of the goods with the aim of controlling, or being used for other purposes (Wibisono, 2023). The regulation of the crime of embezzlement is contained in Article 372 of the Criminal Code, but the author will discuss the crime of embezzlement in office in Article 374 of the Criminal Code (Rusli, n.d.). Basically, the actions of a person who has an office or position who uses the authority or rights he has deviantly contrary to the intent and purpose of granting the authority of the position, as well as committing acts against the law so that these actions harm other people or agencies by embezzling in the form of letters, goods, money, and documents (Indonesia, 2019). Then the act can be said to be the crime of embezzlement in office. The crime of embezzlement in office is a crime that relates to the moral or mental and trust that is built on a person's honesty (Novitasari et al., 2020). Therefore, this crime begins with the emergence of a party's trust that is carried out through the perpetrator of the embezzlement crime (Eva et al., 2019). The crime of embezzlement in office is part of the crime against human wealth, which is explicitly stated in the Criminal Code (KUHP). This research focuses on the juridical analysis of the application of material criminal law to cases of embezzlement in office committed by sales at CV. SYABIL MEDIA TELECOMUNICATIONS in verdict number 894/Pid.B/2023/PN SRG as well as the basis for the judge's consideration in imposing a prison sentence on the perpetrator of embezzlement in office with a case study of verdict Number 894/Pid.B/2023/PN Srg at the Serang District Court (Fatimah et al., 2023). This case attracted attention because the panel of judges sentenced the defendant to imprisonment for 2 years due to the existence of continuing actions. Therefore, this study aims to determine and understand the application of material criminal law and the basis for the judge's consideration in sentencing to imprisonment for 2 years in the case of embezzlement in office committed by sales at CV. Syabil Media Telekomunikasi in Decision Number: 894/Pid.B/2023/PN SRG (J. Hukum et al., 2023).

The results of this study are expected to contribute meaningful input for law enforcers, especially in law enforcement. against the crime of embezzlement in office (Fikri et al., 2018). In addition, this research also aims to strengthen judicial practice in Indonesia by providing deeper insight into the importance of imposing criminal sanctions on perpetrators of criminal acts, it is hoped that law enforcers can impose sanctions in accordance with the criminal acts committed by the criminal, in order to obtain appropriate and fair criminal sanctions, and fulfill a sense of justice for all parties, both perpetrators, for victims, and society (Rima et al., 2020).

2. Method

This research uses normative legal research methods with a qualitative legal approach. Normative legal research according to Peter Mahmud Marzuki is a process of finding legal rules, legal principles, and legal doctrines in order to find out about legal events that are happening and being studied. Normative legal research is conducted to find new theories, arguments, or concepts in resolving an ongoing legal event. The object of study of normative legal research is to focus on the system of legal norms relating to a legal event. By analyzing a legal event, and determining whether the legal event is correct or not and how the legal event

should be. Therefore, a research begins by looking for an event that occurs and then providing an assessment of the legal event in relation to the applicable legal norms (Putusan et al., 2022).

3. Analysis and Results

Crime only refers to the prohibition of an act, although the definition of crime does not include the issue of criminal liability, but criminal liability is not separated from the crime itself. Criminal responsibility is born with the continuation of the objective reproach (*verwijtbaarheid*) of the act declared as a criminal offense under the applicable criminal law, which subjectively to the maker who meets the requirements to be subject to punishment for the act (*No Title*, n.d.). The basis of the existence of a criminal offense is the principle of legality, while the basis for the punishability of the perpetrator is the principle of guilt. According to the dualistic view of criminal responsibility, in order for a punishment to be imposed, two elements must first be fulfilled, namely the objective element where this element can generally consist of an act or an effect and the subjective element consisting of the will or intention contained in the soul of the perpetrator, the element is formulated with the terms intent, intention and purpose (Amalia, 2017). A person can only be sentenced if the objective elements and subjective elements have been fulfilled. To determine whether the defendant in this case can be held accountable for his actions, the elements of Article 374 of the Penal Code charged by the public prosecutor will be described (Hutasoit, 2018). Article 374 stipulates On embezzlement committed by a person whose possession of property is due to an employment relationship, the article reads "Embezzlement committed by a person whose possession of property is due to an employment relationship or to a profession or to a wage, shall be punished by a maximum imprisonment of five years (Permainan et al., 2017)."

Basic Considerations of Judges in Imposing Criminal Sanctions of Imprisonment for 2 Years Against the Perpetrator of the Crime of Embezzlement in Office Committed by Sales at CV. Syabil Media Telekomunikasi Against Case Study of Decision Number. 894/ Pid.B/2023/PN SRG (Luh et al., 2023). In considering imposing criminal sanctions against defendants, judges are always required to hone conscience sensitivity, moral intelligence, and professionalism in upholding law and justice in the form of fair decisions (*No Title*, 2020). Judges' decisions must always be accountable to God Almighty and to the community, especially justice seekers (1,2,3,4), 2023). The Supreme Court has determined that judges' decisions must consider juridical, philosophical, and sociological aspects so that justice achieved, realized and accounted for in judges' decisions is justice oriented towards legal justice, moral justice, and community justice. The aspect of juridical considerations against the perpetrators of the criminal offense charged is an important context in the judge's decision (Palsu, 2018). The essence of juridical considerations is to prove the elements (*bestendallen*) of a criminal offense whether the defendant's actions have fulfilled and are in accordance with the criminal offense charged by the prosecutor/public prosecutor (Ali, 2015). It can be said further that these juridical considerations will directly affect the judge's verdict. Typically, in judicial practice in a judge's decision before these juridical considerations are proven and considered, the judge will first draw facts in the trial that arise and are a cumulative conclusion from the testimony of witnesses, the testimony of the defendant, and the evidence presented and examined at trial (Suryani et al., 2021). Basically, the facts in the trial are oriented towards the dimensions of locus, tempus delicti, and modus operandi of how the crime was committed, the cause or background of why the defendant committed the crime, then what were the direct or indirect consequences of the defendant's actions, what evidence was used by the defendant in committing the crime, and so on. Regarding the philosophical aspect, it is an aspect that is based on truth and justice. Meanwhile, the sociological aspect considers the cultural values that live in society (Puspita, 2022). The philosophical and sociological aspects of implementation require extensive experience and knowledge as well as wisdom that is able to follow the values of society (Yuridis et al., 2020). The application is obviously very difficult because it does not follow the values in society (Nomor & Juni, 2021).

4. Conclusion

In the decision of the Serang District Court number 894/Pid.B/2023/PN.Srg on the crime of embezzlement in office, the judge in this case sentenced the defendant Allen Rizki Bin (alm) Sutrisno to 2 (two) years imprisonment based on the following considerations a) Juridical considerations, namely considerations of judges based on factors revealed in the trial and by law have been determined as things that must be included in the decision in the form of indictments of public prosecutors, witness testimony, testimony of defendants, evidence and articles of law. b) Philosophical considerations, namely the wrongdoing of the defendant, the harm caused and the condition of the defendant; c) Sociological considerations, namely the impact of the defendant's actions on society.

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