

ANALYSIS OF THE CRIMINAL ACTION OF EMBRACTION AGAINST CAR RENTAL

(A Research in the Legal Area of the Medan District Court)

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Abstract. Formula problem on study This is application follow criminal fraud sale car for sale return to others, factor happening follow criminal car rental scam so that resulted car for sale to others too effort what is given so that follow criminal resulting car rental scams car for sale No spread wide to society . As for who became objective from study ie For knowing the application of the criminal act of fraudulent selling of cars to other people, knowing the factors of the occurrence of criminal acts of car rental fraud resulting in cars being sold to other people and knowing the efforts made so that the crime of car rental fraud which resulted in cars being sold did not spread widely to the public. Results study This show Application follow criminal fraud embezzlement rental car arranged based on chapter 372, 373, 374 and 375 of the Criminal Code. Based on a number of cases that have outlined on part before , offender embezzlement car snared with demands 4-6 years confinement prison. Factor reason happening follow criminal embezzlement car among them is factor economics, factor ignorance consequence law, factor exists opportunity / chance And factor weak system security rental party. Efforts that can done in countermeasures follow criminal embezzlement rental car ie through action preventive And repressive . Action preventive covers search background behind or reason tenant rental car, request guarantee form of personal data in a manner complete, check vehicle before lease, use driver Alone as well as make letter clear agreement. Action repressive covers enhancement effectiveness police in reveal doer, do investigation And investigation in accordance with the Criminal Procedure Code criminal , tracking And collection accurate evidence.

Keywords: Action Criminal, Criminal Law, Fraud, Car Rental Embezzlement

I. INTRODUCTION

The Unitary State of the Republic of Indonesia is a state based on law (*rechtstaat*) and not based on power (*machtstaat*). Law functions to regulate the relationship between one human being and another human being and the relationship between humans and the state so that everything runs in an orderly manner. Therefore, the purpose of law is to achieve peace by realizing legal certainty and justice in society. Legal certainty requires the formulation of rules in statutory regulations that must be implemented strictly. Therefore, all Indonesian people really hope that the law will be upheld and cannot take sides with anyone.

The State of Indonesia is a state based on law, which implies that all actions and patterns of behavior of every citizen must be in accordance with the norms and provisions regulated by the state. When talking about legal issues, we will be confronted with matters related to the social activities of human life in society which are manifested as a process of interaction and interrelationship between one human being and another human being in social life. A criminal act is an act that violates/violates a predetermined law. Where the law that has been determined is contained in the Criminal Code (KUHP). Destruction and damage to goods is one of the criminal acts contained in the Criminal Code (KUHP). This action has several elements, types, and sanctions, this unlawful act has a high risk value, besides the legal term of imprisonment (sanctions) it also has fatal consequences because destruction and destruction can harm other people who have become victims. Basically, the destruction of other people's property is very detrimental to the owner of the goods, whether the goods are damaged only partially or completely, so that the owner of the goods cannot use his property anymore. In addition, goods that have been damaged are something of value to the owner, with the This destruction of goods is very disturbing the peace of the owner of the goods. Destroying other people's property is a crime. Every crime or violation that occurs is not only seen from the point of view of the person who committed the crime, but in certain cases it can also be seen from the perspective of the victim as the person who is harmed in the crime.

The crime of embezzlement in Indonesia is currently one of the causes of the decline of the material welfare system which ignores the values of life in society. People's lives gradually began to change, respect for existing legal values began to

shift, people began to think materialistically and selfishly in dealing with this life, this also began to weaken people's sense of trust in fellow individuals.

The tendency of efforts to achieve material well-being by ignoring the values of life in society began to appear, so that many violations and illegal use of opportunities for self-interest began to emerge which ignored the rights of other people and existing norms. This is exacerbated by the increasingly widespread crime of embezzlement, where the crime of embezzlement will bring a negative side, namely violation of social rights and the erosion of the values of life in society. This is due to the lack of criminal responsibility that should be carried out by the perpetrators of the crime of embezzlement.

Criminal acts committed by individuals or groups create concern in society. The government as the leader of the nation is expected to play a role in maintaining security and order in social life. All crimes need to be tried in court in order to create legal certainty in society. Every crime or violation that occurs is not only seen from the point of view of the person who committed the crime, but in certain cases it can also be seen from the point of the victim as the person who is harmed in the crime.

The eradication of criminal acts of embezzlement must be prosecuted in a manner that is in accordance with what is contained in the Criminal Code, and involves the potential that exists in society, especially the government and law enforcement officials. Law enforcement in Indonesia is carried out by authorized state apparatus. The state apparatus authorized to examine criminal cases is the Police, the Prosecutor's Office and the Courts. The police, prosecutors and judges are three elements of law enforcement, each having a different role according to their field. All three of them have something in common in their main goal, namely reinstatement of convicts. Law functions to regulate the relationship between one human being and another human being and the relationship between humans and the state so that everything runs safely and in an orderly manner. Therefore, the purpose of law is to achieve peace by realizing legal certainty and social justice in society. Legal certainty requires that the formulation of rules in laws and regulations must be implemented strictly, therefore the purpose of law is to achieve peace by realizing legal certainty and social justice in society.

Therefore, all Indonesian people really hope that the law will be upheld and not be partial to anyone. The Unitary State of the Republic of Indonesia is a state based on law (*rechtstaat*) and not based on power (*machtaat*).² Regarding the meaning without rights of violating the law, it can be said that maybe a person does not have the right to commit an act that is not prohibited by a regulation at all. law How important this is to be realized by law enforcement officials and the public because it is important for this problem to be studied further. Therefore the author is interested in further research made in the form of a thesis entitled "Criminal acts of car rental fraud resulting in cars being sold to other people"

2. Literature Review

1. Definition of Crime and Elements of Crime

Crime is a term in the science of law that has an abstract meaning. In Dutch criminal law it is known as "*strafbaar feit*" which in Indonesian has translations with various terms, because there is no stipulation of the term translation given by the government for these terms which gives rise to various views to equate the term "*strafbaar feit*", such as "criminal incident", "criminal acts", and various other terms. *Strafbaar feit* is behavior (*handeling*) which is punishable by crime, which is against the law, which is related to mistakes and which is carried out by people who are capable of being responsible. Van Hamel formulates *strafbaar feit* as human behavior (*menselijke gedraging*) which is formulated in wet, which is against the law, which deserves to be punished (*strafwaardig*) and is done by mistake.

Criminal acts have an abstract understanding of concrete events in the field of criminal law, so that criminal acts must be given a scientific meaning and clearly defined to be able to separate them from the terms used in everyday life in society. Crime is a fundamental basis in imposing a sentence on a person who has committed a criminal act on the basis of a person's responsibility for the actions he has committed, but before that regarding the prohibition and threat of an act, namely regarding the criminal act itself, namely based on the principle of legality (principle of legality) . *legality*) principle which determines that no act is prohibited and punishable by punishment if it is not determined in advance in legislation, usually this is better known in Latin as *Nullum delictum nulla poena sine praevia lege* (no offense, no crime without regulation first), this saying comes from von feurbach, a German criminal law scholar.

In this case, against everyone who violates the applicable legal rules, thus it can be said of that person as the perpetrator of a criminal act or perpetrator of a criminal act. However, it must be remembered that the rules of prohibition and threats have a close relationship, therefore the incident and the person who caused the incident also have a close relationship. In connection with this definition of a crime, Bambang Poernomo, argues that the formulation of a criminal act will be more complete if it is structured as follows, that a criminal act is an act which is prohibited by a rule of criminal law and is punishable by punishment for anyone who violates this prohibition.

Crime is a basic part of an error committed against someone in committing a crime. So for there to be an error in the relationship between the situation and the action that caused reproach, it must be intentional or negligent. It is said that intention (*dolus*) and negligence (*culpa*) are forms of wrongdoing, while the term from the notion of error (*schuld*) which can cause a crime to occur is because a person has committed an act that is against the law so that for his actions he must be held responsible for all forms of criminal acts that have been committed in order to be tried and if it has been proven true that a

criminal act has been committed by a person, then he can be sentenced to a criminal sentence in accordance with the article that regulates it.

The criminal act in question is that a criminal act or criminal act is always an act that is inconsistent with or violates a rule of law or an act prohibited by a rule of law accompanied by criminal sanctions in which the rules are aimed at acts while the threats or criminal sanctions are aimed at people who did or the person who caused the incident.

b. Elements of a Criminal Act

When we describe a formulation of a delict into its elements, what we can first encounter is a mention of a human action, with that action a person has committed an act that is prohibited by law. Every crime contained in the Criminal Code (KUHP) can generally be broken down into elements consisting of subjective and objective elements.

Subjective elements are elements that are attached to the actor or related to the actor and include everything that is contained in his heart. While the objective elements are the elements that have to do with circumstances, namely in the circumstances in which the actions of the actor must be carried out.

The subjective elements of a crime are:

- a. Intentional or unintentional (*dolus or culpa*);
- b. Intent or *Voornemen* on an attempt or pogging as referred to in Article 53 paragraph 1 of the Criminal Code;
- c. Various purposes or ogbrands as contained, for example, in the crimes of theft, fraud, extortion, forgery and others;
- d. Planning in advance or *voorbedachte raad* as contained in the crime of murder according to Article 340 of the Criminal Code;
- e. The feeling of fear is included in the formulation of a crime according to Article 308 of the Criminal Code.

II. METHODS

1. Type of research

The type of research used in this study is a normative juridical approach. A normative juridical approach is used to analyze laws and regulations relating to the crime of online prostitution using online media .

2. Nature of Research

This research is analytical descriptive in nature, namely research that only describes the state of the object or event without any intention to draw general conclusions.

3. Data Types and Data Sources

The type of data used in this research is library research . Data was obtained through several literatures in the form of scientific books, laws and regulations and other documentation related to the crime of online prostitution by using online media. The source of data used in this study is secondary data in the form of primary legal materials, secondary legal materials and tertiary legal materials obtained through:

- a. Primary legal materials are laws and regulations, in this study used the Criminal Code, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions
- b. Secondary legal material is in the form of reading books that are relevant to this research.
- c. Tertiary legal materials, for example, encyclopedias, materials from the internet, bibliographies and so on.

4. Data Processing and Analysis

Data collected through literature study were analyzed by qualitative analysis. Qualitative analysis is an analysis based on the paradigm of the dynamic relationship between theory, concepts and data which is a constant feedback or modification of theories and concepts based on collected and related data .

III. RESULTS AND DISCUSSION

A. Follow up Criminal And Element follow Criminal

Term Crime comes from a term known in Dutch criminal law, namely *strafbaar feit* . *Straf* is defined as a crime or law, *baar* is defined as able or permissible and *feit* is defined as an act, event, violation and deed. But there is no official explanation of what *strafbaar feit* is all about . Our legislators have used the term *strafbaar feit* to describe what we know as a crime. Therefore, legal experts try to provide the meaning and content of the term. Unfortunately, until now there has been no uniformity of opinion. "Criminal acts are a basic understanding in criminal law (*normative juridical*). A crime or an *evil act* in a normative juridical sense is an act as manifested in abstracto in the criminal law. This means that the rules governing acts that are punishable by crime, parties that can be convicted and criminal sanctions that can be imposed on perpetrators of criminal acts. Criminal law experts each provide a different understanding of *strafbaar feit* as follows:

1. Moeljatno , "An act that is prohibited by a rule of law prohibits which is accompanied by threats (sanctions) in the form of certain crimes, for anyone who violates the prohibition".

2. Pompe, "Strafbaar feit is a violation of norms (disorder of law and order) that has been intentionally or unintentionally committed by an actor where the imposition of law on the perpetrator is necessary for the maintenance of legal order and the guarantee of the public interest."
3. Simons "Strafbaarfeit is an unlawful act that has been committed intentionally or unintentionally by a person who can be held accountable for his actions and by law has been declared as an act that can be punished.
4. Hazewinkel Suringa "Strafbaar feit is a human behavior that at a certain moment has been rejected in a certain association of life and is considered a behavior that must be abolished by criminal law by using coercive means contained in the law".
5. J. E Jonkers , He gives the definition of strafbaar feit into the following two meanings a. Short definition, strafbaar feit is an event (feit) that can be punished by law. b. The long definition, strafbaar feit is an unlawful behavior that is carried out intentionally or because of negligence by a person who can be accounted for.

In describing a formulation of an offense into its elements, an act or human action will be found, with that action someone has committed an action that is prohibited by law. Every crime contained in the Criminal Code can generally be broken down into elements consisting of subjective elements and objective elements.

IV. CONCLUSIONS

Based on result discussion And study above , then possible conclusions taken is as following :

1. Application follow criminal fraud embezzlement rental car arranged based on chapter 372, 373, 374 and 375 of the Criminal Code . Based on a number of cases that have outlined on part before , offender embezzlement car snared with demands 4-6 years confinement prison .
2. Factor reason happening follow criminal embezzlement car among them is factor economics , factor ignorance consequence law , factor exists opportunity / chance And factor weak system security rental party .
3. Efforts that can done in countermeasures follow criminal embezzlement rental car ie through action preventive And repressive . Action preventive covers search background behind or reason tenant rental car , request guarantee form of personal data in a manner complete , check vehicle before lease , use driver Alone as well as make letter clear agreement . Action repressive covers enhancement effectiveness police in reveal doer , do investigation And investigation in accordance with the Criminal Procedure Code criminal , tracking And collection accurate evidence .

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B. Legislation

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The Criminal Code

Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions.