

Criminal Responsibility of Money Laundering from The Proceeds of Narcotics Abuse in Bandar Lampung

ABSTRACT

Money laundering cases that originate from narcotics buying and selling transactions carry quite severe criminal sanctions, including being subject to corporal punishment and also being subject to fines. This research will use an approach juridical normative, implemented through study documents to conduct research and review sources of planned legal materials in the form of written regulations. Conclusions of Research is based on the reality obtained throughout hearing ongoing, the panel of judges did not get it information that can be liberating perpetrator from accountability legal action, either as justification and or reason forgiveness, therefore the panel of judges concluded that the action was carried out The suspect must be held accountable to him and because the perpetrator can be held responsible, then the defendant must be declared guilty of the case charged to him, and must be given a mandatory criminal sanction equal to his actions. Defendant criminal Money laundering is also responsible his active actions through the sale of narcotics are punishment criminal 9 years in prison as well penalty worth IDR 1,000,000.000,- (One billion rupiah) with conditions if the sanctions are not paid will replaced a sentence of 3 months in prison, decided several pieces of evidence were taken by the State and confiscated will crushed and burdened to pay court costs worth Rp. 2,000,- (two thousand rupiah).

Keywords : *Narcotics, Money Laundering, Crime.*

INTRODUCTION

Human created by God has reason and thinking that can be used to do everything something with will and consciousness self. Apart from reason, humans are also given lust. Lust created by humans can't live if you don't have it lust for food, lust for wealth and desire other. Various crimes that occur in Indonesia, whether committed by individuals as well as by corporations within the boundaries of a country's territory or carried out increasingly crossing the borders of other countries increase.ⁱ One of the crimes committed is an act corruption crime. The term corruption originates from Language latin, English,

and Dutch, which means literally refers to related corrupt, rotten, dishonest actions with finances.ⁱⁱ

A number of follow crime is the cause money laundering as stipulated in law follow criminal money laundering in Indonesia, namely bribery , corruption, psychotropic substances, narcotics, smuggling immigrants, smuggling power work, smuggling in the capital markets sector, smuggling in the sector banking, smuggling in the sector insurance, customs, excise, trade illegal weapon, trade human, terrorism, theft, kidnapping, embezzlement, fraud, counterfeiting, gambling, prostitution, sector taxation, sector forestry, field environment life, sector maritime affairs and fisheries, or follow criminal others were threatened punishment 4 years in prison or more.ⁱⁱⁱ

Criminal law in force in Indonesia is divided into two types, namely known criminal regulations in the Criminal Code and Special Criminal Law. Usually criminal regulations are known in the Criminal Code, Criminal Code called with criminal law only, while those spread outside the Criminal Code called with Special Criminal Law. One of the special criminal laws is follow criminal narcotics

Crime drugs is international crime (International Crime), organized crime (Organize Crime), have extensive network, has large financial support and uses sophisticated technology. Drugs have impact very broad negative aspects, including physical, economic, psychological and others.^{iv} Abuse drugs can cause impact of loss on condition health physical, as well as conditions psychic user narcotics ^v, then complied Law no. 22 of 1997 concerning Narcotics, states that Narcotics is an abbreviation from narcotics, psychotropics and addictive substances other ^{vi}. In general Narcotics are legal drugs that are used in the world of medicine , but with developments nowadays are increasing sophisticated then, Drugs Lots misused . Even circles young Lots once who uses drugs . Many of them use drugs with reason for pleasure mind, but unfortunately not many people know danger drugs.^{vii}

Abuse These illegal drugs are something complex threats and problems that can destroy generation nation. Until now still Lots people who are not yet

aware and understand about the dangers drug abuse (narcotics, psychotropics and substances and other addictive). Drug abuse can result addiction and results clinical or social functioning impairment.^{viii} The dangers posed from abuse drugs can be seen from various aspects, including aspect health, aspect economic, social aspects, aspects security, and legal aspects.^{ix}

Abuse by teenagers naturally influenced factors: from internal family factors such as relationships between member disharmonious family, incomplete family, lack of communication between members family, family is too restrictive personal life, family who do not practice enough life religion and family whose parents have used drugs. Another factor is factor external originate from influence bad from environment social, influence from outside such as peer groups and lack thereof attention from the government.^x

Act criminal narcotics, indeed growth other things like that follow criminal perpetrator laundering money from results abuse narcotics. Case money laundering that started narcotics buying and selling transactions are regulated in Article 101 paragraph (3) and Article 136 of Law no. 35 of 2009 related narcotics give penalty criminal Enough heavy some of which can be worn corporal punishment and may also be imposed criminal fine.^{xi} Thus, understanding money laundering is a effort the act of concealing or disguising origin proposal for money or property riches results follow criminal through various financial transactions for money or property the wealth is visible as if originate from legitimate activities.^{xii}

Act criminal money laundering is commonly called with *money laundering*, in Indonesia itself this problem is still not resolved. Crime Money laundering is also a crime problem systematic transnational because the operation of national law in context of international cooperation as has been called for by UNCAC in 2003 in the form of obligation of participating countries to take action prevention through national law as well as oblige every country to adopt in accordance with its national legal principles , actions legislative and other necessary actions, to address the classified activities to in action form criminal money laundering^{xiii}, where the core process of money laundering can

be classified into 3 stages of activity, namely: *placement* , *layering* and *integration* . Application These three activities can run separately or simultaneously , but basically executed sequentially .^{xiv}

In the Indonesian context, the social problem is whether Indonesia's anti-money laundering regime is sufficient to support effort prevention and eradication Circulation dark narcotics in the country.^{xv} Based on the problem, the research purpose is to find out the accountability process criminal perpetrator laundering money from results abuse narcotics and understand the consequences of criminal law perpetrator laundering money from results abuse narcotics .

RESEARCH METHODS

This research use an approach juridical normative, implemented through study documents to conduct research and review sources of planned legal materials in the form of written regulations, namely statutory regulations invitation, decree or decision court, principle as well as legal principles, legal theories, and expert opinions or doctrines.

RESULTS AND DISCUSSION

Criminal liability cannot be separated from criminal acts. This means that a person cannot be held accountable before he commits a criminal act. In order to be held criminally responsible, the defendant must be proven to have committed a crime. For example, the defendant Jepri Susandi alias Uje bin Alm Ismail has been legally proven and convinced of committing a crime. The judge viewed the criminal act based on valid evidence that had been presented in court. In addition, the suspect's actions also fulfilled the elements of a criminal act that must be accountable to the suspect. These elements include:

1. Everyone's Element.

What is meant in this case is an individual who is a legal subject who commits a criminal act, or a suspect of a criminal act who can be held accountable for all actions he has committed. This aims to convince the judge that the party is truly a suspect, as stated in the Public Prosecutor's indictment as a criminal perpetrator. In front of the Public Prosecutor's trial, he presents a person, then he explains his name and identity to the Panel of Judges' questions. After being matched, it turns out that the name and identity are the same as the Public Prosecutor's indictment, and has been confirmed by the witnesses, so it can be concluded that the defendant Jepri Susandi Alias Uje Bin Alm Ismail who is mentioned in the indictment as a suspect participated in the criminal act charged until there is no Mistake in Persona.

2. Elements of placing, spending, depositing, exchanging, disguising, or hiding, investing, storing, granting, inheriting, and/or transferring money, property, and objects or assets in the form of movable or immovable goods, both tangible and intangible, originating from narcotics crimes and/or narcotics precursor crimes. Based on the statements of the witnesses, it is true that the defendant began to carry out narcotics distribution transactions from DIKI (Wanted List) by purchasing 100 (one hundred) grams worth Rp. 80,000,000 in early 2015. Then in 2016, the defendant got to know Mr. MUZAKIR (Wanted List) through Mr. DIKI while the defendant was serving a sentence at Way Hui Prison, Bandar Lampung. Initially, the defendant ordered and received one package of narcotics from Mr. MUZAKIR every 2 (two) months totaling 500 grams. In the following year, as much as 1 (one) kilogram, then as much as 2 (two) kilograms and above in 2018 until the arrest of narcotics ordered by the Defendant to Mr. MUZAKIR as much as 7 (seven) kilograms. In committing the narcotics crime, the Defendant was assisted by Mr. GUNTUR, Age + 9 years, working as a Laborer and living in Kelapa Kebun

Village, Teluk Betung Utara, Bandar Lampung, and is currently still serving a sentence at the Way Hui Bandar Lampung Narcotics Prison. Mr. LIANA, Female, Age + 33 years, and living in Tanjung Gading, Bandar Lampung and the witness Ade Irawan Alias Gajah Bin Mukhtar. The Defendant has carried out narcotics pick-up and receipt activities 5 times and received assistance from Witness Hery Irawan Alias Ade Alias Gajah Bin Mukhtar. The profits from the sale of narcotics were diverted by the Defendant by changing the form of assets, namely land, cars, motorbikes, and houses, with the aim that the actions carried out by the Defendant would not be known by other people.

On Saturday, August 10, 2019, at 04.45 WIB, investigators from the Lampung BNNP consisting of Witness Richard PL Tobing, Witness Surya Nugraha, Witness Haris Sutanto arrested suspect Jepri Susandi Als Uje Bin Alm Ismail when he was about to perform the dawn prayer at the Cigadung complex, Karang Tanjung District, Pandeglang Banten. Previously, witnesses from the Lampung BNNP officers arrested Witness Hery Irawan Als Ade Als Gajah Bin Mukhtar. Then, a search was conducted at the Defendant's residence and evidence was found. Furthermore, the money obtained by the Defendant from the profits of the narcotics transaction was entered into a bank savings book and ATM. The Defendant made payments for the sale and purchase of narcotics by transferring the money through the bank. Based on the facts at trial, the Defendant did not have a permanent job other than selling and buying narcotics. The defendant placed his assets by changing the form of the assets, namely into an account with the aim that the actions carried out by the Defendant would not be known by others. That the Defendant committed the act of hiding or disguising assets originating from the proceeds of illicit drug trafficking with the intention of not knowing the source of his assets, so that the assets originating from the proceeds of criminal acts (illegal) seemed to be legitimate assets. Based on this, the actions that were fulfilled were placing, paying or spending, depositing, exchanging, hiding, investing, saving, granting, and/or transferring money, assets, and objects or assets in the form of movable or immovable objects, tangible or intangible originating from narcotics crimes or this second element has also been legally fulfilled by the Defendant. The Panel of Judges is of the opinion by considering the defense of

the defendant and the defendant's attorney. Because, the defense was carried out not in accordance with the legal facts at the trial where all the contents of the Public Prosecutor's demands were clear and the Second Primary Alternative Charge had been proven. The Defendant and the Defendant's Attorney could not prove that some of the Defendant's assets that were confiscated belonged to the Defendant, so the Panel of Judges stated that the Defendant's and his attorney's defense was no longer relevant to consider. The elements of forgiveness consist of not being able to be held responsible due to mental disability, not yet 16 years old, coercion, forced defense, statutory provisions and office orders. If the above elements are present in the perpetrator, the judge decides not to punish the perpetrator for the following reasons. From the facts obtained during the trial, the panel of judges did not obtain information that could free the perpetrator from legal responsibility, either as justification or as a reason for forgiveness. Therefore, the panel of judges concluded that the actions committed by the suspect must be accountable for their actions. Because the perpetrator can be held accountable for his actions, he is found guilty of the case charged against him, and must be given mandatory criminal sanctions that are commensurate with his actions

To provide criminal law to the perpetrator, it is first necessary to consider the aggravating and mitigating conditions. Aggravating conditions:

- a. The defendant has previously been convicted and is currently serving a crime in another case;
- b. The defendant did not support the government's program to eradicate Narcotics Crime.

Mitigating circumstances:

- a. The defendant admitted and regretted his actions;
- b. The defendant behaved politely during the trial. The Panel of Judges disagreed with the Public Prosecutor's demands regarding physical punishment, considering that the Defendant is currently committing a crime in another case, namely Case Number 1329/Pid.Sus/2019/PN

Tjk with a threat of 17 years in prison (which has permanent legal force) and Case Number 362/Pid.Sus/2020/PN Tjk with a threat of the death penalty (still in the cassation process). The Panel of Judges continues to consider the balance and harmony based on legal logic between the decisions. The Panel previously anticipated the possibility of a decision being upheld or a change to a decision that did not yet have permanent legal force. This is because it is still in the cassation process which will return to the principles and provisions of criminal law that are closely related to the decision in this case. The Panel of Judges considered this to be very fair for the Defendant;

The defendant is currently serving a sentence in another case, namely Case No. 1329/Pid.Sus/2019/PN Tjk with a prison sentence of 17 years (has permanent legal force) and Case No. 362/Pid.Sus/2020/PN Tjk with the death penalty (still in the cassation process) so that no detention is carried out in this case, the Panel of Judges will not consider this further. Considering Article 137 letter a of the Republic of Indonesia Law No. 35 of 2009 concerning Narcotics and Law No. 8 of 1981 concerning Criminal Procedure Law, Law No. 8 of 1981 concerning Criminal Procedure Law, Law No. 48 of 2009 concerning Judicial Power, Law No. 49 of 2009 concerning General Courts, and Supreme Court Regulation No. 4 of 2020 concerning Administrative Procedures and Electronic Trial of Criminal Cases in Court, as well as other related laws and regulations. To be held accountable for his actions, the panel of judges sentenced the defendant to 9 years in prison and a fine of Rp. 1,000,000,000, - with the provision that if the fine is not paid it will be replaced with imprisonment for 3 months, determined that several pieces of evidence were forcibly taken to the state and destroyed and demanded that the suspect pay court costs of Rp. 2,000,000, -.

Based on this description, it can be analyzed that the defendant was proven to have committed a criminal act, which is regulated in the provisions of the law as an act that can be punished, during the trial. If the instructions from the witness's statement, the perpetrator's statement, the tools and evidence are proven to be interrelated, it is certain that the defendant Yogi Yosata was legally

proven to have committed the crime. The crime of money laundering committed by the defendant is active, not passive (obtaining or knowing that there is a placement, transfer, payment, grant, donation, exchange, deposit, or use of assets that are known or suspected to be the result of a crime). Based on the subjective element or mens rea, the formulation of the crime of money laundering through the sale of narcotics determines that the crime was committed with planning, knowing or suspecting that the assets owned came from a crime with the aim of disguising and hiding the assets.

Examining the subjective element, it is necessary to understand that the criminal law on money laundering adheres to the principle of the perpetrator's guilt. The perpetrator's actions have fulfilled the element of mensrea in Article 5 paragraph (1) of Law Number 8 of 2010 concerning the Crime of Money Laundering, namely intentionally if seen from the facts that have been proven. In the theory of legal responsibility, it is explained that a person who has legal responsibility for certain actions can be subject to sanctions or fines for violating the law. Sanctions are given for actions that make him responsible. Absolute responsibility is an act that causes losses and there is a relationship between the act and the consequences of the act. The defendant was proven to have legally violated Article 137 letter a of the Republic of Indonesia Law No. 35 of 2009 concerning narcotics, the basis for determining the sentence is the same and it is clear that the crime committed by the suspect Jepri Susandi.

CONCLUSION

According to discussion, it can be concluded as follows. First, based on the facts obtained during the trial, the panel of judges did not obtain information that could free the perpetrator from legal responsibility, either as justification or as a reason for forgiveness. Therefore, the panel of judges concluded that the actions carried out by the suspect must be accountable. Because the perpetrator can be held accountable, the defendant must be found guilty of the case charged against him, and must be subject to mandatory criminal sanctions commensurate with

his actions. The perpetrator's actions have fulfilled the element of mensrea in Article 5 paragraph (1) of Law Number 8 of 2010 concerning the Crime of Money Laundering.

Second, the defendant in the crime of money laundering is responsible for his actions through the sale of narcotics (Decision Number: 755/Pid.Sus/2020/PN.Tjk): sentenced the suspect to 9 (nine) years and a fine of Rp. 1,000,000,000,- (one billion rupiah) with the provision that if the fine is not paid it will be replaced with imprisonment for 3 (three) months, decided to destroy several pieces of evidence that had been taken by the State and confiscated by the State and charged court costs of Rp. 2,000,- (two thousand rupiah).

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