

Criminal Responsibility For Determination Of Suspects Of Duck Theft Assault Through Video Recording Evidence Obtained From Whatsapp At Labuhanbatu Police

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Abstract

Criminal liability for the determination of suspects in the abuse of duck theft which is proven through video recordings that have been sent many times to the victim's family so that this is seen from the aspect of Article 184 of the Criminal Procedure Code and the aspect of Law Number 19 of 2016 concerning Electronic Transaction Information (ITE) so that the video recording evidence used as evidence by the Labuhanbatu Police investigators fulfills the elements to determine a suspect for the perpetrator without taking expert testimony and conducting a forensic test on the video recording obtained via WhatsApp as social media so that law enforcement against perpetrators of acts of violence and abuse that meet the elements of the crime that has been processed is seen to be irregular with the provisions of the applicable law in law enforcement so that the perpetrator must be held accountable for his actions through evidence of video recordings obtained through social media to determine the perpetrators as suspects, even though legal norms clearly function as guidelines for legal relations in community and state life. However, in reality, law enforcement against vigilante actions that meet the elements of Article 170 or Article 351 of the Criminal Code by Labuhanbatu Police investigators fulfilling the elements to determine the suspect for the perpetrator without taking expert testimony and conducting a forensic test on the video recording obtained through WhatsApp as social media so that law enforcement against perpetrators of acts of violence and abuse that meet the elements of a crime that has been processed is seen to be irregular with the provisions of the applicable law in law enforcement so that the perpetrator must be held accountable for his actions through evidence of video recordings obtained through social media to determine the perpetrators as suspects, even though legal norms clearly function as guidelines for legal relations in community and state life. However, in reality, law enforcement against vigilante actions that meet the elements of Article 170 or Article 351 of the Criminal Code by investigators from the Labuhanbatu Police for duck theft does not reflect the law enforcement expected for the perpetrators who force the perpetrators to be determined as suspects to be held accountable for their actions. This researcher uses the Normative Juridical research method using primary data and secondary data with the interview method as supporting data with related agencies by drawing deductive conclusions. The results of the study explain that (1) Law enforcement against vigilante actions that meet the elements of Article 170 of the Criminal Code concerning violence or Article 351 of the Criminal Code concerning abuse must be processed in accordance with applicable legal regulations in order to create law enforcement and legal certainty and justice for the victim. (2) The legal consequences of vigilante actions have resulted in the law not running properly but must be applied in accordance with the applicable legal mechanism for the investigation process so that when determining suspects for perpetrators it can be more effective so that there needs to be an increase in legal awareness in society so that society understands its rights and obligations, and law enforcement officers must improve the performance of law enforcement so that the law enforcement desired by society can be realized. (3) Criminal responsibility for the perpetrators of the duck theft assault has been determined as suspects by investigators from the Labuhanbatu Police, although in the end peace was made between the victim and the suspects as a form of responsibility for the perpetrators taking the law into their own hands for the duck theft carried out by the victim, although the victim will still be processed through the applicable law for his actions.

Keywords: Accountability, Criminal, Evidence, Video, WhatsApp.

INTRODUCTION

Criminal liability for the determination of suspects in the abuse of duck theft which is proven through video recordings that have been sent many times to the victim's family so that this is seen from the aspect of Article 184 of the Criminal Procedure Code and the aspect of Law Number 19 of 2016 concerning Electronic Transaction Information (ITE) so that the video recording evidence used as evidence by the Labuhanbatu Police investigators fulfills the elements

to determine a suspect for the perpetrator without taking expert testimony and conducting a forensic test on the video recording obtained via WhatsApp as social media so that law enforcement against perpetrators of acts of violence and abuse that meet the elements of the crime that have been processed shows irregularities with the provisions of the applicable law in law enforcement so that the perpetrator must be held accountable for his actions through evidence of video recordings obtained through social media to determine the perpetrators as suspects, even though legal norms clearly function as guidelines for legal relations in community and state life. However, in reality, law enforcement against vigilante actions that fulfill the elements of Article 170 or Article 351 of the Criminal Code by investigators from the Labuhanbatu Police for duck theft does not reflect the law enforcement expected for the perpetrators who insist on the perpetrators being named as suspects to be held accountable for their actions.

The use of information technology plays an important role in trade and national economic growth to realize public welfare. The government needs to support the development of information technology through legal infrastructure and its regulations, so that the use of information technology is carried out safely to prevent its misuse by paying attention to the religious and socio-cultural values of the Indonesian people (Herlien Budiono, *The Principle of Balance for Indonesian Contract Law-Contract Law Based on Indonesian Wigati Principles*, 2006:208). Herlien Budiono said that legal certainty is a characteristic that cannot be separated from law, especially for written legal norms. Law without certainty value will lose its meaning because it cannot be used as a guideline for behavior for everyone. Apeldoorn said that legal certainty has two aspects, namely the determination of law in concrete matters and legal security. This means that the party seeking justice wants to know what the law is in a particular matter before starting a case and protection for the parties in the arbitrariness of the judge.

The concept of legal certainty encompasses a number of interrelated aspects. One aspect of legal certainty is the protection given to individuals against the arbitrariness of other individuals, judges, and the administration (government). It is the belief in legal certainty that individuals should be able to relate to what individuals can expect the authorities to do, including the belief in the consistency of the decisions of judges or administration (Ratna Nurul Afiah, *Evidence in Criminal Proceedings*, 1989:14).

To prove the act charged to a defendant and to obtain material truth that will lead the judge to a belief that the defendant is truly guilty, the court conducts an examination process known as proof. Article 184 paragraph (1) of the Criminal Procedure Code has regulated the evidence that is recognized as valid in the trial, namely in the form of witness statements, expert statements, letters, instructions, and the defendant's statement. In addition, for the purposes of proof, the presence of objects involved in a crime is also very necessary. The objects in question are commonly known as "evidence". All evidence is shown by the presiding judge to the defendant by asking whether the defendant recognizes the evidence and if necessary it is also shown to the witness, in accordance with what is regulated in Article 181 paragraph (1) and (2) of the Criminal Procedure Code. The evidence is shown to prevent evidence that has nothing to do with the defendant's case from being used as evidence, in addition to the possibility of the evidence being mixed up, so that the goods used as evidence are not known to the defendant or witnesses. It is unfortunate, although the position of evidence is very important in the process of proof in the Indonesian criminal justice system, namely to support and strengthen valid evidence and to obtain the judge's conviction of the guilt charged by the Public Prosecutor to the defendant, there is not a single article in the Criminal Procedure Code currently in force in Indonesia that provides a definition of what is actually meant by evidence. According to Andi Hamzah, evidence in a criminal case is the goods concerning which the crime was committed (the object of the crime) and the goods with which the crime was committed, namely the tools used to commit the crime, for example a knife used to stab someone. Also included is evidence of the results of the crime,

for example state money used (corruption) to buy a private house, then the private house is evidence, or the results of the crime (Andi Hamzah, Legal Dictionary, 1986:100).

The determination of criminal sanctions in the form of fines in criminal legislation is not merely a matter of technical legislation, but rather an inseparable part of the substance or material of the legislation itself. This has received serious attention considering the various limitations and capabilities of criminal law in combating crime. Moreover, there is a tendency in legislative policy products that criminal law is almost always used to intimidate or secure various crimes that may arise in various fields. This kind of phenomenon gives the impression that it is felt to be less than perfect or bland if a legislative product does not have criminal provisions (sanctions) (Barda Nawawi Arief, Some Aspects of Criminal Law Enforcement and Development Policy, 1994:27). In the Criminal Code that adopts the Single Track System, namely the imposition of sanctions only includes criminal sanctions that are of a suffering nature as a form of punishment. While the Double Track System in the latest Criminal Code is the imposition of sanctions not only regulates criminal sanctions but also regulates sanctions for actions. Criminal sanctions and sanctions for actions are two different types of sanctions. Criminal sanctions emphasize the element of retaliation while sanctions for actions are more oriented towards community protection and development. The imposition of criminal penalties that have the aim as an aspect of retaliation and as an aspect of improvement or rehabilitation, but in practice the imposition of criminal penalties tends more towards retaliation only.

Different from the investigation process carried out by the Labuhanbatu Police related to the determination of suspects for the perpetrators due to the previous mob taking the law into their own hands against the perpetrators of the duck theft that occurred in Sigambal, Rantau Selatan District, Labuhanbatu Regency so that finally the victim of the abuse carried out by the community made a report to the police regarding the abuse against him represented by the victim's own parents so that in the process the investigator through a case title determined 4 (four) suspects whose evidence was carried out by the investigator seemed strange, the initial evidence provided by the reporter was in the form of a video recording obtained from another party via WhatsApp as a social media so that the evidence was a reference for witnesses who witnessed the video recording which in fact no one saw the incident directly and was not at the scene of the crime, this then strangely the investigator only showed the video recording to the Reporting witnesses without any expert testimony on the video recording obtained via WhatsApp and also without going through the forensic test stage by directly determining the perpetrators as suspects in the incident.

RESEARCH METHODS

This research method is a normative legal research. The data used is secondary data consisting of; primary legal materials and secondary legal materials. (Peter Mahmud Marzuki, Legal Research, 2006:141). Data collection is carried out through literature studies and document studies. Data analysis is carried out using a conceptual approach and a statute approach and a case approach. So that the data analysis uses qualitative analysis by concluding deductively on the determination of the suspect of the perpetrator of the theft of ducks through evidence of video recordings obtained from WhatsApp at the Labuhanbatu Police.

RESULT AND DISCUSSION

1. Criminal Responsibility for Suspects of Duck Theft Abuse Through Evidence of Video Recordings Obtained from WhatsApp

According to the 1945 Constitution of the Republic of Indonesia, Indonesia is a country of law. The country of law referred to in this case is a country that upholds the supremacy of law to uphold truth and justice. In general, in every country that adheres to the concept of a country of law there are three basic principles, namely the supremacy of law, equality before the law, and law enforcement in a manner that does not conflict with the law (due process of law). Law as a series of regulations that are mandatory, which determine human behavior in the community environment made by authorized official bodies, violations of these regulations result in action being taken, with certain penalties, likewise Indonesian society must submit to and obey the applicable law, so that the law can carry out its function as a means of social control properly in order to achieve justice.

However, law enforcement by law enforcers often does not reflect the values of social justice, resulting in deviant behavior, namely vigilantism (*eigenrichting*). Law enforcement is the process of making efforts to uphold or function legal norms in real terms as guidelines for human behavior in carrying out social contact which has recently become a problem in law enforcement in Indonesia. Acts of vigilantism or acts of violence and abuse are criminal acts. Criminal acts are acts that are prohibited by law and are subject to criminal penalties.

Violent crimes or abuse are expressly regulated in the Criminal Code. Violent acts committed against another party are a form of human activity that has an indication of being against the law or contrary to applicable legal regulations, including speech or physical actions that are real, and result in damage to property, physical or even death of the victim. Although the form has the same effect, the reasons or motives that drive someone to commit violence can vary. The main factor as a predisposition to violent behavior in a person is the emotional state and condition.

According to Stephan, the emotional state that is seen as the main cause of aggression is anger. Meanwhile, according to Gurr, violent behavior is more emphasized on political violence, namely all incidents whose main element is the threat of using power. Affirmation through Article 170 of the Criminal Code or Article 351 of the Criminal Code has not been able to enforce the law against cases of vigilante action. Violent actions or violent crimes committed by perpetrators of criminal acts can be punished based on Article 170 of the Criminal Code. The legal structure based on Law No. 8 of 1981 includes the Police, Prosecutor's Office, Courts, the authority of law enforcement agencies is guaranteed by law. So that in carrying out their duties and responsibilities they are free from the influence of government power and other influences.

The position and function of the police have been regulated in Law Number 13 of 1961 concerning the Main Powers of the State Police. Based on Article 2 Paragraph 1 of Law Number 13 of 1961 concerning the Main Powers of the State Police, it is detailed as follows:

- a. Maintaining order and ensuring public security;
- b. In the field of justice, conducting investigations into crimes and violations according to the provisions of the Criminal Procedure Law and other State regulations;
- c. Supervising religious beliefs that can endanger society and the State;
- d. Carrying out other special tasks assigned to it by a State regulation.

Another institution that enforces the law in cases of violence or abuse is the prosecutor's office. The authority and duties of the prosecutor's office are regulated in Article 30 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. Law enforcement against cases of vigilantism that meet the elements of Article 171 of the Criminal Code or Article 351 of the Criminal Code must be enforced, law enforcement officers must be more proactive in upholding justice for the victims. In fact, vigilantism has been rampant in

society. The perpetrators suspected of committing crimes of violence or abuse are people who are weak in their own legal knowledge and do not believe in the existence of the law so that they take arbitrary actions.

In the case example of vigilante action in this study, one of the phenomena that occurred, on Friday, August 17, 2024, it started with a duck theft perpetrator in Kampung Sawah Sigambal, Sigambal Village, Rantau Selatan District, Labuhanbatu Regency, where the masses at that time who were members of the community elements in Kampung Sawah committed acts of violence against the duck theft perpetrator named Ucok Baba and Dacamal as the perpetrator of the theft of a duck, as a result of the blows from the crowd that hit the body of the duck theft perpetrator sat on the ground in front of the resident's house with bruises on the head and body without any further action which was then secured by the local neighborhood head and the duck theft perpetrator was taken to the nearest Police Post in Sigambal, then the perpetrator was directed to be followed up to the Bilah Hulu Police for questioning together with the victim, the owner of the duck was also questioned due to the theft of the victim's duck, so that the perpetrator was detained named Ucok Baba due to having committed a previous crime called a recidivist, and while Dacamal was released due to not being a recidivist. Then 4 (four) days later, Ucok Baba's parents made a report to the Labuhanbatu Police because they could not accept their child being beaten by residents which went viral on social media, so with Ucok Baba's authority, he asked his father to make a police report. That after that through a long process the police named 4 (four) suspects based on the report of the father of Ucok Baba who was the victim of the mob's rampage for the theft of the duck, as a result the community as a participant in the beating was named as a suspect through evidence of a video recording shown to the witnesses of the beating by the mob (Zainal Abidin Pakpahan, Legal counsel for the community who has been named a suspect, (interview) at the ZAP&ZAP Law Office in Sigambal Rantauprapat, 2025:03). Thus, as a result of this act, the victim filed a complaint against law enforcement officers. If we receive unfair treatment, we as a community should not retaliate with what the person himself has done, but the act must go through a legal process, then the one who decides the case is the judge in court.

According to Wagiman Martedjo, in principle, vigilante action is prohibited because the Criminal Code regulates acts of violence and persecution. As a legal objective, vigilante action reflects legal order and legal certainty. The application of the principle of legal certainty is a basic norm that is outlined in positive law and which is not considered by legal science to originate from more general rules, so the principle of law is the deposition of positive law in society. James Erickson Tamba as a criminal law expert argues that the Republic of Indonesia is a State of Law where everything is regulated by the State and Law, in this case law can be interpreted as unwritten laws and regulations. The implementation of the State is regulated by law. The law itself regulates every social relationship and regulates the rights and obligations of the community. Every citizen has rights and obligations. The obligation as an Indonesian state is to comply with laws and regulations. And the rights of every community have limitations. In terms of public affairs, it is handed over to the government, including in terms of legal settlement. The community is not allowed to resolve problems because the settlement of cases has been handed over to the judicial power.

The elements of Article 170 are as mentioned above, namely, whoever openly and with joint force uses violence against people or goods, is threatened with a maximum imprisonment of five years and six months. The case regarding the act of taking the law into one's own hands that has been explained above fulfills the element of whoever, namely the person who commits violence against another person. And the second element, the guilty person is threatened with a maximum imprisonment of seven years, if he intentionally destroys goods or if the violence used results in injuries. The case of taking the law into one's own hands in several examples of cases above has resulted in injuries to other people so it is very clear that it has fulfilled the second element, and the third if the violence results in serious injuries, the threat of a maximum

imprisonment of nine years. And if it results in death, the threat of a maximum imprisonment of twelve years (Barda Nawawi Arief, *Some Aspects of Criminal Law Enforcement and Development Policy*, 2011: 89).

Departing from the idea that becomes the issue of justice seekers regarding the problem that most often becomes discourse is about the issue of justice in relation to the law. This is because the law or a form of legislation that is applied and accepted with different views, views that consider the law to be fair and vice versa the law is unfair (A. Hamid S. Attamimi: *Developed by Maria Farida Indrati S, from the Legal Science Lecture, Types, Functions, and Content Material*, 2007:25).

John Rawls, who is seen as a "liberal-egalitarian perspective of social justice", argues that justice is the main virtue of the presence of social institutions. However, the virtue for the whole society cannot ignore or challenge the sense of justice of every person who has obtained a sense of justice. Especially the weak society seeking justice. Justice can only be understood if it is positioned as a condition that is intended to be realized by law. Efforts to realize justice in the law are a dynamic process that takes a lot of time. These efforts are often also dominated by forces that fight within the general framework of the political order to actualize it (John Rawls: *A Theory Of Justice Theory Of Justice The Basics Of Political Philosophy To Realize Social Welfare In The State*, 2006:143).

Such problems are often found in concrete cases, such as in a court proceeding of a defendant in a criminal case (criminal of justice) or a defendant in a civil case (private of justice) or a defendant in a state administrative case (administration of justice) or vice versa as a plaintiff feels unfair towards the decision of the panel of judges and vice versa the panel of judges feels with their conviction that the decision has been fair because the decision has been based on legal considerations written in the form of statutory regulations. The theory of proof is based on Positive Law (Positif Wettwlijks theorie) (Andi Hamzah, *Criminal Procedure Law in Indonesia*, 1996:251).

If so, how is the view of justice according to the generally applicable rules or regulations that regulate human relations in society or positive law (Indonesia). Concretely, law is a set of principles and rules that regulate relations between humans in society, whether they are kinship, family in a country's territory. And the legal community regulates its life according to the same values in the community itself (shared value) or both have certain goals (Mochtar Kusumaatmadja dan B. Arief Sidharta, *Introduction to Legal Science, A First Introduction to the Scope of Legal Science*, 2000:4). People can consider justice as an instinctive desire that is expected to be beneficial to themselves. The reality of absolute justice is assumed to be a universal problem that applies to all humans, nature, and the environment, there should be no monopoly carried out by a handful of people or a group of people or people consider justice as an individual view that upholds the greatest benefit for themselves.

Then in the determination of criminal fines in the Criminal Code, it is a type of criminal sanction that differs in the percentage amount and threat of the type of criminal penalty with the new Criminal Code, both the penalty that is threatened as an alternative or a single penalty. Starting from Article 104 to Article 488 for crimes (Book II) and from Article 489 to Article 569 for violations (Book III), the formulation is a single prison sentence, imprisonment with an alternative fine, single imprisonment, imprisonment with an alternative fine, and a single threatened fine, this has been stated in the latest Criminal Code which was enacted in 2023.

2. Legal Power of Proving Criminal Cases of Duck Theft Abuse Through WhatsApp as Social Media

Proof is the presentation of evidence and a way to establish the truth. The legal definition of evidence, proof, and proof is in accordance with its generic meaning (Andi Hamzaah: *Law Dictionary*, 1986: 78). So Indonesia itself and elsewhere, criminal justice adheres to the theory of negative legal proof. Judges consider valid evidence to be proof (O.S. Hiariej, Eddy, *Theory and*

Law of Proof, 2012:35). Article 183 of the Criminal Procedure Code specifically describes this standard of proof, "If there are no two strong pieces of evidence, the judge cannot impose a criminal sentence. This means that the investigator has the burden to prove the existence of the violation and the guilt of the suspect beyond a reasonable doubt". In order for electronic evidence to be accepted in court, the formal and material electronic requirements must also be met in Law 19 of 2016 amending Law 11 of 2008 concerning Electronic Information and Transactions to describe these obligations.

The investigator's reasons for determining the suspect in the criminal case of assault and theft of ducks through evidence from social media held at the Labuhanbatu Police Resort (Polres) are as follows:

- a. That based on the statements of the witnesses, the defendants and the evidence submitted by the reporter, the investigator through the results of the case title concluded that the suspects were proven guilty of committing the crime of assault against the duck thief as referred to in Article 170 of the Criminal Code in conjunction with Article 351 of the Criminal Code concerning assault carried out together;
- b. That because the defendant is capable of being responsible, he must be declared guilty;
- c. That regarding the evidence in the form of 4 (four) video recordings sent via social media submitted by the victim;
- d. That 2 (two) witnesses were submitted by the Reporter;
- e. That because the suspects were named as suspects in the case;

Based on the determination of the suspects of the reported parties carried out by the Labuhanbatu Police from the results of the case title on the case of joint assault on the perpetrators of the duck thief, it can be analyzed that the Labuhanbatu Police through the investigation process in determining the suspect through the results of the case title carried out on the case of assault carried out by the masses on the duck thief that occurred in Kampung Sawah Sigambal, Sigambal Village, Rantau Selatan District, Labuhanbatu Regency, there is still confusion in placing the suspect against the perpetrator of the assault where in this case the investigator did not involve ITE expert witnesses and without conducting a forensic test on the evidence submitted by the reporter through a video recording obtained by the reporter from someone else so that such elements in the analysis of this study are still not right so that in terms of legal substance in drawing legal certainty in determining a suspect even through perfect evidence in accordance with the applicable regulations and laws and regulations so that in this case the witnesses presented by the reporter were all witnesses who did not see the incident directly, and only the witnesses provided information through the results of the video recording shown to witnesses and the witnesses then explained according to the contents of the video recording.

Confusion surrounding the "electronic evidence" that must be applied that affects a person's fate to be named a suspect so that data or documents stored digitally that meet the formal and material standards of the ITE Law are electronic evidence. Evidence in court can be in the form of data, paper, and printouts. Where Law 19 of 2016 defines electronic information as a series of data that has been processed in a form that can be understood by humans, including text, audio, visual, cartographic representation, design, photos, electronic data interchange (EDI), electronic mail, telegrams, telex, telecopy, letters, symbols, numbers, access (Benedictus Haryo Gonaz, First, the Probative Power of Electronic Evidence in the Form of Chatting Through the Whatsapp Application in Criminal Acts in the Field of Taxation (Case Study of Decision Number 130/PID.SUS/2023/PN CKR), 2024:301). While electronic documents are text, audio, visual, maps, designs, photos, letters, symbols, numbers, access codes, or meaningful or significant signs that can be processed, displayed, or received via audio by a computer or electronic system in any form: analog, digital, electromagnetic, optical, or audio. Although different, electronic information and electronic documents are not different from each other. Electronic documents

serve as containers for electronic information, which can take many forms. Although video files are digital documents, any information or data taken from them is also digital information.

In accordance with Article 5 paragraph (1) and (2) of the ITE Law in Paragraph (1): Electronic information/documents/prints are valid legal evidence, and paragraph (2): electronic data, documents, and printouts as referred to in paragraph (1) are an extension of valid evidence in accordance with the applicable Procedural Law in Indonesia. That Article 5 paragraph (1) of the ITE Law is divided into two groups. My first focus is on data and papers stored digitally. Second, the results of written and digital materials. There are no paper copies of data or documents that will be stored as Electronic Evidence (Digital Evidence). While electronic information and documents will be printed as written evidence. That Article 5 paragraph (2) of the ITE Law regulates Indonesian procedural law accepting electronic, digital, and printed evidence. The type of evidence controlled must be in accordance with what is meant by the extension in this context in Article 5 paragraph (1) of the ITE Law. The extension in question is (Article 5 paragraph (1) and (2) of Law 19 of 2016 amends Law 11 of 2008 concerning Electronic Information and Transactions): a. Adding evidence that has been regulated by Indonesian Criminal Procedure Code, KUHAP regulates this. Electronic evidence is one type of evidence regulated in KUHAP; b. Expanding the scope of evidence that has been regulated in KUHAP and laws and regulations. KUHAP allows digital or written evidence. This illustrates that evidence in KUHAP is regulated by different laws and regulations. A number of regulations have been established to combat money laundering, terrorism, corruption, and corporate documents. All Indonesian laws and regulations recognize the validity of electronic documents and fingerprints as stated in the ITE Law. Therefore, based on this, the design of the rules should be that investigators must conduct digital forensic tests on video evidence obtained through social media in accordance with the ITE Law, this is in line with the comparison of the District Court's decision which in essence in the consideration of the panel of judges' decision states; The Panel of Judges in the a quo case acquitted Defendant Deddy Tjahjono in accordance with the provisions of Article 185 paragraph 2 of the Criminal Procedure Code which states "The Defendant cannot be found guilty of the charges against him based on evidence from only one witness" without considering the Electronic Evidence submitted by the Public Prosecutor in the trial in the form of Chatting via the Whatsapp Application between Witness Murtadlo (Riri) cellphone number 08129800xxx and Defendant Deddy Tjahjono cellphone number 08117277xxx (Decision of the Cekareng District Court Number: 130/Pid.Sus/2023/PN Ckr., dated January 24, 2024 p. 166).

Thus, the imposition of criminal penalties is a manifestation of criminal penalties in concrete form so that it must be real in taking legal action against the determination of suspects in order to avoid improper application of the law. In the criminal justice system, the imposition of criminal penalties can only be carried out by the judge who examines the criminal case in question to make a decision, the judge must have wise considerations so that the decision is in accordance with the principle of justice (Masruchin Ruba'i, *Understanding Criminal Law and Criminalization in Indonesia*, 1994:63). Jhon Rawls' view that law as a social order that can be declared fair if it can regulate human actions in a satisfactory way so that they can find happiness in it which is considered fair (Jhon Rawls, *A Theory Of Justice Theory Of Justice The Basics Of Political Philosophy To Realize Social Welfare In The State*, 2006:139-130). So that this view is positivistic, the values of individual justice can be known by legal regulations that accommodate general values, but still the fulfillment of a sense of justice and happiness is intended for each individual.

3. Legal Settlement Mechanism for Criminal Cases of Abuse Carried Out by the Masses for Duck Theft at the Labuhanbatu Police

The mechanism for resolving cases in criminal law can be done through non-litigation and litigation. Non-litigation usually prioritizes the mediation process with a restorative justice approach carried out by the parties through the police and can also be carried out by the local

government or a third party who is considered capable of resolving the problems faced. Then it can also be done through the courts, which cannot be done through non-litigation through mediation with a restorative justice approach to the case so that it is resolved through the courts where the parties take this path as part of seeking justice (Muhammad Yusuf Siregar, Zainal Abidin Pakpahan, Police discretion in terminating criminal cases due to peace by the Labuhan Batu Resort Police seen from a legal perspective, 2017:67).

Regarding the punishment in criminal law in cases of abuse in Indonesia itself, there are three different levels of punishment, namely light, moderate, and severe abuse. The three levels of abuse are regulated in Article 352 (1) of the Criminal Code for light abuse, Article 351 (1) of the Criminal Code for abuse, and Article 353 (2) of the Criminal Code for abuse that causes serious injury. Every injury must be linked to the three articles. The impact of the injury plays an important role for the judge in determining the criminal sanctions that must be imposed in accordance with a sense of justice, abuse that causes death is the last category with the heaviest punishment based on Article 353 (3) of the Criminal Code (Akbar Sanjaya, Settlement of Criminal Cases of Abuse Through Peaceful Means Between Perpetrators and Victims, 2024:2).

The act of assaulting another party is a form of human activity that has an indication of being against the law or contrary to applicable laws, in the form of real physical acts, and resulting in damage to property, physical to the death of the victim. Although the form has the same effect, the reasons or motives that motivate someone to commit assault can vary. different motives, for example, the assault on a duck thief in this study can be motivated because the thief has disturbed the community which has an impact on the losses felt by the community so that spontaneously there is a mass vigilante action that cannot be stopped from the many people who have felt the loss so far (Warid Anjari, The Phenomenon of Violence as a Form of Crime (Violence), 2014:42). So that the case finally ended with peace between the victim and the perpetrator of the assault carried out by the masses which was carried out at the victim's house with good intentions from each party so that the peace that was built was conveyed to the Labuhanbatu Police through investigators so that due to the peace, the Labuhanbatu Police finally stopped the investigation of the case.

Peaceful procedures are efforts to resolve criminal cases in a non-litigation manner carried out through negotiation and mediation. Negotiation is the process of resolving criminal cases voluntarily between parties who meet face to face to reach an agreement that is acceptable to both parties regarding a particular issue or problem. Negotiation is carried out through deliberation, talking face to face between the perpetrator and the victim without the presence of a third party from the police. The negotiation method is generally carried out by bargaining around compensation for both material and psychological losses from the victim, if successful the victim will not report to the police. Mediation is the settlement of criminal cases with the assistance of a third party in a negotiation process, but the third party (mediator) does not participate in making decisions (Adami Chazawi, Crimes Against Body and Life, 2024:78).

The mediation method is generally carried out after the victim has reported to the police, and the perpetrator has received a summons. The perpetrator and victim then negotiate compensation in front of the police regarding the amount of compensation that the perpetrator must pay to the victim. If successful with the victim's agreement, the report is then withdrawn, or it is considered that there was never a report. The police's considerations determine the feasibility that the abuse, whether serious or minor, is worthy of being resolved through peaceful procedures (non-litigation) and not directly through the courts, using several theories, such as the principle of justice, the purpose of law and the theory of benefit in law enforcement. The principle of benefit means that the perpetrator and victim expect benefits in the implementation of law enforcement. The law is for humans, don't let it be because the law is implemented or enforced that unrest arises in society. In terms of accountability for criminal acts committed by the perpetrator, it can be minimized by diversion efforts. This diversion effort is a diversion of cases outside the courts, so

that the perpetrator and victim are not equally harmed, the victim is harmed by the perpetrator's actions and the perpetrator is harmed because he is punished (L.J. Van Apeldoorn, Introduction to Legal Science (Inleiding Tot de Studie van Het Nederlandse Recht). Edited by Oetarid Sadino, 2000:4).

Therefore, based on this, there has been peace between the victim and the perpetrator which has been made in a peace agreement dated October 26, 2024, based on the report of the First Party based on Police Report Number: LP/B/676/V/2024/SPKT/Res-Labuhanbatu/Polda Sumut, dated May 29, 2024, in the case of the crime of Assault as referred to in Article 170 Paragraph (1) and/or 351 Paragraph (1) of the Criminal Code (KUHP) among others, which reads as follows: Article 1 reads: 1). That the Second Parties have apologized to the First Party; 2). That the First Party has accepted the apology from the Second Parties; 3). That the Second Parties also sincerely provide medical expenses and wages to the First Party along with other costs in accordance with the Mutual Agreement between the First Party and the Second Parties; 4). That we as the Parties with Good Faith and Joint Intention with full sincerity to end this problem amicably, through deliberation and consensus to convey the results of this peace agreement to the relevant parties (Peace Agreement Agreement signed by the Parties dated October 26, 2024:2).

Furthermore, Article 2 states: That this Peace Agreement cannot be canceled unilaterally, without the consent of the other party so that it is mutually binding, so that the Parties no longer have any legal claims against each other in the future since this peace agreement was signed by each of the Parties, and finally Article 3 states: 1). That this Peace Agreement is subject to and in accordance with the laws and regulations in force in the Republic of Indonesia; 2). That regarding this Peace Agreement and all its legal consequences, the Parties have agreed and are therefore bound to report to the authorities at the Labuhanbatu Police, and then the reporter is willing to withdraw his report.

In the utility theory according to Jeremy Bentham (1748-1832), with the teachings of utilitarianism, Utility according to Bentham is the principles that approve or reject any action whatsoever that appears to increase or decrease the happiness of the interested party affected by the action. If the interested party is an individual, the principle of utility must be designed to increase his happiness, if the interested party is society, the principle of utility must be directed towards the happiness of society by increasing the pleasure that can be enjoyed by society and allowing the creation of security by reducing suffering (the greatest happiness for the greatest numbers) (Peter Mahmud Marzuki, Introduction to Legal Science, 2009:118). According to Bentham, lawmakers want to ensure that society must strive to achieve 4 (four) goals, namely subsistence, abundance, equality and security. The function of law must be aimed at fulfilling the 4 (four) goals of law, the most important of which is security. According to Bentham, security demands that a person's person, honor, property and status must be protected, and the hopes of a person as far as they are given by law must be maintained, freedom must give way to security, according to Bentham, security must be prioritized, because the law is not made unless it must sacrifice freedom (Edgar Bodenheimer, Jurisprudence, The Philosophy and Method of the Law, 1962:27).

After security, what must be put forward by lawmakers is equality, but according to Bentham, this must be considered when security is not disturbed. The equality in Bentham's mind is not equality of condition, but equality of opportunity, this equality is an equality that allows everyone to plan their own happiness and strive to be rich and live their own life. (Peter Mahmud Marzuki, Introduction to Legal Science, 2009:120). The basis of the law is the principle of utility, from the authority that exists in parliament which is always used the constant desire to provide national pleasure, namely the happiness of the majority of people. Justice is interpreted in the theory of utility justice which means that law enforcement aims to realize what is beneficial or useful (doelmatig) for people, namely realizing as much happiness as possible for as many people as possible. Only in order does everyone have the opportunity to realize as much happiness as

possible, the principle of utility justice means choosing the most useful or beneficial way to resolve cases for both the perpetrator and the victim, namely the perpetrator is free from the threat of criminal law and the victim receives compensation from the perpetrator.

CONCLUSION

The determination of suspects for the reported parties carried out by the Labuhanbatu Police from the results of the case title for the joint assault case against the perpetrators of the duck thief can be concluded that the Labuhanbatu Police through the investigation process in determining suspects through the results of the case title carried out against the assault case carried out by the masses against the duck thief that occurred in Kampung Sawah Sigambal, Sigambal Village, Rantau Selatan District, Labuhanbatu Regency, there is still legal confusion in placing suspects against the perpetrators of the assault where in this case the investigator did not involve ITE expert witnesses and without conducting a forensic test on the evidence submitted by the reporter through a video recording obtained by the reporter from someone else via WhatsApp as social media so that such elements in the analysis of this study are still not right so that in terms of legal substance in drawing legal certainty in determining a suspect even through perfect evidence in accordance with applicable regulations and laws and regulations so that in this case the witnesses presented by the reporter were all witnesses who did not see the incident directly, and only the witnesses provided information through the results of the video recording that shown to the witnesses who then explained according to the contents of the video recording which became the testimony of the victim witnesses, then based on this, the design of the rules should be that investigators must conduct a digital forensic test on video evidence obtained through social media in accordance with the ITE Law, this is in line with the comparison in this study regarding one of the District Court decisions which in essence in the consideration of the panel of judges' decision stated; The Panel of Judges in the a quo case acquitted Defendant Deddy Tjahjono in accordance with the provisions of Article 185 paragraph 2 of the Criminal Procedure Code which reads "The defendant cannot be found guilty of the charges against him based on evidence from only one witness" without considering the Electronic Evidence submitted by the Public Prosecutor in the trial in the form of Chatting via the Whatsapp Application between Witness Murdadlo (Riri) and Defendant Deddy Tjahjono, even though the case finally ended with a peace agreement made by the victim and the reported party so that the case was stopped by the Labuhanbatu Police.

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