

**LEGAL RESPONSIBILITY OF COSTERS OF MURDER
IN EAST LAMPUNG DISTRICT
(Decision Study Number: 76/Pid.B/2020/PN.Sdn)****¹Komang Bisma, ²Recca Ayu Hapsari**

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Abstract

Criminal acts, especially murder that occur at this time, both in quality and quantity are increasing along with the increasing development of people's lives. The research issues that will be discussed in this paper are what factors cause the perpetrator to commit the crime of murder and what is the criminal responsibility for the criminal of murder based on Decision Number: 76/Pid.B/2020/PN.Sdn. Juridical normative and empirical research methods, using secondary and primary data, obtained from library research and field studies, and data analysis with qualitative juridical analysis. Based on the results of the research and discussion of the factors that caused the perpetrator to commit the crime of murder, it was caused by a motivating factor from outside the soul of the perpetrator, the factor of resentment due to humiliation and internal family factors that started with the alleged affair committed by the victim which caused the defendant to commit the crime of murder and the perpetrator's criminal responsibility the crime of murder based on Decision Number: 76/Pid.B/2020/PN.Sdn in the form of consideration of the Panel of Judges in imposing criminal sanctions on the perpetrators of the crime of murder in the form of legal facts revealed in court, where the defendant's actions legally and convincingly have committed murder, the Panel of Judges sentenced Marius Bin Romli to imprisonment for 15 (fifteen) years. The suggestion given is that the criminal sanction of murder should pay attention to the causal factors, because the act of killing is a form of deliberate error that must be accounted for, there is no justification or reason that eliminates criminal responsibility for the accused. It is hoped that the Judge will give a serious criminal decision against the perpetrator of the crime of murder to provide a deterrent effect on the perpetrator of the criminal act.

Keywords: *Causative Factors; Responsibility; Murder Criminal Act*

INTRODUCTION

The development of society today, the problem of the crime of murder in the family environment shows increasingly

alarming symptoms both in quality and quantity. Various problems that exist in family life often lead to disputes among family members. For example, the crime of

murder, such as that committed by a husband who for some reason disagrees with his wife, resulting in a quarrel and the loss of the life of one of them and so on.

When solving legal problems, there is a limitation on application of the criminal law. In the criminal law, a crime cannot be punished without prior appointment, or commonly known as *Nullum Delictum Nulla Poena sinus prae-
via lege poenali*, regulated in Paragraph (1) of Article 1 of the Criminal Code that no event can be punished besides the provisions of this Law precede this¹. Law becomes an important component in the realization of national development².

The cause of death of the victim for the act the crime of murder which is committed together will be correlated with criminal liability and sanctions. On murder as a material offense what is prohibited is the result of an act, namely loss of other people's lives³.

Murder is every deed done on purpose to eliminate robbing other people's souls. other than that murder is considered a very deed damned and inhuman. From a

religious perspective, murder is something that is forbidden even not can be done⁴.

Based on the above background, the authors formulate the following problems, what factors cause the perpetrator to commit the crime of murder, and what is the criminal responsibility of the murder criminal based on Decision Number: 76 / Pid.B / 2020 / PN.Sdn.

RESEARCH METHOD

The research method used in this research is a normative juridical approach and an empirical approach as well as using sources and types of data. The steps taken by the author in the study were the problem approach by referring to the problems contained in this journal research. Data is a source of information needed in conducting a research which comes from various sources. Data sources consist of secondary data and primary data. After the data is collected as a whole both obtained from the results of literature studies and field studies, then it is analyzed in a qualitative juridical manner, namely by describing the problem based on research

¹ Puspitasari Rusdi, Muhadar, Haeranah, 2020, Criminal Liability Against Perpetrators Of Fraudulent Criminal Act By Hynosis, Tadulako Law Review, Volume 5 Issue 1, June 2020:P136

² Indriyane Vera Natalia, Maret Priyanta, 2020, Optimization Of The Multidoor Approach Implementation In Handling Criminal Cases In The Environmental Field,

Tadulako Law review, Volume 5 Issue 1, June 2020. P 100

³ Ohoiwutun, Y.T., 2016. Urgensi Bedah Mayat Forensik Dalam Pembuktian Tindak Pidana Pembunuhan Berencana. Jurnal Yudisial, 9(1), pp.74.

⁴ Datau, R.F., 2020. Pertanggungjawaban Pidana Oleh Pelaku Tindak Pidana Pembunuhan Yang Dipengaruhi Minuman Keras. LEX CRIMEN, 8(9).

and discussion in the form of explanations or sentence descriptions that are arranged systematically. After analyzing the data, the deductive conclusion is a way of thinking based on general facts and then a specific conclusion is drawn as an answer to the problem based on the research results.

RESULTS AND DISCUSSION

Factors that cause the perpetrator to commit the crime of murder

One of the problems that often arise in society is a criminal act murder, the crime of murder is a form of evil in the soul someone where the action is so contrary to existing norms in society, namely religious norms and customs, at the same time contrary to norms of criminal law provisions and violating human rights, namely the right to life⁵.

Regarding the factors that cause crime in general, it will show the many variations and various aspects that can support the occurrence of a crime. Theories about the causes of crime are very much put forward by scholars, where opinions differ from one another, this arises because of the review with different backgrounds. However, among these theories, there are

elements that show similarities in principle so that if they are classified, the differences and similarities can be drawn outlines of the factors that determine a crime.

Factors that are considered to influence the occurrence of the crime of murder may occur because:

- a. A motivating factor from outside the doer's soul

Every normal person can commit crimes because they are driven by evil spirits and the temptations of the devil or evil desires, are angry and violate God's will. The defendant Marius Bin Romli committed a criminal act of maltreatment which resulted in death because the Defendant was emotional and hit and with a knife, the defendant stabbed the left side of the victim's chest, because the victim Misnawati had offended the Defendant in connection with problems in domestic life, because the Defendant and the victim were married couples. wife. The defendant Marius Bin Romli committed the act due to the emotional motivating factor of the victim Misnawati because the defendant had previously suspected that the victim had cheated on the defendant.

⁵ Ariani, D., 2020. Pertanggungjawaban Pelaku Tindak Pidana Pembunuhan Berencana Yang Dilakukan Oleh Anak (Studi Putusan Pengadilan Negeri Nomor 16/Pid.

Sus-Anak/2016/PN. Cbn). *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat*, 19(2), pp.114-136.

b. The revenge factor due to being humiliated

Revenge, which can be caused by someone's words and deeds, can also cause someone to darken their eyes and commit the crime of murder. In relation to the above problems, the revenge factor was one of the contributing factors because the Defendant Marius Bin Romli asked the victim to return home so that the defendant and the victim had an argument (arguing) in the guest room of the house of Witness Pasir Bin Reso Waidi (Alm). When the defendant asked the victim to return home, the victim became angry and that was what made the defendant Marius Bin Romli resentful and felt humiliated by the victim, so the defendant hit the victim and stabbed the knife into the left chest of the victim 4 (four) times which resulted in the victim resulting in the victim died.

c. Internal family factors

Unresolved family problems can also lead to a person committing murder such as infidelity. Between the defendant and the victim (the defendant and the victim, a husband and wife).

Based on the description above, it is not sufficient to convict a defendant if the

defendant has committed an act that is against the law or is against the law. So even though the act fulfills the formulation of an offense in the law and is not justified, it does not fulfill the requirements for imposing a sentence. For punishment, there is still a need for conditions, namely that the person who commits the act has an error or guilt (subjective guilt). Where the guilt consists of the ability to be responsible to the defendant (Schuldfähigkeit or Zurechnungsfähigkeit), it means that the mental state of the defendant must be normal, the inner relationship between the accused and his actions, in the form of intent (dolus) or negligence (culpa). These are called forms of error and there is no excuse that removes mistakes or there are no excuses for forgiveness.

Based on the purpose of punishment from the neo-classical school, which is a flow that has the same basis as the classical school, namely belief in the freedom of human will in doing their actions, but not completely free, so even though humans are free to determine their will in committing crimes, they can also be influenced by other things. such as pathology, incapacity to take responsibility, mental illness and certain conditions, therefore the sentence imposed must be combined between punishment and treatment.

Based on the description above, it can be analyzed that the factors causing the perpetrator to commit the crime of murder were due to factors of encouragement from outside the soul of the perpetrator, the factor of resentment due to humiliation and internal family factors that were initiated by the alleged affair committed by the victim which caused the Defendant to commit the crime of murder.

Criminal Accountability of Perpetrators of Murder Based on Decision Number: 76 / Pid.B / 2020 / PN.Sdn

The ultimate goal of punishment is to provide a deterrent effect for the perpetrator, creating security and inner peace society as well as for law enforcement. All forms punishment needs to consider the parties involved in the criminal act. In formal law in Indonesia, attention more emphasis is placed on the perpetrator of the crime, while the victim is not get the attention of the state⁶.

Criminal liability is carried out through the criminal justice process, the person being brought before the court to account for his actions which may end in a criminal verdict, regardless of any legal charges or acquittal is because there is an

indication or indication that the person has committed an act which he is accused of.

Accountability for the executor of the role or actor even though the implementation of that role is going well or as it should be. Accountability is the ability of a person to take responsibility for their mistakes in having committed or not having committed an act which is prohibited by law and which is not justified by society according to the view of society, against the law. Error is an element of a criminal event or criminal act and there is a close relationship between the two. Regarding the criminal responsibility of the perpetrator of a murder within the family according to the Criminal Code, the perpetrator has illegally committed the loss of another person's life.

The process of solving criminal acts of murder is carried out through the criminal justice system, namely through the process of:

1. Completion Process at the Investigation Stage;
2. Settlement Process at the Prosecution Stage;
3. Process in Court Session.

The defendant is able to be responsible, the criminal act which he has proven to have committed must be accountable to him. Therefore it is sufficiently reasonable for

⁶ Sodikin, A., 2015. Restorative Justice dalam Tindak Pidana Pembunuhan: Perspektif Hukum Pidana Indonesia

dan Hukum Pidana Islam. *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum*, 49(1), pp.63-100.

the judge to state that the defendant has been legally and convincingly proven guilty of committing the crime of "murder" as regulated and subject to criminal penalties in Article 338 of the Criminal Code as charged to him in primair charges.

In order to provide an accurate measure of the punishment to be imposed on the defendant, the Panel of Judges is of the opinion that it is necessary to consider the variables that cover the imposition of the criminal by looking at the socio-juridical dimension, so that a criminal decision is not dry and far from human values and justice. remembering the law is for humans and not the other way around humans for the law, also considering the existence of the law is not in a value-void realm without essential meaning. According to the Panel of Judges, the variables of consideration are as follows:

1. Whereas it is the judge's authority to impose a sentence against a defendant in a time interval from the lightest to the maximum threat in the article of indictment without leaving the spirit of the law itself.
2. Whereas it is a principle in the imposition of punishment that it must be proportional to the weight of the defendant's guilt. A punishment should not reflect arbitrariness without seeing the function and meaning of the punishment itself. Also the punishment must consider the aspects of the benefits and damage to the self (body and soul) of the defendant.

3. Whereas the nature of the punishment must reflect the aim of guiding and teaching the defendant, which in turn the defendant can reflect on who he has done. From there it is also hoped that a feeling of deterrence will arise against the defendant, which in turn can prevent other people from committing similar mistakes.

4. Whereas the article which is being charged against the defendant contains the threat of a fairly severe punishment, in the form of imprisonment.

Considering these matters, according to the Panel of Judges, the punishment imposed on the defendant as referred to in this ruling is in accordance with the level of the defendant's guilt and does not conflict with the sense of justice of the community, which from the facts obtained at the trial the panel found no matters. which can waive criminal responsibility against the defendant whether it is a justification or an excuse. Thus the judge concluded that the defendant was responsible.

Because the defendant has been found guilty of committing the crime of murder, based on Article 193 paragraph (1) of the Criminal Procedure Code, the defendant must be sentenced to a crime and so that the sentence to be imposed later fulfills a sense of justice, it is necessary to first consider the burdensome and mitigating matters as follows:

1. An aggravating situation:
 - a. The defendant's actions had caused the victim's family, Misnawati Binti Pasir, to lose their loved one;
 - b. The Defendant's actions caused the Defendant's young child to lose the love of a mother;
 - c. The Defendant's actions reflect an arrogant attitude and cannot protect his wife;
 - d. The Defendant's actions were sadistic and did not have a sense of humanity;
 - e. The Defendant's actions disturbed the public.

2. Mitigating circumstances: The defendant has never been convicted.

Considering that since in this case the defendant has been subject to arrest and detention, besides that the judge finds no reason not to reduce the period of arrest and detention, so based on Article 22 paragraph (4) of the Criminal Procedure Code the period of arrest and detention must be deducted entirely from the penalty sentenced and because the defendant has been found guilty and sentenced to a criminal where previously he did not ask to be exempted from paying the court fee, then based on Article 222 of the Criminal Procedure Code the defendant must be charged to pay the court fee, the amount of which is determined in this ruling.

Based on the theory of criminal responsibility, namely the theory of will which says that deliberately is the will to make an action and the will causes a result of that action, meaning that a person can be found guilty and can be held accountable for a criminal act so that he can be

convicted if he fulfills the elements of error, namely intentional. So the actions of the defendant Marius Bin Romli can be classified as a deliberate theory with the intention that the defendant's actions intentionally wanted to kill the victim, namely Misnawati, the wife of the accused Marius Bin Romli. The defendant committed the act of deliberately pointing a sharp weapon at the place repeatedly so that the defendant wanted the victim to die.

Based on the description above, it can be analyzed that the criminal responsibility of the perpetrator of the crime of murder based on Decision Number: 76 / Pid.B / 2020 / PN.Sdn is in the form of consideration of the Panel of Judges in imposing criminal sanctions on the perpetrators of murder in the form of legal facts revealed in a trial, in which the defendant has legally and convincingly committed the crime of murder, as stated in the indictment, which violates Article 338 of the Criminal Code and the provisions of the Criminal Code. Apart from that, in imposing heavy and light criminal sanctions on the accused, the judge pays attention to the inner attitude of the criminal act maker, the attitude and actions of the maker after committing the crime and the purpose of the punishment against the accused. Based on the testimony of

witnesses and facts that support the indication, the Panel of Judges sentenced Marius Bin Romli to a prison sentence of 15 (fifteen) years.

The reason for investigators, public prosecutors and the panel of judges in processing the examination report, indictment and to the stage of passing a criminal verdict against the defendant is to use the articles contained in the Criminal Code, not using the articles in Law Number 23 of 2004 concerning Abolition. Domestic violence. Investigators, Public Prosecutors and the Panel of Judges are of the opinion that the defendant's act was purely a murder crime because he deliberately took the life of his own wife, namely (late) Misnawati Binti Pasir, in which the defendant's actions were regulated and punishable under Article 338 of the Criminal Code.

CONCLUSION

Based on the results of the discussion and research on the problem, it can be concluded as follows: The factors that caused the perpetrator to commit the crime of murder were due to factors of encouragement from outside the soul of the perpetrator, the factor of resentment due to humiliation and internal family factors that were initiated by the alleged affair

committed by the victim which caused the Defendant committing the crime of murder. The criminal responsibility for the perpetrator of a murder crime based on Decision Number: 76 / Pid.B / 2020 / PN.Sdn is in the form of consideration of the Panel of Judges in imposing criminal sanctions on the perpetrators of murder in the form of legal facts revealed in court, where the defendant's actions are legally and convinced that he had committed the crime of murder, as stated in the indictment, namely violating Article 338 of the Criminal Code and the provisions of the Criminal Code. Apart from that, in imposing heavy and light criminal sanctions on the accused, the judge pays attention to the inner attitude of the criminal act maker, the attitude and actions of the maker after committing the crime and the purpose of the punishment against the accused. Based on the testimony of witnesses and facts that support the indication, the Panel of Judges sentenced Marius Bin Romli to a prison sentence of 15 (fifteen) years.

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