



Legal Protection for Victims of Motor Vehicle Purchase as A Result of Act Criminal Theft

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ABSTRAK

Dalam suatu transaksi jual beli barang, masyarakat terkadang dan kebanyakan tertarik dengan barang yang dijual di bawah harga pasar. Namun terkadang keinginan untuk mendapat selisih atau keuntungan tersebut, jika tidak hati-hati, dapat menjerat si pembeli dalam masalah hukum pidana, yaitu perbuatan penadahan. Tujuan penelitian ini untuk mengetahui perlindungan hukum terhadap korban pembelian kendaraan bermotor hasil tindak pidana pencurian oleh Penyidik Kepolisian Resor Kabupaten Bener Meriah. Penelitian ini adalah hukum normatif dengan metode pendekatan kasus dan peraturan perundang-undangan. Sumber data yang digunakan data sekunder yang diperoleh dari bahan hukum primer, bahan hukum sekunder dan bahan hukum tersier. Data yang telah terkumpul diolah dalam bentuk analisis kualitatif, setelah data dianalisis satu persatu selanjutnya disusun secara sistematis sehingga dapat menjawab permasalahan penelitian ini. Hasil penelitian menjelaskan. perlindungan hukum terhadap korban pembelian kendaraan bermotor hasil tindak pidana pencurian, saat ini tidak bisa dipenuhi secara hukum pidana dan undang-undang perlindungan saksi dan korban, terhadap korban dapat menjadi tersangka apabila pembeli kendaraan itu memang mengetahui bahwa kendaraan itu diperoleh karena kejahatan atau patut menyangka bahwa kendaraan itu merupakan hasil kejahatan, yang mana pembeli dapat dijerat sesuai Pasal 480 Kitab Undang-Undang Hukum Pidana (KUHP).

Kata Kunci: Perlindungan Hukum; Korban; Pembelian; Tindak Pidana Pencurian.

ABSTRACT

In a transaction of buying and selling goods, people are sometimes and mostly interested in goods that are sold below market price. However, sometimes the desire to obtain a difference or profit, if not careful, can ensnare the buyer in criminal law matters, namely the act of cheating. The purpose of this research is to determine legal protection for victims of motor vehicle purchases resulting from criminal acts of theft by Bener Meriah District Police Investigators. This research is normative law with a case approach method and statutory regulations. The data source used is secondary data obtained from primary legal materials, secondary legal materials and tertiary legal materials. The data that has been collected is processed in the form of qualitative analysis. After the data is analyzed one by one, it is then arranged systematically so that it can answer the problems of this research. The research results explain. Legal protection for victims of purchasing motorized vehicles resulting from criminal acts of theft, currently cannot be fulfilled according to criminal law and witness and victim protection laws, victims can become suspects if the purchaser of the vehicle actually knew that the vehicle was obtained as a result of a crime or reasonably thought that The vehicle is the result of a crime, for which the buyer can be charged under Article 480 of the Criminal Code (KUHP).

Keywords: Legal Protection; Victims; Purchases; Theft Crimes.



I. Introduction

The Indonesian state is based on law (*rechtsstaat*) not based on mere power (*machtstaat*), therefore the state, including the government, state institutions and government institutions as well as state apparatus, in carrying out their duties must always be based on law and justice (Bisri, 2017). According to the theory or understanding of the rule of law (*rechtstaat*), the state must guarantee the equality of every citizen, including the freedom to exercise their human rights. On that basis, the rule of law must not act arbitrarily against its citizens and its power must be limited (Rahardjo, 2005). Therefore, the aim of law is ultimately directed at providing protection to human interests, namely the interest in carrying out and fulfilling the needs of a decent life without discrimination (Kusumaatmadja).

In the preamble to Law of the Republic of Indonesia Number 8 of 1981 concerning Criminal Procedure Law, it is stated that National Development in the field of criminal procedure law is intended so that the public realizes their rights and obligations and to improve the development of the attitudes of law enforcers, justice and protection of human dignity. , order and legal certainty for the sake of implementing a rule of law state in accordance with the 1945 Constitution. The success of a criminal justice process depends greatly on the evidence that is uncovered or discovered. In the trial process, especially regarding witnesses, many cases are not revealed due to the absence of witnesses who can support the duties of law enforcement. In fact, the presence of witnesses and victims is a very determining element in the criminal justice process.

In a transaction of buying and selling goods, people are sometimes and mostly interested in goods that are sold below market price. This is an unwritten market law and a common thing in buying and selling practices. Moreover, if the buyer apparently intends to sell again at market price, of course the buyer will profit from the difference in the initial purchase price. However, sometimes the desire to obtain a difference or profit, if not careful, can ensnare the buyer in criminal law matters, namely the act of cheating. The



criminal act of holding stolen goods is a crime by storing, hiding, selling, transporting goods originating from a crime in the form of stolen goods and making a profit which is also called Heling, a person who becomes a holder is also called Heler (Lamintang, 2009).

Criminal sanctions for criminal acts of intermediary are strictly regulated in Article 480 of the Criminal Code which reads: Punishable by a maximum imprisonment of four years or a maximum fine of nine hundred thousand rupiah:

1. Any person who buys, rents, exchanges, accepts a pawn, accepts a gift, or to make a profit, sells, rents, exchanges, pawns, transports, keeps or hides an object, which is known or should be reasonably suspected to have been obtained from the crime of detaining;
2. Any person who makes a profit from the proceeds of an object which he knows or should reasonably suspect was obtained from a crime.

The existence of witnesses and victims in the criminal justice process has so far received little attention from the public and law enforcement. Many cases that are not revealed and resolved are caused by witnesses and victims being afraid to give testimony to law enforcement because they receive threats from certain parties. Article 1 point 2 of Law Number, provides the definition of a victim as "a person who experiences physical, mental suffering and/or economic loss resulting from a criminal act". The protection of crime victims has received serious attention, which can be seen with the formation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, where in one of its recommendations it is stated that the form of protection provided has expanded not only aimed at crime victims but also protection against victims resulting from abuse of power (Mansur & Gultom, 2008).

According to Philipus M. Hadjon, the reason for legal protection for victims is (Hadjon, 1983):



a. Based on the Social Contract (Social Contract Argument)

The rationale based on the social contract is based on the understanding that the state monopolizes all social reactions to crime and prohibits actions of a personal nature, with the occurrence of crimes and the emergence of victims, the state is obliged to pay attention to the needs of victims.

b. Reasons for Social Solidarity (Social Solidarity Argument).

Reasons based on social solidarity are based on the understanding that the state must look after its citizens who experience difficulties, in this case through cooperation with the community based on or using facilities provided by the state.

Sapjipto Rahardjo stated that legal protection is an effort to protect a person's interests by allocating power to him to act in his interests. Furthermore, it was also stated that one of the characteristics and at the same time the aim of the law is to provide protection (guidance) to the community. Therefore, legal protection for society must be realized in the form of legal certainty (Rahadrjo, 1983).

Based on the description above, the problem that will be researched and discussed in this research can be formulated, namely, what is the legal protection for victims of the purchase of motorized vehicles resulting from criminal acts of theft by Bener Meriah District Resort Police Investigators?

II. Methode

This research is normative legal research using a case approach and a statutory regulation approach. The data source used is secondary data obtained from library data sourced from primary, secondary and tertiary materials. The data collection method was carried out by means of interviews by conducting questions and answers directly with the sources, then recording the results of the questions and answers and the study was carried out through searching literature related to this research problem. Data analysis consisting



of primary and secondary data (primary, secondary and tertiary legal materials) will be processed and analyzed qualitatively, namely a research method that produces descriptive analysis data, namely what is stated by respondents in writing or verbally and also real behavior, researched and studied as a whole. From these results a conclusion is then drawn which is the answer to the problems raised in this research.

III. Discussion and Analysis

Legal Protection for Victims of Purchasing Motor Vehicles as a Result of Criminal Theft by Bener Meriah District Police Investigators

Law exists in society to integrate and coordinate interests that can conflict with each other. Coordinating these interests is carried out by limiting and protecting these interests. The law protects a person's interests by giving him the power to act to fulfill his interests. The granting of power, or what is often called rights, is carried out in a measurable manner, in breadth and depth (Rahadrjo, 1983). Lili Rasjidi and B. Arief Sidharta said that law is developed and needed by humans precisely based on the product of human judgment to create conditions that protect and promote human dignity and to enable humans to live a normal life in accordance with their dignity (Rasjidi & Sidharta, 1994).

In such a legal setting, acts that are against the law can be identified and the reasons why someone commits acts that are against the law can also be known, so that it can cause social reactions in society. Social reaction can also be said to be an effort to achieve social order. This form of social reaction will become increasingly visible when problems and threats of crime increase in quantity and quality. Crime is a phenomenon of social life, because crime is also a human problem in the form of a social reality. We don't really understand the cause, because it can happen anywhere and at any



time in social life. Meanwhile, the rise and fall of the crime rate depends on the condition of society, political economic conditions, culture and so on.

In general, it is said that the relationship between a victim and a crime is the party who becomes a victim as a result of the crime. Of course, if there is smoke, there must also be fire. This party becomes a victim because another party commits a crime. Indeed, this is the strong opinion so far which is supported by existing facts, although in practice there are developing dynamics. Another thing that is agreed upon in this relationship is that the most important thing is that the victim is the party who is harmed. The perpetrator is the party who profits or harms the victim. Losses that victims often receive or suffer (see definitions of victims) include physical, mental, economic, self-esteem and so on. This relates to status, position, position, typology of victims and so on.

As experienced by Katno, as a victim of purchasing a motorbike as a result of a crime of theft, which explains the modus operandi of the crime he experienced, I bought a Honda Beat type motorbike, the price offered was indeed below the market price of a used Honda, on the grounds that I needed money for expenses. his family was sick, when I asked for complete vehicle documents, the seller said that the documents were burned when his house burned down last year, when my vehicle was caught in a raid, my motorbike was detained by the police on the grounds that the vehicle I bought was the result of a crime of theft.

The problem of crime victims raises various problems in society in general and for crime victims/parties in particular. The absence of attention and services for victims of crime is a sign of the absence or lack of justice and development of welfare in society. Formal services and treatment of crime victims are often required, because it is a form of protection and legal consequences. The lack of legal protection for victims can cause victims to be passive and tend to be non-cooperative with officers, there is even a



correlation between the lack of protection and the victim's reluctance to report to the authorities, especially after the victim reports, their role and position shifts in such a way that the court officials feel one. -the only party who can represent the interests of the victim (Yulia, 2013).

Juridically, the meaning of victim is contained in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, which states that a victim is "a person who experiences physical, mental suffering and/or economic loss resulting from resulting from a criminal act. Looking at this formula, what is called a victim is:

- 1) Everyone;
- 2) Experiencing physical, mental and/or suffering;
- 3) Economic losses;
- 4) Consequences of criminal acts.

Based on an interview with Dicky Fahrizal as Head of the General Crimes Unit of the Bener Meriah Resort Police, protection for victims of purchasing motorized vehicles resulting from criminal acts cannot currently be fulfilled under criminal law, both witness and victim protection laws, victims can sue civilly and sue compensation to the seller of the vehicle, if it is true that the vehicle purchased is the result of a criminal act/crime, then both the seller and the buyer may be subject to sanctions in accordance with Article 480 of the Criminal Code (KUHP) concerning detention.

The same thing was stated by Rifki Muslim as the Head of Criminal Investigation Unit of the Bener Meriah Resort Police, if the buyer of the vehicle really knew that the vehicle had been obtained as a result of a crime or should have thought that the vehicle was the result of a crime because the seller was unable to explain clearly why he was selling it at such a high price. cheap and then you or the public buy it, then you can be charged under Article 480 of the Criminal Code.



If guided by the elements of Article 480 of the Criminal Code itself, namely:

1. Whoever, meaning whoever in this case is a person or a person.
2. Buying goods, what is meant by buying goods in this case is purchasing goods where the goods are the proceeds of crime.
3. It is known or should be reasonably suspected that it was obtained from crime

From all the elements mentioned above, the investigator must be able to prove from the results of the investigation that a person can be suspected of committing a criminal act of detention, so that he can be accused of violating Article 480 of the Criminal Code.

To find out what the elements are, we refer to the opinion of R. Soesilo in his book The Criminal Code and its Complete Comments Article by Article which explains that (Soesilo, 1996):

1. What is called "sekongkol" or what is also usually called "tadah" is actually just the act mentioned in sub 1 of this article.
2. The actions mentioned in sub 1 are divided into two parts:
3. buying, renting, etc. (not necessarily with the intention of making a profit) goods which he knows or reasonably suspects were obtained as a result of a crime;
4. Selling, exchanging, pawning, etc. with the intention of making a profit from goods that he knows or reasonably suspects were obtained as a result of a crime.
5. An important element of this article is that the defendant must know or reasonably suspect that the item was the origin of a crime. Here the defendant does not need to know with certainty what crime the goods came from (theft, embezzlement, fraud, extortion, counterfeit money or others), but it is enough if he is reasonably able to suspect (think, suspect) that the goods are not goods. "bright".



According to Andi Hamzah, in the Indonesian Criminal Code, detention based on Article 480 of the Criminal Code combines the offense of intentionally (knowing) that the goods originate from a crime and the offense of negligence (culpa) marked by the words "reasonably knowing" that the goods originate from a crime. This is called the offense *pro parte delous pro parte culpa* (half intentionally and half negligently). So, the offense can be committed intentionally and also with culpa. So, if the recipient can estimate that the goods purchased, exchanged and so on are the proceeds of crime because the price is too cheap. In the Netherlands, the offense of detention is an intentional offense (Hamzah, 2009).

According to Rifki Muslim, proving this element is very difficult, not everyone who buys the proceeds of crime can be said to be a recipient. It must first be proven whether the person meets the basic elements to be said to be a recipient. However, in practice, it can usually be seen from the condition or method of purchasing the item, for example, it was purchased at a lower price, it was purchased at night in hiding, which according to the standards of that place is indeed suspicious, if buying and selling is now widespread via online media, the price of the vehicle is also much different. offered below market price.

Several elements of error include proving that the goods purchased by a person are goods resulting from crime, the price does not match the normal market price or the goods purchased at a price far below the market price, whether new goods or other goods, etc., then a person can be investigated into the case. detention as intended in article 480 of the Criminal Code. Not everyone who controls the proceeds of crime by purchasing them can be punished under Article 480 of the Criminal Code, due to ignorance and lack of understanding on the part of a person who accidentally controls the proceeds of crime. In fact, because a person's profession has bought goods resulting from crime, at normal prices according to market prices, the element of deliberate



intent to gain profit can be ignored. Things like this cannot be proven that the person concerned has conspired or has committed an act of intercession.

IV. Conclusion

Legal protection for victims of the purchase of motorized vehicles resulting from criminal acts of theft by district resort police investigators is really great, currently it cannot be fulfilled under criminal law, both witness and victim protection laws, victims can sue civilly and demand compensation from the seller of the vehicle, if the buyer of the vehicle actually knows that the vehicle was obtained as a result of a crime or reasonably suspects that the vehicle is the result of a crime because the seller is unable to explain clearly why he is selling it at a very cheap price, the buyer can be charged in accordance with Article 480 of the Code. Criminal Law (KUHP).



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B. Regulation

Undang-Undang Dasar Republik Indonesia Tahun 1945

Undang-Undang Nomor 8 Tahun 1981 tentang Undang-Undang Hukum
Acara Pidana

Kitab Undang-Undang Hukum Pidana

Undang-Undang Nomor 31 Tahun 2014 Tentang Perubahan Atas Undang-
Undang Nomor 13 Tahun 2006 Tentang Perlindungan Saksi dan
Korban