



Legal Analysis of the Crime of Premeditated Murder and Theft (Decision Study Number 81/Pid.B/2023/Pn.Dps)

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ABSTRACT

This article aims to analyze a criminal case, especially one that focuses on murder and robbery, as well as discussing the relevant law applied to the case. This research is normative legal research, which specifically includes examination and analysis of library materials, court decisions, or secondary data. The methods used include legal, factual, conceptual and interpretive approaches. This research focuses on the problems that occurred, first, how to prove the elements of the crime of murder and theft in case Number 81/Pid.B/2023/Pn.Dps? and the second problem is what are the legal implications applied to case Number 81/Pid.B/2023/Pn.Dps? After analysis, it has been proven legally and convincingly by the defendant that they committed murder as stated in Article 339 of the Criminal Code Jo. Article 55 section (1) which concerns criminal acts prior to murder. The legal consequence of this case is that defendant NSP was sentenced to 18 years in prison and R was sentenced to 20 years in prison. R received a longer prison sentence than NSP due to his previous criminal record of repeated theft.

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1. Introduction

Law is a fundamental pillar in the functioning of society, nation and state. The rule of law involves evaluating society's actions in accordance with legal regulations. In accordance with Article 1 section 3 of the 1945 Constitution of the Republic of Indonesia, Indonesia is a constitutional state. (C.D.M. et al., 2020) Indonesia uses law as a tool to achieve state goals and maintain domestic order. (S, 2017) Law, as a kind of state order, is enforced by the government to ensure the confidence and safeguarding of the population within its authority. (Tedi Sudrajat & Endra Wijaya, 2021) The level of protection afforded to residents by a nation might exhibit variability contingent upon the conduct of each society, since legal frameworks are inherently influenced by societal customs and behaviors.

The State gives priority to the peace and well-being of its people in order to create a peaceful and prosperous nation. Failure to comply with obligations can result in breaches of the law and sanctions, including punishments that have been imposed, if one community neglects or deliberately ignores its responsibilities, thereby causing damage to another community.(Marpaung, 2005)

Criminal acts are behaviors that deviate from the growing social dynamics of society.(Kusumawardhani, 2023) Criminal activity will continue to grow both in quantity and quality due to the nature of the law and the dynamic criminal or criminal behavior. Progress in committing these crimes can cause anxiety in society.(Rizqian, 2021)

Crime is a long-standing problem that evolves with human civilization.(Suryani et al., 2023) Crime is human behavior that violates standards and is considered harmful or annoying, so it cannot be forgiven. Crime always relates to personal activities as well as the limitations of society or the idea of what is allowed and forbidden, good and evil, all of which are reflected in laws, customs, and conventions.

Criminal law is a mechanism for dealing with crime with the aim of providing an appropriate settlement. Criminal law relates to the rule of law concerning criminal matters.(Putra et al., 2020) Criminal law refers to a set of laws that include orders and prohibitions concerning criminal acts, methods used to respond to violations of such laws, and rules that set time limits. certain limits of the scope of the norm.(Jan Remmelink., 2003) The evolution of the legal system, especially criminal law, is crucial as a structured and cohesive framework for addressing the rising crime rate and the development of criminal activity in Indonesia.

Murder is a common crime in today's society. The Covenant regulates the criminal offence of murder and crimes against human life in Book II, Chapter XIX. The thirteen articles of the Covenant, in particular articles 338 to 350, regulate murder. Murder can be classified as deliberate (delusional) or unintentional (alpha) by its form of guilt.(Halawa et al., 2020)

One of the murder criminal cases being investigated is the killing of a bank employee in Bali who was identified with the initials. IGAML was killed by two people, NSP and R, according to Denpasar State Court's decision No. 81/Pid.B/2023/Pn.Dps. Citizens found IGAML's body in an inanimate state on August 23, 2022 while searching for daytime grass along the Denpasar Gilimanuk road in the village of Melaya. The found bodies show wounds on the victim's head and face. Besides, there were scars on his legs and toes from pulling. IGAML is a bank official who works for the Government of Gianyar, Bali, domiciled in Banjar Buduk, Mengwi Province, Badung. According to RSUD, the victim's families suspect the body is a family member who has been missing since Sunday, August 21, 2022. The Polda Bali Criminal Reserve Directorate managed to arrest suspect R and NSP in the Lampung area on August 28, 2022. The NSP perpetrator is known as the victim's romantic couple, according to Polda Bali's investigation.

The police found that his refusal to carry out his activities was caused by financial pressure. The NSP perpetrator greets his partner, R, who is in Malaysia to carry out his malicious intentions against the victim. The perpetrator claimed to have communicated with the victim long enough before meeting in Bali. The perpetrator secured accommodation in Koskosan for the night with the intention of leaving for Bali. During his stay in Bali, the perpetrator claimed to have spent his daily expenses and contacted his partner in Malaysia for financial assistance. The two criminals began to make up their evil plan to steal the victim's car. On Sunday, August 21, 2022, the two perpetrators ended their activities after plotting to rob the victim's property. The activity was carried out in an unorganized manner amid crowds and traffic jams. Both of the perpetrators are now under arrest at Polda Bali. Both individuals are charged with murder and robbery which could result in the death penalty or life imprisonment. The police were forced to shoot the perpetrator's foot to prevent his arrest. According to police records, NR later committed violations in a violent robbery case in Lampung. Both perpetrators are charged under article 365 section (4) or article 368 of the Code for violent robbery resulting in the death of others.(Kriminal, 2022)

Based on this background, several problem formulations have been found to be discussed so that they can be clearly and clearly understood. The first is how to prove the elements of criminal acts of murder and theft in case Number 81/Pid.B/2023/Pn.Dps? secondly, what is the analysis of criminal law applied to case Number 81/Pid.B/2023/Pn.Dps? from the formulation of the problem so that it can become a guide and benchmark if there is a similar case in the future regarding the elements that can be proven so that a criminal case becomes easier to understand.

2. Method

The research methodology used is normative legal research, which includes the analysis of library material, court rulings, or secondary data. Normative law research requires a legislative approach to studying the legal regulations that are the main focus of research. The study focuses on analyzing the crime of planned murder and its legal implications using legislative and factual approaches. The analysis begins with a fact-based approach, continues with a conceptual approach to digging the meaning of legal terms in the rule of law. It involves testing meaning in practice through analysis of legal decisions and using an interpretative approach based on the rule of law.

3. Analysis and Results

3.1 Proofing of the Elements of the Punishment of Murder and Theft in Case No. 81/Pid.B/2023/Pn.Dps

Crime refers to any conduct that is unlawful and punishable under criminal law.(Adang, 2010) Legally, a crime is defined as any act that violates the criminal law. While criminal law is a set of regulations that regulate activities that are prohibited or necessary (for violations) to result in criminal punishment, there are several types of criminal sentences and ways of investigating them, requiring judicial examination, and carrying out criminal penalties.(Simons, 1982)

One of the criminal acts that this author is investigating is murder preceded by other crimes covered in Article 339 of the Covenant. According to article 339 of the Criminal Code, murder is a criminal offence that requires a preliminary establishment of criminal offences prior to the occurrence of the murder. Therefore, the public prosecutor must work hard to establish a preliminary criminal offence in court, which will then be assessed by the judge to determine whether the accused is guilty or not.(Pieter & Silambi, 2019)

Exposure of the author in a case that occurs as follows, On Sunday, August 21, 2022, around 10 a.m. WITA, the NSP defendant (31 years) persuaded the IGAML victim (42 years) to meet. The victim volunteered to drive the perpetrator and his known friend R (28 years old) to a cosmopolitan in Gianyar district using the victim's Honda Brio car. Then the three departed from the cost room and chose to walk and have dinner in the victim's car on one of the beaches of the Jimbaran area, Badung district. The NSP drives the car, the victim sits on his left, and R in the rear passenger seat. While in the car on the way home after a meal, R immediately stabbed the victim from behind with a bag strap. The victim fought so that the perpetrator R stabbed and hit the victim's face until he was unconscious. Next, the victim's head hit the car floor to death. To remove evidence, the victim's cell phone was removed from his license and memory and dumped in the Tabanan district area on the Gilimanuk port line. The body of the victim was thrown into a water channel near the Klatakan Forest in Br. Source Sari Village of Melaya on Denpasar-Gilimanuk Highway, Jembrana District, Bali. The victim's car was transported from Bali through the port of Gilimanuk and sold at a low price of Rs. 25 million. The police investigation revealed that the perpetrator planned a murder in order to seize the victim's car for financial gain. The NSP perpetrator first contacted his partner R in Malaysia to plan a

robbery, which later increased to murder as the victim fought. The crash in this case is inside a moving vehicle.

Before considering and looking at the evidence of the case that needs to be known and observed, it turns out that the legislator has the intention to establish rules concerning crimes threatening the life of a person, as indicated in Book II, Chapter XIX, of the Covenant. It consists of thirteen chapters, starting in particular from Articles 338 to Articles 350. (Kharisma & Yatna, 2024)

Evidence has an important meaning in the context of judicial examination proceedings. The fate of defendants who commit criminal acts is determined based on evidence. If the evidence obtained through legal means is deemed "insufficient" to prove the defendant's guilt, then the defendant is released from all legal consequences. (Ayu et al., 2022) On the other hand, the defendant's guilt can be demonstrated through evidence, as regulated in Article 184 of the Criminal Procedure Code, resulting in the defendant being found guilty. He will face punishment. Therefore, it is critical for judges to use caution, prudence, and maturity when evaluating and considering the significance of the evidence. (Maulidya et al., 2023)

In Decision no. 81/Pid.B/2023/PN Dps, the public prosecutor accused the defendant NSP of violating Article 339 of the Criminal Code in conjunction with Article 55 section (1) 1 of the Criminal Code. The defendant was proven to have fulfilled the requirements of the indictment. The analysis that can be given from the criminal act in case Number 81/Pid.B/2023/Pn.Dps fulfills the elements in Article 339 of the Criminal Code concerning Murder is as follows: (Maitulung, 2013)

a. Whoever

Every individual is a legal entity that upholds freedom and service, and bears responsibility for its actions. In this criminal case, the defendant with the initials NSP and R is a legal entity.

b. Deliberately taking another person's life

This element contains the word intentional, which indicates that the perpetrator intentionally committed a criminal act that resulted in the death of another person. Based on the existing facts, the defendant was charged with murder by strangling and hitting the victim on the head. Post mortem et repertum Number 445/919/Puskesmas I Melaya/2022 concluded that IGAML's death was caused by blunt force violence which indicated an unnatural death.

Article 339 of the Criminal Code regulates intentional death caused by the perpetrator, while Article 365 section (3) regulates theft with violence which results in death. The Criminal Code stipulates that the person's death is unintentional and unintentional by the perpetrator. (Pasaribu et al., 2023) The criminal act of murder under certain circumstances, as outlined in Article 339 of the Criminal Code, contains an element of deliberate intent to control the victim's property. (Saharuddin, 2023) In such cases, every element of the plan is also driven by personal gain. These elements include: (a) Preparing to facilitate the commission of a crime, NSP, in an unfavorable financial situation, planned to kill IGAML with R to gain control of the victim's assets. Preparing the task rope to strangle the victim is part of the deliberate preparation for the murder act. (b) To prevent opposition to self or other members involved in illegal activities and to maintain control over illegally conducted protests. In this case, the NSP did not commit the murder and robbery itself. Instead, he asked his partner, R, to carry out the murder. The two killers lost their tracks to avoid threats and destroy evidence. They then sold the victim's car.

Article 339 of the Criminal Code describes the things that aggravate the perpetrator of a criminal act. In this case, NSP and R individuals committed murder with the intention of

seizing the victim's property, which constituted murder and robbery. (aggressive stealing). Planning to commit murder, including forming an intention and gathering the necessary tools, is an act committed before the crime of murder as intended in Article 339 of the Criminal Code. Article 339 of the Criminal Code regulates the threat of imprisonment for a maximum of twenty years or life imprisonment. (Verawati, 2020)

Furthermore, after being evaluated and researched, it turned out that the defendant had committed two unlawful acts, the first of which was murder as referred to in Article 339 of the Criminal Code. This was caused by the way the defendant carried out the murder which had been planned beforehand, and the defendant disposed of the victim's body by simply throwing it away. Using the victim's identity to lose track of them. Second, apart from committing murder, as has been explained, the defendant also committed theft under Article 365 section (3) of the Criminal Code which resulted in the victim's death. The defendant controlled the victim's property, including the theft and sale of the victim's car.

Thus, the defendant committed two criminal acts, namely murder under Article 339 of the Criminal Code and theft or confiscation of the victim's property which resulted in the victim's death under Article 365 section (3).

3.2 Legal Analysis in the Crime of Murder and Theft with Case Number 81/Pid.B/2023/Pn.Dps

Analysis of the legal implications of the murder case of I Gusti Agung Mirah Lestari with the initials IGAML, namely the imposition of a trial decision or sentence on the perpetrator with a different weight of punishment. The court decision or verdict regarding this case is Denpasar District Court Decision No. 81/Pid.B/2023/PN.Dps dated 30 May 2023 and Denpasar District Court Decision No. 82/Pid.B/2023/PN Dps dated 30 May 2023.

The judge determined that Defendant NSP, aged 31, was legally and convincingly guilty of participating in criminal homicide and sentenced him to 18 years in prison. His partner, R (28 years), was also found guilty of participating in murder which was followed by a criminal act. R was sentenced to 20 years in prison. The defendant in this case was charged under Article 339 of the Criminal Code in conjunction with Article 55 section (1) of the Criminal Code.

According to the theory of punishment, in this case it is in line with the Goal Theory or Relative Theory. The purpose of punishment is not solely to cause suffering or provide a deterrent effect on criminals, but rather as a recovery effort, which aims to overcome the consequences of the perpetrator's actions. Remedy for the wrongdoers to reflect on their mistakes. (Mangkeprijanto, 2019)

In handing down a decision, the judge considers the aggravating and mitigating factors stated in the criminal complaint submitted by the Public Prosecutor (JPU). One of the aggravating things is that the defendant's actions caused public unrest and the defendant benefited directly from the crime. The defendant's confession and regret for his actions made his sentence lighter. In this case, Defendant R received a prison sentence of 2 years longer than (NSP) because the judge considered his previous criminal record. Rahman was revealed to have a history of committing theft in Lampung.

Based on the judge's considerations above which are related to recidive cases, the judge can take into consideration in giving weights in the decision given by the judge, namely the addition of 1/3 (one third) of the maximum threat given, even in the decision it becomes a condition for the judge's consideration in giving the decision. (Yusuf et al., 2017)

The author's analysis confirms that defendants NSP and R can be considered responsible for their actions because they were aware that their actions violated the law and

were carried out intentionally without any pressure or orders from outside. The defendant confirmed during the trial that they acknowledged all the evidence presented and admitted it. Additionally, litigants NSP and R do not have any health conditions or mental disorders, leading the creators to believe that they should be held responsible for the criminal acts they committed.

4. Conclusion

Based on the discussion above, based on the elements of the article that the defendant was charged with, namely Article 339 of the Criminal Code Jo. Article 55 section (1) concerning murder which was preceded by a criminal act, has been legally and convincingly proven by the defendant. The legal analysis of this case is precisely the sentencing of defendant NSP and defendant R, which can be seen from the kriminology carried out by the two defendants with careful preparation, which is related to taking control of the goods of the IGAML victim and carrying out premeditated murder and disposing of the victim's body so that their traces are not known. , then it is appropriate for the two defendants NSP and R in this case to receive a sentence for the defendant NSP, respectively, 18 (eighteen) years in prison and defendant R 20 (twenty) years in prison. Defendant R received a longer criminal sanction of 2 (two) years from the NSP because the judge considered the criminal record he had previously committed, it was known that R was a recidivist of the crime of theft.

Regarding the analysis of criminal law, perpetrators of criminal acts need to strengthen the criminal justice system in Indonesia for law enforcement officers such as the police in carrying out inquiries and investigations, prosecutors in providing charges who must be very competent in the cases at hand and examine more carefully the evidence provided by the police and judges as decision makers at trial can elaborate on the entire series in order to get the right decision at trial.

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