



CRIMINAL ACTIONS AGAINST WITNESS THAT GIVES FALSE STATEMENTS ON OATH IN THE TRIAL (CASE STUDY: FERDY SAMBO TRIAL AT SOUTH JAKARTA DISTRICT COURT)

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Abstract: *This study examines criminal acts against witnesses who provide false information on oath in court. In this case, the author focuses on the trial case that is currently underway, namely the case of the Ferdy Sambo Trial at the South Jakarta District Court. This study employs normative juridical methodology, which examines the law's rules (norms) in existing draft and favorable laws. According to the study's findings, this case was an obstruction of justice case in which several parties attempted to thwart law enforcement, both the defendant and the witnesses at the trial. This is done because there are still efforts to lighten the sentence given to the defendant. Furthermore, efforts to enforce a fair law against victims must be pursued so that the judge has the right to impose sanctions on witnesses who are proven to have given testimony under oath and may be subject to imprisonment for 7 (seven) to 9 (nine) years and sanctions for revocation of rights based on Article 35 No. 1-4, by the provisions of Criminal Code Article 242. Thus, law enforcers are expected to be more assertive in making decisions so that witnesses who give false information on oath can be quickly handled and punished according to the crime they have committed so that efforts to prosecute this case and give punishment to the accused can be carried out fairly.*

Keyword : *criminal act; witness; fake information*

I. INTRODUCTION

Indonesia is a rule-of-law country, where clear laws regulate the provisions and rules of this country. Thus, every member of society who commits an act that violates the law will undoubtedly receive criminal sanctions. This is done so that every Indonesian citizen has a fear of acting in violation of the law. Law enforcement is said to be successful if law enforcement is accompanied by awareness from the public to comply with all applicable legal regulations. Law enforcement itself has meaning as an effort to realize the values of justice, legal certainty, as well as social benefits into reality.

But the fact is, not everyone can comply with the law that has been in force. Some of them broke the law by committing criminal acts. A rule of law prohibits an action, and those who violate it face penalties in the form of specific crimes, this is known as a criminal act. The crime itself is divided into two, namely crime and violation. Crimes are referred to in book II of the Criminal Code, even though violations are governed by the book III. Unless the testimony or report is not given in good faith, witnesses to the perpetrator and reporters cannot be prosecuted legally, both criminally and civilly, for their testimony or report. What "providing testimony, not in good faith" means, among others, giving false information, perjury, and conspiracy.

The qualifications of "False Oath" and "False Statement" (Meineed en Valschheid in Verklaringen) are regulated in the title of Chapter IX in Book II of the Criminal Code, consisting of two articles: Articles 242 and 243. Meanwhile, Article 243 in 1931 was abolished from the Criminal Code (WvS Indies Netherlands) with Stbl. 1941 Number 240.

Article 242 formulates as follows:

1. Threats will be leveled against anyone who intentionally makes a false statement under oath, either orally or in writing, either personally or through proxies specially appointed for that purpose,



in a situation where the law dictates whether to give a statement under oath or face legal consequences for doing so. With a maximum sentence of seven years in prison.

2. The guilty party faces up to nine years in prison if they make a false statement under oath in a criminal case that hurts the defendant or suspect.
3. A promise or confirmation required by general regulations or can be used in place of an oath is referred to as an "equivalent."
4. Criminal revocation of rights under Article 35 No. 1 - 4 can be dropped.

However, the facts are that witnesses often give false or deceitful statements while in court, like what is currently happening in Indonesia regarding the trial that took place at the Jakarta District Court regarding the murder of Brigadier J by Ferdy Sambo and others. In this trial, the public prosecutor brought in various witnesses who were expected to reveal the motive for the murder. However, some judges found several witnesses who gave false or deceitful statements. Until the judge repeatedly reminded the witness to provide factual information. However, there are still a number of witnesses who continue to give false statements to the point that the judge and public prosecutor put forward criminal threats that can be imposed on them if they continue to provide false statements. In accordance with Section 1 of Article 174 of the Criminal Procedure Code, they will be punished. It is evident in Article 242 of the Criminal Code in terms of the penalty for giving false statements under oath, it is relatively severe with a penalty of 7 years in prison, and if it results in harm to the victim and also the suspect, the sentence will be increased up to 9 years in prison. However, until now, in giving testimony at trial, the witness was not afraid to give false testimony. This was carried out by several witnesses who were Ferdy Sambo's household assistants. As described above, the writer is interested in researching the subject of the title, "Criminal Act Against Witnesses Giving False Testimony on Oath in Trial," a case study of Ferdy Sambo's Trial at the South Jakarta District Court.

II. RESEARCH METHODS

This study employs normative juridical methodology, which examines legal norms (norms) in both existing draft laws and favorable laws. The bullies use library research resources to gather data by studying legal literature derived from primary legal materials, such as statutes, official records, or treatises, used in the creation of laws and decisions by judges. Regarding secondary materials, textbooks, dictionaries, legal journals, and comments on court decisions are all examples of legal publications that are not official documents.

III. DISCUSSION

3.1 Criminal Sanctions Against Witnesses Who Provide False Information in Criminal Acts as a Case (Obstruction of Justice)

A case that is quite shocking for Indonesia at this time is the death of Brigadier J, who was shot by his superiors. This case is included in the obstruction of justice case. This was revealed because of the legal obstruction efforts made by the defendant in this case, providing false information. Since the beginning of this case, there have been many schemes and efforts to prevent law enforcement. This caused the number of police officers involved in this case so that the number of defendants also increased.

Until the trial stage, this case is still a case of Obstruction Of Justice or giving false information; witnesses do this in the trial of this murder crime. As is often the case when witnesses are presented by the public prosecutor in the trial process, whether the witness has given false or incorrect information is based on the conviction of the judge. However, the fact that there are statements from several witnesses who were presented at this trial is still far from the facts, this can be seen from the strength of the evidence which is still weak.

From the perspective of the value and strength of the evidence o witness testimony, also known as "the degree of evidence," it is necessary to pay attention to several primary requirements that a witness must fulfill for their testimony to have value and strength of evidence. As a result, a witness's testimony can be considered valid evidence with evidentiary value.

As for the conditions for a witness, he must act competently according to the law, and there are no reasons to erase the guilt in him, or in other words that the witness must give information beforehand by the investigator or the public prosecutor to ascertain the truth regarding the

identity of the perpetrator, both regarding his age and status. In addition, an examination from a doctor regarding the health and psyche of the witness. Then he confirmed that a witness did not have a blood relationship or a relationship in three straight lines up and down with the defendants and was not husband and wife even though they were divorced. However, in this case, several witnesses were members of the defendant, where they still received wages and had attachments, namely between employers and subordinates.

Giving incorrect information would violate the applicable provisions, and thus in the disclosure of this case, no element of power was involved. Every witness has the right to make a statement on the facts so that justice will stand upright. Providing false information is against the law of Article 242 of the Criminal Code grants the public prosecutor and judge the authority to pursue legal action, which carries a maximum penalty of seven years in prison.

3.2 Application of the Criminal Code in Article 242 to Witnesses Giving False Statements on Oath

Suppose a person gives false testimony under oath. In that case, the application of article 242 of the Criminal Code stipulates that they must incorporate the elements outlined in that section into the facts of the case. Article 242 formulates as follows:

- (1) Anyone who intentionally makes a false statement under oath, either orally or in writing, either personally or by a specially appointed attorney for that purpose, in a situation where the law determines that he gives a statement under oath or creates legal consequences for such a statement, is subject to a maximum sentence of seven years in prison.
- (2) In a criminal case, if a false statement is made under oath and harms the accused or suspect, the guilty party faces up to nine years in prison.
- (3) A promise or reinforcement that is required by general rules or can be used in place of an oath is referred to as an "equivalent."
- (4) The punishment for revocation of rights based on Article 35 No. 1-4 can be dropped

Meanwhile, the crime of perjury is formulated in paragraph (1). If the criminal acts formulated in paragraph (1) are detailed, then perjury consists of the following elements:

Objective elements consisting of:

1. (a) in circumstances where the law stipulates that a statement must be made under oath; or
(b) to have legal consequences on statements under oath;
2. Acts: giving information on oath;
3. Object: false statement;
4. By (a) orally, or (b) in writing;
5. In (a) personally or (b) by proxy;

Subjective elements:

6. Error: on purpose

A legal understanding of the crime of perjury/giving false statements under oath can be derived by classifying the elements outlined in Article 242 of the Criminal Code. These crimes are committed intentionally by giving false statements under oath, either orally or in writing, either personally or by their attorneys in statutory circumstances to give statements under oath or to have legal consequences for statements under oath.

For this to apply perjury, all of these elements must be proven.

1. a. In the state where the law requires oath-taking statements to be given;
b. Carrying out Legal Consequences on Information on Oath.

Thus, in the crime of perjury, there are circumstances in which the law obliges one to take an oath to give testimony; as mentioned above, a statement made in this way constitutes perjury if the contents of the statement made are false. Therefore, there are two types of oaths.

- 1) First, an oath in which, under certain circumstances, a person gives a statement and is ordered by law to take an oath, as meant in point (a).
- 2) Second, an oath held for specific purposes by law is given a legal consequence, as referred to in point (b)

Criminal acts that can be imposed on witnesses who give false statements under oath, namely imprisonment and revocation of rights, according to those regulated in Criminal Code Article 242 paragraph (1) Whoever in conditions where the law decides to give declaration having sworn to tell the truth or having legitimate ramifications for a such explanation, purposely giving

bogus explanations having sworn to tell the truth, either orally or recorded as a hard copy, by and by or by an intermediary explicitly delegated for that design, is deserving of detainment for a limit of 7 (seven) years; (2) In a criminal case, a person who makes a false statement under oath that hurts the accused or suspect faces a maximum sentence of nine years in prison. Rights revocation for criminal purposes based on paragraph 4 of Article 35.

In Article 242, paragraph 2, to the disadvantage of the violation suspect or defendant, all information that levels the position or burdens the guilt of the defendant or suspect; can be various. It can be information that proves the defendant's guilt in committing a crime. It can also be informed about everything that can be considered to aggravate the error. And in Article 242 paragraph (4) regarding the punishment for revocation of rights based on Article 35 paragraph (1): the rights of the convict, which a judge can revoke in accordance with the provisions of this law book or other general rules, are:

1. The option to stand firm on footings overall or specific positions;
2. right to join the military;
3. the right to vote in elections that follow standard procedures and to be elected;
4. The option to be a legitimate consultant or guardian upon a court choice, the option to be a gatekeeper, watchman, amnesty, or watchman not his own over an individual kid.

Thus, it is evident that witnesses are the targets of criminal acts who are proven to provide testimony under oath. They can be imprisoned for 7 (seven) to 9 (nine) years and have sanctions for revoking their rights under Article 35 No. 1-4.

IV. CONCLUSION

In light of the consequences of the conversation above, it tends to be presumed that this case is an instance of Obstruction of Equity wherein endeavors to deter policing completed by different gatherings, both the defendant and the witnesses who were presented at the trial. This is done because there are still efforts to reduce the sentence that will be given to the defendant. Furthermore, efforts to enforce the law fairly against victims must be pursued so that judges have the right to sanction witnesses who are proven to have given testimony under oath, subject to imprisonment of 7 (seven) to 9 (nine) years and sanctions of revocation of rights under Article 35 No. 1-4, following Article 242 of the Criminal Code. Thus law enforcers are expected to be more assertive in making decisions so that witnesses who give false statements under oath can be quickly dealt with and subject to punishment according to the crimes they have committed so that efforts to try to prosecute this case and sentence the accused can be carried out fairly.

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