


A Legal Analysis Of Nterests Legal Protection For The Rights Of Victims Of Aggregated Theft

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Article Info	ABSTRACT
<p>Keywords: Legal Analysis, Legal Protection, Criminal Acts With and Aggravated.</p>	<p>Legal protection is any form of effort to protect human dignity and honor and recognition of Human Rights (HAM) in the legal field. Legal protection as a victim of a crime, especially theft, even with aggravation, the victim has the right to receive legal protection, in providing this legal protection must be maximized, especially victims who are economically weak. In decision No. 1743 / Pid.B / 2023 / PN Lbp, the defendant committed a crime of aggravated theft by stealing an RX King motorbike belonging to the victim and a witness, in this case the victim suffered material and immaterial losses due to the loss of the motorbike, but the judge only focused on determining the sanctions and the final sentence that would be imposed on the defendant and rarely discussed the rights of victims who were victims of the crime of aggravated theft and returned their rights in the final decision. In this study, the researcher formulated the problems to be discussed, namely: What are the general provisions related to the crime of aggravated theft, How is the legal review of the form of legal protection for losses to victims of criminal acts and How is the author's legal analysis of the interests of legal protection for the rights of victims of losses due to the crime of aggravated theft in the study of decision No. 1743 / Pid.B / 2023 / PN Lbp. This study uses a normative study method which is descriptive analytical research that provides an overview of the object being studied with a research method that focuses on collecting and analyzing data to understand and explain certain systems, processes, or phenomena. As a result of the study, the author found that in protecting the rights of victims of criminal acts or those related to criminal acts, the law in Indonesia regulates very strictly which has been regulated in Law No. 13 of 2006 concerning the protection of victims and witnesses in Article 281 paragraph 4, victims should be able to file for legal restitution. Victims can also apply for their rights to be protected by LPSK (Witness and Victim Protection Agency).</p>
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INTRODUCTION

Legal protection is any form of protection for human dignity and recognition of Human Rights (HAM) in the legal field. Everyone has the right to have legal protection, has the right to fair legal treatment without discrimination. Like the crime of theft, legal protection must be protected by Human Rights (HAM) and crimes against human dignity and forms of discrimination.

Legal protection as a victim of a crime, especially theft, even with aggravation, the victim has the right to receive legal protection, in providing this legal protection must be maximized, especially victims who are economically weak. The legal protection in question can be in the form of compensation, restitution and legal assistance as regulated in government regulation No. 44 of 2008 concerning the provision of compensation, restitution, and assistance to witnesses and victims.

The elements of legal protection are the existence of government protection for its citizens who become victims of criminal acts, legal certainty related to citizen rights and the existence of legal sanctions for parties who violate the law in accordance with their actions that violate the law and harm many parties. According to R. La Porta, 2 in the Journal of Financial Economics, the form of legal protection provided by a country has two characteristics, namely preventive (prohibited) and punitive (sanction). The most obvious form of legal protection is the existence of law enforcement institutions such as courts, prosecutors, police, and other non-litigation settlement institutions.

The regulation regarding witness protection is found in Law No. 13 of 2006 concerning the protection of witnesses and victims (UUPSK), according to the provisions of article 4 of the UUPSK, the protection of witnesses and victims aims to provide a sense of security to witnesses/victims in providing information in every criminal justice process. The role of victims in the occurrence of crimes in the study of victimology has a perspective where the victim is not only responsible for the crime itself but also has involvement in the occurrence of the crime.

The problem of victims is actually not a new problem, because certain things are less noticed, even ignored. If we observe the problem of crime according to its actual proportions in dimensions, then our attention will not be separated from the role of victims in the occurrence of a crime. Victims have a functional role in the occurrence of a crime. In reality, it can be said that it is impossible for a crime to arise in the occurrence of a crime and the fulfillment of the interests of officials that result in the suffering of the victim. Victims of theft crimes are certain to experience economic losses because theft is a crime that aims to own other people's property unlawfully.

The role in question is as the attitude and condition of a person who will become a potential victim or an attitude and condition that can trigger someone to commit a crime. The problem then arises, why victims who have clearly suffered losses both physically, mentally and socially, must also be considered as parties who have a role and can trigger the occurrence of crimes, even victims are required to bear responsibility for the actions carried out by the perpetrators of the crime.

Including victims of aggravated theft crimes, basically aggravated theft crimes are criminal acts committed by someone who takes other people's property in an aggravating manner, such as stealing at night, using certain methods, or committing other aggravating acts. Aggravation in the crime of theft can be in the form of threats, threats, or actions that cause fear or worry. Basically, the victim of aggravated theft is someone who has suffered a loss or loss due to an illegal or unauthorized act. This victim has the right to receive compensation in accordance with the actions that have been carried out by the perpetrator.

3 In this case, legal protection is very much needed by the victim to protect the rights and interests of someone who has suffered a loss or due to an illegal or unauthorized act. This legal protection is in the form of protection of the victim's rights, such as the right to be included in the diversion process and the right to receive compensation.

Regarding legal protection against losses of victims of violent theft, it has been clearly regulated in Article 363. This article stipulates that victims of aggravated theft have the right to receive compensation in accordance with the actions committed by the perpetrator. This compensation can be in the form of material or non-material compensation, such as psychological compensation and social compensation. In the case study of court decision No. 1743/Pid.B/2023/PN Lbp where in the case there was a theft committed by the defendant on behalf of Muhammad Aulia Akbar against the witness and victim Sutiningsih by stealing an RX King type motorbike with the plate BK 3467 FH which was carried out in the early hours of the morning at exactly 04.00 WIB which was carried out by prying open the window and entering directly into the house and taking the motorbike to then be handed over to his friend and sold to Roji for Rp. 2,700,000 where the money was used by the defendant to play fish gambling and as a result of the defendant's actions the witness and victim Sutiningsih suffered a loss of Rp. 12,000,000 (Twelve million rupiah).

Where in this case in the case of theft, often what is discussed in the Decision only discusses the chronology of the incident and the imposition of what kind of legal sanctions are determined for the defendant, but rarely discusses the rights of victims who suffer losses due to the incident and has not been found a clear legal position to protect the rights of victims for the incident that befell them. Therefore, in this study the author wants to refute the judge's decision which only punishes the perpetrator and without providing clear regulatory provisions regarding the rights of victims who have been harmed by the perpetrator, the status of legal protection for victims who suffer losses due to the crime of theft is discussed.

METHOD

This legal research is a normative juridical legal research. Normative juridical research is research using benchmarks for behaving or doing appropriate actions. 1 This research was conducted on secondary legal materials including laws and regulations, decisions, and legal theories as well as documents related to the problem, accompanied by interviews with judges. The specification of perspective research aims to provide an overview or formulate problems according to existing conditions/facts, related to. The specification of this research aims to describe the applicable regulations comprehensively and systematically, then problem solving is carried out supported by the data obtained. After conducting research, a description of general matters can be obtained which can ultimately provide answers to the problems raised in this research. This research uses a descriptive analysis nature, namely a description of the object being studied through data and processed or analyzed, the conclusions of which in this research focus on discussing and explaining the legal analysis of the interests of legal protection for the rights of victims of violent theft and analyzing how important legal protection is to maintain the rights of victims in a legal perspective. And this

study uses normative legal research. 4 In this study, the data collection method used is data collection carried out by document study which is a method of collecting data through information obtained from related parties in accordance with the case study raised. Documentation study is one way in which qualitative research visualizes the perspective of the subject in this study. The type of data in this study is obtained from secondary data in the form of basic data.

RESULT

Legal Analysis of the Interests of Legal Protection for Victims' Rights to Losses for the Crime of Aggravated Theft (Study of Decision No. 1743/Pid.B/2023/PN Lbp).

The crime of theft based on Article 362 of the Criminal Code states that anyone who takes another person's property, either in whole or in part, with the intention of taking it over unlawfully, is threatened with theft, with a maximum imprisonment of five years, or a maximum fine of sixty rupiah.

Aggravated theft is regulated in Article 363 of the Criminal Code and is a type of theft that is different from other types of theft, because aggravated theft is theft that is carried out in certain ways and under certain aggravating circumstances. The crime of theft with aggravating circumstances, which in doctrine is often called *gequalificeerde distal* or theft with qualifications by the legislator, is regulated in Article 363 of the Criminal Code.

This theft can be interpreted as special theft, namely a theft in certain ways so that it is more severe and therefore threatened with a heavier or higher sentence, namely more than a five-year prison sentence or more than the criminal sentence threatened in Article 362 of the Criminal Code.

According to M. Sudrajat Bassar, aggravated theft is included in special theft because this theft is carried out in certain ways or circumstances so that it is more severe. 8 And regarding the method, circumstances or things that aggravate this criminal act of theft in the sense specified in Article 363 of the Criminal Code, namely:

- a. Threatened with a maximum imprisonment of seven years
 1. This livestock theft is regulated in Article 101 of the Criminal Code because in reality livestock is one part of wealth.
 2. Theft during a fire, eruption, flood, earthquake or seaquake, volcanic eruption, shipwreck, stranded ship, train accident, riot, rebellion or danger of war.
 3. Theft at night in a house or closed yard where there is a house, carried out by a person who is there unknown or not wanted by the rightful party in this case is regulated in Article 363 paragraph 1 ke-3 of the Criminal Code which contains several other elements:
- b. The element of night is explained in Article 98 of the Criminal Code, night is the period from sunset to sunrise.
- c. Theft committed by two or more people in league
In this case it is regulated in Article 363 paragraph (1) ke-4 of the Criminal Code. which explains that the crime of theft carried out together is punished with the specified penalty.

- d. Theft in order to enter the place of the crime, or to get to the goods taken, is carried out by damaging, cutting or climbing, or by using a fake key, a fake order or fake official clothing. If the theft described in point 3 is accompanied by one of the things in points 4 and 5, then it is threatened with a maximum imprisonment of nine years.

Legal Review of Forms of Legal Protection for Victims of Crime.

Legal review of forms of legal protection for victims of crime can be seen from several aspects as follows:

- a. Criminal Code and Criminal Procedure Code legal protection for victims is based on the Criminal Code (KUHP) as a source of material law and the Criminal Procedure Code (KUHP) as criminal procedural law, the Criminal Code regulates the rights of victims of crime in Article 14 paragraph (1), which regulates compensation for victims of civil crimes. The Criminal Procedure Code also regulates the rights of victims of crime in Articles 98-101, which regulate the consolidation of compensation claims in criminal cases.
- b. Protection of victims in the investigation process and the forms received by victims in criminal acts in the form of obtaining protection for personal, family and property security, providing information without pressure from any party, free from heavy statements, and receiving open information on case developments.
- c. Protection of victims in criminal acts of theft, victims in this case will certainly suffer losses in the form of material and immaterial because basically theft means taking someone else's property without permission from the party who owns the property. In this case, the protection obtained for victims of criminal acts of theft is in the form of the right to protection of the victim's rights that have been seized in the form of compensation, restitution, and other legal assistance. In its synthesis, legal protection for victims of criminal acts includes various forms of criminal protection provided by law and law enforcement officers. However, there are still obstacles in the implementation of victim protection, such as the lack of understanding of the police regarding the rights of victims and bureaucracy that is not simple.

Author's Legal Analysis of the Interests of Legal Protection for Victims' Rights to Losses for the Crime of Aggravated Theft (Case Study Number: 1743/Pid.B/2023/PN Lbp)

The crime of aggravated theft is a crime committed by someone who takes someone else's property in an aggravating manner, such as stealing at night, using certain methods or committing other aggravating acts. Aggravation in the crime of theft can be in the form of threats, threats, or acts that cause fear and worry.

The types of aggravated crimes are regulated in Article 363 of the Criminal Code which explains aggravated crimes that occur when someone commits theft using violence or threats of violence against people, using weapons, or conspiring with others.

In its synthesis, the definition of aggravated theft is a crime committed using violence or threats of violence against people, using weapons, or conspiring with others. Aggravated theft can be subject to a maximum of 9 years in prison and the victim has the right to receive compensation in accordance with the provisions of the law.

In this case, legal protection is very much needed by the victim to protect the rights and interests of someone who has suffered a loss or due to an illegal act. This legal protection is in the form of protection of the victim's rights, such as the right to be included in the diversion process and the right to receive compensation. The following is a chronology of the criminal acts committed by the defendant in carrying out his actions in accordance with that attached to the court decision No. 1743 / Pid.B / 2023 / PN Lbp:

The theft was committed by the defendant on behalf of Muhammad Aulia Akbar against the witness and victim Sutiningsih by stealing an RX King type motorbike with the plate BK 3467 FH which was carried out in the early hours of the morning at exactly 04.00 WIB which was carried out by prying open the window and entering directly into the house and taking the motorbike to then be handed over to his friend and sold to Roji for Rp. 2,700,000 where the money was used by the defendant to play fish gambling and as a result of the defendant's actions, the witness and victim Sutiningsih suffered a loss of Rp. 12,000,000 (Twelve million rupiah). For the Defendant's Actions, the Public Prosecutor (JPU) Provides the following Indictment:

1. Declaring the Defendant MUHAMMAD AULIA AKBAR alias MEMET, guilty of committing the crime of "committing aggravated theft" as regulated and threatened with criminal penalties in Article 363 paragraph (1) 3 and 5 of the Criminal Code.
2. Sentencing the Defendant MUHAMMAD AULIA AKBAR alias MEMET to imprisonment for 2 (two) years and 6 (six) months, minus the time the defendant was in temporary detention with an order that the defendant remain detained.
3. Stating the evidence in the form of:
 - a. 1 (one) blue jacket
 - b. 1 (one) hat
 - c. 1 (one) pair of sandals

Based on the indictment submitted by the Public Prosecutor and the evidence attached to the court, the following are the considerations of the Judge:

1. Considering, that the Defendant at the trial has provided information which is in essence as follows: That the defendant was arrested by the police on Friday, September 29, 2023 at around 12.00 WIB on Jalan Pendidikan Dusun III, Bandar Setia Village, Percut Sei Tuan District, Kab. Deli Serdang or precisely at the defendant's own house in connection with the defendant having committed theft of the property of the victim witness SUTININGSIH on Saturday, September 23, 2023 at around 04.00 WIB on Jl. M. Yakub Lubis Gg. Dame Village Bandar Khalipah District. Percut Sei Tuan Regency. Deli Serdang
2. Considering, that the Defendant did not present a mitigating witness (a de charge) at the trial;
3. Considering, that the Defendant did not present an Expert at the trial.
4. Considering, that the evidence presented in this trial has been legally confiscated based on the decision No. 3000/PenPid.B-SITA/2023/PNMdn dated October 12, 2023, Therefore it can be used to strengthen the evidence, and the Panel of Judges

has shown the evidence to the defendant and the witnesses by the person concerned has confirmed it.

5. Considering, that based on the facts revealed in the trial and the statements of witnesses that are in accordance with the defendant's statements, as well as evidence, and written evidence, that it is true that on Saturday, September 23, 2023 at around 04.00 WIB. on Jl. M. Yakub Lubis Gg. Dame Village Bandar Khalipah District. Percut Sei Tuan Regency. Deli Serdang, precisely at the house of the victim witness SUTININGSIH, the defendant took goods in the form of 1 (one) Yamaha RX King Motorcycle with Police No. BK 3467 FH, Engine No. 3KA392867, Engine No. MH33-KA008YK418738 an. YULIANISTR, SH belonging to the victim witness SUTININGSIH without the permission of the victim witness with the aim of owning the motorbike and then selling it and making money.

After considering the facts presented to the court, the judge handed down the following verdict to the defendant:

JUDGING:

1. Declaring the Defendant Muhammad Aulia Akbar alias Memet above, legally and convincingly proven guilty of committing the crime of "committing aggravated theft" as stated in the primary indictment.
2. Sentencing the Defendant therefore to imprisonment for 2 (two) years and 10 (ten) months.
3. Determining the period of arrest and detention that the defendant has served to be deducted in full from the sentence imposed.
4. Ordering the defendant to remain in detention. Declaring the evidence in the form of:
 - a. 1 (one) blue jacket
 - b. 1 (one) hat
 - c. 1 (one) pair of sandals

Destroyed;

1. Money amounting to Rp. 70,000.- (seventy thousand rupiah) Confiscated for the State;
2. 1 (One) BPKB for Yamaha RX King Motorcycle with Police No. BK 3467 FH, Engine No. 3KA392867, Engine No. MH33- KA008YK418738 in the name of YULIANISTR, SH Returned to the victim witness Sutiningsih;
3. Charge the Defendant to pay court costs of Rp5,000,- (five thousand rupiah).

Thus it was decided in the deliberation session of the Panel of Judges of the Lubuk Pakam District Court, on Tuesday, November 28, 2023, by us, Roziyanti, S.H., as Chief Judge, Marsal Tarigan, S.H. M.H., Irwansyah, S.H., each as Member Judge, which was pronounced in an open session for the public on the day and date mentioned above by the Chief Judge accompanied by the Member Judges, assisted by Rista Sinabariba, S.H. M.H., Substitute Clerk at the Lubuk Pakam District Court, and attended by Rahmani Tarigan, S.H., Public Prosecutor and Defendant; Based on the results of the author's analysis after observing the chronological process of the case until the Sentencing Through the Decision

that has been determined by the Judge, in this case the author wants to refute the judge's decision based on the facts obtained by the author as follows:

1. The victim witness in the case of aggravated theft suffered a very detrimental loss both in terms of material and immaterial where in this case the role of law in protecting citizens including citizens who are victims of aggravated theft.
2. In protecting the rights of victims of criminal acts or those related to criminal acts, the law in Indonesia regulates very firmly in this case as has been regulated that:
 - a. Law No. 13 of 2006 concerning the protection of victims and witnesses in Article 281 paragraph 4 explains that the advancement, enforcement and maintenance of human rights is the responsibility of the state in this case the law has high power in defending the rights of its people who are victims of criminal acts.
 - b. The victim should be able to file for legal restitution.
 - c. The victim can also apply for protection of his rights by LPSK (Witness and Victim Protection Agency).
3. In the Legal Restitution Application in defending the rights of victims, the aim is to pay compensation by the perpetrators of the crime. The amount of compensation is in accordance with the court's decision. The losses of the victim themselves are not only in the form of material but also immaterial which are clearly explained as follows:
 - a. Helping to restore the victim's condition to the way it was before the crime occurred
 - b. As a form of the perpetrator's responsibility
 - c. Can lighten the burden on the victim and accelerate the victim's recovery both physically and mentally
 - d. The victim also has the right to receive protection from LPSK, where in the LPSK regulations mentioned in Article 16 paragraph 1 Letter D in regulating the loss or damage of the victim's property. And the basis for calculating the compensation that must be paid by the perpetrator is clarified in Article 20 paragraphs 1 and 3 which explain that the loss of property is calculated based on the after-sales price obtained from the price list on the official buying and selling application page and other sources and is carried out as long as there is a comparative price

Thus, the panel of judges in granting the imposition of a heavier sentence should include a decision that imposes compensation treatment on the rights of the victim caused by the perpetrator with the aim of providing a deterrent effect on the perpetrator of theft, and also providing strict legal counseling to the community regarding the impact of the crime of theft, not only the physical punishment received but also in the form of material, which is conveyed to the community present at the trial.

CONCLUSION

Based on the results of research related to the legal analysis of the interests of legal protection for the rights of victims of losses due to the crime of aggravated theft (case study

number: 1743/Pid.b/2023/PN Lbp). it can be concluded as follows: The crime of theft based on Article 362 of the Criminal Code states that anyone who takes someone else's property, either in whole or in part, with the intention of taking it over unlawfully, is threatened with theft, with a maximum imprisonment of five years, or a maximum fine of sixty rupiah. Protection of victims in the crime of theft who suffer losses in the form of material and immaterial because basically theft means taking someone else's property without permission from the party who owns the property. In this case, the protection obtained for victims of the crime of theft is in the form of the right to protection of the victim's rights that have been seized in the form of compensation, restitution, and other legal assistance. The Panel of Judges in Decision No. 1743/Pid.B/2023/PN Lbp in issuing a decision to try a case should take into account other facts as a whole with the aim of providing a sense of justice for both the perpetrator and the victim who has been harmed.

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