

Criminal Responsibility of Key Duplicate Makers in Pekanbaru City in the Event of Crime Using the Duplicate Key

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Abstract—In criminal law, there are three main issues which become the scope of criminal act, criminal liability or sanctions. Not all actions proven by the elements can cause the offender to be convicted if he cannot be blamed so that criminal liability cannot be held. In practice many cases involving people in good faith are also held responsible for the crime. One of them is the makers of key duplicates. Empirical duplicate key makers are very much needed by the community, but they are not infrequently involved in criminal cases when the perpetrators who use their services use duplicate keys that they make to commit crimes, especially theft. By using empirical juridical research methods, it is concluded that (i) duplicate key makers are aware of the possibility that their duplicated keys are misused by others, so they continue to apply the precautionary principle in serving consumers, (ii) however, legally they are not can be accounted for unless it can be proven intent to participate in being part of a theft syndicate.

Keywords: *criminal liability, key duplicate*

I. INTRODUCTION

Criminal liability is one of the three central issues in criminal law. Even though a criminal act has been proven, the perpetrator is not automatically convicted. This includes the perpetrators of theft. One crime that is quite popular in the community is theft. Of the several offenses in the Criminal Code, offenses for theft are the most frequent offenses in the community. The offense for theft is also the first offense in the chapter regulating offense against community property. A theft case can be classified as a theft case with a weight if the theft is done at night in a house, or to enter the place where the crime was committed by damaging, cutting or climbing, or by using false orders, fake office clothes, the culprit consists of two or more people, and carried out in disaster conditions, for example during a fire, earthquake, train accident, riots, and so on as specified in Article 363 of the Criminal Code.

Some researches related to this topic include: Agus Suharsoyo's [1] research entitled Character of Theft Actors in The Typology of Theft Crimes in Sukoharjo District,

Jurisprudence, Vol. 5 No. March 1, 2015, Wahyu Nugroho [2], with the title Disparity of Punishment in the Criminal Case of Theft with Weights, Review of Decision Number 590 / Pid.B / 2007 / PN. Smg and Number 1055 / Pid.B / 2007 / PN.Smg. Judicial Journal Vol. 5 No. 3 December 2012: 261 - 282, research by Rusmiati Rusmiati, Syahrizal Syahrizal, Mohd. Din [3], entitled The Concept of Theft in the Criminal Code and Islamic Criminal Law, in the journal Syiah Kuala Law Journal: Vol. 1, No.1 April 2017, Muhammad Noor Hafifi [4] Crime of Theft with Violence committed by Narcotics addicts reviewed from Criminology angle in Pontianak City, Gloria Yuris Legal Journal, Volume 3 Number 14, Mery Marliani and Yulius Jogi [5] Perceptions of the influence of the Narcotics Fraud Against Burglary Kas Business Accounting Review, Vol 3, No.2 August 2015. This study is different from previous studies because of questions about theft by using a duplicate key.

The offense of theft according to Article 363 is commonly referred to as theft by weighting. The ballast element in this theft is the destruction of property and the breach of someone else's territory, the number of perpetrators, the existence of fraud or forgery, and the condition of the disaster at the time of the incident. Theft carried out during the day can also be categorized as theft by weighting, as long as it fulfills one of the ballast elements at the time of the event [6].

Newman was quoted as saying by Rara Putri Delia stating [6]:

"One form of theft crime that received much attention is the case of theft that occurred in the area of residence or housing. Housing should be a safe place, including safe from various criminal disturbances. The neighborhood is built with safety considerations against hazards, it should also include security against criminal hazards, so that the activities of its inhabitants can be optimally accommodated such as activities for living, working, socializing, resting and recreation. "

One mode of theft by weighting is theft in homes using fake keys. Besides being used to carry out burglary at home,

theft by motorized vehicles is also done by using fake key mode. Of the two forms of object theft, a fake key or also called a duplicate key is an important tool that can facilitate the theft of theft. In the case of a burglary case in which a theft of a house or a motor vehicle is found, duplicate key makers are brought along in the case. On the other hand, the existence of key duplicate makers is needed by the community in terms of the homeowner or motor vehicle owner losing the original key.

The involvement of duplicate key makers in a theft case raises legal debate over the extent of criminal liability or the extent to which duplicate keys that were used to commit the crime could be considered to have participated in or assisted in a criminal act.

This study aims to determine the criminal liability of a duplicate key maker if a crime occurs using a duplicate key.

II. PROBLEM IDENTIFICATION

- What is the perspective of law enforcement on duplicate key makers if a crime occurs involving key duplicators?
- What is the criminal responsibility of the key duplicate maker in the case of a theft crime by using a duplicate key he made from the perception of criminal law theory?

III. RESEARCH METHODS

This type of empirical legal research consists of at least two forms, namely (1) research on legal identification (unwritten law) and (2) research on the effectiveness of law in indigenous peoples. In research on the criminal liability of key duplicate makers, empirical legal research methods are used, particularly research on law enforcement.

To collect data, researchers conducted field studies (field research) and library studies (library research). In the field study, researchers conducted interviews with key duplicate makers and investigators. This is needed to find out how their perceptions about the criminal liability of key duplicate makers

To collect data, researchers conducted a library study (library research) and a field study (field research). Literature studies are carried out in several libraries to collect secondary data in the form of primary law such as laws, secondary legal materials such as law books and tertiary legal materials such as legal journals and magazines, all of which function as first-line information. In the field study, this researcher conducted interviews with key duplicate makers, community leaders and stakeholders. Determination of the sample is done by purposive sampling, where respondents are found to have been competent in their fields.

The data collection techniques used in this study were interviews and questionnaires that had been prepared in advance, addressed to respondents.

To conclude the results of research in order to achieve objective results, data are arranged, classified, recorded and analyzed qualitatively. Data preparation aims to select data relevant to this research. Description of the processing and

analysis activities include: (1) data reduction, (2) simplification and presentation of data and (3) verification of research results and drawing conclusions. Data analysis activities are carried out simultaneously with the data processing, even starting from the beginning of data collection. Then the method of drawing conclusions that I use is deductive namely drawing conclusions from the general to the specific.

IV. RESEARCH RESULTS AND DISCUSSION

In his famous book "The Limits of Criminal Sanction", Herbert L Packer states that criminal law is basically based on three concepts namely violation, error and punishment. The substance of the punishment is [7]:

- What conduct should be designated as criminal;
- What determinations must be made before a person can be found to have committed a criminal offence;
- What should be done with persons who are found to have committed criminal offenses.

In line with Packer's opinion above, Sudarto stated that the criminal law consists of three main things namely about what acts are prohibited, about people who violate the prohibition and about crimes that are threatened against the offender. Regarding people who violate this prohibition, it is also often referred to in the criminal law literature as criminal error or responsibility [8]. Hanafi, for example, states that the three central problems in criminal law are regarding criminal acts, criminal liability, and conviction. Criminal acts relating to the subject or perpetrators of crimes, criminal liability related to the basis for imposing penalties, while the crime is a sanction imposed on the person who commits a crime on the condition that the person can be accounted for [9].

The conviction of a person is not enough if the person has committed an act that is contrary to the law or acts that are against the law. This means that even though the act complies with the formulation of a criminal offense in the law and is not justified, it does not yet meet the conditions for the conviction of the perpetrator. For convictions, conditions are still needed that the person who committed the act has a mistake or is guilty. Thus the person must be accountable for his actions or his actions must be accountable to that person [10].

Of the 12 districts in Pekanbaru City, Tampan District is the most densely populated sub-district. According to Pekanbaru data, the population of Tampan Subdistrict in 2018 is 307,947 of the total population of Pekanbaru City, which is 1,117,359 inhabitants.

Based on investigators' investigations, along Jalan Subrantas there were 5 duplicate key kiosk makers, on Garuda Sakti Street there were 2 and on Soekarno Hatta Street there were 2. In total in Tampan District there were 9 duplicate key kiosk makers.

Among the makers of duplicate fake keys there is no collaboration, even competition occurs between them. In general, duplicate key makers come from West Sumatra, who are on average from the youngest teenager, namely the owner

of the kiosk to the oldest, 56, who opens the kiosk in front of the Tampan Mental Hospital, where his parents are also key duplicate makers. He inherited his skills to his child. The kiosk that is opposite the Awal Bros Panam Hospital is still related to the kiosk owner in front of the Tampan Mental Hospital. The skills to make duplicate keys are passed down through generations and the experience of participating in people making duplicate keys.

Duplicate key maker tools are bought for an average of a minimum of 10 million except for the kiosk owner on Jalan Garuda Sakti in front of SDN 37, which has simple equipment for only 2 million. This machine is manual, does not use electricity. As for their kiosks, they were built with wooden huts, some with wagons and some with cars. With this equipment, all kiosk owners in the Tampan Subdistrict claimed to be able to make all keys including the car keys using the remote, although with different difficulties. The price of making a Honda type remote car key is the most difficult, because it is paid a price of up to Rp. 300 thousand. Of the 9 stalls that researchers observed, the stall in front of Awal Bros Hospital was the most crowded.

Regarding the possibility that a duplicate key was made to commit a crime, the kiosk owner in front of the Mental Hospital said he was not worried about the possibility that he was involved in the case because he had a good intention to help people in good interests as well. That it turns out that the buyer uses it to commit crimes, he feels irresponsible and does not feel guilty, because he is the same as making a knife after the ordered knife is finished, he does not know whether the buyer uses a knife to slice meat or kill people.

Even so, he had a feeling whether the person who ordered the key to him intended evil or not. If in his feelings the buyer intends evil, then he does not serve with a variety of reasons made.

The kiosk owner in front of the morning market Arengka claimed not to serve duplicate key orders if there were no key samples, such as those that only brought key tooth samples with soap. He once experienced an incident because he fulfilled the call to make a key for someone's order with a model of soap serrations in the people's homes in good faith. When trying to open the lock, he was approached by local residents because the buyer was apparently not the owner of the house to be unlocked. Stall owners in front of SDN 37 Jalan Garuda Sakti have a motto that they repair not damage, so it will not serve T key reservations that are commonly used by criminals to steal motorized vehicles.

The duplicate maker in front of the UNRI Campus considers making the T key unnecessary to the duplicator

because it is sufficient in the bolt seller shop. T lock does not require serration. But he was very careful and saw the customer because he had dealt with the Handsome Police Sector because he made a duplicate of a key that was ordered by a husband who was undergoing legal proceedings with his ex-wife. Although he was considered innocent, the experience of being called by the police left a deep trauma which made him cautious about making duplicate keys. Therefore, in making an order for a motorized vehicle, they asked for a vehicle registration beforehand, not wanting to make it just as if the customer came with a motorcycle.

V. CONCLUSIONS

Based on observations and interviews of researchers with respondents obtained a picture that the makers of key duplicates are aware of the possibility of duplicate keys that they make can be used to commit crime. Judging from the legal aspect of their knowledge of the possibility that it can be qualified to meet the element of error or intentionality.

REFERENCES

- [1] A. Suharsoyo, "Character of Theft Actors in The Typology of Theft Crimes in Sukoharjo District," *Jurisprudence*, Vol. 5 No. March 1, 2015
- [2] W. Nugroho, "Disparity of Punishment in the Criminal Case of Theft With Weights, Review of Decision Number 590 / Pid.B / 2007 / PN.Smg and Number 1055 / Pid.B / 2007 / PN.Smg. *Judicial Journal* Vol. 5 No. 3, pp. 261 – 282, December 2012:
- [3] R. Rusmiati, S. Syahrizal and M. Din, "Konsep Pencurian Dalam Kitab Undang-Undang Hukum Pidana dan Hukum Pidana Islam," *Syiah Kuala Law Journal*, Vol. 1, No. 1, pp. 339-352, 2017.
- [4] M.N. Hafifi, "Crime of Theft with Violence committed by Narcotics addicts reviewed from Criminology angle in Pontianak City, *Gloria Yuris Legal Journal*, Vol. 3, No. 14
- [5] M. Marliani and Y. Jogi, "Perceptions of the influence of the Narcotics Fraud Against Burglary Kas." *Business Accounting Review*, Vol 3, No. 2, August 2015.
- [6] R.P. Delia, "Analisis Determinan Penyebab Timbulnya fear Of Crime pada Kasus Pencurian Di Kalangan Ibu Rumah Tangga", *Jurnal Kriminologi Indonesia*, Vol. 5, No. I Februari 2009.
- [7] H.L. Packer, *The Limits of Criminal Sanctions*. California: Stanford University Press, 1986.
- [8] Sudarto, *Hukum dan Hukum Pidana*. Bandung: Alumni, cetakan ke-5, 2007.
- [9] Hanafi, *Reformasi Sistem Pertanggungjawaban Pidana*, Makalah dalam *Jurnal HUKUM lus Quia lustum*, Edisi No. 11 Vol. 6, Fakultas Hukum UII, Yogyakarta, 1999.
- [10] T.W. Widiastuti, "Prinsip Individualisasi Pidana Dalam Hukum Pidana Dan Hukum Pidana Islam Di Indonesia", *Jurnal Wacana Hukum*, Volume 9 No. 2, Fakultas Hukum Universitas Slamet Riyadi, Surakarta, 2010.