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Proof Analysis Denial of Investigation Report by the Defendant During Trial Based on Jurisprudence Number: 229 K/Kr/1959 (Verdict Study of Sidoarjo District Court Number: 390/Pid.B./2015/PN.Sda)

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ABSTRACT

In the context of criminal law, proof is one of the most important process in the criminal justice proceedings because what is sought in criminal law is material truth. Basically, this aspect of proof actually starts from the stage of investigation. In the violent theft case with the defendant Achmad Afandi and Agnes Dwi Ridwan, they deny the investigation report. However, the investigators who examined this case didn't present in the trial when they got call as witness by the judges. Regarding the denial of the investigation report, the judges must pay attention to the reason behind it. Whether or not the denial of the investigation report accepted can affect the judge's judgment in deciding a criminal trial. The research method used is normative legal research. The results showed that there is dissenting opinion by judge's consideration regarding the denial of investigation report. The strength of evidence based on jurisprudence Number 229 K / Kr / 1959 are free, cannot stand alone, there must be a judge's conviction, and is used to help find evidence or as a guideline for the guilty fault. There are different opinions regarding the evidence where one of the judges does not agree to the denial of the investigation report by the defendant. The dissenting opinion of the judges is in accordance with the strength of evidence in the Jurisprudence Number: 229 K / Kr / 1959. Regarding the denial of the investigation report, the judge must be objective and wise.

***Keywords**: Proof, Denial of Investigation report, Jurisprudence Number 229 K/Kr/1959*

1. INTRODUCTION

Indonesia is a country based on law (Rechtsstaats); this is stated in Article 1 Paragraph (3) Constitution of the Republic Indonesia which states that "The State of Indonesia is a state of law". Thus, in every life of the people it is always closely related to the rule of law or norms that aim to protect the community from crime and create a safe and secure life.[1]

The law that applies among these communities continues to develop so that it can be assessed from various specific aspects. One of them can be reviewed from the aspect of its function, where there is a scope of public law, namely Criminal Law which can be divided into material Criminal Law (materieel strafrecht) and formal criminal law (Formeel Strafrecht / Strafprocesrecht).[2] Material Criminal Law contains instructions and a description of offense, the requirements for whether or not a person is convicted, and the rules on criminality, while the formal Criminal Law or the Criminal Procedure Code contains rules about how the state through its tools exercise its right to convict or impose a crime. Viewed from the theoretical perspective and practice of the Indonesian criminal justice system, formal criminal law (Criminal Procedure Law) has a very important role to guarantee, uphold and maintain material criminal law. [3]

In essence, criminal justice is a system of criminal law enforcement power or a system of judicial power in the field of Criminal Law, which is manifested in four subsystems including the power of investigation, the power of prosecution, the power to prosecute and impose a criminal, and the power of criminal conduct. The criminal justice system outlined in the Criminal Procedure Code is a unified integrated system based on the law and is known as the integrated criminal justice system. The integrated criminal justice system is based on the principle of functional differentiation between law enforcement officials in accordance with their respective duties and authorities according to the law. Therefore, in its function to carry out law enforcement, a collection function is needed between the police, prosecutors, advocates and judges in court.[4]

The Police of the Republic of Indonesia in exercising the powers of investigation are given the right to carry out investigative actions against suspects in accordance with the law (due process of law). In this regard, investigators in carrying out their duties and authorities need to pay attention to the rights of suspects, and are obliged to record them in the official report as regulated in Article 117 Paragraph (2) of the Criminal Procedure Code.[5] Because the Criminal Procedure Code does not only contain provisions on the procedure of a criminal process, but also affirmed that someone suspected or suspected of being involved in a criminal act, still has rights that must be protected. Thus, law enforcement officials need to ensure that suspects are aware of their constitutional rights, especially the right to remain silent and the right to legal assistance. The purpose of the investigation is to prepare a case file which will be submitted to the public prosecutor as a law enforcement officer authorized to carry out the prosecution. The public prosecutor then formulated the indictment in line with the results of the investigation which functioned as the basis for the examination of the defendant when the investigation result file was transferred to the judge before the trial. This is as regulated in Article 139 of the Criminal Procedure Code which states that after the public prosecutor receives or receives the results of a full investigation from the investigator, he immediately determines whether the case file has met the requirements to be able or not submitted to the court. [6]
In examining criminal cases at a trial, proof is a central point and plays a very important role. Proof is a series of processes that are based on the provisions regarding evidence that is justified by the law and used by judges to prove the wrongs charged with it. Valid evidence as regulated in Article 184 paragraph (1) of the Criminal Procedure Code, namely witness statements from expert statements, letters, instructions, statements of the defendant.[7]
Defendant's evidence ranks last used to place the examination process of the defendant's statement carried out later after the examination of witness testimony. The defendant's testimony outside the court (The Confession Outside the Court) can be used to help find evidence in court. Defendant's testimony or equated with confession evidence regarding what the defendant did, knew, or experienced himself, which if later admitted by the defendant at trial is a valid evidence as regulated in Article 189 Paragraph (1) of the Criminal Procedure Code namely the defendant's statement as a tool Valid proof is the statement he stated at the trial.[8]

In the verification process it became very interesting when during the trial hearing, the defendant denied the information he had stated in the official report during the investigation. However, it cannot be denied that the minutes made during the investigation are the beginning of the allegation of the criminal acts charged to him. The indictment prepared by the public prosecutor is based on sitting cases described by evidence and evidence found in a

case by the investigator. Also related to the judge's assessment of the reasons for revocation of information at the trial, in proving that both the judge and the public prosecutor will present a verbal witness (investigator witness). Verbal witnesses are witnesses from the investigators presented by the public prosecutor or panel of judges to be witnesses to a criminal case at the trial because the defendant denies or revokes the information given in the Official Investigation Report because the defendant when examined at the investigation level claimed to be pressured, forced, or threatened. [9]

This was motivated by the provisions contained in Article 163 of the Criminal Procedure Code which states that: "If the witness testimony at the hearing is different from the witness testimony on the official report, the presiding judge reminds the witness about it and asks for information about the differences that exist and is recorded in the minutes of the examination trial ". Therefore, the existence of this verbal witness has not been explicitly regulated in Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP).[10]

Since the first time the denial of investigation proceedings by the defendant always occurred during the trial examination process and was often submitted on the grounds that the defendants were forced to confess during the investigation process with threats or physical violence perpetrated by the investigator. Therefore there are already many Supreme Court Jurisprudence related to this matter, including the Supreme Court Jurisprudence Number: 229 K / Kr / 1959 dated February 23, 1960, Supreme Court Jurisprudence Number: 225 K / Cr / 1960 dated February 25, 1960, Supreme Court Jurisprudence Number: 5 K / Kr / 1961 on September 27, 1961, and the Supreme Court Jurisprudence Number: 6 K / Kr / 1961 on June 25, 1961.

Based on the Supreme Court Jurisprudence Number: 229 K / Kr / 1959 dated February 23, 1960 it is explained that confessions given outside the trial cannot be retracted without a logical reason, the statement of confession will still have the function and value of proof of guidance or as an aide to help find evidence at trial. Therefore, the revocation of a defendant's statement without any logical reasoning is a revocation that cannot be justified by law.

As happened in the process of examining the case at the hearing of the Sidoarjo District Court Decree Number: 390 / Pid.B / 2015 / PN. There was a Dissenting Opinion in which 2 panel of judges accepted the reason for the denial of the investigation report by the defendants namely the defendant Achmad Afandi and the defendant Agnes Dwi Ridwan before the trial so that the defendants were acquitted of all charges while a panel of judges refused the reason for denying the investigation report.

Based on the background, the title of this research is "Analysis of Proof of Disclaimer Minutes of Investigation by the Defendant in Trials Based on Supreme Court Jurisprudence Number: 229 / K / Kr / 1959 (Case Study of Sidoarjo District Court Decision Number: 390 / Pid.B / 2015 / PN.Sda) ".

2. RESEARCH METHOD

The research method is the most important part in a study, because the research method will be the direction and direction for a research. Legal research is a process to find the rule of law, legal principles, and legal doctrines to address the legal issues at hand.[11] In this study, the authors put a norm system both legislation, principles relating to the criminal justice system, proof, and denial of the investigation report.

Data collection techniques used by the author in writing this proposal are library research (library research). Literature study is

a data collection technique by collecting library materials such as books, documents, and articles, and is done by reading, studying, studying, and recording from books or references relating to the object or problem under study. Literature material used by the author is material related to the criminal justice system, the evidentiary process, as well as the denial of the minutes of investigation examinations by the defendant in court.[12]

3. PROBLEM ANALYSIS

A. Strength of Proof Denial of Investigative report by the defendant in the trial based on Jurisprudence Number: 229 / K / Kr / 1959

In principle, in resolving a legal problem before a trial, the verification process is an essential thing especially for judges in making decisions. Proof is carried out according to applicable law both regarding the provisions of evidence, evidence, how to collect evidence, as well as the burden of proof and strength of proof.

In the process of proving it becomes very interesting when in examination at the trial, where it turns out the defendant denied the information he had stated in the minutes of the investigation. Denial of the Investigation Report by the defendant in the trial is one of the rights granted by law to the defendant to be able to provide information freely before the trial as stipulated in Article 52 of the Criminal Procedure Code. However, it cannot be denied that the position of the minutes made during the investigation in a unit of case files resulting from the investigation is the beginning of the allegation of criminal acts charged to the defendant and the basis of the indictment prepared by the public prosecutor as regulated in Article 140 Paragraph (1) Criminal Procedure Code.

Since the first time the denial of investigation proceedings by the defendant often occurred during the trial examination process, therefore there have been many Supreme Court Jurisprudence that regulates related matters including Supreme Court Jurisprudence Number: 229 K / Cr / 1959 dated February 23, 1960, Jurisprudence Supreme Court Number: 225 K / Kr / 1960 on February 25, 1960, Supreme Court Jurisprudence Number: 5 K / Cr / 1961 on September 27, 1961, and Supreme Court Jurisprudence Number: 6 K / Cr / 1961 on June 25, 1961. Each of the jurisprudence above has confirmed that information that has been given outside the court cannot be revoked without a clear reason.

The existence of Jurisprudence itself as a source of law in Indonesia is Persuasive Precedent which means that judges in deciding a case are free to choose whether or not to use jurisprudence but still need to be respected and used as consideration. In practice jurisprudence must still be used as a guideline for subordinate judges (Judex Factie) in examining and adjudicating a case. This is because jurisprudence is considered important for creating legal standards, creating legal certainty by providing the same legal basis. Thus, Jurisprudence is a source of law that has binding power as referred to the Principle of Res Judicata Pro Veritate Habetur where the judge's decision must be considered true until obtaining permanent legal force or if otherwise decided by a higher court.

In the Supreme Court Jurisprudence Number: 229 K / Kr / 1959 dated February 23, 1960 it is explained that confessions given outside the trial cannot be revoked without a logical reason, the statement of confession will still have the function and value of proof of guidance or as an aide to help find evidence at trial. Therefore, the revocation of a defendant's statement without any logical reasoning is a revocation that cannot be justified by law.

Regarding the issue of the strength of the evidence of denial of the investigation report by the defendant before the trial based on the Supreme Court Jurisprudence Number: 229 /

K / Kr / 1959, then surely it cannot be separated from the duties of the judge's authority and the evidentiary system adopted by Indonesia, namely the evidentiary system according to the law in accordance with the law. negative (negatief wettelijke bewijs) as reflected in Article 183 of the Criminal Procedure Code which states:
"Judges must not convict a person unless if with at least two legal pieces of evidence he obtains the conviction that a criminal act actually occurred and that the defendant is guilty of committing it."

First, the strength of proof of denial of the Investigation Report by the defendant before the trial is free which means that the judge is free in giving an assessment of the strength of the evidence and is not bound to it. In other words, the judge is free in assessing whether or not the evidence is correct and or should be used or not.

Based on the Supreme Court Jurisprudence related to the denial and / or revocation of the investigation report, it is known that the denial of the investigation report can only be submitted or put forward by the defendant in court on the condition that the defendant needs to state the reason. This is important because based on the Criminal Procedure Code the legal facts are what the defendant stated in the trial. If the investigation report has been proven that the pressure, intimidation, and torture carried out by the investigator against the suspect when the investigation is not true then the investigation report can be properly recognized as is in the trial and can be one of the evidences as regulated in Article 184 of the Criminal Procedure Code valid evidence especially the defendant's statement.

As evidence, the defendant's testimony outside the court (The Confession Outside the Court) or can be equated with confession evidence about what the defendant did, knew, or experienced himself which if later admitted by the defendant at trial is a valid evidence as regulated in Article 189 Paragraph (1) of the Criminal Procedure Code.

An official report shall be made in every act of investigation as regulated in Article 75 Paragraph 1 of the Criminal Procedure Code, including:

a. Examination of the suspect.
b. Arrest.
c. Detention.
d. Search.
e. Entering the house.
f. Confiscation of objects.
g. Examination of letters.
h. Witness examination.
i. Inspection at the scene.
j. Implementation of court rulings and decisions.
k. Performing other actions in accordance with the provisions in this law.

Article 75 Paragraph 2 of the Criminal Procedure Code states: "The official report shall be made by the official concerned in carrying out the act referred to in paragraph 1 and shall be made based on the oath of office". Whereas Article 75 Paragraph 3 of the Criminal Procedure Code states: "The minutes of the proceedings, in addition to being signed by officials in paragraph 2, are also signed by all parties involved in the act in paragraph 1".

Where based on the provisions of Article 75 Paragraph (1) Letter a jo. Article 75 Paragraph (3) of the Criminal Procedure Code is known information that can be qualified as a statement of the defendant outside the trial, that is, the information given by the defendant at the time of the investigation by the investigator which is then recorded in the minutes of the investigation and signed by both the investigating officer and the defendant. In addition, the information given by the defendant at the investigation stage is presented to the investigator who conducts the examination without pressure from anyone and or in any form and must be recorded in the minutes as thoroughly as possible in accordance with the words used by the suspect

himself as regulated in Article 117 of the Criminal Procedure Code which states that "Information of suspects and or witnesses to investigators is given without pressure from anyone and or in any form".

Every suspect examined and questioned by the investigator needs to be given protection of human rights especially his right to obtain legal counsel and the right to remain silent or refuse to answer police or investigator questions both from the investigation process to the judicial process. Therefore, even though the denial of the Investigation Report by the defendant before the trial is allowed as stipulated in Article 52 of the Criminal Procedure Code which reads:
"In examinations at the level of investigation and trial the suspect or defendant has the right to provide information freely to the investigator or judge".

The judge in the trial must still question what is the basis or reason for the revocation and the reason must be verified. This can be seen from the various Supreme Court Jurisprudence as one of the sources of existing legal evidence related to the denial of the investigation report where the revocation of information outside the court must be based on logical reasons especially as stated in the MA Jurisprudence Number: 229 / K / Kr / 1959.

Thus, even though the strength of the evidence of denial of the Investigation Report by the defendant in front of the trial is free, the denial of the investigation report by the defendant basically still has an influence on the process of proof before the trial. Therefore, the judge's assessment of the denial of the investigation report by the defendant must be truly legally and morally accountable for the realization of material truth as the purpose of the criminal procedure and the achievement of legal certainty.

Secondly, the strength of the evidence of denial of the investigation report by the defendant before the trial is closely related to the system of legal verification in a negative manner (negatief wettelijke bewijs) adopted by Indonesia as reflected in Article 183 of the Criminal Procedure Code. Based on these provisions, it can be seen that the value of the strength of the evidence of denial of the investigation report by the defendant cannot stand alone and must also be supported by other valid evidence as stated in Article 184 of the Criminal Procedure Code. Therefore, the denial of investigation report by the defendant in terms of proving the accused's wrongdoing remains bound to the minimum principle of proof and needs to be supported by other evidence.

Third, the strength of the evidence against the denial of the investigation report by the defendant before the trial, the judge must obtain confidence in it. To gain confidence in the interests of the evidence, in practice the judge will summon witness witnesses (verbal witnesses), namely witnesses who conduct investigative investigations of the accused to be brought before the court in order to provide information relating to the denial of the investigation report.

Basically, every witness who is asked to come to the court in the interests of proof is compulsory. This is also stated in Article 224 of the Criminal Code. Whereas in the provisions of Article 224 of the Criminal Code it is known that witnesses who are called to come for the purpose of proof if intentionally absent may be subject to imprisonment. Based on the results of the interview it can also be seen that this provision also applies to investigators as verbal witnesses who are asked to appear in the interests of proving the denial of the Investigation Report conducted by the defendant before the trial. Also, for verbally witnesses, if intentionally absent during the summons, it can also be subject to internal criminal sanctions and code of ethics. In listening to the witness testimony of the verbal witness against the denial of investigation report carried out by the

defendant in the trial, the judge in providing an assessment of the strength of the evidence must also be careful and thorough to judge the truth.

Fourth, the investigation report's denial by the defendant can be used as a guide or as a helper to find evidence at trial. If it turns out that the defendant's reasons underlying the revocation are not proven, then the investigation report's denial can be rejected by the judge which results in the defendant's testimony outside the court or can be equated with confession evidence set forth in the investigation report by the investigator can be used as a clue to prove the accused's guilt for the criminal offense charged with him. Meanwhile, if the reasons for denial of the investigation report stated by the defendant at the trial can be proven, it can be said that the examination at the time of the investigation of the case did not meet the legal requirements, or in other words that the investigation was legally flawed and the indictment was null and void and the law was not fulfilled. evidence that resulted in the defendant being given a free sentence as stipulated in Article 191 Paragraph (1) of the Criminal Procedure Code.

B. Judges' considerations regarding the denial of investigative dossiers conducted by the defendant in the trial at the Sidoarjo District Court Decision Number: 390 / Pid.B / 2015 / PN.Sda

In order to find the real truth and try to create justice, the judge before deciding on a case and / or imposing a criminal must always pay attention to all matters that can become comprehensive considerations both juridical considerations and considerations outside the juridical provisions. The judges' considerations are an effort to create a sense of justice both for the accused, the victim, and the community and or for the judge himself. Where in this case the judge must be careful, careful, and mature in providing an assessment and consider the strength of the evidence and can examine the extent to which the minimum limit of the strength of proof (bewijskracht) of each evidence that is valid according to the law.

The considerations raised by the judge need to pay attention to the attitude of the impartial judge (impartial judge) because in dropping the verdict the judge must side with the truth based on the law, and justice without discriminating against people.

Denial of the Investigation report by the defendants in the trial of the Sidoarjo District Court Decision Number: 390 / Pid.B / 2015 / PN. This was received by Chief Judge Adi Hernomo Yulianto and Judge Member Setyawingsih Wijaya. The defendants testified before the court that their reason for denying the dossier of the investigation report given at the time of the investigation was because they had been pressured and forced to confess by the investigator. Therefore, the panel of judges ordered the Public Prosecutor to summon the investigator conducting the investigation to appear before the court for the sake of proof, but the investigator was not present. In this case the panel of judges considered that they had given sufficient time to summon the investigator but because the investigator was not present, in his consideration the panel of judges considered that the denial of the Investigation Report by the defendants was a true and reasonable denial.

The denial of the investigation report by the defendants which is considered to be a true and reasonable refutation results in the information given in the investigation report being set aside by the judges. Furthermore, it is considered the element of whoever and the element with the intention to be owned illegally from the article charged by the public prosecutor is not fulfilled. Also, the panel of judges considered that this was in line with the

defense filed by the legal advisors where there were no witnesses who saw directly when the crime took place. Based on the consideration of the denial of investigation report that was received as well as other considerations, the Panel of Judges decided the acquittal to the defendants as regulated in Article 191 Paragraph (1) of the Criminal Procedure Code.

To impose a criminal sentence on the defendants as a letter of claim filed by the Public Prosecutor, the judge needs to consider the elements of the criminal act charged to the defendants namely Article 365 Paragraph (4) which consists of whosoever, takes the goods, in whole or in part belongs to another person , as well as with the intent to be owned illegally. This is in accordance with the principle of no criminal offense (geen straaf zonder schuld) as stipulated in Article 193 of the Criminal Procedure Code and Article 183 of the Criminal Procedure Code relating to criminal conviction.

In the Sidoarjo District Court Decision Number: 390 / Pid.B / 2015 / PN. There was a dissenting opinion by a judge member Choirul Hidayat, SH, MH who argued that the denial carried out by the defendant was indeed a right granted by law to the defendant, but related to the dispute issue it needs to be seen whether it is reasonable. It was considered that the denial of the investigation report due to factors intimidated by the police was also not proven, therefore the denial / denial of the investigation report by the defendant in the trial was not sufficiently grounded and should be set aside.

Judge Choirul Hidayat believes that the denial of the investigation report received by the two other judges was only based on the judge's conviction but not based on evidence. On the other hand, Judge Choirul hidayat explained that the information given by the witnesses and the defendants related to chronological details was similar and mutually compatible even though at the time of the investigation they were examined separately.

Based on the consideration of the panel of judges in the Sidoarjo District Court Decree Number: 390 / Pid.B / 2015 / PN.Sda it can be seen that the judge in deciding a case has reflected the principle of independence of judges based on Article 14 of Law Number 48 of 2009 concerning Judicial Power where in assessing the strength of the evidence and giving consideration to a denial of investigation report by the defendants at the trial there was a dissenting opinion of the judge.

Regarding the judge's consideration of the strength of the evidence of the refutation of the Investigation Report by the defendants before the trial in Decision Number 390 / Pid.B / 2015 / Pn.Sda, the panel of judges had ordered the summoned witnesses to cross-check the reasons for the denial stated by the defendants. As law enforcement officers who are authorized to conduct investigations, investigators who are called as verbal witnesses are not present for evidentiary purposes. Where basically it is an obligation for witnesses to be present when called by a judge as stated in Article 224 of the Criminal Code. In this decision it can be seen that the verbal witnesses who were not present at the trial became one of the obstacles for the judge in passing the verdict because of the conflicting information of the defendant with the information given in the Investigation.

Based on the results of interviews with Mr. Nico Senjaya S.H., M.H and the strength of the evidence of denial of the investigation report as reflected in the Supreme Court Jurisprudence Number: 229 / K / Kr / 1959 it can be seen that the existence of the denial of the Investigation report before the trial has an impact on the judge's decision. This can be seen where if the judge accepts the denial of the investigation report according to the statements of the defendants it shows that the

statements of the defendants in the trial have the truth value and can be used as evidence in the trial. However, if the judge rejects the revocation, the judge assesses the defendant's statement in a court of law as a statement that does not contain elements of truth and cannot be used as evidence.

In view of Article 189 Paragraph (1) of the Criminal Procedure Code that the defendant's statements contain information relating to events or criminal events that originate from the defendant himself, the judge in evaluating the contents of the defendant's information must be accurate, because there is a possibility of lies or false information made by the defendant regarding the incident or criminal event that occurred.

In the strength of the evidence based on the Supreme Court Jurisprudence Number: 229 K / Kr / 1959 it is stated that the denial or revocation of information outside the trial in this case during the investigation contained in the report must be accompanied by logical reasons. Thus, the reason must be proven truth where the reason for the revocation submitted by the defendant must be cross-checked with verbal witnesses (investigators) who examine the accused at the investigation level. From this statement, it is known that at least the testimony of Verbal Witness (Investigator) has an impact on the judge's judgment in rejecting or accepting the denial or revocation of the statements of the defendants in the Sidoarjo District Court Decree Number: 390 / Pid.B / 2015 / PN.Sda. This is the magnitude of the influence of the verbal witness testimony on whether or not the revocation of the defendant's testimony is accepted. Basically, a judge must not directly believe the witnesses' verbal statements, because it is possible that the information from the investigator also has an element of deception.

The reasons for the denial of the investigation report by the defendants in the Sidoarjo District Court Decision Number: 390 / Pid.B / 2015 / PN.Sda by Chief Judge Adi Hernomo Yulianto and Judge Setyawingsih Wijaya Members who were considered to be true and based reasons indicated that there really was pressure an investigation was carried out on the defendants during the investigation, which indicated that the investigator ignored the rights of the defendants granted by law at the investigation stage when he was a suspect.

Where every suspect suspected of violating the law at the investigation stage has the right to get protection against human rights and other constitutional rights, namely to obtain legal counsel as referred to in Article 54 of the Criminal Procedure Code and the right to remain silent or refuse to answer police or investigator questions from the investigation process to the judicial process. The right to remain silent implicit in the Criminal Procedure Code Article 52 of the Criminal Procedure Code is aimed at ensuring that the examination can achieve results that do not deviate from the truth, and the suspects must be kept away from all fears. Furthermore, it is stated in Article 117 Paragraph (1) of the Criminal Procedure Code related to the Accusatoir Principle in which the placement of the suspect as a subject having the same rights before the law should be appropriate at the time of the investigation being shied away from fear, physical or mental pressure. This is in accordance with the objectives of criminal procedure law and in order to obtain material truth in a criminal case settlement.

In the consideration of Chief Judge Adi Hernomo Yulianto and Member Judge Setyawingsih Wijaya using conformity with the defense attorneys of the defendants stated in the Sidoarjo District Court Decision Number: 390 / Pid.B / 2015 / PN.Sda. Therefore, in addition to the verbal statements of witnesses which form the basis for the acceptance or rejection of the defendant's statements, there is also an element of review of the defendant's defense which forms the basis of the judge's judgment.

It is different from the opinion expressed by judge member Choirul Hidayat regarding the denial of investigation report by the defendant at trial in the Sidoarjo District Court Decision Number: 390 / Pid.B / 2015 / PN. Sda uses the Supreme Court Jurisprudence Number: 229 K / Kr / 1959 as a basis for consideration seen where the denial of the investigation report is used as a guide and or aide to find evidence at the trial because it is considered to be groundless or is not a logical reason. According to Judge Choirul Hidayat, the reasons for the denial presented by the defendants have not been proven to be true because of the absence of verbal witnesses and Judge Choirul members assessed the suitability between the statements given by the defendants in the investigation report with the statements of witnesses related to the chronological details of criminal events having similarities and detailed although the investigation is done separately. In practice, to bring verbal witnesses in the interests of proof is important, and basically the burden of proof lies with the Public Prosecutor who has the authority to conduct prosecutions in accordance with the principle of opportunity.

Therefore, the Investigation Report cannot be ruled out and considered to be used because it is in accordance with other evidence. This is in accordance with the strength of the evidence stated in the Jurisprudence of the Supreme Court where the confession given outside the trial cannot be revoked without a logical reason, the statement of confession will continue to have the function and value of proof of evidence or as an aide to help find evidence at trial.

4. CONCLUSION

The Power of Proof of Denial of Minutes of Investigation by the Defendant in a trial based on the Supreme Court Jurisprudence Number: 229 K / Kr / 1959 is free in which the judge is free in giving an assessment of the strength of the evidence and is not bound to it. Also, the denial of investigation report by the defendant cannot stand alone but must also be supported by other evidences where there is also the judge's conviction. If the denial of investigation report is judged to be incompatible with other evidence, the information provided in the investigation report will still have proof value and can be used as a helper to help find evidence at the trial and as a clue to the defendant's mistake.

Judge's consideration of the denial of the investigation report by the defendants in the Sidoarjo District Court Decision Number: 390 / Pid.B / 2015 / PN.Sda. There is a dissenting opinion of the judge where one of the members of the panel of judges considers the denial of the investigation report by the defendant is not based on logical reasons as stated in the Supreme Court Jurisprudence Number: 229 / K / Kr / 1959 so that it is considered that the information in the investigation report still has proof value. This is different from other panel of judges who accept the reasons for denial of investigation report by the defendant so that the investigation report is not included in the judge's consideration which results in the defendant being released from all lawsuits due to lack of evidence.

REFRENCES

[1] Indonesia Constitution 1945
[2] Mulyadi, Lilik. *Hukum Acara Pidana: Normatif, Teoritis, Praktik dan Permasalahannya.* (Bandung: Alumni, 2007).
[3] Sofyan, Andi dan Asis, Abd. *Hukum Acara Pidana: Suatu Pengantar*. Edisi kedua. (Jakarta: Kencana Prenada Media Group, 2014).
Hamzah, Andi. *Hukum Acara Pidana Indonesia*. (Jakarta: Sinar Grafika, 2004).

[4] Arief, N. Barda. *Reformasi Sistem Penegakkan Hukum di Indonesia.* (Semarang: BP Undip, 2011).
[5] Bawono, Bambang Tri. *Tinjauan Yuridis Hak-Hak Tersangka Dalam Pemeriksaan.* Jurnal Hukum. Volume XXVI. Nomor 2. Tahun 2011.
[6] Harahap, M. Yahya. *Pembahasan Permasalahan dan Penerapan KUHAP: Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali.* (Jakarta: Sinar Grafika, 2016).
[7] Harahap, M. Yahya. *Pembahasan Permasalahan dan Penerapan KUHAP: Penyidikan dan Penuntutan.* (Jakarta: Sinar Grafika, 2015).
[8] Hiarej, Eddy.O.S. *Teori dan Hukum Pembuktian*. (Jakarta: Erlangga, 2012).
[9] Alamanda, Azharia Putty. *Kesesuaian Penggunaan Saksi Verbalisan Serta Pertimbangan Hakim dalam Menjatuhkan Putusan*. Jurnal Verstek. Volume 5. Nomor 3.
[10] Indonesia. Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana (Lembaran Negara Republik Indonesia Tahun 1981 Nomor 76).
[11] Marzuki, Peter. Mahmud. *Penelitian Hukum Edisi Revisi.* (Jakarta: Kencana Prenada Media Group, 2013).
[12] Fajar, Mukti. dan Yulianto Achmad. *Dualisme Penelitian Hukum Normatif & Empiris*. Cetakan ke-4. (Yogyakarta: Pustaka Pelajar, 2017).