

Fulfillment Of Restitution Rights In The Level Of Investigation In The Semarang Big City Resort Police In Beating Criminal Case

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Abstract. The purpose of this study was to determine and analyze the granting of restitution rights in the handling of beatings, the implementation of restitution rights in the handling of beatings in the Semarang Big City Resort Police Department, as well as the obstacles faced and solutions in granting restitution rights in the handling of beatings in the Semarang Big City Resort Police.

This study uses empirical juridical research methods, with descriptive analytical research specifications, the data used in this study are secondary data, obtained through literature studies and primary data obtained through field research which are then analyzed qualitatively using the theory of legal certainty, theory of law enforcement .

The results of this study are: (1). The implementation of restitution rights at the level of investigation in the handling of beatings in the Semarang Big City Resort Police Department. Efforts to grant restitution rights at the investigation level should investigators choose and sort out which cases can be given restitution rights at the investigation level so that victims of criminal offenses receive compensation accordingly with what has been suffered by the victims of the crime and the case can be completed in the level of investigation with peace between the victim and the suspect. (2). Obstacles and solutions in granting restitution rights in the handling of beatings at the level of investigation in the Semarang Big City Resort Police Department,

Keywords: Restitution Rights; Beating Crime; Semarang Big City Resort Police.

1. Introduction

To realize law enforcement that can be well integrated and can be felt by the community's role, a system or mechanism of work in handling crime or violations is needed. The work mechanism for handling crime or violations is called the criminal justice system or Criminal Justice System. With regard to the criminal justice system in Indonesia, the relationship with criminal cases in the Criminal Procedure Code (KUHP) is governed by components in the criminal justice system consisting of Legislators (Lawmakers), Legal Counsels, Police, Prosecutors, Courts and Correctional Institutions. The six components of law enforcement have functions, duties, determine between one and another according to the mechanism set out in positive law.

Whereas criminal justice in Indonesia implies the commencement of a case starting with a report or complaint reported at the Police level and then followed up with an investigation, then if the case is a criminal event then the case title mechanism will be increased to the level of investigation and at the time of investigation it is also a maximum of 7 (seven) days after being upgraded to the investigation. the investigator must notify the start of the investigation to the complainant, the reported party and the

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Public Prosecutor.

In carrying out their duties in handling criminal cases, investigators and public prosecutors have established functional and institutional relations between investigators and public prosecutors.⁴The functional and institutional relationship between the criminal justice component of the Police and the Prosecutors' Office has been established since the notice of the start of the investigation.

The definition of notification of the commencement of the investigation can be formulated as follows: "Notification of the commencement of the investigation is a notification from the investigator to the public prosecutor, that the investigator has begun to carry out an investigation on a particular criminal offense".⁵ The basis of the coordination relationship in the judicial process between the investigator and the public prosecutor is Article The basic coordination relationship in the judicial process between the investigator and the public prosecutor is Article 109 of the Criminal Procedure Code. The investigator is obliged to inform the public prosecutor that the investigator has begun investigating an event which is a criminal offense or that the investigator has stopped the investigation because there is not enough evidence or the event is not a criminal offense or that the investigation has been terminated by law. Djoko Prakoso said that the relationship between the investigator and the public prosecutor could further be considered in the event that the investigator needed an extension of detention to the public prosecutor in connection with the interests of the unfinished examination contained in Article 24 paragraph (2) of the Criminal Procedure Code.⁶

The public prosecutor in his duty is required to prove that the defendant has been guilty of a criminal act as charged against him based on the level of investigation. The relationship from the investigation level to the prosecution level is very close. The relationship is related to the provisions of Article 110 paragraph (4) with Article 138 paragraph (1) and (2) of the Criminal Procedure Code. Article 138 paragraph (1) of the Criminal Procedure Code states that the public prosecutor after receiving the results of the investigation from the investigator immediately learns and examines it and within seven days must inform the investigator whether the investigation results are complete or not, while Article 138 paragraph (2) of the Criminal Procedure Code states that in terms of the investigation results aren't complete yet,⁷ that the notification referred to in Article 110 paragraph (4) of the Criminal Procedure Code is a notification from the public prosecutor regarding the results of the investigation, namely whether the results of the investigation are complete or not⁸.

Criminal beatings are regulated in the Criminal Code (KUHP), contained in Article 170 of the Criminal Code

- (1) Anyone who openly and jointly employs violence against persons or property is threatened with a criminal offense for a maximum of five years and six months.
- (2) The guilty threatened: Number 1. With a maximum imprisonment of seven years, if he intentionally destroys property or if the violence used causes injuries; 2nd. With

⁴Harun M. Husein, 1991, *Penyidikan dan Penuntutan dalam Proses Pidana*, Jakarta: PT. RinekaCipta, p. 269.

⁵*Ibid.*,p. 271.

⁶DjokoPrakoso, 1985, *Eksistensi Jaksa di Tengah-tengah Masyarakat*, Jakarta: Ghalia Indonesia, p. 67.

⁷Harun M. Husein, Op. Cit., p. 216.

⁸*Ibid.*,p. 216-217.

a maximum imprisonment of nine years if resulting in serious injuries; The 3rd. With a maximum imprisonment of twelve years if violence results in death.

(3) Article 89 does not apply to this Article.

In the formulation of the article of mob beating there are elements together where these common words should have more than one person. On that basis, the article is often the case for a separate filing (splitting) for the perfect proof in the Court.

In the Semarang Big City Resort Police Department, the beatings involved in the case handling, some of which were by splitting and others were not separated.

Based on this background, encourage the authors to conduct research with the title: "Fulfillment Of Restitution Rights In The Level Of Investigation In The Semarang Big City Resort Police In Beating Criminal Case"

Based on the background above, the issues to be discussed are as follows: How is the implementation of restitution rights in handling the beating case in Semarang Big City Resort Police? What are the obstacles and solutions in granting Restitution Rights in handling the beating case in the Semarang Big City Resort Police Department?

Research methods

The research method used in this writing is empirical juridical research. Juridical research that examines a problem that arises based on applicable law, while empirical research is research with legal aspects from the results of field research and because the data collected through interviews and observations.⁹ Empirical juridical research solves the problem by analyzing the practical reality in the practice of granting restitution rights to beatings by the Semarang Big City Resort Police Department investigators, which are then linked to existing regulations and theories so that the problem can be resolved.

The approach method used in this research is Empirical Juridical, namely by looking at the reality that there is a practice of granting restitution rights in the level of investigation of the beating case conducted by the Semarang Big City Resort Police Department investigators.

The research specifications used in the study are descriptive analysis, because the researcher in analyzing desires to provide a description or presentation of the object which is the main problem of granting restitution rights at the level of investigation by the Investigator. The object referred to here is about Splits Filing by the Semarang Big City Resort Police Department Investigator in Handling the Beating Case.

2. Results And Discussion

2.1. The Exercise Of Restitution Rights At The Level Of Investigation In The Handling Of Beatings In The Semarang Big City Resort Police Department

In conducting this research, the results of interviews conducted by the author of Briпка Hidayat Abdullah., SH., MH and Briпка Haryadi., SH., MH as Assistant Investigators at the Semarang Big City Resort Police Resort by interview then obtained a case of beatings at the investigation level. which was handled by Semarang Big City Resort

⁹Ronny Hanitijo Soemitro, 1983, *Metode Penelitian hukum*, printed I Ghalian Indonesia, Jakarta, p. 25

Police Resort investigators in which the case was as follows:

- Case Report Position Police number: LP / B / 1898 / XII / 2014 / Jtg / Res Tbs, dated December 7, 2014.

In the police report number: LP / B / 1898 / XII / 2014 / Jtg / Res Tbs, dated December 7, 2014 in the Alleged Crime of any person who in public jointly commits violence against a person causing injury as referred to in article 170 paragraph (1) of the Criminal Code allegedly carried out by INDRA PUTRA PRASETYO, ADE TEGAR WIJAYANTO aka TOMPEL and SYARIF HIDAYAT.

The three suspects carried out the beatings in a way on Sunday, December 7, 2014 around 02.30 WIB in the parking lot of Indomaret Jl.Pemuda Semarang, where the Indomart parking lot on Jl.Pemuda Semarang was a public place that simultaneously carried out violence against REZA JAFAR SHIDIQ so that REZA JAFAR SHIDIQ suffered a loss in the form of a right temple which was torn from bleeding. , nose bled, and complained to sick and had to do road treatments at the Dr. Kariadi Semarang.

Evidence

- Witness Statement

Witness REZA JAFAR SHIDIQ, explained:

witnesses who listened to their testimonies and stated in the minutes of the investigation in this case were witnesses and statements of the suspects which basically explained that the suspects knew witnesses of the victims of REZA JAFAR SHIDIQ and the suspects had beaten the witnesses by beating and kicking together. -The same was done on Sunday, December 7, 2014 around 02.30 WIB in the parking lot of Indomaret Jl. Pemuda Semarang which is the parking lot of Indomart Jl. Pemuda Semarang.

- Witness WIDYA SHEILLA RACHMANITA explained:

witnesses who listened to their testimonies and stated in the minutes of the investigation in this case were witnesses and statements of the suspects which basically explained that the suspects knew witnesses of the victims of REZA JAFAR SHIDIQ and the suspects had beaten the witnesses by beating and kicking together. -The same was done on Sunday, December 7, 2014 around 02.30 WIB in the parking lot of Indomaret Jl. Pemuda Semarang which is the parking lot of Indomart Jl. Pemuda Semarang. Bro. INDRA PUTRA PRASETYO once hit the victim's mouth 1 time with his right hand gripping with force and then after that it was directed to the witness's mouth, Br. ADE TEGAR WIJAYANTO alias TOMPEL struck the victim's plow twice with the right hand gripping with force and then directed at the witness's face to bleed, Bro. SYARIF HIDAYAT play a role beating several times toward the victim's face and then also kicked at the victim's face so that his temple suffered bloody wounds.

- Witness MUHAMMAD RIZKI, explained:

witnesses who listened to their testimonies and stated in the minutes of the investigation in this case were witnesses and statements of the suspects which basically explained that the suspects knew witnesses of the victims of REZA JAFAR SHIDIQ and the suspects had beaten the witnesses by beating and kicking together. -The same was done on Sunday, December 7, 2014 around 02.30 WIB in the parking lot of Indomaret Jl. Pemuda Semarang which is the parking lot of Indomart Jl. Pemuda Semarang.

- The witness SAKTI EKA PURNAMA, male sex, Islam, student work, Indonesian Citizenship, Address Jembawan No. 10 Kalibanteng Semarang, explained:

witnesses who listened to their testimonies and stated in the minutes of the

investigation in this case were witnesses and statements of the suspects which basically explained that the suspects knew witnesses of the victims of REZA JAFAR SHIDIQ and the suspects had beaten the witnesses by beating and kicking together. -The same was done on Sunday, December 7, 2014 around 02.30 WIB in the parking lot of Indomaret Jl. Pemuda Semarang which is the parking lot of Indomart Jl. Pemuda Semarang, Br. INDRA PUTRA PRASETYO once hit the victim's mouth 1 time with his right hand gripping with force and then after that it was directed to the witness's mouth, Br. ADE TEGAR WIJAYANTO alias TOMPEL struck the victim's plow twice with the right hand gripping with force and then directed at the witness's face to bleed, Bro. SYARIF HIDAYAT play a role beating several times toward the victim's face and then also kicked at the victim's face so that his temple suffered bloody wounds.

- Letter

Evidence of the letter that was submitted by the victim witness REZA JAFAR SHIDIQ according to the victim's examination at Dr. Hospital. Kariadi Semarang with the hospital issued a Visum Et Repertum Letter on behalf of REZA JAFAR SHIDIQ Patient from Dr. Hospital. KARIADI Semarang in its examination and conclusion: Wounds suffered by victims due to blunt objects and injuries caused caused victims unable to do activities and carry out daily work.

- Suspect's Statement

In giving their statements, the suspects in essence explained that the suspects had carried out a joint beating by the victims of REZA JAFAR SHIDIQ by the suspects in the following manner that the suspect INDRA PUTRA PRASETYO play a role hit the victim's mouth 1 time with his right hand holding with force and then directed to the witness's mouth, the suspect ADE TEGAR WIJAYANTO aka TOMPEL struck the victim's plow twice with his right hand grasping with force and then afterwards directed to the witness's face to bleed, the suspect SYARIF HIDAYAT play a role beaten several times toward the victim's face and then also kicked at the victim's face so that his temple suffered a bleeding wound.

peace between the four parties found an agreement with several parties that must be agreed upon by the suspect related to compensation for the victims in the amount of Rp. 25,000,000 (twenty five million rupiah). And the peace agreement was agreed by both parties.

That the actions of the suspects have been recognized and apologized to the victim and compensated the victim.

Associated with the theory of certainty and law enforcement, the investigators of the Semarang Big City Resort Police Department are associated with granting restitution rights for victims of beatings at the investigation level in the City Police Station in Semarang, namely law enforcement is not an independent activity, but rather has a close interrelationship with the people. Law enforcement in a society has its own tendencies caused by the structure of its society. The structure of this society is a constraint, both in the form of providing social facilities that enable law enforcement to be carried out, as well as providing obstacles that cause it to be unworkable or not properly implemented,

2.2. Obstacles And Solutions In Granting Restitution Rights In The Handling Of Beatings At The Level Of Investigation In The Semarang Big City Resort Police Department

Restitution is compensation given to the victim or his family by a perpetrator or a third party, which can be in the form of returning property, payment of compensation for loss or suffering, or reimbursement for certain actions.

In handling the granting of restitution rights in the case of beating in the level of investigation in the Semarang Big City Resort Police Department there are several obstacles experienced by investigators both internal and external constraints.

2.2.1. Internal Constraints

- One obstacle that comes from factors in one of them is the lack of understanding and mastery of the investigator himself in analyzing a case. So not all cases can be given granting restitution rights to victims, but only a few cases. Actually it can only be done on a number of criminal acts that are carried out and which are not included in the provisions of Article 141 of the Criminal Procedure Code. So here the role of the Investigator is very important in understanding and mastering the case to be fingerprinted.

- Article 1 number 2 Criminal Procedure Code of Investigation is "A series of acts of investigators in the matter and according to the way stipulated in this law to search for and collect evidence which with evidence makes clear the criminal act that occurred in order to find the suspect"

From the above understanding it looks simple, but in its implementation there are several long series in its implementation from conducting an investigation to gather preliminary information and preliminary evidence through observing, stalking, calling witnesses to hear their statements to the very harsh measures of forced efforts, such as searching people or places where they are suspected, taking witnesses to the police station that does not fulfill the summons, arresting and detaining them, confiscating evidence and so on.

2.2.2. External Factors

In addition to the above, external factors also support such as the lack of coordination between investigators and the suspect and the victim's family that must be intertwined in such a way.

To overcome these obstacles, the Semarang Big City Resort Police Station has an effort to anticipate the obstacles faced by investigators regarding the granting of restitution rights for beatings during the investigation phase at the Semarang Big City Resort Police Department, both from internal and external factors, namely:

Efforts by investigators to overcome internal obstacles

- Conducting training of investigators at the Semarang Big City Resort Police Station
Improving the ability of Police resources by providing training to each member so that cases handled by investigators can be handled optimally. Because in carrying out the duties of each National Police demanded to be professional in handling all cases ranging from receiving reports from the public, the investigation process, the investigation process to the filing process (BAP).
- Improve the investigator's performance and conduct a case evaluation after each

case.

This improvement and evaluation is intended so that all members of the Semarang City Big City Police Department investigators can be aware of which cases can be given restitution rights to victims with a family settlement.

Investigator's efforts to overcome external obstacles

Establish a cooperative relationship with related parties

One of the efforts of investigators in granting restitution rights to victims is to establish a relationship or cooperation with the victim and the suspect. building this cooperation is very important because in the process of granting restitution rights to victims it is related to the suspects and victims who are settled amicably by granting restitution rights.

Associated with the theory of certainty and law enforcement, in the constraints and efforts to overcome the obstacles faced by the investigators of the Semarang Big City Resort Police Department related to granting restitution rights to victims of beatings at the investigation level at the City Police Station in the City of Semarang, which is where the regulations have been made should be obeyed and in accordance with the instructions based on the procedural law. And other interrelated regulations.

3. Closing

3.1. Conclusion

Starting from the formulation of the problem and the description of the results of the research and analysis presented in the previous chapter, then in this thesis conclusions can be drawn, as follows:

- Implementation of restitution rights in handling beating cases at the level of investigation at the Semarang Big City Resort Police Department, namely: that in the implementation of restitution rights to the beating victims at the level of investigators at the City of Semarang Police Station, the investigator presents the families of both parties of the victim and the suspects as well witnesses who aim to reconcile and to discuss how much the amount of replacement money must be given to the victims of the beatings, in this case it is necessary to recognize the ability of the suspects in relation to the amount of replacement money to be paid to the victim and not to burden the suspects.
- Obstacles and solutions in granting restitution rights in the handling of beatings at the level of investigation in the Semarang Big City Resort Police Department.
 - Obstacles in granting restitution rights in the handling of beating cases at the level of investigation at the Semarang Big City Resort Police Department. There are still many investigators, especially assistant investigators, understand what is meant by restitution rights and lack of human resources who are less professional in solving legal problems; In terms of peace both parties still prioritize a sense of selfishness, especially from the victim because the victim is the most correct party and the most disadvantaged party.
 - The solution in granting restitution rights in handling the beating case at the investigation level at the Semarang Big City Resort Police Department; In this case by increasing the ability of the Police resources by providing training to each

member so that cases handled by investigators can be handled optimally. Because in carrying out the duties of each National Police demanded to be professional in handling all cases ranging from receiving reports from the public, the investigation process, the investigation process to the filing process (BAP). obstacles and efforts to overcome the obstacles faced by investigators from the Semarang Big City Resort Police Department in relation to granting restitution rights to victims of beatings at the investigation level at the City Police Station in Semarang, which is where the regulations that have been made should be obeyed and in accordance with instructions based on the book procedural law. And other interrelated regulations. In granting the right to restitution, it should be obeyed and carried out by both parties with a sense of responsibility and not burdensome of the suspects by mediation and peace before prior to the attachment of substitute money.

3.2. Suggestion

In line with the conclusions stated above, the following suggestions are made:

- Efforts to grant restitution rights at the investigation level should investigators choose and sort out which cases can be given restitution rights at the investigation level so that victims of criminal offenses get compensation in accordance with what has been suffered by victims of criminal acts and the case can be completed at the level peace investigation between the victim and the suspect.
- In this case the Police of the Republic of Indonesia should provide training or provision on investigations and enhancement of human resources at the police headquarters so that the investigators understand and carry out sanctions to ensure legal certainty and carry out law enforcement and are absolutely essential for mandatory implementation and compliance.

4. References

- [1] Andi Hamzah, 1985, *Pengantar Hukum Acara Pidana Indonesia*, Jakarta: Ghalia Indonesia.
- [2] Andi Hamzah, 2002, *Hukum Acara Pidana*, Sinar Grafika, Jakarta.
- [3] Andi Hamzah, 2012, *Asas-asas Hukum Pidana Di Indonesia & Perkembangannya*, Jakarta: SOFMEDIA.
- [4] Djoko Prakoso, 1985, *Eksistensi Jaksa Di Tengah-tengah Masyarakat*, Jakarta: Ghalia Indonesia
- [5] Djoko Prakoso, 1988, *Pemecahan Perkara Pidana (splitsing)*, Yogyakarta: Liberty
- [6] Harun M Husein., 1991, *Penyidikan dan Penuntutan Dalam Proses Pidana*, Jakarta: PT Rineka Cipta.
- [7] Ronny Hanitijo Soemitro, 1990. *Metodologi Penelitian Hukum*, Jakarta: Ghalia Indonesia,.
- [8] Criminal Law Book.
- [9] Act Number 8 of 1981 on Criminal Procedure.
- [10] Internet: <http://www.restabes-smg.jateng.polri.go.id/main/profile/sejarah.html>