

ABSTRAK

ANALISIS TINDAK PIDANA PENCEMARAN NAMA BAIK MELALUI MEDIA SOSIAL FACEBOOK BERDASARKAN UNDANG-UNDANG INFORMASI DAN TRANSAKSI ELEKTRONIK (Studi Kasus Nomor 167/Pid.Sus/2019/PN.Cms)

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Putusan Pengadilan Ciamis Nomor 167/Pid.Sus/2019/PN.Cms, dimana kasus tersebut menetapkan YUDI HARYONO melakukan tindak pidana pencemaran nama baik melalui media sosial facebook, sehingga Jaksa Penuntut Umum menuntut dengan dakwaan Primair yakni Pasal 45A Ayat (2) dan dakwaan Subsidaire yakni Pasal 45 ayat (3) Undang-Undang Republik Indonesia Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik. Dalam putusan tersebut hakim menjatuhkan putusan dengan tidak mempertimbangkan dakwaan primair. Padahal kedua dakwaan tersebut telah memenuhi unsur hukum yang di dakwakan. Oleh sebab itu, yang menjadi rumusan masalah yaitu Bagaimana Analisis Tindak Pidana Pencemaran Nama Baik putusan Nomor 167/Pid.Sus/2019/PN.CMS? Apa yang menjadi alasan pertimbangan Hakim Tidak Menerapkan Dakwaan Primer terhadap pelaku? Dan Bagaimana Analisa Penjatuhan Sanksi Pidana Terhadap Tanggung Jawab Pidana Pencemaran Nama Baik?

Penelitian ini menggunakan metode kualitatif deskriptif analisis, yaitu suatu metode penelitian yang menggambarkan objek penelitian berdasarkan fakta-fakta yang ada dan sedang berlangsung pada saat penelitian dilakukan. Penelitian ini bertujuan untuk mengetahui penerapan hukum pidana materiik dan pertimbangan hakim di dalam putusan.

Hasil pembahasan menyimpulkan bahwa **Pertama.** Dakwaan Primair terdakwa dapat dinyatakan tidak terbukti secara sah bahwa adanya kalimat “**Indonesia Damai**” majelis hakim menilai bukanlah bentuk menyatakan permusuhan, kebencian, atau penghinaan terhadap 1 (satu) atau beberapa golongan rakyat Indonesia. **Kedua.** Pertimbangan Hakim dalam penjatuhan sanksi pidana terhadap pelaku Tindak Pidana Pencemaran Nama Baik dinyatakan tidak bersalah atas dakwaan Primair karena tidak memenuhi unsur-unsur tindak pidana sebagaimana dalam Pasal 45A ayat (2) Jo. Pasal 28 Ayat (2) Undang-Undang Republik Indonesia Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Transaksi Elektronik. **Ketiga.** Pertanggungjawaban pidana oleh pelaku tindak pidana pencemaran nama baik mendasar pada Pasal 45 ayat (3) Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik. Pertanggungjawaban pidana terhadap pelaku pencemaran nama baik ancaman pidana penjara paling lama 4 (empat) tahun dan/atau denda paling banyak Rp. 750.000.000,00 (tujuh ratus lima puluh juta rupiah).

Kata Kunci : Tindak Pidana, Pencemaran Nama Baik, Putusan.

ABSTRACT

ANALYSIS OF CRIMINAL POLLUTION GOOD NAME THROUGH FACEBOOK SOCIAL MEDIABASED ON THE INFORMATION AND ELECTRONIC TRANSACTIONS LAW (Case Study Number 167/Pid.Sus/2019/PN.Cms)

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Ciamis Court Decision Number 167/Pid.Sus/2019/PN.Cms, in which case it was determined that YUDI HARYONO committed a criminal act of defamation via the social media Facebook, so that the Public Prosecutor charged him with the primary indictment, namely Article 45A Paragraph (2) and indictment Subsidiary, namely Article 45 paragraph (3) of Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. In this decision the judge handed down a decision without considering the primary charges. Even though both charges fulfill the legal elements charged. Therefore, the problem formulation is How is the Analysis of the Crime of Defamation of Decision Number 167/Pid.Sus/2019/PN.CMS? What is the reason for the judge's consideration of not applying primary charges against the perpetrator? And what is the analysis of the imposition of criminal sanctions on criminal liability for defamation?

This research uses a qualitative descriptive analysis method, namely a research method that describes the research object based on facts that existed and were ongoing at the time the research was conducted. This research aims to determine the application of material criminal law and the judge's considerations in decisions.

The results of the discussion concluded that First. The defendant's primary accusation can be declared not legally proven, namely that the sentence "INDONESIA IS PEACEFUL", the panel of judges considers, is not a form of expressing hostility, hatred or insult towards 1 (one) or several groups of the Indonesian people. Second. The judge's consideration in imposing criminal sanctions on the perpetrator of the crime of defamation was that he was declared not guilty of the Primair charge because he did not fulfill the elements of a criminal act as stated in Article 45A paragraph (2) Jo. Article 28 Paragraph (2) Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Transaction Information. Third. Criminal liability by perpetrators of criminal acts of defamation is based on Article 45 paragraph (3) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. Criminal liability for perpetrators of defamation carries a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah).

Keywords: *Crime, Defamation, Decision.*