

**JURIDICAL ANALYSIS OF CRIMINAL ACTORS PREMEDITATED
MURDER (CASE STUDY DECISION NUMBER 51/PID.B/2019/PN.TBH)**

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ABSTRACT

Currently in social life, it is undeniable that crime can occur anytime, anywhere, and is experienced by anyone. Many factors can influence the occurrence of crime. Every crime focuses on the perpetrators of crimes or criminals, while the victims of crimes seem to be forgotten. In the Criminal Code, murder is included in the category of crimes against life which is specifically regulated in Chapter XIX of the Criminal Code which consists of 13 articles, namely Article 338 of the Criminal Code up to Article 350 of the Criminal Code. Premeditated murder is a form of crime against life as regulated in Article 340 of the Criminal Code. Premeditated murder is an act that is done intentionally with a prior plan to kill another person. The problem in this research is what elements influence the occurrence of the crime of premeditated murder and how is the judge's consideration of Decision Number 51/Pid.B/2019/PN.Tbh regarding the crime of premeditated murder. This research uses normative law research which consists of research on legal principles, legal systematics, legal history and comparative law research. The approach method used in this research is the legal approach, the case approach, and the conceptual approach. The results of this study are how the judge's consideration in deciding a case and whether the decision is correct or not.

Keywords : Law, premeditated murder, crime.

1. INTRODUCTION

Law for a country is like a tool to reconcile, order, and organize the life of a country in order to achieve justice as well as a balance between rights and obligations. Law in Indonesia is divided into civil law and criminal law. Criminal law is a law that regulates actions that are prohibited by law and the threat of punishment that can be imposed on violators of the law.^[1] One example of a criminal act is theft, assault, murder, and others. Where it can be accounted for in the eyes of the law, and will be punished. Whether it's imprisonment, imprisonment or the death penalty.

All community activities in social, economic and political life can be the cause of crime. Crime always coexists in the environment around the community, so efforts are needed to deal with it. With crime prevention efforts, it is hoped that it can reduce the high crime rate in Indonesia. Therefore, as a society we must always be aware of the occurrence of crime. Crime that develops in society consists of various forms and types. Therefore, as a society we must always be aware of the occurrence of such

crimes. One example is premeditated murder. Premeditated murder is an act that is done intentionally to end another person's life and is punishable by death, or life or at least twenty years in prison. In the Criminal Code, murder is included in the category of crimes against life which is specifically regulated in Chapter XIX of the Criminal Code which consists of 13 articles, namely Article 338 of the Criminal Code up to Article 350 of the Criminal Code. Based on the description of the background above, this paper contains 2 (two) problem formulations, namely: What elements influence the occurrence of the crime of premeditated murder in the Case Study Decision Number 51/Pid.B/2019/PN.Tbh? What is the judge's consideration of Decision Number 51/Pid.B/2019/PN.Tbh regarding the crime of premeditated murder?

2. METHODS

The type of research used is normative law research which consists of research on legal principles, legal systematics, legal history and comparative law research. This research was conducted in order to find the truth of coherence, namely to examine the application of legal rules, legal norms and applicable legal principles which are then associated with problems that become legal issues. In this study, the approach used is the statute approach, the conceptual approach, and the case approach.

The compiler uses legal materials obtained from library data. In addition, the types of legal materials used are primary legal materials and secondary legal materials. Primary legal materials, namely legal materials that are authoritative such as statutory regulations, official records, minutes in making legislation and judges' decisions. Secondary Legal Materials, are legal materials in the form of opinions of legal experts such as books on law, papers and legal writings.

The collection of legal materials used in the preparation of this thesis is a document study. With the first steps, identifying legal facts and minimizing irrelevant matters in order to determine the legal issues to be resolved, collecting legal materials and non-legal materials that are deemed relevant to legal issues. Then conduct an assessment of the proposed legal issues based on the material that has been collected. Then draw conclusions in the form of arguments to answer legal issues. The latter gives a prescription based on the arguments that have been built in the conclusion.

3. RESULTS AND DISCUSSION

A. Elements of the Crime of Premeditated Murder Based on Decision Case Number

In this thesis, the murder contained in Article 340 of the Criminal Code is a murder that is carried out intentionally and premeditated in a calm state to kill another person. The crime of premeditated murder also has elements. There are 2 elements.

- a. Subjective element:
 1. Opezettelijk or on purpose
 2. Voorbedachte raad or pre-planned
- b. Objective elements:
 1. Bake or remove
 2. Leven or life
 3. Een ander or others.

The elements of the crime of premeditated murder in the case of decision number 51/Pid.B/2019/PN.Tbh in terms of Article 340 of the Criminal Code are :

B. Whose element

In his judgment the judge was of the opinion that the element of whoever had been fulfilled, this was based on the legal facts revealed in court that the perpetrator Yopi Dede Reza Afriyanto was a legal subject who was in good physical and mental health when presented before the trial, the defendant had also confirmed his identity as stated in in the prosecutor's indictment. This is evidenced that the defendant can answer properly and correctly. It is also associated with evidence through the statements of witnesses and the defendant's own statement, that it is true that those present before the trial are the perpetrators, namely Yopi Dede Reza Afriyanto.

C. Elements on purpose

Intentional in this article is the will of the perpetrator of a crime to eliminate a person's soul or in other words the loss of the soul of the person in question is the goal. Whereas the judge is of the opinion that the intentional act of the perpetrator was intentional as the intent or purpose or objective to take the life of another person. In this case, the perpetrator committed premeditated murder on purpose, considering that the perpetrator had planned his criminal intentions before the murder was committed.

D. Elements are planned in advance

An act is said to be pre-planned, if between the time of the intended criminal act there is sufficient time within the perpetrator to have some time to think about whether he will commit his act or not. According to the judge's consideration on this element, it is stated that there is an element of pre-planned if between the time the intention or intent to perform the action arises and the time when the intention is carried out there is sufficient time to think calmly about how to carry out the deed.

E. The element of taking other people's lives

In the element of taking another person's life related to the elements of the article above, it shows that there is a consequence of the actions of the perpetrators, namely the loss of another person's life, in the sense of someone's actions that result in someone's death. Therefore, according to the judge in Article 340 of the Criminal Code, it describes a material offense that does not require how the perpetrator completes his criminal act, but only considers the consequences of the perpetrator's actions, namely the loss of other people's lives. In this case the element of taking the lives of others has been fulfilled. Then consider the facts at trial, both based on the statements of witnesses and the testimony of the defendant as well as other evidence in the form of *Visum Et Repertum* and other evidence.

Considerations that form the basis before deciding a case. Rusli Muhammad suggested that judges' considerations can be divided into 2 (two) categories, namely: juridical considerations and non-juridical considerations.

1. Juridical considerations

Juridical considerations are judges' considerations that are based on juridical facts revealed in the trial and by law are stipulated as things that must be included in the decision, for example the public prosecutor's indictment, the defendant's statement, witness testimony, evidence, and articles. articles in criminal law regulations.[2]

a. Indictment Of The Public Prosecutor

The formulation of the indictment is based on the results of the preliminary examination

which is prepared either on a primary or a subsidiary basis. In Decision Number 51/Pid.B/2019/PN.Tbh regarding the criminal act of premeditated murder committed by the defendant Yopi Dede Reza, there are 3 (three) charges, namely as follows:

- First: In the first indictment, the public prosecutor charged that the actions of the defendant Yopi Dede Reza Afriyanto Bin Nurdin were as regulated and threatened with criminality in Article 340 of the Criminal Code concerning Premeditated Murder.

- Second: In the second indictment the public prosecutor charged that the actions of the defendant Yopi Dede Reza Afriyanto Bin Nurdin as regulated and threatened with criminality in Article 339 of the Criminal Code concerning murder with weighting, where the murder committed by the defendant Yopi Dede Reza was followed by an act of theft.

- Third: In the third indictment the public prosecutor charged that the actions of the defendant Yopi Dede Reza Afriyanto Bin Nurdin as regulated and threatened with criminality in Article 365 paragraph (3) of the Criminal Code where the act of stealing committed by the defendant caused the death of the victim Rugayah.

b. Defendant's Statement

Based on the statement of the defendant Yopi dede Reza regarding the act of premeditated murder that he legally committed, on Friday, December 21, 2018 at around 09.30 WIB in the shop as well as the house of the Rugayah victim, the address is at Jalan Tembok PSK RT 05 RW 05 Desa Tanah Merah district Tanah Merah District. Inhil – Riau. And the one who committed the crime was the defendant himself using a machete with the motive of pretending to buy cigarettes at the victim's shop. The purpose and objective of the defendant was to kill the victim Rugayah because the defendant was hurt to hear the conversation of the victim who insulted the defendant because his parents had never taught him, did not work, and only made it difficult for his parents. found guilty and sentenced.

c. Witness Testimony

The testimony of a witness can be categorized as evidence as long as the statement is about a criminal event that he has heard, seen, and experienced, which must be submitted in court by taking an oath. Witness testimony is also legal evidence based on Article 184 paragraph (1) point a. Witness testimony is regulated in Article 185 of the Criminal Procedure Code paragraph (1) "Witness testimony as evidence is what the witness stated in court." by Yopi Dede Reza, there were 6 witnesses who stated their testimonies as attached and the testimonies of these witnesses had been confirmed by the perpetrators.

d. Evidence

Items that can be confiscated as stated in Article 39 paragraph (1) of the Criminal Procedure Code can be referred to as evidence. The existence of evidence that is revealed at the trial will increase the judge's confidence in assessing the truth or not of the actions accused of the defendant, the judge will be more confident if the evidence is known and acknowledged by the defendant and the witnesses. This evidence also exists and tends to be considered by the judge in making a decision.[3]

Based on evidence in the form of a visum et repertum from the Indragiri Hilir District

Government, the UPT Pukesmas Kuala Enok Health Service Number: 445/PKM-KE/XII/2018/559 dated 21 December 2018 signed by Dr. Erniyati, who stated that the victim Rugayah died with a number of stab wounds with several pieces of evidence as attached in the verdict.

One of the things that is often revealed in the trial process is the articles of criminal law regulations. The articles revealed in the indictment of the public prosecutor, which are formulated as provisions of the criminal law that were violated by the defendant. These articles are then used as the basis for sentencing or actions by judges. In trial practice, the articles of criminal law regulations are always linked to the actions of the defendant. In this case, the public prosecutor and judge try to prove and examine through evidence whether or not the defendant's actions have fulfilled the elements formulated in the articles of criminal law regulations. If it turns out that the defendant's actions fulfill the elements of each violated article, it means that according to law the defendant's guilt has been carried out, namely having committed an act as regulated in the criminal law.

In the decision number 51/Pid.B/2019/PN.Tbh based on the indictment of the public prosecutor, the defendant Yopi Dede Reza had violated Article

1. Article 340 of the Criminal Code on premeditated murder.
2. Article 339 of the Criminal Code concerning murder by weight.
3. Article 365 paragraph (3) of the Criminal Code concerning acts of theft resulting in death.

2. Non Juridical Considerations

Non-juridical considerations can be seen from the background, the consequences of the defendant's actions, the defendant's condition, and the defendant's religion

a. Background

The understanding of the background of the defendant's actions in this discussion is any situation that causes the desire and encouragement to arise in the defendant in committing a criminal act. The economic situation, for example, is an example that is often the background of crime. Poverty, deprivation, or misery is a very harsh economic condition that encourages the defendant to commit his actions. In the case study of decision number 51/Pid.B/2019/PN.Tbh, the reason why the defendant committed premeditated murder was because of heartache. The defendant felt hurt because the victim Rugayah mocked the defendant, saying that the defendant was a child who troubled his parents and could not work.

b. As A Result Of The Defendant's Actions

The criminal act committed by the defendant will certainly bring the victim or loss to the other party. The premeditated murder committed by the defendant Yopi Dede Reza resulted in the death of another person, namely Rugayah. In this case, of course, the defendant's actions have fulfilled the elements in the crime of premeditated murder, namely the element of intentional, premeditated elements, and the element of taking the lives of others. With the fulfillment of these 3 (three) elements, the criminal acts committed by the defendant are regulated in Article 340 of the Criminal Code and the criminal threat is punishable by death, or imprisonment for life, or with a temporary prison sentence of twenty years.

c. Defendant's Conditions

The definition of the defendant's personal condition in this discussion is the defendant's physical and psychological condition before committing the crime, including the social status attached to him. The intended physical state is age and level of maturity, while the intended psychological state is related to feelings for example in a state of anger, having feelings of revenge, getting threats or pressure from others and the mind is in a state of chaos or abnormality. What is meant by social status is the predicate that is owned in the community, namely whether as an official, community leader or as a homeless person, and so on.

In this case, it has been proven that the physical condition of the defendant at the time of committing the premeditated murder was conscious, not insane, and his actions can be accounted for. At the time of the examination the defendant was conscious and admitted his actions. The psychological state of the defendant at the time of committing the murder was based on anger and irritation, so that this is what caused the defendant to make a determination to kill his own neighbor, Rugayah.

d. Defendant's socioeconomic conditions

Neither in the Criminal Code nor in the Criminal Procedure Code there is a single rule that clearly commands that the socio-economic condition of the accused must be considered in making a decision in the form of a sentence. It is undeniable that the socioeconomic conditions of each individual can also encourage criminal acts. Like someone who steals whether it's money, groceries, clothes or others who are forced to steal because of economic pressure. Of course this happens every day, because those who steal feel trapped and are finally forced to commit theft to survive, for their survival, for their children.

Based on the concept of the Criminal Code, one thing that the judge must consider is the maker's socioeconomic condition, such as the level of income and cost of living. This provision is not yet binding on the court because it is still a concept. However, the socio-economic conditions are as long as they are facts and are revealed in court. In the case of decision number 51/Pid.B/2019/PN.Tbh the defendant also committed theft after killing the victim. This was also done by the defendant because the defendant did not have a job.

e. How to Commit A Crime

Perpetrators in committing these acts there are elements that are planned in advance to commit the offense. The element in question is the element of intention, namely the perpetrator's desire to violate the law. Where the defendant Yopi Dede Reza had the intention to kill Rugayah, which intention turned into an act of premeditated murder committed by the defendant Yopi Dede Reza. Before deciding a case, the judge pays attention to the indictment of the Public Prosecutor, the testimony of witnesses who were present at the trial, the testimony of the defendant, the evidence, the subjective and objective conditions that a person can be convicted of, as well as mitigating and aggravating factors. In the judge's decision, the judge mentions and imposes sanctions in the form of:

1. To declare that the defendant Yopi Dede Reza has been legally and convincingly proven to have committed the crime of premeditated murder as described above charged in the alternative to the first indictment.
2. Sentencing the Defendant Yopi Dede Reza above, therefore, with a sentence of 17 (seventeen) years.

3. Order the Defendant to remain in custody.

In the normative aspect, the judges consider in making a decision on these case are:

That because the Defendant has been proven to have committed the acts as indicted in the First Primary and the Second, the third indictment, as long as there is no justification or forgiving reason found in the trial, therefore the Defendant must be held accountable for his actions.

The Panel of Judges also considered the criminal charges of the public prosecutor who demanded the defendant to be sentenced to life imprisonment, in the opinion of the Panel of Judges by taking into account and considering the normative aspects (criminal law norms that were violated by the defendant), namely the defendant's actions violated the provisions of Article 340 of the Criminal Code with a criminal threat: death penalty or life imprisonment. life or imprisonment for 20 years.

Whereas the Panel of Judges also pays attention to the defense of the Defendant's Legal Counsel, which in essence asks that the Defendant be sentenced to the lightest and fairest sentence possible, on the grounds that the Defendant deeply regrets his actions and promises not to do it again. In addition to the above, the Panel of Judges also needs to consider things that are aggravating and mitigating the Defendant.

Aggravating things:

- The defendant's actions resulted in the loss of a person's life;
- The defendant's actions are disturbing the community

Mitigating things:

- The defendant regretted his actions
- The defendant behaved politely during the trial;

Because the Defendant was sentenced to a crime, he must also be burdened with paying court fees.

So based on the author's description above, it is appropriate if the judge sentenced the defendant to 17 (seventeen) years in prison. Considering that there are factors that the judge must consider by taking into account the mitigating and aggravating factors for the defendant, as well as the defendant who is still young and has the opportunity to improve himself so that rehabilitation must also be carried out. The author is of the view that the court's decision in case number 51/Pid.B/2019/PN.Tbh has given justice to the defendant. The sentence of 17 years in prison is very appropriate because the defendant is also an adult based on Article 47 paragraph (1) of the Marriage Law (hereinafter abbreviated as UUP) which states: "Children who have not reached the age of 18 years or have never married are under the control of their parents as long as they are not married. deprived of power."

According to the Marriage Law, a person is declared fit for marriage when he reaches the age of 18 years or more. A person who has not reached the age of 18 is still under the control of his parents. A person's ability to act under the law or to carry out legal actions is determined by whether or not the person is said to be an adult according to the law. The act of premeditated murder committed by the perpetrator occurred when the perpetrator was 20 years old so that the perpetrator could be said to have matured and was declared capable of acting in all legal actions. Therefore, the sentence handed down by the Panel of Judges against the defendant is very appropriate, taking into account the age that has indeed been declared an adult and can be held accountable for his actions.

4. CONCLUSION

Laws are rules made to create a prosperous, orderly, safe society, and those who break the law will be subject to sanctions. Criminal law is a law that regulates actions that are prohibited by law, as well as the threat of sanctions in the form of imprisonment, fines, imprisonment, and the death penalty for violators of the law. One form of criminal action is premeditated murder. The crime of premeditated murder is an act done intentionally to kill another person. The elements of the criminal act of premeditated murder committed by the perpetrator based on the decision case Number 51/Pid.B/2019/PN.Tbh have been proven to meet the element of whoever, the element of eliminating other people, the element of intentional, and the element of pre-planned. The consideration of the Panel of Judges before issuing the decision Number 51/Pid.B/2019/PN.Tbh according to the author is in accordance with the applicable legal rules by considering aggravating things and mitigating things for the perpetrators. In this case, the perpetrator has also been declared an adult according to the law, where the perpetrator is 20 (twenty) years old and is legally capable.

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