

Research Article

Legal Analysis of Criminal Responsibility for Perpetrators of the Criminal Act of Extortion Committed Together (Case Study of Decision at Central Jakarta District Court Number 32/PID. B/2024/PN. JKT PST)

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ORCIDFirman Safrul: <https://orcid.org/0009-0007-7762-9308>**Abstract.**

Crime is a form of behavior that is contrary to human morals (immoral), detrimental to society, asocial in nature, and in violation of laws. It is a social reality, and the problem of crime cannot be avoided and is always there, so it is natural that it causes unrest. One form of crime is extortion. Extortion is an act of selfishness that uses violence or threats against others to receive or achieve something. The main element of the crime of extortion, namely whether an act is included as a crime of extortion, is determined by the existence of intent or the will of the perpetrator to force another person by force, violence, or threats, to do or not do something. The approach method used is normative juridical, namely a library legal research conducted by examining library materials or secondary data only using deductive thinking methods. The writing specifications use descriptive analysis, and the sources and types of data used are primary and secondary data. The data were collected using secondary data collection methods. The problem is analyzed with the theory of criminal responsibility, and the theories of Pancasila justice and Islamic justice. Criminal liability for the perpetrators of extortion in Decision Number: 32/Pid.B/2024/PN JKT PST has fulfilled the value of criminal liability in accordance with the provisions of the actus because the defendant, namely ARF alias Jawa, has committed a prohibited act in accordance with that contained in Article 368 of the Criminal Code in conjunction with Article 55 Paragraph (1) Ke-1 of the Criminal Code, has been legally proven and guilty of committing the crime of theft, which is regulated and threatened with imprisonment of 1 year and 6 months each. The judge's considerations in applying criminal provisions to the perpetrators in this case have been appropriate where the judge has considered both legal and non-legal considerations, facts in the trial, witness statements, existing evidence, and the judge's conviction.

Keywords: criminal, extortion, justice, liability

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1. Introduction

The rule of law places law as the main foundation in regulating government power and citizen behavior. In this context, criminal law has a vital role as part of public law to regulate and sanction acts that are contrary to the law. The principle of legality is a fundamental principle, which states that no act can be punished without a clear legal basis (Andi Hamzah 2008).

The development of the times and economic pressures in the era of globalization have increased the crime rate, including the crime of extortion. Article 368 of the Criminal Code stipulates that extortion is an act of forcing someone with violence or the threat of violence to give something that is not the perpetrator's right, with a maximum penalty of nine years in prison (Wahyuningsih, Sri Endah, 2017). This crime often occurs in society and can cause unrest and major material losses.

The driving factors of extortion generally come from economic background, dissatisfaction with income, and weak legal education. Elements of extortion, such as the intention to benefit oneself, unlawful acts, and the use of violence or threats, are the basis for determining the criminal responsibility of the perpetrator (Roeslan Saleh).

This study examines the decision of the Central Jakarta District Court Number 32/Pid.B/2024, which involved extortionists who claimed to be police officers and used legal threats to take money and belongings from the victim. This case illustrates a form of extortion carried out together and resulted in a loss of IDR 22 million.

The imposition of severe punishments or sanctions on the perpetrators does not create a deterrent effect, even many perpetrators who have been released from their prison sentences still repeat the same actions. This may be due to the perpetrator's low economic and educational factors or even because the punishment or sanctions given by the judge are too light so that the perpetrators do not hesitate to do the same action again. An important thing that also needs to be considered is what if the crime or crime of extortion and threats is carried out in the so-called trial phase, of course in determining how the perpetrators are held accountable is very interesting. Therefore, an in-depth legal analysis is needed on the aspects of criminal responsibility of extortion perpetrators, especially when the crime is carried out together.

2. Methods

The approach method used by the author to compile the assessment uses the Normative Juridical method. The research specification used in this study is the descriptive analysis type. In this study, the author focuses on library research and primary documents in the form of current laws and secondary documents in the form of expert opinions, law books, journals and magazines. Data collection techniques the data collection technique used in this study uses a literature study, namely data collection from the results of a review of library documents and secondary data including primary legal materials, secondary legal materials, and tertiary legal materials. The data analysis technique in this study was carried out using qualitative data analysis, specifically data collection using law, theory, and legal principles.

3. Results and Discussion

3.1. Criminal Responsibility for Perpetrators of Criminal Acts of Extortion carried out together

Criminal liability is the core of the criminal law system which is based on the principle of legality as regulated in Article 1 paragraph (1) of the Criminal Code. This principle states that no act can be punished unless it has been previously determined in statutory regulations. This is also strengthened by the principle of *geen straf zonder schuld* which emphasizes the importance of the element of fault as the basis for criminal liability (Moeljatno, 2002).

According to Sudarto, there are four main elements in criminal liability, namely: The existence of a criminal act, namely an act prohibited by law and carried out by the perpetrator (positive offense); The existence of an error, which can be intentional (*opzet*) or negligence (*culpa*); The ability to be responsible, namely the perpetrator is in a conscious state and is able to distinguish between good and bad actions; The absence of a reason for forgiveness or justification, which can eliminate criminal liability (Sudarto, 1986).

In the case study of Decision No. 32/Pid.B/2024/PN Jkt Pst, the defendant ARF Als Jawa was deemed to have fulfilled all of these elements. He was proven legally and convincingly to have committed the crime of extortion according to Article 368 of

the Criminal Code, acting intentionally, in a healthy physical and mental state, and no excuses were found.

The Public Prosecutor (JPU) in compiling the indictment stated that the actions of the defendant ARF Als Jawa on Saturday, October 7, 2023 at around 20.00 WIB, witness Nandang together with witness Juha riding 1 (one) unit of a red and black Honda Beat motorbike F 6576 WAW (DPB) went to buy a helmet with a COD system in the Sarinah area, Menteng District, Central Jakarta and after buying the helmet, then witness Nandang together with witness Juha went to the Tanah Abang area, Central Jakarta to buy Tramadol then went home but when they arrived at Palmerah Market, West Jakarta, suddenly the witness' motorbike was pulled over by 1 (one) unit of a white Honda PCX motorbike driven by the Defendant together with Mr. X (DPO) then the motorbike driven by witness Nandang was stopped by the Defendant, with the intention of being owned illegally.

The Public Prosecutor's indictment with an alternative charge stated that the actions of the defendant ARF Als Jawa as regulated and threatened with criminal penalties in Article 368 of the Criminal Code. The crime of extortion is regulated in Article 368 of the Criminal Code which reads:

“who does, who orders to do and who participates in doing, with the intention of unlawfully benefiting himself or another person, forces someone by violence or threat of violence to give something, all or part of which belongs to that person or another person or to create a debt or write off a receivable.”

The elements in Decision Number 32/Pid.B/2024/PN Central Jakarta that the defendant committed were the crime of theft which violated Article 368 of the Criminal Code as follows:

1) Element of whoever

The element of whoever is the element of the perpetrator. The perpetrator in criminal law, according to Article 55 and Article 46 of the Criminal Code is a person who does, together does, participates in doing, encourages, orders to do, or helps to do. That from the examination in the trial, it was not obtained that the Defendant was a person who was included in the group in Article 44 of the Criminal Code. Therefore, the Defendant is included as a person who is capable of being criminally responsible.

That the defendant ARF alias Jawa, whose identity is as stated above, is a person who is a legal subject, thus fulfilling what is meant by the element of “Whoever”.

2) The element of intent to benefit oneself or others unlawfully.

It was obtained legal facts that it was true, at around 21.00 WIB, the Defendant who was riding pillion with Witness NND stopped his motorbike around Jalan Citarum, Cideng Village, Gambir District, Central Jakarta and Witness Juha also stopped his motorbike, then the Defendant asked for Witness NND's wallet and took the money in Witness NND's wallet amounting to IDR 2,300,000,- (two million three hundred thousand rupiah) then the Defendant also took 1 (one) unit of maroon Oppo cellphone belonging to Witness Nandang, then the Defendant's friend took away 1 (one) unit of red and black Honda Beat motorbike F 6576 WAW that the Witness was using, but Witness Juha and Witness Nandang tried to defend it, but were kicked by the Defendant, then the Defendant together with Mr. THMS left the Witness by running away with Witness NND's belongings. That the Defendant obtained a profit of IDR 300,000 (three hundred thousand rupiah) and obtained it in an unlawful manner.

3) Forcing someone with violence or threat of violence. Forcing with violence can be in the physical or psychological sense, which makes the person being forced to do something beyond his free will.

It was obtained legal facts that it was true, then the Defendant together with Mr. Thomas who was a police officer stopped witnesses Nandang and Witness Juha by pressing their vehicles and succeeded in stopping them and they got off their vehicles. That it was true, then the Defendant together with Mr. Thomas also got off the motorbike then introduced themselves by claiming to be police officers and asked the witnesses.

4) Giving something, which is wholly or partly owned by that person or another person, or in order to create a debt or write off a receivable

It was obtained legal facts that it was true that the Defendant asked for Witness NND's wallet and took money from Witness Nandang's wallet amounting to IDR 2,300,000,- (two million three hundred thousand rupiah) then the Defendant also took 1 (one) unit of maroon Oppo cellphone belonging to Witness Nandang, then the Defendant's friend took away 1 (one) unit of red and black Honda Beat motorbike F 6576 WAW that the Witness was using, but Witness JH and Witness NND tried to defend it, but were kicked by the Defendant, then the Defendant together with Mr. THMS left the Witness by running away with Witness NND's belongings.

Based on legal considerations and trial facts, the Panel of Judges in the verdict of the case with the defendant ARF alias Jawa stated that the elements of the crime

in Article 368 in conjunction with Article 55 of the Criminal Code had been fulfilled legally and convincingly. Because there were no reasons for forgiveness or justification, the Defendant was sentenced according to Article 193 paragraph (1) of the Criminal Procedure Code, namely imprisonment for 1 year and 6 months.

In the context of criminal responsibility, the Defendant is considered an individual who is capable of being responsible, seen from his psychological condition and his confession in court which shows awareness of his mistakes and regret for his actions. This is in line with the theory of criminal responsibility according to Hans Kelsen, which states that legal responsibility arises when the legal subject is aware of his actions that violate and is able to understand the legal consequences of his actions, including in the case of negligence (*culpa*) as a lighter form of error.

The Judge's decision is considered to be in accordance with the applicable positive legal basis and reflects the fulfillment of the element of guilt (*schuld*) as an important principle in Indonesian criminal law. Nevertheless, criticism of the Criminal Procedure Code (KUHP) remains relevant, because there is still an imbalance between the protection of the rights of suspects and victims. This shows that the Indonesian criminal justice system still faces challenges in creating comprehensive justice between perpetrators and victims, as well as in providing an optimal deterrent effect.

3.2. Judge's Considerations in Sentencing Perpetrators of Joint Extortion Crimes (Study of Decision Number 32/Pid.B/2024/PN. Jkt Pst)

Judicial power is a main pillar in law enforcement, as regulated in Law Number 48 of 2009 concerning Judicial Power. This power gives judges the authority to assess and determine the legal consequences of an event based on positive law. Judges must be independent and impartial, meaning free from interference from any party so that the decisions rendered are objective and fair.

Objectivity in a decision is reflected in the judge's attitude based on facts and applicable legal principles, while impartiality demands that there be no bias towards one party in the dispute. M. Yahya Harahap emphasized that legal considerations are the core of a decision, because they contain the legal basis that legitimizes the decision that is handed down (Harahap, MY, 2005). This consideration should include reference to relevant legal norms, jurisprudence, doctrine or customary law.

In practice, criminal acts are not always committed individually, but can occur through cooperation between two or more people, known as a form of participation (*deelneming*). This participation also applies in the context of fraud, where the main perpetrator can work together or be assisted by other parties to carry out the crime. This concept is regulated in Articles 55 and 56 of the Criminal Code as a basis for determining criminal responsibility for all parties involved.

Decision Number 32/Pid.B/2024/PN Jkt Pst tried a criminal case on behalf of the defendant ARF alias Jawa, who was charged with committing the crime of extortion as regulated in Article 368 of the Criminal Code. The incident began on Saturday, October 7, 2023, at around 20.00 WIB, when the victim, witness Nandang, and his partner, witness Juha, were riding a Honda Beat motorbike in the Sarinah area, Central Jakarta, for a COD transaction to buy a helmet. After that, they went to Tanah Abang to buy tramadol, then returned home via Palmerah Market.

On the way home, the victim's motorbike was pulled over by the defendant ARF who was riding a PCX motorbike with Mr. X (DPO). The two then stopped the victim's vehicle, introduced themselves as police, and accused the victim of having just bought tramadol. Under the pressure, the victim was invited to ride a motorbike by the defendant, while Mr. X was given a ride by witness Juha using the victim's motorbike. In the middle of the trip, the defendant threatened that possession of tramadol could be punished with a seven-year prison sentence, making the victim throw away the goods secretly.

Then, on Jalan Citarum, Cideng, Gambir, the defendant stopped the motorbike and snatched the victim's wallet containing IDR 2,300,000, a maroon Oppo cellphone, and finally took the victim's motorbike after kicking it when the victim tried to defend the vehicle. After the incident, the victim immediately reported the incident to the Gambir Metro Police.

In the criminal justice system, judges do not only act as “mouthpieces of the law” (*la bouche de la loi*), but also as active subjects who must implement the law in a comprehensive, fair and contextual manner (Montesquieu, Mahfud MD, 2009). The judge's consideration is an important element in realizing the value of justice (*ex aequo et bono*) and legal certainty in every decision. The consideration includes the *ratio decidendi*, namely the main reason or basis for the verdict, and contains legal and philosophical aspects.

Legal considerations are the basis for consideration based on legal facts proven in court and relevant statutory provisions. Meanwhile, non-legal or philosophical considerations reflect the judge's assessment of the social impact of a crime, as well as the importance of maintaining the order of social and state life (Soekanto, Soerjono, 2007).

The freedom of judges in making decisions is included in the judicial freedom guaranteed by law, but must be used wisely and proportionally (Arief, Barda Nawawi, 2010). In imposing a sentence, the judge considers the severity of the sanction objectively, while maintaining justice for both the defendant and the wider community. Thus, the judge's decision is not merely legalistic, but also humanistic and contextual.

In the trial of the case of Decision Number: 32/Pid.B/2024/PN JKT PST, the following legal facts were obtained:

- 1) That it is true, on Saturday, October 7, 2023, at around 21:00 WIB, at Palmerah Market, West Jakarta, the Defendant was invited by Mr. Thomas, a police officer, to ride a white Honda PCX motorcycle. The Defendant who was riding pillion followed Witness Nandang and Witness Juha who the Defendant knew had just bought tramadol;
- 2) That the Defendant together with Mr Thomas, a police officer, stopped witnesses Nandang and Witness Juha by pulling up next to their vehicle and succeeded in stopping them and they got out of their vehicle;
- 3) That the Defendant together with Mr. THMS also got off the motorbike then introduced themselves by claiming to be police officers and asked the witnesses: "Have you just bought tramadol?", to which the witness answered: "Yes, sir";
- 4) That at around 21.00 WIB, the Defendant who was riding pillion with Witness Nandang stopped his motorbike around Jalan Citarum, Kelurahan Cideng, Kecamatan Gambir, Central Jakarta and Witness Juha also stopped his motorbike, then the Defendant asked for Witness Nandang's wallet and took the money in Witness Nandang's wallet amounting to IDR 2,300,000,- (two million three hundred thousand rupiah) then the Defendant also took 1 (one) unit of Oppo cellphone in maroon color belonging to Witness Nandang, then the Defendant's friend took away 1 (one) unit of Honda Beat motorbike in red and black color F 6576 WAW that the Witness was using, but Witness Juha and Witness Nandang tried to hold on to it, but were kicked by the Defendant, then the Defendant together with Mr. Thomas left the Witness by running away with Witness Nandang's belongings;

- 5) That's right, the Defendant then handed over the goods to Mr. Thomas and the Defendant was given a share of IDR 300,000.00 (three hundred thousand rupiah); That's right, the Defendant admitted his mistake, regretted it and promised not to do it again.

Then the Public Prosecutor submitted the Charges which in essence were as follows:

- a. Declaring that the defendant ARF alias Jawa was proven legally and convincingly guilty of committing the crime of "doing, ordering and participating in doing, with the intention of unlawfully benefiting oneself or another person, forcing someone with violence or the threat of violence to give something, all or part of which belongs to that person or another person or to create a debt or write off a receivable", in accordance with Article 368 of the Criminal Code in conjunction with Article 55 (1) 1 of the Criminal Code.
- b. Sentencing the Defendant ARF alias Jawa to a prison sentence of 2 (two) years, 6 (six) months minus the time the Defendant has been in detention with an order to remain in detention in the detention center.
- c. Stating evidence in the form of:
 - a) 1 (one) motorcycle ignition key, photocopy of BPKB, FIF Group leasing certificate
 - b) 1 (one) black jacket with the words "Athar Fighter" on the left chest and the words "IR, INT Squad" on the right chest. Returned to witness NND.

The elements in Decision Number 32/Pid.B/2024/PN Central Jakarta that the defendant committed the crime of theft in violation of Article 368 of the Criminal Code are as follows:

1) Element of whoever

The element of whoever is the element of the perpetrator. The perpetrator in criminal law, according to article 55 and article 46 of the Criminal Code, is a person who does, together does, participates in doing, encourages, orders to do, or helps to do (Wahyuningsih, 2018). That from the examination in the trial, it was not found that the Defendant was a person included in the category in Article 44 of the Criminal Code. Therefore, the Defendant is included as a person who is capable of being criminally responsible.

That the defendant ARF alias Jawa, whose identity is as stated above, is a person who is a legal subject, thus fulfilling what is meant by the element of "Whoever".

2) The element of intent to benefit oneself or others unlawfully.

It was obtained legal facts that it was true, at around 21.00 WIB, the Defendant who was riding pillion with Witness NND stopped his motorbike around Jalan Citarum, Cideng Village, Gambir District, Central Jakarta and Witness Juha also stopped his motorbike, then the Defendant asked for Witness NND's wallet and took the money in Witness NND's wallet amounting to IDR 2,300,000,- (two million three hundred thousand rupiah) then the Defendant also took 1 (one) unit of maroon Oppo cellphone belonging to Witness Nandang, then the Defendant's friend took away 1 (one) unit of red and black Honda Beat motorbike F 6576 WAW that the Witness was using, but Witness Juha and Witness Nandang tried to defend it, but were kicked by the Defendant, then the Defendant together with Mr. THMS left the Witness by running away with Witness NND's belongings. That the Defendant obtained a profit of IDR 300,000 (three hundred thousand rupiah) and obtained it in an unlawful manner.

3) Forcing someone with violence or threat of violence. Forcing with violence can be in the physical or psychological sense, which makes the person being forced to do something beyond his free will.

It was obtained legal facts that it was true, then the Defendant together with Mr. Thomas who was a police officer stopped witnesses Nandang and Witness Juha by pressing their vehicles and succeeded in stopping them and they got off their vehicles. That it was true, then the Defendant together with Mr. Thomas also got off the motorbike then introduced themselves by claiming to be police officers and asked the witnesses.

4) Giving something, which is wholly or partly owned by that person or another person, or in order to create a debt or write off a receivable

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by the Defendant, then the Defendant together with Mr. THMS left the Witness by running away with Witness NND's belongings.

Before imposing a sentence, the Panel of Judges first considers the aggravating and mitigating circumstances, namely as follows:

Aggravating circumstances:

- a. The Defendant's actions were carried out with the cooperation of members of the Indonesian National Police;

Mitigating circumstances:

- b. The defendant admitted his actions and behaved politely during the trial;
- c. The defendant regretted his actions;
- d. The defendant is still young and has family responsibilities, a wife and children.

That from Decision Number: 32/Pid.B/2024/PN JKT PST, based on legal and non-legal considerations, the Panel of Judges in its decision decided that:

1. Declaring that the Defendant Arifin alias Java above has been proven legally and convincingly guilty of committing the crime of extortion together;
2. Sentencing the Defendant to imprisonment for 1 (one) year and 6 (six) months;
3. Ordering that the period of arrest and detention that the Defendant has served be deducted in full from the sentence imposed;
4. Ordering that the Defendant remain in custody;
5. Establishing evidence in the form of:
 - 1) 1 (one) motorcycle ignition key,
 - 2) Photocopy of BPKB,
 - 3) FIF Group leasing certificate,
 - 4) 1 (one) black jacket with the words "Athar Fighter" on the left chest and the words "IR, INT Squad" on the right chest was returned to the victim witness Nandang.
6. Charge the Defendant with court costs amounting to IDR 5,000 (five thousand rupiah);

In the Decision of the Central Jakarta District Court Number 32/Pid.B/2024/PN Jkt Pst, the Panel of Judges has assessed that all elements in Article 368 of the Criminal Code in conjunction with Article 55 paragraph (1) 1 of the Criminal Code have been proven legally and convincingly. The actions of the defendant ARF alias Jawa fulfill the elements of extortion, namely the intention to benefit oneself unlawfully by forcing the victim to hand over goods through violence or threats.

The judge's decision is based on legal considerations in the form of legal facts in the trial, witness statements, and valid evidence, as well as non-legal considerations that reflect ethical and social assessments of the consequences of the defendant's actions. In addition, the judge also carries out his constitutional obligation to convey the defendant's rights after the verdict, such as the right to accept or reject the verdict, file an appeal, or request clemency, as regulated in the Criminal Procedure Code.

The justice in this decision is seen from the application of proportional and non-discriminatory criminal sanctions. The judge considered all aspects thoroughly and relied on the principle of *ex aequo et bono*, namely justice that is impartial and sides with the truth. This decision reflects the application of fair and balanced law between legal certainty and protection of the rights of the accused and victims.

4. Conclusion

Criminal liability for the perpetrators of the crime of extortion in Decision Number: 32/Pid.B/2024/PN JKT PST has fulfilled the value of criminal liability in accordance with the provisions of the actus because the defendant, namely ARF alias Jawa, has committed a prohibited act in accordance with that contained in Article 368 of the Criminal Code in conjunction with Article 55 Paragraph (1) Ke-1 of the Criminal Code. That the panel of judges decided his actions stating that the defendant ARF alias Jawa was legally proven and guilty of committing the crime of theft regulated and threatened with imprisonment of 1 (one) year and 6 (six) months each. The judge's legal considerations in sentencing the criminal case No. 32/Pid.B/2024/PN JKT PST. By the panel of judges, the defendant ARF alias Jawa was sentenced to 1 (one) year and 6 (six) months in prison because he was proven guilty of committing the crime of extortion under Article 378 in conjunction with Article 55 Paragraph 1 of the Criminal Code. The judge's considerations in applying criminal provisions to the perpetrators in this case have been appropriate where the judge has considered both legal and non-legal considerations, facts in the

trial, witness statements, available evidence, the judge's beliefs and supporting matters and the criminal sanctions imposed.

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