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Juridical Analysis of Alleged Provision of False Information in Pretrial Corruption Cases of e-KTP

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Abstract

On April 5 2017, the KPK named Miryam S Haryani as a suspect in the alleged corruption case of e-KTP with Investigation Order No. Sprint Dik-28/01/04/2017. For her actions, Miryam is suspected of violating Article 22 in conjunction with Article 35 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. On April 20, 2017, Miryam's legal team submitted a pretrial application stating that the KPK's determination of a suspect against his client was contrary to the law and the provisions of the applicable procedural law, because: a. The KPK does not have the authority to carry out investigations and investigations related to Article 22 of the Anti-Corruption Law, because Article 22 is regulated in Chapter III which is about other criminal acts related to corruption, so this is not the task and authority of the KPK as regulated in Article 6 Chapter II. KPK Law; b. The investigation into the criminal act of giving false information before the court is carried out based on article 174 of the Criminal Procedure Code; c. the determination of the suspect in the name of Miryam S Haryani was issued without two valid pieces of evidence. This study aims to determine the legal basis for determining the suspect as a pretrial object associated with the alleged criminal act of giving false information by Miryam S Haryani and to find out the authority of the KPK in investigating the case of the crime of giving false information by Miryam S Haryani in the e-KTP corruption case that was submitted for pretrial. at the South Jakarta District Court. The research method used is normative juridical, which is an approach to literature review as secondary data. The results of the study are, the legal basis for determining the suspect as an object of pretrial is the decision of the Constitutional Court no. 21/PUU-XII/2014 dated 28 April 2015, which provides prerequisites for the determination as a suspect, namely that a minimum of two pieces of evidence must be met as contained in Article 184 of the Criminal Procedure Code. If it is related to the alleged criminal act of giving false information by Miryam S Haryani, the pretrial application for the case number 47/Pid/Pra/2017/PN. Jkt. Sel, the determination of the suspect against Miryam S Haryani has been based on more than 2 (two) pieces of evidence.

Keywords: Pretrial, Corruption Eradication Commission, false statement

A. Introduction

The State of Indonesia is a state of law, which includes the understanding of the recognition of the principle of the rule of law and the constitution, the adoption of the separation and limitation of powers according to the constitutional system regulated in the Constitution, the principle of an independent and impartial judiciary which guarantees equality of every citizen in law, as well as ensuring justice, legal certainty, and legal benefits for everyone, including against abuse of authority by those in power (Amanda, 2021).

Characteristics of a democratic rule of law, actually embodies the life of a state that is committed to the appearance of the law as the holder of control in the administration of a democratic government.

The legal basis that refers to Indonesia as a democratic legal state is based on article 1 paragraph (2) and (3) and article 28 I paragraph (5) of the 1945 Constitution, where the powers, authorities, obligations and rights of state authorities are stipulated in law. Vice versa, the rights and obligations of the people have been stated in the law.

The fight against corruption is a very significant focus in a country based on law, and is even a measure of the success of a government. This is because corruption in Indonesia is widespread in society. Its development continues to increase from year to year, both in terms of the number of cases that occur and the amount of state financial losses as well as in terms of the quality of criminal acts that are carried out more systematically and the scope of which enters all aspects of people's lives. This condition is one of the main factors inhibiting success in realizing a just and prosperous Indonesian society (Ang, 2015).

In TAP MPR RI No. XI/MPR/1998, several laws and regulations have been ratified and promulgated as the legal basis for preventing and taking action against corruption. This effort was initiated by the enactment of Law Number 28 of 1999 concerning State Administrators that are Clean and Free from Collusion, Corruption, and Nepotism. Improvements in the field of legislation were also followed by the enactment of Law Number 31 of 1999 as a refinement of Law Number 3 of 1971 concerning the Eradication of Corruption Crimes (TPK). In 2001, Law Number 31 of 1999 was revised and amended by Law Number 20 of 2001. This improvement is intended to ensure more legal certainty, avoid diversity of legal interpretations and provide protection for the social and economic rights of the community, and fair treatment in eradicating corruption.

Considering that until the end of 2002 the eradication of corruption could not be carried out optimally and the government agencies that handled corruption cases had not functioned effectively and efficiently, Law Number 30 of 2002 was enacted which became the basis for the establishment of the Corruption Eradication Commission. . The increase in uncontrolled corruption will bring disaster not only to the life of the national economy but also to the life of the nation and state in general. The widespread and systematic crime of corruption is also a violation of the social rights and economic rights of the community, and because of this, corruption can no longer be classified as an ordinary crime but has become an extraordinary crime. Likewise, eradication efforts can no longer be carried out normally, but are required in extraordinary ways (Barkatullah, 2020).

Currently, there are many witnesses who give false statements in front of the trial and harm certain parties. Meanwhile, the testimony of witnesses as one of the evidence in the judicial process and the role of witnesses before the trial can influence the court's decision. False information or false testimony under oath in front of a trial is a criminal act, especially if it causes legal consequences that can harm certain parties. Against someone who gives false information/oath, he can be prosecuted based on legal and binding force.

The appointment of a member of the DPR RI Fraction Hanura Miryam S Haryani as a suspect in the alleged provision of false information in the trial of the e-KTP corruption case by the Corruption Eradication Commission has become a topic of news in the National Mass Media at this time. This is because the Corruption Eradication Commission, which usually conducts investigations and investigations into corruption cases, this time conducted an investigation and investigation into the provision of false information that was allegedly carried out by Miryam. The following is a chronology of the Miryam S. Haryani case, *based on the indictment in the e-KTP corruption case with the suspects* Irman and Sugiharto, around May 2011, after a hearing between Commission II of the DPR RI and the Ministry of Home Affairs, former Director General of Dukcapil of the Ministry of Home Affairs, Irman was asked a number of money by through Miriam of 100,000 US dollars. The money was used to finance the working visits of Commission II DPR RI to several regions (Fauzi, 2015).

After signing the contract, the PNRI consortium won the auction, in August-September 2011, Irman ordered his subordinate, Sugiharto, to provide Rp 1 billion to Miryam. Around August 2012, Miryam asked Irman for Rp 5 billion for the operational needs of Commission II of the DPR RI. Miryam distributed the money to the leaders and members of Commission II of the DPR RI in stages. Miryam himself got 23,000 US dollars from several times receiving the money. In the trial at the Central Jakarta Corruption Court related to the alleged e-KTP corruption case with the suspects Irman and Sugiharto, Miryam denied all the information she conveyed in the examination report (BAP) regarding the distribution of money from the e-KTP corruption. In the BAP, Miryam explained the details of the distribution of money in the e-KTP case. However, at the trial, Miryam stated that in fact there had never been any distribution of money to a number of members of the Indonesian House of Representatives for the 2009-2014 period, as he previously explained to investigators.

Miryam denied that he had ever been asked by the leadership of Commission II of the Indonesian House of Representatives to receive money from the Directorate General of Dukcapil of the Ministry of Home Affairs regarding e-KTP, even though the information was contained in Miryam's BAP. Finally, Miryam admitted that he was threatened by investigators to admit that they received money to smooth the discussion of the e-KTP budget at Commission II. Then miryam felt pressured by the way investigators interrogated her and was threatened by KPK investigators when completing the BAP. Investigators stated that in 2010 Miriam should have been arrested by the KPK. After being confronted with three KPK investigators in front of the trial, Miryam has remained true to his statement since the beginning of the trial, which is to reject the entire contents of the BAP during the investigation, even though he has been warned and warned several times by the judge (HANANI et al., 2022).

On April 5 2017, the KPK named Miryam S Haryani as a suspect related to the alleged corruption case of e-KTP with Investigation Order No. Sprint Dik-28/01/04/2017. Miryam is suspected of intentionally not providing information or providing false information when he was a witness in the trial of the alleged corruption of e-KTP with the two defendants Irman and Sugiharto. For her actions, Miryam is suspected of violating Article 22 in conjunction with Article 35 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. Furthermore, on April 20, 2017, Miryam's legal team submitted a pretrial application stating that the determination of a suspect by the KPK against his client was contrary to the law and the provisions of the applicable procedural law, because the KPK did not have the authority to carry out investigations and investigations related to Article 22 of the Anti-Corruption Law, because article 22 is regulated in Chapter III, namely regarding other criminal acts related to corruption, so this is not the task and authority of the KPK as regulated in Article 6 Chapter II of the KPK Law. Investigations into the crime of giving false information before the court are carried out based on Article 174 of the Criminal Procedure Code (Hermanto, 2017).

The determination of the suspect in the name of Miryam S Haryani was published without two valid pieces of evidence. And therefore the determination of the suspect based on the Investigation Order No. Sprint Dik-28/01/04/2017 dated April 5, 2017 issued by the KPK should be declared invalid and has no binding legal force. Based on the background above, the writer is interested in studying more deeply about how the legal basis for determining the suspect as an object of pretrial is related to the alleged crime of giving false information by Miryam S Haryani.

B. Method

The research method used in this research is descriptive analysis, meaning that this research does not only describe but also analyzes problems based on the applicable laws and regulations. Analytical descriptive is the process of describing various applicable laws and regulations related to legal theories and positive law implementation practices related to the problems studied. The approach used is normative juridical, which is an approach regarding literature review as secondary data, which consists of primary legal materials, secondary legal materials and tertiary legal materials. The data analysis was carried out qualitatively through various interpretations known in legal science such as grammatical, sociological and so on, then carried out a logical and systematic discussion without using statistical formulas (Kadarudin & Rifa'i, 2021).

C. Results and Discussion

1. The Legal Basis for Determining the Suspect as an Object of Pretrial Associated with the Alleged Crime of Giving False Information by Miryam S Haryani

The evidentiary process plays an important role in the trial process. One of the important pieces of evidence in criminal procedural law is witness testimony. Witness testimony is one of the legal evidence in the trial of criminal cases. Witness testimony is one of the evidence in a criminal case in the form of testimony from a witness regarding a criminal event that he himself heard, saw and experienced himself by mentioning the reasons for his knowledge (Kristi, 2011).

Before giving testimony at trial, witnesses are required to take an oath first. Article 160 paragraph (3) of Law Number 8 of 1981 concerning Criminal Procedure Code states that before giving testimony, witnesses are obliged to take an oath or promise according to their respective religious methods, that he will provide true information and nothing other than what is actually true. . In connection with the witness' obligation to take an oath in advance, the legal consequences are specifically regulated if the witness violates it in the sense that the witness does not provide true information according to the

pronunciation of the oath he has taken, then the witness can be suspected of giving false information on an oath which is punishable by criminal Article 242 of the Criminal Code. . To apply article 242 of the Criminal Code, against someone who intentionally gives false information on oath, so that that person can be sentenced, the perpetrator's actions must meet the elements of the article. The elements of Article 242 paragraph (1) of the Criminal Code are subjective elements; deliberately and objective elements;

The definition of "deliberately" in Article 242 paragraph (1) of the Criminal Code includes these three types of intent. For example, if someone is intentionally aware of the possibility, then this has fulfilled the "deliberate" element of the crime of perjury. One thing to note is that this "deliberately" element is placed in the middle of the formulation of the article, namely after the element "in a situation where the law determines to give information under oath or to have legal consequences for such information". So, the element is not covered by the element "intentionally". Thus, the perpetrator does not need to know that the information he gives must indeed be strengthened by an oath or promise (Kusumawati, 2013).

The element that is covered by this “deliberately” element is the element that is placed after the “deliberately” element, namely the element of “providing false information under oath, either orally or in writing, personally or by a proxies specifically appointed for that purpose”. Because this element intentionally by the legislators has been placed earlier than the other elements, then all elements behind the element are intentionally also covered by a deliberate element, so that what is regulated in Article 242 paragraph (1) of the Criminal Code is by intentional is an act both the public prosecutor and the judge must be able to prove in the court hearing that examines and hears the defendant's case regarding the "will" of the defendant to give false information on oath, either orally or verbally, by himself or by his specially appointed attorney. for that and the defendant's "knowledge" that the information on oath given orally or in writing, by himself or by his proxy appointed for that purpose is a false statement.

If the "will" or "knowledge" or one of the wills and knowledge of the defendant can not be proven, then naturally there is no reason for them to state that the defendant is proven to have intentional in committing the offense he is accused of, so the judge must give a verdict. free for the accused. The subject of article 242 paragraph (1) of the Criminal Code is anyone, but if you pay attention to the subsequent formulation which reads by himself or by his proxies specifically appointed for it, a question may arise as to whether the special power of attorney might qualify as a subject. The answer is that if the special power has the same knowledge/awareness as the subject regarding the falsity of the information, then in this case the special power can be qualified as a subject. And in connection with the formulation of prohibited acts in this article, the possibilities that can become the subject of criminal acts include witnesses, expert witnesses, interpreters, creditors, positions that make the minutes of a criminal case (Laowo, 2018).

Being a witness in a case before a court session is an obligation for everyone, in the context of upholding justice and truth in society, because the upholding of justice and truth is for the common good. Therefore, everyone who sees an event or knows about the event is expected will not shy away from the obligation as a witness even willingly and willingly volunteered as a witness, and instead of being afraid when he gets a summons from the court to appear as a witness as is the case today, where most people show an attitude of fear when called as a witness.

Article 77 of the Criminal Procedure Code has explicitly and limitedly regulated any legal action that can be tested at a pretrial, namely the legality of an arrest, detention, termination of an investigation or termination of a prosecution as well as compensation and/or rehabilitation for a person whose criminal case is terminated at the investigation or prosecution level. This provision does not stipulate the determination of the suspect. Such a limitative arrangement is intended to ensure that the law enforcement process is in line with the procedural law. KUHAP is a procedural law which is intended to enforce material criminal law. The establishment of the Criminal Procedure Code is intended so that the criminal justice system can run in accordance with procedural law based on predetermined stages in order to create justice and legal certainty based on a fast, simple and low-cost judicial process which is a philosophy of judicial administration which also includes one of the principles of criminal procedural law. (Mansyah, 2019).

As outlined in the Guidelines for the Implementation of the Criminal Procedure Code that the purpose of the criminal procedure law is to seek and obtain or at least approach the material truth, that is, the complete truth of a criminal case by applying the provisions of the criminal procedure law in an honest and precise manner, with the aim of finding who the perpetrator can be charged with committing a violation of the law, and then requesting an examination and decision from the court to find out

whether it is proven that a criminal act has been suspected and whether the person accused can be blamed. As a provision of procedural law to enforce material criminal law, the Criminal Procedure Code is indeed designed as a strict rule. The formulation of the provisions contained in the Criminal Procedure Code should not be changed easily.

Determining someone as a suspect does not eliminate a person's right to defend himself and fight for his human rights which he thinks have been violated. The principle of presumption of innocence applies to them. This is confirmed in the provisions of Article 8 of Law Number 48 of 2009 concerning Judicial Power which states, "Everyone who is suspected, arrested, detained, prosecuted, or brought before a court must be deemed innocent before a court decision declares his guilt and has obtain permanent legal force. The pretrial decision which refuses to determine that the suspect is examined in the pretrial realm is as follows, the decision number 1/Pid.Prap/2015/PN.Bta which was requested by HAIDIRSYAH, was rejected by the Pretrial Judge at the Baturaja District Court RAKHMAD FAJERI, who in his legal considerations stated Article 77 The Criminal Procedure Code has explicitly and limitedly regulated any legal actions that can be tested at pretrial, namely the legality of arrest, detention, termination of investigation or termination of prosecution as well as compensation and or rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution. This provision does not regulate the determination of suspects, so that the determination of suspects is not the object and authority of the Pretrial (Multazam, 2017).

Decision Number 02 / Pid. Pre / 2015 / PN Pwt submitted by MUKTI ALI, has been rejected by the Pretrial Judge at the Purwokerto District Court KRISTANTO SAHAT H.S, who in his legal considerations stated that Pre-Trial is a quick and simple trial and there should be no Pre-Trial object outside Article 77 of the Criminal Procedure Code . KUHAP has regulated Pre-Trial in a Limitative manner, namely only determining the validity of arrest and detention, termination of investigation or termination of prosecution, and determination of compensation and or rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution; so that the material for the petition of the judiciary does not fall within the scope of pretrial authority. Sumedang District Court Judge, VIVI M TAMPI, on March 23, 2015 rejected the pretrial application submitted by CECEP BIN OMON who was named a suspect by the Sumedang Police.

The judge of the Cibinong District Court, ERNEST, rejected the pretrial application submitted by ADE SUTISNA who was named a suspect by the Bogor Police. In his legal considerations, the judge stated that, “Article 77 of the Criminal Procedure Code cannot be expanded and the determination as a suspect by an investigator cannot be interpreted into article 77 because based on the authentic interpretation of article 77 it can only be interpreted by lawmakers.

On the other hand, after the decision of the Constitutional Court No. 21/PUU-XII/2014 dated 28 April 2015 which expressly states that the determination of the suspect is the object of pretrial, has given birth to different decisions in each process of examining pretrial applications. The basis or reasons stated in the Constitutional Court Decision are, among others, because the determination of a suspect is part of the investigation process which constitutes a confiscation of human rights, the investigator should determine that a suspect is an object that can be requested for protection through pretrial legal endeavors. This is solely to protect a person from arbitrary actions by investigators which are likely to occur when someone is named a suspect, even though in the process there was an error, there is no other institution other than the pretrial institution that can examine and decide (Nawir, 2021).

After the decision of the Constitutional Court No. 21/PUU-XII/2014 dated 28 April 2015, the judge who examines pretrial cases in their legal judgments always refers to the Constitutional Court's decision as jurisprudence in deciding whether the determination as a suspect is valid and based on at least 2 pieces of evidence or not. This includes the pretrial judge's decision in case number 47/Pid/Pra/2017/PN.Jkt.Sel in its legal considerations pages 59-60 stating that the determination of Miryam S Haryani as a suspect has been based on more than 2 (two) pieces of evidence, namely, evidence the letter, which includes the BAP of Miryam's witness, Miryam's handwriting and the draft/revision of Miryam's BAP.

2. The Authority of the KPK in Investigating the Crime of Giving False Information by Miryam S Haryani in the Corruption Case of e-KTP

The pretrial judge in case number 47/Pid.Prap/2017/PN.Jkt.Sel has rejected the pretrial application submitted by Miryam S Haryani. In his decision, the judge stated that the determination of the suspect in the name of Miryam S Haryani was valid and the Investigation Order No. Sprint Dik-28/01/04/2017 dated April 5, 2017 is valid and based on law. The legal considerations that underlie the

decision are, considering that apart from the opinion of the Petitioner and the Respondent as well as the opinion of the Criminal Law expert, according to the Pretrial Judge that Article 22 of the TIPIKOR Law is part of Chapter III, namely concerning other criminal acts related to corruption, considering that Article 22 22 is regulated in the Anti-Corruption Law, although it is grouped in Chapter III which is another criminal act related to corruption, but in accordance with Article 1 paragraph 1 of the KPK Law which states that a criminal act of corruption is a crime as referred to in the Anti-Corruption Law and therefore Article 22 includes in a criminal act of corruption so that the Respondent has the authority to carry out investigative actions (Pangaribuan & Fitriadi, 2021).

Investigation and prosecution of article 22 in conjunction with article 35 of the Anti-Corruption Crimes Law and its mechanism does not have to follow article 174 of the Criminal Procedure Code, KPK investigators can immediately carry out investigations and investigations of alleged criminal acts violating article 22 jo, article 35 of the anti-corruption law, so that the pretrial applicant's claim regarding this matter must be rejected. Then, considering that based on the description of the considerations above, that after the Petitioner withdrew his statement in the Investigating BAP, the Respondent had carried out an investigative action by examining the Petitioner's statement and collecting documentary evidence and video recordings of the examination of witnesses and also carrying out a case title and from the results of the case title. it was agreed to determine the status of suspect for the Petitioner and then the Respondent would examine and make a Minutes of the examination of the suspect.

Even though the pretrial judge was unable to assess the evidence submitted, from the evidence submitted by the Respondent, in the form of letter evidence and video recording of the examination of witnesses, this has fulfilled 2 preliminary evidences which are sufficient to conduct an investigation and establish the Petitioner as a suspect. In the description above, the Pretrial Judge is of the opinion that the action of the Petitioner in establishing the Petitioner as a suspect based on the Investigation Order No. Sprint Dik-28/01/04/2017 dated April 5, 2017 is in accordance with the procedure and also meets the minimum requirements to find 2 (two) pieces of evidence so that it must be declared valid and based on law (Pradewi & Wijaya, 2018).

The author's analysis of the pretrial decision in this case is that the KPK has the authority to investigate the criminal act of giving false information by Miryam S Haryani in the e-KTP corruption case based on article 22 Jo. Article 35 of the Anti-Corruption Law, not based on Article 174 of the Criminal Procedure Code, is as follows. The KPK has the authority to conduct investigations and investigations of Article 22 of the TIPIKOR Law, with the legal basis (1) Article 1 number 1 of the KPK Law which states that the Corruption Crime is a Crime as referred to in the TIPIKOR Law, thus all offenses contained in the TIPIKOR Law include CHAPTER III, Article 22 is a criminal act of corruption (2) Article 6 letter c of the KPK Law states that the KPK has the task and authority to conduct investigations, investigations and prosecutions of corruption crimes. Thus, the KPK has the authority to conduct investigations, investigations and prosecutions of Article 22 of the Anti-Corruption Law (3) Article 22 states that, any person as referred to in Article 28, Article 29, Article 35, or Article 36 who intentionally does not provide information or provide information which is not true, shall be punished with a minimum imprisonment of 3 (three) years and a maximum of 12 (twelve) years and or a minimum fine of Rp. 150,000,000, - (one hundred and fifty million rupiah) and a maximum of Rp. 600,000,000, - (six hundred million rupiah) (Sari, 2010).

Investigations into the criminal act of providing false information are based on Article 22 of the Anti-Corruption Law and not based on Article 174 of the Criminal Procedure Code, on the grounds that Article 242 of the Criminal Code is a general crime, while Article 22 of the Anti-Corruption Law is a special crime, namely corruption. What if both fulfill all? The doctrine of criminal law through Article 63 of the Criminal Code which is called Endaadse Samenloop, if in one act besides applying general provisions, special provisions are also regulated, then special ones are used. So, if Article 242 of the Criminal Code and Article 22 of the Anti-Corruption Law are both fulfilled because it relates to a criminal act of corruption, then what is imposed is Article 22 of the Anti-Corruption Law, the basic principle of Lex Specialis Derogat Lege Generali.

In the case of a general crime, in the event that it is suspected that the witness testimony given in the trial is suspected to be false, the provisions used are Article 242 of the Criminal Code whose procedure uses the provisions of Article 174 of the Criminal Procedure Code. Meanwhile, in cases of criminal acts of corruption, there are special arrangements related to the provision of incorrect information in the trial as regulated in Article 22 Jo. Article 35 of the Anti-Corruption Law. Article 22

states that, every person as referred to in article 28, article 29, article 35, or article 36 who intentionally does not provide information or gives false information, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 3 (three) years. 12 (twelve) years and or a minimum fine of Rp. 150,000,000, - (one hundred and fifty million rupiah) and a maximum of Rp. 600,000,000, - (six hundred million rupiah). Then in Article 35 (1) Everyone is obliged to provide information as a witness or expert, except for the father, mother, grandfather, grandmother, siblings, wife or husband, children and grandchildren of the accused (2) People who are released as witnesses as referred to in Article 35 paragraph (1), can be examined as witnesses if they want and are expressly approved by the defendant (3) Without the approval as referred to in paragraph (2), they can give testimony as witnesses without being sworn in (Suwito, 2020).

While the provisions of Article 63 paragraph (2) states, if an act is included in a general criminal rule, it is also regulated in a special criminal rule, then only the specific one will be applied. Thus, the specific criminal rules applied are Article 22 of the TIPIKOR Law, the provisions of Article 22 of the TIPIKOR Law are wider in scope with a heavier criminal threat than the provisions of Article 242 of the Criminal Code. This is in accordance with the background of the establishment of the Anti-Corruption Law, among others, because corruption is an extraordinary crime which is very detrimental to state finances or the state economy and hinders national development.

The facts at trial on behalf of the defendants Irman and Sugiharto at the Central Jakarta Corruption Court revealed that Miryam S Haryani had withdrawn the information in the BAP by stating that she had been under pressure from KPK investigators. To refute this, the KPK presented verbal witnesses (KPK investigators) namely Novel Baswedan, A. Damanik, Mochammad Irwan Susanto, who basically stated that Miryam S Haryani was not under pressure, threats, or coercion in any form. It is also supported by video evidence recording Miryam's examination at the investigation stage which shows that there is no physical or psychological emphasis on Miryam, as well as proof of concept for Miryam's BAP which has been revised with scribbles and handwriting from Miryam herself. During the trial, the Panel of Judges warned Miryam to give information freely, honestly and objectively, but Miryam responded by stating that the information in the BAP was not true and was revoked. Then the Assembly invited the KPK to take other actions outside of Article 174 of the Criminal Procedure Code, so that the provisions used in establishing Miryam as a suspect were based on Article 22 Jo. Article 35 of the Anti-Corruption Law (Thamrin et al., 2021).

Giving false information on oath by the legislators has been placed behind the element intentionally, so that the element of giving false information on oath is covered by the element intentionally. Regarding what is meant by intentionally giving false information, in several of his arrests the Hoge Raad among others decided that: intentional giving false information is awareness, that the information is false or contrary to the truth. In the examination in court, this must be proven. Because the giving of false information on oath is often given by witnesses in the fields of the court, both those who examine and hear civil cases and criminal cases, the question arises as to when a witness can be seen as having given false information in court before the court.

The presiding judge of the trial for some reason is of the opinion that the testimony of a witness is presumed to be false, then he seriously raises the threat of punishment if the witness continues to give false information. This is based on the provisions in Article 174 paragraph (1) of the Criminal Code which reads as follows: if the testimony of a witness at trial is suspected to be false, the head judge at trial warns him seriously to provide true information and put forward criminal threats that can be imposed if he keep giving false information. For more details, it is necessary to explain that what is meant by the examination of the witnesses mentioned above is the examination carried out by the panel of judges against a witness, namely a witness who gives false information under oath as intended above (Tornado & Kn, 2019).

For the completion of the giving of false information on oath before a court session, it is indicated that the presiding judge at the trial has stated that it can happen that after the presiding judge at the trial declares that the examination of a witness is complete, the witness's testimony is then heard again, for example because of the statements he has given. And if in the previous examination, the witness has given false information on oath, can the giving of false information be revoked in the trial that examines him later. In the Criminal Code, there are indeed no instructions on what to do by the judge, in the event that the judge encounters an incident regarding the giving of false information by a witness, the judge has submitted the matter to the public prosecutor orally at a court hearing who examines and hears the

case of a defendant, where the witness is by the public prosecutor has been submitted as a victim witness.

In the criminal provisions regulated in Article 242 paragraph (1) of the Criminal Code, the legislators have also stated that false information on oath can be carried out either personally or through an attorney, for that purpose the person who must provide information on oath has been given special powers. Giving such information can only be done in civil cases in accordance with the provisions stipulated in Chapter VI of Book VI of Burgelijk Wetboek (BW). In this discussion, if it is related to the two things above, what is meant by false statements on oath is as stipulated in Article 160 paragraph (3) of the Criminal Code, namely before giving testimony the witness has taken an oath, while what is meant in Article 160 Paragraph (4) of the Criminal Code, namely a witness swears or promises after giving a statement. Basically these two things are the same and this crime is called under the name of perjury (ZULFIANA, 2017).

In the criminal provisions regulated in article 242 paragraph (2) of the Criminal Code, it has been determined that if false information on oath has been given in a criminal case to the detriment of the person being complained of or the defendant, the perpetrator can be sentenced to a maximum imprisonment of nine years. year. Regarding the giving of such false information in a criminal case, it is not necessary that the giving of such information has affected the course of the examination in the court trial where the false statement on perjury is given, but so that the criminal burden as referred to in Article 242 paragraph (2) The Criminal Code can be applied to the perpetrator, then he must provide false information on the oath to the detriment of the defendant. In the provisions regulated in Article 242 paragraph (3) of the Criminal Code, the legislators have equated the oath as a promise or reinforcement that is required according to general rules or in lieu of an oath.

D. Conclusion

The legal basis for determining the suspect as an object of pretrial is the decision of the Constitutional Court no. 21/PUU-XII/2014 dated 28 April 2015, which provides prerequisites for the determination as a suspect, namely that a minimum of two pieces of evidence must be met as contained in Article 184 of the Criminal Procedure Code. If it is related to the alleged criminal act of giving false information by Miryam S Haryani, the pretrial application for the case number 47/Pid/Pra/2017/PN. Jkt. Sel, the determination of the suspect against Miryam S Haryani was based on more than 2 (two) pieces of evidence, namely, documentary evidence, which includes the BAP of witness Miryam, Miryam's handwriting and the draft/revision of Miryam's BAP. Then the KPK has the authority to investigate the criminal act of giving false information by Miryam S Haryani in the e-KTP corruption case based on Article 22 Jo. Article 35 of the Anti-Corruption Law, not based on Article 174 of the Criminal Procedure Code, is as follows, the KPK has the authority to carry out investigations and investigations of Article 22 of the Anti-Corruption Law, on a legal basis, Article 1 point 1 of the KPK Law which states that the Corruption Crime is a Crime as referred to in The Anti-Corruption Law, thus all offenses contained in the Anti-Corruption Law, including Chapter III, Article 22, are criminal acts of corruption. Investigations into the criminal act of providing false information are based on Article 22 of the Anti-Corruption Law and not based on Article 174 of the Criminal Procedure Code, on the grounds that Article 242 of the Criminal Code is a general crime, while Article 22 of the Anti-Corruption Law is a special crime, namely corruption.

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