



Criminal Liability Using Forged Letters Judging From Article 263 Paragraph (2) of the Criminal Code

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Abstract

Forging phoney letters is a crime that has ramifications for the truth and people's faith in one another. Perpetrators use fake notes to make money. To establish the victim's signature forging as a foundation for conducting an investigation and investigation of letter fabrication, the victim must report to the police. The following issues are investigated: Users of counterfeit letters are subject to criminal culpability under article 263 paragraph (2) of the Criminal Code, which deals with letter falsification. The research method used was normative juridical research with direct interviews with Semarang Police Satreskrim investigators who handle letter forgery cases. Researchers took case examples regarding letter falsification, based on the Semarang District Court Number: 636/Pid.Sus/2016/PN. SMG with the defendant named NURCAHYA ARIESETIAWAN bin (late) AMANTJIK AGUS was found legally and convincingly guilty by considering that the Judge believed that.

Keywords: Criminal liability, users of fake letters, Forged Letters

A. Introduction

The surge in the crime of counterfeiting letters occurring today is highly worrying for those who are victims of crime, and the perpetrators of these crimes are driven by profit. All of this forgery of letters crimes have enormous ramifications for both victims and other individuals who suffer material and non-material losses in the lives of a society that has progressed and regularly seeks assurance of the integrity of the proof of a letter being possessed by someone. To prove the perpetrator's actions based on the falsification of the victim's signature, the victim must report to the police with evidence of the original letter and evidence of the falsified letter so that the investigator can conduct an investigation and investigation of the existence of a forged letter based on the police report.

The investigation of the crime of forging signatures on letters, as defined in Article 263 paragraphs (1) and (2) of the Criminal Code related Letter Forgery, namely:

1. Anyone who incorrectly or falsifies a letter that can give rise to a right, an agreement, or debt relief, or that is intended as evidence of something, with the intent of using or ordering others to use the letter as if its contents were accurate and not falsified, faces a maximum penalty of six years in prison if such use results in loss due to the letter's falsification.

2. Anyone who intentionally uses a letter whose contents are not accurate or are faked, as if it were genuine and not falsified, as if it were true and not falsified, is threatened with the same punishment.

Who can observe that under such a legal framework, the activities against the law can be known, as well as the motives for someone to act the law, causing social reactions in the community. When problems and threats of crime rise in quantity and quality, the social reaction can also be defined as an endeavour to create societal order. This type of social reaction will become more apparent. Individuals or community members will be exposed to alternative alternatives due to this law, such as adjustments or deviations, the most serious of which is a breach of criminal law, which is referred to as a crime.

The use of forged letters by perpetrators in the crime of forgery of notes does not have to be capable of causing losses; there is no requirement that the failures be genuine; simply the possibility of losses is enough to trap the perpetrators of forgery of letters, which means that losses here include not only material losses but also immaterial losses in society, such as decency, honour, and so on.

B. Method

This research uses descriptive analysis research using qualitative methods. Researchers also want to examine a phenomenon that Criminal Liability Using Forged Letters Judging From Article 263 Paragraph (2) of the Criminal Code, qualitative research is aimed at a very detailed and detailed study where the results of the research are studied in depth and then interpreted clearly. There are two sources of data used in this study, where the data includes primary data and also secondary data, then the facts of the findings are described in a very easy form of discussion so that researchers can find a complex and structured understanding in a directed manner.

C. Result and Discussion

1. Overview of the Crime of Forgery of Letters

The Criminal Code regulates the forgery of letters in Chapter XII of Book II on Crime. Forging a letter is a sort of deception that is done to gain benefits for oneself or others. Because an orderly social existence in an ordered and mature civilization requires the certainty of the validity of specific letter evidence, the act of faking letters can jeopardize the community's survival.

Counterfeiting falls within the category of fraud offences in the first place. However, not all fraudulent activities are forgeries. If someone presents a description of the condition of an item (letter) as if it were genuine or the truth is possessed, the act of forgery is defined as a criminal fraud group. Other people are tricked by this description and believe that the conditions mentioned for the items (letters) are accurate or genuine. When the contents of a letter are not adequately described, forgery of writing (letter) happens.

Article 263 of the Criminal Code discusses the elements of a criminal act or criminal act by first describing the features of the ingredients in a criminal act or criminal act. It is healthy knowledge that various Indonesian phrases translate the

Dutch term "Strafboarfrii." "Criminal Event" is a translation of "Strafbaar feit" or "delict" in Dutch. Several approaches are known for forming the elements of offences or criminal acts of criminal acts or criminal events. In the legal database, Junkers identifies four sorts of crime formation methods:

- 1) The most popular method is to explain the contents of the offence from the statement; for example, Articles 279,281,286,242 of the Criminal Code can be interpreted as aspects of an act that can be punished.
- 2) By describing (offering) the elements and criteria, such as forgery under Article 263 of the Criminal Code, theft under article 362, embezzlement under article 372, and fraud under article 378 of the Criminal Code.
- 3) The method of just providing a qualifying description, such as persecution under Article 351, murder under Article 338 of the Criminal Code, is rarely utilized.
- 4) In other cases, the law only creates criminal risks in anticipation of future rules, such as Article 521 and Article 121, paragraph 1 of the Criminal Code.

Regarding the elements of "Staffbaar fell" by Vos, it is mentioned that there may be several elements, namely:

- 1) The most typical method is to explain the contents of the offence from the statement; for example, under Articles 279,281,286,242 of the Criminal Code, the parts of an act that Who can punish can be explained.
- 2) I explained (offering) the elements and criteria, such as forgery under Article 263 of the Criminal Code, theft under article 362, embezzlement under article 372, and fraud under article 378 of the Criminal Code.
- 3) Providing simply a qualifying description, such as persecution under Article 351, murder under Article 338 of the Criminal Code, is an approach that is rarely utilized.
- 4) For example, the criminal code, article 521 and article 121 paragraph 1 of the Criminal Code, may establish criminal threats for rules that Who will make later.

The elements of a criminal act or criminal act are also divided into two groups, namely:

- a) Objective elements.
- b) Subjective elements

Satocid Kartanegara explained that the objective elements are elements that are outside humans, namely in the form of:

- a) An act becomes an action.
- b) A certain result (eem bepaald gevolg)
- c) Circumstances (omstandigheid) all of which are prohibited and threatened with legal punishment

Meanwhile, the subjective elements can be in the form of:

- a) Toerekeningsvaibawbeid (accountable).
- b) Schuld (error).

Let us examine article 263 of the Criminal Code and its elements based on the preceding descriptions, where the sound of Article 263 of the Criminal Code is as follows:

- (1) (Whoever incorrectly or falsifies a letter that can give rise to a right, an agreement, or debt relief, or which is intended as evidence of something, with the intent of using or ordering others to use the letter as if its contents were accurate

and not falsified, is threatened with a maximum imprisonment of six years if such use may result in loss due to the letter's falsification.

- (2) Anyone who intentionally uses a letter whose contents are inaccurate or faked, as if it were true and not falsified, is threatened with the same sentence if the use of the letter can cause injury.

The elements of Article 263 paragraph (1) of the Criminal Code include:

1. Objective Element
 - a. deed
 - 1) Making fake letters
 - 2) Fake
 - b. The object is a letter
 - 1) Which can give rise to something right
 - 2) Which can lead to an engagement
 - 3) Which can lead to debt relief
 - 4) Which is intended as evidence of something. Can cause losses from the use of certain letters

2. Subjective element

Use it as an original, unaltered letter or instruct others to use it as if its contents were valid and unaltered. The following is an explanation of Article 263 paragraph 1 of the Criminal Code:

- a. In Article 263 paragraph (1) of the Criminal Code, the term "letter" refers to any handwritten, printed, or machine-written letters, among other things. However, according to the author, with the advancement of science and technology, letters are now not only written, printed, and other forms of communication, but also electronic letters that are not written or printed on paper. A letter or writing, according to HAK Moch Anwar, is something that consists of a series of letters that have meaning and carry a specific content.

In the Commercial Law (KUHD), there are 2 (two) types of letters, namely:

- 1) Securities translated the original term in Dutch "waaede papier" in Anglo Saxon countries known as "negotiable instruments."
- 2) Letters that have a price or value, the translation of the original term in Dutch "papier van waarde" in English is "letter of value".

Abdulkadir Muhammad mentioned are three main functions of securities, namely:

- a) As a means of payment (means of exchange)
 - b) As a tool to transfer claim rights (traded quickly or)
 - c) As evidence of claim rights (legitimacy letter).
- b. The forged letter must be a letter which:
 - 1) Can issue a right (for example, diploma, admission ticket, letter of contribution and others)
 - 2) Can give an agreement (for example, a letter of credit agreement, sale and purchase agreement, lease agreement and so on)
 - 3) Can provide a debt relief (receipt or similar letter) or
 - 4) A letter may be used as a statement for an act or event (for example, birth certificate, postal savings book, cash book, ship diary, transport letter, bonds and many more).

Although, in general, a letter does not directly give rise to a right, that right arises from the existence of a legal agreement (agreement) contained in the letter. There are some letters known as formal letters that do, such as checks, bilyet giro, money orders, driver's licenses, diplomas, etc.

A letter containing an engagement is essentially a letter that gives birth to rights resulting from the agreement. A letter of sale, for example, establishes the seller's right to receive money in exchange for the product's price and the buyer's right to obtain or receive the object he purchased. Similarly, Who should avoid letters containing debt relief. Debt relief arose primarily due to and in connection with a marriage proposal. A receipt, for example, has the delivery of a specific quantity of money in terms of and about, say, buying and selling, debt, and so on.

There are two (two) items that need to be considered about the element of "a letter intended as evidence of something" in it:

- a) Regarding intended as evidence
- b) About something

Something takes the shape of specific occurrences or events that occur either as a result of being held (e.g., marriage) or as a result of natural events (e.g., birth and death), each of which has legal consequences.

c. The actions included in the punishment here are "make a fake letter" or "fake a letter".

Making a fake letter entails creating a letter with improper (incorrect) contents or creating a note so that the letter's origin is not valid. It makes no sense for police officers to construct a fraudulent verbal process that comprises a story that is not accurate from the person who told it to him. If the police officer records something in his oral process that differs from what he informed the person, he forms a fraudulent verbal process. Falsifying a letter entails altering the contents of a note to vary from the original contents, or the letter itself differs from the original. In terms of the various methods, replacing the letter with something else is not always required. It's also possible to change the letter by removing, adding, or modifying something from it. In this article, faking a letter is referred to as counterfeiting a signature. Affixing a photo of another person to a school diploma or driving document (rijbewijs) from an unauthorized holder must also be deemed a fabrication.

Meanwhile, according to Soenarto Soerodibroto, fabricating a letter is "the act of modifying in any way by a person who is not entitled to a letter, resulting in part or all of its contents being different/different from the original letter." It makes no difference whether the alteration makes the contents truthful or false or whether it contradicts the truth or not; if an unauthorized individual causes the change, the letter has been falsified. Someone other than the letter writer is ineligible to receive it.

The Supreme Court of the Republic of Indonesia (MARI) confirmed in West Java that the definition of forgery of letters in article 263 of the Criminal Code includes altering the original letter in such a way that the contents, date, or signature contradict the truth for a specific purpose, such as proving a case.

MARI Filling up a blank receipt does not contain an unlawful aspect, according to Permanent Jurisprudence No. 40/Kr/1973, issued June 5, 1975, as long as it does not contradict with the signatory's intention for what Who signed the receipt for.

Furthermore, according to Soenarto Soerodibroto, an HR arrest (14-4-1913) was made in this matter, which said that "anyone who under a writing affixes another person's signature, even though on that person's commands and approval, has forged the writing."

Producing a fake letter / making a fake letter differs from faking a note in that there is no letter before the act is carried out, and then a letter is created whose contents partly or entirely contradict the truth or are false. To make a phoney note, all of the writings in writing were fabricated. A wrong letter, often known as a non-genuine letter, is one example.

In the case of falsifying a letter, this is not the case. Who already named the original letter before Who carried out this act. The contents (including the signature and name of the original maker) of this initial letter were then faked, resulting in the original letter being either true or false.

According to Adami Chazawi, making a phoney letter involves creating an entirely or partially untrue. Who can make this fake letter in a variety of ways:

- a) Writing a letter in which a portion or all of the contents do not match or contradict the facts. Intellectual falsification is the act of writing such a letter.
- b) Make a letter that appears to be written by someone other than the author. The act of forging such a letter is known as a material forgery. The origin or author of the letter is the source of the phoney letter or the letter's falsity.
- d. To be punished under this article, the forger must have intended to use or compel someone else to use the letter as if it were genuine and not false at the time of forging it. As a result, this article cannot cover falsifying letters for the sake of research, investigation, or laboratory tests. Consequently, it follows that:
 - 1) The use of such letters deceives some people.
 - 2) The letter is in the form of a deception weapon. The person who believes the note is genuine and not a forgery and the person against whom the letter was intended to be used can be people in general or specific people. When a false driver's license (Surat Permit) is made, the police are deceived, and if it is utilized to get him to work as a driver, his employer is tricked.
- e. Its use must cause "can" losses, which means that the possibility of the loss is sufficient rather than the loss occurring. "Loss" is defined here as not just money losses but also losses in the community, decency, honour, and so on.

"Losses that may emerge as a result of the use of forged or falsified documents do not need to be understood or realized by the perpetrators," says Soenarto Soerodibroto. The HR arrest letter (8-6-1897) demonstrates this by stating that "the act does not need to anticipate the potential of this loss in advance." There are no exact measures to determine the likelihood of this loss if a forged or forged letter is used; instead, the effects that people can imagine in general that typically occur when such a letter is used are employed.

2. Criminal Liability for Users of Counterfeit Letters in Review from Article 263 Paragraph (2) of the Criminal Code

In the process of investigating criminal acts, investigators as Crime Investigations carry out investigative techniques from the crime scene to find and collect evidence with a strategy of prosecution for perpetrators who use fake letters and then analyze evidence from witnesses, evidence and suspects based on the parameters of Article 184

of the Criminal Procedure Code at least 2 pieces of evidence from 5 evidence, namely Witness Statements, Expert Statements, Letters, Instructions, Defendant's Statements and then from the proof of forgery of signatures, evidence is carried out by conducting a Criminalistic Laboratory Examination with Lab Number 815/DTF/2016 from the results of the research on the case on behalf of the suspect NURCAHYA ARIESETIAWAN bin (late) AMANTJIK AGUS 19 concluded that 3 (three) signatures of evidence on behalf of the victim MUHAMMAD SIBOEN are non-identical with the signature of the comparison document evidence Number: B-1656/2016/DTF in the form of 1 (one) statement of guarantee for the actions of the defendant NURCAHYA ARIESETIAWAN bin (late) AMANTJIK AGUS was regulated and threatened by in Article 263 Paragraph (1) of the Criminal Code and Article 263 Paragraph (2) of the Criminal Code.

3. The basis of legal considerations by judges in making decisions against users of fake letters.

The basis for legal considerations by the Judge in deciding against the user of a fake letter by the defendant NURCAHYA ARIESETIAWAN bin (late) AMANTJIK AGUS after paying attention to the legal facts in the trial, namely violating Article 263 paragraph (2) of the Criminal Code whose elements are Whoever deliberately uses the fake or falsified letter as if the letter was genuine and not faked using it can bring something of a loss. Considering that on purpose is intentional, the perpetrator realizes or wants an advantage for himself and acknowledges that he is not entitled to that benefit. Based on *Memorie Van Toelichting (MVT)*, the word intentionally in the articles of the Criminal Code is "Willens een wettents" (willed and known). Considering that based on these facts, Majeis Hakim thinks that the element of intentionally using a forged or forged letter as if the letter was genuine and not being faked using it to cause harm has been legally fulfilled.

D. Conclusion

Falsifying documents is governed under Article 263 paragraph (2) of the Criminal Code. Forging letters is a sort of deception that involves deceiving others to get benefits for oneself or others, which can result in material or non-material losses. Because generating letters can jeopardize the community's survival, an orderly connection in a developed society requires guaranteeing the truth of specific letter evidence. In the life of an evolved and orderly society, they desire proof of the reality of good letter evidence. Is a person who has a connection to the company or vice versa.

The Judge's proof consists of listening to the defendant's testimony, the testimony of witnesses, and the evidence of falsified letters produced at the trial. If appropriate, the Judge can hear expert witness testimony to boost his confidence in making decisions. These things will supply directions for judging the subjective parts of the forging of letters crime in the future. If the evidence is sufficient to convince the Judge that the perpetrator has fulfilled all of the crime requirements of forgery of a letter, the offender might be found guilty.

References

- Achmad, W. (2021). Citizen and Netizen Society: The Meaning of Social Change From a Technology Point of View. *Jurnal Mantik*, 5(3), 1564-1570.
- Bambang Purnomo, 1978, *Criminal Law*, Ghalia Indonesia, Jakarta, p 85

- Djoko Prakoso, 1988, Evidence and Power of Evidence in Criminal Proceedings, Liberty, Yogyakarta
- Faisal, 2010. Breaking Legal Positivism, Yogyakarta: Rangkang Education.
- Lexy J. Moeleong, 2008. Qualitative Research Methods, Rosdakarya Youth, Bandung.
- Mahmud Kusuma, 2009. Exploring the Spirit of Progressive Law; Paradigmatic Therapy of Weak Law Enforcement in Indonesia, Yogyakarta: Antony Lib in collaboration with LSHP.
- Moch Anwar, 1980, Special Section of Criminal Law (KUHP Book II), Alumni, Bandung
- Moeliatnas Criminal Law Development Literacy. Jakarta. 1985. p.54
- Moeljatno, 1985. The Criminal Code. Literature Development, Jakarta.
- Mustafa Abdullah, 1983, The Essence of Criminal Law, Ghalia Indonesia, Jakarta,
- PAF Lamintang, 1989. Particular Offenses for Crimes - Crimes Against Property, Cet. I, Sinar Baru, Bandung.
- Ronny Hanitijo Soemitro, 1983, Legal Research Methods, I Ghalian Indonesia print, Jakarta.
- Ruslan Saleh, 1983. Criminal Acts and Criminal Liability. New Script, Jakarta.
- Sabian Usman, 2009. Fundamentals of Sociology of Law, Yogyakarta: Learning Library.
- Satjipto Rahardjo, 2007. Let the Law Flow Critical Notes on Human Struggle and Law, Jakarta: Kompas Book Publisher
- Satochid Kartanegara, 1980, Criminal Law Part One, Student Literature Center, Jakarta, p. 1983
- Soekanto, Soerjono. 2014. Factors Affecting Law Enforcement. Jakarta : PT. King Grafindo Persada.
- Wirjono Prodjodikoro, Indonesian Criminal Acts, Eresco, Bandung, 2004,