

CRIMINAL LIABILITY ANALYSIS OF FORGERY OF ANTIGEN RAPID TEST LETTERS AT BAKAUHANI PORT

Andi Kristianto¹, Indah Satria²

Abstract

The Criminal Act of Forgery of Letters is a criminal act whose implications have an impact on the truth and trust of people. The perpetrator uses a fake letter aimed at obtaining benefits for himself and for his actions it can harm others both losses of an individual nature and losses that have a broad impact on the act itself. The research methods used in this writing are normative juridical, and empirical approaches. The data used are secondary data and primary data. Data analysis uses descriptive analysis. Factors causing the perpetrator to commit a criminal act of forgery of a rapid antigen test letter in Case Number: 384/Pid.B/2021/PN. Kla is the Intention of the Perpetrator, the Factor of Low Education, the Factor of Economic Needs, and the Factor of Low Morals and Religious Knowledge. Liability of Criminal Offenders of forgery of rapid antigen test letters in Decision No. 384/Pid.B/2021/PN. Kla is charged with article 14 paragraph (1) of law of the Republic of Indonesia Number 14 of 1984 concerning Infectious Disease Outbreaks Jo Article 55 paragraph (1) 1 of the Criminal Code. The people of South Lampung Regency should support efforts to overcome the infectious disease outbreak carried out by the South Lampung Police So that Covid-19 in the South Lampung area can be overcome to the maximum. The Public Prosecutor should be careful and careful in compiling the indictment letter, so that the indictment letter can be used the basis for the judge to impose or not impose a sentence on the offender who is facing trial.

Keywords: *Criminal Liability; Forgery; Rapid Antigen Test Letter; Terms of Passage.*

I. INTRODUCTION

The Corona Virus Disease-2019 (Covid-19) pandemic has hit all countries in the world, the Indonesian state first stated that one of its citizens had been exposed to Covid-19 on March 2, 2020 and is still ongoing until now, the Covid-19 pandemic has had a broad impact on the health and economic crisis. As a result, companies experienced a decline in revenue, forcing companies to terminate their employment. Governments of countries around the world, especially Indonesia, have taken various mitigation measures to suppress the spread of Covid-19 while accelerating economic recovery.

¹ Master of Law Student, Universitas Bandar Lampung, andi.kristianto300@gmail.com

² Lecturer of Law Faculty, Universitas Bandar Lampung, indah.satria@ubl.ac.id

The Indonesian nation is a great nation and highly upholds the law of law growing and developing in society, which is formed with the aim of creating order, a legal regulation is for the purposes of people's livelihoods to prioritize their society not the interests of individuals or groups, the law also maintains the rights and determines the obligations of its community members in order to create an orderly, peaceful, just and prosperous society.³

Indonesia is a country of law where every citizen is obliged to comply with existing legal regulations, one of which is criminal law, including criminal acts that occur during the Covid-19 pandemic because people find it difficult to meet their daily needs. So that people with backgrounds from various social, environmental and other aspects, especially in economic aspects, are very vulnerable to committing criminal acts, and criminal acts committed in various ways both in terms of thinking and in terms of technology.

Law is a whole collection of regulations or methods in a common life that can be forced into implementation with a sanction. ⁴ The definition of a criminal offense is as an act at a certain place, time and circumstance, which is prohibited (or violates the necessity) and is criminally threatened by law and is unlawful and contains elements of wrongdoing committed by a person who is able to take responsibility and according to Moeljatno criminal act is an act that is prohibited and threatened with criminality whoever violates the law. ⁵

A criminal act is an act committed by a human being who can be responsible for which the act is prohibited or ordered or allowed by criminal law which is sanctioned in the form of criminal sanctions. To distinguish an act as a criminal act or not a criminal act is whether the act is given criminal sanctions or not given criminal sanctions.⁶ The various kinds of criminal acts that occur in society, one of them is the crime of forgery, even today there are many criminal acts of forgery with various forms and developments that point to the higher intellectuality of the increasingly complex crimes of forgery. The crime of forgery is a crime in which it contains a system of untruthfulness or falseness of something (object), whose something appears from the outside as if it were true, when in fact it is contrary to the real ⁷

One of the triggers for changes in criminal law is the advancement of information technology that requires all human activities to take place quickly, transparently and without *being borderless*. So today the renewal of criminal law as part of the criminal law policy (*penal policu*), has been pursued which until now is

³ S. Wiljatmo. 1979. *Pengantar Ilmu Hukum*. Lukman Opset. Yogyakarta. p. 20

⁴ Sudikno Mertokusumo. 2003. *Mengenal Hukum*. Liberty Yogyakarta. Yogyakarta. p. 40

⁵ R Sianturi, 1998. *Asas-Asas Hukum Pidana dan Penerapannya di Indonesia* Cetakan Ke-2, Alumni AHAEM PTHAEM, Jakarta, p.208

⁶ Erdianto Efendi. 2011. *Hukum Pidana Indonesia*. PT. Refika Aditama Bandung. p.22

⁷ Adami Chazawi. 2005. *Pelajaran Hukum Pidana 1*. PT. RajaGrafindo Persada. Jakarta, p. 3

still being processed. ⁸There are various types of criminal acts, one of which is the crime of forgery. In Indonesian law, forgery of something is a form of general criminal act regulated in the Criminal Law. The crime of forgery itself is contained in article 263 of the Criminal Code to article 276 of the Criminal Code. One of the criminal acts that often occurs during the Covid-19 pandemic is the criminal act of forgery of letters as contained in article 263 of the Criminal Code. *"Article 263 of the Penal Code which reads: (1) Whoever makes a forged letter or forges a letter that may give rise to a right, bond or discharge of debt, or which is intended as evidence of something with the intent to use or instruct others to use the letter as if its contents were true and not forged, is threatened if such use may cause harm, due to forgery of the letter, with a maximum prison sentence of six years."* ⁹

Letter forgery is a form of criminal act that developed during the Covid-19 pandemic, so there is a need for skills for every police member who is on duty at every sealing post or post at the Bakauheni Port in South Lampung. The act of making a fake letter or the act of making a letter that did not exist before / did not exist, which partly or completely contained false content. The letter resulting from this deed, is called a forged letter. While the act of forging, is as a form of any act addressed to an existing letter, by deleting, changing or replacing one of the letters so that it is different from the original letter. Types of K.K. forgery of letters are :¹⁰

- 1) Forgery of letters in general: the main form of forgery of letters (Article 263 of the Criminal Code)
- 2) Forgery of heavily aggravated letters (Article 264 of the Criminal Code)
- 3) Ordering to enter false information into an authentic deed (Article 266 of the Criminal Code).
- 4) Forgery of doctor's certificates (Article 267 and Article 268 of the Criminal Code)
- 5) Forgery of certain letters (Articles 269, 270, 271 of the Criminal Code)
- 5) Forgery of the Official's certificate on property rights (Article 274 of the Criminal Code).
- 6) Storing materials or objects for forgery of letters (Article 275 of the Criminal Code)

An antigen is a foreign substance or body, for example a poison, germ, or virus, that can enter the body. Some antigens can be considered harmful by the body, thereby triggering the immune system to form immune substances (antibodies). This reaction is a form of the body's natural defenses to prevent the occurrence of the disease. Corona virus that enters the body will be detected as an antigen by the

⁸ Zainab Ompu Jainah.2018.*Kapita Selektta Hukum Pidana*.Tira Smart. Bandar Lampung. p.109

⁹ R.Soesilo, *Kitab Undnag-Undnag Hukum Pidana (KUHP) serta Komentar-komentarnya Lengkap Pasal Demi Pasal*, Bogor: Politeia,1995, p 195

¹⁰ Adami Chazawi dan Ardi Ferdian,2014.*Tindak Pidana Pemalsuan*, PT.Raja Grafindo Persada,Jakarta, p. 208

immune system. This antigen can also be detected through a rapid antigen test. The rapid antigen test for the Corona virus is carried out by taking a sample of mucus from the nose or throat through a *swab* process.¹¹

Through the Instruction of the Minister of Home Affairs No.15 of 2021, the Emergency PPKM is valid from July 3 to July 25, 2021, which targets a decrease in the addition of daily confirmed cases to below 10 thousand cases per day. This program is implemented in 136 districts/cities throughout Indonesia by differentiating the level of treatment based on the assessment value through using an approach between indicators of transmission rate and response capacity, including the level of availability of beds in hospitals. Starting July 3, 2021, 121 regencies/cities in Java and Bali have implemented Emergency PPKM consisting of 45 regencies/cities with an assessment value of 4 (red zone), and 76 regencies/cities with an assessment value of 3 (orange zone). Meanwhile, since July 12, there have been an additional 15 regencies/cities outside Java and Bali that have also implemented Emergency PPKM until the same time limit as the implementation in Java-Bali. With the Java and Bali emergency PPKM policy, it is increasingly burdensome for travel costs for everyone who will travel from and or to Java and Bali so that there are some people who feel burdened with additional costs to do Rapid Antigen Test. so that there are some people who deliberately make fake antigen rapid test letters as a mandatory condition to be able to cross at Bakauheni port in South Lampung. Based on the theory of Liability of Criminal Offenders for forgery of rapid antigen test letters in the decision of Case Number 384/ Pid.B / 2021 / PN. Kla is charged with article 14 paragraph (1) of law of the Republic of Indonesia Number 14 of 1984 concerning Infectious Disease Outbreaks. Article 55 paragraph (1) 1 of the Criminal Code.

II. DISCUSSION

Factors Causing Perpetrators to Forge Antigen Rapid Test Letters as a Condition for Crossing the Bakauheni Port During the Enactment of the Java and Bali Emergency PPKM

That there are several factors causing the perpetrator to commit a criminal act of forgery of the Rapid Antigen Test letter in Case Number 384/Pid.B/2021/PN. Kla among them are:¹²

a) The Intention of the Perpetrator

That the perpetrator's intention from the beginning would indeed be to commit a criminal act of forging an Antigen Rapid Test letter, this was proven when the suspect DWI SAYONO deliberately scanned the rapid antigen letter

¹¹ <http://rumahsehatpadu.or.id/detailpost/fungsi-rapid-test-antigen>, accessed on the date 26 January 2022.

¹² The results of the interview with Iptu Mustholih as an investigator at the Criminal Investigation Unit of the South Lampung Police, tanggal 22 March 2022, Lintas Sumatera Street, Kalianda

certificate using the name BUDI PRATAMA CLINIC so that the suspect's intention arose to plan to forge an antigen rapid test letter.

b) Educational Factors

The education factor is also a trigger for this criminal act, it is revealed that the perpetrator is a person who only has elementary school education so that in doing this act the perpetrator does not think about the consequences that will be caused, that the perpetrator with low education automatically has a mindset that is not as good as those who have higher education, they do not care about committing the crime even though there are severe sanctions.

c) Economic Needs Factors

That the occurrence of the criminal act of forging the antigen rapid test letter is based on the economic need factor, namely the perpetrator who has a low income or does not have a permanent job so that he cannot fulfill the victim's wishes so that the perpetrator is desperate to forge an antigen rapid test letter.

d) Factors of low Morals and Religious Knowledge

That moral and religious factors also influence the occurrence of criminal acts, that the perpetrators who have low religious knowledge so that the perpetrators commit these crimes. The absence of religious science and good morals in the heart of the perpetrator so that the perpetrator easily forges the antigen rapid test letter.

Responsibility of Criminals Forging Antigen Rapid Test Letters as a Condition for Crossing the Bakauheni Port During the Enactment of the Java and Bali Emergency PPKM

Van Hammel also argues that the ability to be responsible is a state of psychic normality and maturity or maturity, so that a person has three kinds of abilities, namely:¹³

- a) Able to understand the intention of his actions;
- b) Being able to realize that his actions are in view;
- c) the community is not allowed;
- d) Able to determine his will for his deeds.

Based on the theory of liability above, it can be analyzed that in order to be able to convict the perpetrator, it is required that the criminal act committed meets the elements that have been determined in the law. Viewed from the point of view of the occurrence of prohibited acts, a person will be held accountable for these actions, if the acts are unlawful and there is no reason for justification or omission of the unlawful nature of the criminal he committed. And viewed from the point of view of the ability to be responsible for his actions. Criminal acts must have a form

¹³ Hamzah Hatrik, 1996. *Prinsip Akuntabilitas Perusahaan dalam Hukum Pidana Indonesia Strict Liability and Vicarious Liability*, Jakarta: Rajawali Pers, p. 84

of guilt which is the principle of criminal liability, therefore in the case of conviction of a person who commits an act as has been threatened, it depends on the question of whether in doing this act he has an error or not. Because the ability to be responsible is an element of error, then to prove the existence of the error of that element must be proven again. According to the theory of error above that a person can be held accountable for his guilt, namely that there is an act that causes an effect that has been prohibited by law and also the fulfillment of the remaining elements of the offense in question.

Chairul Huda stated that "criminal liability is the accountability of a person for the criminal acts committed by him". What the person is responsible for is a criminal act committed by a person. Talking about criminal liability cannot be separated from criminal acts. People cannot be held accountable for punishment, if they do not commit a criminal offense. Criminal liability is essentially a mechanism established by criminal law to react to violations of an agreement rejecting a certain act.¹⁴ Based on the description of the analysis above, it can be seen that the Responsibility of the Perpetrator of the Criminal Act of forgery of the rapid antigen test letter in the decision of Case Number 384/Pid.B/2021/PN. Kla is charged with article 14 paragraph (1) of Law of the Republic of Indonesia Number 14 of 1984 concerning Infectious Disease Outbreaks Jo Article 55 paragraph (1) 1 of the Criminal Code.

III. CONCLUSION

Based on the results of the discussion and research on the problem, it can be concluded as follows:

- a. Factors causing the perpetrator to commit a criminal act of forgery of a rapid antigen test letter in Case Number: 384/Pid.B/2021/PN. Kla is the Intention of the Perpetrator, the Factor of Low Education, the Factor of Economic Needs, and the Factor of Low Morals and Religious Knowledge.
- b. Responsibility of Criminal Offenders for forgery of rapid antigen test letters in Decision No. 384/Pid.B/2021/PN. Kla is charged with article 14 paragraph (1) of law of the Republic of Indonesia Number 14 of 1984 concerning Infectious Disease Outbreaks Jo Article 55 paragraph (1) 1 of the Criminal Code.

¹⁴ https://docplayer.info/34733044-Pembaharuan-hukum-pidana-konsep_pertanggung_jawaban-pidana-dalam-hukum-pidana-nasional-yang-akan-datang/, accessed January 27, 2022

REFERENCES

- Adami Chazawi dan Ardi Ferdian. 2014. *Tindak Pidana Pemalsuan*, PT.Raja Grafindo Persada, Jakarta.
- Adami Chazawi. 2005. *Pelajaran Hukum Pidana 1*. PT. Raja Grafindo Persada. Jakarta.
- Erdianto Efendi. 2011. *Hukum Pidana Indonesia*. PT. Refika Aditama Bandung.
- Hamzah Hatrik. 1996. *Prinsip Akuntabilitas Perusahaan dalam Hukum Pidana Indonesia Strict Liability and Vicarious Liability*, Jakarta: Rajawali Pers.
- <http://rumahsehatpadu.or.id/detailpost/fungsi-rapid-test-antigen>, accessed on 26 January 27, 2022.
- <https://docplayer.info/34733044-Pembaharuan-hukum-pidana-konsep-pertanggung-jawaban-pidana-dalam-hukum-pidana-nasional-yang-akan-datang/>, accessed January 27, 2022
- R Sianturi, 1998. *Asas-Asas Hukum Pidana dan Penerapannya di Indonesia* Cetakan Ke-2, Alumni AHAEM PTHAEM, Jakarta.
- R.Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP) serta Komentar-komentarnya Lengkap Pasal Demi Pasal*, Bogor: Politeia, 1995.
- S. Wiljatmo. 1979. *Pengantar Ilmu Hukum*. Lukman Opset. Yogyakarta.
- Sudikno Mertokusumo. 2003. *Mengenal Hukum*. Liberty Yogyakarta. Yogyakarta.
- The results of the interview with Iptu Mustholih as an investigator at the Criminal Investigation Unit of the South Lampung Police, tanggal 22 March 2022, Lintas Sumatera Street, Kalianda
- Zainab Ompu Jainah. 2018. *Kapita Selekta Hukum Pidana*.Tira Smart. Bandar Lampung.