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JURIDICAL REVIEW OF THE CRIME OF SALAK FRUIT THEFT BASED ON ARTICLE 362 OF THE CRIMINAL CODE (A CASE STUDY AT THE DELI SERDANG CITY POLICE)

Niko Kristopal^{1*}, Muhammad Hizbullah²

¹ Fakultas Hukum, Universitas Muslim Nusantara (UMN) Al Washliyah, Indonesia
Email: nikokristopal@gmail.com

² Fakultas Hukum, Universitas Muslim Nusantara (UMN) Al Washliyah, Indonesia,
Email: nuhammadhizbullah@umnaw.ac.id

Abstract

This study aims to analyze the form and elements of the criminal offense of stealing salak (snake fruit) based on Article 362 of the Indonesian Criminal Code (KUHP), as well as to examine law enforcement against the perpetrators of such theft from a juridical perspective. The results of the study show that the criminal offense of stealing salak in the jurisdiction of Polresta Deli Serdang fulfills all the elements stipulated in Article 362 of the KUHP. The element of "whoever" is fulfilled because the perpetrator is a legal subject capable of bearing criminal responsibility. The element of "taking an object" is proven by the act of the perpetrator who took salak from a plantation without the owner's permission. Salak, as an agricultural product, has economic value and falls within the category of property under criminal law. Therefore, the theft of salak can juridically be classified as a criminal offense of theft. The element of "wholly or partly belonging to another person" is established through the statements of the victim and witnesses around the scene of the incident, as ownership of the plantation and its produce forms the basis for legal protection of the victim. Furthermore, the element of "with the intent to unlawfully possess" can be inferred from the perpetrator's attitude and actions in carrying or controlling the salak without legal right. Justifications such as merely taking the fruit for consumption do not negate the unlawful nature of the act. Accordingly, both normatively and empirically, the elements of Article 362 of the KUHP are cumulatively fulfilled

Keywords: *Police Regulations; Police Clearance Certificate (SKCK); BPJS Health; State Administrative Law; Public Services*

1. INTRODUCTION

The rampant theft of salak fruit within the jurisdiction of Polresta Deli Serdang has created problems in the aspect of law enforcement. Cases of theft of agricultural products often face obstacles in terms of proof, lack of witnesses, weak land supervision, as well as the assumption that the economic value of the stolen goods is relatively small. These conditions have the potential to cause a low level of reporting and less than optimal handling by law enforcement officials, which in turn can encourage an increase in criminality in the

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agricultural sector and reduce public trust in law enforcement. Therefore, a juridical study is required regarding the application of Article 362 of the Criminal Code in cases of salak fruit theft as well as law enforcement strategies by the police. This research is expected to provide academic and practical contributions in strengthening legal protection for farmers, encouraging consistent law enforcement regardless of the economic value of the goods, and serving as a reference for the development of policies and standards for handling theft of agricultural products more effectively and fairly within the police environment.

2. METHODOLOGY

The location for data collection in this research was at Polresta Deli Serdang. In this study, data collection was carried out by means of document study. In this research, the data sources used originated from secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The research method used was normative legal research with a statutory approach and a conceptual approach. The data analysis used in this legal research employed qualitative analysis methods.

3. RESULTS/CASESTUDY/EXPERIMENT/DEMONSTRATION/APPLICATION FUNCTIONALITY

The form of the criminal act of salak fruit theft generally occurs in the context of taking garden or field produce belonging to another person without the permission of the owner. The act is carried out with the intention of controlling or possessing the salak fruit, either for personal consumption or for other purposes. In this case, salak fruit theft falls into the category of ordinary theft if it is not accompanied by special aggravating circumstances. Viewed from the elements of Article 362 of the Criminal Code, the first element is the act of taking. In salak fruit theft, the act of taking is manifested by picking, harvesting, or carrying away the salak fruit from its tree or from a storage location under the control of the garden owner. This act indicates the transfer of control over the goods from the owner to the perpetrator.

The second element is an object. Salak fruit qualifies as an object because it is a tangible item, movable, and has economic value. Therefore, salak fruit can be used as the object of theft as referred to in Article 362 of the Criminal Code.

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The third element is that the object wholly or partially belongs to another person. In cases of salak fruit theft, the fruit taken originates from a garden or land whose ownership belongs to another person. Although the salak fruit is still attached to the tree, as long as the tree is under the control of the garden owner, the fruit is still considered to belong to another person. The fourth element is with the intention of being possessed. This element relates to the mental attitude of the perpetrator who desires that the salak fruit taken becomes his property or remains under his control permanently. This intention can be inferred from the act of the perpetrator carrying away the salak fruit without the owner's permission. The fifth element is unlawfully. This element is fulfilled if the taking of the salak fruit is carried out without right, without the permission of the garden owner, or contrary to the applicable legal provisions. The absence of consent from the garden owner is the main indicator of the fulfillment of the unlawful element.

Thus, salak fruit theft can be qualified as the criminal act of theft under Article 362 of the Criminal Code if all these elements are fulfilled. The analysis of the form and elements of salak fruit theft serves as the basis for judges to determine whether the defendant's act can be held criminally liable and deserves to be sentenced in accordance with the applicable legal provisions.

4. DISCUSSION

The criminal act of theft is a crime against property regulated in Article 362 of the Criminal Code (KUHP), which includes the act of taking property belonging to another person with the intention of unlawfully possessing it. In law enforcement practice, the object of theft is not limited to high-value goods but also includes agricultural products such as salak fruit. Salak fruit as garden produce has economic value and falls into the category of "any object" under criminal law, so that it can become the object of the criminal act of theft. Salak fruit theft is generally carried out by directly taking it from the garden without the owner's permission, either by picking it from the tree or carrying away the harvested produce, which indicates the fulfillment of the element of the act of taking and the element of another person's ownership.

Viewed from the subjective element of Article 362 of the Criminal Code, the intention to unlawfully possess can be inferred from the perpetrator's act of controlling and carrying

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away the salak fruit without right, even though the perpetrator argues that it was only for personal consumption. The absence of permission from the garden owner fulfills the unlawful element, regardless of the quantity or value of the fruit taken. Thus, both the objective and subjective elements of salak fruit theft can be juridically proven, so that the act can be qualified as ordinary theft under Article 362 of the Criminal Code and can incur criminal liability in accordance with the applicable legal provisions.

Law enforcement against the criminal act of salak fruit theft based on Article 362 of the Criminal Code (KUHP) constitutes a process of applying criminal law norms to concrete events occurring in society. This process begins with the victim's report, followed by investigation and inquiry by police officers, particularly investigators of Polresta Deli Serdang. At the investigation stage, investigators collect evidence to prove the fulfillment of the elements of theft, namely the act of taking, the object in the form of goods, another person's ownership, the intention to possess, and the unlawful nature. If these elements are fulfilled, the case can proceed to the prosecution stage and trial examination. In practice, law enforcement remains based on the principles of legality, prudence, and protection of human rights, including the determination of a suspect which must be supported by at least two valid pieces of evidence.

From the perspective of justice and legal benefit, law enforcement against salak fruit theft is not always carried out repressively but also considers a restorative justice approach in certain cases, such as first-time offenders and the existence of a peace agreement with the victim. However, if the act is committed repeatedly or causes public unrest, the legal process is continued to provide a deterrent effect and maintain public order. Thus, law enforcement against salak fruit theft does not only aim to punish the perpetrator but also to protect the victim's property rights, provide legal certainty, and maintain a balance between certainty, justice, and legal benefit in social life.

5. CONCLUSION

Based on the results of the discussion in the previous chapter, it can be concluded that the criminal act of salak fruit theft within the jurisdiction of Polresta Deli Serdang fulfills all elements stipulated in Article 362 of the Criminal Code. The element "whoever" is fulfilled because the perpetrator is a legal subject capable of being responsible. The element "taking

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any object” is proven by the perpetrator’s act of taking salak fruit from the garden without the owner’s permission. Salak fruit as an agricultural product has economic value and falls within the category of an object under criminal law. Thus, juridically, salak fruit theft can be qualified as the criminal act of theft. The element “wholly or partially belonging to another person” in salak fruit theft can be proven through the statements of the victim and witnesses around the scene. Ownership of the garden and its produce forms the basis of legal protection for the victim. Furthermore, the element “with the intention of unlawfully possessing” can be inferred from the attitude and actions of the perpetrator who carried away or controlled the salak fruit without right. The perpetrator’s reasons such as merely taking it for consumption do not eliminate the unlawful nature of the act. Therefore, normatively and empirically, the elements of Article 362 of the Criminal Code are cumulatively fulfilled.

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