

## **Islamic Criminal Law View of the Money Doubling Scam (Study of Court Judgment Number 238/Pid/2018/Pt Sby)**

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### **Abstract:**

*Law is a regulation regarding human behavior in socially coercive behavior. One of the violations of the law in Indonesia is a criminal act of fraud this criminal act of fraud is a crime against property as regulated in the Book of II KUHP in chapter XXV. In thus case, the author conducts a study on the verdict of a criminal act as in the case of the Surabaya High Court Decision Number 238/PID/2018/PT SBY. The defendant Dimas Kanjeng is subject to Article 378 of the Criminal Code jo. Articel 64 paragraph (1) of the Criminal Code jo. Articel 64 paragraph (1) of the Criminal Code jo. Articel 12 paragraph (4) of the Criminal Code in conjuncition with Articel 66 paragraph (1) of the Criminal Code. The defendant legally committed the criminal act of "continuing fraud" based on the Decision of the Surabaya District Crout judge against Dimas Kanjeng in the from of a sentence of Zero. Beconde he is the highest leader and the Great Teacher of Padepokan should not do that*

**Keywords:** Sentencing, Criminal Act, Fraud

### **Abstrak:**

*Hukum ialah suatu peraturan mengenai perilaku manusia dalam tingkah laku pergaulan masyarakat yang bersifat memaksa. Pelanggaran hukum di Indonesia salah satunya adalah tindak pidana penipuan yang mana tindak pidana penipuan ini merupakan kejahatan terhadap harta benda yang diatur dalam Buku II KUHP dalam Bab XXV. Dalam hal ini penulis melakukan kajian atas putusan tindak pidana sebagaimana kasus dalam putusan Pengadilan Tinggi Surabaya Putusan Nomor 238/PID/2018/PT SBY. Terdakwa Dimas Kanjeng dikenai pasal 378 KUHP jo. Pasal 64 ayat (1) KUHP jo. Pasal 12 ayat (4) KUHP jo Pasal 66 ayat (1) KUHP. Terdakwa secara sah menurut hukum melakukan tindak pidana "penipuan*

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*dengan berlanjut" berdasarkan Putusan Majelis Hakim Pengadilan Negeri Surabaya terhadap Dimas Kanjeng berupa pidana selama Nihil. Karena ia adalah pimpinan tertinggi dan Guru Besar Padepokan tidak sepatutnya melakukan hal demikian.*

**Kata Kunci:** Pemidanaan, Tindak Pidana, Penipuan.

## Introduction

The State of Indonesia is a state based on law, this is explained in article 1 paragraph (3) of the 1945 Constitution which states that "Indonesia is a state based on law", so that it can be interpreted that Indonesia is a country that upholds law based on Pancasila and the Constitution. -The 1945 Constitution. Law as regulations regarding human behavior in social relations made by official bodies that are obligatory, coercive and have strict sanctions against violators of these regulations.<sup>1</sup>

The development of science and technology has caused the needs of the community in various fields to increase, this has become one of the main factors of society in Indonesia, one of which is competing to meet their individual needs. Work is one of the main factors as a means of fulfilling life's needs, but may not harm others. Each must behave properly and comply with applicable laws. Legal rules in laws and regulations are used as controls for each individual in dealing with other individuals.

One of the illegal acts is fraud. The fraud in question is the mode of doubling money. Fraud is included in the category of crime or crime. This crime is included in the category of crimes against property which are regulated in Book II of the Criminal Code in Chapter XXV in article 378 of the Criminal Code.<sup>2</sup>

In 2018, criminal acts of fraud with the mode of doubling money were rife in Indonesia, one of which was the case of Dimas Kanjeng Taat Pribadi which occurred in Wangkal Village, Probolinggo Regency. Dimas Kanjeng is a person who has supernatural powers who can multiply money up to billions of rupiah. However, in the current era of scientific and technological

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<sup>1</sup> M. Najih dan Soimin, *Pengantar Hukum Indonesia*, Cetakan Pertama, Setara Press Malang, 2012, hlm.22

<sup>2</sup> Moeljatno, *Kitab Undang-Undang Hukum Pidana* (Jakarta : Bumi Aksara, 2005), 15

advances, the ability possessed by Dimas Kanjeng is only a ruse or subterfuge to trick many people.<sup>3</sup> This indicates that some society in Indonesia still believe in mystical things.

Law enforcement has an important role to carry out a prevention effort that aims so that the community is not much affected by similar things that are supernatural in nature. The role of the community and law enforcers is also fundamental in enforcing the law against criminal acts of fraud with the mode of doubling money by Dimas Kanjeng Taat Pribadi in Wangkal Village. The crime of fraud is regulated in article 378 of the Criminal Code.

The elements contained in Article 378 of the Criminal Code must be proven by law enforcers so that the perpetrators can be convicted. The process of law enforcement against perpetrators of fraud must be carried out carefully and thoroughly in order to reach the fairest judge's decision.

The focus that will be discussed in this study is whether the crime committed by Dimas Kanjeng Taat Pribadi has fulfilled the elements of a crime? And what is the view of Islamic Criminal Law on the fraud case by Dimas Kanjeng Taat Pribadi?

## Methods

Sugiyono stated that research is a scientific attempt to find data for a specific purpose or use in accordance with the problem to be solved. In legal research, the research method can be defined as a description of the systematic stages of legal objects, both scientific, dogmatic rules, as well as the implementation and response of society to the existence of law.<sup>4</sup>

Approach The research was carried out using a Normative Juridical Law research approach. which focuses on the study of Criminalization of Fraud Actors by Dimas Kanjeng Taat Pribadi (Study of Decision Number 238/PID/2018/PT SBY). According to Philipus M. Hadjon, research on normative juridical law is research

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<sup>3</sup> Rofiq Hidayat, "Kasus penggandaan uang bak penyakit sosial di masyarakat" 28 september2016

<https://m.hukumonline.com/index.php/berita/baca/1t57eb805e299df/kasus-penggandaan-uang-bak-penyakit-sosial-di-masyarakat>. Diakses tanggal 26 Agustus 2021

<sup>4</sup> Basuki Kurniawan, *Logika dan Penalaran Hukum*, (Bondowoso: Licensi, 2021), 114.

aimed at finding and formulating legal arguments through an analysis of the subject matter.<sup>5</sup>

In this case the research approach to Normative Juridical Law uses a statutory approach (Statute Approach) and a conceptual approach (Coceptual Approach), namely an approach that uses legislation that has been ratified (legislation) and an approach that uses existing legal rules.<sup>6</sup>

### **Discussion and Result**

In this discussion, a discussion will be carried out on finding data collected based on research conducted in Lumajang Regency with data obtained through interviews, documentation, researchers can also find results from observations and interviews in the field. The findings are as follows:

#### **Criminal Acts Committed by Dimas Kanjeng Taat Pribadi in Indonesian Criminal Law**

If we try to break down a formulation of an offense into its elements, what you can first find is called a human action, with that action a person has committed an act that is prohibited by law according to the Science of Criminal Law.<sup>7</sup>

An action can be "een doen" or "een niet doen" or can be "doing something" or "not doing something", the latter in doctrine is also often referred to as "een nalaten" which also means "forgetting something required by law. However, "Strafbaar Feit" is interpreted not as "an action" but as an event or as a condition.<sup>8</sup> Every crime contained in the Criminal Code can generally be broken down into elements which basically can be divided into two kinds of elements, namely subjective elements and objective elements.

What is meant by subjective elements are elements that are attached to the actor or related to the actor, and include everything

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<sup>5</sup> Philipus M. Hadjon dan tatiek Sri Djamiati, *Argumentasi Hukum*, (Yogyakarta : Gadjah Mada University Press, 2005).3

<sup>6</sup> Peter Mahmud Marzuki, "Penelitian Huku" (Jakarta: Kencana, 2005),172

<sup>7</sup> P.A.F. Lamintang "Dasar-Dasar Hukum Pidana Indonesia" Cetakan 5 (Bandung: PT. Citra Aditya Bakti, 2013), 192

<sup>8</sup> Ibid, 192

that is contained in his heart. While what is meant by objective elements are elements that have to do with circumstances, namely in the circumstances and actions of the sailor it must be carried out:<sup>9</sup> Fraud is an act or word that is dishonest or lies, fake, etc. Misleading, seeking profit which is an act that harms other people which can be subject to criminal sanctions. Fraud in the form of lying words or acts of unlawfully seeking profit for oneself from others. Usually those who commit fraud will explain something that seems true but actually does not match the reality. Those who become victims of fraud must be mobilized to hand over goods or money resulting from acts of deceit and misguided reasoning as stated in Article 378 of the Criminal Code.<sup>10</sup>

Dimas Kanjeng Taat Pribadi was legally proven according to the judge to have been guilty of committing the crime of "fraud with continuing actions" as stated in Article 378 of the Criminal Code Jo article 64 paragraph (1) of the Criminal Code. What is meant by whoever in decision Number 238/PID2019/PT.SBY is Dimas Kanjeng Taat Pribadi bin Mustain. That he had used a ruse by using to explain the legality of the hermitage that it was legally valid by showing documents such as the deed of establishment of the foundation, the composition of the management, the vision and mission of the hermitage, etc. Then it also shows a picture of an important person who took a photo with Dimas Kanjeng Taat Pribadi. In that picture there is a National Police Chief, the Attorney General, and also several Ministers. And Dimas Kanjeng also promised that he would finance the cottage program that the victim wanted to build. However, there are requirements to become Padepokan students, namely being able to wirid, being able to fast and issuing Mahar/sadaqah.<sup>11</sup>

Mohammad Ali handed over a dowry of 10 billion in stages, the first 3 billion, the second 2 billion, the third 3 billion and the fourth 2 billion in February and Mohammad Ali was guaranteed in the form

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<sup>9</sup> P.A.F. Lamintang "Dasar-Dasar Hukum Pidana Indonesia" Cetakan 5 (Bandung: PT. Citra Aditya Bakti, 2013),193

<sup>10</sup> Soenarto Soerodibroto, "KUHP dan KUHAP Dilengkapi Yurisprudensi Mahkamah Agung dan Hoge Raad" (Jakarta: PT. Raja Grafindo 2007), 241

<sup>11</sup> Dimas Kanjeng Taat Pribadi, "Putusan Nomor 238/PID/2018/PT SBY" (Surabaya: Pengadilan Tinggi, 2018), 4

of 2 suitcases which he said contained money.<sup>12</sup> Then Mohammad Ali was asked for another dowry for opening a Hana Bank account of 5 billion, then opening an ICBC account of 5 billion and opening a Hana Bank dowry of 2 billion, opening the Padepokan Branch Secretariat in Kudus 2.5 billion and inaugurating 3.5 billion.

Losses from Mohammad Ali Rp. 35 billion (thirty five billion rupiah) but the funds for the bailout of 3.5 billion have been returned via Vijay 2 billion and transferred to Mohammad Ali's account via Misal 1.5 billion so that Mohammad Ali's loss is reduced to 31.5 billion and given a keris in the form of a golden yellow stick by Dimas Kanjeng which he said was a hint from his teacher to make the program a success.<sup>13</sup>

The formulation of fraud consists of subjective elements which include the act (moving), which is moved (person), the act is directed at another person (handing over objects, giving debts and writing off receivables), and how to carry out acts of moving using fake names, using deceit deception, using false prestige, and using another series of lies.

The criminal act of fraud in the Criminal Code is regulated in Book II concerning crimes against assets, namely in the form of attacking people's legal interests in their property. Regarding the offense of fraud, the Criminal Code regulates it extensively and in detail in Book II Chapter XXV from Article 378 to Article 395 of the Criminal Code. Based on the wording of Article 378 of the Criminal Code above, juridically the offense of fraud must fulfill the main elements in the form of a subjective element of the offense in the form of the intention of the perpetrator to deceive other people which is formulated in the Article of the Law with the words "with the intention to benefit oneself or others." others unlawfully".

### **Views of Islamic Criminal Law Against Fraud Cases by Dimas Kanjeng**

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<sup>12</sup> Dimas Kanjeng Taat Pribadi, "Putusan Nomor 238/PID/2018/PT SBY" (Surabaya: Pengadilan Tinggi, 2018), 6

<sup>13</sup> Dimas Kanjeng Taat Pribadi, "Putusan Nomor 238/PID/2018/PT SBY" (Surabaya: Pengadilan Tinggi, 2018), 8

Fraud is a behavior that stems from hypocrisy. This is a crime related to property. Judging from the Shari'a, cheating is lying. Acting a lie is a characteristic of hypocrisy as stated in the Qur'an Surah An-Nisa/4 : 145

إِنَّ الْمُنَافِقِينَ فِي الدَّرَأِ الْأَسْفَلِ مِنَ النَّارِ، وَلَنْ تَجِدَ لَهُمْ نَصِيرًا

Meaning: "Indeed, the hypocrites are (placed) at the lowest level of hell. And you will never find a helper for them."<sup>14</sup>

The verse above gives an assessment that hypocrites are more dangerous than disbelievers. If seizing or robbing property the punishment is like the punishment for infidels, namely death, then the punishment for hypocrites is at least the same as the punishment determined for robbery.<sup>15</sup> If viewed from the side of the perpetrator, fraudsters have more psychological potential, namely intelligence both in words and in administration. The impact is that the victim of fraud gets a greater loss than the loss caused by theft.

Then if we look at the legal objectives, the difference in guilt lies not only on the fraudster's side but also on the victim's side, because of their stupidity so they are deceived. On this basis, the sanctions imposed on fraudsters are lighter when compared to criminal theft. The act of cheating is one of the acts that damages muamalah relations, which results in a loss of mutual trust between people. In the view of Islamic law regarding the crime of fraud with the mode of doubling money, the penalty is one of the actions given by the syara' as retaliation for actions that violate the provisions of the applicable syara' law. With the intention of bringing order to a syara' legal regulation and the interests of the community, as well as personal or individual interests.

As for the legal bases of the criminal act of fraud in Islamic Criminal Law contained in the Al-Qur'an Surah Al-Imran verse 77:

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<sup>14</sup> Departemen Agama Republik Indonesia, *Al-qur'an dan Terjemahan*, (Jawa Barat: A-hikmah, 2008),101

<sup>15</sup> Zainuddin Ali "Hukum Pidana Islam" (Jakarta: Sinar Grafika 2018), 71

إِنَّ الَّذِينَ يَشْتَرُونَ بِعَهْدِ اللَّهِ وَآيْمَانِهِمْ ثَمَنًا قَلِيلًا أَوْ لَئِكَ لَا خَلَقَ لَهُمْ فِي الْآخِرَةِ وَلَا يُكَلِّمُهُمُ اللَّهُ وَلَا يَنْتَظِرُ إِلَيْهِمْ يَوْمَ الْقِيَمَةِ وَلَا يُزَكِّرُهُمْ وَلَهُمْ عَذَابٌ أَلِيمٌ.

Meaning : “Indeed, those who exchange the covenant of Allah and their [own] oaths for a small price will have no share in the Hereafter, and Allah will not speak to them or look at them on the Day of Resurrection, nor will He purify them; and they will have a painful punishment.” (QS. Al-Imron {3}: 77)<sup>16</sup>

In Surah Al-Imran verse 77 above, it is explained that people who easily use promises in the name of Allah, and easily make oaths to buy assets of little value. Even though the treasure that one wants to have is only a small amount, both when giving or when making other promises, when compared to the price of the name of Allah that was made in that promise or oath, one day one cannot return the property that was promised. Allah's promise in the future will be punishment for people like that. From Allah's promises and their oaths at a small price. They will not get a share (reward) in the Hereafter and Allah will not speak with them and will not see them on the Day of Resurrection and will not (also) purify them. For them a painful doom

Each Jarimah or Jinayah in a Criminal Act must have Elements that must be fulfilled, namely as follows:

1. Nash which prohibits actions and threatens punishment against them and this element can be called a formal element (rukun syar'i);
2. There is behavior that forms a finger, either in the form of real actions or an attitude of inaction and this element is called a material element (rukun maddi).
3. The maker is a mukallaf person, that is, a person who can be held accountable for the jarimah he has done and this element is called the moral element (pillars of adab).<sup>17</sup>

<sup>16</sup> Departemen Agama Republik Indonesia, *Al-qur'an dan Terjemahan*, (Jawa Barat: A-hikmah, 2008), 59

<sup>17</sup> Ahmad Hanafi, “Asas-asas Hukum Pidana Islam” (Jakarta: Bulan Bintang, 1976), 6

These three elements must be present in an act to be classified as a finger or in every crime. In addition to the general elements in each finger, there are also specific elements that can be subject to punishment. The difference between the general elements and the special elements is that the general elements are of the same type for all fingers, while the special elements can vary in number and type according to the difference in fingers. So these elements are the difference between one crime and another crime.<sup>18</sup>

Jarimah law is an act that is prohibited by Islam, jarimah law is punishable by hudud or ta'zir punishment, Qishas, diat and Uqubat, namely the punishment of the judge's determination of the finger crime. Hudud is the same as uqubat, the legal form and the magnitude of the punishment that has been described in the Qanun Jinayat. Meanwhile, the law of ta'zir is the same as uqubah, in which the form and size are based on options within the highest or lowest limits.<sup>19</sup> The view of Islamic law on Law Enforcement of Fraud which is included in article 378 of the Criminal Code in Islamic law is clear which determines the punishment or action, namely ulil amri, but to determine a sanction ulil amri uses a stipulation that is inseparable from the Koran and as-sunnah, where the Qur'an and As-Sunnah are the basic sources in Islamic law, and the source of the problem will be returned to the sources of the Al-Qur'an and As-Sunnah.<sup>20</sup>

However, when researching in connection with several fraudulent texts in the Qur'an and Sunnah of the Prophet, then it does not explain in detail or clearly the verses or hadiths regarding the problem of deception. However, not because the Qur'an and As-Sunnah do not mention the hadith or verses in it, fraud is permissible in Islamic Shari'ah, considering Islamic Shari'ah law which is a very complete and perfect Shari'ah.

If we look at the elements of fraudulent acts, it is very clear that this is unlawful. Meanwhile, if the condition violates the law, it will be linked to the mover that has been used. What is clear is that

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<sup>18</sup> Ahmad Hanafi, "Asas-asa Hukum Pidana Islam" (Jakarta: Bulan Bintang, 1976), 6

<sup>19</sup> Endang Agoestian.,Dkk, *Islam, Maqashidus Syari'ah & Dinamika Hukum Positif di Indonesia*" Depok : Pustaka Raja 2021, 84

<sup>20</sup> Syaik Muhammad Nawawi bin Umar al-Bantani, *Nihayatu Az-zain*,(Beirut: Dar AlFikr, 2002) 358

those who violate the law are contrary to the compliance that applies in people's lives.

In the author's view, if the sanctions are related to the sanctions provided for in the Criminal Code, then only two types of sanctions, namely imprisonment and fines, can be said to be in line with Islamic punishments. However, if it is related to the purpose of imposing punitive sanctions, the provisions in the Criminal Code are deemed unable to provide greater guarantees for the achievement of these objectives, this is different from the provisions stipulated in Islamic law which are not determined with certainty so that a judge will prefer to determine the type and the severity of the penalty is in accordance with the sanction of place and time as well as legal awareness in society when deciding on the problem of the fraudulent finger. This can be seen from the provisions of Islamic law which, although it considers that the ta'zir punishment is intended as harsh warnings, if the action cannot be stopped except by killing him, then he must be killed.

### Conclusion

In this case the article of crime that was violated was Article 378 of the Criminal Code concerning Fraud. The perpetrator Dimas Kanjeng Taat Pribadi bin Mustain has fulfilled the elements in article 378 of the Criminal Code. What is meant by whoever in decision Number 238/PID2019/PT.SBY is Dimas Kanjeng Taat Pribadi bin Mustain. That he had used a ruse by using the legality of the hermitage by showing documents such as the deed of establishment of the foundation, the composition of the management, the vision and mission of the hermitage, etc. Then it also shows a picture of an important person who took a photo with Dimas Kanjeng Taat Pribadi. In the picture there is a National Police Chief, the Attorney General, and also several Ministers. Dimas Kanjeng also promised that he would finance the cottage program that the victim wanted to build. However, there are requirements to become Padepokan students, namely being able to wirid, being able to fast and issuing Mahar/sadaqah.

The view of Islamic criminal law regarding the case of Dimas Kanjeng Taat Pribadi in (Study of Decision Number:

238/PID/2018/PT SBY), in the decision that Dimas Kanjeng Taat Pribadi the punishment of sanctions in Article 378 of the Criminal Code is basically in line with the provisions stipulated in the Law Islamic crime, but there are differences in terms of guarantees for achieving the goals of the law. In this case the punishment regulated in Islamic law guarantees the realization of the purpose of punishment, namely the creation of justice and the guarantee of public benefit. Then regarding the problem of the Criminal Act of Fraud, there are similarities between this Criminal Act of Fraud and other Criminal Acts which can be used as a lesson for law enforcement against criminal acts of fraud, namely Ghulul, ghasab, sariqah, treason which exist in each of these criminal acts, there are already regulations in the Islamic law. In Islam, it is Allah who makes the law, but for laws that are not stipulated by Allah either in the sources of the Qur'an or Hadith which is called ta'zir punishment, then the authority is given to ulil amri to determine the law or determine whatever finger punishment can be determined. What must be done by ulil amri in this case is given to the Legislative, Executive and Judiciary to determine and implement it.

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