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Legal Position of Crown Witnesses as Evidence in Corruption Crime Trials

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Abstract

The aim of this research is to find out the position of crown witnesses in the criminal justice process for corruption. And the strength of evidence against crown witnesses in corruption cases. The research method uses descriptive qualitative methods with normative law. Data collection techniques include observation to observe the legal status of crown witnesses. In-depth interviews with key informants to obtain accurate and valid data. Documentation study with a number of data from existing archives as well as notes from the trial. The results of the research show that basically the strength of the evidence of crown witnesses is the same as that of witnesses in general and is in accordance with applicable legal provisions. The strength of the evidence of the crown witness regarding the issue of corruption as valid and convincing evidence as the strength of the evidence of the crown witness has met the applicable requirements.

Keywords: Crown Sanctions, Evidence, Corruption

1. Introduction

In its position as a public legal instrument that supports the implementation and application of material criminal law provisions, Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) has its own formulation of an evidentiary system. The formulation of the evidentiary system is of course to support the objectives of criminal procedural law, namely to search for and obtain material truth. By achieving material truth, the ultimate goal of criminal procedural law will also be achieved, namely to achieve order, tranquility, justice and prosperity in society.

Apart from that, to support the implementation of the formulation of the evidentiary system, of course it must be guided by the principles that apply in the criminal justice process, such as the principle of presumption of innocence, the principle of fast, simple and low-cost justice, the principle of opportunity, the principle of judicial examination. open to the public, the principle of equality before the law, the principle of legal trials by judges because of their position and appropriately, the principle that suspects or defendants have the right to receive legal assistance, the principle that suspects are seen as parties or subjects in preliminary examinations in a limited sense (accusator), and the principle of direct and oral examination by judges. It was further explained that one form of the principle of presumption of innocence is that the defendant as a subject at every level of examination is not burdened with the obligation to prove.

This is a form of the defendant's basic rights as a consequence of the adoption of the principle of accusatory examination in the Criminal Procedure Code. Therefore, as the subject of an investigation, the suspect or defendant is given the freedom to defend himself against the

accusations or charges leveled against him. Viewed from the perspective of the criminal justice system, the matter of evidence is a very determining factor for every party directly involved in the process of examining a criminal case, especially in terms of assessing whether or not the guilt of the accused is proven. For the public prosecutor, evidence is a very important factor in supporting his duties as the party whose burden is to prove his accusation that the defendant is guilty of committing the crime he is charged with. This is different from an advocate in his capacity as a legal advisor, so this is a determining factor in carrying out optimal defense against the defendant as his client.

In the perspective of Islamic law, the person making the accusation must present witnesses. So, if the accuser has sufficient witnesses, the judge should accept the indictment. But if he cannot produce witnesses, the judge should give the defendant the right to swear, and if he is able to swear, he wins. However, if the defendant is unable to swear, the accuser has the right to swear. If he swears, he is deemed to have won. In the terms of fiqh experts, this accusatory oath is called "mardud oath" (returned oath).

2. Research methods

A research method is a work method used to prove the scientific truth of the research carried out, or a work method used to collect data from the object that is the target of the researcher to solve a problem.

Legal research (Soerjono, Soekamto., 2014:37). Legal research is a scientific activity based on systematic methods and certain thinking which aims to study one or several specific legal phenomena by making an analysis.

2.1. Data source

Data is the most important thing in research, because in normative legal research what is studied is legal material which contains normative rules. 21 The data obtained and processed in normative legal research is secondary data originating from library sources. The data used is secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials.

2.2. Data collection technique

In collecting the data needed to assist in the research process, the researcher used data collection procedures, namely using literature study. Literature study is a data procedure by reading, understanding and citing data sources in the form of primary legal materials, secondary legal materials and tertiary materials that are relevant to the problem to be discussed.

2.3. Data analysis

From the data that has been collected, the author then analyzes the data qualitatively, namely focusing his attention on the general principles that underlie the realization of the entire data that is obtained, summarized, researched and studied as a unified whole so that it can produce accurate data which is then explained. with sentences

3. Results and Discussion

3.1. The Legal Position of Crown Witnesses in the Corruption Criminal Justice Process According to the Criminal Procedure Law Based on Law no. 8 of 1981.

Because the position of witnesses is very important in the criminal justice process, it starts from the beginning of the criminal justice process, namely from the level of investigation by the Police. Likewise in the subsequent process, from the Prosecutor's Office to the Court.

Based on the theory of evidence in criminal procedural law, the information given by witnesses in a trial is seen as the most important and most important piece of evidence. One of the valid pieces of evidence in the criminal justice process is the statement of a witness who heard, saw, or personally experienced the occurrence of a criminal act in an effort to seek and find clarity about the criminal act committed by the perpetrator of the crime. Law enforcers, especially investigators, in searching for and finding witnesses who can provide information that they have heard, seen and experienced themselves, often experience difficulties, such as in joint corruption cases which are the object of study in writing this thesis.

If a problem like this is discovered, usually law enforcers, especially the Public Prosecutor, will use crown witnesses to provide information in the evidentiary process. A trial in Criminal Law is a judicial process which aims to prove the public prosecutor's indictment whether a defendant is guilty or not guilty with a judge's decision to acquit, regardless of whether a person is convicted. In this corruption case, the Public Prosecutor presented Crown Witnesses in the evidentiary process.

The existence of crown witnesses is not explicitly regulated in the Criminal Procedure Code, but the Criminal Procedure Code does not prohibit the use of crown witnesses. Regulations regarding crown witnesses were initially regulated in article 168 of the Criminal Procedure Code, the principle of which explains that parties who are jointly accused cannot have their statements heard and can withdraw as witnesses. Article 168 of the Criminal Procedure Code basically does not prohibit people who are jointly suspected of committing a criminal act from becoming witnesses in a criminal case. In contrast to the status of a defendant whose statement can only be used against himself (Article 189 of the Criminal Procedure Code), the use of a suspect's statement is not explicitly regulated in the Criminal Procedure Code. However, as time goes by, the situation in which a witness also becomes a suspect or defendant in a criminal case is in practice possible and is often known as a crown witness.

This crown witness can be used as witness evidence by the Public Prosecutor based on his authority as regulated in Article 142 of the Criminal Procedure Code by separating case files (splitting). Based on the explanation above, it can be concluded that a witness who is a suspect in a criminal case, better known as a crown witness, is possible in practice as long as he meets the requirements that the criminal act that occurred is an accessory, the evidence found is very minimal, especially the evidence evidence from witness statements that he saw, heard and experienced himself which can tell the chronology of the case, thus hampering the progress of the evidentiary proceedings, and there has been a splitting of case files between the defendant and the witness who is currently the suspect.

The statement of a crown witness can be used as evidence in a trial, but as far as possible it must be supplemented with other evidence to meet the evidentiary requirements. In corruption cases committed by several people, here the public prosecutor presents witnesses who in fact incriminate (de charge) the defendant. These witnesses consist of witnesses and crown witnesses (witnesses who are also defendants in the same case as the splitting file). The proposed crown witness must fulfill the requirements as a crown witness explained above and his legal position as a witness evidence is the same as other witnesses based on the judge's considerations, namely as evidence for witness statements.

Furthermore, because the role of a crown witness is equated with that of an ordinary witness, therefore, before a crown witness gives his statement, the witness is sworn in according to the rules of the Criminal Procedure Code with the aim that his testimony will later be used as valid evidence. However, because the position of this crown witness at that time was also a defendant, the judge usually gives notice that if the testimony he gives later before

the trial is a lie or false testimony, the witness can be subject to additional sanctions, namely for false testimony which is punishable by Article 242 of the Criminal Code.

The testimony of a defendant who is appointed as a witness and in criminal justice practice is known as a crown witness. This crown witness is considered very important if a case has very minimal evidence, such as a corruption case. Without the presence of a crown witness in the process of proving a case with minimal evidence, it is possible that the case will never be revealed due to a lack of evidence and the judge will not be able to decide the case. The testimony of the crown witness himself has very high weight compared to the testimony of other witnesses, this is because the testimony of the crown witness is something that he saw himself and did it himself together with his colleagues. Even though his testimony seemed to incriminate the other suspects and even himself.

The testimony of crown witnesses can basically be doubted, and there will be an imbalance and mutual backlash between the defendants. This results in unfairness of a trial. However, according to the author, in this position, impartiality is required for a judge to decide cases that use crown witnesses. Considering that the position of crown witnesses is important in revealing legal facts in the trial process, the performance of law enforcement officials in the initiative to use crown witnesses is very appropriate, even though there is jurisprudence that prohibits the use of crown witnesses. However, to legalize its application, the author hopes that the Criminal Procedure Bill will be ratified immediately so that the application of crown witnesses will have more legal certainty in the implementation of criminal justice practices in the future.

3.2. The Strength of Proof of Crown Witnesses in Corruption Cases According to the Criminal Procedure Law Based on Law no. 8 of 1981.

Proof in criminal cases requires statutory regulations which serve as guidelines for implementing the provisions of criminal procedural law honestly and precisely. Regarding criminal procedural law, the main reference for law enforcers in Indonesia is Law Number 8 of 1981 concerning the Criminal Procedure Code. The author believes that the process of proof in corruption cases is not an easy thing, because as is known, corruption cases are very complex cases. So 55 the proof process is sometimes hampered by a lack of evidence, especially witness evidence. In fact, by providing a minimum of two pieces of evidence, the judge can judge that a corruption case has occurred with the confidence obtained from the two pieces of valid evidence.

This also fulfills the minimum evidence in the Criminal Procedure Code, but in the process of proof, sometimes the Public Prosecutor presents crown witnesses, such as in corruption cases or what is usually called a defendant who jointly commits a criminal act and then becomes a witness in a separate case (splitting).). This is where the debate over the use of crown witnesses is considered to violate the defendant's rights as regulated in the Criminal Procedure Code because the defendant is not burdened with the burden of proof, but this is ruled out by making the defendant a witness. This is often referred to as a crown witness.

When viewed from the perspective of the criminal justice system, the matter of proof is something that is very determined for every party directly involved in the process of examining a criminal case, especially in terms of assessing whether or not the guilt of the accused has been proven. The Criminal Procedure Code has determined that the use of evidence is justified to prove the defendant's guilt so that the chairman of the trial, public prosecutor, defendant or legal advisor are not permitted to use evidence outside the provisions stipulated in article 184 (1) of the Criminal Procedure Code. What is considered as evidence, and what is justified has the power of proof only limited to that evidence.

The evidence that is valid according to law in accordance with what is mentioned in article 184 (1) of the Criminal Procedure Code, is:

a. Witness Statement,
b. Expert Statement,
c. Letter,
d. Instruction,
e. Defendant's statement

Evidence of witness testimony in criminal procedural law is very important and is prioritized in proving the guilt of the defendant, so here the judge must be careful and thorough in assessing this evidence of witness testimony, because with this evidence, witness testimony will reveal more about the incident, because the witness is those who hear, see and experience for themselves a criminal incident. Not always witness statements can be valid as evidence that has the power of proof in examinations at trial.

Regarding the use of crown witnesses in corruption cases in a joint position, the strength of their evidence is the same as other witnesses if they have fulfilled the requirements mentioned above. The strength of evidence of a crown witness in a criminal trial is the same as that of other witnesses, when the witness's statement has formal legality as a witness as explained above.

In corruption crimes, the use of crown witnesses is very important because in this crime it is very difficult to find witnesses who can explain the chronology of a case and the crown witness here is chosen to be presented to explain the chronology of the case because he is the one who saw, heard and experienced it himself at the time of the incident. In corruption cases, crown witnesses must fulfill the elements, crown witnesses must also be sworn in. That in accordance with the provisions of Article 185 paragraph (7) of the Criminal Procedure Code, if a witness is under oath, then his statement has valid evidentiary power and can be accounted for, the statement is stated in court.

However, to state the strength of a witness's evidence, it is left entirely up to the judge's belief whether it will be used and considered or not to be used as witness evidence that has the power of proof, this is related to the strength of the witness' statement as valid evidence, namely: having the power of independent evidence and The strength of the evidence depends on the judge. The use of crown witnesses fulfills the requirements to be examined as a witness, including someone who knows about the criminal act of corruption that he or she committed together with the defendant, is also involved and is a defendant in the same case. Based on these things, this crown witness has valid evidentiary power.

In a trial, a crown witness is sworn in first before giving testimony, just like other witnesses and has the relevance of his testimony in the trial with the evidence of other witnesses. Based on this, the information given by crown witnesses is of the same value as the information given by ordinary witnesses. The testimony of a crown witness has independent evidentiary value, in the sense that the judge is free to determine the truth contained in the testimony and is free to use it as evidence.

4. Conclusion Suggestion

4.1. Conclusion

Based on the results of the research and discussion as described in the previous chapters, the following conclusions can be drawn:

a. The legal position of a crown witness in a crime of corruption as a witness evidence and his position is the same as other witnesses based on the judge's assessment and

consideration because he has fulfilled the formal requirements for presenting a witness in evidence in a criminal case.

b. The strength of the crown witness's evidence in corruption cases is valid evidence and has evidentiary value because the crown witness must fulfill the requirements, namely: a. The witness statement given must be on oath, this is regulated in article 160 paragraph (3) of the Criminal Procedure Code b. Witness information given in court is what the witness sees for himself, hears for himself and experiences for himself, this is regulated in article 1 point 27 of the Criminal Procedure Code c. Witness statements must be given in court, this is in accordance with article 185 paragraph (1) KUHAP 60 d. The testimony of a witness alone is considered insufficient, in order to have the power of proof, the testimony of a witness must be supplemented and supplemented with other evidence, this is in accordance with article 185 paragraph (2) of the Criminal Procedure Code

4.2. Suggestion

From the discussion and conclusions above, suggestions related to research can be recommended, namely as follows:

a. It is hoped that the government, especially the legislators, will immediately ratify the Draft Criminal Procedure Code regarding legal certainty and protection for the use of crown witnesses in criminal evidence, because crown witnesses in certain cases are very important and law enforcement officers should not easily use crown witnesses and look for alternatives. otherwise by looking for other evidence as regulated in the Criminal Procedure Code.
b. It is hoped that the use of crown witnesses will only be in cases that require crown witnesses, such as in criminal acts of corruption where there is a lack of evidence, especially evidence from witnesses who can provide information in accordance with what they have heard, seen and experienced themselves.

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