



Legal Analysis of the Criminal Act of Embezzlement of a Motorcycle Pawned Without the Owner's Permission (Study of Decision Number 1446/Pid.B/2025/Pn Medan)

Afra Hidayah¹, Yasdan Rivai^{1*}

¹ PUI-PT Criminal Law, Universitas Prima Indonesia, Medan, Sumatera Utara, Indonesia

*Corresponding author: yasdanrivai@unprimdn.ac.id

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Abstract: This study discusses the crime of embezzlement of a motorcycle pawned without the owner's permission based on Decision Number 1446/Pid.B/2025/PN Mdn. The study aims to analyze the legal regulations regarding the crime of embezzlement of a motorcycle pawned without the consent of the legal owner and the judge's considerations in making the decision. The method used is normative legal research with a statutory approach and a case approach. Data sources come from primary, secondary, and tertiary legal materials obtained through literature studies, then analyzed qualitatively. The results of the study indicate that the act of pawning another person's motorcycle without permission has fulfilled the elements of the crime of embezzlement as regulated in Article 372 of the Criminal Code, because the perpetrator intentionally controlled the goods under his control unlawfully. The judge declared the defendant guilty based on the trial facts, evidence, and the fulfillment of the elements of the offense. The decision considerations include legal and non-legal aspects, so that the decision is considered in accordance with the criminal law in force in Indonesia.

Keywords: Legal Analysis; Criminal Act of Embezzlement; Motorcycle; Unauthorized Pawning; Decision Number 1446/Pid.B/2025/PN Mdn.

Introduction

Indonesia is a country based on law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that Indonesia is a country based on law. The concept of a country based on law implies that all aspects of life in the social, national, and state spheres must be based on applicable law. The law functions to regulate human behavior in social life and to ensure the creation of order, justice, and legal certainty.¹

In social life, law plays a crucial role in maintaining order and protecting the interests of each individual. Law also serves as a tool of social control, aiming to prevent violations of prevailing societal norms. With the law, it is hoped that everyone will act in accordance with established rules, thus creating an orderly and safe society.²

One branch of law that plays a crucial role in maintaining public order is criminal law. Criminal law is a branch of public law that regulates prohibited acts and establishes sanctions for anyone who violates these prohibitions. Criminal law aims to protect the legal interests of society from acts that could harm or endanger social life.³

In practice, violations of criminal law often occur in various forms, one of which is property crimes. Property crimes are one of the most common forms of crime in society. These crimes can include theft,

¹ Soerjono Soekanto, *Factors Influencing Law Enforcement*, Jakarta: Rajawali Pers, 2014, p. 5.

² Moeljatno, *Principles of Criminal Law*, Jakarta: Rineka Cipta, 2008, p. 1.

³ Adami Chazawi, *Crimes Against Property*, Malang: Bayumedia Publishing, 2003, p. 84.

fraud, robbery, and embezzlement. Embezzlement is a type of property crime that often occurs due to an abuse of trust.⁴

The crime of embezzlement is regulated in Article 372 of the Criminal Code (KUHP) which states that anyone who intentionally and unlawfully possesses something which is wholly or partly owned by another person, which is in his control not because of a crime, is threatened with embezzlement with a maximum prison sentence of four years or a fine.⁵ Based on these provisions, it can be seen that embezzlement is an unlawful act committed by illegally possessing or controlling another person's property, even though the property was previously in the perpetrator's legal possession.

One form of embezzlement that often occurs in society is embezzlement of motor vehicles, especially motorcycles. Motorcycles are the most widely used means of transportation by Indonesians because they are considered more practical, efficient, and able to reach various areas more easily. The high use of motorcycles in everyday life has led to an increased potential for various crimes related to motor vehicles, including the crime of embezzlement. In practice, cases often occur where someone borrows another person's motorcycle for certain reasons, such as for personal or work purposes. However, in some cases, the trust given by the vehicle owner is abused by the party borrowing the vehicle by pawning the motorcycle to another party without the permission of the legitimate owner. This act is clearly an unlawful act because the party borrowing the vehicle does not have the right to use the vehicle as collateral for debt or pawn.⁶

Cases of embezzlement of motorbikes that are pawned without the owner's permission are often processed through legal channels and end up in court.⁷ In the criminal justice process, the judge plays a crucial role in assessing and considering all the facts revealed in court before handing down a verdict against the defendant. The judge must consider various aspects, both legal and non-legal, to ensure that the verdict provides a sense of justice for all parties involved.⁸

One case involving the embezzlement of a motorcycle pawned without the owner's permission was decided by the Medan District Court under Decision Number 1446/Pid.B/2025/PN Mdn. In this case, the defendant was suspected of committing embezzlement by pawning another person's motorcycle without the owner's permission. The case was then processed through the criminal justice system until finally a verdict was reached by a judge at the Medan District Court.⁹

Based on this background, the formulation of the problem in this study is focused on how the legal regulations regarding the crime of embezzlement of a motorbike that is pawned without the owner's permission according to criminal law in Indonesia and how the judge's considerations in deciding the case of the crime of embezzlement of a motorbike that is pawned without the owner's permission based on Decision Number 1446/Pid.B/2025/PN Mdn.

Method

This research uses a normative legal research type, namely research conducted by examining library materials or secondary data related to the legal problems being researched.¹⁰ The research used is descriptive analytical, providing a systematic, factual, and accurate description of a particular event or legal situation, which is then analyzed based on applicable theories and laws and regulations. The research approaches used include a statute approach, a case approach, and a conceptual approach to comprehensively analyze legal issues.¹¹ The research location was conducted through a literature study by reviewing various legal literature, laws and regulations, and court decisions related to the crime of

⁴ R. Soesilo, *Criminal Code (KUHP) and its Complete Commentaries Article by Article*, Bogor: Politeia, 1996, p. 258.

⁵ *Andi Hamzah, Principles of Criminal Law*, Jakarta: Rineka Cipta, 2010, p. 98.

⁶ Adami Chazawi, *Criminal Law Lessons*, Jakarta: RajaGrafindo Persada, 2002, p. 115.

⁷ Soerjono Soekanto, *Factors Influencing Law Enforcement*, (Jakarta: RajaGrafindo Persada, 2014), p. 7.

⁸ PAF Lamintang, *Basics of Indonesian Criminal Law*, Bandung: Citra Aditya Bakti, 2013, p. 210.

⁹ Lilik Mulyadi, *Judge's Decisions in Criminal Procedure Law*, Bandung: Citra Aditya Bakti, 2007, p. 45.

¹⁰ Soerjono Soekanto and Sri Mamudji, *Normative Legal Research: A Brief Review*, (Jakarta: RajaGrafindo Persada, 2015), p. 13.

¹¹ Soerjono Soekanto and Sri Mamudji, *Normative Legal Research: A Brief Review*, (Jakarta: RajaGrafindo Persada, 2015), p. 13.

embezzlement of a motorcycle pawned without the owner's permission, including materials obtained from the university library. The research data sources were secondary data that included primary legal materials, such as the Criminal Code (KUHP), court decisions, and related regulations; secondary legal materials in the form of books, journals, scientific articles, and previous research; and tertiary legal materials in the form of legal dictionaries, legal encyclopedias, and KBBI. The data collection technique was carried out through library research by collecting, reading, and studying relevant legal materials, while the data analysis method used qualitative analysis through systematic processing and review of primary, secondary, and tertiary legal materials to obtain a comprehensive understanding, including linking applicable legal provisions with legal facts in Decision Number 1446 / Pid.B / 2025 / PN Mdn.

Findings and Discussion

Legal Regulations on the Crime of Embezzlement in Indonesian Criminal Law

The crime of embezzlement is a form of crime against property regulated by the Criminal Code (KUHP). Crimes against property are acts that harm another person's ownership of an object or goods. These acts can include theft, fraud, embezzlement, extortion, and other unlawful acts related to property.¹² Embezzlement is the act of someone intentionally and unlawfully taking possession of another person's property that was previously in their legal possession. In this case, the property was initially given to the perpetrator due to a relationship of trust, such as a loan, safekeeping, or rental. However, the perpetrator then abuses that trust by unlawfully taking possession of the property.

The provisions regarding the crime of embezzlement are contained in Article 372 of the Criminal Code, which states that: "Anyone who intentionally and unlawfully possesses something which belongs wholly or partly to another person but which is in his control not because of a crime, is threatened with embezzlement with a maximum prison sentence of four years."¹³ Based on these provisions,

It can be seen that there are several important elements in the crime of embezzlement, namely:

- a. Whoever This element shows that anyone can be the perpetrator of the crime of embezzlement.
- b. Intentionally and unlawfully This element shows that the perpetrator intentionally owned or controlled another person's property unlawfully.
- c. Owning something The perpetrator acts as if he is the owner of the item.
- d. The goods are wholly or partly owned by another person
- e. The goods are in the perpetrator's possession not because of a crime

If all these elements are fulfilled, then a person can be punished for committing the crime of embezzlement.¹⁴

Embezzlement differs from theft. In theft, the perpetrator takes another person's property without prior permission. In embezzlement, the property is legally in the perpetrator's possession, but then abuses that trust by unlawfully taking possession of it.¹⁵

In social practice, embezzlement often occurs due to a relationship of trust between the perpetrator and the victim. Abuse of this trust often results in losses for the victim. One common form of embezzlement is motor vehicle theft, particularly motorcycles. This typically occurs when someone borrows someone else's vehicle for temporary use, but then doesn't return it and instead pawns it to another party without the owner's knowledge.

¹² R. Soesilo, Criminal Code (KUHP) and its Complete Commentaries Article by Article, (Bogor: Politeia, 1995), p. 24

¹³ Criminal Code (KUHP), Article 372.

¹⁴ PAF Lamintang, Basics of Indonesian Criminal Law, (Bandung: Citra Aditya Bakti, 1997), p. 190.

¹⁵ Moeljatno, Principles of Criminal Law, (Jakarta: Rineka Cipta, 2008), p. 143.

¹⁵ Adami Chazawi, Criminal Law Lessons, (Jakarta: RajaGrafindo Persada, 2011)

Analysis of the Criminal Act of Motorcycle Embezzlement in Decision Number 1446/Pid.B/2025/PN Mdn

a. Brief Chronology of the Case

Based on the facts revealed in the trial in Decision Number 1446/Pid.B/2025/PN Mdn, it was discovered that the defendant borrowed the victim's motorcycle for temporary use. The victim, who trusted the defendant, then gave the defendant permission to use the motorcycle. However, after the motorcycle was in the defendant's possession, the defendant did not return the vehicle to the victim. Instead, the defendant pawned the motorcycle to another party without the knowledge and permission of the vehicle owner. As a result of this action, the victim suffered a loss because he lost his motorcycle.

b. Critical Analysis of the Elements of the Crime of Embezzlement

Based on the facts revealed in the trial, it can be analyzed that the elements of the crime of embezzlement as regulated in Article 372 of the Criminal Code have been fulfilled.¹⁶

1) Elements of Whomsoever

The element "whoever" indicates that anyone can be the perpetrator of a crime. In this case, the defendant is the legal subject who can be held criminally responsible for his actions.

2) Intentional and Unlawful Elements

The defendant's actions in pawning the victim's motorcycle without permission demonstrates intent. Furthermore, this action is also unlawful because it was carried out without authorization and caused harm to the vehicle owner.

3) The Element of Owning Something

The act of pawning the motorcycle to another party indicates that the defendant acted as if he owned the vehicle. This fulfills the element of ownership of something.

4) Elements of Other People's Property

The motorcycle pawned by the defendant was the victim's legal property. Therefore, the element of belonging to another person has been fulfilled.

5) The Element of Goods Being in Control Not Due to Crime

The motorcycle was in the defendant's possession because it was loaned to him by the victim. This means the defendant initially obtained the vehicle legally. However, the defendant then abused that trust by pawning the vehicle.¹⁷

Thus, all elements of the crime of embezzlement as regulated in Article 372 of the Criminal Code have been fulfilled.

Judge's Considerations in Decision Number 1446/Pid.B/2025/PN Mdn

a. Legal Considerations

Juridical considerations are based on the legal facts revealed in court and applicable legal provisions. In this case, the judge considered several pieces of evidence, including:

- 1) Witness testimony
- 2) Defendant's statement
- 3) Evidence
- 4) Public Prosecutor's Indictment

Based on the evidence, the judge concluded that the defendant was legally and convincingly proven to have committed the crime of embezzlement as regulated in Article 372 of the Criminal Code.

¹⁶ Teguh Prasetyo, *Criminal Law*, (Jakarta: Rajawali Pers, 2012), p. 75.

¹⁷ Sudarto, *Law and Criminal Law*, (Bandung: Alumni, 1986), p. 85.

b. Non-Juridical Considerations

Implications In addition to legal considerations, the judge also considers factors related to the defendant's condition.

Aggravating factors:

- 1) The defendant's actions have harmed the victim.
- 2) The defendant has abused the trust given by the victim.

Mitigating factors:

- 1) The defendant admitted his actions.
- 2) The defendant was polite during the trial.
- 3) The defendant regretted his actions.

These considerations are used by the judge in determining the type and length of the sentence imposed on the defendant.

c. Legal Analysis of the Judge's Decision

Implications Based on the analysis of Decision Number 1446/Pid.B/2025/PN Mdn, it can be seen that the judge has considered the elements of the crime of embezzlement as regulated in Article 372 of the Criminal Code. The decision shows that the act of pawning another person's motorcycle without the owner's permission is a form of abuse of trust that can be categorized as a crime of embezzlement. Thus, the application of criminal law in the decision is in accordance with the provisions contained in the Criminal Code and has taken into account the facts revealed in the trial.¹⁸

Conclusion

Based on the results of the study of Decision Number 1446/Pid.B/2025/PN Mdn, it can be concluded that the crime of embezzlement in Indonesia is regulated in Article 372 of the Criminal Code which regulates the act of intentionally and unlawfully possessing another person's property that is in the perpetrator's possession not because of a crime. In this case, the defendant was proven to have committed embezzlement of a motorcycle by pawning the victim's vehicle without permission after previously obtaining legal control through a loan, so that all elements of Article 372 of the Criminal Code were fulfilled. The judge in handing down the decision considered the legal aspects in the form of charges, witness statements, the defendant's statement, and evidence, as well as considering aggravating circumstances, namely the victim's loss and abuse of trust, and mitigating circumstances such as the defendant's confession, polite attitude, and remorse, so that the decision was deemed to be in accordance with the provisions of criminal law and the facts of the trial. Based on the research results, integrated efforts are needed from the community, law enforcement officers, pawnbrokers, and the government to minimize the crime of embezzlement by increasing legal awareness, caution in borrowing and controlling goods, using written agreements, consistent law enforcement accompanied by legal education, careful verification of ownership of pawned goods, and strengthening regulations and supervision of pawn practices in order to create legal certainty and public protection.

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