



## Criminal acts of manipulation of electronic information in order to get free fashion on online transactions

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### ABSTRACT

Mobile phone is a technology used to facilitate human work, and over time the mobile phone has many functions that ultimately led to many social changes in society that change their behavior in interacting with other humans and continue to spread to other parts of human life, so that there are new norms, new values, and so on. As for the problems in this study is the conviction and consideration of the judge in passing a verdict against the perpetrators of manipulation of electronic information in order to get free fashion on electronic transactions study Decision No.6/Pid.Sus/2021 / PN.BDG. The type of research used in this study is normative juridical research, namely research used by analyzing library materials, one of which is Decision No.6/Pid.Sus/2021 / PN.BDG. It can be concluded that Vinna and her sister Vivie make online transactions by buying fashion (clothing) from the "Giordano online store" by way of payment using proof of transaction that has been edited using the adobe photoshop application so that it is as if the proof of transfer used is original, then based on the facts of the trial obtained from the testimony of, the information of the defendants and the evidence submitted in the trial then the action is proven to violate the provisions of Article 51 juncto Article 35 of the law of the Republic of Indonesia number 19 of 2016 concerning amendments to the law of the Republic of Indonesia number 11 of 2008 concerning information and Electronic Transactions juncto Article 64 paragraph 1 of the Criminal Code juncto Article 55 paragraph 1 to-1 of the criminal code so that it can be convicted.

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### 1. Introduction

The development of human reason that is so quickly influenced by technology cannot be prevented, especially in the age of progress as it is today when humans create and need technology, each technology is created to meet a certain need and desire in humans. Once created, technology is developed to be more effective and efficient to meet the needs in question. In the end, past technologies will shift.(Gultom, 2011) current advances in Information

Technology, Electronic media occur almost carried out thoroughly in all aspects along with the progress of the level of culture and human civilization the development of technology is growing rapidly. The advancement of a civilization will be in line with the development of technology because technology is a form of civilization development that is advancing rapidly. (Mohammad, 2010).

One of the rapidly developing technologies is communication technology. Innovation on technology communication has brought a new civilization. The digital age makes communication technology provide benefits that were never imagined before including connecting people around the world, the spread of sophisticated information, the emergence of social media, a means to share files. (Bakhtiar, 2012) technology in addition to bringing benefits provide advantages also bring negative impacts that can be found the easier it is for a person or group to commit a crime, (suhariyanto, 2013) among others: carding, hacking, fraud, terrorism, manipulation of Information Systems and dissemination of destructive information, otherwise known as Cyber Crime. (Jabar, 2017).

The rapid development of communication technology that exists now also attacks people's social lives such as cyberbullying, the spread of hoax news, hate speech and pornographic content. Cyber Crime is all forms of illegal/unauthorized access to a data transmission, which means all forms of unauthorized activities in a computer system are included in a crime. (Nasrullah, 2016).

According to Telset.id from the SafeNet report from 2008 to April 2020, there were 325 people affected by the article of the ITE Law. (Mamduh, 2020) Therefore, to ensure legal certainty, the government is obliged to regulate various activities related to the use of information and Communication Technology. (Budhijanto, 2017).

One of the efforts in tackling crime is to use criminal law instruments. The use of criminal law is considered important as a basis for denunciation of unlawful acts and perpetrators in an effort to realize the goals of law, namely Justice, legal certainty and public order. Criminal law should also be placed as a means of last resort or ultimum remedium (ultima ratio principle) if other means are not satisfactory enough in combating criminal acts. (Purwoleksono & Didik, 2014).

In the context of criminal policy, as an effort to combat crime, penal and non-penal efforts can be made. The use of the criminal law is part of the Criminal Policy, which is referred to as the Criminal Law Policy (penal policy). (Arief, nawawi, 2007) crime in information technology does not escape the rules governing the crime, then it became the basis for the birth of Law No. 11 of 2008 on information and Electronic Transactions and is now changed to Law No. 19 of 2016 on amendments to Law No. 11 of 2008 on information and Electronic Transactions. Manipulation of electronic information is one type of crime that is regulated in the law, namely in Article 35 of Law Number 11 of 2008 concerning electronic information. The crime of manipulation of electronic information itself often occurs in Indonesia, there are many court decisions that try crimes of manipulation of electronic information, one of which is a decision with registration number: 6/Pid.Sus / 2021 / PN Bdg.

Based on the description of the verdict, the defendant named Vinna and her sister Vivie made online transactions by buying fashion (clothing) from the "Giordano online store" by way of payment using proof of transaction that has been edited using the adobe photoshop application so that it is as if the proof of transfer used is genuine.

The defendant's actions can be regulated and criminalized according to Article 51 in conjunction with Article 35 of the law of the Republic of Indonesia number 19 of 2016 as amended by the law of the Republic of Indonesia number 11 of 2008 on information and Electronic Transactions in conjunction with Article 64 paragraph 1 of the criminal code in conjunction with Article 55 paragraph 1 to 1 of the Criminal Code.

Description the background can be determined a problem related to the imposition of criminal and judicial consideration of the perpetrators of manipulation of electronic information in order

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to get free fashion on online transactions according to the electronic transaction information law.

## 2. Method

In this scientific work, the author examines using normative juridical methods, namely using written legal sources and valid in the form of laws (Sunggono, 2016) produces a descriptive study of the study of Decision No.6/Pid.Sus/2021 / Fr.BDG. The source of legal material in this paper is in the form of primary legal material obtained directly from the source in the form of the law of the Republic of Indonesia number 19 of 2016 on information and Electronic Transactions, Criminal Code (KUHP). Secondary legal materials in the form of explanations related to primary legal materials sourced from the work of legal circles, and books related to Information Technology. Tertiary legal material is used as a guide to primary and secondary legal materials that can be obtained from legal journals, scholars' opinions, and even dictionaries related to the object you want to study. Data collection in this study using the study of documents (document research) to obtain primary legal material, which in this study examines the study of Decision No.6/Pid.Sus/2021 / Fr.BDG, then the library study (library research), namely data collection to obtain secondary legal materials in the form of books, legislation in the form of hard copy and soft copy. Data analysis is done qualitatively, meaning that the description of the data collected by the researcher does not use statistics of its kind, but in the form of descriptions of sentences that are arranged systematically in accordance with the problems discussed. (Moleong, 2018) All data obtained in the study refer to legislation and court decisions as well as the norms that live and develop in society towards decision Number 6/Pid.Sus / 2021 / PN Bdg. related to the criminal act of electronic transaction information, discussion, interpretation, and consideration can ultimately be drawn conclusions about the problems studied and poured into sentences in case studies..

## 3. Analysis and Results

### 3.1. Criminal imposition against perpetrators of manipulation of electronic information in order to get free fashion on online transactions according to the electronic transaction information law.

That on Sunday, May 17, 2020 around 14.20 wib defendant Vinna Andreany opened Giordano's Instagram then she was interested in getting the fashion for free, then started looking for a number by using Vivo's brand handphone with the number 085156939353 on behalf of Nina (pseudonym) and connected to Giordano Center in Jakarta from Giordano Center directed to Giordano at TSM Bandung and connected to witness Itang Setiawan who served as staff Customer Service Associate.

Defendant Vinna asked for a Link and after getting it clicked on the Link and changed its appearance to WhatsApp social Media. Then the defendant asked the witness Itang to send fashion photos as if the defendant vinna will buy the product.

After getting the photos vinna defendant first showed his sister the defendant Vivie Andreany to choose clothes and pants for adult women and then vinna defendant chose a variety of clothes and pants so that the total number of pants and clothes as much as 32 (thirty-two) Pcsseprice Rp. 5,438,000 (five million four hundred thirty eight thousand rupiah) divided into 2 (two) fake transactions each. And the defendant as if going to pay asking for no rek. Giordano under the pretext of will pay in M Banking.

Then the defendant began to take action by first registering the Giordano Account Number Through M Banking under the name BCA where the transaction had not been completed and by the defendant Vinna in SreenShoot then the defendant Vinna made a successful Go-Pay transaction again, After that, the results of the ScreenShoot were submitted to the witness Vivie to make a fake transaction that was edited so that it seemed valid/legitimate by using the adobe photoshop application by way of the defendant vivie got a ScreenShot of proof of transfer that

did not work to get the delivery writing to the destination account number, and proof of successful transfer that was deliberately sent to the Gopay account to get the transaction format successful.

Next defendant Vivie edit. The results of screenshot digallery to be cropped into several parts, for Screenshot proof of transfer is not successfully cut the name and number of the destination account, as well as the bottom of the mobile banking proof of transfer to flatten the color, for proof of transfer is successfully cut the name of the sender and the hour of delivery.

Furthermore, the defendant Vivie opens the Adobe Photoshooop application then clicks the next device button take a screenshot of the results of the OK writing crop as a sign that it has been sent, then the results of the name and destination account crop, the last is overwritten by the results of the bottom screenshot crop to flatten as if the original proof of transfer. Then the results are stored digallery then sent to the witness Itang via whatsapp and without seeing more about the validity or validity of the evidence of the transfer witness Itang directly send goods in the form of clothing and pants to the destination address. Then on Monday, May 18, 2020 the defendant Vinna ordered back as mentioned above in the form of clothes in the amount of 22 ( twenty two ) Pcs at a price of Rp.4,369,000 (four million three hundred sixty nine thousand rupiah).

In the public prosecutor in Bandung State Court decision 6 / Pid.Sus/2021. Accused terradaksa I Vinna Andreany and defendant II Vivie Andreany as follows: the actions of the defendant Vinna Andreany and Vivie Andreany as stipulated in the law and are punishable by criminal penalties under Article 51 in conjunction with Article 35 of Law No. 19 of 2016 on amendments to law no.11 of 2008 on ITE Jo Article 64 Paragraph 1 of the Criminal Code Jo Article 55 paragraph 1 to 1 of the Criminal Code, The actions of the defendant Vinna Andreany and Vivie Andreany as stipulated in the law and punishable by criminal penalties under Article 378 in conjunction with Article 64 paragraph 1 to 1 of the Criminal Code.

States defendant I VINNA ANDREANY and defendant II VIVIE ANDREANY, found guilty of committing the crime of "manipulation of electronic information that is considered as if the data is authentic continuously and jointly" as regulated and criminally threatened in violation of Article 51 jo Article 35 of the Indonesian law No. 19 of 2016 on the amendment of law no. 11 of 2008 on ITE jo Article 64 paragraph 1 of the Criminal Code jo Article 55 paragraph 1 to-1 of the Criminal Code, impose a penalty against defendant I. VINNA ANDREANY and defendant II. VIVIE ANDREANY, with imprisonment for 1(one) year and 6(six) months reduced while the defendants are in temporary detention by order of the defendants remain detained, and with a fine of Rp1, 000, 000(one million rupiah) subsidiary 2 (two) months of confinement.

Talking about punishment cannot be separated from criminal responsibility because we need to understand first about the responsible ability of the perpetrator or the person who committed the crime. Criminal liability is inseparable from the ability to take responsibility, guilt in the form of criminal acts, and the absence of grounds for forgiveness. (Priyatno, Dwidja, 2010) These three elements must be fulfilled, so the perpetrator must be responsible for his actions because he has harmed others resulting from his actions that violate applicable law.

In the analysis of decision letter No.6/Pid.Sus/2021 / Fr.BDG. Vinna Adreany and Vivie Andreany made a mistake in the form of criminal manipulation of Electronic Information explained by buying fashion (clothing) from the "Giordano online store" by way of payment using proof of transaction that has been edited using the adope photoshop application so that it is as if the proof of transfer used is genuine. The defendant is also able to be responsible because in the defendant There is no excuse for forgiveness. As in Article 44 of the Criminal Code, it is stated that "no one can be convicted of committing an act that cannot be accounted for by him, because he lacks perfect reason or is sick of changing his mind", or in other words the defendant does it in a healthy and normal state. The defendant's actions have fulfilled the elements as stipulated in Article 51 in conjunction with Article 35 of Law No. 19 of 2016 concerning amendments to law no.11 of 2008 on ITE Jo Article 64 paragraph 1 of the Criminal

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Code jo Article 55 paragraph 1 to 1 of the Criminal Code, therefore it can be concluded that the defendant is able to be responsible for the mistakes made and able to carry out punishment for his actions in accordance with the principle of no crime without fault. The panel of judges sentenced the defendant I, Vinna Andreany and defendant II. Vivie Andreany with imprisonment of 1 (one) year 6 (six) months to the defendant, because the actions of the defendants committed the crime of manipulation of electronic information resulting in losses for a company called PT. Giordano.

Crime is one form of the activity of human behavior that is experiencing a parallel development with the development of society, (Atmasasmita, 1983) seen from the condition, the defendants in a state of physical health and conscious in committing the crime of manipulation of electronic information. Based on the analysis conducted, the authors assess the defendants deserve punishment in order to cause a deterrent effect. For the deeds of the accused are not new deeds, but have often occurred. And even defendant I has a habit of taking someone else's property (stealing).

### **3.2. Consideration Of The Judge In Imposing A Criminal Against The Perpetrators Of Manipulation Of Electronic Information In Order To Get A Free Fashion On Online Transactions.**

Consideration of the judge is the reason used by the judge in considering the law before deciding a case by appealing to the legal facts revealed in the trial that juridically consider matters that relieve and incriminate the Criminal this has been regulated in the Criminal Code. (Surbakti, 1999) in addition, judges in making criminal decisions must also consider the sociological aspects as summarized in Article 5 Paragraph 1 of Law No. 48 of 2009 on judicial power, namely judges must dig, follow, and understand the values of law and a sense of justice in society. So in this case the judge does not necessarily impose a judgment without consideration which ultimately makes the public question about the verdict handed down.

According to the author of the indictment the public prosecutor charged to the defendants is an alternative indictment. In this indictment there are several charges that are arranged in layers, one layer is an alternative and excludes charges in other layers. This form of indictment is used when there is no certainty about which criminal acts can be proven or the criminal acts committed by the defendants Vinna and Vivie are related to each other, so that in principle it will be imposed from one of the charges.

At the time of the examination of the witness who was confronted at the time of the examination of the witness who was attended by the defendant, regarding the information given to the witness before the trial, the defendant confirmed and did not object. Hearing the testimony of the defendant who in essence claimed to have committed a criminal offense as charged in Article 51 in conjunction with Article 35 of Law No. 19 of 2016 on amendments to law no.11 of 2008 on ITE Jo Article 64 paragraph 1 of the Criminal Code jo Article 55 paragraph 1 to 1 of the Criminal Code At the trial, evidence is submitted to ensure that it is true that the item is evidence in the form of two mobile phones. that can be done in committing the crime.

The consideration of the judge in sentencing the defendant has fulfilled all the conditions for sentencing, namely based on the facts in the trial and the conformity between witness statements and matters that relieve and incriminate the defendant that will affect the judge's decision.(Mertokusumo, 2014) in this case, it is stated that the defendant is legally proven and convincingly guilty of violating Article 51 along with Article 35 of Law No. 19 of 2016 concerning amendments to law no.11 of 2008 on ITE Jo Article 64 paragraph 1 of the Criminal Code jo Article 55 paragraph 1 to 1 of the criminal code then based on the facts at trial the

defendant admitted honestly and frankly so as to facilitate the trial process, the defendant then regretted his actions and promised not to repeat his actions and when viewed from the amount of losses incurred as a result of a criminal offense is not large enough. Therefore, the consideration of the judge regarding the crime imposed is appropriate.

#### **4. Conclusion**

Punishment for perpetrators of manipulation of electronic information that is considered as if the data is authentic continuously and jointly, according to Article 51 joint Article 35 of Law No. 19 of 2016 on amendments to law No. 11 of 2008 on ITE which contains: any person who meets the elements referred to in Article 35 shall be punished with imprisonment of at most 12 (twelve years) and/or a fine of at most Rp. 12,000,000,000 (twelve billion rupiah) and Article 35 of the act. The consideration of the judge in sentencing the perpetrator who committed the crime of manipulation of electronic information that is considered as if the data is authentic continues and jointly on verdict No. 6/Pid.sus / 2021 / PN Bdg based on evidence tools and facts revealed in court, reinforced by the conviction of the judge himself. Besides, before the judge sentenced the criminal, the judge first considers things that can be burdensome and can relieve the defendant in order to impose a fair punishment, (Waluyo, 2004) and can provide justice for the victim against the existence of this verdict. The consideration of this judge has been in accordance with the provisions of applicable law. The number of criminal acts committed through electronic media has proven that the lack of public knowledge of the dangers or consequences of these acts, so that when they are held accountable they are not ready, it is expected that the government can intensively socialize so that the public can be wise in cyber activities carried out by media users.

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