Proof of Predicate Crime as a Basis for Prosecution of Money Laundering Crimes

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Abstract

Money laundering is an act that is passed on from the original criminal act (follow-up crime). In Indonesia, the criminalization of money laundering is realized by Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, which repeals Law Number 15 of 2002. Article 69 of Law Number 8 of 2010 explains that "it is not mandatory to prove in advance the original criminal act." This provision adopts a reversal of the burden of proof and the seizure of civil assets. This makes a difference, where money laundering is a follow-up crime, in line with the theory of "no money laundering without core crime." Proven predicate crimes can be considered for money laundering. In some court rulings, the panel of judges relied on proving a predicate crime to prove money laundering. So that the element of wealth that is reasonably suspected to be the result of a criminal act can be proven. Therefore, it is necessary to conduct an assessment of (1). What are the implications of not proving predicate crime in the judicial process of money laundering? (2). How does the predicate crime act's implementation affect the criminal justice process of money laundering?

Keywords: *Money Laundering, Follow-up Crime, Reversal of the Burden of Proof.*

A. INTRODUCTION

In general, assets originating from a crime or criminal act are not immediately used by the perpetrators of the crime directly. This is intended to deceive law enforcers regarding the source of the acquisition of assets. So that in practice, the perpetrators of crime first try to get the proceeds of crime into the financial system or financial system (Adrian Sutedi, 2008). Attempts to hide or disguise the origin of the assets obtained as a result of the crime referred to in this law are known as money laundering (Adrian Sutedi, 2008).

Money laundering or known as the crime of money laundering (hereinafter referred to as TPPU) is a crime that is double and continued (Follow Up Crime), because ML is an act that is continued or continued from a predicate crime (predicate crime). The practice of ML involves disguised income and wealth, so that it is safe to use without knowing the source of the assets comes from illegal activities. Through TPPU, assets resulting from unlawful activities are then converted into financial assets that appear to have come from legitimate/legal sources (Yunus Husein, 2007).

The scope of ML crimes is able to cross national borders by carrying out illegal businesses such as drug trafficking, human trafficking, fraud, prostitution, trade in firearms and so on. These illegal businesses generate huge profits so that the demand for money laundering practices is also increasing.

Criminological research states that criminal techniques in ML are categorized as white collar crimes. White collar crime has the characteristics and characteristics of

using ability, intelligence, position and power so that an actor can reap enormous funds for personal or group needs. This explains that money laundering can only be committed by people who have middle to upper social status in society, are respected, are calm, charismatic, and have high intellectuality.

In Indonesia, the criminalization of money laundering has been known since the Indonesian government pushed for a bill on money laundering to be discussed with the DPR. Then it was embodied by Law Number 15 of 2002 which was amended by Law Number 25 of 2003 concerning the Crime of Money Laundering. In 2010, to improve the quality of money laundering, the government passed Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (hereinafter written UU PPTPPU) which revoked Law Number 15 of 2002 and its amendments.

To prevent and eradicate ML, the government uses a blended formulation of the Continental European legal system (civil law system) and the Anglo Sexen. This is stated in Article 69 of the PPTPPU Law which states "In order to be able to carry out investigations, prosecutions and examinations in court of the crime of money laundering, it is not mandatory to prove the origin of the crime". There is a system of reversal burden of proof in the contents of this article which is not explicitly recognized in the Continental European system. Likewise, there is a system of forfeiture of civil assets which was adopted covertly without any confirmation in the PPTPPU Law (Romli Atmasasmita, 2016).

A striking problem emerged with the fact that the predicate crime was not required to be proven in advance in the PPTPPU Law. Where ML is a Follow Up Crime, such as the theory of money laundering which says that "no money laundering without core crime", there is no money laundering crime without predicate crime (Yenti Garnasih, 2013). So with this theory, it emphasizes that ML is categorized as a derivative crime which is always preceded by a predicate crime, because the object of ML is assets resulting from predicate crimes.

The existence of reverse evidence in the trial process of ML does not prove the guilt of the defendant for his actions (predicate crime). In practice, the principle of inverted proof of the defendant's assets allegedly derived from a criminal act aims to seize the defendant's assets civilly (in rem forfeiture or civil-based forfeiture), separate and very different from proving the guilt of the accused for a predicate crime whose purpose is to prove his guilt and then confiscating his property in a criminal manner (in personam forfeiture or criminal based forfeiture) (Romli Atmasasmita, 2016).

Proving the predicate crime beforehand, can be taken into consideration in carrying out the TPPU conviction. As in several court decisions, namely:

1. District Court Decision Number 222/Pid.Sus/2013/PN.TNG;
2. District Court Decision Number 741/Pid.B/2014/PN.BKS;
3. District Court Decision Number 67/Pid.B/2014/PN.PGP
4. District Court Decision Number 256/Pid.B/2013/PN.PWK

The considerations in the decision explained that the panel of judges considered the defendant had been proven legally and convincingly guilty of committing a predicate crime which was a predicate crime. In other considerations, the judge still relies on proving the predicate crime to prove ML. The panel of judges can actually describe the facts during the trial which may indicate that the defendant's assets are the proceeds of a crime, as stipulated in Article 69 of the PPTPPU Law. Based on this, it can be seen that the panel of judges in the ML case relied on predicate crimes.

The considerations used by the panel of judges by proving the predicate crime first, resulted in the loss of concern that the predicate crime was not proven which could result in not proving ML. So that elements of Assets that are known or reasonably suspected to be the result of a Criminal Act can be proven.

If the TPPU judicial process relies on the principle of reverse proof and does not prioritize proving predicate crimes, it may have implications for violating the presumption of innocence, the principle of justice and give the impression of arbitrariness in the law enforcement process.

Therefore, it is necessary to conduct a study regarding (1) What are the implications of not proving the predicate crime in the trial process for the crime of money laundering? (2) How is the implementation of predicate crime inkracht against the judicial process of money laundering?

B. RESULT AND DISCUSSION

1. Implications of Not Proving Predicate Crimes in the Judicial Process of Money Laundering Crimes

After being criminalized by the PPTPPU Law, the term money laundering or money laundering changed to a crime of money laundering (TPPU) (Halif, 2016). There is no definition that is universal and comprehensive, the definitions that circulate are based on different priorities and perspectives. The statement shows that no agreement has been made to agree on the definition of money laundering. However, the definition of money laundering is important as a basis for discussing ML.

The definition of money laundering has been formulated in Article 1 number (1) of the PPTPPU Law, namely "Money laundering is any act that fulfills the elements of a crime in accordance with the provisions of this Law". This means that ML is all actions that have fulfilled the elements of a criminal act as stipulated in the PPTPPU Law.

Each definition put forward by experts has something in common, which states that money laundering or money laundering is the process of financial transactions from illegitimate assets to appear legitimate. As stated by M. Giovanoli, defines that money laundering is a process and in such a way, assets obtained from criminal acts are manipulated in such a way that these assets appear to come from legitimate sources (Sultan Remy Sjahdeini, 2007). Likewise J. Koers, defines money laundering as a way to circulate the proceeds of crime into a legitimate circulation of money and cover up the origin of the money. Similar to Byung-Ki Lee's opinion, defining money

laundering is the process of transferring wealth obtained from unlawful activities into legal capital (Sultan Remy Sjahdeini, 2007).

ML in a historical view is a derivative crime preceded by a predicate crime, such as a narcotics crime, a corruption crime or a trafficking in persons or children, the proceeds of the predicate crime are processed in such a way as to hidden or disguised so that in the end the assets resulting from the crime appear as if they came from legitimate assets. The process of concealing and disguising the proceeds of crime known as ML cannot be separated from predicate crimes, in other words there will be no money laundering crimes if there is no assets resulting from predicate crimes.

The object of ML is dirty money, namely assets resulting from criminal acts. The dirty money can be sourced from two ways, first, through tax evasion, taxes that are reported are not in accordance with income or not in accordance with the actual report, so that the result of the tax becomes dirty money. Second, dirty money generated from criminal acts, such as drug trafficking, corruption or terrorism (Sultan Remy Sjahdeini, 2007).

There are three articles in the 2010 Money Laundering Law which regulate the crime of money laundering, namely Article 3, Article 4 and Article 5. Article 3 of the Money Laundering Law can be formulated as follows: 1). Each person; 2). Placing, transferring, diverting, spending, paying, granting, depositing, bringing abroad, changing forms, exchanging with currency or securities or other actions; 3). For assets that he knows or reasonably suspects are proceeds of crime as referred to in Article 2 paragraph (1); 4) with the aim of concealing or disguising the origin of assets.

Elements of Article 4 of the PPTPPU Law are as follows: 1). Each person; 2). Concealing the origin of the actual source, location, designation of transfer of rights, or ownership; 3). Assets that are known or reasonably suspected to be proceeds of crime as referred to in Article 2 paragraph (1).

Article 5 of the PPTPPU Law above can be stated as follows: 1). Each person; 2). Receiving or controlling the placement, transfer, payment, grant, donation, deposit, exchange, or use of assets; 3). he knows or reasonably suspects constitutes the proceeds of a crime as referred to in Article 2 paragraph (1).

Based on the analysis of these elements, the PPTPPU Law has differentiated ML into active (Article 3 and Article 4) and passive ML (Article 5). The keywords in Articles 3 to 5, are known or reasonably suspected which are the main elements of ML, both active and passive. The proper legal language for this act is known (with knowledge) and in the criminal law doctrine the equivalent is intentional. The element should be alleged to have an equivalent in the doctrine of criminal law which is included in negligence. The two main elements in passive ML (Article 5 of the PPTPPU Law), are similar to the provisions of Article 480 of the Criminal Code. Gathering (heling) which has also used the two main elements. In the criminal law doctrine, Article 480 of the Criminal Code is referred to as pro parte dolus pro parte culpa, that is, a person deliberately buys something but he neglects to know that the goods he receives or buys from other people are derived from crime (Romli Atmasasmita, 2016).

There has been a mistake in adopting the main element of Article 480 of the Criminal Code (collection) into the formation of Article 5 of the PPTPPU Law. In theory, the mistake lies in the formation of the PPTPPU Law which cannot distinguish between the provisions of Article 480 of the Criminal Code and the provisions of passive ML (Article 5). Money laundering is a continuation of the predicate crime which has been limitedly included in Article 2 paragraph (1) of the PPTPPU Law. Meanwhile, the criminal act of extortion is a crime that stands alone and is a completed offense (*voltooid delicten*).

In the crime of collection, the element of obtaining must be done intentionally and the perpetrator does not need to know the origin of the object obtained from the crime (Jan Remmelink, 2003). In Criminal Law Theory, predicate crimes in ML must be proven, but in the PPTPPU Law, the obligation to prove the process has been abolished by the legislators by adopting the concept of collection.

Dr. Yenti Ganarsih states that no money laundering without core crime, there is no money laundering crime without predicate/main crime (Yenti Garnasih, 2013), then predicate crime (Core Crime/Predicate Offense) has a role in a money laundering crime. The term predicate crime has the meaning of a crime that triggers (source) the occurrence of ML (Muhammad Yusuf, 2011). Criminal acts that are categorized as Predicate Crime are contained in Article 2 Paragraph (1) of the PPTPPU Law. The assets that are the object of ML must originate from the Predicate Crime according to Article 2 Paragraph (1) of the PPTPPU Law (R. Wiyono, 2014).

In carrying out the criminalization of ML as regulated in the PPTPPU Law, a lex specialis derogat legi generali is applied which provides an exception from the Criminal Code. Irregularities and specificities in the material law of the PPTPPU Law have an impact on formal law which normatively and explicitly deviates from the provisions of the general criminal procedural law.

There are two deviations from the general principles and functions of conventional criminal law. The first deviation is in the function of ultimum remedium criminal law. The second deviation, from the method of proof beyond reasonable doubt, is by using the genuine reversal of the burden of proof on assets allegedly derived from or obtained from crime (Romli Atmasasmita, 2016).

This deviation process is reflected in Article 69 of the PPTPPU Law which emphasizes that a predicate crime with a strong suspicion that ML has occurred does not need to be proven (by the prosecution). This article emphasizes that the target of the PPTPPU Law is not on the actions (mistakes) of the defendant, but on assets allegedly originating from or related to criminal acts (origin). So, the subject being pursued in the TPPU judicial process is not the defendant acting on assets.

There are several problems in making assets a subject to be pursued in ML, namely:

1. The reverse disclosure of the defendant's assets does not mutatis mutandis prove the guilt of the defendant for his actions (predicate crime). The purpose of reverse proof of assets allegedly originating or obtained from criminal acts is aimed at appropriating the defendant's assets in a civil manner (in rem

forfeiture or civil based forfeiture). Significantly different from proving the guilt of the defendant for the predicate crime which aims to find his guilt and then criminally seize his assets (in personam forfeiture or criminal-based forfeiture) (Romli Atmasasmita, 2016).

2. There is ambiguity or ambiguity in the provisions of Article 69 which are linked to Articles 77 and 78 of the PPTPPU Law. On the one hand, the predicate crime does not have to be proven (prosecutor), on the other hand, the defendant is required to prove the assets (he owns) that are suspected (probable cause principle) originate from or are related to the (origin) crime. The conflicting substance of these articles is not explained in the PPTPPU Law.
3. The provision of reverse proof of the PPTPPU Law in the practice of the Corruption Court has been misunderstood by the panel of judges and prosecutors. The concept of illicit enrichment has been adopted, namely proving the wealth of a public official or state administrator that is linked to his legitimate income (Milda Istiqomah, 2016). It has nothing to do with the crime against which he was charged. The definition of illicit enrichment in the UN Convention against Corruption 2003 includes acts that are criminalized.
4. Referring to the provisions of Articles 77 and 78 of the 2010 Money Laundering Law. Based on the principle of lex certa, unless there is another explanation in the article, the assets that must be proven by the defendant are assets that are only related to criminal acts or are negatively defined as assets, which is not derived from a crime. This provision explicitly obliges the prosecution to selectively determine the defendant's assets which must or must not be proven by the defendant. This means that only the defendant's assets related to the crime are included in the prosecutor's indictment (material aspects) that must be proven by the defendant, and not assets that are not related and not prosecuted in the prosecutor's charge sheet.
5. In the ML case, regarding the tempus and locus and details of the defendant's assets is a crucial issue because the PPTPPU Law does not specifically regulate the tempus delic of assets (not actions) that are suspected of originating from a crime. Tempus delic assets allegedly originating from or related to criminal acts are not mutatis mutandis. Tempus delic acts charged for assets specifically intended for a state administrator are assets acquired since the person concerned was appointed, during and after leaving office.

In practice, problems arising from the reversal of the principle of proof are often ignored or excluded on the grounds that ML is an extraordinary crime. The crime of money laundering is an extraordinary crime, so that extraordinary measures and extraordinary measures are needed (Yonathan Sebastian Laowo, 2022).

2. Implementation of Inkracht Predicate Offenses against the Judicial Process of Money Grabbing Crimes

Court decisions with permanent legal force (inkracht van gewijsde) in criminal cases can be interpreted as: 1) court decisions of first instance which are not subject to appeal or cassation within the time determined by the Criminal Procedure Code; 2) an appeal court decision that was not appealed within the time determined by the Criminal Procedure Code; or 3) cassation decision.

The court's decision regarding the proven predicate crime which has the force of law that is directly in the ML case, can give the truth from a juridical perspective to the defendant and law enforcers. As for the impact arising from the court's decision regarding the proven predicate crime in the ML case, namely:

a. There is no free potential for the accused

Geen strafzonder schuld, the principle which states that there is no crime without guilt. In principle, a person can be punished/criminalized after he is proven guilty of committing an act that is prohibited by law. The elements of mistakes made in criminal acts if interpreted broadly include three things, namely, intentional, negligent, and can be accounted for (Andi Hamzah, 2012). The principle of no crime without error is a very fundamental principle in holding accountable those who have committed a crime (Barda Nawawi Arief, 2016).

In criminal law theory it is said that each formulation of the offense consists of elements of bestandeelen (core of the offense) and elementen (element of the offense). The essence of the offense is the elements listed in the formulation of the offense and all that is included in the essence of the offense must be listed in the indictment and then proven by the public prosecutor. If one of the core elements of the offense cannot be proven, then the accused must be acquitted. In the division of the core elements of the offense there are so-called objective elements (Actus Reus) and there are those called subjective elements (Mens Rea). While the element of offense is an element that does not appear in the formulation but must be presumed to exist but does not need to be in the indictment and does not need to be proven unless there is doubt on the part of the judge.

In connection with the formulation of Article 3, Article 4 and Article 5 of the PPTPPU Law, the core elements of the offense categorized as Actus Reus are found in the formulation of the sentence "placing, transferring, transferring, spending, paying, carrying, exchanging, receiving, controlling the placement, transfer, payment , grants and other actions", while the formulation of the offense placed as Mens REA is contained in "Wealth which is known or reasonably suspected to be the proceeds of a crime" as referred to in Article 2 paragraph (1). If one of the elements of Actus Reus and Mens rea cannot be proven, then the element of guilt of the defendant cannot be fulfilled and the defendant must be released from the ML snares.

The intention (Mens Rea) is to be vital in proving the imposition of sanctions on the accused. In the ML case, the Public Prosecutor is required to provide evidence that the defendant knows and or should suspect that the assets in his possession

originate from a criminal act. Based on the difficult practice of proving intent, the 1988 UN Vienna Convention and international instruments consider that 'knowledge, intentions or goals can be inferred from factual/objective circumstances (Hanafi Amrani, 2015).

Based on this, the mental element of ML has been extended to the subjective intentions of the accused, as well as the objective circumstances of the case. This formulation resulted in a shift in the elements of the Mens REA TPPU from actual knowledge to constructive knowledge. So, proving the intention to commit ML can be done when it can be proven that the defendant knows and/or should suspect that his wealth comes from a crime (crime) (Hanafi Amrani, 2015).

The norm of Article 69 of the PPTPPU Law which does not require prior proof of predicate crime during the investigation stage, can be explained that when the TPPU suspects were determined based on the results of investigations conducted by investigators, assets were found that did not match the suspect's profile. If the case is escalated to the prosecution stage, the investigator should provide evidence related to the predicate crime committed by the suspect which is the source of improper acquisition of assets. Causa Proxima ML is a predicate crime in Article 2 paragraph (1) of the PPTPPU Law, so that when the indictment of the predicate crime is unclear (runs away), the accused will be very easy to acquit.

It has been proven that predicate crimes can provide rights and opportunities to be shown the material truth and to be treated equally with other citizens. The existence of a court decision that is inkracht related to the proven predicate crime, will provide justice because it is unfair to convict the defendant with two criminal provisions but only one crime has been proven. If using the perspective of Aristotle's Theory of Justice, it can be explained that justice is a right that should be obtained by humans without any exceptions (Amran Suadi, 2019).

b. Fulfillment of the Presumption of Innocence

To be able to understand law properly, it is necessary to explore principles, because law is a building that has character and meaning (Satjipto Rahardjo, 2006). The principle of giving ethical meaning to legal regulations and the legal system (Satjipto Rahardjo, 2000). Principles and rules are elements that absolutely must exist because they become the soul of the law. The heart of legal life in society is determined by legal principles. The more it is maintained, the stronger and more meaningful the law will be for people's lives (O.C. Kaligis, 2006). If the legal principle does not become the basis of legislation, it is certain that it will lose itself from the nature of law (Bambang Poernomo, 2000).

The presumption of innocence is one of the most basic legal principles and guides the operation of the criminal justice system (Andi Hamza, 2008). This principle essentially emphasizes that for the sake of upholding legal objectives, every administration of the criminal justice process must be based on the principle of the presumption of innocence. The nature of this principle applies universally, both in Indonesian criminal procedural law and in international criminal law. To ensure and

state that the process carried out has been carried out in an honest, fair and independent manner (due process of law), the application of the presumption of innocence is an absolute requirement (Romli Atmasasmita, 2009).

The formulation of the Presumption of Innocence which is in Indonesian positive law is contained in Article 8 paragraph (1) of Law no. 48 of 2009 concerning Judicial Power, namely: "Everyone who is suspected, arrested, detained, prosecuted, or presented before a court must be considered innocent before there is a court decision stating his guilt and has obtained permanent legal force."

With the proven predicate crime, law enforcers can carry out the judicial process without prejudice to the principle of presumption of innocence. This relates to the principle of the presumption of innocence which has 2 (two) very important meanings. First, the presumption of innocence only applies to criminal acts. Second, the principle of the presumption of innocence is basically the problem of the burden of proof before the trial where it is not the defendant who has to prove that he is innocent, but the public prosecutor who is supposed to prove that the defendant is indeed guilty by proving all elements of the crime charged act (Ahmad Ali, 2004).

In practice in the field of ML, the application of Article 69 is used as a weapon to "take" as much of the defendant's wealth as possible by setting aside the principle of the presumption of innocence and the principle of justice. Proving the predicate crime with inkract beforehand can provide convenience in the prosecution process by the public prosecutor. Certainly the prosecution is based on assets which are only related to predicate crimes.

c. In line with the Principle of Actori Incumbit Onus Probandi

The principle of Actori Incumbit Onus Probandi, who accuses guilt must prove it. This means that the burden of proving the existence of a crime rests on the shoulders of the public prosecutor, then ends with the statement of the Defendant (Eddy O.S Hiariej, 2012). In essence, this principle was formed with the aim that investigators and public prosecutors act professionally in the law enforcement process by prioritizing the principle of the presumption of innocence and the protection of human rights.

d. The Loss of Potential Law Enforcement Officers' Arbitrary Practices

Negative Wettelijk Bewisjtheorie is a system of evidence adopted in criminal justice in Indonesia, where the basis for deciding whether or not the accused is guilty is based on evidence that is determined in a limited manner by law accompanied by the judge's conviction. Legal evidence according to Article 184 of Law Number 8 of 1981 concerning the Criminal Procedure Code is witness statements, expert statements, letters, instructions, and statements of the accused (M. Yahya Harahap, 2002). It has been proven that predicate crimes make it easier for judges to form convictions so that the judge's decision is not limited to the profile and position of the accused. On the contrary, if a decision is based solely on the judge's belief which is

limited to profile and position, it will create a vulnerability to the practice of arbitrariness by law enforcement officials with the justification of the judge's belief.

C. CONCLUSION

There has been a mistake in adopting the main element of Article 480 of the Criminal Code (collection) into the formation of Article 5 of the PPTPPU Law. TPPU is a continuation of the predicate crime which refers to Article 2 paragraph (1) of the PPTPPU Law. Meanwhile, the criminal act of extortion is a crime that stands alone and is a completed offense. In addition, there are deviations from the general principles and functions of conventional criminal law. This process of deviation is reflected in Article 69 of the PPTPPU Law which emphasizes that the target of ML is not the actions of the accused, but rather assets allegedly originating from or related to predicate crimes. Assets that turned into a subject in ML, raised several problems, namely: a) Opening upside down on the defendant's assets with the aim of civil confiscation of the defendant's assets. In contrast to proving the guilt of a defendant for a predicate crime which aims to find his guilt and then criminally seize his assets; b) There is ambiguity in the provisions of Article 69 which are linked to Articles 77 and 78 of the PPTPPU Law. On the one hand, the predicate crime does not have to be proven (prosecutor), on the other hand, the defendant is required to prove the assets (he owns) that are suspected (probable cause principle) originate from or are related to the (origin) crime. The conflicting substance of these articles is not explained in the PPTPPU Law; c) Furthermore, reversed proof in Corruption practice has been misunderstood by the panel of judges and prosecutors. The existence of the illicit enrichment concept that was adopted had nothing to do with the crime he was charged with; d) Explicitly obliges the prosecution to selectively determine the defendant's assets. This means that only the defendant's assets related to criminal acts are included in the prosecutor's indictment (material aspects) that must be proven by the defendant; and e) The PPTPPU Law does not specifically regulate the tempus delic of assets (not actions) suspected of originating from criminal acts. Tempus delic assets allegedly originating from or related to criminal acts are not mutas mutandis.

The impacts arising from the court's decision regarding the proven predicate crime in the ML case, namely: 1) There is no free potential for the accused. If using the perspective of Aristotle's Theory of Justice, it can be explained that justice is a right that should be obtained by humans without any exceptions. It has been proven that predicate crimes can provide rights and opportunities to be shown the material truth and to be treated equally with other citizens. The existence of a court decision that is inkracht related to the proven predicate crime, will provide justice because it is unfair to convict the defendant with two criminal provisions but only one crime has been proven; 2) Fulfillment of the Presumption of Innocence. This relates to the issue of the burden of proof before the trial to the public prosecutor. Furthermore, in practice in the field of ML, the application of Article 69 was used as a weapon to "take" as much of the defendant's wealth as possible. Proving the predicate crime with inkract beforehand can provide convenience in the prosecution process by the public

prosecutor. Certainly the prosecution is based on assets which are only related to predicate crimes; 3) In line with the Principle of Actori Incumbit Onus Probandi. The principle of Actori Incumbit Onus Probandi, who accuses guilt must prove it. This means that the burden to prove the existence of a crime rests on the shoulders of the public prosecutor, then ends with the statement of the Defendant; and 4) The Potential Loss of Arbitrary Practices by Law Enforcement Officials. It has been proven that predicate crimes make it easier for judges to form convictions in accordance with the Negative Wettelijk Bewisjtheorie system, so that the judge's decision is not limited to the profile and position of the accused.

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