

ABSTRACT

Alwi Husen Maolana intentionally and unlawfully distributed an obscene video of his ex-girlfriend, IAK, via a fake Instagram account as an act of revenge after their relationship ended. The video was recorded without the victim's consent while she was intoxicated and unaware, and was shared from June 2021 to December 2022. Alwi also threatened the victim to comply with his demands. He was arrested on February 20, 2023, and based on Court Decision No. 71/Pid.Sus/2023/PN Pdl, he was sentenced to 6 years in prison, fined IDR 1 billion, and given an additional penalty of revocation of internet access rights for 8 years—even though this was not included in the prosecutor's charges.

This study uses a normative juridical method with a qualitative approach, analyzing the decision based on laws, legal doctrines, and legal principles. The analysis finds that while the main sentence aligns with positive law, the additional penalty of revoking internet access is controversial, as it is not explicitly regulated in the Indonesian Criminal Code (KUHP) or the Electronic Information and Transactions Law (ITE Law). This raises concerns of violating the principle of legality and creating legal uncertainty, since Article 35 of the Criminal Code only specifies certain rights that may be revoked. Therefore, judges are expected to uphold the principles of legality and legal certainty

Keywords: *Additional Punishment, Principle of Legality, Judicial Authority, Electronic Information and Transactions Law (ITE Law).*

ABSTRAK

Alwi Husen Maolana secara sengaja dan tanpa hak menyebarkan video asusila mantan pacarnya, IAK, melalui akun palsu di Instagram sebagai bentuk balas dendam. Video tersebut direkam tanpa persetujuan korban dalam kondisi mabuk dan tidak sadar, dan disebarluaskan sejak Juni 2021 hingga Desember 2022. Ia juga mengancam korban agar menuruti keinginannya. Alwi ditangkap pada 20 Februari 2023, dan berdasarkan Putusan No. 71/Pid.Sus/2023/PN Pdl, dijatuhi hukuman 6 tahun penjara, denda Rp1 miliar, serta pidana tambahan berupa pencabutan hak akses internet selama 8 tahun—meskipun pidana tambahan ini tidak tercantum dalam tuntutan jaksa.

Penelitian ini menggunakan metode yuridis normatif dengan pendekatan kualitatif, menganalisis putusan tersebut berdasarkan peraturan perundang-undangan, doktrin, dan asas hukum. Analisis menunjukkan bahwa pidana pokok sesuai dengan hukum positif, namun pencabutan hak akses internet sebagai pidana tambahan menuai perdebatan, karena tidak diatur secara eksplisit dalam KUHP maupun UU ITE. Hal ini berpotensi melanggar asas legalitas dan menimbulkan ketidakpastian hukum, sebab Pasal 35 KUHP hanya mencantumkan jenis hak tertentu yang dapat dicabut. Oleh karena itu, hakim seharusnya tetap menjunjung prinsip legalitas dan kepastian hukum.

Kata Kunci : Pidana Tambahan, Asas Legalitas, Kewenangan Hakim, UU ITE.