

LEGAL STUDY OF VISUM ET REPERTUM IN THE STAGE OF THE INVESTIGATION IN DISCLOSING THE CRIME FOLLOW-UP

I Gst A.A Sintiana Dewi

Universitas Pendidikan Ganesha
Email : sintiana.dewi29@gmail.com

Abstract

This study aims to determine and analyze the function of Visum Et Repertum in investigations in revealing rape crime. This type of research is a type of normative juridical research, then the approach in this research is the statutory approach (statute approach), case approach (case approach. As a normative juridical study, this research uses legal materials, consisting of primary legal material, secondary legal material, and tertiary legal material The technique of gathering legal materials used by the study of documents and literature studies The results of the study show (1) the role of the Visum Et Repertum in the examination of a rape crime in addition to assisting investigators in uncovering criminal acts but also plays an important role in the hearing at the hearing, then the effort of the investigator requesting the making of a visum et repertum from the initial stage of the examination of the case is important and must be done. two tools, ma'am The quality required for a judge in deciding a case as this is determined in Article 6 paragraph (2) of Law No. 14 of 1970 concerning the Principal Provisions of Judicial Power, and (2 In Criminal Cases, Visum Et Repertum is located as a valid evidence in Article 184 paragraph (1) of the Criminal Procedure Code. So in this case, investigators should include evidence such as Visum Et Repertum as evidence to strengthen and discover the truth of the occurrence of rape.

Keywords: Visum Et Repertum, Investigation, Crime, Rape

Preliminary

Examination of a criminal case in a judicial process is essentially aimed at finding material truth to the case. This can be seen from the various efforts made by law enforcement officials in obtaining legal evidence to uncover a case at the preliminary examination stage such as investigation and prosecution as well as at the trial stage of the case. In particular, investigators in carrying out their duties must seek assistance from experts in fields not controlled. One such assistance can be obtained from witness statements and expert statements which are indeed used as evidence in uncovering a case or a criminal offense.¹

To uncover a case requires an examination process to look for evidence that is part of the criminal procedure law where the main task of the criminal procedure law is to find and obtain material truth or complete truth. The ability of criminal procedure law also has limitations. Therefore, to cover up his inability, other science is needed including logic, psychology, criminology and criminalistic law.²

A case that can show that the police force as an investigative apparatus requires expert testimony in the actions of the investigation conducted, namely on the disclosure

¹ Waluyadi, "Ilmu Kedokteran Kehakiman dalam Perspektif dan Aspek Hukum Praktik Kedokteran", Jakarta: Djambatan, 2000, Hlm. 8-9

² Firganefi dan ahmad irzal fardiansyah. Hukum dan Kriminalistik. Bandarlampung. Justice publisher. 2014. Hlm. 23

of rape cases. Rape is the culmination of the most horrific sexual harassment that every woman is frightening and no woman wants it. Rape often creates deep traumatic injuries. Rape is an act that is considered contrary to all existing norms.

The crime of rape in the Criminal Code in the case of intercourse is contained in Article 285 of the Criminal Code whose formulation is as follows:³

"Anyone with violence or threats of violence forces a non-wife to have sex with her, sentenced, Karennu raped, to a maximum of twelve years in prison."

If the above form of rape is specified, it consists of the following elements:⁴

1. His actions force, namely:

(1) With violence;

Forcing is an act aimed at others by suppressing the will of others that is contrary to the will of others so that the other person accepts the will of the person who suppresses or equals his own will.

(2) Threats of violence

The threat of violence is the threat of physical violence aimed at people who are basically also in the form of physical acts, which physical actions can be in the form of preparatory actions to be carried out large or larger physical acts in the form of violence, which will and may soon be done / realized later when the threat it does not produce results as desired by the perpetrator.

The object: a woman is not his wife.

2. Having sex with her

Sexual intercourse in the biological sense is an act that enables pregnancy (for procreation), so it must occur:

1) Erectio penis, 2) Penile penetration into the vagina, 3) Ejaculatio in the vagina.

Reveal a case

Uncovering a rape case at the investigation stage will be carried out a series of investigative actions by the investigator to obtain evidence related to the criminal act that occurred. The role of experts in assisting investigations in providing medical information about victims of rape, this is an attempt to obtain evidence or a sign on the victim's self that can show that a rape crime has taken place. To prove the truth a rape crime has occurred through the *Visum Et Repertum*.

Visum Et Repertum is a written report for a trial made by a doctor based on an oath pronounced when receiving a doctor's position, containing news about everything (facts) seen and found in evidence in the form of a human body that is examined with the best knowledge and skills and opinions on what was found during the examination.⁵ The function of the *Visum Et Repertum* in the disclosure of a rape case as occurred in the above newspaper coverage, shows a significant role for the actions of the Police as an investigative apparatus. Proof of elements of rape from the results of the examination contained in the *Visum Et Repertum*, determine the steps taken by the Police in investigating a rape case. *Visum Et Repertum* is made by a doctor according to what he sees and finds in examining evidence, based on his knowledge.

³ R. Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal*, Politeia Bogor, 1982. Hal. 151

⁴ Adami Chazawi, 2007, *Tindak Pidana Mengenai Kesopanan*, Raja Grafindo Persada. Jakarta, hlm. 63

⁵ Amri Amir, *Rangkaian Ilmu Kedokteran Forensik*, Edisi Kedua, Ramadhan, Medan, 2005, hlm. 207

In connection with the importance of the role of the Visum Et Repertum in the disclosure of a rape case, in a trial case where complaints or reports to the Police are only made after a long-standing rape crime so that no further signs of violence are found in the victim, the results of the examination listed in Visum Et Repertum certainly can be different from the results of the examination conducted immediately after the occurrence of rape.⁶

There are 8 (eight) things that must be considered when the authorities ask the doctor to make a Visum Et Repertum for a living victim, which is as follows: first, must be written, not allowed orally; Second, submit it directly to the doctor, not through the postal service; Third, not past events because they are classified as doctor's secrets; Fourth, there is a reason why the victim is brought to the doctor; Fifth, there is the identity of the victim, Sixth, there is the identity of the requester; Seventh, include the date of the request; Eighth, the victim is escorted by the police or the prosecutor.

Based on the background description above, the authors are interested in reviewing the "Legal Review of the Visum Et Repertum at the Investigation Stage in Exposing Rape Crimes". For this reason the authors formulate a problem into two things, namely:

1. What is the function of Visum Et Repertum at the investigation stage in exposing a rape crime?
2. What is the position of Visum Et Repertum as evidence in a criminal case?

DISCUSSION

1. Function of Visum Et Repertum at the Investigation Stage in Exposing Rape Crimes

The function of the Visum Et Repertum in relation to the determination of suspects and proof of criminal offenses, we must realize that we are within the scope of the criminal justice system which includes 3 (three) levels of examination, namely:

- a) Investigation
- b) Prosecution
- c) Trial by the court hearing

Evidence is very important in relation to the process of resolving criminal acts, because the evidence is related to the 3 (three) levels of examination. This can be explained briefly that in the investigation phase the evidence collection is carried out in the prosecution stage, the prosecution is carried out because the evidence is deemed sufficient or the case file is declared complete, whereas in the examination stage before a court session the examination is oriented towards the elements not criminal as an element of action (*Mens rea*) and the element of criminal responsibility of the perpetrator (*Actus reus*) therefore the proof is the artery of the criminal justice system in other words the proof is the underlying of criminal justice system.

In addition, as a legality principle, criminal prosecution of a suspect is not justified if there is no criminal threat specified in the Act (hereinafter abbreviated as Law) before the act is committed (no prosecution unless a basic of statute). In the investigation stage in which a series of actions are carried out by the investigator in gathering evidence related to the existence of a criminal act in which the evidence can make light of a criminal act and in order to find the suspect, this process can be

⁶ Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP Penyidikan dan Penuntutan*, Sinar Grafika, Jakarta, 2010. Hal. 209

said to be a very important initial step in find the material truth of a criminal case. With regard to a criminal act or criminal event that is alleged to violate criminal law, the investigation of the material truth of an act is carried out during the investigation stage.

Related to the investigation of a criminal offense in writing Regarding the investigation of a criminal offense regarding rape, this type of crime is generally known from complaints or reports made either by the victim, the victim's parents, or other victims' families. After the existence of a report regarding the occurrence of a crime, a person authorized by the Act in this case the police officer of the Unitary State of the Republic of Indonesia (hereinafter abbreviated as NKRI) has the right to conduct an investigation process. In this case the investigation according to Article 1 point 5 of the Criminal Procedure Code jo Article 1 point 9 of RI Law No. 2 of 2002, what is meant by an investigation is "A series of investigative actions to search for and find an event that is allegedly a criminal offense to determine whether or not an investigation can be carried out according to the way set out in this law".

After the investigation process has obtained a criminal offense, then proceed to the investigation process. In the investigation process, the investigator has a very important task which is to find and gather evidence and find the suspect. From these evidences it will become increasingly clear that the trial by the public prosecutor is as valid evidence. Therefore the evidence collected by the investigator must be strong, if the investigator has difficulty in the examination because the nature of the case has specificities as in rape crime cases where there must be proven elements of intercourse, the investigator can request the assistance of specialist doctors to make a visum et repertum in order to ensure the elements the.

Regarding evidence in the form of visum et repertum, in the case of rape this case is requested immediately after receipt of the complaint by the investigator. Upon the complaint received, the investigator is then made a Police Report that is a written report made by the National Police officer about the notification given by someone because of rights or obligations under the Law, that a criminal event has occurred or is taking place. After the Police Report is made then a procedure is carried out to obtain a visum et repertum which aims to find out the condition of the victim, especially related to the proof of elements of intercourse and violence / threats of violence in the crime of rape. The making of the post mortem is to be carried out immediately after the receipt of the complaint of rape so that the victim's condition does not change so much and can be known as soon as possible after the rape crime.

The existence of visum et repertum which is always evidence in the investigation of rape, this is possible as stipulated in Article 133 paragraph (1) of the Criminal Procedure Code in conjunction with Article 1 point 28 of the Criminal Procedure Code which regulates the request for assistance of expert information which can be requested by the investigator in order to make clear a criminal case for the purpose of a medical examination carried out against a rape victim is a form of expert testimony as referred to in the two articles of the Criminal Procedure Code provided in the form of a written statement.⁷

Visum et repertum which is made based on the results of medical examinations of rape victims has a very important function for investigators especially to find out

⁷ Kuffal, *Pemahaman Bukti Petunjuk dalam Hukum Pidana*. Press UI, Jakarta, 2011, hal 23.

the element of intercourse that occurs in the victim.⁸ Because the investigator does not have the ability and expertise to prove the sign of intercourse in the rape victim. Investigations by investigators of rape victims are limited to external physical examination and it is not possible to know the sign of intercourse contained in the victim's genitals. In addition to knowing the signs of intercourse, the post mortem also contains the results of the examination of the signs of violence on the victim. Where this element is also an important element in uncovering a crime of rape in addition to the element of intercourse. Where these two elements are the main elements that must be found by investigators in uncovering a rape case.⁹

Visum et repertum in the investigation stage of rape crime is very helpful for investigators in finding and gathering sufficient evidence in addition to other evidence such as statements of victims, witness statements, statements of suspects and examination of other evidence. With the results of visum et repertum against a person suspected of being a victim of rape, an investigator will gain the confidence that a crime in question actually happened and vice versa. Visum et repertum is one of the most important pieces of evidence for investigators to conduct further investigations, such as conducting a search, seizure, detention or other actions.

The role of visum et repertum in the examination of a rape crime that not only plays a role in helping investigators uncover the crime, even this is also important in the examination of the trial of the case, the investigator's effort to ask for making a visum et repertum from the initial stage of the examination of the case is a matter important and must be done. visum et repertum as a documentary evidence in the trial hearing of the case, can be considered from a minimum of two pieces of evidence required for a judge in deciding a case as this is determined in Article 6 paragraph (2) of Act No. 14 of 1970 concerning Basic Provisions Judicial Power.

2. Position of Visum Et Repertum in Criminal Matters

Based on the legal evidence set forth in Article 184 paragraph (1) of the Criminal Code, in the event that there is no forensic medical doctor, the judge may still seek the testimony of a non-expert physician at the trial, though not the expert evidence, but the doctor's evidence The expert himself may be used as a legal instrument and is legally a "witness statement." The non-expert doctor's testimony at trial may be required by the judge, in relation to the physician who has made and signed the completed Visum Et Repertum and is on file or can be obtained by a specialist.

The statement was given after he took an oath or a promise before the judge (Article 186 of the Criminal Procedure Code and his explanation) or was made after giving an expert statement. Stages of the examination, the understanding can be concluded, if connected with Article 133 of the Criminal Procedure Code and its explanation, the request for information provided by a judicial medical expert is called an expert verdict (*deskundige verklaring*) while the information provided by a doctor not a judicial medical expert is called an explanation (*verklaring*).¹⁰ Thus, as explained earlier, in the investigation and prosecution stage, a report made by the

⁸ Tjiptomartono Agung Legowo, *Penerapan Ilmu Kedokteran Kehakiman Dalam Proses Penyidikan*, Karya Unipres, Jakarta, 1982, hal 15

⁹ Syamsuddin, Rahman, "*Peranan Visum Et Repertum Di Pengadilan*", *Peranan Visum Et Repertum Dalam Pembuktian Perkara*, Al-Risalah, Vol. 11, Nomor 1 Mei 2011, Hal.18

¹⁰ KUHAP (Kitab Undang-Undang Hukum Acara Pidana Dan Penjabarannya, Yayasan Pelita Jakarta, 1982, hal. 42

investigator and public prosecutor on the statements of judicial medical experts, doctors not judicial medical experts or other experts may be in the form of:

1. Expert statement: i.e. in the form of a "report" by a medical expert in the judiciary or other experts in accordance with Article 1 point 28 of the Criminal Procedure Code, regarding a matter or subject matter.
2. Expert statement: i.e. information made by a judicial medical expert or doctor, among others in the form of *Visum et Repertum*.¹¹
3. Information: i.e. statements made by doctors, not experts in judicial medicine, are made in writing / "report".

In examinations in court, for the judge the position and role of experts is very important. Everyone who is asked for his opinion as a judicial medical expert (or doctor) or other expert, must provide expert information for justice. All of the above provisions for witnesses, also apply to those who provide expert statements, with the provisions, for those who take an oath or promise will provide the best possible information and according to the knowledge in their field of expertise.

Examination by the judge (Panel of judges) at the hearing, a criminal case file, whether or not there is a *Visum Et repertum*, then the case in question must still be examined and decided. The completeness of the *Visum Et Repertum* in the defendant's case file which was examined by the judge, was handed over to the public prosecutor who had begun to submit to him the "Pro Yustisia" case file by the public prosecutor investigator indeed trying to prove it in the trial, so that the panel of judges was sure about the proof of the defendant's error. For some of the cases examined in court, the Panel of Judges themselves do not absolutely have to base on the *Visum Et Repertum*, as explained earlier. The strength of the evidence from the *Visum Et Repertum* is left to the judge's judgment (panel of judges).

Conclusion

1. The function of *visum et repertum* in relation to the determination of suspects and proof of criminal offenses, we must realize that we are within the scope of the criminal justice system which includes 3 (three) levels of examination, namely:
 - a) Investigation
 - b) Prosecution
 - c) Trial by the court hearing

The existence of *visum et repertum* which is always evidence in the investigation of rape, this is possible as stipulated in Article 133 paragraph (1) of the Criminal Procedure Code in conjunction with Article 1 point 28 of the Criminal Procedure Code which regulates the request for assistance of expert information which can be requested by the investigator in order to make clear a criminal case for the purpose of a medical examination carried out against a rape victim is a form of expert testimony as referred to in the two articles of the Criminal Procedure Code provided in the form of a written statement. *Visum et repertum* in the rape investigation stage is very helpful for investigators in finding and gathering sufficient evidence in addition to other evidences such as victims' statements, witness statements, suspect information and examination of other evidence.

¹¹ Njowito Hamdani., *Ilmu Kedokteran Kehakiman*, Gramedia Pustaka Utama. Jakarta, 1992 ,hal 128.

The role of visum et repertum in the examination of a rape crime that not only plays a role in helping investigators uncover the crime, even this is also important in the examination of the trial of the case, the investigator's effort to ask for making a visum et repertum from the initial stage of the examination of the case is a matter important and must be done. visum et repertum as a documentary evidence in the trial hearing of the case, can be considered from a minimum of two pieces of evidence required for a judge in deciding a case as this is determined in Article 6 paragraph (2) of Act No. 14 of 1970 concerning Basic Provisions Judicial Power.

2. The position of Visum Et Repertum in Criminal Case is valid evidence as mentioned in Article 184 paragraph (1) of the Criminal Procedure Code. The completeness of the Visum Et Repertum in the defendant's case file which was examined by the judge, was handed over to the public prosecutor who had begun to submit to him the "Pro Yustisia" case file by the public prosecutor investigator indeed trying to prove it in the trial, so that the panel of judges was sure about the proof of the defendant's error. For some of the cases examined in court, the Panel of Judges themselves do not absolutely have to base on the Visum Et Repertum, as explained earlier. The strength of the evidence from the Visum Et Repertum is left to the judge's judgment (panel of judges).

Suggestion

Investigation shows a significant and important role in the disclosure of a criminal case that requires special expertise. Law enforcement officers, especially in rape cases related to evidence to find the truth of the occurrence of a criminal offense by collecting evidence, one of them is Visum Et Repertum, in examining the results of Visum Et Repertum, doctors should examine carefully the injuries in the body victim and made provisions or guidelines regarding it.

References

- Agung Legowo, Tjiptomartono, *Penerapan Ilmu Kedokteran Kehakiman Dalam Proses Penyidikan*, Karya Unipres, Jakarta, 1982
- Amir, Amri, *Rangkaian Ilmu Kedokteran Forensik*, Edisi Kedua, Ramadhan, Medan, 2005
- Chazawi, Adami, 2007, *Tindak Pidana Mengenai Kesopanan*, Raja Grafindo Persada, Jakarta.
- Firganefi dan ahmad irzal fardiansyah. *Hukum dan kriminalistik*. Bandarlampung. Justice publisher. 2014

- Hamdani, Njowito, *Ilmu Kedokteran Kehakiman*, Gramedia Pustaka Utama. Jakarta, 1992 ,
- Harahap, Yahya. Pembahasan Permasalahan dan Penerapan KUHAP Penyidikan dan Penuntutan, Sinar Grafika, Jakarta, 2010.
- Kuffal, *Pemahaman Bukti Petunjuk dalam Hukum Pidana*. Press UI, Jakarta, 2011.
- KUHAP (Kitab Undang-Undang Hukum Acara Pidana Dan Penjelasannya, Yayasan Pelita Jakarta, 1982,
- R. Soesilo, Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal, Politeia Bogor, 1982.
- Syamsuddin, Rahman, “*Peranan Visum Et Repertum Di Pengadilan*”, Peranan Visum Et Repertum Dalam Pembuktian Perkara, Al-Risalah, Vol. 11, Nomor 1 Mei 2011,
- Waluyadi, “*Ilmu Kedokteran Kehakiman dalam Perspektif dan Aspek Hukum Praktik Kedokteran*”, Jakarta : Djambatan, 2000.