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REVIEWING THE PRETRIAL JUDGE'S DECISION IN CASE NUMBER: 04/PID.PRAP/2015/PN.JKT.SEL: AS A LEGAL DISCOVERY OR AMBIVALENT LEGAL CONSTRUCTION

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Abstract. The decision of the Pretrial Judge who tried Case Number: 04/Pid.Prap/2015/PN.jkt.Sel became controversial because it included the determination of the suspect in the pretrial object and granted the request of the applicant, Komjen Budi Gunawan, with the main argument of making a legal discovery. The legal problem is whether the legal considerations prepared by the pre-trial judge in examining and deciding the case are correct and whether the pre-trial judge in the a quo case did not exceed the limits of authority in the law. This research is normative legal research with a case approach, statutory approach, conceptual approach and philosophical approach. The research data is in the form of secondary data and processed using qualitative descriptive analysis with deductive thinking logic. The results of the research are 1) in the pretrial lawsuit filed by Budi Gunawan, there is no normative formula that can be used by pretrial judges to assess the validity of the suspect's determination. Considering the formulation of the meaning of Article 1 number 10 jo. Article 77 jo. Article 82 paragraph (1) and paragraph (2) of the Criminal Procedure Code can be seen that whether the suspect's determination is valid or not is not a pretrial object, because it is not regulated. 2) The ambivalence of the pretrial judge's views can be seen in his considerations regarding the meaning of coercive measures as a concept or legal institution.

Keywords: pretrial decisions; judges; legal discovery; legal construction

I. INTRODUCTION

Police Commissioner General Budi Gunawan as the Petitioner submitted a request for a pre-trial lawsuit regarding the determination of the suspect against him, in the Case Register Number 04/Pid.Prap/2015/PN.Jkt.Sel with the Respondent being the Corruption Eradication Commission (KPK) c.q. KPK leadership. The object of the trial is the determination of the Petitioner as a suspect for reasons (among others) as follows: first, pre-trial as regulated in Articles 77 to Article 83 of the Criminal Procedure Code (KUHAP) is a legal effort as a means of control. to examine the legality of the use of authority by law enforcement officials relating to protected human rights, in accordance with the spirit or spirit as implied in the considerations considering letters a and c, as well as the general explanation of number 2 paragraph 6 of the Criminal Procedure Code. Second, the pretrial objects regulated in Article 77 of the Criminal Procedure Code as well as "other actions" regulated in Article 95 paragraphs (1) and (2) are actions of investigators/public prosecutors in the context of exercising their authority which are carried out without legal reasons or are legally flawed, thereby violating the dignity of -a person's human dignity, including determining or establishing a person as a suspect, which is one of the processes of the criminal law enforcement system which must be carried out in accordance with the procedures regulated in the Criminal Procedure Code, because this determination will have legal consequences in the deprivation of certain rights, freedoms, and good names. Petitioner's case.

Third, even though the statutory regulations do not clearly regulate the determination of a person as a suspect as a pre-trial object, judges may not reject the case on the grounds that there is no legal basis, as regulated in Article 5 paragraph (1) and Article 10 paragraph (1) of Law No. . 48/2009 concerning Judicial Power, in fact in accordance with judicial practice the judge has made several legal discoveries related to other actions carried out by investigators/public prosecutors including the determination of suspects such as Pretrial Decision No. 38/Pid.Prap/2012/PN.Jkt.Sel. which basically granted the Petitioner's Petition by stating that "the Respondent's action in naming the Petitioner as a Suspect is invalid according to law." Fourth, the Respondent is not authorized to carry out inquiries and investigations in the a quo case because it is in accordance with the provisions in Article II letter a of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 (Corruption Crime Law). where the Respondent has the authority to carry out investigations and inquiries into criminal acts of corruption involving law enforcement officials, state administrators, and people who are related to criminal acts of corruption committed by law enforcement officials or state administrators, while the Petitioner, according to the alleged criminal act at that time, served as Head of the Career

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Development Bureau of the Republic of Indonesia Police (Karo Binkar POLRI), in this case is not included in the definition of law enforcement officer because he has no authority as an investigator/investigator, nor in the sense of state administrator considering that his position is not Echelon I (one) but Echelon II (two) as specified in the Explanation to Article 2 number 7 of Law Number 28 of 1999 concerning the Administration of a State that is Clean and Free from Corruption. The Respondent submitted an Answer in the Exception and in the Main Case, with the reasons for the Pretrial Petition submitted by the Petitioner which are basically as follows: First, in the Exception: 1) The object of the Pretrial Petition is not the authority of the Pretrial Judge; 2) Premature Pretrial Application; 3) Pretrial Application Petitum is unclear (obscuur libel); and contradict each other.

Second, in the main case: 1) The Respondent has the authority to carry out inquiries and investigate criminal acts of corruption against the Petitioner; 2) The decision made by the Respondent to designate the Petitioner as a suspect was valid because it was carried out based on the law as regulated in Article 21 of the Corruption Eradication Committee Law and was in accordance with the principle of legal certainty which is the fundamental principle of the implementation of the Respondent's duties and authority; 3) The Respondent's use of authority in determining the Petitioner's suspect status is in accordance with the Respondent's objectives so it is not an abuse of authority: 4) The Respondent's decision to determine the Petitioner as a suspect is an action based on the principle of legal certainty which is the foundation for the implementation of the Respondent's authority based on the Corruption Eradication Committee Law. Before handing down his decision, Judge Paperadilan made several legal considerations (among others) as follows: First, the determination of a suspect as a pre-trial object is not regulated by law, while the judge may not reject the case on the grounds that the law does not regulate it, the judge can make legal discoveries using the method Second, all actions of investigators in the investigation process and all actions of the public prosecutor in the prosecution process that have not been regulated in Article 77 jo. Article 82 paragraph (1) jo. Article 95 paragraph (1) and paragraph (2) of the Criminal Procedure Code is determined to be a pre-trial object and the legal institution which has the authority to test the validity of all actions of investigators in the investigation process and all actions of the public prosecutor in the prosecution process is the pre-trial institution. Third, the determination of a suspect is part of a series of investigator's actions in the investigation process, where the determination as a suspect is part of a coercive effort, so the legal institution that has the authority to test and assess the validity of the suspect's determination is the pre-trial institution. Fourth, the investigation process carried out by the Corruption Eradication Commission as alleged is not valid and based on law because the Petitioner is not a legal subject for the perpetrator of a criminal act of corruption which is the authority of the Respondent to carry out investigations, investigations and prosecutions and therefore the a quo determination does not have binding legal force and is based on then the Investigation Order Letter Number Sprin. Dik-03/01/01/2015 dated 12 January 2015 which designated the Respondent as a suspect must also be declared invalid and not based on law and therefore does not have binding legal force.

Based on these considerations, the Pretrial Judge handed down a decision which stated, among other things: 1) Investigation Order Number Sprin. Dik-03/01/01/2015 dated 12 January 2015 which designated the Petitioner as a suspect is invalid and not based on law and therefore the a quo determination does not have binding legal force. 2) The investigation carried out by the Respondent regarding the alleged incident is invalid and has no legal basis and therefore the a quo investigation does not have binding legal force, and 3) The Respondent's determination of the Petitioner as a suspect is invalid. The decision of Judge Sarpin Rizaldi, who tried the case, became controversial because it included the determination of the suspect as a pre-trial object. In this decision, single judge Sarpin Rizaldi granted the applicant's request with the main argument of conducting legal discovery.

II. RESEARCH METHODS

The research method is a study method used to examine legal issues in pre-trial decisions so that the results can be justified from a legal scientific perspective. The type of research used is normative legal research using a case approach, statutory approach, conceptual approach and philosophical approach. Then the research data is secondary data in the form of primary legal materials and secondary legal materials, with data collection techniques through literature study. Then the results of data collection will be analyzed through qualitative descriptive analysis with deductive thinking logic.

III. RESULTS AND DISCUSSION

Legal Considerations by the Pretrial Judge in Examining and Deciding the Case of Komjen Budi Gunawan who was Named a Suspect by the Corruption Eradication Commission

The limits of authority of pre-trial judges according to Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP), pre-trial judges have limited authority which is not as wide as that of a commissioner judge (rechter commissaris) in the Netherlands or judge d'instruction in France, in addition to determining whether an arrest or detention is legal or not. , and confiscation, as well as conducting a preliminary examination of a case. In Article 1 point 10 of the Criminal Procedure Code it is stated that Pretrial is the court's authority to examine and decide on:

1. Whether or not an arrest and/or detention is valid, at the request of the suspect or his family or another party under the suspect's authority;
2. Whether or not the termination of the investigation or prosecution is valid at the request of those interested in upholding law and justice; And

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3. Request for compensation or rehabilitation by the suspect or his family or other parties on their behalf whose case has not been submitted to court.

Limitatively, pretrial matters are regulated in Articles 77 to 88 of the Criminal Procedure Code. Apart from that, there are also other articles that are still related to pre-trial, namely regarding claims for compensation and rehabilitation. This is regulated in Article 95 to Article 97 of the Criminal Procedure Code. The specific authority of pre-trial in accordance with Article 77 to Article 88 of the Criminal Procedure Code is to examine the legality or not of coercive measures in the form of arrest and detention, as well as to examine the legality of stopping the investigation or stopping the prosecution. However, if it is linked to Article 95 and Article 97 of the Criminal Procedure Code, pre-trial authority is actually increased by the authority to examine and decide on compensation and rehabilitation. Compensation in this case is not only related to the consequences of errors in coercive measures, investigation or prosecution, but also compensation for losses resulting from illegal house entry, searches and confiscations. This is in accordance with the Elucidation of Article 95 paragraph (1) of the Criminal Procedure Code, which states, "What is meant by 'loss due to other actions' is loss resulting from house entry, searches and confiscations that are unlawful according to law."

From the provisions of the Criminal Procedure Code relating to Pretrial, it can be seen that Pretrial has very clear and limited authority, namely to examine and decide: 1) Whether or not the arrest, detention, termination of investigation or termination of prosecution is valid; 2) Request for compensation or rehabilitation due to failure to submit a case to court; 3) Request for compensation and/or rehabilitation due to illegal arrest or detention or due to the legal termination of investigation or prosecution; 4) Claims for compensation due to arrest, detention, prosecution and trial or due to other actions in the form of house entry, search and confiscation, without reasons based on law or due to a mistake regarding the person or the law applied; and Requests for rehabilitation for arrest or detention without reason based on the law or a mistake regarding the person or the law applied where the case was not submitted to the district court. Based on the pre-trial authority in a number of KUHAP provisions above, it is clear that pre-trial is only provided by law to test part of the investigator's authority to conduct investigations and part of the public prosecutor's authority to carry out prosecutions, namely arrest, detention, detention, search, confiscation, termination of investigation. , closure of legal cases, and termination of prosecution.

Then the investigator's authority in Article 7 paragraph (1) of the Criminal Procedure Code regulates in detail 10 (ten) authorities, namely: a) receiving a report or complaint from a person regarding a criminal act; b) take the first action at the scene; c) order a suspect to stop and check the suspect's personal identification, d) carry out arrest, detention, search and confiscation; e) carry out inspection and confiscation of letters; f) take fingerprints and photograph a person; g) summon people to be heard and examined as suspects or witnesses; h) bringing in the necessary experts in connection with the case examination; i) terminate the investigation; and j) carry out other legally responsible actions. If there are other actions as regulated in Article 7 paragraph (1) letter j and Article 14 letter i of the Criminal Procedure Code which are carried out by investigators or public prosecutors, the object of the application is the authority of the Pretrial according to Article 1 number 10, Article 77 to Article 88, and Articles 95 to Article 97 of the Criminal Procedure Code are very clear and limitative. This limitation does not open up the opportunity for other objects of pre-trial requests other than those already determined, unless there is the phrase "and other actions of the investigator, namely the public prosecutor" after the sound of Article 1 number 10 letter a or letter b or after the sound of Article 77 letter a or there is a phrase "as well as other actions carried out in the course of investigation or prosecution" after the phrase "according to law" in the first sentence in the Elucidation to Article 95 paragraph (1) of the Criminal Procedure Code.

Legal discovery (rechtsvinding) is the process of searching for legal norms both in statutory regulations and legal norms that exist in society. In conditions where the law is unclear or incomplete, judges as implementers of the law are obliged to explore, follow and understand the legal values and sense of justice that exist in society. In essence, legal discovery by judges is an action to overcome the gap that occurs between the law on paper (law in the books) and the law that lives in reality or that lives in society (law in action, the living law). The role of judges is very important in carrying out legal discoveries, Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, makes the judge's role an obligation of a judge by stating, "Judges and constitutional justices are obliged to explore, follow and understand legal values and a sense of justice that lives in society." One of the instruments is legal discovery which is used by judges, not only to apply the intent and sound of statutory regulations by qualifying concrete events or cases (legal discovery in the narrow sense), but also to fill legal gaps (rechtsvacuum) or interpret a rule. Legislation that is not or is unclear is by expanding the meaning of a statutory provision (legal discovery in a broad sense), through two methods of legal discovery, namely the legal interpretation method and the legal construction method. The legal interpretation method is interpreting the words in the law but still adhering to the words/sound of the regulations, while the legal construction method is logical reasoning to develop a provision in the law that no longer adheres to the same system. In order for the process of legal discovery by a judge to produce quality decisions which ultimately fulfill a sense of justice for the community, the ability to choose the appropriate legal discovery method and which type of legal discovery from the two methods will be used must be well mastered by a judge. According to Andi Hamzah, the types of legal discovery through the interpretation or interpretation method consist of 13 (thirteen) types of interpretation, namely grammatical interpretation (taalkundig), systematic or dogmatic interpretation, historical interpretation (historia

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legis), teleological interpretation, extensive interpretation, interpretation rational (rationeele interpretatie), anticipatory interpretation (anticeperende interpretatie), comparative legal interpretation, creative interpretation (creative interpretatie), traditionalistic interpretation (traditionalistiche interpretatie), harmonized interpretation (harmoniserende interpretatie), doctrinaire interpretation (doctrinaire interpretatie), and sociological interpretation. In the context of interpretation methods, judges must continue to depart from the formulations contained in the law.

The construction method is used when in resolving concrete events the judge is faced with a legal vacuum. Of the several legal discovery methods that are included in the construction method, the "argumentum per analogyam" method or often called the analogy method is the method that tends to be used and is often used. Regarding this method, Prof. Sudikno Mertokusumo stated: sometimes legislation is too narrow in scope. In this case, according to him, to be able to apply the law to the incident, the judge will expand it using the analogical thinking method. By analogy, events that are similar, similar or similar to those regulated in the Law are treated the same. Based on this method, a legal event that has been clearly regulated in statutory regulations may not be applied to other legal events, because the validity of the provisions in the statutory regulations is limited only to legal events that have been determined, while for other legal events it applies on the contrary. Regarding legal construction methods, in criminal law, it is widely accepted that the principle of legality applies, which contains the teaching not to carry out constructions, especially constructions that expand meaning. This can be understood because expanding meaning is the same as formulating new norms. However, extensive interpretation is still acceptable even though it both broadens the meaning. So, what's the difference between the two?

According to Prof. Moeljatno, there are different gradations. Moeljatno calls this a gradual difference between analogy and extensive interpretation. This difference is very significant. In extensive interpretation, the interpreter still adheres to the sound of the rules. It's just that there are words that no longer have the meaning they had when the law was created. Meanwhile, in the analogy, the interpreter no longer adheres to the rule, but rather to the essence or ratio of the rule. Referring to the provisions of the Criminal Procedure Code regarding pre-trial authority, related to the pre-trial lawsuit filed by Budi Gunawan, there is no normative formula that can be used by pre-trial judges to assess the validity of the suspect's determination. This means that, legally speaking, there are no legal rules that can be used as a basis for pre-trial judges to assess the validity of determining whether a person is a suspect. This fact was even acknowledged by the pre-trial judge himself in his decision which stated: Considering, that from the formulation of the meaning of Article 1 number 10 jo. Article 77 jo. Article 82 paragraph (1) and paragraph (2) of the Criminal Procedure Code can be clearly seen, that "whether or not the determination of the suspect is valid" is not included in the pretrial object, because it is not regulated.

Therefore, in his legal considerations, the judge tried to guide and return the issue to the two principles contained in Law Number 48 of 2009 concerning Judicial Power. First, the court is prohibited from refusing to examine, try and decide on a case submitted on the pretext that the law does not exist or is unclear, but is obliged to examine and try it. Second, judges are obliged to explore, follow and understand the legal values and sense of justice that exist in society. Deviations from the principle of legality are only possible by law as implemented in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. Adherence to teachings against material law (materiele wederrechtelijk) in a positive function is a form of the Law Maker's denial of the principle of legality. But it was later canceled by the Constitutional Court in 2006, declaring it to violate the principle of legality and therefore contrary to the constitution. It should be remembered that the Criminal Procedure Code is formal criminal law or criminal procedural law. The Criminal Procedure Code contains provisions regarding how a criminal act is examined in the criminal justice system, which takes place in a process called the criminal justice process. Because the Criminal Procedure Code is procedural law, the provisions in it contain procedures for conducting investigations into criminal acts, including institutions, authority and all actions that can be taken to obtain material truth about the criminal act. Based on a systematic interpretation of several articles above, it shows that pre-trial regulation regulates the court's authority to test the legality of the actions of investigators or public prosecutors, which results in a reduction in a person's human rights. If the action is proven to have been carried out wrongly or not in accordance with procedures regulated by law, then the law provides compensation in the form of compensation and rehabilitation. Actions that have an impact on reducing human rights and can be tested are only actions that take the form of coercion. What includes coercive measures are arrest, detention (vide Article 77 of the Criminal Procedure Code), search, confiscation and examination of documents (vide Article 95). Thus, it is clear that the designation of someone as a suspect is not considered a form of coercion.

The Judge in the Pretrial Case of Komjen Budi Gunawan who was Named a Suspect by the Corruption Eradication Commission (KPK) Acted in accordance with the Limits of Authority in the Applicable Laws or not.

The Criminal Procedure Code does not clearly define what is meant by "sufficient preliminary evidence". However, for the Corruption Eradication Commission, sufficient preliminary evidence is clearly regulated in Article 44 paragraphs (1) and (2) of Law Number 30 of 2002 concerning the Corruption Eradication Commission. In full the article reads: Paragraph (1): If an investigator in carrying out an investigation finds sufficient initial evidence of an alleged criminal act of corruption within no later than 7 (seven) working days from the date the sufficient initial evidence is found, the investigator reports it to the Commission Corruption Eradication. Paragraph (2): Sufficient preliminary

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evidence is deemed to exist if at least 2 (two) pieces of evidence have been found, including but not limited to information or data that is spoken, sent, received or stored, either normally or electronically or optically. In fact, the requirement for sufficient initial evidence to be at least two pieces of evidence as specified in the article above, is in line with the "minimum principle of evidence" regulated in Article 183 of the Criminal Procedure Code. This article determines that a person can only be declared guilty of committing a criminal act if the judge, based on at least two valid pieces of evidence, is convinced that a criminal act has occurred and the defendant is guilty of committing it. Based on the understanding of these articles, to determine someone as a suspect, the requirements for sufficient initial evidence must be met, namely the existence of at least two pieces of evidence (quantitative and qualitative). These two pieces of evidence must of course refer to the existence of a criminal act and that Y is the perpetrator. If the determination of Y as a suspect is carried out by fulfilling these requirements, then the determination is automatically valid because it has been carried out in accordance with applicable regulations. In this depiction, it is understood that testing the validity of determining someone as a suspect is sufficient to do with formal testing, namely:

a. The existence of an investigation warrant is the basis for investigator actions, both in collecting evidence and identifying suspects.
b. There is sufficient preliminary evidence, namely the existence of two valid pieces of evidence.

Such formal testing is related to the existence of pretrial itself, as a procedural legal institution that was created to test whether law enforcement actions in the criminal justice process have been carried out in accordance with applicable procedures. Procedural testing of various law enforcement actions is needed as a tool of horizontal control in the criminal justice system, as well as a guarantee for the protection of the human rights of suspects or defendants. This procedural testing must be considered as an effort to realize procedural justice for suspects or defendants undergoing the criminal justice process. If the actions of the investigator or public prosecutor have been carried out according to procedures (the conditions and procedures determined by law have been fulfilled), then the process must be considered to have provided procedural justice for the suspect/accused. However, the judge's decision in this application has tested the validity of the suspect's determination, not in that way. In other words, the judge did not test the validity in accordance with the applicable procedures, as described above. The judge tests this validity by testing the investigator's authority to carry out an investigation into the criminal act that the suspect is accused of. This can be seen in the judge's considerations in the decision which stated that, because the qualifications for criminal acts of corruption which fall under the authority of the Corruption Eradication Commission as regulated in Article II of the Corruption Eradication Committee Law are not fulfilled, the investigation process carried out by the investigator (respondent) is invalid and unlawful. based on law, and therefore the aquo determination has no binding force. So it appears that the judge stated that the investigator's determination of the suspect was invalid, because the investigation carried out by the investigator was invalid. Because the investigation is invalid, all actions involved in the investigation process, including the determination of the suspect, are also invalid. The judge's examination of his investigative authority again shows that the judge has exceeded the limits of his authority. This is due to the issue of the authority of investigators (whether the Police, Prosecutor's Office or Corruption Eradication Commission) to investigate a particular criminal act, which does not fall within the scope or authority of Pretrial. This issue is the authority of the court which examines the criminal case. The suspect's objection to the authority of law enforcement officers can be conveyed in his objections which are examined in the investigation of his criminal act.

Apart from that, there is an ambivalent legal framework in the pre-trial judge's decision. On the one hand, the judge acknowledged that the essence of pretrial proceedings is related to coercive measures (dwang middelen). However, on the other hand, the judge has actually departed from the legal understanding of what is meant by coercive measures themselves. The pre-trial judge in his decision considered, "that from the formulation of the definition of pre-trial in Article 1 point 10 of the Criminal Procedure Code and the legal norms governing pre-trial authority as stated in Article 77 of the Criminal Procedure Code, it can be concluded that the existence of pre-trial institutions is a means or place to test acts of coercion carried out by law enforcement officials in investigation and prosecution level, whether the coercive measures carried out by investigators at the investigation level and by the public prosecutor at the prosecution level have been carried out in accordance with the provisions and procedures regulated in law or not." So the essence of pretrial proceedings has been correctly understood by judges as a means or place to test coercive measures. However, the next problem lies in the meaning and conceptual understanding of coercive measures themselves. The ambivalence of the pretrial judge's views can be seen in his consideration of the meaning of coercive measures as a concept or legal institution. The pre-trial judge considered that all actions of investigators in the investigation process and all actions of the public prosecutor in the prosecution process were acts of coercion, because they had placed and used the label "Pro Justice" on every action. If this is the meaning, it can also be said that the judge has overly interpreted coercive measures as a legal concept that is commonly understood by legal circles. Indeed, the Criminal Procedure Code does not explicitly mention and provide an understanding of what is meant by coercive measures. The Criminal Procedure Code only introduces several concepts which can be understood in essence as coercive measures, such as arrest, detention, confiscation, and so on.

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IV. CONCLUSION

Based on the results of the analysis and discussion of the legal issues raised, it can be concluded that: 1. The pre-trial examination is a voluntary examination as an effort to achieve procedural justice, but in relation to this case, the judge seems to want to achieve substantial justice by including "determining the suspect as an object element of the new norm in the series of Article 77 letter a of the Criminal Procedure Code into pre-trial authority. This creates legal uncertainty, because it contradicts the principle of Lex Specialis Derogat Legi Generalis, the principle of Noscitur a Sociis, the principle of Ejusdem Generis and the principle of Expressio Unius Exclusio Alterius. With the argumentum a'contrario method of reasoning as one of the legal construction methods for Article 77 letter a KUHAP, it is known that the determination of a suspect is not a pretrial object. 2. The actions of the judge who examined and decided on the pretrial case by the suspect, Komjen Budi Gunawan, exceeded his authority, and the judge's legal logic in forming the elements of the object of the new norm did not include extensive interpretation but was a model of legal construction using an analogous interpretation method which was contrary to the principle of legality and was not permitted under criminal law. Based on the conclusions from the results of this study, the following can be recommended: 1. Considering that the reason for granting the Pretrial Petition by the Pretrial Judge is related to the issue of the Corruption Eradication Committee's authority in carrying out inquiries, inquiries and prosecutions, it is recommended that the Corruption Eradication Commission (KPK) reopen the inquiry and investigation process against the Petitioner by first providing evidence that shows that the Corruption Eradication Committee has complied with all qualifications of Article 11 of Law no. 30 of 2002 concerning the Corruption Eradication Commission as an institution that has the authority to investigate, investigate and prosecute criminal acts of corruption. 2. Considering that this decision will have a broad impact on the criminal investigation process more broadly, the Supreme Court needs to use its supervisory function to ensure that every judge complies with criminal procedural law. 3. Considering that the decision in this case may give rise to legal problems in the future, on the one hand the law does not regulate it, but on the other hand the Pre-trial Judge has declared the determination of the suspect as one of the objects of the Pre-trial, it is recommended that the legislators (government and DPR) immediately revise provisions regarding Pretrial regulated in the Criminal Procedure Code.

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