

**PENERAPAN HUKUM OLEH HAKIM MAHKAMAH AGUNG PADA PUTUSAN
BEBAS DALAM PERKARA KEKERASAN SEKSUAL YANG DILAKUKAN
OLEH AYAH KANDUNG**

**(Studi Kasus Pada Putusan Nomor 36/Pid.Sus/2023/PN Lbb Dan Putusan
Nomor 43/Pid.K/2024)**

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INTISARI

Tingginya angka kekerasan seksual terhadap anak, terutama oleh ayah kandung, menimbulkan kekhawatiran terhadap efektivitas sistem peradilan dalam memberikan perlindungan hukum. Salah satu kasus mencolok ialah Putusan Nomor 36/Pid.Sus/2023/PN Lbb, di mana terdakwa divonis bebas meskipun terdapat alat bukti dan keterangan saksi. Namun, Mahkamah Agung dalam Putusan Nomor 43/Pid.K/2024 akhirnya membatalkan putusan bebas tersebut dan menjatuhkan pidana kepada terdakwa. Penelitian ini bertujuan untuk mengkaji penerapan hukum oleh hakim Pengadilan Negeri dan Mahkamah Agung dalam perkara tersebut. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan studi kasus. Data diperoleh dari bahan hukum primer seperti putusan pengadilan dan peraturan perundang-undangan, serta bahan hukum sekunder berupa literatur hukum. Hasil penelitian menunjukkan bahwa putusan bebas oleh Pengadilan Negeri didasarkan pada asas *in dubio pro reo* karena dianggap kurangnya alat bukti yang meyakinkan. Namun, Mahkamah Agung menilai bahwa bukti dan keterangan korban sudah cukup memenuhi unsur tindak pidana. Kesimpulannya, terdapat perbedaan interpretasi hukum yang signifikan antara dua tingkat peradilan, yang mencerminkan tantangan dalam pembuktian kasus kekerasan seksual terhadap anak. Oleh karena itu, diperlukan penguatan perlindungan saksi dan korban serta peningkatan sensitivitas hakim terhadap kasus serupa agar prinsip keadilan dan perlindungan anak dapat terwujud secara maksimal.

Kata Kunci: *Ayah, Kekerasan, Seksual*

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APPLICATION OF LAW BY SUPREME COURT JUDGES IN ACQUITTING CASES OF SEXUAL VIOLENCE PERPETRATED BY THE BIOLOGICAL FATHER

(Case Study of Decisions No. 36/Pid.Sus/2023/PN Lbb and No. 43/Pid.K/2024)

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ABSTRAK

The high incidence of sexual violence against children, especially by biological fathers, raises concerns about the effectiveness of the judicial system in providing legal protection. A striking example is Decision Number 36/Pid.Sus/2023/PN Lbb, in which the defendant was acquitted despite the presence of evidence and witness testimonies. However, the Supreme Court, through Decision Number 43/Pid.K/2024, overturned the acquittal and imposed a sentence on the defendant. This study aims to examine the application of law by judges at the District Court and the Supreme Court in the aforementioned case. The research method used is normative legal research with a statutory and case study approach. Data were obtained from primary legal materials such as court decisions and statutory regulations, as well as secondary legal materials in the form of legal literature. The findings reveal that the District Court's acquittal was based on the principle of in dubio pro reo due to insufficient convincing evidence. However, the Supreme Court concluded that the available evidence and the victim's testimony sufficiently fulfilled the elements of the criminal offense. In conclusion, there is a significant difference in legal interpretation between the two levels of judiciary, reflecting the challenges in proving sexual violence cases against children. Therefore, it is necessary to strengthen the protection mechanisms for witnesses and victims, as well as to enhance judicial sensitivity in similar cases to ensure justice and the protection of children's rights are fully realized.

Keywords: Father, Violence, Sexual

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