

Monitoring The Trial Concerning The Murder of Munir

Session XXII The Central Jakarta District Court Jakarta, 1 December 2005

Material: Reading the charges
Time: 10.00 -12.00 Western Indonesian Time (WIT)
Place: The Central Jakarta District Court, Central Jakarta, Second floor,
Courtroom 1

The situation in the courtroom

1. Before the trial.

The courtroom is full of the people. It is around 200 people coming including KontraS' activists, The Community of Bojong Concern on Environment, victims of Mei, Tanjung Priok, 65 and Semanggi. They followed closely the court. There are also happening art in front of the courtroom in the second floor, room V. Around 10 police officers standing in front of the courtroom and around the building.

II. The court

At 10.00 WIB, the public prosecutors read the charges consist of 83 pages. They read the charges in sequence.

The Panel of judges all are present:

1. Cicut Setiarso (Chief Judges)
2. Sugito (Member)
3. Ridwan Mansur (Member)
4. Agus Subroto (Member)
5. Liliek Mulyadi (Member)

The legal advisers are:

1. Assegaf
2. Wirawan Adnan
3. Uki
4. Heru Santoso

The public prosecutors are:

1. Domu P Sihite
2. Supardi
3. Saptani
4. Suroto
5. Ade Saputra
6. Giyanto

7. Domu P Sihite
8. Supardi
9. Saptani
10. Suroto
11. Ade Saputra
12. Giyanto

III. Legal examination

In its charges, the public prosecutors stated that the defendant Pollycarpus Budihari Priyanto (PBP) has been proved committing criminal activities as follows:

First : Article 340 of the Penal Code in juncto article 55 (1) of the Penal Code
Second: Article 263 (2) of the Penal Code in juncto article 55 (1) of the Penal Code

The public prosecutors mentioned the legal facts as follows:

First charges: Article 340 of the Penal Code in juncto article 55 (1) of the Penal Code

With the following aspects:

1). Anyone

The defendant Pollycarpus Budihari Priyanto (BPP) has met the requirement as a subject before the law.

2.) Who deliberately

- Based on statement from witness Hian Tian a.k.a Eni, the defendant PBP is a nationalist who has done many things to keep Indonesia as a nation. The defendant perceives Munir's activities have disturbed the government and some people could not accept it including the defendant.
- The defendant receives the schedule for flying 15 days prior to the flight. The defendant should fly to Peking as a pilot between 5 and 9 September.
- On August 31, at 15.00 WIB, the defendant called Garuda's office asking for Chief Pilot Karmel Sembiring but Karmel was not there. The defendant

- told Rohainil Aini that he had duty from Ramelgia Anwar and therefore he should fly to Singapore. The defendant asked to change the schedule to Peking between 5-9 September to Singapore on 6 September.
- On September 2, Suciwati received a call from someone pretended as Pollycarpus from Garuda. He asked Munir's schedule to the Netherlands. Suciwati said that Munir was positive to depart by using Garuda on 6 September. The defendant called Munir through the telephone with the number 08199058.
 - Before departing to the Netherlands, Munir once told Chairul Anam on his feeling. Munir did not feel well since he knew that he defendant knew his schedule.
 - Rohainil wrote a note for changing dated August 31 with the number of the note OFA/219/04 then issued nota number OFA/219/04) dated September 6 based on the letter from the director with the number Garuda/DZ/2270/04 dated August 11 on assigning the defendant. However, the letter did not say anything on checking dumping fuel to and the defendant had no aviation security that would be needed in handling the dumping fuel.
 - The changing on August 31 with the number OFA/210/04 was initially for the flight to Peking. It was changed to stand-bye position on September 7 since the defendant would attend an APG meeting in Ambara Hotel.
 - According to Karmel Sembiring (Chief Pilot) Rohainil does not have the right to sign nota number OFA/210/04 on September 6 since it was for non-active crew or extra crew was not on duty.
 - Indra Setiawan said that he never assigned PBP to go to Singapore. The letter dated August 11, 2004 on supporting the work was only the umbrella while Ramelgia Anwar issued the operational letter. Without a letter from Ramelgia Anwar as Vice President Corporate Security, the defendant flied to Singapore with GA 974 where Munir was also there.
 - The defendant met Munir when both entered the plane. The defendant greeted Munir and offered him the seat by saying that Munir was very famous. Munir accepted the offer then the defendant asked Munir to have the seat in seat 3k. The defendant then informed Brahmanie Hastawati that Munir was his friend and Munir would not sit on 40G (belongs to Munir) but in Premium class 11b.
 - After changing the seat, the defendant did not sit on his seat but walked around near the pantry when he met Oedi, the flight attendant who prepared welcome drink to the passengers. The welcome drink included orange juice and champagne. It was the time when the defendant poured

- some arsenic poison into one of the glass. They put the glass quite far from other glasses and in the front row. Yeti Susmiarti served the drink to passengers and Munir took the orange juice.
- After 45 minutes stop in Changi Airport and after 10 minutes the plane take off from Singapore, Munir started to go to the lavatory several times and had vomitting. Doctor Tarmizi take care Munir by giving some medicine. Three hours before the plane landing in Amsterdam, Munir died.
 - Based on visum et repertum and autopsy report of Munir's body, it was found arsenic in large quantity inside Munir's blood.

3) Committing a criminal act, orders to committing or participating in the committing of that act,

- The defendant met Munir when both entered the plane. The defendant greeted Munir and offered him the seat by saying that Munir was very famous. Munir accepted the offer then the defendant asked Munir to have the seat in seat 3k. The defendant then informed Brahmanie Hastawati that Munir was his friend and Munir would not sit on 40G (belongs to Munir) but in Premium class 11b.
- After that, the defendant did not sit on his seat but walked around near the pantry and he met Oedi, the flight attendant who prepared the welcome drink including orange juice.
- After Oedi Irianto prepared the drink including champagne and orange juice, Yeti Susmiarti, the flight attendant, served the drink and Munir took one orange juice in the front row, separated from the others and Munir drunk the orange juice.

Based on the above facts, the prosecutors perceives that the first charge of article 340 in juncto article 55 (1) of the Penal Code has been proved.

b. The second charges

Article 263 (2) of the Penal Code in juncto of article 55 (1) of the Penal Code

With the following aspects:

1) Anyone

The defendant Pollycarpus Budihari Priyanto (BPP) has met the requirement as a subject before the law.

2) Who deliberately

- Rohainil Aini, based on an order by telephone from the defendant saying he got assignment from Internal Security (Ramelgia Anwar), has changed the note number OFA/219/04 dated September 6, 2004 signed by herself. The defendant promised that Ramelgia would contact Karmal Sembiring and based on the letter from the director dated August 11, 2004, to issue Gendec on which the name of the defendant listed there as an extra crew to Singapore without consent of Karmal Sembiring or Ramelgia Anwar.
- The assignment letter from the director dated August 11 with the number Garuda/DZ-2270/04 signed by the Director Indra Setiawan was only in general and did not mention specific case such as Internal Security unit.
- Ramelgia Anwar never assigned the defendant to Singapore for special duty but gave him guidance to complete the job that is in Surabaya-Denpasar-Singapura-Sydney-Hongkong dan Jeddah
- Ramelgia Anwar made letters to chief pilot Karmal Sembiring on the defendant's duties for Surabaya-Denpasar-Singapura-Sydney-Hongkong-Jedah:
 - Number of the letter IS/117/04 dated August 15, 2004 signed by Ramelgia Anwar on September 15.
 - Number of the letter IS /1177/04 dated September 4, 2004 signed by Ramelgia on September 17.

The letter on September 4 signed on September 17 is similar to the letter on September 15, also signed by Ramelgia on September 15. Therefore, the letter with number IS/1177/04 dated September 4 signed by Ramelgia Anwar was no longer valid.

- Karmal Sembiring never receive a call from Ramelgia Anwar on assigning the defendant to Singapore and Karmal never gave permission to the defendant. On the signing of the letter number OFA/219/04 dated September 6, 2004, the letter should be signed by Karmel Sembiring as Chief Pilot and not by Rohainil.
 - *Based on the note number OFA/219/04 dated September 6 issued by Rohainil Aini on behalf of the Chief Pilot is not valid. It is the reason the defendant gets privileges since his name is now on Gendec. According to an expert, DR. Chairul Huda, SH, MH, the note with number OFA/219/04 on 6 September issued by Rohainil*

on behalf of Chief Pilot Karmal Sembiringi not valid since Rohainil has no authority.

- *The letter made by Ramelgia Anwar with number IS/1177/04 dated September 4, 2004 while it was made on September, 17, 2004 to authorize the departure of the defendant to Singapore on September 6, is also not valid since the letter was mad eto explain something happened before the letter was made.*

- The exhibits of invalid and fake letter are:
 1. Note of changing with number OFA/219/04 dated September 6, 2004.
 2. Inter office letter with number IS /1177/04 dated September 4, 2004.
 3. Inter office letter with number IS /1177/04 dated September, 15, 2004.

The note with number OFA/219/04 dated September 6, 2004 put the name of the defendant in Gendec with all the facilities. The inter office letter with number IS/1177/04 dated September 4, 2004 used by the defendant as a legal basis to justify his departure to Singapore. Theefore, deliberate aspect has been proved under the law.

3) Using invalid and fake letter or imitation of the original

The prosecutor quoted Arrest Hoge Raad that says:

"Using a fake letter is one criminal act besides making the fake letter"

"Anyone orders the others to show a fake letter or made as an imitation could be viewed as using the fake letter"

JPU said that based on the facts during the court:

- Rohainil made a note of changing with number OFA/219/04 dated September 6, 2004 based on request of the defendant and Rohainil has no authorization to sign the note.
- The note with number OFA/219/04 dated September 6, 2004 which is invalid and illegal, has been used as if it was legal by sending it to schedule division to put the name of the defendant on the Gendec.
- Karmal Sembiring never receive a call from Ramelgia Anwar on the assignment of the defendant to Singapore, Karmal never give his

permission to the defendant, and he should sign the note with number OFA/219/04 dated September 6, 2004 since he is the chief pilot and not by Rohainil.

- Ramelgia Anwar never assigned the defendant to Singapore for special duty but gave him guidance to complete the job that is in Surabaya-Denpasar-Singapura-Sydney-Hongkong and Jeddah.
- The letter with number IS/1177/04 dated September 4, 2004 signed by Ramelgia Anwar on September 17, 2004 about the general duties for the defendant is similar with the letter with number IS/1177/04 dated September 15, 2004 signed by Ramelgia on September 15 2004. Therefore, the letter with number IS/1177/04 dated September 4, 2004 is not valid. However, Ramelgia Anwar used the letter to cover the cost of the travel by the defendant on September 6. On the other side, the note of changing with number OFA/219/04 dated September 6 was used to justify the defendant's departure on September 6 with GA 974.
- The letter with number IS/1177/04 dated September 4 2004 was made by VP (Vice President) of corporate security based on the incorrect information from the defendant and was not inline with the date when the letter was written. Therefore, the letter is illegal, invalid and it is a fake. The letter can not be used as a basis to cover the cost of the travel by the defendnat since the basis is not valid and illegal.
- The defendant should not easily influence Ramelgia position as VP security. Therefore, on the letter with number IS/II77/04 dated Sepetember 4, 2004, both of the defendant and Ramelgia should be responsible for making and using illegal letter.

4) Using the letter might cause loss

- Since the name of the defendant on the gendec, he got all facilities to fly from Jakarta to Singapore round trip as extra crew in business class, stay one night in Apollo Hotel in Singapore, and pickup service in Singapore. Garuda will pay all the costs. The issue of Gendec is based on assignment letter number OFA/219/04 dated September 6, 2004.

Based on the facts, using the letter has made Garuda loss.

5) Aspects of committing, orders to commit or participates in committing

The prosecutor quoted POMPE followed by Hooge Raad that participates includes two things:

1. There is cooperation between the two persons
2. The two persons are aware on what are they doing

Participating aspects

- Based on the order by the telephone from the defendant saying that he was assigned by Internal Security M. Ramelgia Anwar, has made changing note with number OFA/219/04 dated September 6, 2004 signed by Rohainil, since the defendant promised Ramelgia Anwar would ask permission to chief pilot Karmal Sembiring. Moreover, based on the assignment letter from the director of Garuda with number Garuda/DZ-2270/04 dated August 11, 2004, to issue Gendec on which the name of the defendant listed there as an extra crew to Singapore. It shows that the witness Rohainil Aini has made a letter which makes possible for the defendant to get extra facilities as an extra crew without permission from her supervisor, chief pilot Karmal sembiring.
- The assignment letter from the director dated August 11 with number Garuda/DZ-2270/04 signed by the director Indra Setiawan is only for general duties and not for special duties such as Internal Security.
- Ramelgia Anwar never assigned the defendant to Singapore for special duty but gave him guidance to complete the job that is Surabaya-Denpasar-Singapura-Sydney-Hongkong and Jeddah
- The letter with number IS/1177/04 dated September 4, 2004 signed by Ramelgia Anwar, despite the fact that it was written on September 17, 2004 to justify the departure of the defendant to Singapura on September 6, is also a fake letter since it contained inaccurate information. The date and the content is inaccurate since it explains something happened before the letter is made. *Therefore, the letter with number IS/1177/04 dated September 4, is not valid.*

The defendant has used the changing note with number OFA/219/04 dated September 6, 2004 and inter office corespondence with number IS/1177/04 dated September 4, to justify his departure to Singapore on September 6 with GA 974

Based on the facts above, the doers has awareness between them to do the activities and there is inter relation between them that is the awareness of the defendant M. Ramelgia Anwar using the letter

Based on Pompe and Moeljatno opinion, as well previous practice, if someone cooperates directly to do something and the plan is perfect and complete, then there is no problem on which one is doing criminal act since both the defendant and M Ramelgia Anwar have used interoffice letter dated September 4, 2004. Therefore, the defendant PBP could be classified as "Participates" as stated in article 55 (1) of the Penal Code..

Based on the facts above, "participating" aspect has been proved under the law.

VI.The Charges

Based on legal descriptions above, the defendant has been proved committing criminal acts. The following are the advantage and disadvantages aspects of the defendant:

Disadvantages

The defendant did not commit to the truth and he is not honest in order to avoid the consequence of his activities.

Advantages

The prosecutor found no advantages aspects for the defendant.

Charges

1. Stating that the defendant Pollycarpus Budihari Priyanto has been legally proved committing criminal act "planning a murder and using illegal letter" as stipulated in article 340 of the Penal Code in juncto article 55 (1) and article 263 (2) in juncto of article 55(1) of the Penal Code.
2. The defendant Pollycarpus Budihari Priyanto should get **LIFE SENTENCE**. The defendant also should remain in the custody.

The Exhibits

1. One page original letter with Garuda Indonesia header on top with number Garuda/DZ-2270/04 dated August 11, 2004 on the assignment of PBP signed by Garuda's director, Indra Setiawan.
2. One page original letter inter office corespondence with Garuda Indonesia header on top with number OFA/1177/04 dated September 4, 2004 on the assignment to the defendant signed by Ramelgia Anwar.
3. One page original letter inteoffice corespondence with Garuda Indonesia header on top with number OFA/1177/04 dated September 15, 2004 on the assignment to the defendant signed by Ramelgia Anwar.
4. Three original letters dated September 8, 2004 signed by Pollycarpus addressed to VP corporate Security of Garuda.
5. Two original letters dated September 8, 2004 signed by Pollycarpus addressed to Operational manger of Garuda.
6. 1 piles original letters dated September 8, 2004 adressed to VP corporate Security PT Garuda signed by the defendant Pollycarpus on assignment report with number PDZ-2270-04.
7. 1 page original Tax Invoice Novotel Hotel Apollo Singapura on the defendnat's name: Pollycarpus F/) GA 826 room No. 1618, arrived at September 6, departed at September 7, 2004.
8. Original monthly schedule of the defendant, Pollycarpus dated August 1 until September 26, 2004.
9. 1 original ID card of Pollycarpus No.522659, Occupation: Aviation Security issued on June 16, 2004 signed by Vice President Human Resources Management, Daan Ahmad.
10. 1 original General Declaration (Gendec) of the flight from Singapore to Amsterdam dated September 7, 2004.
11. 1 page foto copy of a letter from pilot chief pilot A 330 signed by Rohainil Aini, note OFA/210/04 dated August 31, 2004 on requesting to change the schedule of the flight for Pollycarpus.
12. 1 page foto copy of a letter from chief pilot A 330 signed by Rohainil Aini, Note OFA/219/04 dated September 6, 2004 on requesting to change the schedule of the flight for Pollycarpus.
13. I pile of documents from *kininklijke merechaussee distric schipol algemene recherche, dossier onderzoek niet batuurlike dood Munir Geboren 08-12-1965 te Malang, Indonesia.*

14. I foto copy of a letter, "*Verslog betreffende een niet natuurlijke dood*", issued by HB Dammen as "*de Officer Van Justitie in het arrondissement haarlem*" dated September 7, 2004.
15. A letter "*Voor Bevindingen*" issued by dr. R. Visser as patholog from Menisterie Van Justitie Nederlands Forensich Instituut at Rijkswijk dated September 8.
16. Sixteen pages of pictures of Munir's body.
17. A letter from dr. R. Visser of NFI to Mr. E. Visser, an officer Arrondissementparket Haarlem dated October 13.
18. A letter of the result of psot mortem examination postmortem pro justitia No. 04-419/R102 made by dr. R. Visser dated October 13, 2004.
19. A letter "*Deskundigenrapport, Voorlopig rapport*" issued by dr. K.J. Lusthov, apotheker-toxicoloog of Ministerie Van Justitie-Nederlands Forensich Intituut, Zaaknummer 2004.09.08.036 Uw Kenmerk PBS/XPOL Nummer: PL278C/04-08133, Sectie Nummer: 2004419, dated November 1, 2004
20. A letter "*Deskundigenrapport, Voorlopig rapport*" issued by dr. K.J. Lusthov, apotheker-toxicoloog of Ministerie Van Justitie-Nederlands Forensich Intituut, Zaaknummer 2004.09.08.036 Uw Kenmerk PBS/XPOL Nummer: PL278C/04-08133, Sectie Nummer: 2004419, dated November 4, 2004.
21. A copy of letter on submitting the legalized documents from Ministerie van Justitie to The Indonesian Embassy dated November 25, 2004.
22. 1 foto copy, legalized by General Declaration on the flight from Jakarta-Singapura dated September 6, 2004
23. One memo pad belongs to the defendant, Pollycarpus
24. I handphone Nokia, casing: brown and black including Sim card with the number 081596690617
25. Handphone Nokia 921, CE 168 Type RAE-3N
26. Simcard from Telkomsel with the number No. 6210100013006566
27. Munir's clothes during the flight from Jakarta to Singapore to Amsterdam.
28. A note book, Acer Travel Mate 4000 Model ZL I including the bag.

The exhibits were submitted to The Central Jakarta Attorney to be used as exhibits in other case.

Stated that the defendant should pay the cost of the case amount to Rp 2.500,- (dua ribu lima ratus rupiah) or US\$) 0.25

The dossiers of the charges read and submitted in the court on Thursday, December 1, 2005, signed by **The Public Prosecutor, Domu P Sihite, SH, MH, (The Attorney with Registered Number 230016855)**