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The Supreme Court's Authority to Adjudicate a Case on Its Own in Embezzlement and Money Laundering Proceedings: A Study of Decision No. 3950 K/Pid.Sus/2024

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Abstract

The authority of the Supreme Court to adjudicate a criminal case on its own following the annulment of a lower court judgment raises important questions concerning the scope of cassation review and the principle of judicial hierarchy. This issue is particularly significant in cases involving multiple offences, such as embezzlement and money laundering, where the factual and legal relationship between predicate and subsequent offences requires comprehensive judicial assessment. This study examines Supreme Court Decision No. 3950 K/Pid.Sus/2024, in which the Supreme Court granted the public prosecutor's cassation and annulled the judgment of the Central Jakarta District Court before adjudicating the case itself. The research aims to analyse the legal basis, limits, and implications of the Supreme Court's authority to render its own judgment at the cassation stage. A normative juridical method is employed using statutory, conceptual, and case approaches. The analysis focuses on the procedural framework governing cassation, the Supreme Court's corrective jurisdiction, and the relationship between judicial fact-finding and legal review. The study argues that adjudicating the case itself may serve judicial efficiency and corrective justice, but such authority requires strict justification to prevent cassation from becoming a de facto retrial. The decision demonstrates the importance of distinguishing errors of law from factual reassessment while ensuring that defendants' procedural rights remain protected. The study contributes to the debate concerning the appropriate boundaries of Supreme Court intervention in Indonesian criminal proceedings.

[*Kewenangan Mahkamah Agung untuk mengadili kasus pidana secara mandiri setelah pembatalan putusan pengadilan tingkat bawah menimbulkan pertanyaan penting mengenai ruang lingkup peninjauan kasasi dan prinsip hierarki peradilan. Isu ini sangat signifikan dalam kasus-kasus yang melibatkan beberapa tindak pidana, seperti penggelapan dan pencucian uang, di mana hubungan faktual dan hukum antara tindak pidana pokok dan tindak pidana susulan memerlukan penilaian yudisial yang komprehensif.*

Studi ini meneliti Putusan Mahkamah Agung No. 3950 K/Pid.Sus/2024, di mana Mahkamah Agung mengabulkan kasasi jaksa penuntut umum dan membatalkan putusan Pengadilan Negeri Jakarta Pusat sebelum mengadili kasus tersebut sendiri. Penelitian ini bertujuan untuk menganalisis dasar hukum, batasan, dan implikasi kewenangan Mahkamah Agung untuk memberikan putusannya sendiri pada tahap kasasi. Metode yuridis normatif digunakan dengan pendekatan hukum, konseptual, dan studi kasus. Analisis ini berfokus pada kerangka prosedural yang mengatur kasasi, yurisdiksi korektif Mahkamah Agung, dan hubungan antara penemuan fakta yudisial dan peninjauan hukum. Studi ini berpendapat bahwa mengadili kasus itu sendiri dapat meningkatkan efisiensi peradilan dan keadilan korektif, tetapi kewenangan tersebut memerlukan justifikasi yang ketat untuk mencegah kasasi menjadi pengadilan ulang de facto. Putusan tersebut menunjukkan pentingnya membedakan kesalahan hukum dari penilaian ulang fakta sambil memastikan bahwa hak-hak prosedural terdakwa tetap terlindungi. Studi ini berkontribusi pada perdebatan mengenai batasan yang tepat dari intervensi Mahkamah Agung dalam proses pidana di Indonesia.]

Keywords: cassation, Supreme Court, adjudication, embezzlement, money laundering, judicial authority

Introduction

The authority of the Supreme Court to adjudicate a criminal case on its own after annulling a judgment of a lower court raises a fundamental question concerning the institutional character of cassation within the Indonesian criminal justice system. Cassation is conventionally understood as a legal review mechanism through which the Supreme Court examines whether a lower court has correctly applied the law, rather than as an ordinary retrial of factual matters. In the Indonesian system, this function is commonly expressed through the distinction between the Supreme Court as *judex juris* and the lower courts as *judex facti*. Nevertheless, the Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana* or KUHAP) expressly permits the Supreme Court, under particular circumstances, to annul a lower court judgment and adjudicate the case itself. The coexistence of these two principles creates an important doctrinal tension: if the Supreme Court is principally a *judex juris*, to what extent may it determine the final outcome of a criminal case without transforming cassation into a de facto retrial?

This question becomes more complex in cases involving more than one offence, particularly where embezzlement functions as a predicate offence for money laundering. Money laundering is structurally connected to the criminal conduct from which the assets originate, although Indonesian law does not require the predicate offence to be adjudicated in a separate prior proceeding. Article 2 paragraph (1) of Law No. 8 of 2010 includes embezzlement among the offences capable of constituting predicate crimes for money laundering. The relationship between the predicate offence and the subsequent handling of illicit assets therefore requires the court to establish both the underlying criminal conduct and the subsequent conduct involving the proceeds of crime. Scholars have emphasized that the relationship between predicate offences and money laundering remains one of the most important doctrinal questions in Indonesian criminal law, particularly because Article 69 of Law No. 8 of 2010 provides that the predicate crime need not be proven beforehand. (Alkostar 2013; Chandra and Okta 2017).

Supreme Court Decision No. 3950 K/Pid.Sus/2024 provides a particularly important case study for examining this issue. The case concerns Indah Harini binti Soeharno and originated from Central Jakarta District Court Decision No. 476/Pid.Sus/2023/PN Jkt.Pst. The Supreme Court's official decision directory records that the case was decided on July 8, 2024, under the classification of special criminal law concerning money laundering. The Court granted the public prosecutor's cassation, annulled the District Court judgment, and expressly stated “MENGADILI SENDIRI”—adjudicating the case itself. The Supreme Court then declared the defendant legally and convincingly guilty of embezzlement and money laundering and imposed four years' imprisonment and a fine of IDR 500 million, with three months' imprisonment in lieu of the fine if unpaid. The judgment therefore constitutes a direct example of the Supreme Court exercising its corrective authority while simultaneously determining the substantive criminal liability and sentence of the defendant.

The factual background is also relevant to understanding the legal problem. The case originated from an erroneous banking transaction involving a tax refund. Available case materials indicate that a system error resulted in an amount denominated in Indonesian rupiah being credited to the defendant's foreign-currency account in pounds sterling, producing a substantial excess payment. The defendant subsequently retained and used the funds despite the bank's efforts to recover them. The case was consequently constructed around the relationship between the accidental receipt of the funds, the defendant's subsequent conduct, embezzlement under Article 372 of the Criminal Code, and money laundering under Law No. 8 of 2010. The factual circumstances make the case particularly valuable because the alleged criminality did not originate in an intentional fraudulent transfer by the defendant; rather, it emerged from what was initially a banking error and was allegedly transformed into criminal conduct through the defendant's subsequent treatment of the funds.

The case consequently raises two interconnected questions. The first concerns substantive criminal liability: when funds are mistakenly transferred to a person's account, under what circumstances can subsequent possession and use of those funds constitute embezzlement? The second concerns procedural authority: once the lower court has rendered a judgment that the Supreme Court considers legally erroneous, under what conditions may the Supreme Court not merely correct the law but annul the judgment and adjudicate the defendant's guilt and sentence itself? The second question is the principal focus of this study because it concerns the institutional boundaries of cassation and the relationship between legal review and judicial fact-finding.

The statutory framework is principally found in Articles 253, 254, 255, and 256 of the Criminal Procedure Code. Article 253 establishes the principal grounds for cassation, including circumstances in which a court has failed to apply a legal rule, applied it incorrectly, or failed to follow the requirements prescribed by law. Article 254 regulates the Supreme Court's authority to reject a cassation application where the asserted grounds are not justified. Article 255 addresses the consequences of annulment and expressly provides circumstances in which the Supreme Court may adjudicate the case itself. Article 256 further establishes the consequences of granting cassation and annulling the challenged judgment. Indonesian legal scholarship has consistently recognized that the Supreme Court may adjudicate a case itself after identifying a legal error, although the precise boundaries between legal correction and factual reassessment remain contested. (Mayendra 2024).

The distinction between *judex juris* and *judex facti* is therefore central to this study. The Supreme Court's position as *judex juris* is intended to prevent cassation proceedings from becoming a repetition of the trial. The lower courts are institutionally responsible for establishing facts through examination of witnesses, documents, expert evidence, and other admissible evidence. The Supreme Court's role is principally to determine whether the law has been correctly applied to those established facts. Recent scholarship concerning the boundaries of Supreme Court authority similarly emphasizes that cassation review is principally concerned with the correctness of legal application, while factual reassessment risks exceeding the traditional boundaries of *judex juris*.

Previous studies have examined the authority of the Supreme Court to adjudicate cases itself following the annulment of lower-court decisions. Mayendra (2024), for example, concludes that the Supreme Court may annul a lower court judgment and adjudicate the case itself where an error in the application of law has been established. Other case studies have similarly concluded that the authority to adjudicate independently after granting cassation is grounded in Articles 255 and 256 of the Criminal Procedure Code. Nevertheless, much of this literature focuses on the general legality of the Supreme Court's intervention. Less attention has been directed toward the boundary between permissible legal correction and impermissible factual retrial in a case where the Supreme Court simultaneously determines liability for a predicate offence and money laundering.

Research concerning Decision No. 3950 K/Pid.Sus/2024 has primarily focused on the application of embezzlement and money-laundering provisions to the mistaken transfer of funds. Recent scholarship describes the case as involving a banking-system error that resulted in a substantial amount of money being credited to the defendant's account and examines whether subsequent use of the funds satisfied the elements of embezzlement and money laundering. This literature is valuable for understanding the substantive offences, but it leaves a procedural question insufficiently explored: whether the Supreme Court's decision to adjudicate the case itself remains consistent with the structural limitations of cassation review.

The urgency of this research lies in the need to maintain an appropriate equilibrium between judicial correction and procedural fairness. If the Supreme Court were unable to adjudicate a case itself after identifying a legal error, cassation could become unnecessarily inefficient because the case might have to be remanded for another judgment. Conversely, if the Supreme Court routinely resolves factual questions at cassation, the distinction between cassation and trial would lose practical significance. Such a development could undermine judicial hierarchy, the parties' opportunity to contest factual findings, and the institutional allocation of responsibilities among courts. The legitimacy of Supreme Court intervention therefore depends upon establishing clear criteria for determining when *adjudicating itself* constitutes a lawful consequence of correcting a legal error rather than an unauthorized retrial.

This study employs a normative juridical method using statutory, conceptual, and case approaches. The statutory approach examines the Criminal Procedure Code, Law No. 48 of 2009 concerning Judicial Power, the Criminal Code provisions governing embezzlement, and Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering. The conceptual approach examines cassation, *judex juris*, *judex facti*, judicial correction, procedural fairness, predicate offences, and judicial hierarchy. The case approach focuses on Supreme Court Decision No. 3950 K/Pid.Sus/2024 and its relationship with Central Jakarta District Court Decision No. 476/Pid.Sus/2023/PN Jkt.Pst. Secondary legal materials consist primarily of scholarly articles concerning cassation authority, money laundering, predicate offences, and judicial reasoning.

The contribution of this article is to develop a more precise framework for assessing the Supreme Court's authority to adjudicate a criminal case on its own. It argues that "adjudicating itself" is legally compatible with the Supreme Court's *judex juris* function when it represents the legal consequence of correcting an identifiable error in the application of law to facts already established by the *judex facti*. It becomes problematic, however, when the Supreme Court independently reconstructs disputed facts or evaluates evidence in a manner equivalent to a first-instance trial. Decision No. 3950 K/Pid.Sus/2024 therefore provides an appropriate basis for examining the permissible limits of Supreme Court intervention.

The Institutional Position of the Supreme Court in Criminal Cassation

The Indonesian judicial hierarchy assigns different functions to different levels of adjudication. District Courts and High Courts generally operate as *judex facti*, meaning that they examine evidence and establish the facts relevant to criminal liability. The Supreme Court, by contrast, performs the principal function of *judex juris*, examining whether the law has been correctly interpreted and applied. This institutional distinction is not merely terminological. It reflects an allocation of judicial responsibility designed to prevent repetitive examination of evidence while ensuring uniformity in legal interpretation.

The distinction is particularly important in criminal cases because factual findings are closely connected with the credibility of witnesses, documentary evidence, expert testimony, and the overall evidentiary record. A trial court has the institutional capacity to hear evidence directly and assess its probative value. The Supreme Court ordinarily operates on the basis of the record generated below. Consequently, cassation should not ordinarily provide a second opportunity for parties to reconstruct the factual narrative of the case.

Article 253 of the Criminal Procedure Code provides the statutory foundation for this approach. Cassation is available when the law has not been applied or has been applied incorrectly, when the manner of adjudication does not comply with statutory requirements, or when the court has exceeded its jurisdiction. These grounds indicate that cassation is directed principally toward legal error rather than ordinary disagreement concerning the evidentiary weight of individual facts. The Supreme Court's institutional function is therefore corrective rather than duplicative.

Nevertheless, the distinction between law and fact is not always absolute. Legal rules must be applied to concrete facts, and determining whether a lower court correctly applied a legal provision may require some examination of the factual findings on which the legal conclusion rests. This produces what may be described as a functional overlap between legal review and factual analysis. Recent scholarship concerning the boundaries of the Supreme Court's *judex juris* function recognizes precisely this difficulty: a court may need to examine the factual foundation of a judgment to determine whether the lower court has committed an error of law, without thereby becoming a full *judex facti*.

The Supreme Court's own institutional research has also recognized that its jurisprudence occasionally involves circumstances in which it acts beyond the conventional *judex juris* model. Research published by the Supreme Court's Research and Development body notes that, in certain circumstances, the Supreme Court has annulled *judex facti* decisions and adjudicated cases itself. The institutional study specifically connects this authority with the statutory framework governing cassation and notes that sentencing ordinarily belongs to the *judex facti*, although particular procedural circumstances may justify Supreme Court intervention.

This institutional structure explains why the phrase “mengadili sendiri” should not automatically be interpreted as meaning that the Supreme Court conducted a new trial. In Indonesian procedural law, adjudicating itself can be the statutory consequence of annulling an erroneous lower-court decision. The critical issue is therefore not the existence of the power itself but the basis and manner in which the power is exercised.

Decision No. 3950 K/Pid.Sus/2024 is significant precisely because the Supreme Court did not merely alter a sentence. It granted the prosecutor's cassation, annulled the Central Jakarta District Court's judgment, and then independently declared the defendant guilty of embezzlement and money laundering and imposed a new sentence. The breadth of this intervention requires careful examination of whether the Supreme Court's reasoning remained anchored to legal correction or instead involved a substantive reconstruction of facts.

The appropriate doctrinal position is therefore that *mengadili sendiri* is permissible where the lower court's factual findings provide an adequate basis for applying the correct law. In such circumstances, remanding the case would serve little procedural purpose because the relevant facts have already been established and only the legal qualification is defective. Conversely, where the Supreme Court's conclusion depends upon new factual findings that were not established by the lower courts, the legitimacy of adjudicating the case itself becomes substantially more questionable.

The Statutory Basis for the Supreme Court to Adjudicate the Case Itself

The authority of the Supreme Court to adjudicate a case itself after granting cassation is expressly contemplated by the Criminal Procedure Code. Article 255 distinguishes between different consequences of annulment, including situations in which the lower court has incorrectly applied or failed to apply a legal provision. Article 256 then establishes the consequence of granting cassation and annulling the challenged judgment. The statutory structure demonstrates that the Supreme Court is not invariably required to return the case to the lower court.

This is important because the phrase “cassation” might otherwise suggest that the Supreme Court's only possible function is to affirm or annul. Indonesian procedural law adopts a more functional model. When the Supreme Court finds a legal error and has a sufficient evidentiary and factual record to determine the proper legal outcome, it may itself issue the judgment that should have been rendered by the lower court. Indonesian jurisprudence has repeatedly employed this mechanism. Scholarly analyses of cassation decisions have therefore recognized that *mengadili sendiri* may constitute a lawful manifestation of the corrective function of cassation.

The statutory authorization, however, should not be interpreted as unlimited. The existence of a power to adjudicate itself does not abolish the distinction between cassation and trial. Rather, the authority should be interpreted systematically with Article 253. If the Supreme Court's jurisdiction at cassation is triggered by specified legal errors, its subsequent adjudication must remain connected to the correction of those errors. The Court cannot use Article 255 or

Article 256 as an independent procedural basis for undertaking an unrestricted reassessment of the entire case.

A useful analytical distinction can therefore be made between legal substitution and factual substitution. Legal substitution occurs when the Supreme Court accepts the factual findings established below but concludes that those facts satisfy a different legal rule or legal qualification. Factual substitution occurs when the Supreme Court rejects the lower court's factual findings and replaces them with its own assessment of disputed evidence. The former is generally consistent with the *judex juris* function; the latter risks transforming cassation into a retrial.

This distinction becomes particularly important where a lower court has acquitted or otherwise failed to convict a defendant despite factual findings that may support criminal liability. If the lower court's error consists of applying the wrong legal standard to facts already established, the Supreme Court can correct the legal conclusion. Indonesian case law contains numerous examples in which the Supreme Court has granted cassation and adjudicated itself after concluding that the lower court had incorrectly applied the law.

The legal basis for the Supreme Court's intervention in Decision No. 3950 K/Pid.Sus/2024 must therefore be understood within this statutory structure. The official judgment confirms that the Court granted the prosecutor's cassation, annulled Decision No. 476/Pid.Sus/2023/PN Jkt.Pst, and then adjudicated the case itself. The procedural form of the judgment is therefore clearly authorized by the existing framework. The more difficult question is whether the substantive use of that authority remained within the permissible limits of cassation.

Judicial efficiency provides an important justification for the *mengadili sendiri* mechanism. Requiring a new trial every time a legal error is identified could produce unnecessary delay, increase litigation costs, and prolong uncertainty for both the defendant and the prosecution. In criminal proceedings, delay can have particularly serious consequences because defendants may remain incarcerated during the proceedings and victims or affected institutions may remain without final resolution. The authority to adjudicate itself therefore serves the principle of procedural economy.

Nevertheless, efficiency cannot be treated as a sufficient justification by itself. Criminal procedure protects fundamental rights, including the right to a fair hearing and the opportunity to challenge the factual basis of criminal liability. A procedural mechanism that expedites adjudication at the expense of these guarantees would undermine the legitimacy of the criminal justice system. Thus, judicial efficiency must operate within, rather than outside, the limits of due process.

The appropriate interpretation is consequently a conditional one: the Supreme Court may adjudicate a case itself after annulment where the factual record is sufficiently complete, the legal error is identifiable, and the resulting decision can be reached without undertaking a new trial. This interpretation simultaneously gives effect to Articles 253–256 and preserves the institutional distinction between cassation and first-instance adjudication.

Embezzlement and Money Laundering as Interconnected Offences

The substantive context of Decision No. 3950 K/Pid.Sus/2024 adds an additional layer of complexity to the Supreme Court's authority. The defendant was ultimately found guilty of both embezzlement and money laundering. The official Supreme Court judgment expressly identifies the two offences in its dispositive section and imposes a single four-year custodial sentence alongside a fine of IDR 500 million.

The alleged embezzlement originated from the defendant's possession and subsequent use of funds that had been transferred into her account because of a banking-system error. Available materials indicate that the amount actually credited was substantially greater than the amount the defendant was entitled to receive. The legal question was therefore not whether the initial receipt was intentionally caused by the defendant, but whether her subsequent conduct demonstrated the necessary elements of unlawful appropriation or possession of another person's property.

This distinction is critical for criminal responsibility. An accidental receipt of money does not automatically constitute embezzlement. The initial absence of fraudulent intent may be relevant to determining the defendant's mental state. Criminal liability may instead arise from what occurs after the defendant becomes aware that the funds do not belong to her. In such circumstances, continued possession, transfer, expenditure, or other forms of appropriation may become legally significant.

The predicate-offence dimension is important because embezzlement is expressly recognized as a predicate crime under Article 2 paragraph (1) of Law No. 8 of 2010. Indonesian scholarship emphasizes that money laundering is structurally dependent upon the existence of assets connected to a criminal act, even though Article 69 eliminates the requirement that the predicate offence be proven first in a separate proceeding. (Alkostar 2013; Muchtar, Asis, and Muin 2022).

The relationship between the two offences should nevertheless be carefully maintained. Embezzlement concerns the unlawful appropriation of property, whereas money laundering concerns subsequent acts involving assets known or reasonably suspected to constitute proceeds of crime. The same factual conduct can therefore generate two distinct legal evaluations, but each offence retains its own statutory elements.

This is particularly important when the Supreme Court exercises its authority to adjudicate the case itself. If the lower court correctly established the factual circumstances surrounding the transfer, the defendant's knowledge, and the subsequent transactions, the Supreme Court may determine whether those facts satisfy the elements of embezzlement and money laundering. Such an exercise would constitute legal qualification rather than a new factual trial.

Conversely, if the Supreme Court were required to independently determine disputed facts concerning the defendant's knowledge, the nature of particular transactions, or the provenance of specific funds without adequate factual findings below, the intervention would approach factual reassessment. The distinction is therefore not merely theoretical. It directly determines whether the Supreme Court's exercise of authority remains consistent with its institutional role.

The literature concerning predicate offences also demonstrates why careful reasoning is necessary. Chandra and Okta (2017) emphasize the close relationship between the predicate crime and money laundering while recognizing the procedural significance of Article 69. Gumbira et al. similarly identify continuing debates concerning the relationship between Article 69 and the evidentiary provisions of Articles 77 and 78 of the Money Laundering Law. These debates indicate that money-laundering adjudication requires careful treatment of both the underlying criminal conduct and the subsequent handling of assets.

The Supreme Court's decision can therefore be understood as involving two levels of legal qualification. First, the Court had to determine whether the factual record supported the conclusion that the defendant committed embezzlement. Second, it had to determine whether the subsequent conduct involving the funds satisfied the statutory elements of money laundering. Because the two offences were adjudicated together, the Supreme Court's reasoning had to maintain the legal distinction between them while recognizing their factual relationship. This reinforces the argument that *mengadili sendiri* is most defensible where the factual foundation has already been established. The more the Supreme Court's decision depends upon existing factual findings and statutory interpretation, the stronger the argument that it acted as *judex juris*. The more it depends upon fresh factual determinations, the greater the risk that cassation has become a disguised retrial.

The Boundary between Legal Correction and Factual Reassessment

The most important doctrinal issue raised by Decision No. 3950 K/Pid.Sus/2024 concerns the boundary between permissible legal correction and impermissible factual reassessment. The Supreme Court cannot realistically review legal application without considering the facts to some extent. Yet unlimited factual reconsideration would undermine the very institutional purpose of cassation.

A useful test is whether the Supreme Court's intervention changes the legal characterization of facts or the factual content itself. Suppose the lower court establishes that the defendant received funds, knew that the funds were not entirely hers, transferred substantial portions to other accounts, and spent the money for personal purposes. If the lower court then applies an incorrect interpretation of Article 372 or Law No. 8 of 2010, the Supreme Court can correct that legal error without conducting a new trial. The Court accepts the factual record but applies the law correctly.

The situation would be different if the Supreme Court concluded that a witness was more credible than another witness, rejected documentary evidence that the lower court accepted, or independently inferred a different sequence of events from the evidentiary record. Such intervention would involve a substantive re-evaluation of evidence. Although the Court may necessarily inspect the record to identify legal error, replacing the factual findings of the *judex facti* should be treated as exceptional and require particularly strong justification.

Recent scholarship on Supreme Court cassation jurisdiction confirms the existence of this grey area. Agustin and Ahmad (2025) emphasize that although the Supreme Court is principally a *judex juris*, practical cases may create uncertainty concerning the distinction between reviewing legal application and reassessing factual circumstances. This is precisely the structural problem that Decision No. 3950 K/Pid.Sus/2024 invites scholars to examine.

The problem becomes particularly sensitive when the Supreme Court overturns a lower-court decision and imposes a conviction. A conviction at cassation has more serious consequences than a mere correction of a sentence because it changes the legal status of the defendant. The Court must therefore articulate clearly why the lower court's judgment was legally defective and how the established facts satisfy the elements of the offence.

Procedural fairness requires that the parties have had a meaningful opportunity to present evidence and arguments concerning the factual issues at the trial level. If the Supreme Court introduces a substantially new factual theory at cassation, the defendant may not have had an equivalent opportunity to contest that theory. This could create tension with the adversarial and participatory dimensions of criminal procedure. For this reason, the Supreme Court's reasoning should ideally identify three distinct components. First, it should identify the factual findings of the lower court that it accepts. Second, it should identify the precise legal error committed by the lower court. Third, it should explain how the accepted facts, when correctly interpreted under the applicable law, require a different legal conclusion. Such reasoning would make the exercise of *mengadili sendiri* transparent and facilitate subsequent scholarly and judicial review.

This approach also promotes consistency across cases. If courts articulate clear criteria for when they may adjudicate themselves, litigants can better predict the scope of cassation. The Supreme Court would also reduce the risk of appearing to exercise unrestricted factual jurisdiction. Judicial discretion would remain available, but it would operate within identifiable doctrinal boundaries.

The case therefore suggests that the most defensible conception of *mengadili sendiri* is corrective adjudication rather than substitute trial. Corrective adjudication allows the Supreme Court to replace an erroneous legal outcome when the factual record is sufficient. Substitute trial, by contrast, would involve independent factual reconstruction and would undermine the institutional allocation of functions within the judicial hierarchy.

This distinction also has implications for the drafting of Supreme Court judgments. The more extensive the Court's intervention, the more important it becomes to explain why that intervention remains within cassation jurisdiction. A judgment that merely states that the lower court was wrong without explaining the relationship between the legal error and the existing factual record may generate uncertainty concerning whether the Court acted as *judex juris* or *judex facti*.

Judicial Efficiency, Procedural Rights, and the Legitimacy of "Mengadili Sendiri"

The power to adjudicate a case itself has an obvious institutional advantage: it promotes finality. A legal system that required every corrected cassation decision to return to the lower courts could experience unnecessary procedural repetition. Where the factual record is complete and the error is purely legal, remand would delay the final determination without materially improving the quality of adjudication.

The Supreme Court's intervention in Decision No. 3950 K/Pid.Sus/2024 illustrates the efficiency rationale. Rather than returning the case to the Central Jakarta District Court after finding that the lower judgment could not stand, the Supreme Court issued the final substantive judgment itself. The Court declared the defendant guilty of both offences and imposed a specific sentence. The case consequently obtained final resolution through the cassation process.

Nevertheless, efficiency must be balanced against the defendant's procedural rights. The legitimacy of criminal adjudication depends not only on reaching a legally correct outcome but also on reaching that outcome through a fair procedure. This is particularly relevant where the Supreme Court reverses a judgment that was favorable to the defendant. The defendant must not effectively lose the benefit of factual adjudication merely because the prosecution succeeds at cassation.

The principle of procedural fairness therefore supports a restrictive interpretation of factual intervention. The Supreme Court should ordinarily rely on factual findings already established by the lower courts. Where those findings are insufficient to support a final determination, remand or another legally available procedural mechanism may be more consistent with fair adjudication than independent factual reconstruction.

This concern is amplified in money-laundering cases because the evidentiary structure can be complex. The prosecution may need to demonstrate the connection between particular assets and criminal conduct, while the defendant may have statutory obligations concerning the legitimacy of assets under the relevant provisions of Law No. 8 of 2010. Scholarly literature has identified continuing concerns concerning the interaction between Article 69 and the burden-of-proof provisions of Articles 77 and 78. (Gumbira et al. 2021).

The Supreme Court should therefore distinguish between proving the existence of a predicate offence and determining whether the defendant committed the subsequent laundering conduct. Article 69 allows money laundering proceedings without requiring a prior judgment establishing the predicate offence, but this does not mean that the factual basis of the predicate offence becomes irrelevant. Rather, the court must still establish that the assets involved originated from a criminal act within the statutory framework.

In Decision No. 3950 K/Pid.Sus/2024, the connection between embezzlement and money laundering was sufficiently direct to permit joint adjudication. The Supreme Court expressly convicted the defendant of both offences. From a procedural perspective, this strengthens the argument that the Court was correcting the legal consequences attached to an already-developed factual record rather than initiating an entirely new investigation. Judicial legitimacy also requires consistency. If the Supreme Court exercises *mengadili sendiri* unpredictably, parties may perceive cassation as an additional trial rather than a legal review mechanism. Conversely, if the Court consistently explains that it is relying on established facts while correcting legal errors, the mechanism can enhance rather than weaken institutional legitimacy.

The appropriate standard can therefore be summarized through four conditions. First, there must be a legally recognized ground for cassation under Article 253. Second, the lower-court judgment must be annulled for an identifiable legal error. Third, the existing factual record must be sufficiently complete to support the Supreme Court's substantive conclusion without a new evidentiary examination. Fourth, the Supreme Court must clearly explain the relationship between the established facts and the corrected legal conclusion. These conditions provide a workable balance between judicial efficiency and procedural fairness. Decision No. 3950 K/Pid.Sus/2024 is consequently significant not simply because the Supreme Court exercised its authority to adjudicate itself, but because it illustrates the broader constitutional and procedural question of how a supreme appellate court can correct legal error without becoming a trial court. The legitimacy of the mechanism ultimately depends on maintaining that distinction.

Conclusion

Supreme Court Decision No. 3950 K/Pid.Sus/2024 demonstrates that the Supreme Court possesses a lawful procedural basis to adjudicate a criminal case itself after granting cassation and annulling a lower-court judgment. The statutory framework of Articles 253–256 of the Criminal Procedure Code permits such intervention where the lower court has committed a legally cognizable error and the Supreme Court is able to determine the appropriate legal outcome. The official decision confirms that the Supreme Court granted the Prosecutor's cassation, annulled Central Jakarta District Court Decision No. 476/Pid.Sus/2023/PN Jkt.Pst, and adjudicated the case itself by finding Indah Harini guilty of embezzlement and money laundering and imposing four years' imprisonment and a fine of IDR 500 million. The existence of this authority is therefore not inherently inconsistent with the Supreme Court's role as *judex juris*.

The principal limitation, however, lies in the manner in which the authority is exercised. *Mengadili sendiri* should be understood as a mechanism of corrective adjudication, not as a general power to conduct a second trial at the cassation level. The Supreme Court may correct the legal consequences of facts that have already been established by the *judex facti*, but it should avoid independently reconstructing disputed facts or conducting an unrestricted reassessment of evidence. The distinction between legal correction and factual substitution is therefore essential to preserving the institutional hierarchy of Indonesian criminal courts.

The case also demonstrates the importance of maintaining the doctrinal distinction between embezzlement and money laundering while recognizing their factual relationship. Embezzlement may constitute a predicate offence under Law No. 8 of 2010, while subsequent transactions involving the proceeds may constitute money laundering. Article 69 of the Money Laundering Law permits prosecution without requiring the predicate offence to have been previously adjudicated in a separate proceeding, but it does not eliminate the need for a sufficient factual and legal basis for establishing the origin and criminal character of the assets. Ultimately, the legitimacy of the Supreme Court's authority to adjudicate itself depends upon a balance between corrective justice, judicial efficiency, procedural fairness, and institutional restraint. The Supreme Court should exercise this authority when the legal error is identifiable and the existing factual record is sufficient to support a final judgment. Clearer judicial reasoning concerning which facts are accepted, which legal rule was incorrectly applied, and why the correction does not require a new trial would strengthen transparency and predictability. Decision No. 3950 K/Pid.Sus/2024 thus contributes to the broader debate over the proper boundaries of cassation in Indonesia and demonstrates that the effectiveness of Supreme Court review depends not merely on the existence of corrective powers but on disciplined limits governing their exercise.

References

Agustin, Meydina Tanti, and Gelar Ali Ahmad. 2025. “Batas Kewenangan Mahkamah Agung sebagai *Judex Juris* dalam Penilaian Fakta Hukum pada Tingkat Kasasi Berdasarkan Pasal 253 KUHAP (Studi Putusan Mahkamah Agung Nomor 1466 K/Pid/2024).” *Indonesian Journal of Contemporary Law* 3 (5).

Alkostar, Artidjo. 2013. “Penerapan Undang-Undang Tindak Pidana Pencucian Uang dalam Hubungannya dengan *Predicate Crimes*.” *Masalah-Masalah Hukum* 42 (1): 45–54. https://doi.org/10.14710/mmh.42.1.2013.45-54.

Chandra, Yonatan Iskandar, and Siradj Okta. 2017. “Kedudukan Tindak Pidana Asal (*Predicate Crime*) dalam Pembuktian Tindak Pidana Pencucian Uang.” *Jurnal Paradigma Hukum Pembangunan* 1 (2). https://doi.org/10.25170/paradigma.v1i02.1727.

Gumbira, Seno Wibowo, Umi Khaerah Pati, Kukuh Tejomurti, and Ratna Nurhayati. 2022. "Assessing the Assurance of Legal Certainty and Equity of the Indonesian Law of Money Laundering." *Padjadjaran Jurnal Ilmu Hukum* 9.

Irawan, Hendri. "Alasan Kasasi Penuntut Umum terhadap *Judex Facti* terhadap Kesalahan Penilaian Pembuktian dan Pertimbangan *Judex Juris* Mengadili Sendiri Perkara Korupsi (Studi Putusan Mahkamah Agung Nomor 316 K/Pid.Sus/2016)." *Verstek*.

Mayendra. 2024. "Tinjauan tentang Kewenangan Mahkamah Agung dalam Pemeriksaan Kasasi Perkara Pidana pada Sistem Peradilan Indonesia." *Diponegoro Law Journal* 13 (4). https://doi.org/10.14710/dlj.2024.45488.

Muchtar, Musdayanti, Abd. Asis, and Audyna Mayasari Muin. 2022. "Analysis of Evidence for the Crime of Money Laundering That Does Not Require Preliminary Proof of the Predicate Crime." *Legal Brief* 11 (5). https://doi.org/10.35335/legal.v11i5.517.

Muchtar, Musdayanti, Abd. Asis, and Audyna Mayasari Muin. 2023. "Proving of Predicate Crimes in Cases of Money Laundering Crimes." *Alauddin Law Development Journal* 5 (2). https://doi.org/10.24252/aldev.v5i2.35422.

Nurkholis, Rio Ella Arika. "Kajian Putusan Mahkamah Agung Membatalkan Putusan *Judex Factie* dan Mengadili Sendiri Pembayaran dengan Cek Kosong Bukan Tindak Pidana Penipuan." *Verstek* 7 (3). https://doi.org/10.20961/jv.v7i3.38275.

Rachmadani. "Alasan Kasasi Penuntut Umum dan Pertimbangan Mahkamah Agung Menjatuhkan Pidana terhadap Terdakwa Pelaku Tindak Pidana Pembunuhan Diikuti Pencurian (Studi Putusan Nomor 24K/Pid/2016)." *Verstek* 6 (2). https://doi.org/10.20961/jv.v6i2.39144.

Sutrisno. 2025. "Law Enforcement Against Performers of the Crime of Money Laundering Resulting from Criminal Acts of Fraud or Embezzlement." *ILCA Law Journal* 4 (1): 19–30.

Legal Sources

Indonesia. 1945. *The 1945 Constitution of the Republic of Indonesia*.

Indonesia. 1981. *Law No. 8 of 1981 concerning the Criminal Procedure Code (KUHAP)*.

Indonesia. 2001. *Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Corruption Crimes*.

Indonesia. 2009. *Law No. 48 of 2009 concerning Judicial Power*.

Indonesia. 2010. *Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes*.

Supreme Court of the Republic of Indonesia. 2024. *Decision No. 3950 K/Pid.Sus/2024*, Indah Harini binti Soeharno, July 8, 2024. Official Supreme Court Decision Directory.

Central Jakarta District Court. 2023. *Decision No. 476/Pid.Sus/2023/PN Jkt.Pst*, December 6, 2023. The Supreme Court subsequently annulled this decision through Decision No. 3950 K/Pid.Sus/2024.

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