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Judicial Reasoning in a Case of Assault and Destruction of Property: An Analysis of Medan High Court Decision No. 1388/PID/2023/PT MDN

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Abstract

Courts often treat reconciliation between offender and victim as a reason to reduce a sentence for assault, yet the conditions under which it should count are seldom examined. This study analyses the judicial reasoning in Medan High Court Decision No 1388/PID/2023/PT MDN, an appeal in a case of assault and destruction of a car, to determine how the elements of Articles 351(1) and 406(1) of the Criminal Code were applied and whether the grounds for reducing the sentence were sound. It is normative research using statutory and case approaches, read against the purposes of punishment and the guidelines on restorative justice. The first-instance court imposed one year and six months' imprisonment and restitution of IDR 52,382,200; the High Court convicted on both offences yet reduced the prison term to one year, citing the victim's arrival at about 02.30 and a reconciliation after the event. Neither ground withstands scrutiny. The victim's arrival was not provocation, and the reconciliation was arranged at the defendant's house on the initiative of his father, a police officer later convicted for his own part in the incident, so it cannot be presumed voluntary. Reconciliation should mitigate a sentence only when the court is satisfied that it was free, informed and accompanied by real reparation.

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Keywords

Sentencing; Assault; Reconciliation; Restitution; Discretion; Mitigation

Introduction

Indonesia is a state of law in which the supremacy of law and the Constitution are the basis of government.[1] In criminal cases that principle depends on the reasoning of judges, who must state the facts, the law and the aggravating and mitigating circumstances on which a sentence rests.[2] Assault is a common offence in which this reasoning is exposed to public scrutiny, because the harm is visible and the sentence is easily compared with what the victim suffered.

This article examines one such case. The defendant, the son of a police officer, assaulted a friend and damaged the friend's car at the defendant's family home in Medan. At first instance the Medan District Court convicted him of assault under Article 351(1) of the Criminal Code and sentenced him to one year and six months' imprisonment, with restitution of IDR 52,382,200 payable jointly with his father and two months' confinement in default. On appeal, in Decision No 1388/PID/2023/PT MDN, the Medan High Court convicted him under Articles 351(1) and 406(1), reduced the prison term to one year and upheld the restitution.[3] The father was prosecuted separately for his own conduct during the incident; the District Court sentenced him to six months,[4] and the High Court increased the sentence to eight months.[5]

Two bodies of thought frame the analysis. The first concerns the purposes of punishment and the discretion of the judge in choosing a sentence within the statutory range: the 2023 Criminal Code now states those purposes expressly, as prevention, rehabilitation, the resolution of conflict and the restoration of balance, and lists the factors a judge must weigh, among them the effect of the offence on the victim and the victim's forgiveness.[6] The second is restorative justice, which treats crime as harm to people and relationships and asks the offender to repair it,[7] but which presupposes that the offender accepts responsibility before the community and the victim.[8]

Earlier studies of judicial reasoning in assault cases have concentrated on whether the injuries established the right form of the offence and on the factors judges cite in sentencing; a study of the Sungguminasa District Court, for example, traces how

[1] Soetandyo Wignjosoebroto, *Hukum: Paradigma, Metode dan Dinamika Masalahnya* (Jakarta: Huma, 2002).

[2] Law No 8 of 1981 on the Code of Criminal Procedure (Indonesia), art 197(1)(f).

[3] Medan High Court, Decision No 1388/PID/2023/PT MDN (2023).

[4] "Kasus Penganiayaan Ken Admiral, AKBP Achiruddin Hasibuan Divonis 6 Bulan", *RMOL* (27 September 2023), online: <https://rmol.id/nusantara/read/2023/09/27/590733/kasus-penganiayaan-ken-admiral-akbp-achiruddin-hasibuan-divonis-6-bulan>.

[5] "PT Medan Perberat Hukuman AKBP Achiruddin Terkait Kasus Penganiayaan", *detikSumut* (2023), online: <https://www.detik.com/sumut/hukum-dan-kriminal/d-7036337/pt-medan-perberat-hukuman-akbp-achiruddin-terkait-kasus-penganiayaan>.

[6] Law No 1 of 2023 on the Criminal Code (Indonesia), arts 51, 54(1).

[7] Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Scottdale: Herald Press, 1990).

[8] John Braithwaite, *Crime, Shame and Reintegration* (Cambridge: Cambridge University Press, 1989).

judges weighed the facts in a case of assault causing serious injury.[9] Less attention has been paid to reconciliation as a ground of mitigation, and in particular to the conditions under which a reconciliation reached outside the court, and between parties of unequal power, can count in the offender's favour. This article asks two questions: (1) how did the courts apply the elements of assault and destruction of property in this case; and (2) were the grounds on which the High Court reduced the sentence sound in law? Its purpose is to state the conditions under which reconciliation should mitigate a sentence for assault.

Research Method

This is normative legal research using statutory and case approaches.[10] The primary legal materials are the Criminal Code and the Code of Criminal Procedure in force when the case was decided, the 2023 Criminal Code and the 2025 Code of Criminal Procedure in force from 2 January 2026,[11] the law on the protection of witnesses and victims and the Supreme Court regulations on restitution and on restorative justice, together with the High Court decision and the first-instance decision it recites. Secondary materials are textbooks and journal articles on criminal law and restorative justice, and press reports of the related proceedings against the defendant's father, which are used only for facts that the decision itself does not contain. The case was chosen because the appellate court reduced a sentence for assault expressly on the ground of reconciliation. The reasoning was extracted by identifying each finding on the elements of the offences and each stated ground of mitigation, and each ground was then tested against the statutory elements, the sentencing factors and the guidelines on restorative justice. A single case supports no statistical generalisation; it supports an argument about how such grounds should be assessed.

Results and Discussion

Elements of Assault and of Destruction of Property

The word penganiayaan derives from aniaya, meaning cruel or arbitrary treatment,[12] but the Criminal Code does not define it; its meaning is settled by doctrine as the intentional causing of pain or injury. The elements are intention,

[9] Rina Fadillah Fendi & Muh Amiruddin, "Pertimbangan Hakim terhadap Tindak Pidana Penganiayaan yang Mengakibatkan Luka Berat (Studi Kasus Kabupaten Gowa)" (2022) 4:2 *Alauddin Law Development Journal* 364, DOI: <10.24252/aldev.v4i2.17748>.
[10] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2013).
[11] Law No 20 of 2025 on the Code of Criminal Procedure (Indonesia).
[12] WJS Poerwadarminta, *Kamus Umum Bahasa Indonesia* (Jakarta: Balai Pustaka, 1985).

which includes awareness of the probable consequence of the act;[13] an act of physical violence; and its effect in pain, injury or harm to health.[14] Article 351 provides for ordinary assault, punishable by up to two years and eight months' imprisonment or a fine (paragraph 1), by up to five years if it causes serious injury (paragraph 2) and by up to seven years if it causes death (paragraph 3); intentional harm to health is equated with assault (paragraph 4), and attempt is not punishable (paragraph 5).[15] Articles 352 to 355 provide for minor, planned, serious and planned serious assault. Article 406(1) punishes whoever intentionally and unlawfully destroys, damages, renders unusable or removes property belonging wholly or partly to another, by up to two years and eight months or a fine,[16] the three modes being destruction beyond repair, lesser damage and rendering the object unfit for its purpose.[17]

Because the High Court convicted on both offences, the assault and the damage to the car were treated as separate acts. For separate offences punished by imprisonment, the Code allows one sentence not exceeding the heaviest maximum increased by one third,[18] so the ceiling in this case was three years, six months and twenty days. The case was decided under the old Code. For acts committed after 2 January 2026, the 2023 Code applies: assault falls under Article 466, punishable by up to two years and six months or a fine, and destruction of property under Article 521, with the same term of imprisonment.[19] Where the law changes after an act but before final judgment, the provision more favourable to the defendant applies.[20]

The Decisions and the Judges' Reasoning

Both courts found the objective element of assault proved, namely physical violence causing injury and pain, and the subjective element of intention to hurt. The High Court further found that the defendant had intentionally and unlawfully damaged the victim's car, and convicted him as charged under both provisions.[21] The finding met the standard of proof, which requires at least two lawful items of evidence and the judge's conviction that the offence occurred and that the defendant committed it.[22] Table 1 compares the two decisions.

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[13] Martiman Prodjohamidjojo, *Memahami Dasar-Dasar Hukum Pidana Indonesia 2* (Jakarta: Pradnya Paramita, 1997).
[14] PAF Lamintang, *Dasar-Dasar Hukum Pidana Indonesia* (Bandung: Citra Aditya Bakti, 1997).
[15] Kitab Undang-Undang Hukum Pidana [Criminal Code], as enacted by Law No 1 of 1946 (Indonesia), art 351.
[16] *Ibid*, art 406.
[17] PAF Lamintang & Theo Lamintang, *Kejahatan terhadap Harta Kekayaan* (Jakarta: Sinar Grafika, 2013).
[18] Criminal Code, *supra* note 15, art 65.
[19] Law No 1 of 2023, *supra* note 6, arts 466, 521.
[20] *Ibid*, art 3(1).
[21] Decision No 1388/PID/2023/PT MDN, *supra* note 3.
[22] Law No 8 of 1981, *supra* note 2, art 183.

Table 1. The first-instance and appeal decisions compared

Element	Medan District Court	Medan High Court
Offences found	Assault, art 351(1)	Assault, art 351(1), and destruction of property, art 406(1)
Prison term	1 year 6 months (56% of the art 351(1) maximum)	1 year (38% of the art 351(1) maximum)
Restitution	IDR 52,382,200, jointly with the defendant's father; 2 months' confinement in default	Upheld
Stated grounds of mitigation	Not recited in the appeal decision as summarised	Victim's arrival at about 02.30; reconciliation after the event

Source: compiled from Decision No 1388/PID/2023/PT MDN; percentages of the maximum of 2 years 8 months calculated by the authors.

The comparison exposes the central difficulty. The High Court found more than the District Court, an additional offence of damaging the car, and yet imposed a shorter sentence. It gave two reasons. First, the incident began when the victim and four friends came to the defendant's house at about 02.30, when people are normally asleep, so that the events could not be separated from the victim's failure to choose a proper time. Second, after the assault, on the initiative of the defendant's father, the parties and their friends gathered behind the house, ate together, apologised and embraced.[23]

Neither reason is persuasive. The victim's arrival at night was not provocation. Provocation, where doctrine recognises it as mitigation, requires conduct by the victim that provokes the offender's act, such as an attack or a grave insult; arriving at an inconvenient hour is not such conduct, and the decision as summarised records no act of the victim that prompted the violence. Treating the time of the visit as mitigating shifts part of the blame to the victim for being where the violence took place.

The reconciliation raises a different problem. Assault under Article 351 is not an offence prosecuted only on complaint, so reconciliation cannot end the case; it can only bear on the sentence. The 2023 Code now names the victim's forgiveness as a factor,[24] and the Supreme Court's guidelines on restorative justice, issued after this decision, build that approach on the recovery of the victim, the strengthening of victims' rights and imprisonment as a last resort.[25] On either standard the question is whether the reconciliation was voluntary and whether it repaired the harm. Here it took place at the defendant's house, immediately after the assault, on the initiative of the defendant's father, a police officer who was himself convicted for his part in the incident. A reconciliation reached in those conditions cannot be presumed

[23] Decision No 1388/PID/2023/PT MDN, *supra* note 3.
[24] Law No 1 of 2023, *supra* note 6, art 54(1).
[25] Supreme Court Regulation No 1 of 2024 on Guidelines for Adjudicating Criminal Cases Based on Restorative Justice (Indonesia).

voluntary, and the High Court did not ask whether it was. Nor did it rest on reparation: the restitution had been ordered by the court, not offered by the defendant.

The restitution order also needs a clearer basis. Restitution is compensation paid by the offender or a third party to the victim,[26] and the Supreme Court's procedure is available for specified offences and for other offences designated by the Witness and Victim Protection Agency.[27] The decision as summarised does not state through which route the claim was made, which losses (repair of the car, medical costs or other harm) make up the sum of IDR 52,382,200, or on what basis the father, who was a witness and not a defendant in this case, was made jointly liable. Each point should appear in the reasoning, since a joint order against a non-party depends on it.

Finally, the sentence itself. One year is 38 per cent of the maximum for assault alone and about 28 per cent of the ceiling for the two offences together. The defendant was released in December 2023, after remission and conditional release.[28] A sentence at that level is within the court's discretion, but a reduction from the first-instance term, made while adding a conviction, needed reasons that bear on culpability or on the repair of the harm. The two reasons given bear on neither. The decision therefore illustrates a wider risk: that reconciliation, meant to serve the victim, becomes a discount for the offender when the court does not examine how it was reached.

Comparison with Earlier Research

Studies of assault sentencing have treated the factors judges cite as a list to be recorded rather than tested.[29] This case shows why testing matters. Restorative justice, as Zehr frames it, gives the victim a central place in the response to harm,[30] and reintegration on Braithwaite's account follows the offender's acceptance of responsibility;[31] a reconciliation arranged by the offender's family, at the offender's home and under the authority of a police officer meets neither condition. The analysis adds to that literature a test the courts can apply: whether the reconciliation was free, informed and accompanied by reparation.

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[26] Law No 31 of 2014 on the Amendment to Law No 13 of 2006 on the Protection of Witnesses and Victims (Indonesia), art 7A.

[27] Supreme Court Regulation No 1 of 2022 on Procedures for Settling Applications for and Granting Restitution and Compensation to Victims of Crime (Indonesia).

[28] "Anak AKBP Achiruddin Hasibuan Bebas dari Penjara sejak Desember 2023", *Pojoksatu*, online: <https://pojoksatu.id/sumut/anak-akbp-achiruddin-hasibuan-bebas-dari-penjara-sejak-desember-2023>.

[29] Fendi & Amiruddin, *supra* note 9.

[30] Zehr, *supra* note 7.

[31] Braithwaite, *supra* note 8.

Conclusion

The courts applied the elements of assault and destruction of property correctly: violence causing injury and the intention to hurt were proved, and the High Court rightly added the conviction for damaging the car. The High Court's reduction of the sentence from one year and six months to one year was not adequately reasoned. The victim's arrival at night is not provocation, and a reconciliation arranged immediately after the assault, at the defendant's house and on the initiative of his police-officer father, cannot be presumed voluntary. Reconciliation should mitigate a sentence for assault only when the court is satisfied that it was free and informed and was accompanied by reparation offered by the offender, and the reasoning should record that finding. The restitution order should state its legal route, its components and the basis of any joint liability. The study rests on a single decision as reported and summarised, without the full case file; comparison with other appellate decisions on reconciliation in assault cases is needed to show how widespread the problem is.

Ethics and Data Availability

This normative legal research is based on court decisions and other published documents and did not involve human participants, so ethical approval was not required. The parties are not named in the text. Court decisions are public documents.

Use of Generative AI

Generative AI was used only to improve the language of this article (grammar, clarity and style). The authors reviewed the output and are responsible for the content of the article.

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References

Law No 8 of 1981 on the Code of Criminal Procedure (Indonesia).

Law No 20 of 2025 on the Code of Criminal Procedure (Indonesia).

Kitab Undang-Undang Hukum Pidana [Criminal Code], as enacted by Law No 1 of 1946 (Indonesia).

Law No 1 of 2023 on the Criminal Code (Indonesia).

Law No 31 of 2014 on the Amendment to Law No 13 of 2006 on the Protection of Witnesses and Victims (Indonesia).

Supreme Court Regulation No 1 of 2022 on Procedures for Settling Applications for and Granting Restitution and Compensation to Victims of Crime (Indonesia).

Supreme Court Regulation No 1 of 2024 on Guidelines for Adjudicating Criminal Cases Based on Restorative Justice (Indonesia).

Medan High Court, Decision No 1388/PID/2023/PT MDN (2023).

"Anak AKBP Achiruddin Hasibuan Bebas dari Penjara sejak Desember 2023". *Pojoksatu*, online: <https://pojoksatu.id/sumut/anak-akbp-achiruddin-hasibuan-bebas-dari-penjara-sejak-desember-2023>.

Braithwaite, John. *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press, 1989.

Fendi, Rina Fadillah & Muh Amiruddin. "Pertimbangan Hakim terhadap Tindak Pidana Penganiayaan yang Mengakibatkan Luka Berat (Studi Kasus Kabupaten Gowa)" (2022) 4:2 *Alauddin Law Development Journal* 364, DOI: <10.24252/aldev.v4i2.17748>.

"Kasus Penganiayaan Ken Admiral, AKBP Achiruddin Hasibuan Divonis 6 Bulan". *RMOL* (27 September 2023), online: <https://rmol.id/nusantara/read/2023/09/27/590733/kasus-penganiayaan-ken-admiral-akbp-achiruddin-hasibuan-divonis-6-bulan>.

Lamintang, PAF. *Dasar-Dasar Hukum Pidana Indonesia*. Bandung: Citra Aditya Bakti, 1997.

Lamintang, PAF & Theo Lamintang. *Kejahatan terhadap Harta Kekayaan*. Jakarta: Sinar Grafika, 2013.

Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2013.

Poerwadarminta, WJS. *Kamus Umum Bahasa Indonesia*. Jakarta: Balai Pustaka, 1985.

Prodjohamidjojo, Martiman. *Memahami Dasar-Dasar Hukum Pidana Indonesia 2*. Jakarta: Pradnya Paramita, 1997.

"PT Medan Perberat Hukuman AKBP Achiruddin Terkait Kasus Penganiayaan". *detikSumut* (2023), online: <https://www.detik.com/sumut/hukum-dan-kriminal/d-7036337/pt-medan-perberat-hukuman-akbp-achiruddin-terkait-kasus-penganiayaan>.

Wignjosoebroto, Soetandyo. *Hukum: Paradigma, Metode dan Dinamika Masalahnya*. Jakarta: Huma, 2002.

Zehr, Howard. *Changing Lenses: A New Focus for Crime and Justice*. Scottdale: Herald Press, 1990.