
(2025) 02 KL CK 0059

High Court Of Kerala

Case No: Writ Petition (Crl.) No. 1284 Of 2022

Sreekala K

APPELLANT

Vs

Central Bureau Of
Investigation

RESPONDENT

Date of Decision: Feb. 14, 2025

Acts Referred:

- Constitution of India. 1950 - Article 300A
- Code of Criminal Procedure, 1973 - Section 102, 102(1), 102(3)
- Indian Penal Code, 1860 - Section 109, 120B, 409, 420, 477A
- Prevention of Corruption Act, 1988 - Section 13(1)(c), 13(1)(d), 13(2), 18A
- Criminal Law Amendment Ordinance, 1944 - Section 5(6), 10A

Hon'ble Judges: C.Jayachandran, J

Bench: Single Bench

Advocate: N.J.Mathews, Ashik K. Mohamed Ali, Muhammed Rifa P.M., Ramseena N., John S.Ralph, Sreelal Warriar, M.U.Vijayalakshmi, Saijo Hassan Nagaraj Narayanan, Rafeek. V.K., Aathira Sunny, Bincy Job, Neema Neerackal, Ambadi Dinesh L.K., Salman Faris, K.Jaju Babu

Final Decision: Disposed Of

Judgement

C.Jayachandran, J

1. The petitioner herein is the 3rd accused in Crime No.VC.02/18/CRE of the Vigilance and Anti Corruption Bureau, Central Range, Ernakulam. She

is aggrieved by the freezing of Exts P5 and P6 bank accounts in her name, pursuant to Exts P1 and P2 requests made by the Deputy Superintendent

of Police, attached to the 4th respondent VACB. The specific ground raised is the non-adherence to the provisions of the Criminal Law Amendment

Act, 1944 to freeze/attach the bank accounts of the petitioner. It is also urged that recourse to any of the provisions of the Code of Criminal

Procedure is also not made. Another contention urged is that the accounts has been freezed without any enabling orders from a judicial authority. The

seriousness of the issues involved impelled this Court to appoint an amicus curiae.

Accordingly, Sri.John S. Ralph was appointed as the amicus.

2. Heard the learned amicus; learned counsel for the petitioner; learned Special Public Prosecutor(CBI); the learned counsel for the 2nd respondent

Bar Council; and learned counsel for the 3rd respondent, Dhanlaxmi Bank.

3. Before addressing the specific issues which have surfaced for consideration, it is noticed that the offences alleged in the subject crime bearing

F.I.R No. RC0342022A0001 of the Special Court "I(CBI), Ernakulam are under Sections 109, 120B, 409, 420 and 477A of the Indian Penal Code,

read with Sections 13(2) and 13(1)(c) and (d) of the Prevention of Corruption Act. There are 9 accused altogether, of whom the petitioner is the wife

of the 1st accused. The gist of the prosecution allegation is that, the 1st accused (petitioner's husband), while working as the Accountant of the Kerala

Bar Council, had misappropriated money to the tune of ₹ 7.6 Crores from the Kerala Bar Council Welfare fund during the period from 2007 to 2017.

According to the prosecution, the petitioner had conspired with and abetted the commission of the crime, by siphoning off the amount misappropriated

through two of her bank accounts, maintained with the 3rd respondent Dhanlaxmi Bank, to the extent of ₹ 196 lakhs, approximately.

4. Arguments advanced by the learned amicus The first point mooted by the learned amicus is that, when there exists a specific provision under the

Criminal Law Amendment Ordinance, 1944 for attachment of properties involved in a crime, recourse to freeze the account, purportedly under

Section 102 of the Code of Criminal Procedure, is illegal. Learned amicus would elaborate that, by virtue of Section 18 A of the Prevention of

Corruption Act, the Criminal Law Amendment Ordinance, 1944 has been made applicable to an offence committed under the said Act; and by virtue

of Section 5(6) of the Act, the special Judge is empowered to exercise the powers and functions of a District Judge under the Criminal Law

Amendment Ordinance, 1944. According to the learned amicus, the Prevention of Corruption Act is a complete Code; and so is the Ordinance of the

year 1944, as regards the procedure for attachment. That being the situation, recourse to Section 102 Cr.P.C - when there exists a special provision in

the 1944 Ordinance, as made applicable to the offences under the Prevention of Corruption Act - is illegal. Learned amicus would also submit that,

under the 1944 Ordinance, a person aggrieved by the attachment has more protection, since it mandates a judicial Order, coupled with an opportunity

of hearing and also to adduce evidence. No such safeguard is available with respect to a seizure under Section 102 of the Cr.P.C. It was specifically

pointed out that the impugned order freezing the bank accounts was passed on 13.12.2017, a date before Section 18A was inserted to the Prevention

of Corruption Act. According to the learned counsel, even in the absence of Section 10A, the 1944 Ordinance, which was in force, ought to have been

followed. The decision of the Hon'ble Supreme Court in State of Maharashtra v. Tapas D.Neogy [(1999) 7 SCC 685] was sought to be

distinguished by pointing out that the same was rendered before the introduction of Section 18A to the Prevention of Corruption Act and also for the

reason that the impact of the 1944 Ordinance has not been considered in that decision. Learned amicus would conclude his argument by stating that

when a specific remedy is available under a special statute, recourse to Section 102 of a general statute, namely the Cr.P.C., cannot be countenanced

in law. To buttress his arguments, the learned amicus would place reliance upon a recent judgment of the Hon'ble Supreme Court in Ratan Babulal

Lath v. State of Karnataka [2022(16) SCC 287].

5. Learned counsel for the petitioner would adopt the arguments raised by the learned amicus and place heavy reliance upon Ratan Babulal (supra).

Another judgment of the Hon'ble Supreme Court in OPTO Circuit India Ltd. v. Axis Bank and others [2021(6) SCC 707] was also pressedÃ, into

service, to point out that when the special enactment contains a provision for seizure/attachment/freezing, that power has to be exercised. Learned

counsel would also submit that, even if a power under Section 102 Cr.P.C. is presumed, the subject seizure is illegal for want of compliance of Section

102(3) Cr.P.C., inasmuch as the seizure has not been reported to the Magistrate concerned. In this regard, learned counsel would place reliance upon

the judgment of the learned single Judge of this Court in Nazeer K.T. v. The Manager, Federal Bank [2024(5) KLT 161].

6. Refuting the above submissions made by the learned amicus, as also, the learned counsel for the petitioner, learned Special Public Prosecutor (CBI)

relies on Tapas D. Neogy (supra), to argue that a bank account can be freezed in exercise of the powers under Section 102 Cr.P.C, which legal

position is trite. Relying upon Shento Varghese v. Julfikkar Hussain and others [2024(7) SCC 23], it was canvassed that the non-compliance of

Section 102(3) Cr.P.C. cannot render the seizure illegal, since the purpose of Section 102(3) is only to deal with the disposal of the article seized. Prior

or subsequent permission of the Magistrate concerned is neither contemplated, nor required under Section 102(3) Cr.P.C. The powers of the

investigating officer to seize an article in terms of Section 102 Cr.P.C would remain unaffected and seizure would remain perfectly legal, even if it is

assumed that the seizure was omitted to be reported to the Magistrate. On facts, it was pointed out that the seizure was effected when the case was

being investigated by the Vigilance and Anti Corruption Bureau, and a record evidencing the reporting of seizure to the Magistrate in terms of Section

102(3) Cr.P.C., is not seen available in the files.

7. Learned counsel appearing for the 2nd respondent/Bar Council supports the arguments advanced by the learned Special Public Prosecutor(CBI). It

was pointed out that huge amounts have been siphoned off by the accused persons, especially the 1st accused, who was actively abetted by the

petitioner/A2, pursuant to a conspiracy between them. The existence of amount to the tune of â,1 96 lakhs in her accounts, if not otherwise explained,

would go a long way in proving the prosecution allegations.

8. Learned counsel for the 3rd respondent Dhanlaxmi Bank would adopt a neutral stand agreeing to abide by the course directed by this Court.

9. Having referred to the arguments advanced by the counsel appearing for the respective parties, the following questions arise for consideration:

1) In *Respect of*, an offence, under the Prevention of Corruption Act, whether recourse made to seize/freeze the accounts, in terms of Section 102

Cr.P.C, is illegal and bad in law, since the amounts in the account can be attached as per the Criminal Law Amendment Ordinance, 1944, as made applicable to

offences under the Prevention of Corruption Act by virtue of Section 18A of the said Act?

2) Whether the failure to report the seizure to the Magistrate concerned in terms of Section 102(3) Cr.P.C. would render the seizure illegal?

10. Question no.1

For a correct appreciation of the question raised, it is necessary to refer to the purpose, ambit and scope of Section 102 Cr.P.C, as also, of the

Criminal Law Amendment Ordinance, 1944. Section 102 Cr.P.C. is included in Chapter VII, which deals with the processes to compel the production

of things. In the last segment of Chapter VII, with the heading 'Miscellaneous', Section 102(1) is couched as follows:

“102. Power of police officer to seize certain property.- (1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or

which may be found under circumstances which create suspicion of the commission of any offence.”

It is clear from the above that the power to seize the property is conferred on the police officer. The property, which is sought to be seized should be

of such a nature that the same is alleged or suspected to have been stolen or found under circumstances which create suspicion of the commission of

any offence.

11. Now, let us look at the Criminal Law Amendment Ordinance, 1944. The very purpose of introduction of the said Ordinance of the year 1944 is to

provide for attachment of property in criminal proceedings, as also, for disposal of such property, upon termination of criminal proceedings. In case of

conviction, the attached property "to the extent of the value as found in the final judgment to have been procured by the convicted person by means

of the offence" will be forfeited. If acquitted, such orders of attachment of the property will be withdrawn. The Criminal Law Amendment

Ordinance, 1944 applies only to scheduled offences. Section 3 of the Ordinance enables an application to be made to the District Judge for attachment

of the money or other property, if the State Government or the Central Government, as the case may be, believe that the accused person has procured

such money or property by means of commission of the scheduled offence. Section 3 also provides that the provisions of Order XXVII of the first

schedule to the Code of Civil Procedure, 1908 shall apply to proceedings for an order of attachment under the Ordinance. Section 4 provides for ad

interim attachment. Section 5 provides for investigation as to objections to attachment; and by virtue of Section 5(3), the District Judge has to pass an

order, either making the ad interim order of attachment absolute or varying or withdrawing the order. An option is given to the accused to give security

in lieu of such attached property, which, if satisfactory and sufficient, will enable the accused to get the attachment withdrawn. Section 10 provides for

the duration of attachment and stipulates the same to be in force until the termination of the criminal proceedings. Section 12 casts a duty on the

Criminal Courts, trying the scheduled offence, to record a finding as to the amount of money or value of other property procured by the accused, by

means of the offence, in case of conviction. Section 13 is important, which deals with the disposal of the attached property. As already indicated, in

case of acquittal, the order of attachment shall be withdrawn forthwith; and in case of conviction, the amount or value, as found to have been procured

by the accused by means of the offence, in terms of Section 12, shall be forfeited.

12. Juxtaposing the purpose of Section 102 and the purpose, ambit and scope of the Criminal Law Amendment Ordinance, 1944, it is explicit that the

two provisions serve two different purposes. While Section 102 provides for 'seizure' of the property, which is suspected to have been stolen or which

is found in circumstances creating suspicion of commission of an offence, the Criminal Law Amendment Ordinance provides for 'attachment' of the

money or the property, which is believed to have been procured by the accused, by means of the scheduled offence. While Section 102 provides a

step in aid of investigation, the Criminal Law Amendment Ordinance only secures the money, which is alleged to have been procured by the accused,

by means of the scheduled offence, in the form of an attachment, so that the same can be forfeited, if the accused is ultimately found guilty of the

scheduled offence. In the case of the former (Section 102 Cr.P.C.), the property seized, if proved to have a direct connection or link with the offence

alleged, can constitute a piece of evidence in the hands of the prosecution. However, in the case of the latter, no such purpose could be served, except

securing the money for the purpose of ultimate disposal on the culmination of the proceedings. The two operates on two different fields and one

cannot substitute the purpose intended to be served by the other. This Court, therefore, finds that there is no merit in the proposition canvassed by the

learned amicus to the effect that, upon the introduction of the Criminal Law Amendment Ordinance, 1944 to offences under the Prevention of

Corruption Act, recourse made to Section 102 Cr.P.C to seize/freeze the account is illegal. The contention will stand rejected.

13. An incidental issue, which requires to be considered is with respect to the power of the investigating officer to seize/freeze bank accounts by

virtue of the powers under Section 102 Cr.P.C. The issue is not res integra. The position has been settled by the Hon'ble Supreme Court by virtue of

the judgment in Tapas D. Neogy (supra). After taking note of the dichotomy in the views expressed by the various High Courts on the issue, the

Hon'ble Supreme Court held that the term 'property' cannot be given a narrow interpretation. The Supreme Court observed that, if there can be no

seizure under Section 102 Cr.P.C, of the bank account of the accused, then, the money deposited in a bank, which is ultimately held in the trial, to be

the outcome of illegal gratification, could be withdrawn by the accused and the Courts would be powerless to get the said money, which has a direct

link with a commission of offence. The Supreme Court ultimately held that the bank account of the accused is a property, within the meaning of

Section 102 Cr.P.C and the police officer in the course of investigation can seize or prohibit the operation of the said account. The dictum laid down in

Tapas D.Neogy (supra) was reiterated by the Hon'ble Supreme Court in Teesta Atul Setalvad v. State of Gujarat [2018(2) SCC 372]. In Teesta

(supra), the observations of the Hon'ble Supreme Court in Tapas D.Neogy (supra) were quoted in extenso and ultimately, the Supreme Court held in

paragraph no.16 of the judgment that there cannot be any room to countenance a challenge to the action of seizure of bank account of any person,

which may be found under circumstances creating suspicion of the commission of an offence.

14. Learned amicus canvassed that Tapas D.Neogy (supra) does not reflect the correct proposition of law, since it did not consider the impact of the

Criminal Law Amendment Ordinance, 1944. As already held above in this judgment, the purpose of attachment under the 1944 Ordinance and seizure

under Section 102 Cr.P.C are different altogether, wherefore, the 1944 Ordinance cannot impact or substitute the purpose, ambit and scope of Section

102 Cr.P.C. Nor should the introduction of Section 18A to the Prevention of Corruption Act making the 1944 Ordinance applicable to offences under

the Act would impact the dictum laid down in Tapas D.Neogy (supra) on the scope and ambit of Section 102 Cr.P.C. Those arguments will therefore

stand repelled.

15. Before concluding the point, this Court should also refer to a recent judgment of the Hon'ble Supreme Court in Ratan Babulal Lath v. State of

Karnataka [2022(16) SCC 287], on which heavy reliance has been placed, not only by the learned counsel for the petitioner, but also by the learned

amicus. To appreciate the contention, the short order in Ratan Babulal Lath (supra) is extracted hereunder:

“1. Leave granted. The only question which we are examining is whether the attachment of bank account of the appellant is sustainable in exercise of powers under Section 102 CrPC.

2. The counter-affidavit of the respondent seeks to suggest that they are in the process of filing an application under Section 18-A of the Prevention of Corruption

Act, 1988, since the earlier authorisation issued by the Government under Section 3 of the Criminal Law (Amendment) Ordinance, 1944 was not in the form of the government order.

3. Be that as it may, on that account, it is not possible to sustain the freezing of the bank account of the appellant taking recourse to Section 102 CrPC as the

Prevention of Corruption Act is a Code by itself.

16. A perusal of the order would indicate that, no dictum, as such - so as to create a binding precedent for future governance - is seen laid down in

this Order. Paragraph no.1 of the Order speaks about 'attachment' of the bank account and the question which is seen posed is whether such

'attachment' is sustainable in exercise of the powers under Section 102 Cr.P.C. The same has been answered in the negative. A perusal of paragraph

no.2 of the Order would indicate that the respondents in that case are filing an application under Section 18A of the Prevention of Corruption Act,

which would obviously indicate that the issue therein was the 'attachment' of the money or property, which was suspected to be ill-gotten. It is in that

context that the Hon'ble Supreme Court held in Ratan Babulal (supra) that a bank account cannot be freezed by taking recourse to Section 102

Cr.P.C. In other words, in a case where the prosecuting agency wants to attach the property, recourse should be made to the 1944 Ordinance, which

has been made applicable to the offences under the Prevention of Corruption Act, by virtue of Section 18 A. The Order of the Hon'ble Supreme Court

in Ratan Babulal (supra), as understood above, is only to that effect; and it does not lay down a dictum that a bank account cannot be seized or

frozen by a police officer, in exercise of the powers under Section 102 Cr.P.C. If the petitioner seeks to contend so, it could possibly be argued that

the dictum laid down in *Ratan Babulal* (supra) is per incuriam, inasmuch as it has not considered the dictum laid down in *Tapas D. Neogy* (supra),

reiterated in *Teesta Atul Setalvad* (supra) by two benches of co-ordinate strength. In the circumstances, the arguments advanced based on *Ratan*

Babulal (supra) will also stand repelled.

17. While winding up Question No.1, it is noticed that *OPTO Circuit India Ltd.* (supra), relied on by the petitioner, cannot govern the instant facts,

for, *OPTO Circuit* was dealing with a case under the Prevention of Money Laundering Act, 2002, which contains a specific provision under Section

17 for search and seizure. It is in that circumstance that the Hon'ble Supreme Court held that recourse cannot be made to Section 102 Cr.P.C.,

Prevention of Money Laundering Act being a special enactment, with an enabling provision.

18. In the result, the first question raised is answered against the petitioner and in favour of the prosecution.

19. Question No.2

The question revolves on the fulcrum of there being a complete failure to report the seizure in terms of Section 102(3) Cr.P.C - as distinguished from

the delay in reporting seizure under Section 102(3) Cr.P.C. Whether such failure would result in the seizure becoming vitiated and thus illegal, is the

question posed.

20. Necessarily, we have to refer to the recent judgment of the Supreme Court in *Shento Varghese v. Julfikar Husen and Others* [2024(7) SCC

23]. The questions which fell for consideration in that judgment are as follows:

“2. The facts in the instant case, which we shall advert to later below, have given rise to the following question of law:

What is the implication of non-reporting of the seizure forthwith to the jurisdictional Magistrate as provided under Section 102(3) CrPC?

more specifically:

Does delayed reporting of the seizure to the Magistrate vitiate the seizure order altogether?

21. The divergent views and the reasons therefore of the various High Courts have been taken note of by the Supreme Court in paragraph nos.4 and

5. A comparative analysis of the legislative history is undertaken in paragraph no.6. It is relevant to note that the responsibility to report to the

Magistrate about the seizure was originally there in the 1882 Code, which was, however, absent in the 1898 Code. Thereafter, in the 1973 Code, the

provision was reintroduced, which aspects have been taken note of by the Supreme Court in paragraph no.7 of Shento Varghese (supra). As noted in

paragraph no.8, Section 102(3) was inserted by an amendment of the year 1978, which also empowered the seizing officer to give custody of the

seized property to any person, upon executing a bond, undertaking to produce the property before the Court, as and when required. In paragraph

no.10, the Supreme Court referred to the 'Notes on Clauses' appended to the 1978 amendment Bill. Two reasons have been stated in the Notes on

Clauses. The first is, there is a lacuna in the law and the second is, to give effect to the observations of the Supreme Court in Anwar Ahmad v. State

of U.P [(1976) 1 SCC 154]. Elaborating on the lacuna in the law and the observations in Anwar Ahmad (supra), the Supreme Court held in paragraph

no.14 that the purpose of reporting to the Magistrate is only to ensure disposal of the seized property. Thereafter, in paragraph no.15, the Hon'ble

Supreme Court again raises the question whether seizure orders can be set at naught for non-compliance with the procedural formality of reporting

such seizure to the Magistrate forthwith. Raising the question as above, the Supreme Court answered the same in paragraph no.16 in the negative,

holding that the validity of the power under Section 102(1) Cr.P.C is not dependent on the compliance of the duty of reporting under Section 102(3)

Cr.P.C. It was re-iterated in paragraph no.18 of Shento Varghese (supra) that, the obligation to report the seizure to the Magistrate is neither a

jurisdictional pre-requisite to exercise the power of seizure; nor is such exercise subject to compliance of the obligation to report under Section 102(3)

Cr.P.C. The powers under Section 102 Cr.P.C has been juxtaposed with the powers under Section 105E Cr.P.C, which also speaks of a power to

seize, however, with a condition subsequent that such seizure shall have no effect, unless confirmed by an order of the court within 30 days.

Reference is also made to Section 157 Cr.P.C. to hold that the delay in reporting the seizure to the Magistrate may, at best, dent the veracity of the

prosecution case viz-a-viz the date, time and occasion for seizure of the property. Since the proof of prejudice on the part of the accused and

explanation for delay on the part of the prosecution can be demonstrated only at trial, the effect of non-compliance becomes an issue to be

adjudicated, after appreciating the evidence. Ultimately, in paragraph no.21 of Shento Varghese (supra), the Supreme Court overruled the line of

precedents, which held that seizure orders are vitiated for delay in complying with the obligation/duty under Section 102(3). According to the Supreme

Court, whether the duty under Section 102(3) to report the seizure to the Magistrate is mandatory or directory was not the right question to be posed.

The right question was whether the exercise of the power to seize was subject to the compliance of the duty to report. In paragraph no.28, Supreme

Court held that, the deliberate disregard or negligence to comply with Section 102(3) may invite appropriate departmental action against the erring

official, simultaneous with re-iterating that the act of seizure will not get vitiated by virtue of such delay.

22. An analysis of the judgment in Shento Varghese (supra) would make it explicit that the power to seize under Section 102(1) Cr.P.C. is

independent and unbridled by the duty to report such seizure to the Magistrate concerned under Section 102(3) Cr.P.C. As held by the Hon'ble

Supreme Court, the requirement of reporting under Section 102 is neither a condition precedent, nor one subsequent, to exercise the power of seizure

under Section 102(1) Cr.P.C. The purpose of reporting the seizure as per Section 102(3) Cr.P.C is only to enable disposal of the property seized. If

that legal position is trite, this Court is of the opinion that, even the failure to report the same cannot ipso facto affect the validity of the seizure. Of

course, during trial, it will be open for the accused to show prejudice, if the seizure is not reported in terms of Section 102(3) Cr.P.C., only confining to

the veracity of such seizure as regards the time and place of the articles seized. However, non-reporting of seizure under Section 102(3) Cr.P.C.

cannot automatically lead to the legal consequence of such seizure getting vitiated and thus illegal.

23. It is, true, that, the learned single Judge, held, in *Nazeer K.T. v. The Manager, Federal Bank* [2024(5) KLT 161] in

paragraph no.7 that abject violation of the procedure prescribed in Section 102(3) Cr.P.C will definitely affect the validity of the seizure, which was so

held bearing in mind Article 300 A of the Constitution. It was re-iterated in paragraph no.8 that the delay in reporting the seizure to the Magistrate can

only be an irregularity, but total failure to report will have a negative impact on the validity of the seizure. Despite holding so, the learned single Judge

did not choose to hold that the seizure in question therein was vitiated by such non reporting. Instead, an opportunity was granted to the police officer

concerned to report the seizure within a period of one month from the date of receipt of a copy of the Judgment.

24. Inasmuch as law is settled by *Shanto Varghese* (supra) that (1) the purpose of reporting the seizure to the Magistrate concerned under Section

102(3) is only confined to the disposal of the said property in terms of Section 457 or Section 459 and (2) the validity of the power exercised under

Section 102(1) Cr.P.C is not dependent on compliance of the duty to report under Section 102(3) Cr.P.C., the non-compliance thereof cannot affect

the validity, as such, of such seizure, is the opinion of this Court. True that the same may impinge upon the right of the property holder to seek disposal

in terms of Sections 451, 457 or 459, if the seizure of the property is not forthwith reported to the Magistrate. However, it is not synonymous to say

that the impingement of that right of the property holder tantamounts to the seizure becoming illegal and vitiated for non-compliance of Section 102(3)

Cr.P.C. This Court, by holding so, does not undermine the important duty of the police officer to report the seizure to the Magistrate concerned.

Needless to say that, it is the sublime duty of the police officer to do so in terms of Section 102(3) Cr.P.C., as otherwise, the right of the property

holder gets seriously affected to seek disposal of the property. This Court only holds that the seizure, as such, is not vitiated for that reason, for, if the

seizure is vitiated as illegal, then, the article seized in terms of Section 102(1) Cr.P.C. cannot be propounded as a piece of evidence on the part of the

prosecution, during trial. Say for example, in the instant case, if the prosecution could establish that the money in the accounts of the petitioner is the

ill-gotten wealth of her husband/A1, or for that matter, the misappropriated money, the same, by itself, constitutes a piece of evidence of such

misappropriation. It may have the trappings of the recovery of the embezzled money. However, if the legal position goes to hold that the seizure itself

is illegal, the prosecution cannot let in that important piece of evidence, causing serious jeopardy and prejudice, especially when the power under

Section 102(1) Cr.P.C. to seize an article is not circumscribed or subjected to the duty to report under Section 102(3) Cr.P.C.

25. In view of the authoritative pronouncement of the law on the point in Shento Varghese (supra), this Court is not inclined to grant reliefs sought

for, treating the seizure/freezing of accounts as illegal. Instead, I am impelled to follow the course ultimately adopted in Nazeer K.T. (supra).

26. In the circumstances, the challenge against seizure/freezing of the petitioner's account will stand repelled, however, subject to the following

directions to the investigating officer:

a) to trace out the document, if any, reporting the seizure to the special court concerned in terms of Section 102(3) Cr.P.C. and to produce the same before the court

which is seisin of the matter; or

b) to report such seizure to the special court within one month from the date of receipt of a copy of this judgment.

27. It is clarified that it will be open for the petitioner to file necessary application as per the relevant provision of the Code, either seeking custody of

the property or disposal of the same, which, if filed, will be dealt with in accordance with law by the learned special judge.

28. The valuable service rendered by the learned Amicus is appreciated.

The Writ Petition is disposed of as above.