

**IN THE HIGH COURT AT CALCUTTA  
CIRCUIT BENCH AT JALPAIGURI  
CIVIL APPELLATE JURISDICTION  
APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Debangsu Basak**

**And**

**The Hon'ble Justice Md. Shabbar Rashidi**

**MAT 69 of 2024**

**The State of West Bengal & Ors.**

**Vs.**

**Sri Subrata Dutta & Ors.**

For the appellants :Mr. Sourav Ganguly, Advocate  
Ms. Bedashruti Bose, Advocate  
Mr. Anirban Banerjee, Advocate

For the Respondents/: Mr. Subham Ghosh, Advocate  
Writ petitioners Mr. Mayank Roy, Advocate

Heard & Judgment on: November 24, 2025

**DEBANGSU BASAK, J.:-**

1. Appeal is at the behest of the State and its functionaries and directed against the judgment and order dated May 22, 2024 passed in WPA 253 of 2021.
2. Learned Advocate appearing for the appellants submits that, the impugned judgment and order notices **(2024) 7 Supreme Court Cases**

**23 (*Shento Varghese vs. Julfikar Husen and Others*).** However, learned Single Judge misapplied the ratio of such decision.

3. Learned Advocate appearing for the appellants submits that, five bank accounts (one current bank account and four savings bank accounts) of the private respondent were seized by the Investigating Officer. It is alleged as against the appellants that, report under Section 102(3) of the Criminal Procedure Code, was filed belatedly and, therefore, the seizure of the accounts should be lifted. He submits that, in view of the ratio of ***Shento Varghese*** (*supra*), the delay in reporting such seizure to the jurisdictional Court would not vitiate the seizure itself. Such delay if remains unexplained may at best reflect upon the conduct of the Investigating Officer and at the highest disciplinary proceedings may be initiated.
4. Learned Advocate appearing for the appellants submits that, in the facts and circumstances of the present case, the police case was investigated into by seven different Investigating Officers. Of the seven Investigating Officers, five superannuated. One Investigating Officer prior to the last one who actually filed the report under Section 102(3) of the Criminal Procedure Code is yet to superannuate. Therefore, a departmental proceeding can at best be initiated against only one Investigating Officer. He points out that, such Investigating Officer was in charge of the police case for a limited point of time.

5. Learned Advocate appearing for the appellants submits that, it was due to sheer oversight that a report under Section 102(3) of the Criminal Procedure Code was not filed before the jurisdictional Court, till its actual filing. As and when such lacuna was discovered by the last Investigating Officer, such report was immediately filed before the jurisdictional Court.
6. Learned Advocate appearing for the private respondent submits that, the delay in filing the report under Section 102(3) of the Criminal Procedure Code is established. He submits that, there were a number of Investigating Officers. The report was submitted before the jurisdictional Court only after a writ petition to such effect was filed before the High Court. According to him, in the facts and circumstances of the present case, the impugned judgment should not be interfered with.
7. As noted above, police in course of investigation with regard to a First Information Report being Pradhan Nagar Police Station FIR No.457 of 2013 under Sections 120B/409/467/468/471/477A/420 of the Indian Penal Code read with Section 13(2)/13(1)(c) and (d) of the Prevention of Corruption Act, 1988, seized five accounts belonging to the private respondent and directed them to remain frozen.
8. Subsequent to such accounts being seized and directed to be frozen, report under Section 102(3) of the Criminal Procedure Code was filed only on January 5, 2022. Accounts were frozen on August 12, 2013 and September 16, 2013.

9. Private respondent assailed the notices directing freeze of the five accounts dated August 12, 2013 and September 16, 2013 by way of a writ petition filed in 2021. Private respondent also did not take any steps with regard to freeze on such accounts for a period of eight years from the date of such accounts being directed to be frozen.
10. Allegation in the police complaint is that, private respondent as a contractor was a recipient of benefits from the Siliguri Jalpaiguri Development Authority in respect of a tender for installation of closed circuit television camera. Subsequent enquiry into such tender suggested that the cameras installed under the tender were not of specification and were of spurious quality. First Information Report was lodged with regard to such tender in which, police on investigation attached five bank accounts of the private respondent.
11. **Shento Varghese** (*supra*) considered the provisions of Section 102 of the Criminal Procedure Code. It is of the following view:

***“28. Therefore, in deciding whether the police officer has properly discharged his obligation under Section 102(3) CrPC, the Magistrate would have to, firstly, examine whether the seizure was reported forthwith. In doing so, it ought to have regard to the interpretation of the expression, “forthwith” as discussed above. If it finds that the report was not sent forthwith, then it must examine whether there is any explanation offered in support of the delay. If the Magistrate finds that the delay has been***

***properly explained, it would leave the matter at that. However, if it finds that there is no reasonable explanation for the delay or that the official has acted with deliberate disregard/wanton negligence, then it may direct for appropriate departmental action to be initiated against.”***

12. Last sentence of Paragraph 28 of ***Shento Varghese*** (*supra*) is emphatic. It suggested that, the act of seizure would not get vitiated by virtue of the delay in filing a report under Section 102 of the Criminal Procedure Code.
13. In the facts of the present case, the last Investigating Officer filed report under Section 102 of the Criminal Procedure Code *albeit* belatedly.
14. In our view, on the strength of the ratio of ***Shento Varghese*** (*supra*), the seizure by itself is not vitiated. At best, the State can proceed against the delinquent, if they may be called so, Investigating Officers, who did not file the report, departmentally.
15. In the facts and circumstances of the present case, a plausible explanation was put forward by the State. The explanation is that the Investigating Officer overlooked the initial non-filing of the report before the jurisdictional Court. The first Investigating Officer overlooked it. The subsequent Investigating Officers did not scrutinize the case diary appropriately to find out such lacuna. As and when such lacuna was discovered, report was submitted.

16. In our view, learned Single Judge did not apply the ratio of ***Shento Varghese*** (*supra*) correctly in the facts and circumstances of the present case.
17. Consequently, we set aside the impugned judgment and order.
18. **MAT 69 of 2024** is **allowed** without any order as to costs.

**(Debangsu Basak, J.)**

19. I agree.

**(Md. Shabbar Rashidi, J.)**

(AD)