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CASE COMMENT STATE OF MAHARASHTRA v. TAPAS D. NEOGY- Harshita Shankar¹**Abstract**

The Supreme Court of India, in the case of State of Maharashtra vs Tapas D. Neogy (Criminal Application No. 826 of 1996), addressed a critical legal question regarding the authority of a police officer under Section 102 of the Criminal Procedure Code (CrPC) to issue a prohibitory order on the bank account of the accused during an investigation. The case involved Tapas D. Neogy, an Architect & Town Planner, facing charges under IPC Sections 120-B, 467, 468, 471, and 420, along with Section 13(2) of the Prevention of Corruption Act, 1988. The Bombay High Court had previously held that a bank account could not be considered 'property' under Section 102 of CrPC, leading to the State of Maharashtra challenging this interpretation before the Supreme Court. The petitioner argued that the High Court denied the police officer the authority to seize or issue prohibitory orders on the bank account. The Supreme Court, recognising the absence of a previous decision on the matter, delved into a comprehensive analysis of Section 102. It rejected the narrow interpretation adopted by some High Courts and concluded that a bank account qualifies as 'property' within the meaning of Section 102. The Court emphasised the need for a broader interpretation to combat corruption and white-collar crimes effectively, aligning its decision with the legislative intent of the Prevention of Corruption Act of 1988. While setting a significant legal precedent, the Supreme Court refrained from interfering with the specific case, as the impugned order had already been implemented, allowing the accused to operate their bank account. The judgment provides a comprehensive framework for understanding the expansive powers granted to investigating officers under Section 102,

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especially concerning assets directly linked to alleged offences, in the context of combating corruption and related offences.

Facts of the Case

1. BACKGROUND OF THE CASE:

- The appeal challenges the judgment of the Bombay High Court dated 9.4.97 in Criminal Application No. 826 of 1996.
- The High Court addressed a common question of law regarding the power of a Police Officer under Section 102 of the Criminal Procedure Code (CrPC.) to issue a prohibitory order on the accused's bank account during the investigation.

2. DETAILS OF CRIMINAL APPLICATION NO. 826 OF 1996:

- This involves Tapas D. Neogy, an architect and town planner in the Department of Town Planning of the Union Territory of Daman and Diu.
- Three FIRs were filed by CBI, ACB, Mumbai, against Neogy and others for offences under IPC Sections 120-B, 467, 468, 471, and 420, along with Section 13(2) of the Prevention of Corruption Act, 1988.
- Allegations include a conspiracy to manipulate land zones in Daman, leading to land prices and financial gains for the accused.

3. INVESTIGATION AND SEIZURES:

The premises of Tapas Neogy in Daman were searched, resulting in the seizure of incriminating documents on October 12, 1993.

- Searches were conducted at the premises of Neogy's mother in Calcutta, including the seizure of documents and searches of lockers in Indian Bank.

4. BANK ACCOUNTS AND PROHIBIT ORDER:

- The Investigating Officer instructed bank managers not to allow the operation of accounts.

The mother of Tapas applied Section 457 of CrPC before the Additional Chief Metropolitan Magistrate to operate the bank account, which was partially granted.

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5. MAGISTRATE'S ORDER AND HIGH COURT JUDGMENT:

The Magistrate's order was challenged before the Bombay High Court.

- The High Court, relying on precedent, held that a bank account cannot be considered 'property' under Section 102 of CrPC. The Investigating Officer lacks the power to seize or issue a prohibitory order.

6. LEGAL PROCEEDINGS:

- The State of Maharashtra appealed, disputing the High Court's interpretation of Section 102.
- Argument ensued on whether the bank account qualifies as 'property' under Section 102 and if the Investigating Officer has the authority to seize or issue prohibitory orders.

Issues**PETITIONER (STATE OF MAHARASHTRA):****POWER OF POLICE OFFICER UNDER SECTION 102:**

The petitioner's primary contention is that the High Court erred in holding that the police officer investigating the case had no authority to seize the bank account or issue a prohibitory order under Section 102 of the Criminal Procedure Code.

DEFINITION OF 'PROPERTY':

The petitioner argues that the High Court incorrectly interpreted the term 'property' in Section 102 and that the accused's bank account or any of his relations should be considered 'property' under the said provision.

DIRECT LINK TO OFFENCE:

The petitioner contends that the bank account was directly linked with the commission of the alleged offences. The petitioner asserts that the accused, Tapas Neogy, and others were involved in a conspiracy leading to pecuniary advantages gained by landowners through fraudulent activities, and the bank account played a crucial role in this illicit transaction.

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PREVENTION OF CORRUPTION ACT, 1988:

The petitioner emphasises that the interpretation of Section 102 should align with the objectives of the Prevention of Corruption Act, 1988. The Act aims to combat corruption, and the powers of police officers to seize assets, including bank accounts, are crucial for effective investigation and prosecution.

DIVERGENT VIEWS:

The petitioner highlights the divergent views of different High Courts in the country and argues that a consistent interpretation is necessary to apply the law uniformly.

DEFENDANT (ACCUSED/RESPONDENT):**HIGH COURT'S INTERPRETATION:**

The respondent argued that the High Court's interpretation of Section 102 is correct and in line with the principles of law.

ABSENCE OF DIRECT LINK:

The respondent may contend that the bank account had no direct link with the alleged offences and that the charges against them are based on erroneous assumptions.

Arguments**PETITIONER'S ARGUMENTS:****POWER OF POLICE OFFICER UNDER SECTION 102 CRPC:**

The petitioner contends that Section 102 of the Criminal Procedure Code grants the police officer the authority to seize any property suspected to have been stolen or found under the circumstances creating suspicion of the commission of an offence. The broad language of the provision includes the power to seize any property associated with criminal activities.

BANK ACCOUNT AS PROPERTY:

The petitioner argues that a bank account, including those of the accused or their relatives, qualifies as "property" within the meaning of Section 102. The interpretation of property must be

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expansive to address modern forms of white-collar crimes, including those involving financial transactions and corruption.

PREVENTION OF CORRUPTION ACT:

The petitioner highlights the objectives of the Prevention of Corruption Act of 1988, which aims to deal with public servants involved in corruption. The Act does not provide specific procedures for dealing with the property linked to offences, making Section 102 a crucial tool for investigators.

DIVERGENT VIEWS OF HIGH COURTS:

The petitioner notes the divergent views of various High Courts on the interpretation of Section 102. Emphasis is placed on the decisions favouring a broader interpretation that includes bank accounts as property subject to seizure.

DEFENDANT'S ARGUMENTS:

LITERAL INTERPRETATION OF SEIZURE:

The defendant argues for a literal interpretation of "seize" under Section 102. It is contended that seizure involves taking possession of the property, and a prohibitory order on a bank account does not meet this criterion.

INAPPLICABILITY TO BANK ACCOUNTS:

The defendant relies on decisions from Karnataka, Gauhati, and Allahabad High Courts, stating that a bank account cannot be seized under Section 102. The argument is based on the premise that money passing from the accused to the bank becomes unidentifiable and, therefore, cannot be seized.

RESTITUTION AND COMPENSATION UNDER THE CODE:

The defendant emphasises the provisions of the Criminal Procedure Code that allow for restitution, compensation, and return of property to the rightful owner after trial. According to the defendant, the Code does not intend to provide for the seizure of bank accounts.

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PREVENTION OF CORRUPTION ACT – LEGISLATIVE INTENT:

The defendant contends that the Prevention of Corruption Act, a particular law, should be the governing legislation in corruption cases. Since the Act does not specify the procedure for dealing with bank accounts, it implies that Section 102 is not intended to apply in such situations.

Cases Mentioned:**MS. SWARAN SABHARWAL VS COMMISSIONER OF POLICE (1988)²:**

Delhi High Court case examining whether bank accounts can be considered "property" under Section 102 of the Criminal Procedure Code.

M/S. PURBANCHAL ROAD SERVICE VS. THE STATE (1991)³:

Gauhati High Court case questioning the validity of a police order prohibiting a bank from paying amounts to the accused from his account.

M/S MALNAD CONSTRUCTION CO. VS. STATE OF KARNATAKA (1994)⁴:

Karnataka High Court case affirming the view that the term "seize" in Section 102 means taking possession of the property.

P.K. PARMAR AND ORS. VS. UNION OF INDIA (1992)⁵:

Delhi High Court case considering the power of police officers under Section 102 concerning the fraudulent acquisition of properties.

BHARATH OVERSEAS BANK VS. MINU PUBLICATION (1988)⁶:

Madras High Court case affirming that money in a bank account qualifies as "property" under Section 102.

²[1990]68COMPCAS652(DELHI).

³1991CRILJ2798.

⁴1994(1) ALT(CRI)119.

⁵1992CRILJ2499.

⁶[1988] MLJ (CrL.) 309.

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DR. GURCHARAN SINGH VS. THE STATE OF PUNJAB (1978)⁷:

The Punjab & Haryana High Court case held that a bank account can be considered "property" subject to seizure under Section 102.

Judgement**COURT'S OBSERVATIONS AND ANALYSIS:**

- No previous decision by the Supreme Court on the issue.
- Respondent argues that post the High Court's judgment, the bank accounts were allowed to be operated upon, making the legal question moot. However, given divergent views among High Courts, the Supreme Court decides to address the issue.
- Examining the Prevention of Corruption Act, 1988, which deals with corruption by public servants, the Court emphasises the need to consider the Act's object while interpreting Section 102 of the Cr.P.C.

INTERPRETATION OF SECTION 102:

- Section 102(1) empowers any police officer to seize property suspected to be stolen or found under the circumstances raising offence suspicions.
- The key issues are whether a bank account is 'property' and whether circumstances exist, creating suspicion of an offence.
- Divergent views across High Courts: Some hold that a bank account is not 'property' under Section 102, while others argue for a broader interpretation.

HIGH COURT DECISIONS:

- Delhi, Gauhati, Allahabad, and Karnataka High Courts lean toward a narrow interpretation, holding that a bank account cannot be seized by a prohibitory order under Section 102.
- Madras High Court adopts a broader view, considering a bank account as 'property' under Section 102.

SUPREME COURT'S CONCLUSION:

⁷(1997)116PLR239.

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- The Court rejects the narrow interpretation and holds that a bank account is 'property' within the meaning of Section 102.
- Corruption in public offices is widespread, and trial delays necessitate a broad interpretation of the law to prevent accused individuals from withdrawing ill-gotten money.
- The interpretation aligns with the legislative intent behind Section 16 of the Prevention of Corruption Act.

FINAL DECISION:

- While setting the legal precedent, the Court refrains from interfering with the present case, as the impugned order has already been given effect, allowing the accused to operate their account.

Analysis

The primary question before the High Court was whether a Police Officer, during an investigation into an offence, has the authority to issue a prohibitory order about the accused's bank account under Section 102 of the Criminal Procedure Code (CrPC). The charges pertained to a conspiracy involving a forged map of Daman, resulting in an increase in the industrial zone, false certificates, and a subsequent rise in land prices. Under the First Information Report, the investigating officer instructed banks not to allow the accused's accounts to be operated upon. Tapas Neogy's mother filed an application before the Additional Chief Metropolitan Magistrate seeking permission to operate the bank account and return the seized documents. The Magistrate granted relief for the locker but refused to allow the operation of the bank account. The matter was then brought before the Bombay High Court, which, in its impugned judgment, concluded that a bank account could not be considered 'property' under Section 102 of the CrPC. Thus, the investigating officer lacked the authority to seize or issue a prohibitory order.

The State of Maharashtra appealed the High Court's decision, contending that the bank account of an accused or their relation should be considered 'property' under Section 102 of the CrPC, empowering the investigating officer to seize or issue a prohibitory order. The Supreme Court acknowledged no precedent from the Court directly addressing the issue. While the respondent argued that the bank accounts had already been allowed to be operated upon, making the

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question moot, the Supreme Court opted to entertain and decide the matter due to divergent views among various High Courts on interpreting Section 102 of the CrPC. The Prevention of Corruption Act of 1988 was enacted to address corruption among public servants. The Act enhances penalties for offences under Sections 161 to 165A of the Indian Penal Code and penalises public servants committing criminal misconduct.

Section 13 of the Act outlines the penalties, including imprisonment and fines, and Section 16 guides the Court in determining the amount of fine based on the property obtained through the offence. Section 102 of the CrPC grants the police officer the power to seize any property alleged or suspected to relate to an offence. The critical issues before the Court were whether a bank account qualifies as 'property' and if circumstances exist that create suspicion of the commission of an offence. The Supreme Court considered divergent views from different High Courts. Delhi, Madras, and Punjab & Haryana High Courts held that a bank account is 'property' under Section 102.

On the contrary, Karnataka, Gauhati, and Allahabad High Courts held that the power of seizure does not extend to prohibiting the operation of a bank account. The Supreme Court, opting for a broader interpretation of Section 102, held that a bank account of the accused or their relation qualifies as 'property' under the provision. The Court emphasised the increasing prevalence of corruption and white-collar crimes and the need for an expansive interpretation to curb such offences effectively.

The Court rejected the narrower interpretation adopted by some High Courts, reasoning that restricting the scope of 'property' would create legal hurdles in investigating crimes, particularly corruption cases. The Court highlighted the two-fold purpose of seizure – as evidence of the crime and to preserve the property for potential court orders post-trial. In alignment with the legislative intent under the Prevention of Corruption Act, the Court concluded that the interpretation given by Delhi, Madras, and Punjab & Haryana High Courts aligns with the broader objectives of the law. However, despite establishing the legal position, the Supreme Court refrained from interfering with the impugned order, as the accused had already been operating their bank account. The judgment lays down a comprehensive analysis of Section 102

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of the CrPC, emphasising the expansive interpretation required to address the challenges posed by corruption and related offences.

Conclusion

In conclusion, the Supreme Court's landmark judgment in the case of the State of Maharashtra vs. Tapas D. Neogy has significantly clarified the scope and authority of a police officer under Section 102 of the Criminal Procedure Code (CrPC) about bank accounts during criminal investigations. By holding that a bank account qualifies as 'property' under Section 102, the Court has provided a crucial tool for law enforcement agencies to effectively combat corruption and white-collar crimes. The decision emphasises the evolving nature of criminal activities, particularly in financial transactions and corruption. It underscores the need for an expansive interpretation of the law to keep pace with contemporary challenges. By rejecting the narrower interpretation adopted by some High Courts, the Supreme Court has promoted a consistent and uniform application of the law across the country.

Furthermore, the judgment aligns with the legislative intent behind the Prevention of Corruption Act of 1988, acknowledging the crucial role of Section 102 in enabling investigators to seize assets, including bank accounts, associated with corruption cases. The Court's recognition of the two-fold purpose of seizure, as evidence of the crime and preservation of property for potential court orders post-trial, demonstrates a balanced approach to criminal investigations. While establishing a significant legal precedent, the Supreme Court, in a pragmatic move, refrained from interfering with the specific case at hand, considering that the impugned order had already been given effect to allowing the accused to operate their bank account.

In doing so, the Court provided a clear legal framework for future cases while addressing the immediate circumstances of the present matter. Overall, the judgment sets a robust foundation for effectively utilising Section 102 in combating corruption, contributing to the broader goals of justice and the rule of law.

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