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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 199/2021 & CRL.M.A. 8720/2021**

SHAHID YOUSUF

.....Appellant

Through: Ms Nithya Ramakrishnan, Sr. Adv.
with Ms Stuti Rai, Ms. Warisha
Farasat & Ms. Mreganka Kukreja,
Advs.
Mr. Jawahar Raja, Adv.

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Akshai Malik, SPP, NIA with Mr.
Akshay Sehgal & Mr. Khawar Saleem,
Advs.

WITH

33

+ **CRL.A. 201/2021 & CRL.M.A. 8954/2021**

SYED AHMAD SHAKEEL

.....Appellant

Through: Mr. Jawahar Raja, Adv.
versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Akshai Malik, SPP, NIA with Mr.
Akshay Sehgal & Mr. Khawar Saleem,
Advs.

34

WITH

+ CRL.A. 369/2022

MASARAT ALAM BHAT

.....Appellant

Through:
versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Akshai Malik, SPP, NIA with Mr.
Akshay Sehgal & Mr. Khawar Saleem,
Advs.
Mr. B.B. Pathak, Dy. SP, NIA & Mr.
Ankit Rohilla, Insp., NIA.



WITH

35

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**CRL.A. 27/2023, CRL.M.A. 699/2023, CRL.M.A. 701/2023 &
CRL.M.A. 716/2023**

SHABIR AHMED SHAHAppellant

Through: Mr. Kamran Khwaja, Adv.

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Akshai Malik, SPP, NIA with Mr.
Akshay Sehgal & Mr. Khawar Saleem,
Advs.

Mr. B.B. Pathak, Dy. SP, NIA & Mr.
Ankit Rohilla, Insp., NIA.

36

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CRL.A. 276/2023 & CRL.M.A. 8212/2023

ZAHOOR AHMAD SHAH WATALIAppellant

Through:

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Akshai Malik, SPP, NIA with Mr.
Akshay Sehgal & Mr. Khawar Saleem,
Advs.

Mr. B.B. Pathak, Dy. SP, NIA & Mr.
Ankit Rohilla, Insp., NIA.

AND

37

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CRL.A. 379/2023, CRL.M.A. 11874/2023 & CRL.M.A. 14170/2024
NAYEEM AHMAD KHANAppellant

Through: Ms. Tara Narula, Ms. Tamanna
Pankaj, Mr. Anirudh Ramanathan and
Mr. Harshvardhan Jain, Advocates

Versus

STATE (THROUGH NATIONAL INVESTIGATION
AGENCY)Respondent

Through: Mr. Akshai Malik, SPP, NIA with Mr.
Akshay Sehgal & Mr. Khawar Saleem,
Advs.



Mr. B.B. Pathak, Dy. SP, NIA & Mr.
Ankit Rohilla, Insp., NIA.

38

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WITH
CRL.A. 479/2022 & CRL.M.A. 25736/2023
JAVED ALI @ JAVEDAppellant

Through:

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Rahul Tyagi, SPP, NIA with Mr.
Abhishek Tomar, Mr. Bibhash
Chandra Mishra, Mr. Abhishek Saket,
Mr. Amit Chanchal Jha, Mr. Digvijay
Singh Rawat, Mr. Sunil Pant, Advs.
with Insp. Akansha Jotriwal, NIA and
Mr. Ashutosh, DSP, NIA.

39

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WITH
CRL.A. 679/2022 & CRL.M.A. 27596/2022
ALEMLA JAMIRAppellant

Through: Mr. Tanveer Ahmed Mir, Mr. Kartik
Venu, Mr. Md. Imran Ahmad, Advs.

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through:

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CRL.A. 680/2022 & CRL.M.A. 27598/2022
MASASASONG AOAppellant

Through: Mr. Tanveer Ahmed Mir, Mr. Kartik
Venu, Mr. Md. Imran Ahmad, Advs.

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Rahul Tyagi, SPP, NIA with Mr.
Abhishek Tomar, Mr. Bibhash
Chandra Mishra, Mr. Abhishek Saket,
Mr. Amit Chanchal Jha, Mr. Digvijay
Singh Rawat, Mr. Sunil Pant, Advs.

41

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CRL.A. 1065/2023
ABDUR REHMAN @DR. BRAVEAppellant



Through: Mr. Tamanna Pankaj, Ms. Mreganka
Kukreja & Ms. Priya Vats, Advs.

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Rahul Tyagi, SPP, NIA with Mr.
Abhishek Tomar, Mr. Bibhash
Chandra Mishra, Mr. Abhishek Saket,
Mr. Amit Chanchal Jha, Mr. Digvijay
Singh Rawat, Mr. Sunil Pant, Advs.
with Insp. Akansha Jotriwal, NIA and
Mr. Ashutosh, DSP, NIA.

42

AND

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CRL.A. 792/2023

NATIONAL INVESTIGATION AGENCY THROUGH ITS CHIEF
INVESTIGATION OFFICERAppellant

Through: Mr. Rahul Tyagi, SPP, NIA with Mr.
Abhishek Tomar, Mr. Bibhash
Chandra Mishra, Mr. Abhishek Saket,
Mr. Amit Chanchal Jha, Mr. Digvijay
Singh Rawat, Mr. Sunil Pant, Advs.
with Insp. Akansha Jotriwal, NIA and
Mr. Ashutosh, DSP, NIA.

versus

JAHANZAIB SAMI ALIAS DAWOOD IBRAHIM ALIAS XAIB
ALIAS ABU MUHAMMED AL HIND ALIAS ABU ABDULLA &
ORS.Respondents

Through: None.

43

WITH

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CRL.A. 60/2023

MD WAQAR LONEAppellant

Through: None.

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Akshai Malik, SPP, NIA with Mr.
Akshay Sehgal & Mr. Khawar Saleem,
Advs.

44

AND

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CRL.A. 159/2024



RAJKUMAR@LOVEPREET@LOVELY

.....Appellant

Through: Ms. Tara Narula, Ms. Tamanna Pankaj, Mr. Anirudh Ramanathan and Mr. Harshvardhan Jain, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Akshai Malik, SPP, NIA with Mr. Akshay Sehgal & Mr. Khawar Saleem, Advs.
Insp. Chandra Kumar, SI Vikas Kumar, NR & STF/Spl. Cell, Delhi.
Mr. Mukesh Kumar, APP

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

% **29.07.2024**

1. This hearing has been done through hybrid mode.
2. These are a bunch of appeals which have been filed challenging the impugned orders whereby the prayer for discharge made by the Appellants have been rejected and charges have been framed by the Special Court.
3. One of the preliminary objections in this case is with regard to the maintainability of these appeals under Section 21 of the National Investigation Agency Act, 2008 (hereinafter referred to as “NIA Act”).
4. Ms. Nitya Ramakrishnan, Id. Senior Counsel appearing for the Appellants submits that in the decision **CRL.A. 416/2012** titled **Gulam Mohammed Bhat v. NIA** which had arisen from the same R.C in the present appeals bearing no. **CRL.A. 199/2021 Shahid Yousuf v. National Investigation Agency and CRL.A. 201/2021 Syed Ahmad Shakeel v. National Investigation Agency**, vide order dated 18th April, 2012, the Id. Division Bench of this Court has taken a view that an appeal under Section



21 of NIA Act would not be maintainable. In the said case, the matter was directed to be converted into a petition under Section 482 of Cr.P.C.

5. Ms. Ramakrishnan further urges before the Court that a Id. Division Bench of the Bombay High Court in **CRL.A. 112/2018** titled **Lt. Col. Prasad Purohit and connected matters v. National Investigation Agency**, vide decision dated 5th March, 2019 has considered the provisions of Section 21 of the NIA Act. In the said decision, the Court has held that the appeals would be maintainable against an order framing charge passed by the Special Court. It is further submitted that the challenge to the aforesaid decision by way of Special Leave Petition (Criminal) No. 25167/2019 has been dismissed by the Hon'ble Supreme Court vide order dated 6th September, 2019.

6. On a query from the Court as to what is the status of the proceedings before the Special Court, the Court has been informed that currently, the proceedings are at the stage of evidence.

7. Ms. Ramakrishnan submits that the matters ought to be referred to a Three Judge Bench. This submission is accordingly recorded.

8. On behalf of the NIA, Mr. Malik, Id. Counsel submits that the matters can still be listed before the Id. Division Bench itself as an order framing charge would be treated as an interlocutory order and thus the appeal would not be maintainable. He relies upon the **Pragya Singh Thakur v. NIA, 2014 1 SCC 25**, and **Dimchuingam Ruangmei 2022 SCC OnLine Megh 522**.

9. In some of these cases, the matters would have to be listed before another Bench of which (*Hon'ble Mr. Justice Amit Sharma*) is not a member. In view of the above facts and circumstances, let these matters be placed before Hon'ble the Acting Chief Justice for marking the same to an appropriate Bench.



10. List on 9th August, 2024.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

JULY 29, 2024

Rahul/pr