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

Date of decision: 28th January, 2026

Uploaded on: 30th January, 2026

+ **CRL.A. 673/2025 & CRL.M.A. 15049/2025**

ABDUL RASHID SHEIKH

.....Appellant

Through: Mr. N. Hariharan, Sr. Adv. with Mr. Vikhyat Oberoi, Ms. Nishita Gupta, Mr. Ravi Sharma, Mr. Shivam Prakash, Ms. Punya Rekha, Mr. Aman Akhtar, Mr. Vinayak Gautam & Ms. Vasundhara, Advs

versus

NATIONAL INVESTIGATION AGENCY NIARespondent

Through: Mr. Sidharth Luthra, Sr. Adv, Mr. Akshai malik, (SPP) NIA, Mr. Ayush Agarwal, Mr. Khawar Saleem, Ms.Diptasreebag , Mr. BB pathak (ASG) NIA.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. In the present appeal, the challenge was to the impugned order on charge dated 16th March, 2022 and the formal charge order dated 10th May, 2022 passed and framed by the Id. ASJ-03, Patiala House Courts, New Delhi in **NIA RC No. RC-10/2017/NIA/DLI**. The further prayer is for discharging the Appellant of all the charges framed against him in the said case.



3. At the outset, Mr. Sidharth Luthra, Id. Sr. Advocate appearing for the NIA, submits that there is a substantial delay of 1104 days in filing the present appeal and the same cannot be condoned at this stage.

4. Further, Mr. Luthra has placed before the Court the decision of the Co-ordinate Bench of this Court in a batch of appeals, where the lead matter is **CRL. A. 199/2021** titled **Shahid Yousuf v. National Investigation Agency**. In the said judgement, the Court had considered, *inter alia*, the maintainability of an appeal under Section 21 of the National Investigation Agency Act, 2008 against an order framing charge. The relevant portion of the said judgement reads as under:

“16. Thus, the Scheme of Act is that for the Scheduled offences covered by the NIA Act, the investigation as well as trial shall be speedy. A revision challenging any order is absolutely barred to enable Court to hold proceedings expeditiously. An appeal is provided only from any judgment, sentence or order, not being an interlocutory order, to a Division Bench of the High Court both on facts and on law. The term “order” here is preceded by words, ‘judgment’ and ‘sentence’ and followed by ‘not being an interlocutory order’. The scope of challenge to such order is by way of appeal both on facts and law. Thus, the order has to be a final order, like a judgment or sentence which can be challenged both on facts and law and conclude proceeding finally. Unlike Amar Nath and Madhu Limaye, where the Court was interpreting the term ‘interlocutory order’ in a revision, hereunder NIA Act, this Court is interpreting the term “order” with reference to an ‘appeal on facts and law’. There, anything more than an interlocutory order was found not hit by restriction of interlocutory order of Section 397(2) Cr.P.C., but, here it has to be an



order from which appeal, on facts and law, may be made available. Further, under NIA Act, though a revision is barred, we do not find any provision enlarging the scope of challenge of an Order framing Charge from supervisory jurisdiction to challenge on facts and law. At the stage of framing of Charge, as settled by a catena of judgments, the Court is to summarily look into the evidence collected by the prosecution and to find if a Charge is made out. It is also obliged to see that there is no abuse of process of law or jurisdictional defects in the proceedings. However, the evidence is yet to be led by the parties before the Court and thus, at this stage, the Special Court is not expected to give any definite finding on facts and law, consequently an appeal on facts and law cannot be envisaged. Even otherwise, in case legislature desired to provide an appeal against an Order framing Charge, as against a bail order is provided under Sub-Section (4), it would have so legislated. However, it would not mean that the accused would be left remediless as the NIA Act does not bar application of Section 482 Cr.P.C./528 BNSS. Any person aggrieved can challenge the same under inherent powers of the High Court.

17. The Delhi High Court in “Bachraj Bengani @ B. R. Jain v. State and Anr.”, 2004 SCC OnLine Del 128; and “Ghulam Mohd. Bhat v. NIA”, Order dated 18.04.2012 passed in CRL. A. No. 416/2012; also held that an appeal would not be maintainable and a petition under Section 482 Cr.P.C. (now Section 528 of BNSS) would be maintainable.

18. In view of the above discussions, we come to the following conclusions:-

i. Both Amar Nath and Madhu Limaye cases are on scope of revision and are, thus, not applicable in the



present case, where it is the scope of an appeal under consideration before this Court.

ii. An Order framing Charge, as against final order is an interlocutory order, as it does not decide any proceeding finally and the term ‘intermediate order’ is a concept of revisional jurisdiction, which cannot be applied while interpreting the term ‘appeal’ both on facts and law.

iii. A conjoint reading of Section 21, other sections and purpose of the NIA Act shows that the term ‘order’ in Section 21(1) refers to a final order and not an interlocutory or intermediate order.”

5. The Court has therefore taken the view that an order framing charge would be an interlocutory order and would not be a final order, hence an appeal would not be maintainable against such an order framing charge.

6. Accordingly, in view of the above decision, the present appeal would not be maintainable. Considering the fact that the appeal on merits itself is not maintainable, this Court has not gone into the aspect of delay in the facts of this case.

7. In view thereof, the present appeal is dismissed as being not maintainable. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

JANUARY 28, 2026/ys/msh