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

% ***Reserved on : 31.10.2025***
Date of decision: 23.12.2025

\+ CRL.A. 199/2021 & CRL.M.A. 8720/2021
SHAHID YOUSUF .....Appellant
Through: Mr. Nitai Hinduja, Ms. Aditi Sarswat & Mr. Jawahar Raja, Advs.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent
Through: Mr. Akshai Malik SPP, NIA with Mr. Khawar Saleem, Advs.

\+ CRL.A. 201/2021 & CRL.M.A. 8954/2021
SYED AHMAD SHAKEEL .....Appellant
Through: Mr. Nitai Hinduja, Ms. Aditi Sarswat & Mr. Jawahar Raja, Advs.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent
Through: Mr. Akshai Malik SPP, NIA with Mr. Khawar Saleem, Advs.

\+ CRL.A. 369/2022
MASARAT ALAM BHAT .....Appellant
Through: Ms. Nitya Ramakrishnan, Sr. Adv. Ms. Warisha Farasat, Ms. Suvarna Swain, Ms. Stuti Rai & Ms. Rupali Samuel, Advs.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent
Through: Mr. Sidharth Luthra, Sr. Adv. with Mr. Akshai Malik (SPP) with Mr. Ayush Agarwal & Mr. Khawar Saleem, Advs.
Mr. B. B. Pathak, DSP, NIA.

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

SHABIR AHMED SHAH .....Appellant

Through: Mr. Kamran Khwaja, Adv.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Sidharth Luthra, Sr. Adv. with Mr. Akshai Malik (SPP) with Mr. Ayush Agarwal & Mr. Khawar Saleem, Advs. Mr. B. B. Pathak, DSP, NIA.

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

ZAHOOR AHMAD SHAH WATALI .....Appellant

Through: Mr. Shariq J. Reyaz, Advocate.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Sidharth Luthra, Sr. Adv. with Mr. Akshai Malik (SPP) with Mr. Ayush Agarwal & Mr. Khawar Saleem, Advs. Mr. B. B. Pathak, DSP, NIA.

\+ CRL.A. 379/2023, CRL.M.A. 11874/2023 & CRL.M.A. 14170/2024

NAYEEM AHMAD KHAN .....Appellant

Through: Mr. Anirudh Ramanth & Ms. Tamanna Pankaj, Advs.

versus

STATE (THROUGH NATIONAL INVESTIGATION AGENCY) .....Respondent

Through: Mr. Sidharth Luthra, Sr. Adv. with Mr. Akshai Malik (SPP) with Mr. Ayush Agarwal & Mr. Khawar Saleem, Advs. Mr. B. B. Pathak, DSP, NIA.

\+ CRL.A. 479/2022 & CRL.M.A. 25736/2023

JAVED ALI @ JAVED .....Appellant

Through: Mr. Aarif Ali Adv. Mr. Chand Qureshi Adv. Mr. Mujahid Ahmad, Adv. Mr. Mohd Tauheed Adv. Mr Md. Imran Siddiqui Adv. Mr Mohd Faiz Adv. Ms. Saima Anjum Advs. *(Through VC)*

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Rahul Tyagi, SPP (NIA) with Mr. Jatin, Mr. Amit Rohila, Advs. with Insp. Ajay Singh Parmar, CIO (NIA)

\+ CRL.A. 679/2022 & CRL.M.A. 27596/2022

ALEMLA JAMIR .....Appellant

Through: Mr. Tanveer Ahmed Mir, Sr. Adv. with Mr. MD Imran Ahmad, Adv.
Mr. Aarif Ali Adv. Mr. Chand Qureshi Adv. Mr. Mujahid Ahmad, Adv. Mr. Mohd Tauheed Adv. Mr Md. Imran Siddiqui Adv. Mr Mohd Faiz Adv. Ms. Saima Anjum Advs. *(Through VC)*

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Ms. Shilpa Singh, SPP with Ms. Priyam Aggarwal, Advs.

\+ CRL.A. 680/2022 & CRL.M.A. 27598/2022

MASASASONG AO .....Appellant

Through: Mr. Tanveer Ahmed Mir, Sr. Adv. with Mr. MD Imran Ahmad, Adv.
Mr. Aarif Ali Adv. Mr. Chand Qureshi Adv. Mr. Mujahid Ahmad, Adv. Mr. Mohd Tauheed Adv. Mr Md. Imran Siddiqui Adv. Mr Mohd Faiz Adv. Ms. Saima Anjum Advs. *(Through VC)*

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Rahul Tyagi, SPP (NIA) with Mr. Jatin, Mr. Amit Rohila, Advs. with Insp. Ajay Singh Parmar, CIO (NIA)

\+ CRL.A. 1065/2023

ABDUR REHMAN @DR. BRAVE .....Appellant

Through: Ms. Warisha Farasat, Mr. Anirudh Ramanathan, Ms. Tamanna Pankaj & Ms. Priya Vats, Ms. Suvarna Swain, Advs.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Rahul Tyagi, SPP (NIA) with Mr. Jatin, Mr. Amit Rohila, Advs. with Insp. Ajay Singh Parmar, CIO (NIA)

\+ CRL.A. 60/2023

MD WAQAR LONE .....Appellant

Through: Mr. Aarif Ali Adv. Mr. Chand Qureshi Adv. Mr. Mujahid Ahmad, Adv. Mr. Mohd Tauheed Adv. Mr Md. Imran Siddiqui Adv. Mr Mohd Faiz Adv. Ms. Saima Anjum Advs. *(Through VC)*

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Rahul Tyagi, SPP (NIA) with Mr. Jatin, Mr. Amit Rohila, Advs. with Insp. Ajay Singh Parmar, CIO (NIA)

\+ CRL.A. 159/2024

RAJKUMAR@LOVEPREET@LOVELY .....Appellant

Through: Mr. Anirudh Ramanathan, Ms. Tamanna Pankaj & Ms. Priya Vats, Advs.

versus

STATE OF NCT OF DELHI .....Respondent
Through: Mr. Ritesh Kumar Bahri, APP with Mr. Lalit Luthra, Adv. with SI Vikas Kumar, NR/Spl. Cell, Delhi.

\+ CRL.A. 971/2024 & CRL.M.A. 31541/2024
ROUF AHMAD BHAT .....Appellant
Through: Mr. Harsh Bora, Adv.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent
Through: Mr. Gautam Narayan, Sr. Adv. (SPP) with Ms. Asmita Singh, Ms. Disha Joshi, Ms. Ankita Malkhan & Mr. Shashank Jain, Advs. with SI Avdesh Yadav and SI Lokesh Raghav.

\+ CRL.A. 984/2024 & CRL.M.A. 31986/2024
MATEEN AHMED BHAT .....Appellant
Through: Mr. Kartik Venu & Mr. R. Jude Rohit, Advs.

versus

NATIONAL INVESTIGATION AGENCY & ANR. .....Respondents
Through: Mr. Gautam Narayan, Sr. Adv. (SPP) with Ms. Asmita Singh, Ms. Disha Joshi, Ms. Ankita Malkhan & Mr. Shashank Jain, Advs. with SI Avdesh Yadav and SI Lokesh Raghav.

\+ CRL.A. 1073/2024, CRL.M.A. 34616/2024 & CRL.M.A. 34617/2024
HARIS NISAR LANGOO .....Appellant
Through: Mr. Anirudh Ramanathan, Ms. Tamanna Pankaj & Ms. Priya Vats, Advs.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Gautam Narayan, Sr. Adv. (SPP) with Ms. Asmita Singh, Ms. Disha Joshi, Ms. Ankita Malkhan & Mr. Shashank Jain, Advs. with SI Avdesh Yadav and SI Lokesh Raghav.

\+ CRL.A. 1076/2024, CRL.M.A. 34739/2024 & CRL.M.A. 34740/2024

MANAN DAR@MANAN .....Appellant

Through: Mr. Anirudh Ramanathan, Ms. Tamanna Pankaj & Ms. Priya Vats, Advs.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Gautam Narayan, Sr. Adv. (SPP) with Ms. Asmita Singh, Ms. Disha Joshi, Ms. Ankita Malkhan & Mr. Shashank Jain, Advs. with SI Avdesh Yadav and SI Lokesh Raghav.

\+ CRL.A. 1096/2024, CRL.M.A. 35241/2024 & CRL.M.A. 35242/2024

HANAN GULZAR DAR .....Appellant

Through: Mr. Anirudh Ramanathan, Ms. Tamanna Pankaj & Ms. Priya Vats, Advs.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Gautam Narayan, Sr. Adv. (SPP) with Ms. Asmita Singh, Ms. Disha Joshi, Ms. Ankita Malkhan & Mr. Shashank Jain, Advs. with SI Avdesh Yadav and SI Lokesh Raghav.

\+ CRL.A. 1097/2024, CRL.M.A. 35244/2024 & CRL.M.A. 35245/2024

ZAMIN ADIL BHAT .....Appellant

Through: Mr. Anirudh Ramanathan, Ms.

Tamanna Pankaj & Ms. Priya Vats, Advs.

versus

NATIONAL INVESTIGATION AGENCY .....Respondent

Through: Mr. Gautam Narayan, Sr. Adv. (SPP) with Ms. Asmita Singh, Ms. Disha Joshi, Ms. Ankita Malkhan & Mr. Shashank Jain, Advs. with SI Avdesh Yadav and SI Lokesh Raghav.

\+ CRL.A. 558/2025, CRL.M.A. 13078/2025 & CRL.M.A. 13079/2025

ARSALAN FEROZE AHENGER (THROUGH PAIROKAR) .....Appellant

Through: Mr. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan, Mr. Anuka Bachawat and Ms. Charu Sinha, Advs.

versus

NATIONAL INVESTIGATION AGENCY & ANR. .....Respondents

Through: Mr. Rajesh Mahajan, SPP with Mr. Ranjeeb Kamal Bora, with DSP Surender Pal, NIA for R-NIA.

CORAM:
HON'BLE MR. JUSTICE VIVEK CHAUDHARY
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T

1. These appeals, filed under Section 21 of the National Investigation Agency Act, 2008 ("NIA Act"), challenge orders of Special Courts whereby Charges are framed against the appellants in different cases. A preliminary objection is raised by the Respondent/NIA that an appeal against an Order framing Charge is not maintainable under Section 21 of the NIA Act.

2. The submission of learned counsel for the appellants is that as per Section 21 of the NIA Act, an appeal is maintainable against every order other than an interlocutory order. It is already settled by the Supreme Court, that, an Order framing Charge is not an interlocutory order, but an intermediate order, thus, from a plain reading of the section, an appeal would be maintainable.

3. On the other hand, learned counsel for the respondent submits that a plain reading cannot be given to Section 21 as the same would not serve the purpose of the NIA Act. It should rather be interpreted in a manner which fulfils the purpose of the rest of the sections along with the Act, and, thus, a purposeful interpretation needs to be given.

4. Both parties have, broadly, referred to the same set of judgments of the Supreme Court, *albeit*, interpreting those in their own manner, which have been duly considered by us.

5. Section 21 of the NIA Act reads as follows:-

> *"21. Appeals — (1) Notwithstanding anything contained in the Code, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.*
> *(2) Every appeal under sub-section (1) shall be heard by a bench of two Judges of the High Court and shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.*
>
> *(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.*
>
> *(4) Notwithstanding anything contained in sub-section (3) of section 378 of the Code, an*

> *appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.*
>
> *(5) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from: Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days:*
>
> *Provided further that no appeal shall be entertained after the expiry of period of ninety days."*

6. Section 21(1) permits an appeal from *"any judgment, sentence or order not being an interlocutory order"*. Under Sub-Section (3), it bars any other appeal or revision.

7. Let us first refer to the judgments relied upon by the parties. In ***"Amar Nath and Ors. v. State of Haryana and Anr."***, (1977) 4 SCC 137 the Supreme Court, while considering challenge to an Order of framing Charge, held:

> *"(6)……It seems to us that the term "interlocutory order" in Section 397(2) of the 1973 Code has been used in a restricted sense and not in any broad or artistic sense. It merely denotes orders of a purely interim or temporary nature which do not decide or touch the important rights or the liabilities of the parties. Any order which substantially affects the right of the accused, or decides certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision to the High Court*

> *against that order, because that would be against the very object which formed the basis for insertion of this particular provision in Section 397 of the 1973 Code. Thus, for instance, orders summoning witnesses, adjourning cases, passing orders for bail, calling for reports and such other steps in aid of the pending proceeding, may no doubt amount to interlocutory orders against which no revision would lie under Section 397(2) of the 1973 Code.* ***But orders which are matters of moment and which affect or adjudicate the rights of the accused or a particular aspect of the trial cannot be said to be interlocutory order so as to be outside the purview of the revisional jurisdiction of the High Court.****"*
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> *(emphasis added)*

8. The Supreme Court, while considering scope of a criminal revision under Section 397 of the Cr.P.C., found that the term interlocutory order has been used in a restricted sense and not in any broad sense, and thus distinguished that there is something other than interlocutory and final order, i.e., order falling somewhere in between. The term used for the same was *"matters of moment"* affecting or adjudicating the rights of the accused or a particular aspect of the trial. In the same year, ***Amar Nath*** came up for consideration before a three Judges Bench of the Supreme Court in ***"Madhu Limaye v. State of Maharashtra"***, (1977) 4 SCC 551. In this case, Supreme Court, while interpreting also considered at length the scope of revisional jurisdiction under Section 397(1) of Cr.P.C. in reference to Bar contained in Section 397(2) of Cr.P.C. with regard to interlocutory order and its legislative progress with time, held:

> *"10. As pointed out in Amar Nath case the*

purpose of putting a bar on the power of revision in relation to any interlocutory order passed in an appeal, inquiry, trial or other proceeding, is to bring about expeditious disposal of the cases finally. More often than not, the revisional power of the High Court was resorted to in relation to interlocutory orders delaying the final disposal of the proceedings. The Legislature in its wisdom decided to check this delay by introducing sub-section (2) in Section 397. On the one hand, a bar has been put in the way of the High Court (as also of the Sessions Judge) for exercise of the revisional power in relation to any interlocutory order, on the other, the power has been conferred in almost the same terms as it was in the 1898 Code. On a plain reading of Section 482, however, it would follow that nothing in the Code, which would include sub-section (2) of Section 397 also, "shall be deemed to limit or affect the inherent powers of the High Court", But, if we were to say that the said bar is not to operate in the exercise of the inherent power at all, it will be setting at naught one of the limitations imposed upon the exercise of the revisional powers. In such a situation, what is the harmonious way out? ***In our opinion, a happy solution of this problem would be to say that the bar provided in sub-section (2) of Section 397 operates only in exercise of the revisional power of the High Court, meaning thereby that the High Court will have no power of revision in relation to any interlocutory order. Then in accordance with one of the other principles enunciated above, the inherent power will come into play, there being no other provision in the Code for the redress of the grievance of the***

aggrieved party. But then, if the order assailed is purely of an interlocutory character which could be corrected in exercise of the revisional power of the High Court under the 1898 Code, the High Court will refuse to exercise its inherent power. But in case the impugned order clearly brings about a situation which is an abuse of the process of the Court or for the purpose of securing the ends of justice interference by the High Court is absolutely necessary, then nothing contained in Section 397(2) can limit]or affect the exercise of the inherent power by the High Court. But such cases would be few and far between. The High Court must exercise the inherent power very sparingly. One such case would be the desirability of the quashing of a criminal proceeding initiated illegally, vexatiously or as being without jurisdiction. *Take for example a case where a prosecution is launched under the Prevention of Corruption Act without a sanction, then the trial of the accused will be without jurisdiction and even after his acquittal a second trial, after proper sanction will not be barred on the doctrine of autrefois acquit.* ***Even assuming, although we shall presently show that it is not so, that in such a case an order of the Court taking cognizance or issuing processes is an interlocutory order, does it stand to reason to say that inherent power of the High Court cannot be exercised for stopping the criminal proceeding as early as possible, instead of harassing the accused up to the end? The answer is obvious that the bar will not operate to prevent the abuse of the process of the Court and/or to secure the ends of justice. The label of***

the petition filed by an aggrieved party is immaterial. The High Court can examine the matter in an appropriate case under its inherent powers. *The present case undoubtedly falls for exercise of the power of the High Court in accordance with Section 482 of the 1973 Code, even assuming, although not accepting, that invoking the revisional power of the High Court is impermissible.*

11. In R.P. Kapur v. State of Punjab [AIR 1960 SC 866 : (1960) 3 SCR 388 : 1960 Cri LJ 239] Gajendragadkar, J., as he then was, delivering the judgment of this Court pointed out, if we may say so with respect, very succinctly the scope of the inherent power of the High Court for the purpose of quashing a criminal proceeding. Says the learned Judge at pp. 392-93:

"Ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction. However, we may indicate some categories of cases where the inherent jurisdiction can and should be exercised for quashing the proceedings. There may be cases where it may be possible for the High Court to take the view that the institution or continuance of criminal proceedings against an accused person may amount to the abuse of the process of the Court or that the quashing of the impugned proceedings would secure the ends of justice. If the criminal proceeding in question is in respect of an offence alleged to have been

committed by an accused person and it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding the High Court would be justified in quashing the proceeding on that ground. Absence of the requisite sanction may, for instance, furnish cases under this category. Cases may also arise where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not. In such cases it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused person. A third category of cases in which the inherent jurisdiction of the High Court can be successfully invoked may also arise. In cases falling under this category the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an

enquiry as to whether the evidence in question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained."
We think the law as stated above is not affected by Section 397(2) of the new Code. It still holds good in accordance with Section 482.

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13….On the one hand, the Legislature kept intact the revisional power of the High Court and, on the other, it put a bar on the exercise of that power in relation to any interlocutory order. ***In such a situation it appears to us that the real intention of the Legislature was not to equate the expression "interlocutory order" as invariably being converse of the words "final order". There may be an order passed during the course of a proceeding which may not be final in the sense noticed in Kuppuswami case, but, yet it may not be an interlocutory order — pure or simple. Some kinds of order may fall in between the two. By a rule of harmonious construction, we think that the bar in sub-section (2) of Section 397 is not meant to be attracted to such kinds of intermediate orders. They may not be final orders for the purposes of Article 134 of the Constitution, yet it would not be correct to characterize them as merely interlocutory orders within the meaning of Section 397(2).*** *It is neither advisable, nor possible, to make a catalogue of orders to demonstrate which kinds of orders would be merely, purely or simply interlocutory and which*

> *kinds of orders would be final, and then to prepare an exhaustive list of those types of orders which will fall in between the two. The first two kinds are well-known and can be culled out from many decided cases.* ***We may, however, indicate that the type of order with which we are concerned in this case, even though it may not be final in one sense, is surely not interlocutory so as to attract the bar of subsection (2) of section 397. In our opinion it must be taken to be an order of the type falling in the middle course.****"*
>
> *(emphasis added)*

9. In ***Madhu Limaye***, the Supreme Court again while interpreting scope of revisional power under Cr.P.C. found some orders to be more than an interlocutory order but still not final orders, fit for challenge under revisional jurisdiction or under inherent powers. It, however, held that such revisional or inherent jurisdiction should be exercised by Courts rarely and sparingly only in cases where continuation of proceedings might result in manifest miscarriage of justice, where process of law is being abused or where a complaint or prosecution is legally unsustainable or initiated without jurisdiction. The scope of hearing of such revision or petition under inherent jurisdiction was kept supervisory and minimal, not extending to appreciation of evidence.

10. Reference is also made by the learned Senior Counsel for both the sides to judgments of the Supreme Court in "***Asian Resurfacing of Road Agency (P) Ltd. And Anr. v. CBI***", (2018) 16 SCC 299 and ***"Sanjay Kumar Rai v. State of U.P. and Anr.***", (2022) 15 SCC 720, but, these only reaffirm

the law settled by ***Amar Nath*** and ***Madhu Limaye*** cases and hence, are not being repeated by us.

11. Next referred to is the Constitution Bench judgment in ***"V.C. Shukla v. State"***, (1980) Supp SCC 92. The said judgment arises from the Special Courts Act, 1979 (22 of 1979), where restricted procedure of Cr.P.C. was applicable and a revision was barred. The High Court was the Special Court under the said Act of 1979, and, thus, even the inherent power under Section 482 Cr.P.C. was not available, therein. The Constitutional Bench, while considering scope of challenge to Order framing Charge with regard to the said Special Act, held:

> *"24. To sum up, the essential attribute of an interlocutory order is that it merely decides some point or matter essential to the progress of the suit or collateral to the issues sought but not a final decision or judgment on the matter in issue. An intermediate order is one which is made between the commencement of an action and the entry of the judgment. Untwalia, J. in the case of Madhu Limaye v. State of Maharashtra [(1977) 4 SCC 551 : 1978 SCC (Cri) 10 : (1978) 1 SCR 749] clearly meant to convey that an order framing charge is not an interlocutory order but is an intermediate order as defined in the passage, extracted above, in Corpus Juris Secundum, Vol. 60. We find ourselves in complete agreement with the observations made in Corpus Juris Secundum.* ***It is obvious that an order framing of the charge being an intermediate order falls squarely within the ordinary and natural meaning of the term "interlocutory order" as used in Section 11(1) of the Act. Wharton's Law Lexicon (14th Edn.,***

p. 529) defines interlocutory order thus:

"An interlocutory order or judgment is one made or given during the progress of an action, but which does not finally dispose of the rights of the parties."

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34. There is yet another aspect of the matter which has to be considered so far as this decision is concerned, to which we shall advert when we deal with the last plank of the argument of the learned counsel for the appellant. Suffice it to say at the moment that the case referred to also fully endorses the view taken by the Federal Court and the English decisions viz. that an order is not a final but an interlocutory one if it does not determine or decide the rights of parties once for all. Thus, on a consideration of the authorities, mentioned above, the following propositions emerge:

"(1) that an order which does not determine the right of the parties but only one aspect of the suit or the trial is an interlocutory order;

(2) that the concept of interlocutory order has to be explained in contradistinction to a final order. In other words, if an order is not a final order, it would be an interlocutory order;

(3) that one of the tests generally accepted by the English courts and the Federal Court is to see if the order is decided in one way, it may terminate the proceedings but if decided in another way, then the proceedings would continue, because, ***in our opinion, the term 'interlocutory order' in the Criminal Procedure Code has been used in a much wider sense so as to include even intermediate or quasi-final orders;***

(4) that an order passed by the Special Court discharging the accused would undoubtedly be a final order inasmuch as it finally decides the rights of the parties and puts an end to the controversy and thereby terminates the entire proceedings before the court so that nothing is left to be done by the court thereafter;

(5) ***that even if the Act does not permit an appeal against an interlocutory order the accused is not left without any remedy because in suitable cases, the accused can always move this Court in its jurisdiction under Article 136 of the Constitution even against an order framing charges against the accused. Thus, it cannot be said that by not allowing an appeal against an order framing charges, the Act works serious injustice to the accused."***

35. ***Applying these tests to the order impugned we find that the order framing of the charges is purely an interlocutory order as it does not terminate the proceedings but the trial goes on until it culminates in acquittal or conviction. It is true that if the Special Court would have refused to frame charges and discharged the accused, the proceedings would have terminated but that is only one side of the picture. The other side of the picture is that if the Special Court refused to discharge the accused and framed charges against him, then the order would be interlocutory because the trial would still be alive.*** *Mr Mridul tried to repel the argument of the Solicitor-General and explained the decisions, referred to above, on the ground that the English decisions as also the Federal Court's decisions made the observations while interpreting the provisions of the*

> *Government of India Act or the provisions of the Constitution where the word "final" order was expressly used. It was urged that the same construction would not apply to the present case where the word "order" is not qualified by the word "final". With due respect to the learned counsel,* ***in our opinion, the distinction sought to be drawn is a distinction without any difference. This Court as also the Federal Court have clearly pointed out that so far as the tests to be applied to determine whether an order is final or interlocutory, apply as much to a civil case as to a criminal case. Furthermore, as already indicated, it is impossible to spell out the concept of an interlocutory order unless it is understood in contradistinction to or in contrast with a final order. This was held in a number of cases referred to, including Madhu Limaye case [(1977) 4 SCC 551: 1978 SCC (Cri) 10 : (1978) 1 SCR 749] which has been expressly stressed by us in an earlier part of the judgment. For these reasons, therefore, the contention of the learned counsel for the appellant on this aspect of the matter fails and is hereby overruled."***
>
> *(emphasis added)*

12. Thus, the law settled by the Supreme Court, both in ***Madhu Limaye*** and ***V. C. Shukla***, is that, in context of Criminal Procedure Code, an Order framing Charge is more than an interlocutory order, but also does not fall within the category of a final order. It falls somewhere in between and is termed as "*matters of moment*" or "intermediate order". The forum of challenge to such order is by a revision under Section 397 Cr.P.C. or in exercise of inherent power of the Court provided under Section 482 Cr.P.C.

and now under appropriate provisions of the *Bharatiya Nagarik Suraksha Sanhita, 2023* ("BNSS"). The scope of challenge is also limited, as being supervisory, i.e., only to look at surface level as to whether any case is made out against the accused and presence of sufficient evidence to support the case; there is no miscarriage of justice; process of law is not being abused and proceedings are legally sustainable and are not without jurisdiction. While in ***Madhu Limaye***, the Supreme Court has permitted challenge to an Order framing Charge by revision or under inherent powers, in ***V. C. Shukla*** as the High Court itself was the Special Court challenge was only possible and permitted under Article 136 to the Supreme Court itself.

13. Both in ***Madhu Limaye*** and in ***V. C. Shukla*** case, the Supreme Court held that scope of a section providing challenge to an Order framing Charge should be such as would also give a purposeful meaning to other sections and to the purpose of the Act. Thus, in the present case also, while interpreting Section 21 of the NIA Act, the same principle should be applied. For the same, the Statement of Objects and Reasons of the National Investigation Agency Act, 2008 read as under :-

> *"An Act to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organisations and for matters connected therewith or incidental thereto."*

14. NIA Act was amended in the year 2019 and the Statement of

Objects and Reasons of the Amending Act, 2019 read as follows:-

> *"1. The National Investigation Agency Act, 2008 (the Act) was enacted with a view to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organisations.*
>
> *2.* ***In order to facilitate the speedy investigation and prosecution of Scheduled Offences, including those committed outside India against the Indian citizens or affecting the interest of India and to insert certain new offences in the Schedule to the Act as Scheduled Offences which adversely affect the national security, it has become necessary to amend certain provisions of the Act.***
>
> *3. The National Investigation Agency (Amendment) Bill, 2019, inter alia, provides for the following, namely:—*
>
> *(i) to insert a new clause (d) in sub-section (2) of section 1 of the Act so as to apply the provisions of the Act also to persons who commit a Scheduled Offence beyond India against the Indian citizens or affecting the interest of India;*
>
> *(ii) to amend sub-section (2) of section 3 of the Act to provide that the officers of the National Investigation Agency shall have the similar powers, duties, privileges and liabilities, being exercised by the police officers in connection with the investigation*

of offences, not only in India but also outside India;

(iii) to amend section 6 of the Act so as to empower the Central Government, with respect to a Scheduled Offence committed outside India, to direct the Agency to register the case and take up investigation as if such offence has taken place in India;

(iv) to amend sections 11 and 22 of the Act so as to provide that the Central Government and the State Governments may designate one or more Courts of Session as Special Court or Special Courts for conducting the trial of offences under the Act; and

(v) to amend Schedule of the Act so as to insert certain new offences in the said Schedule.

4. The Bill seeks to achieve the above objectives."

(emphasis added)

15. A bare perusal of the same shows that to avoid multiplicity of jurisdiction in investigation and trial, for the first time with regard to specified offences, a separate National Investigation Agency has been created to investigate Scheduled offences and to prosecute the same. The very purpose of creating such Special Agency at the Central level is to expeditiously investigate and try these serious crimes. Under Section 11 of NIA Act, the Special Courts are designated for the trial of such offences, Section 11(8) provides that once a trial has commenced, even the superannuation of the Special Judge would not come in way and he would continue till the conclusion of trial or till a specified date. Under Section 16, the Special Courts are empowered to take cognizance of any offence, even without the

accused being committed to it for trial, only upon receiving of complaint or a police report that constitutes such an offence. Section 19 provides that the trial of offences by the Special Court shall be held on day to day basis on all working days and have precedence over the trial of any other case against the accused in any other Court not being a Special Court and accordingly the trial of such other case shall, if necessary, remain in abeyance. Similarly, Section 21(3) bars filing of any revision under the Special Act and only appeal "*from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law"* can be filed. Only exception of appeal against an interlocutory order is by Sub-Section (4) which provides an appeal against an order of bail.

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.

19. In view of the aforesaid, all the present appeals, on ground of maintainability, are dismissed.

20. All pending applications also stand disposed of.

VIVEK CHAUDHARY
(JUDGE)

MANOJ JAIN
(JUDGE)

DECEMBER 23, 2025*/rs/r/nc/kp*