

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through virtual mode)**

CrI A (D) 85/2024
CrIM No. 1768/2024

Mohammad Shafi Reshi appellant

Through :- Mr. B.A.Dar Advocate.

V/s

UT of Jammu and Kashmir and ors Respondent(s)

Through :- Mr. Mohsin Qadri Sr. AAG with
Ms. Maha Majeed Advocate.

**Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

ORDER

1 In this appeal filed by the appellant Mohd. Shafi Reshi under Section 21 of the National Investigating Agency Act, 2008 ["NIA Act"], he seeks to challenge an order dated 31.08.2024 passed in R. No. 90/2023 titled *State through SHO Police Station Khaniyar vs. Syed Ali Shah Geelani (dead) and others* (FIR No. 84/2009 offences under Section 13 UAP Act and Section 188 RPC) passed by the learned Additional Sessions Judge, Special Judge, designated under NIA Act, Srinagar ["the trial Court"] whereby the trial Court has framed charge against the appellant along with others for an offence under Section 13 of UAP Act.

2 The impugned order is challenged by the appellant primarily on the ground that the trial Court has framed the charge without appreciating that there is no allegation against the appellant with regard to commission of any act or omission which would constitute an offence under Section 13 of UAP Act.

3 Mr. Mohsin Qadri, learned Sr. AAG appearing for the
respondents, has taken a preliminary objection to the maintainability of
this appeal filed under Section 21 of the NIA Act on the ground that the
order framing charge passed by a Special Court under the NIA Act is an
interlocutory order not appealable under Section 21(1) of the NIA Act. He
has placed reliance upon a Division Bench judgment of this Court in a
case of **Ayaz Ahmad and another vs. UT of Jammu and Kashmir,**
2023 (6) JKJ 423.

4 Having heard learned counsel for the parties and perused the
material on record, we are of the considered opinion that the preliminary
objection taken by Mr. Qadri, learned Sr. AAG appearing for the
respondents, to the maintainability of this appeal deserves to be sustained.
In the case of **Ayaz Ahmad and another** (supra), a Division Bench of this
Court has elaborately considered this question in the light of Section 21 of
the NIA Act and has, after taking note of the case law on the subject, held
that the order framing charge passed by a Special Court under the NIA
Act is an interlocutory order and, therefore, not appealable under Section
21(1) of the NIA Act. We see no reason or justification to take a view
contrary to the one taken by the Coordinate Bench of this Court.

5 In view of the above, this appeal is held not maintainable.

6 At this stage, Mr. B.A. Dar, learned counsel appearing for the
appellant, prayed in the alternative that this appeal be treated as a petition
under Section 482 of the CrPC, corresponding to Section 528 of the
BNSS.

7 Having gone through the memorandum of appeal, we find that the order framing of charge by the trial Court has been challenged by the appellant purely on merits. The averments made in the memorandum of appeal do not meet the parameters to be taken into consideration by this Court while exercising its inherent jurisdiction vested under Section 482 of CrPC corresponding to Section 528 of BNSS. Going by the nature of the pleadings before us in this appeal, it would be difficult for us to accede to the request of learned counsel for the appellant to treat this appeal as a petition under Section 482 of the CrPC, corresponding to Section 528 of the BNSS.

8 For all the reasons stated above, this appeal is dismissed as not maintainable. We, however, reserve liberty to the appellant to file a quashment petition under Section 482 of CrPC corresponding to Section 528 of BNSS afresh by pleading appropriate grounds of challenge to the order impugned.

(SANJAY PARIHAR)
JUDGE

SANJEEV KUMAR)
JUDGE

Jammu
19.05.2026
Sanjeev

Whether the order is speaking: Yes

Whether the order is reportable: Yes/No