

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 1313-1315 OF 2021
(Arising out of SLP (CrI.) Nos. 1813-1815 of 2020)

THE STATE OF KERALA & ORS.

Appellant(s)

VERSUS

ROOPESH

Respondent(s)

O R D E R

Leave granted.

Feeling aggrieved and dissatisfied with the common impugned judgment and order passed by the High Court in respect to Criminal Revision Petition Nos. 732 of 2019 to 734 of 2019 by which the High Court has allowed the said Revision Petitions preferred by the respondent herein-original accused and has discharged the accused for the offences under Sections 20 and 38 of the Unlawful Activities (Prevention) Act, 1967 (for short 'UAP Act') and other offence under Section 124A of the IPC and other offences under the IPC, the State of Kerala has preferred the present appeals.

Mr. Maninder Singh, learned Senior Advocate appearing on behalf of the appellant-State, has heavily relied upon the decisions of this Court in State of Andhra Pradesh through Inspector General, National Investigation Agency vs. Mohd. Hussain alias Saleem, (2014) 1 SCC 706, State of Andhra Pradesh through Inspector General, National Investigation Agency vs. Mohd. Hussain alias Saleem, (2014) 1 SCC 258 and Bikramjit Singh vs. State of

Punjab, (2020) 10 SCC 616 and relying upon Section 21 of the National Investigation Agency Act, 2008 (for short 'NIA Act') has submitted that the impugned judgment and order passed by the learned Single Judge of the High Court is unsustainable. It is submitted that in view of Section 21(1) of the NIA Act, the revision application against the order passed by the Special Court refusing to discharge the accused ought to have been heard by the Division Bench as mandated under sub-section (2) of Section 21 of the NIA Act. Therefore, it is prayed to allow the present appeals and remand the matter to the High Court to decide the same revision petitions by the Division Bench of the High Court.

Ms. Kamini Jaiswal, learned counsel appearing for the respondent is not disputing the above proposition of law laid down by this Court in the aforesaid decisions.

In view of the above and the law laid down by this Court in *Mohd. Hussain alias Saleem (supra)* and *Bikramjit Singh (supra)* and even considering Section 21 of the NIA Act, any order passed by the learned Special Court, not being an interlocutory order, is subjected to appeal before the High Court and to be heard by a Bench of two Judges of the High Court. In the present case, admittedly, the impugned judgment and order has been passed by the learned Single Judge which can be said to be absolutely contrary to the statutory provision, namely, Section 21(1) and 21(2) of the NIA Act and the law laid down by this Court in the aforesaid decisions

In view of the above, all these appeals succeed and the common impugned judgment and order passed by the High Court passed in discharging the accused is hereby quashed and set aside and the

matters are remanded to the High Court to decide the Revision Petition Nos. 732 of 2019 to 734 of 2019 afresh by the Division Bench in accordance with law and on merits. The Revision Petitions, on remand, shall be decided and disposed of by the Division Bench of the High Court at the earliest and preferably, within a period of six months from the date of receipt of the present order.

It is made clear that we have not expressed anything on merits in favour of either parties and the common impugned judgment of the High Court is set aside solely on the aforesaid ground. It goes without saying that all the contentions/defences, which may be available to the respective parties are kept open to be considered by the Division Bench of the High Court in accordance with law and on its own merits.

The appeals are, accordingly, allowed.

..... J.
(M.R. SHAH)

..... J.
(A.S. BOPANNA)

New Delhi;
October 29, 2021.

ITEM NO.4 Court 13 (Video Conferencing) SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 1813-1815/2020

(Arising out of impugned final judgment and order dated 20-09-2019 in CRLREVPET No. 732/2019 20-09-2019 in CRLRV No. 733/2019 20-09-2019 in CRLRV No. 734/2019 passed by the High Court Of Kerala At Ernakulam)

THE STATE OF KERALA & ORS. Petitioner(s)

VERSUS

ROOPESH Respondent(s)

(ONLY IA NO. 81132/2020 TO BE LISTED.
IA No. 81132/2020 - STAY APPLICATION)

Date : 29-10-2021 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Maninder Singh, Sr. Adv.
Mr. G. Prakash, AOR
Ms. Priyanka Prakash, Adv.
Ms. Beena Prakash, Adv.

For Respondent(s) Ms. Kamini Jaiswal, Adv.
Mr. Rajat Kumar, Adv.
Mr. Siddharth, AOR
Ms. Reena Mishra, Adv.
Mr. Amit Kumar Agrawal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.

Pending applications, if any, stand disposed of.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
BRANCH OFFICER

(Signed order is placed on the file)