IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.826 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.139/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/PETITIONER/ACCUSED NO.7:

MUHAMMED SHAFI P.,AGED 36 YEARS
S/O.ABOOBACKER PANNIKKOTTIL,
PANNIKKOTTIL HOUSE,IKKARAPADY(PO),
MALAPPURAM DISTRICT-676637.

BY ADVS.
SRI.PHIJO PRADEESH PHILIP
SRI.VIPIN NARAYAN
SRI.P.V.ANOOP
SRI.K.V.SREERAJ

RESPONDENT/RESPONDENT/COMPLAINANT:

NATIONAL INVESTIGATION AGENCY,KOCHI,
REPRESENTED BY ITS SPECIAL PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM-682023.

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR,
ASSISTANT SOLICITOR GENERAL OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.894/2020 AND CONNECTED CASES, THE COURT ON 18-02-2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.894 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.186/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM-682020.

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR,
ASSISTANT SOLICITOR GENERAL OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/8TH ACCUSED:

SAID ALAVI E.,AGE 60 YEARS
S/O.SHRI ABDULLA, EDAKKANDAN HOUSE,
PARMBILPADI, VEGARA P.O., MALAPPURAM-676304.

BY ADV. SRI.V.T.RAGHUNATH
BY ADV. SRI.MOHAMMED RAFIQ

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.901 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.173/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM-682 020

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITION/22ND ACCUSED:

ABOOBACKER PAZEDATH (A-22)
AGE 61/2020,S/O. KADEEJA.K., PAZEDATH HOUSE,
PAZHAMALLUR, KOOTTILANGADI, MALAPPURAM-676 506

BY ADV. SRI.S.SREEKUMAR (SENIOR ADVOCATE)
BY ADV. SRI.P.MARTIN JOSE
BY ADV. SRI.P.PRIJITH
BY ADV. SRI.M.A.MOHAMMED SIRAJ
BY ADV. SRI.THOMAS P.KURUVILLA

BY ADV. SRI.MANJUNATH MENON
BY ADV. SRI.AJAY BEN JOSE
BY ADV. SRI.R.GITHESH
BY ADV. SHRI.HARIKRISHNAN S.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.903 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.131/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM-682020

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/9TH ACCUSED:

ABDU.P.T., AGE 48 YEARS, S/O.SHRI MOOSA P.T.,
PATTATHODI HOUSE, VALAKKULAM P.O., KOTAKKAL,
KOZHICHENNA, MALAPPURAM-676 508

BY ADV. SRI.M.BALAGOPAL
BY ADV. SRI.ABU MATHEW
BY ADV. SMT.R.DEVIKA (ALAPPUZHA)
BY ADV. SRI.AJU MATHEW

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.904 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.121/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM-682020

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/16TH ACCUSED:

MOHAMED ANWAR T.M. (A-16),AGE 43/2020,
S/O.KAMMU, THARAMANNIL HOUSE, P.V.R.METRO VILLA,
KOOMAMKULAM POST, MANJERI, MALAPPURAM-676 123

BY ADV. SRI.BABU S. NAIR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.905 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.176/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA,
ERNAKULAM-682020.

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/14TH ACCUSED:

MUHAMMED SHAFEEQ A. (A-14)
AGE 33/2020,S/O. ABDUL RAZAK A.,
AMBAZHAKODE HOUSE, KANDAMANGALAM P. O.,
MANNARKKAD, PALAKKAD - 678583.

BY ADV. SRI.NIREESH MATHEW

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.906 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.140/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM - 682020.

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/19TH ACCUSED:

HAMJAD ALI (A-19),AGE 51/2020
S/O.MOIDIEN KUTTY, BABU NIVAS, KALOTH POST,
KONDOTTY, MALAPPURAM - 673 638.

BY ADV. SRI.V.T.RAGHUNATH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.907 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.145/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM- 682020.

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/21ST ACCUSED:

JIFSAL.C.V. (A-21),AGE 38/2020
S/O.USMAN KOYA C.V., KONKANDY PARAMBA, VATTAKINAR,
ARTS COLLEGE P.O., KOZHIKODE - 673 018.

BY ADV. SRI.BABU S. NAIR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.908 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.146/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA,
ERNAKULAM-682020.

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/23RD ACCUSED:

MUHAMMED ABDU SHAMEEM (A-23)
AGE 26/2020,S/O USSAIN K V, KAIVELIKKAL HOUSE,
MANIPURAM P O, KODUVALLY, KOZHIKODE-673572.

BY ADV. SRI.BABU S. NAIR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.909 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.175/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM - 682020.

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/11TH ACCUSED:

MUHAMMED ALI EBRAHIM,AGE 36/2020
S/O.E.M.EBRAHIM, EDAKKATTIL HOUSE,
KIZHAKKEKARA, MUVATTUPUZHA - 686 661.

BY ADV. SRI.NIREESH MATHEW

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.910 OF 2020

AGAINST THE COMMON ORDER DATED 15-10-2020 IN CRL.M.P.NO.141/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM-682 020.

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/24TH ACCUSED:

ABDUL HAMEED P.M.(A-24),AGE 54/2020
S/O.ABDUL RAHMAN, PADIKKAMANNIL HOUSE,
KOOTTILANGADI P.O., MALAPPURAM-676 506.

BY ADV. SRI.E.C.AHAMED FAZIL

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.915 OF 2020

AGAINST THE COMMON ORDER DATED 23-10-2020 IN CRL.M.P.NO.190/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM-682020

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/17TH ACCUSED:

HAMZATH ABDU SALAM @ KUNJUMON (A-17)
AGE 57/2020,S/O. KUNHAHAMMED HAJI, PULIKKUTH HOUSE, VEEMBOOR POST, MARIYAD, MALAPPURAM - 676 122.
BY ADV. SRI.MANU TOM CHERUVALLY
BY ADV. SRI.K.R.JITHIN
BY ADV. SHRI.BALAMURALI K.P.
BY ADV. SHRI.SHAJI T.M.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF FEBRUARY 2021 / 29TH MAGHA, 1942

CRL.A.No.922 OF 2020

AGAINST THE COMMON ORDER DATED 23-10-2020 IN CRL.M.P.NO.191/2020 IN RC NO.02/2020/NIA/KOC OF SPECIAL COURT FOR TRIAL OF NIA CASES,ERNAKULAM

APPELLANT/RESPONDENT/COMPLAINANT:

UNION OF INDIA
REPRESENTED BY SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATING AGENCY, 28/443,
GIRI NAGAR, KADAVANTHARA, ERNAKULAM-682 020.

BY ADV.SHRI SURYAPRAKASH V. RAJU,
ADDITIONAL SOLICITOR GENERAL OF INDIA
BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
BY ADV. SHRI ARJUN AMBALAPPATTA,
SPECIAL PUBLIC PROSECUTOR

RESPONDENT/BAIL PETITIONER/18TH ACCUSED:

SAMJU THAZHE MANEDATH (A-18)
AGED 40/2020,S/O. KUNHALAVI, RAZIYA MANZIL,
NEDIYARAMBATH, POST ELATHUR, KOZHIKODE-673303.

BY ADV. SHRI.BALAMURALI K.P.
BY ADV. SHRI.SHAJI T.M.
BY ADV. SRI.K.R.JITHIN
BY ADV. SRI.MANU TOM

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07-12-2020, ALONG WITH CRL.A.826/2020 AND CONNECTED CASES, THE COURT ON 18.02.2021 DELIVERED THE FOLLOWING:

C.R.

A.HARIPRASAD & M.R.ANITHA, JJ.

Crl.Appeal Nos.826, 894, 901, 903, 904, 905, 906, 907, 908, 909, 910, 915 and 922 of 2020

Dated this the 18th day of February, 2021

COMMON JUDGMENT

Hariprasad, J.

This batch of criminal appeals are directed against the orders passed by the learned Judge presiding over the Special Court for trial of NIA Cases, Ernakulam on applications for bail submitted by various accused in R.C.2/2020/NIA/KOC. It is seen that two common orders are passed by the learned Judge of the Special Court. Bail was granted to accused 8, 9, 11, 14, 16, 17, 18, 19, 21, 22, 23 and 24 as per order dated 15.10.2020 and to accused 17 and 18 as per order dated 23.10.2020. Both the orders are challenged before this Court by the Union of India represented by the National Investigation Agency, Kochi ("NIA", in short). 7Th accused, whose bail plea was rejected, has preferred a separate appeal challenging the order dated 15.10.2020. Since identical factual and legal questions arise in all these

cases, they are heard together. We dispose them by this common judgment.

2. Heard Shri Surya Prakash V.Raju, learned Additional Solicitor General of India (ASG) and Shri Arjun Ambalapatta, learned prosecutor for NIA and Shri S.Sreekumar, Shri Vipin Narayan, Shri V.T.Raghunath, Shri M.Balagopal, Shri Babu S.Nair, Shri Nireesh Mathew, Shri E.Ahamed Fazil and Shri Manu Tom, learned counsel appearing for the accused persons. For the sake of convenience, the respondents in the appeals filed by NIA are referred to in their ranks before the trial court.

3. Undisputed facts are as follows:NIA registered the above mentioned case alleging offences punishable under Sections 16, 17 and 18 of the Unlawful Activities (Prevention) Act, 1967 (“UA(P) Act”, in short). Accused persons were arrested by NIA on different dates and they have been confined to custody for a considerable time. Allegations raised by the investigating agency in brief is that on 05.07.2020, the officers of the Customs Department seized 30kgs of 24 carat gold, from International Airport, Thiruvananthapuram, secreted in a consignment camouflaged as a diplomatic baggage sent from United Arab Emirates (UAE). It is alleged that the gold was smuggled through the diplomatic channel pursuant to a conspiracy hatched by the accused 1 to 4 and other accused persons. It is also alleged that they made use of the contacts maintained by the accused 1 and 2 with the Consulate of UAE at Thiruvananthapuram. The initial enquiry revealed, according to NIA, that the

proceeds of the smuggled gold could have been used for financing terrorist activities in India.

4. Prosecution would allege that 7th accused is one of the main organizers of the smuggling activity along with accused 5, 6, 8, 9 and 10. It is the definite prosecution case that they had smuggled gold about 21 times through diplomatic baggages sent to UAE Consulate from November 2019 with the intention of destabilizing economic security of India. 7th accused had direct contact with accused 1, 2 and 4 in addition to accused 17 to 19 and 25. Allegation is that 7th accused and persons having connection with him had funded for smuggling gold weighing 47.5kgs. 8th accused had funded for smuggling 15kgs of gold through diplomatic baggages since November 2019 by conspiring with 5th accused. 9th accused is a hawala operator and he financed the gold smuggling activity through diplomatic baggage since November 2019. Accused 11 and 12, in association with accused 6 and 10, had smuggled gold and they are suspected to have used the proceeds for financing terrorism. 12th accused herein is one of the accused in the infamous handchopping case having a linkage to terrorism in which some of the accused were convicted. However, he had been acquitted in that case.

5. Allegation against accused 13 and 14 is that they had associated with accused 1, 4, 5, 6 and 7 to smuggle gold 21 times in various forms and after November 2019, they assisted other accused persons for exchanging

the smuggled gold at various places. 16th accused had conspired with 8th accused and arranged funds for smuggling gold multiple times in June 2020 through the diplomatic channel. 19th accused had funded `65lakhs for smuggling gold since June 2020 and obtained 1.5kgs of smuggled gold at Thiruvananthapuram on multiple occasions. He did so by conspiring with accused 5, 6, 7 and 16. It is further alleged that 21st accused had conspired with accused 8, 16 and 23 and handed over `70lakhs during June 2020 for purchasing smuggled gold. He had also travelled to Thiruvananthapuram along with accused 16 and 23 to receive the smuggled gold from accused 4 and 5 in the month of June 2020. Accusation against 22nd accused is that he had funded `1.25crore each on three occasions for obtaining smuggled gold through the above said channel. It is further alleged that he had associated with accused 7, 17 and 22. 23rd accused also conspired with accused 8, 16 and 21 since June 2020 and handed over `1.8crore for purchasing gold. He had also travelled to Thiruvananthapuram along with accused 16 and 21 for receiving the smuggled gold. According to the prosecution, 24th accused had also conspired with accused 7, 8, 17 and 22 during June 2020 and had invested `1.25crore each on three occasions for purchasing smuggled gold. Prosecution would contend that each of the accused had contacted many other accused persons as is evident from the Call Data Records (CDR) in respect of each of them. NIA had filed a diagram before the learned trial

Judge showing the details of contacts between the accused persons. A revised diagram has been filed by NIA before this Court describing how the accused persons contacted each other in the course of the criminal transaction. It is shown as “Diagram I”. To cut NIA's long story short, the aforementioned accused persons are alleged to have funded for smuggling gold through diplomatic channel or conspired together for arranging the same. Besides, they contacted each other either directly or through intermediaries. Accused 1 to 5 and 7 had played a prominent role in committing the offences. Distribution of the gold, alleged to have been obtained through the diplomatic baggages on various occasions, among the accused is explained by NIA with the help of a diagram. It is shown as “Diagram II”:

Diagram I

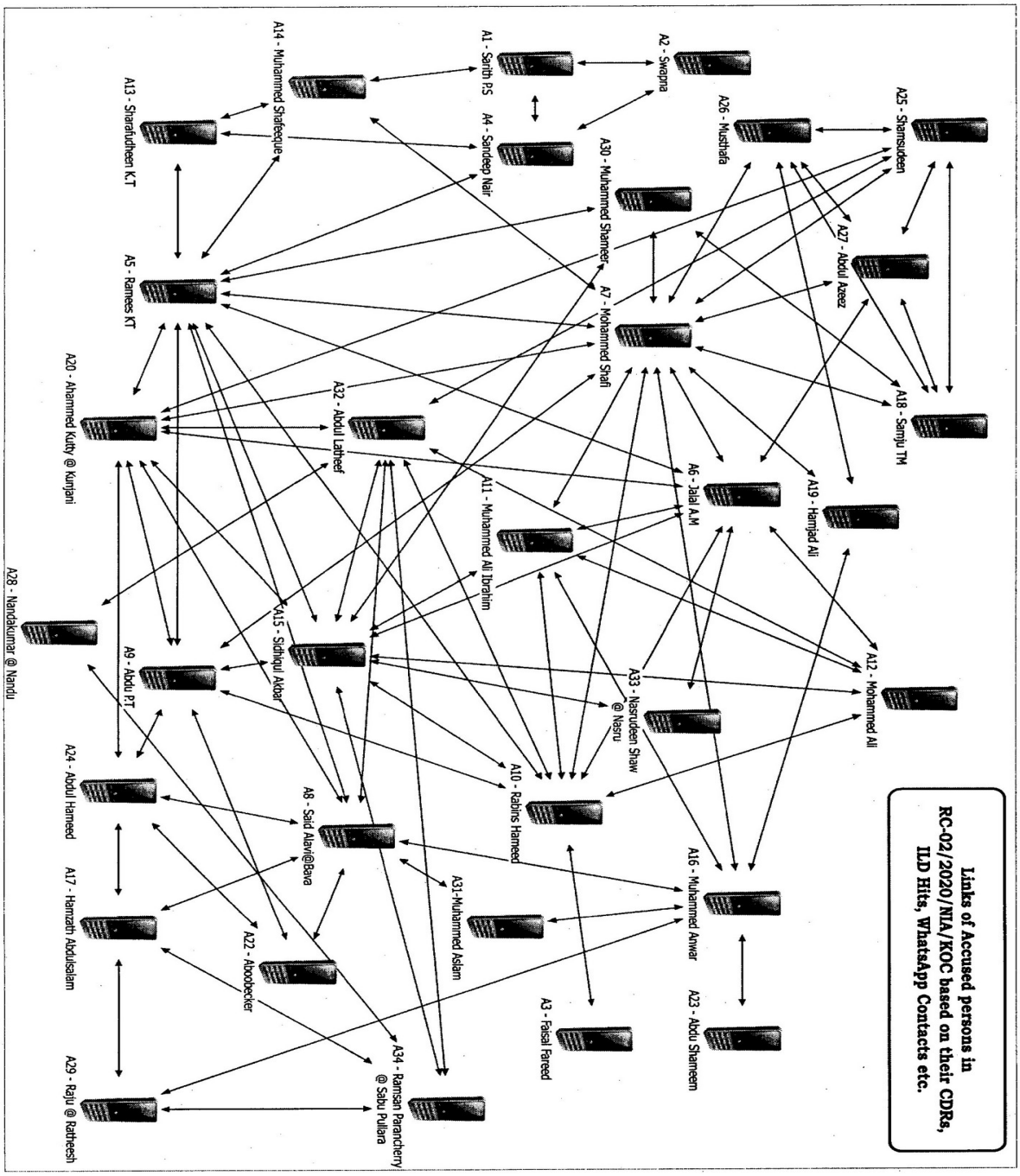
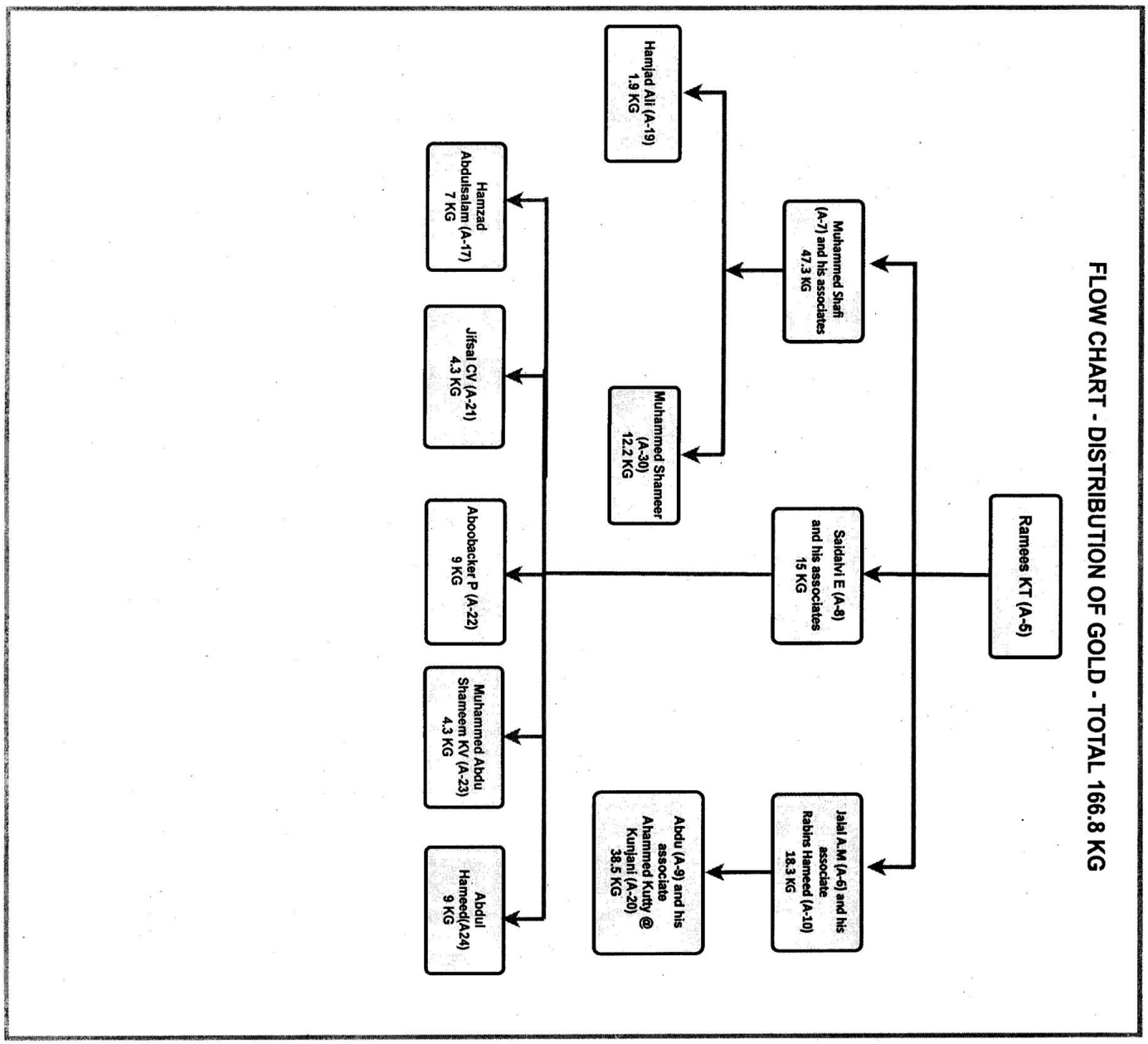

Links of Accused persons in
RC-02/2020/NIA/KOC based on their CDRs,
ILD Hits, WhatsApp Contacts etc.
A25 - Shamsudeen
A26 - Mushafa
A27 - Abdul Azeez
A18 - Samju TM
A19 - Hamjad Ali
A12 - Mohammed Ali
A16 - Muhammed Anwar
A23 - Abdu Shameem
A3 - Faisal Fareed
A34 - Ramsan Paranchery @ Sabu Pullara
A29 - Raju @ Ratheesh
A31-Muhammed Aslam
A22 - Aboobecker
A17 - Hamzath Abdulsalam
A24 - Abdul Hameed
A8 - Said Alavi@Bava
A10 - Rabins Hameed
A33 - Nasrudeen Shaw @ Nasru
A15 - Sidhiqui Akbar
A9 - Abdu P.T
A28 - Nandakumar @ Nandu
A20 - Ahammed Kutty @ Kunjani
A32 - Abdul Latheef
A11 - Muhammed Ali Ibrahim
A6 - Jalal A.M
A5 - Ramees KT
A7 - Mohammed Shafi
A30 - Muhammed Shameer
A13 - Sharafudheen K.T
A14 - Muhammed Shafeeque
A1 - Sarith P.S
A4 - Sandeep Nair
A2 - Swapna
Page 1 of 1

Diagram II


FLOW CHART - DISTRIBUTION OF GOLD - TOTAL 166.8 KG
Ramees KT (A-5)
Muhammed Shafi (A-7) and his associates 47.3 KG
Saidalvi E (A-8) and his associates 15 KG
Jalal A.M (A-6) and his associate Rabins Hameed (A-10) 18.3 KG
Abdu (A-9) and his associate Ahammed Kutty @ Kunjani (A-20) 38.5 KG
Hamjad Ali (A-19) 1.9 KG
Muhammed Shameer (A-30) 12.2 KG
Hamzad Abdulsalam (A-17) 7 KG
Jiftsal CV (A-21) 4.3 KG
Aboobacker P (A-22) 9 KG
Muhammed Abdu Shameem KV (A-23) 4.3 KG
Abdul Hameed(A24) 9 KG

6. Common grounds taken in the appeals filed by NIA are that the court below ought to have seen that the facts in the case, viewed in the background of Sections 15 and 43D of the UA(P) Act, did not justify grant of bail in favour of the accused, that the court below failed to consider the over all effect of the materials gathered by the prosecution and made available before the court indicating a prima facie case against the accused and that the court below should have considered the peculiar nature of the offence, wherein numerous persons are involved, requiring a time consuming investigation deep into the matter to bring out true facts. Further, the court below ought to have seen that out of 99 devices taken into custody, the evidence from 22 devices only could be decoded and examined which itself produced voluminous and substantial evidence in respect of the roles played by the accused persons. Having found that there are legal reasons for granting an extension of time to 180 days to complete the investigation, the court below should not have granted bail to some of the accused persons.

7. Per contra, learned counsel appearing for the accused contended that despite consuming much time, the investigating agency could not find out any reason justifying further detention of the accused persons. It is also contended that Section 15 of the UA(P) Act is totally inapplicable to the facts of this case. In the appeal filed by 7th accused, he questioned the legal and factual reasons stated by the trial court for denying bail.

8. Learned ASG contended that the court below viewed the matter as a simple case of smuggling. According to him, the inconsistent views taken by the learned Judge can be seen on a conjoint reading of paragraphs 2 to 6, wherein the facts have been mentioned, and in paragraph 19, it is indicated that the case on hand is a mere act of smuggling gold without attracting the offence of "terrorist act" as defined under Section 15 of the UA(P) Act.

9. At the outset, the learned counsel appearing for the accused persons canvassed a proposition that the appeals filed by NIA are incompetent as they were not properly instituted before this Court. It is seen from the cause title to the appeal memoranda that the appeals are filed by Union of India, represented by the Superintendent of Police, NIA, Ernakulam. Memoranda of appeals have been signed by the Superintendent of Police, NIA, Kochi. Shri Arjun Ambalappatta, learned prosecutor for NIA submitted that he presented the appeal memoranda on which the learned Assistant Solicitor General of India, High Court of Kerala, Kochi had also signed. We notice that there is no dispute raised by the other side about this assertion by the learned prosecutor. According to the learned counsel for the accused persons, the provisions in Section 24 of the Code of Criminal Procedure, 1973 ("Cr.P.C.", in short) was not followed while instituting these appeals. Relevant parts of Section 24 of Cr.P.C. is quoted hereunder for clarity of expression:

*"**Public Prosecutors.**-(1) For every High Court, the*

Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or State Government, as the case may be.

(2) The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case or class of cases in any district or local area.

xxxxxxxx

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (6), only if he has been in practice as an advocate for not less than seven years.

(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor:

Provided that the Court may permit the victim to

engage an advocate of his choice to assist the prosecution under this sub-section.

xxxxxxxx"

10. Relying on Section 24 of Cr.P.C. learned counsel for the accused contended that the Superintendent of Police, NIA, Kochi has no authority to file the appeals and they should have been filed through the public prosecutor. To advance this argument, reliance is placed on two decisions rendered by Division Benches of this Court in **State of Kerala v. Krishnan (1981 KLT 839)** and **Benny P. Jacob and another v. Rajesh Kumar Unnithan and another (2019 KHC 737)**. In **Krishnan**'s case, the Division Bench noticed the admitted fact that the State had filed appeals against an acquittal through Additional Advocate General at a time when admittedly there was no public prosecutor appointed for the High Court. Therefore, the question was whether the State Government could have directed the Advocate General or Additional Advocate General to present an appeal under Section 378(1) of Cr.P.C. without appointing them as public prosecutors under Section 24(1) of Cr.P.C. in view of Article 165 of the Constitution of India and the Rules framed by the Government under Clauses 2 and 3 of Article 165. The Bench, after an elaborate consideration, refused leave to appeal sought for by the State finding that the appeals were not filed by the public prosecutor as required under Section 378(1) of Cr.P.C. Following this decision, another Bench in

Benny P. Jacob held that the appeal preferred by the State could be treated as defective as it was not preferred by the State public prosecutor. It is therefore forcefully argued that the appeals filed by NIA should be dismissed in limine finding that they are incompetent.

11. Refuting these contentions, learned ASG and public prosecutor for NIA argued that there is no defect in the institution of appeals and they are laid properly in accordance with the provisions of the National Investigation Agency Act, 2008 ("NIA Act" in short) and the Cr.P.C. Contextually, we may refer to a Full Bench decision by this Court in **Mastiguda Aboobacker and another v. National Investigation Agency (N.I.A.) and others (2020 (6) KHC 265)**, wherein it has been held that generally the provisions of Cr.P.C. are applicable to the proceedings in cases relating to NIA Act and wherever a different course is prescribed by the NIA Act, the procedure in the Cr.P.C. will stand modified to that extent.

12. In order to reinforce NIA's contention that the appeals are maintainable, learned ASG relied on a notification issued by the Ministry of Home Affairs, Government of India, which reads as follows:

"MINISTRY OF HOME AFFAIRS

(INTERNAL SECURITY-I DIVISION)

NOTIFICATION

New Delhi, the 12th September, 2011

S.O.2070(E)-In exercise of the powers conferred by sub-section (1) of Section 15 of the National Investigation Agency Act, 2008 (34 of 2008), read with sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Ahmad Khan, Senior Public Prosecutor, NIA, Shri S K Rama Rao, Senior Public Prosecutor, NIA, Shri S Abdul Khader Kunju, Public Prosecutor, NIA and Shri Arjun Ambalapatta, Public Prosecutor, NIA as 'Public Prosecutors' for conducting the cases instituted by the National Investigation Agency in the trial courts, appeals, revisions or other matters arising out of the case in revisional or appellate courts established by law of the country.

[F.No.1-11011/65/2011-IS-IV]

DHARMENDRA SHARMA, Jt.Secy."

On a perusal of the notification, it will be clear that Shri Arjun Ambalapatta, along with others, has been appointed as public prosecutor for conducting cases instituted by NIA in the trial courts, appeals, revisions or other matters arising out of the case in the revisional or appellate courts established by law of the country. Sources of power for appointing them are Section 15 of NIA

Act and Section 24(8) of Cr.P.C. On a conjoint reading of Section 24(8) of Cr.P.C. and Section 15 of NIA Act, it will be clear that the appeals are properly laid before this Court. Section 378(1)(b) of Cr.P.C. specifically says that the State Government may direct the public prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any court other than a High Court. Interpreting this provision, in **Krishnan** and **Benny P. Jacob** (supra) it was held that what is important is the presentation of criminal appeals under Section 378 of Cr.P.C. through a public prosecutor appointed under Section 24 of Cr.P.C. Section 15 of NIA Act is extracted hereunder as it is also relevant for our purpose:

> *"**Public Prosecutors.**-(1) The Central Government shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:*
>
> *Provided that the Central Government may also appoint for any case or class or group of cases a Special Public Prosecutor.*
>
> *(2) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than*

seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly."

According to Section 2(u) of Cr.P.C. "public prosecutor" means any person appointed under Section 24 and includes any person acting under the directions of a public prosecutor. If we look into Sub-section (3) of Section 15 of NIA Act, it can be seen that every person appointed as a public prosecutor or an additional public prosecutor or a special public prosecutor under the Section shall be deemed to be a public prosecutor within the meaning of Section 2(u) of Cr.P.C. So, the deeming provision in Section 15(3) of NIA Act and linking it to Section 24 of Cr.P.C. through Section 2(u) of Cr.P.C. makes the argument on behalf of NIA, that the appeals are properly presented, legally sound, especially when there is no dispute to the fact that the appeals were presented by the public prosecutor.

13. As pointed out earlier, Section 24(8) of Cr.P.C. permits the

Central Government or the State Government to appoint for the purposes of any case or class of cases a person who has been in practice as an advocate for not less than ten years as a special public prosecutor. In the matter of appointment of a special public prosecutor under Section 24(8) of Cr.P.C., we find no reason to insist that it should be done in consultation with the High Court as provided under Section 24(1) of Cr.P.C. In other words, the power conferred on the authorities to appoint a special public prosecutor, specified under Section 24(8) of Cr.P.C., could be regarded as a deviation from the procedure prescribed under Section 24(1). Our reasoning is strengthened by a pronouncement made by the apex Court in **Assistant Commissioner of Central Excise, Hyderabad v. Sabnife Power Systems Ltd. and others ((2002) 9 SCC 389)**. In that case the State approached the High Court for enhancement of sentence imposed against the accused by the Special Judge for economic offences, Hyderabad. The appeal was dismissed by the High Court for two reasons. First, the appeal for enhancement of sentence under Section 377(2) of Cr.P.C. could be filed by the public prosecutor duly authorized by the Central Government and the special public prosecutor appearing on behalf of the appellant fairly admitted that the complainant was not empowered by the Central Government to file the appeal. Second, the appeal was not filed by the public prosecutor as contemplated under Section 377(2) of Cr.P.C., but it was filed by the special public prosecutor. The first

ground on which the appeal was dismissed is affirmed by the Supreme Court. However, in respect of the second ground the following observations are made:

> *"6. This submission of the learned Additional Solicitor-General requires to be accepted. Section 24(8) CrPC specifically empowers the Central Government or the State Government to appoint a Special Public Prosecutor for conducting any case or class of cases. Such Special Public Prosecutor would be Public Prosecutor for all the purposes under the Act. It cannot be said that the Special Public Prosecutor is not a Public Prosecutor. Hence, the second reason recorded by the High Court cannot be justified."*

14. Admittedly NIA Act is a special law to which Section 4(2) of Cr.P.C. may apply in respect of investigation, inquiry, trial, etc. Viewing the rival contentions in this background, we find that the challenges raised against maintainability of the appeals are not sustainable, especially when we consider the fact that the appeals were presented by the public prosecutor appointed by NIA under Section 15 of NIA Act. We, therefore, find that the appeals filed by NIA are competent.

15. In order to appreciate the contentions raised by NIA in its

appeals, it becomes necessary to consider firstly the relevant provisions. Section 2(c) of the UA(P) Act clearly says that "Code" means the Code of Criminal Procedure, 1973. Another expression specifically defined under the above Act is "economic security". In Section 2(ea) the term "economic security" is defined as follows:

> *""economic security" includes financial, monetary and fiscal stability, security of means of production and distribution, food security, livelihood security, energy security, ecological and environmental security."*

It is pertinent to note that the above definition is an inclusive one capable of taking in many other aspects also.

16. Section 15 of the UA(P) Act defines "terrorist act" in the following terms:

> *"**Terrorist act**.-(1) Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security, economic security or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,-*
>
> *(a) by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other*

chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) of a hazardous nature or by any other means of whatever nature to cause or likely to cause-

(i) death of, or injuries to, any person or persons; or

(ii) loss of, or damage to, or destruction of, property; or

(iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or

(iiia) damage to, the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material; or

(iv) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or

(b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death

of any public functionary or attempts to cause death of any public functionary; or

(c) detains, kidnaps or abducts any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or an international or inter-governmental organization or any other person to do or abstain from doing any act; or commits a terrorist act.

Explanation.- For the purpose of this sub-section,-

(a) "public functionary" means the constitutional authorities or any other functionary notified in the Official Gazette by the Central Government as public functionary;

(b) "high quality counterfeit Indian currency" means the counterfeit currency as may be declared after examination by an authorized or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule.

(2) The terrorist act includes an act which constitutes an offence within the scope of, and as defined in any of the treaties specified in the Second Schedule."

17. In the backdrop of the rival contentions, we are obliged to interpret the scope of Section 15 of UA(P) Act. Section 15(1) is the substantive part of the Section, wherein it is mentioned that whoever does any act with intent to threaten or likely to threaten the unity, integrity, security, economic security or sovereignty of India through any of the modes specified in Clauses (a), (b) or (c) commits a terrorist act. Likewise, whoever does any act with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country by resorting to any of the acts mentioned under Clauses (a), (b) or (c) is said to commit a terrorist act. If we dissect Section 15, the following aspects will emerge:

15(1) Whoever does any act –

(A) with intent to threaten

(i) the unity (ii) integrity (iii) security (iv) economic security or (v) sovereignty of India

or (B) likely to threaten

(i) the unity (ii) integrity (iii) security (iv) economic security or (v) sovereignty of India

or (C) with intent to strike terror in the people or any section of the people in India or in any foreign country

or (D) likely to strike terror in the people or any section of the people in India or any foreign country -

in any manner specifically enumerated under Clauses (a), (b) or (c), commits a terrorist act.

18. Main thrust of arguments raised by learned ASG is based on Section 15(1)(a)(iiia) of UA(P) Act to establish that the impugned order is legally unsustainable. If we understand Section 15(1) as above, it is easy to understand Clause (a) thereto. Clause (a) to Section 15(1) illustrates some of the means by which the unity, integrity, security, economic security or sovereignty of India could be threatened or terror could be struck in people or any section of the people in India or in any foreign country. It can be seen from Section 15(1)(a) that using bombs, dynamite or any explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) of a hazardous nature, the unity, integrity, etc. of the nation could be threatened or terror could be struck in people or any section of the people in India or in any foreign country. Clause (a) makes it abundantly clear that the illustrations of criminal acts therein are not exhaustive. The effects produced by such acts are dealt with in Sub-clauses (i) to (iv) thereunder. If by using bombs, dynamites, etc, death or injuries to any person or persons occur, it will be a terrorist act under Sub-clause (i). Likewise, under Sub-clause (ii), by using bombs, dynamites, etc. if loss or damage or destruction of property has happened, then also it will fall

within the definition of terrorist act. Similarly, the disruption of any supplies or services essential to the life of the community in India or in any foreign country caused by any of the means referred to above will also be a terrorist act. Most importantly, under Sub-clause (iiia) to Section 15(1)(a) by any means of whatever nature if any damage to the monetary stability of India is caused or likely to be caused by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material, then also it will amount to a terrorist act.

19. In this context, we shall consider Explanation (b) to the above Section, wherein high quality counterfeit Indian currency is explained. Pertinently, no mention about coin can be seen therein. We quote the explanation -

> *"(b) "high quality counterfeit Indian currency" means the counterfeit currency as may be declared after examination by an authorized or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule."*

20. It will be apposite at this juncture to look into the Third Schedule to UA(P) Act which specifies the security features to define high quality counterfeit Indian currency notes:

"THE THIRD SCHEDULE

[See clause (b) of Explanation to section 15(1)]

SECURITY FEATURES TO DEFINE HIGH QUALITY COUNTERFEIT INDIAN CURRENCY NOTES

Watermark(s), Security thread and any one of the following features:-

(a) Latent image; (b) See through registration; (c) Print quality sharpness; (d) Raised effect; (e) Fluorescent characteristics; (f) Substrate quality; (g) Paper taggant; (h) Colour shift effect in OVI; (I) Colour shift effect in security thread."

21. Our attention has been drawn to the Unlawful Activities (Prevention) Amendment Bill, 2011 intended to further amend the UA(P) Act. In the Bill, as per Clause 4, the existing Section 15 of UA(P) Act was proposed to be amended in the following lines:

"Section 15 of the principal Act shall be renumbered as sub-section (1), thereof and in sub-section (1) as so renumbered,-

(i) in the opening portion, after the word "security", the words "economic security", shall be inserted;

(ii) in clause (a), after sub-clause (iii), the following sub-clause shall be inserted namely :-

"(iiia) damage to, the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material; or

(iii) in clause (c), for the words "any other person to do or abstain from doing any act", the words "an international or inter-governmental organization or any other person to do or abstain from doing any act; or" shall be substituted; ";

(iv) after clause (c), the following clause shall be inserted, namely:-

"(d) demands any bomb, dynamite or other explosive substances or inflammable substances or fire arms or other lethal weapons or poisonous or noxious or other chemicals or any biological, radiological, nuclear material or device with the intention of aiding, abetting or committing terrorism.";

(v) for the Explanation, the following Explanation shall be substituted, namely :-

'Explanation.- For the purpose of this section,-

(a) "public functionary" means the constitutional

authorities or any other functionary notified in the Official Gazette by the Central Government as public functionary :

(b) "high quality counterfeit currency" means the counterfeit currency as may be declared after examination by an authorized or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule.';

(v) after sub-section (1) , the following sub-section shall be inserted, namely :-

"(2) The terrorist act under sub-section (1) includes an act which constitutes an offence within the scope of, and as defined in any of the treaties specified in the Second Schedule.".

The Bill was passed by the Parliament and Act 3 of 2013 came into force. Section 15(1)(a)(iiia) was inserted by the Amending Act with effect from 01.02.2013. Relevant portion of the statement of objects and reasons to the Bill reads thus:

"The Unlawful Activities (Prevention) Act, 1967 has been enacted to provide for the more effective prevention of certain unlawful activities of individuals and associations and for matters connected therewith. The

scope of the Act was widened in 2004 and the terrorist activities were brought within the scope of the said Act.

2. An Inter-Ministerial Group was constituted to evaluate the existing provisions of the Unlawful Activities (Prevention) Act, 1967 and to recommend necessary amendments to the said Act. In addition to the above, the Financial Action Task Force, an Inter-Governmental organization set-up to devise policies to combat money laundering and terror financing admitted India as its 34th member. On the basis of commitment made by India at the time of admission to the said Financial Action Task Force, various legislative and other legally binding measures were required to be taken on a medium term basis, i.e., by 31st March, 2012. These recommendations were examined and it is proposed to amend the Unlawful Activities (Prevention) Act, 1967 to make it more effective in prevention of unlawful activities and dealing with terrorist activities.

3. The Unlawful Activities (Prevention) Amendment Bill, 2011, inter alia, provides to -

(a) increase the period of declaration of an

association as unlawful from two years to five years as specified under section 6;

(b) amend section 15 of the aforesaid Act (which defines Terrorist act) and include therein -

(i) economic security and damage to the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material as the existing provisions of the aforesaid Act do not include within their scope an act done with an intent to threaten or threaten likely to economic security of India and counterfeiting Indian paper currency or coin;

(ii) any international or inter-governmental organization against which any person indulges in acts described in clause (c) of section 15, since the existing provision does not explicitly mention such international or inter-governmental organization.

(iii) act of demanding any bomb, dynamite or other explosive substances or inflammable substances or fire arms or other lethal weapons or poisonous or noxious or other chemicals or any biological, radiological,

nuclear material or device with the intention of aiding, abetting or committing terrorism;

xxxxxx"

22. It is contended by the learned counsel for the accused that Section 15(1)(a)(iiia) cannot be invoked in the facts of the case to hold that the alleged activities by the accused amounted to a terrorist act. According to them, a smuggling activity simplicitor cannot amount to a terrorist act under the scheme of UA(P) Act. Forcefully it is argued that NIA has no authority to investigate into an offence of smuggling defined under Section 2(39) of the Customs Act, 1962 ("Customs Act", in short). It is pointed out that in the Schedule attached to the NIA Act, dealing with specified enactments, the Customs Act is not included. Specific case advanced by the learned counsel for the accused is that the materials on record do not justify the contention raised by NIA that the accused are liable to be proceeded under Chapter IV of UA(P) Act dealing with punishment for terrorist activities since no terrorist act as defined under Section 15 of UA(P) Act has been attracted in this case.

23. Per contra, learned ASG and the Prosecutor contended that the investigation at that time was gradually progressing in various directions. It may be too premature to form an opinion as to whether a terrorist act, as defined under Section 15 of UA(P) Act, would be attracted or not. Reliance is placed by the learned counsel for NIA on the Financial Action Task Force

(FATF) report to advance their contentions. FATF is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction. In the FATF report, the significance of gold as a vehicle for money laundering was considered at page 6. According to the report, gold is used for money laundering for the following two reasons:

> *"There are two broad characteristics of gold and the gold market which make it enticing to criminal groups. The first is the nature and size of the market itself which is highly reliant on cash as the method of exchange. The second is the anonymity generated from the properties of gold which make tracking its origins very difficult to do. These factors make gold highly attractive to criminal syndicates wishing to hide, move or invest their illicit proceeds. "*

The report takes note of the fact that gold can be traded anonymously and transactions are difficult to be traced and verified. It also notices the fact that gold is a form of global currency and acts as a medium for exchange in criminal transactions. Further, investment in gold provides reliable returns. It is also observed in the report that gold is easily smuggled and traded – both

physically and virtually. FATF report further takes note of the opportunities for generating illicit profit in the gold industry. After discussing all these matters, the “red flags” identified by the organization are mentioned at page 20. It is argued by the learned ASG that bullion transferred among associates using bullion accounts (including family members) for no apparent commercial purpose and customer buying gold bullion and using a general post office or private service provider, mail box as their address, without listing a corresponding box number are some of the instances of customer behaviour. Insofar as the trade based behaviour (also related to trade based money laundering) is concerned, cash payments for high value orders are indications of trade based money laundering activity. It is therefore argued on behalf of NIA that these aspects could be unearthed only on a wide spread probe involving scrutiny of voluminous evidence recovered in the paper form and also decoded from the electronic gadgets. It is true that the case involves a lot of transactions connecting various accused persons and accomplices. We are of the view that the investigating agency is justified in taking time for completing a threadbare investigation into all the aspects.

24. At the same time, the contention of the accused persons that the materials placed before the court at the time of considering their bail applications did not reveal any of the offences charged against them has also to be considered to assess the legality of the impugned order.

25. Learned senior counsel appearing for 22nd accused contended that no contention regarding a direct communication of this accused with the kingpins has been raised in the remand application filed by NIA. According to him, if Section 15 of UA(P) Act is not applicable, then Sections, 16, 17 and 18 of the said Act will have no application. This argument is opposed by the learned counsel on behalf of NIA contending that there are enough materials to rope the accused persons in the alleged offences. Further, Section 17 deals with punishment for raising funds for terrorist act. Section 18 deals with punishment for conspiracy for not only a terrorist act, but for any act preparatory to commission of a terrorist act. We are of the opinion that the offences described under Sections 17 and 18 of UA(P) Act are not fully dependant on the definition of terrorist act in Section 15. Proof of other aspects also could attract those offences. It may be too early for us to express any opinion either way relating to the offences attracted in the case at this stage. Therefore, we do not express any opinion regarding the offences that could be made out against the accused persons after the investigation.

26. Learned senior counsel and other counsel appearing for the accused persons strongly contended that on a plain reading of Section 15(1)(a)(iiia) of UA(P) Act, it can be seen that the definition of terrorist act falling within this part of the Section does not deal with smuggling of gold. Indisputably, smuggling as defined under Section 2(39) of the Customs Act is

punishable under Section 135 of the said Act. As mentioned earlier, the Customs Act is not included in the Schedule to the NIA Act and therefore NIA cannot have a jurisdiction to investigate into any offence exclusively falling within the Customs Act.

27. It is discernible from Section 15(1)(a)(iiia) that what becomes a terrorist act thereunder is causing damage to the monetary stability of India by producing high quality counterfeit Indian paper currency, coin or any other material or smuggling of high quality counterfeit Indian paper currency, coin or any other material or circulating high quality counterfeit Indian paper currency, coin or any other material. It is important to note that the qualifying words “high quality counterfeit” are applicable to Indian paper currency and coin. This is evident from the statement of objects and reasons to the Bill introduced for amending the statute as shown above. This is the split up of the above Sub-clause to Section 15(1).

28. It is therefore strongly argued that what is sought to be declared as a terrorist act in this Sub-clause is the production, smuggling or circulation of high quality counterfeit Indian paper currency, coin or any other material so as to cause damage to the monetary stability of India. Learned counsel for the accused persons emphasized that the words “high quality counterfeit Indian paper currency, coin or any other material” will have to be understood as one class of items intended to be produced or smuggled or circulated in order to

damage the monetary stability of India. In other words, it is contended that high quality counterfeit Indian paper currency or coin cannot be disassociated or separated from the words “any other material”. According to them, the principle of *ejusdem generis* should be applied to interpret this provision.

29. In this context, it will be apposite to consider the wafer-thin distinction between *“noscitur a sociis”* and *“ejusdem generis”*. According to **Black's Law Dictionary** the expression “noscitur a sociis” means thus:

> *“A canon of construction holding that the meaning of an unclear word or phrase should be determined by the words immediately surrounding it.”*

The expression *“ejusdem generis”*, according to **Black's Law Dictionary**, means thus:

> *“A canon of construction that when a general word or phrase follows a list of specific persons or things, the general word or phrase will be interpreted to include only persons or things of the same type as those listed. For example, in the phrase horses, cattle, sheep, pigs, goats, or any other barnyard animal, the general language or any other barnyard animal – despite its seeming breadth – would probably be held to include only four-legged, hoofed mammals (and thus would exclude chickens).”*

30. According to **Broom's Legal Maxims** (12th edition) the expression *"noscitur a sociis"* implies that the meaning of a doubtful word may be ascertained by reference to the meaning of words associated with it. At page 433 in **Broom's Legal Maxims**, it is observed thus:

> *"In the construction of statutes, likewise, the rule noscitur a sociis is frequently applied, the meaning of a word, and, consequently, the intention of the legislature, being ascertained by reference to the context, and by considering whether the word in question and the surrounding words are, in fact, ejusdem generis, and referable to the same subject-matter. Especially must it be remembered that the sense and meaning of the law can be collected only by comparing one part with another and by viewing all the parts together as one whole, and not one part only by itself - " nemo enim aliquam partem recte intelligere possit antequam totum iterum atque iterum perlegerit "*

We may quote the following passages from **Statutory Interpretation** by **Sir Rupert Cross** (Reprint 1978) dealing with rules of language:

> *"Rules of Language*
>
> *Something must now be said about the rule of ejusdem*

generis ("of the same kind"), the maxim noscitur a sociis ("a thing is known by its companions"), the rule of rank and the maxim expressio unius exclusio alterius ("the mention of one thing is the exclusion of another"). Noscitur a sociis and the rule of rank can, roughly speaking, be respectively regarded as an extended and attenuated version of the ejusdem generis rule. These rules or maxims have attracted an unduly large quantity of case law because they are neither legal principles nor legal rules. It is hardly correct to speak of them as rules of language for they simply refer to the way in which people speak in certain contexts. They are no more than rough guides to the intention of the speaker or writer."

31. Learned senior counsel for the accused placed reliance on **Ishwar Singh Bagga v. State of Rajasthan ((1987) 1 SCC 101)** to contend that high quality counterfeit Indian paper currency, coin or any other material should be read and understood as anything directly related to currency or coin. In the above decision, the Supreme Court considered the interpretation of Section 129-A of the Motor Vehicles Act, 1939 wherein the power to detain vehicles used without certificate of registration or permit had been dealt with. Opening words of the Section showed that any police officer authorized in this

behalf or other person authorized in this behalf by the State Government may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provision of law, he may seize and detain the vehicle. The words “any police officer authorized in this behalf or other person authorized in this behalf by the State Government may” were interpreted in paragraphs 7 and 9 of the decision. In paragraph 9 the following observations are made:

> *“9. ..... A reading of Section 129-A and Section 133-A of the Act together shows that the “other person” referred to in Section 129-A of the Act, who may be empowered to discharge the powers under that section can only mean an officer of the government, such as the Motor Vehicles Officer appointed under Section 133-A of the Act or of any other department. It could never have been the intention of the Central legislature, while enacting Section 129-A and Section 133-A of the Act that the powers exercisable under Section 129-A of the Act could be conferred on persons who were not officers of the government. If the Central legislature intended that such powers could be entrusted to private persons or employees of any statutory Corporation the section would have*

expressly provided in that regard. Ordinarily, whenever a statute empowers the State Government to appoint persons to administer any of the provisions of the statute, the persons who may be appointed by the State Government under such provision can only be persons appointed in connection with the affairs of the State. In other words they should be employees or officers of the State Government, who are subject to the administrative and disciplinary control of the State Government directly. The powers of search, seizure and detention of vehicles belonging to private parties and of launching prosecutions are incidental to the sovereign powers of the State and they cannot ordinarily be entrusted to private persons unless the statute concerned makes express provisions in that regard. It is a different matter if a private person on his own files a complaint before a magistrate and wishes to establish a criminal charge. In such a case the private person would not be investigating into the crime with the aid of the powers of search, seizure or detention. The magistrate may, if he so desires, direct a police officer to investigate into the allegations and report to him. In order to illustrate the above point reference may be

made to Section 43 of the Code of Criminal Procedure, 1973. It provides that any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over or cause to be made over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station. We are of the view that the expression "other person" mentioned in Section 129-A of the Act which has to be read ejusdem generis with the words 'any police officer' which precede that expression in Section 129-A of the Act can only refer to an officer of the government and not to any officer or employee of any statutory Corporation or to any other private person. We have a similar provision in Section 129 of the Act. That section authorizes the State Government to empower any police officer or other person to exercise the powers under that section. Such police officer or other person may, if he has reason to believe that any identification mark carried on a motor vehicle or any licence, permit, certificate of

registration, certificate of insurance or other document produced to him by the driver or person in charge of a motor vehicle is a false document within the meaning of Section 464 of the Indian Penal Code (45 of 1860), seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle of such mark or document. That section also provides that any police officer authorized in that behalf or other person authorized in that behalf by the State Government may, if he has reason to believe that the driver of a motor vehicle who is charged with any offence under the Act may abscond or otherwise avoid the service of a summons, seize any licence held by such driver and forward it to the court taking cognizance of the offence and the said court shall, on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgment given under sub-section (3) of Section 129 of the Act. Having regard to the nature of the power, the expression "other person" in Section 129 also will have to be interpreted as meaning any other person appointed in connection with the affairs of the State

Government and not any private person or officer of a Corporation."

The Supreme Court in **Maharashtra University of Health Sciences v. Satchikitsa Prasarak Mandal ((2010) 3 SCC 786)** considered the scope of Section 2(35) of Maharashtra University of Health Sciences Act, 1998, wherein definition of the word "teachers" occurs in the following manner:

"17. ….....

"2(35) 'teachers' means full time approved demonstrators, tutors, assistant lecturers, lecturers, readers, associate professors, professors and other persons teaching or giving instructions on full-time basis in affiliated colleges or approved institutions in the University."

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23. The definition of teachers under Section 2(35) is wide enough to include even unapproved teachers. In fact the said definition has two parts, the first part deals with full time approved demonstrators, tutors, assistant lecturers, lecturers, etc. and the second part deals with other persons teaching or giving instructions on full-time basis in affiliated colleges or approved institutions in the

University. Even though the approved teachers and those "other persons" who are teaching and giving instructions fall in two different classes both are encompassed with the definition of teacher under Section 2(35) of the Act. The word "and" before "other persons" is disjunctive and indicates a different class of people.

24. A class is a conceptual creation taking within its fold numerous categories of persons with similar characteristics. Here in the group of "other persons" fall those who, on full-time basis, are teaching or giving instructions in colleges affiliated with the University and they are also teachers even if they are unapproved. This seems to be the purport of Section 2(35) of the Act.

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27. The Latin expression "ejusdem generis" which means "of the same kind or nature" is a principle of construction, meaning thereby when general words in a statutory text are flanked by restricted words, the meaning of the general words are taken to be restricted by implication with the meaning of the restricted words.

This is a principle which arises "from the linguistic implication by which words having literally a wide meaning (when taken in isolation) are treated as reduced in scope by the verbal context". It may be regarded as an instance of ellipsis, or reliance on implication. This principle is presumed to apply unless there is some contrary indication [see Glanville Williams, The Origins and Logical Implications of the Ejusdem Generis Rule. 7 Conv (NS) 119].

28. This ejusdem generis principle is a facet of the principle of noscitur a sociis. The Latin maxim noscitur a sociis contemplates that a statutory term is recognized by its associated words. The Latin word "sociis" means "society". Therefore, when general words are juxtaposed with specific words, general words cannot be read in isolation. Their colour and their contents are to be derived from their context. (See similar observations of Viscount Simonds in Attorney General v. Prince Ernest Augustus of Hanover (1957 AC 436:(1957) 2 WLR 1 : (1957) 1 All ER 49(HL), AC at p.461)"

32. A Full Bench decision in **State of Kerala v. Amalgamated**

Malabar Estates (P) Ltd. (1979 KLT 829) is pressed into service by the learned senior counsel for the accused to contend a proposition that the words of a statute are to be understood in the sense in which they are best harmonised with the subject of the enactment. Another decision cited in this context is **M/s.Siddeshwari Cotton Mills (P) Ltd. v. Union of India and another ((1989) 2 SCC 458)** wherein the following observations are made:

> *"12. The expression ejusdem generis – 'of the same kind or nature' – signifies a principle of construction whereby words in a statute which are otherwise wide but are associated in the text with more limited words are, by implication, given a restricted operation and are limited to matters of the same class or genus as preceding them. If a list or string or family of genus-describing terms are followed by wider or residuary or sweeping-up words, then the verbal context and the linguistic implications of the preceding words limit the scope of such words."*

Learned Judges, after referring to **Statutory Interpretation** by **Sir Rupert Cross**, made the following observations in paragraph 14:

> *"14. The principle underlying this approach to statutory construction is that the subsequent general words were only intended to guard against some*

accidental omission in the objects of the kind mentioned earlier and were not intended to extend to objects of a wholly different kind. This is a presumption and operates unless there is some contrary indication. But the preceding words or expressions of restricted meaning must be susceptible of the import that they represent a class. If no class can be found, ejusdem generis rule is not attracted and such broad constructions as the subsequent words may admit will be favoured. As a learned author puts it:

…….if a class can be found, but the specific words exhaust the class, then rejection of the rule may be favoured because its adoption would make the general words unnecessary; if, however the specific words do not exhaust the class, then adoption of the rule may be favoured because its rejection would make the specific words unnecessary."

33. Sum and substance of the above discussion is that by applying the above mentioned well known rules of interpretation of statutes, we are unable to hold that smuggling of gold simplicitor will fall within Section 15(1)(a)(iiia) of UA(P) Act. In other words, gold smuggling clearly covered by the

provisions of the Customs Act will not fall within the definition of terrorist act in Section 15 of UA(P) Act unless evidence is brought out to show that it is done with the intent to threaten or it is likely to threaten the economic security or monetary stability of India. In our view, what is made an offence under Section 15(1)(a)(iiia) of UA(P) Act is causing damage to the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or any other material relatable to currency or coin. “Other material” can be any material connected to counterfeit Indian paper currency or counterfeit Indian coin, like machinery or implements or high quality paper or any other material which could be used for producing or circulating fake currency or coin. Illegal acts referred to in the above provision certainly will have a direct impact on the economic security of India. In our opinion, it does not include gold as the words employed in the Sub-clause specifically mention about production or smuggling or circulation of high quality counterfeit Indian paper currency or coin and therefore gold cannot be grouped along with paper currency or coin even though gold is a valuable substance and has a great potential to get converted into cash. Arrangement of words indicating the things mentioned in the provision does not prompt us to think that gold smuggling with a mere illegal profit motive will fall within the aforementioned definition of terrorist act. Besides, we take cognizance of the fact that there can be many other things of enormous value like precious

metals and stones that could be smuggled for making an unlawful gain. We do not find any logic to include gold alone along with counterfeit Indian paper currency or coin.

34. One more rule of interpretation of statutes fortifies our view. *Casus omissus*, meaning a situation omitted from or not provided by statute, cannot be supplied by courts, as to do so will be legislation and not construction. Plethora of case law on this subject need not be mentioned here to buttress this proposition. In our opinion, if the legislature had an intention to include gold smuggling also as terrorist act, there is no difficulty in expressly providing a limb to Section 15 of UA(P) Act. We can only presume that the legislature must have been aware of the existence of the Customs Act when it amended Section 15. Non-inclusion of the Customs Act in the Schedule to NIA Act also must be regarded as a conscious act by the legislature. These aspects also strengthen our above view.

35. After reserving the cases for judgment, learned prosecutor for NIA placed a decision rendered by a learned single Judge of High Court of Judicature for Rajasthan (Jaipur Bench) in S.B. Criminal Miscellaneous (Petition) No.5139 of 2020 dated 01.02.2021 through a memo dated 08.02.2021 with due notice to the opposite side. In the above case, the accused approached the High Court by presenting a petition under Section 482 of Cr.P.C. requesting to quash FIR in respect of a crime registered under

Section 16 of UA(P) Act read with Section 120B of the Indian Penal Code, 1860. Allegation against the accused therein is that he had smuggled huge quantity of gold. Prosecution therefore contended that he had smuggled gold with an intent to threaten the economic security of India as provided in Section 15(1)(a)(iiia) of UA(P) Act. It was argued that the words “any other material” do not specifically refer to smuggling of gold. Learned single Judge did not accept this contention. It is observed that smuggling of gold with intent to threaten or likely to threaten the economic security of the country is covered under the smuggling of “any other material”. It is clear from the decision that no analysis of the provision was made by the learned single Judge. Moreover, no specific reason has been stated for making the aforementioned observations. It is to be remembered that the learned single Judge was examining whether there was any sufficient reason to quash an FIR at the initial stage of the investigation. We do not find any law laid down in the above decision. We are, therefore, not persuaded by the single line observation made by the learned single Judge that “any other material” occurring in Section 15(1)(a)(iiia) of UA(P) Act is intended to cover gold smuggling also.

36. Our attention has been drawn to a Full Bench decision of this Court in **Abdul Salam v. National Investigation Agency, Kochi (2018 (3) KHC 1)** wherein Sections 15, 16 and 18 of UA(P) Act were interpreted. Facts in the decision would show that a huge quantity of high quality counterfeit

Indian paper currency had been brought or imported to India by the 1st accused. At the time when the offence was committed, importing counterfeit currency was not a terrorist act under the UA(P) Act. The alleged offence was on 26.01.2013. Section 15 was amended with effect from 01.02.2013. Considering these aspects the Full Bench held that the accused cannot be convicted or punished for an act which was not punishable under the law as on the date of commission of the said act and this was held so in the light of Article 20(1) of the Constitution of India. In the above decision, the Full Bench made the following observations:

> *"19. No doubt, the property meant and defined under Section 2(h) of the U.A.(P) Act must be something having some value in ordinary transactions, whether it is tangible or intangible, or movable or immovable or corporeal or incorporeal. Valueless objects cannot be covered by the term property. The interpretation of the Division Bench in Shareef's case is that the finance of the country is included in the definition of property. Finance is a broad term covering so many aspects of monetary set up, and it is not something that can be simply called property. To be property as meant under the law, the object must satisfy the definition of property*

under Section 2(h) of the U.A.(P) Act. The Division Bench has gone too far with an imaginative interpretation to find that the definition of property under Section 2(h) of the U.A.(P) Act will cover the finance of the country also. Finance of the country is something different, having broader connotations and applications in the country's economic set up, and it cannot be brought down to a narrow concept or object as property. So also, the term "security" occurring in S.15 of the U.A. (P) Act cannot be stretched by interpretative process to include economic security. To understand what exactly security is, as meant by law, the whole section must be read and appreciated carefully. It is quite clear from such interpretation and understanding that the term security meant under the law is the country's security vis-a-vis., law and other situations and internal or external affairs of the country, and not financial or economic fabric. When the parliament in its wisdom realised that economic security of the country also must be brought within the definition of terrorist act, the Parliament inserted the words 'economic security' specifically in Section 15 of

the U.A.(P) Act by a specific amendment. Though generally the objects and reasons of a statute cannot be given much weight or value or importance in the process of interpretation, the objects and reasons of the Unlawful Activities (Prevention) Amendment Act, 2012 will clearly indicate that the Parliament inserted words to cover economic security in Section 15 of the U.A.(P) Act because the existing provision did not cover such situations or instances of acts like smuggling or circulation of high quality counterfeit Indian paper currency causing damage to the finance of the country and economic stability of the country. We find that the Parliament in its wisdom inserted the words 'economic security' in Section 15 of the U.A.(P) Act, and also introduced clause (iiia) in Section 15 regarding production or smuggling or circulation of 'high quality counterfeit Indian paper currency', making it an act of terrorism within the meaning of Section 15, only because the existing provision did not take care of such situations and acts, and a provision was felt absolutely necessary by the Parliament to punish production or smuggling or

> *circulation of high quality counterfeit Indian paper currency as a terrorist act damaging or destroying the monetary stability of India and the economic security of India. We, thus come to the conclusion and finding that production or smuggling or circulation of high quality counterfeit Indian paper currency was not punishable till 01/02/2013 under Section 16 of the U.A.(P) Act as a terrorist act defined under Section 15 of the U.A.(P) Act. We also find that the question of law was not properly considered and decided in Shareef's case.*

It is submitted on behalf of NIA that in the Third Schedule, no specification about coin has been mentioned. According to NIA, that is one of the indications to infer that gold smuggling, though not expressly mentioned, also will fall within the definition of terrorist act. We are not impressed with this contention because mentioning about some matters in the Third Schedule cannot be taken as a decisive factor to find whether gold smuggling will be a terrorist act under the Section. The substantive law contained in the Sections cannot be controlled by the recitals in the Schedule is a well settled legal principle.

37. Another contention raised by NIA is that counterfeit currency notes cannot be smuggled because under the Customs Act, smuggling is an

offence against levying duty. We notice that the word “smuggling” is not defined under the UA(P) Act. Definition of a particular expression occurring in one statute cannot be applied to another, unless they are *pari materia.* This is an indisputable proposition. We do not think that the Customs Act and UA(P) Act are *pari materia*. Going by the dictionary meaning, “smuggling” is the illegal transportation of objects, substances, information or people, such as out of a house or building, into a prison or across an international border in violation of the applicable laws or other regulations. **Cambridge Dictionary** defines the word “smuggling” as an act or process of taking things or people to or from a place secretly and often illegally. In all cases, smuggling need not be in respect of articles on which a duty could be levied. For example, narcotic drugs or other contraband articles are smuggled at times on which no duty could be levied. In our opinion, “smuggling” is a generic term indicating the illegal transport of various articles. Therefore, this argument raised by NIA cannot be accepted. We are therefore of the view that the learned trial Judge is right in holding that the materials presented before the court at the time of considering the bail application did not reveal prima facie that the accused persons released on bail are involved in a terrorist act, as defined under Section 15 of the UA(P) Act.

38. Learned trial Judge has observed that the case diary produced by NIA in six volumes consist of nearly 2500 pages and on scanning through the

materials, the court below found that the persons to whom it had granted bail had funded the front line accused persons for smuggling gold through diplomatic channel and they did conspire with some others in this regard. The materials on record prima facie did not indicate that the accused to whom bail had been granted had acted with an intention to damage economic security of India. Trial court took note of the fact that most of the accused persons are businessmen having considerable assets. The materials on record revealed that the accused, who are enlarged on bail, were indulging in smuggling activity for illegal gain. Of course, they were using a diplomatic channel for committing the offence of smuggling. On going through the materials placed before us, we are of the view that the court below is justified in entering such a finding.

39. Learned ASG harping on Section 43-D(5) of UA(P) Act contended that the court below did not comply with the mandate of law therein. Section 43-D(5) of UA(P) Act reads thus:

> *"**43-D**. **Modified application of certain provisions of the Code.-***
>
> *…….....*
>
> *(5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be*

released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release :

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true."

What is important about the above provision is the expression, "where there are reasonable grounds for believing that the accusation against such person is prima facie true". Sub-section (6) to Section 43-D of UA(P) Act makes it clear that the restriction on granting bail specified in Sub-section (5) is in addition to the restrictions under the Cr.P.C. or any other law for the time being in force. On a look at Section 43-D(2) of UA(P) Act, it will be clear that Section 167 of Cr.P.C. has been modified to the extent provided therein. So, the court will have to consider the existence of a prima facie case in a different perspective than what is provided under the provisions of Cr.P.C.

40. On a reappraisal of the entire materials, we agree with the learned trial Judge that the materials produced before the court at that point of time are insufficient to hold prima facie that the accused persons have

committed a terrorist act. We shall not be understood as declaring that the accused persons have not committed any of the offences alleged against them. We make it clear that we are only endorsing the trial court's view that the materials placed before it for considering the bail plea are insufficient to hold prima facie that those released accused were involved in any terrorist act. We make it further clear that none of the observations in this judgment will preclude the investigating agency from collecting any evidence to establish the involvement of the accused in any of the offences alleged. Likewise, the investigating agency is free to take all steps to convince the trial court that the accused are liable for all the offences alleged in the final report. Moreover, we caution the court below not to be influenced by any of the observations in this judgment at the time of trial.

41. On a perusal of the operative portion of the bail order, we find that the trial court has carefully taken enough precautions to see that the accused persons, to whom bail had been granted, are obeying the directions and they do not interfere with progress of the investigation. Similarly, measures have been taken in the bail order by imposing necessary conditions to secure their presence at the time of trial. Therefore, we find no reason to think that the accused to whom bail had been granted will flee from justice or meddle with the investigation. Moreover, the investigating agency, if succeeds in digging out materials to show their complicity in a terrorist act, certainly can move the

court for cancellation of bail.

42. Insofar as the appeal preferred by 7th accused is concerned, the court below for valid reasons declined his bail plea. In paragraph 25 of the impugned order the trial court considered various distinctions between the case against 7th accused and other accused to whom bail was granted. Case diary clearly revealed that 7th accused played a pivotal role in the alleged conspiracy. Various accused persons obtained smuggled gold through 7th accused. Allegations against him are certainly graver than those against the accused who were enlarged on bail. Therefore the court below rightly declined his bail plea.

In the result, the appeals under consideration are dismissed affirming the orders passed by the Judge, Special Court for NIA Cases.

All pending applications will stand closed.

A.HARIPRASAD,
JUDGE.

M.R.ANITHA
JUDGE.

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APPENDIX OF CRL.A 826/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A	**TRUE COPY OF THE COUNTER FILED BY THE RESPONDENT BEFORE THE SPECIAL COURT.**

RESPONDENT'S EXHIBITS:

ANNEXURE R1(a) TRUE CPOY OF THE FATF REPORT ON "MONEY LAUNDERING/TERRORIST FINANCIAL RISKS AND VULNERABILITIES ASSOCIATED WITH GOLD

ANNEXURE R1(b) TRUE COPY OF THE NARRATIVE SUMMARY ISSUED BY UNSCR 1267/1989/2253 SANCTIONS COMMITTEE

APPENDIX OF CRL.A 894/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT.**
ANNEXURE A2	**TRUE COPY OF THE OBJECTION FILED IN CRL.M.P.NO.186/2020.**
ANNEXURE A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 07.10.2020 AND 14.10.2020.**
ANNEXURE A4	**TRUE COPY OF THE SAID REPORT DATED 08.10.2020 FILED BY SENIOR PUBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE A5	**THE TRUE COPY OF THE SAID ORDER DATED 12.10.2020.**
ANNEXURE A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15.10.2020 IN CRL.M.P.NO.186 OF 2020.**

APPENDIX OF CRL.A 901/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE-A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT**
ANNEXURE-A2	**TRUE COPY OF THE OBJECTION FILED IN CRL.M.P.NO.173 OF 2020**
ANNEXURE-A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 07.10.2020 AND 14.10.2020**
ANNEXURE-A4	**TRUE COPY OF THE REPORT DATED 08.10.2020 FILED BY SENIOR PUBLIC PROSECUTOR OF THE APPELLANT**
ANNEXURE-A5	**THE TRUE COPY OF THE ORDER DATED 12.10.2020**
ANNEXURE-A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15.10.2020 IN CRL.M.P.NO.173 OF 2020 OF THE SPECIAL COURT FOR TRIAL OF NIA CASES, ERNAKULAM**

APPENDIX OF CRL.A 903/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT**
ANNEXURE A2	**TRUE COPY OF THE OBJECTION FILED IN CRL.M.P.NO.131 OF 2020**
ANNEXURE A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 7.10.2020**
ANNEXURE A4	**TRUE COPY OF THE REPORT DATED 8.10.2020 FLED BY SENIOR PUBLIC PROSECUTOR OF THE APPELLANT**
ANNEXURE A5	**TRUE COPY OF THE ORDER DATED 12.10.2020**
ANNEXURE A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15.10.2020 IN CRL.M.P.NO.131OF 2020**

APPENDIX OF CRL.A 904/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE-A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT.**
ANNEXURE-A2	**TRUE COPY OF THE OBJECTION FILED IN CRL M P NO.176/2020**
ANNEXURE-A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 07.102020 AND 14.10.2020.**
ANNEXURE-A4	**TRUE COPY OF THE REPORT DATED 08.10.2020 FILED BY SENIOR PUBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE-A5	**THE TRUE COPY OF THE ORDER DATED 12.10.2020.**
ANNEXURE-A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15.10.2020 OM CRL M P NO.121 OF 2020 OF THE SPECIAL COURT FOR TRIAL OR NIA CASES, ERNAKULAM.**

APPENDIX OF CRL.A 905/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT.**
ANNEXURE A2	**TRUE COPY OF THE OBJECTION FILED IN CRL. M.P. NO.176 OF 2020 IN RC2/20/NIA/KOC.**
ANNEXURE A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 07.10.2020 AND 14.10.2020.**
ANNEXURE A4	**TRUE COPY OF THE REPORT DATED 08.10.2020 FILED BY SENIOR PUBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE A5	**THE TRUE COPY OF THE ORDER DATED 12.10.2020.**
ANNEXURE A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15.10.2020 IN CRL. M.P.NO.176 OF 2020 IN RC2/20/NIA/KOC OF THE SPECIAL COURT FOR TRIAL OF NIA CASES, ERNAKULAM.**

APPENDIX OF CRL.A 906/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT.**
ANNEXURE A2	**TRUE COPY OF THE OBJECTION FILED IN CRL.MP.NO.14O OF 2020.**
ANNEXURE A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 07/10/2020 & 14/10/2020.**
ANNEXURE A4	**TRUE COPY OF THE REPORT DATED 08/10/2020 FILED BY SENIOR PUBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE A5	**THE TRUE COPY OF THE ORDER DATED 12/10/2020.**
ANNEXURE A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15/10/2020 IN CRL.M.P.NO.140 OF 2020 OF THE SPECIAL COURT FOR TRIAL OF NIA CASES, ERNAKULAM.**

APPENDIX OF CRL.A 907/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT.**
ANNEXURE A2	**A TRUE COPY OF THE OBJECTION FILED IN CRL.MP.NO.145 OF 2020.**
ANNEXURE A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 07/10/2020 & 14/10/2020.**
ANNEXURE A4	**TRUE COPY OF THE REPORT DATED 08/10/2020 FILED BY SENIOR PUBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE A5	**THE TRUE COPY OF THE ORDER DATED 12/10/2020.**
ANNEXURE A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15/10/2020 IN CRL.M.P.NO.145 OF 2020 OF THE SPECIAL COURT FOR TRIAL OF NIA CASES, ERNAKULAM.**

APPENDIX OF CRL.A 908/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE-A1	**TRUE COPY OF THE BA FILED BY THE RESPONDENT.**
ANNEXURE-A2	**TRUE COPY OF THE OBJECTION FILED IN CRL M P NO.146/2020.**
ANNEXURE-A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 07/10/2020 AND 14.10.2020.**
ANNEXURE-A4	**TRUE COPY OF THE REPORT DATED 08.10.2020 FILED BY THE SENIOR PUBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE-A5	**TRUE COPY OF THE ORDER DATED 12.10.2020.**
ANNEXURE-A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15.10.2020 OM CRL MP NO.146 OF 2020 IN RC NO.2/2020 IN THE FILES OF SPECIAL COURT FOR TRIAL OF NIA CASES, ERNAKULAM.**

APPENDIX OF CRL.A 909/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT.**
ANNEXURE A2	**TRUE COPY OF THE OBJECTION FILED IN CRL.M.P.NO.175 OF 2020.**
ANNEXURE A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 07/10/2020 & 14/10/2020.**
ANNEXURE A4	**TRUE COPY OF THE REPORT DATED 08/10/2020 FILED BY SENIOR PUBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE A5	**THE TRUE COPY OF THE ORDER DATED 12/10/2020.**
ANNEXURE A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15/10/2020 IN CRL.MP.NO.175 OF 2020 OF THE SPECIAL COURT FOR TRIAL OF NIA CASES, ERNAKULAM.**

APPENDIX OF CRL.A 910/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT.**
ANNEXURE A2	**A TRUE COPY OF THE OBJECTION FILED IN CRL.MP NO.141 OF 2020.**
ANNEXURE A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 07.10.2020 AND 14.10.2020.**
ANNEXURE A4	**TRUE COPY OF THE REPORT DATED 08.10.2020 FILED BY SENOR PUBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE A5	**THE TRUE COPY OF THE ORDER DATED 12.10.2020.**
ANNEXURE A6	**TRUE COPY OF THE COMMON BAIL ORDER DATED 15.10.2020 IN CRL.MP NO.141 OF 2020 OF THE SPECIAL COURT FOR TRIAL OF NIA CASES, ERNAKULAM.**

APPENDIX OF CRL.A 915/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT.**
ANNEXURE A2	**TRUE COPY OF THE COUNTER FILED IN CRL.M.P. NO. 190 OF 2020 IN RC2/2020/NIA/KOC DATED 19.10.2020**
ANNEXURE A3	**TRUE COPY OF THE ADDITIONAL COMMON DATED 07.10.2020 AND 14.10.2020.**
ANNEXURE A4	**TRUE COPY OF THE REPORT DATED 08.10.2020 FILED BY SENIOR PUBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE A5	**THE TRUE COPY OF THE ORDER DATED 12.10.2020.**
ANNEXURE A6	**TRUE COPY OF THE COMMON BAIL ORDER DATD 23.10.2020 IN CRL.M.P. NO. 190 OF 2020/NIA/KOC OF THE SPECIAL COURT FOR TRIAL OF NIA CASES, ERNAKULAM.**

APPENDIX OF CRL.A 922/2020

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE BAIL APPLICATION FILED BY THE RESPONDENT.**
ANNEXURE A2	**TRUE COPY OF THE COUNTER FILED IN CRL.M.P.NO.191 OF 2020 IN RC2/20/NIA/COC**
ANNEXURE A3	**TRUE COPY OF THE ADDITIONAL COMMON OBJECTION DATED 14.10.2020.**
ANNEXURE A4	**TRUE COPY OF THE REPORT DATED 8.10.2020 FILED BY SENIOR UBLIC PROSECUTOR OF THE APPELLANT.**
ANNEXURE A5	**THE TRUE COPY OF THE ORDER DATED 12.10.2020.**
ANNEXURE A6	**TRUE COY OF THE COMMON BAIL ORDER DATED 23.10.2020 IN CRL.M.P.NO.191 OF 2020 OF THE SPECIAL COURT FOR TRIAL OF NIA CASES, ERNAKULAM.**