

(2025) 09 TEL CK 0673
In the Telangana High Court
Case No : Criminal Appeal No.684 Of 2025

Sri Abdul Khadar @ Abdul Quadar and others

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 22-09-2025

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 32, 226, 300(a)
Stamps and Registration Act, 1908 — Section 22(a)(1)(e), 22(a)

Citation : (2025) 09 TEL CK 0673

Hon'ble Judges : N.V.Shravan Kumar, J

Bench : Division Bench

Advocate : Government Pleader, H.Rakesh Kumar

Final Decision : Dismissed

Judgement

B.R.Madhusudhan Rao, J

1. The present Criminal Appeal is filed under Section 21 of the National Investigation Agency Act, 2008, aggrieved by the order dated 18.06.2025 passed by the learned IV Additional Metropolitan Sessions Judge cum Special Court for NIA Cases at Hyderabad in CrI.M.P.No.2224 of 2024, in Spl. SC 1 of 2023 (RC-03/2022/NIA/HYD), NIA, Hyderabad.

2.1. Appellants are A1, A5 and A24 in Spl.S.C.No.1 of 2023. They have filed an interlocutory application in the said Appeal vide CrI.M.P.No.2224 of 2024 under Section 45 of the Unlawful Activities (Prevention) Act to examine impugned sanction dated 28.12.2022.

2.2. It is stated in the application (CrI.M.P.No.2224 of 2024) that police, Town-VI PS, Nizamabad, initially raided the house of the petitioners without following due process of law and registered a case in FIR No.141 of 2022 dated 04.07.2022 under Sections 120-B, 121-A, 153-A, 141 r/w 34 of IPC and Sections 13(1)(b) of the Unlawful Activities (Prevention) Act, 1967 (herein after referred to as UA (P) Act, 1967), against them and they were produced before the concerned Court for

remand and later the investigation was transferred to NIA, Hyderabad. Petitioners-A1, A5 and A24 are falsely implicated in the crime. Police are the complainant and "suo motu" crime is registered, the allegations are vague and general and even going by the version of the prosecution, papers and books, there is no material to show that the petitioners have committed the offence. Perusing the entire evidence in the charge sheet and without contesting it even if it is taken on its face, it has no ingredients of Section 18, 18(A), 18(B) of UA (P) Act, 1967, as to invoke and apply the above mentioned provisions, it is mandate to satisfy the ingredient of Section 15 of UA(P) Act which has defined the Terrorist Act.

2.3. Complainant Agency has investigated the case and filed charge sheet under schedule offences after obtaining sanction under Sections 13(1)(b), 18, 18(A) and 18(B) of UA(P)A, 1967 and the sanction is bald and subjective.

2.4. Perusal of the sanction order, it does not reflect that the sanctioning authority has applied its mind while passing the order and there is no reference of any discussion or material which became the basis of granting sanction under the schedule offences. There is no whisper in the impugned sanction order when the matter was referred to the independent authority and when the independent authority has submitted that recommendation, which information is just and necessary in the order of such nature and contravention of these process vitiate the sanction, same cannot be cured at any stage.

2.5. Most of the statements recorded by the police are barred under Section 306 of Cr.P.C. which is not forthcoming in the impugned sanction order, which is contrary to the order of the Central Government declaring the alleged accused persons organization as "unlawful association" under Section 3 of UA(P) Act. Petitioners-A1, A5 and A24 and other co-accused persons are suffering due to wrong and illegal sanction which is prejudicial to them and lead to failure of justice. The Trial Court is the first forum to examine the validity of the sanction, there is no legal embargo to summon the entire file of impugned sanction and examine its veracity. The case of the prosecution is per se training case. Sanctioning Authority and recommendation authority passed a mechanical order which amounts to failure of justice.

3.1. Respondent-NIA filed counter and contended that there is no provision under Section 45 of UA(P) Act, 1967 which provides for summoning of record by the Court. The Court has taken cognizance of the offence against the petitioners-A1, A5 and A24 after examining the prosecution sanction available on record and after being satisfied prima facie that the prosecution has obtained valid sanction from the competent authority prescribed under the law. The stage of examining the validity of the sanction is during the trial, which cannot be examined at the stage of enquiry or pre-trial stage and the burden of proving valid sanction is always on the prosecution. The present case is a Sessions Triable case and the procedure is provided under Sections 225 to 237 of Cr.P.C. which has to be followed with the mandate of Section 4 of Cr.P.C. The applicable procedure does

not empower the Court to receive/take/record or calling a witness prior to framing of charge under Section 228 of Cr.P.C.

3.2. The petition is misconceived for the reason that it seeks to call the members of the independent Review Committee of a statutory body to appear as witness for giving their opinion to the Competent Authority. A1, A5 and A24 alleged that impugned sanction order lacks any indication of when the matter was referred to the Independent Authority and when the Independent Authority submitted its recommendation to the Sanctioning Authority, the said allegations are unfounded, which are very much present in Para Nos.4 and 5 of the sanction.

3.3. The petitioners are attempting to mislead the Court to create doubt and delay the framing of charge which would ultimately benefit the petitioner. Petitioner No.1-Accused No.1 previously filed WP.No.27309 of 2023 before the High Court of Telangana to quash all the statements relied upon in the charge sheet on the ground that proper procedure under Section 306 of Cr.P.C. was not followed, which came to be dismissed on 15.04.2024. Subsequently, accused No.1 challenged the decision by filing a Writ Appeal No.1005 of 2024 before the High Court, which also came to be dismissed on 27.09.2024. Validity of the sanction order cannot be adjudicated at the pre-trial stage and can only be challenged during the trial. The present petition seeks to question the validity of the sanction order prior to the trial is without merit and the application came to be filed after lapse of 23 months since filing the charge sheet against the petitioners and it is a deliberate attempt to delay the framing of charges, prayed to dismiss the same.

4. The learned Trial Court after hearing the counsel has disposed of the application vide order dated 18.06.2025 holding that the contentions raised thereon have to be looked into at the stage of Trial.

5.1. Learned counsel for the appellants submits that the impugned order is illegal, unjust and improper and against the principles of law. Investigating Agency has falsely implicated the accused persons along with the appellants-A1, A5 and A24 under the stringent provisions of law based on fabricated documents and make believe narratives in Spl.SC No.01 of 2023 on the file of IV MSJ cum Spl. Judge for NIA, Hyderabad. From the face of the record, the sanction is bald, subjective and the Sanctioning Authority has not applied its mind while passing the sanction order. There is no reference of any discussion or material which becomes the basis for granting sanction under the schedule offence and the sanction has to be questioned at the earliest stage and after cognizance stage.

5.2. Appellants-A1, A5 and A24 and other co-accused persons are suffering due to wrong and illegal sanction and the Trial Court is the first forum to examine the validity of the sanction order. There is no legal embargo on the Court to summon the entire file of the impugned sanction and examine the same by giving an opportunity to the party to examine the veracity of the impugned sanction.

5.3. The Trial Court failed to appreciate the decision of the Supreme Court which

held that UA (P) Act is distinct Act and there is no saving clause to cure the defects in the sanction.

5.4. The Trial Court wrongly assumed that the appellants-A1, A5 and A24 are trying to obstruct and delay the proceedings by filing the application. The findings regarding validity or sanction will assist the Trial Court to frame proper charge under the valid offences, which will save the valuable time of the Court to render justice. The Trial Court neither appreciated the legal provision nor the principles of natural justice, passed the impugned order on vague grounds which are neither relevant nor legal to deny the relief sought in the Court below. It is settled position of law that accused cannot be charged in the absence of valid sanction for the offences for which offences are warranted. Though the Code does not prescribe examining any witnesses before framing the charge, but examining the sanctioning authority is not an examination of any witness on fact, it is on the limited aspect to ascertain that quasi-judicial authority has performed its statutory duty which is sacrosanct and prayed to set aside the impugned order.

6. Learned counsel for the respondent-NIA submits that the Trial court has properly appreciated the facts of the case and rightly disposed of the application holding that the appellants-A1, A5 and A24 can raise all the contentions at the stage of trial, no interference is called for and prayed to dismiss the Appeal.

7. Learned counsel for the appellant and learned counsel for the NIA have cited decisions in support of their contentions which will be referred to in the subsequent Paras.

8. Heard counsel on record, perused the material.

9. Now the point for consideration is : Whether the impugned order in Crl.M.P.No.2224 of 2024 in Spl. SC 1 of 2023, dated 18.06.2025 passed by IV Additional Metropolitan Sessions Judge cum Spl. Court for the NIA Cases at Hyderabad suffers from any perversity or illegality, if so, requires interference of this Court or not?

10. Before discussing the issue, it is apt to refer Section 45 of The Unlawful Activities (Prevention) Act, 1967 which reads as under:

"45. Cognizance of offences.-

[(1)] No court shall take cognizance of any offence—

(i) under Chapter III without the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf;

(ii) under Chapter IV and VI without the previous sanction of the Central Government or, as the case may be, the State Government, and [if] such offence is committed against the Government of a foreign country without the previous sanction of the Central Government.

[(2) Sanction for prosecution under sub-section (1) shall be given within such

time as may be prescribed only after considering the report of such authority appointed by the Central Government or, as the case may be, the State Government which shall make an independent review of the evidence gathered in the course of investigation and make a recommendation, within such time as may be prescribed, to the Central Government or, as the case may be, the State Government.]”

11. The prayer made in the application (Crl.M.P.No.2224 of 2024) reads as under:

“It is therefore prayed that this Hon’ble Court may be pleased to summon the records of impugned sanction dated 28.12.2022 and examine the sanction and recommendation authority by providing opportunity to accused counsel to test the veracity of impugned sanction, in the view of latest legal position as explained in Fuleshwar Gope Vs. Union of India, 2024 SCC OnLine SC 2610 and pass any such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the above said case, in the interests of justice”.

12.1. P.S. Nizamabad VI Town Police has registered the case in FIR No.141 of 2022 dated 04.07.2022 against the petitioners-A1, A5 and A24 and other accused for the offences under Sections 120B, 121A, 153A, 141 r/w Section 34 of IPC, Section 13(1)(b) of The Unlawful Activities (Prevention) Act, 1967. On the same day, they conducted a raid in the house of the petitioner No.1-accused No.1 in Nizamabad, Telangana State and seized several incriminating documents-articles and also arrested petitioner Nos.2 and 3 - A5, A24 and A28.

12.2. On 26.08.2022, the Government of India, Ministry of Home Affairs issued a Letter vide order No.F.No.11011/73/2022-NIA dated 25.08.2022, entrusted the investigation to National Investigation Agency (NIA Hyderabad). NIA Hyderabad took over the investigation of the case in FIR No.141 of 2022 dated 04.07.2022 of VI Town PS, Nizamabad and re-registered the original case as Case No.RC-03-2022/NIA/Hyderabad in NIA Police Station, Hyderabad on 26.08.2022 under Section 120B, 121A, 153A, 141 r/w Section 34 of IPC and Section 13(1) (b), 18A and 18B of UA(P) Act, 1967.

12.3. A4, A16, A17, A29 were arrested and thereafter another five accused i.e., A32 to A36 were also arrested and the charge sheet came to be filed by the NIA against eleven accused persons including the appellants-petitioners-A1, A5, A24. The Trial Court has taken cognizance of the case and numbered it as Spl. SC No.1 of 2023. Supplementary charge sheet is filed against A32 to A36 and the same was taken cognizance by the Trial Court, numbered as Spl. SC No.2 of 2023. On 31.08.2023, the Trial Court has passed split up order against the absconding accused i.e., A2, A3 and A4 and allotted Spl. SC No.4 of 2023 and on 21.09.2023, the Trial Court has clubbed Spl. SC No.2 of 2023 with Spl. SC No.1 of 2023 for conducting common proceedings. NIA has filed supplementary charge sheet against A31 before the Trial Court, the same is numbered as Spl. SC No.7 of 2023. On 18.01.2024, the Trial Court has closed Spl. SC No.7 of 2023 and

merged with Spl. SC No.1 of 2023 for conducting common proceedings.

13.1. Sanction order for prosecution is dated 28.12.2022. NIA vide its letter dated 22.12.2022 has forwarded the investigation report of the case along with the list of documents collected and witnesses examined during the course of investigation and recommended for prosecution of the accused persons for section of law mentioned against their names and has sought sanction of the Central Government under Section 45(1) of the Unlawful Activities (Prevention) Act, 1967 and Section 196 of Cr.P.C.

13.2. In terms of Section 45 (2) of the UA (P) Act and the Unlawful Activities (Prevention) (Recommendation and Sanction of Prosecution) Rules, 2008 has referred the Investigation Report vide Ministry's letter of even numbers dated 23.12.2022 to the Authority comprising two members namely Justice Dr.Satish Chandra (Retired) and Dr. T.K.Vishwanadhan - Law Secretary (Retired) constituted vide Ministry's Order No.11034/1/2009/IS-IV dated 03.07.2015 for making an independent review of the evidence gathered in the course of investigation.

13.3. It is mentioned in the Sanction Order dated 28.12.2022 at Para 5 that "whereas the authority vide Letter dated 24.12.2022 forwarded its report to this Ministry within the time limit as prescribed in Rule 3 of the Unlawful Activities (Prevention) (Recommendation and Sanction of Prosecution) Rules, 2008 and after being satisfied with the material available on record and facts and circumstances therein, recommended for sanction for prosecution against the accused persons under the relevant sections of the Unlawful Activities (Prevention) Act, 1967.

13.4. It is further stated at Para 6 that "the Central Government, after carefully examining the material placed on record and the recommendations of the Authority, is satisfied that a prima facie case is made out against the accused persons under the relevant sections of law and hereby accords sanction for prosecution under Section 45(1) of the Unlawful Activities (Prevention) Act, 1967 and Section 196 of Cr.P.C. for prosecuting the following accused persons in the Case No.RC-03/2002/NIA/Hyderabad of NIA for sections of law mentioned against respective persons for taking cognizance of the said offences by a Court of competent jurisdiction.

14. Appellant's counsel has strongly placed reliance on the principle laid down by Apex Court in Fuleshwar Gope Vs. Union of India and Others 2024 SCC OnLine SC 2610.

15. The question fell for consideration before the Supreme Court in Fuleshwar Gope case¹ is (i) Whether the validity of the Sanction Order can be challenged at any stage? (ii) Whether a violation of Section 45(2) of the UAPA r/w Rule 3 and 4, if any, vitiates the proceedings?

16. The Supreme Court while deciding the validity of sanction being challenged

and stage it may be permissible, has referred to the following decisions:

16.1. In *Central Bureau of Investigation Vs. Ashok Kumar Aggarwal* (2014) 14 SCC 295, noted the importance of the process of grant of sanction. Relevant paragraphs are extracted below:

“16.1. The prosecution must send the entire relevant record to the sanctioning authority including the FIR, disclosure statements, statements of witnesses, recovery memos, draft charge sheet and all other relevant material. The record so sent should also contain the material/document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.

16.2. The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.

16.3. The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.

16.4. The order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all the relevant material.

16.5. In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law”.

16.2. In *Parkash Singh Badal Vs. State of Punjab* (2007) 1 SCC 1, Apex Court held that “an authority, which is the sanctioning authority is not required to separately specify each of the offences against the accused public servant. This is to be done at the stage of framing of charge. What the law requires is that materials must be placed before the sanctioning authority so as to enable the application of mind in arriving at a decision”.

16.3. In *Central Bureau of Investigation Vs. Pramila Virendra Kumar Agarwal* (2020) 17 SCC 664, while referring to *Dinesh Kumar* ((2012) 1 SCC 532), Apex Court reiterated the distinction between absence of sanction and the alleged invalidity of sanction on account of non-application of mind. It was held that absence as in issue can be raised at the threshold, however, invalidity, as an issue can only be raised at trial.

16.4. In *State of Karnataka Vs. Subbegowda* 2023 SCC OnLine SC 911, while addressing the question of sanction and its validity in the context of PC Act, Apex Court underscored that challenge to sanction should be brought at the earliest stage possible. It was held that :

"10. It is well settled proposition of law that the question with regard to the validity of such sanction should be raised at the earliest stage of the proceedings, however could be raised at the subsequent stage of the trial also. In our opinion, the stages of proceedings at which an accused could raise the issue with regard to the validity of the sanction would be the stage when the Court takes cognizance of the offence, the stage when the charge is to be framed by the Court or at the stage when the trial is complete i.e., at the stage of final arguments in the trial. Such issue of course, could be raised before the Court in appeal, revision or confirmation, however the powers of such court would be subject to sub-section (3) and sub-section (4) of Section 19 of the said Act. It is also significant to note that the competence of the court trying the accused also would be dependent upon the existence of the validity of sanction, and therefore it is always desirable to raise the issue of validity of sanction at the earliest point of time. It cannot be gainsaid that in case the sanction is found to be invalid, the trial court can discharge the accused and relegate the parties to a stage where the competent authority may grant a fresh sanction for the prosecution in accordance with the law".

17. The Supreme Court at Para Nos.17 and 18 of Fuleshwar Gope¹ observed as under:

"17. The afore-cited authorities point to only one conclusion which is that sanction, though should be challenged at the earliest possible opportunity, it can be challenged at a later stage as well. These judgments, although not specifically in the context of laws such as UAPA, posit a generally acceptable rule that a right available to the accused, which may provide an opportunity to establish innocence, should not be foreclosed by operation of law, unless specifically provided within the statutory text. At the same time, challenging validity of sanction cannot and should not be a weapon to slow down or stall otherwise valid prosecution. Other legislations such as the CrPC provide mechanisms for the sanction and subsequent actions to be saved from being invalidated due to any irregularity etc. Section 465 CrPC provides for the possibility that a sanction granted under Section 197 CrPC can be saved by its operation. Similarly, a sanction under the PC Act, if found that there was any error, omission or irregularity would not be vitiated unless the same has resulted in failure of justice.

18. The UAPA does not provide for any such saving of the sanction. This implies that, in the wisdom of the legislature, the inbuilt mechanism of the Act of having two authorities apply their mind to the grant of a sanction, is sufficient. This emphasizes the role and sanctity of the operation to be carried out by both these authorities. In order to challenge the grant of sanction as invalid, the grounds that can be urged are that (1) all the relevant material was not placed before the authority; (2) the authority has not applied its mind to the said material; and (3) insufficiency of material. This list is only illustrative and not exhaustive. The common thread that runs through the three grounds of challenge above is that

the party putting forward this challenge has to lead evidence to such effect. That, needless to say, can only be done before the Trial Court. In that view of the matter, we have no hesitation in holding that while we recognise the treasured right of an accused to avail all remedies available to him under law, in ordinary circumstances challenge to sanction under UAPA should be raised at the earliest possible opportunity so as to enable the Trial Court to determine the question, for its competence to proceed further and the basis on which any other proceeding on the appellate side would depend on the answer to this question. [See : S. Subbegoowda (supra)]⁵

In the attending facts and circumstances of the present case, keeping in view the submission made at the bar that the trial is underway and numerous witnesses (113 out of 125) already stand examined, we refrain from returning any finding on the challenge to the validity of the sanction qua the present appellant and leave it to be raised before the Trial Judge, who shall, if such a question is raised decide, it promptly”.

18. In so far as violation of Section 45(2) of UAPA r/w Rule 3 and 4, the Supreme Court observed as Para 41 which reads as under:

41. “Having given our attention to the position of law as above, let us now turn to the instant facts. Simply put, the objection of the appellant arises from the short amount of time taken in recommending and granting sanction, against him which he claims to be sign of non- application of mind and lack of independent review. We are unable to accept such a contention. There is nothing on record to show that relevant material was not placed before the authorities. There is no question, as there rightly cannot be, on the competence of either of the authorities. Therefore, solely on the ground that the time taken was comparatively short or even that other orders were similarly worded cannot call the credibility of the sanction into question. As has been noted in Superintendent of Police (CBI) v. Deepak Chowdhary ((1995) 6 SCC 225), the authorities are required only to reach a prima facie satisfaction that the relevant facts, as gathered in the investigation would constitute the offence or not. In Mahesh G. Jain ((2013) 8 SCC 119) it has been held that the prosecution is to prove that a valid sanction has been granted. This needless to state, can only be done by adducing evidence at trial, where the defence in challenge thereto, will necessarily have to be given an opportunity to question the same and put forward its case that the two essential requirements detailed above, have not been met. Furthermore, in Mohd. Iqbal M. Shaikh v. State of Maharashtra ((1998) 4 SCC 494), a case under the TADA, this Court was faced with a similar situation, the sanction wherein was granted by the competent authority, i.e., the Commissioner of Police, Greater Bombay on the same day that he received the papers in that regard. The contention of non-application of mind was not accepted by the Court observing that so long as the sanction was by a competent authority and after applying its mind to all materials and the same being reflected in the order, the sanction would hold to be valid. It was further held

that when an order does not so indicate, the prosecution is entitled to adduce evidence aliunde of the person who granted the sanction and that would be sufficient compliance. The Court would then, look into such evidence to arrive at a conclusion as to whether application of mind was present or absent. In conclusion, we hold that independent review as well as application of mind are questions to be determined by way of evidence and as such should be raised at the stage of trial, so as to ensure that there is no undue delay in the proceedings reaching their logical and lawful conclusion on these grounds. As a result of the conclusion drawn by this Court on the first issue, it is also to be said that if the sanction is taken exception to, on the above grounds, it has to be raised at the earliest instance and not belatedly, however, law does not preclude the same from being challenged at a later stage. It is to be noted that the scheme of the UAPA does not house a provision such as Section 19 of the PC Act which protects proceedings having been initiated on the basis of sanctions which come to be questioned at a later point in time and, therefore, Courts ought to be careful in entertaining belated challenges. If it is raised belatedly, however, the Court seized of the matter, must consider the reasons for the delay prior to delving into the merits of such objections. This we may say so for the reason that belated challenges on these grounds cannot be allowed to act as roadblocks in trial or cannot be used as weapons in shirking away from convictions arising out of otherwise validly conducted prosecutions and trials.

An order passed by an administrative authority is not to be tested by way of judicial review on the same anvil as a judicial or quasi-judicial order. While it is imperative for the latter to record reasons for arriving at a particular decision, for the former it is sufficient to show that the authority passing such order applied its mind to the relevant facts and materials [See: P.P. Sharma (1992 Supp(1) SCC 222); Navjot Sandhu ((2005) 11 SCC 600) and Mahesh G. Jain (supra)] That being the accepted position we find no infirmity in the order granting sanction against A-17. It is not incumbent upon such authority to record detailed reasons to support its conclusion and, as such, the orders challenged herein, cannot be faulted with on that ground”.

19. After conclusion of the arguments, the matter was reserved for Orders. Appellant’s counsel has filed latest copy of Sanction Order dated 01.07.2025 as an example issued by Ministry of Home Affairs, CTCR Division, wherein in Para 4, it is stated as under:

“4. And whereas, the NIA, vide its letter dated 26.06.2025 has forwarded the Investigation Report of the case along with relevant documents and recommended for prosecution of 1 (one) accused person mentioned below for the sections of law mentioned against his name and has sought sanction of the Central Government under Section 45(1) of the Unlawful Activities (Prevention) Act and section 196 of CrPC (now section 217 of BNSS, 2023)”.

20. The only difference in the Sanction Order dated 28.12.2022 compared with the latest Sanction Order dated 01.07.2025 is that in the latest sanction Order

(01.07.2025), it is mentioned as relevant documents. Whereas, in the Sanction Order dated 28.12.2022, it is mentioned as Investigation Report of the case along with list of documents and witnesses examined during the course of the investigation. Appellant's counsel has pointed out that there is a major difference with regard to list of documents and relevant documents. The contention of the appellant's counsel cannot be accepted in view of the fact that list of documents collected means the relevant documents pertaining to the crime. Hence, the contention of the appellant's counsel that all the material is not sent to the Central Government is negated.

21.1. Learned counsel for the respondent-NIA relied on National Investigation Agency Vs. Mohammed Shiyab Indian Kanoon-<http://indiankanoon.org/doc/123815068/>. The point fell for consideration before the Division Bench of the High Court of Karnataka at Bangalore is "if the Sanction Order is issued by Competent Authority, but the accused wants to question the Sanction Order on the ground that there is no application of mind by the Authority or that all the material was not placed before him, the appropriate stage is trial".

21.2. The Division Bench of the High Court of Karnataka at Bengaluru has also referred to Fuleshwar Gope's case and observed at Para 18 that :

"18. Therefore the conclusion is if sanction order is issued by a competent authority and it has to be challenged on any ground such as non application of mind, not placing all the materials before the sanctioning authority etc., the proper stage is trial."

22. Appellant's counsel has contended that the judgment rendered by the Division Bench of the High Court of Karnataka dated 26.04.2025 in National Investigation Agency Vs. Mohammed Shayug is under challenge before the Supreme Court and he has filed the Case Diary No.48851 of 2025.

23. The points raised by the appellants in CrI.M.P.No.2224 of 2024 are to test the veracity of the impugned sanction dated 28.12.2022. The grounds that can be urged are 1) All the relevant material was not placed before the Authority 2) The Authority has not applied its mind to the said material and 3) Insufficiency of material. The party putting forward this challenge has to lead evidence to that affect. The Law requires is that material must be placed before the Sanctioning Authority so as to enable the application of mind in arriving at a decision. There is nothing on record to show that relevant material was not placed before the Authorities. The Authorities are required only to reach a prima facie satisfaction that the relevant facts as gathered in the investigation would constitute the offence or not. It is the prosecution who has to prove that a valid sanction has been granted. Independent review as well as application of mind or questions to be determined by way of evidence and as such should be raised at the stage of Trial.

24. On careful reading of Section 45(2) of the UA(P) Act which says that the sanction for prosecution shall be given only after considering the report of such

authority which shall make an independent review of the evidence gathered in the course of investigation. On close reading of the Sanction Order dated 28.12.2022, it clearly states that NIA has forwarded the Investigation Report of the case along with the list of documents collected and witnesses examined during the course of investigation. That goes to show that NIA has submitted the entire material pertaining to the case i.e., RC-03/2022/NIA/Hyderabad dated 26.08.2022 and the Authority having been satisfied with the material available on record and facts and circumstances of the case, recommended for sanction for prosecution of the accused vide letter dated 24.12.2022.

25. The Supreme Court in Fuleshwar Gope's case¹ has observed that "it is not incumbent upon such authority to record detailed reasons to support its conclusion and as such the orders challenged therein cannot be faulted with on that ground".

26. Coming to the case on hand, at the stage of framing of charge, the validity of the Sanction cannot be considered. It is for the Trial Court to consider the same during trial.

27. The Trial Court has rightly dismissed the application filed by the appellant (Crl.M.P.No.2224 of 2024) by assigning cogent reasons. We are of the view that no interference is called for. Appeal deserves no consideration and the same is liable to be dismissed and is accordingly dismissed.

28. Criminal Appeal No.684 of 2025 is dismissed.

Interim orders, if any, stands vacated. Miscellaneous applications, if any, stands closed.