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

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Reserved on: 02.11.2022

Pronounced on: 19.12.2022

+ **CRL.REV.P. 420/2018 & CRL.M.A. 9222/2018**

ANIL YADAV

..... Petitioner

Through: Mr. Hawan Pratap Singh, Mr.
Nishant Sharma and Mr.
Gaurav Sharma, Advocates

versus

STATE & ANR.

..... Respondent

Through: Mr. Naresh Kumar Chahar,
APP for State with SI Ravi
Kumar, P.S. Subhash Place
Ms. Rakhee Gupta, Advocate
for Complainant/Respondent
no. 2

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant petition under Sections 397 and 401 read with Section 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") has been filed by the petitioner assailing the order dated 05.04.2018 ("impugned order") passed by learned Additional Sessions Judge, Special Fast Track Court, North West, Rohini Courts, Delhi in case FIR No. 415/2012 registered at Police Station Saraswati Vihar, under Sections 376/406/506/420 of Indian Penal Code, 1860 ("IPC").

2. The learned Trial Court, *vide* order dated 05.04.2018, dismissed the application of the petitioner, filed under Rule 3 and 4 of Criminal Court and Court Martial Adjustment of Jurisdiction Rules 1978 read with Section 475 Cr.P.C. , by which the petitioner had challenged the jurisdiction of the learned Sessions Court to conduct the trial of present case.

3. The brief facts of the present case are that the complainant/prosecutrix was working as a woman Constable in Delhi Police and residing at Police colony Saraswati Vihar, Delhi. It is alleged that on 05.03.2011, the complainant was traveling from Rohtak to Delhi in Janta Express where she met one person namely Anil Yadav i.e., petitioner herein, who was in army uniform and had offered his seat as well as water to the complainant. The petitioner informed the complainant that he was posted in Faridkot, Punjab and both of them exchanged their mobile numbers. Thereafter, petitioner started calling her and promised to solemnize marriage with her and started to meet her frequently, whenever he used to visit Delhi. It is the case of prosecution that on 26.12.2011, petitioner came to Delhi to meet the complainant and stayed with her at her residential-government quarter at Saraswati Vihar, Delhi and on the same night, petitioner forced himself upon the complainant without her consent but assured her that he would solemnize marriage with her shortly. On 02.01.2012, petitioner solemnized marriage with the complainant and lived with her from 02.01.2012 to 05.01.2012 as her husband. On 02.02.2012, petitioner being ill, again came at the residence of complainant and stayed for fifteen days at her residence, where they

stayed as husband and wife, and during that period, the petitioner took away the jewellery of complainant worth Rs.3 lakhs on the pretext of safe custody with his mother and left the house. It is further alleged that on 29.02.2012, petitioner again came to the house of complainant and stayed with her and had maintained physical relations with her. Next morning, when the complainant demanded her jewellery for some use, petitioner gave her a cheque of UTI bank, Faridkot, Punjab bearing no. 017138 for a sum of Rs. 2,00,000/- to encash and to buy new jewellery, but the same got dishonored. Though the complainant tried to contact the petitioner, she could not contact him, and later on, she came to know through Army authorities that the petitioner was already married and even had one daughter. Thereafter, the complainant approached the family of petitioner, but the petitioner began to threaten her, and on 25.10.2012, petitioner once again came to the house of complainant on pretext that he wanted to settle the issue, but he forcefully entered into complainant's house and forcibly attempted rape on her without her consent. The complainant, somehow escaped and made PCR call and the petitioner was apprehended at the spot and medical examination of complainant was got conducted. On the statement of complainant, the present FIR was registered. Charges were framed against the petitioner under Sections 376/406/506/420/511 of IPC vide order dated 21.03.2013 by the learned Trial Court. Amended charge was framed under Sections 493/494/495/496 of IPC vide order dated 04.12.2017.

SUBMISSION BY LEARNED COUNSELS

4. Learned counsel for the petitioner argued that the impugned order suffers from infirmity and illegality since the learned Trial Court has ignored that in the case in hand, it was duty bound to follow the procedure of law in terms of Section 475 Cr.P.C read with Criminal Court and Court Martial Adjustment of Jurisdiction Rules 1978. It is further stated that the learned Trial Court has not considered the service record of the petitioner that clearly points out that at the time of commission of the alleged offence, he was in active service/duty.

5. It is further stated by learned counsel for the petitioner that at the time of alleged offence of rape i.e., from 26.12.2011 to 25.10.2012, he was posted at Jammu and Kashmir especially in the region of Partapur i.e., from 26.05.2011 to 25.10.2012 and as per Section 70 of the Army Act, 1950 a person, who commits an offence of murder against a person not subject to Military, Naval or Air Force law, or of culpable homicide not amounting to murder against such person or of rape in relation to such a person, shall not deemed to be guilty of an offence and shall not be tried by the court martial, unless he commits any of the said offence while on active service.

6. It is further submitted by the learned counsel for the petitioner that the learned Trial Court has committed grave error while dismissing the application of the petitioner as despite taking into consideration the documents issued by the Army Authorities, whereby the learned Trial Court was apprised about the fact that accused was posted at Partapur, Jammu and Kashmir which meant

that at the time of the alleged offence he was on active service and will be governed by section 70 of the Army Act, 1950. As such, no person shall be guilty of offence and shall not be tried by the court martial, unless he commits any of the said offence while on active service and no intimation notice in compliance of Rule 3 and 4 of the Criminal Court and Court Martial read with section 475 of Cr.P.C. was given by concerned Magistrate to the commanding officer.

7. Mr. Naresh Kumar Chahar, learned APP for the State submits that present matter is exclusively triable by learned Trial Court in terms of Section 70 of Army Act, 1950. Even if it is assumed that this court as well as court martial have concurrent jurisdiction to try the accused for the above said offences, it is the competent authorities of military, where accused is serving, have failed to exercise the option to try the accused before court martial because concerned military authorities were duly informed by the IO during the investigation, at the time of arrest of the accused.

8. It is further stated by learned APP for the State that the definition of active service, as given in the Army Act, 1950 and the rules framed notified under Section 9 of Army Act, 1950 state that even if army personnel posted at specified places is on leave, still he will be considered to be on active service for the purpose of Sections 69 and 70 of Army Act, 1950 and therefore rules of 1978 required to be followed in this case. As per complainant's allegation at the time of commission of first offence of rape accused was posted at Faridkot, Punjab, therefore the notification dated 05.09.1977 does not cover the accused for the purpose of being in active service.

9. Learned Counsel for respondent no. 2/complainant states that the present revision petition is not maintainable as the petitioner has not produced any admissible evidence before the learned Trial Court that he was posted at Jammu and Kashmir at the time of alleged first commission of offence. It is further stated that at the time of commission of first offence he was posted at Faridkot, therefore he will not be entitled to take benefits of the notification dated 05.09.1977, issued for the purpose of definition and scope of active service.

10. It is further stated by learned counsel for respondent no. 2/complainant that petitioner was performing his duty in Army at Faridkot, Punjab when he had met the complainant at Delhi while going from Faridkot to Indore, therefore, in view of section 70 of the Army Act, 1950 offence of rape will be tried by the Criminal Court and not by Court Martial.

11. Learned Counsel for the complainant further states that petitioner has concealed the material facts that he had been discharged from Army service without any punishment despite the fact that the Army Authority had knowledge that the petitioner was being tried by the regular criminal court for the offences punishable under Sections 420/376/493/494/495/496/506 IPC. It is also submitted that petitioner had shown blank papers with an Army officer stamp thereon to the complainant that he had stated that he shall use those papers to forge any document against the complainant whenever required and one of such blank paper is in the possession

of the complainant and therefore the present revision petition is liable to be dismissed.

ANALYSIS & FINDINGS

12. I have heard the arguments and have gone through the material on record.

13. It was contended by learned counsel for the petitioner that the mandatory provisions of Rule 3 and 4 of the Criminal Court and Court Martial Adjustment of Jurisdiction Rules, 1978 were not complied with by learned Trial Court at the time when matter was committed to the Court of Sessions. Learned counsel for petitioner further contended that the information regarding his arrest was not conveyed to Army authorities and for this reason only, he is not liable to be tried by the ordinary criminal courts. Learned APP for State, assisted by learned counsel for complainant/respondent no. 2, on the other hand, contended that the present case is squarely covered under the provision of Section 70 of Army Act, 1950, and since petitioner was neither in active service nor posted in any of the notified areas, the trial of charge under rape ought to be conducted by an ordinary criminal court.

14. Before dealing with the facts of the case, it will be appropriate to first refer to Section 3(ii), 69 and 70 of Army Act, 1950 which deal with the trial of persons subject to Army Act. These provisions are reproduced as under:

“...3 (ii) " **civil offence**" means an offence which is triable by a Criminal Court;

69. Civil offences. Subject to the provisions of section 70, any person subject to this Act who at any place in or beyond India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section, shall be liable to be tried by a court-martial and, on conviction, be punishable as follows, that is to say,-

- (a) if the offence is one which would be punishable under any law in force in India with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and
- (b) in any other case, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

70. Civil offence not triable by court-martial. A person subject to this Act who commits an offence of murder against a person not subject to military, naval or air force law, or of culpable homicide not amounting to murder against such a person or of rape in relation to such a person, shall not be deemed to be guilty of an offence against this Act and shall not be tried by a court-martial, unless he commits any of the said offences-

- (a) while on active service, or
- (b) at any place outside India, or
- (c) at a frontier post specified by the Central Government by notification in this behalf..."

15. The Hon'ble Supreme Court in *State of Sikkim v. Jasbir Singh and Anr. (2022) 7 SCC 287*, has dealt with the scheme of Sections 69 and 70 of Army Act, 1950, and the detailed observations in this regard read as under:

“44. Broadly speaking there are three categories of offences. First, the provisions of Chapter VI of the Army Act indicate that where an offence is created by the Act itself it would be exclusively triable by a court-martial. Second, where a ‘civil offence’ is also an offence under the Army Act or is deemed to be an offence under the Act, both the ordinary criminal court as well as court-martial would have jurisdiction to try the person committing the offence. The third category (referred to in Section 70) consists of the offences of murder, culpable homicide not amounting to murder or rape committed by a person subject to the Army Act against a person who is not subject to military, naval or air force law. Subject to the three exceptions which are set out in Section 70, such offences are not triable by a court-martial but by an ordinary criminal court.

45. The offence in the present case does not fall in the category of those offences which are triable exclusively by a court-martial (Section 34 to 68) or those offences which cannot be tried by a court-martial (under Section 70). The offence with which the respondent-accused is charged falls in the category where there is a concurrent jurisdiction between the court-martial and the ordinary criminal court. Hence, it needs to be underscored that there is no inherent lack of jurisdiction in the ordinary criminal court to conduct a trial in accordance with the procedure envisaged in the CrPC.

46. Section 69 provides when a person who is subject to the Act shall be deemed to be guilty of an offence against the Act. Section 69 of the Army Act has been made subject to the provisions of Section 70. When a provision of a statute is made subject to another provision by the legislature, this evinces an intent that where the latter provision is attracted, the former would give way. Where the conditions requisite for the application of Section 70 exist, Section 69 would give way to Section 70. Section 70 provides for the conditions in which a person who is subject to the Army Act shall not be deemed to be guilty of an offence under the

Act and shall not be tried by a court-martial. In other words, Section 70 of the Army Act provides for where the court-martial would not exercise jurisdiction (unless the case falls under the exceptions to Section 70).

47. When the provisions of Section 70 apply, a person who is subject to the Army Act is not deemed to be guilty of an offence under the Act if the ingredients of that provision are fulfilled. The ingredients of Section 70 are:

- (i) The offence must be committed by a person subject to the Army Act;
- (ii) The offence must be committed against a person who is not subject to military, naval or air force law; and
- (iii) The offence must be of murder, culpable homicide not amounting to murder or rape.

Where these conditions apply, the person is not deemed to be guilty of an offence under the Act and is not to be tried by a court-martial unless the three exceptions which are carved out in clauses (a), (b) and (c) of Section 70 are attracted.

48. In the present case, the conditions requisite for the application under Section 70 do not stand attracted for the reason that the offence in the present case was committed against a person who was subject to military law and in any event, the offence was committed by the respondent while on active service in Sikkim. Since Section 70 has no application, the respondent who is alleged to have committed a 'civil offence' in India would be subject to the provisions of the Army Act as provided by Section 69. The crucial words of Section 69 however are that an accused "shall be deemed to be guilty of an offence against this Act" and "if charged therewith under this section, shall be liable to be tried by a court-martial". The liability to be tried by a court-martial arises if the person is charged with an offence under "this section", that is Section 69. The language of Section 69 is a clear indicator that it does not ipso jure oust the jurisdiction of the ordinary criminal court. Where there exists concurrent jurisdiction in the court-

martial and in the ordinary criminal court, primarily the discretion of conducting the court-martial in preference to a trial by the ordinary criminal court is entrusted to the designated officer under Section 125. The designated officer has been conferred with the discretion “to decide before which court the proceedings shall be instituted”. Moreover, Section 125 has a conjunctive requirement which is amplified by the expression “and, if that officer decides that they should be instituted before a court-martial”. Thus, the conjunctive requirement under Section 125 is that the competent officer has the discretion to decide before which court the proceedings shall be instituted and if the officer exercises that discretion to institute proceedings before a court-martial, then the officer will direct that the accused be detained in military custody. Section 125, in other words, not only recognizes that an element of discretion has been vested in the designated officer, but it also postulates that the designated officer should have decided that the proceedings be instituted by the court-martial in which event the court-martial would take place.”

16. With regard to the category of offences where concurrent jurisdiction of both ordinary criminal courts as well as court-martial exists, a reference can be made to Section 125 and 126 of Army Act, 1950, which are as under:

“125. Choice between criminal court and court-martial. When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the officer commanding the army, army corps, division or independent brigade in which the accused person is serving or such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and, if that officer decides that they should be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

126. Power of criminal court to require delivery of offender.

(1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 125 at his option, either to deliver over the offender to the nearest magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Central Government. (2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Central Government, whose order upon such reference shall be final.

17. The purpose and object of Sections 125 and 126 Army Act, 1950 was also further discussed by the Apex Court in *State of Sikkim v. Jasbir Singh (supra)*, and the observations in this regard are as under:

“15. Section 125 deals with a situation where both a criminal court and a court-martial have jurisdiction in respect of an offence. In such a case, it is the discretion of the Commanding Officer of the unit where the accused person is serving to decide before which court the proceedings shall be instituted, and if that officer decides that the proceedings should be instituted before a court-martial, he may direct that the accused be retained in military custody. Section 125, in other words, confers the discretion on the designated officer to decide whether the accused should be tried by a court martial or by the regular criminal court.

17. Sections 125 and 126 operate in different domains. Section 125 envisages that there is a discretion in the designated officer to determine as to whether the accused

should be tried by a court-martial or by the competent criminal court. Section 126 on the other hand recognises that the criminal court may require the officer designated in Section 125 by a written notice, to deliver the offender to the nearest magistrate to be proceeded with in accordance with law. Upon the issuance of such a written notice, the designated officer has the discretion either to accept the decision of the criminal court by delivering the offender or the officer may decide to refer the matter to the Central Government for its decision. Section 126 explicitly recognises that in the event of a difference of view between the officer designated under Section 125 and the criminal court under Section 126, the matter has to be referred to the Central Government for resolution, finality being attached to the decision of the Central Government. Section 126, in other words, has provided the modalities for resolving a situation where a criminal court decides to proceed against the accused, while on the other hand the designated officer under Section 125 decides to have the accused tried by a court-martial. It is to resolve a situation of this nature that a reference is envisaged to the Central Government.”

18. It is in respect of Section 125 and 126, that the Criminal Court and Court Martial Adjustment of Jurisdiction Rules, 1978 (“Rules of 1978”) had been framed which provide the process to be followed under the aforesaid category of offences involving concurrent jurisdiction.

19. It is the case of petitioner that he would fall under the exception (a) to Section 70 of Army Act, 1950 according to which, a person who is on “active service” shall be tried by court-martial. The term “active service” has been defined under the Army Act, 1950 as under:

“...3(i) " **active service**", as applied to a person subject to

this Act, means the time during which such person -
(a) is attached to, or forms part of, a force which is engaged in operations against an enemy, or
(b) is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or
(c) is attached to or forms part of a force which is in military occupation of a foreign country;

20. It was argued by learned counsel for petitioner that the meaning of term “active service” was expanded by the Central Government *vide* notification no. S.R.O. 17-E dated 05.09.1977 so as to include all those persons who were not actually in active service but due to their posting at certain specific places, they would be deemed to be in active service. The relevant portion of said notification is reproduced as under:

“...In exercise of the powers conferred by section 9 of the Army Act, 1950 (46 of 1950) and in supersession of the notification of the Government of India in the Ministry of Defence, No. SRO 6-E, dated the 28th November 1962, the Central Government hereby declares that all persons subject to that Act who are not on active service under clause (i) of section 3 thereof shall, while serving in the areas specified below, be deemed to be on active service within the meaning of that Act for the purpose of the said Act or any other law for the time being in force --

- (1) The State of -
 - (a) Jammu and Kashmir
 - (b) Manipur
 - (c) Nagaland
 - (d) Tripura
 - (e) Sikkim;
- (2) The Union Territories of -
 - (a) The Amdaman and Nicobar Islands.

(b) Arunachal Pradesh

(c) Mizoram;

(3) The District of -

(a) Uttarkashi, Chamoli and Pithoragarh in the State of Uttar Pradesh;

(b) Lahaul and Spiti, Kinnaur and Kulu in the State of Himachal Pradesh...”

21. The case of petitioner is that at the time of commission of alleged offence i.e. 26.12.2011 to 25.10.2012, he was posted at Partapur region of Jammu & Kashmir from 26.05.2011 to 25.10.2012, in view of which he would be deemed to be in active service as per the abovestated notification. Consequently, he would fall under the exception of Section 70 Army Act, 1950 wherein the criminal courts and court-martial shall have concurrent jurisdiction, and to exercise the same, the procedure as envisaged under Rules of 1978 will have to be followed. On the other hand, the complainant had alleged that she was informed by petitioner that he was posted at Faridkot, Punjab.

22. The observations in the impugned order, on this issue, are reproduced as under:

“...In this case as per the complaint Ex.PW5/A dated 26.10.2012 given by the prosecutrix, accused Anil Yadav was performing his duty in Army at Faridkot Punjab and he met with the prosecutrix at Delhi while going from Faridkot to Indore. It has also come in the evidence of PW-5/ prosecutrix that at the time when accused met her for the first time he was serving army at Faridkot and used to meet her at Delhi. Moreover there is nothing on the record to show that accused was posted at any of the above said places mentioned in notification of 1977 therefore this court will take into consideration the evidence as come on the

record and by that evidence accused cannot be considered to be in active service while he was posted at Faridkot Punjab at the time when accused allegedly committed offence with the prosecutrix. Therefore in view of section 70 of Army Act offence of rape will be tried by criminal court and not by the Court Martial as none of the conditions mentioned in the Proviso of section 70 are fulfilled in this case...”

23. Therefore, it is clear that nothing was brought to the knowledge of prosecution or filed before the learned Trial Court, from the year 2012, till the filing of application under Section 475 Cr.P.C. in year 2018 (order dismissing which is impugned before this Court) in order to bring to the notice of learned Trial Court that petitioner had been in service at Jammu and Kashmir at the time of commission of alleged offence. The petitioner, in support of his contention, has annexed a Medical Examination and Discharge/Release Summary with the petition which mentions the personal record of petitioner, whereby it is stated that he was posted in Jammu and Kashmir from 26.05.2011 to 25.10.2012, which includes the partial period of time when the alleged offence had taken place. However, this Court at this stage, cannot infer as to whether the said document is original/certified or not, since the same never saw the light of the day before learned Trial Court for years, though the Trial, including examination of prosecution as well as defence witnesses, had been in full swing, and also when own conduct of petitioner by keeping quiet and not raising any question on the jurisdiction of learned Trial Court is doubtful. More so, one of the contentions of the learned counsel for complainant has been that the petitioner had

informed the complainant about he being in possession of certain forged documents related to Army, and one such document which was obtained by complainant from petitioner, alleged to be forged, has been filed by the complainant before this Court. Learned APP for the State as well as learned counsel for the complainant had also argued that certain inconsistencies could be visibly seen in the document filed by the petitioner before this Court to contend that he was posted at Jammu & Kashmir at the time of alleged incident and the same appears to be forged and fabricated. The factum of petitioner being posted in Jammu and Kashmir was also not brought to the knowledge of prosecution or Trial Court by the the Army authorities despite it being aware of the ongoing case against the petitioner. Thus, in absence of any proof so as to satisfy the exception to Section 70 of the Act, that petitioner was posted at Jammu and Kashmir at the time of commission of alleged offence, the present case is one which is exclusively triable by criminal court.

24. To consider the second aspect of concurrent jurisdiction of ordinary criminal court and court martial, even if for the sake of arguments, it is accepted that petitioner was posted in Jammu and Kashmir at the relevant point of time, and would fall under exception (a) of Section 70 of Army Act, 1950, it would be not of much consequence. It is the case of prosecution that during investigation, information regarding arrest of petitioner was conveyed to Army authorities *vide* letter Dy No.2280/R/SO/ PS Subhash Place, Delhi, dated 26.10.2012, and in response to which Army authorities responded *vide* letter No. CF/15165377Y/120/A dated 22.12.2012.

Further, a letter from Army authorities dated 04.01.2013 *vide* Dy No. CF/15165377Y/127/A was received in PS Subhash Place *vide* Dy No. 750/SHO/S.Place dated 01.02.2013 asking the present status of the case. In response, an information letter was sent to Army authorities *vide* dispatch Dy No. 382 SHO/S.Place dated 07.02.2013. Further, a letter dated 06.03.2013 *vide* Dy No. CF/15165377Y/AY/66/A was received in PS Subhash Place on 19.03.2013 again asking the present status of the case. As per prosecution, information to Army authorities in the said case was timely conveyed by the investigating agency and after completion of investigation charge sheet against the petitioner was filed before the learned Trial Court.

25. Thus, the fact that Army authorities were aware about the arrest of the petitioner and did not exercise their discretion to get the petitioner released and hold his trial through Court-Martial is not disputed. However, a perusal of material on record reveals that the learned Trial Court, in the present case, had not sent any notice, as contemplated under Rule 3 and 4 of Rules of 1978, to the designated officer before committing the case to Court of Sessions. But in the given set of facts, the same, in opinion of this Court, would not be sufficient to vitiate the entire trial, when undisputedly, the Army authorities were aware about the ongoing investigation and proceedings against the present petitioner. Reliance in this regard can also be placed on the observations of Hon'ble Supreme Court in *State of Sikkim v. Jasbir Singh (supra)*, wherein it has been observed as under:

“31. In *Joginder Singh (supra)* therefore the Court noted that the absence of a written notice to the competent officer under Rule 4 was unnecessary where the competent military authorities, knowing about the nature of the offence alleged against the appellant, released him from military custody and handed him over to the civil authorities. In such a situation, it was held that the Magistrate was justified in proceeding on the basis that the military authorities had decided that the appellant need not be tried by a court-martial and that he should be tried by the ordinary criminal court...”

26. It is also relevant to note that the issue of non-compliance of Rules of 1978 has been brought up by the petitioner only after retiring from the service, when as per his own case, he was not made to face the court-martial proceedings during the tenure of service. Thus, when the Army authorities did not exercise rather surrendered their option to hold the trial of petitioner before Court Martial, the petitioner after retiring from the service, at the stage when trial before ordinary Criminal Court is about to conclude, cannot be allowed to raise such an objection, as allowing the same would lead to no trial at all qua the alleged offences in present case.

27. In view of the foregoing discussion, this Court finds no reasons to interfere with the impugned order. Accordingly, the petition stands dismissed, being devoid of merits. Pending applications also stand dismissed.

SWARANA KANTA SHARMA, J

DECEMBER 19, 2022/ns