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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 10.11.2023

+ **W.P.(C) 14689/2023 & CM. APPL. 58478/2023**

MANOJ KUMAR

..... Petitioner

Versus

UNION OF INDIA AND ORS.

..... Respondents

+ **W.P.(C) 14699/2023 & CM. APPL. 58506/2023**

RAGHURAJ SINGH

..... Petitioner

Versus

UNION OF INDIA AND ORS.

..... Respondents

AND

+ **W.P.(C) 14729/2023 & CM. APPL. 58591/2023**

ARUN

..... Petitioner

Versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. Anuj Kumar Pandey and Mr. Sanjeev Shanker,
Advocates.

For the Respondents:

Mr. Jitesh Vikram Srivastava, Senior Panel Counsel with
Mr. Prajesh Vikram Srivastava, Advocate.

Mr. Ankit Raj, Senior Panel Counsel with Mr. Kuldeep,
Government Pleader.

Mr. Satya Ranjan Swain, Senior Panel Counsel with Mr.
Sahaj Garg and Mr. Kautilya Birat, Advocates.

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Major Partho Katyayan, Army.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioners seek a direction to stop and transfer the Court Martial proceedings being conducted by respondent No.3 to some other officer. Petitioners also seek a mandamus to conduct Court of Inquiry against certain other individuals.

2. Learned counsel for petitioners submits that petitioners are innocent and they are being tried by a Summary Court Martial on account of certain evidence provided by individuals, which is false. He submits that petitioners have sufficient material to prove their innocence and also prove that others are guilty. He submits that when petitioners wanted to provide the said evidence to the inquiry authority, same was not accepted. He further submits that petitioners may be permitted an opportunity to summon their defence witnesses and engage a civilian counsel.

3. Learned counsel for respondents submits that Summary Court Martial in respect of petitioners-Manoj Kumar and Raghuraj Singh is yet to commence and in respect of petitioner-Arun, the prosecution witnesses are being examined. He further submits that a

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communication has already been issued to the petitioners to provide list of witnesses. He submits that all evidence that the petitioners may wish to produce and witnesses that they seek to summon would be allowed at the appropriate stage in accordance with the Rules.

4. In respect of appointment of civilian defence counsel is concerned, learned counsel for respondents submits that the same is not a matter or right or provided under the Rules, however, in case an application is made to the Court, it would be for the Court to take a view, as to whether in the facts and circumstances of the case, a civilian counsel is permissible or not.

5. In view of the above, learned counsel for petitioners seeks leave to withdraw the petitions, reserving the right of the petitioners to take such appropriate remedy as available in law in case aggrieved by the findings of the Court Martial.

6. In view of the statement of the respondents, it is directed that the petitioners shall be given appropriate opportunity to produce the evidence in their defence and also summon witnesses as may be relevant for the purposes of the Court Martial. If an application is filed by the petitioners before the Court Martial. Said application be considered and disposed of in accordance with the Rules.

7. With regard to appointment of a civilian defence counsel, it would be open to the petitioners to move an application to the



Summary Court Martia and on such an application being moved, the same shall be considered in accordance with the Rules.

8. Petitions are dismissed as withdrawn, however, with the aforesaid directions.

9. *Dasti* under signature of the Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

NOVEMBER 10, 2023

NA