

CRM-M-42080-2015 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

103

**CRM-M-42080-2015 (O&M).
Decided on: August 29, 2016.**

Vijay Masih

.. Petitioner(s)

VERSUS

State of Punjab

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Mr.Ramdeep Partap Singh, Advocate,
the petitioner.**

Ms.H.K.Athwal, DAG., Punjab.

M.M.S. BEDI, J. (ORAL)

Petitioner Vijay Masih has been in custody w.e.f. 5.11.2013 in a case in which machinery of prosecution was set into motion by Bua Masih informing the police that his son in law Manoj Kumar had informed him that his wife Goldy who was daughter of the complainant had left the house and that her headless dead body has been found on a passage in a colony. While the investigation was carried on, it was found that the daughter of the complainant namely Goldy was alive and was staying with one Sonu resident of Jammu with whom, she had relations despite having been married to Manoj Kumar. Manoj Kumar got an FIR registered against Bua Masih, Goldy and others alleging that they had connived with each other and had killed another lady Darshana @ Goga, so that they could falsely implicate Manoj Kumar in the murder of Goldy who actually had illicit relations with Sonu.

During the course of investigation, statement of father of Darshana namely Soma Masih was also recorded indicating that she had been taken from her house by Goldy, Michael @ Gora, and Sonu on the pretext of attending some wedding and she did not return back.

So far as the petitioner is concerned, the allegation against him, as per prosecution story, is that he had illicit relations with Darshana though she was married to Waris Masih and he wanted to get rid of her.

Counsel for the petitioner has submitted that there is no direct evidence against the petitioner except for the statement of Waris Masih to the effect that his wife Darshana had illicit relations with an unknown person.

A perusal of police file indicates that statement of Vishal Masih under Section 161 Cr.P.C., has been recorded to the effect that Such Singh @ Sonu had approached him to inform that he had illicit relations with Goldy but her husband Manoj Kumar was an obstacle. Similarly, Vijay Masih who had an extra marital affair with Darshana, another lady, he wanted to get rid of her. It will be debatable whether the statement of Vishal Masih on the basis of hear say would be admissible during the course of trial. The allegation against the petitioner is of conspiracy.

Counsel for the petitioner has also submitted that the petitioner has been in custody w.ef. 5.11.2013. After summoning of Bua Masih and others, as additional accused, a de novo trial will be started which would cause unnecessary delay in adjudication of the matter to determine the culpability of the petitioner and other accused.

After hearing the counsel for the petitioner and going through the police record, I am of the opinion that no doubt delay is causing a great prejudice to the liberty of the petitioner but granting him liberty might give the petitioner an opportunity to tamper with the evidence including that of Vishal Masih.

It is not out of place to mention here that vide order dated 24.5.2016, while deciding application of Goldy, it has been directed that the trial be concluded within a period of six months.

Following the said direction, this petition is dismissed, at this stage. It will be open to the petitioner to file a fresh application for bail before this Court after examination of Vishal Masih as a witness.

(M.M.S. BEDI)
JUDGE

August 29, 2016.
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Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No