

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

231

CRM-M-380-2020

Date of Decision:14.01.2020

Des Raj and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Ravi K. Mattoo, Advocate,
for the petitioners.

Ms. Ruchika Sabharwal, AAG, Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in this 2nd petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioners in FIR No.204 dated 04.12.2018 under Sections 306, 34 IPC, registered at Police Station Nangal, District Rupnagar.

The earlier petition filed by the petitioner i.e. CRM-M-10262-2019 was dismissed as withdrawn on 08.03.2019. However, while permitting such withdrawal, the trial Court was directed to record the statement of the complainant expeditiously on day-to-day basis preferably within a period of 60 days.

Learned counsel for the petitioners has argued that despite there being a direction by this Court to have day-to-day recording of statement of the complainant, evidence was not concluded within 60 days and it took around an year and still the prosecution evidence is not complete. As against

total 13 witnesses cited by the prosecution, only 06 witnesses have been examined so far. He has argued that the petitioners are old parents of Mukesh Kumar, who allegedly solemnized marriage with the deceased Pooja. He further states that deceased Pooja was already married with one Deepak on 28.05.2010 and she has a daughter namely 'Himangi' and this fact has conveniently been withheld from the petitioners and his son Mukesh Kumar. He refers to FIR No.332 dated 21.08.2015 under Sections 406, 498-A IPC, Police Station Sector-36, Chandigarh, registered against the earlier husband Deepak and also petition filed by the deceased Pooja under Section 13(1)(ia) of the Hindu Marriage Act (for short "the H.M. Act") dated 30.11.2016 seeking divorce from her first husband Deepak. Thus, on the basis of petition so filed by the deceased under Section 13(1)(ia) of the H.M.Act, it is clearly established that as on date she has allegedly solemnized marriage with Mukesh Kumar, she has not taken divorce from her earlier husband as she was legally wedded wife of Deepak. He further states that the deceased had died because of hanging and there was no mark of injury on her person. The allegations that all family members harassed and beaten her several times are false. The prosecution evidence is yet to be concluded as out of total 13 witnesses cited by the prosecution, only 06 witnesses have been examined.

Learned State Counsel does not dispute the custody period and the fact that prosecution evidence is yet to be completed.

Heard learned counsel for the parties.

The petitioners are old parents of Mukesh Kumar, who allegedly solemnized marriage with the deceased Pooja and the deceased was already married with Deepak with whom she solemnized marriage on

28.05.2010. From the bare perusal of the divorce petition filed by the deceased against Deepak, it is clearly indicated that as on date, she filed a petition seeking divorce, she was already married with Deepak, but still she has solemnized marriage with Mukesh Kumar on 07.10.2016. In this manner on 07.10.2016, she has not taken divorce from her earlier husband Deepak. Be that as it may, petitioners are old parents and are in custody since 04.12.2018, trial in the case is not likely to be concluded in the near future, this Court deems it appropriate to admit the petitioners on bail.

Accordingly, the present petition is allowed and the petitioners are admitted on regular bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

January 14, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No