

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRM-M-42187 of 2016**

**Date of Decision: December 16, 2016**

Surinder Kaur and another

...Petitioners

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. V.K. Jindal, Senior Advocate  
with Mr. Akshay Jindal, Advocate  
for the petitioners.

Mr. Jasjeet Dhaliwal, DAG, Punjab.

**FATEH DEEP SINGH, J.**

The petitioners-Surinder Kaur and Tajinder Singh, who happened to be mother and son respectively have invoked the jurisdiction of this Court in terms of Section 482 Cr.P.C. seeking quashing of orders declaring them to be proclaimed offenders dated 10.06.2010 (Annexure P/3.).

Upon notice, Mr. Jasjeet Dhaliwal, DAG, Punjab has put in appearance on behalf of the State and has made stand of the State clear that they do not intend to file reply to the petition.

After hearing learned counsel for the parties and perusing the records of the case. It is admitted fact as is elucidated in the submissions of the two sides as well as in records that FIR No.284 dated 25.12.2004 under Section 420,467,468,471,120-BIPC was got registered

against the petitioners at Police Station, City Khanna (Annexure P/1) and subsequent thereto during the course of investigation the petitioners were found innocent and placed in column No.2 in the challan submitted before the Court below. It is subsequently on the application under Section 319 Cr.P.C. the learned trial Court vide orders dated 15.05.2007 summoned both of them to face the trial for these allegations and charges.

The contentions of the learned counsel for the petitioners that the petitioners were earlier held innocent and were at no point of time ever served with the process of the Court and, thus, were not within the knowledge that criminal prosecution against them has been initiated and that even procedure so adopted by the Court below is contrary to law and the report of the serving Official, HC Pritam Singh, by virtue of which proclamation is alleged to have been served upon the petitioners is not in accordance with law. The petitioners at the relevant time were not ordinarily residing at the address given therein. It is with much vehemence and force submitted before this Court by the learned counsel for the petitioners that there is no genuine effort made by the serving official to know about the whereabouts of the petitioners and the only semblance of evidence is affixation of the proclamation on the door of a house which too is nowhere reflected to have been identified to be that of the petitioners.

Learned State counsel with all fairness has admitted at bar that proper procedure has not been followed as enshrined in Sections 82 and 83 Cr.P.C much less in the manner so adopted to declare the petitioners as proclaimed offenders.

The case of the petitioners is certainly squarely covered by the ratio laid down by this Court in CRM-M-12547 of 2016 titled as

**Avtar Singh vs. Harminster Singh** decided on 23.11.2016.

Thus, the impugned order dated 10.06.2010 (Annexure P/3) certainly suffers from illegality and infirmity and needs to be set aside by way of acceptance of this petition.

Ordered accordingly. However, directions are issued to the petitioners to immediately appear before the trial Court to face legal recourse.

Petition stands disposed off in those terms.

**(FATEH DEEP SINGH)**  
**JUDGE**

**December 16, 2016**

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Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No