

In the High Court of Punjab and Haryana at Chandigarh

1. **CRM-M No. 28884 of 2016**
Date of Decision: 21.7.2022

Kuldeep SinghPetitioner

Versus

State of PunjabRespondent

2. **CRM-M No. 29141 of 2016**

Gurcharan SinghPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. P.S.Ahluwalia, Advocate
for the petitioner (in CRM-M-28884-2016).

Mr. A.S.Barnala, Advocate
for the petitioner (in CRM-M-29141-2016).

Mr. Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. Since both the above petitions arise from a common FIR, therefore, both are amenable for a common order, being made thereons.

2. The learned State counsel, on instructions given to him by ASI Nirmal Singh, submits that during the course of investigations into the petition FIR, petitioner Kuldeep Singh, and, petitioner Gurcharan Singh, did become exonerated, and, also their names were not included in the array of accused, in the report filed under Section 173 of the Cr.P.C.

3. However, yet both the petitioners shall suffer the stigmatic consequence of an order made on 2.8.2016, by the learned Judicial

Magistrate Ist Class, Mohali, where throughs, they were declared proclaimed

person(s). Consequently, the above stigmatic consequence besetting the petitioners, is required to be erased, especially when it is stated, at the bar, by the learned counsel for the petitioner(s) that, an application containing the recitals, as carried in the report under Section 173 Cr.P.C., rather became preferred before the learned Magistrate concerned, however, it was not taken into consideration.

4. Therefore, the non takings into consideration, and, also the non-application of judicial mind qua the above factum of exoneration of the petitioners, by the investigating officer concerned, and, also qua the further factum of thereafter non-inclusion of the petitioners in the array of accused, does render the order, as made against them, hence by the learned trial Magistrate, rather declaring them, as, proclaimed person(s), to not withstand the test of validity, and, is required to be quashed and set aside. Conspicuously also when they were neither required to be facing any judicial proceedings nor were required to be causing any appearances before the learned trial Magistrate concerned, and/or, nor their respective personal appearances were ever required, nor could be lawfully insisted upon.

5. Consequently, the order, made on 2.8.2016 hence declaring the petitioner(s) proclaimed person(s), is quashed, and, set aside.

6. Both the petitions stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

July 21, 2022
Gurpreet

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