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*Crl.O.P.No.4747 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.4747 of 2023  
and Crl.M.P.Nos.3000 & 3002 of 2023

1. Dhamotharan  
S/o. Saperumal,  
Koetteari Village,  
Virudhachalam Taluk,  
Cuddalore District.

2. Thirumalai,  
S/o. Gopal,  
Eramnur Village,  
Virudhachalam Taluk,  
Cuddalore District.

3. Thirumalaivasan,  
S/o. Perumal,  
Mariyammankovi Street,  
Periyavadi,  
Virudhachalam Taluk,  
Cuddalore District.

..Petitioner(s)

Vs

Namachivayam  
S/o. Dharmalingam,  
No.23, Nadu Street,  
Nachiyarpettai,  
Virudhachalam Taluk,  
Cuddalore District.

..Respondent(s)



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**PRAYER:** Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to C.C.No.149 of 2021 pending on the file of the learned Judicial Magistrate-I, Virudhachalam and quash the same.

|                    |                                      |
|--------------------|--------------------------------------|
| For Petitioner(s): | Mr.P.Thirumalaivasan                 |
| For Respondent(s): | Mr.K.Magesh<br>For Mr.S.Ramachandran |

### **ORDER**

This petition has been filed to quash the proceedings in C.C.No.149 of 2021 pending on the file of the learned Judicial Magistrate-I, Virudhachalam, thereby taking cognizance for the offences punishable under Sections 294(b), 506(i), 420, 425, 441, 442 & 503 of IPC, as against the petitioners.

2. The respondent lodged a private complaint alleging that the subject property belongs to him and the several suits are also pending. In the meanwhile, the accused in order to grab the entire property sub divided the subject property and also fabricated patta in their name. When it was questioned by the respondent, he was threatened with dire consequences. They also scolded him with filthy language. Therefore, the respondent lodged a

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private complaint and the same has been taken cognizance by the Trial Court in in C.C.No.149 of 2021 as against the petitioners. To quash the said proceedings, the petitioners filed the present petition.

3. The learned counsel appearing for the petitioners submits that RDO proceedings ended in their favour and no allegations are made out for the offences punishable under Sections 294(b), 506(i), 420, 425, 441, 442 & 503 of IPC. In fact, in the suit, the respondent filed an application for appointment of an Advocate Commissioner in I.A.No.2 of 2023 in O.S.No.328 of 2023 and the same was dismissed by the Court below. Hence, he prayed for quash the present criminal proceedings.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. On perusal of the records, it is revealed that the grounds raised by the petitioners can be considered only by let in evidence. There are specific allegations made out as against the petitioners and therefore the trial Court had rightly taken cognizance in C.C.No.149 of 2021.



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6. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no prima facie case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C.

7. Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of **Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019 dated 17.10.2019)** held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C.



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8. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr***, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

9. Further this Court cannot observe at this stage as to whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the grounds raised by the petitioners to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.



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10. In view of the above discussions, this Court is not inclined to quash the proceedings in C.C.No.149 of 2021 pending on the file of the learned Judicial Magistrate-I, Virudhachalam. The petitioners are at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

11. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

06.04.2026

Index : Yes/No  
Neutral citation : Yes/No  
Speaking/non-speaking order

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To  
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1. The Judicial Magistrate-I,  
Virudhachalam.



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**G.K.ILANTHIRAIYAN. J,**

rts

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