



CrI.O.P.No.7292 of 2023

/IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2026

CORAM:

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

CrI.O.P.No.7292 of 2023  
and CrI.M.P.Nos.4637 & 4639 of 2023

Palani  
S/o.Bayaran,  
No.107, Middle Street,  
Chinna Palapakkam,  
Vellore Taluk,  
Vellore District.

..Petitioner(s)

Vs

1. State Rep.By  
Inspector Of Police,  
Katpadi Railway Police Station,  
Vellore District.

2. Mallavva,  
W/o.Late Ravi Rathod,  
Chikkabannigo Tanda,  
Hirebannigol,  
Koppal District,  
Karnataka State.

..Respondent(s)

**PRAYER:** Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in connection with S.C.No.39 of 2023 on the file of the I Additional District and Sessions Judge, Vellore, pending and the same may be quashed.



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For Petitioner(s): Mr.T.Saravanan

For Respondents(s): Mr.A.Gopinath  
Government Advocate (Crl. Side) for R1

### **ORDER**

This petition has been filed to quash the proceedings in S.C.No.39 of 2023, on the file of the learned I Additional District and Sessions Judge, Vellore, thereby taken cognizance for the offence punishable under Section 304 of IPC., as against the petitioner.

2. The case of the prosecution is that on 05.08.2021, when the defacto complainant and her husband were working under the first accused/contractor and while during a digging work, a compound wall was collapsed. Therefore, the husband of the defacto complaint sustained injury and died. On the complaint, the first respondent registered the FIR and after completion of investigation filed final report and the same has been taken cognizance by the trial Court and it is pending for trial in S.C.No.39 of 2023. To quash the said proceedings, the petitioner filed the present petition.

3. The learned counsel appearing for the petitioner submits that the victim had already received compensation and as such no purpose would be

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served if the trial Court has conducted the trial. Further whereabouts of the second respondent is not known and it is very difficult to proceed with the trial.

4. The learned Government Advocate (CrI. Side) appearing for the first respondent submitted that there are totally two accused in which, the petitioner is arrayed as A2. There are specific allegations as against the petitioner and therefore, he prayed for dismissal of this petition.

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

6. On perusal of the records and also on the submission made by the learned counsel appearing on either side, it is revealed that there are two accused in which, the petitioner is A2. The first accused is the contractor who awarded contract labour work to the petitioner/second accused. While the petitioner engaged the deceased to dig up a pit near a compound wall, that too without any safety measures to the workers, the compound wall fell down on the deceased and he died due to the injuries sustained by him. On a perusal of the statement of the second respondent, it is also revealed that when the second



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respondent's husband asked for safety measures while they were engaging in the contract work, the petitioner failed to provide the same and directed them to go and work without any safety measures. Therefore, there are specific allegations as against the petitioner to attract the offence under Section 304 of IPC. Though the victim was paid any compensation, it would not disturb the criminal proceedings. The criminal proceedings has been initiated to prosecute the accused and not for any compensation.

7. 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.



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8. 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.

9. 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.



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10. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is malicious or not, is not required to be considered at this stage. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

11. In view of the above discussions, this Court is not inclined to quash the proceedings in S.C.No.39 of 2023, on the file of the learned I Additional District and Sessions Judge, Vellore. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the facts and circumstances of the case, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C., and at the time of passing judgment. 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.



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12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed.

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

rts

To

1. The I Additional District and Sessions Judge,  
Vellore.

2. The Inspector Of Police,  
Katpadi Railway Police Station,  
Vellore District.

3. The Public Prosecutor,  
Madras High Court,  
Chennai.



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

rts

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