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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.26823 of 2015

and

Crl.M.P.Nos. 1 of 2015 & 8957 of 2016

Moosa @ Ibrahimsha

... Petitioner/Accused-1

Vs.

J.Musthafa,
The Executive Officer,
Lalkhan Pallivasal,
Chidambaram.

...Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and to quash S.T.C.No.889 of 2011 pending on the file of the learned Judicial Magistrate No.II, Chidambaram.

For Petitioner .. No Appearance

For Respondent .. Mr.A.Raja Mohamed

ORDER

Heard learned counsel for the respondent.

2.The respondent is the complainant in S.T.C.No.889 of 2011 which is now pending on the file of the Judicial Magistrate Court No.II, Chidambaram. The respondent is an Executive Officer of the Waqf Board. He had given a complaint for offence punishable under Section 68(2) & (4) of Waqf Act, 1995, against the petitioner herein who was the former Mutthavalli of the waqf.

3.The present petition has been entertained on the ground that in the year 2013 there was an amendment on 29.09.2013 to the Waqf Amendment Act, and Section 68 had been amended and the Magistrate / Additional Magistrate / Sub-Divisional Magistrate



had been deleted and substitute of District Magistrate / Additional Magistrate or equivalent, claiming that the learned Judicial Magistrate No.II, Chidambaram, has no jurisdiction to proceed further with S.T.C.No.889 of 2011, the present petition has been filed.

4.It is complained by the learned counsel for the respondent that the entire proceedings had been completed before the Judicial Magistrate No.II, Chidambaram, and the matter is at final stage. It is also stated that the amendment was in the year 2013 and does not have any retrospective effect. The complaint had been lodged in the year 2011 itself.

5.Even though there is no appearance on behalf of the petitioner, I would direct the petitioner herein to go back to the Judicial Magistrate No.II, Chidambaram and participate in the trial proceedings and if at all the petitioner has any grievance over the jurisdiction raise that issue before the Judicial Magistrate No.II, Chidambaram who may consider the petition filed, consider the date of amendment of the Waqf Act in the year 2013, consider whether the said amendment has any retrospective effect and examine the law on the point and pass necessary orders. If the Magistrate finds that he has necessary jurisdiction, he may proceed further with trial. If he feels that he has no jurisdiction, then he may transfer the file through the Chief Judicial Magistrate to the competent court.

6.With the said observations, the present Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

smv

To

1. The Judicial Magistrate No.II,
Chidambaram.



2. The Executive Officer,
Lalkhan Pallivasal,
Chidambaram.

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+2CCs to Mr.A.Raja Mohamed, Advocate, Sr.No.47350

Crl.O.P.No.26823 of 2015
and
Crl.M.P.Nos.1 of 2015 & 8957 of 2016

PCH (CO)
K.RK. (12.10.2021)