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Crl.R.C.No.669 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:: 09.12.2022

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Crl.R.C.No.669 of 2022

Mrs. Dilshad Begum

.. Petitioner

Vs.

Mr.K.P. Ismath Basha

.. Respondent

PRAYER: Criminal Revision case filed under sections 397 and 401 of Cr.P.C., against the order passed in Crl.M.P.No.26784 of 2021, dated 17.05.2022 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai..

For Petitioner : Mr.A. Ilaya Perumal

For Respondent : Mr.K. Ezhumalai

ORDER

This Criminal Revision Case has been filed against the impugned order passed in Crl.M.P.No.26784 of 2021, dated 17.05.2022 by the II Metropolitan Magistrate, Egmore



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2. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that the petitioner filed a private complaint before the trial court viz., II Metropolitan Magistrate Court under section 28 and 68 of Wakf Act 2013 seeking a direction to the respondent herein to handover all the charges, records and possession of M/s.Asal-E-Sheriff Wakf situate at Door No.18, Wallaja Big Mosque Lane, Ellis Road, Chennai 600 002 as per the provision of Section 28 of the Wakf Act, 2013, pursuant to the order dated 05.03.2019 passed by the Chief Executive Officer, Tamil Nadu Wakf Board and the order of the RDO dated 12.01.2019. The trial court dismissed the said complaint as not maintainable on the ground that regarding the similar issue between the petitioner and the respondent, already writ petitions and civil revision petitions were pending before the High Court and in these circumstances, for the relief sought by the petitioner under section 28 of the Wakf Act 1995, the RDO is the appropriate authority to pass appropriate orders as clearly contemplated under section 28 of the said Act.

3. He further submitted that the impugned order passed by the learned Magistrate is erroneous, illegal, improper and not in accordance to



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the provisions of the Wakf Act, 2013. The impugned order directing the petitioner to approach the RDO, South Chennai once again for passing appropriate orders as against the respondent to hand over the Wakf is not in accordance with the provisions of Wakf Act. Thus he prayed for set aside the impugned order.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. On perusal of records, it is revealed that while filing complaint before the Metropolitan Magistrate, the petitioner has not filed any complaint accompanying with affidavit and petition, but only the affidavit and petition seeking a direction as stated above.

6. The learned counsel for the petitioner submitted that the petitioner is ready to file a fresh complaint accompanying with affidavit and petition before the trial court.



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V. SIVAGNANAM, J.

msr

7. Recording the same, this criminal revision case is dismissed with liberty to the petitioner to file fresh complaint before the trial court and on filing such complaint, the trial court is directed to decide the same on merits and in accordance with law.

09.12.2022

Index: yes/no
Internet: yes/no
msr

To

The II Metropolitan Magistrate Court,
Egmore, Chennai.

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