IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 09TH DAY OF DECEMBER 2020 / 18TH AGRAHAYANA, 1942

Crl.Rev.Pet.No.739 OF 2020

Crl.A 733/2008 OF ADDITIONAL SESSIONS COURT - IV, THIRUVANANTHAPURAM

ST 4912/2006 OF JUDICIAL MAGISTRATE OF FIRST CLASS IV (MOBILE), THIRUVANANTHAPURAM

REVISION PETITIONER/S:

ASHA B.S
AGED 41 YEARS
D/O.BHASKARAN, GOVT QUARTERS NO.9/106, MELARANNOOR, KARMANA.P.O

BY ADV. SRI.M.R.SASITH

RESPONDENT/S:

1 **STATE OF KERALA**
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031

2 **SABEER.M**
THOTTUVARAMBIL VEEDU, T.C.11/600, PLAMOODU, PATTOM.P.O, THIRUVANANTHAPURAM PIN-695001

R2 BY ADV. SRI.RENJITH

OTHER PRESENT:

SR.PP.C.S.HRITHWIK

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 09.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 09th day of December, 2020

The revision petition is filed challenging the conviction and sentence in S.T.No.4912 of 2006 of the Judicial First Class Magistrate Court-IV (Mobile Court), Thiruvananthapuram. The finding of guilt and conviction stands affirmed by the judgment in Criminal Appeal No.733 of 2008 of the Additional Sessions Court-IV, Thiruvananthapuram, while the sentence was reduced to imprisonment till rising of court. The fine amount of Rs.1,00,000/- imposed by the trial court was retained as such.

2. The case against the revision petitioner originated from the complaint filed by the second respondent alleging commission of an offence under Section 138 of the Negotiable Instruments

Act. As per the complaint, the revision petitioner had issued a cheque for Rs.1,00,000/- in discharge of a debt he owed to the second respondent. The cheque was dishonoured on presentation and the amount was not paid in spite of demand made through a statutory notice.

3. When the revision petition is taken up for consideration, it was submitted by Counsel for both sides that the amount due to the complainant was paid and the dispute resolved. Along with the revision petition, Crl.M.Appl.No.3 of 2020 has been filed, seeking permission to compound the offence. Petition has also been filed for waiving the cost, which the revision petitioner is liable to pay as per the decision of the Honourable Supreme Court in *Damador S.Prabhu v. Sayed Babalal [AIR 2010 SC 1907]*.

4. The offence under Section 138 of the

N.I.Act is compoundable under Section 147 of the N.I.Act. Further, this Court is vested with the power to permit compounding under Section 320 (6) Cr.P.C. Considering that the dispute has been resolved by paying the entire amount due, I am inclined to allow the request for compounding, which has the effect of acquittal, as per Section 320 (8) of Cr.P.C.

In the result, the Criminal revision petition is allowed. The conviction and sentence imposed by the courts below is set aside and the revision petitioner is acquitted. The bail bonds of the revision petitioner and sureties stand discharged.

Sd/-

V.G.ARUN
JUDGE

Scl/09.12.2020