IN THE COURT OF SPECIAL ADDITIONAL CHIEF JUDICIAL MAGISTRATE, THRISSUR.

Present: **Smt. Alpha Mamai K., Additional Chief Judicial Magistrate.**

Dated this, the **25th** day of **March, 2026.**

CMP : 5651/2024 in CC 30/2015

(Cr. No. 377/2011 of Mananthavady Police Station)

(CBCID Cr. 501/CR/EOW III/KKD/11)

Petitioner/Accused no.10.	:	K. Meera Harish, W/o. Harish Babu Madineni, Flat No. 406, Creative Sneha Apartments, Kondapur, Hyderabad. (By Advocate. Sri. Sunil Pyloth)
Respondent/ Complainant	:	State represented by the Deputy Superintendent of Police, CBCID EOW III, Kannur Sub Unit. (Crime no.377/2011 of Mananthavady Police Station). (CBCID Cr. 501/CR/EOW III/KKD/11). (By Sri. Ananthakrishnan P.A., Assistant Public Prosecutor, Court of Additional Chief Judicial Magistrate, Thrissur.)
Petition	:	U/s.239 Cr.P.C.
Order	:	Dismissed.

O R D E R

1. This is a petition filed u/s. 239 Cr.P.C., by the accused no.10, in CC 30/2015 on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:-

Petitioner is the accused no.10, in the above case. The offences alleged against the petitioner, are under sections 120B, 420, r/w 34 of the Indian Penal Code and sections 3, 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The petitioner not committed, any offences as alleged, in the prosecution case. The charge sheet filed by the prosecution shows that, there is no direct involvement of the petitioner, in this crime. Nowhere in the memorandum of articles of the company, the petitioner is stated as the Director or the promotional share holder. Prosecution not produced any document to show that, the petitioner involved in the business in any manner. Petitioner is only a house wife. She is connected with the company, only in purchasing some shares in the company at initial stages. No profit is received by the petitioner, in any form. No money transferred to the account of the petitioner, nor she received any benefit from the company. Petitioner not enrolled any person in the company nor promoted any activities of the company. There is no clear allegation against the petitioner, in the charge sheet. The directors of the company are Harish Babu Madineni, Chinna Rao and Patric Thomas. Petitioner does not hold any shares, in Nano Excel Enterprises Pvt. Ltd. Company. The petitioner has absolutely no role in the day-to-day functioning of the above three companies. Petitioner is only a share holder of Nano Excel Power Corporation, and petitioner cannot be fastened with any criminal liability on account of the petitioner, being the share holder of the company. The entire proceedings, pursuant to final report, as against the petitioner, are clearly an abuse of process of court, and the petitioner is unnecessarily dragged into the criminal proceedings, by the Investigating Officer. As per the Companies Act, the liability of the shareholders, is limited. The petitioner is neither a director, nor directly or indirectly involved in the day today affairs of the company. The Honourable High Court of Kerala, in CRL. M.C. 6172/15, dated 15/09/2015, held that, the shareholder who is not involved in business, cannot be charged for the offence punishable under section 420 IPC. There are no materials to show any involvement of the petitioner in any of the affairs of the company. The prosecution does not have a case that the petitioner had enrolled any person, earned any money or conducted any activities to promote the business of the company. The investigating officer had made an omnibus statement with regard to the involvement of the petitioner in the above case without any materials. The petitioner had approached the Honourable High Court of Kerala, for quashing the proceedings. The Honourable High Court of Kerala, had directed the Honourable Chief Judicial Magistrate, to consider the discharge petition and stated as follows, " The accused can approach the Court below under section 239 Cr.PC. In cases the prosecution is not able to prove that the accused is not a director, or a person, who has promoted the business of the company or he was an intermediary, who has also promoted the business of the company, the offence against the accused will not lie. The Court below shall consider all the said aspects and pass orders on such application that may be filed by the accused. before the Court below. With the said liberty to the accused, these Crl.M.C.s. are closed " Petitioner is innocent and has not committed any offences, as alleged in the prosecution case. Hence, seeks to discharge the petitioner/accused, in the above case.

3. Objection was filed by the learned Assistant Public Prosecutor, as follows:-

The averments in the petition, are factually incorrect and legally unsustainable. The petition filed by the accused, is devoid of merit and hence liable to be dismissed. There are sufficient ingredients to constitute the offences punishable under sections 120B, 406, 420 r/w 34 of the Indian Penal Code and sections 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, against the accused/petitioner. The accused/petitioner is the Director and Shareholder of Nano group of Companies. The activities undertaken by the accused clearly amount to a "Money circulation scheme" as defined under the Prize chits and money circulation scheme (Banning) Act, 1978. The procedure for trial of warrant case by the

Magistrate is contained in Chapter-XIX of the Code. Section 238 Cr.P.C specifically provides that when in any warrant case instituted on a police report, the accused appears or brought before the Magistrate, on the commencement of trial, the provisions of Section 207 Cr.P.C shall be complied. The language of the aforesaid provision of Section 238 Cr.P.C. also envisaged that either the accused should appear or he should be brought before the Magistrate. This provision also does not classify that on the commencement of warrant trial, the accused has liberty to appear through counsel because it is a warrant trial, therefore, the accused has to appear in the Court and the accused cannot claim any exemption until he has furnished bonds with or without sureties. This is the settled position that, certainly before deciding the application under Section 239 Cr.P.C., the appearance of the accused in the Court for filing of the bond with or without sureties is necessary. Almost Directors in this case including this petitioner did not appear or was brought before magistrate or has furnished bonds. Hence discharge petition filed by the petitioner itself is not maintainable. Ingredients of the offences under section 120B, 420 and 406 r/w 34 of the Indian Penal Code are well surfaced in this case. Hundreds of customers complained that they were cheated. Crores of rupees were collected by the accused by operating the scheme. Moreover, low quality products were sold by the company by making false representation. The accused had the intention to cheat from the very inception, and inducement from the side of the company and the accused persons, and delivery of property upon such inducement, are well established from the statements and documents produced by the prosecution. There is also entrustment of money to the company. The common intention of the accused at the time of inducement primafacie establishes the offence of cheating under sections 406 and 420 r/w 34 of the Indian Penal Code. The ingredients of Section 34 of the Indian Penal Code are attracted in the context of money circulation scheme; common intention refers to the shared objective among promoters and participants to engage in activities that leads to financial gain through deceitful means, which includes inducing new members to join under false pretenses sharing the ill-gotten gains derived from the contributions of new members. The malafide deed of the accused such as, printing and publishing for the purpose of sale or distribution, documents for the purpose of inviting and inducing persons to enroll as a member or participate in money circulation scheme is very much clear from the evidence collected. In Achamma Chacko v. Government of Kerala and Others reported in 2007 (2) KLT SN 68, it was held that, the mere conduct of the parties is sufficient to presume the offence under the Prize Chits and Money Circulation Schemes (Banning) Act. In Gold Quest International Pvt. Ltd. and Another v. State of Tamil Nadu 2003 0 supreme (mad) 627, it was held that, the scheme must involve the enrollment of members, where the financial benefits depend on the number of new members recruited. And the Honourable Court emphasized that, the scheme should be evaluated as a whole considering both promoters and members perspectives. The Supreme Court in State of West Bengal and Others v. Swapankumar Guha, AIR 1982 SC 949, established that two conditions must be satisfied for liability under the Prize Chits and Money Circulation Banning Scheme Act, 1) The scheme must be for making quick or easy money, and 2). The opportunity for such earnings must depend on the enrolement of member. From the documents seized like bank account statements, brochures, etc., it is clear that, the accused were doing the business of money chain and the accused were committing cheating. In 2024 (4) Crimes 276 (J&K), the Honourable High Court of Jammu & Kashmir held that, at the time of framing charge or discharge of accused, there has to be proper application of mind by the magistrate. Test regarding sufficiency of proof, which court is required to apply at the final disposal of the case, are not to be applied at the stage of framing charge. In 2025 (1) Crimes 329 (SC), the Honourable Supreme Court of India held that, at the time of framing of charge, even a very strong suspicion founded upon materials and presumptive opinion would enable court to frame charge against the accused. In 2025 (1) Crimes 242 (SC) the Honourable Supreme Court of India held that, by its very nature, discharge is at a higher pedestal than acquittal. Moreover, at the time of framing of charge, the probative value of the materials on record, cannot be gone into. There is primafacie case against the accused, as per the prosecution records. Hence, seeks to accept the objection and dismiss the discharge petition, filed by the accused/petitioner.

4. Heard both sides.

5. CC 30/2015 on the file of this court, is a case based on the final report filed by the Deputy Superintendent of Police, CBCID EOW III, Kannur Sub Unit, against accused 25 in numbers, alleging offences punishable, under sections 120B, 420 r/w 34 of the Indian Penal Code and sections 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. After investigation, the final report was filed before the court of the Honourable Chief Judicial Magistrate, Kalpetta, and was taken on file as CC 655/2015, on the file of that court.

6. The petitioner filed discharge petition before that court in the year 2017 through her counsel, and the said petition was numbered as CMP 412/2017. In the year 2023, the case was transferred to this court, Court of Additional Chief Judicial Magistrate, Thrissur and the discharge petition also was transferred to this court. On receipt of case records in this court, the case was taken on file as, CC 30/2015 on the file of this court, and the discharge petition was numbered as CMP 5651/2024 on the file of this court.

7. Case of the prosecution, is as follows:-

Accused with intend to commit cheating, by conducting money circulation business, banned as per section 3 of The Prize Chits and Money Circulation Schemes (Banning) Act, 1978, in furtherance of their common intention, and by committing criminal conspiracy, with intend to cheat public, and to obtain wrongful gain, accused nos.4 and 8 as the Directors, formed accused no.1 company named Nano Excel

Enterprises Private Limited on 12/07/2007, and thereafter, accused nos. 4, 5 and 8 as Directors, formed accused no.2 company named Nano Excel Corporation Limited on 01/01/2010, and in addition to the above companies, formed companies named Nano Power Corporation, Nikhil Nano Ceuticals, and Nanotel Hotels & Resorts, and thereafter, accused nos. 4 to 11 promoted the illegal money circulation business through newspapers, company brochures and booklets, and accused no.s 5, 12 to 25 led the promotion classes, and also by making false promise of returning ten times more amount within a short span of time and income for a period of 50 years, fraudulently and dishonestly induced CW1 M. Karunakaran to deliver Rs. 25,000/- on 22/09/2010, to the account no. 31093048591 of Nano Excel Corporation, though SBI, Mananthavady Branch, and thereby altogether obtained an amount of about 300 crores of rupees from the general public, including Rs. 25,000/- from CW1, and later on 01/07/2010, accused no.4 signed in a Memorandum Of Agreement (MOA) with Arunachal Pradesh Government for starting a Hydro Electric Project in the name of company named Nano Excel Power Corporation Limited, which was not in existence at that time, and thereafter, did not took any further action, neither gave profits as promised, nor returned the amount obtained and thereby committed cheating on general public including CW1, and conducted illegal money circulation business, and thereby committed offences punishable under sections 120B, 420 r/w 34 of the Indian Penal Code and section 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

8. The prosecution in this case was initiated by CW1/defacto complainant M. Karunakaran, by preferring an First Information Statement, to the Superintendent of Police, Wayanad, Kalpetta on 06/07/2011. The said First Information Statement was forwarded to the Station House Officer, Mananthavady Police station, and accordingly, First Information Report in this case was registered on 06/07/2011.

9. After investigation, the Investigating Officer, Deputy Superintendent of

Police, CBCID EOW III, Kannur Sub Unit filed final report, against accused 25 in numbers, accused no.1 Nano Excel Enterprises Private Limited represented by Harish Babu Madineni, accused no. 2 Nano Excel Corporation Limited, represented by Harish Babu Madineni, accused no. 3 Nano Power Corporation Limited, represented by Harish Babu Madineni, accused no.4 Harish Babu Madineni, accused no.5 Patrick Thomas, accused no.6 Sundara Raja Prasanth, accused no.7 Kumari Prasanth, accused no.8 S.B. Chinnarao, accused no.9. Radha Raja, accused no. 10 K. Meera Harish, accused no. 11 P.P. Ranga Reddy, accused no.12 Muhammed Asharaf, accused no.13 Swaminathan S., accused no.14 Sajeev Karun @ Sajeev Karunan, accused no.15 Pramod Kumar, accused no.16 Sasindran V.R., accused no.17 Johnson K. Pulikkal, accused no.18 Ramesan P., accused no.19 C. Ravikrishnan, accused no. 20 Nissar Ahammed, accused no. 21 Jijesh B. Nair, accused no.22 Rejesh B. Nair, accused no.23 Sreejesh B. Nair, accused no.24, accused no. 25 Ranjith K.R. and accused no. 26 Varghese M.M. @ Shaji, alleging offences punishable under sections 120B, 420 r/w 34 of the Indian Penal Code and sections 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. In the final report, there are, 51 witnesses cited by the Investigating Officer, and CW1 to CW14 are the persons, who are alleged to be cheated by the accused.

10. CW1 to CW14 are the witnesses who are stated to have deposited money in the accused companies. The statements under section 161 Cr.P.C. of CW1 to CW14, and the statements under section 161 Cr.P.C. of CW20 to CW26, who are stated to be the employees of the accused companies at Thrissur and the statement under section 161 Cr.P.C. of CW19 Amandeep Singh, who is stated to have created the website for the accused companies would clearly reveal the illegal money circulation business conducted by the accused companies and the cheating committed by the accused in the guise of illegal money circulation business. The statements of witnesses under section 161 Cr.P.C. and the documents, produced along with the final report would clearly go to show that, the accused and the accused companies deviated

from the object and purpose stated in the Memorandum Of Association and Articles of Association of the accused companies and engaged in illegal money circulation scheme and committed cheating on several persons and obtained crores of rupees by engaging in illegal money circulation business in the name of accused companies and also committed cheating by giving false promises. Various documents including the bank account statements of the accused companies seized and produced along with the final report, to prove the offences alleged against the accused.

11. The documents produced and the statements under section 161 Cr.P.C. of CW15 Johnson P.A., who is stated to be the General Manager at Woodland Hotel, Kalpetta, CW16 Biju Thomas, who is stated to be the General Manager at Haritha Giri Hotel, Kalpetta, CW18 E.C. Muhammed @ Bappu, who is stated to be the Owner of Misba Complex, Mananthavady where Moonwadiya Hotel is situated, and CW17 Fino, who is stated to be the employee at Brahmagiri Hotel, Mananthavady, would go to show that, the accused companies conducted promotional classes and meetings in those places, for promoting the illegal money circulation business of the accused companies.

12. CW19 Amandeep Singh, who is stated to have developed the website for the accused companies also, in his statement under section 161 Cr.P.C., has stated in detail about the illegal money circulation business conducted by the accused companies. He has stated that, “I am working as director in Roots Infocomm Ltd., a company registered with Registrar of Companies, Jalandhar, Punjab in the year 2003. The company is in the business of software development, web hosting and SMS services. I have completed Diploma in Computer Engineering from Thapar University, Punjab in 1999. In March 2008 Harish Babu Maddineni contacted me to develop a website for his business on the name of Nano Excel Enterprises Pvt. Ltd. for selling various products through network marketing system, which was later on also used for Nano Excel Corporation Ltd. As per the requirements of Harish Babu

Maddineni, MD Nano Excel, for his business I have developed the website and hosted the same in data center located on US in April 2008. We have provided the services of software development, web hosting and SMS services to his company till June 2011. For the above provided services, there was no formal written agreement between us. The domain name registered for the website is www.Nanoexcel.net by me on the behalf of Nano Excel company with registrar www.onlinenic.com, this Nano Excel website was hosted on a dedicated server with IP address 75.126.101.3 with username 'administrator' and password 'xgbhir90n' and database IP address is 75.126.101.3 with username 'sa and password ‘NANOwsp00998’. The website started functioning in April 2008. It consists four sections, (1) admin section (2) branch section (3) member section (4) public section. For login in admin section separate username 'adminindia' and password 'drharish27' is there. Admin section is operated by the Nano Excel company people and having the facility to manage packages, branches, users, website content and for pin issuance Branch section is operated by Nano Excel branch people and having the facility for pin issuance. Member section is operated by the Nano Excel registered members and having the facility of to view binary tree, downline list, weekly income, member's profile, royalty club and change password Public section is being used by Nano Excel members and other non registered persons and general public to view the company profile, business activities, business plan, bank accounts for money deposit, contact information, products and branch information. When Harish Babu Maddineni contacted for the above website I was told that he is in the business of selling products with network marketing system The method of joining in the Nano Excel is as follows: When a new member deposits money in company's bank account or with any branch, the company Issues a unique PIN number in his sponsor's member panel, By using that PIN, a member can fill up registration form and select the desired package. After that unique ID number and password is allotted to that member by the system. With the help of this ID number and password, that member can login into his personalized member area to view his downline business later on. In the member area there is no facility to view upline information. Every week commission is generated by the system on date specified by the company people and commission list is downloaded from the website by company people for distribution of commission. The business plan is as follows: There are four types of income (1) Direct Referral Bonus: is given to direct referral sponsor of a new sales. (2) Binary Referral Bonus: is given on the basis of business volume generated by the member on his left and right downline team. Ceiling limit of 1,30,000 is applicable on this binary referral bonus per week. (3) Royalty Bonus is given to the leaders on qualification of the status as star, ruby, pearl, diamond etc. (4) Royalty Club Bonus. The member who purchased the royalty club bonus package is allotted a different ID number in this club. This is a universal club having 4 level board system which splits on completion of all the 15 positions and members of that specific board will get the Royalty Club Bonus and they are further promoted to the next level in the board. In this way he can get the benefit 10 times as per the sales of the company. As per the record of website database, the company has made a sales turnover of Rs. 3,58,60,51,841 (three hundred fifty eight crore sixty lakh fifty one thousand eight hundred forty one) by selling 414274 ID units to 206194 different persons across India, UAE and Philippines. The total commission generated by the system is 3,02,17,32,403 (Three hundred two crore, seventeen lakh, thirty two thousand and four hundred three). The different members Joined the Nano Excel are 1,99,848 in India, 4,087 in UAE, 2,259 in Philippines and total 2,06,194 persons have joined from all these three countries. The members Joined from specific states in India are: 257 from Andaman & Nicobar Islands, 1968 from Arunachal Pradesh, 181 from Assam, 66 from Bihar, 4 from Chandigarh, 231 from Chhattisgarh, 5 from Dadra & Nagar Havell, 11 from Daman & Diu, 406 from Della, 243 from Goa, 5680 from Gujarat, 68 from Haryana, 9 from Himachal Pradesh, 15 from Janemu & Kashmir, 389 from Jharkhand, 4469 from Karnataka, 160827 from Kerala, 52 from Lakshadweep, 67 from Madhya Pradesh, 9337 from Maharashtra, 38 from Manipur, 48 from Meghalaya, 375 from Nagaland, 46 from Orissa, 547 from Pondicherry, 99 from Punjab, 99 from Rajasthan, 34 from Sikkim, 13598 from Tamil Nadu, 1 from Tripura, 412 from Uttar Pradesh, 9 from Uttaranchal, 159 from West Bengal, 98 from Other states and the total members joined in India are 199848. The Persons who have earned the commission more than 1 Crore are from Nano Excel are,

(1) ID No.3984 on the name of MUHAMMAD ASHARAF K.S PRAMOD KUMAR K. earned Rs. 1,63,26,236

(2) ID No. 3987 on the name of SASINDRAN P.R./SAJEEV K. earned Rs.1,42,51,236

(3) ID No.3623 on the name of UNIVERSAL ASSOCIATE earned Rs.1,40,34,753

(1) (4) ID No 4006 on the name JAYAN P.G. THRISSUR earned Rs. 1,31,32,386

(4) ID No.4922 on the name of BIJESH V.S. earned Rs. 1,18,17,609

(5) ID No.318625 on the name of RAMESAN P. KANNUR earned Rs.1,13,97,994

(6) ID No.5325 on the name of MUHAMMAD ASHARAF earned Rs. 1,10,56,803

(7) ID No. 3985 on the name of FIAISAL U earned Rs. 1,09,71,744

(8) ID No.5349 on the name of MUHAMMAD ASHARAF earned Rs 1,06,36,082”.

13. The ROC details of the accused companies would go to show that, accused no.10, K. Meera Harish/Petitioner, was a promoter and the first subscriber to the Memorandum Of Association of the accused companies. The account details produced by the Investigating Officer, incorporated with the prosecution records, would go to show that, accused no.10/petitioner also was a person, authorised to

operate the account of the accused companies. The bank account statements of the accused companies, produced along with the final report, would clearly go to show the active involvement of the petitioner, K. Meera Harish, in the illegal money circulation business conducted by the accused companies. The document produced from the State Bank of India, Madhapur Branch, Hyderabad would go to show that, petitioner K. Meera Harish was authorised to operate the accounts of the accused companies. The account opening form of the accounts would go to show that, petitioner K. Meera Harish was also authorised to operate the accounts along with her husband, Harish Babu Madineni, the main accused in this case.

14. It is true that, share holders have only limited liability, to the value of shares. But, if the share holders engage in fraudulent and illegal activities, they can be held personally liable. As stated above, in this case, as per the prosecution records, accused no.10/petitioner is not a mere share holder, but she is the promoter and the first subscriber to the Memorandum Of Association of the accused companies and she is also a shareholder and authorised signatory having authorisation by the director board of the accused companies to operate several accounts of the accused companies in various banks, singly. Whether the petitioner had specific role in committing illegal money circulation scheme and cheating and misappropriation, would be revealed only after trial. The statements of witnesses and the documents produced along with the final report would go to show that, the accused companies conducted illegal money circulation business deviating from the object and purpose of the companies, stated in the Memorandum Of Association and Articles of Association of the companies, and committed cheating, by conducting illegal money circulation business.

15. Hence, the contention of the petitioner that, she is only a mere shareholder, is a false contention, taken to somehow escape from the criminal prosecution. The amount of money obtained by the petitioner and her husband along with the other accused, by conducting illegal money circulation business and cheating

is, Rs. 300 crores, as per the prosecution case. The statements of bank managers produced along with the final report would go to show that, transactions of crores of rupees conducted, through bank transactions of the account of the accused companies. Hence, a primafacie case is made out against the petitioner, K. Meera Harish.

16. Moreover, it is settled position of law that, at the stage of hearing on charges, the entire evidence produced by the prosecution is to be believed. In case, no offence is made out, then only, accused can be discharged. Truthfulness, sufficiency and acceptability of the material produced can be done only at the stage of trial. At the stage of framing charges, the Court has to satisfy, whether a primafacie case is made out against the accused, or not.

17. As stated above, in this case, as per the prosecution records, and as per the statements of witnesses and documents produced, a strong primafacie case is made out against the accused no.10/petitioner. The prosecution records, would go to show that, the accused companies conducted illegal money chain business, violating the objectives and purpose stated in the Memorandum Of Association of the companies.

18. Hence, after considering the police report, and documents sent along with the police report, under section 173 Cr.PC., and after hearing both sides, I am of the finding that, there is sufficient ground for proceeding against the accused no.10/petitioner, for the offences alleged in the prosecution case.

19. Hence, this discharge petition filed by accused no.10, stands dismissed.

(Dictated to the Confidential Assistant, typed by her directly to the computer, corrected and pronounced by me in the open court this, the 25th day of March, 2026.)

Sd/-
Additional Chief Judicial Magistrate,
Thrissur.