

**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 : 1801/2025 in CC 30/2015

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

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

Petitioner/Accused : Swaminathan S., S/o. Soman Pillai, No.
no.13. 87/A, Soorya Nagar, Vattiyoor Kavu,
Thiruvananthapuram.

(By Adv. Sri. Pramod K.)

Respondent/ : State represented by the Deputy
Complainant 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.

ORDER

1. This is a petition filed u/s. 239 Cr.P.C., by the accused no.13, 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.13, in the above case. The offences alleged are under sections 120B, 406, 420 r/w 34 of the Indian Penal Code and sections 4, 5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The petitioner/accused has nothing to do with the deposit, made by the defacto complainant and deposits taken by the company and the other accused. The petitioner was not even arrayed as an accused, in the First Information Report. It is clear from the charge sheet that, no deposit received by the accused/petitioner directly or indirectly. It is pertinent to note that, the defacto complainant paid the amount to the company directly and received the products from the company. The prosecution has not produced any document to show that, the petitioner had collected or utilised the deposit, paid by the defacto complainant to the company. It is also relevant to note that, nowhere in the First Information Statement/First Information Report, charge sheet, it is mentioned that, the company worked under a binary system. There is no evidence to show the involvement of the petitioner, in this crime. The petitioner is unnecessarily indulged in this crime. The petitioner is not even having any acquaintance with the defacto complainant, so far. The prosecution records does not reveal the specific role played by the petitioner, in the above case. The Honourable Supreme Court of India in Sharif Ahmed and Another v. State of Uttar Pradesh and Another, reported in 2024 INSC 363 has held that, the role played by the accused in crime should be separately and clearly mentioned in the charge regarding each of the accused. It is pertinent to note that, nowhere in the First Information Statement/First Information Report and charge sheet, there is not even a single whisper regarding the involvement of the petitioner. No document produced by the defacto complainant to connect the accused/petitioner with the offences alleged. The petitioner not instigated, nor canvassed, nor collected any money from the defacto complainant. The petitioner is neither a director of the companies involved in this case, nor involved in any promotional activities of the companies. There is no single document produced in the

prosecution records, to show the involvement of the petitioner, in the business of the company. The Honourable Supreme Court of India, in Vishnu Kumar Shukla v. State of Uttar Pradesh, reported in 2023 KHC 1006 has held that, “an application of judicial mind is necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused, when an application for discharge is filed.” The Honourable Supreme Court of India, in the above said case, further observed that, “It cannot be expected even at the initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or broad probabilities of the case- If a view gives rise to suspicion, as opposed to grave suspicion, Court concerned is empowered to discharge the accused.” It is settled principle of law that, no one should be punished for the offence which is not committed by him. Hence, the protection provided under sections 227 and 239 Cr.P.C., are essential provisions of law, for safeguarding a person from false allegations. The purpose of sections 227 and 239 Cr.P.C., is to ensure that, the court should be satisfied that, the accusation is not frivolous and there is some material for proceeding against the accused. The Honourable High Court of Kerala in Rajesh Kumar J., v. Central Bureau of Investigation, Ekm and Another, reported in 2021 KHC 692 has held that, “At the stage of considering an application for discharge, Court must proceed on the assumption that material which has been brought on record by prosecution is true and evaluate material in order to determine whether the facts emerging from the material, taken on their face value, disclose the existence of the ingredients necessary to constitute the offence”. The prosecution records does not reveal the involvement of the petitioner, in the offences alleged. Hence, seeks to discharge the petitioner, 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 promoter 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 Schemes (Banning) Act, 1978. 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. 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 enrolment 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 prima facie 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.

6. 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. In the year 2023, the case was transferred to this court, Court of Additional Chief Judicial Magistrate, Thrissur. On receipt of case records in this court, the case was taken on file as, CC 30/2015 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 brochurs 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, Mananthavadi where Moonwadiya Hotel is situated, and CW17 Fino, who is stated to be the employee at Brahmagiri Hotel, Mananthavadi, 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 Jammu & 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. CW2 P.S. Krishnan, in his statement under section 161 Cr.P.C. stated that, "നാനോ എക്സൽ കമ്പനിയുടെ MD ഹരീഷ് ബാബു മദിനേനി ആണെന്നും, പാട്രിക് തോമസ്

ഡയറക്ടറും, മുഹമ്മദ് അഷറഫ് ചേലക്കര, ജിജേഷ് ബി. നായർ, ശ്രീജേഷ് ബി. നായർ, രാജേഷ് ബി. നായർ, രമേശൻ കണ്ണൂർ, നിസാർ അഹമ്മദ്, രവി കൃഷ്ണൻ, സ്വാമിനാഥൻ തുടങ്ങിയവർ മുഖ്യപ്രമോട്ടർമാരും ആണെന്നും കമ്പനിയുടെ പ്രസിദ്ധീകരണങ്ങളിൽ നിന്നും മനസ്സിലായിട്ടുണ്ടായിരുന്നു. ഞങ്ങൾ നാനോ എക്സൽ കമ്പനിയിൽ ചേരുമ്പോൾ കമ്പനി നിയമവിരുദ്ധമായി പ്രവർത്തിക്കുന്നതാണെന്ന് എനിക്കറിയില്ലായിരുന്നു. നാനോ എക്സൽ കമ്പനിയിൽ ചേർന്നാൽ ഒരു വർഷം കഴിയുമ്പോൾ മുടക്ക് മുതലിന്റെ ഇരട്ടി ലഭിക്കുമെന്ന് പറഞ്ഞ് എന്നെ വിശ്വസിപ്പിച്ച ശേഷം 6000 രൂപ കമ്പനിയിൽ നിക്ഷേപിപ്പിച്ച ശേഷം ഒരു വർഷം കഴിഞ്ഞിട്ടും 1050 രൂപ മാത്രം എനിക്ക് നൽകിയശേഷം മുടക്കിയ മുതലിന്റെ ബാക്കിയോ ലഭ്യമായോ തരാതെ നാനോ എക്സൽ കമ്പനി എംഡി ആയ ഹരീഷ് ബാബു മദനീനിയും, ഡയറക്ടർ ആയ പാട്രിക് തോമസും മറ്റ് ഡയറക്ടർമാരും മുഖ്യപ്രമോട്ടർമാരായ മുഹമ്മദ് അഷറഫ്, നിസാർ അഹമ്മദ്, ജിജേഷ് ബി. നായർ, സ്വാമിനാഥൻ, രമേശൻ, രവികൃഷ്ണൻ, ജോൺസൺ കെ. തുടങ്ങി മറ്റു പലരും ചേർന്ന് എന്നെ ചതിക്കുകയായിരുന്നു”.

14. CW4 Manoj Kumar, in his statement under section 161 Cr.P.C. stated that, “2010 ഒക്ടോബർ മാസം ആദ്യം എൻറെ സുഹൃത്ത് ഓട്ടോറിക്ഷ ഡ്രൈവർ ചൂട്ടക്കടവിൽ താമസിക്കുന്ന റെജി G. യും നാനോ എക്സൽ കമ്പനിയുടെ പ്രമോട്ടർമാരായ ഗോഡ്സൺ, ജിജേഷ്, രഞ്ജിത്ത് എന്നിവരും മറ്റും എൻറെ അടുത്തുവന്ന് നാനോ എക്സൽ കമ്പനിയെ കുറിച്ചും അതിൻറെ ഉൽപ്പന്നങ്ങളെ കുറിച്ചും പറഞ്ഞ് പരിചയപ്പെടുത്തി. കമ്പനിയുടെ 6000/-, 12,000/-, 24,000/- രൂപയുടെ സ്ലീമുകൾ ഉണ്ടെന്നും അതിൽ ചേർന്നാൽ ഒരു വർഷം കഴിഞ്ഞാൽ മുടക്ക് മുതലിന്റെ രണ്ടിരട്ടി രൂപയും കൂടാതെ നമ്മുടെ ഇടത്തും വലത്തും ആളുകളെ കമ്പനിയിലേക്ക് ചേർക്കുകയാണെങ്കിൽ കൂടുതൽ കമ്മീഷൻ കിട്ടും എന്നും പറഞ്ഞിരുന്നു. നാനോ കമ്പനി പല അസുഖങ്ങൾക്ക് ഉള്ള വിവിധതരം പ്രോഡക്റ്റുകൾ ഇറക്കുന്നുണ്ട് എന്നും അവർ എന്നോട് പറഞ്ഞിരുന്നു. കമ്പനിയുടെ എംഡി ഹരീഷ് ബാബു മദനീനിയും, ഡയറക്ടർ തോമസും മറ്റുമാണെന്നും, മുഹമ്മദ് അഷറഫ്, നിസാർ അഹമ്മദ്, ജിജേഷ് B. നായർ, ശ്രീജേഷ് ബി. നായർ, രമേശൻ കണ്ണൂർ, രവികൃഷ്ണൻ, സ്വാമിനാഥൻ എന്നിവരും മറ്റും മുഖ്യപ്രമോട്ടർമാരും ആണെന്നും അവർ പറഞ്ഞിരുന്നു. അവരുടെ വാക്കുകളിൽ വിശ്വസിച്ച് ഞാൻ 2010 ഒക്ടോബർ മാസത്തിൽ 12000/- രൂപ മുടക്കി നാനോ എക്സൽ കമ്പനിയിൽ ചേർന്നു. മാനന്തവാടിയിൽ വച്ച് ഗോഡ്സൺ U.P. വശമാണ് 12000/- രൂപ ഞാൻ കൊടുത്തത്. പൈസ കൊടുത്തതിന് ഗോഡ്സൺ രസീതൊന്നും എനിക്ക് തന്നിരുന്നില്ല. മാനന്തവാടി ബ്രഹ്മഗിരി ഹോട്ടലിൽ വച്ച്

നടത്തിയ നാനോ എക്സൽ കമ്പനിയുടെ ക്ലാസ്സിൽ ഞാനും റെജിയും പങ്കെടുത്തിരുന്നു. ആ ക്ലാസ്സിൽ പാട്രിക് തോമസും ജോൺസൺ കെ ജിജേഷ് ബി. നായർ, ശശിധരൻ വി. ആർ., രമേശൻ കണ്ണൂർ, മുഹമ്മദ് അഷറഫ്, നിസാർ അഹമ്മദ് എന്നിവർ ക്ലാസ്സെടുത്തിരുന്നു”.

15. CW8 Sunilmon, in his statement under section 161 Cr.P.C. stated that, “2009 വർഷം ഡിസംബർ മാസത്തിൽ പനമരത്തുള്ള ശ്രീജേഷ് ബി. നായർ നടവയൽ ഉള്ള ഗോഡൗൺ എന്നിവർ എന്നോട് കമ്പനിയെ കുറിച്ച് പറഞ്ഞു പരിചയപ്പെടുത്തിയിരുന്നു. 6000/-, 12000/-, 24000/- രൂപയുടെ പാക്കേജുകളിൽ ചേർന്നാൽ ഒരു വർഷം കൊണ്ട് 6 ഇരട്ടി പണം കിട്ടുമെന്ന് പറഞ്ഞതിനാൽ ഞാൻ 6000/- രൂപ മുടക്കി കമ്പനിയിൽ ചേർന്നു. കമ്പനിക്ക് വിവിധതരം ഉൽപ്പന്നങ്ങൾ ഉണ്ടെന്നും, അവ പല അസുഖങ്ങൾക്കും നല്ലതാണെന്നും അവർ പറഞ്ഞിരുന്നു. കമ്പനിയിൽ നിന്നും എനിക്ക് 24403 എന്ന ID നമ്പർ കിട്ടിയിരുന്നു. കുറച്ച് ദിവസങ്ങൾ കഴിഞ്ഞ് എനിക്ക് നാനോ കമ്പനിയിൽ നിന്നും ഒരു ബ്രോസ്യർലെറ്റ് കിട്ടിയിരുന്നു അത് ഉപയോഗിച്ചിട്ട് ഗുണം ഒന്നും ഇല്ലാത്തതിനാൽ വീട്ടിൽ എവിടെയോ ഉപേക്ഷിച്ചു. എനിക്ക് കമ്പനിയിൽ നിന്നും പണം ഒന്നും കിട്ടിയിട്ടില്ല. ഞാൻ കമ്പനിയുടെ ക്ലാസുകളിൽ ഒന്നും പങ്കെടുത്തിരുന്നില്ല. കമ്പനിയിൽ ചേരുന്നതിനുള്ള 6000/- രൂപ ഞാൻ ഗോഡൗൺ വശമാണ് കൊടുത്തത്. അതിന് രസീത് ഒന്നും എനിക്ക് കിട്ടിയിരുന്നില്ല. ശ്രീജേഷ് ബി. നായർ എന്നെ നാനോ എക്സൽ കമ്പനിയുടെ ബ്രോഷറുകൾ കാണിച്ചിരുന്നു. അതിൽ നാനോ എക്സൽ കമ്പനിയുടെ എം.ഡി. ഹരീഷ് ബാബു മദിനേനിയാണെന്നും, പാട്രിക് തോമസ് ഡയറക്ടർ ആണെന്നും, പ്രമോദ് കുമാർ, ജിജേഷ് ബി. നായർ, ജോൺസൺ പുളിക്കൽ, ശശീന്ദ്രൻ വി. ആർ., സജീവ് കരുൺ, വർഗീസ് M.M., പി രമേശൻ, C. രവികൃഷ്ണൻ, നിസാർ അഹമ്മദ്, മുഹമ്മദ് അഷറഫ്, സ്വാമിനാഥൻ തിരുവനന്തപുരം, തുടങ്ങി മറ്റു പലരും കമ്പനിയുടെ പ്രൊമോട്ടർമാരുമാണെന്നും കണ്ടിരുന്നു”.

16. CW11 Najamudheen, in his statement under section 161 Cr.P.C. stated that, "ഞാൻ 2009 വർഷത്തിൽ നാനോ എക്സൽ കമ്പനിയുടെ നാനോ ടെക്നോളജി ഉപയോഗിച്ചുള്ള ഉല്പന്നങ്ങളെ സംബന്ധിച്ച് ഒരു സെമിനാർ തിരുവനന്തപുരത്തുള്ള ഹോട്ടൽ ഹൈലാന്റിൽ വെച്ച് നടക്കുന്നതായി പത്രപരസ്യം കണ്ട് ഞാൻ സെമിനാറിൽ പങ്കെടുത്തു. സെമിനാറിൽ കമ്പനിയുടെ നടത്തിപ്പുകാരായ ഹരീഷ് ബാബു മദിനേനിയും പാട്രിക് തോമസും കമ്പനിയുടെ ഉല്പന്നങ്ങളെപ്പറ്റിയും അവ മാർക്കറ്റ് ചെയ്യുന്ന രീതിയെപ്പറ്റിയും സംസാരിച്ചു.

കമ്പനിയിലും ഉല്പന്നങ്ങളിലും എനിക്ക് താല്പര്യം തോന്നിയതിനാൽ കമ്പനിയുടെ ഐ.സി.ഐ.സി.ഐ ബാങ്കിന്റെ പുള്ളിമുട് ശാഖയിലെ അക്കൗണ്ടിൽ 6000 രൂപ അടച്ചു. കമ്പനിയിൽ നിന്നും എനിക്ക് ഉല്പന്നമോ കമ്മീഷനോ കിട്ടിയില്ല. സെമിനാറിൽ സ്വാമിനാഥൻ എന്നയാളും മറ്റ് പലരും പങ്കെടുത്തിരുന്നു".

17. CW12 Deepak R. Chandran, in his statement under section 161 Cr.P.C. stated that, "2009 വർഷത്തിൽ നാനോ ടെക്നോളജി ഉപയോഗിച്ചുള്ള ഉല്പന്നങ്ങളെ സംബന്ധിച്ച് ഒരു സെമിനാർ തിരുവനന്തപുരത്തുള്ള ഹോട്ടൽ ഹൈലാന്റിൽ വച്ച് നടക്കുന്നതായി പത്രപരസ്യം കണ്ട് ഞാൻ സെമിനാറിൽ പങ്കെടുത്തു. സെമിനാറിൽ കമ്പനിയുടെ നടത്തിപ്പ്കാരായ ഹരീഷ് ബാബു മദിനേനിയും പാട്രിക് തോമസും കമ്പനിയുടെ ഉല്പന്നങ്ങളെപ്പറ്റിയും അവ മാർക്കറ്റ് ചെയ്യുന്ന രീതിയെപ്പറ്റിയും സംസാരിച്ചു. കമ്പനിയിലും ഉല്പന്നങ്ങളിലും എനിക്ക് താല്പര്യം തോന്നിയതിനാൽ കമ്പനിയുടെ അക്കൗണ്ടിൽ 5000 രൂപ അടച്ചു. കമ്പനിയിൽ നിന്നും എനിക്ക് 7200 രൂപ കിട്ടി. കമ്പനിയിൽ വിശ്വാസം വന്നതിനാൽ തുടർന്ന് പലപ്പോഴായി 50000 രൂപയോളം കമ്പനിയിൽ അടച്ചു. കമ്പനിയിൽ നിന്നും ലഭിച്ച ചെക്കുകൾ തിരുവനന്തപുരം കണ്ണൻമൂല എസ്.ബി.ഐ. ബാങ്ക് വഴിയാണ് മാറിയത്. കമ്പനിയിൽ നിന്നും ഒരു ബ്രോസ്റ്റെറ്റ് എനിക്ക് അയച്ചു കിട്ടിയിരുന്നു. അത് ഞാൻ കുറച്ച് കാലം ഉപയോഗിച്ച ശേഷം ഉപേക്ഷിച്ചു. സെമിനാറിൽ സ്വാമിനാഥൻ എന്നയാളും മറ്റ് പലരും പങ്കെടുത്തിരുന്നു".

18. CW1 M. Karunakaran also, in his statement under section 161 Cr.P.C. stated that, "കമ്പനി നടത്തിയിരുന്ന ക്ലാസുകളിലും മറ്റും കമ്പനിയുടെ മാനേജിംഗ് ഡയറക്ടർ ഹരീഷ് ബാബു മദിനേനിയും, പാട്രിക് തോമസ്, സുന്ദര രാജ പ്രശാന്ത്, കുമാരി പ്രശാന്ത്, S.B. ചിന്നറാവു, രാധാരാജ, K. മീര ഹരീഷ്, P.P. രംഗറെഡ്ഡി എന്നിവർ ഡയറക്ടർമാരും, മുഹമ്മദ് അഷറഫ്, സ്വാമിനാഥൻ എന്നിവരും മറ്റും പ്രധാന പ്രമോട്ടർമാർ ആണെന്നും പിന്നീട് കമ്പനിയിൽ ചേർന്ന് പണം പോയവർ പറഞ്ഞു ഞാൻ അറിഞ്ഞു".

19. Hence, as per the final report, a strong prima facie case is made out against the accused/petitioner Swaminathan.

20. Hence, the contention of the petitioner in the discharge petition that, there is no evidence to show the involvement of the petitioner, in this crime, is not at all true. The statements of witnesses and the documents produced along with the final report would clearly go to show that, the accused conducted illegal money circulation business with intend to commit cheating and this petitioner worked as a promoter promoting the illegal money circulation business of the accused companies and took an active role in committing cheating by conducting illegal money circulation business, in the name of the accused companies.

21. 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 prima facie case is made out against the accused, or not.

22. In this case, as per the final report, a strong prima facie case is made out against this petitioner to connect him with the offences alleged. Hence, after considering the police report, and documents sent along with the police report, under section 173 Cr.P.C., and after hearing both sides, I am of the finding that, there is sufficient ground for proceeding against the accused no.13/petitioner, for the offences alleged in the prosecution case.

23. Hence, this discharge petition filed by accused no.13, 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.