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

Present: **Smt. Alpha Mamai K., Additional Chief Judicial Magistrate.**
Dated this, the **7th** day of **November, 2025.**

CMP : 718/2025 in CC No. 41/2017

(Cr. No. 524/2011 of Wadakkanchery Police Station)
(CBCID Cr. 133/CR/EOW-II/KTM/12)

Petitioner/Accused no.23.	:	Sajeev Karun, S/o. Karunan, Ozhukayil House, Venganellur Village, Chelakkode. (By Adv. Sri. Pramod K.)
Respondent/ Complainant		State represented by the Police Inspector, CBCID, ISIT, Ernakulam. (Crime no.524/2011 of Wadakkanchery Police Station). (CBCID Cr. 133/CR/EOW-II/KTM/12). (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.23, in CC 41/2017 on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:

Petitioner is the accused no. 23, 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 no. 23 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, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, against the accused/petitioner. The accused/ petitioner is a business promoter of Nano Excel Companies. It is revealed that, he had shares in accused nos.1 to 3 companies, which clearly shows that, he had a thorough knowledge about the functioning of accused nos. 1 to 3 companies, at the time of registration itself. It is crystal clear from the case diary and charge sheet that the accused/petitioner looted money from general public, as promoters of Nano Excel Companies and it is revealed from the statements of witnesses that, the accused had criminal intention from the very beginning to cheat the public, by way of enrolling persons, and thus by making quick money. Accused conducted the activities to promote the business of the company. The companies not functioned as per the norms, objectives and guidelines mentioned in the Certificate of Incorporation. Accused published misleading advertisements in the marketing of Nano technology products and announced shares of Nano Power Corporation Limited company through network marketing system. There is primafacie evidence against the petitioner/accused and the documents produced, reveals the role of each petitioner/accused, in the commission of offence. In Gold Quest International Pvt. Ltd. and Another v. State of Tamilnadu 2003 O 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 Schemes 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. 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 41/2017 on the file of this court, is a case based on the final report filed by the Police Inspector, CBCID, ISIT, Ernakulam, against accused twenty eight in numbers, alleging offences punishable, under sections 109, 406, 420, 120B 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. Case of the prosecution, is as follows:-

Accused nos. 2 to 27, 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. 2 to 4, registered accused no.1 company on 12/07/2007, and hosted a website with the help of CW3 Amandeep Singh, the Director of a software company named Roots Infocom at Ludhiyana, Punjab and created a website for network marketing and promoted illegal products and conducted illegal money circulation business, added accused no.s 5 to 8 as Directors in the said company, and thereafter, on 01/01/2010, accused no.s 2 to 8 as Directors formed accused no.28 company named Nano Excel Power Corporation and later changed its name to Nano Power Corporation and accused nos. 9 to 27 joined as promoters after depositing money in the above company, being fully aware about the illegal business conducted by the accused companies and approached public with false promises and accused no.s 2 to 8 through magazines, brochures, media, internet, public meetings, and accused no.s 9 to 7 by conducting promotional meetings and by approaching the public directly, promoted the illegal business of money circulation scheme and by making false promise of getting ten times more income within a short span of time and also promising income on members enrolling in the company, and also by promising products, which the accused know to be that of low quality, fraudulently and dishonestly induced CW1 Shefeek to deliver Rs. 12,000/- in the accused company and thereafter, neither gave profits as promised, nor returned the amount obtained and thereby committed cheating on general public, including CW1, and thereby accused nos. 2 to 4 committed offences punishable under sections 406, 420, 109, 120B r/w 34 of the Indian Penal Code and sections 4, 5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, and accused no.1 company, accused no.28 company and accused no.s 5 to 27 committed offences punishable under sections 109, 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.

7. The prosecution in this case was initiated by CW1/defacto complainant Shefeek, by preferring an First Information Statement, to the Inspector General of Police, Thrissur on 13/06/2011, alleging as follows:-

8. "Nano Excel Network കമ്പനി M.D. ഹാരിഷ് മദ്നേനി, പാട്രിക് തോമസ് ഡയറക്ടറും, കമ്പനിയിലെ മെയിൻ ലീഡർമാരായ മുഹമ്മദ് അഷറഫ്, ഫൈസൽ C.I., C.R. രാധാകൃഷ്ണൻ എന്നിവരുടെ നേതൃത്വത്തിൽ ഒറ്റയ്ക്കായും, കൂട്ടായും, പൊതുയോഗങ്ങൾ, ക്ലാസുകൾ, എന്നിവയിൽ കൂടെയും ഞങ്ങളെ പറഞ്ഞു മനസ്സിലാക്കി പല വാഗ്ദാനങ്ങൾ നൽകുകയുണ്ടായി. അത് മുഖാന്തിരം ഏകദേശം ഒന്നരവർഷം മുമ്പ് 12,000/- രൂപ അടച്ച് ഞാൻ ചേർന്നിരുന്നു. അതിൽ നിന്നും എനിക്ക് രൂപ മാത്രമേ കിട്ടിയിട്ടുള്ളൂ. ബാക്കി സംഖ്യ കിട്ടിയിട്ടില്ല. അതിനാൽ മാനസികമായി ഞാൻ വളരെ കഷ്ടത അനുഭവിക്കുകയാണ്. ഞാൻ വളരെ ബുദ്ധിമുട്ടിയാണ് പൈസ സ്വരൂപിച്ച് ഈ കമ്പനിയിൽ അടച്ചത്. ആയതുകൊണ്ട് എൻറെ മുതൽ

സംഖ്യയെങ്കിലും വാങ്ങിച്ച് തരണമെന്ന് വിനീതമായി അപേക്ഷിക്കുന്നു".

9. In the First Information Report, registered on 02/07/2011, the accused arrayed are, 1. Haris Madni, 2. Patrick Thomas, 3. Muhammad Asharaf, 4. Faizal and 5. Radhakrishnan. After investigation, the Investigating Officer, Police Inspector, CBCID, ISIT, Ernakulam, filed final report, against accused 28 in numbers, accused no.1 Nano Excel Enterprises Private Limited, represented by its Director Hareesh Babu Maddineni, accused no. 2 Harish Babu Madineni, accused no. 3 Patric Thomas, accused no. 4 S.V. Chinna Rao, accused no.5 P.P. Ranga Reddy, accused no.6 K. Meera Harish, accused no.7 Radha Raja, accused no. 8 Sunder Raja Prasanth, accused no.9 Mohammed Ashraf, accused no.10 Radhakrishnan, accused no.11 Dharmarathnam, accused no.12 Babu, accused no. 13 Radhakrishnan, accused no. 14 Ramesh Kumar, accused no. 15 Ranjan, accused no. 16 Rasheed, accused no.17 P.P. Francis, accused no. 18 Chandran Nair, accused no. 19 Lonappan, accused no. 20 Sasi, accused no. 21 Swaminathan, accused no. 22 Suja Kumar, accused no. 23 Sajeev Karun, accused no. 24 Saseendran @Murali, accused no.25 Muraleedharan, accused no.26 Surendran, accused no. 27 Faisal and accused no. 28 Nano Excel Corporation Limited represented by its Director Hareesh Babu Maddineni, alleging offences punishable under sections 109, 406, 420, 120B r/w 34 of the Indian Penal Code, sections 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. In the final report, there are, forty four witnesses cited by the Investigating Officer, and CW1 is the person, who is alleged to be cheated by the accused.

10. It is true that, CW1 has not mentioned the name of this petitioner, Sajeev Karun in the First Information Statement preferred by him. But, in the statement under section 161 Cr.P.C. of CW1 produced along with the final report, he has stated that, "കമ്പനിയുടെ പ്രൊമോട്ടർമാരായ മുഹമ്മദ് അഷറഫ്, ധർമ്മരത്നം, ചന്ദ്രൻ നായർ, ഫ്രാൻസിസ്, ലോനപ്പൻ, രാധാകൃഷ്ണൻ, രമേഷ് കുമാർ, ഫൈസൽ, ബാബു, രഞ്ജൻ, റഷീദ്,

ശശി, സ്വാമിനാഥൻ, സുജകുമാർ, സജീവ് കരുൺ മുരളീധരൻ, സുരേന്ദ്രൻ എന്നിവരെല്ലാം തന്നെ കോടിക്കണക്കിന് രൂപ നാനോ എക്സൽ കമ്പനി നടത്തിയ മണി ചെയിൻ ബിസിനസിലൂടെ നേടിയിട്ടുള്ളതായി എനിക്ക് അറിയാം''.

11. CW2 Nidhun, who is stated to be an employee of the accused company in his statement under section 161 Cr.P.C., has stated in detail about the illegal money circulation business conducted by the accused company, and also about the promotion classes conducted by the accused company at various places and he has stated that, "കമ്പനി തൃശ്ശൂർ പേൾ റീജൻസി, കാസിനോ ഹോട്ടൽ, ടിച്ചൂർ ടവർ ഹോട്ടൽ, ലുലു കൺവെൻഷൻ സെൻറർ എന്നിവിടങ്ങളിൽ മിക്ക ആഴ്ചകളിലും ബിസിനസ് മീറ്റിങ്ങുകൾ നടത്തിയിരുന്നു. അതിൽ കമ്പനി ഡയറക്ടർമാരും, പ്രമോട്ടർമാരും പങ്കെടുക്കുമായിരുന്നു. കമ്പനിയുടെ പുതിയ വാഗ്ദാനങ്ങൾ അവിടെ പ്രഖ്യാപിക്കുമായിരുന്നു. തൃശ്ശൂർ ജില്ലയ്ക്കു വെളിയിലും ഇതു പോലെ മീറ്റിങ്ങുകൾ സംഘടിപ്പിച്ചിരുന്നു. മലമ്പുഴ, നെല്ലിയാമ്പതി എന്നിവിടങ്ങളിൽ പുതിയ മെമ്പേഴ്സിനെ motivate ചെയ്യാൻ training programme മെയിൻ പ്രമോട്ടേഴ്സായ മുഹമ്മദ് അഷറഫ്, ലോനപ്പൻ, സജീവ് കരുൺ, ടിസറെൻറ്, ബേബി ജോസ്, P.G. ജയൻ, പ്രമോദ് കുമാർ, ഫൈസൽ എന്നിവർ സംഘടിപ്പിച്ചിരുന്നു. തൃശ്ശൂരിൽ നടത്താറുള്ള മിക്ക പ്രോഗ്രാമുകളിലും ഓഫീസ് സ്റ്റാഫുകളും പങ്കെടുക്കുമായിരുന്നു. 2010 ജനുവരി, ഫെബ്രുവരി മാസങ്ങളിൽ കാസിനോ ഹോട്ടൽ, പേൾ റിജൻസി എന്നിവിടങ്ങളിൽ നടന്ന മീറ്റിങ്ങിൽ ഡയറക്ടർ ഹാരിഷ് ബാബു മദനീനിയും, പാടിക് തോമസ് പങ്കെടുത്തിരുന്നതായി എനിക്കറിയാം. കൂടാതെ, പ്രമോട്ടേഴ്സായ മുഹമ്മദ് അഷറഫ്", സജീവ് കരുൺ, പ്രമോദ് കുമാർ, ശശിന്ദ്രൻ, ഫൈസൽ, ജയൻ PG. ബേബി ജോസ്, ലോനപ്പൻ, ടിസറൻറ്, സ്വാമി നാഥൻ, മൊയ്തീൻകുട്ടി, P.N രാധാകൃഷ്ണൻ, C.R. രാധാകൃഷ്ണൻ, E.S. രാജൻ, K. ബാലകൃഷ്ണൻ. T.K. ബാലകൃഷ്ണൻ എന്നിവരും പങ്കെടുത്തിരുന്നു. കമ്പനി നിക്ഷേപിച്ചിരുന്ന തുക 6 മാസത്തിനകം തവണകളായി തിരിച്ചു കിട്ടുമെന്നും പിന്നീട് 3 വർഷത്തിനുള്ളിൽ പത്തിരട്ടിയിലധികം തുക മാസ തവണകളായി കിട്ടുമെന്നെല്ലാം ഡയറക്ടർമാരും, പ്രമോട്ടർമാരും വാഗ്ദാനം നൽകിയിരുന്നു". He further stated that, "കമ്പനി വിതരണം ചെയ്തിരുന്ന പ്രൊഡക്ടുകൾ ചൈന, കൊറിയ, സിംഗപ്പൂർ എന്നിവിടങ്ങളിൽ നിന്ന് തുച്ഛമായ തുകയ്ക്ക് ഇറക്കുമതി ചെയ്ത് ഇന്ത്യയിൽ ആ പ്രൊഡക്ടുകൾ നാനോ ടെക്നോളജി പ്രകാരമുള്ളതാണെന്ന് പ്രചരിപ്പിച്ച്, വലിയ തുക വിലയിട്ട് വില്പന നടത്തി കമ്പനി മണി

സർക്കുലേഷൻ ബിസിനസ്സാണ് നടത്തി വന്നിരുന്നത്. അതു മൂലം കമ്പനിയ്ക്കും, ഡയറക്ടർമാർക്കും, ഷെയർ ഹോൾഡേഴ്സിനും, പ്രമോട്ടർമാരായ മുഹമ്മദ് അഷറഫ്, സജീവ് കരുൺ, പ്രമോദ് കുമാർ, ശശീന്ദ്രൻ, ഫൈസൽ, ജയൻ, ടിസറൻറ്, സ്വാമിനാഥൻ, അനിൽകുമാർ, ബിജേഷ്, സജീവ് രാജൻ, മൊയ്തീൻകുട്ടി, P.N. രാധാകൃഷ്ണൻ, C.R. രാധാകൃഷ്ണൻ എന്നിവർക്കെല്ലാം വൻ തുകകൾ കമ്മീഷൻ ആയി കിട്ടിയിട്ടുണ്ട്".

12. The bank account statement of the petitioner/accused no.23 Sajeev K. @ Sajeev Karun, S/o. Karunan, Ozhukayil House, Chelakkara, seized by the investigating officer and produced along with the final report to prove that, the petitioner received commission from the accused company. CW15 Syriac Thomas, the then Branch Manager, State Bank of Travancore, Chelakkara Branch, who produced the account statement of the petitioner to the investigating officer in his statement under section 161 Cr.P.C. produced along with the final report has stated that "ഞാൻ ഇപ്പോൾ സ്റ്റേറ്റ് ബാങ്ക് ഓഫ് ട്രാവൻകൂർ, ചേലക്കര ബ്രാഞ്ച്, മാനേജർ ആയി ജോലി നോക്കി വരികയാണ്. ഹൈദരാബാദ് ആസ്ഥാനമായ നാനോ എക്സൽ കമ്പനിക്കെതിരെ കേരളത്തിൽ പോലീസ് നിരവധി കേസുകൾ എടുത്തിട്ടുള്ളതായി എനിക്കറിയാം. ഇക്കാര്യത്തിനായി കേസിലെ പ്രതികളായ സജീവ് കെ. @ സജീവ് കരുൺ, S/o. കരുണൻ, ഒഴുകയിൽ വീട്, ചേലക്കര, ശശീന്ദ്രൻ @മുരളി, S/o. രാമൻ, ആശാരി വീട് ചേലക്കര, തൃശ്ശൂർ എന്നിവർക്ക് എൻറെ ബാങ്കിൽ Account ഉള്ളതാണ്. ടി അക്കൗണ്ടുകളിലൂടെ നാനോ കമ്പനിയുമായി വിവിധ തിയ്യതികളിൽ പണമിടപാടുകൾ നടത്തിയിട്ടുള്ളതായും എനിക്കറിയാം".

13. Hence, as per the final report, a strong primafacie case is made out against the accused/petitioner Sajeev Karun.

14. 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.

15. As stated above, in this case, as per the prosecution records, a strong primafacie case is made out against the accused no. 23/petitioner. 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. 23/petitioner, for the offences alleged in the prosecution case.

16. Hence, this discharge petition filed by accused no. 23, 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 7th day of September, 2025).

Sd/-

Additional Chief Judicial Magistrate,
Thrissur.