

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

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

Dated, this the 31st day of **October, 2025.**

CMP : 6143/2024 in CC 44/2016

(Cr. No. 1164/2011 of Thrissur Town West Police Station)

(CBCID Cr. 1011/CR/EOW-II/KTM/2011)

Petitioner/Accused : Rameshkumar, S/o. Prabhakaran,
no.19. Chandraprabha House, Mayannur,
Thrissur.

(By Advocate. Sri. Pramod K.)

Respondent/
Complainant State represented by the Circle Inspector
of Police, Irinjalakuda Circle, Thrissur,
SIT Nano Cases.

(Crime no. 1164/2011 of Thrissur Town
West Police Station).

(CBCID Cr.1011/CR/EOW-II/KTM/2011)

(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.19, in CC

44/2016, on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:-

Petitioner is the accused no.19, 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 (Banning) Act, 1978. The petitioner/accused no.19 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 abovesaid 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 prima facie 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

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. 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 44/2016 on the file of this court, is a case based on the final report filed by the Circle Inspector of Police, Irinjalakuda Circle, Thrissur, SIT Nano Cases, against accused twenty seven in numbers, alleging 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.

6. 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, during the period from 2007 till 2011, in furtherance of their common intention, and by committing criminal conspiracy, with intend to cheat public, and to obtain wrongful gain, accused no.s 4 as the Managing Director and accused no.s 5 and 6 as the Directors, registered a company named Nano Excel Enterprises Private Limited (accused no.1) for conducting money chain business by importing low quality products from abroad and registered the said company on 12/07/2007 and conducted money circulation business through the website and appointed accused no.5 as the Director in the said company on 06/06/2009 and created a website with the help of CW11 Amandeep Singh, the Director of a software company named Roots Infocom at Ludhiyana, Punjab for network marketing, and

thereafter, with the same intention to commit cheating, accused no.s 4 to 6 as the Directors and accused no.s 7 to 10 as the primary shareholders, created another company named Nano Excel Power Corporation Limited on 01/01/2010 and changed its name to Nano Excel Corporation Limited (accused no.2) and conducted money circulation business through the website and appointed accused no.5 as the Director of the said company on 06/06/2009 and thereafter, entered into a Memorandum of Agreement(MOA) with Arunachal Pradesh Government for starting a Hydro Electric Project, with the same intention to commit cheating, accused nos. 4 to 10 as the Promoters and Directors, created a company named Nano Excel Power Corporation Limited (accused no.2) on 01/01/2010 and changed its name to Nano Excel Corporation Limited and thereafter, accused nos. 4 to 10 as the Promoters and Directors and by adding accused no.s 11 to 13, on 13/05/2010, formed another company named Nano Power Corporation Limited (accused no.3) and conducted money circulation business with the money obtained from the public and accused appointed accused no.s 14 to 27 as the Local Promoters and accused, being very well aware about the illegal business conducted by the accused companies, approached public giving false promises and through website and through brochures and advertisements, and through classes, promoted the illegal business of money circulation scheme and by making false promise of returning ten times more amount within a short span of time, and also by promising income and products on members enrolling in the company, and also by promising amount, if money deposited in the power package of Nano Excel Power Corporation company, fraudulently and dishonestly induced CW1 Davis to deliver Rs.1,86,000/- on 08/09/2010, Rs. 3,00,000/- on 31/12/2010 and Rs. 1,50,000/- on 30/11/2011, and thereby altogether obtained an amount of Rs. 6,36,000/- from CW1, and thereafter, neither gave the profits as promised, nor returned the money obtained and thereby committed cheating and illegal money circulation business and misappropriated the money obtained and thereby accused committed 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.

7. The prosecution in this case was initiated by CW1/defacto complainant Davis T.D., by preferring a complaint u/s. 190(1)(a) Cr.P.C., before the Honourable Chief Judicial Magistrate Court, Thrissur, against accused 8 in numbers, accused no.1 Nano Excel Corporation Limited, represented by the Managing Director and Chief Executive Officer, Harish Babu Madineni, accused no.2 Harish Babu Madineni, accused no.3 Sundar Raja Prasanth, accused no.4 S.U. Chinna Rao, accused no.5 P.P. Rengareddy, accused no.6 K. Meera Harish, accused no.7 Radha Raja and accused no.8 Patric Thomas, alleging offence punishable under section 420 r/w 34 of the Indian Penal Code.

8. The said complaint was forwarded to the Station House Officer, Thrissur Town East Police Station, u/s. 156 (3) Cr.P.C., for registration of First Information Report and accordingly the First Information Report in this crime, crime no. 1307/2011 of Thrissur Town East Police Station, was registered on 04/08/2011.

9. After investigation, the Investigating Officer, Circle Inspector of Police, Irinjalakuda Circle, Thrissur, SIT Nano Cases, filed final report, against accused 27 in numbers, alleging 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, and this petitioner is arrayed as accused no.19, in the final report.

10. It is true that, CW1/defacto complainant in the complaint preferred by him, has not arrayed this petitioner as an accused. But, in his statement u/s. 161 Cr.P.C., dated 17/01/2012, preferred by CW1 to the Investigating Officer, he has mentioned about the inducement made by the petitioner Rameshkumar. In the said

statement u/s. 161 Cr.P.C. dated 17/01/2012, in the beginning of the said statement itself, CW1 Davis has stated that, “നാനോ എക്സൽ കോർപ്പറേഷൻ ലിമിറ്റഡ് കമ്പനിയെ കുറിച്ച് പത്രമാധ്യമങ്ങളിലൂടെയും സൂഹൃത്തുക്കൾ പറഞ്ഞുമാണ് അറിയുന്നത്. നാനോ എക്സൽ കോർപ്പറേഷൻ കമ്പനി ഹൈദ്രാബാദിൽ കമ്പനീസ് ആക്ട് പ്രകാരം രജിസ്റ്റർ ചെയ്തതാണെന്നും, കമ്പനിയിൽ പണം നിക്ഷേപിച്ചാൽ ചുരുങ്ങിയ കാലത്തിനുള്ളിൽ കൂടുതൽ വരുമാനം ഉണ്ടാകുമെന്നും, 6 മാസത്തിനുള്ളിൽ നിക്ഷേപിച്ച തുക മാസതവണകളായി തിരികെ കിട്ടുമെന്നും, കൂടാതെ 10 ഇരട്ടി തുക 3 വർഷത്തിനുള്ളിൽ തിരികെ ലഭിക്കുമെന്നും കമ്പനിയെക്കുറിച്ച് കൂടുതൽ അറിയണമെങ്കിൽ തൃശ്ശൂർ കാസിനോ ഹോട്ടലിലും. ലുലു കൺവെൻഷൻ സെന്ററിലും കമ്പനിയുടെ ഡയറക്ടർമാർ മീറ്റിംഗ് സംഘടിപ്പിക്കാറുണ്ടെന്നും, അതിൽ പങ്കെടുത്താൽ കമ്പനിയുടെ പ്രവർത്തനങ്ങളെ കുറിച്ച് ഡയറക്ടർമാർ കൂടുതൽ വിശദീകരിക്കുമെന്നും, ലോനപ്പൻ പറഞ്ഞതനുസരിച്ച് 2009 ഡിസംബർ മാസത്തിൽ തൃശ്ശൂർ ലുലു, കാസിനോ എന്നീ ഹോട്ടലുകളിൽ നാനോ എക്സൽ കോർപ്പറേഷൻ ലിമിറ്റഡ് കമ്പനി സംഘടിപ്പിച്ച മീറ്റിംഗിൽ ഞാൻ പങ്കെടുത്തു. എൻറെ കൂടെ എൻറെ സൂഹൃത്തുക്കളും ഉണ്ടായിരുന്നു. മീറ്റിംഗിൽ നാനോ എക്സൽ കോർപ്പറേഷൻ ലിമിറ്റഡ് കമ്പനി ഡയറക്ടർ ഹാമീഷ് ബാബു മദനേനി, പാട്രിക് തോമാസ്, എന്നിവരും പ്രൊമോട്ടർമാരായ മുഹമ്മദ് അഷറഫ്, ലോനപ്പൻ, ധർമരത്നം, ബാബു, രാധാകൃഷ്ണൻ, രമേഷ് കുമാർ, രഞ്ജൻ, റഷീദ്, ഫ്രാൻസിസ്, ചന്ദ്രൻനായർ, ശശി, വിനോദ്, സജീവ് കുര്യൻ, ശശിധരൻ തുടങ്ങിയവർ കമ്പനിയുടെ പ്രവർത്തനങ്ങളെ കുറിച്ച് വിവരിച്ചിരുന്നു. അവർ ക്ലബ്ബിൽ പറഞ്ഞത് നാനോ എക്സൽ കോർപ്പറേഷൻ കമ്പനി ഹൈദ്രാബാദിൽ കമ്പനീസ് ആക്ട് പ്രകാരം രജിസ്റ്റർ ചെയ്തതാണെന്നും, കമ്പനിയിൽ പണം നിക്ഷേപിച്ചാൽ ചുരുങ്ങിയ കാലത്തിനുള്ളിൽ കൂടുതൽ വരുമാനം ഉണ്ടാകുമെന്നും, 6 മാസത്തിനുള്ളിൽ നിക്ഷേപിച്ച തുക മാസതവണകളായി തിരികെ കിട്ടുമെന്നും, കൂടാതെ 10 ഇരട്ടി തുക 3 വർഷത്തിനുള്ളിൽ തിരികെ ലഭിക്കുമെന്നും, കമ്പനിയിൽ ചേർന്നയാൾ കൂടുതൽ പേരെ കമ്പനിയിൽ Enroll ചെയ്യിച്ചാൽ ഇതിൽ കൂടുതൽ വരുമാനം Binary Plan മുഖാന്തിരം ലഭിക്കുമെന്നും അവർ വാഗ്ദാനം ചെയ്തിരുന്നു. Club Binary, Royalty Club Board എന്നീ ബിസിനസ്സ് പ്ലാനിലൂടെയാണ് കമ്പനി കമ്മീഷൻ വിതരണം ചെയ്യുന്നതെന്നും, 6,000/-, 12,000/-, 1,50,000/-, 1,80,000/- എന്നീ തുകകൾ കമ്പനിയിൽ നിക്ഷേപിക്കാമെന്നും, പണം അടച്ച് കമ്പനിയിൽ ചേർന്നവരെ Business Distributor എന്നാണ് വിളിക്കുന്നതെന്നും, അവർക്ക് ഒരോ ID നമ്പർ കമ്പനി അലോട്ട് ചെയ്യുമെന്നും, ഈ ID നമ്പർ കമ്പനിയുടെ Website

ൽ കാണാൻ കഴിയുമെന്നും പറഞ്ഞിരുന്നു. പണം നിക്ഷേപിച്ച് Business Distributor ആകുന്നവർക്ക് നാനോ Technology-പ്രകാരമുള്ള Nano Health Card, Bracelet, Pendent, Bio-cool water bottle, Cooking stone, Bracelet എന്നിവ ലഭിക്കുമെന്നും, ഇവ ഉപയോഗിച്ചാൽ ശരീരത്തിന് രോഗപ്രതിരോധ ശക്തി വർദ്ധിക്കുമെന്നും, മനുഷ്യന്റെ ശാരീരിക പ്രവർത്തനങ്ങൾക്ക് ഉണർവ് നൽകുമെന്നും, രോഗങ്ങളിൽ നിന്നും അതൃപ്തകരമായ മോചനം ലഭിക്കുമെന്നും, ഹാർട്ട് അറ്റാക്ക് തടയുമെന്നും, Blood Pressure നിയന്ത്രിക്കുമെന്നും, ഇവയൊന്നും മാർക്കറ്റിൽ ലഭ്യമല്ല എന്നുമാണ് മീറ്റിങ്ങിൽ പറഞ്ഞത്. ഇതല്ലാതെ Power Package-ലാണ് പണം നിക്ഷേപിക്കുന്നതെങ്കിൽ Nano Excel Power Corporation Limited Company-യുടെ ഷെയർ ലഭിക്കുമെന്നും, കമ്പനി അരുണാചൽപ്രദേശിൽ ഹൈഡ്രോ ഇലക്ട്രിക് പവർ പ്രോജക്ട് ഏറ്റെടുത്ത് നടത്തുന്നുണ്ടെന്നും ഈ Power Project-ൽ കൂടി വിൽക്കുന്ന വൈദ്യുതിയുടെ വരുമാനം ലഭിക്കുമെന്നും, Rs. 12,000/- രൂപ നിക്ഷേപിച്ചാൽ 240 ഷെയർ കിട്ടുമെന്നും, ആയതിന് 120 KW Power യൂണിറ്റ് ലഭിക്കുമെന്നും, 2012-ൽ പവർ പ്രോജക്ട് കമ്മീഷൻ ചെയ്യുന്നതുമുതൽ ഒരു യൂണിറ്റിന് മാസത്തിൽ Rs.3/- രൂപ നിരക്കിൽ 360/- രൂപ വെച്ച് 50 വർഷം തുടർച്ചയായി വരുമാനം ലഭിക്കുമെന്നും, അവർ പറയുകയും, നോട്ടീസും ബ്രോഷറുകളും മറ്റും കാണിച്ച് വിശ്വസിപ്പിക്കുകയും ചെയ്തു. അവരുടെ മോഹനവാശാനങ്ങളിൽപെട്ട് ഞാൻ കമ്പനിയുടെ അയ്യന്തോളിലുള്ള ഓഫീസിൽ നേരിട്ട് ചെന്ന് 08.09.2010 തീയതി 1,86,000 രൂപയും, 30.11.2010 തീയതി 1,50,000 രൂപയും 31.12.2010 തീയതി 3,00,000 രൂപയും അടക്കം 6,36,000 രൂപ Power & Prodict Package-ൽ നിക്ഷേപിച്ചിരുന്നു. പണം ഓഫീസിൽ അടച്ചതിന് രസീത് തന്നില്ല. ചോദിച്ചപ്പോൾ രസീത് കൊടുക്കാറില്ല എന്ന് പറഞ്ഞു”.

11. The bank account statement of the petitioner also seized by the Investigating Officer and produced along with the final report, to show that the petitioner obtained commission from the accused companies. CW31 Biju Jose M., Branch Manager, State Bank of India, Thrissur Town Branch, has stated that, he produced the accounts details of petitioner Rameshkumar as evidence in this case, to the investigating officer. Moreover, the statements u/s. 161 Cr.P.C. of CW47 Rajesh and CW43 Sankarankutty would go to show that, the visuals containing the promotion meetings conducted by the accused company produced by one Shinoy

(CW33), who was an employee of the accused company seized and produced along with the final report.

12. Hence, in this case, as per the prosecution records, a strong prima facie case is made out against the accused no.19/petitioner.

13. 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.

14. As stated above, in this case, as per the prosecution records, as per the statements of witnesses and documents produced, a strong prima facie case is made out against the accused no.19/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.19/petitioner, for the offences punishable under sections 120B, 406, 420 r/w 34 of the Indian Penal Code and 4, 5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, alleged in this case.

15. Hence, this discharge petition filed by accused no.19, 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 31st day of October, 2025.)

Sd/-
Additional Chief Judicial Magistrate,
Thrissur.