

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

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

Dated, this the 9th day of July, 2025.

CMP : 5399/2024 in CC 37/2017

**(Cr. No. 310/2011 of Pazhayannur Police Station)
(CBCID Cr. 748/CR/EOW II/KTM/11)**

Petitioner/Accused : P.N. Radhakrishnan, 43/15, S/o.
no. 16. Narayanan, Pidikkakundil House,
Mayannoor P.O., Chelakkara, Thrissur.

(By Advocate. Sri. Pramod K.)

**Respondent/
Complainant** State represented by the Inspector of
Police, Town West Circle, Thrissur City.

(Crime no.310/2011 of Pazhayannur
Police Station).

(CBCID Cr. 748/CR/EOW II/KTM/11)

(By Smt. Dhannu Gireesh, Assistant
Public Prosecutor, Court of Additional
Chief Judicial Magistrate, Thrissur).

Petition : U/s.239 Cr.P.C.

ORDER

This is a petition filed u/s. 239 Cr.P.C., by the accused no.16, in CC 37/2017, on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:

Petitioner is the accused no.16, in the above case. The offences alleged are under sections 120(b), 406, 420 r/w 34 IPC and sections 4, 5, 6 of the Prize Chits and Money Circulation (Banning) Act, 1978. The petitioner/accused no.16 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 120(b), 406, 420 r/w 34 IPC 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 37/2017 on the file of this court, is a case based on the final report filed by the Inspector of Police, Town West Circle, Thrissur City, against accused 17 in numbers, alleging offences punishable, under sections 120-B, 406, 420 r/w 34 IPC, sections 4, 5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

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

Accused during the period from 2007 till 2011, 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 no. 4 as the Managing Director and accused no. 5 to 7 as the Directors, and accused nos. 8 to 13 as the promotional shareholders formed accused no.1 company on 12/07/2007, and thereafter, formed a new company, accused no.2 company on 01/01/2010 and changed its name to Nano Excel Corporation Limited on 26/02/2010 and thereafter, formed another company named Nano Power Corporation Limited (accused no.3) on 13/05/2010 and created a website with the help of Amandeep Singh (CW16), 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 and accused nos. 14 to 17 worked as promoters of the above companies, being fully aware about the illegal business conducted by the accused

nos. 1 to 3 companies, approached public with false promises and accused conducted promotion meetings and through the website, and through brochures and advertisements, and through classes, promoted the illegal business of money circulation scheme and by making false promise of getting more income within a short span of time and also promising income on members enrolling in the company, and also by promising amount, if money deposited in the power package of Nano Excel Power Corporation, and also by promising products, which the accused know to be that of low quality, fraudulently and dishonestly induced CW1 Muraleedharan, to deliver Rs. 1,80,000/-, CW2 Chnadrika Amma, to deliver Rs. 1,80,000/-, CW3 Sulaikha to deliver Rs.1,80,000/-, CW4 Prameela to deliver Rs.12,000/-, CW5 Govindankutty Nair @G.K. Nair, to deliver Rs.12,000/-, CW6 Santhakumari, to deliver Rs.12,000/-, CW7 Seenath to deliver Rs.12,000/-, CW8 Beevathumma to deliver Rs.12,000/-, CW9 Koyaru to deliver Rs.12,000/-, and thereby altogether obtained a total amount of Rs. 6,12,000/- from CW1 to CW9 and thereafter, neither gave profits as promised, nor returned the amount obtained and thereby committed cheating on general public, including CW1 to CW9, and thereby accused committed offences punishable u/s. 120-B, 406, 420 r/w 34 IPC 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 Muraleedharan, by preferring an First Information Statement, at Pazhayannur Police Station on 28/06/2011, alleging as follows:

"ഞാൻ നാനോ എക്സൽ എന്ന സ്ഥാപനത്തിന്റെ വാഗ്ദാനത്തിൽ പെട്ട് പണം നിക്ഷേപിച്ച് തിരിച്ച് കിട്ടാത്ത കാര്യം പറയുവാൻ വന്നതാണ്. ഞാൻ മേൽപ്പറഞ്ഞ വിലാസത്തിലാണ് താമസം. എനിക്ക് ബിസിനസ് ആണ് പണി. നാനോ എക്സൽ എന്ന സ്ഥാപനത്തിന്റെ ഒരു മീറ്റിംഗ് വടക്കാഞ്ചേരി ആർടീടെ ഓഫീസിൽ അടുത്തുള്ള വായനശാല ഓഡിറ്റോറിയത്തിൽ ഒരു മീറ്റിംഗ് ഉണ്ട് എന്ന് ചേലക്കരയിൽ ഉള്ള നാരായണൻ എന്നയാൾ എന്നെ ഫോൺ ചെയ്ത് പ്രകാരം ഞാൻ മീറ്റിങ്ങിന് പോയിരുന്നു. അവിടെ ക്ലാസ് എടുക്കുന്നതിന് വേണ്ടി തോന്നാൻ

യിലുള്ള രാധാകൃഷ്ണൻ കുറച്ച് പേരും സ്റ്റേഷിൽ ഉണ്ടായിരുന്നു. ഹാളിൽ ഏകദേശം 30 പേരോളം ഉണ്ടായിരുന്നു. നാനോ എക്സൽ സ്ഥാപനത്തിന്റെ അധികാരികളായി സ്വയം പരിചയപ്പെടുത്തി കൊണ്ടാണ് രാധാകൃഷ്ണൻ മറ്റുള്ളവരും ക്ലാസ് എടുത്തത്. ഇവർ എല്ലാവരും നാനോ എക്സൽ എന്ന സ്ഥാപനത്തിൽ പണം നിക്ഷേപിച്ചാൽ കിട്ടുന്ന ലാഭത്തെ കുറിച്ചാണ് ക്ലാസുകൾ എടുത്തത്. 12,000 രൂപ നിക്ഷേപിച്ചാൽ ഒരു വർഷം കൊണ്ട് ഇരട്ടിയിലധികം തിരികെ ലഭിക്കുമെന്ന് പറഞ്ഞ് വിശ്വസിപ്പിച്ച് ചേലക്കരയിൽ ഉള്ള നാരായണൻ എന്ന് പേരുള്ള ആളുടെ കൈവശം നാനോ എക്സൽ കമ്പനിയിൽ നിക്ഷേപിക്കുന്നതിനായി ഒരു ലക്ഷത്തി എൺപതിനായിരം രൂപ കൊടുത്തു. ഞാൻ എന്റെ പേരിൽ എസ്ബിഐ ബാങ്കിൽ സ്ഥിരനിക്ഷേപം പിൻവലിച്ച 95000 രൂപയും കൂടാതെ എന്റെ കൈവശം ഉണ്ടായിരുന്ന രൂപയും ചേർത്താണ് ഇത്രയും രൂപ കൊടുത്തത്. അതിൽ പല ഘട്ടങ്ങളിലായി 70000 രൂപ മടക്കി കിട്ടി. എനിക്ക് ചെക്കുകൾ ആയി പല ബാങ്കുകളുടെ ചെക്കാണ് വരാറുള്ളത്. ഞാൻ ഈ സ്കീമിൽ ചേർന്നിട്ട് ഒന്നര വർഷത്തോളമായി. എന്നെ കൂടാതെ എന്റെ ഭാര്യ പ്രമീള പന്ത്രണ്ടായിരം രൂപയും എന്റെ മൂത്ത ജേഷ്ഠൻ ഗോവിന്ദൻകുട്ടി നായർ പന്ത്രണ്ടായിരം രൂപയും ജേഷ്ഠന്റെ ഭാര്യ ശാന്തകുമാരി അമ്മ 12,000 രൂപയും എന്റെ തൊട്ട് മൂത്ത ജേഷ്ഠന്റെ ഭാര്യ ചന്ദ്രികയമ്മ ഒരു ലക്ഷത്തി എൺപതിനായിരം രൂപയും നിക്ഷേപിച്ചിട്ടുണ്ട്. കൂടാതെ വട്ടപ്പറയിലുള്ള ബീപാത്തമ്മ പന്ത്രണ്ടായിരം രൂപയും വട്ടപ്പറയിലുള്ള കോയാൽ പന്ത്രണ്ടായിരം രൂപയും നിക്ഷേപിച്ചിട്ടുണ്ട്. ഇതിൽ എന്റെ ഭാര്യ പ്രമീളയുടെ കയ്യിൽ നിന്നും 12,000 രൂപ വാങ്ങിയത് മായന്നൂർ ഉള്ള ഭദ്രൻ എന്നയാളാണ്. **ബീപാത്തമ്മ, കോയാൽ എന്നിവരുടെ കയ്യിൽ നിന്നും പണം വാങ്ങിയത് മായന്നൂരിൽ ഉള്ള രാധാകൃഷ്ണനാണ്.** വെള്ളാർകളത്ത് താമസിക്കുന്ന സുലേഖ എന്ന സ്ത്രീയുടെ കയ്യിൽ നിന്നും ഒരു ലക്ഷത്തി എൺപതിനായിരം രൂപയും സുലേഖയുടെ മകൾ സീനത്തിന്റെ കയ്യിൽ നിന്നും പന്ത്രണ്ടായിരം രൂപയും ചേലക്കര തോന്നൂർക്കരയിലുള്ള രാധാകൃഷ്ണൻ മുഖാന്തിരം നാനോ എക്സൽ കമ്പനിയിൽ അടയ്ക്കുന്നതിനായി കൊടുത്തിട്ടുണ്ട്. Nano എക്സൽ എന്ന കമ്പനിയുടെ എംഡി മാർ ഹരീഷ് ബാബു മദനേനിയും പാട്രിക് തോമസും ആണെന്ന് ഞാൻ കേട്ടിട്ടുണ്ട്. ഈ അടുത്ത കാലത്തായി പണം ഒന്നും വരാത്തതിനാൽ കൂടുതലായി അന്വേഷിച്ചതിൽ പന്ത്രണ്ടിലും മറ്റും money chain തട്ടിപ്പിനെ കുറിച്ച് വായിച്ചറിഞ്ഞു. കൂടുതൽ പണം തരാമെന്ന് പറഞ്ഞ് വിശ്വസിപ്പിച്ച് എന്നെയും എന്റെ കൂട്ടുകാരെയും മണി സർക്കുലേഷൻ സ്കീമിൽ അംഗമാക്കി പണം വാങ്ങിച്ച ശേഷം തിരികെ തരാതെ എന്നെയും കൂട്ടുകാരെയും വിശ്വാസവഞ്ചന ചെയ്തു ചതി ചെയ്തിട്ടുള്ളതാണ്. അവരെ എല്ലാവരെയും എനിക്ക് വീണ്ടും

കണ്ടാൽ അറിയാം. ഞാൻ നായർ സമുദായത്തിൽ പെട്ട ആളാണ്. ഞാൻ പത്താം ക്ലാസ് വരെ പഠിച്ചിട്ടുണ്ട്. എന്റെ ഫോൺ നമ്പർ 9744221007 ആണ്. സംഭവസ്ഥലം പഴയന്നൂർ പോലീസ് സ്റ്റേഷനിൽ നിന്നും സുമാർ 6 കിലോമീറ്റർ വടക്ക് പടിഞ്ഞാറ് മാറി കൊണ്ടാഴി എന്ന് സ്ഥലമാണ്. വേണ്ട മേൽ നടപടിക്ക് അപേക്ഷ.”

8. In the First Information Report registered on 28/06/2011, the accused arrayed are, 1. Narayanan, 2. Bhadran, 3. Radhakrishnan at Mayannur, 4. Radhakrishnan at Thonnoorkkara, 5. Harish Babu Madineni and 6. Patric Thomas. After investigation, the Investigating Officer, Inspector of Police, Town West Circle, Thrissur City, filed final report, against accused 17 in numbers, accused no.1 Nano Excel Enterprises Private Limited, represented by Harish Babu Madineni, accused no. 2 Nano Excel Power Corporation Limited/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 Patric Thomas, accused no.6 Chinna Rao Swayamvarapu, accused no.7 P.P. Rengareddy, accused no. 8 Meera Harish K., accused no. 9 Radha Sundara Rajah, accused no.10 Prasanth Sundar Rajah, accused no.11 Chedella Subhashini, accused no.12 Kumari Rajah, accused no.13 Lagatapati Sarath Babu @Sarath, accused no.14 Mohammed Asharaf, accused no.15 Narayanan, accused no.16 Radhakrishnan, S/o. Narayanan, and accused no.17 Radhakrishnan, S/o. Raman, alleging offences punishable under sections 120B, 406, 420 r/w 34 IPC and sections 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. In the final report, there are, 53 witnesses cited by the Investigating Officer, and CW1 to CW9 are the persons, who are alleged to be cheated by the accused.

9. Hence, in the First Information Statement, preferred by CW1, specific allegations of fraudulent inducement and obtaining money are alleged against the accused/petitioner P.N. Radhakrishnan, S/o. Narayanan, Pidikkakundil House,

Mayannoor P.O., Chelakkara, Thrissur. In the statement u/s. 161 Cr.P.C. of CW1, produced along with the final report also, the involvement of accused no.16/ Radhakrishnan P.N. at Mayannur is specifically alleged by CW1. In the First Information Statement, he has stated that, “ബീവാത്തുമ്മ (CW8), കോയാരു (CW9) എന്നിവരുടെ കയ്യിൽ നിന്നും പണം വാങ്ങിയത് മായന്നൂരിലുള്ള രാധാകൃഷ്ണൻ ആണ്.” CW1 on 16/11/2011 has given a statement u/s. 161 Cr.P.C. stating that, “F.I. മൊഴി പറഞ്ഞ സമയം ഞാൻ പ്രതികളുടെ പേരുകൾ നാരായണൻ ചേലക്കര, ഭദ്രൻ മായന്നൂർ, രാധാകൃഷ്ണൻ മായന്നൂർ, എന്നും മറ്റുമാണ് പറഞ്ഞിട്ടുള്ളത്. എന്നാൽ പിന്നീട് ഞാൻ മറ്റു പലരോടും അവരുടെ മുഴുവൻ വിലാസവും അന്വേഷിച്ചതിൽ നാരായണൻ 28 വയസ്സ്, S/o. വേണുഗോപാലൻ, തോന്നക്കര മഠം, ലക്ഷ്മി നിവാസ്, ലൈസിയം കോളേജ് റോഡ്, ചേലക്കര വില്ലേജ് ദേശം എന്നും, ഭദ്രൻ എന്ന രാമഭദ്രൻ, 53 വയസ്സ്, S/o. ശങ്കരമാരാർ, ചിറങ്ങരമാരാത് വീട്, ചിറങ്ങര ശ്രീരാമസ്വാമി ക്ഷേത്രം വഴി, മായന്നൂർ വില്ലേജ് എന്നും, രാധാകൃഷ്ണൻ, 42 വയസ്സ്, S/o. നാരായണൻ, പീടിക കണ്ടിൽ ഹൗസ്, ചർക്ക ക്ലാസ് സ്റ്റോപ്പിന് സമീപം, തിരുവിലാമല വില്ലേജ്, ദേശം എന്നുമാണെന്ന് അറിയാൻ കഴിഞ്ഞിട്ടുള്ളതാണ്. ഇവരെ എനിക്ക് വിളക്കും കണ്ടാൽ അറിയാം.”

10. CW2 Chandrikamma, relative of CW1, CW4 Prameela, wife of CW1, CW5 Govindankutty Nair, brother of CW1, CW6 Santhakumari, another relative of CW1, and CW3 Sulekha, and CW6 Seenath also in their statements u/s. 161 Cr.P.C. given to the Investigating Officer, produced along with the final report, have stated about the fraudulent inducement made by the petitioner in inducing them to deposit money in the accused company, stating false promises and about the promotion classes conducted by the petitioner, promoting the business of the accused company.

11. Hence, as per the final report, a strong prima facie case is made out against the accused/petitioner Radhakrishnan P.N.

12. 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.

13. As stated above, in this case, as per the prosecution records, a strong prima facie case is made out against the accused no.16/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.16/petitioner, for the offences alleged in the prosecution case.

14. Hence, this discharge petition filed by accused no.16, 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 9th day of July, 2025)

Additional Chief Judicial Magistrate,
Thrissur.