

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

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

Dated, this the **19th** day of **November, 2025.**

CMP : 5185/2024 in CC 3/2018

(Cr. No.1453/2011 of Thrissur Town East Police Station)

(CBCID Cr. 95/CR/EOW II/KTM/12)

Petitioner/Accused : Shebeer, S/o. Koya, J.K. Manzil
no. 17. (Puthenpeedikayil), Chelakode PC,
Chelakara, Thrissur.

(By Advocate Sri. Naveesh C.N.)

Respondent/
Complainant State represented by the Deputy
Superintendent of Police, Nadapuram,
Kozhikode Rural.

(Crime no.1453/2011 of Thrissur Town
East Police Station).

(CBCID Cr. 95/CR/EOW II/KTM/12).

(By Sri. Ananathakrishnan 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.17, in CC

3/2018 on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:-

Petitioner is the accused no.17, 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 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The petitioner has no relation with the accused company. The petitioner never seen the complainant, nor he had made any demand of money from the complainant. The complainant does not have a case that, the petitioner made any contact with him, or received any money from him. There is no material as per the prosecution records to show that, the petitioner has any connection with the case. There is no documentary evidence also to show that, how the petitioner is involved in the present case. The ingredients of offences alleged in the case, are not attracted against the petitioner. The continuation of the prosecution against the petitioner, is a travesty of justice. On a consideration of the police report and the documents sent along with the police report, the only possible conclusion is that, the charge against the petitioner, is groundless. 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 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 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 3/2018 on the file of this court, is a case based on the final report

filed by the Deputy Superintendent of Police, Nadapuram, Kozhikode Rural, against accused 17 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.

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, 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.4 as the Managing Director, and accused no.s 5 to 7 as the Directors, and accused no.s 8 to 13, as promotional shareholders, formed accused no.1 to 3 companies named Nano Excel Enterprises Limited on 12/07/2007, Nano Excel Power Corporation Limited on 01/01/2010 (later on 26/02/2010, changed its name to Nano Excel Corporation Limited) and Nano Power Corporation Limited on 13/05/2010, and created a website with the help of CW10 Amandeep Singh, the Director of a software company named Roots Infocom at Ludhiyana, Punjab and created a website for network marketing and conducted money circulation business through the said website and along with accused nos. 14 to 17, the promoters and sponsors, made false promise regarding products made of nano technology and all accused in furtherance of their common intention, 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 returning ten times more amount, within a short span of time, and also promising income on members, enrolling in the company, and also by promising amount and specific unit of power, if money deposited in the power package, and also by promising products, which the accused know to be that of low quality, fraudulently and dishonestly induced CW1 Jithin P. Saji to deliver Rs. 12,000/- on 18/05/2010, CW2 Eldose, to

deliver Rs. 6,000/- on 24/05/2010, CW3 Jolly Shaji to deliver Rs.12,000/- on 01/06/2010, CW4 Joyichan to deliver Rs.12,000/- on 07/06/2010, CW5 Nibu Sachariah to deliver Rs.6,000/- on 07/06/2010, CW6 M.V. Raveendran to deliver Rs. 12,000/- on 24/05/2010, CW7 Bindu Viswambharan to deliver Rs. 12,000/- on 24/05/2010, CW8 Joy to deliver Rs. 12,000/- on 31/05/2010 and CW9 Valsamma Samuel to deliver Rs. 12,000/- on 25/01/2010, and thereby altogether obtained a total amount of Rs. 96,000/- from CW1 to CW9 and thereafter, neither gave profits as promised, nor returned the amount 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 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 Jithin P. Saji, 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 Madadineni Halish Babu, accused no.2 Patric Thomas, accused no.3 Karthikeyan, accused no.4 G. Murugan, accused no.5 Reneesh, accused no.6 Muhammad Asharaf K.F., accused no.7 Pramodkumar K. and accused no.8 Shabeer T., 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. 1453/2011 of Thrissur Town East Police Station, was registered on 22/08/2011.

9. After investigation, the Investigating Officer, Deputy Superintendent of Police, Nadapuram, Kozhikode Rural, 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 K. Meera Harish, accused no.9 Radha Sundar Rajah, accused no.10 Prasanthu Sundar Rajah, accused no.11 Chedella Subhashini, accused no.12 Kumari Rajah, accused no.13 Lagatapati Sarath Babu @ Sarath, accused no.14 Muhammed Asharaf, accused no.15 Shiju Peter, accused no.16 Pramod Kumar, and accused no.17 Shebeer, alleging offences punishable under sections 120B, 420, 406 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, forty witnesses cited by the Investigating Officer, and CW1 to CW9 are the persons, who are alleged to be cheated by the accused.

10. Hence, in the complaint preferred by CW1/defacto complainant Jithin P. Saji, this petitioner/accused no.17, was arrayed as an accused. In the complaint itself, specific allegations of fraudulent inducement and cheating are alleged against the petitioner Shebeer. Some of the witnesses among CW1 to CW9, also have stated the name of this petitioner/Shebeer in their statements under section 161 Cr.P.C. The statements of witnesses and the documents produced along with the final report would go to show that, the accused committed cheating and conducted illegal money circulation business in the name of accused companies.

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

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, as per the statements of witnesses and documents produced, a strong prima facie case is made out against the accused no.17 /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.17/petitioner, for the offences alleged in the prosecution case.

14. Hence, this discharge petition filed by accused no.17, 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 19th day of November, 2025.)

Sd/-
Additional Chief Judicial Magistrate,
Thrissur.