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

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

Dated, this the 13th day of June, 2025.

CMP : 810/2025 in CC 265/2018
(Cr. No.1363/2011 of Thrissur Town East Police Station)
(CBCID Cr. 62/CR/EOW-II/KTM/12)

Petitioner/Accused no. 14.	**:**	Lonappan P.D., S/o.Devassy, Puthukkara House, Chittilappilly, Thrissur. (By Advocate. Sri. Anand K. Jose)
Respondent/ Complainant		State represented by the Detective Inspector, CBCID HHW-II, Sub Unit, Palakkad. (Crime no.1363/2011 of Thrissur Town East Police Station). (CBCID Cr.62/CR/EOW-II/KTM/12) (By Smt. Dhannu Gireesh, Assistant Public Prosecutor, Court of Additional Chief Judicial Magistrate, Thrissur)
Petition	**:**	U/s.239 Cr.P.C.

O R D E R

This is a petition filed u/s. 239 Cr.P.C., by the accused no.14, in CC 265/2018 on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:

There is no evidence to show that, the petitioner was the promoter of the accused companies. The prosecution has no case that, accused no.14/petitioner received any single money from any of the witnesses. There is no delivery of property, to the petitioner. Hence, offence punishable under section 420 IPC, will not get attracted against the accused no.14/petitioner. The prosecution has not produced any document to show that the accused no.14 was appointed as a promoter of the accused companies. There is no allegation for the prosecution that, accused no.14/petitioner introduced the witnesses to any person. All the allegations against the accused no.14/petitioner, are baseless. 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 (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 Scheme 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 265/2018 on the file of this court, is a case based on the final report filed by the Detective Inspector, CBCID HHW-II, Sub Unit, Palakkad, against accused 14 in numbers, alleging offences punishable, under sections 120-B, 420 r/w 34 IPC and sections 4, 5, 6 of the Prize Chits and Money Circulation (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 Scheme (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 and accused no.6 registered accused no.1 company and made accused no.5 as the Director fo the said company and thereafter accused nos. 4 to 10 formed accused no.2 company on 01/01/2010 and changed its name to Nano Excel Corporation Limited and on 13/05/2010 formed another company named Nano Power Corporation Limited (A3) and created a website with the help of 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 and appointed accused no. 14 as the local promoter, 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 double amount within a short span of time and also by 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, fraudulently and dishonestly induced CW1 Sadanandan, to deliver Rs.1,55,000/-/- on 29/02/2009, Rs.1,60,000/- on 21/12/2009, Rs. 1,50,000/- on 28/05/2010, and thereby obtained an amount of Rs. 4,65,000/- 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 u/s. 120 B, 420, r/w 34 IPC and sections 4, 5 and 6 of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978.

7**.** The prosecution in this case was initiated by CW1/defacto complainant Sadanandan, by preferring a complaint u/s. 190(1)(a) Cr.P.C., before the Honourable Chief Judicial Magistrate Court, Thrissur, against accused 12 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 Patric Thomas, accused no.4 S.U. Chinna Rao, accused no.5 P.P. Rengareddy, accused no.6 K. Meera Harish, accused no.7 Radha Raja, accused no.8 Sundar Raja Prasanth, accused no.9 Karthikeyan, **accused no.10 P.D.**

Lonappan, accused no.11 Suresh and accused no.12 Reneesh, alleging offences punishable under sections 418, 420 r/w 34 IPC and 6 of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978.

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. 1363/2011 of Thrissur Town East Police Station, was registered on 11/08/2011.

9**.** After investigation, the Investigating Officer, Detective Inspector, CBCID HHW-II, Sub Unit, Palakkad, filed final report, against accused 14 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 Sarath Babu Lagatapati, accused no.12 Kumari Rajah, accused no.13 C. Subhashini, and accused no.14 P.D. Lonappan, alleging offences punishable under sections 120B, 420 r/w 34 IPC and sections 4, 5 and 6 of the Prize Chits and Money Circulation (Banning) Act, 1978. In the final report there are, 45 witnesses cited by the Investigating Officer, and CW1 is the person, who is alleged to be cheated by the accused.

10**.** Hence, in the complaint preferred by CW1/defacto complainant Sadanandan, this petitioner/accused no.14**,** was arrayed as an accused. In the statement u/s. 161 Cr.P.C., of CW1, produced along with the final report also, the involvement of accused no.14/Lonappan is specifically alleged. Hence, as per the final report, a primafacie case is made out against the accused/petitioner Lonappan.

11. 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.

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

13. Hence, this discharge petition filed by accused no.14, 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 13th day of June, 2025)

Additional Chief Judicial Magistrate,
Thrissur.