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

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

Dated this, the **30th** day of **March, 2026.**

CMP : 7081/2024 in CC 7/2019

(Cr. No. 988/2011 Thrissur East Police Station)
(CBCID Cr. 320/CR/EOW-II/KTM/11)

Petitioner/Accused no.17.	:	Jayan P.G., Aged 39/2011, S/o. Gopalan P.R,, Perukunnel House, Chelakkodu P.O., Nattianchira, Venganoor Village, Thrissur District. (By Adv. Sri. Pramod K.)
Respondent/ Complainant	:	State represented by the Deputy Superintendent of Police, Crime Branch, Ernakulam. (Crime no. 988/2011 Thrissur East Police Station). (CBCID Cr. 320/CR/EOW-II/KTM/11). (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.17, in CC 7/2019 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 against the accused/petitioner are under sections 120B, 420 r/w 34 of the Indian Penal Code and sections 3, 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The petitioner/accused 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. Heard both sides.

4. CC 7/2019 on the file of this court, is a case based on the final report filed by the Deputy Superintendent of Police, Crime Branch, Ernakulam, against accused 17 in numbers, alleging offences punishable, under sections 120B, 406, 420 r/w 34 of the Indian Penal Code, sections 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, and sections 7 and 9 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.

5. 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, in furtherance of their common intention, and by committing criminal conspiracy, with intend to cheat public, and to obtain wrongful gain, in the month of June 2007, accused nos. 4 and 5 as the Directors, registered accused no.1 company named Nano Excel Enterprises Private Limited on 12/07/2007, and created a website with the help of CW9 Amandeep Singh, the Director of a software company named Roots Info comm at Ludhiyana, Punjab for network marketing, and conducted money circulation business through the website, and appointed accused no.6 as the Manager of the accused no.1 company and later on 06/06/2009, appointed him as its Director Board Member, and thereafter, with the same intention to commit cheating, accused no.s 4 to 10 created accused no.2 company named Nano Excel Power Corporation Limited on 01/01/2010 and appointed accused no.s 4 to 6 as its Directors, and changed its name to Nano Excel Corporation Limited on 26/02/2010, and thereafter with the same intention to commit cheating, accused nos. 4, 8 to 13, formed accused no. 3 company named Nano Power Corporation Limited on 13/05/2010 and appointed accused no.s 4, 6 and 10 as its Directors, and later on 01/07/2010, entered into an agreement with Arunachal Pradesh Government for starting a Hydro Electric Project in the name of company named Nano Excel Power Corporation Limited, which was not in existence at that time, and accused nos. 14 to 17, who were knowing the illegal money circulation business of the accused companies, promoted illegal money circulation business with other accused, approached the public directly, and promoted illegal products and conducted illegal money circulation business through the website, and through brochures and advertisements, and through classes, and by making false promise of returning ten times more income within a short span of time, by promising nano technology based products, which the accused knows to be that of low quality, and by promising income on members enrolling in the company, and also by promising specific unit of power and income, on depositing money in the power package, fraudulently and dishonestly induced CW1 Sulaiman P. to deliver Rs. 6,000/- on 07/12/2009, Rs. 6,000/- on 04/01/2010, Rs. 6,000/- on 18/01/2010, Rs. 6,000/- on 09/02/2010, Rs. 24,000/-, Rs. 12,000/- on 03/03/2010, Rs. 36,000/- on 03/04/2010 and Rs. 24,000/- on 11/05/2010, totalling Rs. 96,000/-, CW2 Subair A.S. to deliver Rs. 1,50,000/- on 15/05/2010, CW3 Sabira Sulaiman to deliver Rs.24,000/- on 27/06/2009 and Rs. 12,000/- on 24/08/2009, totalling Rs. 24,000/-, and thereafter, neither gave profits as promised, nor returned the amount obtained and thereby committed cheating on general public including CW1 to CW3, misappropriated the money obtained and thereby committed criminal breach of trust and conducted illegal money circulation business, and thereby committed the offences punishable under sections 120B, 406, 420 r/w 34 of the Indian Penal Code, sections 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and sections 7 and 9 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.

6. The prosecution in this case was initiated by CW1/defacto complainant P. Sulaiman, by preferring a complaint u/s. 190(1)(a) Cr.P.C., before the Honourable Chief Judicial Magistrate Court, Thrissur, against accused 4 in numbers, accused no.1 Madadineni Harish Babu Managing Director and Chief Executive Officer of

Nano Excel Enterprises Pvt. Limited, accused no.2 Patric Thomas, accused no.3 G. Murugan and accused no.4 Reneesh, alleging offence punishable under section 420 r/w 34 of the Indian Penal Code.

7. 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. 988/2011 of Thrissur East Police Station, was registered on 22/06/2011.

8. After investigation, the Investigating Officer, Deputy Superintendent of Police, Crime Branch, Ernakulam, filed final report, against accused 17 in numbers, accused no.1 Nano Excel Enterprises Pvt. Ltd. represented by Harish Babu Maddineni, accused no.2 Nano Excel Power Corporation Limited/Nano Excel Corporation Limited represented by Harish Babu Maddineni, accused no.3 Nano Power Corporation Ltd. represented by Harish Babu Maddineni, accused no.4 Harish Babu Maddineni, accused no. 5 Chinna Rao Swayamvarapu, accused no.6 Patric Thomas, accused no.7 P.P. Renga Reddy, accused no.8 Meera Harish K., accused no.9 Radha Sundara Rajah, accused no. 10 Prasanthu Sundar Rajah, accused no.11 Kumari Rajah, accused no.12 Sarath Babu Lagadapati, accused no.13 Chedella Subhashini, accused no.14 Muhammed Asharaf, accused no.15 Sajeev K. @ Sajeev Karun, accused no.16 Radhakrishnan P.N. and accused no. 17 Jayan P.G., alleging offences punishable under sections 120B, 406, 420 r/w 34 of the Indian Penal Code, sections 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and sections 7 and 9 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954. In the final report, there are, 40 witnesses cited by the Investigating Officer, and CW1 to CW4 are the persons, who are alleged to be cheated by the accused.

9. CW1 to CW4 are the witnesses who are stated to have deposited

money in the accused companies. The statements under section 161 Cr.P.C. of CW1 to CW4, and the statements under section 161 Cr.P.C. of CW5 and CW6, who are stated to be the employees of the accused companies, and the statements under section 161 Cr.P.C. of CW9 Amandeep Singh, who is stated to have created the website for the accused companies and CW13 Shinoy, would clearly reveal the illegal money circulation business conducted by the accused companies and the cheating committed by the accused in the guise of illegal money circulation business. The statements under section 161 Cr.P.C. of the witnesses and the documents produced would clearly go to show that, pivotal role done by the petitioner in conducting the illegal money circulation business, in the name of accused companies. The statements of witnesses under section 161 Cr.P.C. produced along with the final report would clearly go to show that, the accused and the accused companies deviated from the object and purpose stated in the Memorandum Of Association and Articles of Association of the accused companies, and engaged in illegal money circulation scheme, and committed cheating on several persons, and obtained crores of rupees, by engaging in illegal money circulation business, in the name of accused companies, and also committed cheating by giving false promises. Various documents, including the bank account statements of the accused companies, seized and produced along with the final report, to prove the offences alleged against the accused.

10. The documents produced and the statement under section 161 Cr.P.C. of CW7 Ramadas, who is stated to be the Manager at Casino Cultural Auditorium, Thrissur and CW8 Jose Sebastian, who is stated to be the General Manager at Lulu International Convention Centre, would go to show that, the accused companies conducted promotional classes and meetings in those places, for promoting the illegal money circulation business of the accused companies.

11. Regarding this petitioner, it is relevant to note the statements under

section 161 Cr.P.C. of following witnesses.

12. CW1 P. Sulaiman, in his statement under section 161 Cr.P.C. stated that, “2009-ൽ മായന്നൂരിൽ ഉള്ള P. N. രാധാകൃഷ്ണൻ എന്നയാൾ പറഞ്ഞാണ് ഞാൻ നാനോ എക്സൽ കമ്പനിയെപ്പറ്റി അറിഞ്ഞത്. കമ്പനിയിൽ പണം നിക്ഷേപിച്ച് അംഗമായാൽ കമ്പനിയിൽ നിന്നും നാനോ ടെക്നോളജി പ്രകാരം നിർമിച്ച രോഗ പ്രതിരോധശക്തിയുള്ള പ്രോഡക്ടുകൾ കിട്ടുമെന്നും, കൂടാതെ ആളുകളെ ചേർക്കുകയാണെങ്കിൽ ചേർക്കുന്ന ആളുകളുടെ എണ്ണത്തിനനുസരിച്ച് വലിയ തുകകൾ കമ്മീഷൻ ആയി ലഭിക്കുമെന്നും, കമ്പനിയെ കുറിച്ച് കൂടുതൽ അറിയണമെങ്കിൽ കമ്പനി തൃശ്ശൂരിലും മറ്റും നടത്തുന്ന ബിസിനസ് പ്രമോഷൻ മീറ്റിങ്ങിൽ പങ്കെടുത്താൽ മതിയെന്നും, ചുരുങ്ങിയ കാലം കൊണ്ട് നല്ല ലാഭം ലഭിക്കുന്ന ബിസിനസ് ആണെന്നും പറഞ്ഞു. കമ്പനിയെക്കുറിച്ച് അറിയുന്നതിനായി ഞാൻ രാധാകൃഷ്ണന്റെ കൂടെ തൃശ്ശൂർ ലുലു കൺവെൻഷൻ സെൻററിൽ വച്ച് കമ്പനി നടത്തിയ promotion meeting-ൽ പങ്കെടുത്തു. 2009 ഡിസംബർ മാസം ആദ്യമാണ് meeting-ൽ പങ്കെടുത്തത്. കൃത്യമായ തീയതി ഞാൻ ഓർക്കുന്നില്ല. അന്ന് ക്ലാസിൽ നാനോ കമ്പനിയുടെ ഡയറക്ടർ പാട്രിക് തോമസ്, മുഹമ്മദ് അഷറഫ്, സജീവ് കരുൺ, P.N. രാധാകൃഷ്ണൻ, **ജയൻ P.G.** തുടങ്ങിയ promoter-മാർ പ്രസംഗിക്കുകയും ക്ലാസുകൾ എടുക്കുകയും ചെയ്തിരുന്നു. അവരെല്ലാം അന്ന് പ്രസംഗിച്ചത് Nano Excel കമ്പനി ഹൈദരാബാദിൽ നിയമപ്രകാരം രജിസ്റ്റർ ചെയ്തിട്ടുള്ള കമ്പനി ആണെന്നും, കമ്പനിയിൽ 6000/- രൂപ നിക്ഷേപിച്ച് ഒരു പാക്കേജ് എടുത്താൽ നാനോ ടെക്നോളജി പ്രകാരം നിർമ്മിക്കുന്ന ഏതെങ്കിലും പ്രോഡക്റ്റ് കിട്ടുമെന്നും, കൂടാതെ മറ്റാളുകൾ ചേരുന്നതിന് അനുസരിച്ച് കമ്മീഷൻ കിട്ടിക്കൊണ്ടിരിക്കും എന്നും, അങ്ങനെ മൂന്നു വർഷത്തിനുള്ളിൽ മുടക്കുന്ന തുകയുടെ 10 ഇരട്ടി തുക മടക്കി കിട്ടുമെന്നും, യാതൊരു അധ്വാനവും ചെയ്യാതെ വളരെ എളുപ്പത്തിൽ പണം സമ്പാദിക്കാൻ കഴിയുന്ന ബിസിനസ് ആണെന്നും, കമ്പനി പ്രധാനമായും Laundry Ball, Energised feet card, Healing Heart Card, bracelet, water bottle, menstrual relief card തുടങ്ങിയ 4 ടെക്നോളജി പ്രകാരം നിർമ്മിച്ച product-കളാണ് വിതരണം ചെയ്യുന്നതെന്നും, അവ ഉപയോഗിച്ചാൽ heart attack തടയുക, BP നിയന്ത്രിക്കുക, സുഖകരമായി ഉറങ്ങാൻ സാധിക്കുക, കുടിവെള്ളം ശുദ്ധീകരിക്കുക തുടങ്ങിയ അസാധാരണമായ ഗുണങ്ങൾ ഉണ്ടാകുമെന്നും ആണ് അവർ പ്രസംഗിച്ചത്. കമ്പനി പറയുന്ന വിലകൊടുത്ത് ഒരു product വാങ്ങിയതിനു ശേഷം വേറെ രണ്ടു പേരെ കൊണ്ട് ഏതെങ്കിലും product-കൾ വാങ്ങിപ്പിക്കുകയും ചെയ്താൽ അവർ വാങ്ങുന്ന product-ന്റെ

വിലയിൽ നിന്നും ഒരു നിശ്ചിത ശതമാനം തുക ആദ്യത്തെ ആളിന് നൽകുമെന്നും, അവരും വേറെ രണ്ടുപേരെ വീതം ചേർക്കുമ്പോൾ അവരെ ചേർത്ത വ്യക്തികൾക്ക് നിശ്ചിത തുക ലഭിക്കുന്നതിനോടൊപ്പം ആദ്യത്തെ ആളിനും നിശ്ചിത തുക ലഭിക്കുമെന്നും, അങ്ങനെ പുതിയ പുതിയ ആളുകൾ ചേരുന്നതിന് അനുസരിച്ച് കൂടുതൽ വരുമാനം ലഭിച്ചുകൊണ്ടിരിക്കും എന്നും ആണ് അവർ പ്രസംഗിച്ചത്. Product-കൾ വിൽക്കുന്നത് കൂടാതെ കമ്പനി Nano Technology ഉപയോഗിച്ച് ചിലവു കുറഞ്ഞ രീതിയിൽ വൈദ്യുതി ഉല്പാദിപ്പിക്കുന്ന ഒരു പദ്ധതി അരുണാചൽപ്രദേശിൽ തുടങ്ങാൻ പോവുകയാണെന്നും, അതിന് അരുണാചൽ പ്രദേശിലെ ഗവൺമെൻ്റുമായി ഒരു എഗ്രിമെൻറ് ഒപ്പിട്ടിട്ടുണ്ടെന്നും ആയത് കമ്പനിയുടെ വെബ്സൈറ്റിൽ ഉണ്ടെന്നും, ആയതിന്റെ മൂലധന സമാഹരണത്തിനായി കമ്പനി ഷെയറുകൾ വിൽക്കുന്നുണ്ടെന്നും, അതിൻറെ ഷെയർ വാങ്ങുന്നവർക്ക് തുടർച്ചയായി 50 വർഷത്തേക്ക് മാസംതോറും ലാഭവിഹിതം കിട്ടിക്കൊണ്ടിരിക്കും എന്നും, 12000/- രൂപ അടച്ചാൽ 50 രൂപ വീതം മുഖവിലയുള്ള 240 ഷെയറുകൾ അലോട്ട് ചെയ്യുമെന്നും രണ്ടു ഷെയറിന് 1 KW എന്ന തോതിൽ 1 KW ന് മൂന്ന് രൂപ നിരക്കിൽ 12000/- രൂപയ്ക്ക് 360/- രൂപ മാസം തോറും ലാഭവിഹിതമായി ലഭിക്കുമെന്നും, കൂടാതെ രണ്ടുപേരെ കൊണ്ട് പന്ത്രണ്ടായിരം രൂപ വീതം നിക്ഷേപിപ്പിക്കുകയാണെങ്കിൽ ഒരാളുടെ നിക്ഷേപത്തിൽ നിന്നും 1500/- രൂപ വച്ച് 3000/- രൂപ 3 മാസം കൂടുമ്പോൾ ലഭിക്കുമെന്നും, അങ്ങനെ 4 തവണകളായി അടച്ച തുക തിരികെ ലഭിക്കുമെന്നും, അങ്ങനെ പുതിയ ആളുകൾ ചേരുന്നതിന് അനുസരിച്ച് 10 ഇരട്ടി തുക വരെ കമ്മീഷൻ ആയി ലഭിക്കുമെന്നും, ആരെയും കമ്പനിയിൽ ചേർത്തില്ലെങ്കിലും മറ്റാളുകൾ ചേരുന്നതിന് അനുസരിച്ച് യാതൊരു അധ്വാനവും കൂടാതെ നല്ല വരുമാനം ലഭിക്കുന്ന ബിസിനസ് ആണെന്നും അവർ പറഞ്ഞ് വിശ്വസിപ്പിച്ചതിൽ വച്ച് 7-12-2009 തീയതി ഞാൻ 6000/- രൂപ രാധാകൃഷ്ണന്റെ കൈവശം കൊടുത്ത് കമ്പനിയുടെ product package-ൽ നിക്ഷേപിച്ച് അംഗമായി. തുടർന്ന് 04-01-2010, 18-01-2010 എന്നീ തീയതികളിലും 6000/- രൂപ വീതവും, 09-02-2010 ൽ 6000/- രൂപയും ആയി മൊത്തം 24000/- രൂപ കമ്പനിയുടെ product package-ലും, 03-03-2010 ൽ 12000/- രൂപയും, 03-04-2010 ൽ 36000/- രൂപയും, 11-05-2010 ൽ 24000/- രൂപയും ആയി മൊത്തം 72000/- രൂപ കമ്പനിയുടെ power package-ലും നിക്ഷേപിച്ചു. പണം എല്ലാം രാധാകൃഷ്ണന്റെ കൈവശം കൊടുത്ത് കമ്പനിയിൽ അടപ്പിക്കുകയായിരുന്നു".

13. CW4 Basil K. Eliyas, in his statement under section 161 Cr.P.C. stated

that, “2008-ൽ ചേലക്കരക്കാരായ മുഹമ്മദ് അഷറഫും, ജയനും കൂടി എൻറെ വീട്ടിൽ വന്ന് പറഞ്ഞതിൻ പ്രകാരം ഞാൻ നാനോ എക്സൽ കമ്പനിയിൽ പല പ്രാവശ്യമായി 139000/- രൂപ നിക്ഷേപിച്ചിരുന്നു. അതിൽ കുറച്ചു പണം ഒക്കെ തിരികെ കിട്ടിയിരുന്നു. പക്ഷേ കമ്പനി വാഗ്ദാനം ചെയ്തിരുന്ന പ്രകാരമുള്ള പണം തിരികെ കിട്ടാത്തത് കൊണ്ടും, യാതൊരു ഗുണനിലവാരവും ഇല്ലാത്ത ഉൽപ്പന്നം തന്ന് ചതി ചെയ്തത് കൊണ്ടും ഞാൻ കമ്പനിക്കെതിരെ കോടതിയിൽ കേസ് കൊടുത്തിരുന്നു”.

14. CW5 Nidhun, in his statement under section 161 Cr.P.C., stated that, “കമ്പനി ബിസിനസ് പ്രൊമോട്ടുചെയ്യുന്നതിനായി തൃശ്ശൂരിലുള്ള പേൾ റീജൻസി, കാസിനോ ഹോട്ടൽ, തൃശ്ശൂർ ടവർ ഹോട്ടൽ, ലുലു ഇന്റർനാഷണൽ കൺവെൻഷൻ സെന്റർ, മലമ്പുഴ, നെല്ലിയാംപതി, കോട്ടയം തുടങ്ങിയ പല സ്ഥലങ്ങളിലും ധാരാളം മീറ്റിംഗുകൾ നടത്തിയിട്ടുണ്ട്. പ്രധാന പ്രമോട്ടർമാരായ മുഹമ്മദ് അഷറഫ്, **പി.ജി. ജയൻ,** സജീവ് കരുൺ, തുടങ്ങി മറ്റു പലരും കൂടിയാണ് Training programme കൾ നടത്തിയിരുന്നത്. പല മീറ്റിംഗുകളിലും കമ്പനിയുടെ ഡയറക്ടർമാരായ ഹരീഷ് ബാബു മദിനേനി, പാട്രിക് തോമസ് എന്നിവർ പങ്കെടുക്കാറുണ്ടായിരുന്നു. കമ്പനിയിൽ നിക്ഷേപിക്കുന്ന തുക 6 മാസം കൊണ്ടും, പിന്നീട് 3 വർഷം കൊണ്ട് 10 ഇരട്ടിയിലധികം തുക തവണകളായും തിരികെ ലഭിക്കുമെന്ന് മറ്റുമുള്ള ഡയറക്ടർമാരുടെയും, പ്രമോട്ടർമാരുടെയും വാഗ്ദാനങ്ങൾ വിശ്വസിച്ച് കമ്പനിയിൽ പണം നിക്ഷേപിക്കുന്നവർക്ക് നാനോ ടെക്നോളജി പ്രകാരം നിർമ്മിച്ചവയാണെന്ന് അവകാശപ്പെടുന്ന പ്രോഡക്ടുകൾ നൽകിയിരുന്നു".

15. CW9 Amandeep Singh, in his statement under section 161 Cr.P.C. stated that, “I am working as director in Roots Infocomm Ltd., a company registered with Registrar of Companies, Jalandhar, Punjab in the year 2003. The company is in the business of software development, web hosting and SMS services. I have completed Diploma in Computer Engineering from Thapar University, Punjab in 1999. In March 2008 Harish Babu Maddineni contacted me to develop a website for his business on the name of Nano Excel Enterprises Pvt. Ltd. for selling various products through network marketing system, which was

later on also used for Nano Excel Corporation Ltd. As per the requirements of Harish Babu Maddineni, MD Nano Excel, for his business I have developed the website and hosted the same in data center located on US in April 2008. We have provided the services of software development, web hosting and SMS services to his company till June 2011. For the above provided services, there was no formal written agreement between us. The domain name registered for the website is www.Nanoexcel.net by me on the behalf of Nano Excel company with registrar www.onlinenic.com, this Nano Excel website was hosted on a dedicated server with IP address 75.126.101.3 with username 'administrator' and password 'xgbhir90n' and database IP address is 75.126.101.3 with username 'sa and password ‘NANOwsp00998’. The website started functioning in April 2008. It consists four sections, (1) admin section (2) branch section (3) member section (4) public section. For login in admin section separate username 'adminindia' and password 'drharish27' is there. Admin section is operated by the Nano Excel company people and having the facility to manage packages, branches, users, website content and for pin issuance Branch section is operated by Nano Excel branch people and having the facility for pin issuance. Member section is operated by the Nano Excel registered members and having the facility of to view binary tree, downline list, weekly income, member's profile, royalty club and change password Public section is being used by Nano Excel members and other non registered persons and general public to view the company profile, business activities, business plan, bank accounts for money deposit, contact information, products and branch information. When Harish Babu Maddineni contacted for the above website I was told that he is in the business of selling products with network marketing system The method of joining in the Nano Excel is as follows: When a new member deposits money in company's bank account or with any branch, the company Issues a unique PIN number in his sponsor's member panel, By using that PIN, a member can fill up registration form and select the desired package. After that unique ID number and password is allotted to that member by the system. With the help of this ID number and password, that member can login into his personalized member area to view his downline business later on. In the member area there is no facility to view upline information. Every week commission is generated by the system on date specified by the company people and commission list is downloaded from the website by company people for distribution of commission. The business plan is as follows: There are four types of income (1) Direct Referral Bonus: is given to direct referral sponsor of a new sales. (2) Binary Referral Bonus: is given on the basis of business volume generated by the member on his left and right downline team. Ceiling limit of 1,30,000 is applicable on this binary referral bonus per week. (3) Royalty Bonus is given to the leaders on qualification of the status as star, ruby, pearl, diamond etc. (4) Royalty Club Bonus. The member who purchased the royalty club bonus package is allotted a different ID number in this club. This is a universal club having 4 level board system which splits on completion of all the 15 positions and members of that specific board will get the Royalty Club Bonus and they are further promoted to the next level in the board. In this way he can get the benefit 10 times as per the sales of the company. As per the record of website database, the company has made a sales turnover of Rs. 3,58,60,51,841 (three hundred fifty eight crore sixty lakh fifty one thousand eight hundred forty one) by selling 414274 ID units to 206194 different persons across India, UAE and Philippines. The total commission generated by the system is 3,02,17,32,403 (Three hundred two crore, seventeen lakh, thirty two thousand and four hundred three). The different members Joined the Nano Excel are 1,99,848 in India, 4,087 in UAE, 2,259 in Philippines and total 2,06,194 persons have joined from all these three countries. The members Joined from specific states in India are: 257 from Andaman & Nicobar Islands, 1968 from Arunachal Pradesh, 181 from Assam, 66 from Bihar, 4 from Chandigarh,231 from Chhattisgarh, 5 from Dadra & Nagar Havell, 11 from Daman & Diu, 406 from Della, 243 from Goa, 5680 from Gujarat, 68 from Haryana, 9 from Himachal

Pradesh, 15 from Janemu & Kashmir, 389 from Jharkhand, 4469 from Karnataka, 160827 from Kerala, 52 from Lakshadweep, 67 from Madhya Pradesh, 9337 from Maharashtra, 38 from Manipur, 48 from Meghalaya, 375 from Nagaland, 46 from Orissa, 547 from Pondicherry, 99 from Punjab, 99 from Rajasthan, 34 from Sikkim, 13598 from Tamil Nadu, 1 from Tripura, 412 from Uttar Pradesh, 9 from Uttaranchal, 159 from West Bengal, 98 from Other states and the total members joined in India are 199848. The Persons who have earned the commission more than 1 Crore are from Nano Excel are,

(1) ID No.3984 on the name of MUHAMMAD ASHARAF K.S PRAMOD KUMAR K. earned Rs. 1,63,26,236

(2) ID No. 3987 on the name of SASINDRAN P.R./SAJEEV K. earned Rs. 1,42,51,236

(3) ID No.3623 on the name of UNIVERSAL ASSOCIATE earned Rs.1,40,34,753

(1) (4) ID No 4006 on the name **JAYAN P.G. THRISSUR** earned Rs. 1,31,32,386

(4) ID No.4922 on the name of BIJESH V.S. earned Rs. 1,18,17,609

(5) ID No.318625 on the name of RAMESAN P. KANNUR earned Rs.1,13,97,994

(6) ID No.5325 on the name of MUHAMMAD ASHARAF earned Rs. 1,10,56,803

(7) ID No. 3985 on the name of FAISAL U earned Rs. 1,09,71,744

(8) ID No.5349 on the name of MUHAMMAD ASHARAF earned

Rs. 1,06,36,082".

16. The bank account statements of the accused/petitioner also, seized by the investigating officer, as per mahazar dated 05/09/2016, and produced along with the prosecution records, to prove that, the accused has obtained commission from the accused companies, in the money circulation business conducted by the accused companies. In the said mahazar, it is stated that, "ടി 30757475299 -)o നമ്പർ account statement പരിശോധിച്ചതിൽ Nano Excel Enterprises Private Limited കമ്പനിയുടെ പേരിൽ SBI Thrissur Town Branch-ലുള്ള 30649625773 -)o നമ്പർ അക്കൗണ്ടിൽ നിന്നും ചെക്കുകൾ മുഖേന പലപ്പോഴായി ലക്ഷക്കണക്കിന് രൂപ ടി അക്കൗണ്ടിലേക്കു വന്നിട്ടുള്ളതായും ആയവ പലപ്പോഴായി പിൻവലിച്ചിട്ടുള്ളതായും വ്യക്തമായിട്ടുള്ളതാണ്".

17. Hence, the contention of the petitioner in the discharge petition that, There is no evidence to show the involvement of the petitioner in this crime, is not at all true. The statements of witnesses and the documents produced along with the final report would clearly go to show that, the accused conducted illegal money circulation business with intend to commit cheating and this petitioner worked as a promoter, promoting the illegal money circulation business of the accused companies and took an active role in committing cheating, and earned more than Rupees one crore, i.e., an amount of Rs.1,31,32,386/- as commission, by conducting illegal money circulation business, in the name of the accused companies.

18. 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.

19. In this case, as per the final report, a strong primafacie case is made out

against this petitioner to connect him with the offences alleged. 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 against him, in the above case.

20. 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 30th day of March, 2026.)

Sd/-
Additional Chief Judicial Magistrate,
Thrissur.