

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

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

Dated, this the 20th day of August, 2025.

CMP : 5590/2024 in CC 36/2019

(Cr. No. 564/2011 of Chavakkad Police Station)

(CBCID Cr. 644/CR/EOW II/KTM/11)

Petitioner/Accused : Baby Jose, 55/24, S/o. P.V. Joseph,
no. 15. Palliparambil House, Karmal Homes,
Thevakkal VKC P.O., Thevakkal,
Thrikkakkara, Ernakulam.

(By Advocate. Sri. Naveesh C.N.)

**Respondent/
Complainant** State represented by the Deputy
Superintendent of Police, Crime Branch,
Ernakulam.

(Crime no.564/2011 of Chavakkad Police
Station).

(CBCID Cr. 644/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 : Dismissed.

ORDER

This is a petition filed u/s. 239 Cr.P.C., by the accused no.15, in CC 36/2019, on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:

The petitioner is the accused no.15, in the above case. He has no relation with the accused company. The petitioner never seen the complainant, nor he has made any demand of money from the complainant. The complainant does not have a case that, the petitioner has 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 petitioners 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 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 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 36/2019 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 16 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 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 created accused no.1 company for conducting money chain business by importing low quality products from abroad and registered the said company on 12/07/2007 and created a website with the help of Amandeep Singh, the Director of a software company named Roots Infocom at Ludhiyana, Punjab and conducted money circulation business through the website and appointed accused no.6 as the Director of the said company and thereafter, with the same intention to commit cheating, accused nos. 4 to 10 created company named Nano Excel Power Corporation Limited (accused no.2) on 01/01/2010 and changed its name to Nano Excel Corporation Limited and 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 advertised the agreement with internet and media and through promoters, sold the shares promising good income and thereafter, accused nos. 4 , 6, 7, 9 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 nos.14 to 16 as the local business promoters and accused, being very well aware about the illegal business conducted by the accused companies, approached public giving false promises and

accused 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 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 Abdul Rahman to deliver Rs. 1,20,000/- on 29/08/2009, CW2 Hasim to deliver Rs. 1,50,000/-, CW3 Ubaid to deliver Rs.2,01,000/-, CW4 Ramla Muhammadali to deliver Rs.3,92,000/- and thereby you altogether obtained a total amount of Rs. 8,63,000/-, from CW1 to CW4 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, 406, 420, r/w 34 IPC 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 Abdul Rahman, by preferring an First Information Statement, at Chavakkad Police Station on 08/07/2011, alleging as follows:

"ഞാനും എന്റെ സുഹൃത്തുക്കളായ ചാവക്കാട് താലൂക്ക് ബ്ലോങ്ങാട് ദേശത്ത് ഹംസ മകൻ ഹാഷിം, ബ്ലോങ്ങാട് ദേശത്ത് കറപ്പം വീട്ടിൽ കുഞ്ഞുമുഹമ്മദ് മകൻ അബ്ദുൽ ജലീൽ, ടി ദേശത്ത് എണ്ണാഴിയിൽ ഹംസ മകൻ ഹാഷിം എന്നിവർ ചേർന്ന് നാനോ എക്സൽ കമ്പനി ലിമിറ്റഡ് എന്ന നെറ്റ്വർക്ക് മാർക്കറ്റിംഗ് കമ്പനിയിൽ പണം നിക്ഷേപിച്ച് അടച്ച തുകയോ ലഭമോ ലഭിക്കാതെ ചതി ചെയ്യപ്പെട്ട കാര്യം പറയാൻ വന്നതാണ്. ഞാൻ ഓട്ടോറിക്ഷ ഡ്രൈവറാണ്. 2009 ജൂലൈ മാസത്തിൽ തൃശ്ശൂർ സ്വദേശികളായ **ബേബി ജോസ്**, ഡേവിസ് അമല എന്നിവർ ഞങ്ങളെ സമീപിച്ച് ഹാരിഷ് മദനി എംഡിയും പാട്രിക് തോമസ് എന്നയാൾ ഡയറക്ടറുമായ നാനോ എക്സൽ കമ്പനി ലിമിറ്റഡിൽ പണം നിക്ഷേപിച്ചാൽ നിക്ഷേപിക്കുന്ന തുകയുടെ 15 ഇരട്ടി തിരികെ ലഭിക്കുമെന്ന് പറഞ്ഞ് വിശ്വസിപ്പിച്ചു. അതനുസരിച്ച് ഞാൻ 1,20,000/- രൂപ ഒരു തവണയായും ഹാഷിം 1,54,000/- രൂപയും ഉബൈദ് 2,01,000/- രൂപയും അബ്ബ് തവണയായും

നാനോ എക്സൽ കമ്പനിയിൽ **ബേബി ജോസിന്റെയും** ഡേവിസ് അമലയുടെയും കീഴിൽ നിക്ഷേപിച്ചിട്ടുണ്ട്. ഞങ്ങൾ ടി തുക തൃശൂർ വടക്കേ ബസ് സ്റ്റാൻഡിൽ ഉള്ള നാനോ എക്സൽ കമ്പനിയുടെ ഓഫീസിലാണ് അടച്ചിട്ടുള്ളത്. **ബേബി ജോസ്** എന്നയാൾ ഞങ്ങൾക്ക് കമ്പനിയുടെ പ്രവർത്തനങ്ങളെ കുറിച്ച് ക്ലാസ്സുകൾ എടുക്കുകയും ലാഭം ലഭിക്കുന്നത് കാണിക്കുന്ന ചില ബുക്ക് ലെറ്റുകളും നോട്ടീസുകളും നൽകുകയും ചെയ്തു. എന്നാൽ നാളിതുവരെയായിട്ടും ഞങ്ങൾ നിക്ഷേപിച്ച പണമോ നിക്ഷേപിച്ചാൽ ലഭിക്കുമെന്ന് പറഞ്ഞ് വിശ്വസിച്ച ലാഭമോ ലഭിച്ചിട്ടില്ല. തുടർന്ന് ഞങ്ങൾ അന്വേഷിച്ചതിൽ കമ്പനിയുടെ ഓഫീസുകൾ എല്ലാം പൂട്ടിയിട്ടുള്ളതായി അറിയുവാൻ കഴിഞ്ഞു. കമ്പനി എംഡിയും ഡയറക്ടറും ലീഡർമാരും ഞങ്ങളെ അമിതമായ ലാഭം നൽകാമെന്ന് പറഞ്ഞ് വിശ്വസിപ്പിച്ച് ഞങ്ങൾ നിക്ഷേപിച്ച തുകയോ ലാഭമോ നൽകാതെ വിശ്വാസ വഞ്ചന നടത്തി ചതി ചെയ്തിട്ടുള്ളതാണ്. ഈ കാര്യത്തിൽ ഞങ്ങൾക്ക് പരാതിയുണ്ട്. എന്റെ ഫോൺ നമ്പർ 9142308273 ആണ്. സംഭവസ്ഥലം ചാവക്കാട് പോലീസ് സ്റ്റേഷനിൽ നിന്ന് 6 കിലോമീറ്റർ തെക്ക് പടിഞ്ഞാറ് മാറിയാണ്. ആവശ്യമായ നിയമ നടപടിക്ക് അപേക്ഷ.”

8. In the First Information Report registered on 08/07/2011, the accused arrayed are, 1. Harish Madineni, 2. Patrick Thomas, 3. Baby Jose, and 4. Davis Amala. After investigation, the Investigating Officer, Deputy Superintendent of Police, Crime Branch, Ernakulam, filed final report, against accused 16 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 Chinna Rao Swayamvarapu, accused no.6 Patric Thomas, accused no. 7 Radha Sundara Rajah, accused no.8 P.P. Rangareddy, accused no.9 Mera Harish K., accused no.10 Prasanth Sundar Rajah, accused no.11 Kumari Rajah, accused no.12 Lagatapati Sarath Babu @Sarath, accused no.13 C. Subhashini, accused no.14 Mohammed Asharaf, accused no.15 Baby Jose, and accused no.16 Davis, 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

(Banning) Act, 1978. In the final report there are, 39 witnesses cited by the Investigating Officer, and CW1 to CW4 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 Baby Jose. In the statement u/s. 161 Cr.P.C. of CW1, produced along with the final report also, the involvement of accused no.15/ Baby Jose is specifically alleged by CW1. It is specifically alleged by CW1, even in the First Information Statement preferred by him that, he was induced to join in the accused company by the petitioner Baby Jose and he deposited money in the accused company through the agents of the company, including petitioner Baby Jose. He has reiterated the same statement against the petitioner in his statement, u/s. 161 Cr.P.C. also.

10. CW2 Hashim, CW3 Ubaid, also in their statements u/s. 161 Cr.P.C., given to the Investigating Officer, produced along with the final report, have stated specifically about the fraudulent inducement made by the petitioner named Baby Jose, to deposit money in the accused companies on promising profits 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 Baby Jose.

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.15/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.15/petitioner, for the offences alleged in the prosecution case.

14. Hence, this discharge petition filed by accused no.15, 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 20th day of August, 2025)

Sd/-

Additional Chief Judicial Magistrate,
Thrissur.