

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

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

Dated, this the 29th day of April, 2026.

CMP : 1299/2025 in CC 116/2020

(Cr. No.1205/2011 of Thrissur Town East Police Station)

(CB Cr. 988/CB/TSR/2011)

Petitioner/Accused : Shabeer T., S/o. Koya, Puthen Peedikayil
no. 16. House, Chalakkode Post, Chelakkara,
Thrissur.

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

Respondent/
Complainant : State represented by the Detective
Inspector-II, Crime Branch, Thrissur.

(Crime no.1205/2011 of Thrissur Town
East Police Station).

(CB Cr. 988/CB/TSR/2011)

(By Sri. Ananthakrishnan 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.16, in CC 116/2020 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 406, 420, 120B 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 persons or the Nano Excel 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. The petitioner has been falsely implicated in the case. 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 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 116/2020 on the file of this court, is a case based on the final report

filed by the Detective Inspector-II, Crime Branch, Thrissur, against accused 16 in numbers, alleging offences punishable, under sections 120B, 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.

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 no. 4 as the Managing Director and accused no.6 as the Director, created accused no.1 company Nano Excel Enterprises Private Limited 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 (CW14), the Director of a software company named Roots Infocom at Ludhiyana, Punjab for network marketing, and conducted money circulation business through the website, and appointed accused no.5 as the Director of the said company on 06/06/2009, and thereafter, with the same intention to commit cheating, accused nos. 4 to 6 as the Directors and accused no.s 7 to 10 as the Shareholders, created accused no.2 company named Nano Excel Power Corporation Limited on 01/01/2010, and changed its name to Nano Excel Corporation Limited on 26/02/2010, thereafter, accused nos. 4, 5, 10 as the Directors and accused no.s 8, 9, 11 to 13, as the Shareholders, formed accused no.1 company Nano Power Corporation Limited on 13/05/2010, and later on 01/07/2010, entered into a Memorandum of Agreement (MOA) on BOOT (Build, Own, Operate and Transfer) basis 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 appointed accused no.s 14 to 16 as the local business promoters, and

promoted illegal products and illegal money circulation business through the website, and through brochures and advertisements, and through classes at various hotels in Thrissur, and by making false promise of returning ten times more amount within a short span of time as Royalty Club Bonus, and by promising Direct Referral Bonus to the members enrolling new members under them, and Binary Bonus on enrolling more members under them in the company, and also by promising income and specific unit of power for a period of 50 years on depositing money in the power package, and also by promising nano technology based products which the accused know to be that of low quality, fraudulently and dishonestly induced CW1 Seenath to deposit total amount of Rs. 36,000/- on 07.12.2009 as per ID no.s 88373, 88409 and 88422, CW2 Shafeer to deposit total amount of Rs.48,000/- on 27.02.2010 as per ID no.s 155082, 155083, 155085 and 155088, CW3 Fathima to deposit Rs.12,000/- on 01.06.2010 as per ID no. 228192, CW4 Amina to deposit Rs.12,000/- on 01.06.2010 as per ID. no. 228127, CW5 Naseera to deposit Rs.12,000/- on 01.06.2010 as per ID. no. 228091 and CW6 Sahala to deposit Rs.12,000/- on 01.06.2010 as per ID. no. 215088, directly in the office of the accused company at Paliyam Road, Thrissur, and thereby altogether obtained an amount of about Rs. 358 crores from the general public, including Rs. 1,32,000/- from CW1 to CW6, 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 Seenath, 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 Harish 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. 1205/2011 of Thrissur Town East Police Station, was registered on 20/07/2011.

9. After investigation, the Investigating Officer, Detective Inspector-II, Crime Branch, Thrissur, 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 Patric Thomas, accused no.6 S.V. Chinna Rao, accused no.7 P.P. Ranga Reddy, accused no. 8 Meera Harish K., accused no.9 Radha Sundara Raja, 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 Muhammed Asharaf, accused no.15 Pramod Kumar and accused no.16 Shabeer T., 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, 45 witnesses cited by the Investigating Officer, and CW1 to CW6 are the persons, who are alleged to be cheated by the accused.

10. CW1 to CW6 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 CW6, and the statements under section 161 Cr.P.C. of CW7 to CW12, who are stated to be the employees of the accused companies at Thrissur and the statements under section

161 Cr.P.C. of CW14 Amandeep Singh, who is stated to have created the website for the accused companies and CW28 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 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.

11. In the complaint preferred by CW1/defacto complainant Seenath itself, this petitioner/accused no.16, was arrayed as an accused. CW1, in her statement u/s. 161 Cr.P.C., produced along with the final report also, the involvement of accused no.16/Shabeer T., is specifically alleged. The bank account statement of the petitioner/accused no.16 Shabeer T. also seized by the investigating officer and produced along with the final report to prove that, the accused/petitioner obtained commission from the accused companies by conducting the illegal money circulation business. Hence, as per the final report, a strong prima facie case is made out against the accused/petitioner Shabeer T.

12. Hence, the contention of the petitioner in the discharge petition that, petitioner is falsely implicated in the present case, 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, by conducting illegal money circulation business, in the name of the accused companies.

13. 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.

14. 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.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.

15. 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 29th day of April, 2026.)

Sd/-
Additional Chief Judicial Magistrate,
Thrissur.