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

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

Dated this, the **1st** day of **April, 2026.**

CMP : 7105/2014 in CC 242/2019

(Cr. No. 1841/2011 of Thrissur West Police Station)

(CBCID Cr. 7/CB/TSR/2012)

Petitioner/Accused no.14.	:	Lonappan P.D., Aged 50/2011, S/o. Devassy, Puthukkara House, Chittilappilly, Thrissur. (By Adv. Sri. Anand K. Jose)
Respondent/ Complainant	:	State represented by the Detective Inspector, Crime Branch, Ernakulam. (Crime no.1841/2011 of Thrissur West Police Station). (CBCID Cr. 7/CB/TSR/2012). (By Sri. Ananthakrishnan P.A., Assistant Public Prosecutor, Court of Additional Chief Judicial Magistrate, Thrissur.)
Petition	:	U/s.239 Cr.P.C.
Order	:	Allowed.

O R D E R

1. This is a petition filed u/s. 239 Cr.P.C., by the accused no.14, in CC 242/2019 on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:-

The petitioner is the accused no. 14, in the above said case. 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 of the Indian Penal Code, 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 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, 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 the promoter 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 the 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 242/2019 is a case based on the final report filed by the Detective Inspector, Crime Branch, Ernakulam, in Crime No. 1841/2011 of Thrissur West Police Station, against accused, fifteen in numbers, alleging offences punishable under sections 120B, 406, 420, 468 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, accused no.s 5 to 13 as the Directors, accused no.s 4 and 5 as Authorised Signatories, and accused no.s 14 and 15 as the Promoters, formed accused no.1 company named Nano Excel Enterprises Private Limited on 12/07/2007, 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, and also formed accused no.3 company Nano Power Corporation Limited, and created a website with the help of CW14 Amandeep Singh, the Director of a software company named Roots Infocom at Ludhiyana, Punjab, for network marketing, promoted the illegal money circulation business of the accused companies, through the website, through promotional programmes and classes at various places, through newspapers and advertisements, through multi-colour Brochures and pamphlets containing the photos of reputed persons, and by making false promise of returning ten times more amount within a short span of time, and also by promising nano technology based products, which the accused know to be that of low quality, fraudulently and dishonestly induced CW1 Tony Joseph to deliver Rs.12,000/- as per ID no. 106599 and returned only Rs. 2,200/- as incentive, CW2 Susan Joseph to deliver Rs. 12,000/- as per ID no. 140586 and returned only Rs.1,440/-, CW3 A.T. Jose to deliver Rs. 12,000/- as per ID no. 145509, CW4 Joy N.F. to deliver Rs. 1,80,000/- as per ID no. 70992 and returned only Rs. 48,000/-, CW5 Sicily to deliver Rs. 12,000/- as per ID no.113172 and returned only Rs. 2050/-, CW6 Joseph C.O. to deliver total amount of Rs. 1,02,000/-

as per ID no.s 348698 and 348707 and returned only Rs. 23,200/-, CW7 Alice Davis to deliver total amount of Rs. 36,000/- as per ID no.s 207410, 207411, 208719 and returned only Rs. 1,600/- and CW8 Annie Davis to deliver Rs. 12,000/- as per ID no. 140595 and returned only Rs. 2,400/-, and thereby altogether obtained about Rs. 358 crores from the general public including, Rs. 2,97,310/- from CW1 to CW8, and thereafter, neither gave profits as promised, nor returned the amount obtained and thereby committed cheating on general public, misappropriated the money obtained and thereby committed criminal breach of trust and conducted illegal money circulation business, and thereby accused committed the offences punishable under sections 120B, 406, 468, 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 Tony Joseph, S/o. Ouseph, Alappat House, Kuttur P.O., Thrissur, 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 its 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. Rangareddy, 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 406, 418, 420 r/w 34 of the Indian Penal Code and section 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

8. The said complaint was forwarded to the Station House Officer, Thrissur Town West 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. 1841/2011 of Thrissur West Police Station, was registered on 02/12/2011.

9. After investigation, the Investigating Officer, Detective Inspector, Crime Branch, Ernakulam, filed final report, against accused 12 in numbers, accused no.1 Nano Excel Enterprises Pvt. Ltd. represented by it's Managing Director Hareesh Babu Madaneni, accused no. 2 Nano Excel Corporation Limited (Nano Excel Power Corporation Limited before 26.02.2010) represented by it's Director Hareesh Babu Madaneni, accused no.3 Nano Power Corporation Limited represented by it's Director Hareesh Babu Madaneni, accused no.4 Hareesh Babu Madineni, accused no.5 Patric Thomas, accused no.6 S.U. Chinna Rao, accused no.7 P.P. Rangareddy, accused no.8 Radha Sundara Rajah, accused no.9 Prasanth Sundharajah, accused no. 10 Meera Harish K., accused no.11 Legadapati Sarath Babu, accused no.12 Kumari Rajah, accused no.13 C. Subhashini, accused no.14 Lonappan P.D. and accused no.15 Muhammed Asharaf, alleging offences punishable under sections 120B, 406, 420, 468 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, 61 witnesses cited by the Investigating Officer, and CW1 to CW8 are the persons, who are alleged to be cheated by the accused.

10. CW1 Tony Joseph/defacto complainant neither in the complaint nor in his statement under section 161 Cr.P.C., has stated any specific allegations against this petitioner. CW2 to CW8, who are the other witnesses, who are stated to have deposited money in the accused company also have, not mentioned any specific allegations against this petitioner. CW9, CW10, CW15 to CW23, who are stated to be the employees of the accused companies, also have not stated any specific allegations against this petitioner in their statements under section 161 Cr.P.C.

11. Recently, the **Honourable High Court of Kerala, in Vinode V. Luka v. State of Kerala, reported in 2025 KHC OnLine 1695**, in a similar case under

the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, held as follows:-

“5. Admittedly, the petitioner was working as Manager in the establishment by name 'LIS' which was run by the first accused as Managing Trustee and accused nos.2 and 3 as the partners. The fourth accused is stated to be the Chairman of the above establishment, and the 8th accused, the partner of a sister concern of that partnership firm. It is pertinent to note that, apart from a general and superficial allegation that the employees at the office of the establishment by name 'LIS' had also compelled the depositors to invest in the financial business being conducted by the above firm, there is absolutely no specific indictment as against the petitioner herein. There is no case for any of the depositors that the petitioner herein was entrusted with any amount, or that the petitioner herein had collected any amount from the depositors after fraudulently and dishonestly inducing them to believe that their amounts would be doubled, if they are making investments in the firm conducted by accused Nos.1 to 3. Going by the provisions contained in S.6 of the Prize Chits and Money Circulation (Banning) Act, 1978, if an employee of a firm or other association of individuals has to be held liable for the offence committed by the firm, it has to be shown that he was in - charge of, and was responsible to the firm for the conduct of business of such firm. It is further provided thereunder that if a Manager, Secretary or other Officer of any such company or firm has to be attributed personally with the criminal liability in respect of the offence committed by such firm, it has to be shown that such offence was committed with the consent or connivance of, or is attributable to any neglect on the part of such Manager, Secretary or officer, as the case may be.

7. It is clear from the aforesaid provision of law that if a person has to be held liable for an offence committed by a company, firm or other association of 7. It individuals, it is the incumbent responsibility of the prosecution to establish that *such person was in charge of, and responsible to the conduct of business of such company, firm or association of individuals. Likewise, it is clear from sub Section (2) of S.6 stated above that, if an Officer, Secretary or Manager of a company, firm or association of individuals has to be held personally liable for the offence committed by such association or firm, the prosecution has to establish that such offence was committed with the consent or connivance of, or it is attributable to, any neglect on the part of such Secretary, Manager or other officer of that firm. As far as the present case is concerned, there is absolutely nothing on record to show that the offence involved was committed with the consent or connivance of the petitioner, or that it is attributable to any neglect on the part of the petitioner. So also, there is nothing brought out from the final report and other records relied on by the prosecution that the petitioner, in his capacity as Manager, was in charge of, and responsible to the company and the conduct of business of the company. In that view of the matter, it has to be stated that the offence alleged in these cases, against the petitioner, are not brought out from the final report and other records relied on by the prosecution. Therefore, the request in these petitions to quash the proceedings against the petitioner in the aforesaid cases, is perfectly justifiable."*

12. In this case also, there is absolutely no specific indictment, as against the petitioner herein. Even the persons, who are alleged to be cheated, have not made any specific mentioning about the involvement of this petitioner in the transactions with them, on behalf of the accused nos.1 to 3 companies. There is no material even primafacie, revealed as per the prosecution records, to frame charge against the petitioner, for the offences alleged in the case.

13. Hence, after considering the police report and the documents sent along with the police report, under section 173 Cr.P.C., and after hearing both sides, I am of the view that, there is no sufficient ground for proceeding against the accused/petitioner, for the offences alleged in the case. Hence, petition allowed and

accused no.14/petitioner is discharged for the offences alleged against him, in the above case.

14. Hence, petition allowed.

(Dictated to the Confidential Assistant, typed by her directly to the computer, corrected and pronounced by me in the open court this, the 1st day of April, 2026.)

Sd/-

Additional Chief Judicial Magistrate,
Thrissur.