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

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

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Dated, this the **17th** day of **December, 2025.**

CMP: 6064/2025 in CC 94/2016

(Cr. No. 378/2011 of Alathur Police Station)

(CBCID Cr. 799/CR/EOW-II/KTM/11)

Petitioner/Accused no. 5.	:	Chinna Rao Swayamvarapu, S/o. Venketeshwara Rao Swayamvarapu, Yousufguda, Hyderabad. (By Adv. Sri. Sunil Pyloth.)
Respondent/ Complainant		State represented by the Deputy Superintendent of Police, CBCID EOW-II, Ernakulam Sub Unit. (Crime 378/2011 of Alathur Police Station, Thrissur.) (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. 5, in CC 94/2016, on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:-

Petitioner is the accused no.5, in the above case. The offences alleged against the accused are under sections 120B, 406, 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. Petitioner is totally innocent in this case and has not committed any offence as alleged by the prosecution. Petitioner is not at all involved in the business of the company and has not earned any income from the money circulation business/scheme. The charge/final report does not show the role of the petitioner in the case and the act done by the petitioner which constitute an offence as alleged by the prosecution. The meaning of term promoter as mentioned in the Companies Act and as in the Prize Chits and Money Circulation Schemes Banning Act are different. The petitioner is not involved in the day-to-day activities of the company. None of the witnesses produced by the prosecution have a case that the petitioner has involvement in the business. None of these prosecution witnesses have seen this petitioner at any point of time. No offence under IPC can be attributed to the petitioner. None of the witnesses have stated that the petitioner has induced them or enrolled them or made any representation or instigated them to make any payment or to join the company or for taking any share or to purchase any products from the company. None of the witnesses have a case that the petitioner was present in any of the meetings or so called classes allegedly conducted by the accused. None of the records produced by the prosecution will show that the petitioner have earned any easy money or any amount from the company or alleged scheme. Bank account details of the petitioner is also not produced to show that the petitioner have earned any income from any of these companies. The petitioner was a director of the accused company. There are no records produced to show that the petitioner is involved in the day-to-day affairs of the company. Section 6 (1) of the The Prize Chits and Money Circulation Schemes (Banning) Act 1978 states that "Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly." So the section is clear that for punishing any person under this section the prosecution has to prove that such person shall be in charge of and was responsible for the conduct of the company at the time when the offence was committed. The evidence produced by the prosecution does not show any of the ingredients of the section. The prosecution has no case that the petitioner was responsible for the conduct of the company. Hence, seeks to discharge the petitioner/accused, 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 group of Companies. Hundreds of customers complained that they were cheated. Crores of rupees were collected by the accused by operating the scheme. Moreover, low quality products were sold by the company by making false representation. The accused had the intention to cheat from the very beginning of the transaction. There is also entrustment of money to the company. The malafide deed of the accused such as, printing and publishing for the purpose of sale or distribution, documents for the purpose of inviting and inducing persons to enroll as a member or participate in money circulation scheme is very much clear from the evidence collected. In Achamma Chacko v. Government of Kerala and Others reported in 2007 (2) KLT SN 68, it was held that, the mere conduct of the parties is sufficient to presume the offence under the Prize Chits and Money Circulation Schemes (Banning) Act. In Gold Quest

International Pvt. Ltd. and Another v. State of Tamil Nadu 2003 0 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. From the documents seized like bank account statements, brochures, etc., it is clear that, the accused were doing the business of money chain and the accused were committing cheating. In 2024 (4) Crimes 276 (J&K), the Honourable High Court of Jammu & Kashmir held that, at the time of framing charge or discharge of accused, there has to be proper application of mind by the magistrate. Test regarding sufficiency of proof, which court is required to apply at the final disposal of the case, are not to be applied at the stage of framing charge. In 2025 (1) Crimes 329 (SC), the Honourable Supreme Court of India held that, at the time of framing of charge, even a very strong suspicion founded upon materials and presumptive opinion would enable court to frame charge against the accused. In 2025 (1) Crimes 242 (SC) the Honourable Supreme Court of India held that, by its very nature, discharge is at a higher pedestal than acquittal. 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 94/2016 on the file of this court, is a case based on the final report filed by the Deputy Superintendent of Police, CBCID EOW-II, Ernakulam Sub Unit**,**

against accused 17 in numbers, alleging offences punishable, under sections 406, 420, 120B r/w 34 of the Indian Penal Code, 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, during the period 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 and Authorised Signatory, and accused nos. 5 and 6 as the Directors, formed accused no.1 company named Nano Excel Enterprises Private Limited Company on 12/07/2007, and thereafter, accused no. 4 as the Managing Director and Authorised Signatory, accused nos. 5 and 6 as the Directors, and accused no.s 7 to 10 as the Promotional Shareholders, formed accused no.2 company named Nano Excel Power Corporation Limited on 01/01/2010 and later changed its name to Nano Excel Corporation Limited on 26/02/2010, and thereafter, with the same intention to commit cheating by conducting illegal money circulation business, accused no. 4 as the Managing Director and Authorised Signatory, and accused nos. 7 and 13 as the Promotional Shareholders, formed accused no.3 company named Nano Power Corporation Limited on 13/05/2010, and created a website with the help of CW11 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 accused no.s 14 to 17, worked as promoters of the above companies, being fully aware about the illegal business conducted by the accused companies and approached public with false promises and accused conducted promotion meetings 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 getting ten times more income within a short span of time and also 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, and also by promising products, which the accused know to be that of low quality, fraudulently and dishonestly induced CW1 P.S. Natarajan to deliver Rs. 12,000/- on 23/10/2009 and Rs. 12,000/- on 29/01/2010 in his name, Rs. 12,000/- on 11/03/2010 in the name of his daughter-in-law and Rs. 12,000/- on 30/04/2010 in the name of his son, CW2 Assainar Moitheen to deliver total amount of Rs. 3,00,000/- on various dates from 29/10/2010 onwards, CW3 A. Taj to deliver total amount of Rs. 1,98,000/- on various dates from 28/01/2010 onwards, CW4 Abdul Tahir to deliver total amount of Rs. 66,000/- on various dates from 29/08/2010 onwards, CW5 Faseela to deliver Rs. 12,000/- on 25/09/2010, CW6 Sainumuthu to deliver Rs. 12,000/- on 24/11/2010 and CW7 Muhammed Ali to deliver Rs. 18,000/- on 13/12/2010, and thereby altogether obtained more than 358 crores from the general public including Rs. 6,36,000/- obtained from CW1 to CW7, and thereafter, neither gave profits as promised, nor returned the amount obtained and thereby committed cheating on general public, misappropriated the money obtained and conducted illegal money circulation business, 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 P.S. Natarajan, by preferring an First Information Statement, to the Sub Inspector of Police, Alathur Police Station on 05/07/2011. In the First Information Report, registered on 05/07/2011, the accused arrayed are, Dr. Harish Madineni and Patric Thomas.

8. After investigation, the Investigating Officer, Deputy Superintendent of Police, CBCID EOW-II, Ernakulam Sub Unit, filed final report, against accused 17 in

numbers, accused no.1 Nano Excel Enterprises Private Limited represented by Harish Babu Maddineni, accused no. 2 Nano Excel Power Corporation Limited/Nano Corporation Limited represented by Harish Babu Maddineni, accused no.3 Nano Power Corporation Limited 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 Radha Sundara Rajah, accused no. 8 Prasanth Sundara Rajah, accused no.9 P.P. Renga Reddy, Accused no.10 Meera Harish K., accused no.11 Chedella Subhashini, accused no.12 Kumari Rajah, accused no.13 Sarath Babu Lagadapati, accused no.14 Muhammed Ashraf, accused no.15 Baby Jose, accused no.16 P.D. Lonappan and accused no.17 C.D. Tisserent, alleging 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. In the final report, there are, 39 witnesses cited by the Investigating Officer, and CW1 to CW7 are the persons, who are alleged to be cheated by the accused.

9. As per the prosecution case, the petitioner is the Director of the accused nos. 1 and 2 companies. The statements of witnesses and the documents produced along with the final report would go to show that, the accused companies conducted illegal money circulation business deviating from the object and purpose of the companies, stated in the Memorandum of Association and Articles of Association of the companies and committed cheating by conducting illegal money circulation business.

10. CW8 Reneesh, CW9 Nidhun, who are stated to be employees of the accused companies at Thrissur also, in their statements under section 161 Cr.P.C. have stated in detail about the illegal money circulation business conducted by the accused companies, and CW9 Nidhun, in his statement under section 161 Cr.P.C., has stated about the Directors who participated in the business promotion meetings conducted by the accused companies at various hotels and about the exorbitant commission received

by the Directors and Promoters. CW9 has stated that, "കമ്പനി തൃശ്ശൂർ പേൾ റീജൻസി, കാസിനോ ഹോട്ടൽ, ടിച്ചൂർ ടവർ ഹോട്ടൽ, ലുലു കൺവെൻഷൻ സെൻറർ എന്നിവിടങ്ങളിൽ മിക്ക ആഴ്ചകളിലും ബിസിനസ് മീറ്റിങ്ങുകൾ നടത്തിയിരുന്നു. അതിൽ കമ്പനി ഡയറക്ടർമാരും, പ്രമോട്ടർമാരും പങ്കെടുക്കുമായിരുന്നു. കമ്പനിയുടെ പുതിയ വാഗാനങ്ങൾ അവിടെ പ്രഖ്യാപിക്കുമായിരുന്നു. തൃശ്ശൂർ ജില്ലയ്ക്ക് വെളിയിലും ഇതു പോലെ മീറ്റിങ്ങുകൾ സംഘടിപ്പിച്ചിരുന്നു. മലമ്പുഴ, നെല്ലിയാമ്പതി എന്നിവിടങ്ങളിൽ പുതിയ മെമ്പേഴ്സിനെ motivate ചെയ്യാൻ training programme മെയിൻ പ്രമോട്ടേഴ്സായ മുഹമ്മദ് അഷറഫ്, ലോനപ്പൻ, സജീവ് കരുൺ, ടിസറെൻറ്, ബേബി ജോസ്, P.G. ജയൻ, പ്രമോദ് കുമാർ, ഫൈസൽ എന്നിവർ സംഘടിപ്പിച്ചിരുന്നു. തൃശ്ശൂരിൽ നടത്താറുള്ള മിക്ക പ്രോഗ്രാമുകളിലും ഓഫീസ് സ്റ്റാഫുകളും പങ്കെടുക്കുമായിരുന്നു. 2010 ജനുവരി, ഫെബ്രുവരി മാസങ്ങളിൽ കാസിനോ ഹോട്ടൽ, പേൾ റീജൻസി എന്നിവിടങ്ങളിൽ നടന്ന മീറ്റിങ്ങിൽ ഡയറക്ടർ ഹാരിഷ് ബാബു മദനീനിയും, പാടിക് തോമസ് എന്നിവർ പങ്കെടുത്തിരുന്നതായി എനിക്കറിയാം. കൂടാതെ, പ്രമോട്ടേഴ്സായ മുഹമ്മദ് അഷറഫ്, സജീവ് കരുൺ, പ്രമോദ് കുമാർ, ശശിന്ദ്രൻ, ഫൈസൽ, ജയൻ PG. ബേബി ജോസ്, ലോനപ്പൻ, ടിസറൻറ്, സ്വാമി നാഥൻ, മൊയ്തീൻകുട്ടി, P.N രാധാകൃഷ്ണൻ, C.R. രാധാകൃഷ്ണൻ, E.S. രാജൻ, K. ബാലകൃഷ്ണൻ. T.K. ബാലകൃഷ്ണൻ എന്നിവരും പങ്കെടുത്തിരുന്നു". He further stated that, "കമ്പനി വിതരണം ചെയ്തിരുന്ന പ്രൊഡക്ടുകൾ ചൈന, കൊറിയ, സിംഗപ്പൂർ എന്നിവിടങ്ങളിൽ നിന്ന് തുച്ഛമായ തുകയ്ക്ക് ഇറക്കുമതി ചെയ്ത് ഇന്ത്യയിൽ ആ പ്രൊഡക്ടുകൾ നാനോ ടെക്നോളജി പ്രകാരമുള്ളതാണെന്ന് പ്രചരിപ്പിച്ച്, വലിയ തുക വിലയിട്ട് വില്പന നടത്തി കമ്പനി മണി സർക്കുലേഷൻ ബിസിനസ്സാണ് നടത്തി വന്നിരുന്നത്. അതു മൂലം കമ്പനിയ്ക്കും, ഡയറക്ടർമാർക്കും പിന്നെ മേൽപറഞ്ഞ പ്രൊമോട്ടർമാർക്കും ബാക്കി തുകകൾ കമ്മീഷൻ ലഭിച്ചിട്ടുണ്ട്".

11. CW16 Ramadas, who is stated to be Manager of Casino Cultural Auditorium, Thrissur, in his statement under section 161 Cr.P.C. stated that, "നാനോ എക്സൽ എൻററർപ്രൈസസ് പ്രൈവറ്റ് ലിമിറ്റഡ് എന്ന കമ്പനിയുടെ പേരിലും ഇവിടെ മീറ്റിങ്ങുകളും മറ്റും സംഘടിപ്പിച്ചിട്ടുണ്ട്. 5-8-2009 മുതൽ 1-3-2011 വരെയുള്ള കാലയളവിലായി നാനോ എക്സൽ എൻറർപ്രൈസസ് എന്ന കമ്പനിയുടെതായി 76- ഓളം പരിപാടികൾ ഇവിടെ നടന്നിട്ടുണ്ട്. ചേലക്കരയിലുള്ള മുഹമ്മദ് അഷറഫ് എന്നയാളാണ് ആദ്യമായി ഇവിടെ വന്ന്

ഹാൾ ബുക്ക് ചെയ്യുന്നത്. തുടർന്ന് കമ്പനിയുമായി ബന്ധപ്പെട്ട് പ്രവർത്തിക്കുന്ന പ്രമോട്ടർമാർ പലരും കമ്പനിയുടെ പാലിയം റോഡിൽ പ്രവർത്തിച്ചിരുന്ന ഓഫീസിന്റെ വിലാസത്തിൽ പരിപാടികൾക്കായി ഹാൾ ബുക്ക് ചെയ്തു മീറ്റിങ്ങുകളും മറ്റും സംഘടിപ്പിച്ചിട്ടുണ്ട്. ഇവിടെ നടന്നിട്ടുള്ള മീറ്റിങ്ങുകളിൽ കമ്പനിയുടെ M.D. ഹാരിഷ് ബാബു മദീനേനി, ഡയറക്ടർ പാട്രിക് തോമസ്, കൂടാതെ പ്രമോട്ടർമാരായ മുഹമ്മദ് അഷറഫ്, പ്രമോദ് കുമാർ, ജയൻ, സജീവ് കരുൺ, ബിജേഷ്, ലോനപ്പൻ, റ്റിസ്സറെൻറ്, സജീവ് രാജൻ തുടങ്ങിയ പലരും പങ്കെടുത്തതായി എനിക്കറിയാം".

12. CW17 Shinoy, in his statement under section 161 Cr.P.C. stated that, "ഞാനും ഭാര്യയും ഞാനോ എക്സൽ കമ്പനിയിൽ പണം നിക്ഷേപിച്ചിരുന്നു. ഞാൻ നാനോ കമ്പനിയുടെ ക്ലാസ്സുകളിൽ പങ്കെടുത്തിട്ടുണ്ട്. കമ്പനിയുടെ ഡയറക്ടർമാരായ ഹാരിഷ് ബാബു മദിനേനി, പാട്രിക് തോമസ്സ് എന്നിവരും മറ്റും ചേർന്ന് തൃശ്ശൂർ കാസിനോ ഓഡിറ്റോറിയത്തിൽവച്ച് നടത്തിയ മീറ്റിംഗിലും ഞാൻ പങ്കെടുത്തിട്ടുണ്ട്. നാനോ കമ്പനി വിതരണം ചെയ്യുന്ന ഉല്പന്നങ്ങളെക്കുറിച്ചും അതണാചൽപ്രദേശിൽ തുടങ്ങാൻ ഹൈഡ്രോ ഇലക്ട്രിക് പ്രോജക്ടിനെക്കുറിച്ചുമാണ് മീറ്റിംഗുകളിൽ പ്രധാനമായും പറഞ്ഞിരുന്നത്. നിക്ഷേപിക്കുന്ന തുക ആറു മാസംകൊണ്ട് തിരികെ ലഭിക്കുമെന്നും അതുകൂടാതെ മുടക്കുമുതലിൻറെ പത്തിരട്ടി തുക മൂന്നു വർഷത്തിനുള്ളിൽ പല തവണകളായി നൽകുമെന്നും വാഗ്ദാനം നൽകിയിരുന്നു. Direct Referral Bonus, Royalty Club Board മുതലായ വിവിധ രീതികളിലായിരുന്നു കമ്പനി കമ്മീഷൻ നല്കിയിരുന്നത്. കമ്പനി 6,000/-. 12,000/-, 18,000/- മുതലായ പാക്കേജുകളിൽ നിക്ഷേപങ്ങൾ സ്വീകരിച്ചിരുന്നു. കമ്പനിയിൽ പണം നിക്ഷേപിച്ച് മെമ്പറാകുന്നവരെ Distributor എന്നാണ് പറഞ്ഞിരുന്നത്. പണം നിക്ഷേപിക്കുന്നവർക്ക് പ്രത്യേകം ID നമ്പർ ലഭിക്കും. നിക്ഷേപകർക്ക് നാനോ ടെക്നോളജി പ്രകാരം നിർമ്മിച്ച bracelet, bio-cool water bottle, watch, health card മുതലായ ഉല്പന്നങ്ങൾ ലഭിക്കുമെന്നും അവ ഉപയോഗിച്ചാൽ ശരീരത്തിന് കൂടുതൽ ഗുണം കിട്ടുമെന്നും രോഗപ്രതിരോധശക്തി കിട്ടുമെന്നും മറ്റുമാണ് മീറ്റിംഗിൽ പറഞ്ഞിരുന്നത്. കമ്പനി നൽകുന്ന ഉല്പന്നങ്ങൾ പൊതുമാർക്കറ്റിൽ വാങ്ങാൻ കിട്ടുകയില്ലെന്നും പറഞ്ഞിരുന്നു. അരുണാചൽ പ്രദേശിൽ പവർ പ്രോജക്ട് തുടങ്ങാൻ ഗവൺമെന്റുമായി കരാർ ഒപ്പുവെച്ചുവെന്നും അതിൻറെ ഷെയർ എടുത്താൽ നിക്ഷേപത്തുകയ്ക്ക് അനുസരിച്ച് 50 വർഷത്തേയ്ക്ക് ലാഭവീതം നൽകുമെന്ന് പറഞ്ഞ് അതിൻറ നോട്ടീസുകളും ബ്രോഷറുകളും മീറ്റിംഗിൽ വിതരണം ചെയ്യുകയും ചെയ്തിരുന്നു. കമ്പനിയുടെ ആളുകൾ നടത്തിയ പൊതുപരിപാടികൾ അടങ്ങിയ DVD എനിക്ക്

ലഭിച്ചിരുന്നത് ഞാൻ തൃശ്ശൂർ വെസ്റ്റ് C.I. ആയിരുന്ന രാജേഷ്സാറിന് ക്രൈം 99/11-ാം നമ്പർ കേസ്സിലേയ്ക്ക് നൽകിയിട്ടുണ്ട്".

13. The bank account statement of the accused companies also seized during the course of investigation and produced along with the final report to prove the offences alleged in the case.

14. Hence, as per the final report, a strong primafacie case is made out against the accused/petitioner Chinna Rao Swayamvarapu.

15. 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.

16. As stated above, in this case, as per the prosecution records, a strong primafacie case is made out against the accused no. 5/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. 5/petitioner, for the offences alleged in the prosecution case.

17. Hence, this discharge petition filed by accused no. 5, 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 17th day of December, 2025.)

Sd/-
Additional Chief Judicial Magistrate,
Thrissur.