

**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: 5418/2025 in CC 94/2016

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

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

Petitioner/Accused : P.D. Lonappan, S/o. Devassy, Puthookara
no. 16. House, Chittilappally Post, Thrissur.

(By Advocate. Sri. Anand K. Jose)

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.

ORDER

1. This is a petition filed u/s. 239 Cr.P.C., by the accused no. 16, in CC 94/2016, on the file of this court, seeking discharge, in the case.

2. Petition averments are, as follows:-

The petitioner is the accused no. 16, 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.16/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.16/petitioner. The prosecution has not produced any document to show that the accused no.16 was appointed as a promoter of the accused companies. There is no allegation for the prosecution that, accused no.16/petitioner introduced the witnesses to any person. All the allegations against the accused no.16/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 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 enrolment 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 *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 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. CW9 Nidhun, who is stated to be an employee of the accused company in his statement under section 161 Cr.P.C., has stated in detail about the illegal money circulation business conducted by the accused company, and also about the promotion classes conducted by the accused company at various places and he has stated that, “കമ്പനി തൃശ്ശൂർ പേൾ റീജൻസി, കാസിനോ ഹോട്ടൽ, ടിച്ചൂർ ടവർ ഹോട്ടൽ, ലുലു കൺവെൻഷൻ സെന്റർ എന്നിവിടങ്ങളിൽ മിക്ക ആഴ്ചകളിലും ബിസിനസ് മീറ്റിംഗുകൾ

നടത്തിയിരുന്നു. അതിൽ കമ്പനി ഡയറക്ടർമാരും, പ്രമോട്ടർമാരും പങ്കെടുക്കുമായിരുന്നു. കമ്പനിയുടെ പുതിയ വാഗാനങ്ങൾ അവിടെ പ്രഖ്യാപിക്കുമായിരുന്നു. തൃശ്ശൂർ ജില്ലയിൽ വെളിയിലും ഇതു പോലെ മീറ്റിങ്ങുകൾ സംഘടിപ്പിച്ചിരുന്നു. മലമ്പുഴ, നെല്ലിയാമ്പതി എന്നിവിടങ്ങളിൽ പുതിയ മെമ്പേഴ്സിനെ motivate ചെയ്യാൻ training programme മെയിൻ പ്രമോട്ടേഴ്സായ മുഹമ്മദ് അഷറഫ്, ലോനപ്പൻ, സജീവ് കരുൺ, ടിസറൻറ്, 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 മദനീനിയം, പാട്രിക് 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”.

10. The statements of witnesses and the documents produced along with the final report would go to show that, 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.

11. CW11 Amandeep Singh, in his statement u/s. 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 Jammu & 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 Uttarakhand, 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 FIAISAL U earned Rs. 1,09,71,744

(8) ID No.5349 on the name of MUHAMMAD ASHARAF earned Rs. 1,06,36,082”.

12. 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 എൻറർപ്രൈസസ് 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 ചെയ്തത്. 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, റ്റിസ്സറെൻ, സജീവ് രാജൻ തുടങ്ങിയ പലരും പങ്കെടുത്തതായി എനിക്കറിയാം”.

13. CW21 T.P. Jinachandran, the then Assistant Manager, Indian Bank, Thrissur Branch, in his statement under section 161 Cr.P.C. stated that, “ഞാൻ ഇന്ത്യൻ ബാങ്കിന്റെ തൃശ്ശൂർ സ്വരാജ് റൗണ്ടിൽ പ്രവർത്തിക്കുന്ന ബ്രാഞ്ചിൽ അസി. മാനേജരായി ജോലി ചെയ്തു വരികയാണ്. CBCID EOW-II എറണാകുളം DySP- യുടെ ലെറ്റർ പ്രകാരം P.D. ലോനപ്പൻ, C.D. ടി റ്റിസറെൻ എന്നവർക്ക് Universal Associates എന്ന പേരിൽ ഉണ്ടായിരുന്ന 683732251 -)o നമ്പറിലെ അക്കൗണ്ടിലെ വിവരങ്ങൾ പരിശോധിച്ചിരുന്നു. അതിൽ 14 -11-2009 മുതൽ 8-11-2011 വരെയുള്ള കാലയളവിൽ Nano Excel കമ്പനിയിൽ നിന്നും ചെക്ക് മുഖേന പല തവണകളിലായി ഈ അക്കൗണ്ടിലേക്ക് പണം വന്നിട്ടുള്ളതായും ഈ കാലയളവിനുള്ളിൽ 74,45,326/- രൂപ Credit - ഉം 75,44,514/- രൂപ Debit - ഉം 812/- രൂപ Balance ഉള്ളതായും കാണുന്നുണ്ട്”.

14. Hence, as per the final report, a strong prima facie case is made out against the accused/petitioner Lonappan.

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 prima facie case is made out against the accused, or not.

16. As stated above, in this case, as per the prosecution records, 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.

17. 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 17th day of December, 2025).

Sd/-

Additional Chief Judicial Magistrate,
Thrissur.