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: 4783/2024 in CC 94/2016

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

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

Petitioner/Accused no. 7.	:	Radha Sundara Raja, D/o. Sami Sundara Raja, 345- Jalavayu Vihar, Kukatappally, Hyderabad – 500 072. (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. 7, 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.7 in the above said case. The offences alleged against the petitioner, are under sections 120B and 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. The petitioner not committed, any offences as alleged, in the prosecution case. The charge sheet filed by the prosecution shows that, there is no direct involvement of the petitioner in this crime. Nowhere in the memorandum of articles of the company, the petitioner is stated as the Director or the promotional share holder. Prosecution not produced any document to show that the petitioner involved in the business in any manner. Petitioner is only a house wife. She is connected with the company, only in purchasing some shares in the company at initial stages. No profit is received by the petitioner, in any form. No money transferred to the account of the petitioner, nor she received any benefit from the company. Petitioner not enrolled any person in the company nor promoted any activities of the company. There is no clear allegation against the petitioner, in the charge sheet. The directors of the company are Harish Babu Madineni, Chinna Rao and Patric Thomas. Petitioner does not hold any shares in Nano Excel Enterprises Pvt. Ltd. Company. The petitioner has absolutely no role in the day-to-day functioning of the above three companies. Petitioner is only a share holder of Nano Excel Power Corporation, and petitioner cannot be fastened with any criminal liability on account of the petitioner, being the share holder of the company. The entire proceedings, pursuant to final report, as against the petitioner, are clearly an abuse of process of court, and the petitioner is unnecessarily dragged into the criminal proceedings, by the Investigating Officer. As per the Companies Act, the liability of the shareholders, is limited. The petitioner is neither a director, nor directly or indirectly, involved in the day-to-day affairs of the company. The Honourable High Court of Kerala has held that, " A share holder who is not involved in the business cannot be charged for the offence punishable u/s. 420 of IPC". As per the prosecution records of this case, there is no material to show any involvement of the petitioner, in any of the affairs of the company. Prosecution does not have a case that, the petitioner had enrolled any person, earned any money or conducted any activities, to promote the business of the company. The Investigating Officer has made an omnibus statement, with regard to the involvement of the petitioner, in the above case, without any material. The petitioner had approached the Honourable High Court of Kerala, for quashing the proceedings. The Honourable High Court of Kerala, had directed the Honourable Chief Judicial Magistrate, to consider the discharge petition and stated as follows, " The accused can approach the Court below under section 239 Cr.PC. In cases the prosecution is not able to prove that the accused is not a director, or a person, who has promoted the business of the company or he was an intermediary, who has also promoted the business of the company, the offence against the accused will not lie. The Court below shall consider all the said aspects and pass orders on such application that may be filed by the accused. before the Court below. With the said liberty to the accused, these Crl.M.C.s. are closed." Petitioner is innocent and has not committed any offences as alleged in the prosecution case. Hence, seeks to discharge the petitioner/accused, in the above case.

3. Objection was filed by the Detective Inspector IV, Crime Branch, Palakkad, through the Deputy Director of Prosecution, Palakkad, as follows:-

The averment in the petition that, the petitioner has no direct or indirect involvement in the crime, is totally false. Petitioner was one of the promotional shareholders who signed in the Memorandum Of Association and Articles of Association at the time of the registration of the companies named 1) Nano Excel Enterprises Limited and 2) Nano Excel Corporation P. Limited, formed with an intention to cheat the public by running money chain business. Petitioner had shares in the accused companies which clearly shows that, the petitioner had thorough knowledge about the functioning of the company at the time of registration itself. After registration of these companies, they have not functioned as per the objectives and guidelines mentioned in the Certificate of Incorporation, Memorandum Of Association and Articles of Association, which clearly shows the dishonest intention of the accused including, petitioner. In these circumstances, it is unbelievable that the petitioner had not received or enjoyed the money so collected by the accused companies. The accused including the petitioner collected huge amount through various bank accounts. It is revealed that, the petitioner is the authorised signatory, who is authorised to operate these accounts and thereby was an ultimate beneficiary of the money collected by the accused companies. Quantum of liability is not a criteria to let free an accused from the criminal charge, for offences under sections 120 (b) and 415. All the petitioners are the direct promotors of Nano Excel Companies. It is seen from the case diary and charge sheet that; petitioners looted money from general public as promoters of these companies and they had criminal intention to cheat the public. They know that, by way of promoting the business of the companies, they could earn easy money from the public. The companies not functioned as per the norms, objectives and guidelines mentioned in the Certificate of Incorporation. The petition is devoid of no merits and filed with malafide intention to drag the proceedings of the court. The bank account transaction details of the accused companies and the accused received from various banks shows that the accused earned easy money from the business through these accounts. Moreover, the petitioner in the CMP had not made any request or arguments before the investigation officer till the time, even after several years of the registration of the crime in 2011. Hence, the petition filed by the petitioner seeking discharge, is devoid of merit and hence, liable to be dismissed.

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/accused no.7 is a promotional shareholder of the accused no.s 2 and 3 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. Accused no.4 Harish Babu Madineni is the main accused in this case. Accused no.10 Meera Harish is the wife of the above accused, Harish Babu Madineni. This petitioner is the sister of Meera Harish. The Form no.1 of the Certificate of Incorporation of the company named Nano Power Corporation Limited would go to show that, this petitioner/Radha Sundara Rajah was a promoter and the first subscriber to the Memorandum of Association of the above company. She was

the promoter and the first subscriber to the Memorandum Of Association of the company named Nano Excel Power Corporation Limited also, as per the registration details of the above company produced along with the final report. The account details of the companies also seized and produced along with the final report to prove the illegal money circulation business conducted by the accused companies. This petitioner was the authorised signatory of the bank account of the company at State Bank of India, Mudhapur Branch. Hence, this petitioner was having authority to operate the account of the accused company. Whether the petitioner had role in committing cheating and conducting illegal money circulation business in the name fo accused companies will be revealed only after trial, i.e., only after adducal of evidence. At this stage, as per the prosecution records, a primafacie case is made out against the petitioner.

11. CW8 Reneesh and CW9 Nidhun, who are stated to be employees of the accused companies at Thrissur, 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 participating 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, ട്രിച്ചൂർ ടവർ ഹോട്ടൽ, ലുലു കൺവെൻഷൻ സെൻററ് എന്നിവിടങ്ങളിൽ മിക്ക ആഴ്ചകളിലും ബിസിനസ് മീറ്റിങ്ങുകൾ നടത്തിയിരുന്നു. അതിൽ കമ്പനി ഡയറക്ടർമാരും, പ്രമോട്ടർമാരും പങ്കെടുക്കുമായിരുന്നു. കമ്പനിയുടെ പുതിയ വാഗാനങ്ങൾ അവിടെ പ്രഖ്യാപിക്കുമായിരുന്നു. തൃശ്ശൂർ ജില്ലയ്ക്കു 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, 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 ".

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 പ്രോജക്റ്റ് 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. As stated above, in this case, as per the prosecution records, accused no.7/petitioner is not a mere share holder, but she is the promoter and the first subscriber to the Memorandum Of Association of the accused companies. The statements of witnesses, filed along with the final report, shows that, accused companies conducted illegal money chain business violating the objectives and purpose stated in the Memorandum Of Association, and the Articles of Association of the accused companies and committed cheating by conducting illegal money circulation business.

15. Moreover, 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. Whether the petitioner had role in committing cheating and conducting

illegal money circulation business in the name of accused companies will be revealed only after trial, i.e., only after adducal of evidence. At this stage, as per the prosecution records, a primafacie case is made out against the petitioner. Hence, after considering the police report, and the documents sent along with the police report, under section 173 Cr.PC., and after hearing both sides, I am of the finding that, there is sufficient ground for proceeding against the accused no.7/petitioner, for 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, alleged in the prosecution case.

17. Hence, this discharge petition filed by accused no. 7, 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.