

## FIRST INFORMATION REPORT

(Under Section 154, P.C.)

1607

1. Dist. Hooghly P.S. Burpara Year 2021 FIR No. 07/21 Date 15/01/21
2. (i) Act. IPC Sections 406/409/34 (ii) Act. \_\_\_\_\_ Section \_\_\_\_\_  
(iii) Act. \_\_\_\_\_ Sections \_\_\_\_\_ (iv) Other Acts & Sections \_\_\_\_\_
3. a) Occurrence of Offence: Day \_\_\_\_\_ Date \_\_\_\_\_ From Jan 2020 To December 2020  
b) Information received at P.S. Date 15/01/2021 Time 14:15 hrs  
c) General Diary Reference: Entry No. (s) 779 Time 14:15 hrs
4. Type of Information: Written Written / Oral \_\_\_\_\_
5. Place of Occurrence: (a) Direction and Distance from P.S. West 6 Km Beat No. \_\_\_\_\_  
b) Address Taj Burpara T.C. B. Burpara Dist. Hooghly  
c) In case outside limit of this Police Station, then the  
Name of the P.S. \_\_\_\_\_ District \_\_\_\_\_
6. Complainant / Informant:  
a) Name Shri T.P. Nanda, (9832053993)  
b) Father's/Husband's Name \_\_\_\_\_  
c) Date / Year of Birth: \_\_\_\_\_  
e) Passport No. \_\_\_\_\_ Date of Issue \_\_\_\_\_ Place of Issue \_\_\_\_\_  
f) Occupation Service  
g) Address Enforcement Officer, Regional Office, Bhabanishyamidhi Bhawan
7. Details of known/suspected/unknown accused with full particulars Denbazar, Talpaiguri  
(Attach separate sheet, if necessary)  
1) Mr. Anil Kumar Agarnall, S/O Jagadish Prasad Agarnall  
of M.G. Road, Khalpara, P.O. Siliguri Bazar, Dist. Jalpaiguri  
Pin 734065
8. Reasons for delay in reporting by the Complainant / Informant: \_\_\_\_\_
9. Particulars of Properties stolen / involved (Attach separate sheet, if necessary):  
Rs. 33,44,442.00
10. Total value of properties stolen / involved \_\_\_\_\_
11. Inquest Report / U.D. Case No., if any \_\_\_\_\_
12. FIR Contents, (Attach separate sheets, if required): The original written Complaint of the Complainant which is treated as F.I.R. is attached herewith.
13. Action taken: Since the above report reveals, commission of offence(s) as mentioned at item No. 2 registered the case took up the investigation / directed Asst. Substation Officer to take up investigation / refused investigation / transferred to P.S. \_\_\_\_\_ on point of jurisdiction, FIR read over to the Complainant / Informant, admitted to be correctly recorded and a copy given to the Complainant / Informant free of cost.

is on the original written Compl.

14. Signature / Thumb impression of the Complainant / Informant \_\_\_\_\_
15. Date & Time of Despatch to the Court \_\_\_\_\_

Signature of the Officer-in-Charge, Police Station \_\_\_\_\_

Name Sub. Insp. Bhattacharya  
Rank SI of Police No. OC Burpara B.





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EMPLOYEES' PROVIDENT FUND ORGANISATION  
(MINISTRY OF LABOUR: GOVT. OF INDIA)  
REGIONAL OFFICE: BHAVISHYANIDHI BHAWAN  
DINBAZAR::JALPAIGURI- 735 101

Date- 14/01/2021

To  
The Officer-in-Charge  
Name of the Police Station Birpara, Dt- Alipurdwar

Sub : Complaint under Section 405 (Explanation 1) punishable under Section 406/409 IPC against  
Proprietor/Partner/Director of M/s. Jaybir Para T.E. under ESS, Ess. Enclave  
Address P.O. Birpara, Dt. Alipurdwar for an offence  
criminal breach of Trust.

Sir,

It is submitted that I am a Provident Fund Inspector within the meaning of Section 13 of the Employee Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the Act) M/s. Jaybir Para T.E. Enclave (hereinafter referred as the establishment) is covered under the EPF & MP Act, 1952, under Code No. JL/JLP/1456. Establishment is required by virtue of provisions of Section 6 of the Act read with Para 38 of the Employee Provident Fund Scheme, 1952 (reproduced below for ready reference) to pay the Employees Share of Provident Fund contribution deducted from the salaries/wages of the employees on or before 15 of the following month.

Extract of Para 38 of E.P.F. Scheme, 1952

"38 Mode of payment of contributions - (1) The Employer shall, before paying the member his wages in respect any period or part of period for which contributions are payable, deduct the employee's contribution from wages which together with his own contribution as well as an administrative charge of such percentage of the (basic wages, dearness allowance, retaining allowance, if any, and cash value of food concessions admissible thereon) for time being payable to the employees other than an excluded employee, and in respect of which Provident Fund contributions are payable as the Central Government may fix, he shall within 15 days of the close of every month pay the same to the Fund by separate bank drafts or cheques, on account of contributions and administrative charge."

During my inspection of the said establishment on dated 14.01.21 it has been noticed that employer(s) of M/s. Jaybir Para T.E. has / have deducted as details enclosed in Annexure-I, a sum of Rs. 33,44,447.00 (Rupees Thirty Three Lakhs forty four thousand four hundred forty seven only) from the salary/wages of the employees employees share of Provident Fund Contribution for the period from Jan. 20 to Dec. 28 and have not deposited the amount with the statutory fund, in violation of Section 6 of the Act read with Para 38 of Employees Provident Fund Scheme. Non-remitting of the Provident Fund money after deducting the Employer Share from their salary/wages tantamount to an offence of Criminal Breach of Trust as defined under Section (explanation-1) I.P.C. Section 405 (Explanation-1) I.P.C. is reproduced below for ready reference :

Received on 15/1/21 at 14.15 hrs vide G.O. No. 779 and started Birpara PS Case No. 67/21 dt- 15/01/21 u/s 406/409/34 IPC

Contd...

15/1/2021  
Inspector, Police Station  
Birpara

Section 405 (Explanation-1) : A person, being an employer who deducts the employee's share contribution from the wages payable to the employee for credit to the Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.

It is thus clear that M/s. Jaybirlana Tea Estate, Under  
ESS ESS Endeavour S (P) Ltd. and the following persons who are responsible for the conduct of business of Establishment., have committed a cognizable, non-compoundable and deemed offence under Section 405 (Explanation-1) punishable under Section 406/409 of I.P.C.

1. Mr. Amit Kumar Agarwal, DOB- 02/03/1979, Director
2. S/o- Jagadish Prasad Agarwal.
3. Add:- Jaybirlana T.E, P.O. & P.S- Birlana, D & Aipradu
4. / M.G. Road, Kholpara, P.O. Siliguri Bazar
5. Dist- Darjeeling, Pin- 734005

1. T.P. Nanda & A.K. Singh, Enforcement Officer, therefore request you to register FIR under Section 154 Cr. P.C. for prosecution under Section 406/409 I.P.C. against the following :

1. Mr. Amit Kumar Agarwal, DOB 23/1/1979
2. S/o. Jagadish Prasad Agarwal.. (Director)
- 3.
- 4.
- 5.

Yours faithfully

*[Signature]*  
14/11  
S. P. N. / A. K. SINGH  
Enforcement Officer  
Regional Office, Jalpaiguri  
14/11/21



## ANNEXURE I

Details of employees Share deducted from the salary/wages of employees in respect of/s Jay Birpan Tea Estate but not deposited in the statutory fund.

SL NO.	MONTH	AMOUNT INVOLVED
1	Jan. 20	278525
2	Feb. 20	307369
3	March. 20	247691
4	April-20	348276
5	May. 20	218530
6	June. 20	221735
7	July. 20	229877
8	August-20	294830
9	Sep. 20	272414
10	Oct. 20	279678
11	Nov. 20	372557
12	Dec. 20	272965
13		
14		
15		
TOTAL		33,44,447.00

*Arif*  
14/11/21  
SINGH Enforcement Officer  
Regional Office Jalandhar  
प्रवक्तु अधिकारी / Enforcement Officer  
क.म.प.न. / E.P.F.O.  
क्षेत्रीय कार्यालय जलंधर / RO, Jalandhar  
F.O. RO. 35