

(Under Section 154, P.C.)

1. Dist. Alipurdwar P.S. Kalchini Year 2022 FIR No. 165/22 Date 20.10.2022
2. (i) Act IPC Sections 406/409 (ii) Act - Section -
- (iii) Act - Sections - (iv) Other Acts & Sections -
3. a) Occurrence of Offence : Day - Date - From - Date To -
Time Period From 01/22 to 09/2022 Time From - Date To -
- b) Information received at P.S. Date on 20.10.22 Time 17:10 hr
- c) General Diary Reference : Entry No (s) 598 Time 17:10 hr
4. Type of Information : Written / Oral
5. Place of Occurrence : (a) Direction and Distance from P.S. 2 km East of P.S. Beat No. -
- b) Address Kalchini T.E. (A unit of the Busa Bazar Tea C.O. Unit)
B- Kalchini Dist. Alipurdwar
- c) In case outside limit of this Police Station, then the Name of the P.S. - District -
6. Complainant / Informant :
- a) Name Tanka Prasad Niraula (M-9832053993)
- b) Father's / Husband's Name Enforcement Officer, Regional Office, Jalpaiguri
- c) Date / Year of Birth : - (d) Nationality Indian
- d) Passport No. - Date of Issue - Place of Issue -
- f) Occupation Govt. Employee
- g) Address Employee's P.F. Organisation, Regional Office, Dibrugarh, Jalpaiguri
- Details of known / suspected / unknown accused with full particulars
(Attach separate sheet, if necessary) :
1. Dayal Agarwal 80, Roachanlal Agarwal, Director of Kalchini T.E
P.O. B- Kalchini Dist. Alipurdwar, P.A. - Om Palace, Ram Krishna Road,
Acharampara, Seliguri Dist. Darrjiling 27 Titin Saikia 80-11 Deben Saikia
Manager of Kalchini T.E PS & PO
Kalchini Dist. Alipurdwar
8. Reasons for delay in reporting by the Complainant / Informant H.N-4, Lalakala, Guwahati, Kamrup (M) Assam
Pin - 781029
9. Particulars of Properties stolen / involved (Attach separate sheet, if necessary) :
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 which is treated as FIR is enclosed here with.

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 SI - Dismajit - de 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.

14. Signature / Thumb impression

Signature of the Officer-in-Charge, Police Station



Phone No. 03561 - 230721

Fax No. 03561 - 231243

E-mail: ro.jalpaiguri@epfindia.gov.in

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

To
The Officer-in-Charge
Name of the Police Station: Kalchini

Sub : Complaint under Section 405 (Explanation 1) punishable under Section 406/409 IPC against
Proprietor/Partner/Director of M/s. Kalchini Tea Estate (A Unit of The Buxa Darang Tea Co (I) Ltd.
Address: P.O. P.S. Kalchini, Dist. Alipurdwar for an offence of
criminal breach of Trust.

Sir,

It is submitted that I am a Provident Fund Inspector within the meaning of Section 13 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the Act). M/s. Kalchini Tea Estate (A Unit of The Buxa Darang Tea Co (I) Ltd. (hereinafter referred to as the establishment) is covered under the EPF & MP Act, 1952, under Code No. JL/JLP/0200649000. The establishment is required by virtue of provisions of Section 6 of the Act read with Para 38 of the Employees' 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 of any period or part of period for which contributions are payable, deduct the employee's contribution from his wages which together with his own contribution as well as an administrative charge of such percentage of the pay (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 end 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 20/10/2024 it has been noticed that the employer(s) of M/s. Kalchini Tea Estate has / have deducted as per details enclosed in Annexure-I, a sum of Rs. 78,20,319/- (Rupees Seventy Eight Lakh Nondy Thousand Three Hundred Nater only) from the salary/wages of the employees as employees share of Provident Fund Contribution for the period from 01/2022 to 09/2024 and have not yet deposited the amount with the statutory fund, in violation of Section 6 of the Act read with Para 38 of the Employees' Provident Fund Scheme. Non-remitting of the Provident Fund money after deducting the Employees' Share from their salary/wages tantamount to an offence of Criminal Breach of Trust as defined under Section 405 (Explanation-1) I.P.C. Section 405 (Explanation-1) I.P.C. is reproduced below for ready reference:

Contd. P 2

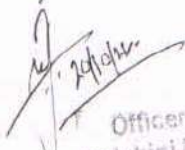
Section 405 (Explanation-1) : A person, being an employer who deducts the employee's share of contribution from the wages payable to the employee for credit to the Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount for 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. Kalchini Tea Estate (A Unit of The Bura Doppers Tea Co. (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. DAYAL AGARWAL S/o Roshanlal Agarwal 32yrs - Director ① Kalchini Tea Estate
P.O. P.S. Kalchini &
Dist. Alipurdia
 2. JITU SAINIA S/o Lt. Deben Sainia 50yrs. Manager ② Om Palace Ramkrishna
Road, Ashrampara
Sibguni Dist. Darjeeling
 - 3.
 - 4.
 5. ③ Kalchini Tea Estate
P.O. P.S. Kalchini
Dist. Alipurdia
H.No. 4, Latouata
Gurrahati Kamrup (M)
Assam-781029.
- Tanka Prasad Niroula
S/o Ramchandra Niroula, 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. Dayal Agarwal S/o Roshanlal Agarwal 32yrs. Director Address
2. Jitu Sainia S/o Lt. Deben Sainia 50yrs. Manager As Above.
- 3.
- 4.
- 5.

Recd. on 20.10.22 at 17:10 hrs
vide GDE no. 598 and started
Kalchini B. Case no. 165/2022
dt. 20.10.22 u/s 406/409 I.P.C.


Officer-in-Charge
Kalchini Police Station

Yours faithfully

Tanka Prasad Niroula
9831053973
Enforcement Officer
Regional Office : Jalpaiguri
T.P. NIROULA
E.C.