



## FIRST INFORMATION REPORT 1235

First Information of a cognizable crime reported under section 154 Cr. P.C. at P. S.

- District Alipurdia Sub-Divn — P.S. Birpara Year 2022 FIR No. 35/22 Date 18/02/2022
- i) Act I.P.C. Sections 406/409 ii) Act. — Sections —
- iii) Act. — Sections — iv) Other Acts & Sections —
3. a) General Diary Reference Entry No. 713 Time 18:40 hr
- b) Occurrence of Offence : Day — Date Jan-21 to Dec-21 Time —
- (c) Information of Offence : Day Friday Date 18/02/2022 Time 18:40 hr
- G.D. No. 713 at the Police Station.
4. Type of information : Written / Oral
5. Place of Occurrence : (a) Direction and Distance from P.S. 5 KM South West
- (b) Address Damdam Tea Estate, P.S. Birpara, Dist. Alipurdia
- Beat No. —
- (c) In case outside limit of this Police Station, then the name of P.S. — District —
6. Complaint / Information :
- (a) Name Tanusa Prasad Nirula, Enforcement Officer, Jalpaiguri
- (b) Father's/Husband's Name Lt. Rom Chandre Nirula
- (c) Date/Year of Birth —
- (d) Nationality Indian
- (e) Address Regional P.F. Office, Jalpaiguri
7. Details of Know/suspected/unknown/accused with full particulars : Anir Kumar Agarwal, Director  
(attach separate sheets, if necessary) S/o. Jagadish Prasad Agarwal  
H.G. Road, Khalsara, P.O. Siliguri  
- Bazar, Dist. Darjeeling.
8. Reasons for delay in reporting by the Complainant/Informant —
9. Particulars of properties stolen/involved : (Attach separate sheets, if required)  
₹- 57,30,769/- (Fifty Seven Lacs Thirty Thousand Seven hundred  
sixty nine rupees only)
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  
traced as FIR is enclosed herewith.
13. Action taken : Since the above report reveals commission of offence(s) u/s —

registered the case and took up investigation/directed Asst. Bixash Rai

to take up the 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.

Signature / Thumb Impression of  
the Complainant/Informant is taken on the original written complt.

Signature of the Officer-in-Charge 18/02/2022  
Name Prem Kumar  
Rank SI of Police, of Birpara P.S.  
Number, if any Dist. Alipurdia





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

Officer-in-Charge

Name of the Police Station: Birpara

Sub : Complaint under Section 405 (Explanation 1) punishable under Section 406/409 IPC against  
Proprietor/Partner/Director of M/s. Demdima Tea Estate Under  
Address: ESS ESS Endeavour's Pvt. Ltd. for an offence of  
Criminal Breach of Trust along with IPC-34 P.O- Birpara, Dt- Alipurdhwa-735204

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. Demdima Tea Estate under ESS ESS Endeavour's Pvt. Ltd. (hereinafter referred to as the establishment) is covered under the EPF & MP Act, 1952, under Code No. JL/JLP/ 823. 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**

**B. 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 payable wages, dearness allowance, retaining allowance, if any, and cash value of food concessions admissible (if any) 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..... it has been noticed that the employer(s) of M/s. Demdima Tea Estate has / have deducted as per details enclosed in Annexure-I, a sum of Rs. 57,30,769/- (Rupees Forty Seven Lakhs thirty thousand seven hundred and sixty nine) from the salary/wages of the employees as employees share of Provident Fund Contribution for the period from Jan. 2021 to December 21 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 :

Received on 12/02/2022 at 13:40 hrs  
vide Birpara PS GDE NO. 713 and  
started Case NO. 35/22 dated 12/02/2022  
u/s- 406/409 I.P.C.

Contd...P/2

*[Signature]*  
Officer-in-Charge  
Birpara PS  
-insured at-

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. Damdima Tea Estate  
Under ESS Endeavour (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.

AMIT KUMAR AGARWAL, Director

S/o- Jagdish Prasad Agarwal.

M.G. Road, Khalpara

P.O. Siliguri Bazar

Dist. Darjeeling. - Pin 734005

I, T. P. Niroula, Enforcement Officer, therefore request you to register IR under Section 154 Cr. P.C. for prosecution under Section 406/409 I.P.C. against the following :

Amit Kumar Agarwal - Director

s/o- Jagdish Prasad Agarwal.

M.G. Road, Khalpara, P.O. Siliguri Bazar - 734005

Dist - Darjeeling.

Yours faithfully,

*Niroula*  
03/02/2022

Enforcement Officer  
Regional Office : Jalpaiguri

T.P. NIROULA  
श्री. पी. निरौला  
E.O. RO, JAL  
Regional Office, Jalpaiguri  
Contact no: 9832059493