

FIRST INFORMATION REPORT
(Under Section 154 Cr. P.C.)



PS Bhaktinagar, Year 2022, FIR No. 1307/22, Date 09/12/2022

Sections 323/354/379/406/ii Act, Sections 7/10 Sec. 3(iv)/3(v)/3(x)/3(xi)/3(xv) of Sections 420/468/471/506 (iv) Others Acts & Sections S.C. & S.T. (POA) Act

(a) Occurrence of Offence: Day Date From the year 2022 Date To 01/10/2022

Time Period Time From Not mentioned Time To 06.30 hrs.

(b) Information received at P.S. Date 09/12/2022 Time 00.10 hrs.

(c) General Diary Reference: Entry No(s) 906 Time 00.10 hrs.

4 Type of Information Written / Oral

5 Place of Occurrence (a) Direction and Distance from P.S. Beat No.

(b) Address Salugara, PS-Bhaktinagar, Dist-Jalpaiguri.

(c) In case outside limit of this Police Station, then the Name of the P.S. District

6 Complainant / Informant

(a) Name Smt Sakuntala Rai @ Sherpa

(b) Father's / Husband's Name Mishel Rai

(c) Date / Year of Birth 53 years (d) Nationality Indian

(e) Passport No. - Date of Issue - Place of Issue -

(f) Occupation -

(g) Address Devi Chowrami Road, Salugara East, Ward No-42, PS-Bhaktinagar, Dist-Jalpaiguri.

7 Details of known / suspected / unknown accused with full particulars

1] Dickey Sherpa @ Deeki Sherpa, D/O- Lt. Dawa Sherpa @ Kumar Sherpa @ Dawa Lama of Salugara Bazar, Ward No. 42, PS- Bhaktinagar, Dist- Jalpaiguri and present resident of Tadong Hotel Betila, Tadong, PS- Gangtok, Sikkim, 2] Pasang Lama Sherpa @ Sonam Geljen Sherpa, S/O- Lt. K.C. Sherpa, 3] Yogesh Rai, S/O- Not Known, 4] Smt. Passang Lama (Sherpa), W/O- Lt. Wangdi Lama, 5] Dendup Wangchuk Dukpa (Sherpa), S/O- Not Known, 6] Smt. Ranjana Gurung W/O- Nima Sherpa, 7] Nima Sherpa, S/O- Not known, 8] Agaya Gurung S/O- L.B Gurung, all are resident of Salugara Bazar, Ward No- 42, PS- Bhaktinagar, Dist- Jalpaiguri, 9] Manu Roy S/O- Not Known, Registered owner of Vehicle No WB-73-B-4321 along with his driver.

Inspector-In-charge
Bhaktinagar Police Station

9 Particulars of properties stolen / involved (Attach separate sheet, if necessary):

Total Rs. 32,50,000/- only

10 Total value of properties stolen / involved -

11 Inquest Report / U D Case No., if any -

2 FIR Contents (Attach separate sheets, if required): The original written Complaint of the Complainant which is treated as F.I.R. is enclosed herewith.

3 Action taken: Since the above report reveals commission of offence(s) as mentioned at item No. 2, up the investigation / directed AS PER KIND ORDER OF SUPERIOR, Sri Moksedur Raha, Inspector In-charge, Bhaktinagar Police Station, Jalpaiguri, West Bengal. Investigation / refused investigation / transferred to P.S. 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

DR No. 5837 Date 10/12/22
Bhaktinagar Police Station SPC

Signature of the Officer In-charge
Name: Amar Nath
Rank: No. 1/c, Bhaktinagar

Date & Time of despatch to the court:

COURT OF THE CHIEF JUDICIAL MAGISTRATE, JALPAIGURI

M.P Case No- 412/22

SAKUNTALA RAI @ SIHERPA VS DICKEY SIHERPA

Order dated:07-12-22

This day the complainant has filed a petition praying for passing necessary direction upon the concerned Police Station for treating the written complaint as FIR as per provisions of Section 156 sub-section (3) of the Criminal Procedure Code 1973. The complainant is present and he is examined by this court.

Heard Ld lawyer for the complainant.

Series of documents[photo copies] have been filed. Affidavit as stipulated by law has been filed. It is apparent that the modalities of section 154 (3) and section 36 of Criminal Procedure Code 1973 has been complied with. Thus the directions of the Hon'ble Supreme Court given in *Lalita Kumari versus State of U.P [2014] 2 SCC 1 and Priyanka Srivastava and another versus State of UP and others [2015]6 SCC 287* have been complied with.

Meticulously examined the petition in which allegations of cognizable offence/s have been disclosed. The facts prima facie reveal that criminal complexion can certainly be conjured up. The nature of allegations also persuades me to hold that intervention by police authority is necessary and the cause of justice can only be served by detailed probe.

Hence the prayer is allowed.

The written complaint be sent to I/C Bhaktinagar and I.C Bhaktinagar P.S. is directed to conduct investigation following the modalities of law treating the complaint as FIR and to file compliance report to this end at the earliest.

Let a copy of this order along with the petition of complaint be sent to the I/C Bhaktinagar who is directed to invest her own consideration to the facts alleged and she should not be influenced by the mere manifestation of the sections- if any- mentioned in the written complaint.

Be it mentioned here that if any police case has already been started on the basis of F.I.R. lodged by the complainant over the same facts as envisaged in the present complaint, in that event matter shall be reported to this Court and no fresh case shall be started until further order from this end.

Comply at once.

It is reiterated here that as per order of the Hon'ble High Court in CRM 4792/2019 FIR shall be drawn up at the police station not later than 24 hours from the date of receipt of order u/s 156(3) Cr.P.C. and non compliance of the same will entail action u/s 23 Police Act and departmental action also.

Fix 07-01-2023 for compliance report from P.S. concerned.

Sakuntala Rai @ Siherpa
Complainant

C.J.M. , Jalpaiguri
Chief Judicial Magistrate
Jalpaiguri

MIP-3954

Sakuntala Rai
Sherpa

IN THE COURT OF LD. C. J. M. AT JALPAIGURI

Misc. Petition Case No. 31/2022

IN THE MATTER OF:

An application under Section 156(3) of Cr.P.C.

NAME AND ADDRESS OF THE
COMPLAINANT:

SMT. SAKUNTALA RAI @ SHERPA,
W/O Mishel Rai, aged about 53 years,
resident of Devi Chowrani Road, Salugara East,
SMC Ward No. 42, P. O. Salugara, P. S.
Bhaktinagar, Dist - Jalpaiguri (West Bengal)

NAME AND ADDRESS OF THE
ACCUSED PERSONS

1. DICKEY SHERPA @ DEEKI SHERPA,
D/O Late Dawa Sherpa @ Kumar Sherpa @
Dawa Lama, resident of Salugara Bazar,
Ward No. 42 of SMC, P. O. Salugara, SMC
Ward No. 42, P. S. Bhaktinagar, District -
Jalpaiguri (West Bengal) 734008 and
present resident of Tadong, Hotel Betula,
Tadong, P.S Gangtok, Sikkim.

**2. SRI PASANG LAMA SHERPA @ SONAM
GELJEN SHERPA,** S/O Late K.C. Sherpa,
resident of Salugara Bazar, Ward No. 42,
P. O. Salugara, SMC Ward No. 42, P. S.
Bhaktinagar, District - Jalpaiguri (West
Bengal) 734008.

3. SRI YOGESH RAI, S/O Not Known,
resident of Salugara Bazar, Ward No. 42 of
SMC, P. O. Salugara, SMC Ward No. 42, P.
S. Bhaktinagar, District - Jalpaiguri (West
Bengal) 734008.

4. SMT PASSANG LAMA (SHERPA), Wife of
Late Wangdi Lama, resident of Salugara
Bazar, Ward No. 42 of S.M.C., P.O.

07-01-22



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Sherpa

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Salugara, P.S. Bhaktinagar, Dist -
Jalpaiguri, West Bengal - 734008.



5. **DENDUP WANGCHUK DUKPA(SHERPA)**,
S/O Not Known, both are resident of
Salugara Bazar, Ward No. 42 of S.M.C.,
P.O. Salugara, P.S. Bhaktinagar, Dist -
Jalpaiguri, West Bengal - 734008.

6. **SMT RANJANA GURUNG W/O Nima**
Sherpa

7. **SRI NIMA SHERPA**, S/O Not known

8. **MR AGAYA GURUNG S/O L.B Gurung**,
Serial No. 6, 7 & 8 are resident of Salugara
Bazar, Ward No. 42 of S.M.C., P.O.
Salugara, P.S. Bhaktinagar, Dist -
Jalpaiguri, West Bengal - 734008.

9. **MANTU ROY**

S/O Not Known

Registered owner of Vehicle No WB-73-B-
4321 along with his driver.

OFFENCE COMMITTED:



U/S 323, 354, 379, 406, 420, 468,
471 506 I.P.C. and
U/S 3(iv), 3(v), 3(x), 3(xi) and 3(xv) of
**THE SCHEDULED CASTES AND THE
SCHEDULED TRIBES
(PREVENTION OF ATROCITIES) ACT,
1989.**

THE COMPLAINANT BEGS TO STATE AS FOLLOWS:

Most respectfully Sheweth.

1. That the Complainant is a peace loving and a law abiding citizen of India.
2. That the complainant is tribal by cast and a lady.



AFFIDAVIT

I, **SMT SAKUNTALA RAI @ SHERPA** W/O Mishel Rai, D/O Chhering Dorje Sherpa @ Tshiring Dorje Sherpa, aged about 53 years, resident of Devi Chowrani Road, Salugara East, P. O. Salugara, SMC Ward No. 42, P. S. Bhaktinagar, District - Jalpaiguri (West Bengal) 734008 - do hereby solemnly affirm and declare as follows :-

- 1) That I am the Complainant of this case and well conversant with the facts of the case.
- 2) That all the statements made in paragraph above are true to the best of my knowledge and belief and rest are humble submission before the Ld. Court.

I sign this affidavit on this the 07th day of December, 2022 at Jalpaiguri.

Sakuntala Rai @ Sherpa.

Signature of the Deponent

Identified by me

Advocate/Siliguri



Solemnly affirm and declare before me on proper identification

Hasan

Hasan Omar Faruque, NOTARY
Dist. Jalpaiguri
Regd. No: 78/07, Expiry on- 20/02/2027
Govt. of West Bengal

07 12 22

Received on 07/12/22 at 00. Lohu. side Bhaktinagar PS GDC No- 906 and started Bhaktinagar PS case no. 1307/22 dated 09/12/22 u/s- 323/354/379/406/420/468/471/506 IPC r/w Sec. 3 (iv)/3 (v)/3 (x)/3 (xi)/3 (xv) of SC & ST (PoA) Act, 1989. As per kind order of Superior, Sri Moksadur Rahman, ACP, ICP, SPC will investigate the case.

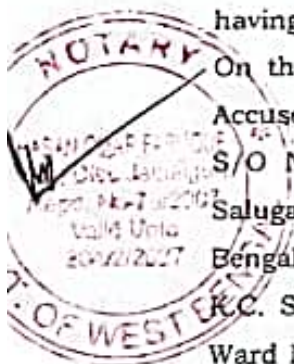
Inspector-in-charge
Bhaktinagar Police Station
Siliguri Police Commissionerate



Sakuntala Devi
Sherpa.

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3. That the Complainant submits that in the year on 2016, while the Complainant was in search of a suitable land at Salugara came in contact with the above named Accused Person through some persons at Salugara and during the discussion the Accused Person told the Complainant that she is having on land (present suit land) and also told the Complainant that she is very much interested to sell out her said land due to her financial needs.
4. That the Complainant being interested started to negotiate with the Accused Persons and subsequently the Accused Person accompanied the Complainant to the said land and there was certain discussions between the Complainant and the Accused Persons and during the discussion the Accused Persons disclosed that she has fixed the sale price of the entire said land at Rs. 85,00,000/- (Rupees Eighty Five Lakhs only) and if the Complainant is interested in buying the said land, she has to pay Rs. 10,00,000/- (Rupees Ten Lakhs only) as advance money.
5. That the Complainant, being interested in the said land requested the Accused Persons to present the Title Deed together with other documents in respect of the ownership of the Accused Persons and the Accused Persons instructed that before entering into the agreement with the Accused Persons the Complainant can do the needful to ascertain the ownership of the Accused Persons relating to the suit land.
6. That the Complainant submits that after the proper enquiry it was found that the suit land belongs to the above named Accused Persons and she was in possession of the suit land with a tina structure wherein the family members of the Accused Persons were residing.
7. That the Complainant submits that as per the discussion taken place in between the Complainant and the Accused Persons an Agreement for Sale was prepared having certain Terms and conditions as per the demand of the Accused Persons. On the day of execution of the agreement i.e. 22.03.2016, the above named Accused Person introduced the Complainant with two persons viz. Yogesh Rai, S/O Not Known, resident of Salugara Bazar, Ward No. 42 of SMC, P. O. Salugara, SMC Ward No. 42, P. S. Bhaktinagar, District - Jalpaiguri (West Bengal) 734008 and Pasang Lama Sherpa @ Sonam Geljen Sherpa, S/O Late K.C. Sherpa, resident of Salugara Bazar, Ward No. 42, P. O. Salugara, SMC Ward No. 42, P. S. Bhaktinagar, District - Jalpaiguri (West Bengal) 734008 as her representative and asked the Complainant to pay the advance amount of Rs.





Sakuntala Bai @
Sherpa

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10,00,000/- (Rupees Ten Lakhs only). The Complainant obliged and paid the Accused Persons and both the above mentioned representative the said advance amount for the suit land. The Accused Persons further stated to the Complainant that the Accused Person was married and will be residing at Sikkim at her matrimonial home and any further transactions will be conducted and looked after by the representatives of the Accused Person.

8. That the Complainant submits that after the payment of the said amount to the Accused Persons, the Accused Persons instructed the Complainant to pay the balance amount at the time of execution of the Deed of Sale in favor of the Complainant. The Complainant agreed to the proposal of the Accused Persons and agreed to pay the balance amount at the time of execution of the Deed of Sale.

9. That the Complainant submits that the representative of the Accused Persons approached the Complainant on different dates and requested her to pay an amount of Rs. 21,00,000/- (Twenty One Lakhs only). The Complainant then confirmed the same with the Accused Persons and after the confirmation from the Accused Person, the Complainant paid the said amount to the representative, Rs. 16,00,000/- (Rupees Sixteen Lakhs only) through cash and obtained a receipt from the representatives of the Accused Person. The Complainant paid Rs. 5,00,000/- (Rupees Five Lakhs only) out of the Rs. 21,00,000/- (Twenty One Lakhs only) through bank transaction as per the instruction of the Accused Persons and the same amount was confirmed by the Accused Persons.

The Complainant further submits that again Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) was transferred in the name of the Accused Persons through bank transaction on 29.05.2018 as well. That after the receipt of Rs. 32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand only) in total the above named Accused Person and her representative handed over the possession of certain portion of the land which was vacant except the land on which the tin shed stands on, in favor of the Complainant and since then she has been possessing and enjoying the said land without any objections.

That the Complainant submits that in several dates she requested the Accused Persons to transfer the said land in favor of the Complainant but the Accused Person No. 1 stated that she is presently at Sikkim and will transfer the said land in favor of the Complainant once she gets an opportunity to come to





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Siliguri. Upon the word of the Accused Person no. 1, the Complainant waited for the Accused Person no. 1 to come to Siliguri and complete the process of execution of Deed of Sale in favor of the Complainant.

11. That after the lapse of about two years from the payment of Rs. 32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand only) the Complainant again requested the Accused Persons to transfer the said land in the name of the Complainant but the Accused Person No. 1 gave various excuses for her incapability to come to Siliguri from her matrimonial home. Seeing this the Complainant was about to lodge a written complaint before the competent authority but the representatives of the Accused Persons requested the complainant not to lodge the complaint against the Accused Person and the representatives of the Accused Person assured that the land will definitely be transferred in the name of the Complainant as soon as possible.

12. That the Complainant submits that even after the said assurance the Complainant, on several occasions, requested the Accused Persons and her representatives to transfer the said land in her favor but the Accused Persons refused to do so giving various lame excuses.

13. That the Complainant submits that in the year 2021 the Complainant from a reliable source came to know that the Accused Person, suppressing the material facts, has already started negotiating the terms and conditions for the sale of the said suit land with certain persons and thus the Accused Person is having a mala fide intention to deprive the legitimate right of the Complainant for some unlawful gain. After getting such knowledge the Complainant lodged one written complaint before the Bhakinagar P.S. on 21.12.2021 and also lodged one written complaint before the Commissioner of Police, Siliguri Metropolitan Police on 23.12.2021 against such unlawful acts of the Accused Person and her representatives.



14. That the mala fide intention of the Accused Person to deprive the legitimate right of the Complainant for the Accused Persons wrongful gain and as such the necessity has been oriented to file the present suit so as to assert the right of the Complainant through due process of law.

15. That again on 01.10.2022 at about 06:30 A.M. the above named accused person along with five to six anti social persons came to the house of the complainant and threaten her with dire consequences. The aforesaid persons forcefully



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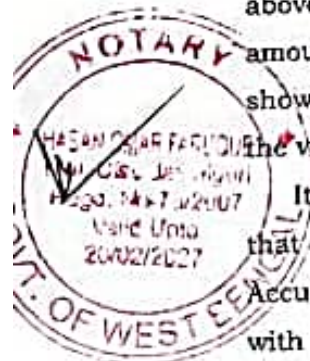
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entered the said land along with heavy machineries and bulldozers and demolished the certain portion of structure of the complainant on the said land. The accused persons stole all the materials of the structure of the said land and kept it in their possession despite the objection of the complainant. That the above named accused person had already created/prepared forged and fabricated documents of the said land in the name of the Accused Person No. 4 and on the basis of the said forged and fabricated documents the above named accused persons was preparing to sell the said to another person despite the fact that they had already taken money from the above named complainant. That the accused person and his men knew that complainant is cast by tribal and inspite of that they tried forcibly to grab the land of the complainant and push her. That before living the spot the accused Person no. 2, 6 & 8 clearly abused the Complainant and her sister about her tribal caste using filthy language and saying derogatory word to the Tribal Caste of the Complainant. That the complainant seeing the activities of the accused person started crying and after that they fled away with a threat that if the complainant constructed anything in the said land they shall kill the complainant.

16. That again on 07.11.2022 the afore said complainant lodged one written complaint before the Commissioner of Police, Siliguri Metropolitan Police against the above named accused as because even after receiving the Written Complaint from the complainant on 01.10.2022 the Bhaktinagar P.S. did not start any specific case against the above named accused person.

17. That the Accused Persons are very desperate in nature and having criminal backgrounds and are trying to threaten the complainant with her life and the above named accused persons have forged and fabricated all the land documents and are regularly trying to disposes the above named complainant from the said land by criminal and illegal means. It can also be seen that the above named accused persons jointly induced the complainant to pay such huge amount of Rs. 32,50,000/- (Rupees Thirty Two Lakhs Fifty Thousand only) showing all the land documents with an intention to cheat the complainant from the very beginning of the said transaction.

It is pertinent to mention here that the Accused Persons have the knowledge that the Complainant is by Caste a Tribal. It is also submitted here that the Accused Persons crooked, well sourced and connected and have a good relation with the Govt. Concerned Officials and they have already forged documents of the land by using such source and connections.





Sakuntala Devi
Sherpa.

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18. That despite several representation before the Bhaktinagar P.S. and The Commissioner of Police, Siliguri Metropolitan Police, unfortunately no case has been started and thus necessity has been oriented to file the present Misc. Petition with the prayer for direction upon the Inspector-in-Charge of Bhaktinagar Police Station for treating the complaint as F.I.R. by starting a specific criminal case against the Accused Persons and take every possible and necessary steps for investigation.

Under the above circumstances it is therefore prayed before the Ld. Court would be graciously pleased to direct the Inspector-in-Charge of Bhaktinagar Police Station to treat the complaint as F.I.R. and start the investigation of offences committed by the Accused Persons and further pass necessary order/orders as Your Honor may deem fit and proper for the ends of justice.

And for this act of kindness your petitioner as in duty bound shall ever pray.

