

Misc. DJ 1030/23

Ashok Kumar v. Suman Bala

13.08.2026

Present: Applicant with Ld. Counsel Ms. Reenu Sharma

1. The matter is fixed for order on application under section 340 CrPC.
2. The plaintiff /applicant has filed the present application under section 340 CrPC for initiating the proceedings under section 195 IPC against respondents Suman Bala and Panna Lal for filing application and taking false and fabricated plea in the application and filing false affidavit before this Court.
3. In the application u/s 340 CrPC, it is submitted on behalf of the applicant/plaintiff that on 12.12.2020, the defendants appeared and moved application u/s 151 CPC requesting to appoint a lawyer to defend themselves as DLSA had refused to appoint lawyer for them. In the said application, the respondents have taken number of pleas i.e. the respondents were running a small rented shop for selling artificial jewellery and they were not in a position to engage a lawyer. It is also stated in the said application u/s 151 CPC by the respondents that since applicant Ashok Kumar and his wife are practicing advocates and members of Saket Bar Association, no lawyer was ready to defend them and it was also pleaded in the said application u/s 151 CPC that the applicant and his wife have made life of the respondents hell and they used to beat the respondents in court premises during court's date of hearing. In the said application, the respondents

have given an affidavit and defendant no. 2 mentioned his age as 61 years and defendant no. 1 has mentioned her age as 58 years. The actual age of defendant no. 1 is 50 years and defendant no. 2 is aged about 55 years and false statement has been made regarding age in the application u/s 151 CPC. The defendants are goldsmith by profession and they are dealing with gold and silver jewellery and they earn handsome amount from business and are capable to appoint lawyer to defend themselves. The respondents have committed deliberate act of perjury by filing false affidavit. Hence, it is prayed that provision u/s 340 CrPC be invoked against the respondents and case be sent to the Court of concerned JMFC for proceeding u/s 195 IPC.

4. Alongwith the application, the applicant has filed copy of the application u/s 151 CPC moved by the respondents wherein alleged false averments were made and the copy of affidavit are also filed on the record.

5. The application u/s 340 CrPC has been filed on the basis of certain alleged false averments made in the application u/s 151 CPC filed by the respondents seeking prayer to direct DLSA to appoint a lawyer for the respondents.

6. It is settled that while dealing with an application under 340 Cr.PC for perjury/ false evidence, the Court must form an opinion that it is expedient in interest of justice to inquire into the offence. The provision of Section 340 Cr.P.C must never be used to satisfy personal revenge or grudges. The following conditions

must be fulfilled before invoking Section 340 CrPC for giving false evidence:-

- (a) That the person has given false affidavit or false evidence in a proceeding before a court; and
- (b) That in the opinion of the court, it is expedient in the interest of justice to make any enquiry against such person in relation to the offence committed by him into an offence referred to clause(b) of section 195(1) CrPC.

7. It is settled through judicial pronouncements that it is not incumbent upon the court to other prosecution on every false / incorrect statement made in the Court. It is only in glaring cases of deliberate falsehood where conviction is highly likely that the court should direct prosecution. The court is not bound to make the complaint. The complaint would be judged by the court by weighing not by the magnitude of the injury suffered by the person affected by such offence but having regard to the effect or impact of that offence but having regard to the effect or impact of that offence upon administration of justice. I get strength from the judgment passed in the matter of **Dr. Kirti Sharma vs. Dr. Kapil Parasha and Pritish v. State of Maharashtra & ors.**

8. In the case of **Dr. Kirti Sharma vs. Dr. Kapil Parasha, Crl.A. 1508/2025 dated 03.11.2025**, Hon'ble High Court of Delhi has held that course of Section 340 CrPC is only to be adopted if it is in the interest of justice. The relevant para of the order is reproduced as under:-

12. Section 340 CrPC provides that when a Complaint is made under any offence referred to in Section 195 CrPC, it may be forwarded to the Court of learned Magistrate, to be disposed of in accordance with law. Section 195 CrPC deals with the offences from Section 172 to Section 188 IPC and Section 193 to 196, 199, 200, 205 to 211 and 228, when the

offence is alleged to have been committed in relation to any proceedings in the Court.

13. **The jurisdiction under Section 340 is further circumscribed with the condition that only if the Court is of the opinion that it is expedient in the interest of justice, it may direct such enquiry.** This aspect was considered in the Case of Iqbal Singh Marwah & Anr. (supra), wherein it was observed that the language of Section 340 CrPC, shows that **a course under Section 340 CrPC, is only to be adopted if it is in the interest of justice.** This expediency would normally be judged by the Court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document but must have regard to its effect or impact.

14. Similarly, in Patel Laljibhai Somabhai vs. The State of Gujarat, the Apex Court has analysed the objective of enacting Section 195(1)(b) and (c) and Section 376/340 CrPC and observed that for the offences about which the Court alone, to the exclusion of the aggrieved private parties, is clothed with the right to complain, may appropriately consider whether those offences having been committed by the party in the proceedings before that Court and such commission has a close nexus with the proceedings of the Court, and may direct an inquiry on being satisfied as to the expediency of prosecuting the delinquent party.” (Emphasis supplied).

9. In the case of **Pritish v. State of Maharashtra & Ors. 2002 (1) SCC 253**, Hon’ble Supreme Court has also held that it is not mandatory for the Court to invoke power under Section 340 CrPC in all cases of false statement in the Court and it should be exercised only when it is expedient in the interest of justice. The relevant para of the order is reproduced as under:-

“9. Reading of the sub-section makes it clear that the hub of this provision is formation of an opinion by the court (before which proceedings were to be held) that it is expedient in the interest of justice that an inquiry should be made into an offence which appears to have been committed. In order to form such opinion the court is empowered to hold a preliminary inquiry. It is not peremptory that such preliminary inquiry should be held. Even without such preliminary inquiry the court can form

such an opinion when it appears to the court that an offence has been committed in relation to a proceeding in that court. It is important to notice that **even when the court forms such an opinion it is not mandatory that the court should make a complaint. This sub-section has conferred a power on the court to do so. It does not mean that the court should, as a matter of course, make a complaint.** But once the court decides to do so, then the court should make a finding to the effect that on the fact situation it is expedient in the interest of justice that the offence should further be probed into. If the court finds it necessary to conduct a preliminary inquiry to reach such a finding it is always open to the court to do so, though absence of any such preliminary inquiry would not vitiate a finding reached by the court regarding its opinion. It should again be remembered that the preliminary inquiry contemplated in the sub-section is not for finding whether any particular person is guilty or not. Far from that, the purpose of preliminary inquiry, even if the court opts to conduct it, is only to decide whether it is expedient in the interest of justice to inquire into the offence which appears to have been committed.” (Emphasis supplied).

10. Perusal of file of CS DJ no. 884/2019 titled as Ashok Kumar v. Suman Bala & Anr. would show that the case has been decided vide judgment dated 06.08.2026 and the judgment has been passed against the respondents. Perusal of the record of the said case would also show that there has been previous enmity between the applicant and the respondents. The FIR was lodged by the wife of the applicant in which the respondents have been convicted and in the FIR lodged by the respondent no. 1 Suman Bala, the applicant has been acquitted. The provision of Section 340 CrPC cannot be invoked for satisfaction of personal grudges of litigant. In the facts and circumstances of the present case, this Court does not deem it expedient in the interest of justice to exercise the power u/s 340 CrPC against the respondents for

allegedly making false averments in the application u/s 151 CPC.

Therefore, the application u/s 340 CrPC is dismissed.

11. File be consigned to record room after necessary compliance.

(NEHA)
District Judge-06/South East
Saket Court/New Delhi
13.08.2026