

ORDER BELOW EXH.106 IN Special Case (ACB) No. 81/2018
(CNR NO.MHOS010020242018)

1. This is an application filed by the learned Assistant Public Prosecutor seeking initiation of prosecution against prosecution witnesses namely **PW1 Amar Shivaji Mane** and **PW4 Vishal Wyankatesh Raghoji** under Section 344 of the Code of Criminal Procedure on the ground that they have intentionally given false evidence before this Court.

2. It is the case of the prosecution that PW1 Amar Shivaji Mane is the informant/complainant. He had lodged a complaint before the officer of the Anti Corruption Bureau alleging that his complaint was typed by the ACB officer on the computer as per his say and after reading the same he had signed it. In the said complaint, it is alleged that the accused had demanded illegal gratification of Rs.1,000/-. However, during deposition before this Court, PW1 has stated that the accused never demanded any bribe and has not supported the prosecution case to that extent. He has also denied certain portions of the FIR. It is further the case of the prosecution that PW4 Vishal Wyankatesh Raghoji has deposed before this Court that contents of his previous statement under Section 161 Cr.PC. was not stated by him. However, the Investigating Officer has stated in his evidence that the statement of PW4 was recorded as per his say. According to the learned APP, both witnesses have thereby given false evidence and are liable to be proceeded against under Section 344 Cr.PC.

3. The learned APP has submitted that the witnesses have resiled from their earlier statements and have deliberately deposed falsely before the Court, thereby attracting action under Section 344 Cr.P.C. Per contra, learned counsel for PW1 submitted that the application is misconceived. It is contended that PW1 has deposed the true facts before the Court and that he had no concern with the accused regarding the work in question. It is further contended that there was no intention on his part to give false evidence. Similarly, PW4 through his counsel has opposed the application and submitted that he has not intentionally given false evidence and therefore no case is made out for initiation of proceedings under Section 344 Cr.P.C.

4. The following points arise for determination:

Points	Findings
1. Whether it is expedient in the interest of justice to initiate proceedings against the informant under Section 344 Cr.P.C. for intentionally giving false evidence before the Court?	No
2. What order?	As per final order

REASONS

Point Nos. 1 and 2

5. Heard learned APP Smt. N.Y. Sabale and learned counsel Mr. A.G. Gade and Mr. D.S. Tapise for the concerned witnesses. Perused the record and evidence. Section 344 Cr.P.C. empowers the Court to initiate proceedings against a witness for intentionally giving false evidence in a judicial proceeding. However, such power is of a summary nature and is required to be exercised with great caution. It must be shown that the witness has deliberately, consciously and intentionally deposed falsehood

on a material aspect. Mere contradiction between the statement made during investigation and deposition before the Court does not automatically warrant invocation of Section 344 Cr.PC. unless the Court is satisfied that the falsity is intentional and not due to misunderstanding, lapse of memory, confusion, or change of stand for other plausible reasons.

6. In the present case, PW1 Amar Shivaji Mane is the informant in the case. Though it is alleged that he had earlier stated in his complaint that the accused demanded Rs.1,000/- as illegal gratification, in his deposition before the Court he has not supported the prosecution to that extent and has stated that no demand of bribe was made. However, it is significant to note that PW1 has stated before the Court that the complaint was typed by the ACB officer on computer and he only put his signature over it without reading it. He has not categorically stated that the contents of the complaint were falsely inserted or that he had never made such allegations at any stage with dishonest intention. His deposition, therefore, appears to be a variation in version rather than a deliberate attempt to mislead the Court.

7. Similarly, as regards PW4 Vishal Wyankatesh Raghoji, this witness has stated that he has not stated the contents of his previous statement under Section 161 Cr.PC., whereas the Investigating Officer has stated otherwise. At the most, this reflects a discrepancy between the version of the witness and the Investigating Officer regarding the manner of recording of

statement. Such discrepancy by itself cannot be construed as intentional falsehood unless there is clear and cogent material indicating that the witness knowingly made a false statement with intent to mislead the Court. The record does not disclose such material.

8. It is also to be borne in mind that criminal liability under Section 344 Cr.P.C. cannot be invoked merely on the basis of the hostility of a witness or deviation from his earlier version. The Court must be satisfied that the witness has deliberately attempted to obstruct or pervert the course of justice. However, there is nothing on record to indicate the same. Therefore, it cannot be concluded that PW1 and PW4 have intentionally given false evidence so as to attract the provisions of Section 344 Cr.P.C. The application is therefore devoid of merit and deserves to be rejected.

ORDER

The application stands rejected.

Date :- 15.06.2026

[Rajesh K. Khomane]
Special Judge, (Court No.4)
Osmanabad

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment are same word to word as per the original Judgment.

Name of the Stenographer	:	Golhe P.V., Stenographer Grade 1
Name of the Court	:	District Judge-1 and Additional Sessions Judge, Osmanabad (Dharashiv)
Date of Judgment	:	15.06.2026
Judgment signed by the presiding officer	:	15.06.2026
Judgment uploaded on	:	15.06.2026