



IN THE HIGH COURT OF ORISSA AT CUTTACK

AFR

**I.A. No.656 of 2025
(CRLREV No.420 of 2025)**

Sonia Tripathy **Petitioner**
Mr. Milan Kanungo, Senior Advocate
along with Mr. A.K. Acharya, Advocate

-Versus-

State of Odisha **Opposite Party**
Ms. B. Dash, ASC
Mr. H. S. Mishra, Advocate

**CORAM:
JUSTICE R.K. PATTANAİK**

DATE OF HEARING:03.09.2025

DATE OF ORDER:22.12.2025

1. Instant petition under Sections 340 Cr.P.C. read with Section 379 BNSS is at the behest of the informant, namely, opposite party No.2 for a direction to initiate action against the petitioner in terms thereof for having committed the offences punishable under Sections 193, 195, 199 & 200 I.P.C. expedient in the interest of justice on the grounds stated.

2. According to opposite party No.2, the action under Section 340 Cr.P.C. is necessary, since the petitioner has filed multiple false affidavits in the proceedings before this Court for self and co-accused husband pending disposal with the plea that the details of the chargesheet have not been revealed, rather, containing false and misleading averments and in so far as the case at hand is concerned, the same is evident from the list of the dates and events described by her. It is further pleaded that the accused husband is claimed to be the Director of Lumex



Resources Pvt. Ltd., a fact, which is outrightly false, inasmuch as, he was never holding any such position in the company. The statement that the partnership firm managed by the petitioner and her husband had been amalgamated with the company is again a falsehood, for the reason that both the accused persons claimed such amalgamation by a Board Resolution to that effect, which was later ascertained to be incorrect and the partnership firm still exists independently as on date. It is alleged by opposite party No.2 that the averments in the revision petition are completely false with regard to the claim of the petitioner about the company having been formed. It is also alleged that the date of remand has been falsely stated and the same is also misleading on a bare perusal of the pleading on record. Referring to the facts pleaded further, it is stated by opposite party No.2 that there is suppression and misrepresentation of material facts, since no Official Liquidator was ever appointed and no such order of liquidation was passed since because the Resolution Professional was appointed by the NCLT, who during forensic audit had figured out that there has not been any business undertaken by the company and the amount was misappropriated through various other shell companies as there were nil assets and the company was dissolved without the process of liquidation. It is pleaded that the NCLT, in the order of dissolution of the company, had categorically mentioned that the aggrieved parties shall be at liberty to continue or to take appropriate legal recourse against the Directors. Furthermore, it is alleged that the conditions of the agreement stipulates that the loan availed is to be utilized for Chrome export while the reports of the Department of Customs have clarified that there has not been any such export



either by the partnership firm or the company owned by the petitioner and her husband and not only that, the amount of misappropriation (personal and joint liability) has been falsely stated to be Rs.70 lac, which is factually incorrect. According to opposite party No.2, there has been misrepresentation of facts by the petitioner and the co-accused with regard to the documents pertaining to the clientele base revealed to them and besides that, the investigation unearthed the fact that the documents showing the transactions to have been forged and fabricated and that apart, one of the shell companies was formed after the loan was availed from opposite party No.2. With other facts pleaded, it is finally alleged by opposite party No.2 that the petitioner has misled the Court with an intention to defraud and interfere with the administration of justice and hence, she is liable to be prosecuted with a complaint filed against her having committed offenses punishable under Section(s) 191 and 192 I.P.C. The petitioner is also alleged of having filed forged medical documents while seeking bail and also fabricated rental agreements and considering the same, as per opposite party No.2, it is case of fraud on record and therefore, the petitioner is needed to be prosecuted for all such false declarations made, which is an offence in view of Section 199 I.P.C.

3. Heard Mr. Kanungo, learned Senior Advocate along with Mr. Acharya, learned counsel appearing for the petitioner and Mr. Mishra, learned counsel for opposite party No.2 besides Ms. Dash, learned ASC for the State.

4. Mr. Mishra, learned counsel for opposite party No.2 would submit that it is a clear case of misrepresentation of facts for



filling a number of false affidavits by the petitioner and therefore, the Court is to take judicial notice of the same and direct filing of a complaint against her for the facts narrated hereinabove as she is liable for prosecution for the false evidence furnished. In support of such contention, Mr. Mishra, cited a decision of the Apex Court in **Kusha Duruka Vrs. State of Odisha** in Criminal Appeal No.303 of 2024 decided on 19th January, 2024 to contend that anyone could take recourse to fraud and interfere with the judicial dispensation and administration of justice and such persons are required to be sternly dealt with not only to punish them for the wrong done but also to deter others from indulging in similar acts. The contention of Mr. Mishra, learned counsel is that the petitioner and her husband brazenly indulged in fraud and misappropriated the loan amount received from opposite party No.2 and therefore, the F.I.R. was lodged to set the criminal action into motion. It has been the claim of Mr. Mishra, learned counsel that the petitioner was a party to the alleged fraud and misappropriation along with her husband for availing loan from opposite party No.2 and ultimately, after having managed the loan with misrepresentation of facts, she committed further mischief without any intention to invest the same, for which, it had been received. The allegation is that while challenging the criminal action further fraud has been committed misleading the Court with several false affidavits filed. Under such circumstances, it is finally pleaded that the petitioner being equally responsible for the misrepresentation and fraud with false averments being made and she is required to be prosecuted with a complaint lodged by this Court in terms of Section 340 Cr.P.C.



5. On the contrary, Mr. Kanungo, learned Senior Advocate and Mr. Acharya, learned counsel for the petitioner denied the claim of opposite party No.2 that there have been false affidavits filed with suppression and misrepresentation of material facts by the petitioner to invite any such action under Section 340 Cr.P.C. The contention is that there is no false evidence submitted from the side of the petitioner, who, in order to justify her claim for discharge has relied on the police papers, such as, FIR and the chargesheet. It has been the specific case of the informant in the FIR that the partnership firm was alleged to have been merged with a company in the year 2019 with the assets and liabilities of the same being taken over and it has also been claimed and pleaded about a debt settlement agreement entered between them and opposite party No.2 and with the above averments on record, according to Mr. Kanungo, learned Senior Advocate, it would not be just and proper to allege that they have falsely averred and filed affidavits in support thereof. It is contended that the defence of the petitioner is alleged to be false and such false claim has been the misrepresentation at the instance of the petitioner, which is again challenged by Mr. Kanungo, learned Senior Advocate contending that the same would not amount to furnishing false evidence inviting any such criminal action. The further contention is that on account of the statements of the witnesses recorded during investigation, it has been alleged by opposite party No.2 that the loan advanced by her was not utilized for the purpose it was availed but was misappropriated and hence, the chargesheet was filed and in such a situation, challenging the same and framing of charge, if defence plea is advanced by her, it is not to be treated as pleading with



falsehood before the Court and therefore, a proceeding under Section 340 Cr.P.C. cannot be initiated. In so far as the synopsis alleged to be false and misleading filed in Criminal Revision No.421 of 2025, any such discrepancy therein has been by inadvertence without intention to mislead the Court. According to Mr. Kanungo, learned Senior Advocate, the name of a particular person wrongly mentioned as the Director of the company is also an inadvertent mistake, which is a matter of record, as is the order of liquidation instead of dissolution of the company, which has been responded to by an affidavit and therefore, under such circumstances, the petitioner having no any intention to cause hindrance in the administration of justice, action under Section 340 Cr.P.C. cannot be insisted upon by opposite party No.2. Lastly, it is submitted that the petitioner has not made any declaration regarding the other proceedings pending or disposed of in the affidavit filed since the subject matter of challenge herein was never before this Court for consideration and hence, the petitioner under a bonafide belief has not revealed the same about the cases filed earlier for having no connection with the cause of action at present and therefore, opposite party No.2 demanding action under Section 340 Cr.P.C is misconceived, rather, it is an act to intentionally harass her by filing frivolous applications in the guise of Section 340 Cr.P.C.

6. Perused the reply affidavits filed by both the sides, Mr. Mishra, learned counsel for opposite party No.2 besides the decision mentioned herein before relied on an order of this Court dated 5th October, 2023 in I.A. No.1045 of 2023 arising out of BLAPL No.6107 of 2023, wherein, a similar allegation



made by opposite party No.2 with the claim that the petitioner pleaded for interim bail on medical condition as advised by a doctor and therein, a report was called for and the report revealed that the signature of the concerned Assistant Professor of SCB Medical College and Hospital, Cuttack found in the OPD Card did not match on verification, hence, a forged medical document was filed and considering such conduct, action was sought for against her but with a lenient view taken, the matter was closed on the ground that she is in custody though expressing concern over a false claim advanced with a plea for bail.

7. Having considered the facts pleaded on record and rival contentions of the parties, the Court is to determine whether any such action is necessary in terms of Section 340 Cr.P.C. accepting the plea of opposite party No.2 that the petitioner is prima facie guilty of interfering with the administration of justice having filed the affidavits and averments made and pleaded on record for being false or discrepant?

8. The primary allegation is that the petitioner pleaded on record facts which are untrue and it has been false evidence and therefore, an action is necessary in terms of Section 340 Cr.P.C. Without elaborating the facts already narrated herein before, the Court is inclined to consider if a case is made out by opposite part No.2 for initiation of a criminal prosecution against the petitioner, who has approached by filing the revision challenging the rejection order under Section 239 Cr.P.C of the learned court below while dealing with C.T. Case No.100(A) of 2023. In course of hearing, both sides cited case laws in favour of and against the contentions advanced with the



plea of the petitioner that no action under Section 340 Cr.P.C. is needed in the peculiar facts and circumstances of the case and that of opposite party No.2 in favour of a prosecution with a complaint filed against her alleging false evidence pleaded on oath. Mr. Mishra, learned counsel for opposite party No.2 placed reliance on the following decisions, such as, **A-One Industrial Vrs. Shri D.P. Garg 1999 Cri LJ 4743; Pritish Vrs. State of Maharashtra & others AIR 2002 SC 236; Sanjeev Kumar Mittal Vrs. The State of Delhi HC in Test. Case. No.19 of 2004 dated 18th November, 2010; Sejalben Tejasbhai Chovatiya Vrs. State of Gujrat of Gujarat HC in Special Criminal Application (Quashing) No.7666 of 2016 disposed of on 20th October, 2016:2016 SCC Online Guj 6333; Union of India and others Vrs. Haresh Virumal Milani 2017 SCC OnLine Bom 3555; Kenneth Desa and another Vrs. Gopal of Bombay HC, Nagpur Bench in Criminal Application No.1115 of 2007 disposed of on 11th July, 2007. In addition to the above, one more decision in **State represented by Inspector of Police, CBI, ACB, Visakhapatnam Vrs. Eluri Srinivasa Chakravarthi and others 2025 INSC 758** is referred to by Mr. Mishra, learned counsel with the submission that the revision is liable to be dismissed, however, there lies a need for appropriate action under Section 340 Cr.P.C. for the false affidavits on record received from the side of the petitioner.**

9. Referring to the affidavits filed and the relevant documents produced in Court, Mr. Kanungo, learned Senior Advocate and Mr. Acharya, learned counsel for the petitioner submit that there has been no false evidence adduced by the petitioner



since the revision is filed questioning the legality of the order declining her discharge and on the ground that the dispute is entirely civil in nature and the allegations in the FIR lodged by opposite party No.2 have been merely referred to while defending the charges levelled and therefore, it would not be just and proper to allege mala fides or leading false evidence inviting an action under Section 340 Cr.P.C. In reply and response to the above, Mr. Mishra, learned counsel for opposite party No.2 submits that the petitioner has been guilty of making false statements with affidavits filed not only herein but in other proceedings as well and has in fact taken recourse to fraud in order to deflect the course of judicial proceeding and it is with an oblique motive and such a conduct has interfered with the administration of justice and again cites the decision in **Kusha Duruka** (supra).

10. In Moti Lal Songara Vrs. Prem Prakash @ Pappu and another (2013) 9 SCC 199, the Apex Court, considering concealment of facts, observed that Court is not a laboratory where children come to play and further concluded that anyone who takes recourse to method of suppression in a Court of law, is, in actuality, playing fraud with the Court and the maxim ‘supressio veri, expressio falsi’-suppression of the truth is equivalent to the expression of falsehood gets attracted. In the above decision, it is also observed that law is well settled that a litigant, who attempts to pollute the stream of justice or touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the court of law is actually playing fraud with the court.



11. Whether reiterating the allegations from FIR either as a defence or explanation with averments while challenging criminal prosecution amounts to leading false evidence? In the case at hand, what has been revealed to opposite party No.2 and reproduced in the FIR with the allegation that she was misled, misrepresented and subjected to fraud have been referred to while pleading that the averments are in a way explanatory and a defence against criminal action and against the aforesaid backdrop, the Court is inclined to reply to the above question formulated. Any such defence with reference to the facts alleged in the FIR would be false evidence while questioning the correctness of the rejection order denying discharge and or an action under Section 340 Cr.P.C depends on the facts pleaded on record. It is well known that an FIR merely sets the criminal law into motion and it contains allegations that need to be investigated and proven in a court of law and reiterating such unproven allegations as a part of a defence strategy is typically experienced as presenting a version of events, not necessarily amounting to false evidence. The statements made in the FIR or repeated in an application challenging prosecution may have to be considered as contention of a case and not formal evidence in the strict sense until they are tested through a legal process and by way of a trial. The law provides significant leeway for a person to present his defence and the courts are generally hesitant to initiate proceedings under Section 340 Cr.P.C. unless there is clear and convincing evidence of a deliberate intent to fabricate or present demonstrably false material to mislead the court. Such burden of proving an offence lies with the prosecution. In fact, according to the Court, Section 340 Cr.P.C requires mens



rea which deals with an action for perjury and contempt related to false evidence initiated when the Court believes that it is expedient in the interest of justice to prosecute a person for intentionally giving false evidence or fabricating false evidence during a judicial proceeding. Merely repeating an existing allegation in a legal challenge does not automatically lead to an action under Section 340 Cr.P.C. In summary, the act of repeating allegations from an FIR in a legal challenge is usually considered a procedural and strategic move in a defence, not an act of leading false evidence, however, it can be demonstrated that the defence is knowingly using false information with the intent to mislead the court relied upon the same and under such circumstances, the powers under Section 340 Cr.P.C. could potentially be invoked although such cases are rare and dependent on specific circumstances. Furthermore, in the humble view of the Court, an accused has a right to raise a defence and in the event, challenged the prosecution with an application under Section 482 Cr.P.C. and therein, if any affidavit is filed and the same is referable to the facts alleged in the FIR, may be a means of defence and is not to be branded as false evidence and herein, according to the petitioner, the contest is to the framing of charge on the premise that no criminal action is to lie being a civil dispute between her and opposite party No.2. In such a situation, the Court is to be cautious in initiating an action under Section 340 Cr.P.C.

12. As it is normally experienced, perjury proceedings are not considered at the interim stage, rather, at the conclusion of a proceeding or trial wherein false evidence was received, allowing the accused a full of opportunity to present his



defence. Nonetheless, if there is clear and conspicuous material on record received during a judicial proceeding which unerringly suggests false evidence to have been led by a party, a court may even dispense with preliminary enquiry and straightaway initiate an action under Section 340 Cr.P.C. upon a prima facie satisfaction that a formal complaint is necessary to meet the situation. Even, it has been held by the Apex Court that merely making contradictory statements in a judicial proceeding by itself is not always sufficient to justify a prosecution under Sections 199 and 200 IPC. While dealing with the scope of initiating proceeding under Section 340 Cr.P.C., the Apex Court in **Amarsang Nathaji Vrs. Hardik Harshadbhai Patel 2016 SCC Online SC 1316** held and concluded that merely for the fact that a person has made contradictory statement in a proceeding is not always considered sufficient to proceed against him with a complaint filed, but it must be shown that such person intentionally has given false statement or fabricated evidence for the purpose of using the same at any stage of the proceedings and not only that, even after an opinion is found in favour of an action, it has to be concluded that the same is absolutely necessary in the interest of justice. In **Ram Chandra and others Vrs. State of Rajasthan and another** in CRL.A.No. 1478 of 2025, the Supreme Court held that veracity of statements in the pleadings alleged to be false can be tested during trial and for that, action under Section 340 Cr.P.C. would not be a proper response. It has been held therein that whether a statement made in the pleading is incorrect or false has to be considered and decided during trial itself upon closure of evidence and at the time of final determination of the suit and unless, such exercise is



completed, it is difficult to say that the averments made therein to be false and constitutes an offence attracting penal action.

13. In Iqbal Singh Marwah and another Vrs. Meenakshi Marwah and another (2005) 4 SCC 370, while dealing with an issue, whether, a preliminary enquiry is stipulated under Section 340 Cr.P.C, it has been concluded by the Apex Court that in view of the language employed therein, a Court is not bound to make a complaint regarding commission of an offence referred to in Section 195 (1)(b) Cr.P.C. as the said provision is conditioned by the words ‘Court is of opinion that it is expedient in the interest of justice’ which goes on to show the intention of the legislature and this expediency is normally to be judged by a court by weighing not the magnitude of the injury suffered by the person affected by a forgery or forged document or for any such mischief but having regard to the effect or impact such commission of offence has upon administration of justice. In **Pritish Vrs. State of Maharashtra & Others 2002 (1) SCC 253**, it is held by the Apex Court that the procedure of preliminary enquiry envisaged under Section 340 Cr.P.C. is not meant to decide the guilt or innocence of a party against whom the proceedings are to be taken before the Magistrate and the scope of such proceedings confined to whether based on the materials available and it is expedient in the interest of justice that the action is really needed.

14. On a reading of the above case laws, it can be concluded that reiterating allegations from an FIR as a defence or explanation either justifying the same to be not untrue while challenging a criminal prosecution does not automatically



amount to leading false evidence inviting action under Section 340 Cr.P.C. It is not that every false or contradictory statement is sufficient to initiate perjury proceedings but a Court must be satisfied that it is expedient in the interest of justice to hold an enquiry and that apart, falsity must be related to a matter of substance affecting the administration of justice and before any such action, even a preliminary enquiry may be dispensed with, which is not mandatory and for that purpose, impact of false evidence on the administration of justice is to be weighed, not an injury to the individual. Besides the above, falsity must be deliberate and conscious and not merely an inaccurate statement or denial. Inconsistencies may be explained during trial or in a proceeding pending before the court and are not sufficient on their own to start proceeding under Section 340 Cr.P.C.

15. In a recent judgment in **James Kunjwal Vrs. State of Uttarakhand and another** in SLP Criminal No.9783 of 2023 dated 13th August, 2024, the Apex Court observed that mere denial or inaccurate statements do not attract offence of perjury and referring to the judicial pronouncements culled out the following principles, such as, (i) the Court should be of prima facie opinion that there exists sufficient and reasonable ground to initiate proceedings against a person, who has allegedly made a false statement; (ii) such proceeding should be initiated when doing the same is expedient in the interest of justice to punish the delinquent and not merely because of inaccuracy statements that may be innocent or immaterial; (iii) there should be deliberate falsehood on a matter of substance; (iv) the Court should be satisfied that there is reasonable foundation



for the charge with distinct evidence and not mere suspension; and (v) the proceeding should be initiated in exceptional circumstances for instance when a party has perjured themselves to beneficial orders from the Court and finally observed that prosecution in such cases would be unjust if the above conditions are not satisfied.

16. In the case at hand, the information disseminated to opposite party No.2 alleged to be false and fraud to have been alleged against the petitioner to defend the action and to claim that the case for discharge is made out and referring to the same, it has been alleged that there is false information or affidavit filed hence an action under Section 340 Cr.P.C is necessary. The FIR is lodged against the petitioner and co-accused husband with whatever allegations made therein and according to the Court, such allegations are to be subjected to scrutiny during trial. Even though, there has been a chargesheet filed against the accused persons with a conclusion reached at that both of them have played fraud on opposite party No.2, denying which, discharge is claimed and it has been rejected by the learned court below, truthfulness or otherwise of the same are to be tested on the floor of the Court. The averments or contentions on record from the side of the petitioner as against the aforesaid background, in considered view of the Court, would not be a sufficient ground to initiate action under Section 340 Cr.P.C. A stand or defence in the lines of the plea of an accused alleged to be false by the informant, even leading to the filing of a chargesheet by itself, should not be considered enough for an action of perjury. In a case of present nature, where the petitioner is still to face the trial and when on the one



hand, certain events claimed to have happened and the same are alleged to be false according to opposite party No.2 and for that the FIR was lodged and with the closure of investigation, the chargesheet is filed is a matter to be threshed out during trial. The defence of the petitioner or probable defence during trial justifying the facts pleaded on record even based on the information of the FIR lodged by opposite party No.2 are the averments or contentions before the Court made demanding discharge and for that, action under Section 340 Cr.P.C. against the petitioner is not a viable option. Any such disclosure which ought to have been made as expected by opposite party No.2 is like demanding something which could possibly be prejudicial to the rights and interest of the petitioner. In fact, demanding the revelation from an accused necessarily to support the view point of the informant in anticipation that the disclosure would be consistent with the findings of the chargesheet is certainly to prejudice the former before commencement of trial. Only if false evidence has been adduced and it is easily noticeable without enquiry, in such cases, action under Section 340 Cr.P.C. is inevitable.

17. In **D.P. Garv** (supra), action under Section 340 Cr.P.C. has been upheld since a false affidavit was filed claiming that there is an interim order of stay from a Court, which was found to be incorrect upon verification. In such a situation, when there was no such interim order and falsely pleaded on oath, the Delhi High Court therefore held that for the filing of such a false affidavit, a charge under Section 193 IPC is perfectly justified. The above decision cited by Mr. Mishra, learned counsel for opposite party No.2 is inapplicable since the affidavit filed



therein was found to be false and a fraud was played upon the Court. In **Pritish** (supra) cited from the side of opposite party No.2 has been discussed earlier which centered around the need for a preliminary enquiry or otherwise before an action under Section 340 Cr.P.C. and hence, needs no reiteration. Similarly, in peculiar facts presented to the Court, it was held in **Sanjeev Kumar Mittal** (supra) that police investigation is necessary with respect to the false evidence received, which is again distinguishable. The other case laws cited by Mr. Mishra, learned counsel for opposite party No.2 are distinguishable on facts. According to the Court, what constitutes the basis for an action under Section 340 Cr.P.C. depends on facts and circumstances of each particular case. If it is crystal clear that a false affidavit is filed and with or without enquiry, the same is found to be false, an action with a complaint may be filed, but again, it has to be held that such action under Section 340 Cr.P.C. is indispensable and expedient in the interest of justice. In a case of present kind, where charges have been levied against the petitioner on the basis of allegations made in the FIR and with a concluded investigation and the defence is referable to the same events taking place between the parties alleging that the dispute is entirely civil in nature, the Court, regard being had to the settled position of law discussed herein before, reaches at a conclusion that all such information or facts pleaded on record in defence are to be treated as averments or contentions opposing the claim of opposite party No.2 at whose instance the criminal prosecution has been initiated. If particular facts are alleged to be false by opposite party No.2 and the FIR since lodged and the same is defended by the petitioner or undefended as the case may be is a fact in



issue to be examined with a decision at the end of the trial but to allege that on the basis of the information shared with the Court which is not yet proven to be correct or otherwise or on the strength of such unproven facts claimed to be false alleging the conduct of the petitioner being fraudulent with a demand to initiate action under Section 340 Cr.P.C. would not be a proper course of action and therefore, it is concluded by the Court that lodging of a complaint in terms thereof with any such plea of opposite party No.2 being entertained is not required and expedient in the interest of justice. But, the Court is of the view that the petitioner is needed to reveal the details of the cases earlier filed and pending before Court ensuring that the inaccurate facts pleaded on record either removed or replaced with a properly constituted affidavit filed.

18. Accordingly, it is ordered.

19. In the result, the I.A. stands dismissed for the reasons discussed herein above.

20. In the circumstances, there is no order as to the costs.

(R.K. Pattanaik)
Judge

Rojina

Signature Not Verified

Digitally Signed
Signed by: ROJINA SAHOO
Designation: Junior Stenographer
Reason: Authentication
Location: OHC, CTC
Date: 06-Feb-2026 12:20:45

