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Section 340 of the Code of Criminal Procedure, 1973: Perjury, the Sanctity of Judicial Process, and Its Application in Matrimonial Litigation

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ABSTRACT

Section 340 of the Code of Criminal Procedure, 1973 ("CrPC") supplies the only lawful route by which a prosecution for offences against the administration of justice, chief among them perjury under Sections 193 and 199 of the Indian Penal Code, 1860, may be set in motion, and it reserves that power to the court alone; no private litigant may invoke it independently. Read alongside the cognizance bar in Section 195(1)(b) CrPC, the provision strips an aggrieved party of any standalone right to prosecute a false statement, a fabricated document, or a perjured affidavit filed in or connected with judicial proceedings, vesting that authority instead in the very court before which the falsehood is alleged to have been made. Since Section 379 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") reproduces Section 340 in near-identical form and has applied from 1 July 2024, both provisions now operate side by side during the transition between the two codes. This article traces the statutory architecture of Section 340 and the twin conditions courts have insisted on before invoking it, a prima facie finding of deliberate, material falsehood coupled with genuine "expediency in the interest of justice", from Chajoo Ram v. Radhey Shyam in 1971, through the Constitution Bench's guidance in Iqbal Singh Marwah v. Meenakshi Marwah in 2005, to the three-judge resolution of the preliminary-inquiry question in State of Punjab v. Jasbir Singh in 2022. It then turns to the provision's growing footprint in matrimonial litigation, particularly maintenance proceedings under Section 125 CrPC, where affidavits on income, employment and assets are routinely contested, and surveys recent authority, including a 2026 Supreme Court ruling distinguishing a merely "wrong" statement from one that is criminally "false", that together sanctions Section 340 against calculated concealment while cautioning against its use as a tactic for delay or harassment. The article concludes that Section 340 functions, and should continue to function, as a measured safeguard for the integrity of the judicial record: a shield, not a weapon to be unsheathed in every contested matrimonial claim.

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Keywords: *Section 340 CrPC, Section 379 BNSS, perjury, false evidence, false affidavit, Section 195 CrPC, matrimonial disputes, maintenance proceedings, Section 125 CrPC, income and asset disclosure, preliminary inquiry, expediency in the interest of justice, administration of justice, judicial integrity*

I. INTRODUCTION

Matrimonial litigation in India, whether it takes the form of a maintenance claim under Section 125 of the Code of Criminal Procedure, 1973 (“CrPC”), relief under the Protection of Women from Domestic Violence Act, 2005, or a dispute arising under personal law, depends to an unusual degree on what the parties themselves say under oath. Unlike a commercial dispute, where paper trails often speak for themselves, a family court is frequently left to piece together, from competing affidavits alone, what a spouse actually earns, where that spouse works, what assets exist, and what sum can fairly be awarded or demanded. Given the emotional stakes and the length to which such proceedings can drag on, the temptation to shade or suppress a material fact is real. It is against this backdrop that Section 340 CrPC has acquired a distinctive, if still under-used, significance.

Section 340 CrPC does not itself define an offence. It functions instead as a procedural gateway: the mechanism through which a court decides whether it is expedient, in the interest of justice, to set a prosecution in motion for perjury or a connected offence arising in, or linked to, proceedings before it. The provision is not meant to punish every inaccurate or self-serving statement. Indian courts have repeatedly emphasised that its object is to protect the sanctity of the judicial process itself, and that invocation should remain the exception rather than the rule, reserved for cases where the record discloses a deliberate, material falsehood established by unimpeachable evidence. This article works through that framework, examines the principal Supreme Court authority that has given it shape, and considers its specific application to matrimonial disputes, an area where the tension between shielding a genuine claimant and curbing misuse of protective legislation is felt most acutely.

II. THE STATUTORY FRAMEWORK: SECTIONS 195 AND 340 CRPC

Section 195(1)(b) CrPC bars a court from taking cognizance of a defined set of offences except on a complaint in writing made by the court in, or in relation to, whose proceeding the offence is said to have been committed, by an officer of that court authorised by it in writing, or by a court to which that court is subordinate.¹ The offences covered are those against public justice

¹ The Code of Criminal Procedure, No. 2 of 1974, INDIA CODE (1974), § 195(1)(b).

under Sections 193 to 196, 199, 200, 205 to 211 and 228 of the Indian Penal Code, 1860 (“IPC”), which include giving or fabricating false evidence, false declarations and false personation, when committed in or in relation to a proceeding in any court; the forgery offences under Sections 463, 471, 475 and 476 IPC when committed in respect of a document produced or given in evidence in such a proceeding; and any criminal conspiracy, attempt or abetment relating to these. The rationale courts have consistently offered for this bar is twofold: it shields individuals from vexatious private prosecutions touching the administration of justice, and it entrusts the prosecution decision to the forum best placed to judge both whether a falsehood actually occurred and whether prosecuting it would genuinely serve the interest of justice.

Section 340 CrPC sets out the procedure for making that complaint. Where a court is of opinion, on an application made to it or *suo motu*, that it is expedient in the interests of justice that an inquiry be made into an offence covered by Section 195(1)(b), it may, after such preliminary inquiry, if any, as it thinks necessary, (a) record a finding to that effect, (b) make a complaint in writing, (c) send it to a Magistrate of the first class having jurisdiction, (d) take sufficient security for the accused’s appearance before that Magistrate or, if the alleged offence is non-bailable and the court thinks it necessary, send the accused in custody to that Magistrate, and (e) bind over any person to appear and give evidence before the Magistrate.² Section 341 CrPC gives a right of appeal, both to an applicant whose request for a complaint has been refused by a court other than a High Court and to a person against whom such a court has made a complaint, to the court to which the first court is subordinate; an order passed on such an appeal and, subject to it, the order under Section 340 itself are final and not open to revision.³

Two structural features of the provision are worth flagging. First, the power under Section 340 is discretionary rather than mandatory: the Supreme Court has read “expedient in the interests of justice” as leaving a court free to withhold an order for prosecution even after a *prima facie* falsehood is shown, if directing prosecution would serve no genuine public purpose on the facts. Second, the provision is not partisan. It bears with equal force on a husband who falsely denies his income and a wife who does the same, and indeed on any litigant, in any type of proceeding, found to have deliberately misled the court.

III. THE OFFENCES ATTRACTED

The offences that Section 195(1)(b), and by extension Section 340 CrPC, reaches are found chiefly in Sections 193 to 196, 199, 200 and 205 to 211 IPC. Section 193 IPC punishes

² Code of Criminal Procedure § 340(1).

³ Code of Criminal Procedure § 341; sub-section (2) makes an order passed on appeal and, subject to it, the order under Section 340 final and not subject to revision.

intentionally giving or fabricating false evidence in a judicial proceeding; Section 199 punishes a false statement made in a declaration that the law treats as receivable in evidence; and Section 200 punishes the corrupt use, as true, of such a declaration known to be false. What unites these provisions is a shared requirement of intention or knowledge: a genuine mistake, an unintentional inaccuracy, or a statement honestly made on a mistaken belief will not meet this threshold, however inconvenient that may prove for the party who made it. With the Bharatiya Nyaya Sanhita, 2023 (“BNS”) now in force, the offence of giving false evidence and its punishment sit at Sections 227 and 229 BNS, and the declaration offences at Sections 236 and 237 BNS, for conduct on or after 1 July 2024, while conduct predating that date remains governed by the IPC.⁴

IV. THE TWO-FOLD TEST FOR INVOCATION: *PRIMA FACIE* FALSEHOOD AND EXPEDIENCY

The governing principle traces to the Supreme Court’s 1971 ruling in *Chajoo Ram v. Radhey Shyam*, decided under Section 476 of the Code of Criminal Procedure, 1898, the predecessor of Section 340.⁵ Cautioning against reflexive or premature resort to the power, the Court, in language still cited in nearly every reported decision on the point, observed that a perjury prosecution ought not to be launched too readily, still less on material that is inconclusive or doubtful, since doing so would frustrate the very purpose the provision serves. Prosecution, it held, should be directed only where doing so is expedient in the interest of justice to punish the wrongdoer, not merely because a statement contains an inaccuracy that might be innocent or immaterial; a *prima facie* case of deliberate falsehood on a matter of substance is required, and the court must be satisfied that there is a reasonable foundation for the charge.

A decade on, *Chandrapal Singh v. Maharaj Singh*⁶ introduced an important qualification: a court’s rejection of a party’s version of events, or its finding that an affidavit is unconvincing, does not by itself establish perjury. Rival contentions in affidavits that are accepted or rejected by reference to the burden of proof do not furnish a foundation for a perjury charge, and the acceptance or rejection of evidence is not by itself a sufficient yardstick to dub the rejected version false; falsehood cannot be inferred merely from the fact that a party’s case failed. The Supreme Court reiterated the point in *R.S. Sujatha v. State of Karnataka*,⁷ holding that there must be grounds of a nature higher than mere surmise or suspicion, and distinct evidence of the

⁴ The Indian Penal Code, No. 45 of 1860, INDIA CODE (1860), §§ 191, 193, 199, 200, correspond respectively to The Bharatiya Nyaya Sanhita, No. 45 of 2023, INDIA CODE (2023), §§ 227, 229, 236, 237.

⁵ *Chajoo Ram v. Radhey Shyam*, (1971) 1 SCC 774 (India).

⁶ *Chandrapal Singh v. Maharaj Singh*, (1982) 1 SCC 466, ¶ 14 (India).

⁷ *R.S. Sujatha v. State of Karnataka*, (2011) 5 SCC 689 (India).

commission of the offence, before the extraordinary step of ordering a perjury prosecution can be taken.

The Constitution Bench's decision in *Iqbal Singh Marwah v. Meenakshi Marwah* remains the most authoritative statement of the expediency requirement.⁸ Reading the conditional phrasing of Section 340, "is of opinion that it is expedient in the interests of justice", the Court held that a *prima facie* finding of falsehood never obliges a court to make a complaint; that step is warranted only where the interest of justice genuinely demands it, and expediency is normally to be judged by the effect of the offence on the administration of justice rather than by the magnitude of the injury suffered by the person affected.

A similarly restrained approach appears in *S.P. Kohli v. High Court of Punjab and Haryana*,⁹ where the Court held that a perjury prosecution should be sanctioned only where the false statement appears deliberate and conscious and conviction is reasonably probable; it is not a step to be taken routinely whenever a witness is, on balance, shown to have been inaccurate.

This disciplined line was reaffirmed as recently as July 2026 in *Prabhakar Yeshwant Masram v. Sou Tula Namdeorao Jaipurkar*,¹⁰ where the Supreme Court set aside orders directing a complaint under Section 340 CrPC against a litigant and his counsel because the court that directed the complaint had gone no further than finding "wrong statements" in a memorandum of appeal and an accompanying stay application, without recording the deliberate intent to deceive that distinguishes a false statement from a mistaken or careless one, findings the High Court could not supply for the first time in appeal. The Court drew a clear doctrinal line: inadvertent errors or mistakes may make a statement "wrong", but a "false" statement carries an intent to deceive coupled with knowledge, actual or constructive, and only a false statement meets the threshold for the offences under Sections 193, 199 and 200 IPC and can support an order under Section 340. The ruling is a timely reminder, and one directly relevant to the matrimonial discussion that follows, that an exaggerated, mistaken, or even self-serving statement does not, without more, amount to perjury.

V. PROCEDURAL EVOLUTION: IS A PRELIMINARY INQUIRY MANDATORY?

A distinct line of authority addresses not when Section 340 should be invoked but how. In *Pritish v. State of Maharashtra*,¹¹ a three-judge bench held that a court is not obliged to conduct

⁸ *Iqbal Singh Marwah v. Meenakshi Marwah*, (2005) 4 SCC 370, ¶ 23 (India).

⁹ *S.P. Kohli v. High Court of Punjab & Haryana*, AIR 1978 SC 1753, (1979) 1 SCC 212 (India).

¹⁰ *Prabhakar Yeshwant Masram v. Sou Tula Namdeorao Jaipurkar*, Crim. App. No. 1365 of 2015, 2026 INSC 724 (India July 21, 2026) (Ujjal Bhuyan & Atul S. Chandurkar, JJ.).

¹¹ *Pritish v. State of Maharashtra*, (2002) 1 SCC 253 (India).

a preliminary inquiry, or to hear the prospective accused, before deciding to make a complaint; the Court explained that the sole object of any inquiry at this stage is for the court to satisfy itself that further probing of the offence is expedient, and nothing beyond that is required. A later three-judge bench in *Sharad Pawar v. Jagmohan Dalmiya*¹² appeared to take a stricter line, suggesting that both a preliminary inquiry and a hearing for the prospective accused were necessary.

Faced with this apparent conflict, and with the Constitution Bench's intervening observations in *Iqbal Singh Marwah* indicating that a preliminary inquiry is discretionary rather than obligatory, a two-judge bench referred the question to a larger bench by an order of 26 February 2020. That reference was answered on 15 September 2022 by a three-judge bench in *State of Punjab v. Jasbir Singh*, which held that the Constitution Bench's view prevails, that what was reported in *Sharad Pawar* was an order on its own facts rather than a statement of law, that a prospective accused need not be heard before a court makes a complaint under Sections 195 and 340 CrPC, and that the scope of any preliminary inquiry a court chooses to conduct is governed by *Iqbal Singh Marwah*.¹³ The settled position is therefore that a preliminary inquiry under Section 340(1) is permissive rather than mandatory, with its extent left to the court's discretion, and that a person alleged to have committed the offence has no independent right to a hearing before the complaint stage, though the person against whom a complaint is eventually made retains, where the complaint was made by a court other than a High Court, a statutory right of appeal under Section 341.

VI. TRANSITION TO THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

The Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") has, since 1 July 2024, replaced the CrPC as India's principal code of criminal procedure. Under the savings clause in Section 531(2)(a) BNSS, any appeal, application, trial, inquiry or investigation pending immediately before that date continues to be disposed of under the CrPC, while the substantive offence, under the IPC or the BNS, turns on the date of the conduct itself; the two codes will accordingly continue operating in tandem before Indian courts for some time. Section 340 CrPC's counterpart is Section 379 BNSS, which reproduces it in near-identical terms (Section 341 is carried into Section 380 BNSS, and Section 195 into Section 215 BNSS),¹⁴ and reported orders now frequently cite both together, as "Section 340 CrPC / 379 BNSS". A practitioner drafting a

¹² *Sharad Pawar v. Jagmohan Dalmiya*, (2010) 15 SCC 290 (India).

¹³ *State of Punjab v. Jasbir Singh*, Crim. App. No. 335 of 2020, 2022 LiveLaw (SC) 776 (India Sept. 15, 2022) (three-judge bench, answering the reference made by order dated Feb. 26, 2020).

¹⁴ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, INDIA CODE (2023), §§ 215, 379, 380, 531(2)(a).

matrimonial application today must therefore first establish whether the underlying proceeding was pending on 1 July 2024, and when the alleged falsehood was made, before invoking the correct provisions.

VII. SECTION 340 CRPC IN THE MATRIMONIAL CONTEXT

Maintenance proceedings under Section 125 CrPC (now Section 144 BNSS), along with comparable claims under the Hindu Adoptions and Maintenance Act, 1956 or the Domestic Violence Act, 2005, put income, employment and asset disclosure at the centre of the dispute. The disclosure framework the Supreme Court has laid down for such affidavits has, if anything, raised the evidentiary stakes further:¹⁵ a party who conceals a bank account, an additional income source, or ongoing employment risks not merely an adverse outcome on the maintenance claim itself but possible exposure under Section 340. It is precisely this intersection, sworn financial disclosure tested through cross-examination against bank records, salary slips, or an employer's confirmation, that has made Section 340 an increasingly visible, if still sparingly invoked, feature of matrimonial litigation.

It bears emphasis that the provision is neither designed as, nor operates as, a weapon available to only one spouse. Prosecution has been directed against a wife who had sworn that she had no source of income, a statement the Family Court found on the evidence to be untrue (the *Sejalben* case, discussed below), and nothing in Section 340 confines its use to one spouse: it is equally available against a husband who understates his income or conceals assets to reduce a maintenance liability. What links the successful invocations of Section 340 is not which spouse is involved but the presence of a deliberate, material falsehood established by evidence that leaves little room for an innocent explanation, precisely the standard laid down in *Chajoo Ram* and refined in the decisions that followed.

VIII. ILLUSTRATIVE CASE LAW IN MATRIMONIAL DISPUTES

A. *Sejalben Tejasbhai Chovatiya v. State of Gujarat* (2016)

In this frequently cited ruling,¹⁶ a wife seeking maintenance under Section 125 CrPC for herself and her son had sworn on affidavit that she was a housewife with no source of income. The husband placed material before the Family Court showing that she was, in fact, earning roughly

¹⁵ See generally *Rajnish v. Neha*, (2021) 2 SCC 324 (India) (laying down the framework for affidavits disclosing income and assets in maintenance proceedings, and directing that where false statements or misrepresentations are made, the court may consider initiating proceedings under Section 340 CrPC and for contempt of court); this framework often forms the evidentiary background against which Section 340 applications are brought.

¹⁶ *Sejalben Tejasbhai Chovatiya v. State of Gujarat*, Special Criminal Application (Quashing) No. 7666 of 2016, 2016 SCC OnLine Guj 6333 (Guj. HC Oct. 20, 2016) (India) (Sonia Gokani, J.).

Rs. 40,000 a month from business. On an application under Sections 195 and 340 CrPC, the Family Court directed that prosecution be initiated for offences under Sections 191, 192 and 193 IPC. The Gujarat High Court declined to interfere, holding that where laws otherwise in favour of a distressed wife are misused by declaring completely incorrect facts and suppressing material aspects, the resulting harm to the administration of justice makes it expedient to direct prosecution. The ruling is best read not as a blanket licence to prosecute every unsuccessful maintenance claimant, but as a response to a falsehood on a central, material fact that the Family Court had found established on the evidence.

B. The countervailing trend: guarding against misuse of Section 340 itself

A parallel and increasingly significant body of authority warns against turning Section 340 into a tool of harassment or delay. The Allahabad High Court has observed that it is not unusual for a maintenance claimant to present an optimistic, even exaggerated, picture of the other spouse's income, and that such exaggeration, without more, does not automatically cross the deliberate-falsehood threshold set by *Chajoo Ram* and the decisions that followed it.¹⁷ In a partition suit between siblings, the Delhi High Court has likewise cautioned against the growing practice of filing Section 340 applications not to protect the sanctity of the judicial process but to “arm-twist” an opposing litigant and delay the trial, a use of the provision plainly at odds with its intended purpose.¹⁸ Read together with the 2026 ruling in *Prabhakar Yeshwant Masram* distinguishing a wrong statement from a false one, these decisions confirm that the expediency and *prima facie* requirements are not empty formalities recited before granting a Section 340 application, but substantive safeguards that Indian courts continue to enforce with real rigour in matrimonial and other family litigation.

IX. A SHIELD, NOT A SWORD: BALANCING COMPETING CONCERNS

Two competing policy concerns run through this body of case law, and the reported decisions reflect a continuing effort to balance them. On one side, maintenance and domestic-violence legislation exists to protect a genuinely dependent spouse, and courts are rightly wary of letting that protective purpose be eroded by turning every contested maintenance case into a satellite perjury trial; a respondent facing a maintenance claim has an obvious incentive to allege

¹⁷ *Shiva Kant Dubey v. State of U.P.*, Crim. App. No. 72 of 2026, 2026 LiveLaw (AB) 150 (All. HC Mar. 13, 2026) (India) (Raj Beer Singh, J.) (observing that in proceedings under Section 125 CrPC a claimant wife generally exaggerates the husband's income, and that such exaggeration does not by itself warrant a complaint under Section 340 CrPC).

¹⁸ *Nisha Chandola v. Manoj Sharma*, CS(OS) 246/2023, 2026 LiveLaw (Del) 321 (Del. HC Mar. 24, 2026) (India) (Subramonium Prasad, J.) (dismissing a Section 340 application in a partition suit and cautioning against applications filed “only with an idea of arm-twisting the other side or putting pressure and also to delay the trial”).

falsehood as a litigation tactic, so courts have insisted on unimpeachable, not merely suggestive, evidence before directing prosecution. On the other side, the credibility of sworn financial disclosure underpins the entire maintenance jurisdiction, and a court that overlooks proven, deliberate concealment, whether by a wife exaggerating her dependency or a husband understating his income, damages both the individual case and public confidence in the process as a whole.

Across the decisions surveyed above, what emerges is a doctrine deliberately difficult to satisfy in either direction: difficult for a disappointed litigant to weaponise against an opponent on an unproved allegation, and difficult for a court to ignore once deliberate falsehood is actually established on the record. Section 340 CrPC is, in this sense, designed as an exceptional remedy rather than a routine feature of matrimonial litigation.

X. CRITICAL OBSERVATIONS AND THE WAY FORWARD

Several practical implications follow from the doctrine set out above, and they are worth spelling out for practitioners and litigants alike.

First, timing matters. Reported orders suggest that a Section 340 application fares best once the falsity of a statement has been conclusively established, typically through cross-examination or through documentary or third-party evidence such as bank statements or an employer's confirmation, rather than when it is filed at the outset of a proceeding, while the truth of a disputed fact is still genuinely in issue. An application brought too early, before the underlying factual dispute has been tried, risks dismissal for want of the *prima facie* foundation that *Chajoo Ram* requires.

Second, a Section 340 application should not be allowed to derail the underlying matrimonial or maintenance proceeding. The Constitution Bench in *Iqbal Singh Marwah* considered that a direction to file a complaint should normally await the conclusion of the substantive proceeding, and the Supreme Court in *Prabhakar Yeshwant Masram* has recently reiterated that point, noting that Section 340 is at times invoked merely to delay adjudication; the substantive relief to which the applicant or respondent is otherwise entitled should therefore not be held up by the perjury question.

Third, the evidentiary bar is genuinely, and deliberately, high. An affidavit that, on the final assessment of the evidence, turns out to have been mistaken, optimistic, or even self-serving does not, absent proof of a deliberate intent to deceive, furnish a proper basis for a perjury prosecution, a point now reinforced at the highest level by the 2026 decision in *Prabhakar Yeshwant Masram*. Practitioners advising a client either to pursue or to resist a Section 340

application would do well to test the available material against that standard before approaching the court.

Finally, the ongoing transition from the CrPC to the BNSS calls for procedural care: an applicant must correctly work out whether Section 340 CrPC or Section 379 BNSS governs, having regard to whether the proceeding was pending on 1 July 2024 and to the date of the alleged falsehood, and frame the application accordingly.

XI. CONCLUSION

Section 340 of the Code of Criminal Procedure, 1973 occupies a carefully bounded space within Indian criminal procedure: neither a dead letter nor an everyday remedy, it is a deliberately demanding mechanism reserved for cases where a litigant has knowingly and materially lied to a court. In the matrimonial setting, where sworn statements about income, employment and assets so often decide the outcome of a maintenance or domestic-violence claim, the provision performs a genuinely important function, discouraging the deliberate suppression of material facts and upholding the principle that no litigant, however sympathetic the underlying case, may mislead a court without consequence. At the same time, the line of authority running from *Chajoo Ram* through *Iqbal Singh Marwah* to the 2026 decision in *Prabhakar Yeshwant Masram* makes plain that this power must be exercised with genuine restraint, on unimpeachable evidence of deliberate falsehood, and never simply because one side's version of events ultimately failed to prevail. Understood and applied in that spirit, Section 340 CrPC, and its successor, Section 379 BNSS, remain in substance what the Supreme Court's decisions describe: a shield for the integrity of the judicial process, not a sword to be turned against every disappointed litigant in a matrimonial dispute.
