



2026:AHC:16349

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 7892 of 2025

Dilshad

.....Revisionist(s)

Versus

Devendra Sharma

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Suhail Bhardwaj
Counsel for Opposite Party(s)	:	

Court No. - 89

HON'BLE DIVESH CHANDRA SAMANT, J.

1. Heard learned counsel for the Revisionist and learned AGA for the State and perused the record.

2. Present Criminal Revision has been preferred with the prayer to set aside the judgment and order dated 19.02.2025 passed by Additional District and Sessions Judge/Special Judge Anti-Corruption, Meerut in Criminal Appeal No. 92 of 2024 under Section 341 Cr.P.C. (Dishad Vs. Sevendra Sharma) by which Criminal Appeal has been dismissed and order dated 10.04.2024 passed by the learned Judge (Small Causes Court) in Civil Misc. Case No. 66 of 2024 (Dilshad Vs. Devendra Sharma) rejecting the application under Section 195/340 Cr.P.C. has been confirmed.

3. The facts, in brief, are that the opposite party filed a civil suit bearing Original Suit No. 36 of 2021 (Devendra Sharma vs. Dilshad) before the Court of Judge (Small Causes Court), Meerut, for eviction and recovery of arrears of rent. The said suit was decreed ex parte vide judgment and order dated 05.04.2023. Thereafter, the decree holder filed Execution Case No. 5 of 2023 for execution of the aforesaid judgment and decree. In the meantime, the judgment-debtor, i.e., the revisionist, filed an application under Order IX Rule 13 C.P.C. along with an application under Section 5 of the Limitation Act on 31.05.2023 before the trial court, which was registered as Misc. Case No. 99 of 2023. Vide order dated 17.02.2025, the learned trial court condoned the delay, and consequently, the application under Order IX Rule 13 C.P.C. was taken on record and

proceeded with in the said Misc. Case. The decree holder, i.e., the opposite party in the present revision, entered appearance in the aforesaid Misc. Case and filed his objections. It is alleged that opposite party concealed the fact regarding filing of Execution Suit No. 05 of 2023 in the Court of Judge, Small Causes Court, Meerut for execution of ex-party order dated 05.04.2023. Feeling aggrieved by the said act, the revisionist submitted an application under Section 195(1)(b) read with Section 340 Cr.P.C. against the opposite party which was rejected by the court of Judge, Small Cause Court, Meerut vide order dated 10.04.2024. Thereafter revisionist preferred an appeal against the order dated 10.04.2024, in the Court the Additional District and Sessions Judge/Special Judge Anti-Corruption, Meertu in Criminal Appeal No. 92 of 2024 under Section 341 Cr.P.C. which was decided against the revisionist on 19.02.2025. Hence the present revision.

4. It has been contended by the learned counsel for the revisionist that both the cases i.e. the Misc. Case No. 99 of 2023 under Order IX Rule 13 C.P.C. for restoration of Original Suit and Execution Petition No. 5 of 2023 was pending before the Court but the decree holder neither informed the Court in Misc. Case No. 99 of 2023 about the pendency of Execution Petition and nor informed the Court in the Execution Petition about the pendency of Misc. Case No. 99 of 2023 and by concealing these facts got the Execution Petition executed which resulted in eviction of the revisionist judgment-debtor. It is also contended that the decree holder was bound to disclose the fact in both the petitions for the pendency of the other petition but by his ill will, the decree holder has intentionally concealed the fact and by misleading the Court got the ex-parte decree executed. This fact of concealment amounts to giving false evidence which is punishable under the Indian Penal Code and and offence is required to be inquired by the Court under Section 340 Cr.P.C.

5. Learned counsel for the revisionist has contended that the opposite party deliberately concealed material facts from the Court in order to obtain a judgment in his favour. It is submitted that, in the execution proceedings initiated for enforcement of an ex parte judgment and decree passed by the Court of the Judge (Small Causes Court), Meerut, the opposite party filed an affidavit and produced a document as part of the

court record containing false statements, thereby attracting the provisions of Section 340 Cr.P.C. It is further argued that despite the aforesaid concealment and false statements on record, the learned Judge, Small Causes Court, Meerut, as well as the learned appellate court, failed to consider these material aspects and proceeded to pass the impugned orders, which are illegal and unsustainable in the eyes of law.

6. Learned AGA for the State has vehemently opposed the submissions advanced by learned counsel for the revisionist and submitted that the application moved by the revisionist under Section 340 Cr.P.C. before the Court of Judge (Small Causes Court), Meerut was wholly misconceived and devoid of merit. It is further submitted that the learned trial court, after due consideration of the material available on record, rightly rejected the said application. The appeal preferred against the said order was also dismissed by the learned appellate court upon lawful and proper appreciation of the facts and circumstances of the case, and no illegality or infirmity can be said to have been committed by the courts below.

7. I have heard the rival submissions of learned counsel for the parties and perused the materials available on record.

8. The power of preliminary inquiry is provided in Section 340 (1) Cr.P.C. and it is considered apposite to reproduce the said section hereinunder :-

"(1) When upon an application made to it in this behalf or otherwise any Court is of opinion that it is expedient in the interest of justice that an inquiry should be made into any offence referred to in clause (b) of Sub-Section (1) of section [195](#), which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary;

- (a) record a finding to that effect;*
- (b) make a complaint thereof in writing;*
- (c) send it to a Magistrate of the first class having jurisdiction;*

take sufficient security for the appearance for the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do send the accused in custody to such Magistrate; and

(d) bind over any person to appear and give evidence before such Magistrate."

9. For the purpose of exercising power under Section 340 Cr.P.C., it has been provided in Section 195(1)(b) Cr.P.C. as under:-

"195. Prosecution for contempt of lawful authority of public servant, for offences against public justice and for offences relating to documents given in evidence.

(1) No Court shall take cognizance -

(a)

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476 of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii),

[except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.] "

Offence mentioned in Section 195(1)(b) Cr.P.C. are contained in Chapter XI of the I.P.C. with the heading of **"False Evidence and Offences Against Public Justice".**

10. The facts, as alleged by the revisionist in his application under Section

340 Cr.P.C., are that the decree holder, by concealing the fact of pendency of another case, has given false evidence before the Court. In this context, it becomes necessary to examine the meaning of the expression “giving false evidence.” The circumstances constituting “false evidence” are defined under Section 191 I.P.C., which reads as follows:—

" 191. Giving false evidence.

Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation1.—*A statement is within the meaning of this section, whether it is made verbally or otherwise.*

Explanation 2.—*A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.*

Illustrations

- a. *A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.*
- b. *A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.*
- c. *A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the*

signature may not be the handwriting of Z, A has not given false evidence.

d. A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

e. A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence. "

11. A bare perusal of Section 191 I.P.C. shows that giving false evidence can be said when a person who is legally bound by an oath or by an expresses provision of law to state truth or being bound by law to make declaration upon any subject, makes any statement which is false and which he either knows or believes to be false or does not believe it to be true.

12. In the present case, there is nothing mentioned in the application under Section 340 Cr.P.C. about any false statement given by the decree holder. Mere not disclosing of pendency of execution petition or restoration application may not amount to concealment of fact by the decree holder.

13. A perusal of the order dated 10.04.2024 passed by the court of Judge, Small Causes Court, Meerut shows that the learned trial court has passed a detailed order and rejected the application filed under Section 340 Cr.P.C. with a finding that the non disclosure of fact does not comes within the ambit of Section 340 Cr.P.C. Likewise, in the appeal preferred against the order of the Judge, Small Causes Court, Meerut, the learned Appellate Court has passed its judgment and order dated 19.02.2025 and rejected the appeal by confirming the order dated 10.04.2024 passed by the trial court relying on the case law **James Kunjwal v. The State of Uttarakhand and Another**, reported in 2024 SCC Online SC 1943.

14. In the case of **James Kunjwal (supra)**, the Hon'ble Supreme Court has elaborately discussed the provisions relating to giving false evidence as contemplated under Section 191 I.P.C., which is punishable under Section 193 I.P.C., read with Section 195 Cr.P.C. While relying upon several of its earlier judgments, the Hon'ble Supreme Court, in the said decision, has made the following observations with regard to applications under Section 193 of I.P.C.:—

"15. The three essential factors which can be said to be sine qua non for the application of Section 193 IPC as held in Bhima Razu Prasad v. State Rep. by Deputy Supdt. of Police, CBI/SPE/ACU-II/(2021) 19 SCC 25 are :-

- (1) false statement made on oath or in affidavits;*
- (2) that such statements be made in a judicial proceeding; or*
- (3) such statement be made before an authority that has been expressly deemed to be a 'Court'.*

16. What we may conclude from a perusal of the above-noticed judicial pronouncements is that:-

- (i) The Court should be of the prima facie opinion that there exists sufficient and reasonable ground to initiate proceedings against the person who has allegedly made a false statement(s);*
- (ii) Such proceedings should be initiated when doing the same is "expedient in the interests of justice to punish the delinquent" and not merely because of inaccuracy in statements that may be innocent/immaterial;*
- (iii) There should be "deliberate falsehood on a matter of substance";*
- (iv) The Court should be satisfied that there is a reasonable foundation for the charge, with distinct evidence and not mere suspicion;*
- (v) Proceedings should be initiated in exceptional circumstances, for instance, when a party has perjured themselves to beneficial orders from the Court. "*

15. Thus, in light of the aforesaid case laws and the discussion made hereinabove, it is clear that the allegations of giving false evidence levelled by the revisionist in the application under Section 340 of the Cr.P.C. do not fall within the ambit of "giving false evidence" as

envisaged under Section 191 I.P.C.

16. For the reasons stated above, this Court is of the considered opinion that the criminal revision lacks merits and deserves to be dismissed.

17. Instant criminal revision is hereby **dismissed**.

(Divesh Chandra Samant,J.)

January 22, 2026
Karan/ADY