

IN THE HIGH COURT OF JUDICATURE AT PATNA
Or. Criminal Miscellaneous No.1 of 2018

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Asha Kumari @ Asha Devi daughter of Udit Narayan Rai, resident of Village-
Murbaria, P.S.- Piparia, District- Lakhisarai, at present posted as Pradhan
Teacher, Primary School Murbaria, Purbi Tola, P.S. Piparia, District-
Lakhisarai.

... .. Petitioner/s

Versus

1. Ramchandra Prasad Vimal Son of Shiv Shankar Yadav, resident of Village-
Maharajganj, P.S. Madhubani, District- Madhubani, at present posted as
Block Education Officer, Piparia, District- Lakhisarai.
2. Rina Kumari, Daughter of Kishori Prasad, Resident of Chitranjan Road,
Purani Bazar, Lakhisarai, District- Lakhisarai, at present posted as Asstt.
Teacher Primary School Murbaria, Purbi Tola, P.S. Piparia District-
Lakhisarai.
3. The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Mishra, Advocate
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 19-06-2026

Heard learned counsel for the petitioner and learned
Counsel for the State.

2. Upon a specific query from this Court to learned
counsel for the petitioner as to whether the present Original



Criminal Miscellaneous No. 1 of 2018, filed under Section 340 of the Code of Criminal Procedure, 1973, seeking initiation of an inquiry on the allegation that the opposite party had made false and frivolous statements in CWJC No. 7006 of 2017 and CWJC No. 15940 of 2017, is maintainable as an independent proceeding, or whether an application under Section 340 CrPC is required to be filed before the same Court where such false statement is alleged to have been made. Learned counsel for the petitioner submitted that, he is not in a position to answer the query but only submits that present case is maintainable.

3. In order to assist the Court on the legal issue involved, this Court requested Mr. Rajendra Narayan, learned Senior Advocate, and Mr. Ajay Kumar Sinha, learned Senior Advocate, who were present in Court, to express their views.

4. Both the learned Senior Counsel unequivocally submitted that an application under Section 340 Cr.P.C. is maintainable only before the same Court in relation to whose proceedings the offence referred to in Section 195(1)(b) Cr.P.C. is alleged to have been committed.

5. For better appreciation, section 340 of the Code of Criminal Procedure now Section 379 in Bharatiya Nagarik Suraksha Sanhita, 2023 is reproduced as under :-

“340. Procedure in cases



mentioned in Section 195 -(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;

d. 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

e. bind over any person to appear and give evidence before such Magistrate.

2. The power conferred on a Court by Sub-Section (1) in respect of an offence may, in any case where that Court has neither made a complaint under Sub-Section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of Sub-Section (4) of section 195.

3. A complaint made under this



section shall be signed;

a. where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

b. in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.

(4) In this section, "Court" has the same meaning as in section 195."

6. Bare perusal of aforesaid provision make it abundantly clear that when it appears to a Court where proceeding is pending that an offence referred to in Section 195(1)(b) Cr.P.C. has been committed in relation to a document produced or evidence given in a proceeding before that Court, it is that very Court which is empowered to conduct a preliminary inquiry, if considered necessary, and to take appropriate action in accordance with law.

7. In view of the aforesaid legal position, this Court is of the considered opinion that the present Original Criminal Miscellaneous No. 1 of 2018 is not maintainable. The remedy available to the petitioner was to file an application under Section 340 Cr.P.C. before the same Court in which the alleged false statements were made, and not by way of an independent Original Criminal Miscellaneous proceeding.



8. Upon verification by the Court Master, it has been informed that CWJC No. 7006 of 2017 has already been dismissed for default, whereas CWJC No. 15940 of 2017 is still pending.

9. In the aforesaid circumstances, this Court holds that the present application, instituted under the Original Criminal Miscellaneous jurisdiction, is not maintainable because alleged wrong has been made either in CWJC No. 7006 of 2017 or in CWJC No. 15940 of 2017 where application under Section 340 of the Code of Criminal Procedure is maintainable.

10. Accordingly, the present Original Criminal Miscellaneous No. 1 of 2018 stands dismissed with the aforesaid observations.

(Dr. Anshuman, J)

Ashwini/Manshi

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	19/06/2026
Transmission Date	NA

