



To

1. Senior Superintendent of Police, Vigilance Bureau Range Patiala.
2. Senior Superintendent of Police, Vigilance Bureau Range Jalandhar.
3. Senior Superintendent of Police, Vigilance Bureau Range Amritsar.
4. Senior Superintendent of Police, Vigilance Bureau Range Bathinda.
5. Senior Superintendent of Police, Vigilance Bureau Range Ferozepur.
6. Senior Superintendent of Police, Vigilance Bureau Range Ludhiana.
7. Senior Superintendent of Police, Vigilance Bureau Range Rupnagar at S.A. S. Nagar
8. Senior Superintendent of Police, Vigilance Bureau, EOW, Ludhiana.

No. /VB/S-3 Dt. the:

Subject: Detailed note on application of Section 340 Cr.P.C and Section 344 Cr.P.C is as follows.

Memo

Regarding above said subject.

2. The detailed note on application of Section 340 Cr.P.C and Section 344 Cr.P.C is as follows:

Though apparently the provisions of Section 340 and Section 344 appear to be somewhat similar but they differ from each other in the following aspects:

- (1) Section 340 is a general section containing provisions relating to the procedure to be followed in respect of certain offences affecting administration of justice, but Section 344 contains special provision which deals with the procedure to be followed in cases where a person appearing as a witness gives false evidence or fabricates false evidence.
- (2) The application of Section 344 is restricted to a judicial proceeding but there is no such restriction in application of Section 340 of the Code.
- (3) Under Section 340, the Court has to hold a preliminary inquiry before making a complaint, but under Section 344, the Court can file a complaint straightaway without making an inquiry.
- (4) While proceeding under Section 344, it is necessary for the Court to give a finding in the judgment or final order itself that the person appearing as a witness has intentionally and deliberately given false evidence or fabricated false evidence. The Court has also to state that prosecution is expedient in the interest of justice for the eradication of the evil of perjury. But no such finding is necessary under Section 340 of the Code.
- (5) Under Section 340, the action may be taken either suo motu or on an application by a person but in Section 344 no application from any person is contemplated.
- (6) Under Section 340, the Court cannot itself assume jurisdiction to try the accused person, but it may make a complaint. On the other hand, Section 344 empowers the Court to itself try the perjurer summarily.
- (7) The provisions of Section 344 are more stringent than those of Section 340 insofar as there is no right of appeal against an order under Section 344. As against this, right of appeal against an order made under Section 340 is provided in Section 341 of the Code. The Hon'ble Supreme Court in Mahila Vinod Kumari Vs State of MP, SLP (Criminal) of 2008 SC has held that : " The purpose of enacting Section 344, Cr.P.C. corresponding to Section 479 - A of the Code of Criminal Procedure, 1898 (hereinafter referred to as the Old Code) appears to be further arm the Court with a weapon to deal with more flagrant cases and not to take away the already in its possession. The object of the legislature underlying enactment of the provision is that the evil of perjury and fabrication of evidence has to be eradicated and can be better achieved now as it is open to the courts to take recourse to Section 340(1) in cases in which they are failed to take action under Section 344 Cr.P.C.

This section introduces an additional alternative procedure to punish perjury by the very Court before which it is committed in place of old Section 479A which did not have the desired effect to eradicate the evils of perjury. The salient features of this new provision are:

(1) Special powers have been conferred on two specified Courts, namely Court of Session and Magistrate of the First Class, to take cognizance of an offence of perjury committed by a witness in a proceeding before it instead of filing a complaint before a Magistrate and try and punish the offender by following the procedure of summary trials. For summary trial..

(2) This power is to be exercised after having the matter considered by the Court only at the time of delivery of the judgment or final order.

(3) The offender shall be given a reasonable opportunity of showing cause before he is punished.

(4) The maximum sentence that may be imposed is 3 month's imprisonment or a fine up to Rs.500 or both.

(5) The order of the Court is appealable.

(6) The procedure in this section is an alternative to one under Sections 340-343. The Court has been given an option to proceed to punish summarily under this section or to resort to ordinary procedure by way of complaint under Section 340 so that, as for instance, where the Court is of opinion that perjury committed is likely to raise complicated questions or deserves more severe punishment than that permitted under this section or the case is otherwise of such a nature or for some reasons considered to be such that the case should be disposed of under the ordinary procedure which would be more appropriate, the Court may chose to do so.

(7) Further proceedings of any trial initiated under this section shall be stayed and thus, any sentence imposed shall also not be executed until the disposal of an appeal or revision against the judg in the main proceedings in which the witness gave perjured evidence or fabricated false evidence...

8. For exercising the powers under the section the Court at the time of delivery of judgment or final order must at the first instance express an opinion to the effect that the witness before it has either intentionally given false evidence or fabricated such evidence. The second condition is that the Court must come to the conclusion that in the interests of justice the witness concerned should be punished summarily by it for the offence which appears to have been committed by the witness. And the third condition is that before commencing the summary trial for punishment the witness must be given reasonable opportunity of showing cause why he should not be so punished. All these conditions are mandatory."

(Kanwaldeep Singh)
Joint Director, Administration,
For Chief Director,
Vigilance Bureau, Punjab.

36311-24

No. /VB/S-3 dated, the: 4-10-22

A copy of the above is forwarded to the following for information please:-

1. Director, Vigilance Bureau, Punjab.
2. JD, Admn., Vigilance Bureau, Punjab.
3. JD, Crime, Vigilance Bureau, Punjab.
4. JD, IVC & SU, Vigilance Bureau, Punjab.
5. JD, CC, Vigilance Bureau, Punjab.
6. AIG,FS, Vigilance Bureau, Punjab.
7. AIG, EOW, Vigilance Bureau, Punjab.
8. AIG, Anti Corruption Action Line, Vigilance Bureau, Punjab.
9. Joint Director (P), Vigilance Bureau, Punjab.
10. Reader to Chief Director Vigilance Bureau, Punjab.
11. Supdt/Admn, Vigilance Bureau, Punjab.
12. Supdt/Crime-I, Vigilance Bureau, Punjab.
13. Supdt/Crime-II, Vigilance Bureau, Punjab.
14. I/c WMC, Vigilance Bureau, Punjab.

(Kanwaldeep Singh)
Joint Director, Administration,
For Chief Director,
Vigilance Bureau, Punjab