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False evidence in civil proceedings

🕒 6 years ago [🗨️ 10 Replies](#)

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advocate

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If petitioner gives false affidavit in civil proceedings. But respondent gets proof after the case is disposed off in favour of petitioner on basis of false affidavit. Can respondent initiate criminal proceedings for lying under oath similar to perjury in such case?

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🕒 6 years ago

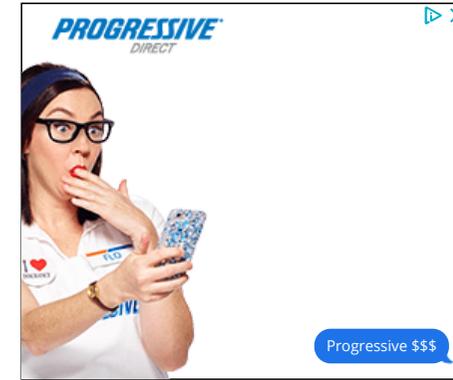


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proprietor

Yes in my opinion it is punishable u/s. 191, 193 and 199 of I.P.C. but section 195 of Cr. P.C. puts a bar on pvt. complaint and the cognizance can be taken only if the complaint is sanctioned and lodged by the same Court wherein the False Affidavit was filed. Please also refer section 340 of Cr.P.C.

Hariom.



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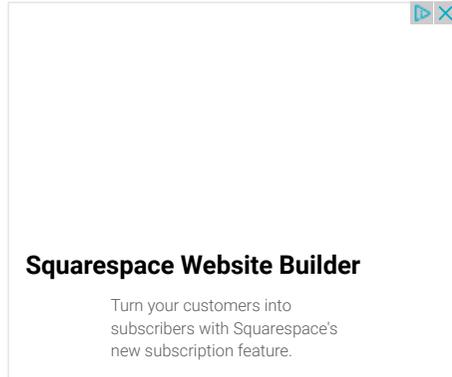
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But as civil case is already disposed off. How can bar of crpc 195 be overcome? Crpc 340 is also not applicable as case is disposed off.

↩ Reply

🕒 6 years ago



Ajit Singh
Cheema ▾

File Complaint under section 340 CrPC with the concerned court

You may have filed a complaint under section 340 of CrPC for proceeding against the accused under section 195 of CrPC in the concerned court where the false affidavit has been filed, for having

practising
Advocate

committed offences under section 191 and 192 of IPC and punishable under section 193 of IPC.

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Now that the case has already been decided and the court has become functus officio ,complaint can still be filed but the courts normally donot entertain such complaints. Now there are two alternatives with you first is to file the complaint under section 340 CrPC with the Appellate court and second is filing of complaint under section 190 of CrPC with chief Judicial Magistrate

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🕒 6 years ago



Srinivas ▾

Director

👍 Likes: 10

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Dear Ajit Singh Cheema Ji,

Awesome response. Every word worth its weigh in gold.

At what stage of the civil suit should a complaint be filed under section 340 of CrPC. Should this be done before trial, after trial, before decree or Judgment?

My advocate is telling me petition can be only filed after Judgment. This would me after case is already decided. Please advice best time during the course of civil suit to file complaint under section 340 of CrPC.

thanks,

Srinivas

↩ Reply

6 years ago



Ajit Singh Cheema

practising Advocate

Likes: 56

Points: 993

Just before filing final arguments

The most appropriate time is when the Petitioner has submitted his written / verbal arguments (when the transaction of making the false statement before court is completed).The respondent /defendant should file complaint just before filing his final written / verbal arguments and request the court for proper orders on the complaint .After the judgement ,normally the court becomes functus officio and donot entertain such complaints. However the complaint can still be filed under section 190 of Cr P C .

Total likes : 1 times

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Srinivas

Director

Likes: 10

Points: 525

Dear Ajit Singh Cheema Ji,

I spoke to my advocate about filing written complaint u/s 340 and he said we cannot file this in a Civil Suit. He also said we will need to file a separate criminal suit and that we should attend every hearing in case of criminal proceedings. I am not in a stage I can change lawyer at this time. I am also at loss on how to convince the advocate without ego's getting in the way. Please guide.

thanks,

Srinivas

Reply

6 years ago



Srinivas ▾

Director

👍 Likes: 10

Points: 525

One more question:

Under what section of CPC 1908 should an application be filed in a civil suit requesting court to initiate proceedings under section 340 CrPc?

thanks,

Srinivas

↩ Reply

🕒 3 years ago



prem ahuja ▾

Points: 22

Sir,my lanlord give a wrong statement in the court while filing a case under rent act and i have filed a complant under section 340 with proof of an earlier decision of court against him exposing him misleading the court.What can i expect from court as due to all this i have got lose of many lakh and ruined my business

↩ Reply

🕒 2 years ago



Anil Satyagraha ▾

False Affidavits In Civil Proceedings - Liable For Contempt Of Court -

Click Here For A More Detailed Perspective Of The Several Grounds To Consider To Invoke Sections IPC §§ 191, 192 and 193 vide CrPC §§ 340-345, inter alia.

In *Iqbal Singh Marwah and Anr. v. Meenakshi Marwah and Anr.*, 2005 0 AIR(SC) 2119 = 2005 0 AIR(SCW) 1929 = 2005 2 BBCJ(SC) 408 = 2005 2 Crimes(SC) 11 = 2005 0 CrLJ 2161 = 2005 2 JCC 768 = 2005 3 JT 195 = 2005 2 PLJR(SC) 236 = 2005 2 RCR(Cri) 178 = 2005 3 Scale 93 = 2005 4 SCC 370 = 2005 5 SCJ 98 = 2005 2 Supreme 549 = 2005 0 Supreme(SC) 454, Appellants, brothers of deceased, filed probate case for being granted probate of Will allegedly -executed by their brother-Defendants in suit were the widow and son of deceased-Defendant-respondent filed complaint before Magistrate alleging appellants-plaintiffs to have forged the will-High Court rightly held bar not attracted based upon the principle that Section 195(1)(b)(ii) Cr.P.C. bar could be attracted only when offence was committed with respect to a document after it had been produced or given evidence in a proceedings in Court. Herein, it has been held stating thus -

“(Para ¶ 9) - The expression “when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in a Court” occurring in clause (b)(ii) should normally mean commission of such an offence after the document has actually been produced or given in evidence in the Court. The situation or contingency where an offence as enumerated in this clause has already been committed earlier and later on the document is produced or is given in evidence in Court, does not appear to be in tune with clauses (a)(i) and (b)(i) and consequently with the scheme of Section 195 Cr.P.C. This indicates that clause (b)(ii) contemplates a situation where the offences enumerated therein are committed with respect to a

document subsequent to its production or giving in evidence in a proceeding in any Court.”

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