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There must be an assault or use of criminal force to a public servant either in the execution of his duties in that capacity, or with the intention to prevent or deter him from discharging his duty in that capacity, or in consequence of anything done or attempted to be done by him in the lawful discharge of his duty in that capacity.

Where the driver of the transport department of the government prevented a deputy Sarpanch who was trying to board the bus through the driver's cabin and the latter hit him causing him grievous hurt, it was held that the driver being a public servant doing public duty was obstructed and assaulted by the latter who was, therefore, guilty under section 353. Where the excise officers did not record any reasons for searching the car in which the petitioner was travelling, the search by them being illegal, obstruction against the same could not attract this section. But, a constable even if not on his official duty arrests an offender who had inflicted knife injuries and gets assaulted in the process, this section does come into play.

Where an officer of the department of commercial taxes paid a surprise check to the shop of the accused and inspected some account books which were snatched away from him by the accused, the accused had clearly committed an offence under this section. Where an officer of the court signed a warrant of arrest without having any authority to do so, resistance to its execution was not punishable under sections 225- B and 353 of the Code. Where a minister, being a public servant, presides over the meeting of a committee in accordance with the executive instructions of the government he acts in the discharge of his duties as such public servant, and in case of an assault or use of criminal force against him, charges under

sections 353 and 355 must be framed. Resistance to an illegal order of attachment could not be held to be an offence under section 353. Where a teacher of a school had a previous grudge against the head master of the school and assaulted him by a ruler not in the course of performance of his official duties, section 353 would not apply, but since the headmaster suffered a dislocation in his right shoulder joint, the accused could be convicted for causing grievous hurt under section 325. Where a police constable entered into the premises and knocked at the door of the accused's house at midnight to ascertain whether the accused was at home as directed by the law, whereupon the accused came out, abused and pushed him, and also lifted a stick to give an impression that he was about to assault the constable by it, it was held that as the act of the constable was calculated to cause annoyance to the accused and other inmates in addition to the house-trespass and insult caused, the accused could not be held guilty under section 353. Where a village officer attempted to take possession of a disputed property in violation of a stay order by his superiors, and thus was not acting in execution of his duty, resistance to such act would not entail liability under this section. Where a constable was executing a warrant not strictly legal and was assaulted by the accused, the accused was held guilty under this section as the constable was acting in good faith.

But where a search had already ended and the person conducting the search had left the premises, to bring him back with a view to compel him to do certain acts against his will would not be an obstruction but a compulsion which no one could force a public servant to do, and hence conviction under sections 353 and 342 was good in law. Where a public servant was carrying

a pot, which was naturally in contact with his body, in the discharge of his duties as such public servant, to strike it was committing criminal force against him and section 353 was attracted. Obstruction to the execution of a warrant of arrest not bearing the seal is not punishable under section 225 or under this section as such a warrant is invalid in the eye of law. Threatening a revenue inspector to kill in case he attempted to distrain the property of the accused, but there being no gesture to accompany the words, is not punishable under section 353 but under section 503. Snatching of ballot papers from the custody of the polling officer and tearing them amounts to use of criminal force.

The expression 'in consequence of anything done' used in section 353 includes motive which actuates the accused to commit assault on public servant. In *Virendra Sharma v. State*, the petitioner sprinkled black paint on the face of commissioner of municipal corporation while he was in office and used abusive language against him.

The Delhi High Court held that such act of humiliation done intentionally is sufficient to obstruct duty of a public servant and thus his conviction under section 353 was proper. Cognizance in this case was taken when a written complaint was filed by the public servant under section 195, Code of Criminal Procedure, 1973 and, therefore, it was not necessary for the complainant to be present when the F. I. R. was registered.

The offence under section 353 is cognizable, bailable and non-compoundable, and is triable by any magistrate.