# IPC Section 353

## Section 353 of the Indian Penal Code: Assault or Criminal Force to Deter Public Servant from Discharge of His Duty  
  
Section 353 of the Indian Penal Code (IPC) addresses the specific offense of assaulting or using criminal force against a public servant to deter them from carrying out their lawful duties. It recognizes the importance of protecting public servants from interference and obstruction while performing their functions, which are essential for the proper functioning of the state and the administration of justice. This essay will provide a comprehensive analysis of Section 353, exploring its various facets, including its essential ingredients, the definition of "public servant," the meaning of "deterring a public servant from his duty," the distinction between assault and criminal force, the nature and extent of force required, the burden of proof, defenses available to the accused, the prescribed punishment, relevant case laws, and the significance of this section in upholding the rule of law and maintaining public order.  
  
\*\*I. The Text of Section 353:\*\*  
  
Section 353 of the IPC states: “Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”  
  
  
\*\*II. Essential Ingredients of Section 353:\*\*  
  
To establish the offense under Section 353, the prosecution must prove the following essential ingredients beyond a reasonable doubt:  
  
1. \*\*Assault or Use of Criminal Force:\*\* The accused must have either assaulted or used criminal force against the victim. These terms are defined under Sections 351 and 350 of the IPC, respectively:  
 \* \*\*Assault (Section 351):\*\* Making any gesture or preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that the person making the gesture or preparation is about to use criminal force.  
 \* \*\*Criminal Force (Section 350):\*\* Intentionally using force to any person, without that person's consent, in order to the committing of any offense, or with the knowledge that, by such use of force, injury, fear, or annoyance is likely to be caused.  
  
2. \*\*Victim is a Public Servant:\*\* The victim of the assault or criminal force must be a "public servant" as defined under Section 21 of the IPC. This includes government officials, police officers, judges, and other individuals holding public office or performing public functions.  
  
3. \*\*Connection to the Discharge of Duty:\*\* The assault or criminal force must be committed in one of the following circumstances:  
 \* \*\*During the execution of duty:\*\* The public servant is actively engaged in performing their official duties at the time of the offense.  
 \* \*\*With intent to prevent or deter from duty:\*\* The accused intends to obstruct or discourage the public servant from carrying out their duties.  
 \* \*\*In consequence of something done or attempted in lawful discharge of duty:\*\* The assault or criminal force is a retaliatory act for something the public servant did or attempted to do while lawfully performing their duties.  
  
  
\*\*III. Definition of "Public Servant":\*\*  
  
Section 21 of the IPC provides a comprehensive definition of "public servant." It encompasses a wide range of individuals, including government employees, judges, police officers, members of the armed forces, and anyone authorized to perform public functions. The key element is that the person must be acting in a public capacity, not a private one.  
  
\*\*IV. "Deterring a Public Servant from his Duty":\*\*  
  
The phrase "deterring a public servant from his duty" requires that the accused's actions are intended to discourage or prevent the public servant from performing their lawful duties. This can involve direct interference, such as physically obstructing the public servant, or indirect interference, such as creating a hostile environment that makes it difficult or impossible for them to carry out their duties.  
  
  
\*\*V. Nature and Extent of Force Required:\*\*  
  
The degree of force used in the assault or criminal force is not a determining factor for the application of Section 353. Even a minor use of force, such as pushing or shoving, can be sufficient to constitute the offense, as long as the other essential ingredients are present. The focus is on the intent to interfere with the public servant's duty, not the severity of the physical contact.  
  
\*\*VI. Burden of Proof:\*\*  
  
The burden of proving the offense under Section 353 lies with the prosecution. They must establish all the essential ingredients of the offense beyond a reasonable doubt. The accused is presumed innocent until proven guilty and does not have to prove their innocence.  
  
\*\*VII. Defenses Available to the Accused:\*\*  
  
An accused charged under Section 353 can raise various defenses:  
  
\* \*\*The victim was not a public servant:\*\* The accused can argue that the alleged victim did not fall under the definition of "public servant" under Section 21.  
\* \*\*The public servant was not acting in the execution of their duty:\*\* The accused can argue that the alleged victim was not performing their official duties at the time of the incident.  
\* \*\*No intent to deter:\*\* The accused can argue that they had no intention to prevent or deter the public servant from discharging their duty.  
\* \*\*Self-defense:\*\* The accused can argue that they used force in self-defense or in defense of another person.  
\* \*\*Mistake of fact:\*\* The accused can argue that they acted under a genuine and reasonable belief in a set of facts that, if true, would have made their actions lawful.  
  
  
\*\*VIII. Prescribed Punishment:\*\*  
  
Section 353 prescribes a punishment of imprisonment for up to two years, or with fine, or with both. The relatively higher punishment compared to simple assault or criminal force (Section 352) reflects the seriousness of obstructing public servants in the discharge of their duties. The actual sentence imposed depends on the specific circumstances of the case, the nature of the assault or criminal force used, and the impact on the public servant's ability to perform their duties.  
  
  
\*\*IX. Relevant Case Laws:\*\*  
  
Several court judgments have clarified the interpretation and application of Section 353. Some key cases include:  
  
\* \*\*\*State of Andhra Pradesh v. M. Radha Krishna\*\*\*: This case emphasized the importance of establishing that the public servant was acting in the execution of their duty.  
  
  
\* \*\*\*Ramesh v. State of Maharashtra\*\*\*: This case highlighted the requirement of proving the intent to deter the public servant from their duty.  
  
\* \*\*\*Baiju v. State of Kerala\*\*\*: This case discussed the meaning of "assault" in the context of Section 353.  
  
  
\*\*X. Conclusion:\*\*  
  
Section 353 of the IPC serves as a vital safeguard for public servants, protecting them from obstruction and interference while they perform their crucial duties. It recognizes that obstructing public servants undermines the rule of law and hampers the administration of justice. By punishing those who assault or use criminal force against public servants in the execution of their duties, this section upholds the authority of the state and ensures the smooth functioning of public services. Understanding the nuances of Section 353, including its essential ingredients, the definition of "public servant," and the various defenses available, is critical for both law enforcement and citizens to ensure the effective implementation and protection of this provision.