VED PRAKASH DEWANGAN

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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1195 of 2016

Reserved for Judgment on 14/10/2026

Judgment delivered on 28/10/2026

Vinay Kumar Kujur S/o Gabrial Kujur Aged About 50 Years R/o Village Juradand, Police Station Bagicha, District Jahspur Chhattisgarh

... Appellant

versus

State Of Chhattisgarh Through The Police Chowki Pandrapath, Station House Officer, Police Station Bagicha, District Jashpur Chhattisgarh

... Respondent

(Cause title taken from Case Information System)

For Appellant	:	Mr. Sanjeev Sahu, Advocate
For Respondent/State	:	Mr. Rishi Raj Pithawa, Deputy G.A.

Hon'ble Shri Justice Ravindra Kumar Agrawal

C.A.V. Judgment

1. The present criminal appeal has been filed by the appellant under Section 374(2) of the Code of Criminal Procedure, 1973, against the impugned judgment of conviction and sentence dated 02.09.2016 passed by learned Additional Sessions Judge (FTC), Jashpur, District

Jashpur, in Sessions Case No. 63 of 2015, whereby the appellant has been convicted and sentenced in the following manner:-

CONVICTION	SENTENCE
U/s. 333 of IPC	R.I. for 3 years with fine of Rs. 2000/-, in default of payment of fine additional R.I. for 3 months.

2. The case of the prosecution, in brief, is that, on 10.01.2015, at about 2:00 p.m. when the complainant Kishore Kumar Gupta, who was the Cluster Coordinator, was working in his office, the appellant who was the Headmaster, came there and by abusing the filthy language, assaulted him by stone, by which he received injuries on his nose, eye and shoulder. By the assault made by the stone, his shoulder bone was got fractured, his coat was torn and he torn the official register by which, the complainant deterred from discharging public duty. The persons, who were present nearby, have intervened. On 10.01.2015 itself, the complainant lodged a written complaint (exhibit P-6) to the police stating therein that the appellant has committed the offence for the reason that, the teacher Smt. Anita Jaiswal asked the appellant to maintain the proper record of transaction of rice and then he misbehaved with her and she was informing the said incident to him and at that time, the appellant committed marpeet with him. The complainant was sent for his medical examination to Community Health Centre, Bagicha, where he was medically examined by PW-2, Dr. Mithilesh Minj, who after his medical examination gave MLC report (exhibit P-3), in which he found swelling with tenderness on left mid-clavicular region, abrasion on left mid-ring finger, dorsal little

finger, left side of nose. He referred the injured to Radiologist for x-ray examination of chest. On 15.01.2015, the x-ray pad was produced before the doctor, who gave the x-ray report (exhibit P-4), by which he found fracture of left clavicle bone. Injury was grievous in nature caused by hard object and injury No.2 was simple in nature. Unnumbered FIR (exhibit P-1) was registered on 18.01.2015 against the appellant for the offence under Section 294, 506 and 325 of IPC. Thereafter, the numbered FIR (exhibit P-2) was registered.

3. Spot map (exhibit P-7) was prepared by the police. The mid-day meal register which was torn by the appellant has been seized vide seizure memo (exhibit P-8). A piece of stone has also been seized vide seizure memo (exhibit P-9). The piece of stone was also sent for its query report to the doctor, who gave the query report (exhibit P-5) and opined that the said piece of stone can cause the fracture, which was found in the body of Kishore Kumar Jaiswal. The appellant was arrested on 16.06.2015.

4. Statement of the witnesses under Section 161 of CrPC have been recorded and after completion of usual investigation, charge sheet was filed against the appellant for the offence under Sections 294, 506, 186, 332, 333, 353 and 426 of the IPC before the learned Judicial Magistrate First Class, Bagicha. The case was committed to the learned Sessions Judge, Jashpur, from where it was transferred to the learned trial Court for its trial.

5. The learned trial Court framed charge against the appellant for the offence under Sections 294, 506 Part-II, 186, 333 and 426 of the IPC. The appellant denied the charge and claimed trial.

6. In order to prove the charge against the appellant, the prosecution has examined as many as 09 witnesses. Statement of the appellant under Section 313 of CrPC was recorded, in which he denied the circumstances that appears against him, pleaded innocence and has submitted that he has been falsely implicated in the offence. In his defence, he would submit that on 06.01.2015, there was a Cluster meeting was held with respect to distribution of coupons for mid-day meal and the complainant Kishore Gupta obtained his acknowledgement in the mid-day meal register, but has not given him the coupons. When he objected that if an inquiry team would come, then he would be charged for misappropriation and he would be in difficulty and asked for coupons, but he refused to give him the coupon and started altercation and then he came back from there without coupon. On 10.01.2015, Kishore Gupta storing the rice of mid-day meal at cluster building from PDS, then he informed the teacher of Primary School, Prakash Tigga that they have not received the coupon and Kishore Gupta is storing the rice at cluster building, whereas the rules provided that rice should be stored in Primary School and Middle School, respectively as per its allotment. There is chances of forgery and they will be charged for the offence of corruption and then he asked Kishore Gupta not to do any wrong work and then he started abusing him with filthy language and made

allegation that he is committing theft and started altercation with him and threw him on the floor, which was witnessed by the cook Dev Prasad Yadav and teacher Jhemuram Banwasi and they intervened. Thereafter Kishore Gupta, threatened him that he will get him out of service and spoiled his life. Subsequently he came to know that he roped him in a false case. In support of his defence, he himself examined as DW-1 and also examined DW-2, Jhemuram Banwasi and DW-3, Dev Prasad Yadav.

7. After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial court acquitted the appellant from the offence of Sections 294, 506 part-II, 186 and 426 of IPC, but has convicted for the offence under Section 333 of the IPC and sentenced him, as has been mentioned in the earlier part of this judgment. Hence this appeal.

8. Learned counsel for the appellant would submit that the appellant is innocence and has been falsely implicated in the offence. The prosecution has failed to prove its case beyond reasonable doubt. There are material omissions and contradictions in the evidence of prosecution witnesses, which cannot be made basis to convict him for the alleged offence. The appellant had gone to cluster office for raising objection about storing of the rice and non-supply of coupons to him despite obtaining acknowledgment in the register, but it is the complainant himself started altercation and abusing him by raising allegation of theft and during the scuffling, the complainant fell down on the floor, by which he received injuries on his body. No assault

has been made by the appellant to him by stone or any other object. There was no intention to cause injury to him or to deter him from discharging from the official duty. He would also submit that he bonafidely raised objection in the conduct in discharging the official duty of the complainant. He would further submit that he also immediately lodged a complaint to the police on 11.01.2015, but his complaint has not been investigated. He also approached the higher authority raising his complaint, but no action has been taken. The villagers have also made various complaints with respect to the conduct of the complainant Kishore Gupta and his arbitrary action in distribution of mid-day meal rice and coupons. He would further submit that the other witness Smt. Anita Jaiswal is the wife of the complainant and her evidence is not sufficient and reliable to convict the appellant for the alleged offence as she is the interested witness. The other witness Akash Ram (PW-5) has not supported the prosecution case and there are material discrepancies and inconsistencies in the evidence of Chhatrapati Yadav (PW-6) and Rajkumar (PW-7). He would also submit that on the same set of evidence, the appellant has been acquitted from the offence of Sections 186, 506 part-II and 426 of the IPC and therefore, the conviction of the appellant for the offence under Section 333 cannot be sustained. The dispute between the complainant and the appellant is the service dispute and to settle his personal score, the complainant lodged the report, in which the appellant has been convicted. The conviction of the appellant and sentence awarded to

him suffers from illegality and non-appreciation of evidence in its proper form and therefore, the appellant is entitled for acquittal.

9. On the other hand, learned counsel appearing for the State opposes the submissions made by learned counsel for the appellant and submitted that, the prosecution has proved its case beyond reasonable doubt, but for minor omissions or contradictions, the evidence of prosecution witnesses are sufficient to hold the appellant guilty for the offence under Section 333 of the IPC. Prompt report has been lodged by the complainant and on being medical examination, his clavicle bone has been found fractured, which was the grievous injury. It is alleged by the complainant that while working at the cluster office, the appellant came there and assaulted him by stone and torn the official register, which has also been seized in the case. The evidence of the complainant Kishore Gupta (PW-3) has been supported by the witnesses Smt. Anita Jaiswal (PW-4), Chhatrapati Yadav (PW-6) and Rajkumar (PW-7), who clearly deposed that they witnessed the appellant assaulting the complainant by stone. But for minor omissions or contradictions their evidence are reliable and corroborates the evidence of the complainant (PW-3). After making complaint by the complainant on 10.01.2015, the appellant had subsequently made his complaint, which is afterthought. He would further submit that by the defence taken by the appellant, his presence on the spot he himself admitted and from the evidence of the witnesses, it has been proved that he assaulted the complainant, by which he received grievous injury on his body. Even if the appellant has been acquitted from some of the charged offences, that

itself is not sufficient to acquit him from the offence under Section 333 of the IPC, as the ingredients of the said offence has duly been proved by the prosecution. Therefore, there is no merit in the appeal filed by the appellant and the same is liable to be dismissed.

10. I have heard learned counsel for the parties and perused the records of the trial court.

11. In the present case, the appellant has been convicted and sentenced for the offence under Section 333 of the IPC, which provides voluntarily causing grievous hurt to deter public servant from his duty. It is not in dispute that the complainant Kishore Gupta was the public servant at the time of incident, as provided under Section 21 of the IPC, which defines the public servant. As per clause (b) of 12th description of Section 21 of the IPC, the complainant would be the public servant.

12. Section 333 of the IPC provides that:-

> "**333. Voluntarily causing grievous hurt to deter public servant from his duty**.—Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that 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 ten years, and shall also be liable to fine."

13. The charge against the appellant is that, on 10.01.2015, when the complainant Kishore Kumar Gupta, Cluster Coordinator discharging his duty, the appellant assaulted him by stone and caused grievous injuries and thereby deter him from discharging public duty. In view of the charge, this Court examined the evidence produced by the prosecution.

14. PW-3, Kishore Kumar Gupta is the complainant. He stated in his evidence that he knew the appellant. On 10.01.2015, he was posted as Cluster Coordinator at Primary School, Datunpani and he was discharging his duty in his office. His wife Anita Jaiswal was also working in the same school as a teacher. On the date of incident, the appellant who was the headmaster of the same school, misbehaved his wife Anita Jaiswal on the issue of purchase of teacher's diary and maintenance of mid-day meal. At about 2:00 p.m. when she was making a complaint and informing the incident to him, the appellant came there pushed his wife and started abusing her. When he tried to convince him, the appellant started altercation with him and assaulted him by a stone, by which she received injuries on his left shoulder and scratched with fingernails and also torn the mid-day meal register. He threw him on the floor and assaulted him. At the same time, the persons who came there for rice from the society, namely Akash Ram, Chhatrapati Yadav and Rajkumar Yadav came to rescue him and intervened. By the act of the appellant, his official duty was deterred. He also gave him threatening with dire

consequence, if he come to school. Thereafter, he lodged the report, which is exhibit P-6 and he was sent to hospital. The torn register has been seized vide seizure memo (exhibit P-8) and stone has also been seized vide seizure memo (exhibit P-9). At this stage, leading question was asked, in which he admitted that the stone was seized in presence of the witnesses, Chhatrapati Yadav and Rajkumar.

The Para 1 and 2 of his examination-in-chief reads as under:-

> “01) मैं न्यायालय उपस्थित आरोपी को पहचानता हूँ। घटना 10/01/2015 की है, उक्त दिनांक को मैं संकुल समन्वयक के पद पर दतूपानी माध्यमिक शाला में पदस्थ था और प्रतिदिन की तरह अपना शासकीय कार्य कार्यालय में बैठकर कर रहा था। मेरी पत्नी अनिता जायसवाल उसी स्कूल में शिक्षिका के रूप में कार्यरत है। उसी दिन मेरी पत्नी कार्यालय में कार्यरत है, उन्हें शिक्षक डायरी खरीदी एवं मध्याह्न भोजन के रखरखाव के संबंध में आरोपी द्वारा मेरी पत्नी अनिता जायसवाल से अभद्र व्यवहार करने के संबंध में मुझेस मेरे कार्यालय में आकर बात कर रही थी। तभी दोपहर 2:00 बजे आरोपी विजय कुजूर मेरे कार्यालय में आया और मेरे सामने मेरी पत्नी अनिता जायसवाल के हाथ से पत्र को पकड़ कर धक्का दे दिया और मुझे और मेरी पत्नी को गंदी-गंदी गाली देने लगा, तब मैं उन्हें समझाने की कोशिश किया, तब आरोपी विनय कुजूर मुझसे मारपीट शुरू कर दिया और मुझे पत्थर से मार दिया, जिससे मेरे कंधे पर चोट लगा और मेरे चेहरे से नौच दिया, जिस रजिस्टर में मध्याह्न भोजन का हिसाब कर रहा था, उस रजिस्टर को मुझसे छीनकर फाड़ दिया और मुझे मेरा कॉलर पकड़कर बाहर निकाल दिया और मुझे जमीन में पटक कर फिर से मारपीट करने लगा।
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> 02) उसी समय बगल में सोसायटी से चावल लेने आये आकाश राम, छत्रपति यादव और राजकुमार यादव वहाँ आकर बीच-बचाव कर मुझे आरोपी विनय कुजूर से छुड़ाये। आरोपी विनय कुजूर के उक्त कृत्य से मेरे शासकीय कार्य करने में बाधा उत्पन्न हुआ। आरोपी विनय कुजूर के द्वारा मुझे यह भी कहा गया कि

> तुम स्कूल आओगे, तो तुम्हें जान से मार दूंगा। यदि छत्रपति यादव, राजकुमार यादव और आकाश राम वहाँ पर नहीं आते और मुझे आरोपी विनय कुजूर से नहीं छुड़ाते, तब वह मुझे जान से मार सकता था।"

In cross-examination, he admitted that after 8 days of lodging of the report, the police recorded his statement. He voluntarily stated that after making is written complaint he was admitted in the hospital. He firmly stuck in saying that the appellant abused him and his wife. He further stated that the language of abuse was filthy, therefore, he has not mentioned the filthy abuse in his written complaint. He also supported the seizure of the stone and torn register. He also denied that there was quarrel between them earlier also. From the entire cross-examination, the defence could not be able to extract any material, so that it can be held that the evidence of this witness is suspicious or he deposed falsely against the appellant. He remained firm in making allegation against the appellant that when he was working in the cluster office, the appellant came there, abused him and assaulted him by stone, by which he received injuries and his clavicle bone was fractured. From the written complaint (exhibit P-6) lodged by the complainant, it is found that immediately after the incident, he lodged the written complaint, in which he has given all the details of the incident and have duly supported in his deposition. There is no any material discrepancy in his written complaint and deposition. It is necessary here to note the contents of the written complaint (exhibit P-6), which reads as under:-

> "निवेदन है कि मैं किशोर गुप्ता पत्ना (पुत्र) श्री रामेश्वर प्रसाद उम्र 39 वर्ष, संकुल शैक्षिक समन्वयक के पद पर संकुल

केन्द्र दतूनपानी में पदस्थ हूँ। यह कि दिनांक 10.1.2015 को लगभग 2:00 बजे अपने संकुल में शासकीय कार्य कर रहा था। इसी समय विनय कुजर (प्रधान पाठक) ने आकर मुझे गंदी-गंदी गाली-गलौज करते हुए, गुस्से में अचानक चार-पार पत्थर से जानलेवा प्रहार किया। जिससे मेरी नाक, आंख एवं कंधे को चोट आई है। पत्थर के हमले से कंधे की हड्डी टूट गई है।

यह कि विनय कुजूर ने मेरा ही कोट में मेरा चेहरा को ढककर मारा जिससे गंभीर चोट आई है तथा कोट की बटन टूटी है तथा विनय कुजूर द्वारा मुझे नाखुन से नोचा गया।

इतना ही नहीं विनय कुजूर के द्वारा शासकीय कार्य की रजिस्टर को फाड़ दिया गया। एवं शासकीय कार्य में बाधा किया गया।

इस घटना के के समय मौजूद छत्रपति यादव एवं आकाश राम सह ग्रामीणो ने बीच-बचाव कर मेरी प्राण की रक्षा की। यदि उक्त व्यक्ति (ग्रामीण) नहीं रहते तो मुझे जान से मार डालता।

यह घटना होने का कारण कि मा०शा० दतूनपानी में पदस्थ शिक्षिका श्रीमती अनिता जायसवाल ने विनय कुमार को शिक्षक डायरी एवं चावल रख-रखाव के संबंध में कहने पर इन्हें गाली-गलौज, अभद्र व्यवहार धक्का मुक्की किया गया। इसी बात को शिक्षिका के द्वारा संकुल समन्वयक (मुझे) बताया जा रही थी। उसी समय यह घटना हुआ जिसकी गवाह शिक्षिका भी है।

अतः श्रीमान जी से निवेदन है कि उचित कार्यवाही करने की कृपा करें।”

15. PW-4, Smt. Anita Jaiswal is the wife of the complainant. She stated in her evidence that, on 27.12.2014, she asked the appellant to purchase the teacher’s diary and on that issue she had a talk to him on 10.01.2015. At that time, at about 1:30-2:00 p.m. the appellant started abusing her and she was informing the act of the appellant to

her husband, who was also posted as cluster coordinator. The appellant also came there and when her husband was discharging his duties, the appellant started beating him by holding his collar. When the appellant started scuffling her, her husband intervened and then the appellant started beating him. The appellant beat him by stone, then the witness Chhatrapati Yadav, Rajkumar Yadav and Akash Ram came there and intervened. The appellant gave nail scratches on nose of her husband and his shoulder bone was also fractured. The appellant misbehaved her husband with filthy abuses. Thereafter, her husband along with Akash Ram and Chhatrapati had gone to police station for lodging of the report and then he was sent to hospital for treatment. She subsequently shifted to Ambikapur hospital. At the time when the appellant raised quarrel, he torn the cluster register and threatened them with dire consequences.

In cross-examination, the defence tried to extract the contradictions with that of her 161 CRPC statement (exhibit D-1), in which this witness has stated that she disclosed the nose injury and fracture of bone injury on her husband, but if it is not there, she could not tell the reason. She also stated that in her police statement (exhibit D-1) she disclosed that, her husband had gone to lodge the report along with Akash, Rajkumar and Chhatrapati and he was initially taken to Bagicha hospital and then shifted to Ambikapur hospital, but if it is not there, she could not tell the reason.

In further cross-examination, she shown her ignorance as to the appellant had joined the school on 30.05.2013 as headmaster

and he asked the ex-headmaster Jhemuram Banwasi for handing over the charge and then he stated that the relevant record of handing over the charge and keys are with the complainant Kishore Gupta. She denied that on 06.01.2015, the mid-day meal coupons were distributed to the headmaster of different schools. She also denied that the rice of mid-day meal was being kept by her in the cluster office, but it was kept by Jhemuram Banwasi.

From perusal of her 161 CrPC statement (exhibit D-1), it reveals that in her statement, she stated that at the time, when her husband was discharging her duties, the appellant started scuffling her and when her husband intervened, the appellant assaulted him by stone, by which he received injuries on his nose, eyes, left shoulder and then the witnesses Akash, Chhatrapati and Ramkumar intervened and the appellant threatened them with dire consequences. The substantial part of her evidence with respect to the allegation of marpeet with the complainant and deterring him from discharging his duties is also there in her 161 CrPC statement and this Court finds no discrepancy in her evidence. The discrepancy which the defence tried to extract are minor and trivial in nature, which does not affect the credibility of this witness.

16. PW-5, Akash Ram is the eyewitness to the incident. Though he turned hostile, yet he stated that at the time when he reached on spot, the appellant and the complainant were quarreling. He saw the complainant Kishore Gupta, who complaining pain on her shoulder and nail scratch injury was there on his face, thereafter he along with

Chhatrapati took him to police station, where the report was lodged. When the leading questions were asked, he denied the incident, however he admitted that he is having good relation with the appellant. The defence have not asked anything in his cross-examination.

17. PW-6, Chhatrapati Yadav is also an eyewitness to the incident. He stated in his evidence that on the date of incident, they were waiting for taking rice after submitting his Ration card in the PDS shop adjacent to the school building. When they heard the noise of quarrel, they saw that quarrel was going on between appellant Vinay Kujur and Kishore Gupta. Kishore Gupta was lying on the floor and the appellant Vinay Kujur was over him and held his jacket by left hand and assaulting by stone from another hand. Blood was oozing out from the mouth and nose of Kishore Gupta and he also disclosed shoulder injury to him. He, Akash and Rajkumar intervened and get them separated and asked not to quarrel. They took the complainant Kishore to police station, where Kishore Gupta lodged report. On 5th, stone was seized from Kishore Gupta vide seizure memo (exhibit P-9) and register was also seized vide seizure memo (exhibit P-8).

In cross-examination, he admitted that Kishore Gupta lodged the report on the date of incident itself. He lodged a written complainant and police has inquired from them on that day itself. He further admitted that after lodging of the report, Kishore was sent to Bagicha hospital. He explained that the 5th day is 05.01.2015. He could not remember, as to on which date the register was seized and

how many pages are there in the said register. He further admitted that, he could not tell the weight of the stone. He also admitted that, he saw the scuffling between appellant Vinay Kujur and Kishore Gupta. He is well acquainted with the complainant, his wife Anita Jaiswal and the appellant. He voluntarily stated that he deposed whatever he has seen.

18. PW-7, Rajkumar is another eyewitness to the incident. He stated in his evidence that on 10.01.2015, at about 2:00 p.m., when he had gone to PDS shop and waiting for his turn, he heard the noise of quarrel and saw the quarrel between Vinay Kujur and Kishore near the door of cluster office. He immediately rushed to the place of incident and till that time scuffling started between them. The appellant Vinay Kujur scratched the eyes and mouth of the complainant Kishore by his fingernails, from which blood was oozing out. The appellant Vinay Kujur had a stone in his hand, which was about 300 grams, he get them separated and scolded. Thereafter, the appellant Vinay Kujur left the place and Kishore Gupta had gone to police station. He also proved the seizure memo (exhibit P-8 and P-9).

In cross-examination, though he stated that he could not tell as to on what issue they were quarreling, but he denied that before his reaching on the spot, they already quarreled. He voluntarily stated that he saw the same stone at police station, which was also seen on the place of incident. He further admitted that at the time when quarrel between appellant and Kishore Gupta was going on, the

register was lying on the floor. He denied that at the time of quarrel, there was no issue of torn the pages of register. He admitted that he has not seen anybody, who torn the register. He further admitted that he has not seen the actual assault made by the appellant upon Kishore Gupta. He voluntarily stated that he had seen the stone in the hand of the appellant.

19. PW-9, Chandrakumar Singar is the Assistant Sub-Inspector of Police and Investigating Officer. He proved the investigation which he conducted in the case and filing of the charge sheet. In cross-examination, he admitted that the complainant Kishore Gupta has stated in his written complaint that quarrel took place on the issue of teacher's diary and storage of rice. He also seized the register with respect to mid-day meal. He denied that the appellant Vinay Kujur has made a written complaint against Kishore Gupta and Anita Jaiswal. He had the knowledge that the appellant has filed a complaint case at Bagicha court against Kishore Gupta and Anita Jaiswal, but he did not know about the stage of the proceedings. He also did not know that any rojnamcha entry No. 197 dated 11.01.2015 was made on the basis of complaint made by the appellant or not. He voluntarily stated that the constable of the police out-post might have knowledge of the same. Since he was not directed to investigate into the complaint against Kishore Gupta and Anita Jaiswal, he has not inquired the same. He also did not know about any cluster meeting dated 06.01.2015. He admitted that in the written complaint (exhibit P-6), the page number of the register, which was torn and the words of filthy abuse are not mentioned. He further

admitted that he seized the mid-day meal register after 3-4 months of the incident.

20. The appellant has taken the following defence in his 313 CrPC statement, which are as under:-

> "घटना के कुछ दिन पूर्व दिनांक 06/01/2015 को मध्यांह भोजन के संबंध में कूपन बांटे जाने बाबत संकुल बैठक रखी गई थी, जिसमें प्रार्थी किशोर गुप्ता के द्वारा मुझे मध्यांह भोजन के रजिस्टर में मुझसे पावती लिया गया, किन्तु कूपन मुझे नही दिया गया, तब मैंने किशोर गुप्ता से कहा कि मुझसे हस्ताक्षर ले लिये और कूपन नही दिये, कल के दिन मे अगर जांच टीम आ जाती है, तो बिना मध्यांह भोजन लिये मेरे उपर गबन का आरोप लग जायेगा और मैं फस जाऊंगा। इस कारण मुझे कूपन दिजिये कहकर जोर देने लगा, तब किशोर गुप्ता ने मुझे कूपन देने से इंकार कर दिया और मुझसे विवाद करने लगा, फिर मैं वहाँ से बिना कूपन लिये चला गया। दिनांक 10/01/2015 को किशोर गुप्ता केद्वारा मध्यांह भोजन का चावल पी.डी.एस. से निकालकर संकुल भवन में डलवा रहा था, तब मैंने कहा कि प्राथमिक शाला के शिक्षक प्रकाश तिग्गा को बताया कि आपको भी कूपन नहीं मिला है, और किशोर गुप्ता संकुल भवन में डलवा रहा है। जबकि नियम है कि प्राथमिक शाला का प्राथ. शाला मे एवं माध्य. शाला का माध्य. शाला में जमा किया जाना चाहिए। ऐसे में घपला हो सकता है और हम लोग भ्रष्टाचार के आरोप मे फस जायेंगे। तब मैं किशोर गुप्ता के पास जाकर बोला कि आप ऐसा गलत काम कैसे कर सकते हैं; तब मुझे किशोर गुप्ता ने कहा (xxxxx)[1], उरांव साले, (xxxxx)[2], तुम चोर हो, तुम चोरी करते हो कि बात करते हुए मेरे साथ धक्का-मुक्की करने लगा और मुझे जमीन मे पटक दिया, तब वहाँ लड़ाई-झगड़ा होते देख वहाँ पर उपस्थित रसोइया देवप्रसाद यादव एवं शिक्षक झेमूराम बनवासी तत्काल आये और बीच-बचाव किये। उसके बाद किशोर गुप्ता ने मुझे सबके सामने धमकी दिया कि मैं तेरा नौकरी खा जाऊँगा, तेरा जिन्दगी बर्बाद कर दूंगा, अगर तुम मुझे नहीं पहचानते हो, अब मैं तुम्हें अपना पॉवर दिखाता हूँ कि धमकी

1 (obscene word)
2 (obscene word)

देकर चला गया। बाद में जानकारी हुई कि किशोर गुप्ता मुझे झूठे प्रकरण में फंसा दिया है।"

21. The appellant Vinay Kujur himself has examined as DW-1. He stated that, he has not committed any offence with Kishore Kumar Gupta and Anita Jaiswal. On 30.05.2013, when he was posted as headmaster at Datunpani Primary School, Jhemuram Banwasi was posted as headmaster and Kishore Gupta and Anita Jaiswal were posted as Teacher (Panchayat). Both of them had not regularly appeared in their duty, but signed the attendance register of each other. When he posted there, he raised objection in their conduct. Before his posting there, Kishore Gupta was in possession of cash book and passbook of the school and misusing the contingency fund of the school. Jhemuram Banwasi also stated him that the cash book and passbook are in possession of Kishore Gupta and on his instance, he made signature in the vouchers. On 13.12.2013, he took charge of headmaster from Jhemuram Banwasi and then Kishore Gupta handed over the cash book and passbook to him, but he retained the seal of secretary and treasurer with him. When he asked to handover the seal, he answered that without his permission he would not be able to withdraw the amount. At that time, the scholarship for the year 2012-13 was not disbursed and on 14.03.2014, when he was disbursing the scholarship to the students, Kishore Gupta asked him that he will disburse the scholarship for the year 2012-13 because it relates to his tenure. Instead of handing over him, he himself disbursed the scholarship to the students with the help of Jhemuram Banwasi. Thereafter, Kishore Gupta made a

false complaint before DEO regarding non-disbursement of the scholarship.

He further stated that on 20.09.2014, another Panchayat Teacher came to his school, with whom Kishore Gupta raised quarrel and Kishore Gupta lodged a false complaint against him also, in which the police came to school on 30.09.2014 for recording statements and at that time, Kishore Gupta pressurized him to given statement in his favour, but he disclosed the actual incident. On 05.01.2015, there was cluster meeting and on that day, the mid-day meal coupons were distributed. Kishore Gupta, though obtained his acknowledgment,but has not given him the coupon and despite his ask, he did not give him the coupon. On 10.01.2015, he kept the mid-day meal rice to the cluster building, which was informed by him to Prakash Tigga and when he had not taken any interest, he himself had gone there and then Kishore Gupta and Anita Jaiswal started abusing him and committed marpeet with him. The witnesses Jhemuram and Devprasad intervened. When he coming out from the cluster building, Kishore Gupta assaulted him by kick and fists. When he hold his leg to save himself, he fell down and then he came out from the building. Number of beneficiaries of PDS were there and then Kishore Gupta started shouting that he assaulted him. Kishore Gupta also called his brothers and the villagers advised him to leave the place, otherwise his family members would quarrel with him and then he left the place. Subsequently, he came to know that Kishore Gupta lodged a false report against him.

On 11.01.2015, he also lodged the report to police out-post Pandrapath against Kishore Gupta. On 12.01.2015, he made a complaint to DEO, but his complaint has not been taken care. The SDOP Bagicha has recorded the statements of the witnesses, but said statements have also been suppressed and then he made a complaint to Superintendent of Police, Jashpur, but no statement of his witnesses has been recorded. He get exhibited the complaint made by him and other villagers against Kishore Gupta, which are exhibit D-2 to D-11. In cross-examination, he admitted that when he had taken charge of headmaster and came to know that all the works of headmaster is being done by Kishore Gupta in place of Jhemuram. He has not made any complaint to the higher authorities. He subsequently explained that he came to know about the said fact on 06.12.2013, when the charge was handed over to him by Jhemuram Banwasi. He denied that the cluster coordinator was having financial power of the school. He voluntarily stated that the financial power of the school was with the headmaster. He also admitted that before 10.01.2015, he has not made any complaint about any conduct of Kishore Gupta or Anita Jaiswal and he stated that the other teachers have made complaint against them. At the time when the complaint (exhibit D-8) was made to Block Officer, he was posted at Middle School, Datunpani. He also denied the quarrel with Anita Jaiswal on 10.01.2015 regarding teacher's diary and denied the incident that he assaulted the complainant Kishore Gupta.

22. DW-2, Jhemuram Banwasi, who was the ex-headmaster of the school has stated in his evidence that on 10.01.2015, at about 2:00-

2:30 p.m. the mid-day meal rice was taken from PDS shop, which was storing in the cluster building by Kishore Gupta. At that time, the appellant Vinay Kujur objected as to why it was keeping in cluster building instead of school building and then scuffling occurred between them and he and cook Devprasad Yadav intervened. As ans when, Vinay Kujur coming out from the room, Kishore Gupta kicked him from backside and then Vinay Kujur caught his leg and then Kishore Gupta fell on the floor. The persons who present there, get them separated. At that time, Kishore Gupta abusing Vinay Kujur with the name of his caste and filthy language. In cross-examination, he stated that he has not made any complaint to his senior officer about keeping of the cash book and passbook of the school with him. It was Kishore Gupta, who assaulted Vinay Kujur and his wife Anita Jaiswal also assaulted him on the instance of Kishore Gupta.

23. DW-3, Devprasad Yadav was the cook in the school. He stated that on 10.01.2015, at about 2:00-2:30 p.m. Kishore asked him to store the mid-day meal rice at cluster building and when he was keeping the rice there, Vinay Kujur came to him and raised objection and asked to store it in the school building. At that time, Kishore Gupta caught hold Vinay Kujur and asked his wife Anita Jaiswal to beat him and then she slapped him twice. As and when, Vinay Kujur coming out from the building, Kishore Gupta kicked him from his backside and when Vinay Kujur caught his leg, Kishore Gupta fell down and then other persons came there.

In cross-examination, he denied that on 10.01.2015, there was a quarrel between Anita Jaiswal and Vinay Kujur. During investigation, he disclosed before the police that Kishore Gupta raised quarrel with Vinay Kujur. His statement was recorded by the SDOP.

24. From the evidence of defence witnesses, it transpires that the incident was occurred on 10.01.2015, the complainant Kishore Gupta lodged report on the same day i.e. on 10.01.2015, but the appellant Vinay Kujur made his complaint on 11.01.2015 (exhibit D-2), which also supported by the rojnamcha dated 11.01.2015 (exhibit D-3). The documents (exhibit D-4, D-5 and D-6) are dated 14.07.2015, which are the complaints made to the higher authorities, which is after about 6 months from the alleged date of incident. Although the appellant has also filed the panchnama (exhibit D-7) prepared on 10.01.2015, in which the signatures of villagers are there, but none of the villagers have been examined by the appellant to prove the same. Likewise, the complaint made to the Block Officer. From the documents (exhibit D-8 and D-9) it also transpires that it was prepared after the incident, which are the complaint made to the Block Officer. DW-2/Jhemuram Banwasi admitted in his evidence that prior to the incident, he had not made any complaint to the conduct of Kishore Gupta or Anita Jaiswal, therefore, the defence taken by the appellant is not sufficient to disbelieve the prosecution’s case, particularly when the alleged incident is supported by the eyewitnesses (PW-4 Anita Jaiswal, PW-6 Chhatrapati Yadav and PW-7 Rajkumar).

25. Upon consideration of the entire evidence available on record, this Court finds that the prosecution has established the presence of the appellant at the place of occurrence and his involvement in the incident dated 10.01.2015. The testimony of the complainant Kishore Kumar Gupta (PW-3) is consistent on the material particulars regarding the assault committed by the appellant. His testimony finds corroboration from the evidence of Anita Jaiswal (PW-4), Chhatrapati Yadav (PW-6) and Rajkumar (PW-7), who have supported the prosecution case regarding the scuffle and assault upon the complainant. Although PW-5 Akash Ram has not fully supported the prosecution case, his testimony establishes that a quarrel had taken place between the appellant and the complainant and that the complainant was suffering from injuries immediately thereafter. The minor discrepancies and omissions elicited during cross-examination do not go to the root of the prosecution case so as to render the otherwise cogent and consistent testimony of the material witnesses unreliable.

26. The ocular evidence is further corroborated by the medical evidence on record. PW-2 Dr. Mithilesh Minj, upon examination of the complainant, found swelling and tenderness over the left mid-clavicular region and other injuries on his body. The subsequent X-ray examination confirmed a fracture of the left clavicle bone, which was opined to be grievous in nature. The medical evidence, therefore, lends substantial assurance to the prosecution version regarding the nature and extent of the injuries sustained by the

complainant. Further, fracture of left clavicular bone comes under the definition of grievous injuries, as provided under Section 116(g) of the Bharatiya Nyaya Sanhita, 2023 (Section 320 clause seventhly of the IPC). The recovery of the piece of stone and the medical opinion that the same could have caused the fracture further corroborate the prosecution case. Merely because the investigating officer seized the torn register after a considerable lapse of time, the otherwise reliable and corroborated evidence of the prosecution witnesses cannot be discarded. The delay in recording the statement of the complainant under Section 161 of the CrPC, in the facts and circumstances of the case, is also not sufficient to discredit his testimony, particularly when the written complaint was lodged on the date of the incident itself.

27. The defence of the appellant that the complainant and his wife assaulted him and that the present case arose out of a dispute concerning the distribution of mid-day meal coupons and storage of rice has also been duly considered. The documents produced by the defence indicate that the appellant made a complaint to the police on 11.01.2015, i.e., on the day following the incident; however, the existence of a prior dispute between the parties, by itself, does not establish that the complainant has falsely implicated the appellant. The defence witnesses DW-2 Jhemuram Banwasi and DW-3 Devprasad Yadav have supported the appellant's version regarding the circumstances leading to the altercation, but their testimony does not satisfactorily displace the consistent evidence of the prosecution witnesses regarding the assault and the grievous injury sustained by the complainant. The appellant's contention that he has been

acquitted of the offences under Sections 294, 506 Part-II, 186 and 426 of the IPC is also of no assistance to him, as each offence has distinct ingredients and the acquittal in respect of certain charges does not, by itself, preclude conviction under Section 333 of the IPC when its essential ingredients are otherwise established by reliable evidence.

28. It is established from the evidence on record that the complainant was discharging his duties as a Cluster Coordinator at the relevant time and was, therefore, a public servant within the meaning of Section 21 of the IPC. The evidence of the complainant, duly corroborated by the material eyewitnesses and the medical evidence, establishes that the appellant voluntarily caused grievous hurt to him while he was discharging his official duties. The circumstances surrounding the incident, including the nature of the assault and the official context in which it occurred, sufficiently establish the requisite connection between the grievous hurt caused and the complainant's public duty. Upon an overall appreciation of the oral and documentary evidence, this Court finds that the prosecution has proved the charge under Section 333 of the IPC beyond reasonable doubt. Consequently, this Court finds no perversity, illegality or material misappreciation of evidence in the findings recorded by the learned trial Court warranting interference in the present appeal. The conviction of the appellant under Section 333 of the IPC is, therefore, affirmed.

29. So far as the question of sentence is concerned, it is true that the offence under Section 333 of the IPC is serious in nature, as it involves voluntarily causing grievous hurt to a public servant while discharging his official duties, and the sentence imposed must reflect the gravity of the offence. However, while determining the appropriate sentence, the Court is also required to take into consideration the attending circumstances of the case and the mitigating factors relating to the appellant. In the present case, the incident occurred on 10.01.2015, and considerable time has elapsed since then. The appellant is presently aged about 60 years and has retired from service. The fact that he is now a retired person having family responsibilities, coupled with the long passage of time since the occurrence, deserves consideration while determining the quantum of substantive sentence. It is also relevant that Section 333 of the IPC does not prescribe any minimum term of imprisonment, leaving the Court with discretion to impose an appropriate sentence within the statutory limits. In ***Razia Khan v. State of Madhya Pradesh***, (2023) 8 SCC 592, the Hon'ble Supreme Court, while maintaining the conviction under Section 333 of the IPC, considered the mitigating circumstances cumulatively and reduced the substantive sentence. The principles laid down therein are relevant while considering the question of sentence in the present case.

30. Having regard to the cumulative effect of the aforesaid mitigating circumstances, this Court is of the considered opinion that the ends of justice would be served by reducing the substantive sentence

imposed upon the appellant, while maintaining his conviction. At the same time, the seriousness of the offence and the fact that the complainant sustained a fracture while discharging his official duties cannot be overlooked. Balancing the gravity of the offence against the appellant's age, retirement from service, family responsibilities and the considerable lapse of time since the incident, this Court finds that the sentence of rigorous imprisonment for three years imposed by the learned trial Court is liable to be modified.

31. Accordingly, while affirming the conviction of the appellant for the offence punishable under Section 333 of the IPC, the sentence of rigorous imprisonment for three years with fine of Rs. 2000/- is modified/altered to rigorous imprisonment for 6 months with fine of Rs. 20,000/-. In default of payment of fine, he shall undergo one month further rigorous imprisonment. The fine amount, which has been paid by the appellant, if any, shall be adjusted in the total fine amount awarded by this Court. The fine amount of Rs. 20,000/-, so deposited by the appellant, shall be paid to the complainant Kishore Kumar Gupta (PW-3) as compensation, as provided under Section 395 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The appeal is **partly allowed**.

32. The appellant is reported to be on bail. He shall be taken into custody to serve the sentence as awarded by this Court. The appellant is directed to surrender before the concerned trial Court within a period of 04 weeks from today to serve the sentence imposed upon him by

this Court, failing which the trial Court shall take him into custody for execution of the sentence.

33. Let a copy of this judgment and the original records be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

ved