

IN THE COURT OF THE DISTRICT & ADDITIONAL SESSIONS JUDGE-1ST-CUM- SPECIAL
JUDGE (SC/ST, CHILDREN & NDPS ACT) AURANGABAD (BIHAR)
Sessions Trial No. 25/2016

IN THE COURT OF THE DISTRICT & ADDITIONAL SESSIONS JUDGE-1ST-CUM- SPECIAL
JUDGE (SC/ST, CHILDREN & NDPS ACT)
AURANGABAD (BIHAR)

Vishwa Vibhuti Gupta

Present:- District & Additional Sessions
Judge-1st-cum- Special Judge
(SC/ST, CHILDREN & NDPS
ACT), Aurangabad (Bihar)

[Date of the Judgment:- 17th. March, 2026]

[Sessions Trial No. 25/2016]

Rafiganj P.S. Case No. 80/2014

C.I.S. No.-169/2016

INFORMANT	State of Bihar through Kapindra Kumar
REPRESENTED BY	Shri Shakti Singh, Learned Spl. PP
<i>Versus</i>	
ACCUSED PERSONS	Shambhu Yadav, aged about 46 years S/o Ramashish Yadav, R/o village-Amarpura, PS-Rafiganj District-Aurangabad(Bihar)
REPRESENTED BY	Shri Arjun Yadav, Learned Counsel.

FORM B

<i>District</i>	<i>Aurangabad</i>
<i>Date of Occurrence</i>	29.05.2014
<i>Date of FIR</i>	30.05.2014
<i>Date of Charge Sheet</i>	28.02.2015
<i>Date of Framing of Charge</i>	05.05.2016
<i>Date of Commencement of Evidence</i>	26.10.2016
<i>Date on which judgment is reserved</i>	17.03.2026
<i>Date of Judgment/decision</i>	17.03.2026
<i>Date of the Sentencing Order, if any</i>	N/A

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Accused Details

Rank of the Accused persons	Name of the Accused persons	Date of Arrest/ Surrender	Date of Release on Bail	Offences Charged with	Whether Acquitted of convicted	Sentence Imposed	Period of Detention Undergone during Trial for the purpose of Section 428 Cr.P.C.
A-1	Shambhu Yadav	04.07.2018	04.07.2018	Section- 323,341,353,504 of the IPC and Section 3(i) (x) of the SC/ST Act	Convicted U/s-323 of the IPC	U/s-3 of the Probation of Offender Act	-N.A.-

FORM C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution:

<u>RANK</u>	<u>NAME</u>	<u>NATURE OF EVIDENCE</u> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Shiv Kumar Prajapati	Other Witness
PW-2	Kripal Yadav	Other Witness
PW-3	Chhedi Yadav	Other Witness
PW-4	Kapindra Kumar	Informant
PW-5	Kanchan Kumari	Victim/Eye Witness
PW-6	Malti Devi	Other Witness
PW-7	Dr. Ajit Kumar Singh	Medical Witness
PW-8	Ramkrishna Paswan	

B. Defence Witnesses, if any:

<u>RANK</u>	<u>NAME</u>	<u>NATURE OF EVIDENCE</u> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
1.	NIL	NIL

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C. Court Witnesses, if any:

<u>RANK</u>	<u>NAME</u>	<u>NATURE OF EVIDENCE</u> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
1.	NIL	NIL

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
1.	Exhibit-1	written application dated 06.06.2018
2.	Exhibit-2	Injury report of Upendra Kumar
3.	Exhibit-1/1	Paging on written application
4.	Exhibit-3	Charge-sheet

B. Defence:

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
1	NIL	NIL

C. Court Exhibits:

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
1	NIL	NIL

D. Material Objects:

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
1	NIL	NIL

J U D G M E N T

1. The above named sole accused person namely **Shambhu Yadav** is facing trial for the offence punishable under Section- **323,341,353,504 of the IPC and Section 3(i) (x) of the SC/ST Act**. The charge was read over and explained to the accused person in Hindi, to which he pleaded not guilty and claimed to be tried.

Prosecution Case

2. As per the written application of informant Kapindra Kumar, who is Block Teacher in Rajkiya Madhya Vidyalaya, Amarpura-II, Jakhim, Rafiganj, Aurangabad, the prosecution case is brief is that on 29.05.2014, the informant was coming from his school after getting CL, in the meanwhile the accused Shambhu Yadav came and asked "Are master tum Kahan Ja rahe ho", then he replied that he is going to attend the barat(procession) in his family then the accused started abuse taking caste slur. On

objection, the accused beaten him with fat, the informant cried then the teachers present in the school Shiv Kumar Prajapati, Kanchan Kumari, Malti Devi and cook Shakuntla DEvi, Mantu Devi, Sumitra Devi, students of the school and villagers came and saved him. The accused also threatened him not to serve the job. It is further alleged that there was a lot of commotion in the year 2014 by Shambhu Yadav during the distribution of uniforms and scholarships. Hence, the FIR has been registered.

Investigation

3. On the basis of written petition of informant, the law was set in motion and Rafiganj Police Station Case No-80/2014 dated 30.05.2014, for the offences punishable Under Section- **341,323,353,504 of the IPC and Section 3(i)(x) of the SC/ST Act** has been registered. The charge sheet no. 57/2015 Dated 28.02.2015 was submitted against the above named sole accused person for the offences punishable Under Section- **341,323,353,504 of the IPC and Section 3(i)(x) of the SC/ST Act**.

Trial

4. To substantiate the charges leveled against the accused persons, the prosecution has examined altogether eight witnesses and has also adduced some documentary evidence in its behalf. The defence has not produced any evidence on its behalf. The brief description of the witness is being produced here for easy reference. The prosecution has produced following evidence.

Points for Determination

5. On the backdrop of the rival contentions urged at the bar, the main point apposite for determination and adjudication in this case is : Whether the prosecution has been able to prove the charges leveled against the accused persons beyond the shadow of all reasonable doubt or not ?

FINDINGS

6. In order to bring home the charges, the prosecution has produced altogether eight witnesses as oral evidence in its behalf. I have perused the statement of the witnesses **PW2-Kripal Yadav and PW3-Chhedi Yadav**. A perusal of the statement would show that both the witnesses have been declared hostile on the request of prosecution. Both witnesses examined by the prosecution have deposed that they donot know anything about the occurrence and has denied having witnessed the incident or having given statement to the police. The prosecution also cross-examined both these witnesses and they have not stated anything which could help the prosecution in its case.
7. Now, coming to the testimony of **PW1-Shiv Kumar Prajapati**- He has stated in his

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examination-in-chief that the occurrence is of 29.05.2014 at 10.34 AM and at that time he was distributing the meal to the children in the school. In the meantime, Kapindra Kumar, teacher had given the casual leave to attend marriage and went away. In the meanwhile the accused came assaulted Kapindra. When was asked what happened then he told that Shambhu Yadav has thrashed him and when it was asked from Shambhu then he said that he did not thrash. His statement was recorded by the police. He claims to identify the accused persons.

In his cross-examination done on behalf of the defence, he has stated that he did not see the occurrence on his own. He told the hearsay matter in the court. Shambhu did not thrash anyone in front of him. In his denial he has stated that he deposed false.

8. **PW4-Kapindra Kumar-** He is informant of this case. He has stated in his examination-in-chief that the occurrence is of 29.05.2014 and at that time he was coming out after finishing his teaching from the school Amarpura-2 at 10.45 AM and he was going to his house. Shambhu was standing near the school who said that "Are master kaha ja rahe ho". he said that he is going to his house in the marriage. On this, Shambhu Yadav said that it's your father's school. He leaves when he has to". He insulted me calling Harijan-Chamar and when the informant asked why he is doing so then he assaulted with fat. the informant cried then the headmaster of the school Shivkumar Prajapati, Malti Devi, Kanchan Kumari, cook-Shakuntala Devi, Mantu Devi, Sumitra Devi and students of the school came and saved him. Shambhu Yadav threatened the headmaster to kill and won't let him work. He also threatened the informant to kill and thrown on the railway tracks. A similar incident also occurred in 2014 with regard to school scholarship. In 2014, C.O. Saheb had come and said to lodge the FIR but they fled away. They are afraid from the incident. On this incident, they had gone not Rafiganj Police Station and gave a written application in his writing and signature which has been marked as Ext.1. He was treated in Rafiganj Hospital in June, 2, 2014. He claims to identify the accused person.

In his cross-examination done on behalf of the defence, he has stated that School starts from 6.30 to 11.30 O'clock. Amarpura village is 3 KM away from Jakhim station. The school is located east of Amarpura village. At para-6 he has stated that noon has objected him while going to school. At the time of occurrence he was Panchayat teacher. The BEO take care of the school. On 29.05.2014 there was wedding of his niece and barat had to come. He did not give any application of his leave either BEO, Panchayat Secretary or Mukhiya but he gave the application to the headmaster. He does not know whether there is provision of partial leave or not. He gave the partial leave to Shivkumar Prajapati and he has a carbon copy of that leave. He had not given the carbon or photocopy of that leave to the police. This witness at para-8 he has stated that he did not give any application to the headmaster as he was present at the place of

occurrence. At para-9 he has stated that there is house of Jhangi Thakur adjacent to the school at the distance of 4-5 ft. The accused was at 20-25 ft. away from him. On seeing the informant the accused started speak. He tried to flee in the school with fear of the accused but could not flee. The accused did not flee. No one had caught the accused. He went to the police station with the headmaster at about 1 PM and gave written application. The headmaster did not put his signature on the said written application. At para-11, he has stated that the police did not examine any injury on his body. Thereafter, he went to the house and reached there at 1.30 PM to 1.45 PM. This witness at para-12, he has stated that he has not remembered when and on which date the police recorded his statement. He further stated that police had taken his statement on 30th. The police went to the school after 3 -4 days in his presence. The police did not demand any application or leave receipt. His school has classes from one to eight. The accused has never claimed the village head or the Panchayat Secretary of any irregularities in scholarship or uniform payment. He further stated that it is true that allegations of scholarship and uniform misappropriation were made in 2014. The CO Saheb himself came to inspect the allegations. This witness at para-14, he has stated that there are a total six teachers in the school. He teaches in Class-3. He has no previous animosity with the accused. He had no prior acquaintance with the accused person. This witness at para-15, he has stated that the charge was not given to anyone on his partial leave because there is no prison there. He was going to participate in marriage ceremony. In his denial he has stated that no any occurrence took place with him. Further, in his denial he has also stated that the accused had complaint regarding scholarships, uniform and mid-day meal payments at the school, which the informant has falsely implicated the accused in this case. In his denial he has stated that he implicated the accused in a false case because he belongs to a particular caste and misused it to implicate the accused person.

9. **PW5-Kanchan Kumari**- She has stated in his examination-in-chief that the occurrence is of 4-5 years ago at 10.45 AM and at that time she was in Rajkiya Madhya Vidyalaya, Amarpura-2. Kapindra Sharma was going on leave then the scuffle took place in the way between Shambhu Yadav and Kapindra Sharma but she did not see the occurrence. She claims to identify the accused person.

In her cross-examination done on behalf of the defence, she has stated that She knows Shambhu Yadave being her co-villager. Further, she has stated that she has no an personal knowledge about the occurrence as no any incident took place in front of him. She deposed voluntarily.

10. **PW6-Malti Devi**- She has stated in his examination-in-chief that the occurrence is of 4-5 years ago at 10.45 AM and at that time she was in Rajkiya Madhya Vidyalaya, Amarpura-2. Kapindra Sharma was going on leave then the scuffle took place in the

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way between Shambhu Yadav and Kapindra Sharma but she did not see the occurrence. She claims to identify the accused person.

In her cross-examination done on behalf of the defence, she has stated that She knows Shambhu Yadave being her co-villager. Further, she has stated that she has no an personal knowledge about the occurrence as no any incident took place in front of him. She deposed voluntarily.

11. **PW7-Dr. Ajit Kumar Singh-** He has stated in his examination-in-chief that on 02.06.2014, he was posted at PHC, Rafiganj and on the same day he examined Kapindra Kumar and found the following injuries on his person:-

- I. Swelling and pain on right arm injury 1/2"x1/2" caused by hard and blunt substances.
- II. Mark of identification-Til mark on the leg.
- III. Opinion-Reserved.
- IV. This injury report is in his pend and signature to which he identified the same which has been marked as Ext.2.

In his cross-examination done on behalf of the defence, he has stated that he did not mention the date of examination on the injury report. The above mentioned injury is concocted in nature. Such type of wound can also occur due to falling and insect bite. The period of injury is not mentioned in the report. The injury is simple in nature. He talked to the injured person. In his denial he has stated that he prepared the investigation report at the behest of injured person and his injury report is false.

12. **PW8-Ramkrishna Paswan-** He is IO of this case. He has stated in his examination-in-chief that on 30.05.2024, he was posted as S.I. in Rafiganj Police Station and on that date he was entrusted the charge of investigation of Rafiganj PS Case No. 80/2014 by the Officer-in-charge Dipak Ranjan. After that he observed the FIR and written application. The Officer-in-Charge signed and endorsed the written application registering Rafiganj PS Case No. 80/2014 to which he identified his writing and signature and on the identification of endorsement it has been marked as Ext.P-1/1/PW-08. After assuming the charge of investigation he recorded the restatement of Kapindra Kumar and inspected the place of occurrence. The place of occurrence is 10 KM of west-north of Rafiganj Police Station in the village Amarpura-2, made of brick, with its exit facing east, surrounded by a boundary wall. In east-brick paved road, west- Dasarath's Thakur house, north-brick paved road and in south-brick paved road. He also recorded the statement of witnesses Shiv Kumar Prajapati, Kanchan Kumari, Malti Devi and Chhedi Yadav and mentioned in the case diary. On 12.02.2015 the accused Shambhu Yadav after surrendered got the bail from the court. On 28.08.2014 he received the supervision report from the SDPO and mentioned in the case diary and on 25.09.2014 he received Report-2 from the Superintendent of Police. He further stated that this witness after receiving the injury report of Kapindra and

recorded in the case diary and on 28.02.2015 he received Report-3 from the Superintendent of Police and recorded in the case diary. On the basis of inspection of the place of occurrence, restatement of the informant, statement of the witnesses, supervision report and Report-2 and Report-3 found the case true and submitted the Chargesheet N. 57/2015 on 28.02.2015 in the court bears the signature of this witness and Officer-in-charge to which he identified his writing and the signatures of both. On the basis of identification of witness the chargesheet has been marked as Ext. P-3/PW-08.

In his cross-examination done non behalf of the defence, he has stated that he was posted in Rafiganj PS from 2013 to 2016. He further stated that the date of inspection of the place of occurrence is not mentioned in the case diary. He did not meet any other person except the witnesses at the place of occurrence nor he recorded the statement of Chauhadidars in the case. He did not recorded the date and time of the statement of witnesses in the case diary. In his denial he has stated that his investigation is flawed and he done table work and submitted the chargesheet and deposed false.

Statement of Accused

13. After closure of the prosecution evidence, the statement of accused person has been recorded under section 313(1)(b) of the Code of Criminal Procedure, 1973 on 18.11.2025. While the defence cross-examined the prosecution witnesses to refute the charge on the inculpatory circumstances arising against him, the tone and tenor of the answers of the accused person to the questions under section 313 (1)(b) of the Cr.PC. depicts the plea of total denial. However, it has been stated by the accused person that he is innocent and he denied the allegation.

Arguments advanced by both sides

14. I have already heard the arguments of learned Counsels of both sides and perused the entire case record. The learned defence Counsel has strenuously argued that the prosecution has completely failed to prove this case beyond reasonable doubts. Out of total 08 witnesses listed in the charge-sheet have been examined in this case and the examined witnesses did not support the prosecution case. PWs-2,3, 5 & 6 have denied to have any knowledge of the occurrence and they have been declared hostile. The learned defence Counsel has finally submitted that there is no evidence against the accused persons facing trial in this case. There is no direct evidence to prove the charges leveled against the accused persons. So, the accused persons deserve acquittal.

On the other hand, the Learned A.P.P. appearing for the state has argued that the prosecution witnesses have seen the occurrence and they have supported the factum of the occurrence and also the prosecution case and there are sufficient materials available on the record. So, it has been prayed that the accused person is liable for conviction.

Discussions, Decisions and Reasons thereof

15. Arguments of both parties were heard. On perusal of the evidences available on the record, it transpires that the accused assaulted the informant and. The defence did not raise any facts during cross-examination that would raise suspicion of culpability. The defence's contention that the witnesses supporting the prosecution are interested witnesses and that their opinions differ is untenable. The law does not consider the witnesses' interest but rather the weight of the evidence they present before the court. The defence's claim that their testimony contains numerous discrepancies is also untenable, as each individual's memory and expressive abilities vary. During the examination of all the prosecution witnesses no material discrepancies were found that could cast any doubt on the prosecution's narrative. PWs No. 1 and 4 are eye witnesses. PWs-7 (doctor) who also found the injury but it was simple in nature and PW8-IO has found the case true and submitted the chargesheet. Their testimony indicates that injuries were inflicted which the defence could not refute during cross-examination.

On the basis of the above discussion, it is clear that the prosecution has proved Section 323 of the IPC against the above accused beyond reasonable doubt.

As far as Section 341,353, 504 of the IPC and Section 3(i)(x) of the Scheduled Castes/Scheduled Tribes(Prevention of Atrocities) Act are concerned.

Section 341 of the IPC, provides for the punishment of wrongful restraint, which provides that whoever unlawfully prevents another person from proceeding in any direction, in the present case, the prosecution witnesses have not shown any evidence to show that the accused unlawfully prevented the person from proceeding in any direction. Thus, the prosecution has failed to prove the offence Under Section 341 of the IPC.

Section 353 of the IPC, provides for punishment for assaulting or using criminal force to deter a public servant(e.g. police officer, government employee) from discharging their duty. In the present case, there is a lack of sufficient material on record to prove the acts of the accused. Therefore, the accused are entitled to the benefit of the doubt.

Section 504 of the IPC, provides for punishment for the offence of wrongful restraint, which is defined as the intentional insult of a person with the intent to provoke that person to commit a breach of the public peace or to commit a criminal act. In the present case, there is a lack of sufficient material on record to prove the acts of the accused. Therefore, the accused are entitled to the benefit of the doubt.

Section 3(i)(x) of the Scheduled Castes/Tribes(Prevention of Atrocities) Act, makes it criminal offence for a non-SC/ST person to corrupt for foul water in a spring,

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reservoir, or any source used by SC/ST members, making it less fit for their use. It is not clear from the evidence of the prosecution witness or the evidence on record as to what kind of language the accused used. Therefore, this court lacks sufficient evidence to conclude that the act of the accused can be categorized as intentionally insulting a member of a Scheduled Castes/Tribes. Therefore, the accused are entitled to the benefit of the doubt.

16. After considering the material on record, the facts and circumstances of the case, the Court finds that the prosecution has the right to convict the accused. The case Under Section 323 of the IPC has been completely proved beyond reasonable doubt, whereas the case Under Section 341,353,504 of the IPC and Section 3(i)(x) of the Scheduled Castes/Tribes(Prevention of Atrocities) Act has been completely failed to be proved. Hence, it is ordered that

ORDER

17. After considering the facts and circumstances of the case, the sole accused person namely **Shambhu Yadav** is convicted Under Section 323 of the IPC and acquitted Under Sections 341,353,504 of the IPC and Section 3(i)(x) of the Scheduled Castes/Tribes(Prevention of Atrocities) Act. The accused person is taken into judicial custody. His sureties are released from his respective bail bonds. On the point of sentence, both the parties may present their arguments after sometime.
Dictated & Corrected by me.

(Vishwa Vibhuti Gupta)

District & Additional Sessions Judge-1st-cum-
Special Judge (SC/ST, NDPS & Children Act)
Aurangabad, Bihar
Dated: 17.03.2026

Hearing On the Point of Sentence

Later on:-
17.03.2026

18. Heard, both the sides on the point of sentence. While the learned Special Public Prosecution says that the crime committed by the accused person is shameful. therefore, he should be punished with the severe punishment. On the other hand, the learned defence counsel has stated that this is the first guilt of the accused person. The informant and accused person are co-villagers. There is a previous dispute between both the parties. The accused person has no previous criminal history. The charge on which he has been convicted is of trivial nature. The behaviour of accused person in the society is good. Therefore, the accused person should be released after reprimanding him Under Section 3 of the Probation of Offender Act.

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19. Considering the facts and circumstances of the case, and the fact that there is no evidence of previous conviction against the accused person namely **Shambhu Yadav**, the accused person is not liable to be tried in any other criminal case. Considering the age of accused person, his present social status, and the nature of the crime, the accused person is discharged with due admonition Under Section 3 of the Probation of Offender Act, with the direction that he will not repeat such offence in the future and will maintain an atmosphere of brotherhood and peace in the society.

The Office Clerk is directed to deposit the case record in the record room as per norms.

Today, on dated 17.03.2026, this judgment is pronounced in open Court. The judgment is dictated, corrected, signed by me. The same is sealed and attached with the case record.

(Vishwa Vibhuti Gupta)
District & Additional Sessions Judge-1st-cum-
Special Judge (SC/ST, NDPS & Children Act)
Aurangabad, Bihar
Dated: 17.03.2026