



**In the Court of the Special Judicial Magistrate of First Class,
(Prohibition and Excise Cases), Anantapuramu**

**Present: Smt D.Pavani,
Special Judicial Magistrate of First Class,
(Prohibition and Excise Cases), Anantapuramu**

**Monday, the 27th Day of July, 2026
Calendar Case No.457 of 2024**

Between:-

State Represented through the Enforcement Inspector,
SEB Station, Ananthapuramu.

...Complainant.

AND

Patthya Desai Naik, aged about 32 Years,
S/o. P. Thimaya Naik,
R/o. D.No.2-26, Pampanuru Thanda,
Atmakur Mandal.

...Accused

This case came before me on 27.07.20226 for final hearing before me in the presence of APP for the state and of Sri A. Sreekantha Reddy. Sri M.D.Wariq Ahamed and Sri A. Venkata Rami Reddy, Advocates for accused and upon hearing both sides and having perused the material on record, this court delivered the following:

:: J U D G M E N T ::

1. The Enforcement Inspector, SEB Station filed charge sheet against the Accused in Crime No.93 of 2023 for the offence punishable Under Section 7 (A) r/w 8 (e) of Andhra Pradesh Prohibition Act 2020.

2. a) The case of the prosecution is that on 29.06.2023 at 12.00 Pm., Lw5/R. Ravichandra along with his staff conducted raids and reached agricultural land belongs to Palthya Desai naik, about 01 KM South-East direction to Pampanuru Thanda of Atmakuru Mandal and found one ID liquor still with one silver vessel on it and connected with one mud pot and later, on searching by Lw5/R. Ravichandra, he found 02 Plastic drums with FJ wash and



one white plastic can with ID liquor and he also searched for owner of the land, but in vain and that he tried for mediators in the scene of offence, but in vain.

b) Lw5/R. Ravichandra verified the two plastic drums and found each drum with 200 Ltrs., of FJ Wash with 200 Liters capacity, total 400 Ltrs., FJ wash which is ready to prepare ID liquor and also verified the white plastic can and found can with 15 Ltrs., capacity containing 15 Ltrs of ID liquor and that he drawn 400 ML., of FJ wash into one 650 ML., glass bottle from the two plastic drum as sample and also drawn 180 ML., of ID liquor into one clean 180 ML., plastic bottle from the plastic can as sample for chemical analysis. Lw5/Ravichandra registered a case in Cr.No.93/2023.

c) Later on 05.07.2023 at about 11.00 AM., during the course of further investigation in this case, Lw5/R. Ravichandra along with his staff reached D.No.2-26 in Pampanuru Thanda in Atmakuru Mandal and found that on seeing them accused tried to skulk away from that place and that himself along with his staff caught-hold and enquired the accused and arrested the accused in one FJ Wash case registered in SEB Station, Ananthapuramu on 29.06.2023 and later on enquiry the accused stated that he purchased white Jaggery for preparing ID liquor from various general stores in Ananthapuramu Town and that Lw5/R. Ravichandra confirmed him as to be arrested the accused in Cr.No.93/2023, dt.29.06.2023 under cover of special report and also served notice U/Sec.41-A Cr.P.C.

d) Lw5/R. Ravichandra drawn the sample and sent to the Chemical examiner, Regional Proh. & Excise Laboratory, Chittoor for analysis. Later Lw5/R. Ravichandra then took-up investigation in the case and remanded the accused to judicial custody and after completion of the investigation he filed the charge sheet in this case, after finding investigation on proper lines.

3. After filing the charge sheet and required documents, cognizance was taken for the offences U/sec.7(A) r/w 8 (e) of Andhra Pradesh Prohibition



Act. On appearance of the Accused, copies of case records were furnished to him as required under Section 207 Cr.P.C. The Accused was examined under Section 239 Cr.P.C. The substance of accusation was read out and explained to him in Telugu, for which he denied and claimed to be tried.

4. To support its case, the prosecution examined PWs 1 and 2 and marked Exhibits P1 to P6 and Mo.1. No witnesses were examined and no documents were marked on behalf of the Accused.

5. After closure of prosecution evidence, the Accused was examined under Section 313 Cr.P.C by explaining the incriminating evidence in Telugu, for which he denied and reported no evidence.

6. The learned Assistant Public Prosecutor argued that the prosecution proved the guilt of the Accused beyond reasonable doubt, as PW1 and PW2 consistently stated that the Accused was preparing illegal liquor and committed the offence, substantiated by Exhibits P1 to P6. Hence, he prayed for conviction with maximum sentence.

7. Per contra, the learned counsel for the Accused argued that PW1 and PW2 are official witnesses, with no independent mediators in the case. He contended that the prosecution failed to establish the nexus between the scene of offence and the Accused was falsely implicated for statistical purposes and prayed for acquittal of Accused.

8. **Now the point for determination is:**

Whether the prosecution proved the guilt of the Accused for the offence punishable under Section 7(A) r/w 8 (e) of A.P Prohibition Act beyond all reasonable doubt?

9. **Point:-**

i) To Substantiate its case prosecution got examined PW1 and 2 and got marked Ex.P1 to P4. PW1 and 2 are police officials.



ii) PW1 and 2 deposed that on 29.06.2023 at 12.00 Pm., Pw2 along with his staff conducted raids and reached agricultural land belongs to Palthya Desai naik, about 01 KM South-East direction to Pampanuru Thanda of Atmakuru Mandal and found one ID liquor still with one silver vessel on it and connected with one mud pot and later on searching by him for FJ Wash and found 02 Plastic drums with FJ wash and one white plastic an palthya Desai Naik but in vain and that he tried for mediators in the scene of offence, but in vain.

iii) Later on 05.07.2023 at about 11.00 AM., during the course of further investigation in this case, himself along with his staff reached D.No.2-26 in Pampanuru Thanda in Atmakuru Mandal and found that on seeing them accused tried to skulk away from that place and that himself along with his staff caught-hold and enquired the accused and arrested the accused in one FJ Wash case registered in SEB Station, Ananthapuramu on 29.06.2023 and later on enquiry the accused stated that he purchased white Jaggery for preparing ID liquor from various general stores in Ananthapuramu Town and that Lw5/R. Ravichandra confirmed him as to be arrested the accused in Cr.No.93/2023, dt.29.06.2023 under cover of special report.

iv) The PW1 and 2 are categorically stated that scene of offence is a busy locality and no local mediators were secured except police none were present at the time of arrest and seizure.

10. Before conducting any search under/sec.100(4) Cr.P.C mandates that before conducting any search, two or more independent and respectable inhabitants of the locality should be called to witness the search. No explanation was forthcoming from the prosecution as to why such mediators were not secured. Even though the scene of offence is admitted as busy locality. The evidence of PW1 and PW2 revealed that only police officials participated in the raid.



11. According to the Judgment of Hon'ble High court of AP in Yedduri Srinivasarao v/s State of AP 2002(1) ALD criminal 347, wherein, while dealing with the application of Section 100(4) of Criminal Procedure Code, it has been held that non passing of written order to procure presence of a witness makes the entire search conducted by the prosecution vitiated, being without jurisdiction and as a necessary corollary. As per the case of prosecution though they tried to secure the mediators, none came forward to act as mediators for the seizure of contraband. When the place of offence is busy locality where there is movement of the public and there is every possibility to public to act as mediators, it is highly improbable to believe the version of prosecution that none came forward to act as mediators for the seizure of contraband. In such circumstances it is not safe to place reliance on the interested testimony of PW.1 and 2. All these facts lead to inference that the police officials have failed to secure two or more independent or respectable inhabitants of locality for seizure of contraband. Consequently, the seizure of contraband as alleged from Ex.P1 – police proceedings vitiated. As per the evidence of P.W.1 and 2, it is evident that P.W.1 and 2 did not make sufficient efforts to secure the presence of any independent witness or Village Sarpanch, Ward Members, or V.R.O to act as mediators. Further more, Police who is the complainant in the case is the investigating officer. In this context, it is pertinent to refer to the observations of Hon'ble High Court of AP in Podhaturi Satyam Reddy Vs. State of AP reported in 2001(1) ALT (Cr.) 66 AP wherein his lord ship held that:

“The position of law is well settled. In this case PW.2 was informant rather the complainant. He himself took-up the investigation and filed charge sheet. Certainly, this is an infirmity in this case. This certainly reflects the credibility of the investigation done in the matter. The prosecution cannot rely upon the evidence of PW.2 solely. The courts below were not correct in relying



upon this evidence. Hence, the benefit of this procedural irregularity is given to the Accused”.

12. At this juncture, it must be noted that the only witness in support of the prosecution is Pw1 and Pw2 who are police official. Basing them there are no other independent witness.

13. This Court in view of the above rulings is of the view that the procedure contemplated under Section 100(4) CrPC was not followed. The absence of independent witnesses raises reasonable doubt regarding the seizure of illicit arrack from the Accused in the present case.

14. Having regard to the material on record, the testimonies of PW1 and PW2 coupled with Exhibits P1 to P4 are not sufficient to prove that the illicit liquor was seized from the possession of the Accused. Hence, this Court holds that the prosecution failed to prove the guilt of the Accused for the offence under Section 7(A) r/w 8 (e) of A.P Prohibition Act beyond all reasonable doubt. The point is answered in favour of the Accused against the prosecution.

15. In the result, the Accused is found **not guilty** for the offence punishable under Section 7(A) r/w 8 (e) of Andhra Pradesh Prohibition Act and accordingly and he is acquitted under Section 248(1) Criminal Procedure Code. The bail bonds of the Accused shall remain in force for a period of six months as per Section 437A Criminal Procedure Code and the Mo.1 shall also be destroyed after expiry of the appeal period.

Typed to my dictation by the stenographer, corrected and pronounced by me in open court, this the 27th day of July, 2026.

Sd/- D.Pavani

Special Judl Magistrate of I Class for trial of
cases under A.P. Prohibition and Excise Act-
cum-III Addl Junior Civil Judge, Ananthapuramu



Appendix of Evidence
Witnesses Examined

Prosecution

PW1 : J. Satishkumar
PW2 : R. Ravi Chandra

Defence

Nil

Exhibits marked for Prosecution

Ex.P1 : Special Report, dt.29.06.2023.
Ex.P2 : Special Report, dt.05.07.2023.
Ex.P3 : First Information Report.
Ex.P4 : Letter of Advice.
Ex.P5: Analysis Report.

Exhibits marked for Defence:Nil

Material objects:

Mo.1: Sample

Sd/- D. Pavani
Spl. J.M.F.C-
cum- III AJCJ.



CALENDAR AND JUDGMENT

District :: ANANTHAPURAMU.

CALENDAR CASES TRIED IN THE COURT OF SPECIAL JUDICIAL FIRST CLASS MAGISTRATE FOR PROHIBITION AND EXCISE CASES, ANANTHAPURAMU.

Date of Offence	Report or Complaint	Apprehension of accused	Released on bail	Commencement of trial	Close of trial	Sentence Order
29.06.2023	05.07.2023	05.07.2023	Station Bail on 05.07.2023	21.07.2026	27.07.2026	27.07.2026

Calendar and Judgement in **C.C.No.457/2024** on the file of Special Judicial First Class Magistrate for Prohibition and Excise Cases, Ananthapuramu.

Complainant: The Enforcement Inspector, SEB Station, Ananthapuramu.

Crime No: 93/2023

Name of the Accused	Age	Father's or Husband's Name	Calling	Residence	Mandal
Palthya Desai Naik	32 Years	P. Thimya Naik	-	Pampanuru Thanda Village	Atmakur

Offence: U/s.7 (a) r/w 8 (e) of AP Prohibition Act

Finding: Not guilty.

Sentence: In the result, the Accused is found **not guilty** for the offence punishable under Section 7(A) r/w 8 (e) of Andhra Pradesh Prohibition Act and accordingly and he is acquitted under Section 248(1) Criminal Procedure Code. The bail bonds of the Accused shall remain in force for a period of six months as per Section 437A Criminal Procedure Code and the Mo.1 shall also be destroyed after expiry of the appeal period.

Explanation for delay: On 13.10.2025 accused was examined under Section 239 Cr.P.C. During the course of trial, PWs.1 and 2 were examined and marked Exs.P1 to P6 and Mo.1. On 27.07.2026 accused was examined U/s.313 Cr.P.C, he denied the same and reported no defence evidence. Heard both sides. Judgment pronounced on 27.07.2026. Hence, the delay.

Sd/-D.Pavani

**Special Judl. Magistrate of I Class for trial of cases under A.P. Prohibition and Excise Act-
Cum-III Addl Junior Civil Judge, Ananthapuramu**

Copy submitted to the Hon'ble I Addl. Sessions Judge, Anantapuramu.

Copy to the Superintendent, Proh. And Excise, Obuladevnagar, Anantapuramu.

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