



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C., AT TURUVEKERE.**

**Present : Smt.Pavithra.M.D, B.A., LL.B.,
Senior Civil Judge & JMFC,
Turuvekere.**

Dated this the 7th Day of July-2026

C.C.No.2519/2024

Complainant : Excise Inspector,
Turuvekere Range,
Turuvekere.

(By Learned APP)

// Versus //

Accused : Girish
S/o Shantharaju,
Aged about 43 years,
R/at: Sadarahalli Village,
Dabbeghatta Hobli,
Turuvekere Taluk.

(By Sri.D.T.R., Advocate)

Date of commission of offence	16.04.2024
Date of report of offence	16.04.2024
Name of the complainant	Dilip Kumar.M.V



Date of starting of recording evidence	05.04.2025
Date of closing of recording evidence	06.06.2026
Offence complained of	U/s 32(1), 38(A) of K.E Act
Opinion of the Judge	Accused found not guilty
State Represented by	Assistant Public Prosecutor
Date of Pronouncement of Judgment	07.07.2026

(M.D Pavithra)
Senior Civil Judge & JMFC.,
Turuvekere.

J U D G M E N T

The Excise Inspector, Turuvekere Zone has charge sheeted the accused person for the offence punishable U/s. 11, 14, 15, 32(1), 38(A) of K. E. Act and he has been tried for the said offences.

2. **The case of the prosecution has projected in the police report are as hereunder:-**



That it is alleged in the police report that, on 16.04.2024 at about 2.00 p.m., the complainant along with his staff on guth duty due Lok-Sabha Election-2024. They had received credible information that someone carrying various kind of liquor in his bike from Turuvekere to Aremallenahally for sale. Then, they went to spot immediately and caught hold the accused and his bike bearing Reg.No.KA-13-ED-2168 Yamaha Crux. Upon verifying bike, they found 90 ML Raja Whisky of 100 tetra packets and 500 ML 06 Royal Challenge Beer Tin for the purpose of selling the same without obtaining the license or permit.

3. CW.1 has registered the case against the accused person for the offence under Section 11, 14, 15, 32(1), 38(A) of K.E Act. Out of the seized 90 ML Raja Whisky of 100 tetra packets and 500 ML 06 Royal Challenge Beer Tin, 90 ML Raja Whisky of 30 tetra packets and 500 ML 06 Royal Challenge Beer Tin were sent for chemical examination. Chemical examiner has gave report to the effect that, the liquor sent for analysis contain alcohol and liquor packets seized by the CW.1



are liquor. After receipt of chemical examination report, investigation officer has charge sheeted the accused person for the offence punishable U/s.11, 14, 15, 32 (1), 38(A) of K. E. Act.

4. After filing of charge sheet, cognizance for the offence punishable U/s.11, 14, 15, 32 (1), 38(A) of K. E. Act is taken. The presence of the accused person is secured by issuing summons and he obtained anticipatory bail in Cri. Mis.no.10194/2024 on the file of the Hon'ble V Addl. District and Sessions Judge, at Tiptur.. Copies of the prosecution papers are supplied to the accused person as contemplated U/Sec.207 of Cr.P.C.

5. Accusation of the accused person for the offence punishable U/s. 32(1) & 38(A) of K.E Act is read over and explained to the accused person as per Sec.60-A of K.E Act and the accused person pleaded innocence. As the accused person pleaded innocence, in order to prove the guilt of the accused person, the prosecution



has examined 8 witnesses as PW.1 to 8 and also got marked 17 documents at Ex.P.1 to P.17 and M.O.1.

6. After closure of prosecution evidence, statement of the accused person as required U/Sec.313 of Cr.P.C has been recorded. The accused person has denied the incriminating statement made against him by the prosecution witness. The defense of the accused person is one of total denial. On the basis of the charge sheet and the prosecution papers the following points arise for my consideration:-

- 1. Whether the prosecution proves beyond all reasonable doubt that on 16.04.2024 at about 2.00 p.m., in the two wheeler vehicle bearing Reg.No.KA-13-ED-2168 in the road from Turuvekere to Aremallenahally, the accused person in contravention of provisions of K.E Act has possessed the same and thereby committed an offence punishable U/Sec.32(1) of the K.E Act?***



2. *Whether the prosecution proves beyond all reasonable doubt that, the above said date time and place, the accused was found in possession of intoxicant in the house of the accused and thereby committed an offence punishable U/Sec.38(A) of K.E Act?*

3. *What order?*

7. Heard the Advocate appearing for the accused person and the Assistant Public prosecutor. Perused the oral and document evidence accrued on record and my finding on the above point are as under:

Point No.1	:	In the Negative.
Point No.2	:	In the Negative.
Point No.3	:	As per the final order for the following:

REASONS

8. **Point No.1 and 2:-** Point No.1 and 2 are interconnected to each other and as such, they have been dealt together in order to avoid repetition.



9. That it is alleged in the police report that, the accused was found in possession of liquor in his motor cycle and as such, he has committed an offence punishable U/s.11, 14, 15, 32(1), 38(A) of K.E Act. In order to prove the guilt of the accused person the prosecution has examined 8 witnesses. CW.1 who is the complainant is examined as PW.5. PW.5 has deposed that, he has received credible information that the accused is in illegal possession of the liquor for the purpose of selling the same without any license. CW.1/PW.5 has deposed that, he went to spot and found 90 ML Raja Whisky of 100 tetra packets and 500 ML 06 Royal Challenge Beer Tin in the custody of the accused. PW.5 has also deposed that, he has seized the said packets by preparing Ex.P.1 mahazar.

10. In the present case the prosecution has to first prove that, seized liquid is liquor. In order to prove the said aspect, the prosecution relied upon the chemical examiner report which is marked at Ex.P.13. On perusal of Ex.P.13 it is clear that, chemical examiner has analyzed the liquid sent for chemical analysis and found



that, liquid seized by CW.1 do contain alcohol and seized material is liquor. So, on the basis of chemical examination report in my opinion, the prosecution is able to show that, the liquid seized in this case is liquor.

11. The next aspect, which the prosecution has to prove that, the quantity of liquor seized is more than prescribed limits as contemplated under K.E. Act & Rules. As per Rule 21 of K.E (Possession, Transport, Etc.,) Rules, a person can possess and transport liquor up to 4.6 liters. In the present case, the number of pockets seized is 90 ML Raja Whiskey of 100 tetra packets and 500 ML 06 Royal Challenge Beer Tin. So, it is clear that, the liquor seized in the instant case is not more than prescribed limits as per the provisions of K.E Act & Rules.

12. In order to link the accused person with the seized liquor, the prosecution has to prove the seizure mahazar. The police officials have spoke regarding the seizure of 90 ML Raja Whisky of 100 tetra packets and 500 ML 06 Royal Challenge Beer Tin. But the panchas of



Ex.P.1 seizure mahazar who have been examined as PW.1 and 3 has not supported the case of the prosecution. PW.1 and 3 being panchas has deposed that, he has not witnessed the seizure of liquor packets from the custody of the accused by the investigation officer. As the author of Ex.P.1 mahazar has turned hostile, it cannot be said that, the prosecution is able to prove the seizure of 90 ML Raja Whiskey of 100 tetra packets and 500 ML 06 Royal Challenge Beer Tin from the custody of the accused person. Hence, the evidence of PW.2, 4 to 8 is not helpful to the case of prosecution.

13. It is argued by the learned APP that, U/Sec.40 of K.E. Act, when there is a presumption in favour of the prosecution that, in any of the prosecution U/s.11, 14, 15, 32 (1), 38(A), of K. E. Act it shall be presumed that, until the contrary is proved that, the accused person has committed the offence punishable under that section in respect of

A. Any intoxicant; or

B.

C.



14. For the possession of which he is unable to account satisfactorily. It is argued on behalf of the prosecution that, it is for the accused person to prove that, he has not committed an offence U/s.11, 14, 15, 32 (1), 38(A) of K. E. Act.

15. I am unable to accept the argument adduced by the prosecution to the effect that, the accused person has to prove that, he is innocent in view of the presumption U/Sec.40 of K.E Act. In the decision reported in **1972(2) K.L.J 425** between **Yamunappa V/s State of Karnataka** it is held that,

When once the possession of the intoxicant is proved, the presumption U/Sec.40 of the Act comes into operation and it is for the accused to account satisfactorily for its possession.

16. The presumption available U/Sec.40 of K.E. Act can be drawn only when prosecution proves that, the accused was in possession of seized sachets. So, it is incumbent upon the prosecution to prove the seizure of



90 ML Raja Whiskey of 100 tetra packets and 500 ML 06 Royal Challenge Beer Tin from the custody of the accused, which is not proved since the prosecution failed to prove Ex.P1/seizure mahazar beyond all reasonable doubt.

17. In the present case as discussed supra, the prosecution has failed to prove that, the liquor is seized from the custody of the accused. Hence, there is no violation of any of the provisions of K.E Act by the accused person. In view of the discussion made above in my considered view, the prosecution has failed to prove the ingredients, which are necessary to convict the accused person for the offence punishable U/s.11, 14, 15, 32(1), 38(A) of K. E. Act. Accordingly, I answer point No.1 and 2 in the **Negative**.

18. **Point No.3:-** In view of my discussion and conclusion arrived at point No.1, the accused person is entitled for acquittal. Hence I proceeds to pass the following:-



ORDER

Acting U/Sec.248(1) of Cr.P.C., the accused person is acquitted of the offences punishable U/Sec. 32(1), 38(A) of K. E. Act.

Bail bond and surety bond of the accused person stands cancelled after 6 months from the date of this judgment.

M.O.1 being worthless is hereby ordered to be destroyed after lapse of appeal period as per Rules.

*(Direct Dictation given to the Stenographer, typed by him, corrected by me and then pronounced in the open court on this the **7th day of July-2026.**)*

(M.D Pavithra)
Senior Civil Judge & JMFC
Turuvekere.

A N N E X U R E

1. **List of witness examined for the prosecution:-**

PW.1 : Mohiddin Sab



PW.2	:	Narasimhamurthy
PW.3	:	Kumar
PW.4	:	Ravikumar
PW.5	:	Dilip Kumar
PW.6	:	Keshava Angadi
PW.7	:	Renuka
PW.8	:	T.P.Nanjundaswamy.

2. **List of documents exhibited for the prosecution:-**

Ex.P.1	:	Spot Mahazar
Ex.P.(a) to (f)	:	Signatures
Ex.P.2	:	Sample Seal
Ex.P.2(a) & (b)	:	Signatures
Ex.P.3	:	List of Articles
Ex.P.3(a) to (c)	:	Signatures
Ex.P.4	:	Statement of PW.1
Ex.P.5	:	Requisition
Ex.P.5(a) & (b)	:	Signatures
Ex.P.6	:	Statement of PW.3
Ex.P.7	:	FIR
Ex.P.7(a)	:	Signature
Ex.P.8	:	Search Warrant
Ex.P.8(a)	:	Signature
Ex.P.9	:	List of Articles
Ex.P.9(a)	:	Signature
Ex.P.10	:	Complaint
Ex.P.10(a)	:	Signature
Ex.P.11	:	Requisition to RTO
Ex.P.11(a)	:	Signature
Ex.P.12	:	'B' Register Extract
Ex.P.13	:	FSL report
Ex.P.13(a)	:	Signature



Ex.P.14	:	Notice
Ex.P.14(a)	:	Signature
Ex.P.15	:	Statement of Vehicle Owner
Ex.P.15(a)	:	Signature
Ex.P.16	:	Notice
Ex.P.16(a)	:	Signature
Ex.P.17	:	Statement of accused
Ex.P.17(a)	:	Signature.

3. **List of M.Os. got marked for the prosecution:-**

M.O.1 : Tetra packets and bottle.

4. **List of witnesses examined for the accused:-**

-Nil-

5. **List of documents exhibited for the accused:-**

-Nil-

(M.D.Pavithra)
Senior Civil Judge & JMFC.,
Turuvekere.