

IN THE COURT OF JUDICIAL MAGISTRATE, HARUR

Present: **Mr. DHINAKARAN.N**, Judicial Magistrate, Harur.

Thursday, the 25th day of June 2026

C.C. No.22 of 2026

State represented by

The Special Sub-Inspector of Police,

Morappur Police Station,

Cr.No. 29 of 2026.

... Complainant

Versus

Kalimuthu, (47/2025) S/o. Mookkan,

Kollakottai Vill, Polaiyampalli Po,

Harur Tk, Dharmapuri DT.

... Accused

This case was taken up for hearing on 06.03.2026 The learned Assistant Public Prosecutor, Grade-II, Mr. M. Jagadeesan, appeared for the prosecution, and the learned advocate, Thiru. C. Sakthivel, B.A., B.L., appeared for the accused. On 25.06.2026, after hearing arguments from both sides, reviewing documents, materials, and witness depositions, this court delivers the following:

JUDGMENT

1. This prosecution has arisen out of the final report laid by the Special Sub-Inspector of Police, Morappur Police Station, alleging commission of an offence punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act by the accused.

2. The case of the prosecution, in brief, is that on 07.02.2026 at about 2.30 p.m., during vehicle checking conducted at Kallavi Pirivu Road within the limits of Morappur Police Station, the accused was found carrying 26 bottles of liquor in a two-wheeler bearing Registration No. TN-30-T-9469 (CT-100) without any lawful authority and with the intention of selling the same for unlawful gain. It is alleged that the accused thereby committed an offence punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act.
3. Upon appearance of the accused before this Court, copies of the police report and other relied upon documents were furnished to him under Section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The particulars of the offence were stated to the accused under Section 274 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The accused denied the accusation and claimed to be tried.
4. In order to substantiate the charge, the prosecution examined PW1 to PW3 and marked Ex.P1 and Ex.P2. No material object was produced before this Court since the prosecution case itself is that the alleged liquor bottles were destroyed by the police after obtaining permission from superior officers.
5. After closure of prosecution evidence, the accused was examined under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023 regarding the incriminating circumstances appearing against him in the evidence of prosecution witnesses. The accused denied all such circumstances as false. No witness was examined and no document was marked on the side

of the defence.

6. Upon consideration of the entire evidence available on record, the following points arise for determination:

- i. *Whether the prosecution has proved beyond reasonable doubt that on 07.02.2026 at about 2.30 p.m. at Kallavi Pirivu Road within the jurisdiction of Morappur Police Station, the accused was found in conscious possession of liquor bottles as alleged by the prosecution?*
- ii. *Whether the prosecution has further proved beyond reasonable doubt that such possession was for the purpose of unlawful retail sale so as to attract the offence under Section 4(1)(c) of the Tamil Nadu Prohibition Act?*
- iii. *Whether the accused is guilty of the offence charged against him?*

Discussion

Point Nos.1 and 2

7. Since both points are interconnected and arise out of the same set of facts, they are taken up together for discussion.
8. The prosecution examined PW1 Sakthivel, PW2 Karthikeyan and PW3 Selvi. PW1 and PW2 are police personnel who accompanied PW3, the Special Sub-Inspector of Police, during the alleged vehicle checking operation.

9. PW1 deposed that on 07.02.2026 at about 2.30 p.m., while he was on prohibition enforcement duty along with PW2 under the leadership of PW3, they noticed the accused coming on a CT-100 motorcycle carrying a green coloured bag. According to him, on seeing the police party, the accused attempted to run away and was intercepted. Upon search, 26 bottles of Express Brandy each containing 180 ml were allegedly recovered from the bag carried by the accused. PW1 further stated that the accused confessed before the police that he had purchased the liquor from a Government liquor shop and intended to sell the same for higher profit. He also spoke about the preparation of Ex.P1 Seizure Mahazar and destruction of the seized liquor.
10. PW2 has substantially corroborated the testimony of PW1 in all material particulars.
11. PW3, the Special Sub-Inspector of Police and the complainant as well as the investigating officer, deposed that she conducted vehicle checking at Kallavi Pirivu Road on 07.02.2026 and intercepted the accused. According to her, 26 bottles of Express Brandy each containing 180 ml were recovered from the possession of the accused and were seized under Ex.P1 Mahazar. She further stated that the accused admitted before her that he intended to sell the liquor bottles for profit. Thereafter, she registered the case, investigated the same and filed the final report.
12. Though the oral evidence of PW1 to PW3 appears consistent at first glance, a closer scrutiny of the evidence and documents reveals material infirmities creating serious doubt regarding the prosecution case.

13. The occurrence is admittedly stated to have taken place at a place where public movement is considerable. PW1 and PW2 have categorically admitted during cross-examination that members of the public witnessed the apprehension of the accused. They have further admitted that members of the public also witnessed the destruction of the liquor bottles. However, no independent witness has been examined by the prosecution. No convincing explanation has been offered as to why no independent witness was secured despite the admitted availability of members of the public.
14. It is true that conviction can be based upon the testimony of official witnesses if their evidence inspires confidence. Nevertheless, where independent witnesses are readily available and are deliberately withheld, the Court is required to examine the prosecution evidence with greater caution.
15. A more serious infirmity emerges from Ex.P1 Seizure Mahazar. PW1, PW2 and PW3 have consistently stated in their chief examination that 26 bottles of Express Brandy were recovered from the accused. However, all the three witnesses have admitted during cross-examination that Ex.P1 Mahazar mentions "Mens Club (Deluxe Brandy) – 5 bottles". Thus, there is a glaring inconsistency between the prosecution oral evidence and the contents of the seizure mahazar itself.
16. The seizure mahazar is the primary contemporaneous document evidencing the recovery. When the description of the seized articles in the mahazar does not tally with the oral evidence of all prosecution

witnesses, the genuineness of the alleged recovery becomes doubtful. The contradiction is not minor in nature but goes to the root of the prosecution case.

17. Another significant circumstance is that the shoulder bag allegedly used by the accused for carrying the liquor bottles was not seized. PW3 has candidly admitted during cross-examination that the said bag was not seized. The failure to seize the very container in which the contraband was allegedly carried assumes importance when the prosecution seeks to establish conscious possession.
18. The prosecution has further admitted that the entire liquor bottles were destroyed. The destruction proceedings admittedly do not contain the signature of any independent witness. No photographs were taken. No material object has therefore been produced before the Court. Consequently, the Court is deprived of the opportunity to verify the identity, quantity and nature of the alleged contraband.
19. Yet another circumstance affecting the credibility of the prosecution case is that PW3 acted both as the complainant and the investigating officer. Though there is no absolute legal bar against the same officer investigating the case, the Court is required to be cautious while appreciating such evidence, particularly when other infirmities are present.
20. Further, PW3 admitted that though the occurrence is alleged to have taken place on 07.02.2026, the First Information Report came to be registered only on the following day. The prosecution has not furnished

any satisfactory explanation for such discrepancy.

21. The prosecution has attempted to prove the intention to sell by relying upon the alleged confession made by the accused before the police officer. Such confession is inadmissible in evidence in view of Sections 25 and 26 of the Indian Evidence Act, 1872. Except the alleged confession, there is absolutely no evidence to establish that the accused was engaged in sale of liquor or that he intended to sell the same. PW1 and PW2 have specifically admitted that the accused was not found selling liquor to anybody. No customer was identified. No sale proceeds were recovered. No other incriminating circumstance has been brought on record to establish the intention to sell.
22. In criminal jurisprudence, the burden lies entirely upon the prosecution to establish the guilt of the accused beyond reasonable doubt. The accused is entitled to the benefit of every reasonable doubt arising from the evidence.
23. In the present case, the absence of independent witnesses, contradiction between the oral evidence and Ex.P1 Mahazar regarding the description of the liquor bottles, non-seizure of the carrying bag, destruction of the alleged contraband without independent attestation, non-production of material objects and lack of reliable evidence regarding intention to sell cumulatively create serious doubt regarding the prosecution version.
24. This Court is therefore unable to hold that the prosecution has established either possession of the alleged liquor bottles or possession for the purpose of sale beyond reasonable doubt.

25.The prosecution has failed to prove beyond reasonable doubt that the accused was found in conscious possession of the alleged liquor bottles as claimed. Accordingly, Point No.1 is answered against the prosecution.

26.The prosecution has failed to prove beyond reasonable doubt that the alleged possession was for the purpose of sale so as to attract Section 4(1) (C) of the Tamil Nadu Prohibition Act. Accordingly, Point No.2 is answered against the prosecution.

Point No.3

27.In view of the findings recorded on Point Nos.1 and 2, this Court holds that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. The accused is therefore entitled to the benefit of doubt.

28.The prosecution has failed to prove the charge against the accused beyond reasonable doubt. Accordingly, Point No.3 is answered in favour of the accused.

Result

29.In the result, this Court holds that the prosecution has failed to prove the charge under Section 4(1)(C) of the Tamil Nadu Prohibition Act against the accused beyond reasonable doubt.

30.Accordingly, the accused Kalimuthu, S/o. Mookkan, is found Not Guilty and is Acquitted under Section 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

The bail bond, if any, executed by the accused shall stand cancelled after expiry of the appeal period.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the open court on this the 25th day of June 2026.

**Judicial Magistrate
Harur.**

APPENDIX

Witnesses Examined for Prosecution

PW1 – Sakthivel

PW2 – Karthikeyan

PW3 – Selvi

Documents Marked for Prosecution

Ex.P1 – Seizure Mahazar

Ex.P2 – First Information Report

III. LIST OF MATERIAL OBJECTS

Nil

**IV. LIST OF WITNESSES/DOCUMENTS/ MATERIAL ON THE SIDE OF THE
ACCUSED**

Nil

**Judicial Magistrate,
Harur**

Notes:

The authorities shall be informed of the case outcome.

No witness was detained beyond three days.

Depositions were taken under the Oaths Act, 1969, and verified