

KABC030357352023



Presented on : 10-08-2023
Registered on : 10-08-2023
Decided on : 22-04-2026
Duration : 2 years, 8 months, 12 days

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
BENGALURU CITY**

Dated: This the 22nd day of April 2026

PRESENT: SRI.RANGEGOWDA.C

B.A.L., LL.B.,
Chief Judicial Magistrate,
Bengaluru City.

C.C.No. 20005/2023

COMPLAINANT :: **Excise Sub-Inspector,**
Division 39, Madiwala Range
Bengaluru

(Represented by Sr.APP)

Vs.

ACCUSED : Muniraja G s/o Krishnaiah
49 years, r/at No.303
100 feet road, 1st Stage
Indiranagara
Bengaluru (South)

(Represented by Advocate Sri.Prabhakara M)

PARTICULARS U/S 355 OF THE Cr.P.C., 1973

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|----|---|---|
| 1. | Sl. No. of the Case | 20005/2023 |
| 2. | The date of commission of the offence | 26-03-2023 |
| 3. | Name of the complainant | Rekha B |
| 4. | Name of the accused | Muniraja G |
| 5. | The offence complained of or proved | U/sec. 11, 13, 14, 15, 32, 38A, 43 of Karnataka Excise Act 1965 |
| 6. | Plea of the accused and his/her examination | Pleaded not guilty |
| 7. | Final Order | Accused is Acquitted |
| 8. | Date of such Judgment | 22-04-2026 |

JUDGMENT

1. This is the case registered on the basis of the charge sheet submitted by Excise Sub-Inspector, Division 39, Bengaluru against the accused alleging the offence punishable u/s. 11, 13, 14, 15, 32, 38A, 43 Karnataka Excise Act 1965.

2. Case of the prosecution in brief is as follows;

On 26-03-2023 at about 8.45 a.m., near Roopena Agrahara bus stop, the accused in his Yamaha Alfa red colour two wheeler bearing Reg.No.KA-03-HU-8982 was carrying and in his possession 750 ml black and white whiskey 4 bottle and 0.750

ml 100 pipers blended scotch whiskey 6 bottles totally 7.500 liter alcohol which is meant for sale to defense personal only, illegally without licence with an intention to sell the same.

3. On the basis of the seizure mahazar conducted by CW3, case was registered against the accused and after completion of investigation IO filed charge sheet against the accused for the above mentioned offences.

4. After perusal of the charge sheet since there are sufficient materials which constitute the offences alleged, cognizance of the above said offence taken against the accused. During the crime stage accused was arrested and produced before the court he was released on bail.

5. Copies of charge sheet supplied to counsel for the accused u/s 207 of Cr.P.C. Heard, the counsel for the accused on framing of charge. Since, on hearing the counsel for accused and on perusal of the materials on record there are sufficient grounds for presuming that the accused has committed the

alleged offence, hence charge for the above offence framed and read over to accused. The accused pleaded not guilty and claimed to be tried.

6. The prosecution in order to prove the accusation leveled against the accused has examined 5 witnesses as PW1 to 5 and marked Ex.P1 to P9 and identified MO1 to 10. The prosecution has given up CW4 and 6.

7. The statement of the accused recorded u/s.313 of Cr.P.C. He denied the entire incriminating evidence available in the prosecution evidence. He did not chose to adduce defence evidence.

8. Heard the arguments of Sr.APP and the counsel for accused and perused the records.

9. The following points arise for determination:

1. Whether the prosecution proves beyond reasonable doubt that on 26-03-2023 at about 8.45 a.m., near Roopena Agrahara bus stop, the accused in his Yamaha Alfa red colour two

wheeler bearing Reg.No.KA-03-HU-8982 was carrying and in his possession 750 ml black and white whiskey 4 bottle and 0.750 ml 100 pipers blended scotch whiskey 6 bottles totally 7.500 liter alcohol which is meant for sale to defense personal only, illegally without licence with an intention to sell the same and thereby committed an offence punishable under Section 11, 13, 14, 15, 32, 38(A) and 43 of Karnataka Excise Act 1956?

2. What order?

10. The above points are answered as follows;

Point No.1 – Negative

Point No.2 - As per final order for the following;

REASONS

11. Point No.1: It is the case of the prosecution that the accused was having possession of 7.500 liter of whiskey illegally and transporting the same to sell without any licence.

12. The PW1 and 2 are the mahazar witnesses as per the case of the prosecution. But PW1 and 2 deposed that Excise police

have taken the signature in their office and he don't know the contents of the said document. The Id. Sr.APP has treated the said witnesses as hostile and cross examined, but nothing is elicited in support of the seizure mahazar.

13. The PW5 is the Excise Inspector who deposed about conducting raid and seizure of the alcohol from the spot under the mahazar. She also deposed about registration of the case and sending sample tetra packs for Chemical Examination and handing over further investigation to CW7. She also deposed regarding receipt of FSL report.

14. The PW5 in her cross examination has deposed that the informer has given the full detail of facial features of the accused, she has secured panchas from a distance of 100 meters from the place of raid, at the time of raid movement of the public and vehicles was there on road, abutting to the place of incident there are commercial shops. All other suggestions put to PW5 are denied.

15. The PW4 is the Excise Sub-Inspector who deposed regarding taking over further investigation, obtaining B register extract of the seized vehicle seized from the RTO officials, recording further statement of witnesses and recording voluntary statement of the accused and filing of the charge sheet against the accused. In the cross examination by the Id. Counsel for the accused nothing is elicited to discard his evidence.

16. The PW3 is the Excise Guard who was accompanying PW5 at the time of raid. PW3 has deposed about conducting raid along with PW5 and seizure of the alcohol from the spot under the mahazar. In the cross examination by the Id. Counsel for the accused PW3 has deposed that the panchas were in the bus stand itself, before the raid they were not having information about facial features of the accused. All other suggestions put to PW3 are denied.

17. As already observed in this case the PW1 and 2 mahazar

witnesses have turned hostile to the prosecution case, therefore the only evidence available in record regarding the raid and seizure mahazar is the evidence of PW3 and 5. The PW3 and 5 are the Excise officials. Therefore, without the corroboration from independent witnesses regarding seizure of alcohol from the possession of the accused, the evidence of PW3 and 5 is not sufficient to prove the accusation leveled against the accused beyond reasonable doubt.

18. It is to be noted that as per the evidence of PW3 and 5 the accused was carrying the alcohol in white plastic bag. In the list of properties seized which is submitted to the court, the said white plastic bag is not mentioned. That means the said white plastic bag is not seized. Moreover, the seizure mahazar witnesses who are very material witnesses have turned hostile to the prosecution. The PW5 has deposed that informant has given the information about facial features of the accused. But the PW3 has deposed that they have no information about the facial features of the accused before raid. The PW5 has deposed

that they secured panchas from the distance of 100 meter from the place of raid. But, the PW3 has deposed that the pancha witnesses were available in the place of raid itself. The above evidence of PW3 and 5 is contrary to each other and also contrary to the case of prosecution.

19. Therefore the evidence of PW3 and 5 is not sufficient to prove the accusation leveled against the accused. The prosecution has not brought on record acceptable evidence to prove that the accused was having possession of the alcohol without licence/permit.

20. On appreciation of the entire evidence on record, this court has come to the conclusion that the prosecution has not brought on record the true account of the incident. There arise number of doubts in the evidence of the prosecution witnesses and benefit of the same shall have to be given to the accused. Therefore, this court has come to the conclusion that the prosecution has failed to prove the accusation leveled against

the accused beyond all reasonable doubts. Hence, point No.1 is answered in the **Negative**.

21. Point No.2: For the foregoing reasons and findings on point No.1 the following order is passed;

ORDER

Exercising power U/sec 248(1) of Cr.P.C. the accused is hereby acquitted for the offences punishable U/sec 11, 13, 14, 15, 32, 38(A) and 43 of Karnataka Excise Act 1956.

In view of Section 437-A of Cr.P.C., personal bond and bail bonds of the accused shall stand cancelled after 6 (six) months.

(Dictated to the Stenographer directly on computer, typed by her, same was corrected by me and then pronounced in open court on this the 22nd day of April 2026).

**(RANGEGOWDA.C)
CHIEF JUDICIAL MAGISTRATE
BENGALURU CITY**

ANNEXURE**LIST OF WITNESSES EXAMINED ON BEHALF OF PROSECUTION:**

PW.1 Raghupati
PW.2 Aabishek
PW.3 Santosh Poojare
PW.4 Ashoka Sheragara
PW.5 Rekha B

LIST OF WITNESSES EXAMINED ON BEHALF OF ACCUSED:
NIL**LIST OF DOCUMENTS MARKED ON BEHALF OF PROSECUTION:**

Ex.P1 Spot Mahazar
Ex.P1(a) Signature of PW.1
Ex.P1(b) Signature of PW2
Ex.P1(c) Signature of PW3
Ex.P1(d) Signature of PW5
Ex.P2 Format seal
Ex.P2(a) Signature of PW1
Ex.P2(b) Signature of PW2
Ex.P3 & 4 Statements of PW1 & 2
Ex.P5 Letter
Ex.P5(a) Signature of PW4
Ex.P6 B Register Extract
Ex.P7 Search warrant
Ex.P7(a) Signature of PW5
Ex.P8 FIR
Ex.P8(a) Signature of PW5
Ex.P9 FSL Report
Ex.P9(a) Signature of PW5

Material Objects got marked

MO1 to 10: 4- Black & White and
6 – 100 pipers whiskey bottles

(RANGEGOWDA.C)
CHIEF JUDICIAL MAGISTRATE
BENGALURU CITY

22-04-2026

(Judgment pronounced in the open court
vide separate order)

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CJM, Bengaluru City