

KABD300022952025



**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC.,
BASAVAKALYAN.**

Present:-

Sri.Hanamantarao R.Kulkarni

B.Com, LL.B.,

Senior Civil Judge and JMFC., Basavakalyan.

C.C.No.840/2025

Dated this the 1st day of July, 2026

1. State of Karnataka **...Complainant**
(By - **Assistant Public Prosecutor**)

-Versus-

1. Sri. Sanju s/o Kashinath Godbole,
Aged about 45 years,
R/o: Belur village, Tq: Basavakalyan.
2. Shivakumar s/o Sharanappa Hole,
Aged about 28 years, R/O: Belur village, Tq: Basavakalyan.

... Accused

(By – Sri. B.K.V., Advocate for the Accused no.1)

(By –Sri. A.R.G., Advocate for the Accused no.2)

- 1) Date of Commencement of offences : 29/03/2020
- 2) Date of report of offences : 29/03/2020
- 3) Arrest of the Accused : Nil
- Date of release on bail of Accused no.1: 26/03/2021
- Date of release on bail of Accused no.2: 08/07/2021
- The period undergone in custody : Nil
- 4) Name of the complainant : Sri Goutam
- 5) Date of recording of evidence : 20/03/2025

- | | | |
|----|--------------------------|--|
| 6) | Date of closing evidence | : 20/06/2026 |
| 7) | Offence complained of | : U/Sec.32 & 34 of
Karnataka Excise Act |
| 8) | Opinion of the Judge | : Accused not found guilty. |

J U D G M E N T

The instant charge sheet has been filed by the then PSI, Hulsoor police station against the accused no.1 and 2 for the offences punishable **U/Sec. 32 & 34 of Karnataka Excise Act.**

2. It is the case of the prosecution that, on 29/03/2020 at about 10.20 am within the limits of Hulsoor police station at Belur village near the land of Gurulinga Shivacharya Math the accused no. 1 and 2 were found in possession of 25 O.T tetra packets of 180 ml in public place without possessing any pass or permit with an intention to sell the same and the accused no. 1 and 2 sell and offer for sale and thereby committed the offences punishable **U/Sec. 32 & 34 of Karnataka Excise Act.**

3. On receipt of charge sheet, the presence of the accused no. 1 and 2 was secured as they were earlier released on bail. Copy of charge sheet was furnished to the accused no. 1 and 2 as contemplated U/s.207 of Cr.P.C. On a subsequent date, charge was framed and accused no. 1 and 2 have pleaded not guilty and claimed to be tried. Hence, the case was posted for evidence on prosecution side.

4. On completion of the prosecution evidence, 313 statement of the accused no 1 and 2 was recorded, wherein the accused no.1 and 2 were given an opportunity to explain the incriminating circumstances appearing against them in the evidence of the prosecution witnesses. The accused 1 and 2 have denied all the

allegations leveled against them and did not choose to adduce any evidence for their defence.

5. Upon hearing arguments on both sides, the following points would arise for my consideration: -

1. Whether the prosecution proves beyond all reasonable doubt that, on 29/03/2020 at about 10.20 am within the limits of Hulsoor police station at Belur village near the land of Gurulinga Shivacharya Math the accused no. 1 and 2 were found in possession of 25 O.T tetra packets of 180 ml in public place without possessing any pass or permit with an intention to sell the same and the accused no. 1 and 2 sell and offer for sale and thereby committed the offences punishable **U/Sec. 32 & 34 of Karnataka Excise Act?**

2. What Order?

6. My findings on the above points are: -

Point No.1: *In the negative*

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

REASONS

7. **Point No.1:** Prosecution to establish the guilt of the accused no.1 and 2 has examined five witnesses as P.W.1 to P.W.5 and got marked eight documents as Ex.P.1 to Ex.P.8 and 25 tetra packets are marked at M.O.No.1.

8. C.W.1(P.W.1)- *Sri. Goutam, P.S.I., has deposed that, on 29/03/2020 at about 10.20 am when he was in the police station he has received the credible information that two persons were selling Tetra packets in public place near Shivalingashivacharya Math then he has informed about the matter to C.W. 5 to C.W.7 his staff and C.W.2*

and C.W.3 panchas and he has further deposed that himself, panchas and his staff have gone to the Belur village near Shivalingashivacharya Math and seen that two persons were selling tetra packets in a public place then they have caught the accused no.1 and the accused no.2 has ran away from the spot. He has further deposed that the accused no.1 told his name as Sanju and the accused no.1 has told the name of the accused no.2 as Shivakumar who has run away from the spot. He has further deposed that he has searched the cotton box with the accused no.1 which contains 25 O.T tetra packets of 180 ml each. He has further deposed that he has asked the accused no.1 whether they have taken license from the Government to sell the liquor and they have replied that they have not taken any permission from the authority. Further, he has deposed that he has seized the liquor through the panchanama drawn in the presence of panch witnesses and then he has come to the police station and he has filed complaint against the accused no.1 and 2.

9. C.W.3(P.W.2)-Sachin, is the signatory to the spot panchanama. He has deposed that, he did not go with the police and in his presence the police have not drawn the panchanama and they have not seized any tetra packets in his presence and he has further deposed that he did not know the contents of the panchanama. He has not supported the prosecution case. Since he has not supported the prosecution case, the L/APP on permission has cross examined him and nothing worth was elicited from the mouth of the PW 2.

10. C.W.2(P.W.4)-Rajkumar, is the signatory to the spot panchanama. He has deposed that, he did not go with the police and in his presence the police have not drawn the panchanama and they have not seized any tetra packets in his presence and he has further deposed that he did not know the contents of the panchanama. He has

not supported the prosecution case. Since he has not supported the prosecution case, the L/APP on permission has cross examined him and nothing worth was elicited from the mouth of the PW 2.

11. C.W.7(P.W.3)- Sri. Srishailgiri, H.C., has deposed that, on 29/03/2020 at about 10.00 am when he was in the police station C.W.1 has received the credible information that two persons were selling Tetra packets in public place near Shivalingashivacharya Math then he has informed about the matter to C.W. 5, C.W.6 and him and C.W.2 and C.W.3 panchas and he has further deposed that himself, panchas and C.W.1 have gone to the Belur village near Shivalingashivacharya Math and seen that two persons were selling tetra packets in a public place then they have caught the accused no.1 and the accused no.2 has ran away from the spot. He has further deposed that the accused no.1 told his name as Sanju and the accused no.1 has told the name of the accused no.2 as Shivakumar who has run away from the spot. He has further deposed that C.W.1 has searched the cotton box with the accused no.1 which contains 25 O.T tetra packets of 180 ml each. He has further deposed that C.W.1 has asked the accused no.1 whether they have taken license from the Government to sell the liquor and they have replied that they have not taken any permission from the authority. Further, he has deposed that C.W.1 has seized the liquor through the panchanama drawn in the presence of panch witnesses and then C.W.1 has come to the police station and he has filed complaint against the accused no.1 and 2.

12. C.W.9(P.W.5) – Sri Datturao, HC, has deposed that, on 29/03/2020 he has received the complaint from the C.W.1 and registered it in crime no.18/2020 and sent the FIR to the Court. He has further deposed that, on the same day he has sent PF to the court and he has recorded the statements of C.W.4 to C.W.7 and he has issued a

notice to the accused no.1 and 2 under Sec.41(A) of Cr.P.C and on completion of the investigation he has filed the charge sheet against the accused no.1 and 2.

13. In view of FSL report is marked, the Evidence of C.W.8 is given up which is evident in the order sheet dated 20/06/2026. To avoid the repetition of facts, evidence of C.W.4 is given up which is evident in the order sheet dated 20/06/2026.

14. Since the prosecution has not been able to prove the panchanama beyond all the reasonable doubt as both the panchas who were the signatories to the spot panchanama were turned hostile to the prosecution case and since there are no independent witnesses. Further, it is pertinent to note that except panchas all are police personnel and they are interested witnesses. Such being the case and taking into consideration of all the above-mentioned circumstances, I am of the opinion that the accused no.1 and 2 deserves an order of acquittal, as the prosecution due to the above mentioned lapses cannot establish the guilt of the accused beyond all reasonable doubt. Hence, point No.1 is answered in the negative.

15. **Point.No.2:** For the foregoing reasons, I proceed to pass the following:

ORDER

The accused no. 1 and 2 are acquitted
U/s.248 (1) of Cr.P.C. for the offences
punishable **U/Sec. 32 & 34 of Karnataka
Excise Act.**

The bail bond of the accused no. 1 and 2
and that of their surety stand cancelled.

M.O.1 is worthless and is ordered to be destroyed subject to expiry of appeal period.

(Directly I have typed on my laptop, corrected and then pronounced by me, in the open Court on this the 1st day of July, 2026)

Hanamantarao R.Kulkarni)
Senior Civil Judge and JMFC.,
Basavakalyan.

ANNEXURE

WITNESSES EXAMINED FOR THE PROSECUTION:

P.W.1: Sri Goutam

P.W.2: Sri. SAchin

P.W.3: Sri.Srishailgiri

P.W.4: Sri. Rajkumar

P.W.5: Sri. Datturao

FOR DEFENCE:

Nil

DOCUMENTS EXHIBITED FOR THE PROSECUTION:

Ex.P.1: Search warrant

Ex.P.1(a): Signatures of P.W.1

Ex.P.2: Seizure panchanama

Ex.P.2(a to c) : Signature of P.W.1, P.W.2 and P.W.4

Ex.P.3: Reminder letter

Ex.P.3(a and b): Signature of P.W.1 and P.W.5

Ex.P.4: FIR

Ex.P.4(a): Signature of P.W.5

Ex.P.5: PF

Ex.P.5(a): Signature of P.W.5

Ex.P.6: Notice

Ex.P.6(a): Signature of P.W.5

Ex.P.7: Notice

Ex.P.7(a): Signature of P.W.5

Ex.P.8: FSL Report

MATERIAL OBJECTS MARKED FOR PROSECUTION:

M.O.1: 25 Tetra packets

FOR DEFENCE:

Nil

**(Hanamantarao R.Kulkarni)
Senior Civil Judge and JMFC.,
Basavakalyan.**