

KABG510009592012



Presented on : 24-05-2012
Registered on : 24-05-2012
Decided on : 10-06-2026
Duration : 14 years, 0 months, 17 days

**IN THE COURT OF THE II ADDL. CIVIL JUDGE AND
JMFC, AT: GOKAK**

-:Present:-

Sri. Abhinay

B.C.A, LL.B, LL.M.

II Addl. Civil Judge & JMFC, Gokak.

C.C. No.864/2012

Dated this the 10th day of June 2026

<u>COMPLAINANT:-</u>	State through Gokak Rural PS
	<i>(Asst. Public Prosecutor)</i>
	<i>// Versus //</i>
<u>ACCUSED:</u>	1 Yamanappa Pundalik Malladi R/o. Mamadapura village, Tal: Gokak, Dist: Belagavi.
	2 Basappa Bhimappa Patath (Abated)
	(R/by Sri. L.B.P. Adv)

Date of Offence	01.02.2012
Date of FIR	01.02.2012
Date of Chargesheet	24.05.2012
Date of Framing of Charges	24.11.2017
Date of Commencement of evidence	19.07.2022
Date on which judgment is reserved	10.06.2026

Date of the Judgment	10.06.2026
Date of the Sentencing Order, if any	Accused No.1 is acquitted

: J U D G E M E N T :

The accused No.1 is facing trial for the offences punishable U/Sec.32 and 34 of Karnataka Excise Act for the charge sheet submitted by the Gokak Rural Police Station Gokak.

2) The brief facts of the prosecution case are as follows :

It is the case of the prosecution that on 01.02.2012 at about 7.35 p.m., within the limits of Gokak Rural Police Station, near the Post Office of Mamadapur Village, accused No.1 was found in possession of 120 quarter bottles of OT Whiskey, each containing 180 ml, and 200 bottles of Our Choice Whiskey, each containing 180 ml. Accused No.2 was found in possession of 51 quarter bottles of Hayward's Whiskey, each containing 180 ml, without possessing a valid licence. The accused had stored the liquor in boxes with an intention to sell it to the public

and thereby committed offences punishable under Sections 32 and 34 of the Karnataka Excise Act.

3. After filing charge sheet, cognizance is taken for the offences punishable U/Sec.32 and 34 of K.E. Act against the accused No.1. The presence of accused No.1 is secured by issuing process against him as he is on bail. Copy of the prosecution papers are furnished to the accused No.1 as per provisions of Section 207 of Cr.P.C. Heard, before charge. Charge is framed and read over to the accused No.1. The accused No.1 has denied the charge and claim to be tried. Hence, the matter has been posted for recording of evidence.

4. To prove the charges leveled against the accused No.1, the prosecution has examined 03 witnesses as PW-1 to PW-3 and got marked 04 documents as per Ex.P.1 to Ex.P.4 and three material object got marked as M.O.1 to 3.

5. After completion of the prosecution side evidence, statement of the accused No.1 is recorded as contemplated U/Sec.313 of Cr.P.C and incriminating materials appeared in the evidence has been read over and explained to the accused. Accused No.1 has denied all the incriminating circumstances that appeared against him and not chosen to adduce any defense evidence.

6. Upon hearing arguments advanced from both side and on perusal of materials placed on record, following points arise for consideration:

POINTS

1. Whether the prosecution proves beyond all reasonable doubt that, 01.02.2012 at about 7.35 p.m., within the limits of Gokak Rural Police Station, near the Post Office of Mamadapur Village, accused No.1 was found in illegal possession of 120 quarter bottles of OT Whiskey, each containing 180 ml, and 200 bottles of Our Choice Whiskey, each containing 180 ml and thereby committed the offences punishable U/Sec.32 of K.E. Act?

2. Whether the prosecution proves beyond reasonable doubt that on the above said date, time and place, the accused No.1 was found in possession of 120 quarter bottles of OT Whiskey, each containing 180 ml, and 200 bottles of Our Choice Whiskey, each containing 180 ml, without possessing a valid licence and permission from the government, with an intention to sell it to the public and thereby committed the offences punishable U/Sec.34 of K.E. Act?

3. What order?

7) My finding to the above point is as under:-

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

:: REASONS ::

8. POINT NO.1 and 2: These points are inter connected to each other, therefore, these points are taken up together for common discussion.

9. CW2 was examined as PW1. He is a panch witness to the seizure panchanama. However, he did not support the case of the prosecution. He identified the seizure panchanama marked as Ex.P1 and his signatures marked as Ex.P1(a) and Ex.P1(b). He stated that the police did not call him at the time of conducting the panchanama and that he had no knowledge of the facts of the case. He further stated that he did not know the accused and CW3. During his cross-examination by the learned APP, he denied that the panchanama was conducted in his presence on 01.02.2012 and also denied the seizure of liquor bottles in his presence.

10. CW1, the complainant, was examined as PW2. He stated that from 19.11.2011 to 06.04.2013 he was working as PSI of Gokak Rural Police Station. On 01.02.2012 at about 6.30 p.m., after completing the investigation of a missing case, while returning near Benachinamaradi Village, he received credible information that one Yamanappa Malladi was illegally selling liquor near the

Post Office of Mamadapur Village. Immediately, he instructed CW5 to secure two respectable persons to act as panch witnesses. Thereafter, two persons were brought and, after being informed about the purpose of the raid, they agreed to act as panch witness.

11. Thereafter, the complainant, his staff and the panch witnesses proceeded towards Mamadapur Village in a Government jeep. On reaching the village, they parked the vehicle at some distance from the spot and kept surveillance. They noticed two persons sitting beside an electric pole with boxes and selling liquor bottles to the public. After confirming the illegal activity, they conducted a raid and apprehended both accused.

12. On enquiry, the apprehended person disclosed his name as Yamanappa Malladi, resident of Mamadapur. On searching the box in his possession, they found 120 pouches of OT Whiskey containing 180 ml each and 200 bottles of Our Choice Whiskey containing 180 ml each. A

cash amount of ₹6,000/- and two glasses were also seized from his possession.

13. The other apprehended accused disclosed his name as Basappa Patat, resident of Mamadapur. The police searched the box in possession Basappa and found 51 pouches of Hayward's Whiskey containing 180 ml each. A cash amount of ₹250 was also found. Both accused failed to produce any valid licence for possession or sale of the liquor.

14. A seizure panchanama was drawn at the spot. One sample pouch of OT Whiskey, one bottle of Our Choice Whiskey and one pouch of Hayward's Whiskey, each containing 180 ml, were separated for chemical examination. The samples were sealed in the presence of panch witnesses and their signatures were obtained on the sealed samples. Thereafter, the complainant returned to the police station and lodged the complaint, which is marked as Ex.P2. His signature is marked as Ex.P2(a). He

identified his signatures on Ex.P1, marked as Ex.P1(c) and Ex.P1(d). The sample liquor bottles were marked as MO Nos.1 to 3. After completion of his examination-in-chief, PW2 did not appear for cross-examination despite sufficient opportunities. Consequently, he was dropped from further proceedings as recorded in the order sheet dated 18.09.2025.

15. CW5 was examined as PW3. He deposed that he worked as a Head Constable at Gokak Rural Police Station from 2010 to 2018. On 01.02.2012, while he, CW1, CW6 and CW7 were on patrol duty, they received information that Yamanappa Malladi was illegally selling liquor near the Post Office of Mamadapur Village. The complainant directed them to secure two panch witnesses. Accordingly, two persons were secured and all of them proceeded to Mamadapur Village in a Government jeep. They reached the village at about 7.15 p.m., parked the vehicle at a distance and kept surveillance over the spot.

16. Thereafter, the complainant and his staff conducted a raid and apprehended the accused. They seized 120 pouches of OT Whiskey and 200 bottles of Our Choice Whiskey, each containing 180 ml, from the possession of Accused No.1, along with ₹6,000/- and two glasses. They also seized 51 pouches of Hayward's Whiskey from the possession of Accused No.2 and recovered ₹250 from him. Both accused failed to produce any licence for possession or sale of the liquor. Sample bottles and pouches were separated for chemical examination and sealed in the presence of the panch witnesses. The complainant thereafter lodged the complaint. PW3 identified Accused No.1 before the Court and stated that Accused No.2 had died. He also identified MO Nos.1 to 3. Nothing worthwhile is elicited in his cross-examination by the learned APP.

17. It is the primary burden of the prosecution to prove that on that relevant point of time, the accused No.1 was selling illicit liquor pouches and bottles without having license. In the present case, the prosecution examined one

panchanama witness, but the witness has not supported the prosecution case. He has deposed that, the police obtained his respective signature on panchanama and nothing was recovered in his presence. The learned APP with the leave of this court cross-examined this witness, but nothing has been elicited from his mouth to establish that what he has stated in his chief examination is untrue. The prosecution has not offered any plausible explanation to discard the evidence of this witness. Since, this witness firmly deposed that he has not at all visited the place of occurrence, it cast a cloud of suspicion on prosecution case. Prosecution has not satisfactorily proved the possession of through independent witnesses.

18. The prosecution has failed to prove the possession of illicit liquor pouches and bottles from the accused No.1 for the purpose of sale. Out of seized 120 pouches of OT Whiskey, each containing 180 ml, 51 pouches of Hywards Whiskey, each containing of 180 ml, 200 bottles of Ours Choice Whiskey, each containing 180 ml, only three bottles

were separated and sent for chemical examination. Therefore, without the corroborative evidence of complainant, independent panchas witnesses, evidence of Police official is not safe to rely and convict the accused No.1.

19. In the present case, the prosecution examined one panchanama witness he has not supported the case of prosecution, PW-2 has deposed that, out of the seized liquor bottles only three bottles of whiskey sent for FSL.

20. The prosecution has not proved that all the seized bottles contained liquor which exceeds the permissible limit by sending it to the chemical examination. It creates doubt that PW-2 has sized bottles containing liquor. The prosecution has failed to prove the possession of the liquor bottles as stated above from the accused for the purpose of sale.

21. On Scrupulous reading of the entire evidence adduced by prosecution, this court is of the opinion that the prosecution has utterly failed to prove the guilt of the accused No.1 beyond all reasonable doubt and always benefit of doubt is to be given to the accused No.1, accordingly, it has been given. Hence, accused No.1 deserves to be acquitted. Hence, I answer point No.1 and 2 in the “**Negative**”.

22. Point No.3: In view of my above discussion and the reason stated therein on point No.1 and 2, I proceed to pass the following:

ORDER

In exercise of powers conferred U/Sec.248(1) of Cr.P.C., the accused No.1 is hereby acquitted of the offences punishable U/Sec. 32 and 34 of Karnataka Excise Act.

The accused No.1 is set liberty. The bail bonds and surety bonds of the accused No.1 shall be in force for 6 months in view of the amended provision U/Sec.437(A) of Cr.P.C.

**MO-1 to MO-3 are hereby ordered to
be destroyed as worthless after the appeal
period is over.**

*(Dictated to the Stenographer directly on the Computer, computerised by him, corrected, and pronounced by me
in the open Court on this the 10th day of June 2026)*

(ABHINAY)

**II Addl. Civil Judge & JMFC,
Gokak.**

: ANNEXURE :

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
PW-1	Shivagouda Sannatammappa Badavagola	Raid panchanama witness
PW-2	L.R. Masaguppi	Complaint
PW-3	S.B.Holeyache	Raid witness

B. Defence Witnesses, if any:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
DW	NIL	

C. Court witness, if any:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
CW		NIL

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW-1	Raid panchanama
2	Exhibit P-1(a)/PW-1	Signature of PW-1
3	Exhibit P-1(b)/PW-1	Signature of PW-1
4	Exhibit P-1(c)/PW-2	Signature of PW-2
5	Exhibit P-1(d)/PW-2	Signature of PW-2
6	Exhibit P-2/PW-2	Complaint
7	Exhibit P-2(a)/PW-2	Signature of PW-2
8	Exhibit P-3	FSL report (Marked with consent)
9	Exhibit P-4/PW-4	FIR (Marked with consent)

B. Defence:

Sr. No.	Exhibit Number	Description
1	Exhibit D-1/DW-1	NIL

C. Court Exhibits

Sr. No.	Exhibit Number	Description
1	Exhibit C-1/CW-1	NIL

D. Material Objects:

Sr. No.	Material Object Number	Description
1	MO-1	Plastic bottle of 180 ml of Ours Choice Whiskey.
2	MO-2	Tetra pouch of 180 ml of Hywards Whiskey.
3	MO-3	Tetra packet of 180 ml of OT Whiskey.

(ABHINAY)**II Addl. Civil Judge & JMFC,
Gokak.**