



Presented on : 31-05-2025
Registered on : 31-05-2025
Decided on : 23-06-2026
Duration : 01 Year & 23 Days

**IN THE COURT OF PRINCIPAL DISTRICT, SESSIONS AND
SPECIAL JUDGE, BALLARI.**

-:PRESENT:-

**SRI SIDDALINGA PRABHU, B.Sc., LL.B.,
PRINCIPAL DISTRICT, SESSIONS AND
SPECIAL JUDGE, BALLARI.**

DATED THIS THE 23th DAY OF JUNE, 2026

SPECIAL CASE NO. 680/2025

COMPLAINANT : State of Karnataka by
Excise Sub-Inspector,
Siruguppa Range,
Ballari Sub-Division,
Siruguppa.

**(Represented by:
Public Prosecutor, Ballari)**

../Vs/..

ACCUSED : **Kucchela Suresh**, S/o Durugappa,
Age: not mentioned,
R/o House No.02, Ward No.2,
Near Durugamma Temple,
Kuruvalli Village,
Siruguppa Taluk, Ballari District.

**[represented by:
Sri K. Basavaraj, Advocate)**

TABLE OF EVENTS

1. Date of commission of offence	: 30/11/2024
2. Date of Report of offence	: 30/11/202
3. Name of the complainant	: Smt. Sarashwathi, Excise Inspector
4. Offences complained of	: Section 20(b)(ii)(B) and 8(c) of NDPS Act
5. Charge framed	: Section 20(a), 20(b)(ii) (B), 25, 8(b) and 8(c) of NDPS Act
6. Date of commencement of recording evidence.	: 20/02/2026
7. Date of closing evidence	: 12/03/2026
8. Offences Alleged	: Section 20(a), 20(b)(ii)(B), 25, 8(b) and 8(c) of NDPS Act
9. Opinion of the Judge	: Accused found not guilty of the offences punishable under Sections 20(a), 20(ii)(B), 25, (b) & 8(c) of NDPS Act,1985.

J U D G M E N T

The accused abovenamed has been charge- sheeted by the Excise Inspect of Siruguppa Range for the offences punishable under Sections 2(a), 20(b)(ii)(B), 25, 8(b) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The theory of prosecution is as follows:-

Basing on the credible information as received by the Excise Inspector, a raid was conducted on 30/11/2024 at about 10.40 AM and the said raid in-turn revealed that this accused Kucchela Suresh son of Durugappa, resident of Kuruvalli Village being the owner and in possession of Cotton field measuring 2.50 Acres bearing Sy.No.278/A1 of Kuruvalli Village had cultivated the Ganja without any authority and the said alleged cultivation yielded a total Ganja of 12 KG 600 Grams at the time of alleged raid. Therefore, the charge-sheet by invoking the above said penal provisions.

3. That after compliance of the provision of Section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023, this Court had framed the charge on 15/12/2025. That the accused after hearing the contents of charge and after understanding the same, had denied the allegations and had claimed to be tried by this Court. As such, the matter has reached the trial.

4. In the course of trial, the prosecution has examined as many as 7 witnesses i.e., P.W.1 to P.W.7. All of the said witnesses are the official witnesses. The documents at Ex.P.1 to Ex.P19 and the material objects vide M.O.1 to 3 were adduced and got marked.

5. The accused was examined under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Section 313 of the Code of Criminal Procedure) on 24/01/2026. That the accused had denied the say of the above said prosecution witnesses. He further submitted that he has

no defence evidence to be let in and that he has nothing to say on his behalf.

6. In the course of arguments, the learned Public Prosecutor attached to this Court had mentioned that the materials placed before this Court established the fact of cultivation of Ganja by the accused and the raid was conducted by obtaining the permission as per document at Ex.P.7. That the mahazar proceedings were conducted as per Ex.P.3 in the presence of official Panch witnesses. That after recovery, the Ganja plants were subjected for chemical analysis. That the FSL report had confirmed that the recovered plant is nothing but the Ganja plant. As such, the relevant ingredients of offence alleged being proved and established, the accused deserves conviction.

7. The learned defence Counsel while inviting the attention of this Court to the cross-examination versions of P.W.4 and P.W.7 mentions that the oral evidence of the

official witnesses being *per se* contrary to the materials placed before this Court, had create a reasonable doubt which in-turn together establish that the accused be acquitted..

8. Under the circumstances mentioned supra, the following points do arise for consideration:-

1) Has the prosecution beyond all reasonable doubt prove the fact that the accused hereinabove has intentionally and deliberately cultivated Ganja plants in his land measuring 2.50 Acres bearing Sy.No.278/A1 of Kuruvalli Village and thereby the accused has committed the offences punishable under Sections 20(a), 20(b)(ii)(B), 25, 8(b) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985?

2) What Order?

9. Having perused the aforementioned oral as well as the documentary evidence, after having gone through the relevant provisions of substantive and procedural law as contemplated under the Narcotic Drugs and Psychotropic Substances Act, 1985, this Court assigns the following:-

REASONS

9.1. Smt. Saraswathi wife of Shivanna P.W.7, the then Excise Inspector, office of joint Commissioner of Excise at Hosapete, says on oath that on 30/11/2024, the Superintendent (P.W.3) of her then office, the Excise Sub-Inspector and other personnel of Excise Department and herself were on patrol duty. When they reached Kuruvalli, she received the credible information about cultivation of Ganja. She informed the same to her superior officer i.e., P.W.3. Thereafter, the patrol team had visited Kududharahal Village Panchayath and by issuing notice as per Ex.P.1, P.W.7 has requested Manjunatha, the Revenue Inspector and by issuing the

notice at Ex.P.5, had summoned T. Sanna Husenappa P.W.2 with a request to assist P.W.7 as official Panchas in the proposed raid on 30/11/2024. She further deposed that she had submitted a requisition as per Ex.P.6 to P.W.3 requesting P.W.3 to participate in the proposed raid as Gazetted Officer. That the permission was accorded by P.W.3 in terms of Ex.P.7 to proceed with the proposed raid. That accordingly, a raid was conducted and during the said raid, it was found that unauthorized and illegal cultivation of ganja was made in the cotton field. That P.W.7 and her team had recovered totally 12 KG 600 Grams of Ganja. It is her further say that the Revenue Inspector P.W.1 by using Dishank App had confirmed that the said land, whereat the Ganja was cultivated, bears Sy.No. 278/A1 and the same has been owned and possessed by Kucchela Suresh, the accused hereinabove. That she had informed her superiors in respect of raid. Thereafter, on 04/12/2024 by submitting application as per Ex.P.16, she prayed the

learned Judicial Magistrate First Class of Hosapete to conduct Inventory in respect of the seized Ganja plants and that the Inventory was done as per Ex.P.17. That the samples were segregated as per Ex.p.18 at the time of Inventory. She had identified the segregated samples Ganja vide M.Os. 1 to 3 during her chief examination.

9.2. That the witness P.W.1 Sri B.T.Manjunatha son of P. Thippeswamy, the Revenue Inspector attached to Siruguppa and the witness P.W.2 Sri Sanna Husenappa son of Husenappa, the Village Assistant, in their respective chief-examination had deposed that they were issued with the prior notices by P.W.7 with a request to assist the patrol team in the proposed raid. That during this raid, no one was present at the place of raid. That the raid had revealed the fact of cultivation of Ganja in the cotton field. That the mahazar was conducted in their presence so as to recover cultivated Ganja and in that behalf, they signed the mahazar Ex.P.3. That the

recovered Ganja was weighed, properly covered and packed. P.W.1 has further deposed that it was he, who, by using Dishank App, had confirmed the fact that the land at which the Ganja was cultivated bears Sy.No.278/A1 and is owned and possessed by Kucchela Suresh. He has identified the RTC document in this behalf, besides identifying his signature in recovery panchanama at Ex.P.3. That even P.W.2 repeats the above said version of P.W.1 vis-a-vis the recovery of Ganja at the land possessed and owned by the accused.

9.3. P.W.3 Sri V.S. Pujar in his oral evidence dated 20/02/2026, on oath mentions inter-alia that during the year 2019 and 2023, he was working as Excise Superintendent attached to Joint Commissioner of Excise. That the place of Kuruvalli and its surrounding villages did fall in his then territorial jurisdiction. He deposed that he had received the requisition as per Ex.P.6 from the witness P.W.7 and he accorded the

permission in terms of Ex.P.7. That he too had participated in the raid as narrated by P.W.7 and also in the recovery panchanama as per Ex.P.3. He further says that during the raid, P.W.7 had recovered Ganja pants, which were weighing 12 KG 600 Grams. He says that P.W.1 had confirmed the nexus of land, whereat Ganja was cultivated, and the accused.

9.4. P.W.4 Smt. Sharanamma Patil, the then Excise Inspector of Joint Commissioner of Excise, Hosapete repeats the version of P.W.7 and P.W.3 in her chief-examination version dated 21/02/2026.

9.5. P.W.5 Sri Rudra Gouda deposed that during the year 2024-25, he was working as Excise Sub-Inspector of Siruguppa Range. That he had received the FIS from P.W.7 along with recovered Ganja. He says that he had subjected the recovered Ganja for chemical analysis and

he had requested the Tahasildar of Siruguppa to provide the RTC document.

9.6. The another Excise Inspector by name Sri Vijaya Kumar Reddy P.W.6 deposed in his chief-examination that he has been working as Excise Inspector of Ballari since 16/01/2025. That during the relevant time, he was in-charge Excise Sub-Inspector of Siruguppa. He says that he had received the case file from P.W.5 and proceeded with the further investigation. That he had requested for RTC document. That he had received the FSL report as per Ex.P.10. That on 01/04/2025, he arrested the accused person and produced him before the Magistrate. That as the materials collected by him prima-facie establish the offence alleged, he was constrained to file the charge-sheet.

9.7. It was crystal clear from the oral evidence of P.W.3 and P.W.7 that P.W.3 being the immediate senior officer to P.W.7 was also with the patrol team on

30/11/2024. Their evidence further reveal that P.W.7 being the then Excise Inspector was directed by the Joint Commissioner of Excise to do patrolling. That P.W.7, P.W.3 and their then personnel had reached Kuruvalli village on 30/11/2024, while discharging their patrol duty. That it was at Kuruvalli village, P.W.7 had received the credible information in respect of the alleged cultivation of Ganja in a cotton field.

9.8. P.W.7 further says that due to paucity of time, P.W.7 was constrained to make a requisition as per Ex.P.6 to P.W.3, requesting P.W.3 her immediate senior officer to participate as Gazetted Officer in the proposed raid. Their oral evidence further says that P.W.3 was quick enough to grant permission and consent as per Ex.P.7, while responding to Ex.P.6. A careful perusal of the documents Ex.P.6 and Ex.P.7, it is clear that Ex.P.6 was prepared by P.W.7 at the place of Kuruvalli itself. That at the very same date and time, P.W.3 had given

consent and further permitted the P.W.7 to proceed with the raid.

9.9. At this juncture, it is relevant to mention herein that P.W.7 having received the credible information vis-a-vis the illegal and unauthorized cultivation of Ganja in the cotton field, had not taken down the same in writing in terms of Section 42 of the Narcotic Drugs and Psychotropic Substances Act, 1985. It is needless to mention herein that Section 42 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 calls upon P.w.7, who admittedly received the credible information to reduce the information in writing. But, she has not done so and therefore, she has, in the opinion of this Court not followed the procedure to be conducted. Nor is it the case of P.W.3 the then Excise Superintendent of Ballari that he had reduced the information in writing. The said omission on the part of P.W.3 and of P.W.7 in this behalf cannot be ignored.

9.10. The cross-examination version of P.Ws. 1 to 4 and P.W.7 reveals that the accused person was not at the spot during the time of alleged raid. That the cultivators or the persons in possession of neighbouring lands were also not present at the time of alleged raid on the land measuring 2.50 Acres in Sy.No.278/A1 of Kuruvalli Village.

9.11. The evidence of P.Ws.1 to 4 and that of P.W.7 reveals that no material has been adduced by these witnesses to prove that the accused and the accused alone was cultivating the cotton field referred to in the contents of recovery panchanama at Ex.P.3. That no material evidence has been let in by the said witnesses to prove that the accused was regularly visiting the said land. It is not the case of P.Ws.1 to 4 and P.W.7 that the accused had intentionally grown the alleged three Ganja plants at his cotton field and that the accused had the knowledge of the said Ganja plants.

9.12. However, the evidence of P.Ws.1 to 4 and that of P.W.7 and the contents of mahazar document at Ex.P.3 reveal that out of the entire extent of 2.50 Acres of land referred to in Ex.P.3, the said witnesses were able to notice three Ganja plants amidst the cotton crops. At the cost of repetition, it is hereby mentioned that their evidence further reveals that the accused was not present at the time of seizure. That the prosecution has not examined the neighbouring cultivators. Nor is it the case of P.Ws. 5 to 7 that they had examined any neighbouring cultivators in the course of their investigation. The witnesses P.Ws. 5 and 6 being the partial Investigating Officers and P.W.7 having actively participated in the alleged raid and also in the investigation, had failed to collect the material evidence to show that the accused and the accused alone was sowing, watering and nurturing of the seized three ganja plants. On the other hand, the evidence of P.W.4 and that of P.W.7 indicate that the land whereat the ganja plants were seized was

an open field and the same was not covered with any fence.

9.13. The circumstances mentioned in the preceding paragraphs, in the opinion of this Court, collectively create a reasonable doubt with regard to conscious cultivation of Ganja by the accused and the accused alone.

9.14. It is not the case of P.Ws. 5 to 7 that this accused had cultivated the Ganja voluntarily in substantial quantum.

9.15. It is needless to mention herein that in order to prove the guilt of present accused, the prosecution or the official witnesses P.Ws. 5 to 7 must adduce cogent evidence to prove that the present accused had cultivated the Ganja personally.

9.16. P.W.7 who conducted the alleged raid, in her chief-examination deposed inter-alia that she had informed the fact of raid to her superior officer and she did so as per Ex.P.6. She further says that she had taken permission to keep the seized Ganja plants in her possession, but she had adduced no material document to prove that she was permitted to keep the seized Ganja plants in her possession after the seizure proceedings.

9.17. It is also the case of P.W.7 that she had requested the then learned Judicial Magistrate First Class of Hosapete to conduct the Inventory proceedings and that she had requested so on 04/12/2024 after the lapse of 3 days from the date of alleged raid. No explanation is forthcoming by P.W.7 as to what prompted her to approach the then Judicial Magistrate First Class of Hosapete on 04/12/2024, after lapse of three days from the date of alleged seizure.

9.18. Undisputedly and as admitted by the prosecution witnesses in their respective cross-examination, the document at Ex.P.3 is the spot mahazar, at its threshold line bears the date as “11th November 2024” and the said date is much earlier to the dates of Ex.P.6 and Ex.P.7, which are nothing but the letter of requisition and letter of consent/accord/leave/permission said to have been given by P.W.3. No explanation is forthcoming in this behalf by P.Ws.3, 4 and P.W.7 and this omission on their part cannot also be ignored.

9.19. It is needless to mention herein that a conviction can legally be based on the testimony of the official witnesses, if their evidence is trustworthy and inspires the confidence.

9.20. However, in the case on hand, only three Ganja plants were found among the cotton crops grown in an area of 2.50 Acres. That the accused was absent at the

time of alleged seizure in terms of Ex.P.3. That no neighbouring cultivators were examined at that time of raid and subsequent to the mahazar proceedings in terms of Ex.P.3. No material evidence of sowing, watering and nurturing by the accused and the accused alone was adduced. All these circumstances lack satisfactory evidence connecting the accused with his intentional cultivation. Therefore, **as per the case law rendered by the Hon'ble Apex Court in the case of ALAKH RAM VS. STATE OF U.P (Criminal Appeal No. 36/2004 dated 01/08/2004) reported in (2004) 1 SCC 766** the mere seizure of three Ganja plants, in the opinion of this Court is not sufficient enough to bring home the guilt of the accused under Section 20(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985. In other words for the aforementioned reasons, the prosecution has failed to establish the *mens rea*, knowledge and active role of the accused in cultivating the alleged Ganja at his cotton field. Hence, there is no

confidence for this Court to convict the accused person.

So, while answering point No.1 in the **Negative**, this

Court passes the following:-

ORDER

That acting under Section 258(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Section 235(1) of the Code of Criminal Procedure) and that for the aforementioned reasons, the accused is hereby **acquitted** of the offences punishable under **Sections 20(a), 20(b)(ii)(B), 25, 8(b) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.**

Bail bond and other bond executed by the said accused person, except the bond executed under Section 437-A of the Code of Criminal Procedure, and on his behalf are hereby stand cancelled. The said accused person is set at liberty.

The **Material Objects Nos. 1 to 3**
Sample Ganja shall be disposed off in
accordance with law, after the appeal period is
over.

(Dictated to the Stenographer Grade-I, transcribed by
him and the transcription corrected, signed and then
pronounced in the open Court on this the 23rd day of June,
2026)

(**Siddalinga Prabhu**)
Principal District, Sessions and
Special Judge, Ballari.

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ANNEXURE

List of witnesses examined for the prosecution :

PW.1	B.T. Manjunatha
PW.2	T. Sanna Hussainappa
PW.3	B.H. Pujar
PW.4	Smt. Sharanamma Patil
PW.5	Rudra Gouda
PW.6	Vijaya Kumar Reddy
PW.7	Smt. Saraswathi

List of Documents Marked for the Prosecution :

Ex.P.1	: Notice
Ex.P.1(a)	: Signature of PW.1,
Ex.P.1(b)	: Signature of P.W.7
Ex.P.2	: RTC Extract
Ex.P.3	: Seizure Mahazar
Ex.P.3(a)	: Signature of P.W.1
Ex.P.3(b)	: Signature of P.W.2
Ex.P.3(c)	: Signature of P.W.3
Ex.P.3(d)	: Signature of P.W.4
Ex.P.3(e)	: Signature of P.W.7
Ex.P.4	: Photographs
Ex.P.5	: Notice
Ex.P.5(a)	: Signature of P.W.2
Ex.P.5(b)	: Signature of P.W.7
Ex.P.6	: Requisition letter seeking Permission to conduct raid
Ex.P.6(a)	: Signature of P.W.3
Ex.P.6(b)	: Signature of P.W.7
Ex.P.7	: Permission letter issued to conduct raid
Ex.P.7(a)	: Signature of P.W.3
Ex.P.8	: Letter written to examine the Ganja samples
Ex.P.8(a)	: Signature of P.W.5

- Ex.P.9 : Letter written to Tahasildar to furnish the details about owner and crop grown in the land
- Ex.P.9(a) : Signature of P.W.5
- Ex.P.10 : FSL Report
- Ex.P.10(a) : Signature of P.W.6
- Ex.P.11 : Letter written to Inspector (Legal Meteorology), Hosapete
- Ex.P.12 : Notice issued to panch witnesses
- Ex.P.12(a) : Signature of P.W.7
- Ex.P.13 : Complaint
- Ex.P.13(a) : Signature of P.W.7
- Ex.P.14 : First Information Report
- Ex.P.14(a) : Signature of P.W.7
- Ex.P.15 : Report about registration of case
- Ex.P.15(a) : Signature of P.W.7
- Ex.P.16 : Requisition letter to weigh the Ganja
- Ex.P.16(a) : Signature of P.W.7
- Ex.P.17 : Inventory mahazar
- Ex.P.18 : Annexure- 1
- Ex.P.19 : Sample seal letter

List of Material Objects marked for the Prosecution :

- M.O.No.1 : Sample Ganja extracted from Ganja Plant No.1

M.O.No.2 : Sample Ganja extracted from Ganja Plant
No.2

M.O.No.3 : Sample Ganja extracted from Ganja Plant
No.3

List of witnesses and documents for the Defence:

- Nil -

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**(Siddalinga Prabhu)
Principal District, Sessions and
Special Judge, Ballari.**

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