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IN THE COURT OF CIVIL JUDGE AND J.M.F.C.,
AT SANDUR

PRESENT

Sri. Md. Shaiz Chouthai, B.A.,LL.B. (Hons.), LL.M.,(M.L.)

Civil Judge & JMFC, Sandur

Dated this the 22nd day of June 2026

C.C. No.185/2022

COMPLAINANT :: The State by Thoranagallu
Police station.

[By : Assistant Public Prosecutor]

/ V E R S U S /

ACCUSED :: 1. Prashantha S/o Basappa,
Age: 27 years,
R/o Ubbalagandi village,
Sandur Taluk, Ballari District.

2. Nagaraja,
Age: 30 years, Occ; Business,

R/o Dodda Anthapura village,
Sandur Taluk, Ballari District.

[A-1 By : Sri. T.M.S., Advocate]
[A-2 By : Sri. R.D.R., Advocate]

Date of Offence	20.02.2022
Date of Report of Offence	20.02.2022
Arrest of the Accused	Obtained Bail
Name of Complainant	M.M. Dappin
Commencing of Evidence	14.10.2024
Closing of Evidence	12.05.2026
Committed Offences	U/s. 32 and 34 of Karnataka Excise Act
Opinion of the Judge	Accused No.1 and 2 are found not guilty

(MD. SHAIZ CHOUTHAI)
Civil Judge & JMFC, Sandur

: J U D G M E N T :

The PSI of Thoranagallu P.S., has filed chargesheet against the accused No.1 and 2 for the offences punishable U/s. 32 and 34 of Karnataka Excise Act.

2. **The brief facts of the prosecution case is as under:-**

On 20.02.2022 at 05:25 PM, in Ubbalagundi village, Sandur taluk, when the accused No.1 was raided by CW1 to CW6, CW9 and CW10, the accused No.1 was found illegally selling by possessing liquor in a public place. When he was raided he was found in possession of 12 Old Tavern Whiskey pouches of 180 ml quantity; 9 Bagpiper Whiskey pouches of 180 ml quantity; 19 8 PM Whiskey pouches of 180 ml quantity; 13 McDowells Whiskey pouches of 90 ml quantity; and 34 Original Choice Deluxe Whiskey pouches of 90 ml quantity, illegally with an intention to sell the same to the general public without possessing any license or permit. The accused No.1 was also found with Rs.650/- which is said to be the proceeds of the crime after selling liquor. The accused No.1 was apprehended from the spot. Therefore, all the materials were seized for chemical examination by conducting mahazar in the presence of panch witnesses CW2 and CW3 and other official witnesses CW4 to CW6, CW9 and

CW10. It is alleged that the accused No.2 who runs MSIL Wine shop in Dodda Anthapura village, sold the above materials to accused No.1 in violation of rules for selling particular quantity of liquor to one person at a time even after knowing the fact that accused No.1 do not possess any permit to sell such a quantity of liquor.

3. On these allegations, F.I.R. was registered in Cr.No.27/2022 for the offences punishable U/s.32 and 34 of Karnataka Excise Act, against accused No.1 and 2, on the basis of report given by CW1. After obtaining FSL report and completion of the investigation, chargesheet is laid by CW12 against the accused *herein* for the offences punishable U/s.32 and 34 of Karnataka Excise Act.

4. This Court after verifying chargesheet material, took cognizance for the offences punishable U/s.32 and 34 of Karnataka Excise Act against accused No.1 and 2. As per the directions of this court the office registered the criminal case

against the accused No.1 and 2. Thereafter, they appeared and obtained bail. The copy of chargesheet was supplied to them as contemplated U/s.207 of Cr.P.C. Thereafter, the charges were framed against them for the offences punishable U/s. 32 and 34 of Karnataka Excise Act, same was read over and explained to them. They denied the charges and claimed to be tried.

5. The prosecution in order to prove the guilt of the accused No.1 and 2, examined 5 witnesses from PW1 to PW5 and got marked Ex.P1 to Ex.P4 and MO1 to MO6, and closed its side. As there was incriminating evidence against the accused No.1 and 2, their statement U/s.313 of Cr.P.C. was recorded. They denied the incriminating evidence appearing against them and submits that they have no defense to make.

6. Heard both learned A.P.P., and learned Counsel for the accused No.1 and 2. Perused records.

7. The points that would arise for my consideration are:-

1. Whether the prosecution proves beyond all reasonable doubt that, on 20.02.2022 at 05:25 PM, on the public place in Ubbalagandi village, sandur taluk, the accused No.1 without possessing any license or permit was found in possession selling 12 Old Tavern Whiskey pouches of 180 ml quantity; 9 Bagpiper Whiskey pouches of 180 ml quantity; 19 8 PM Whiskey pouches of 180 ml quantity; 13 McDowells Whiskey pouches of 90 ml quantity; and 34 Original Choice Deluxe Whiskey pouches of 90 ml quantity, with an intention to sell the same to the general public, and accused No.2 in violation of the rules sold excess quantity of liquor to accused No.1 from his MSIL Wine shop at Dodda Anthapura village, and thereby committed an offences punishable U/s.32 and 34 of Karnataka Excise Act?

2. What order?

8. My findings to the above points are:-

Point No.1 : In the Negative

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

R E A S O N S

9. **POINT NO.1 :-** The prosecution in order to prove the guilt of the accused for the offences punishable U/s.32 and 34 of

Karnataka Excise Act, has examined totally 5 witnesses and got marked 4 documents and MO1 to MO6. The prosecution examined the raiding head CW1 as PW1. According to him, on 20.02.2022 at 04:30 PM, when he was in Police Station, he received credible information about the sale of liquor illegally in Ubbalagandi village. Thereafter, he secured CW2 and CW3 as panch witnesses and left the station with them and staff – CW4 to CW6, CW9 and CW10 in their official vehicle bearing Reg. No. KA-34/G-0604 and went to Ubbalagandi village. He deposed that they observed accused No.1 illegally selling liquor to the public. The accused No.1 was raided and inquired where he said to have confessed that he has no license or permit to sell the liquor. The accused No.1 said to have further confessed that he brought the liquor from MSIL wine shop belonging to accused No.2. According to him, the accused No.1 was in possession of 12 Old Tavern Whiskey pouches of 180 ml quantity; 9 Bagpiper Whiskey pouches of 180 ml quantity; 19 8 PM Whiskey pouches of 180 ml quantity; 13 McDowells Whiskey pouches of 90 ml quantity; and 34 Original Choice Deluxe Whiskey pouches of 90 ml quantity. When the accused No.1 was searched there were Rs.650/- which is said to be the proceeds of the crime after selling liquor. Since the accused No.1 had no license or permit either to possess or sell the excise materials, those materials along with an amount of Rs.650/- were seized by conducting mahazar in the presence of panch witnesses. All the materials were seized for chemical examination. Thereafter he returned to the Police Station and lodged complaint as per Ex.P1. The witness identified the excise materials seized at the time of raid which are marked as MO1 to MO5 and an amount of Rs. 650/- is marked as MO6.

10. The prosecution examined CW12 as PW5. According to him, on the basis of complaint lodged by PW1, he registered FIR- Ex.P2, obtained voluntary statement of accused, statement of CW2 to CW6. Thereafter, he sent the samples for chemical examination and received FSL report – Ex.P4, and laid charge

sheet against the accused No.1 and 2. The prosecution examined another raiding party CW3 as PW2. He deposed in similar lines with his raiding head PW1. The other witness CW8/PW3 stated about taking samples for chemical examination.

11. At this juncture it is important to know the defense of the accused No.1 and 2. The learned counsel for the accused No.1 and 2 denied the entire case of the prosecution by making denial suggestion that, no raid took place, the accused No.1 and 2 have nothing to do with the seized properties, and no materials are seized from the possession of the accused No.1 and 2. The accused No.2 denied of having sold liquor in excess of quantity to accused No.1 as alleged by the prosecution.

12. In the instant case, when the evidence of PW1 to PW3 and PW5 is analyzed, it appears that the accused No.2 is charge sheeted only on the strength of the alleged voluntary statement given by accused No.1. There are no materials to show that the accused No.2 either own an MSIL Wine shop or he works in the

said shop. The Investigating Officer – PW5 did not enquire the owner of MSIL Wine shop of Dodda Anthapura village to corroborate the alleged statement given by accused No.1. There are no receipts collected by PW5 from the MSIL Wine shop to show that accused No.1 has purchased excess quantity of excise materials. As such, there are no materials against accused No.2 to prove that he has sold excess quantity of excise materials in violation of the rules of MSIL.

13. In regard to accused No.1, neither PW1 nor PW2 have deposed where exactly the accused No.1 was selling the liquor. Merely stating that the accused No.1 was selling liquor at Ubbalagunda village does not suffice the proof that he was actually selling the liquor in the absence of a particular place. Such being the case, the evidence of PW1 and PW2 requires corroboration.

14. The prosecution examined panch witnesses CW9 as PW4. He has completely turned hostile to the case of prosecution

and thereby failed to prove the mahazar-Ex.P3 and seizure of materials. Except admitting his signature on Ex.P3, he has denied all the incriminating circumstances which would prove the mahazar and seizure of materials. He has denied that, he was secured by PW1 as Panch witness and assisted him in conducting mahazar as per Ex.P3. He has stated that, nothing has been seized in his presence as suggested by learned A.P.P. As such, the witnesses to the mahazar has completely turned hostile to the prosecution case and thereby there is no corroboration in the evidence of PW1 with PW4. According to PW1, he secured PW4 and CW10 as panchas and then went to raid the accused. According to him, when he kept vigil on the accused No.1, both PW4 and CW10 were present with him. Meaning thereby, according to him, they are eye-witnesses to the alleged raid and seizure of excise materials. But PW4 has completely denied of having witnessed accused selling the liquor, seizure of materials from his possession and conducting mahazar in his presence. The prosecution failed to secure CW10 in spite of issuing summons, warrant and witness proclamation. Therefore, the FSL report-ExP4 does not help the prosecution in proving the guilt of the accused No.1 and 2. The prosecution failed to prove that the accused No.1 had possessed illegal liquor and was selling the same illegally from these witnesses. There are further no materials against accused No.2 for having sold excess quantity of excise materials without verification in violation of the rules. Thus, the eye-witnesses and mahazar witness-PW4 having turned hostile, the prosecution failed to prove the guilt of the accused beyond all reasonable doubt. The benefit of doubt is liable to be extended to him.

15. It is pertinent to note that, PW1 alleged to have secured PW4 and CW10 even before the raid. Therefore, PW1 acted with pre-meditated and not in anticipation of apprehending the accused. The Hon'ble High Court of Karnataka in the case of ***Sanju v. The State of Karnataka through Special Excise and Lottery, Gulbarga,*** **[Cri.Rev.Pet.2510 of 2011]**, observed that,

the tenor of section 100 and 165 of the Cr.P.C., requires that the presence of a panch witness is expected to be spontaneous and such a witness must be from the inhabitants of the locality, in order to ensure the impartiality of the search and investigation that is carried on. He could have given importance to the tenor of Section 100 and 165 of the Cr.P.C. As such, the prosecution failed to prove the necessary ingredients to attract Section 32 and 34 of K.E.Act, beyond all reasonable doubt. Hence, I answer Point No.1 in the **Negative**.

16. **POINT NO.2:-** For the above reasons, I pass the following:-

ORDER

Acting U/s.248(1) of Cr.P.C., the accused No.1 and 2 are hereby acquitted for an offences punishable U/s. 32 and 34 of Karnataka Excise Act.

The bail bonds and surety bonds of accused No.1 and 2 stands cancelled.

MO1 to MO5 being worthless are ordered to be destroyed after appeal period.

MO6 is ordered to be confiscate to the state, after expiry of appeal period.

[Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the **22nd day of June 2026**]

(MD. SHAIZ CHOUTHAI)
CIVIL JUDGE AND JMFC, SANDUR.

A N N E X U R E

LIST OF WITNESSES EXAMINED FOR PROSECUTION :

PW.1	: M.M. Dappin S/o Mahadevappa Dappin
PW.2	: Parashunaik S/o Shekar Naik
PW.3	: Harish Kumar S/o Manjunatha. U
PW.4	: Akki Thippeswamy S/o Basavarajappa. K
PW.5	: S.S. Vaddar S/o Sathigeppa

LIST OF DOCUMENTS MARKED FOR PROSECUTION:

Ex.P1	: Complaint
Ex.P1(a)	: Signature of PW1
Ex.P1(b)	: Signature of PW5
Ex.P2	: FIR
Ex.P2(a)	: Signature of PW1
Ex.P2(b)	: Signature of PW5

Ex.P3	: Mahazar
Ex.P3(a)	: Signature of PW1
Ex.P3(b)	: Signature of PW2
Ex.P3(c)	: Signature of PW4
Ex.P4	: FSL report

LIST OF WITNESSES EXAMINED FOR ACCUSED :

– N I L --

LIST OF DOCUMENTS MARKED FOR ACCUSED :

– N I L --

LIST OF MATERIAL OBJECTS MARKED FOR PROSECUTION:

MO1	: 180 ML quantity of OT whiskey 12 pouches.
MO2	: 180 ML quantity of Bagpiper whiskey 9 pouches.
MO3	: 180 ML quantity of 8PM whiskey 19 pouches.
MO4	: 90 ML quantity of Mc Dowells Deluxe XXX RUM 13 pouches.
MO5	: 90 ML quantity of OC whiskey 34 pouches.
MO6	: Cash of Rs.650/-

(MD. SHAIZ CHOUTHAI)
CIVIL JUDGE AND JMFC, SANDUR.