

**FORM A**

|                                                                                                                           |                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>IN THE COURT OF PRINCIPAL JUNIOR CIVIL JUDGE-CUM- JUDL.<br/>MAGISTRATE OF FIRST CLASS, BHIMAVARAM</b>                  |                                                                                                                       |
| <b>Present : Sri Pavan Kumar Aka,</b><br>Principal Junior Civil Judge-cum-Judl. Magistrate of First Class,<br>Bhimavaram. |                                                                                                                       |
| This the 21 <sup>st</sup> day of June, 2023                                                                               |                                                                                                                       |
| <b><u>CC. No. 336/2022</u></b>                                                                                            |                                                                                                                       |
| ( in Cr. No. 68/2022 of Special Enforcement Bureau Station, Akividu)                                                      |                                                                                                                       |
| Complainant                                                                                                               | Enforcement Inspector, SEB Station,<br>Akividu.                                                                       |
| Represented by                                                                                                            | Asst. Public Prosecutor                                                                                               |
| Accused                                                                                                                   | <b>Vardhanapudi Karunakar Rao</b> , Aged<br>71 years, S/o.Mark, C/BC-C, R/o.<br>Kalla (V), Kalla (M). W. G. District. |
| Represented by                                                                                                            | Sri B. Andrews, Advocate                                                                                              |

**FORM B**

|                                      |            |
|--------------------------------------|------------|
| Date of offence                      | 10.08.2022 |
| Date of FIR                          | 10.08.2022 |
| Date of charge sheet                 | 10.08.2022 |
| Date of framing of charges           | 10.01.2023 |
| Date of commencement of evidence     | 03.02.2023 |
| Date of which judgment is reserved   | 15.06.2023 |
| Date of Judgment                     | 21.06.2023 |
| Date of the sentencing order, if any | 21.06.2023 |

**Accused details**

| Rank of the accused | Name of accused            | Date of arrest | Date of release on bail | Offences charged with   | Whether acquitted or convicted | Sentence imposed | Period of Detention undergone during trial for purpose of Section 428 Cr.PC |
|---------------------|----------------------------|----------------|-------------------------|-------------------------|--------------------------------|------------------|-----------------------------------------------------------------------------|
| Sole                | Vardhanapudi Karunakar Rao | 10.08.22       | 12.08.22                | 34-A of A.P. Excise Act | Acquitted                      | N.A.             | From 10.08.22 to 12.08.22                                                   |

**FORM C**

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

**A. Prosecution**

| RANK | NAME                                                    | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| PW1  | M. Rama Swamy, Enft. Sub-Inspector, D.T.F., Bhimavaram. | Police Witness                                                                                                     |
| PW2  | V. Karuna Priya, Sub-Inspector, SEB, Akividu.           | Police Witness                                                                                                     |
| PW3  | D. Rama Rao, P & E Inspector, SEB, Akividu.             | Police Witness                                                                                                     |

**B. Defence witnesses**, if any :

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|------|--------------------------------------------------------------------------------------------------------------------|
| Nil  |      |                                                                                                                    |

**C. Court Witnesses**, if any :

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|------|--------------------------------------------------------------------------------------------------------------------|
| NIL  |      |                                                                                                                    |

**List of MOs :**

M.O.1 : Sample bottle of Royal Simha Superior Whisky.

Sd/- Pavan Kumar Aka  
**PRINCIPAL JUNIOR CIVIL JUDGE-CUM-  
JUDICIAL MAGISTRATE OF FIRST CLASS,  
BHIMAVARAM**

**IN THE COURT OF THE PRINCIPAL JUNIOR CIVIL JUDGE-CUM-  
JUDICIAL FIRST CLASS MAGISTRATE :: BHIMAVARAM.**

**Present: Sri Pavan Kumar Aka,  
Principal Junior Civil Judge-cum-Judicial Magistrate of First Class,  
Bhimavaram.**

**Wednesday, this the 21<sup>st</sup> day of June, 2023**

**Calendar Case No.336 of 2022**

Between :

**State ::** Represented by the Enforcement  
Inspector, Special Enforcement Bureau  
Station, Akividu. ... Complainant

and

**Vardhanapudi Karunakar Rao**, Aged 71 years,  
S/o.Mark, C/BC-C, R/o. Kalla (V), Kalla (M). W.  
G. District. ... Accused

This case is coming on 15-06-2023 before me for final hearing in the presence of the learned Assistant Public Prosecutor and of Sri B. Andrews, learned Counsel for accused and having heard both sides and having stood over for consideration till this day, this Court delivered the following :

**J U D G M E N T**

The Enforcement Inspector of Special Enforcement Bureau, Akividu filed charge-sheet against the accused in Cr.No.68/2022 of their Police Station for the offence punishable U/Sec.34 (a) of A.P. Excise (Amendment) Act, 2020.

2. **The brief facts of the prosecution case...**

On 10.08.2022 at about 104.00 a.m., L.W.1 (PW.1)-M. Rama Swamy, Enforcement S.I., Divisional Task Force, Bhimavaram along with his staff while conducting raids for enforcement offences, reached near Kalla Village limits of Kalla Mandal, found one person in possession of a white bag containing liquor bottles without any bills or permit and then, L.W.1 (PW.1) examined the said bag and found 10 bottles of duty paid liquor i.e., Royal Simha Superior Whisky 180 ml each and then the said contraband is seized

and drawn one bottle from the said contraband for chemical analysis, drafted special report and handed over the accused along with case property to LW.3 (PW.2)-V. Karuna Priya, Sub-Inspector, SEB, Akividu. Thereupon, LW.3 (PW.2) registered a case in Cr.No.68/2022, U/Sec.34 (a) of A.P. Excise (Amendment) Act, investigated into, and sent the accused for judicial remand. Later, LW.3 (PW.2) sent the sample for chemical analysis and on receipt of chemical analysis report and on completion of investigation, charge sheet was laid by LW.4 (PW.3)/D. Rama Rao, Inspector, SEB, Akividu against the accused for the offence U/Sec.34 (a) of A.P. Excise (Amendment) Act, 2020.

3. Upon perusal of material placed by the Enforcement Inspector, Special Enforcement Bureau Station, Akividu, this Court took cognizance for the offence U/Sec.34 (a) of A.P. Excise (Amendment) Act, 2020 against the accused. On appearance of accused, copies were furnished as contemplated U/Sec.207 of Cr.P.C.

4. The accused was examined U/Sec.240 (2) of Cr.P.C. and the charge for the offence punishable U/Sec.34 (a) of A.P. Excise (Amendment) Act, 2020 was framed U/s.239 Cr.P.C., and was explained to the accused in his mother tongue i.e., Telugu, on that he pleaded not guilty and claimed to be tried.

5. To unfold the case of prosecution, the investigating officer listed L.Ws.1 to 4 of whom L.Ws.1, 3 and 4 / M. Rama Swamy, V. Karuna Priya and D. Rama Rao, the excise police officials are listed to speak as to the contents of special report, seizure of property conducting investigation and laying of charge sheet. Out of the four listed such witnesses, the prosecution examined P.Ws.1 to 3 only and given up the evidence of

LW.2/G.S.P. Sateesh, Constable, DTF, Bhimavaram who is corroborating witness and sub-ordinate staff to the PW.1.

6. After completion of prosecution evidence, the accused was examined U/Sec.313 of Cr.P.C., and he denied the incriminating material recorded against him and reported no defence evidence.

7. Heard the learned Assistant Public Prosecutor and the counsel for accused.

8. **Now, the point for determination is...**

*Whether the prosecution is able to establish the guilt of the accused for the offence **U/Sec.34 (a) of A.P. Excise (Amendment) Act, 2020** ?*

9. To determine the guilt of accused when the evidence of prosecution let in through from its' witnesses i.e., through P.Ws.1 to 3 coupled with the documentary evidences under Exs.P.1 to P.3 and M.O.1 were looked into :

10. It is the specific evidence of P.W.2 / M. Prasad, the then Enforcement Sub-Inspector, SEB Station, Akividu that on 10.08.2022, PW.1 handed over the accused along with Ex.P1-special report and case property and based on Ex.P1-special report, he registered the same as a case in Cr.No.68/2022 under Ex.P2/FIR for the offence U/s.34 (a) of A.P. Excise (Amendment) Act. It is the specific evidence of PW.3/D. Rama Rao, Enforcement Inspector, SEB, Akividu that on 10.08.2022 he took up investigation in this case and on the same day he made requisition for destruction of property and accordingly he obtained destruction proceedings and after completion of investigation, laid charge sheet in this case. Hence, their evidence can be useful only to the extent of registering the case,

sending sample to chemical analysis and laying of charge sheet, as they had not conducted any other investigation in this case. Thereby, there remained the sole testimony of P.W.1/M. Rama Swamy, who is the Excise Official, who conducted raid, identified the offence, arrested the accused, seized the contraband. He is the sole officer, who conducted the entire investigation in this case, leaving the role of registering the case and filing charge sheet against the accused.

11. It is the specific evidence of P.W.1 that on 10.08.2022 at 10.00 a.m, he along with his staff identified the accused and on his confession, seized the contraband under the cover of special report/Ex.P1, drawn sample/MO.1, and handed over the same to PW.2 for further investigation. It is his specific evidence that the place of occurrence is within the area of Kalla Village limits and comes in Kall Mandal, and there will be common public.

12. Only for the mere reason of the opinion given by Chemical Analyst under Ex.P.3 that the tested sample is unfit for human consumption, the prosecution cannot either connect the accused or pray the Court to convict the accused, unless it connects cogently by proving that the said sent sample was seized from the possession of accused. To prove it's case in these aspects, there remained the sole testimony of P.W.1. No doubt, P.W.1 is the Special Enforcement Official, who was conferred with the authorities of Police, who has to scrupulously follow the procedure laid down U/Sec.100 of Cr.P.C., while conducting search and seizure. No doubt, the material on record shows that except the excise officials, no other independent witness was either listed as witness or is examined before this court, in support of the case of prosecution. Even in such circumstances, there is every possibility for the said P.W.1 to secure the presence of independent witnesses or revenue officials, even while conducting the proceedings. In the absence of following of such procedure laid down, the

Court cannot come to a conclusion that the evidence of P.W.1 can be believed. The raid was at about 10-00 a.m., which is day time and more particularly it took place near CSI Church at Kalla (V). In such circumstances, non-securing of independent mediators was certainly a latch to the case of prosecution, and as such, the prosecution failed to connect the accused to it's case.

13. Basing on the above observation and discussions, as there are no independent witnesses and due to violation of procedure laid down U/Sec.100 of Cr.P.C. the prosecution is not able to connect the accused to the alleged seizure and thereby not succeeded in bringing home the guilt of accused for the alleged offence in any way, and as such, the accused is entitled for acquittal.

14. In the result, the accused is found not guilty of the offence punishable U/Sec.34 (a) of A.P. Excise (Amendment) Act, 2020 and accordingly, he is acquitted U/Sec.248 (1) of Cr.P.C. The bail bonds of accused shall stands in force for a period of Six (6) months U/Sec.437 (A) of Cr.P.C and that he shall appear before the Appellate Court in the event of his receiving summons within six months from today. M.O.1/sample bottle vide C.P.No.22/2023 is ordered to be destroyed after expiry of appeal time.

*Typed to dictation to the Stenographer directly on Computer, corrected and pronounced by me in open Court, this the **21<sup>st</sup> day of June, 2023.***

Sd/- Pavan Kumar Aka  
**PRINCIPAL JUNIOR CIVIL JUDGE-CUM-  
JUDICIAL MAGISTRATE OF FIRST CLASS,  
BHIMAVARAM**

**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED**

**FOR PROSECUTION :**

P.W.1 :: M. Rama Swamy, Enft. Sub-Inspector, DTF, Bhimavaram.  
P.W.2 :: V. Karuna Priya, P & E Sub-Inspector, SEB, Akividu.  
P.W.3 :: D. Rama Rao, P & E Inspector, SEB, Akividu.

**FOR DEFENCE :** None.

**DOCUMENTS MARKED**

**FOR PROSECUTION :**

Ex.P.1/10.08.2022 : Special report.

Ex.P.2/10.08.2022 : Original F.I.R. in Crime No.68/2022 of Special Enforcement Bureau Station, Akividu.

Ex.P.3/14.09.2022 : Chemical analysis report.

**FOR DEFENCE :** Nil.

**MATERIAL OBJECTS**

M.O.1 : Sample bottle of Royal Simha Superior Whisky.

Sd/- Pavan Kumar Aka  
**JFCM, BVRM**

**CALENDAR AND JUDGEMENT**

**Calendar Case No.336/2022** tried by the Principal Junior Civil Judge-cum-Judicial Magistrate of I Class, Bhimavaram, West Godavari District.

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|                       |   |                              |
|-----------------------|---|------------------------------|
| Date of offence       | : | 10-08-2022                   |
| Date of Report        | : | 10-08-2022                   |
| Taken on file         | : | 25-12-2022                   |
| Released on bail      | : | 12-08-2022                   |
| Commencement of Trial | : | 03-02-2023                   |
| Close of Trial        | : | 26-05-2023                   |
| Date of Judgment      | : | 21-06-2023                   |
| Explanation for delay | : | There is no avoidable delay. |

**Name of the Complainant :**

State :: Represented by the Inspector, Special Enforcement Bureau Station, Akividu.

**Name of the Accused:**

**Vardhanapudi Karunakar Rao**, Aged 71 years, S/o.Mark, C/BC-C, R/o. Kalla (V), Kalla (M). W. G. District.

**Offence** : U/Sec.34 (A) of A.P. Excise (Amendment) Act, 2020.

**Finding** : Found not guilty.

**Sentence of Order:**

In the result, the accused is found not guilty of the offence punishable U/Sec.34 (a) of A.P. Excise (Amendment) Act, 2020 and accordingly, he is acquitted U/Sec.248 (1) of Cr.P.C. The bail bonds of accused shall stand in force for a period of Six (6) months U/Sec.437 (A) of Cr.P.C and that he shall appear before the Appellate Court in the event of his receiving summons within six months from today. M.O.1/sample bottle vide C.P.No.22/2023 is ordered to be destroyed after expiry of appeal time.

Sd/- Pavan Kumar Aka  
**PRINCIPAL JUNIOR CIVIL JUDGE-CUM-  
JUDICIAL MAGISTRATE OF FIRST CLASS,  
BHIMAVARAM**

**Copy submitted to:**

The Hon'ble I Additional District Judge, West Godavari, Eluru (Through Compact Disk).