

**Calendar and Judgment**

District of Kurnool

Calendar of cases tried by

Principal Judicial Magistrate of First Class, Nandikotkur

C.C. No.905/2022**Dt. 08.05.2026****APKU0F0013602022**

Report or Complaint	Apprehension of Accused	Release on Bail	Commencement of trial	Closure of trial	Explanation of delay and remarks
27.06.2020	-	-	10.10.2024	27.02.2026	Prosecution did not produce witnesses

Complainant	State represented by Sub Inspector of Police, Nandikotkur U.P.S.
Accused	Vanamula Chinna Swamulu, 42 years, Son of V.Pedda Pullanna, R/o Beeravolu village, Pagidyala mandal.
Offence	34 (A) of A.P.E Act
Finding	Accused is found not guilty for the offence punishable under section 34 (A) of A.P.E Act
Sentence	Accused is acquitted under section 248 (1) of Cr.P.C.

**Principal Judicial Magistrate of First Class,
Nandikotkur.**

Copy submitted to: The Hon'ble Chief-Judicial Magistrate, Kurnool.

**IN THE COURT OF PRINCIPAL JUDICIAL MAGISTRATE OF FIRST CLASS::
NANDIKOTKUR**

Present: Smt V.Divya,
B.A, LL.B(Hons.), LL.M

Principal Judicial Magistrate of First Class

Friday, this the 8th day of May, 2026

C.C. No. 905/2022

Between:

State represented by
Sub Inspector of Police,
Nandikotkur U.P.S.

... Complainant

And

Vanamula Chinna Swamulu,
42 years, Son of V.Pedda Pullanna,
R/o Beeravolu village, Pagidyala mandal.

... Accused

This case is coming before me for adjudication in the presence of learned Assistant Public Prosecutor for prosecution and Sri J.Venkata Ramudu, Advocate for the accused. Upon hearing them, as the matter has stood over for consideration till this day, this Court made the following:

JUDGMENT

1. Sub Inspector of Police, Nandikotkur U.P.S. has laid a charge sheet against the accused for the offence punishable under section 34(a) of APE Act.

2. Brief facts of the prosecution case is that on 27.06.2020 at 6.00 PM, on credible information, police caught hold of accused in possession of 76 Mc.Dowels No.1 Whisky Luxury bottles each bottle containing 180 ml and when questioned, accused stated that he is about to sell the same for profit. To that effect, police prepared Police Proceedings and based on it, registered a case in Crime No.350/2020 for the offence punishable under section 34(a) of APE Act and seized 76 Mc.Dowels No.1 Whisky Luxury bottles each bottle containing 180 ml after collecting sample. Thereafter, sample sent for chemical analysis during the course of investigation and the Chemical Examiner opined that the sample of seized property is Indian Liquor. After completion of investigation, charge sheet

filed against accused for the offence punishable under section 34(a) of APE Act.

3. This case was taken on file for the offence punishable under section 34 (a) of A.P.E Act against the accused.

4. On appearance of the accused, copies of the documents were furnished to the accused as required under section 207 of Cr.P.C.

5. Accused was examined under section 239 of Cr.P.C. he denied the contents of the charge sheet and documents relied on by the prosecution. After hearing and on consideration, a charge for the offence punishable under section 34 (A) of A.P.E Act has been framed, read over and explained to the accused in Telugu for which he denied the charge, pleaded not guilty and claimed to be tried.

6. During the trial, on behalf of prosecution, P.W.1 was examined and Exs. P1 to 5 and M.O.1 marked.

7. After closure of prosecution evidence, accused was examined under section 313 Cr.P.C and incriminating material available against the accused was read over and explained in Telugu. Having understood, the accused pleaded not guilty. When accused was called to enter upon defence evidence, he did not choose to examine any defence witnesses and no documents were marked on behalf of the defence.

8. Heard arguments on both sides.

9. Now the point for determination is: -

Whether the prosecution proved the guilt of accused for the offence punishable under section 34 (A) of A.P.E Act beyond all reasonable doubts?

10. Learned Asst. Public Prosecutor submitted that-

a) Accused was found in possession of 76 Mc.Dowels No.1 Whisky Luxury bottles each bottle containing 180 ml in contravention of law and in

support of the same, Police Proceedings was prepared by the police.

- b) Oral and documentary evidence clearly established the case of prosecution.
- c) Evidence on record is cogent and clinching to prove the guilt of accused beyond all reasonable doubts. Hence, prays to punish the accused.

11. Per contra, learned counsel for defence submitted that-

- a) Police did not follow section 100 Cr.P.C while seizing the property.
- b) Confession made before Police Officer has no legal validity.
- c) Police registered false cases for statistical purposes and accused is falsely implicated.
- d) Prosecution failed to establish the guilt of accused beyond all reasonable doubts and so accused is entitled for benefit of doubt.

12. Considering the entire material available on record and on scrutinizing the oral and documentary evidence and arguments submitted by both the counsels, this Court is of the following view:

- A. Prosecution by examining PW.1 made endeavor to prove that on 27.06.2020, on credible information, police went to at Alluru road, near NS Function Hall, Nandikotkur town and there the accused was found in possession of 76 Mc.Dowels No.1 Whisky Luxury bottles each bottle containing 180 ml in contravention of section 34 (A) of A.P.E Act.
- B. To that effect, police prepared Police Proceedings and basing on it, registered a case and submitted original F.I.R to the Court and collected sample and seized remaining property and sent the sample for chemical analysis and received the chemical analysis report and later received Ex.P4 Attested copy of destruction proceedings dt.30.03.2023 and destroyed the property under Ex.P5 Attested copy of destruction Panchanama dt.24.05.2025.
- C. PW.1 in cross examination denied that accused was falsely implicated for

statistical purpose by creating the record in the police station on the instructions of higher officials.

D. Confession to or made before Police Officer:

The entire case of the prosecution is that the accused was found in possession of 76 Mc.Dowels No.1 Whisky Luxury bottles each bottle containing 180 ml and he confessed before Police about the alleged offence. In view of the bar under sections 25 and 26 of the Indian Evidence Act, said confession shall not be proved against the accused.

E. Procedure for arrest, search and seizure:

Section 59 of A.P.Excise Act, 1968 lays down the procedure for arrest, search etc, as follows:

“Any person arrested under this Act, shall be informed, as soon as may be, of the grounds for such arrest and save as otherwise expressly provided in this Act, the provisions of the Code of Criminal Procedure, 1973, relating to arrests, detention in custody, searches, summonses, warrants of arrests, search warrants, the production of persons arrested and the disposal of things seized, shall apply, as far as may be, to all actions taken in these respects under this Act.”

F. Section 100 Cr.P.C specifically states that,

“It is the duty of the investigating officer to secure any responsible local inhabitant to act as mediator for search and if at all any person refused to act as mediator, written requisition can be given to said person and if he refused even after that he can be punished in accordance with law.”

G. As per the evidence of prosecution, it is clear that the investigating agency failed to exercise the duty vested upon them to secure any local inhabitants or officials available nearby to act as mediators. It is also clear

from the evidence that no written requisition or summons were issued to local inhabitants to act as mediators which raises clear suspicion with regard to the case of prosecution.

H. Law is settled with regard to sole testimony of a police official. Hon'ble Apex Court has time and again reiterated the importance of considering the credence of the witness.

I. Hon'ble High Court of A.P in 'Yeduru Sreenivasulu Reddy Vs State of A.P which was reported in 2002(1) ALD(Crl.)347(A.P)' laid down :-

“When the search and seizure taken place in a busy locality and none have come forward to act as a punch witness, the police should have resort to section.100(4) of Cr.P.C and should pass a written order. Therefore, in the absence of any such written order, the evidence of police officials that no one came forward to act as mediators, cannot be believed and relied upon. Therefore, the entire search conducted by the prosecution is vitiated. Held, the search and seizure as well as conviction cannot be sustained.”

J. No doubt it is settled legal position that merely on the ground that no independent witnesses were present at the time of search, evidence of police officials need not be looked into with suspicion but it is equally important that evidence of police officials shall be scrutinized on par with other witnesses to inspire confidence.

K. Apparently, there are no efforts made by the investigating officers to secure any of the local inhabitants. The excuse given by the prosecution that the investigating authorities made efforts but could not secure any mediators has no basis as there is no evidence on record to establish that police served notices to the local inhabitants but they refused to attend as mediators.

L. In view of the settled legal position, I hold that the investigating agency has

not followed the mandatory procedure prescribed under section 100(4) Cr.P.C and the evidence given by the police did not inspire confidence. Failure of the prosecution to comply with Section 59 of A.P. Excise Act and Section 100(4) of Cr.P.C. adds strength to the argument on behalf of the accused and raises doubt as to the case of the prosecution.

M. Hence, I hold that the prosecution failed to establish the guilt of the accused beyond all reasonable doubts. Hence this is a fit case to grant benefit of doubt to the accused.

13. In the result, accused is found not guilty for the offence punishable under section 34 (A) of A.P.E Act and accordingly accused is acquitted under section 248 (1) of Cr.P.C. Bail bonds of the accused shall be in force for a further period of six months from the date of Judgment as per Section 437-A of Cr.P.C., and thereafter, shall stand cancelled. M.O.1 shall be destroyed after the lapse of appeal time.

Typed to dictation, corrected and pronounced by me in the open Court, this the 8th day of May, 2026.

**Principal Judicial Magistrate of First Class,
Nandikotkur**

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR PROSECUTION	FOR DEFENCE
P.W.1 : G.Chandra Babu	- NIL-

DOCUMENTS MARKED

FOR PROSECUTION	FOR DEFENCE
Ex.P-1:Police Proceedings Ex.P-2: First Information Report Ex.P-3:Chemical Analysis Report Ex.P-4: Attested copy of destruction proceedings dt.30.03.2023 Ex.P-5: Attested copy of destruction panchanama dated 24.05.2025	- NIL-

MATERIAL OBJECTS MARKED

M.O.1 : sample bottle

**Principal Judicial Magistrate of First Class,
Nandikotkur**