

KACD420015472023



Presented on : 14-09-2023
 Registered on : 14-09-2023
 Decided on : 02-07-2026
 Duration : 02Y 09M 18D

**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC,
 HOLALKERE**

PRESENT :
SHRI ARASHAD ANSARI,
B.Com, L.L.M.,
Pril. Civil Judge & JMFC,
Holalkere.

Dated this 2nd day of JULY- 2026

C.C. No.1027/2023

Complainant : The Excise Sub-Inspector,
 Holalkere. PS.

(By learned A.P.P.)

V/s

Accused : T.Kariyappa S/o Late Tippeswamy,
 Age: 37 years, Occ: Agriculturist,
 R/o Bommanakatte village,
 Tq: Holalkere, Dist: Chitradurga.

(By Shri.L.K.S., Advocate)

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Date of commission of offence	:	13-04-2023
Date of report of offence	:	13-04-2023

Date of arrest of accused	:	-
Date of release of accused	:	20-10-2023
Period of custody of accused	:	-
Offences complained of	:	Offences punishable Section 11, 12, 14, 15, 32(1) 38(A) and 43(A) of Karnataka Excise Act.
Date of commencement of evidence	:	15-07-2025
Date of closing of evidence	:	16-04-2026
Opinion of judge	:	Acquitted

-: J U D G M E N T :-

The Excise Sub-Inspector, Holalkere has filed this charge sheet against the accused for the offences punishable under Section 11, 12, 14, 15, 32(1), 38(A) and 43(A) of Karnataka Excise Act.

2. On 13.04.2023 at about 8.00 p.m., on receipt of credible information, the Excise officials conducted a raid and intercepted a Honda Activa bearing registration No. ME4JF50AFJT219698 (Engine No.JF50E-T-7219757). During the search, they allegedly found about 90 ml of 288 illicit liquor in total of 25.920 ltrs and seized the same under mahazar. Thereafter, a case was registered for the offences punishable under Sections 11, 12, 14,

15, 32(1), 38A and 43A of the Karnataka Excise Act, 1965 and after completion of investigation charge sheet came to be filed.

3. The presence of the accused was secured and he was enlarged on bail. Copies of charge sheet papers were furnished to the accused as contemplated under Section 207 of Cr.P.C. After hearing before charge, charge was framed. The substance of accusation was read over and explained to the accused in the language known to him. The accused pleaded not guilty and claimed to be tried. Hence, the matter was posted for prosecution evidence.

4. In order to prove its case, the prosecution examined PW-1 to PW-5 and got marked documents at Ex.P-1 to Ex.P-17 and material objects at MO No.1. After completion of prosecution evidence, statement of accused under Section 313 of Cr.P.C. was recorded. The accused denied all incriminating circumstances appearing against him and did not choose to lead any defense evidence.

5. Heard the arguments of learned APP and learned counsel for accused. Perused the oral and documentary evidence placed before the Court.

6. The points that arose for my consideration are as follows;

Point No.1: Whether the prosecution proves beyond all reasonable doubt that the accused committed the offences punishable under Sections 11, 12, 14, 15, 32(1), 38A and 43A of Karnataka Excise Act ?

Point No.2: What order?

7. My findings for the above said points are as under:

Point No.1:- In the Negative.

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

: R E A S O N S :

8. **Point No.1:-** To prove the guilt of the accused the prosecution examined 5 witnesses.

It is the specific case of the prosecution that the accused was found transporting illicit liquor in a vehicle

and the same was seized in the presence of panch witnesses. To establish the guilt of the accused, the prosecution has relied upon the evidence of official witnesses and the seizure panch witnesses.

9. It is a settled principle of criminal jurisprudence that the burden is always upon the prosecution to establish the guilt of the accused beyond all reasonable doubt. The accused is presumed to be innocent and the burden never shifts upon him. The prosecution has to stand on its own legs and cannot take advantage of any weakness in the defence.

10. In the present case, both the seizure panch witnesses examined by the prosecution have not supported the prosecution case and have turned hostile. They have denied the seizure and have not supported the contents of seizure mahazar. Though they were treated hostile and cross-examined by the learned APP, nothing useful could be elicited from their mouth to support the case of the prosecution.

11. It is no doubt true that merely because panch witnesses have turned hostile, the prosecution case cannot be thrown out in toto and conviction can be based on the testimony of official witnesses if their evidence inspires confidence. However, in cases involving seizure, the evidence of independent witnesses assumes importance. In the present case, both the panch witnesses have completely disowned the seizure proceedings.

12. Therefore, the prosecution is left with only the evidence of official witnesses. Though there is no legal bar in relying upon the testimony of official witnesses, the same requires careful scrutiny. In the absence of independent corroboration and in view of the hostile attitude of both the seizure witnesses, the evidence of official witnesses by itself does not inspire confidence to hold that the prosecution has established the seizure in the manner alleged.

13. The alleged seizure forms the very foundation of the prosecution case. When the seizure itself becomes doubtful, the entire prosecution story becomes susceptible to doubt. The prosecution has failed to produce convincing evidence to remove such doubt.

14. It is settled law that suspicion, however strong, cannot take the place of proof. The Court cannot convict an accused on the basis of conjectures and surmises. Whenever two views are possible, the view favourable to the accused has to be adopted.

15. Upon careful appreciation of the oral and documentary evidence available on record, this Court is of the considered opinion that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt. Consequently, the accused is entitled to benefit of doubt. Hence this court is constrained to answer to the Point No.1 in the '**Negative**'.

16. Point No.2:- In view of the findings and reasons given to Point No.1, I proceed to pass the following;

: ORDER :

Acting under Section 248(1) of Cr.P.C., the accused is hereby acquitted for the offences punishable under Sections 11, 12, 14, 15, 32(1), 38(A) and 43(A) of Karnataka Excise Act.

In view of compliance U/Sec.437(A) of Cr.P.C the bail bonds and surety bonds of the accused is hereby extended till 6 months.

M.O.No.1 being worthless /useless is hereby ordered to be destroyed after appeal period is over.

(Dictated to the Stenographer directly on computer and typed by him, and corrected, printout taken, signed by me and then pronounced in the open court on this the 2nd day of July- 2026)

(Arashad Ansari)

Prl. Civil Judge & JMFC,
Holalkere.

:: ANNEXURES ::

List of witnesses examined on behalf of Prosecution:-

PW-1 : Gurumurthy S/o Ramanna
PW-2 : Rangaswamy S/o Thimmanna
PW-3 : Basavaraj.J S/o Jayanna

PW-4 : Siddesh Naika.K S/o Krishna Naika
PW-5 : Anandamurthy R. S/o M.R.Ramappa

List of documents marked on behalf of Prosecution:-

Ex.P-1 : Request letter
Ex.P-1(a) : Signature of PW-1.
Ex.P-2 : Search warrant.
Ex.P-2(a) : Signature of PW-1.
Ex.P-2(b) : Signature of PW-2.
Ex.P-3 : Property list.
Ex.P-3(a) : Signature of PW-1.
Ex.P-3(b) : Signature of PW-2.
Ex.P-4 : Module Seal and Signature.
Ex.P-4(a) : Signature of PW-1.
Ex.P-4(b) : Signature of PW-2.
Ex.P-5 : Spot mahazar
Ex.P-5(a) : Signature of PW-1.
Ex.P-5(b) : Signature of PW-2.
Ex.P-5(c) : Signature of PW-3.
Ex.P-6 : Statement of PW.1
Ex.P-7 : Request letter
Ex.P-7(a) : Signature of PW-2.
Ex.P-8 : Statement of PW.2
Ex.P-9 : Complaint.
Ex.P-9(a) : Signature of PW-4.
Ex.P-10 : FIR
Ex.P-10(a) : Signature of PW-4.
Ex.P-11 : Voluntary statement of accused.

Ex.P-11(a): Signature of PW-4.
Ex.P-12 : B Register Extract
Ex.P-12(a): Signature of PW-4.
Ex.P-13 : Vehicle particulars
Ex.P-13(a): Signature of PW-4.
Ex.P-14 : Request for chemical analysis report
Ex.P-15 : FSL report.
Ex.P-16 & 17 : Resident certificate of the accused.

List of witnesses examined on behalf of Accused:-

: - NIL -

List of documents marked on behalf of Accused:-

: - NIL -

List of material objects marked on behalf of Prosecution:-

MO No.1 : Sample Liquor packet.

(Arashad Ansari)
Prl. Civil Judge & JMFC,
Holalkere.