

KACD420020792024



Presented on : 23-08-2024
 Registered on : 23-08-2024
 Decided on : 07-07-2026
 Duration : 01Y, 10M, 14D

**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 7th day of JULY- 2026

C.C. No.1279/2024

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

(By learned A.P.P.)

V/s

Accused : T.Thimmanaika S/o Tolachanaika,
Age: 48 years, Occ: Coolie,
R/o Kudineerukatte Lambanihatti village,
Tq: Holalkere, Dist: Chitradurga.

(By Shri.K.P., Advocate)

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Date of commission of offence	:	21-03-2023
Date of report of offence	:	21-03-2024

Date of arrest of accused	:	-
Date of release of accused	:	24-04-2024
Period of custody of accused	:	-
Offences complained of	:	Offences punishable Section 11, 14, 32(1) 38(A) and 43 of Karnataka Excise Act.
Date of commencement of evidence	:	19-01-2026
Date of closing of evidence	:	26-02-2026
Opinion of judge	:	Acquitted

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

The charge sheet was submitted by the Excise Sub-Inspector of Holalkere Excise Station alleging that, the accused committed offences punishable under Sections 11, 14, 32(1), 38(A) and 43 of the Karnataka Excise Act by transporting and possessing liquor without possessing any valid permit or licence.

2. It is the specific case of the prosecution that on 21.03.2024 at about 10:50 AM, the Excise Inspector/CW-6 received credible information that the accused was illegally transporting liquor for sale in his auto rickshaw bearing registration No.KA-16-C-7951 from Shivamogga to Chitradurga on NH-13 and accordingly, the Excise

Inspector along with CW-3, CW-4 and panch witnesses CW-1 and CW-2 proceeded to the spot near Dharmath veterinary Hospital on NH-13, where they issued notices to the panch witnesses and prepared a search warrant on the spot and while conducting vehicle inspection, they intercepted a three-wheeler auto bearing registration No.KA-16-G-0634 coming from Shivamogga side, and upon searching the said vehicle, they found a white Star Pan Masala bag kept on the rear seat containing 21.600 liters of liquor consisting of 90 ml Raja Whisky tetra packets, 90 ml Highward Whisky tetra packets, and 90 ml Original Choice Whisky tetra packets and when questioned, the accused did not possess a valid license to sell liquor, whereupon the seizure was conducted between 10:50 AM and 12:00 noon in the presence of panch witnesses, samples were sealed for chemical analysis, the accused auto rickshaw was also seized and the Investigating Officer took over the case on 18.06.2024 and filed the charge sheet.

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-6 and got marked documents at Ex.P-1 to Ex.P-15 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;

1. **Point No.1:** Whether the prosecution proves beyond reasonable doubt that on 21.03.2024 at about 10.50 AM, near Dharmath veterinary Hospital on NH-13, Holalkere, the accused was found in illegal possession of 21.600 liters of liquor without a valid license and thereby committed the offence punishable under Sections 11, 14, 32(1), 38(A) and 43 of the Karnataka Excise Act, 1965?

2. **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:-** The prosecution case rests on the testimony of 6 witnesses. PW-1 and PW-2 are the panch witnesses who were cited to prove the seizure mahazar

and other documents. PW-3 and PW-4 are the excise officials who conducted the raid and effected the seizure. PW-5 who took the samples to the chemical examination. PW-6 is the Investigating Officer who filed the charge sheet.

9. PW-1 and PW-2, in their examination-in-chief, identified their signatures on the notice Ex.P-1, search warrant Ex.P-2, mahazar Ex.P-3, seizure list Ex.P-4, sample mahazar Ex.P-5 and on the seized property M.O.1. They also identified the M.O-1 in court. However, during their cross-examination by the learned APP, both PW-1 and PW-2 turned hostile and denied the entire prosecution case. They stated that no mahazar was conducted in their presence, no property was seized from the accused and the accused was not produced before them. PW-1 specifically deposed that he was forced to sign blank documents. PW-2 also denied all the suggestions put to him by the prosecution and stated that he had not cooperated in any seizure or mahazar. Both PW-1 and PW-2 have refused from their earlier

statements and have not supported the prosecution case in any manner.

10. PW-3, an Excise Head Constable, has supported the prosecution case in his examination-in-chief. He spoke about receiving information, proceeding to the spot, conducting the raid and seizing 21.600 liters of liquor from the auto rickshaw of the accused. He identified Ex.P-3 mahazar and his signature at Ex.P-3(c). He also identified the accused and M.O-1 in court. However, in his cross-examination, he admitted that he came to the office at 10.00 AM on the said day and that the distance from the police station to the spot is about 200 meters. He admitted that PW-1 and PW-2 were standing near the private bus stand. He further admitted that residential houses and the veterinary hospital exist near the spot and that there is public movement in the area. He denied several suggestions put to him.

11. PW-4, the Excise Inspector, also supported the prosecution case in her examination-in-chief. She deposed about receiving information, proceeding to the

spot, conducting the raid and seizing 21.600 liters of liquor from the auto rickshaw of the accused. She identified his signatures on various exhibits including Ex.P-1(b), Ex.P-2(c), Ex.P-3(d), Ex.P-4(c), Ex.P-5(c), Ex.P-9 and Ex.P-10. He also identified the accused and M.O-1 in court. However, in his cross-examination, he admitted that the panch witnesses belong to Kudineerukatte village and that he had not obtained any document regarding their address. He admitted that there is usually a lot of public presence at the bus stand. He further admitted that he and his staff chased the accused when he tried to flee. He denied several suggestions put to him, including that the seizure was not conducted in his presence and that he had filed a false case for the sake of the police station statistics.

12. PW-5, the officer who took the seized samples for chemical examination to the FSL, deposed that he took the seized samples to the Forensic Science Laboratory for chemical analysis and obtained the FSL report. He identified the FSL report and his signature thereon.

13. PW-6, the Investigating Officer, deposed that he took over the investigation on 18.06.2024, recorded the statements of PW-1, PW-2 and PW-4 to PW-6 and filed the charge sheet. He identified the voluntary statement of the accused and his signature thereon.

14. From the evidence on record, it is clear that, the panch witnesses, who are the most important witnesses to prove the seizure, have turned hostile and have not supported the prosecution case. The only witnesses who have supported the prosecution case are PW-3, PW-4, PW-5, and PW-6, who are all official witnesses belonging to the Excise Department. It is well settled that the testimony of official witnesses cannot be disbelieved solely on the ground that they are official witnesses. However, in the present case, their evidence suffers from material contradictions and infirmities.

15. The search warrant Ex.P-2 was admittedly prepared on the spot by PW-4 without obtaining a proper search warrant from the court. The Karnataka Excise Act

does empower the excise officers to conduct searches without a warrant in certain circumstances. However, the prosecution has not placed on record any material to show that there was no sufficient time to obtain a warrant. The mere assertion that there was no time is not sufficient, especially when the alleged incident occurred in a public place and the accused was in possession of a large quantity of liquor.

16. PW-1 and PW-2, who were cited as panch witnesses, have not supported the prosecution case in any manner. PW-1 specifically stated that he was forced to sign blank documents, which casts serious doubt on the credibility of the seizure mahazar. In the absence of independent corroboration, the evidence of the official witnesses alone is not sufficient to convict the accused, especially when their evidence suffers from contradictions.

17. The prosecution has not examined any independent public witness to corroborate the seizure of the alleged contraband. PW-1 and PW-2, who were cited

as panch witnesses, have completely turned hostile from their statements. In the absence of independent corroboration, the evidence of the official witnesses alone is not sufficient to convict the accused, especially when their evidence suffers from contradictions.

18. The Hon'ble Supreme Court and this Court in numerous decisions have held that the prosecution must prove its case beyond reasonable doubt. The benefit of doubt must always go to the accused. In the present case, the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. The panch witnesses have turned hostile, the official witnesses have contradictions, the search was conducted without a proper warrant, and the FSL report has not been produced. The prosecution has not proved its case satisfactorily.

19. Accordingly, I am of the considered opinion that the prosecution has failed to prove the charges against the accused beyond reasonable doubt. Therefore, I answer Point No.1 in the '**Negative**'.

20. 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, 14, 32(1), 38(A) and 43 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 7th day of July- 2026)

(Arashad Ansari)

Prl. Civil Judge & JMFC,
Holalkere.

:: ANNEXURES ::

List of witnesses examined on behalf of Prosecution:-

PW-1 : Arunkumar S/o Krishnanaika.
PW-2 : T.Arunkumarnaika S/o Tejanaika.
PW-3 : Rangappa S/o Govindappa.
PW-4 : Savitha H. W/o Dyamesh.

PW-5 : C.R. Rangaswamy S/o C.M.Rajappa.

PW-6 : Rajashekarappa P. S/o

V.S.Parameshwarappa.

List of documents marked on behalf of Prosecution:-

Ex.P-1 : Notice to witness

Ex.P-1(a) : Signature of PW-1.

Ex.P-1(b) : Signature of PW-4.

Ex.P-2 : Search warrant.

Ex.P-2(a) : Signature of PW-1.

Ex.P-2(b) : Signature of PW-2.

Ex.P-2(c) : Signature of PW-4.

Ex.P-2(d) : Signature of accused.

Ex.P-3 : Spot panchanama

Ex.P-3(a) : Signature of PW-1.

Ex.P-3(b) : Signature of PW-2.

Ex.P-3(c) : Signature of PW-3.

Ex.P-3(d) : Signature of PW-4.

Ex.P-4 : Property list.

Ex.P-4(a) : Signature of PW-1.

Ex.P-4(b) : Signature of PW-2.

Ex.P-4(c) : Signature of PW-4.

Ex.P-5 : Module Seal and Signature.

Ex.P-5(a) : Signature of PW-1.

Ex.P-5(b) : Signature of PW-2.

Ex.P-5(c) : Signature of PW-4.

Ex.P-6 : Statement of PW.1

Ex.P-7 : Notice to witness

- Ex.P-7(a) : Signature of PW-1.
Ex.P-7(b) : Signature of PW-4.
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 : Request for chemical analysis report
Ex.P-12 : Letter written to FSL Chitradurga
for chemical examination.
Ex.P-13 & 14: B Register Extracts
Ex.P-15 : Voluntary statement of accused.
Ex.P-15(a): Signature of PW-6.
Ex.P-15(b): Signature of 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.