

KACD420015262023



Presented on : 12-09-2023
 Registered on : 12-09-2023
 Decided on : 13-07-2026
 Duration : 02Y, 10M, 01D

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

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

Dated this 13th day of JULY- 2026

C.C. No.1016/2023

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

(By learned A.P.P.)

V/s

Accused : Pradeep R. S/o Late Ramanaika,
 Age: 22 years, Occ: Business,
 R/o Tanigehalli village,
 Tq: Holalkere, Dist: Chitradurga.

(By Shri.E.T.S., Advocate)

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Date of commission of offence	:	29-04-2023
Date of report of offence	:	29-04-2023
Date of arrest of accused	:	-
Date of release of accused	:	10-10-2023
Period of custody of accused	:	-

Offences complained of	:	Offences punishable Section 11, 14, 15, 32(1), 38(A) and 43(A) of Karnataka Excise Act.
Date of commencement of evidence	:	30-01-2026
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, 15, 32(1), 38(A) and 43(A) of the Karnataka Excise Act by transporting and possessing liquor without possessing any valid permit or licence.

2. The case of the prosecution is that on 29.04.2023 at about 6.30 a.m., the Excise Sub-Inspector and his staff were on patrol duty when they received credible information that a person was illegally transporting liquor. Acting upon the said information, they intercepted the accused and allegedly found him transporting 100 tetra packs of Original Choice Whisky and one beer bottle without possessing any valid licence or permit. The liquor, vehicle and other articles were seized under a

mahazar. After completion of investigation, charge sheet came to be filed against the accused.

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-16 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 on 29.04.2023 the accused was found transporting liquor without licence or permit and thereby committed the offences punishable under Sections 11, 14, 15, 32(1), 38(A) and 43(A) of the 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:-** The burden is upon the prosecution to establish the guilt of the accused beyond all reasonable doubt. The accused is presumed to be

innocent unless the prosecution succeeds in proving the charge by reliable, cogent and convincing evidence.

9. To establish its case, the prosecution has examined 5 witnesses. PW-1 and PW-2 are the seizure panch witnesses. PW-3 and PW-4 are the Excise officials who participated in the raid and seizure. PW-5 is the Investigating Officer who completed the investigation and filed the charge sheet.

10. The prosecution alleges that the accused was found transporting 100 tetra packs of Original Choice Whisky and one beer bottle without any valid licence or permit and that the same were seized under a mahazar in the presence of PW-1 and PW-2.

11. The evidence of PW-1 and PW-2 assumes considerable importance because they are the independent witnesses cited to prove the seizure mahazar. However, both these witnesses have not supported the prosecution case. They have failed to support the alleged seizure and have not identified the mahazar as having been drawn in the manner alleged by

the prosecution. Though they were treated as hostile and cross-examined by the learned Assistant Public Prosecutor, nothing useful has been elicited to support the prosecution version. Thus, the prosecution has failed to prove the seizure through independent evidence.

12. The prosecution has mainly relied upon the evidence of PW-3 and PW-4, who are the Excise officials forming part of the raid. Their evidence discloses that they accompanied the Excise Sub-Inspector during the raid, intercepted the accused and seized the liquor. PW-5, the Investigating Officer, has deposed regarding the investigation conducted by him, forwarding of the samples for chemical examination, receipt of the Chemical Analysis Report and filing of the charge sheet.

13. It is true that, the evidence of official witnesses cannot be rejected merely because they are Government servants. If their testimony is trustworthy, reliable and free from doubt, a conviction can be based upon such evidence even in the absence of independent corroboration. However, where independent witnesses to

the seizure are available but do not support the prosecution case, the evidence of official witnesses requires careful scrutiny.

14. In the present case, both independent panch witnesses have completely failed to support the prosecution regarding the seizure. Therefore, the very foundation of the prosecution case remains uncorroborated by independent evidence. Except the testimony of PW-3 and PW-4, there is no convincing material to establish beyond reasonable doubt that the accused was in conscious and unlawful possession of the seized liquor.

15. The prosecution has relied upon the Chemical Analysis Report, which establishes that the samples sent for examination contained alcohol and confirmed to the prescribed standards. However, the Chemical Analysis Report merely proves the nature of the liquor contained in the samples. It does not establish that the liquor was recovered from the conscious possession of the accused. Unless the seizure itself is proved satisfactorily, the

Chemical Analysis Report alone cannot connect the accused with the alleged offence.

16. The prosecution has not produced any independent material to corroborate the evidence of the official witnesses. In the absence of support from the independent panch witnesses, it would not be safe to base a conviction solely on the interested testimony of the members of the raiding party, particularly when the prosecution has failed to remove the reasonable doubt created in its own case.

17. The prosecution is required to establish the guilt of the accused beyond all reasonable doubt, which it has failed to do in the present case. Accordingly, this Court holds that the prosecution has failed to prove that the accused was found transporting liquor in contravention of the provisions of the Karnataka Excise Act. The accused is therefore entitled to the benefit of doubt. Hence, Point No.1 is answered in the **Negative**.

18. 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, 15, 32(1), 38(A) and 43(A) of Karnataka Excise Act.

In view of compliance under Section 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 13th day of July-2026)

(Arashad Ansari)

Prl. Civil Judge & JMFC,
Holalkere.

:: ANNEXURES ::

List of witnesses examined on behalf of Prosecution:-

PW-1 : Ningappa S/o Nagappa
PW-2 : Nishchint S/o Huligeppa
PW-3 : Ramanjaneyya S/o Gundabasayya
PW-4 : Nagaraj N. S/o Durgappa
PW-5 : Rajashekharappa 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 : Spot panchanama.
- Ex.P-2(a) : Signature of PW-1.
- Ex.P-2(b) : Signature of PW-2.
- Ex.P-2(c) : Signature of PW-3.
- Ex.P-2(d) : Signature of PW-4.
- Ex.P-3 : Property list.
- Ex.P-3(a) : Signature of PW-1.
- Ex.P-3(b) : Signature of PW-2.
- Ex.P-3(c) : Signature of PW-4.
- 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-4(c) : Signature of PW-4.
- Ex.P-5 : Statement of PW.1.
- Ex.P-6 : Request letter.
- Ex.P-6(a) : Signature of PW-2.
- Ex.P-6(b) : Signature of PW-4.
- Ex.P-7 : Statement of PW.2.
- Ex.P-8 : Request for chemical analysis report.
- Ex.P-9 : FSL report.
- Ex.P-10 & 11: B-Extracts.
- Ex.P-12 : Request for Residential certificate of accused.

Ex.P-13 : Residential certificate of accused.
Ex.P-14 : Complaint.
Ex.P-14(a): Signature of PW-4.
Ex.P-15 : FIR.
Ex.P-15(a): Signature of PW-4.
Ex.P-16 : Voluntary statement of accused.
Ex.P-16(a): Signature of PW.4.

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.