

KACD420017182023



Presented on : 03-11-2023

Registered on : 03-11-2023

Decided on : 04-07-2026

Duration : 2Y, 8M, 1D

**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 4th day of JULY- 2026

C.C. No.1129/2023

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

(By learned A.P.P.)

V/s

Accused : C.Lokeshappa S/o Chikkirappa
Age: 50 years, Occ: Coolie,
R/o Annehal Vaddarahatti village,
Tq: Chitradurga, Dist: Chitradurga.

(By Shri.C.Y.R., Advocate)

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Date of commission of offence	:	30-04-2023
Date of report of offence	:	30-04-2023

Date of arrest of accused	:	-
Date of release of accused	:	08-01-2024
Period of custody of accused	:	-
Offences complained of	:	Offences punishable Section 11, 14, 32(1), 38(A) and 43(A) of Karnataka Excise Act.
Date of commencement of evidence	:	25-06-2025
Date of closing of evidence	:	16-04-2026
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(A) 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 30.04.2023 at about 8.45 p.m., while the Excise officials were on patrolling duty in connection with the Legislative Assembly election code of conduct, they received credible information that a person was illegally transporting liquor in H.D. pura village. The officials, along with panch witnesses, proceeded to the spot. Upon reaching the

location near Petrol Bank in H.D. pura, they noticed a person coming on a TVS Star City bike bearing registration No.KA-16-W-4129. The vehicle was intercepted and the rider was questioned. He identified himself as Lokeshappa. Upon searching the vehicle, a white plastic bag was found containing 21 tetra packs of Old Taveran Whisky 180 ml each and 13 tetra packs of Black Viper Whisky 180 ml each, totalling 6.120 litres of illicit liquor. The liquor was seized in the presence of panch witnesses under a mahazar. Samples were drawn from the seized liquor, sealed in the presence of panch witnesses and the remaining liquor was also seized under a mahazar. Thereafter, the accused was arrested and the seized articles were produced before the Court. The samples were forwarded to the Forensic Science Laboratory for chemical examination. Upon completion of the investigation, the Investigating Officer submitted the charge sheet against the accused for the offences under the Karnataka Excise Act.

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, 14, 32(1), 38(A) and 43(A) 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:-** 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. PW-1 and PW-2 are the raid panchas cited by the prosecution. Both these witnesses have turned hostile and have not supported the prosecution case. They have categorically denied the seizure proceedings and have not supported the contents of seizure mahazar.

11. PW-1 stated during cross-examination that he did not know the contents of the notices Ex.P-1 to Ex.P-5 as the police did not read them to him. He claimed that no seizure or panchnama took place in his presence and that no properties or liquor were seized in front of him. He stated that he was made to sign the documents about two years earlier at the Excise Police Station. He further stated that he did not know what was written in the documents and that the police did not read them to him.

12. PW-2 stated that his signatures were taken at the Excise Police Station about two years earlier and that he was not present at the spot at the time of the alleged

seizure. He also stated that he did not know the contents of the mahazar and that no seizure took place in his presence.

13. Though they were treated as hostile and cross-examined by the learned APP, nothing useful could be elicited from their mouth to support the case of the prosecution.

14. The prosecution examined PW-3 as the raid police officer who conducted the raid and seizure. PW-3 deposed that on 30.04.2023, he was on patrolling duty along with PW-4 and PW-5 in connection with the election code of conduct. He stated that they received information about illegal transportation of liquor, intercepted the accused vehicle and seized the liquor in the presence of panch witnesses. He identified the accused and the seized material.

15. However, during cross-examination, serious contradictions emerged. PW-3 admitted that he did not know the exact direction of the spot from the office. He also could not specify the date from which the election

code of conduct was in force. He gave contradictory statements regarding the directions of the surrounding places at the spot.

16. The prosecution examined PW-4 and PW-5 as the Investigating Officers. During cross-examination, PW-4 gave contradictory statements regarding the timing of the raid and the directions of the surrounding places. He also stated that he did not know the batch numbers or manufacturing dates of the seized liquor.

17. PW-5 is the Investigating Officer who took over the investigation at a later stage. He deposed that he took over the investigation from PW-5, recorded the statements of witnesses, recorded the voluntary statement of the accused Ex.P-11 and filed the charge sheet. He identified the accused and the documents. During cross-examination he denied all the suggestions.

18. 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 raid panchas PW-1 and PW-2 have completely disowned the seizure proceedings.

19. The evidence of the raid police officer PW-3 suffers from serious contradictions. The panch witnesses PW-1 and PW-2 categorically stated that they were made to sign the documents at the Excise Police Station and not at the spot. PW-3 could not provide clear details about the location and directions.

20. The evidence of the Investigating Officers PW-4 and PW-5 does not cure these defects. PW-4 admitted that he did not know the batch numbers or manufacturing dates of the alleged liquor. The prosecution has failed to produce convincing evidence to remove such doubt.

21. The alleged seizure forms the very foundation of the prosecution case. When the seizure itself becomes doubtful due to hostile panch witnesses and serious

contradictions in the evidence of official witnesses, the entire prosecution story becomes susceptible to doubt. The prosecution has failed to produce convincing evidence to remove such doubt.

22. The prosecution is left with only the evidence of official witnesses PW-3 as raid police officer and PW-4 and PW-5 as Investigating Officers. 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.

23. 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 Point No.1 in the '**Negative**'.

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

: O R D E R :

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(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 4th day of July- 2026)

(Arashad Ansari)

Prl. Civil Judge & JMFC,
Holalkere.

:: A N N E X U R E S ::

List of witnesses examined on behalf of Prosecution:-

PW-1 : Karthik J. S/o Jayappa

PW-2 : J.Dinesh S/o Jayappa
PW-3 : Kumar S/o Shivappa R.
PW-4 : Siddesh Naika K. S/o Krishnanaika
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-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-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 : 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 : Spot Panchanama.
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-5(d) : Signature of PW-4.
Ex.P-6 : Statement of PW.1.

- Ex.P-7 : Request letter
- 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 : Voluntary statement of accused
- Ex.P-11(a): Signature of PW-4.
- Ex.P-12 & 13: B Extracts
- Ex.P-14 : Letter written by Excise Sub-inspector,
Holalkere to ARTO.
- Ex.P-15 : Letter written to FSL Chitradurga
for chemical examination.
- Ex.P-16 : Letter written to Tahasildar, Holalkere.
- Ex.P-17 : Residence certificate 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.