

KACD420017232023



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.1131/2023

Complainant : The Police Sub-Inspector,
Chikkajajur. PS.

(By learned A.P.P.)

V/s

Accused : Manjunatha M. S/o Muddappa
Mahadevappa, Age: 45 years,
R/o Chikka Emmiganuru
village, Tq: Holalkere, Dist: Chitradurga.

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

* * *

Date of commission of offence	:	15-07-2023
Date of report of offence	:	15-07-2023

Date of arrest of accused	:	-
Date of release of accused	:	05-12-2023
Period of custody of accused	:	-
Offences complained of	:	Offences punishable Section 32, 34 of Karnataka Excise Act.
Date of commencement of evidence	:	11-06-2024
Date of closing of evidence	:	16-04-2026
Opinion of judge	:	Acquitted

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

The charge sheet submitted by the Police Sub-Inspector of Chikkajajur Police Station alleging that the accused committed offences punishable under Sections 32 and 34 of the Karnataka Excise Act by transporting liquor without possessing any valid permit or licence.

2. It is the specific case of the prosecution that on 15.07.2023 at about 7.30 p.m., while the police were on patrolling duty, they received credible information that someone was illegally selling liquor in front of Manjunath's grocery store at Chikkajajur village. The complainant and his team and panch witnesses, proceeded to the spot. Upon reaching the location, they observed a person selling liquor from a plastic bag in the

light of an electric bulb. When the police approached, the accused fled from the spot, leaving behind the plastic bag containing 50 tetra packs of Raja Whisky 90 ml each. 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 identified and later obtained anticipatory bail from the jurisdictional Court and surrendered before the Investigating Officer. 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 punishable under Sections 32 and 34 of 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-6 and got marked documents at Ex.P-1 to Ex.P-9 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 32 and 34 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 illegally selling
liquor in a public place 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 panch witnesses 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. PW-1 stated during cross-examination that he did not know the contents of the notices Ex.P-1, Ex.P-2 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 one year later at Holalkere Gate. He further stated that he did not know what was written in the documents.

11. PW-2 stated that his signatures were taken near the bus stand 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. 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.

12. Apart from the hostile panch witnesses, the prosecution has examined PW-3 to PW-6, who are police officials who were part of the raid and investigation.

13. PW-3 deposed that on 15.07.2023, he received information about illegal sale of liquor and proceeded to the spot along with other police personnel. He stated that they observed the accused selling liquor and when the accused noticed the police, he fled leaving behind the plastic bag containing liquor. He stated that the liquor was seized in the presence of panch witnesses and a mahazar was prepared. However, during cross-examination serious contradictions emerged regarding the timing of the notice and the seizure.

14. PW-4 also deposed about being part of the raid and corroborated the version of PW-3 regarding the raid and seizure. He claimed to have identified the accused from a distance. However, during cross-examination, he admitted that he did not know what colour clothes the accused was wearing on the day of the incident.

15. The prosecution examined PW-5 and PW-6 as the Investigating Officers. PW-5 is the Investigating Officer who conducted the initial investigation, recorded the statements of witnesses and conducted the seizure proceedings. He deposed about the investigation conducted by him.

16. PW-6 is the officer who took over the investigation at a later stage, recorded the voluntary statement of the accused Ex.P-8, obtained the chemical analysis report Ex.P-9 and filed the charge sheet.

17. 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.

18. The evidence of the raid suffers from serious contradictions. The notice to panch witnesses shows that it was issued at 6.30 p.m. or 7.15 p.m. The distance from the police station to the spot is about 8 kilometers. This creates a doubt about the feasibility of the panch witnesses being present at the spot at the time alleged.

19. Furthermore, PW-4 admitted that he did not know the colour of clothes worn by the accused on the day of the incident. PW-1, the main panch witness, categorically stated that no seizure took place in his presence and that he was made to sign the documents without reading them.

20. The evidence of the Investigating Officers PW-5 & PW-6 does not cure these defects. The prosecution has failed to produce convincing evidence to remove such doubt. 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 timing, the entire prosecution story

becomes susceptible to doubt. The prosecution has failed to produce convincing evidence to remove such doubt.

21. The prosecution is left with only the evidence of official witnesses PW-3 and PW-4 as police officers and PW-5 and PW-6 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.

22. 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**'.

23. 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 32 and 34 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 : Prathap P. S/o Parameshwarappa
PW-2 : Raveeshappa S/o Rudrappa

PW-3 : Deepu W/o Mohankumar
PW-4 : Kumarswamy S/o Devendrappa
PW-5 : J.H. Ramesh S/o Hulikunta Shetty
PW-6 : Vasanthkumar S/o Dodda Rudrappa

List of documents marked on behalf of Prosecution:-

Ex.P-1 : Notice.
Ex.P-1(a) : Signature of PW-1.
Ex.P-1(b) : Signature of PW-2.
Ex.P-1(c) : Signature of PW-3.
Ex.P-2 : 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 : Photo
Ex.P-4 : Statement of PW.1
Ex.P-5 : Statement of PW.2
Ex.P-6 : Report
Ex.P-6(a) : Signature of PW-3.
Ex.P-7 : F.I.R.
Ex.P-7(a) : Signature of PW-5.
Ex.P-8 : Voluntary statement of accused
Ex.P-8(a) : Signature of PW-6.
Ex.P-9 : Letter written to FSL, Chitradurga
Ex.P-9(a) : Signature of PW-6.

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.