

KACD420021352024



Presented on : 28-08-2024
 Registered on : 28-08-2024
 Decided on : 09-07-2026
 Duration : 01Y, 10M, 11D

**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 9th day of JULY- 2026

C.C. No.1321/2024

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

(By learned A.P.P.)

V/s

Accused : Smt. K.Leela W/o Sudeer,
 Age: 40 years, Occ: Coolie,
 R/o Shivapura village,
 Tq: Holalkere, Dist: Chitradurga.

(By Shri.R.M.O., Advocate)

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Date of commission of offence	:	11-04-2024
Date of report of offence	:	11-04-2024

Date of arrest of accused	:	-
Date of release of accused	:	03-06-2024
Period of custody of accused	:	-
Offences complained of	:	Offences punishable Section 14, 15, 32(1), 38(A) and 43 of Karnataka Excise Act.
Date of commencement of evidence	:	13-01-2026
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 14, 15, 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 11.04.2024 at about 4:15 PM, while on patrol duty, Excise Inspector CW-5 received information that the accused was illegally storing liquor in his areca nut godown at Shivapura Village. The officials secured panch witnesses CW-1 and CW-2 and conducted a raid at the godown of the accused. Upon searching the godown, the officials allegedly found 96 tetra packs of Highward

Whisky 90 ml each, 96 tetra packs of Raja Whisky 90 ml each and other liquor, totaling 19.980 liters. Since the accused did not possess a valid license to store liquor, the seizure was conducted between 4:15 PM and 5:15 PM in the presence of panch witnesses. Samples were sealed and sent for chemical analysis and the accused was arrested and released on bail. The charge sheet was filed before the court.

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-4 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;

Point No.1: Whether the prosecution proves beyond reasonable doubt that on 11.04.2024 at about 4.15 PM, at the areca nut godown of the accused at Shivapura Village, the accused was found in illegal possession of 19.980 liters of liquor without a valid license and thereby committed the offence punishable under Sections 14, 15, 32(1), 38(A) and 43 of the Karnataka Excise Act, 1965?

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 four witnesses. PW-1 and PW-2 are the panch witnesses who were cited to prove the seizure panchnama and other documents. PW-3 is the Excise Inspector who conducted the raid and effected the seizure. PW-4 is the Investigating Officer who filed the charge sheet.

9. PW-1, in his examination-in-chief, identified his signatures on the notice Ex.P-1, search warrant Ex.P-2, panchnama Ex.P-3, seizure list Ex.P-4 and sample mahazar Ex.P-5. However, he was declared hostile by the prosecution and during his cross-examination, he completely denied the entire prosecution case. He stated that no mahazar was conducted in his presence, no property was seized, and that he had not given any

statement to the Investigating Officer on 06.08.2024. He further stated that since the accused is from his village, he is giving false evidence to help the accused.

10. PW-2 also turned hostile and denied the entire prosecution version. He stated that he did not participate in any mahazar or seizure and that his signatures were taken on blank documents. He also denied giving any statement to the Investigating Officer.

11. PW-3, an Excise Inspector, has supported the prosecution case in his examination-in-chief. He deposed about the receipt of information, the raid, the seizure of 19.980 liters of liquor from the godown of the accused, and the preparation of the mahazar. He identified Ex.P-6 and his signature at Ex.P-6(c). However, in his cross-examination, he was unable to give the exact location of the godown or its boundaries. He admitted that he did not know the name of the owner of the adjacent properties. He also admitted that the panch witnesses themselves showed the godown and that the panchnama was written by his staff member CW-3.

12. PW-4, the Investigating Officer, deposed that he took over the investigation on 18.06.2024, recorded the voluntary statement of the accused and filed the charge sheet. He identified Ex.P-15 as the voluntary statement of the accused. However, in his cross-examination, he has denied all the suggestions.

13. 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 and PW-4, who are 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.

14. The search was conducted 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 at a godown and the accused was in possession of a large quantity of liquor.

15. Furthermore, 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 resiled 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.

16. 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 prosecution has not proved its case satisfactorily.

17. 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**'.

18. 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 14, 15, 32(1), 38(A) and 43 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 9th day of July- 2026)

(Arashad Ansari)

Prl. Civil Judge & JMFC,
Holalkere.

:: ANNEXURES ::

List of witnesses examined on behalf of Prosecution:-

PW-1 : Mahendrayya S/o Shivayya.
PW-2 : Parameshwarappa S/o Shankarappa.
PW-3 : Savitha H. W/o Dyamesh.
PW-4 : 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-3.
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-3.
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-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-3.
- 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-3.
- 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-3.
- Ex.P-8 : Statement of PW.2.
- Ex.P-9 : Complaint.
- Ex.P-9(a) : Signature of PW-3.
- Ex.P-10 : FIR
- Ex.P-10(a): Signature of PW-3.
- Ex.P-11 : Request for chemical analysis report
- Ex.P-12 : FSL report
- Ex.P-13 & 14: Request for Residential certificates of accused.
- Ex.P-15 : Voluntary statement of accused.
- Ex.P-15(a): Signature of PW-4.
- 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.