

KACD420022172024



Presented on : 29-08-2024
 Registered on : 29-08-2024
 Decided on : 01-08-2026
 Duration : 01Y, 11M, 04D

**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 1st day of AUGUST- 2026

C.C. No.1390/2024

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

(By learned A.P.P.)

V/s

Accused : Smt.Vimalabai W/o Mohan S.,
Age: 30 years, Occ: Agriculture,
R/o Lambani Tanda village,
Tq: Holalkere, Dist: Chitradurga.

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

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Date of commission of offence	:	17-04-2024
Date of report of offence	:	17-04-2024
Date of arrest of accused	:	-
Date of release of accused	:	04-06-2024

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	:	25-06-2025
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 17.04.2024 at about 5:00 PM, while on patrol duty in connection with the 2024 Legislative Assembly Elections, Excise Officials received information that a person was illegally selling liquor at Holalkere Lambani Tanda Village. The officials secured panch witnesses and conducted a raid at the house of the accused. Upon searching the house, the officials allegedly found 90 M.L of two Rajawhiskey and 24 beer bottle of 500 ML, totaling

25.920 liters. Since the accused did not possess a valid license to sell or store liquor, the seizure was conducted between 5:00 AM and 06:00 AM 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-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;

Point No.1: Whether the prosecution proves beyond all reasonable doubt that on the date, time and place alleged in the charge sheet, the accused was found transporting 90 M.L of two Rajawhiskey and 24 beer bottle of 500 ML without any valid permit or licence and thereby committed the alleged offence punishable under section 14, 15, 32(1), 38(A) and 43 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 prosecution case rests on the testimony of six witnesses. PW-1 and PW-2 are the panch witnesses who were cited to prove the seizure panchnama and other documents. PW-3 and PW-4 are the excise officials who conducted the raid and effected the seizure. PW-5 and 6 are 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, seizure list Ex.P-3, sample mahazar Ex.P-4, panchnama Ex.P-5 and on the seized property M.O-1 and 2. 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 signed the documents at the Excise Police Station about 6 months earlier at the request of the

police. Similarly, PW-2 was also declared hostile and he 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. Both PW-1 and PW-2 have resiled from their earlier statements and have not supported the prosecution case in any manner.

10. PW-3, an Excise Guard, has supported the prosecution case in his examination-in-chief. He deposed about the raid, the seizure of 90 M.L of two Rajawhiskey boxes and Original choice whiskey one box and beer bottles from the house of the accused and the preparation of the mahazar. He identified Ex.P-5 and his signature at Ex.P-5(c). However, in his cross-examination, He denied the suggestions put to him.

11. PW-4, an Excise Sub-Inspector, also supported the prosecution case in his examination-in-chief. He deposed about the raid, the seizure and the preparation of documents including the search warrant Ex.P-2 and FIR Ex.P-13. He identified his signatures on various exhibits.

However, in his cross-examination, he was unable to give the exact location where the jeep was parked. He also could not provide the boundary details of the disputed house.

12. PW-5, the Investigating Officer, deposed that, he took over the investigation on 09.05.2024, he received the case from CW-6 and on 13.05.2024 send to FSL through Cw-5 and collected FSL report on 17.05.2024 and submitted case to the CW.10. In his cross-examination, he denied all the suggestions.

13. PW-6, 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. In his cross-examination, he denied all the suggestions.

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 and PW-5, 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 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 in a house and the accused was in possession of a large quantity of liquor.

16. 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.

17. 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.

18. 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**'.

19. 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 and typed by him, and corrected, printout taken, signed by me and then pronounced in the open court on this the 1st day of August- 2026).

(Arashad Ansari)
Prl. Civil Judge & JMFC,
Holalkere.

:: ANNEXURES ::

List of witnesses examined on behalf of Prosecution:-

PW-1 : Thippesh S/o Devala Naika
PW-2 : Kantesh Naika S/o Chandra Naika
PW-3 : Praveenkumar H. S/o Hanumantha Naika
PW-4 : Savitha H. W/o Dyamesh
PW-5 : C.R.Rangaswamy S/o C.N.Rajappa
PW-6 : 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 : 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 : 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 : 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-6 : Statement of PW.1.
- Ex.P-7 : Notice to witness.
- Ex.P-7(a) : Signature of PW-2.
- Ex.P-7(b) : Signature of PW-4.
- Ex.P-8 : Statement of PW.2.
- Ex.P-9 : Request for chemical analysis report.
- Ex.P-10 : FSL report.

- Ex.P-11 : Request for Residential certificate of accused.
- Ex.P-12 : Issuing Residential certificate of accused.
- Ex.P-13 : Complaint.
- Ex.P-13(a): Signature of PW-4.
- Ex.P-14 : FIR.
- Ex.P-14(a): Signature of PW-4.
- 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.