

KACD420025212024



Presented on : 18-09-2024
 Registered on : 18-09-2024
 Decided on : 03-07-2026
 Duration : 1Y, 9M, 15D

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

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

Dated this 3rd day of JULY- 2026

C.C. No.1643/2024

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

(By learned A.P.P.)

V/s

Accused : Kariyappa T. S/o Late Tippeswamy,
 Age: 36 years, Occ: Agriculturist,
 R/o Bhommanakatte village,
 Tq: Holalkere, Dist: Chitradurga

(By Shri.K.P., Advocate)

* * *

Date of commission of offence	:	28-03-2024
Date of report of offence	:	28-03-2024

Date of arrest of accused	:	-
Date of release of accused	:	21-05-2024
Period of custody of accused	:	-
Offences complained of	:	Offences punishable Section 11, 14, 32(1), 38(A) and 43 of Karnataka Excise Act.
Date of commencement of evidence	:	22-07-2025
Date of closing of evidence	:	26-02-2026
Opinion of judge	:	Acquitted

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

The Excise Sub-Inspector, Holalkere has filed this charge sheet against the accused for the offences punishable under Sections 11, 14, 32(1), 38(A) and 43 of the Karnataka Excise Act, 1965.

2. It is the case of the prosecution that on the 28th March 2024 while the Code of Conduct for the Lok Sabha elections was in force, the Excise police were on patrolling duty. They intercepted the accused, who was riding a TVS XL 100 motorcycle bearing registration No. KA-16-L-1505 and carrying a bag. The prosecution contends that after following the prescribed procedure, the bag was searched and found to contain 96 tetra packs of Original Choice Whisky of 0.90 ml each, totaling

8.640 liters. The Excise officials then proceeded to seize the liquor, prepared a spot mahazar a search warrant and other documents in the presence of panch witnesses. Subsequently, the accused was arrested and a charge sheet was filed.

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-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 doubts that, on 28.03.2024 at about 11:30 AM, when the CW-1 and his team were on patrol duty in Gunderi village, the accused was found in possession of illicit liquor, i.e., 8.640 liters of Original Choice Whisky in 96 tetra packs, and as such the act of the accused is in contravention of offences punishable under Section 11, 14, 32(1), 38(A) and 43 of 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:-** It is the case of the prosecution that on 28.03.2024, during the period when the Model Code of Conduct for the Lok Sabha elections was in force, the Excise officials were carrying out routine patrolling duty. According to the prosecution, they intercepted the accused, who was riding a TVS XL 100 motorcycle bearing Registration No. KA-16-L-1505 and was carrying a bag. It is alleged that after following the prescribed procedure, the Excise officials searched the bag and found 96 tetra packs of Original Choice Whisky measuring 90 ml each, totaling 8.640 liters. Thereafter, the officials allegedly seized the liquor, prepared the spot mahazar, search warrant and connected documents in the presence of panch witnesses, arrested the accused and subsequently filed the charge sheet.

9. The foundation of the prosecution case rests upon the alleged seizure of 96 tetra packs of Original Choice Whisky from the possession of the accused. To prove the seizure, the prosecution has relied upon the evidence of panch witnesses PW-1 and PW-2 as well as the official witnesses PW-3 to PW-5. However, both the panch witnesses have not supported the prosecution case. Though they have admitted their signatures on the seizure documents, they have categorically denied having witnessed the search, seizure, preparation of panchanama or recovery of any liquor from the accused. They have further deposed that their signatures were obtained by the Excise officials at a different place and that no seizure proceedings were conducted in their presence. Thus, the independent witnesses to the alleged seizure have completely disowned the prosecution version.

10. It is true that the evidence of a hostile witness is not to be rejected in toto and can be relied upon to the extent it supports the prosecution. However, in the

present case, PW-1 and PW-2 have not supported any material aspect of the prosecution case. Their evidence, instead of corroborating the prosecution, creates serious doubt regarding the manner in which the alleged seizure proceedings were conducted.

11. No doubt, merely because independent witnesses have turned hostile, the evidence of official witnesses cannot be discarded solely on that ground. The testimony of official witnesses can form the basis of conviction if it is found reliable and inspires confidence. However, in the present case, the evidence of PW-3 to PW-5 requires cautious scrutiny as there is no independent corroboration whatsoever to support their version. The seizure, which forms the very basis of the prosecution case, remains unsupported by any independent witness.

12. Further, the evidence on record discloses that though persons were available at or near the place of occurrence no effort was made to secure any other independent witness. PW-4 has admitted that the family

members of the accused were present at the spot and that statements of neighbouring persons were not recorded. Though non-examination of independent witnesses is not always fatal, in the facts of the present case it assumes significance because the very witnesses cited as panchas have denied the occurrence itself.

13. Another circumstance creating doubt in the prosecution case is the non-production of the bag in which the liquor was allegedly being transported. According to the prosecution, the liquor tetra packs were recovered from a bag carried by the accused. However, the said bag has not been produced before the Court. The prosecution has offered no satisfactory explanation for such non-production. This omission assumes importance because the bag constituted a material object connected with the alleged seizure.

14. The evidence further discloses certain procedural deficiencies in the manner of conducting the search and seizure. The prosecution has not placed satisfactory material to establish strict compliance with

the safeguards contemplated under the Karnataka Excise Act and the relevant procedure governing search and seizure. These deficiencies, when considered along with the hostility of the panch witnesses and lack of independent corroboration, create a reasonable doubt regarding the prosecution version.

15. It is a settled principle of criminal jurisprudence that the prosecution must prove its case beyond all reasonable doubt and that the accused is entitled to the benefit of every reasonable doubt arising from the evidence on record. Suspicion, however strong, cannot take the place of proof. When two views are possible on the evidence available, the view favourable to the accused must ordinarily be adopted.

16. In the present case, the cumulative effect of the hostility of both panch witnesses, absence of independent corroboration, non-production of a material object and the procedural deficiencies noticed in the prosecution case creates a reasonable doubt regarding the alleged recovery and possession of the contraband liquor by the

accused. Consequently, this Court is of the considered opinion that the prosecution has failed to establish the guilt of the accused beyond all reasonable doubt. Accordingly, the accused is entitled to the benefit of doubt. Hence, Point No.1 is answered in the **Negative**.

17. 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 of Karnataka Excise Act.

In view of compliance U/Sec.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 3rd day of July- 2026)

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

:: ANNEXURES ::

List of witnesses examined on behalf of Prosecution:-

PW-1 : Ramu S.M. S/o Suresh
PW-2 : Prathap S/o Chandrappa
PW-3 : Maruthi M. S/o Manjanna
PW-4 : C.R. Rangaswamy S/o C.M.Rangappa
PW-5 : Anandamurthy R. S/o M.R.Ramappa

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 : 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(c) : Signature of PW-4.
- 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 : Complaint.
- Ex.P-9(a) : Signature of PW-4.
- Ex.P-10 : FIR
- Ex.P-10(a): Signature of PW-4.
- Ex.P-11 : Letter written by Excise Sub-inspector,
Holalkere to ARTO.
- Ex.P-12 : Letter written to FSL Chitradurga
for chemical examination.
- Ex.P-13 & 14: B-extracts
- Ex.P-15 : Voluntary statement of accused
- Ex.P-15(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.