

KACD420025502024



Presented on : 26-09-2024

Registered on : 26-09-2024

Decided on : 03-07-2026

Duration : 1Y, 9M, 7D

**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.1646/2024

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

(By learned A.P.P.)

V/s

Accused : Kariyappa T. S/o Late Tippeswamy,
Age: 37 years, Occ: Agriculturist,
R/o Bommanakatte village
Tq: Holalkere, Dist: Chitradurga.

(By Shri.K.P., Advocate)

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

Date of arrest of accused	:	-
Date of release of accused	:	30-10-2024
Period of custody of accused	:	
Offences complained of	:	Offences punishable Section 11, 12, 14, 15, 32, 34, 38(A) and 43(A) of Karnataka Excise Act.
Date of commencement of evidence	:	30-06-2025
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, 12, 14, 15, 32, 34, 38(A) and 43(A) of the Karnataka Excise Act, 1965.

2. On 04.04.2024, on receipt of credible information, the Excise officials conducted a raid at Malladihalli Cross on the road connecting Rangapura and Hanumali villages. They intercepted a black Hero Splendor Plus motorcycle bearing registration No.KA-16/EW-2097. During the search, they allegedly found about 576 Tetra packets of Raja whisky, each containing 90 ml, totaling 51.840 litres of illicit liquor and seized the same under

panchanama. Thereafter, a case was registered for the offences punishable under the Karnataka Excise Act, 1965 and after completion of investigation charge sheet came to be 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 doubt that the accused committed the offences punishable under Sections 11, 12, 14, 15, 32, 34, 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 case of the prosecution that, the accused was found transporting illicit liquor in a vehicle and that the said liquor was seized in the presence of panch witnesses. In order to prove the guilt of the accused, the prosecution has relied upon the

evidence of official witnesses as well as seizure panch witnesses.

9. It is a settled principle of criminal law that, the burden always lies upon the prosecution to prove the guilt of the accused beyond all reasonable doubt. Every accused is presumed to be innocent unless proved guilty in accordance with law. The burden does not shift upon the accused and the prosecution must succeed on the strength of its own evidence and not on the weakness of the defence.

10. In the present case, PW-1 Vasanth Naik and PW-2 Jaya Naik were examined as seizure panch witnesses. However, both witnesses have not supported the case of the prosecution and have turned hostile. They have denied the alleged seizure proceedings and have not supported the contents of seizure mahazar marked at Ex.P-1.

11. PW-1 deposed that he does not know the accused and that he was unaware of the contents of Ex.P-1. According to him, his signature was obtained by

the police at the Taluk office about one year prior and no seizure or panchanama was conducted in his presence. He further stated that no liquor or any other property was seized before him and that the contents of the document were not read over to him.

12. Similarly, PW-2 deposed that he does not know the accused and that he had no knowledge regarding Ex.P-1. He stated that his signature was obtained by the police at Holalkere Taluk office and that no panchanama or seizure was conducted in his presence. He also denied seizure of liquor and stated that the contents were not explained to him. Though both witnesses were treated as hostile and cross-examined by the learned APP, nothing material could be elicited to support the prosecution case.

13. It is true that merely because panch witnesses turn hostile, the prosecution case cannot be rejected in its entirety. Conviction can be based upon the testimony of official witnesses if such evidence is reliable and inspires confidence. However, in cases where seizure

forms the foundation of the prosecution case, independent corroboration assumes significance. In the present case, both seizure witnesses have completely denied the seizure proceedings.

14. The prosecution has further examined PW-3 to PW-5, who are official and investigating witnesses. On careful scrutiny of their evidence, certain inconsistencies and admissions emerge which create doubt regarding the prosecution case.

15. PW-3, during cross-examination, was unable to state the exact distance between the office and the place of occurrence. He admitted that Dogganalu Cross is situated towards the north and that Malladihalli village is at a distance of about 6–8 kilometres. He was unable to state the names of villages situated on the route and admitted that it was dark at the time of the incident and only two persons were present at the spot.

16. PW-4 also made similar admissions. He could not state the exact distance to the place of occurrence and admitted that they had directly proceeded from the

office for patrol duty. He could not state the direction in which they were standing at Malladihalli Cross. He further admitted that the panch witnesses were secured from Malladihalli Cross and that it was dark and only two persons were present at the spot. PW-5 also made similar admissions during cross-examination.

17. The alleged seizure constitutes the foundation of the prosecution case. When the very seizure becomes doubtful due to the hostile attitude of independent witnesses and inconsistencies in the evidence of official witnesses, the prosecution version becomes doubtful. The prosecution has not placed convincing and reliable evidence to remove such doubt.

18. The prosecution is ultimately left only with the testimony of official witnesses. There is no legal prohibition in relying upon official witnesses alone; however, such evidence must withstand careful scrutiny. In the present case, in the absence of independent corroboration and in view of both seizure witnesses disowning the seizure proceedings, the evidence of official

witnesses by itself does not inspire confidence to conclusively establish the prosecution case.

19. It is well settled that suspicion, however strong, cannot substitute proof. A criminal conviction cannot rest upon conjectures or probabilities. Where two views are possible on the evidence available, the one favourable to the accused must be adopted.

20. Therefore, upon careful appreciation of the oral and documentary evidence on record, 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 this court is constrained to answer the Point No.1 in the '**Negative**'.

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

: ORDER :

Acting under Section 248(1) of
Cr.P.C., the accused is hereby

acquitted for the offences punishable under Sections 11, 12, 14, 15, 32, 34, 38(A) and 43(A) 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 : Vasanth Naika S/o Thimmanaika
PW-2 : Jayanaika S/o Lacchanaika
PW-3 : Basavaraj J. S/o Jayanna
PW-4 : Somashekhar M.R S/o Late Ramappa M.
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-2 : Search warrant.
- Ex.P-2(a) : Signature of PW-1.
- 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 mahazar
- 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 : Request letter
- Ex.P-7(a) : Signature of PW-2.
- 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 : Request for chemical analysis report
- Ex.P-12 : FSL report.
- Ex.P-13 & 14: B Register 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.