



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL  
JUDGE & CJM., AT: CHIKKAMAGALURU.**

**Present**

**Smt. Kumari Sujatha. B.Com. LL.B.  
Prl. Senior Civil Judge & CJM.,  
Chikkamagaluru.**

**C.C.No.1085/2025**

**Dated this the 07<sup>th</sup> day of March 2026**

**Complainant:** The State by CEN Crime Police Station,  
Chikkamagaluru.

**(By APP)**

**-V/s-**

**Accused** : Poornesha K.M,  
S/o. Late Magappagowda,  
Aged about 49 years,  
R/o. Kabbinasethuve Village,  
Kelaguru Post, Alduru Hobli,  
Chikkamagaluru.

**(By Sri MRY., Advocate )**

Date of presenting complaint : 28.03.2025

Date of arrest of accused : 30.08.2025

Name of the complainant : Abdul Khadar



Date of commencement of evidence : 11.11.2025  
Date of closing of evidence : 18.02.2026  
Offence complained by : U/s 32 and 34 of K.E.Act  
Opinion of the Judge : Acquitted

### **J U D G M E N T**

The Dy.S.P. of CEN Police Station, Chikkamagaluru has submitted Charge sheet against the accused for the offences punishable under Section 32 and 34 of K.E. Act.

**2. The case of the prosecution in brief is as follows :-**

That on 28.03.2025 at about 06-00 p.m., within the jurisdiction of CEN Police Station, in the back side of cow shed situated behind the house of accused Poornesh at Kabbinasethuve Village of Chikkamagaluru Taluk, the accused found to be in



possession of 45 tetra packets of Original Choice Deluxe Whisky of 90 ml each, 23 tetra packets of Captain Martins Special Whisky of 90 ml each, 7 tetra packets of Old Taveren Whisky of 180 ml each and 7 tetra packets of Bagpiper Whisky of 90 ml each without holding any permit and with an intention to sell the same to the public to make an unlawful gain and thereby the accused has committed the offences punishable under Sections 32 and 34 of K.E.Act.

3. Upon the self Complaint, CW.1 - Abdul Khadar has registered the case in Cr.No.18/2025 and submitted FIR before the Court. After investigation, the IO has submitted Charge sheet against the accused for the offences punishable under Section 32 and 34 of K.E.Act and the Court had taken cognizance of the said offences. After



filing of Charge sheet, summons was issued to the accused and in consonance with the said summons, the accused had appeared before the Court through his counsel and got released on bail. The Charge sheet copy was furnished to the accused as contemplated under section 230 of B.N.S.S. Heard before the Charge. As there was sufficient materials available, Charge was framed for the offences punishable under section 32 and 34 of K.E.Act and read over and explained to the accused in vernacular on 06.10.2025 and the accused had pleaded not guilty and claimed to be tried.

4. To substantiate the prosecution case, the prosecution has examined 6 witnesses as PW. 1 to PW.6 and got marked 12 documents at Ex.P.1 to 12 and also got marked MO.1 and MO.2. On closure of the evidence on the side of the prosecution, the



Statement of the accused as required under section 351 of B.N.S.S., was recorded. The accused has denied all the incriminating evidence led against him and he did not choose to lead defence evidence.

5. Heard arguments both side. Perused the depositions, documents exhibited and materials available on record.

6. Now the point arises for the determination of this Court are as follows.

### **POINTS**

- 1. Whether the prosecution proves beyond all reasonable doubts that on 28.03.2025 at about 06-00 p.m., within the jurisdiction of CEN Police Station, in the back side of cow shed situated behind the house of accused Poornesh at Kabbinasethuve Village of***



***Chikkamagaluru Taluk, the accused found to be in possession of 45 tetra packets of Original Choice Deluxe Whisky of 90 ml each, 23 tetra packets of Captain Martins Special Whisky of 90 ml each, 7 tetra packets of Old Taveren Whisky of 180 ml each and 7 tetra packets of Bagpiper Whisky of 90 ml each without holding any permit and with an intention to sell the same to the public to make an unlawful gain and thereby the accused has committed the offences punishable under Sections 32 and 34 of K.E.Act?***

**2. What Order ?**

7. My findings on the above points are as

follows:



**Point No.1 : *In the Negative***

**Point No.2 : *As per the final order  
for the following :-***

**REASONS**

8. **Point No.1:** It is the burden lies upon the prosecution to prove the guilt of the accused beyond all reasonable doubt. In order to substantiate the case of the prosecution, it has examined in total 6 witnesses as PW.1 to 6 and got marked 12 documents at Ex.P.1 to P.12 and also got marked MO.1 and MO.2. Ex.P.1 is the Notice, Ex.P.2 is the Spot Mahazar with sketch, Ex.P.3 and 4 are the Statement of witnesses, Ex.P.5 is the Photos, Ex.P.6 is the C.D., Ex.P.7 is the 63(4)(C) Certificate, Ex.P.8 Report, Ex.P.9 is the F.I.R., Ex.P.10 is the Report, Ex.P.11 is the FSL Report and Ex.P.12 is the Requisition for FSL.



9. PW.1 – Devaraj and PW.2 – Ashok B.P. are the independent mahazar witnesses had categorically deposed that they know the accused. Further they identified the notice and mahazar at Ex.P.1 and 2 and their signature at Ex.P.1(a) and 1(b), 2(a) and 2(b) respectively. Further they deposed that they put their signature on the same near Kabbinasethuve and they does not know why they put their signature on the same and in their presence the Police did not seize any properties. Further they deposed that they did not give any statement before the Police. Learned APP treated them as hostile witnesses and cross-examined. But, nothing could be elicited to prove the prosecution case.

10. PW.3 – Mahasevaswamy B. - P.C.No.620 has deposed that on 28.03.2025 when he was in



Police Station, then CW.1 called him and CW.5 and 6 and informed about the information he received and then they left the Police Station in a Car at 06-50 p.m., and reached Kabbinasethuve Village at 07-20 p.m. and they parked their car near Petrol bunk and found CW.2 and 3 as panchas and as the panchas agreed, they issued notice to them and took the panchas along with them near the house of Poornesh Gowda and found door locked to the house of the Poornesh Gowda. Then, on confidential watch, they found one person selling liquor to the public by keeping the same in plastic bag and when they went near the spot by mobile torch light, then the accused ran away from the spot and though they tried to caught hold him, they did not catch him. Thereafter, they enquired two persons who came there as a customer, but, they refused to give their



information. Thereafter, on search of the said white colored plastic bag, they found 45 pouches of Original Choice Whisky of 90 ml each, 23 pouches of Captain Martins Special Whisky of 90 ml each, 7 pouches of Old Taveren Whisky of 180 ml each and 7 pouches of Bagpiper Whisky of 90 ml each and they seized the same and he took photo from his mobile and prepared mahazar at 07-40 p.m., to 08-40 p.m. After returning to the Police Station, he transferred the said photos from his mobile to CD through computer and he issued 65(B) Certificate for the same. He identified his signature on the mahazar at Ex.P.2(c) and photos at Ex.P.5 and CD at Ex.P.6 and Certificate at Ex.P.7 and his signature at Ex.P.7(a). Thereafter, he gave his statement before the IO and he identified tetra packets at MO.1 and



white coloured plastic bag at MO.2 and he also identified the accused.

11. PW.4- Abdul Khadar – PI has deposed that on 28.03.2025 at about 06-00 p.m., when he was in the Police Station on receipt of credible information, he registered the case on his self-complaint and submitted FIR before the Court which he identified as per Ex.P.8 and his signature at Ex.P.8(a) and thereafter, he took CW.4 to 6 in his Car and left the Police Station at 06-50 p.m., and went near Petrol bunk of Kabbinasethuve Village and found CW.2 and 3 as panchas and issued notice them and he identified his signature on the same as per Ex.P.1(c). Thereafter, on confidential watch, they found one person selling the liquor to four persons by keeping the same in a plastic bag and when they conducted raid, then the said person and four customers ran



away from the said place. Thereafter, two other persons came there as a customers and on enquiry, the said customers refused to give their statement. Thereafter, on search they found 45 tetra packets of Original Choice Deluxe Whisky of 90 ml each, 23 tetra packets of Captain Martins Special Whisky of 90 ml each, 7 tetra packets of Bagpiper Whisky of 90 ml each and 7 tetra packets of Old Taveren Whisky of 180 ml each and they sealed it and pasted the chit which contains his signature and panchas signature. Thereafter, they prepared mahazar and sketch at the spot in between 07-40 to 08-40 p.m. and he identified his signature as per Ex.P.2(d) and also took photo at the spot. Thereafter, they returned to the Police Station and he prepared his report and submitted the same to CW.9 and he identified his report at Ex.P.10 and his signature at



Ex.P.10(a). He identified the tetra packets and plastic bag at MO.1 and MO.2 and he also identified the accused.

12. PW.5 –J.S. Thippeswamy – Dy.S.P. has deposed that on 29.03.2025 on receipt of report and properties from CW.1, he inserted the properties in PF. Thereafter, on 30.03.2025, he received the 65(B) Certificate from CW.4 and he identified the photos and report and his signature on the same. On 02.04.2025 he recorded the statement of CW.2 to 6 and on 16.04.2025 he sent the samples for Chemical Examination through CW.4. On 25.05.2025 he received the FSL report which he identified at Ex.P.11 and his signature at Ex.P.11(a) and requisition at Ex.P.12 and his signature at Ex.P.12(a). On the same date, the accused appeared before him by obtaining the Anticipatory bail and he



released the accused by taking necessary bonds. Thereafter, on completion of investigation, he submitted Charge-sheet against the accused before the Court. He identified MO.1 and 2 and accused.

13. PW.6 – Hemanth Kumar H. - PC.No.599 has deposed that on 28.03.2025 at about 06-45 p.m., CW.1 called him and CW.4 and 5 and informed about the raid and they went along with CW.1 to the spot and they found two persons as panchas and CW.1 issued notice to them and they went near the house of the Poornesh and found the house of the Poornesh was locked and they went back side of the house and found one cow shed and on confidential watch, they found 4 to 5 persons and one person holding the plastic bag and they found the said persons purchasing the liquor from the accused and thereafter they conducted raid and



then, accused and said 4 to 5 persons ran away from the spot and thereafter two persons came to the spot and CW.1 enquired with them and then the said persons told that they came to purchase the liquor from the accused. But, the said persons refused to put their signature on the mahazar. Thereafter, on search they found 45 tetra packets of Original Choice Deluxe Whisky of 90 ml each, 23 tetra packets of Captain Martins Special Whisky of 90 ml each, 7 tetra packets of Old Taveren Whisky of 180 ml each and 7 tetra packets of Bagpiper Whisky of 90 ml each. They seized the same in the presence of panchas by preparing mahazar and he written down the mahazar as per the dictation of CW.1 and the direction of the panchas. He identified his signature on the same at Ex.P.2(e) and the mahazar was prepared in between 07-40 p.m., to 08-40 p.m.



and photo was also taken. He identified the MO.1 and accused.

14. It is the burden lies upon the prosecution to prove the guilt of the accused beyond all reasonable doubt.

In this case, the prosecution has mainly relied on the evidence of PW.1 to 6 and Ex.P.1 to 12 and MO.1 and MO.2. PW.1 and PW.2 are the independent mahazar witnesses had categorically turned hostile to the prosecution case and they deposed that in their presence the Police did not seize any properties. Though learned APP treated them as hostile witnesses and cross-examined but nothing could be elicited to prove the prosecution case. PW.3 to 6 are the Police officials who has reiterated about the raid conducted by them and



seizure of properties and preparation of mahazar and investigation they made and submission of Charge-sheet. PW.3, PW.4 and PW.6 are the Police officials who had conducted raid at the spot. As per the evidence of PW.3 when they went to the spot, accused ran away from the spot and subsequently two customers came there and on questioning they said that they came there to purchase the liquor. As per the evidence of PW.4, when they went to the spot they found four customers and the accused, thereafter two other persons came to the spot. As per the evidence of PW.6, when they went to the spot they found 4 to 5 persons in the spot and they ran away from the spot by seeing them and thereafter two another persons came to the spot. So, the evidence of PW.3, PW.4 and PW.6 are contradictory to each other. In the cross-examination PW.3 has



deposed that when they went to the spot, they found 4 to 6 customers and when they conducted raid, some of them ran away and they enquired two persons. But, in the chief-examination he said that when they conducted raid, the accused ran away from the spot and they enquired two customers who came later to purchase the liquor from the accused. So, the evidence of PW.3 is self contradictory. Further PW.3 has admitted that, in Ex.P.5 the plastic bag was found to be folded. But, in MO.2 plastic bag found orange colour in the folded place. It is worth to note here that Ex.P.5 – Photo, wherein, the white coloured plastic bag founded. But, the said plastic bag does not shows orange colour where it was folded. But, MO.2 which was present before the Court finds orange colour at the place where it was folded. So, there is a difference in the plastic



bag which was found in Ex.P.5 and MO.2. Hence, it is fatal to the prosecution case.

15. Further, PW.3 in his cross-examination admitted that he has mentioned in the Certificate from which computer he was transferred the photos, but, he also admitted that he does not had any problem to give complete information about the computer in the said Certificate. PW.4 being the Police official who has conducted raid, in his cross-examination has not deposed anything about the personal search before conducting raid. PW.5 being the Investigating Officer has reiterated about the investigation he made and submission of Charge-sheet. In the cross-examination he deposed that prior to conduct raid, CW.1 orally informed him and CW.1 did not get the search warrant. Further he admitted that after produce of MO.1 before him, he



investigated that whether the said liquor is legally manufactured or not and he found that it was legally manufactured, but, he did not make any communication with the Excise Department. Further, he admitted that he has not investigated from which source the said liquor packets came to the possession of the accused. It is very important that Investigating Officer has to investigate the source of the liquor which they found. But, in this case the PW.5 being the Investigating Officer has failed to investigate about the source of MO.1. Further it is worth to note here that as per the evidence of PW.5 on 16.04.2025 he sent liquor packets for Chemical Examination. The said raid was conducted on 28.03.2025. Hence, there is 19 days delay in sending the sample for the Chemical Examination and there is no explanation come out



from the IO about the reason for delay in sending the sample for Chemical Examination which is also fatal to the prosecution case. PW.6 deposed about the raid conducted by them along with the PW.3 and PW.4. In the cross-examination he also said that he could not say the distance from the Police Station to the spot. Hence, by the oral and documentary evidence led by the prosecution, the independent mahazar witnesses did not support the evidence of Police officials and they turned hostile to the prosecution case and nothing worthwhile come out from their mouth to prove the contents of the mahazar. Moreover, MO.2 which was present before the Court is the different than the plastic bag which was found in the Ex.P.5 – Photo. The Police officials had not spoken about the personal search and the search of their vehicle before conducting the raid.



Further the IO has failed to investigate about the source of the MO.1 and also there is a delay in sending the samples for Chemical Examination.

16. It is the settled principle of law that on the evidence adduced by the prosecution, two views are possible. One view shows the innocence of the accused and another view shows the guilt of the accused. Then, the view which is favorable to the accused should be adopted. Therefore, by the oral and documentary evidence led by the prosecution, this Court is of the opinion that the prosecution has miserably failed to prove the guilt of the accused beyond all reasonable doubt. Accordingly, I have answered the above Point No.1 is in the “**Negative**”.

17. **Point No.2:** As per my discussion as stated supra and my answer to Point No.1 is in the Negative, I proceed to pass the following :-



**ORDER**

**Acting under Section 265(1) of B.N.S.S., the accused is hereby acquitted of the offences punishable under Section 32 and 34 of K.E.Act.**

**His bail bond and surety bond stands canceled.**

**MO.1 and MO.2 i.e., Tetra packets and white coloured Plastic bag shall hereby ordered to be destroyed as the same are worthless, after appeal period is over.**

(Dictated to the stenographer, transcribed and typed by her, corrected, signed and pronounced by me in the open Court on 07<sup>th</sup> day of March 2026).

Sd/-  
**( Kumari Sujatha)**  
**Prl. Senior Civil Judge & CJM,**  
**Chikkamagaluru.**

**ANNEXURE**

List of witnesses examined on behalf prosecution:

PW.1 : Devaraj



- PW.2 : Ashok B.P  
PW.3 : Mahadeveswamy. B  
PW.4 : Abdul Khader  
PW.5 : J.S. Thippeswamy  
PW.6 : Hemanth Kumar. H

List of exhibited documents for complainant:-

- 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.4  
Ex.P.2 : Spot Mahazar  
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.2(e) : Signature of PW.6  
Ex.P.3 : Statement of PW.1  
Ex.P.4 : Statement of PW.2  
Ex.P.5 : 2-Photos  
Ex. P.6 : CD  
Ex.P.7 : 63(4) Certificate  
Ex.P.7(a) : Statement of PW.3  
Ex.P.7(b) : Signature of PW.5  
Ex. P.8 : Self Statement  
Ex.P.8(a) : Statement of PW.4  
Ex. P.9 : FIR  
Ex.P.9(a) : Signature of PW.4



- Ex. P.10 : Report  
Ex.P.10(a) : Signature of PW.4  
Ex.P.10(b) : Signature of PW.5  
Ex. P.11 : FSL Report  
Ex.P.11(a) : Signature of PW.5  
Ex. P.12 : Requisition for FSL  
Ex.P.12(a) : Signature of PW.5

List of witnesses examined for defence:

-NIL-

List of documents exhibited for defence:-

-NIL-

List of Material objects :-

- MO.1 : Tetra Packets  
MO.1 : White Colour Plastic Bag

**Sd/-**  
**(Kumari Sujatha)**  
Prl. Senior Civil Judge & CJM.,  
Chikkamagaluru.