



**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.1084/2024

Dated this the 25th day of June 2026

Complainant: The State by CEN Police Station,
Chikkamagaluru.

(By APP)

-V/s-

Accused : Gopala Naidu
S/o Late Krishnappa,
Aged about 59 years,
R/o Kote Beluru Road,
Chikkamagaluru Town.

(By Sri JKS, Advocate)

Date of presenting : 11.04.2023
complaint

Date of arrest of accused : 17.06.2025

Name of the complainant : Raghunath S.V.



Date of commencement of evidence : 01.09.2025
Date of closing of evidence : 01.06.2026
Offence complained by : U/s 15(A), 32 and 34 of K.E.Act
Opinion of the Judge : Acquitted

J U D G M E N T

The PI of CEN Police Station, Chikkamagaluru has submitted Charge sheet against the accused for the offences punishable under Sections 15(A), 32 and 34 of K.E. Act.

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

That on 11.04.2023 at about 10-20 a.m., within the jurisdiction of CEN Police Station, Chikkamagaluru, in front of the house of the accused by name Gopala Naidu, he found to be in possession of 3 tetra packets of Old Tavren Whisky



of 180 ml each, 8 tetra packets of Bag Piper of 180 ml each, 16 tetra packets of Hywards Whisky of 90 ml each and 74 packets of Original Choice Whisky of 90 ml each and two plastic glasses and cash of Rs.250/- without having permit and with an intention to sell the same to the public and also the accused found to be selling liquor to the public for consumption and thereby the accused has committed the offences punishable under Sections 15(A), 32 and 34 of K.E.Act.

3. Upon the self Complaint, CW.1 - Raghunath S.V., has registered the case in Cr.No.83/2023 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 23.07.2025 and the accused had pleaded not guilty and claimed to be tried.

4. To substantiate the prosecution case, the prosecution has examined 7 witnesses as PW.1 to PW.7 and got marked 14 documents at Ex.P.1 to 14 and also got marked MO.1 to MO.3. 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 11.04.2023 at about 10-20 a.m., within the jurisdiction of CEN Police Station, Chikkamagaluru, in front of the house of the accused by name Gopala Naidu, he found to be in possession of 3 tetra packets of***



Old Tavren Whisky of 180 ml each, 8 tetra packets of Bag Piper of 180 ml each, 16 tetra packets of Hywards Whisky of 90 ml each and 74 packets of Original Choice Whisky of 90 ml each and two plastic glasses and cash of Rs.250/- without possessing permit and with an intention to sell the same to the public and thereby the accused has committed the offences punishable under Sections 32 and 34 of K.E.Act?

- 2. Whether the prosecution further proves beyond all reasonable doubt that on the aforesaid date, time and place, the accused engaged in selling the liquor to the public for consumption and thereby the accused has committed the offences***



***punishable under Sections 15(A)
of K.E.Act?***

3. What Order ?

7. My findings on the above points are as follows:

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : As per the final order

for the following :-

REASONS

8. **Point No.1 and 2:** Both these points are taken up together for common discussion as they are inter-linked with each other and in order to avoid repetition of facts.

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 7 witnesses as



PW.1 to 7 and got marked 14 documents at Ex.P.1 to P.14 and also got marked MO.1 to MO.3. Ex.P.1 is the Notice, Ex.P.2 is the Spot Mahazar, Ex.P.3 Statement of PW.1, Ex.P.4 is the Statement of PW.2, Ex.P.5 is the Self-Complaint, Ex.P.6 is the FIR, Ex.P.7 is the Photo, Ex.P.8 is the Requisition, Ex.P.9 is the CD, Ex.P.10 is the 65(B) Certificate, Ex.P.11 is the Requisition for Assessment, Ex.P.12 is the Requisition for FSL, Ex.P.13 is the FSL Report and Ex.P.14 is the Assessment.

9. PW.1 –Prashanth and PW.2 – Azgar are the independent mahazar witnesses had categorically deposed that they does not know the accused and they identified the notice and mahazar at Ex.P.1 and Ex.P.2. PW.1 identified his signature on the Notice and Mahazar at Ex.P.1(a) and Ex.P.2(a) and PW.2



identified his thumb impression on the said Notice and Mahazar. Further they deposed that they put their signature on the said mahazar 1½ and 2½ years back at bus stand and they does not know for what purpose they put their signature on the same and in their presence the Police did not seize any properties and 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 –Raghunath S.V.– PSI and PW.4 – Anwar Pasha – HC.31 has categorically deposed that on 11.04.2023 at about 09-00 a.m., when they were in Police Station, on receipt of credible information, PW.3 by preparing Self-Complaint had registered the case and submitted FIR before the Court. Further



they deposed that thereafter, they along with CW.4 and 5 went near Belur road bus stand and found CW.2 and 3 and informed them about the raid and asked them to become panchas and as they agreed, they took them as panchas along with them and went near the house of the accused and on confidential watch, they found the accused selling the liquor to the public in front of his house. Thereafter, they conducted raid and then, the public ran away from the said spot and they caught hold the accused and on enquiry, the accused said his name and address and thereafter on search of the white coloured bag, they found 3 tetra packets of Old Tavern Whisky of 180 ml each, 8 tetra packets of Bag Piper Whisky of 180 ml each, 16 tetra packets of Haywards Special Whisky of 90 ml each and 74 tetra packets of Original Choice Whisky of 90



ml each and they also seized the empty plastic glasses and cash of Rs.250/- from the accused by preparing the mahazar and also seized the said liquor sachets and also took photo at the spot. PW.3 further deposed that thereafter he issued notice to the accused and returned to the Police Station and produced report, mahazar and properties to the CW.9. PW.4 further deposed that after returning to the Police Station, he transferred the photos to the CD and issued Certificate for the same. Both these witnesses had identified the accused before the Court and also identified the tetra packets and plastic glasses and cash of Rs.250/- at MO.1 to MO.3.

11. PW.5 – Omdas – PSI has deposed that on 26.03.2024 he issued requisition to the Municipality



Commissioner for spot Assessment and handed over case file to CW.10 for further investigation.

12. PW.6 – Vishwanath – PSI has deposed that on 11.04.2023 on receipt of case file, he inserted the properties in the PF. On 12.04.2023 he received 65(B) Certificate from CW.5 and on the same date he recorded the statement of CW.2 to 5. On 15.04.2023 he sent samples through CW.5 for Chemical Examination and handed over case file to CW.10 for further investigation.

13. PW.7 – Gaviraj R.P. - PI has deposed that on 05.06.2024 he received the case file from CW.9 and on 16.08.2024 he received the FSL report and on the same date he received the Assessment of the spot from CW.10 and on completion of investigation,



he submitted Charge-sheet against the accused before the Court.

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 7 and Ex.P.1 to 14 and MO.1 to MO.3. PW.1 and PW.2 are the independent mahazar witnesses and PW.3 to 7 are the Police officials. PW.1 and 2 being the independent witnesses had categorically turned hostile to the prosecution case and nothing worthwhile come out from their mouth to prove the contents of the Mahazar and seizure of properties. PW.3 and PW.4 being the Police officials who had conducted raid and seized the properties had categorically reiterated the prosecution case in their chief-examination. In the cross-examination, PW.3



deposed that he does not know the house number of the accused and he did not obtain any document in respect of house of the accused and he did not made the neighbourers of the house of the accused as a panchas and he also admitted that there was number houses situated near the house of the accused. Further he deposed that he did not enquire about the customers who ran away from the said spot. PW.3 admitted the suggestion as under:

“ ಪಾಸ್ವಿಕ್ ಲೋಟವನ್ನು ಇಟ್ಟಿರುವ ಬೇಲದ ಮೇಲೆ ಪಂಚರ ಸಹಿಗಳುಳ್ಳ ಬೇಟಿಯಾಗಲೀ ಅಥವಾ ಅಪರಾಧ ಸಂಖ್ಯೆಯಾಗಲಿ ಹಾಗೂ ದಿನಾಂಕ ಇರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಮುದ್ದೆಮಾಲು -3 ಹಣ ಆತನ ಕೈಯಲ್ಲಿ ಇತ್ತು. ಸದರಿ ಹಣದ ಡಿನೋಮಿನೇಷನ್ ಅನ್ನು ಮಹಜರ್ ನಲ್ಲಿ ನಮೂದು ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ”.

So, this evidence of PW.3 shows that though he has deposed that he has seized Rs.250/- from the accused in respect of the liquor which the accused



alleged to be sold to the public, PW.3 has not mentioned the denomination of the said amount in the mahazar, which draws an adverse inference against the prosecution case. Moreover, though the PW.3 has deposed that accused engaged in selling the liquor to the public for consumption and they have seized the plastic glasses i.e., MO.2, it does not found the chit of the panchas or crime number or date on it. So, it is also fatal to the prosecution case. PW.3 also admitted the suggestion about the MO.1 i.e., the sachets found before the Court are empty, since, it was sent for Chemical Examination. PW.4 also admitted the suggestion that there was number of houses situated near the house of the accused and there was no shops situated near the house of the accused and he does not know the number of the house of the accused and they did not issue



notice to the neighborers to become a panchas.

PW.4 has further deposed that:

“ ಸದರಿ ದಿನ ನಾವು ಅಮಾನತ್ತುಪಡಿಸಿದ
ಮುದ್ದೆಮಾಲುಗಳಿಗೆ ಪಂಚರ ಚೀಟಿ ಅಂಟಿಸಿರುವುದಿಲ್ಲ
ಎಂದರೆ ಸರಿಯಲ್ಲ. ಈಗ ನ್ಯಾಯಾಲಯದ ಮುಂದೆ
ಇರುವ ಮಧ್ಯದ ಟೆಟ್ರಾ ಪ್ಯಾಕೆಟ್ ಗಳು ಖಾಲಿ ಇರುತ್ತದೆ
ಎಂದರೆ ಸರಿ. ಮುದ್ದೆಮಾಲು 2 ರ ಮೇಲೆ ಪಂಚರ
ಸಹಿಯುಳ್ಳ ಚೀಟಿ ಇರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ”.

So, this evidence of PW.4 clearly shows that though he denied the suggestion about the chit on the seized properties which does not containing the signature of the panchas, later he admitted the suggestion that it does not containing the chit which bears the signature of panchas. Further he admitted that they did not mention the denomination of the seized amount in the mahazar. So, the evidence of PW.3 and 4 is not sufficient to prove the case against the accused. Moreover, their evidence is not



supported with the evidence of mahazar witnesses and also the MO.3 does not show about the denomination in the mahazar as well as MO.1 and MO.2 does not found the chit which containing the signature of the panchas. PW.5 to PW.7 are the Police officials and Investigating Officers who have reiterated about the investigation they made and submission of Charge-sheet and their cross-examination is denials. Further PW.6 admitted in his cross-examination that the denomination of MO.3 does not found in the mahazar and he did not put his signature on MO.1 to MO.3. PW.6 in his chief-examination has deposed that on 15.04.2023 he sent samples for Chemical examination through CW.5. The alleged raid was conducted on 11.04.2023 and the samples sent for Chemical Examination on 15.04.2023. That means there is 4



days delay in sending sample for the Chemical Examination. There is no explanation come forth in the evidence of IO for such delay. Hence, the prosecution fails to explain the delay and has not produced unpeachable evidence that the samples were safely stored and untampered and the benefit of doubt goes to the accused. The IO has failed to investigate the source of the seized liquor sachets and the IO has failed to establish the chain of custody of liquor sachets and supply.

15. 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**”.

16. **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 271(1) of B.N.S.S, the accused is hereby acquitted of the offences punishable under Section 15(A), 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 Plastic glasses shall hereby ordered to be destroyed as the same



are worthless, after appeal period is over.

MO.3 – Cash of Rs.250/- shall hereby ordered to be confiscated to the State 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 25th day of June 2026).

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

ANNEXURE

List of witnesses examined on behalf prosecution:

PW.1 : Prashanth
PW.2 : Asgar
PW.3 : Raghunath S.V.
PW.4 : Anwar Pasha
PW.5 : Omdas
PW.6 : Vishwanath
PW.7 : Gaviraj R.P.



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.3
- Ex.P.2 : Spot Mahazar
- Ex.P.2(a) : Signature of PW.1
- Ex.P.2(b) : Signature of PW.3
- Ex.P.2(c) : Signature of PW.4
- Ex.P.3 : Statement of PW.1
- Ex.P.4 : Statement of PW.2
- Ex.P.5 : Self-Complaint
- Ex.P.5(a) : Signature of PW.3
- Ex.P.6 : FIR
- Ex.P.6(a) : Signature of PW.3
- Ex.P.7 : Photo
- Ex.P.8 : Complaint
- Ex.P.8(a) : Signature of PW.3
- Ex.P.8(b) : Signature of PW.6
- Ex.P.9 : CD
- Ex.P.10 : 65(B) Certificate
- Ex.P.10(a) : Signature of PW.4
- Ex.P.10(b) : Signature of PW.6



Ex.P.11 : Requisition for Assessment

Ex.P.11(a) : Signature of PW.5

Ex.P.12 : Requisition for FSL

Ex.P.12(a) : Signature of PW.6

Ex.P.13 : FSL Report

Ex.P.13(a) : Signature of PW.7

Ex.P.14 : Assessment

Ex.P.14(a) : Signature of PW.7

List of witnesses examined for defence:

-NIL-

List of documents exhibited for defence:-

-NIL-

List of Material objects :-

MO.1 : Tetra packets

MO.2 : Plastic cups

MO.3 : Cash of Rs.250/-

Sd/-

(Kumari Sujatha)

Prl. Senior Civil Judge & CJM.,
Chikkamagaluru.