



**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.1641/2025

Dated this the 24th day of July 2026

Complainant: The State by CEN Police Station,
Chikkamagaluru.

(By APP)

-V/s-

Accused : Karthik
S/o H.Ravindra,
Aged about 31 years,
R/o Swathi Nilaya,
MB Road, Alduru Village,
N/o Jayanagara,
Chikkamagaluru.

(By Sri NH, Advocate)

Date of presenting : 21.06.2025
complaint

Date of arrest of accused : 11.11.2025



Name of the complainant : Abdul Khader
Date of commencement of evidence : 24.03.2026
Date of closing of evidence : 06.07.2026
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 Sections 32 and 34 of K.E. Act.

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

That on 21.06.2025 at about 01-00 p.m., within the jurisdiction of CEN Police Station, on the public place, in front of the Crematorium situated at Yalagudige Village, on the public road which leads



from Aldur Village to Handi Village of Chikkamagaluru Taluk, the accused found to be in possession of 96 tetra packets of Original Choice Deluxe Whisky of 90 ml each and without holding any permit or licence 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.

3. Upon the self Complaint, CW.1 -Abdul Khadar, has registered the case in Cr.No.65/2025 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 a vernacular on 28.11.2025 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 21.06.2025 at about 01-00 p.m., within the jurisdiction of CEN Police Station, on the public place, in front of the Crematorium situated at Yalagudige Village, on the public road which leads from***



Aldur Village to Handi Village of Chikkamagaluru Taluk, the accused found to be in possession of 96 tetra packets of Original Choice Deluxe Whisky of 90 ml each and without holding any permit or licence 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. 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 Self-complaint, Ex.P.2 is the FIR, Ex.P.3 is the Police notice, Ex.P.4 is the Spot Mahazar, Ex.P.5 is the Photo, Ex.P.6 is the Report, Ex.P.7 is the Statement of PW.2, Ex.P.8 is the Statement of PW.3, Ex.P.9 is the CD, Ex.P.10 is the 63(4)(C) Certificate, Ex.P.11 is the Requisition for FSL, Ex.P.12 is the FSL Report.

9. PW.1 – Abdul Khadar, PW.5 – Arunkumar K.G. - H.C. and PW.6 – Mallegowda B. - HC had



categorically deposed in their chief-examination that on 21.06.2025 at about 11-30 a.m., on receipt of credible information, PW.1 has informed the same to his higher officials and had prepared self-complaint and registered the case and submitted the FIR before the Court and informed the same to CW.4 to 7 and thereafter, they went in a Car bearing Reg.No.KA-03-M.R.5401 at about 12-20 p.m. from Police Station and reached the Aldur bus stand. Further they deposed that they found CW.2 and 3 as panchas and as they agreed to become a panchas, PW.1 has issued notice to them and from there they went near Yalagudige and on confidential watch, they found the accused selling liquor to the public by keeping the same in white coloured plastic bag, and they conducted raid and caught hold the accused and on enquiry, the accused said his name



as Karthik S/o Ravindra, Aldur and on search of the said plastic bag, they found 96 sachets of Original Choice Deluxe Whisky of 90 ml each and on enquiry about the permit, the accused said he did not possess any permit. Thereafter, they prepared mahazar and seized the said sachets and plastic bag and pasted the chit which contained their signature and the panchas signature and also taken photo at the spot. They identified the mahazar at Ex.P.5 and their signature on the same, thereafter, they returned to the station.

10. PW.1 further deposed that after returning to the station, he prepared his report and submitted it to CW.10 and PW.5 further deposed that after returning to the Police Station, he transferred the photos to DVD and issued Certificate for the same and he identified the CD at Ex.P.9 and Certificate at



Ex.P.10 and his signature on the same. PW.6 further deposed that at the spot he has written down the mahazar as per the dictation of CW.1. These witnesses identified the sachets at MO.1 and plastic bag at MO.2.

11. PW.2 – Sachin N. Achar and PW.3 – Dayanand are the independent mahazar witnesses had categorically deposed that they does not know the accused and they identified the notice and mahazar and their signature at Ex.P.3(b), 4(b) and 3(c), 4(c) respectively and they put their signature at Soorappanahalli 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.

12. PW.4- J.S.Thippeswamy – DYSP has deposed that on 21.06.2025 at about 08-00 p.m. on receipt of report, sachets and file, he inserted the same in the PF and he received Certificate from CW.6. Further he deposed that on 22.06.2025 he recorded the statement of CW.2 to 7. That on 01.07.2025 he sent seized liquor to the FSL through CPC-620 and on 21.08.2025 he received FSL report and he identified the report at Ex.P.12 and his signature at Ex.P.12(a). On completion of investigation, he submitted Charge-sheet against the accused before the Court.

13. 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



to prove that on 21.06.2025 the accused found to be in possession of 96 tetra packets of Original Choice Deluxe Whisky of 90 ml each without having any permit and he is selling the same to the public to make an unlawful gain.

14. Section 32 and 34 of Excise Act reads as under:-

32 Penalty for illegal import, etc.- (1)

Whoever, in contravention of this Act, or any rule, notification or order, made, issued or given thereunder, or of any licence or permit granted under this Act, imports, exports, transports, manufactures, collects or possesses any intoxicant, shall, on conviction, [be punished for each offence with rigorous imprisonment for a term which may extend to [five years and with fine which may extend to fifty thousand rupees.

[Provided that the punishment,-

(i) for the first offence shall be not less than [one year rigorous



imprisonment and fine of not less than ten thousand rupees] and

(ii) for the second and subsequent offences shall be not less than [two years rigorous imprisonment and fine of not less than twenty thousand rupees] for each such offence.]

(2) Whoever in contravention of this Act, or of any rule, notification or order made, issued or given thereunder, or of any licence or permit granted under this Act,-

(a) save in the cases provided for in section 37, sells any intoxicant; or

(b) cultivates or fails to take the measures prescribed for checking the spontaneous growth or for the extirpation of the hemp plants; or

(c) taps or draws toddy from any toddy-producing tree or;

(d) constructs or works any distillery or brewery; or

(e) uses, keeps or has in his possession any materials, still, utensil, apparatus or implement whatsoever for the purpose of



manufacturing any intoxicant other than toddy ; or

(f) removes any intoxicant from any distillery, brewery or warehouse licenced, established or continued under this Act ; or

(g) bottles any liquor;

shall, on conviction, be punished for each offence with rigorous imprisonment for a term which may extend to five years and with a fine which may extend to twenty thousand rupees].

[Provided that the punishment,-

(i) for the first offence shall be not less than one year rigorous imprisonment and fine of not less than five thousand rupees]; and

(ii) for the second and subsequent offences shall be not less than two years rigorous imprisonment and fine of not less than ten thousand rupees] for each such offence.]

[(3) Whoever, being the owner or incharge of management or control of any public place allows consumption



of liquor or whoever consumes liquor in any public place in which consumption of liquor is not permitted under a licence granted by the Excise Commissioner or the Deputy Commissioner, in contravention of the provisions of section 15A, shall on conviction be punished with fine which shall not be less than rupees two hundred but which may extend to [five thousand rupees.]

(4) Whoever violates the provisions of section 13A or the rules made thereunder shall on conviction be punished with a fine of rupees five thousand for each time, upto first five offences. In case of subsequent offence, he shall be punished with an imprisonment for a term of six months or with fine which may extend to ten thousand rupees or with both.”]

34 Penalty for illegal possession.- Whoever, without lawful authority has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, transported, manufactured,



cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall, on conviction, be punished with imprisonment for a term which may extend to [four years and with fine which may extend to fifty thousand rupees.

[Provided that the punishment,-

(i) for the first offence shall be not less than 1[one year imprisonment and fine of rupees ten thousand]1; and

(ii) for the second and subsequent offences shall be not less than imprisonment for 1[two years and fine of not less than rupees twenty thousand], for each such offence: Provided further that the fine inflicted, shall not be less than four times the amount of duty leviable on such intoxicant.]

In this case the PW.1, 4 to 6 are the Police officials who deposed about the raid conducted by them and seizure of properties and the registration of the case and investigation they made and



submission of Charge-sheet. PW.2 and 3 are the independent mahazar witnesses had categorically tuned hostile to the prosecution case and nothing worthwhile come out from their mouth to prove the prosecution case.

15. PW.1, PW.5 and PW.6 are the official witnesses who had conducted raid and alleged to be seized the properties from the possession of the accused. Upon going through the cross-examination of PW.1 deposed as under:-

“ ನಾವು ಗಮನಿಸುವಾಗ ಆರೋಪಿಯಿಂದ
ಮದ್ಯವನ್ನು ಬೇರೆ ವ್ಯಕ್ತಿಗಳು ಬಂದು ಖರೀದಿಸಿರುತ್ತಾರೆ.
ಆರೋಪಿಯಿಂದ ಹಣವನ್ನು ವಶಪಡಿಸಿಕೊಳ್ಳಲು
ಪ್ರಯತ್ನಪಟ್ಟಿರುವುದಿಲ್ಲ”.

16. PW.5 in his cross-examination deposed as under:-



“ ಆರೋಪಿಯ ಮುಂದೆ ಒಬ್ಬ ವ್ಯಕ್ತಿ ನಿಂತಿದ್ದು
ಆತನು ಹಣವನ್ನು ನೀಡಿ ಮದ್ಯವನ್ನು ಖರೀದಿಸಿರಲಿಲ್ಲ.
ಸದರಿ 10 ನಿಮಿಷಗಳ ಕಾಲ ಗ್ರಾಹಕರು
ಆರೋಪಿ ಇದ್ದ ಸ್ಥಳಕ್ಕೆ ಬಂದು ಹೋಗುತ್ತಿದ್ದರು ಆದರೆ
ಹಣ ಕೊಟ್ಟು ಖರೀದಿಸಿರಲಿಲ್ಲ”.

17. PW.6 deposed in his cross-examination as
under: -

“ ಆರೋಪಿಯ ಬಳಿಯಿಂದ ಸಾರ್ವಜನಿಕರು
ಹಣವನ್ನು ನೀಡಿ ಮದ್ಯವನ್ನು ಖರೀದಿಸಿರುವುದನ್ನು
ನೋಡಿರುತ್ತೇನೆ. ಆರೋಪಿಯ ಬಳಿಯಿಂದ ಸದರಿ
ಮದ್ಯ ಮಾರಾಟ ಮಾಡಿದ ಹಣವನ್ನು
ವಶಪಡಿಸಿಕೊಂಡಿರುವುದಿಲ್ಲ.

So, the evidence of PW.1 shows that the public
had purchased the liquor from the accused. PW.6
also said that the public had purchased the liquor
from the accused by giving the amount. But, upon
going through the evidence of PW.5, it shows that
one person stood in front of the accused, but he did



not purchase the liquor from the accused by giving the amount. Moreover, the other customers were also came near the accused, but, they did not purchase the liquor from the accused. Though these PW.1, PW.5 and PW.6 had alleged to be conducted raid at the spot, their evidence is not corroborated to each other and it is contradictory in nature and hence, their testimony is not believable. Moreover, PW.1 has admitted in his cross-examination that he did not seize the amount from the accused. Hence, it could be inferred that if the accused engaged in selling the liquor by receiving the amount, certainly PW.1 would have seize the said amount. Non seizure of the said amount is also fatal to the prosecution case. Moreover, PW.1 and PW.5 in their cross-examination admitted that the MO.1 – tetra packets normally available in the liquor shops and MO.2 –



plastic bag available in grocery shops. PW.2 and 3 being the independent mahazar witnesses had categorically turned hostile to the prosecution case and nothing worthwhile come out from their mouth to prove the prosecution case.

18. The evidence of PW.4 shows that on 01.07.2025 he sent sample for Chemical examination. The alleged raid was conducted on 21.06.2025. Hence, there is 11 days delay in sending the sample for Chemical examination, which is also fatal to the prosecution case. Moreover, IO has not deposed about the source of liquor which alleged to be seized from the possession of the accused. 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. Moreover, the evidence of PW.4 does not shows that he did not investigate about the source of the liquor sachets, from where the said liquor sachets supplied to the accused. The IO has failed to establish the chain of custody of liquor sachets and supply.

19. 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. By the oral and documentary evidence of PW.1 to 6, since the mahazar witnesses had turned hostile to the prosecution case and since the source of the liquor sachets were not investigated and also the evidence of PW.1, 5 and 6 is contradictory to each other and



there is a delay in sending the samples for Chemical Examination and the reasons for delay is not explained by the IO, 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**”.

20. **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 32 and 34 of K.E.Act.

His bail bond and surety bond stands canceled.

MO.1 – 96 Tetra packets and MO.2 - 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 24th day of July 2026).

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

ANNEXURE

List of witnesses examined on behalf prosecution:

PW.1 : Abdul Khadar
PW.2 : Sachin N. Achar
PW.3 : Dayanand
PW.4 : J.S.Thippeswamy
PW.5 : Arun Kumar K.G.
PW.6 : Mallegowda B.

List of exhibited documents for complainant:-

Ex.P.1 : Self-complaint
Ex.P.1(a) : Signature of PW.1
Ex.P.2 : FIR
Ex.P.2(a) : Signature of PW.1



- Ex.P.3 : Police Notice
- Ex.P.3(a) : Signature of PW.1
- Ex.P.3(b) : Signature of PW.2
- Ex.P.3(c) : Signature of PW.3
- Ex.P.4 : Spot Mahazar
- Ex.P.4(a) : Signature of PW.1
- Ex.P.4(b) : Signature of PW.2
- Ex.P.4(c) : Signature of PW.3
- Ex.P.4(d) : Signature of PW.5
- Ex.P.4(e) : Signature of PW.6
- Ex.P.5 : Photo
- Ex.P.6 : Report
- Ex.P.6(a) : Signature of PW.1
- Ex.P.6(b) : Signature of PW.4
- Ex.P.7 : Statement of PW.2
- Ex.P.8 : Statement of PW.3
- Ex.P.9 : CD
- Ex.P.10 : 63(4)(C) Certificate
- Ex.P.10(a) : Signature of PW.4
- Ex.P.10(b) : Signature of PW.5
- Ex.P.11 : Requisition for FSL
- Ex.P.11(a) : Signature of PW.4



Ex.P.12 : FSL Report

Ex.P.12(a) : Signature of PW.4

List of witnesses examined for defence:

-NIL-

List of documents exhibited for defence:-

-NIL-

List of Material objects :-

MO.1 : 96- Tetra packets

MO.2 : Plastic Bag

Sd/-

(Kumari Sujatha)

Prl. Senior Civil Judge & CJM.,
Chikkamagaluru.