



**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.1092/2025

Dated this the 9th day of June 2026

Complainant: The State by CEN Police Station,
Chikkamagaluru.

(By APP)

-V/s-

Accused : Yesu S/o Jaan,
Aged about 43 years,
R/o Mavinahalli,
Arishinaguppe Village,
Mallenahalli Post,
Chikkamagaluru.

(By Sri AKR, Advocate)

Date of presenting : 23.04.2025
complaint

Date of arrest of accused : 04.09.2025

Name of the complainant : Abdul Khadar



Date of commencement of evidence : 10.11.2025
Date of closing of evidence : 23.03.2026
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 District 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 23.04.2025 at about 08-25 p.m., within the jurisdiction of CEN Police Station, in front of the shop of accused by name Yesu situated at Mavinahalli, Arishinaguppe Village of Chikkamagaluru Taluk, on the public place the



accused found to be in possession and selling 61 tetra packets of Original Choice Deluxe 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.40/2025 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 BNSS. 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 30.09.2025 and the accused had pleaded not guilty and claimed to be tried.

4. To substantiate the prosecution case, the prosecution has examined 5 witnesses as PW.1 to PW.5 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 23.04.2025 at about 08-25 p.m., within the jurisdiction of CEN Police Station, in front of the shop of accused by name Yesu situated at Mavinahalli, Arishinaguppe Village of Chikkamagaluru Taluk, on the public place the accused found to be in possession and selling 61***



tetra packets of Original Choice Deluxe Whisky of 90 ml each without holding any 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. 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 5 witnesses as PW.1 to 5 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 Notice, Ex.P.4 is the 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, Ex.P.12 is the FSL Report.

9. PW.1 Abdul Khadar and PW.5 – Ramesh N.R. are the Official witnesses had categorically deposed that on 23.04.2025 at about 06-45 p.m., on receipt of credible information, PW.1 by informing the same to the higher officials has prepared self-complaint and registered the case and along with



ASI – Jagadish Nayak, P.C.Ramesh and P.C. Mahendra went in his Car bearing Reg.No.KA-20-MA-6921 and they reached Mavinahalla Bus stand situated at Arishinaguppe Village at 08-00 p.m., and they called two panchas and issued notice to them and along with them, they went in front of the shop of one Yesu and found the accused selling the liquor by keeping the same in saffron coloured plastic bag and they caught hold the accused and on questioning the accused said his name as Yesu S/o Janu and on enquiry about permit, he said he did not possess any licence. They further deposed that on search of the said plastic bag they found 61 Original Choice Deluxe Whisky tetra packets of 90 ml each and they sealed the same by preparing the mahazar and they prepared mahazar at the spot and took photo at the spot. PW.1 identified Self-



complaint at Ex.P.1 and FIR at Ex.P.2 and his signature on the same. Further they identified the notice at Ex.P.3 and mahazar at Ex.P.4 and photo at Ex.P.5. Thereafter, they returned to the Police Station. PW.1 further deposed that after returning to the station he prepared report and produced the same before the CW.8. PW.5 further deposed that he took photo at the time of mahazar and he also written down the mahazar as per the dictation of CW.1 and he transferred the photo to DVD and produced the same before the Investigating Officer along with Certificate, which he identified at Ex.P.10 and his signature at Ex.P.10(b) and CD at Ex.P.9. Both these witnesses had identified the accused before the Court and also identified the tetra packets and plastic bag at MO.1 and MO.2.



10. PW.2 - Sharan Kumar and PW.3 - Dhanaraj are the independent mahazar witnesses had categorically identified their signature on the notice and mahazar at Ex.P.3(b) and P.4(b) and P3(c) and 4(c) respectively. Further they deposed that they does not know the contents of 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.

11. PW.4 - J.S.Thippeswamy -Dy.S.P. has deposed that on 23.04.2025 at about 10.30 p.m., on receipt of mahazar, properties and report from CW.1, he inserted the properties to the PF and also he identified his signature on the report at Ex.P.6(b).



On 24.04.2025 he received Certificate from CW.5 and CD and Photos. On 11.05.2025 he sent samples for Chemical Examination through CW.5 to FSL, Chikkamagaluru and he identified the Requisition at Ex.P.11 and his signature at Ex.P.11(a). On 14.06.2025 he received the FSL report, which he identified 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. He identified MO.1 and MO.2.

12. 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 5 and Ex.P.1 to 12 and MO.1 and MO.2. PW.1, PW.4 and PW.5 are the Police officials and PW.2 and 3 are the independent mahazar witnesses. PW.2 and 3 being



the mahazar witnesses had categorically turned hostile to the prosecution case and they deposed that they does not know the contents of the mahazar and in their presence the Police did not seize any properties. However, PW.1 who is the PSI who has conducted raid has reiterated the prosecution case in his chief-examination. Ex.P.6 is his report wherein he stated that on the public road situated in front of the shop of the accused by name Yesu, they found one person selling the liquor to the public by keeping the same in the saffron coloured plastic bag. However, in the cross-examination, PW.1 stated that “ ಘಟನಾ ಸ್ಥಳವು ಸಾರ್ವಜನಿಕ ಸ್ಥಳ ಹೌದೋ ಅಲ್ಲವೋ ಎಂದು ನನಗೆ ಖಚಿತವಾಗಿ ತಿಳಿದಿರುವುದಿಲ್ಲ”. So, this evidence of PW.1 draws an adverse inference against the prosecution case. PW.5 denied the suggestions in his cross-examination. PW.4 being the Investigating Officer



has deposed that on 11.05.2025 he sent the samples for Chemical Examination. However, the alleged raid was conducted on 23.04.2025 and there was 18 days delay in sending the sample for Chemical Examination. Further, in the cross-examination he deposed that during his investigation, he did not visit the spot and he did not record the statement of the locals. It is also pertinent to note here that no where the evidence of PW.1 and PW.5 shows that prior to conduct raid they had undergone for personal search. Further, the evidence of Investigating Officer does show about whether he has investigated about the source of the liquor, which was alleged to be found in the possession of the accused, which also draws an adverse inference against the prosecution case. Hence, by the evidence adduced by the prosecution,



the contents of mahazar is not proved and seizure of properties from the possession of the accused is not proved and PW.1 has also failed to prove the spot is a public place as he stated in his report and the independent mahazar witnesses had turned hostile to the prosecution case and also there is a delay in sending the sample for Chemical Examination and the reasons for delay is not explained by the IO and the source of liquor is also not investigated 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**”.

13. **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 and MO.2 i.e., Tetra packets and 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 9th day of June 2026).

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

ANNEXURE

List of witnesses examined on behalf prosecution:

PW.1 : Abdul Khadar

PW.2 : Sharan Kumar



PW.3 : Dhanaraj

PW.4 : J.S.Thippeswamy

PW.5 : Ramesh N.R.

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 : 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 : 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.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
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 : Tetra packets
MO.2 : Plastic bag

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