

KACN320028472018



Presented on : 17-10-2018

Registered on : 17-10-2018

Decided on : 07-07-2026

Duration : 07 years, 08 months, 21 days

**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE &
JMFC, AT KOLLEGALA**

**PRESENT: SRI. M. RANJITH KUMAR B.A,L'.L.L.B.
I Addl. Civil Judge & JMFC., Kollegala.**

Dated on this the 07th day of July- 2026

C.C. No.742/2018

COMPLAINANT	:	State by Excise Inspector, Kollegala Sub-Division
		(By APP, Advocate)
		-VS-
ACCUSED	:	Sri. Rachaiah @Sarapani Rachaiah, S/o Puttaiah, Aged about 45 years, R/at: Bairanatta Village, Kollegala Taluk, Chamarajanagar District.
		(By Sri. S.S.B., Advocate)

Date of occurrence of the offences	:	04.05.2018		
Date the offense was reported in Police Station	:	04.05.2018		
Date of arrest of the accused persons	:	-		
Sections charged against Accused persons	:	Under Section 08, 10, 11, 13, 15, 32, 34, and 38A of KE Act		
Complaint given by	:	Sri. Abhubakar A Mujavar		
Date of start of inquiry	:	19.02.2026		
Date of closure of inquiry	:	03.06.2026		
In favor of the complainant	:	APP		
In favor of the Accused	:	Sri. S.S.B		
Opinion of the presiding officers	:	As per final order		
Date on which the judgment was pronounced	:	07.07.2026		
Total duration	:	Year/s	Month/s	Day/s
		07	08	21

(M.RANJITH KUMAR)
I Addl.Civil Judge & JMFC.,
Kollegala.

J U D G M E N T

1) The state through Excise Inspector, Kollegala Sub-Division has filed charge sheet against the accused for the offences punishable under Section 08, 10, 11, 13, 15, 32, 34, and 38A of Karnataka Excise Act.

2) Brief facts of the case:

It is the case of the prosecution that, on 04.05.2018 at about 08.30 P.M when CW-1 along with CW-4 was near A.P.M.C Market at Hanur Town, the CW-1 is claimed to have received, information regarding illegal transport of intoxicants by the accused and immediately the CW-1 and 4, requested CW-2 and 3 to co-operate as witnesses during the raid and thereafter all of them went near G.V Gowda First Grade collage at Hanur-Bandahalli main road and at about 9.30 P.M when all of them were waiting, the accused was coming in a motor bike and he was panicking after seeing the excise personals and thereafter the excise personals caught the accused and upon inspection the accused is found to be illegally transporting 144 pouches of 90 M.L Hywards cheers whisk

and when enquired about having license for transporting such liquor, the accused informed that, he does not have one and thereafter the CW-1 to 4 claims to conducted mahazar and thereafter the CW-1 has reported and registered the case and after part investigation claims to have handed over case to CW-08 and CW-08 upon completion of investigation has filed charge sheet against accused for the offences punishable under section 08, 10, 11, 13, 15, 32, 34, and 38A of Karnataka Excise Act.

3) Upon filing of the charge sheet, this Court having found materials to take cognizance, has taken cognizance against the accused and issued process. Upon issuance of process, the accused appeared through his counsel and copies of the charge sheet materials served to accused in compliance with Section 207 of Cr.P.C.

4) Heard before framing charges, this court having found materials to frame charges, framed charges against the accused. The accused pleaded not guilty and claimed to be tried.

5) The prosecution in order to prove guilt of the accused got examined 5 witnesses in total and got marked Ex.P-1 to Ex.P-13 and MO-1.

6) Upon completion of prosecution evidence having found incriminating substances against the accused, recorded statement under Section 313 of Cr.P.C. and read over to the accused. The accused denied all the incriminating substances against him and claimed no defense evidence.

7) Heard Learned APP and Learned counsel for the accused, perused materials on record. Accordingly, the following are the points for consideration of this court.

1. Whether the prosecution beyond all reasonable doubts proves that the accused on 04.05.2018 at about 9.30 P.M. near G.V Gowada First grade collage, on Hanur-Bandahalli main road, was found importing intoxicants without valid permit from the deputy commissioner and thereby committed offence punishable under Section 08 of the Karnataka Excise Act?

2. Whether the prosecution beyond all reasonable doubts proves that the accused on

04.05.2018 at about 9.30 P.M. near G.V Gowada First grade collage, on Hanur-Bandahalli main road, without any authority was found transporting intoxicants from one local area to another and thereby committed offence punishable under Section 10 of the Karnataka Excise Act?

3. Whether the prosecution beyond all reasonable doubts proves that the accused on 04.05.2018 at about 9.30 P.M. near G.V Gowada First grade collage, on Hanur-Bandahalli main road, is found transporting intoxicants exceeding the prescribed limit and thereby committed offence under Section 11 of the Karnataka Excise Act?

4. Whether the prosecution beyond all reasonable doubts proves that the accused on 04.05.2018 at about 9.30 P.M. near G.V Gowada First grade collage, on Hanur-Bandahalli main road, is found illegally traporting intoxicants without any authority and thereby committed offence punishable under Section 13 of Karnataka Excise Act?

5. Whether the prosecution beyond all reasonable doubts proves that the accused on

04.05.2018 at about 9.30 P.M. near G.V Gowada First grade collage, on Hanur-Bandahalli main road, without any license is found selling intoxicants and thereby committed offence punishable under Section 15 of Karnataka Excise Act?

6. Whether the prosecution beyond all reasonable doubts proves that the accused on 04.05.2018 at about 9.30 P.M. near G.V Gowada First grade collage, on Hanur-Bandahalli main road, was illegally carrying intoxicants without having any license and thereby committed offences under Sections 32 of Karnataka Excise Act?

7. Whether the prosecution beyond all reasonable doubts proves that, on 04.05.2018 at about 9.30 P.M. near G.V Gowada First grade collage, on Hanur-Bandahalli main road, inspite of knowing them as illegal intoxicants was carrying 144 pouches of 90 M.L Hywards cheers whisky and thereby committed offences punishable under section 34 of Karnataka Excise Act?

8. Whether the prosecution beyond all reasonable doubts proves that the accused on

*04.05.2018 at about 9.30 P.M. near G.V Gowada
First grade collage, on Hanur-Bandahalli main
road, has allowed his premises to commit
offence under Karnataka Excise Act and thereby
committed offence punishable under Section 38A
of Karnataka Excise Act?*

9. What Order or Sentence?

8) For the reasons stated below, this court answers the above points for consideration as hereunder :

Point No.1 – In the Negative.

Point No.2 – In the Negative.

Point No.3 – In the Negative.

Point No.4 – In the Negative.

Point No.5 – In the Negative.

Point No.6 – In the Negative.

Point No.7 – In the Negative.

Point No.8 – In the Negative.

Point No.9 – As per the final order.

REASONS

9) POINT NO.1 to 8:

Since point No.1 to 8 are interconnected and to avoid repetition of facts and circumstances, they are taken together for common discussion.

10) It is the case of the prosecution that, on 04.05.2018 at about 8.30 P.M when CW-1 along with CW-4 was near A.P.M.C Market at Hanur Town, the CW-1 is claimed to have received, information regarding illegal transport of intoxicants by the accused and immediately the CW-1 and 4, requested CW-2 and 3 to co-operate as witnesses during the raid and thereafter all of them went near G.V Gowda First Grade collage at Hanur-Bandahalli main road and at about 9.30 P.M when all of them were waiting, the accused was coming in a motor bike and he was panicking after seeing the excise personals and thereafter the excise personals caught the accused and upon inspection the accused is found to be illegally transporting 144 pouches of 90 M.L Haywards cheers whiskey and when enquired about having license for transporting such liquor, the accused informed that, he does not have one. The prosecution in order to prove guilt of the accused has got examined 5 witnesses in total, in the CW-2 one of the witness to the Ex.P-1 mahazar is got examined as PW-1, Cw-4 one of the raid witness is got examined as PW-2, CW-1 another raid

witness is got examined as PW-3, CW-3 another witness to the Ex.P-1 is got examined as PW-4 and the I.O 8 is got examined as PW-5. The prosecution also got marked Ex.P1 to Ex.P-13, in which Ex.P-1 is the Mahazar, Ex.P-2 is the denied statement of PW-1, Ex.P-3 is the sample seal, Ex.P-4 is the search warrant, Ex.P-5 is the property form, Ex.P-6 is the report submitted by the CW-1, Ex.P-7 is the FIR, Ex.P-8 is the denied statement of PW-4, Ex.P-9 is the FSL report, Ex.P-10 is the letter correspondence made to Regional Transport officer, Chamarajanagara, Ex.P-11 is the B-Extract, Ex.P-12 is the letter correspondence made to Panachayth Development officer, Ajjipura Panchayath and Ex.P-13 is the reply of the Panachayth Development officer, Ajjipura Panchayath.

11) On perusal of the entire materials on record, as per Ex.P-9 FSL report Hywards cheers whiskey pouches in MO-1 are intoxicants and they are in excess with the permitted limit as prescribed under Rule 21 of the Karnataka Excise Rules, thus the only question for consideration is that, whether the intoxicants at MO-1 are recovered from the possession of the

accused and if so whether, the accused has authority for possessing such intoxicants.

12) The only independent witnesses to the case i.e., PW-2 and 4 have turned hostile to the case of prosecution and the remaining oral testimony for consideration is only of raid witnesses i.e., PW-1 and PW-3 and I.O PW-5 5 and both raid witnesses i.e., PW-1 and 3 in their examination in chief have reiterated the contents of mahazar in Ex.P-1 and report at Ex.P-6 and from the Ex.P-1 mahazar, Ex.P6 report of the CW-1 and Ex.P-5 property the prosecution is alleged to have seized 144 pouches of 90 M.L Hywards cheers whisky and admittedly only 26 pouches are sent to scientific investigation and they are marked as MO-1 before this court and in that event the prosecution is liable to show to the court, what happened to the remaining pouches. Apparently there is no document on record to show, procedure adopted for disposal of the articles seized by the CW-1. However the PW-3 in his cross examination claim that, they have destroyed the remaining articles seized in the case, by obtaining requisite permission

from the concerned higher authority, but the oral testimony of PW-3 without support of the documentary evidence is of no evidentiary value. Thus it is very much apparent that, the prosecution has failed to show as to what happened to remaining articles seized in the present case and lack of such evidence, that too in the circumstances where the independent witnesses to mahazar have turned hostile to the case of prosecution, would certainly create reasonable doubt in the mind of this court, regarding seizure of the MO-1 intoxicants from the possession of the accused and as law is settled a reasonable doubt will always benefit the accused. Accordingly this court answers **Point No.1 to 8 in the Negative.**

13) POINT NO.9:For the reasons stated above this court proceeds to pass the following order.

:- ORDER:-

Acting under Section 248(1) of Code of Criminal procedure code, the accused is acquitted of the offence punishable under section 08, 10, 11, 13, 15, 32, 34, and 38A of the Karnataka Excise Act.

All bail bonds stands cancelled and sureties stands cancelled. However bail bonds and sureties shall be in force for six months, till completion of appeal period.

Since articles in MO-1 are worthless, they are ordered to be destroyed after completion of appeal period.

(Dictated to the stenographer, transcribed and typed by him, the same is corrected, signed and then pronounced by me in the open court on this the 07th day of July 2026).

(M.RANJITH KUMAR)
I Addl.Civil Judge & JMFC.,
Kollegala.

ANNEXURE

List of witnesses examined for Complainant:

PW-1 : Sri. Krishna
PW-2 : Sri. Ravikumar B.
PW-3 : Sri. Abhubakar Mujavar
PW-4 : Sri. Mohan
PW-5 : Sri. T. Ramegowda

List of documents exhibited for Complainant:

Ex.P1 : Mahazar
Ex.P1(a) to (d) : Signatures
Ex.P2 : Denied statement of PW-1
Ex.P3 : Sample seal
Ex.P3(a) : Signature
Ex.P4 : Search warrant

Ex.P4(a) : Signature
Ex.P5 : Property form
Ex.P5(a) : Signature
Ex.P6 : Report submitted by the CW-1
Ex.P6(a) : Signature
Ex.P7 : FIR
Ex.P7(a) : Signature
Ex.P8 : Denied statement of PW-4
Ex.P9 : FSL report
Ex.P10 : Letter correspondence made to Regional Transport officer
Ex.P11 : B-Extract
Ex.P12 : Letter correspondence made to PDO, Ajjipura
Ex.P13 : Reply of the PDO, Ajjipura Panchayath

List of witnesses examined for Accused:

- Nil -

List of documents exhibited for the Accused:

- Nil -

List of Material objects got marked by prosecution:

MO.1 : 26 Tetra Packs of 90 ML Haywards Cheers whiskey

(M.RANJITH KUMAR)
I Addl.Civil Judge & JMFC.,
Kollegala.