

KACN320030692018



Presented on : 14-11-2018

Registered on : 14-11-2018

Decided on : 13-07-2026

Duration : 07 years, 07 months, 29 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 13th day of July- 2026

C.C. No.798/2018

COMPLAINANT	:	State by Excise Inspector, Kollegala Sub-Division
		(By APP, Advocate)
		-VS-
ACCUSED	:	Sri. C. Venkatesh S/o late Chinnappa, Aged about 34 years, R/at: Maruthi Nagar, Hanuru Town, Kollegala Taluk, Chamarajanagar District.
		(By Sri. N.P., Advocate)

Date of occurrence of the offences	:	15.05.2018		
Date the offense was reported in Police Station	:	15.05.2018		
Date of arrest of the accused persons	:	-		
Sections charged against Accused persons	:	Under Section 10, 11, 13, 14, 15, 32, 38A and 43 of KE Act		
Complaint given by	:	Sri.K. V. Lohith		
Date of start of inquiry	:	09.12.2022		
Date of closure of inquiry	:	23.06.2026		
In favor of the complainant	:	APP		
In favor of the Accused	:	Sri. N.P		
Opinion of the presiding officers	:	As per final order		
Date on which the judgment was pronounced	:	13.07.2026		
Total duration	:	Year/s	Month/s	Day/s
		07	07	29

(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 10, 11, 13, 14, 15, 32, 38A and 43 of Karnataka Excise Act.

2) Brief facts of the case:

It is the case of the prosecution that, on 15.05.2018 on the eve of State legislative, on the directions of Excise Deputy Commissioner Chamarajanagara, when CW-1 along with CW-5 to 7 were in excise rounds, the CW-1 is claimed to have received, information regarding illegal transport of intoxicants and immediately the CW-1 and CW-5 to 7 went to Hugyam village, near Minyatha Halla and at about 11.45 A.M, the accused is found sitting in a silver color Omni car and he was panicking after seeing the excise personals and thereafter the excise personals caught the accused and upon inspection the accused is found in illegal possession of 8 boxes of 180 M.L Original choice whisky, 48 pouches in each box, 8 boxes of 180 M.L 3 Ace whisky, 48 pouches in each box, 2 boxes of 180

M.L Old taverine whisky, 48 pouches in each box and 4 boxes of 500 M.L K.F Strong premium beer, 24 tins in each box and when enquired about having license for possession such liquor, the accused informed that, he does not have one and thereafter the Cw-1, 5 to 7 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-12 and CW-12 upon completion of investigation has filed charge sheet against accused for the offences punishable under section 10, 11, 13, 14, 15, 32, 38A and 43 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 4 witnesses in total and got marked Ex.P-1 to Ex.P-10 and MO-1 to 4.

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 15.05.2018 at about 11.45 A.M near Minyatha Halla at Hugyam village, 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?

2. Whether the prosecution beyond all reasonable doubts proves that the accused on 15.05.2018 at about 11.45 A.M near Minyatha Halla at Hugyam village, is found transporting intoxicants exceeding the prescribed limit and thereby committed offence under Section 11 of the Karnataka Excise Act?

3. Whether the prosecution beyond all reasonable doubts proves that the accused on 15.05.2018 at about 11.45 A.M near Minyatha Halla at Hugyam village, is found in possession of intoxicants in excess of permitted limit and thereby committed offence punishable under Section 14 of Karnataka Excise Act?

4. Whether the prosecution beyond all reasonable doubts proves that the accused on 15.05.2018 at about 11.45 A.M near Minyatha Halla at Hugyam village, was illegally possession of intoxicants without having any license and thereby committed offences under Sections 32 of Karnataka Excise Act?

5. *Whether the prosecution beyond all reasonable doubts proves that the accused on 15.05.2018 at about 11.45 A.M near Minyatha Halla at Hugyam village, has allowed his premises to commit offence under Karnataka Excise Act and thereby committed offence punishable under Section 38A of Karnataka Excise Act?*

6. *Whether the prosecution beyond all reasonable doubts proves that the accused on 15.05.2018 at about 11.45 A.M near Minyatha Halla at Hugyam village, has used his K.A 05-MU-285 for committing offence under Karnataka Excise Act and thereby committed offence punishable under Section 43 of Karnataka Excise Act?*

7. *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 – As per the final order.

REASONS

9) POINT NO.1 to 6:

Since point No.1 to 6 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 15.05.2018 on the eve of State legislative, on the directions of Excise Deputy Commissioner Chamarajanagara, when CW-1 along with CW-5 to 7 were in excise rounds, the CW-1 is claimed to have received, information regarding illegal transport of intoxicants and immediately the CW-1 and CW-5 to 7 went to Hugyam village, near Minyatha Halla and at about 11.45 A.M, the accused is found sitting in a silver color Omni car and he was panicking after seeing the excise personals and thereafter the excise personals caught the accused and upon inspection the accused is found in illegal possession of 8 boxes of 180 M.L Original choice whisky, 48 pouches in each box, 8 boxes

of 180 M.L 3 Ace whisky, 48 pouches in each box, 2 boxes of 180 M.L Old taverine whisky, 48 pouches in each box and 4 boxes of 500 M.L K.F Strong premium beer, 24 tins in each box and when enquired about having license for possession such liquor, the accused informed that, he does not have one. The prosecution in order to prove guilt of the accused has got examined 4 witnesses in total, in which the CW-1 is got examined as PW-1, CW-2 is got examined as PW-2, Cw-3 is got examined as PW-3 and CW-12 is got examined as PW-4. The prosecution also got marked Ex.P1 to Ex.P-10, in which Ex.P-1 is the Mahazar, Ex.P-2 is the search warrant, Ex.P-3 is the report submitted by CW-1, Ex.P-4 is the FIR, Ex.P-5 and P-6 are the property forms Ex.P-7 is the list of articles, Ex.P-8 is the statement of CW-2, Ex.P-9 is the FSL report, Ex.P-10 is the B-extract.

11) On perusal of the entire materials on record, as per Ex.P-9 FSL report the articles found in Mo-1 to 4 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 to 4 are recovered from the possession of the accused and if so whether, the accused has authority for possessing such intoxicants.

12) All the witnesses got examined on behalf of the prosecution are the excise personals, but it is settled law that, their evidence cannot be rejected only because no independent witnesses are examined in the case, but only caution is to see whether their evidence is consistent and corroborating with each other and with the documentary evidence on record. The CW-1 to 3, who have got examined as PW-1 to 3, in their examination in chief have reiterated the contents of mahazar in Ex.P-1 and report at Ex.P-3 in regards to conducting raid, recovery of intoxicants from accused etc, but in regards to identification of the accused i.e., obtaining information regarding name and address of the accused, the CW-1/PW-1 has deposed that, his staff has informed him regarding name and address of the accused, but the CW-2/PW-3 and CW-3/PW-3 in their examination in chief have deposed that,

upon enquiry by the CW-1, the accused has informed him his name to be Venkatesh S/o Chinnappa. The relevant portions of the depositions of PW-1 to 3 are culled out for ready reference.

"ಸದರಿ ಆರೋಪಿಯ ವಿವರವನ್ನು ಕೇಳಲಾಗಿ ಸಿಬ್ಬಂದಿಗಳು ಸಿ. ವೆಂಕಟೇಶ್ ಬಿನ್ ಲೇ. ಚಿನ್ನಪ್ಪ, ಮಾರುತಿ ನಗರ, ಹನೂರು ಟೌನ್ ಎಂದು ತಿಳಿಸಿರುತ್ತಾನೆ. ನಂತರ ಮುದ್ದೇಮಾಲು ಹಾಗೂ ಸ್ಯಾಂಪಲ್ ಬ್ಯಾಗುಗಳನ್ನು ಇಲಾಖಾ ವಶಕ್ಕೆ ಪಡೆದುಕೊಂಡು ಸದರಿ ವಾಹನವನ್ನು ಜಪ್ತುಪಡಿಸಿಕೊಂಡು ಆರೋಪಿಯನ್ನು ದಸ್ತಗಿರಿ ಮಾಡಲಾಯಿತು."

"ಸದರಿ ಆಸಾಮಿಯ ಹೆಸರು ವಿಳಾಸವನ್ನು ಚಾಸಾ-1ರವರು ವಿಚಾರಣೆ ಮಾಡಿದಾಗ ತನ್ನ ಹೆಸರು ಸಿ. ವೆಂಕಟೇಶ್ ಬಿನ್ ಚಿನ್ನಪ್ಪ, ಮಾರುತಿ ನಗರ, ಹನೂರು ಪಟ್ಟಣ ಎಂದು ತಿಳಿಸಿದರು."

"ಸದರಿ ಆಸಾಮಿಯ ಹೆಸರು ವಿಳಾಸವನ್ನು ಚಾಸಾ-1ರವರು ವಿಚಾರಣೆ ಮಾಡಿದಾಗ ತನ್ನ ಹೆಸರು ಸಿ. ವೆಂಕಟೇಶ್ ಬಿನ್ ಚಿನ್ನಪ್ಪ, ಮಾರುತಿ ನಗರ, ಹನೂರು ಪಟ್ಟಣ ಎಂದು ತಿಳಿಸಿದರು."

13) From the above statements of the PW-1 to 3, it is apparent that, the statements of PW-1 to 3 in regards to collection of information regarding name and address of the accused is contradictory in nature and such a contradiction needs to be explained by the prosecution for brushing aside reasonable doubt created from it.

14) The prosecution has alleged that, the accused is found sitting in silver color Omni car bearing number K.A 05-MU-2859 and they have found intoxicants in the same car and it also alleged that, when CW-1 has enquired about ownership of the vehicle, the accused has not informed them anything, but from the Ex.P-10 B-Extract, it is apparent that, one Sri.Harsha.C, CW-10 herein is the owner of the vehicle under seizure, in the statement annexed to the charge sheet, the CW-10 is claimed to have given statement before complainant police, that the accused is his brother and he has left car in the custody of his brother and he is working in Bangalore, but it is settled law that, statement under Section 161 of Cr.P.C is in-admissible in evidence and they cannot be relied in the evidence and moreover, the CW-10 is not examined before the court and non-examination of such a material witness would certainly create reasonable doubt in the mind of this court and as discussed earlier, the prosecution has failed to explain regarding reasonable doubts arose, from the contradictions in the statements of PW-1 to 3 regarding obtaining of the name of

the accused and non-examination of material CW-10. Thus this court is of the opinion that, the prosecution has failed to establish guilt of the accused beyond reasonable doubts and as law is settled a reasonable doubt will always benefit the accused. Accordingly this court answers **Point No.1 to 6 in the Negative.**

15) POINT NO.7: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 10, 11, 13, 14, 15, 32, 38A and 43 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 to 4 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 13th day of July 2026).

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

ANNEXURE**List of witnesses examined for Complainant:**

PW-1 : Sri. Lohith K.V.
PW-2 : Sri. M.N. Sundrappa
PW-3 : Sri. Ramesh M.
PW-4 : Sri. T. Ramegowda

List of documents exhibited for Complainant:

Ex.P1 : Mahazar
Ex.P1(a) to (d) : Signatures
Ex.P2 : Search warrant
Ex.P2(a) : Signature
Ex.P3 : Report submitted by CW-1
Ex.P3(a) : Signature
Ex.P4 : FIR
Ex.P4(a) : Signature
Ex.P5 & 6 : Property forms
Ex.P7 : List of articles
Ex.P7(a) : Signature
Ex.P8 : Statement of CW-2
Ex.P9 : FSL Report
Ex.P10 : B-extract

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 : 8 Bear Tin cans kept in white cloth bag
MO.2 : 36 intoxicants materials kept in white cloth bag
MO.3 & 4 : Two white cloth bags

(M.RANJITH KUMAR)

I Addl.Civil Judge & JMFC.,
Kollegala.