

CALENDAR AND JUDGMENT
IN THE COURT OF THE SPECIAL JUDICIAL MAGISTRATE OF FIRST CLASS
(FOR PROHIBITION AND EXCISE), KURNOOL.

Calendar Case No.4776/2022

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| 1. Offence | 27.01.2021 |
| 2. Complaint | : 27.01.2021 |
| 3. Apprehension of Accused | : 27.01.2021 |
| 4. Commencement of Trial | : 14.10.2024 |
| 5. Close of Trial | : 07.11.2025 |
| 6. Judgment | : 17.11.2025 |
| 7. Complainant | : The State, rep. by Sub-Inspector of Police, SEB, Kurnool |
| 8. Name of the Accused | : Neeli Shikari Ambika |
| 9. Offence | : U/s.7(A) r/w.8(e) of A.P. Prohibition Act |
| 10. Plea of Accused | : NOT GUILTY |
| 11. Finding | : NOT GUILTY |
| 12. Result | : In the result, the Accused is found not guilty for the offence punishable under Section 7(A) r/w.8(e) of A.P. Prohibition Act, 1995 and thereby, she is acquitted under Section 248(1) of Code of Criminal Procedure for the said charge. The bail bonds of the Accused shall stand canceled after expiry of appeal time. M.O.1/ case property shall be destroyed after expiry of appeal time. |
| 13. Explanation for delay | : --- |

Sd/- S. Anil Kumar
***Spl.Judicial Magistrate of First Class
for (P&E), Kurnool***

Copy submitted to the Hon'ble Chief Judicial Magistrate-cum-Principal Assistant Sessions Judge, Kurnool.

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Spl. Judl.Magistrate of First Class
for Prohibition & Excise, Kurnool.



IN THE COURT OF THE SPECIAL JUDICIAL MAGISTRATE OF FIRST CLASS : (FOR PROHIBITION AND EXCISE), KURNOOL.

Present:- **Sri S. ANIL KUMAR**,
Special Judicial Magistrate of First Class (Prohibition and Excise), Kurnool.

Monday, this the 17th day of November, 2025.

Calendar Case No.4776/2022

Between:

The State, rep. by SEB,
Enforcement Sub-Inspector, Kurnool.

... Complainant

And

Neeli Shikari Ambika, aged 26 yrs.,
W/o.N.S. Shankar, D.No.40-109,
Bangarupeta, Kurnool.

... Accused

This case is coming on 07.11.2025 before me for final hearing in the presence of Assistant Public Prosecutor for the State and of Sri D. Kumara Swamy, Advocate for the accused, upon hearing both sides, perused the material papers available on record and having stood over for consideration till this day, this Court delivered the following:

J U D G M E N T

1. The Sub-Inspector of Police, SEB, Kurnool filed charge sheet against the accused in Cr.No.68/2021 for the offence punishable under section 7(A) r/w.8(e) of A.P. Prohibition Act.

2. Brief facts of the prosecution case are as follows:-

a) On 27.01.2021 at about 03.30 PM during raids conducted by Prohibition & Excise police officials, the police personnel reached the thorny bushes situated at the back side of Anand talkies at Bangarupeta, Kurnool and found the female accused with a plastic binde and who on seeing the police tried to fled away from there, but the police detained and

arrested her. Police verified the binde and seized 15 liters of ID arrack from the possession of accused by lifting samples under the cover of Special Report, while the accused was illegally possessing and selling the liquor and by violating excise rules.

b) Basing on the Special Report, PW.1 registered the case in Cr.No. 68/2021 U/sec.7(A) r/w.8(e) of A.P. Prohibition Act, 1995 and submitted copies of FIR to all concerned officers and took up investigation in to this case.

c) During the course of investigation, PW.1 arrested the accused and sent her for judicial remand. Police received analysis report from the Govt., Chemical Examiner vide C.E.No.195/2021 and it is opined that the samples are illicitly distilled liquor unfit for human consumption and injurious to health. The entire seized property along with sample bottles were destroyed as per the orders of Deputy Commissioner of Proh. & Excise, Kurnool under panchanama in the presence of mediators. After completion of investigation, charge sheet is filed against the accused.

3. Cognizance of offence was taken on file against the Accused for the offence punishable under section 7(A) r/w.8(e) of A.P. Prohibition Act.

4. Copies of case documents were supplied to Accused as contemplated under section 207 of Code of Criminal Procedure. The accused was examined under section 239 of Cr.P.C., charge under section 7(A) r/w.8(e) of A.P. Prohibition Act was framed against the Accused, read over and explained to her in Vernacular Language and when questioned, the Accused pleaded not guilty of the charge and claimed to be tried.

5. To prove the charges, the Prosecution examined Pw-1 and got marked Exs. P1 to P5 and M.O.1.

6. On the closure of the evidence on the side of the prosecution, the Accused was examined under Section 313 of Cr.P.C. and she denied the incriminating material available against her in the evidence of prosecution

witnesses. No oral and documentary evidence adduced on behalf of defence.

7. Heard both sides.

8. Now, the point for determination is :

“Whether the Prosecution has established the guilt of Accused for the offence under section 7(A) r/w.8(e) of A.P. Prohibition Act beyond reasonable doubt ?

9. POINT :

It is the case of the prosecution that on 27.01.2021 at about 03.30 PM the Accused was in illegal possession of 15 liters of ID arrack wherein the accused was possessing and selling the same for public without any license. Charge for the offence punishable under section 7(A) r/w.8(e) of A.P. Prohibition Act is framed against the accused. The defence of the accused is that she did not commit the offence and she is innocent. To prove the case against the Accused, prosecution examined Pw-1 and got marked Exs. P1 to P5 and M.O.1. PW.1 is the excise official. On the closure of Prosecution evidence, accused was examined under section 313 of Cr.P.C. and on questioning about the incriminating material, she denied the same and pleaded no defence. The defence of the accused is that she did not commit any offence and she was falsely implicated in this case.

10. Regarding the commission of offence, only the evidence of PW.1 remains for consideration. PW.1 deposed that on 27.01.2021 at about 03.30 PM on credible information he along with other police personnel went near the thorny bushes situated at the back side of Anand talkies at Bangarupeta, Kurnool and seized 15 liters of ID arrack from the possession of accused. As none came forward to act as panchayatdars, on enquiry the accused revealed her identity and confessed the ID liquor. Then, Police lifted sample bottles/M.O.1 under cover of Ex.P1/ Police proceedings. Then, they shifted the accused along with contraband to the Police Station.

11. He further deposed that basing on Ex.P1, he registered a case in Cr.No.68/2021 under Section 7(A) r/w.8(e) of A.P. Prohibition Act and submitted Ex.P2/FIR to all concerned. He sent the accused for remand and sent the samples to chemical examiner and received Ex.P3/ Analysis report vide C.E.No.195/2021 stating that the samples are illicitly distilled liquor unfit for human consumption and injurious to health. The remaining case property was destroyed as per the orders of the Deputy Commissioner of Proh. & Excise, Kurnool vide Ex.P4 by conducting Ex.P5/panchanama. After completion of investigation, charge sheet is filed against the accused in this case.

12. Section 100(4) of Cr.P.C contemplates *“before making a search under this chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situated or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and June issue an order in writing to them or any of them so to do”*. The evidence of Pw.1 reveals that he did not made any attempt to secure respectable inhabitants of the locality where the Accused was caught. Hence, Pw.1 violated the mandatory provisions of section 100(4) of Code of Criminal Procedure Coming to the confession made by the Accused. The confession made before a Police Officer is inadmissible as per Section 25 of Indian Evidence Act and this is not the case where the property was seized in pursuance of confession so that the confession made by the Accused June be considered as per Section 27 of Indian Evidence Act.

13. The Honorable Apex court held that:-

(i) **2001(1) ALT (Crl) 66 (AP) in Potnuru Satyam Vs. State of A.P. by its Public Prosecutor, High Court of AP.**, wherein it was held by their Lordship that:

“PW.1 was informant rather the complaint, he himself took up the investigation and filed charge sheet. Certainly this is an infirmity in this case. There is no other evidence, the independent witness, turned hostile. Though other police officers were cited as witnesses, for the reasons best known to the prosecution they were given up. Now the only evidence available is that of PW.1 who was the complaint and also the

investigating officer. This certainly reflects the credibility of the investigation done in the matter.”

(ii) **Hon’ble High Court of AP** “In decision reported in **2005 (2) APLJ, Page No.73 in K. Babu Rao Vs. State of AP** his lordship held that *“the alleged recovery by the police whose evidence cannot be straight away believed because there was no panch witness and the explanation of the prosecution evidence is not acceptable”.*

14. The above citations are applicable in the present case on hand as P.W.1 who is Excise official and investigation officer and he support the prosecution case. As such the above citation is applicable and taken into consideration to the present case.

15. In these circumstances, it is quite unsafe to place reliance on the testimony of PW-1. Hence, the Accused is entitled for benefit of doubt. For the aforementioned reasons, this Court holds that the Prosecution failed to establish the guilt of the Accused for the offence punishable under section 7(A) r/w.8(e) of A.P. Prohibition Act, 1995 beyond reasonable doubt.

16. In the result, the accused is found not guilty for the offence punishable under Section 7(A) r/w.8(e) of A.P. Prohibition Act, 1995 and thereby, she is acquitted under Section 248(1) of Code of Criminal Procedure for the said charge. The bail bonds of the Accused shall stand canceled after expiry of appeal time. The M.O.1/ case property shall be destroyed after expiry of appeal time.

Typed to my dictation, after correction, pronounced by me in the Open Court on this the 17th day of November, 2025.

Sd/- S. Anil Kumar
**Spl. Judicial Magistrate of First Class (P&E),
Kurnool.**

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Prosecution :

Pw1: O. Soma Sekhar Rao

For Defence :

--None--

EXHIBITS MARKED

For Prosecution :

Ex.P1: Special Report

Ex.P2: F.I.R.

Ex.P3: Analysis Report

Ex.P4: Copy of Destruction proceedings

Ex.P5: Copy of panchanama

For Defence :

-Nil-

MATERIAL OBJECTS FOR

For Prosecution :

M.O.1: Sample bottles

For Defence :

-None-

Sd/- S. Anil Kumar
SPL. JFCM (P&E), KNL.

// True copy //

Spl. Judl.Magistrate of First Class
for Prohibition & Excise, Kurnool.