

KADK310007502025



Presented on : 03-06-2025
Registered on : 03-06-2025
Decided on : 09-07-2026
Duration : 01years, 01months, 06days.

**IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL
JUDGE & J.M.F.C., AT PUTTUR**

: PRESENT :

**Devaraj Y.H., B.A.L., L.L.B,
I Additional Senior Civil Judge & JMFC.,
Puttur, D.K.**

Dated this the 9th Day of July 2026

C.C./497/2025

Complainant : State of Karnataka (By Puttur Rural Police
Station)

(By Asst. Public Prosecutor)

V/S

Accused: **Shri. Vinaya Kumar Poovappa,**
S/o. Poovappa Poojary,
Aged about 38 years,
R/o Jarimoole House,
Nidpalli Village,
Tambuttadka Post,
Puttur Taluk.

(Rep. By Shri. G.D.S. Advocate)

- 1.Date of commencement of offence: 18-01-2025
- 2.Date of report of the offence : 18-01-2025
- 3.Date of arrest of the accused : Not arrested.
- 4.Name of the Complainant : Smt. Sushma G. Bhandari.
- 5.Date of recording evidence : 09.09.2025
- 6.Date of closing of evidence : 11-05-2026
- 7.Offence complained of : U/Sec. 32 and 34 of
Karnataka Excise Act.
- 8.Opinion of the Judge: : As per the final order.
- 9:Complainant represented by : A.P.P.
- 10.Accused represented by : Sri. G.D.S. Advocate.

(Devaraj.Y.H)
I ADDL. SR. CIVIL JUDGE & JMFC
PUTTUR

JUDGMENT

The Sub Inspector of Police of Puttur Rural Police Station has filed charge-sheet against the accused for the offence punishable under Section 32 and 34 of The Karnataka Excise Act.

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

It is alleged that on 18-01-2025 at 7:55 PM, at a public place on the side of public road, Kukkupuni, Nidpalli Village, Puttur Taluk, the accused was found in possession of 17 sachets of 180 ML "Original Choice Deluxe Whisky" without any license, with the intention to illegally sell liquor and earn profit. CW-1, along with panchas CW-2 & CW-3 and staff CW-5, CW-6, CW-7, CW-8 & CW-9 detected and seized the same, thus the accused committed an offence punishable U/s 32 and 34 of the Karnataka Excise Act.

3. Based on the report/complaint of Cw-1, FIR came to be registered by Cw-1 herself in Crime. No.05/2025 and thereafter partly conducted the investigation. On completion of the investigation, Cw-14, filed the charge-sheet against the Accused for the offence punishable under section 32 and 34 of The Karnataka Excise Act.

4. On filing of the charge-sheet, cognizance for the the offence punishable under section 32 and 34 of the Karnataka Excise Act was taken. After taking the cognizance, issued summons to the accused. After securing the presence of the

accused, copies of the prosecution papers were supplied to the accused as contemplated under section 230 of BNSS, 2023. Accused appeared before the Court in response of the service of summons and he was enlarged on bail by considering the bail application. After being heard on the charges, charges read over and explained to the accused in Kannada language; he pleaded not guilty and claims to be tried. Hence the matter posted for the prosecution side evidence.

5. In order to bring home the guilt of the accused, prosecution examined seven witnesses out of fourteen witnesses and got marked fifteen documents as Ex.P-1 to Ex.P-15 and identified two material objects as MO-1 and MO-2. On the request of the learned APP CW-6 to CW-12 were given up from the prosecution side evidence.

6. After completion of the prosecution side evidence, the statement of the accused as required U/sec 351 of BNSS has been recorded. The incriminating evidence appearing against accused in the prosecution evidence were read over and explained to him in Kannada language. Accused denied all

the incriminating evidence led against him in the prosecution side evidence as false, further not chosen to examine any witness in his side. Further accused has not produced any documents in his side. Further accused has complied as per Sec.483 of BNSS & furnished the surety. Hence the matter posted for arguments.

7. On perusal of material particulars available on record, the following points arisen for my determination.

POINTS

1. Whether the prosecution proves beyond all reasonable doubt on 18-01-2025 at 19:55 hours at a public place on the side of public road, Kukuvuni, Nidpalli Village, Puttur Taluk, accused was found in possession of 17 sachets of 180 ML "Original Choice Deluxe Whisky" without any license, with intent to sell illegally and thereby the accused committed offence punishable U/s 32 & 34 of Karnataka Excise Act, 1965?

2. What order?

8. Heard on merit. On hearing the arguments and on perusal of the material particular available on record, my findings to the above said points are as under:

Point No.1: In the Negative

Point No.2: As per the final order
for the following.

REASONS

9. **Point No.1** : In this case the Prosecution has leveled the offences punishable under section 32 and 34 of Karnataka Excise Act against the accused.

10. Burden cast on the prosecution to prove the guilt of the accused beyond all reasonable doubts within the ingredients of the offence punishable under section 32 and 34 of Karnataka Excise Act.

11. In order to bring home the guilt of accused, prosecution examined in all seven witnesses out of fourteen witnesses as Pw-1 to Pw-7 and got marked fifteen documents as Ex.P-1 to Ex.P-15, further identified two material objects as

MO-1 and MO-2.

12. On perusal of the documentary evidence adduced by the prosecution, Ex.P-1 is the notice given to the panchas. Ex.P-2 is the Search warrant. Ex.P-3 is the Property seizure Mahazar. Ex.P-4 is the Complaint. Ex.P-5 is the FIR. Ex.P-6 is the certificate issued under Sec.63(4) of BSA, 2023. Ex.P-7 is the CD. Ex.P-8 is the statement of Cw-2. Ex.P-9 is the statement of Cw-3. Ex.P-10 is the letter given by Cw-13. Ex.P11 to Ex.P-13 are the Transport Permit Labels given by Cw-13. Ex.P14 is the Regional Forensic Science Report. Ex.P15 is the Voluntary statement of the Accused.

13. In order to prove the guilt of the accused, prosecution examined the complainant/CW-1 one PSI of Puttur Rural Police Station/Miss. Sushma G. Bhandary as Pw-1, Cw-2 and CW-3 who were the Independent Mahazar witness who were participated in the raid conducted on the accused as on the date of the alleged incident as Pw-2 and PW-3. Cw-5 is the Police constable who participated in the raid conducted against the accused as Pw-5, CW-4 who was allegedly sold

the seized liquor filled Sachets to the accused from MSIL wine shop of Bettampady as PW-4, Cw-13 is the official of K.S.B.C.L Puttur who issued transport permit lables regarding distribution of liquor filled bottles and including seized liquor filled sachets of this case to the MSIL wine shop of Bettampady as Pw-6 and the investigating officer who after completion of investigation filed the charge sheet against the accused as PW-7.

14. In the chief examination of Pw-1, she deposed that on 18.01.2025 at around 6:45 PM, while she was on patrol duty along with her staff CW-5 to CW-9 near Kumbra, she received credible information from an informant that a person named Vinay Kumar was illegally storing and selling liquor at Kukkupuni, Nidpalli Village, Puttur Taluk. She immediately returned to the station, collected necessary articles and reached Nidalli Village at around 7:15 PM. There she served notice to panchas CW-2 and CW-3 and requested them to act as panchas. Along with them, she and her staffs proceeded to the spot. Near Radha Krishna Rai's grocery shop, they found

4-5 people standing in a group. On seeing she and her staff, the group dispersed and ran away. She immediately apprehended a person wearing cement color shirt and blue color pant who was standing there and questioned him. The apprehended person gave his name as Vinay Kumar, Age 38 years, S/o Poovappa, R/o Nidalli Village. When she asked what was in the yellow color bag in his hand, he stated that it contained liquor packets. When asked if he had any license to possess it, he replied that he did not have one. She and the panchas conducted a self-search and confirmed that they were not in possession of any liquor. As obtaining a search warrant would cause delay, she prepared a report U/s 54 of Karnataka Excise Act and along with the panchas she signed it.

15. Further deposed that on checking the plastic bag, they found "Original Choice Deluxe" company 180 ML Whisky filled 17 packets. She then seized the packets through panchas, affixed SHO seal and packed them for further action. Further deposed a notice U/s 35(3) BNSS was served on accused Vinay Kumar at the spot. Total 3.60 Liters of liquor

was found with the accused. They also seized one yellow color plastic bag from him. The mahazar was conducted through videography. As it was night, the mahazar was conducted in the headlight of the vehicle by CW-6. The mahazar was completed at around 10:15 PM and she came to the station along with the mahazar and seized properties and registered Crime No. 5/2025 and submitted it to the Hon'ble Court.

16. Further deposed that the seized properties were submitted to the Hon'ble Court vide PF No. 4/25. She had recorded the statements of her staff and panchas. The panchas' statements were recorded on 19.01.2025. She also obtained an Certificate from CW-5 regarding the videography done and later she prepared a complaint as per Ex.P4 and register FIR against the accused.

17. PW-1 identified the complaint which he had given as per Ex.P4, mahazar which alleged to be conducted at the spot at the time of seizure of material object no.1 & 2 as per Ex.P3, notice issued to the panchas as per Ex.P1 and search warrant prepared at the spot as per Ex.P2 and also her

signatures on the Ex.P1 to Ex.P5 and Ex.P6. Further PW-1 identified the accused and the Liquor filled sachets as per MO-1 and also plastic cover seized from the accused as per MO-2.

18. PW-5 is one of the police Constable who was present at the time of conducting raid against the accused on 18-01-2025. PW-5 deposed in consonance with the evidence of PW-1. He deposed On 18.01.2025 at 18:45 hrs, while CW-5 to CW-9 were on rounds duty near Kumbra, public informed CW-1 over phone that illegal liquor sale was going on at Kukkepuni, Nidpalli Village on public road. Accordingly, along with CW-1, they went to station, collected necessary articles and proceeded to Nidpalli Village. There CW-1 requested 2 persons to act as panchas. After serving notice to them, we went to the spot. At 19:55 hrs at Kukkepuni, Nidpalli Village, they found a group of 5-6 persons. On seeing police jeep, they tried to flee. In presence of panchas, they apprehended accused Vinay Kumar S/o Poovappa who was trying to run and was found with a yellow color bag. On enquiry he stated

that the bag contained liquor for sale. After conducting themselves and panchas, they proceeded with further investigation. On enquiry, accused Vinay Kumar stated that he had brought liquor from Puttur and was selling it illegally to earn more profit. When asked for license, he stated that he had no license to sell liquor. In presence of panchas, on checking the plastic bag, 17 sachets of 180 ML "Original Choice Deluxe Whisky" were found. Accused gave voluntary statement. All the sachets were individually packed in white cloth, SHO seal was affixed and signed by PSI and Panchas. The yellow color bag was marked as "A" and a label bearing signatures of PSI, Panchas and Accused was pasted on it. Notice was served on accused at spot and he was directed to come to station. Stated that from 19:55 hrs to 21:21 hrs, videography was done by him on his mobile in presence of panchas. Mahazar was written by CW-6 as per dictation of CW-1 and he signed it.

19. Further deposed that on 19.01.2025 he gave statement. The videography was copied to system, transferred

to CD and handed over to PSI along with Hash value. PW-5 further identified the certificate which he issued as per Sec.63(4) of BSA, 2023 as Ex.P6 and also his signature as Ex.P6(a). Further PW-5 identified seized liquor filled sachets from the custody of the accused as per MO-1 and also the plastic bag as per MO-2.

20. On perusal of the evidence of PW-1 and PW-5 it clarifies that they are the police official and staff working in the same police station. PW-5 is the Police Constable who worked under PW-1.

21. As per the version of PW-1 and PW-5, it clarifies that MO-1 and MO-2 were seized by the PW-1 from the custody of the accused by conducting Ex.P3 in presence of PW-2 and PW-3. PW-2 and PW-3 are the vital independent panch witnesses to the prosecution and their evidence is very much essential to prove the alleged seizure mahazar/Ex.P3 and also seizure of MO-1 and MO-2 from the custody of the accused as on the date of alleged incident.

22. On perusal of the evidence of PW-2 and PW-3, it clarifies that Pw-2 he has signed Ex.P1 to 3 about 1 year back near the accused's shop at Kukkupuni, Nidpalli Village. Stated that Police came to the spot. Police asked him to sign as panch for mahazar and he signed Ex.P 2 to 3 documents. Stated that the Police seized 10 to 18 small liquor bottles at the spot. No other articles were seized by police in his presence. Stated that the accused had no license to keep liquor bottles and the Police did not examine him regarding this. Stated that Videography was done by police at the spot. Mahazar was conducted at 9:00 PM. Pw-2 identified the material objects No.1 and 2.

23. Pw-2 was cross examined by the Counsel for the accused. Pw-2 in his cross-examination deposed that on the day of incident, he came to Nidpalli from Renja in an auto rickshaw. It is stated that at 9:00 PM police were at the accused's shop and asked him to sign the mahazar, so he signed. Stated further that by the time he reached the spot, police had already taken liquor into their custody. The packing

was already done and the Police had seized liquor filled bottles. Stated that only police were present at the spot, no one else was there.

24. Pw3 has not supported the case of the prosecution with regarding to arrest of the accused as well seizure of MO-1 and MO-2 from the custody of the accused by conducting seizure mahazar as per Ex.P3 in his presence.

25. In his chief examination he has identified their signatures on Ex.P1 to Ex.P3. Ex.P1 is the notice issued to the panchas, Ex.P2 is the search warrant and Ex.P3 is the seizure mahazar. PW-1 and PW-2 stated that they does not know on which date they have put their signature on Ex.P1 to Ex.P3. Pw-3 deposed that he has put his signature on Ex.P1 to Ex.P3 at Nidpalli in a shop as per the request of police officials. Further Pw-3 deposed that he does not know the contents which are mentioned in Ex.P1 to Ex.P3 and the police in his presence have not seized any properties. Further Pw-3 deposed that they have not seen the liquor filled sachets which were produced before this court at any point of

time and has not given statement to the police.

26. Learned APP treated PW-3 as hostile witness and cross examined in length on the permission granted by this court. Nothing much has been elucidated from the mouth of the PW-3 with regarding arresting of accused, conducting of Ex.P3, seizure of the MO-1 and MO-2 from the custody of the accused in their presence on 18-01-2025 at a public place on the side of public road, Kukkupuni, Nidpalli Village, Puttur Taluk, by the PW-1. In their cross examination PW-3 specifically denied regarding issuance of notice as per Ex.P1, preparation of search warrant as per Ex.P2 by the PW-1 and also they have put their signatures on Ex.P1 to Ex.P3 at the spot where the alleged incident had been taken place. Further Pw-3 has denied that on 19-01-2025 he has given the statement with regarding to the alleged incident to the investigating officer as per Ex.P9.

27. PW-7 is the Investigating officer who deposed that on 18.01.2025 he received the case file from CW-1 and continued the investigation. On 20.01.2025 the accused

appeared at the station for enquiry in this case and conducted his enquiry and recorded his statement. Stated that on 08.02.2025 he obtained the report from KSBCL regarding this case and included it in the file. Deposed further that on 20.02.2025 the RFSL report regarding the properties related to this case was received and received it and included it in the file. Deposed further that on 20.03.2025 he issued a notice to CW-4 to appear for enquiry under Section 179 BNSS and on 28.03.2025 CW-4 appeared for enquiry and he conducted his enquiry and recorded his statement. Stated further that on 03.05.2025 he submitted the Charge Sheet against the accused before the Hon'ble Court.

28. PW-1, PW-2, PW-4 to PW-7 have supported the prosecution case in their chief examination. PW-1, PW-2, PW-4 to PW-7 have been cross examined by the counsel for the accused. PW-1, PW-4 to PW-7 have stood up to their deposition as stated in their chief examination, nothing much has been elucidated from the mouth of that witnesses in the cross examination conducted by the counsel for the accused

which is helpful for the case of the accused.

29. On perusal of the entire material placed before the Court, evidence of the witnesses and the arguments of the Counsel for both parties, it is true that the accused does not claim that he had any license to possess or sell any intoxicant. His case is total denial. He denies the alleged raid or seizure of the properties or drawing up of the Mahazar, search warrant at the spot. Therefore Court has to see whether there is cogent and consistent evidence in support of the proceedings recorded under.

30. On perusal of cross-examination of PW-1 and PW-5, as per their version Pw-1 has obtained the signatures of PW.2 and PW.3 on Ex.P1 to Ex.P3 on the spot where the alleged incident had been taken place. Pw-2 and Pw-3 deposed that they have put their signature on Ex.P-1 to Ex.P-3 in the shop belonged to the accused but as per the version of Pw-1 and Pw-5, Pw-2 and Pw-3 have put their signatures on Ex.P-2 & Ex.P-3 at a public place on the side of public road, Kuk kuvuni, Nidpalli Village, Puttur Taluk. Further Pw-2

deposed that by the time he reached the spot, police had already taken liquor into their custody. The packing was already done and the Police had seized liquor filled bottles. PW-3 who was one of the panch witness turned hostile to the case of the prosecution. He denied regarding conduct of raid on the accused as well seizure of any material objects from the custody of the accused. He also denied regarding giving of any statement with regarding to the alleged incident to the Investigating Officer. The evidence of Pw-2 and Pw-3, is not corroborative with the evidence of Pw-1 and PW-5. Thus the prosecution failed to prove that the search warrant and seizure Mahazar as per Ex.P-2 & Ex.P3.

31. Thus Prosecution failed to prove the seizure of material objects as mentioned in Ex.P-3 from the custody of the accused. Except the police officials there are no independent Mahazar witnesses supported the case of the prosecution with regarding to the seizure of the material objects as mentioned in Ex.P-3 from the custody of the accused as on the date of the incident. A cumulative effect of

above infirmities vitiates, search and seizure thereby unacceptable. The conclusion is, illegal possession of the liquor and selling the same by the accused with out having permit or license from the concerned authority as alleged by the prosecution which is punishable under Section 32 and 34 of the Karnataka Excise Act is not proved beyond doubt.

32. The evidence of PW-1, PW-4 to PW-6 is not enough to prove the guilt of the accused as per the accusation made against the accused in the charge sheet. Hence the prosecution failed to bring home the guilt of the accused as per the ingredients of the provision of under Section 32 and 34 of the Karnataka Excise Act, beyond reasonable doubts. Hence the accused is entitled for the benefits of doubt and consequently he is liable to be acquitted in this case. With all these discussions I proceed to answer Point no.1 in the Negative.

33. **Point No. 2:** Since prosecution failed to prove the guilt of the accused and as I answered point No. 1 in the Negative, I proceed to pass the following.,

ORDER

Acting U/s 271(1) of BNSS Accused is hereby acquitted for the offense punishable under Section 32 and 34 of the Karnataka Excise Act.

The Bail bond executed by the accused and the surety bonds shall continue for six months.

Properties seized as per Serial No.1 and serial no.1 & 2 of P.F. No.4/2025 which are identified as MO-1 and MO-2 ie., (Original Choice DELUX 180 ml Whisky filled 17 Sachets) hereby ordered to confiscate to the Government after the expiry of the appeal period.

The Jurisdictional Officer of the Excise Department, Puttur Taluk is ordered to destroy the seized Original Choice DELUX 180 ml Whisky filled 17 Sachets in accordance with law. Office to hand over MO-1 Original Choice DELUX 180 ml Whisky filled 17 Sachets to the concerned Excise Department after the appeal period.

Properties seized as per P.F. No.4/2025 which was identified as MO-2 i.e., the plastic bag

is not a valuable property as such office is directed to destroy the same after the expiry of appeal period.

(Directly dictated to the stenographer online, she typed, thereafter corrected, signed and then Judgment pronounced in the open court, this the 9th Day of July 2026)

(Devaraj.Y. H)
I ADDL. SR. CIVIL JUDGE & JMFC
PUTTUR

ANNEXURE

1) List of Witnesses examined on behalf of prosecution:

PW-1: Smt. Sushma Gopala Krishna Bhandari.

PW-2: Shri. Kiran Kumar.

PW-3: Shri. Avinasha.

PW-4: Shri. Santosh.

PW-5: Shri. Manjunath.

PW-6: Shri. S. G. Jagadeesh.

PW-7: Shri. Jambooraja Mahajan.

List of documents marked on behalf of prosecution :

Ex.P-1 : Notice given to the panchas

Ex.P- 1(a) : Signature of Pw-1

Ex.P-1(b) : Signature of Pw-2

Ex.P-1(c) : Signature of Pw-3

Ex.P-2 : Search warrant

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

Ex.P-2(b) : Signature of PW-2

Ex.P-2(c) : Signature of PW-3

Ex.P-3	:	Mahazar
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-3(d)	:	Signature of PW-5
Ex.P-4	:	Statement of PW-1
Ex.P-4(a)	:	Signature of PW-1
Ex.P-5	:	FIR
Ex.P-5(a)	:	Signature of PW-1
Ex.P-6	:	Certificate under Sec.63(4) of BSA, 2023.
Ex.P-6(a)	:	Signature of PW-1
Ex.P-6(b)	:	Signature of PW-5
Ex.P-7	:	CD
Ex.P-8	:	Statement given by PW-2
Ex.P-9	:	Statement given by PW-3
Ex.P-10	:	Letter given by Cw-13
Ex.P-10(a)	:	Signature of Pw-6
Ex.P-10(b)	:	Signature of PW-7
Ex.P-11	:	Transport permit labels
Ex.P-11(a)	:	Signature of Pw-6
Ex.P-12	:	Transport permit label
Ex.P-12(a)	:	Signature of PW-6
Ex.P-13	:	Transport permit label
Ex.P-13(a)	:	Signature of PW-6
Ex.P-14	:	Test report
Ex.P-15	:	Voluntary statement of accused.
Ex.P-15(a)	:	Signature of PW-7

2) List of materials objects identified on behalf of prosecution.

MO-1	:	Original Choice DELUX 180 ml Whiskey filled 17 Sachets
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MO-1(a) : Signature of PW-1
MO-1(b) : Signature of PW-2
MO-1(c) : Signature of PW-3
MO-2 : Plastic Bag

4) List of witness/ documents marked on behalf of accused:

NIL

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