

KAGD410005452023



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Presented on : 16-02-2023

Registered on : 16-02-2023

Decided on : 01-07-2026

Duration : 3 years, 04 months, 15 days

IN THE COURT OF PRL. CIVIL JUDGE AND JMFC,

AT: RON

-PRESENT-

HULUGAPPA D.

B.A.LL.B.

Principal Civil Judge & JMFC, Ron.

Dated this 01st day of July, 2026

Criminal Case No.213/2023

Complainant:

1. Excise Police Station, Ron.
(By the learned APP)

-Versus-

Accused:

1. Tukappa @ Peerappa S/o Chandappa Rathod,
Age:61 years, Occ:Coolie,
R/o. Rudrapur, Tq:Gajendragad, Dist:Gadag.
2. Renuka W/o Tukappa @ Peerappa Rathod
Age: 45 years, Occ:Householder,
R/o Rudrapur, Tq:Gajendragad, Dist:Gadag.

(By Sri.R.S.M., Advocate)



1. Date of Commission of offence :: 21.11.2022
2. Date of report of offence :: 21.11.2022
3. Date of arrest of accused :: ----
4. Date of evidence commenced :: 18.11.2025
5. Date of closing of evidence :: 16.06.2026
6. Name of the complainant :: Gangadhar B
Badiger SI
7. Offences complained of :: Under sections 273
of IPC and 32(1),
38A and 43 of
Karnataka Excise
Act.
8. Opinion of Judge :: Accused not found
guilty
9. Order or sentence :: As per final order.

:J U D G M E N T:

The SI of Excise Office, Ron Division, Ron has filed the charge-sheet against the accused persons for the offences punishable under sections 32(1), 38(A) and 43 of Karnataka Excise Act.

2. The brief facts of the case of the prosecution are as follows:

On 21-11-2022 at about 9.30 p.m, under the guidance of the Deputy Commissioner of Excise, Gadag District,



Gadag and the Deputy Superintendent of Excise, Gadag Sub-Division, the complainant and his staff were patrolling Bevinakatti village of Gajendragad taluk, he received a credible information that illicit liquor was being stored in the house of accused in Rudrapur village of Gajendragad taluk. Accordingly, they took two panchas near Bevinakatti Bus stop and reached Rudrapur village and went near the house. Thereafter, before inspecting the house, the search warrant was prepared on the spot under Section 54 of the Karnataka Excise Act, 1965 and on search of the house, a 2 liters plastic bottle was found in the house. With the help of the staff, it was opened and found approximately 02 liters of illicit liquor. On enquiry the person in the house, he stated his name as Tukappa @ Peerappa S/o Chandappa Rathod resident of Rudrapur village, Gajendragad Taluk. The accused were possessing the said illicit liquor to sell to the public for their benefit without having any valid license or permit from the competent authority.



3. Thereafter, the complainant– CW.1 drew the Mahazar in the presence of panchas and seized the articles. The Investigating Officer – CW.8 sent the seized sample articles for FSL and received the FSL report and recorded the statement of witness and filed the charge-sheet against the accused for the aforesaid offences.

4. Upon receipt of the charge-sheet, the court has taken the cognizance of aforesaid offences and copy of the charge-sheet was duly furnished to the accused as required U/Sec.207 of Cr.P.C. As the case is of warrant trial and since there were no grounds for discharge, the charge for the offences punishable under section 32, 38(A) and 43A of Karnataka Excise Act and under section 273 of IPC was duly framed and read over to the accused persons. The accused persons pleaded not guilty and claimed to be tried. Therefore, matter is got posted for trial.

5. The prosecution, in order to prove the guilt against the accused No.1 and 2, has examined five



witnesses as PW.1 to PW.5 and got marked the documentary evidence as Ex.P.1 to Ex.P.10 and also got marked MO.1. After closure of the evidence of the prosecution, the accused persons were examined U/Sec.313 of Cr.P.C. Thus accused have not led any evidence.

6. I have heard the learned A.P.P. appearing for the state and the learned counsel appearing for the accused persons and perused the material available on record carefully.

7. The following points that arise for my consideration:

:POINTS:

1. Whether the prosecution proves beyond all reasonable doubt that on 21.11.2022 at about 10.00 pm, within the limits of Ron Excise Office, Ron Division in the house situated at Rudrapur village of Gajendragad taluk, accused were found in illegal possession of 2 litters of illicit liquor with an intend to sell the same to the public and



same is noxious and thereby committed an offence punishable under section 273 of IPC?

2. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place accused used their house for the purpose of storing above said illicit liquor and thereby committed an offence punishable U/Secs.38(A) of Karnataka Excise Act?
 3. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place accused were found in possession of above said illicit liquor and possessing the same to sell to the public for their benefit without having any valid license from the competent authority and thereby committed an offence punishable U/Secs.32(1) and 43A of Karnataka Excise Act?
 4. What order?
- 8.** My findings to above raised points are as under:
- Point No.1 to 3 :: In the Negative
- Point No.4 :: As per final order
for the following:



-:R E A S O N S:-

9. POINT NO.1 to 3:- Since these points are inter connected to each other, they are taken up together for common discussion in order to avoid repetition of facts and evidence.

10. The prosecution has relied upon the oral evidence of PW.1 to PW.5 and also has relied upon Ex.P.1 to Ex.P.10 and also material object which is got marked as MO.1. The Ex.P.1 is the seizure panchanama. Ex.P.2 is the Specimen Seal. Ex.P.3 is the Complaint. Ex.P.4 is the FIR. Ex.P.5 is Search warrant. Ex.P.6 is the permission letter dated 21.12.2022. Ex.P.7 is the FSL Report. Ex.P.8 is the letter dated 21.12.2022. Ex.P.9 is the house property extract. Ex.P.10 is the Notice.

11. PW.1 and PW.2 are mahazar panchas to Ex.P.1 as per prosecution case but, they have not supported the case of the prosecution. Indeed, they have turned hostile and even though treating them as hostile witnesses by the



learned APP but no worth is elicited from their mouth during the course of cross-examination. Therefore, the evidence of PW.1 and PW.2 are not helpful to the prosecution.

12. CW.1 – the then SI of Ron Excise Office – the complainant has been examined as PW.4. He has deposed in his examination-in-chief that on 21.11.2022, while he, along with his staffs were patrolling Bevinakatti village, he received a credible information that Tukkappa Chandrappa Rathod was collecting and selling illicit liquor in his house in Rudrapur village. Accordingly, they took two panchas near Bevinakatti bus stop and reached the house where the information was received and before inspecting the house, the search warrant was prepared on the spot under Section 54 of the Karnataka Excise Act, 1965 and on search of the house, a 2 liters plastic bottle was found in the house. With the help of the staff, it was opened and found approximately 02 liters of illicit liquor and on enquiry the person in the house, he stated his name as Tukkappa S/o Chandappa



Rathod and he collected and stored the liquor for the purpose of sale and he seized the articles and also taken for sample and arrested the accused and conducted panchanama from 10.00 am to 11.00 am and thereafter he went to the police station along accused and submitted seized articles and panchanama before the court and gave complaint and submitted FIR to the Court. Thereafter, she handed over the case file to CW.8. CW.4 the then Excise constable has been examined as PW.3 and he has also deposed in his evidence the same facts as stated by PW.4.

13. CW.8- Investigating Officer has been examined as PW.5. In his examination in chief, he has deposed that on 09.12.2022 he received the case file from CW.1 for further investigation and on the same day he recorded the statements of CW.4 and CW.5 who participated in the raid. On 21.12.2022 he wrote letter to PDO, Gulaguli for furnishing the property extract and on the same day he sent seized articles to Dharwad for the chemical examination



through his staff - CW.6 and on 22.12.2022 he received FSL report and recorded the statement of CW.6 who went to Dharwad for the chemical examination. On 05.01.2023 he received property extract from PDO, Gulaguli and on the same day he sent notice to the accused No.2 the owner of the house and after completion of investigation he has submitted charge-sheet against the accused. The learned counsel for the accused has cross-examined the PW.3 to PW.5 at length. In their cross-examination, PW.3 to PW.5 have denied the suggestions put forward by the learned counsel for the accused.

14. In order to attract the provision of Secs.32 and 43 of the Act, the burden is on the prosecution to prove that the accused were found in possession of illicit liquor. As far as, recovery aspect is concerned, admittedly pancha witnesses has been examined as PW.1 and PW.2 and they have been turned hostile to the prosecution case. They do not support the prosecution version. On going through



entire material on record, the prosecution has not placed any reliable and cogent evidence to prove that the illicit liquor has been seized from the house of the accused.

15. It is well settled law that evidence of the official witnesses is not to be disbelieved or discarded merely for the reason that they are official witnesses. If the evidence of the police witnesses inspired the confidence of the court, then court can rely upon the evidence of the said witnesses. As discussed above, the prosecution has not placed any reliable and cogent evidence to prove that the toddy has been seized from the house of the accused. Therefore, though PW.3 to PW.5 being official witnesses have deposed in support of version of prosecution, there is no any such circumstances and evidence which inspires the confidence of the court to rely upon the evidence of the official witnesses.

16. Further, It is well established principle of law that, if any doubt arises in the case of prosecution, then the benefit of doubt should go to the accused persons.



Therefore, on appreciation of oral and documentary evidence adduced by the prosecution and in view of discussion made supra, I am of the opinion that the prosecution has failed to prove the guilt against the accused persons beyond all reasonable doubt. Accordingly, I answer the Point No.1 to 3 in the Negative.

17. POINT NO.4:- For the foregoing reasons, I proceed to pass the following:-

-:O R D E R:-

Acting U/Sec.248(1) of Cr.P.C., the accused No.1 and 2 are acquitted for the offences punishable U/Secs. 273 of IPC and section 32(1), 38A and 43A of Karnataka Excise Act.

The bail bond and surety bond shall be in force for the period of 6 months.

MO.1 seized article being worthless is ordered to be destroyed after appeal period is over.

(Dictated to the Stenographer directly on computer, corrected, signed and then pronounced by me in the open court on this 1st day of July-2026).

(HULUGAPPA D.)
Prl. Civil Judge & JMFC, Ron.



:ANNEXURE:

Witnesses examined for the Prosecution:

- PW.1 : Mallayya Veerayya Karadagimath
PW.2 : Siddappa Srishailappa Kotagi
PW.3 : Parashuram Hanumantappa Rathod
PW.4 : Gangadhar Bheemanna Badiger
PW.5 : Parashuram Hanumantappa Vaddar

Witnesses examined for the accused: NIL

Documents exhibited for the Prosecution:

- Ex.P.1 : Seizure panchanama
Ex.P.1(a,b,c): Signatures of PW.1, 2 and 4
Ex.P.2 : Specimen Seal
Ex.P.2(a,b,c): Signatures of PW.1, 2 and 4
Ex.P.3 : Complaint
Ex.P.3(a) : Signature of PW.4
Ex.P.4 : FIR
Ex.P.4(a) : Signature of PW.4.
Ex.P.5 : Search warrant
Ex.P.5(a) : Signature of PW.4
Ex.P.6 : Permission letter dated 21.12.2022
Ex.P.6(a) : Signature of PW.5
Ex.P.7 : FSL Report
Ex.P.7(a) : Signature of PW.5

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Ex.P.8 : Letter dated 21.12.2022

Ex.P.8(a) : Signature of PW.5

Ex.P.9 : Property Extract

Ex.P.9(a) : Signature of PW.5

Ex.P.10 : Notice

Ex.P.10(a) : Signature of PW.5

Material objects marked:

MO.1 : Sample bottle

(HULUGAPPA D.)
Prl. Civil Judge & JMFC, Ron.