

KAGD410013042020



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Presented on : 11-08-2020

Registered on : 11-08-2020

Decided on : 10-06-2026

Duration : 05 years, 09 months, 30 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 10th day of June, 2026

Criminal Case No.838/2020

Complainant:

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

-Versus-

Accused:

1. **Manjunath S/o Basappa Karadiyavar,**
Age: 28 years,
R/o. Malawada, Tq:Ron, Dist:Gadag.
2. **Mallayya S/o Magundayya Ganachari,**
R/o Malawada, Tq:Ron, Dist:Gadag.

**(By Sri.S.H.J., Adv for A1
and By Sri.S.B.H., Adv. for A2)**

1. Date of Commission of :: 05.04.2020
offence



- | | | | |
|----|-----------------------------|----|---|
| 2. | Date of report of offence | :: | 06.04.2020 |
| 3. | Date of arrest of accused | :: | ----- |
| 4. | Date of evidence commenced | :: | 09.02.2026 |
| 5. | Date of closing of evidence | :: | 12.05.2026 |
| 6. | Name of the complainant | :: | Sri.Mallikarjun
Reddy |
| 7. | Offences complained of | :: | Under sections 273 of
IPC and 32 and 38A of
Karnataka Excise Act. |
| 8. | Opinion of Judge | :: | Accused is not found
guilty |
| 9. | Order or sentence | :: | As per final order. |

J U D G M E N T

1. The Inspector of Excise Office, Sub-Division, Gadag has filed the charge-sheet against the accused No.1 and 2 for the offences punishable under section 32(1), 38(A) and 43 of Karnataka Excise Act.

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

2. On 05.04.2020 Under the guidance of the Deputy Commissioner of Excise, Gadag District, Gadag, the complainant and his staff along with two panchas were patrolling in a Government Vehicle bearing No:K.A-26/G-0390 near Hirehal



village within the limits of Ron Excise Division, they received a credible information that illegal liquor was being transported from Nellur Thanda in a two wheeler then they reached spot and parked the vehicle in a hidden place near the Indian Oil Petrol Pump, a two-wheeler was coming and as they were instructing its rider to stop the vehicle, he got scared seeing them in uniform and passed them a little ahead and dropped the vehicle and started running in fear. They tried to catch him on his back but he escaped without being found. Then, before checking the vehicle left by the said person, a search warrant was prepared on the spot under Section 54 of the Karnataka Excise Act, 1965 and on search of the vehicle, 2 liters 2 plastic bottle were found. With the help of the staff, it was opened and found approximately 04 liters of illicit liquor and the accused was possessing the said toddy to sell to the public for his 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.7 sent the seized article through his staff for chemical examination and received the FSL report and recorded the statement of witness and after completion of investigation 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, 38A and 43 of Karnataka Excise Act and under section 273 of IPC was duly framed and read over to the accused. The accused pleaded not guilty and claimed to be tried. Therefore, matter was got posted for trial.

5. The prosecution, in order to prove the guilt against the accused, has examined four witnesses as PW.1 to PW.4 and



got marked the documentary evidence as Ex.P.1 to Ex.P.11 and also got marked MO.1 and 2. 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 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 05.04.2020 at about 04.30 pm, within the limits of Ron Excise Division, on government road leading from Nellur Thanda to Mushigeri, accused No.1 was found in illegal possession of 2 liters 2 bottles 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 vehicle for the purpose of transporting 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 No.1 was 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 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 NOS.1 to 3 :- The prosecution has relied upon the oral evidence of PW.1 to PW.4 and also has relied upon Ex.P.1 to Ex.P.11 and also material objects which are got marked as MO.1 and 2. The Ex.P.1 is the seizure panchanama. Ex.P.2 is the Specimen Seal. Ex.P.3 is the Permission letter. Ex.P.4 is the FSL Report. Ex.P.5 is the notice. Ex.P.6 is the Reply notice. Ex.P.7 is the Search warrant. Ex.P.8 is the complaint. Ex.P.9 is the FIR. Ex.P.10 is the permission letter. Ex.P.11 is the list of seized property.

10. PW.2 is the mahazar pancha to Ex.P.1 as per prosecution case but, he has not supported the case of the prosecution. Indeed, he has turned hostile and even though treating him as hostile witness by the learned APP but no worth is elicited from his mouth during the course of cross-examination. Therefore, the evidence of PW.2 is not helpful to the prosecution.



11. 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 05.04.2020, he along with his staff were patrolling Hirehal village in Ron taluk to detect excise cases due to the lockdown due to the Covid-19 pandemic. Accordingly, he took two panchas with him in Hirehal and went in a government vehicle No.K.A- 26/G-0390 and reached Nellur Thanda Cross near Mushageri village. While they were watching the road by parking the vehicle near the petrol pump there, a two-wheeler came and the rider was asked to stop. Seeing all of them in uniform, he got scared and ran overturned the vehicle and fled. They tried to catch him but he escaped from them. Later, a search warrant was prepared under Section 54 of the Excise Act to inspect the vehicle and it was found to be a Hero Honda Splendor Plus vehicle bearing No.K.A-26/EC-4212 and the side bag of the vehicle they found a 2 liters 2 plastic bottles contained illicit liquor and seized the articles and was taken for sample and conducted panchanama from 04.30 pm to 05.00



pm. Thereafter he came to the office and submitted seized articles and FIR before the court and gave complaint and took permission to keep the seized articles and vehicle in their custody and handed over the case file to CW.7 for further investigation. CW.2 is the constable and he has been examined as PW.1 and he has also deposed in his evidence the same facts as stated by PW.4. Further he deposed that on the direction of CW.7 on 06.04.2020 he took the sample article to Dharwad for chemical examination and on 08.06.2020 he submitted the report to CW.7 and gave his statement.

12. CW.7-Investigating Officer has been examined as PW.3. In his examination-in-chief, he has deposed that on 19.05.2020 he received the case file from CW-1 for further investigation and on the same day issued notice to the accused No.2. On 21.05.2020 the accused No.2 has given reply to the notice and 06.06.2020 the liquor taken for sample was sent for FSL through CW.2 and on 08.06.2020 received the FSL report and recorded statement of CW.2 and after completion of the



investigation, he filed a charge-sheet against the accused. The learned counsel for the accused has cross-examined the PW.1, PW.3 and PW.4 at length. In their cross-examination, PW.1, PW.3 and PW.4 have denied the suggestions put forward by the learned counsel for the accused.

13. In order to attract the provision of Secs.32 of the Act, the burden is on the prosecution to prove that the accused was found in possession of illicit liquor. As far as, recovery aspect is concerned, admittedly pancha witness has been examined as PW.2 and he has turned hostile to the prosecution case. He does not support the prosecution version and even during the course of cross examination by learned APP, nothing has been elicited to prove that in his presence the said liquor was seized from the accused and in his presence sample was taken. On going through entire material on record, the prosecution has not placed any reliable and cogent evidence to prove that the liquor has been seized from the accused.



14. 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 liquor has been seized from the accused. Therefore, though PW.1, PW.3 and PW.4 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.

15. 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. 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



beyond all reasonable doubt. Accordingly, I answer the Point Nos.1 to 3 in the Negative.

16. 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 R/W.Sec.34 of IPC and section 32, 38(A) and 43 of Karnataka Excise Act.

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

MO.1 and 2 seized articles 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 10th day of June-2026).

(HULUGAPPA D.)

Prl. Civil Judge & JMFC, Ron.



:ANNEXURE:

1. Witnesses examined for the Prosecution:

PW.1 : Gururaj Suresh Vastrad
PW.2 : Gurupadayya Shivayya Hiremath
PW.3 : Yallappa Balappa Gajakosh
PW.4 : Mallikarjun Basavaraj Reddi

2. Witnesses examined for the accused:

-NIL-

3. 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): Signatures of PW.2 and 4
Ex.P.3 : Permission letter dated 06.05.2020
Ex.P.3(a) : Signature of PW.3
Ex.P.4 : FSL Report
Ex.P.4(a) : Signature of PW.3
Ex.P.5 : Notice
Ex.P.5(a) : Signature of PW.3
Ex.P.6 : Reply to the Notice
Ex.P.7 : Search warrant
Ex.P.7(a) : Signature of PW.4
Ex.P.8 : Complaint
Ex.P.8(a) : Signature of PW.4



- Ex.P.9 : FIR
- Ex.P.9(a) : Signature of PW.4
- Ex.P.10 : Permission letter 18.05.2020
- Ex.P.10(a) : Signature of PW.4
- Ex.P.11 : List of the seized property
- Ex.P.11(a) : Signature of PW.4

4. Material objects marked:

- MO.1 and 2 : 2 liters bottles

(HULUGAPPA.D)

Prl. Civil Judge & JMFC, Ron.