

KAGD410021702023



Presented on : 09-09-2023
Registered on : 09-09-2023
Decided on : 12-08-2026
Duration : 02 years, 11 months, 03 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 12th day of August, 2026

Criminal Case No.970/2023

Complainant:

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

-Versus-

Accused:

1. Ashok S/o Tippanna Palled,
Age: 36 years, Occ: Coolie,
R/o. Itagi, Tq:Gajendragad, Dist:Gadag.

(By Sri.S.B.H., Advocate)

1. Date of Commission of offence : 24.04.2023
2. Date of report of offence : 03.08.2023
3. Date of arrest of accused : -----



4. Date of evidence commenced : 12.05.2026
5. Date of closing of evidence : 21.07.2026
6. Name of the complainant : Gangadhar B.Badiger
S.I
7. Offences complained of : Under Sec. 32(1) 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

1. The Excise SI of Ron has filed the charge-sheet against the accused for the offences punishable under sections 11, 14, 15, 32(1) and 43 of Karnataka Excise Act.

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

2. In order to prevent excise cases due to the implementation of the code of conduct for the Ron Vidhan Sabha General Election 2023, on 24.04.2023, under the guidance of the Deputy Commissioner of Excise, Gadag District, Gadag and the Deputy Superintendent of Excise, Gadag Sub-Division, the complainant, along with his staff were patrolling in Government Vehicle bearing No.KA-26/G-0579, the complainant received a



credible information that near Pump House on Rajur, Kalakaleshwar Road, one person was illegally transporting liquor for sale in a two-wheeler vehicle, then they took two panchas near Rajur Bus stand and went to the spot and on watching, a two-wheeler was coming towards them and they stopped the vehicle. Thereafter, a search warrant was prepared on the spot and the vehicle was searched in the presence of panchas and it was a Red and Black colour Hero HF Delux vehicle bearing No.KA-26/Y-9139 and a white bag was on the vehicle and it was found to contain 48 tetra packets of Original Choice whiskey of 180 ML each 12 tetra packets of Old Tavern Whiskey of 180 ML each and 12 tetra packets of Bagpiper of 180 ML each which was said to be seized on spot. The accused was selling the said liquor 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 witnesses 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 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 five witnesses as PW.1 to PW.5 and got marked the documentary evidence as Ex.P.1 to Ex.P.9 and also got marked MO.1. After closure of the evidence of the prosecution, the accused was examined U/Sec.313 of Cr.P.C. Thus accused has 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 24.04.2023 at about 7.00 pm, within the limits of Ron Excise Range, near Pump House on Rajur Kalakaleshwar Road, the accused was found in illegal possession of 48 tetra packets of Original Choice whiskey of 180 ML each 12 tetra packets of Old Tavern Whiskey of 180 ML each and 12 tetra packets of Bagpiper of 180 ML each carrying the same to sell to the public for his benefit without having any valid license from the competent authority and thereby committed an offence punishable U/Secs. 32(1) and 43 of Karnataka Excise Act?
2. What order?



8. My findings to above raised points are as under:

Point No.1 :: In the negative
Point No.2 :: As per final order
for the following:

R E A S O N S

9. **Point No.1:-** 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.9 and also material objects which are got marked as MO.1. Ex.P.1 is the letter dated 16.05.2023. Ex.P.2 is the FSL Report. Ex.P.3 is the Letter dated 05.06.2023. Ex.P.4 is the B Register Extract. Ex.P.5 is the complaint. Ex.P.6 is the FIR. Ex.P.7 is the Search warrant. Ex.P.8 is the Seizure panchanama. Ex.P.9 is the specimen seal.

10. PW.4 and PW.5 are the mahazar panchas to Ex.P.8 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.4 and PW.5 is not helpful to the prosecution.

11. CW.1 – the then Excise SI of Excise P.S, Ron – the complainant has been examined as PW.2. He has deposed in his examination-in-chief that on 24.04.2023 on the occasion of the Vidhanasabha General Election, he and his staff were patrolling in Rajur village of Ron Range, he received a credible information that liquor was being transported illegally near Pump House in Rajur Kalakaleshwar Road and they took panchas from Rajur Bus stand and reached the spot in their government vehicle bearing No.KA-26/G-0579 and saw a two wheeler coming from a distance and stopped the vehicle. Thereafter, before inspecting the vehicle, the search warrant was prepared on the spot under Section 54 of the Karnataka Excise Act, 1965 and on search of the vehicle they found there was a white colour fertilizer bag on the petrol tank of the vehicle and accused was found in possession of 48 tetra packets of Original Choce Whiskey containing 180 ML each and 12 tetra packets of Old Tavern



Whiskey containing 180 ML each and 12 tetra packets of Bagpiper Whiskey containing 180 ML each and the vehicle was checked and found to be a Red and Black colour Hero HF Delux vehicle bearing No.KA-26/Y-9139. On enquiry, he stated his name as Ashok S/o Tippanna Palled and he collected and stored the tetra packets for the purpose of sale and he seized the articles and also taken for sample and arrested the accused and conducted panchanama from 7.00 pm to 8.00 pm 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 and handed over the case file to CW.7 for further investigation. 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.2.

12. CW.7 - Investigating Officer has been examined as PW.1. In his examination in chief, he has deposed that on 05.05.2023 he received the case file from CW.1 for further investigation and on 16.05.2023 he recorded the statement of



PW.4 who participated in the raid and on the same day he sent seized articles to Dharwad for the chemical examination through his staff CW.5 and on 07.06.2023 he received the FSL Report and recorded the statement of CW.5. On 05.06.2023 wrote letter to RTO, Gadag regarding the ownership of the vehicle. On 08.06.2023 he received B Extract from RTO, Gadag regarding the ownership report of the vehicle and after completion of investigation he has submitted charge-sheet against the accused. The learned counsel for the accused has cross-examined the PW.1 to PW.3 at length. In their cross-examination, PW.1 to PW.3 have denied the suggestions put forward by the learned counsel for the accused.

13. 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 was found in possession of tetra packets. As far as, recovery aspect is concerned, admittedly pancha witnesses have been examined as PW.4 and PW.5 and they have turned hostile to the prosecution case. They did not support the prosecution



version and even during the course of cross examination by learned APP, nothing worth has been elicited to prove that in their presence the said liquor was seized from accused and in their 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 tetra packets have 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 to PW.3 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 No.1 and 2 in the Negative.

16. POINT NO.2:- For the foregoing reasons, I proceed to pass the following:-

ORDER

Acting U/Sec.248(1) of Cr.P.C., the accused is acquitted for the offence punishable U/Secs. 32(1) and 43 of Karnataka Excise Act.

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



MO.1 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 12th day of August, 2026).

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

ANNEXURE

1. Witnesses examined for the Prosecution:

PW.1 : Praveen Mallikarjun Rangannavar
PW.2 : Gangadhar Bheemanna Badiger
PW.3 : Parashuram Irappa Rathod
PW.4 : Shridhar Basavantappa Hosalli
PW.5 : Mahantesh Basappa Malagitti

2. Witnesses examined for the accused:

-NIL-

3. Documents exhibited for the Prosecution:

Ex.P.1 : Letter dated 16.05.2023
Ex.P.1(a) : Signature of PW.1
Ex.P.2 : FSL Report
Ex.P.2(a) : Signature of PW.1
Ex.P.3 : Letter dated 05.06.2023
Ex.P.3 (a) : Signature of PW.1
Ex.P.4 : B Register Extract



- Ex.P.4(a) : Signature of PW.1
Ex.P.5 : Complaint
Ex.P.5(a) : Signature of PW.2
Ex.P.6 : FIR
Ex.P.6(a) : Signature of PW.2
Ex.P.7 : Search Warrant
Ex.P.7(a) : Signature of PW.2
Ex.P.8 : Seizure panchanama
Ex.P.8(a,b,c): Signatures of PW.2, 4, 5
Ex.P.9 : Specimen Seal
Ex.P.9(a,b,c): Signatures of PW.2, 4, 5

4. Material objects marked:

- M.O.1 : Bag of Tetra packets.

(HULUGAPPA D.)

Prl. Civil Judge & JMFC, Ron.