

KAHS510002382018



Presented on : 21-02-2018
Registered on : 21-02-2018
Decided on : 16-04-2026
Duration : 08 years, 01 months, 15days

IN THE COURT OF PRL.CIVIL JUDGE AND JMFC., BELUR

Present:-

**Sri. Nagendra.,
B.A., LL.B.,
Prl.Civil Judge and JMFC., Belur.**

Dated this, the 16th day of April 2026

C.C.No.77/2018

**State of Karnataka
by Excise Police, Belur**

...Complainant

(By - Assistant Public Prosecutor)

-Versus-

Sri.Devarajegowda
S/o.Thimmegowda
Aged about 52 years,
R/o.Dabbe Village,
Arehalli Hobli, Belur Taluk.

... Accused

(By **Sri. K.V.R.**, Advocate for Accused)

- 1) Date of Commencement of offences : 03.12.2016
- 2) Date of report of offences : 03.12.2016
- 3) Arrest of the Accused : 03.12.2016

- 4) Date of accused released on bail : 05.12.2016
The period undergone in custody : One day
- 5) Name of the complainant : Smt.Anitha M.J.
- 6) Date of recording of evidence : 14.07.2022
- 7) Date of closing evidence : 18.12.2025
- 8) Offences complained of : U/s. 13(1) R/w.sec.32(1)
and 38(A) of Karnataka
Excise Act.
- 9) Opinion of the Judge : Accused not found guilty.

J U D G M E N T

The instant charge sheet has been filed by Excise Inspector, Belur Division against the accused persons for the offences punishable Under Section 13(1) R/w.sec.32(1) and 38(A) of Karnataka Excise Act.

2. It is the case of the prosecution that, on 03.12.2016 at 4.15 pm., the accused in his house situated at Dabbe village, Arehalli Hobli, Belur Taluk was found in possession of 45 litre of Jaggery waste in 3 plastic pots and 2 litre of illicit liquor in 2 plastic bottles without possessing any pass or permit with an intention to sell the same and thereby committed the offences punishable under Sec.13(1) R/w.sec.32(1) and 38(A) of Karnataka Excise Act.

3. On receipt of charge sheet, the presence of the accused was secured as he has been earlier released on bail. Copy of the charge sheet was furnished to the accused as contemplated U/s.207 of Cr.P.C. On a

subsequent date, charge was framed and accused was pleaded not guilty and claimed to be tried. Hence, the case was posted for evidence on prosecution side.

4. On completion of the prosecution evidence, 313 statement of the accused was recorded, wherein the accused was given an opportunity to explain the incriminating circumstances appearing against him in the evidence of the prosecution witnesses. The accused has denied all the allegations levelled against him and did not choose to adduce any evidence for his defense.

5. Upon hearing arguments on both sides, the following points would arise for my consideration: -

1. **Whether the prosecution proves beyond reasonable doubt that on 03.12.2016 at 4.15 pm., the accused in his house situated at Dabbe village, Arehalli Hobli, Belur Taluk was found in possession of 45 litre of Jaggery waste in 3 plastic pots and 2 litre of illicit liquor in plastic bottle without possessing any pass or license with an intention to sell the same and thereby committed the offences punishable under Sec. 32(1) of Karnataka Excise Act?**
2. **Whether the prosecution proves beyond reasonable doubt that on the said date, time and place the accused has permitted his house to possess the said illicit liquor and**

thereby committed the offences punishable under Sec. 38(A) of Karnataka Excise Act?

3. Whether the prosecution proves beyond reasonable doubt that on the said date, time and place the accused knowing fully aware that the said illicit liquor is unfit for human consumption has possessed the same illegally and thereby committed the offences punishable under Sec. 272 of IPC?

4. What order?

6. My findings on the above points are as under:-

Point No.1 to 3: In the Negative.

Point No.4: As per final order for the following:-

REASONS

7. **Point No.1 to 3:** To avoid the repetition of facts, I have taken all 3 points together for my discussion.

8. The prosecution to establish the guilt of the accused has examined 6 witnesses as P.W.1 to P.W.6 and got marked 8 documents at Ex.P.1 to Ex.P.8 and M.O.1 to 4 have been got marked.

9. CW-6-PW-5 Anitha M.J.. who is the Excise Inspector has stated that, from August 2016 to July 2019 she worked as Excise Inspector at the office of Deputy Commissioner of Excise. She deposed that on 03.12.2016 when she was on patrolling duty at Dabbe border with her

staff received an information that the accused R/o.Dabbe Village, Arehalli Hobli, Belur Taluk was selling illicit liquor. It is deposed that when she requested the informants to cooperate at the time of ride, they refused to come as panchas. PW5 further deposed that after went to the Dabbe village, she secured panchas and went the house of the accused and when they called the person in the house, one person was come out from the house and told that his name is Devarajegowda S/o.Thimmegowda. PW5 deposed that she informed the accused about the ride. Since there is no time to get the search warrant from the court by exercising the power conferred U/sec.54 of KE Act she prepared the search warrant at the spot. While searching the house they found 2 litre of illicit liquor in plastic can and 45 litre of jaggery waste in 3 in plastic pots. After brought the said articles in front of the house asked the accused about the same and accused was told that the said articles belongs to him and possessing the same for the purpose of sale. PW5 deposed that she has taken the accused and seized articles into the custody. It is further deposed that, she has taken 500 ml. sample from illicit liquor and 500 ml. sample from jaggery waste for the purpose of chemical examination and affixed the chit containing the signature of panchas and officers and also affixed the model seal to the said article. After returning to the office she has prepared the FIR and same has been submitted to the court.

10. She further deposed that on 08.02.2016 she has send the samples to the FSL Bangalore through the CW4 and on 05.01.2017 she has received the FSL report and thereafter, handed over the case file to the Abdul Nisar for further investigation of the case. Signature on Ex.P.1 is

marked as Ex.P.1(d). Signature on Ex.P.2 is marked as Ex.P.2(c), search warrant is marked as Ex.P.5 and Signature on the same is marked as Ex.P.5(a), FIR is marked as Ex.P.6 and signature on the same is marked as Ex.P.6(a). Letter written to FSL Bangalore is marked as Ex.P7 and signature on the same is marked as Ex.P7(a). FSL report is marked as Ex.P8 and signature on the same is marked as Ex.P8(a). Mo.1 to 4 have been identified. The Learned counsel for the accused has cross examined the PW-5.

11. CW-3-PW-3 Umesh, who is the Excise constable deposed that, from 2016 to till date he worked as Excise constable in the office of Deputy Commissioner of Hassan. He deposed that on 03.12.2016 at 4.15 pm., the CW6 has received information that one person by name Devarajegowda R/o.Dabbe Village, Arehalli Hobli, Belur Taluk was possessing illicit liquor. Upon the said information he along with CW6 have went to the Dabbe village and secured the CW1 and 2 who were standing at Dabbe Grama Panchayath as panchas and request them to cooperate at the time of ride and panchas have agreed for the same and accompanied with them. When they went to the house of accused, the accused was in the house and since there is no time to get the search warrant from the court by exercising the power conferred U/sec.54 of KE Act they have prepared the search warrant. While searching the house they found 45 litre of jaggery waste in 3 plastic pots and 2 litre of illicit liquor in plastic bottle. After brought the said articles in front of the house they have taken 500 ml. sample from the illicit liquor and 500 ml. sample from jaggery waste in 3 plastic bottles for the purpose of chemical

examination and tied with cloth and affixed the seal No.336. Panchanama has been drawn from 4.30 pm to 5.35 pm. and arrested the accused. Signature on Ex.P1 is marked as Ex.P1(c) and 4 plastic bottles have been identified as MO.1 to 4. The learned counsel for the accused has cross-examined the P.W.3.

12. CW-5-PW-4 Shanthegowda who is the PDO of Dabbe Grama Panchayath has deposed that, from 2016 he worked as incharge PDO in Dabbe Grama Panchayath for 4 months. PW-4 deposed that the Excise Police have requested to furnish the Certificate of house of Devarajegowda S/o.Thimmegowda and accordingly he has issued the certificate. Letter Written by the Excise Police is marked as Ex.P.3. Certificate has been marked as Ex.P.4 and signature on the same is marked as Ex.P.4(a). The learned counsel for the accused has cross-examined the P.W.4.

13. CW-7-PW-6 M.K.Keshavamurthy, who is the Excise Inspector deposed that, he has received the case file from CW6 and after completion of investigation on 05.05.2015 he has filed charge sheet against the accused. The Learned counsel for the accused has cross examined the PW-6.

14. Though the complainant has stated that he has seized MO.1 to 4 in the presence of panch witness and drawn panchanama, it is very pertinent to note that the prosecution has not been able to prove the panchnama as the panch witness examined in the instant case i.e. CW.2-

PW.1 Poornasha S/o.Ningegowda and CW1-PW2 D.R.Nagendra S/o.Ramegowda have stated in their chief examination that, they have signed Ex.P.1 and Ex.P.2 about 3-4 years back at Excise office, Belur and in market and does not know the contents of Ex.P.1 and Ex.P.2. PW1 and 2 further deposed that no panchamana has been prepared in their presence and no materials have been seized under the panchanama. Spot mahazar and Model seal have been marked as Ex.P.1 and Ex.P.2 and signatures on the same are marked as Ex.P.1(a) and 1(b), Ex.P2(a) and 2(b). P.W.1 and 2 have turned hostile and when cross examined by the learned APP and suggested that, the Excise PSI of Belur drawn the panchanama in their presence and seized the materials, but the PW.1 and 2 have denied witnessing the same. Since, the prosecution has not been able to prove the panchanama and since no independent witnesses whatsoever have been examined in the instant case and taking into consideration of all the above mentioned circumstances, I am of the opinion that, the accused is deserves for an order of acquittal, as the prosecution due to the above mentioned lapses cannot establish the guilt of the accused beyond all reasonable doubt. Hence, **Point No.1 to 3 are answered in the Negative.**

15. **Point No.4:** In the result, I proceed to pass the following:

ORDER

Acting U/s.248(1) of the Code of Criminal Procedure, I acquit the accused for the offences punishable **U/Sec.32(1) and 38(A) of Karnataka Excise Act and Sec.272 of IPC.**

The bail bond and surety bond of the accused stands extended for a period of 6 months in compliance of Section 437-A of Cr.PC.

*(Dictated to the Stenographer and typed by her on the computer, corrected by me and then pronounced in the open court on this, **16th day of April 2026**)*

(Sri.Nagendra)
Prl. Civil Judge & JMFC., Belur.

ANNEXURE

WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION:

PW.1: Sri. Poornesha S/o.Ningegowda.
PW.2: Sri. D.R.Nagendra S/o.Ramegowda.
PW.3: Sri. Umesh S/o.Siddeogwda.
PW.4: Sri. Shanthegowda S/o.Siddegowda.
PW.5: Smt. Anitha M.J. W/o.Raju.
PW.6: Sri. M.K.Keshavamurthy S/o.Krishnamurthy.

FOR DEFENCE: Nil.

DOCUMENTS MARKED ON BEHALF OF PROSECUTION:

Ex.P.1 : Spot and Seizure Mahazar
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.1(d) : Signature of PW.5
Ex.P.2 : Model seal

- Ex.P.2(a) : Signature of PW.1
Ex.P.2(b) : Signature of PW.2
Ex.P.2(c) : Signature of PW.5
Ex.P.3 : Letter written to Dabbe Grama Panchayath
Ex.P.4 : Certificate issued by the Dabbe Grama Panchayath
Ex.P.4(a) : Signature of PW.4
Ex.P.5 : Search Warrant
Ex.P.5(a) : Signature of PW.5
Ex.P.6 : FIR
Ex.P.6(a) : Signature of PW.5
Ex.P.7 : Letter written to FSL Bangalore
Ex.P.7(a) : Signature of PW.5
Ex.P.8 : FSL Report.
Ex.P.8(a) : Signature of PW.5

MATERIAL OBJECTS MARKED FOR PROSECUTION:

M.O.1 to 4 : 4 Plastic sample bottles.

FOR DEFENCE: Nil.

(Sri.Nagendra)
Prl. Civil Judge and JMFC., Belur.