

KAHS510016102016



Presented on : 19-10-2016
Registered on : 19-10-2016
Decided on : 21-05-2026
Duration : 09 years, 07 months, 02days

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 21st day of May 2026

C.C.No.874/2016

State of Karnataka
by Excise Police, Belur

...Complainant

(By - Assistant Public Prosecutor)

-Versus-

Sri.A.B.Dharmesh
S/o.Boregowda
Aged about 36 years,
R/o.Agasarahalli Village,
Kasaba Hobli, Belur Taluk.

... Accused

(By **Sri. CMP.**, Advocate for Accused)

- 1) Date of Commencement of offences : 11.09.2015
- 2) Date of report of offences : 11.09.2015
- 3) Arrest of the Accused : --

- 4) Date of accused released on bail : 28.12.2015
The period undergone in custody : --
- 5) Name of the complainant : Sri.A.H.Krishnamurthy.
- 6) Date of recording of evidence : 14.07.2022
- 7) Date of closing evidence : 17.12.2025
- 8) Offences complained of : U/s. 13(1)(A)(F)
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 person for the offences punishable Under Section 13(1)(A)(F) R/w.sec.32(1) and 38(A) of Karnataka Excise Act.

2. It is the case of the prosecution that, on 11.09.2015 at 12.30 pm., the accused in his house situated at Agasarahalli village, Kasaba Hobli, Belur Taluk was found in possession of 30 litre of Jaggery waste in 2 plastic pots and 3 litre of illicit liquor in plastic can without possessing any pass or permit with an intention to sell the same and thereby committed the offences punishable under Sec.13(1)(A)(F) 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 11.09.2015 at 12.30 pm., the accused in his house situated at Agasaravalli village, Kasaba Hobli, Belur Taluk was found in possession of 30 litre of Jaggery waste in 2 plastic pots and 3 litre of illicit liquor in plastic can 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 9 documents at Ex.P.1 to Ex.P.9 and M.O.1 to 3 have been got marked.

9. CW-7-PW-6 Krishnamurthy who is the Excise Inspector has stated that, from 07.10.2013 to 05.11.2016 he worked as Excise Inspector at Belur Subdivision. He deposed that on 11.09.2015 at 11 am., when he was on patrolling duty with CW3 to 5 in government vehicle No.KA 13 G

645 received an information that one person by name Dharmesh S/o.Boregowda was possessing illicit liquor. It is deposed that upon said information he secured CW1 and 2 as panchas at Ambedkar Circle and informed them to cooperate at the time of ride and panchas have agreed for the same. It is deposed that the villagers have shown the house of the accused. The house of the accused was locked. Since there is no time to get the search warrant from the court prepared the search warrant at the spot. While searching the house they found 3 litre of illicit liquor in plastic can and 30 litre of jaggery waste in 2 plastic pots. It is further deposed that, he 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. Thereafter, tied with cloth thread and sealed the same. After returning to the office he has prepared the FIR and same has been submitted to the court. He further deposed that mahazar has ben drawn from 12.40 pm to 1.40 pm and thereafter he has registered the case and filed the FIR against the accused.

10. It is further deposed that on 28.09.2015 he written a letter to Gram Panchayath seeking to furnish the document pertaining to the house of the accused. On 06.10.2015 he send samples to the FSL Bangalore through CW3 for chemical examination. On 16.10.2015 he has received FSL report. On 09.12.2015 he has received the document pertaining to the house standing in the name of father of accused. He deposed that after completion of investigation he has filed charge sheet against the accused. Signature on Ex.P.1 is marked as Ex.P.1(e). Signature on Ex.P.2 is

marked as Ex.P.2(c). Signature on Ex.P5 is marked as Ex.P.5(b). Signature on Ex.P6 is marked as Ex.P.6(a), FIR is marked as Ex.P.8 and signature on the same is marked as Ex.P.8(a). FSL report is marked as Ex.P9 and signature on the same is marked as Ex.P9(a). MO.1 to 3 have been identified. The Learned counsel for the accused has cross examined the PW-6.

11. CW-3-PW-4 Naveen Kumar A.S, who is the Excise constable deposed that, from 04.09.2015 to 06.02.2024 he worked as Excise constable in Belur Subdivision. He deposed that on 11.09.2015 at 11.30 am when he was on patrolling duty with CW4, 5 and 7 at Ambedkar Circle his higher officer has received information that, the accused R/o.Agasarahalli village was possessing illicit liquor. He deposed that his higher officer has secured CW1 and 2 as panchas who were waiting for bus and informed them to cooperate at the time of ride and panchas have agreed for the same. Thereafter with the help of the villagers they found the house of the accused which was locked. 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 30 litre of jaggery waste in 2 plastic pots and 3 litre of illicit liquor in plastic can having capacity of 10 litre. He deposed that 500 ml. sample from the illicit liquor and 500 ml. sample from jaggery waste has been taken for the purpose of chemical examination and tied with cloth and affixed the seal No.336. After preparing the chits containing the details and obtaining the signatures of panchas and officers affixed the same to the seized articles. Panchanama

has been drawn from 12.45 pm to 1.45 pm. He deposed that on 06.10.2015 he has taken the samples to the Bangalore FSL Center for chemical examination and on 16.10.2015 he has bring the FSL report. Signature on Ex.P1 is marked as Ex.P1(d). Letter written to FSL Bangalore is marked as Ex.P5 and signature on the same is marked as Ex.P5(a) and 3 plastic bottles have been identified as MO.1 to 3. The learned counsel for the accused has cross-examined the P.W.4.

12. CW-6-PW-5 Harsha who is the PDO of Yamasandi Grama Panchayath has deposed that, from 26.06.2010 to 03.08.2016 he worked as incharge PDO in Yamasandi Grama Panchayath. PW-5 deposed that the Excise Police have requested to furnish the document pertaining to the house of A.B.Dharmesha and accordingly he has issued Certificate stating that the house is standing in the name of the father of accused. The Letter Written by the Excise Police is marked as Ex.P.6. Certificate has been marked as Ex.P.7 and signature on the same is marked as Ex.P.7(a). The learned counsel for the accused has cross-examined the P.W.5.

13. On submission of Learned APP CW4 has been given up.

14. Though the complainant has stated that he has seized MO.1 to 3 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 panchanama as the panch witness examined in the instant case i.e. CW.2-PW.1 Kumara S/o.Veeranna, CW1-PW2 Raju S/o.Rangaswami and CW.4-PW.3 Yadukumar S/o.Rangegowda have stated in their chief

examination that, they have signed Ex.P.1 and Ex.P.2 at the request of police about 6 years back near Okkaligara Choultry and in the Excise office and does not know the contents of Ex.P.1 and Ex.P.2. PW1 to 3 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) to 1(c), Ex.P2(a) and 2(b). P.W.1 to 3 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 to 3 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, **21st day of May 2026**)*

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

ANNEXURE

WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION:

PW.1: Sri. Kumara S/o.Veeranna.
PW.2: Sri. Raju S/o.Rangaswamy.
PW.3: Sri. Yadukumar S/o.Nanjundegwda.
PW.4: Sri. Naveen Kumar A.S. S/o.Subramanya.
PW.5: Sri. Harsha K. S/o.Kanumanna K.
PW.6: Sri. Krishnamurthy S/o.Late Hanumanthaiah.

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.4
Ex.P.1(e) : Signature of PW.6

- 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.6
Ex.P.3 : Statement of PW1
Ex.P.4 : Statement of PW2
Ex.P.5 : Letter written to FSL Bangalore
Ex.P.5(a) : Signature of PW.4
Ex.P.5(b) : Signature of PW.6
Ex.P.6 : Letter written to PDO Yamasandi Grama Panchayath
Ex.P.6(a) : Signature of PW.6
Ex.P.7 : Certificate issued by the PDO Yamasandi
Grama Panchayath
Ex.P.7(a) : Signature of PW.5
Ex.P.8 : FIR
Ex.P.8(a) : Signature of PW.6
Ex.P.9 : FSL Report.
Ex.P.9(a) : Signature of PW.6

MATERIAL OBJECTS MARKED FOR PROSECUTION:

M.O.1 to 3 : 3 Plastic sample bottles.

FOR DEFENCE: Nil.

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