

KAHV200007032024



Presented on : 13-08-2024
Registered on : 13-08-2024
Decided on : 02-06-2026
Duration : 01 Year, 9 Months & 19 Days.

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC
AT BYADGI**

Present: Smt.Rajeshwari.J.Puranik,
B.A. L.L.B.(Spl.),
Senior Civil Judge & JMFC.,
Byadgi.

**Dated this the 2nd day of June, 2026
CC No.259/2024**

Complainant: State by Kaginele PS

(By: APP, Byadgi)

-Vs-

Accused: Mahantesh S/o Basavanneppa Badiger
Aged 51 years, Occ: Business,
R/at Kashambi, Tq: Byadgi, Dist: Haveri.

(By: Sri.B.S.C., Advocate)

1. Date of commission of offence: 30-03-2024
2. Date of report of offence: 30-03-2024
3. Arrest of accused:
Date of arrest of accused: -
Date of release of accused: -
Duration in custody: -
4. Name of the complainant: G.S.Vadnikoppa

- | | |
|-----------------------------------|--|
| 5. Date of recording of evidence: | 25-04-2025 |
| 6. Date of closing of evidence: | 12-03-2026 |
| 7. Offences complained of: | Section 32 and 34 of
Karnataka Excise Act |
| 8. Opinion of the Judge: | Accused found not guilty. |

JUDGMENT

The Kaginele police submitted the charge-sheet against accused for the offences punishable under Section 32 and 34 of Karnataka Excise Act.

2. It is the case of the prosecution that, on 30-03-2024 at about 8.00 pm accused found with illegal possession of 19 Three Aces whiskey pouches each containing 180 ml at Kashambi village without holding any valid permit or pass from the concerned authorities and thereby the accused committed the aforesaid offences. CW1 lodged the complaint against the accused. PW4 after completion of investigation he filed charge-sheet against the accused.

3. After filing of the charge-sheet and after taking the cognizance summons were issued to the accused. In pursuance of service of summons the accused appeared before the court and got released on bail. Upon appearance of the accused the copy of the charge-sheet and other prosecution papers have been supplied to him as provided under Section 207 of Cr.P.C.

4. Thereafter, heard both side and upon finding prima-facie materials, charges for the offences punishable

under Section 32 and 34 of Karnataka Excise Act have been framed and read over to the accused. She pleaded not guilty and claimed to be tried.

5. In order to prove the guilt of the accused, the prosecution got examined totally four witnesses out of six witnesses cited in the charge-sheet as PW1 to PW4. The prosecution has given up CW5 to CW8. The prosecution got marked totally 4 documents as per Ex.P1 to Ex.P4. The material objects has been got marked as per MO1. After completion of the prosecution evidence, the accused has been examined under Section 313 of Cr.P.C and he had denied all the incriminating circumstances appeared against his in the prosecution evidence and had not opted to lead any defence evidence.

6. Thereafter, heard arguments addressed by learned APP and learned counsel for the accused and perused the case papers. After hearing the arguments and on perusal of the entire case papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether the prosecution proves beyond all reasonable doubt that on 30-03-2024 at about 8-00 pm accused found with illegal possession of 19 Three Aces whiskey pouches each containing 180 ml at Kashambi village and thereby accused committed the offence punishable under Section 32 of K.E. Act?

2. Whether the prosecution further proves beyond all reasonable doubt that on the above said date, time and place, accused knowledge that he had no license or permit issued by Government were carrying and in illegal possession of aforesaid liquor for the purpose of illegal gain and thereby accused committed the offence punishable under Section 34 of K.E. Act?

3. What order?

7. The findings on the above points are as hereunder:

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: As per the final order
for the following:

REASONS

8. Point No.1 and 2: Since, these points are interconnected to each other and needs common discussion on the same set of facts and in order to avoid repetition of facts, these points are taken up together for discussion.

9. To establish the case of the prosecution, the prosecution examined in all four witnesses as per PW1 to PW4 out of 6 charge sheeted witnesses and relied on Ex.P1 to Ex.P4 documents and also got marked material object as per MO1. Ex.P1 is the spot mahazar, Ex.P2 is the complaint, Ex.P3 is the FIR and Ex.P4 is the FSL report.

10. PW1 pancha turned hostile to the case of the prosecution. He identified his signature on Ex.P1 but, he

denied the contents of mahazar. In the cross-examination by the learned APP PW1 denied seizure of said liquor in his presence by the CW1 and also conducting of panchanama.

11. PW2 deposed that, 30-03-2023 when he was in the police station he received the information that, one by name Malatesh Yallappa Lingadahalli at Kashambi village selling liquor illegally. So he informed the same to CW.6, then PW.2, CW4, 5 left the office around 8-00 pm in private vehicle and went to the Kashambi village, they kept watching, at that time they found accused selling liquor in front of his house. The two PCs tried to catchhold him, but he ran away by leaving the bag. They searched the bag in the presence of Panchas and found 19 pouch of Three Aces Whiskey each containing 180 ml. He conducted panchanama between 9.00 pm to 10.00 pm and seized said liquor and sealed with departmental seal and affixed the chit signed by the mahazar witnesses. They they returned to the office and lodged the complaint.

12. PW3 deposed that, on 30-03-2023 when he was in the police station, CW.6 informed that, one by name Malatesh Yallappa Lingadahalli at Kashambi village selling liquor illegally. then PW.3, CW5, 6 left the office around 8-00 pm in private vehicle and went to the Kashambi village, they secured CW.2 & 3 as panchas, they kept watching, at that time they found accused selling liquor in front of his house. They tried to catchhold him, but he ran away by leaving the bag at the

spot. They searched the bag in the presence of Panchas and found 19 pouch of Three Aces Whiskey each containing 180 ml. CW.1 conducted panchanama between 9.00 pm to 10.00 pm and seized said liquor and sealed with departmental seal and affixed the chit signed by the mahazar witnesses. They they returned to the office and CW.1 lodged the complaint.

13. PW4 IO deposed that, on 30-03-2024 at about 8.00 pm when he was on duty, CW1 appeared and lodged the complaint, on the basis of it he registered case in crime No.37/2024, submitted the FIR to the court and handed over the case to his higher official. So he along with CW.4 & 5 visited Kashambi village in a private vehicle at 9-00 pm, they kept watching and found the accused selling the liquor and by seeing them the accused ran away from the spot when he and CW.4 & 5 tried to catch him. PW4 searched the bag and on search PW4 found 19 Original Choice whiskey pouches each containing 180 ml of Three Aces. PW4 conducted panchanama between 21-10 pm to 22.10 pm. He seized said liquor and sealed with departmental seal and affixed the chit signed by the mahazar witnesses. They they returned to the office and submitted PF. He recorded the further statement of PW.1 and statement of CW.4 & 5. On 07-04-2024 he sent the sample for FSL. On 22-04-2024 he received FSL report and after completion of investigation he filed charge-sheet.

14. PW4 complainant deposed that, he seized alleged liquor packets and took the sample of liquor each packets in

the presence of panchas. But, PW1 pancha witness turned hostile and he categorically denied about seizure of alleged liquor and conducting of panchanama. Only evidence of PW2 to 4 and official witnesses is not sufficient to hold that, the accused was possessing liquor and selling the same.

15. Furthermore, the prosecution failed to prove Ex.P1 seizure mahazar since independent witnesses i.e., PW1 turned hostile to the prosecution case. It is the principle of criminal jurisprudence that the prosecution has to prove the alleged charges against the accused beyond all reasonable doubt and any discrepancies in the prosecution case would entitle the accused benefit of doubt and consequently entitle for acquittal. The evidence of official witnesses only as discussed above, is not reliable, and same is contrary and doubtful. Moreover, evidence on record raises serious doubts as to the seizure of alleged liquor from the possession of the accused by PW4. Therefore, the prosecution failed to prove the charges leveled against the accused persons beyond all reasonable doubt. **Accordingly, point No.1 and 2 are answered in the Negative.**

16. Point No.2: In view of the reasons discussed above this court proceeds to pass the following:

ORDER

Acting under Section 248(1) of Cr.P.C accused is hereby acquitted for the offences punishable under Section 32 and 34 of Karnataka Excise Act.

The bail bond and surety bond of accused and his surety shall stand canceled.

The bail bond and surety bond executed by accused and his surety under Section 437(A) of Cr.P.C shall be in force for a period of six months.

MO1 liquor packets is hereby ordered to be destroyed after the completion of the appeal period.

(Dictated to the Stenographer directly on the computer, same is then corrected and pronounced by me in the open court on this the 2nd day of June, 2026).

(Rajeshwari.J.Puranik)
Senior Civil Judge and JMFC,
Byadgi.

ANNEXURE

List of witnesses examined on behalf of the prosecution:

PW1	:	Basavaraj Lingadalli
PW2	:	Guddappa Badnikoppa
PW3	:	Devaraj Durgannanavar
PW4	:	Pushpavati.

List of documents marked on behalf of the prosecution:

Ex.P1	:	Seizure mahazar, Ex.P1(a & b)	signature
Ex.P2	:	Complaint, Ex.P2(a & b)	signature
Ex.P3	:	FIR, Ex.P3(a)	signature
Ex.P4	:	FSL report, Ex.P4(a)	signature.

Witnesses examined on behalf of the accused:

- Nil -

Documents marked on behalf of the accused:

- Nil -

Material objects marked on behalf of the prosecution:

MO1 : liquor pouches.

Material objects marked on behalf of the accused:

- Nil -

(Rajeshwari.J.Puranik)
Senior Civil Judge and JMFC
Byadgi.