



**IN THE COURT OF THE PRL.CIVIL JUDGE AND
JMFC., AT RANEBENNUR.**

Dated this 01st day of July 2026.

Present: Sri. ADITHYAKUMAR.H.R., B.A. LL.B.

Prl. Civil Judge and JMFC, Ranebennur

C.C.No. 707/2024

Complainant: State of Karnataka
Sub-inspector of Excise,
Ranebennur.

(Rep. By A.P.P.)

V/s

Accused: Hanumanthappa S/o Jeevappa Kalal,
Age: 54 years, R/o: Medleri,
Tq: Ranebennur, Dist: Haveri.

(Rep. By Sri. A.S.S., Adv.,)

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|----|-------------------------------|--------------------------|
| 1. | Date of report of offence | : 27.09.2024 |
| 2. | Offences alleged | : U/s 32(1) of K.E. Act. |
| 3. | Date of recording of evidence | : 18.03.2025 |
| 4. | Date of Judgment | : 01.07.2026 |
| 5. | Opinion of the judge | : As per final order. |

**(Adithyakumar H.R.)
Prl. Civil Judge and JMFC.,
Ranebennur.**

J U D G M E N T

The Sub-inspector of Excise, Ranebennur Sub-Division, has filed a charge sheet against the accused for the commission of offences under Sections 14, 15 & 32(1) of the Karnataka Excise Act.

2. The brief facts of the case as per prosecution is as under;-

On 13.04.2024, at about 11.15 a.m., acting on credible information regarding the illegal transportation of liquor, CW1 and CW2 conducted a warrant-less raid (under recorded exigency) near government veterinary Hospital, Medleri village. In the presence of pancha witnesses, the accused was found in unauthorized possession of Haywards Cheers Whiskey- 90 ml - 96 tetra packets.

Following a seizure under panchanama and the issuance of a Section 41A Cr.PC notice, an FIR was registered. Upon completion of the investigation by CW6, a charge sheet was filed against the accused under Sections 14, 15 & 32(1) of the Karnataka Excise Act.

3. The Accused is on court bail. The prosecution papers were supplied to accused in compliance of section 207 of Cr.P.C., and the charges punishable under Section 32(1) of Karnataka



Exercise Act were recorded by reading out the allegations in Kannada language known to him and he pleaded not guilty and claimed to be tried by this court and hence the said case was posted for trial.

4. In order to bring home the guilt of the accused the prosecution has cited total 6 witnesses and examined total 5 witnesses as PW-1 to PW-5, marked documents as per Ex.P-1 to 7 and material objects were marked as per MO's No.1 & 2. CW3 was died.

5. After closure of prosecution evidence 313 statement of the accused was recorded. Accused denied all the incriminating materials appearing in the evidence of prosecution. The accused has not lead any defense evidence.

6. The defense contends that, the case was fabricated for statistical purposes and denies that the alleged material objects (MOs) were ever seized from the accused's possession. Counsel argues that no permit was required as the accused was not engaged in the transportation of liquor. Furthermore, the defense highlights several critical lapses in the prosecution's case: (1) the absence of photographs at the seizure site, casting doubt on actual possession; (2) the Investigating Officer's failure



to obtain prior magisterial permission or record necessary reasons for a warrantless search and seizure; (3) the fact that independent witnesses turned hostile; and (4) the lack of investigation into the liquor's source. Consequently, the defense maintains that the prosecution has failed to prove its case beyond a reasonable doubt, necessitating an acquittal.

7. Heard arguments from either sides and perused records. The points that arises for my consideration is:

POINTS

I. Whether the prosecution proves beyond reasonable doubt that On 13.04.2024, at about 11.15 a.m., near government veterinary Hospital, Medleri village the accused was illegally transporting the liquor, in contravention of the Karnataka Excise Act, 1965, thereby committing an offence punishable under Section **32(1)** of the said Act.?

II. What order.?

8. My finding to the above points is in **Negative** for reason assigned below;-

REASONS

9. Point No. 1 ;-

PW-5, cited by the prosecution as an independent pancha and eyewitness to the raid and seizure, turned



completely hostile. In his testimony, he did not support the prosecution's narrative and claimed total ignorance regarding the alleged raid or the drawing of the seizure panchanama. Despite a thorough cross-examination by the Public Prosecutor, nothing was elicited from his testimony to prove the recovery of the material objects from the possession of the accused.

9.1. The prosecution primarily relies on the testimony of **PW-1 & 2**, who are official witnesses involved in the raid, the lodging of the First Information Statement (FIS), and the subsequent investigation. **PW-1**, the first informant, deposed that while on patrolling duty, she received credible information regarding the illegal possession of liquor with accused.

According to their testimonies, the accused was apprehended 'red-handed' in the presence of panch witnesses while in illegal possession of liquor. They further deposed that the accused failed to produce any valid permit or license and could not provide a satisfactory explanation for the possession. PW-1 detailed the recovery of specific contraband—namely, Haywards Cheers Whiskey- 90 ml - 96 tetra packets. all of which were allegedly seized from the accused's possession under the Ex.P3 Mahazar.



9.2. PW-1 further deposed that upon confirming the accused was selling liquor to the general public, the raiding party conducted an inquiry regarding the accused's identity and the existence of any valid license or permit. Upon finding none, they seized the material objects (MO's), conducted the panchanama at the spot, and subsequently registered the FIR at the station. PW-2, who assisted in the raid, provided a corroborative account consistent with PW-1. While the testimonies of these official witnesses align with the prosecution's narrative, it must be noted that their evidence remains uncorroborated by any independent source.

9.3. PW4, the Investigating Officer, deposed to the procedural aspects of the case, forwarding the MO's for chemical examination before filing the charge sheet. While the hostility of independent witnesses PW-5 is not always fatal to the prosecution, the case rests heavily on the credibility of the initial raid conducted by PW-1. In this instance, a fatal procedural irregularity exists: PW-1 failed to comply with the mandates of Sections 154 and 157 of the Cr.PC. Instead of registering an FIR upon receiving 'credible information,' the prosecution was initiated solely on the basis of a pre-prepared Mahazar, with the FIR being registered post-facto. This



'investigation-first, FIR-later' approach undermines the foundational legality of the search and seizure.

9.4. The Hon'ble High Court of Karnataka in the case of **G. Puttaraju Vs. State of Karnataka** in WP No.20816/2023 decided on 31.01.2024 held that, without registering FIR, commencement of investigation, is in violation of the provisions of the Cr.PC. That apart, sending the less quantity of the bottles than the seized quantity of bottles for examination, and without recording the reasons for not obtaining warrant, seizing the articles and commencing the investigation without registering FIR, is violative of the provisions of the K.E. Act as well as Cr.PC. Therefore, the criminal proceedings is not sustainable in law.

9.5. Further, in the case of Dayananda Uruf R. Babu & another Vs. State of Karnataka- **2024 Live Law KAR 171** also has categorically held thus;

"16. Ex.P1 being a panchanama, it cannot be termed as a complaint. FIR cannot be registered on the basis of panchanama, however, in the present case, the respondent has registered the FIR on the basis of panchanama which is erroneous and not proper. The Trial Court ought not to have acted upon such FIR and cognizance should not have been taken on the strength of the said FIR. However, the Trial Court and



the Appellate Court have committed error by considering the said FIR as appropriate and proper and recorded the conviction. Such conviction would be rendered as ineffective and the same can be termed as non est in law.

17. When the registration of FIR itself is void abinitio, the subsequent proceedings including the judgments are liable to be set aside. Therefore, the interference by the Revisional Court in setting aside the concurrent findings is justified.”

(Emphasis supplied by me)

9.6. This lacuna goes to the root of the case as it is non-compliance of the safeguards provided under Cr.PC. Though testimonies of official witnesses should not brushed aside with complete disbelief, yet when such officers give complete go by to the mandate of a statute, this court will certainly infer a doubt in the case of the prosecution. Independent panch witnesses. Thus, I conclude that the prosecution was not able to prove the seizure and its version by placing cogent evidence to convince this court to hold the charges leveled against the accused. As such this court holds Point No.1 in the **Negative**.

When the matter came to be posted for arguments the counsel for the accused filed an application under section 437-A of the Cr.P.C. along with a surety. As he was already on court



bail, this court thought it fit to accept the surety after due inquiry.

10. Point No.2;-

For the above reason the accused is entitled for acquittal.

Thus, I proceed to pass following;

ORDER

“Acting u/s 248(1) of Cr.P.C., 1973, I hereby acquit the accused for the offences p/u/s 32(1) of Karnataka Excise Act, 1965.

The bail bond and surety bond executed by the accused other than furnished under Section 437 (a) of Cr.P.C. stands canceled.

Material Objects being liquor and tetra packets are ordered to be destroyed after the expiry of period prescribed for appeal in accordance with law.

The accused is set at liberty, if he is not required in any other case.”

(Dictated to Stenographer directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 01st day of July 2026).

**(Adithyakumar H.R.)
Prl. Civil Judge and JMFC.,
Ranebennur.**



:: ANNEXURE ::

List of Witness examined on behalf of prosecution

- PW1 :- Smt. Geetha Tegghihala
PW2 :- Sri. Hanumantha Rangannanavar
PW3 :- Sri. Manjappa Mugappa
PW4 :- Sri. Shankar Mahadevappa Gudadar
PW5 :- Sri. Maruthi Honnappa

List of Exhibits marked on behalf of prosecution:-

- Ex.P.1 :- Search warrant
Ex.P.1(a) :- Signature of PW-1
Ex.P.2 :- Notice
Ex.P.3 :- Panchanama
Ex.P.3(a) :- Signature of PW-1
Ex.P.3(b) :- Signature of PW-2
Ex.P.4 :- Complaint
Ex.P.4(a) :- Signature of PW-1
Ex.P.5 :- FIR
Ex.P.6 :- FSL report
Ex.P.7 :- Letter dated 27.02.2024

List of Material Objects marked on behalf of prosecution

- M.O.1 :- Bag
M.O.2 :- Whiskey tetra packets

List of Witness examined on behalf of Accused

NIL

List of Exhibits marked on behalf of Defence:-

NIL

**(Adithyakumar H.R.)
Prl. Civil Judge and JMFC.,
Ranebennur.**