

KAHV700008542019



**IN THE COURT OF THE CIVIL JUDGE AND J.M.F.C AT
SHIGGAON**

Present: Ashwinichandrakanth
B.Sc., LL.B.
Civil Judge and J.M.F.C.,
Shiggaon.

Dated this the 25th day of June, 2026.

CC No.438/2019

Complainant : State by Excise Inspector,
Excise Range, Shiggaon.

(By Assistant Public Prosecutor)

V/s.

Accused : Annappa S/o. Devendrappa Kolalu,
Age: 23 years, Occ: Hotel Employee,
R/o:Sunkadakeri Oni, Bankapur,
Tq.Shiggaon, Dist.Haveri.

(Accused person by Sri.R.M.H.,Advocate)

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1.	Date of commission of offence	::	12.03.2019
2.	Date of report of offence	::	12.03.2019
3.	Date of arrest of accused	::	-
4.	Name of Informant	::	-
5.	Date of recording evidence	::	29.03.2025
6.	Date of closing evidence	::	12.06.2026
7.	Offence complained of	::	32, 34 and 38(A) of Karnataka Excise Act.
8.	Opinion of the Judge	::	As per Final Order.

J U D G M E N T

The Excise Inspector of Shiggaon Excise Range has submitted the charge-sheet against the accused for the offences punishable under Section 32, 34 and 38(A) of Karnataka Excise Act.



2. The brief facts of the prosecution case :

On 12.03.2019 around 02.00 p.m CW1 along with his other officers as on patrolling duty near Bankapur to Mundagod road on that occasion CW1 received an information that one person has transporting liquor tetra packs near Bankapur- Mundagod cross. Then started patrolling near incident spot. While patrolling accused came on TVS excel two wheeler which does not consist of number plate and illegally transporting liquor tetra packs and beer bottles with an intention to sell the same. Hence, CW1 sized the material objects and arrested the accused person. Hence, CW1 lodged the complaint against accused person for offences under Section 32, 34 and 38(A) of Karnataka Excise Act.



3. The Sub-Inspector of Excise after conducting the investigation had filed charge-sheet against the accused for the alleged offences punishable under Section 32(1), 38(A) and 43 of Karnataka Excise Act. Thereafter, the copies of prosecution papers supplied to the accused person as required under Section 207 of Cr.PC. Heard on HBC there is no ground to discharge accused person under Section 239 of Cr.P.C. and there are prima-facie material available to proceed under Section 240 of Cr.P.C. and charges on recorded and read over the contents of charge in his known language. Wherein, the accused person as denied all the contents of charge and claims to be tried. Therefore, summons has been issued to the prosecution witnesses.



4. In order to substantiate charge leveled against the accused, the prosecution has examined five witness out of 8 witnesses, they have examined as PW1 to PW5 and got marked Ex.P1 to Ex.P5 and material objects are marked as MO.I to MO.IV.

5. After completion of prosecution evidence 313 statement of accused was recorded all the incriminating materials present in the evidence of the prosecution are denied by the accused. The accused has not lead any defence evidence.

6. Heard on both sides.

7. On perusal of prosecution paper the following points arise for my consideration:

1. Whether the prosecution proves beyond all reasonable doubt that, on



12.03.2019 at about 02.00 p.m near Bankapur - Mundagod cross accused in his un-numberd TVS excel without holding any license transporting illicit tetra packs in bag and thereby accused has committed the offences punishable under Section 32 of Karnataka Excise Act?

2. Whether the prosecution further proves beyond all reasonable doubt that, on the above said date, time and place accused is in illegal possession of liquor tetra packs and beer bottles with an intention to sell the same and thereby accused has committed the offence punishable under Section 34 and 38(A) of Karnataka Excise Act?

3. What order?

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

9. Point No.1: In Negative

Point No.2: In Negative

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



REASONS

10. Point No.1 and 2: These points required for common discussion to avoid repetition of facts and evidence therefore these points are taken together for said purpose. The Shiggaon Excise Police have registered case against the accused for the offence punishable under Section 32, 34 and 38(A) of K.E.Act.

11. On going through the evidence of CW1 being first informant examined as PW3 stated that, on 12.03.2019 around 01.30 pm, due to elections they were on patrolling duty along with CW4 and DW5. On that time received an information that one person is transporting illicit tetra packs illegally on his two wheeler. Then, approached the panchas CW2 and CW3 near Bankapur



Bus Stand and requested them to act as panchas in excise patrolling. Thereafter, deposed that CW1 along with panchas were watching near Mundagod-Bankapur cross. Around 02.00 p.m. one vehicle was coming without number plate. On suspicion stopped the said vehicle. Then enquired him, on enquiry accused was possessed with 650 ml. 12 beer bottles, 330 ml. 6 King Fisher beer tins, 180 ml. 10 back piper whiskey tetra packs and 180 ml. 10 original choice whiskey tetra packs. Further on enquiry accused does not possessed of permission to sell the said liquor. Further deposed that they have seized the tetra packs. On enquiry accused himself identified as Annappa Devendrappa Kolalu resident of Suggikeri Oni Bankapur. CW1 further deposed that material objects



were seized and sealed with department seal and then annexed his signature along with panchas signatures. The panchanama was conducted in presence of panchas from 02.00 to 04.00 p.m. Thereafter, along with material objects and accused went to station and filed complaint on behalf of state. Ex.P3 to P5 got marked though PW3. PW3 is subjected to cross-examination nothing contradictory evidence has been elicited from his mouth.

12. CW5 got examined as PW4 deposed that, on 12.03.2019 around 01.30 p.m., CW1 along with their subordinates were doing patrolling duty near Bankapur bus stand on that occasion CW1 received an information. Hence, they approached two persons standing near Bankapur bus stand to act as panchas during the raid.



Then, along with panchas they went to Bankapur-Mundagod cross road. Around 02.00 p.m. one TVS excel vehicle came near the cross, on suspicious CW1 stopped him. Then, the rider did not answered properly. Further deposed that he unpacked the bag which is possessed by that person. Then found 180 ml. 10 back piper whiskey tetra packs, 180 ml. 10 original choice tetra packs, 650 ml. 12 King Fisher beer bottles, 330 ml. 6 King Fisher Strong Tins. Further on enquiry he does not possessed of permission to sell the liquor. Then he himself identified as Annappa Devendrappa Kolalu. CW.1 seized the material objects and kept in box then said box was sealed and signatures of the panchas along with CW1 is affixed. Further deposed that, panchanama was conducted from



02.00 pm. To 04.00 pm. Further deposed that, he had given statement regarding this case before CW8. PW4 subjected to cross-examination nothing contrary evidence has been lead with respect to their raid.

13. CW.6 examined as PW.5 and deposed that, on 23.05.2019 as per the directions of the cW1 he had taken the material objects for chemical examination. Then, furnished FSL report before IO on 24.05.2019. PW5 subjected to cross-examination by the accused counsel nothing contrary statement were elicited by his mouth.

14. CW2 and CW3 being independent witnesses examined as PW.1 and PW2. They are the independent witness to the raid and seizure. The entire scene of the crime is conducted in presence of the PW.1 and PW2.



They did not support the case of prosecution. They being independent witness shown complete ignorance about the raid and panchanama. Though PW.1 and PW2 turned hostile which is fatal to the case of prosecution. This Court has relied on the independent testimony evidence. But in this case the independent witnesses PW.1 and PW2 does not supported the case of the prosecution, turned hostile.

15. Thus the prosecution was unable to prove their case by producing cogent evidence. On total analysis of evidence, it is evident that PW.1 and PW2 being independent witnesses have turned hostile. Their evidence is not corroborated with other witnesses. When the investigating Officer proceed with the investigation



without obtaining any search or secure warrant from the magistrate corroboration by independent witnesses is necessary.

16. Therefore, this court is of the opinion that prosecution is utterly failed to prove the charges leveled against the accused. Hence, this Court hold **Point No.1 and 2 in Negative.**

17. Point No.3:- In view of my findings on Point No.1 and 2, this Court proceeds to pass the following:

ORDER

Acting under Section 248(1) of Cr.P.C. the accused is hereby acquitted for the offences punishable under

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Section 32, 34 and 38(A) of Karnataka
Excise Act.

The bail bond furnished by the
accused is hereby lapsed after
completion of appeal period.

MO.I to MO.IV being the tetra packs
are the worthless and directed to
destroy after the expiry of the period
specified for appeal.

(Dictated to the Stenographer directly on computer, typed by her on
computer, corrected by me and then pronounced in the open court on this the
25th day of June 2026).

(ASHWINICHANDRAKANTH)
Civil Judge & JMFC,
Shiggaon.



ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF PROSECUTION:

PW.1 : Arjun Kotrappa Tarlagatta
PW.2 : Umesh Kadagad
PW.3 : Shrishail Sangolli
PW.4 : Yallappa Reddy Redder
PW.5 : P.R.Doddamani.

LIST OF WITNESSES EXAMINED AND DOCUMENTS EXHIBITED ON BEHALF OF ACCUSED: -

-NIL-

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF PROSECUTION:

Ex.P1 : Spot mahazar
Ex.P1(a) : Signature of PW1
Ex.P1(b) : Signature of PW2
Ex.P1(c) : Signature of PW3
Ex.P1(d) : Signature of PW4
Ex.P2 : Sample Seal
Ex.P2(a) : Signature of PW1



Ex.P2(b) : Signature of PW2
Ex.P2(c) : Signature of PW3
Ex.P3 : Complaint
Ex.P3(a) : Signature of PW3
Ex.P4 : FIR
Ex.P4(a) : Signature of PW3
Ex.P5 : Search Warrant
Ex.P5(a) : Signature of PW3.

Material objects marked on behalf of the prosecution:

MO.I : 180 ml BP 10 Tetra Packs
MO.II : 180 ml ORC 10 Tetra Packs
MO.II : 650 ml 12 K F Strong Beer
MO.IV : 330 ml 6 K F Strong Tinner.

Material objects marked on behalf of the accused: Nil.

**Sd/-
(ASHWINICHANDRAKANTH)
Civil Judge & JMFC.,
Shiggaon.**