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**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 04th day of July, 2026.

CC No.497/2019

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

(By Assistant Public Prosecutor)

V/s.

Accused : Sri.Husenkhan S/o. Maqbul Ahmed Gadag,
Age: 22 years, Occ: Coolie,
R/o: Near BSNL Office, Savanur,
Tq.Savanur, Dist.Haveri.

(Accused person by Sri.P.MG.,Advocate)

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1.	Date of commission of offence	::	20.03.2019
2.	Date of report of offence	::	20.03.2019
3.	Date of arrest of accused	::	-
4.	Name of Informant	::	-
5.	Date of recording evidence	::	09.12.2022
6.	Date of closing evidence	::	07.05.2026
7.	Offence complained of	::	32 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 and 38(A) of Karnataka Excise Act.



2. The brief facts of the prosecution case :

On 20.03.2019 around 12.30 p.m due to Lokasaba elections CW1 was on patrolling duty in Shiggaon Town. On that occasion received an information. As per the information went near Savanur road. Then one person was transporting illegal tetra packs from Shiggaon town to Savanur town in his CD Delux two wheeler bearing Reg.No.KA-31/K-7049. Then, CW1 was arrested the accused near JMJ School Shiggaon. Then seized 5.130 liters liquor and two wheeler in presence of panchas. Hence, CW1 lodged the complaint against accused person for offences under Section 32 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 and 38(A) 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 charges leveled against the accused, the prosecution has examined five witness out of 7 witnesses, they have examined as PW1 to PW5 and got marked Ex.P1 to Ex.P6 and material objects are marked as MO.I.

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



20.03.2019 at about 12.30 p.m Excise Inspector of Shiggaon was conducting a patrolling duty due to elections near JMJ School in Shiggaon town, on that occasion, they found a Hero Honda CD Deluxe two wheeler bearing Reg.No.KA31/K-7049 and transporting 5.130 liters of liquor without holding any license 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 was transporting 5.130 liters of liquor in two wheeler bearing Reg.No.KA-31/K-7049 in violation of the election code of conduct and without license to sell liquor 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 and 38(A) of K.E.Act.

11. On going through the evidence of CW1 being first informant examined as PW5 deposed that, on 20.03.2019 due to Loksabha elections he was on patrolling duty near Savanur road. On that occasion



received an information that one person was transporting liquor in his two wheeler. Based on the information they have conducting the patrolling. At that time one vehicle came near the spot while enquiry they found one hand bag on petrol tank. In presence of panchas CW1 found 90 ml. 57 original tetra packs in that bag. Further on enquiry accused does not possessed of permission to sell the liquor. Further deposed that they have seized the tetra packs. On enquiry accused himself identified as Hasansab Maqbulsab Ahmed resident of Savanur. CW1 further deposed that on enquiry accused did not said about where he brought the tetra packs. PW5 further deposed that, 26 tetra packs were taken for chemical examination. Further they have conducted panchanama from 01.20 to



02.15 p.m. Thereafter, along with material objects and accused went to station and filed complaint on behalf of state. Ex.P3 and P5 got marked though PW5. PW5 is subjected to cross-examination nothing contradictory evidence has been elicited from his mouth.

12. CW4 got examined as PW1 deposed that, on 20.03.2019 due to Loksabha elections he was patrolling duty along CW1. On that occasion CW1 received an information that one person in his two wheeler bearing Reg.No.KA-31/K-7049 is transporting illegal tetra packs to Savanur. Based on that information CW1 approached two panchas to act as panchas at the time of raid. Then along with panchas they went near JMJ School. Thereafter, one vehicle came near the incident spot on suspicious they

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stopped the said vehicle. Then on enquiry they found 90 ml. 57 original choice tetra packs in the bag. Further on enquiry the accused person does not consists of permission to sell the said liquors. Further on enquiry he himself identified as Husenkhan Maqbulahmed resident of Savanur. Further deposed that, on further enquiry they have seized the material object and arrested the accused person. Then 26 tetra packs were taken out for chemical examination. Then CW1 along with panchas affixed their signatures on samples. In presence of CW2 and CW3 panchanama was conducted from 01.20 pm to 2.15 pm. Further deposed that he had given statement regarding raid. PW1 subjected to cross-examination nothing



contrary evidence has been lead with respect to their raid.

13. CW.5 examined as PW.3 and deposed that, on 23.05.2019 he had taken the material objects for chemical examination. Then, furnished FSL report before IO on the same day. PW3 subjected to cross-examination by the accused counsel nothing contrary statement were elicited by his mouth.

14. CW7 examined as PW4 who is investigating officer of this case as deposed that, he had received the case from CW1 then on 23.05.2019. Then sent the CW5 for chemical examination to FSL Dharwad. Further on 25.05.2019 received FSL report from CW5. Then, filed final report against accused on 02.07.2019. PW4



subjected to cross-examination by the accused counsel nothing contrary statement were elicited by his mouth.

15. CW2 being independent witnesses examined as PW2. He is the independent witness to the raid and seizure. The entire scene of the crime is conducted in presence of the PW2. He did not support the case of prosecution. He being independent witness shown complete ignorance about the raid and panchanama. Though 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 PW2 does not supported the case of the prosecution, turned hostile.



16. Thus the prosecution was unable to prove their case by producing cogent evidence. On total analysis of evidence, it is evident that 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.

17. 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.**



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

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

MO.I being the tetra packs are the worthless and directed to destroy after

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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 **04th day of July 2026**).

(ASHWINICHANDRAKANTH)
Civil Judge & JMFC,
Shiggaon.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF PROSECUTION:

PW.1	:	Basavaraj Shankrappa Thotad
PW.2	:	Muttappa Irappa Mallannanavar
PW.3	:	P.R.Doddamani
PW.4	:	Rajendra Ishwarappa Hugar
PW.5	:	S.Ravindranatha.

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**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 PW2
Ex.P1(b)	:	Signature of PW5
Ex.P2	:	Sample Seal
Ex.P2(a)	:	Signature of PW5
Ex.P2(b)	:	Signature of PW5
Ex.P3	:	Complaint copy
Ex.P3(a)	:	Signature of PW5
Ex.P4	:	FIR
Ex.P4(a)	:	Signature of PW5
Ex.P5	:	Search Warrant
Ex.P5(a)	:	Signature of PW5
Ex.P6	:	FSL Report.

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Material objects marked on behalf of the prosecution:

MO.I : 26 Tetra Packs.

Material objects marked on behalf of the accused: Nil.

Sd/-

**(ASHWINICHANDRAKANTH)
Civil Judge & JMFC.,
Shiggaon.**