



Presented on : 17-08-2017
 Registered on : 17-08-2017
 Decided on : 26.05.2026
 Duration : 8 years 9 months 9 days

IN THE COURT OF THE CIVIL JUDGE AND J.M.F.C. SEDAM

Dated this the 26th day of May-2026

Present: Sri. Balu
B.A.,L.L.B
Civil Judge & JMFC.,Sedam.

C.C.No.402/2017

COMPLAINANT	The State Represented by Sedam range Excise Police
(By APP)	
V/S	
ACCUSED	Narayanamma W/o Basavaraj Kalal, Age: 45 years, Occ: Tea hotel, R/o Gounalli village, Tq: Sedam, Dist: Kalaburagi.
(By Sri. A.M., Adv)	

1	Date of commission of offence	24.12.2013
2	Name of the Complainant	Sri.Shivaraj Kadaganchi
3	Date of commencement of evidence	18.12.2025
4	Date of conclusion of evidence	13.03.2026
5	Nature of offence	Section U/Sec.32 and 43 of KE Act



Opinion of the judge	As per final order
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Sd/-
(Balu)
Civil Judge and JMFC.,
Sedam

J U D G M E N T

The accused has faced trial for the offence punishable U/sec.32 and 43 of Karnataka Excise Act, upon charge sheet filed by the Excise Sub-Inspector Sedam range.

2. The brief facts of the prosecution case is as under:

It is alleged by the prosecution that, on 24.12.2013 CW.5 has received credible information about illegal selling of liquor in the tea hotel at Gounalli village, Tq: Sedam by accused Narayanamma W/o Basavaraj Kalal. Upon receiving the information CW.5 along with panchas and official staff went to the informed place through government vehicle No.KA-32/G-444 and reached the spot at about 04.30 pm. Thereafter, police have made a raid on accused by seeing the police accused has tried to ran away from the spot but women home guard has catch hold the accused. Upon search they found one box behind the wooden cubord, which was contained with 48 bottles of 180 ml each. Total 8.640 liter liquor. Thereafter, they have seized the said liquor out of which 02 bottles of original choice seized separately for the purpose of chemical analysis in the presence of panchas and sealed as "444". Thereafter police have enquired the accused about selling of liquor and from where she has to brought



that liquor for that she has not answered anything. Thereafter, police have asked her name for that she has informed her name as Narayanamma W/o Basavaraj Kalal, Age: 45 years, Occ: Tea hotel business, R/o Gounalli village, Tq: Sedam. Thereafter, police have taken the custody of the accused and seized the material objects and prepared the panchanama in the incident spot from 04.30 pm to 05.30 pm.

3. On the basis of seizure panchanama the case has been registered against the accused under crime No.33/2013-14 for the offence punishable U/Sec.13, 14, 15 and section 32 and 43 of Karnataka Excise Act. The accused got enlarged on bail during crime stage. Thereafter, investigation officer has recorded statement of witnesses, collected the chemical analysis report and later than filed charge sheet against accused person for the offence punishable U/Sec.13, 14, 15 and section 32 and 43 of Karnataka Excise Act.

4. **Compliance of sec 207 of CrPC**

After filing charge sheet this court has taken the cognizance for the offences punishable U/sec.32, 38A of KE Act and the presence of accused secured by issuing summons. The prosecution papers are supplied to the accused as per Sec.207 of Code of Criminal Procedure. After hearing of both the parties, it appears to the court that there are sufficient materials available as to frame charge against accused for the offence punishable U/Sec.32 and 43 of Karnataka Excise Act.



5.Framing of charges

Therefore charges are framed by my learned predecessor in office and read over and explained to the accused in their vernacular language. Accused pleaded not guilty of offence and submitted for trial. Therefore case is posted for recording of prosecution side of evidence.

6. Evidence for prosecution

In order to prove the guilt of accused the prosecution has examined in all two witnesses as PW.1 and 2 and got marked Ex.P.1 to 6 documents with sub markings and M.O.No.1 and 2 are also marked and closed its side of evidence.

7. Statement U/s 313 of CrPC

The accused has been examined under Sec.313 of Cr.P.C. The accused has denied all the incriminating circumstances appearing in the prosecution case by stating false and submitted no defense evidence.

8. Heard, arguments of learned Assistant Public Prosecutor for state and so also heard arguments of learned advocate for accused.

9. After going thoroughly with the evidence on record and documents marked in this case and so also on hearing of arguments of both side the following points arose for the consideration of this court.



POINTS

1. Whether prosecution proves beyond all reasonable doubt that, on 24.12.2013 at about 01.30 pm under the jurisdiction of Sedam range excise at Gounalli village, the accused has found with illegal possession of original choice whiskey of 48 bottles without having any valid permit from the concerned authority in order to sell it to the general public and thereby accused have committed the offence punishable U/Sec.32 and 43 of Karnataka Excise Act.
2. What order?

10. My answers to the above points are as under

Point No.1: **In the Negative**

Point No.2: **As per final order for the following:**

REASONS

11. Point No.1: In order to prove the guilt of the accused the prosecution has examined two witnesses as PW.1 and 2 and got marked Ex.P.1 to 06 documents. Further the material object No.1 and 2 are marked. The witness examined by the prosecution may be categorized as PW.1 is the investigating officer and PW.2 is the official witness. The CW.1, 2 and 5 are died and CW.4 is not examined and given up by the prosecution. In addition to above the prosecution has marked total 06 documents as per ExP.1 to 6. Ex.P.1 is the letter to FSL, Ex.P.2 is the Chemical examination report, Ex.P.3



is the Seizure panchanama, Ex.P.4 is the Search memo, Ex.P.5 is the Madari Moharin Nakalu and Ex.P.6 is the First Information report.

12. Before entering into my reasoning on above said points I would like to discuss in brief the case of the prosecution. On 24.12.2013 CW.5 has received credible information about illegal selling of liquor in the tea hotel at Gounalli village, Tq: Sedam by accused Narayanamma W/o Basavaraj Kalal. Upon receiving the information CW.5 along with panchas and official staff went to the informed place through government vehicle No.KA-32/G-444 and reached the spot at about 04.30 pm. Thereafter, police have made a raid on accused by seeing the police accused has tried to ran away from the spot but women home guard has catch hold the accused. Upon search they found one box behind the wooden cubord, which was contained with 48 bottles of 180 ml each. Total 8.640 liter liquor. Thereafter, they have seized the said liquor out of which 02 bottles of original choice seized separately for the purpose of chemical analysis in the presence of panchas and sealed as "444". Thereafter police have enquired the accused about selling of liquor and from where she has to brought that liquor for that she has not answered anything. Thereafter, police have asked her name for that she has informed her name as Narayanamma W/o Basavaraj Kalal, Age: 45 years, Occ: Tea hotel business, R/o Gounalli village, Tq: Sedam. Thereafter, police have taken the custody of the accused and seized the material objects and prepared the panchanama in the incident spot from 04.30 pm to 05.30 pm.



13. PW.1 who is the investigating officer, who deposed in his examination in chief that, on 28.10.2016 he has received the case file from Mareppa Natikar, Excise police and on 02.11.2016 he has submitted the final report to the court.

14. PW.2 who is the official witness, who has deposed in his chief examination that, on 11.06.2014, he has received two sample bottles of original choice from CW.5 and sent the same for chemical analysis examination to FSL Bengaluru. On 17.06.2014 he has returned to the office and submitted the report to CW.5 the said report is marked as Ex.P.1 and FSL report is marked as Ex.P.2, upon identification of signature of CW.5 by this witness seizure panchanama is marked as Ex.P.3, Search memo is marked as Ex.P.4, Madari Moharin Nakalu is marked as Ex.P.5 and First information report is marked as Ex.P.6. Original choice whiskey bottles of 180 ml is marked as M.O.No.1 and 2.

15. Presence of other witnesses could not be secured inspite of issuance of summons for several times. In this context it is relevant to place reliance on the decision of Hon'ble High Court of Karnataka reported in **1998 (3) Karnataka Law Journal 128 (State of Karnataka V/s Krishna @ Challakili and another)**, which reads as under:

" As far as the production of evidence is concerned, the Investigating Officers shall be specifically informed that it is their personal responsibility for which they will be held personally accountable if the requisite



evidence such as property, documentary evidence etc., is not forthcoming before the Court. More importantly, it will have to be clearly brought to the notice of the Police that they will have to be particularly vigilant with regard to the service of summons and warrants on the accused persons as case after case has been failing on specious plea that the witnesses have not been produced. All necessary steps must be taken to ensure the full particulars and whereabouts of the witnesses and whenever they are required to be produce before a Court, summons or warrants will have to be executed on a time bound basis and without any false or dishonest excuses being made. It has almost become a joke for the Courts to have to put up with thousands of false endorsements from the Police who do not even lift their little finger for the service of summons and executing the warrants. The supervisory Officers shall therefore ensure that stringent direction should be issued to put a stop to this malpractice."

16. Same view is reiterated in subsequent decision of **Hon'ble High Court of Karnataka reported in 1998 (3) K.L.J. 274 (State of Karnataka V/s Ravi and another)**, which reads as under:

" (B) CRIMINAL PROCEDURE CODE, 1973, Section 482 – Criminal trial- Inordinate delay in conclusion of- Non-production of evidence resulting in acquittal of accused and failure of justice- Such default by prosecution give rise to suspicion that default was deliberate to help the accused to escape conviction- Such cases should be looked into and appropriate action taken against persons found responsible"

17. In the light of principles emerging from the above-referred decisions, the Investigating Agency has failed to produce the



witnesses inspite of best endeavor made by the Court. Later on, the CW.1, 2 and 5 are died and CW.4 is not examined and given up by learned APP. Therefore, Court has no option except to give benefit of doubt to the accused.

18. Even the prosecution papers are considered at there face value, Exh.P.3 seizure panchanama reveals that, C.W.5 seized 48 original choice whiskey bottles of 180 ml each. Seizure mahazar further reveals that he took 180 ml of two liquor bottles out of seized 8.640 liters of liquor subjected it to chemical examination. Therefore, it is the duty of the prosecution to prove the seizure of material objects from the possession of accused. Defence has disputed the MO.1 and 2 are being sent for expert opinion. Therefore, the prosecution case is not free from reasonable doubt. There is no evidence of being filing complaint after search and seizure of M.O.1 and 2. There is no proof that the MO.1 and 2 is seized on the spot and which was witnessed by panchas. Cloud casted on Complaint and search and seizure of panchanama. There are no incriminating evidences against accused.

19. Since, the prosecution has failed to examine seizure panchas, the seizure of the material object from the proper custody of accused person is in reasonable doubt, the provision of Sec.32 and 43 of Karnataka Excise Act are not applicable to convict the accused person. Moreover, there are no materials available that the accused was having possession of the liquor and sell it to the public for



drinking. After all this there are no witnesses against the defence who would depose that they witnessed the incident. The prosecution failed to prove the fact that the M.O.1 and 2 is seized from the possession of accused. Therefore, it creates doubt in mind of the court and it can not be said that the accused has committed the offence as alleged by the prosecution.

20. Therefore, over all looking to the evidence of prosecution there are some in consistency as to the seizure of material object No.1 and 2 and the presence of accused person on the incident place before panchas because the prosecution has not examined the pancha witnesses. Therefore, the official witnesses evidence are highly not reliable, acceptable and credible evidence against accused person to convict them. The seizure pancha's evidence is the important part of recovery of material objects. Therefore, it can be said that the prosecution has utterly failed to prove the guilt of the accused beyond all reasonable doubt. Therefore, the charges leveled against accused for the offence punishable U/Sec.32 and 43 of Karnataka Excise Act are not at all proved by the prosecution beyond all reasonable doubt. Therefore, accused is liable for acquittal in this case. Therefore considering all these aspects **Point No.1 is answered IN THE NEGATIVE.**

21. Point No.2: In view of findings of this court on point No.1, I proceed to pass the following:



ORDER

Acting under Section 248(1) of Cr.P.C., the accused is hereby acquitted for the alleged offences punishable U/Sec.32 and 43 of Karnataka Excise Act.

The bail bonds and surety bonds are stand canceled after completion of appeal period.

The M.O.No.1 and 2 are being worthless ordered to be destroyed after completion of appeal period.

(Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced by me, in the open Court on this the 26th day of May-2026).

**Sd/-
(Balu)
Civil Judge and JMFC.,
Sedam**

ANNEXURE

List of the witnesses examined on behalf of the Prosecution:-

PW.1	Vinodraj S/o Suryanarayan
PW.2	Bhogappa S/o Dhoolappa

List of the witnesses examined on behalf of the Accused:-

NIL-

List of the documents marked on behalf of Prosecution

Ex.P.1	Letter to FSL Bengaluru
Ex.P.1(a)	Signature of PW.2



Ex.P.2	FSL report
Ex.P.3	Seizure panchanama
Ex.P.4	Search memo
Ex.P.5	Madari Moharin Nakalu
Ex.P.6	First Information Report

List of the witnesses examined on behalf of Court:-

-NIL-

List of the documents marked on behalf accused:-

-NIL-

List of the material objects marked on behalf of prosecution:-

M.O.No.1 &2	Original choice whiskey bottles of 180ml each
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Sd/-
(Balu)
Civil Judge and JMFC,
Sedam
