



Presented on : 19-09-2024
Registered on : 19-09-2024
Decided on : 28-07-2026
Duration : 01Y 10M 09D

**IN THE COURT OF CIVIL JUDGE & JMFC,
AT SHAHABAD**

PRESENT
SRI. NAGARAJ BARKI,
BA.LL.B.,
Civil Judge & J.M.F.C.,
Shahabad.

C. C.No.893/2024

DATED THIS THE 28th DAY OF JULY, 2026

COMPLAINANT:

The State by Excise P.S. Chittapur Sub-division.

(By Asst. Public Prosecutor)

//VERSUS//

ACCUSED:

Siddanna S/o Jaganath,
Age: 34 years, Occ: Coolie,
R/o: Martur village, Tq.Shahabad,
Dist: Kalaburagi.

(BY SRI. C.S.P, ADVOCATE)

1.	Date of commission of offence.	05.05.2024
2.	Date of report of offence.	05.05.2024
3.	Name of the Complainant	Yellanarilu



4.	Date of commencement of recording evidence.	03.02.2026
5.	Date of closing of evidence.	28.03.2026
6.	Offences complained of	Sections 32 and 38(A) of the Karnataka Excise Act and section 273 of IPC
7.	Opinion of the Judge	As per final order.

J U D G M E N T

The PSI of Excise P.I. of Chittapur sub-division, has filed the Charge Sheet against the accused for the offences punishable U/Secs.11, 14, 15, and 32 of Karnataka Excise Act.

2. The brief facts of the prosecution case are as follows;

The complainant has lodged this complaint, wherein he has stated that on 05.05.2024 at 7.00 P.M., at Martur village, in the house of accused within the limits of Excise P.S. Chittapur Sub-Division, based on the credible information the complainant along with the staff and pancha witnesses, conducted raid on the said place, during which the accused was found with illegal possession of 67 tetra packets of original choice whiskey each containing 90ml., 20 tetra packets of old Taver whiskey each containing 180 ml., 14



tetra packets of Bag piper whiskey each containing 180 ml., 12 tetra packets of officer choice whiskey, each containing 180 ml., and 12 power cool beer bottlers each containing 650 ml., and the same were selling to the public without having any valid licence or permission from the competent authority. Thereafter, the complainant seized the said liquor in the presence of pancha witnesses and separated from it 4 each for chemical examination and affixed the seal containing his signature and signature of the pancha witnesses and drawn the mahazar. Thereafter, the complainant returned to the police station along with seized articles, registered the case against the accused for the offence punishable U/Secs.14, 15, 32 and 38(A), of the Karnataka Excise Act.

3. On the basis of first information given by informant, P.I of Excise P.S, has registered a case against the accused in Cr.No.65/2023-24 for the offences punishable U/ Secs.14, 15, 32 and 38(A) of the Karnataka Excise Act. Thereafter, the I.O has investigated the case and after completion of the investigation he has filed charge sheet against the accused person for the offences punishable U/Secs.11, 14, 15, and 32 of Karnataka Excise Act.

4. After filing of the charge sheet, this court took cognizance and issued summons to the accused person.



Accused enlarged on bail through his counsel and prosecution papers were furnished to him in compliance of section 207 of Code of Criminal Procedure, 1973.

5. As there were sufficient material available on record to frame the charge. Hence, charge framed against the accused for offences U/Secs.32 and 38(A) of the Karnataka Excise Act and section 273 of IPC and read over and explained to the accused and he has pleaded not guilty and claimed to be tried. Hence, the prosecution machinery is set into motion.

6. In order to bring home the guilt of the accused, the prosecution has examined 05 witnesses as P.W.1 to 5 and got marked the documents at Ex.P.1 to 9 and identified M.O.1 and 2 and closed its side.

7. After closer of the evidence of prosecution, the statement of accused was recorded as required U/sec 313 of Cr.P.C, the accused denied the incriminating circumstances appearing against him and has not chosen to lead any defence evidence on his behalf.

8. Heard both the sides and perused the material placed on record.



9. The following points would arise for my consideration;

1. Whether the prosecution proves beyond all reasonable doubts that on 05.05.2024 at 7.00 P.M., in the house of accused of Maratur village, Shahabad, within the limits of Chittapur Sub-division he was found in illegal 67 tetra packets of original whiskey each containing 90ml., 20 tetra packets of old Taver whiskey each containing 180 ml., 14 tetra packets of Bap piper whiskey, each containing 180 ml., 12 tetra packets of officer choice whiskey, each containing 180 and 12 power cool beer bottles each containing 650 ml., and stored to intending to sell the same without any valid permit or license to the general public with an intention to have wrongful gain which is not fit for human consumption and thereby committed an offence punishable U/Sec.38(A) of Karnataka Excise Act?
2. Whether the Prosecution proves beyond all reasonable doubts that on the above said date, time and place, accused was found in possession of intoxicants as stated above without lawful authority to possess the same without holding any valid license or permit and thereby committed an offence punishable U/Sec.32 of Karnataka



Excise Act?

3. Whether the Prosecution proves beyond all reasonable doubts that on the above said date, time and place, accused was found selling noxious drinks, knowingly that, it is injuries to health and thereby committed an offense punishable U/Section 273 of Indian Penal Code?

4. What Order?

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

Point No.1 : In the negative.

Point No.2 : In the negative.

Point No.3 : In the negative.

Point No.4 : As per final order for the following;

: R E A S O N S :

11. **POINTS NO.1 TO 3:-** As these points are inter linked with each and also similar evidence is led on all these Points, I have taken all these points together for common discussion in order to avoid repetition of facts and discussion.



12. It is the case of the prosecution that, on 05.05.2024 at 7.00 P.M., in the house of accused, he found with possession of 67 tetra packets of original whiskey each containing 90ml., 20 tetra packets of old Taverin whiskey each containing 180 ml., 14 tetra packets of Bag piper whiskey, each containing 180 ml., 12 tetra packets of officer choice whiskey, each containing 180 and 12 power cool beer bottlers each containing 650 ml., in order to sell the same without possessing valid license or permit to the general public with an intention to wrongful gain which is not fit for human consumption and the said liquor became noxious and it is unfit for human consumption knowingly.

13. In order to bring home the guilt of the accused, the prosecution has examined 05 witnesses as PW.1 to PW.5 wherein, CW.2 by name Sharanappa Pujari S/o Shekhanna who is pancha, examined as PW.2, CW.1 by name Yellannarilu who is informant and examined as PW.3, CW.4 Puttaraju S/o Shivarama who is staff of CW.1 examined as PW.1, CW.7 Satynanarayana Trivedi who is investigation Officer examined as PW.4, CW.8 by name Sharanagouda Biradar examined as PW.5 who is investigation Officer. The prosecution has given up CW.5 and the evidence of CW.6 is dispensed as per order dated 28.03.2026. Since, CW.3 was died, evidence of CW.3 was dropped as per order dated 17.12.2025. In support of



oral evidence, the prosecution has got marked 9 documents as Ex.P.1 to 9 with sub markings and tetra packets identified as M.O.1 and 2.

14. P.W.1 by name Puttaraju the Excise constable who was participated in the raid, he deposed in his examination-in-chief that, he and CW.1 along with panchas went to the spot in Government vehicle bearing No.KA-32/G-0879. The search warrant was prepared and the house was inspected, while search the house of accused, they found 67 Original choice whiskey Tetra packets, 20 Old Tavern whiskey, Bag piper whiskey 14 Tetra packets, 12 bottles Power cool strong beer, which were taken in a white stain cloth tied with thread and affixed the seal of the department bearing 420 finally the material found on the spot were taken to the custody of C.W.1 and complaint was lodged against the accused. The counsel for accused cross examined PW.1 in length, the said witness deposed that, there is three ways to reach the incident spot, as such there was no mentioned about they went to the incident spot on which way and there is no mentioned reaching time and distance of seeing the incident spot. Further PW.1 has admitted that, the accused ran from which direction and no mentioned timing of search warrant to prepare. Apart from that, he was admitted



regarding M.O.1 and 2 are available and he was seen the accused before the Court at first instance.

15. PW.2 is pancha and eye witness to the present case and he has not supported to prosecution case. In turn, the said witness turned as hostile witness even though the prosecution has cross examined in length to the said witness, he has not supported to the prosecution case. Since, CW.3 was died, there is no evidence of CW.3 in this case. Hence, the evidence of PW.2 is not helpful to the case of prosecution.

16. PW.3 is Informant, he was deposed in his chief examination that, on 05.05.2024 at Martur village, of Shahabad taluka, within the limits of Excise P.S Chittapur Sub-Divn., they and panchas were raid on the house of accused on the credible information, the accused absconded after seeing the dress of the police and they prepared search warrant on the spot and they searched the house of accused, they found 67 Original choice whiskey Tetra packets, 20 Old Tavern whiskey, Bag paper whiskey 14 Tetra, 12 bottles Power cool strong beer, they have separated 04 tetra packets of the said whiskey for chemical examination in the presence of panchas. Thereafter they drawn the seizure Mahazar in the presence of panchas and returned with tetra packets and seizure mahazar, then registered the case against the accused



person. The counsel for accused cross examined PW.3, he deposed and admitted that, he did not try to secure public in bus stop as panchas to the present case and panchas of the present case are residing at Chittapur village. Further, he did not mention that, the accused ran from which direction and complete description of the house of accused in complaint and panchanama. It is specifically admitted by PW.3 that, he did not enquiry local public to eye witness. PW.3 has denied other suggestions made by the counsel for accused.

17. P.W.4 who is Investigation Officer, he has deposed in his chief examination that, he sent the sample bottles to the Forensic Laboratory of Raichur through C.W.5 on 18.05.2024. The counsel for accused fully cross-examined the witness, the said witness denied the suggestions made by the counsel for accused.

18. PW.5 who is another Investigation Officer, he was deposed in his chief examination that, he recorded the statements of CW.4 and 5. and filed charge sheet against the accused person on 15.08.2024. During his chief examination, he got marked letter and the report of forensic lab as Ex.P.7 and 8. The counsel for accused fully cross-examined the witness, the said witness has admitted that, there is no signature and seal of the police in Ex.P.7 to 9 and there is



available the bottles of M.O.1 and 2 anywhere. PW.5 has denied, other suggestions made by the counsel for accused.

19. Therefore, the evidence placed on record by the prosecution suffers corroboration and there are material contradictions and discrepancies in the evidence of prosecution witnesses and the conviction cannot be based on such evidence. The complainant has not recorded the statement of the people who were present at the raided place. Therefore, there is no any independent witnesses to prove the panchanama drawn by the complainant. The prosecution has not examined CW.5 and 6 and the same have given up by the prosecution. In the instant case, the evidence of independent and pancha witnesses are missing hence, prosecution has failed to prove the possession of tetra packets as alleged in the complaint. Apart from that, the prosecution has sent 04 tetra packets each brands only for chemical examination. Hence, I constrained to hold that the prosecution has utterly failed to prove the guilt of the accused person beyond all reasonable doubt. Under these circumstances the accused is entitled for benefit of doubt. Hence, I answer **points No.1 to 3 in the negative.**

20. **POINT NO.4:** In view of above discussion, I proceed to pass the following:



: O R D E R :

Exercising the power vested U/sec.248(1) of Cr.P.C. the accused is hereby acquitted for the offence punishable U/Secs. 32, 38(A) of the Karnataka Excise Act and Section 273 of IPC, as he has not found guilty.

M.O.1 and 2 are being worthless, as such they are ordered to be destroyed after the appeal period is over.

The bail bonds of the accused and Surety bond shall stand canceled.

The bail bonds of the accused and surety executed under section 437-A of Cr.P.C. stands canceled after 6 months.

(Dictated to the Stenographer directly on Computer, typed by her, script corrected and then pronounced by me in the Open Court on this the **28th day of July - 2026***)

**(NAGARAJ BARKI)
CIVIL JUDGE & JMFC
SHAHABAD**

ANNEXURES

List of the Witnesses examined by the Prosecution:

P.W.1	:	Puttaraju S/o Shivaram
P.W.2	:	Sharanappa Pujari S/o Shekhanna
P.W.3	:	Yallanarilu S/o Gulappa



P.W.4 : Satyanarayan Trivedi S/o
Hanamanthappa
P.W.5 : Sharanagouda Biradar S/o
Mallanagouda

List of the Documents exhibited for the Prosecution:

Ex.P.1 : Seizer Mahazar.
Ex.P.1(a) : Signature of PW.2.
Ex.P.1(b) : Signature of PW.3.
Ex.P.2 : Search warrant.
Ex.P.2(a) : Signature of PW.3.
Ex.P.3 : Model seal letter
Ex.P.3(a) : Signature of PW.3.
Ex.P.4 : Complaint
Ex.P.4(a) : Signature of PW.3.
Ex.P.5 : FIR
Ex.P.5(a) : Signature of PW.3.
Ex.P.6 : Letter dated 18.05.2024
Ex.P.6(a) : Signature of PW.4.
Ex.P.7 : Letter Dated 25.06.2024
Ex.P.7(a) : Signature of PW.5.
Ex.P.8 : FSL Report
Ex.P.8(a) : Signature of PW.5.
Ex.P.9 : Letter dated 25.06.2024
Ex.P.9(a) : Signature of PW.5

List of the MO's marked on behalf of the Prosecution:

M.O.1 and 2 : Sample bottles

List of the Documents exhibited for defence:

--Nil--

**CIVIL JUDGE & JMFC,
SHAHABAD**