KAKB820012202024

Presented on : 19-09-2024
Registered on : 19-09-2024
Decided on : 17-04-2026
Duration : 01 year 06 months 29 days

THE COURT OF CIVIL JUDGE & J.M.F.C., SHAHABAD,

Present : *Sri. Chatni Prashant Sharanbasaveshwar*
B.A,., LL.B.(HONS),,LLM
Civil Judge & J.M.F.C., Shahabad.

C.C.No.894/2024

Dated this 17th day of April - 2026

BETWEEN :

The State of Karnataka,
By Excise Police Station,

….. Complainant
(By Learned APP)

AND :

Lalithabai W/o Yuvaraj Rathod,
Age: 43 years, Occ: Coolie,
R/o: Station tanda, Shahabad,
Tq:Chittapur, Dist: Kalaburagi.

…Accused

(Sri.R.R.Rathod,Adv.,)

Date of commission of offence	16-07-2024
Date of report offence	16-07-2024
Name of the complainant	Excise Inspector
Date of commencement evidence	13-11-2025
Date of closing evidence	10-03-2026
Offences complained	U/Sec.32 and 38(A) of K.E.Act and Sec.273 of IPC
Opinion of Judge	Accused not found guilty

: J U D G M E N T :

This is a charge sheet filed by Excise Inspector of Chittapur Sub-Divn against the accused for the offence punishable U/Secs. 38(A) and 32 of Karnataka Excise Act and U/sec.273 of IPC.

2. It is the case of prosecution that on 16.07.2024 at 08:45 P.M. at Shahabad town Station Tanda, in the house of accused, within the limits of Excise P.S Chittapur Sub-Divn, accused was found 02 liters of arrack in a plastic bottle and 10 liters of Rotten Jaggery in a plastic container stored in order to sell the same without possessing valid license or permit to the general public with an intention to have wrongful gain which is not fit for human consumption and thereby committed an offence Under Section 38(A) and 32 of Karnataka Excise Act. The court looking into the facts of the case as altered the charge and framed the charge U/Sec.273 of IPC.

3. On the information given by CW-1 crime was registered in Crime No.02/2024-25 and after

completion of investigation the present charge sheet was filed.

4. After filing of the charge sheet cognizance was taken against the accused for the offence committed. The charge sheet copies supplied to the accused as required U/Sec. 207 of the Cr.P.C.

5. Thereafter, charges are framed against the accused for the offence committed U.Sec.38(A), 32 of the Karnataka Excise Act and U/sec.273 of IPC. The same was read over and explained to the accused in the language known to her. The accused did not plead guilty and claims to be tried.

6. In order to establish it's case prosecution got examined in all 5 witnesses as PW-1 to PW-5 and got marked 10 documents from Ex.P.1 to Ex.P.10 and M.O.1.

7. Thereafter the statement of accused was recorded U/Sec.313 of Cr.P.C. explaining the incriminating

evidence forthcoming against her. The accused has not lead any defence evidence.

8. Heard the arguments, canvassed from both the sides and perused the materials available on the record.

9. The following points arises for my consideration are:

1) *Whether the prosecution proves beyond reasonable doubt that, on 16.07.2024 at 08:45 P.M. at Shahabad town Station Tanda, in the house of accused, within the limits of Excise P.S Chittapur Sub-Divn, accused was found 02 liters of arrack in a plastic bottle and 10 liters of Rotten Jaggery in a plastic container stored in order to sell the same without possessing valid licence or permit to the general public with an intention to have wrongful gain which is not fit for human consumption and thereby committed an offence punishable under Section 38(A) of Karnataka Excise Act?*

2) *Whether the prosecution proves beyond reasonable doubt that, the above place, date and time, the accused was found with illegal possession of above mentioned liquor with an intention to sell it without holding any valid license or permit to*

possess the same and thereby committed an offence punishable under Section 32 of Karnataka Excise Act?

3) *Whether the prosecution proves beyond reasonable doubt that, the above place, date and time, accused was found selling noxious drinks, knowingly that it is injuries to health and thereby committed an offence punishable under section 273 of Indian Penal Code?*

4) *What order?*

10. My findings to the above points are

Point No.1. In Negative
Point No.2. In Negative
Point No.3. In Negative
Point No.4. As per the final order

R E A S O N S

11. **POINT NO.1 TO 3 :-** These points are taken together for the common discussion in order to avoid the repetition of the facts and appreciation of evidence.

12. The gist of the prosecution that on 16.07.2024 at 08:45 P.M. at Shahabad town Station Tanda, in the house of accused, within the limits of Excise P.S Chittapur Sub-Divn, accused was found 02 liters of

arrack in a plastic bottle and 10 liters of Rotten Jaggery in a plastic container stored in order to sell the same without possessing valid license or permit to the general public with an intention to have wrongful gain which is not fit for human consumption and thereby committed an offence Under Section 38(A) and 32 of Karnataka Excise Act. The court looking into the facts of the case as altered the charge and framed the charge U/Sec.273 of IPC.

13. The prosecution has got marked Ex.P.1 is the panchanama, the signatures on the said documents are marked as Ex.P1(a) &(b), Ex.P.2 is the Search warrant and the signature is marked as Ex.P.2(a), Ex.P.3 is the Model seal and the signature is marked as Ex.P.3(a), Ex.P.4 is the complaint and signature is marked as Ex.P.4(a), Ex.P.5 is the F.I.R and signature is marked as Ex.P.5(a), Ex.P.6 is the Letter sent by the Excise Sub Inspector of Chittapur Range to the Forensic Lab of Raichur to determine the presence of the alcohol in the sample collected and the signatures are marked as Ex.P.6(a) & (b). Ex.P.7 is the report furnished by the

Regional Assistant Chemical Examiner of Raichur in respect of samples sent for the chemical analysis, the signature of the Regional Assistant Chemical Examiner is marked as Ex.P.7(a), Ex.P.8 Letter written to CMC of Shahabad and signature as marked as Ex.P.8(a). Ex.P.9 Khata extract and signature as marked as Ex.P.9(a), Ex.P.10 is the Death Certificate of Ishwar S/o Hiremani and signature marked as Ex.P.10(a) and got marked as M.O.1 two samples bottles.

14. P.W-1 Vijayalaxmi W/o Kankappa Lushkar the Excise Inspector who has lodged the complaint against the accused for the offence punishable U/Sec.32, 38(A) of Karnataka Excise Act. On going through the examination-chief of the said witness it is deposed that while she was on the duty she received the credible information that on 16-07-2024 at 5.40 p.m at Station Tanda of Shahabad in the residence of the accused, within the limits of of Excise police station Chittapur, Sub-Division the accused was found with a illegal possession of 02 liters country made liquor in the plastic bottles measuring 02 liters each and 10 liters of Rotten

Jaggery stored in a plastic container in order to sell the same without possessing the valid licence or the permit from the authority to the general public with an intention to have wrongful gain and the said country made alcohol and Rotten Jaggery is not fit for human consumption and it may lead to health hazard. Further the accused was found with the illegal possession of the aforementioned country made alcohols with an intention to sell it without any proper license in her possession and thereby the said accused has committed the offence punishable U/Sec. 32 and 38(A) of K.E Act and Sec. 273 of IPC.

15. On through the examination-in-chief it is deposed by the said witness that on receiving of the credible information regarding the commission of the offence she went to the spot. Thereafter, on the basis of the search warrant she inspected the house of the accused wherein she found the country made alcohol and rotten jaggery in the container, on the enquiry to the neighbours of the spot the witness deposed that house in which the search was made belongs to the accused, later the country

made liquor and rotten jaggery were sent for the chemical analysis in the glass bottles tied with the thread and white stain cloth and these glasses consists the requisition about the seizure made, also consist signature of the panchas before whom the seizure mere made and liquors taken for the chemical analysis.

16. Thereafter, complaint was lodged against the accused and the permission was sought to keep the seized country made liquor in the possession of Excise Officials. The said country made liquors were taken to the chemicals analysis by C.W.9 and the later the report were collected by the said witness on 02-08-2024 the present witness after filing the complaint was involved in partial investigation of the matter and the further investigation was handed over C.W.10. The said witness was cross-examined by the defence counsel denying the aspect deposed in the examination-in-chief in toto.

17. P.W.2 Vijaykumar S/o Shivaraj Rampure the Excise constable who was the part of the raid deposed in his examination-in-chief that, based on the credible

information received he along with panchas, complainant and other Excise constable went to Shahabad Railway Station Tanda after seeing them the accused ran away from the spot, later the search warrant was prepared on the spot under section 54 of Karnataka Excise Act, after conducting the search in the nearby residence from which the information was received about illegal possession of the country made liquor which were used for the purpose of selling to the public. Thereafter, the accused was secured by the Excise officials, and in the presence of the panchas the samples were collected in the glass measuring 180 M.L tied the same with the white thread and satin cloth affixed the seal of the department and also the chit containing the details of the panchanama. On the basis of the oral testimony of the said witness the counsel for the accused fully cross-examined the witness denying conduct of the raid and the panchanama in the presence of pancha witnesses.

18. P.W.3 Subash S/o Suryakanth Jogi the Excise constable who has taken the seized sample for the

chemical analysis, as per the instruction of the C.W.3 who is Investigating Officer, to Forensic Laboratory of Raichur, the letter sent by the Excise Sub-Inspector of Chittapur Range to the Forensic Laboratory of Raichur, to determine the presence of the alcohol in the sample collected as well as report given by the FSL are marked as Ex.P.6 and signature of witness on Ex.P.6 as Ex.P.6a). Later the said witness has given his statement to the Investigating Officer. Per contra the counsel for the defence as fully cross-examined the witness denying the furnishing of the samples to the FSL and obtaining the report from the Laboratory.

19. P.W.4 Ravichandra S/o Hanumanth the pancha witness in whose presence the panchanama as per Ex.P.1 was drawn the signature of the witness is marked as Ex.P.1(a) as per the case of the prosecution, it is stated that the country made alcohol was found measuring 2 liters in a plastic bottle and rotten jaggery and in the plastic container measuring 10 liters. On going through the cross-examination of this witness he voluntarily deposes that illicit liquor was taken from the

clay pot. This part of ocular evidence brings an inference that the witness was not the part of the panchanama and he has no knowledge about the seizure made in the spot.

20. P.W.5 Mahesh Kumar S/o Markandeya Hiremath the Investigating Officer who has conducted the further investigation after collecting the file from C.W.3 and filed the charge sheet against the accused after completing the investigation, the said witness has collected the FSL report from Forensic Laboratory, thereafter he wrote letter to CMC Shahabad to furnish the house details pertaining to the accused, later the report was furnished by the CMC stating that the house belongs to one Eshwar S/o Hiramani, later he has collected the statement of C.W.4, 5, 7 and 8 finally due to sufficient material available on the record, the charge sheet was filed against the accused, the witness admits in his cross-examination that the accused was residing in the house from past 10 years and there are no documents produced to show her presence in the said house.

21. It is important to note that the document furnished by the said witness, the Ex.P.9 which is letter issued by the aforementioned witness to the Municipality of the Shahabad in respect of furnishing the extract of the house were the alcohol were seized, in pursuance of the same, it was replied by the Municipality that there are no documents are available on the record which shows that the residence of the accused is situated at Station Tanda area of Shahabad. As per Ex.P.10 it reflects that the said house belongs to one Ishwar S/o Heeramani. Further there are no records to show that the accused was staying in the house of Ishwar S/o Heeramani neither on the rental basis nor on the lease. This aspect is fatal to the story of the prosecution for the offence charged U/Sec.38(A) of K.E Act, it is important to show that the possession in which the alcohol are prepared or sold belongs to the accused, in failure to prove the same will effect the case of prosecution.

22. The prosecution has given up the examination of the evidence of C.W.2, 5, 7 and 8. The Excise Officials

who are arrayed as witness in the said case are bound to depose as per the prosecution case, but on evaluation of the evidence on the record, the recovery of the seized alcohol from the residence of the accused has to be satisfactorily proved by the prosecution by furnishing the cogent and reliable evidence on the record. In the case on the hand the seizure is not satisfactorily proved wherein the pancha witness deposes contrary to the contents of Ex.P.1, such contradiction in the oral and documentary evidence of the witness creates doubt about the presence of the witness at the time of panchanama.

23. Further the prosecution has not produced any evidence on the record which shows that the alcohols which were seized in the residence of the persons belongs to the accused. It is duty of the prosecution to prove the guilt of the accused beyond reasonable doubt failure to prove the same will lead to suspicion on the story of the prosecution.

24. Further the Court has framed the charge for offence punishable U/Sec.273 of IPC which speaks about sale of noxious food or drink which read as follows:

> Whoever sells or offers or exposes for sale as food, or drink any article which has been rendered or become noxious or is in a state unfit for food or drink knowing for having reasons to believe that the same is noxious as food or drink shall be punishable with imprisonment either description for a term which may extend to six months or Rs.2000/- or both.

25. On going through the prosecution case the section envisaged under U.Sec. 273 of IPC it is the duty of the prosecution to show that the food or drink sold by the accused is noxious and the accused should have knowledge of the same firstly there are no evidence on the record that the liquid seized is an alcohol as such the independent recovery pancha has not deposed in accordance to the contents of Ex.P.1. All the witnesses are Excise Officials of the Chittapur Range. Therefore, the FSL report furnished in this case do not sustain its

consideration for the same for analyzing it. It is the duty of the prosecution to show beyond all the scope that the food or a drink which was seized is not fit for human consumption as in the case there are no points which depicts that the seized liquid is an alcohol and it is unfit for the human consumption. Therefore the Court is of the opinion that the accused is not involved in selling the noxious substance which is harmful for the human health. In the view of the discussion made and conclusion drawn to the point No.1 to 3 the same are answered in Negative.

26. **POINT NO.4:-** In the view of foregoing observation made the Court proceed to pass the following;

: ORDER :

By Acting U/Sec.248(1) of Cr.P.C the Accused is acquitted for the offence punishable U/Secs.38(A) and 32 of Karnataka Excise Act and U/sec. 273 of IPC.

The Bail Bond and Surety bond of the accused stands cancelled and she is set at liberty forthwith.

M.O-1 two sample bottles are ordered to be destroyed after the appeal period.

The Bail Bond of the Accused and Surety executed under section 437-A of Cr.P.C stands cancelled after 6 months of this judgment.

(Dictated to the Stenographer directly on the computer, then script corrected, signed and pronounced by me in the open court on this 17th day of April -2026)

(*Chatni Prashant Sharanbasaveshwar*)
Civil Judge & JMFC.,
Shahabad

:A N N E X U R E:

List of witnesses examined on behalf of Prosecution:

P.W-1.	Vijayalaxmi W/o Kanakappa Lushkar
P.W-2.	Vijayakumar S/o Shivaraj Rampure
P.W-3.	Subash S/o Suryakant Jogi
P.W-4.	Ravichandra S/o Hanumanth
P.W-5.	Mahesh kumar S/o Markandeya Hiremath

***List of documents marked on behalf of prosecution*:-**

Ex.P.1	Panchanama
Ex.P.1(a) & (b)	Signatures

Ex.P.2	Search warrant
Ex.P.3	Model Seal
Ex.P.3(a)	Signature
Ex.P.4	Complaint
Ex.P.4(a).	Signature
Ex.P-5	F.I.R
Ex.P-5(a)	Signature
Ex.P-6	Letter written to Forensic Laboratory
Ex.P-6(a) & (b)	Signatures
Ex.P-7	FSL report
Ex.P-7(a)	Signature
Ex.P-8	Letter written to CMC Shahabad
Ex.P.8(a)	Signature
Ex.P.9	Khata extract
Ex.P.9(a)	Signature
Ex.P10	Death certificate of Ishwar S/o Hiremani
Ex.P.10(a)	Signature

<u>List of M.O.s marked for prosecution:</u>-

M.O-1 **:** Two Sample bottles

<u>List of witnesses examined for accused</u>:-

- NIL -

<u>List of documents marked for accused</u>:

-NIL-

Civil Judge & JMFC.
Shahabad

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