



Presented on : 17-12-2024
 Registered on : 17-12-2024
 Decided on : 03-07-2026
 Duration : 01Y 06M 17D

**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.938/2024

DATED THIS THE 3rd DAY OF JULY- 2026

COMPLAINANT:

The State by Excise P.S. Chittapur Range.

(By Asst. Public Prosecutor)

//VERSUS//

ACCUSED:

Ramlal S/o Bhoju Chawan,
 Age: 40 years, Occ: labourer,
 R/o: Lakshimpur Wadi Village,
 Tq. Shahabad, Dist: Kalaburagi.

(BY SRI. Ravi B Chawan, ADVOCATE)

1.	Date of commission of offence.	17.10.2023
2.	Date of report of offence.	17.10.2023



3.	Name of the Complainant	Gopale Pandita
4.	Date of commencement of recording evidence.	18.03.2026
5.	Date of closing of evidence.	16.04.2026
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 range, has filed the Charge Sheet against the accused for the offences punishable U/Secs. 13, 15, 32 and 38(a), 43 of the Karnataka Excise Act.

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

The complainant has lodged this complaint, wherein she has stated that on 17.10.2023 at 1.30 P.M., near Laxmipur Wadi village, in the house 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 90 liters of Rotten jaggery in 4 plastic pots and 10 liters of toddy in 1 steel box and the same was 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 one 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.13, 15, 32 and 38(A), 43 of the Karnataka Excise Act.

3. On the basis of first information given by informant, P.I of Excise, has registered a case against the accused in Cr.No.31/2023-24 for the offences punishable U/ Secs.13, 15, 32 and 38(A), 43 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.13, 15, 32 and 38(A), 43 of the 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 under 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 04 witnesses as P.W.1 to 4 and got marked the documents at Ex.P1 to 9 and M.O.1 to 3 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 record.

9. The following points would arise for my consideration;

1. Whether the prosecution proves beyond all reasonable doubts that on 17.10.2023 at 1.30



P.M., near Laxmipur wadi, within the limits of Excise P.S. Shahabad, accused was found in illegal possession of 90 liters of Rotten jaggery in 4 plastic pots and 10 liters of toddy in 1 steel box 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 injurious to health and thereby committed an offence 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 17.10.2023 at 1.30 P.M., the accused found 90 liters of Rotten jaggery in 4 plastic pots and 10 liters of toddy in 1 steel box in the house of accused 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 04 witnesses as PW1 to PW4. Wherein, CW.1 by name Gopale Pandit who is informant



examined as PW.1, CW.2 by name Naganna S/o Basanna and CW.3 by name Ravi S/o Kalappa who are panchas cum eye witnesses examined as PW.2 and 3, CW.6 by name Rachamma W/o Rajakumar who is eye witness and examined as PW.4. The prosecution has given up CW.4 and 5 on 16.04.2026 and 18.03.2026. In support of oral evidence, the prosecution has got marked 9 documents as Ex.P.1 to 9 with sub markings and 3 plastic bottles identified as M.O.1 to M.O.3.

14. On careful perusal of the evidence of the prosecution, it appears that, PW.1 has deposed in support of prosecution case in chief examination wherein he has deposed that, when he was patrolling duty on 17.10.2023 at Shahabad Town, after he get credible information, he secured CW.2 and 3 as panchas, he and along with panchas went to the spot at 1.30 in the Government vehicle bearing No.KA-32/-0882. Further, he found 10 liters liquor and 90 liters jaggerywash. Thereafter, he drawn the seizure panchanama in the presence of panchas and he get the said liquor and jaggery wash to chemical examination and registered the case against the accused. PW.1 was deposed in his cross examination that, he was not mentioned in the dairy regarding patrolling duty on the same day and he was not mentioned particulars of the spot in seizure panchanama and



complainant. The PW.1 has clearly admitted that, the spot is public place and there is many shops. Further he was admitted that, he has not produced barrel and plastic pot. The PW.1 has denied other suggestions put forth by the counsel for accused.

15. PW.2 and PW.3 are panchas and eye witnesses to the present case and they have not supported to prosecution case. In turn, the said witnesses turned as hostile witnesses even though the prosecution has cross examined in length to the said witnesses, they have not supported to the prosecution case. Hence, the evidence of PW.2 and PW.3 are not helpful to the case of prosecution.

16. PW.4 is Investigation Officer, she was deposed in her chief examination that, she obtained the case file from CW.1 on 06.01.2024 and she obtained report of the PDO on 08.01.2024. Thereafter, she had been filed charge sheet against the accused person. The PW.4 has denied the suggestions made by the counsel for accused in her cross examination. It is material to note that, the prosecution has not examined other officials witnesses who went to the raid along with CW.1 and there is no deposition about FSL report.



17. In the instant case PW.1 who is the complainant clearly deposed about the conducting of raid, seizure of rotter jaggery and toddy separation of sample for chemical examination and drawing of mahazar. But, the independent and pancha witnesses PW.2 and PW.3 have turned hostile to the prosecution case. The learned APP with the permission of this court cross-examined at length, but nothing has been elicited from the mouth of PW.2 and PW.3 to connect the guilt of the accused. When there is no corroboration of evidence of independent witnesses with the official witness, it is difficult to believe the version of the prosecution. Moreover, the investigation officer who has conducted raid has not taken the statement of the independent witnesses who gathered at the time of raid. Because the crime place is the public place. Under this circumstance it creates the doubt on the case of the prosecution. Moreover, the prosecution utterly failed to prove the seizer mahazar. It is important to note that, the police have not sent entire rotten jaggery and toddy to forensic lab, instead, they have sent only M.O.1 to 3. PW.1 has clearly admitted that, the incident place is house of the accused, but the investigation officer has not produced property extract of the incident place instead the prosecution has produced Ex.P.9. The police have not taken the search warrant from the Court before searching the house of the accused.



18. 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.4 and 5 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 rotten jaggery and toddy as alleged in the complaint. Under these circumstances, the presumption available U/s.40 of Karnataka Excise Act is not helpful to the prosecution. 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.**

19. **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 to 3 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 cancelled.

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 **03rd day of July - 2026***)

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

ANNEXURES**List of the Witnesses examined by the Prosecution:**

P.W.1	:	Gopal Pandit S/o Megappa Gopale
P.W.2	:	Naganna S/o Bassanna
P.W.3	:	Ravi S/o Kalappa
P.W.4	:	Rachamma W/o Rajakumar

**List of the Documents exhibited for the Prosecution:**

Ex.P.1	:	Seizer Mahazar.
Ex.P.1(a)	:	Signature of PW.1.
Ex.P.1(b)	:	Signature of PW.2.
Ex.P.1(c)	:	Signature of PW.3
Ex.P.2	:	Search warrant.
Ex.P.2(a)	:	Signature of PW.1.
Ex.P.3	:	Model seal letter
Ex.P.3(a)	:	Signature of PW.1.
Ex.P.4	:	Complaint
Ex.P.4(a)	:	Signature of PW.1.
Ex.P.5	:	FIR
Ex.P.5(a)	:	Signature of PW.1.
Ex.P.6	:	Letter dated 30.10.2023
Ex.P.6(a)	:	Signature of PW.1.
Ex.P.7	:	FSL Report
Ex.P.7(a)	:	Signature of PW.1.
Ex.P.8	:	Letter dated 08.01.2024
Ex.P.8(a)	:	Signature of PW.4.
Ex.P.9	:	Certificate
Ex.P.9(a)	:	Signature of PW.4

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

M.O.1 to 3	:	Sample bottles
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List of the Documents exhibited for defence:

--Nil--

**CIVIL JUDGE & JMFC,
SHAHABAD**