



Presented on : 26-11-2021
Registered on : 26-11-2021
Decided on : 22-04-2026
Duration : 04 years 04 months 27 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.2070/2021

Dated this 22nd day of April - 2026

BETWEEN :

The State by Shahabad Town Police Station

..... Complainant
(By Learned APP)

AND :

Mohammed Sabeer S/o Mohammed Naseeruddin
Age: 38 years, Occ: Business,
R/o: Bhendi Bazar Shahabad,
Tq:Shahabad, Dist: Kalaburagi.

...Accused

(Sri.C.S.Pujari,Adv.,)

Date of commission of offence	06-10-2020
Date of report offence	06-10-2020
Name of the complainant	Ambresh Police Inspector
Date of commencement evidence	18-10-2022
Date of closing evidence	21-01-2026
Offences complained	Sec.32, 34 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 S.H.O of Shahabad Town Police Station, against the accused for the offence punishable U/Secs. 32,34 of Karnataka Excise Act and Sec.273 of IPC.

2. It is the case of prosecution that on 06-10-2020 about 4:00 p.m at Bhendi Bazar in the provisional shop of accused, Accused was found with illegal possession of 800 the Balls of Navasagara weighing 200 grams and a plastic bag having 20 K.G of Rotten Jaggery 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 32, 34 of Karnataka Excise Act and U/Sec.273 of IPC.

3. On the information given by CW-1 crime was registered in Crime No.175/2020 and after completion of investigation the present charge sheet was filed.

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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.32, 34 of the Karnataka Excise Act and Sec.273 of IPC. The same was read over and explained to the accused in the language known to him. 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 4 documents as Ex.P.1 to Ex.P.4 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 him. The accused has not lead any defense evidence.

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



9. The following points arised for my consideration are:

1) *Whether the prosecution proves beyond reasonable doubt that, on 06-10-2020 about 4:00 p.m at Bhendi Bazar in the provisional shop of accused, Accused was found with illegal possession of 800 Balls of Navasagara weighing 200 grams and a plastic bag having 20 K.G of Rotten Jaggery without having any valid permit or licence in order to sell it without holding any valid license or permit to possess the same and thereby committed an offence punishable U/Sec.32 of K.E Act?*

2) *Whether the prosecution proves beyond reasonable doubt that, the above place, date and time, accused in contravention of licence or permit granted under this act illegally possessed intoxicant liqour knowing the same to have been unlawfully imported, transported, collected or knowing the prescribed duty not have been paid and thereby committed an offence punishable under Section 34 of the 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 injurious 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

- 1. In Negative*
- 2. In Negative*
- 3. In Negative*
- 4. As per the final order*

REASONS

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 06-10-2020 about 4:00 p.m at Bhendi Bazar in the provisional shop of accused, Accused was found with illegal possession of 800 the Balls of Navasagara weighing 200 grams and a plastic bag having 20 K.G of Rotten Jaggery 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 32, 34 of Karnataka Excise Act and U/Sec.273 of IPC.

13. The prosecution has got marked Ex.P.1 complaint Ex.P.1(a) signature, Ex.P.2 Panchanama, Ex.P.2(a) is the signature, Ex.P.3 is the FSL report, Ex.P.3(a) is the signature, Ex.P.4 FIR, Ex.P.4(a) signature and got marked as M.O.1 which consists of Navasagara balls and 500 grams of Rotten Jaggery.

14. PW-1 Ambresh S/o Bhimaraya the then P.I of Shahabad Police Station who has lodged the complaint against the accused which is marked as Ex.P.1 and the signature of the witness as Ex.P.1(a), deposes in his examination-in-chief that on 06-10-2020 at about 4:00 p.m at provisional store of one Sabeer Yadgirwale of Bhendi Bazar Shahabad was found with illegal possession of 100 Navasagara Balls measuring 200 grams in 8 boxes in total 800 Navasagara Balls and 20 k.g Rotten Jaggery in the plastic bag which were used for the purpose of preparing the illicit country made

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liquor. The said contra bands were kept in the possession of the accused without any valid permit, thereafter he secured C.W.2 to 7 and panchanama was conducted in the presence of C.W.2 and 3 wherein two Navasagara balls and 500 grams of Rotten Jaggery were taken for the purpose of chemical analysis, the panchanama drawn in the presence of C.W.2 and 3 are marked as Ex.P.2 and signature of the witness as Ex.P.2(a). Per contra the counsel for the defence fully cross-examined the witness wherein he has given the admission stating that no documents are produced to show that the provisional shop belongs to the accused. On perusal of the documents marked by the prosecution, there are no traces of the documents which shows that the seizure of the contra band was made in a shop belonging to the accused, which is fatal for the case of the prosecution and further creates suspicion on its story.

15. P.W.2 Mehata S/o Mastan Patel the investigation Officer who has conducted the further investigation after collecting the file from C.W.9 deposes in his

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examination-in-chief that FSL report was obtained on 11-08-2020 and after completing the investigation the charge sheet was filed against the accused for the offence committed U/Sec. 32, 34 of K.E Act and Sec. 273 of IPC. The counsel for the defence fully cross-examined the witness denying the further investigation conducted by him.

16. P.W.3 Devendra S/o Sharanappa Naganur the pancha witness in whose presence the panchanama was drawn as per Ex.P.2 and seizure was made. The signature of the witness on the Ex.P.2 is marked as Ex.P.2(a) deposes in his examination-in-chief that no panchanama was drawn in his presence and pleads ignorance about the contents of Ex.P.2. The Learned APP treated him as a hostile witness and with the permission of the Court she fully cross-examined him but nothing worth was elicited that is beneficial for the case of the prosecution.

17. P.W.4 Hussain Pasha S/o Rasheed Sab Konchanur the Excise constable who was the part of the Raid deposes in his examination that raid was

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conducted at the provisional store belonging to one Sabeer Yadgirwale at Bhendi Bazar of Shahabad in the presence of C.W.2 and 3 the panchanama was conducted, the accused was found with illegal possession of 100 Navasagara Balls measuring 200 grams found in 8 boxes intotal they were 800 Navasagara balls and 20 K.G of Rotten Jaggery in a plastic bag among them the 2 Navasagara Balls and 500 grams of the Rotten Jaggery were taken for the chemical analysis, the panchanama was conducted from 5:15 p.m to 6:16 p.m thereafter the panchanama and material object seized were retained to the custody of the C.W.1 and complaint was filed against the accused by C.W.1. The defence counsel fully cross-examined the witness denying his participation in the raid conducted at Bhendi Bazar of Shahabad.

18. P.W.5 Mahantesh S/o Malkanna the Investigating Officer who has conducted the investigation in part and handed over the further investigation to C.W.10 deposes in his examination-in-chief that based on the material furnished by C.W.1 he registered crime under

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Sec. 32, 34 of K.E Act and Sec. 273 of IPC, the FIR was forwarded to the jurisdictional Magistrate, copy of the anticipatory bail granted by the District Court was collected and same was included in the investigation papers and the further investigation was handed over to the C.W.10. The counsel for the defence fully cross-examined the witness denying the further investigation conducted by him, further important admission was given by this I.O that M.O. consist of normal Jaggery found in the stores which is contradicting with the story of the prosecution wherein it is stated that accused was found in possession of Rotten Jaggery used for the purpose for preparing the country made liquor, the aforementioned aspect affirms suspicion on the story of prosecution.

19. The prosecution has given up the evidence of C.W.4, 5, and 7 the evidence of the C.W.8 is dispensed U/Sec.293 of Cr.P.C, in spite of giving sufficient time the prosecution has failed to secure the presence of C.W.3. Accordingly he is dropped from the examination. The panchas of this case have turned

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hostile and not supported the case of the prosecution therefore the recovery of the seized article are not proved beyond reasonable doubt. Secondly, the remaining witness of this case are official witness and they are bound to depose as per their case but there are several material contradictions and discrepancies in the evidence of the witness which are contradictory and inconsistent as deposed in that of examination in chief.

20. Based on the oral and documentary evidence on the record it shows that, prosecution has not proved the seizure from the possession of the accused, it is important to the show by the prosecution that seized articles are taken from the possession of the accused, the seizure panchna's in said case have turned hostile and not supported the case of prosecution.

21. Further the charge framed for the 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.

22. 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 material object were used for preparing the country made alcohol as such independent recovery panchas has turned hostile and not supported the case of the prosecution. 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 M.O.'s is unfit for the human consumption. Therefore the Court is of the

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opinion that the accused is not involved in selling the noxious substance which is harmful for the human health. The prosecution has not placed material on the record which shows that the M.O.1 seized were found in the shop belonging to the accused and one of the investigating officer deposes in his examination-in-chief that M.O.1 consist of normal Jaggery which are found in the stores which is contradicting with the seizure made in this case. In the view of the discussion made and conclusion drawn to the point No.1 to 3 the same are answered in Negative.

23. **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.32, 34 of Karnataka Excise Act and Sec.273 of IPC.

The Bail Bond and Surety Bond of the Accused stands cancelled and he is set at liberty forthwith.



M.O-1 Two Navasagar Balls and 500 grams of the Rotten Jaggery are ordered to be destroyed as worthless 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 22nd day of April -2026)

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

:ANNEXURE:

List of witnesses examined on behalf of Prosecution:

- P.W-1. Ambresh S/o Bhimaraya
P.W-2. Mehata S/o Mastan Patel
P.W-3. Devendra S/o Sharanappa Naganur
P.W-4. Hussain Pasha S/o Rasheedsab Kunchanur
P.W-5. Mahantesh S/o Malkanna

List of documents marked on behalf of prosecution:-

- | | |
|--------------|------------|
| Ex.P.1 | Complaint |
| Ex.P.1(a) | Signature |
| Ex.P.2 | Panchanama |
| Ex.P.2 a & b | Signatures |
| Ex.P.3 | FSL report |
| Ex.P.3(a) | Signature |
| Ex.P.4 | FIR |
| Ex.P.4(a) | Signature |

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**List of M.O.s marked for prosecution:-**

M.O-1 : Navasagara Balls and 500 grams of Rotten Jaggery.

List of witnesses examined for accused:-

- NIL -

List of documents marked for accused:

-NIL-

Civil Judge & JMFC.
Shahabad