



IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,
VIRAJPET

PRESENT: Sri. Vishwanath A. B.B.A.,LL.B.,
Prl. Civil Judge & JMFC.,
Virajpet.

DATED THIS THE 10th DAY OF JUNE 2026

CRIMINAL CASE NO:450/2023

BETWEEN:

The State, represented by,
Siddapur Police,
Virajpet Taluk.

...Complainant

(By Smt.Chaithra.M.G., Learned A.G.P.)

AND:

Sri Kaverappa.K,
Aged about 42 years,
S/o Late Karpaswamy,
R/at Chennainakote Village,
Virajpet Taluk.

... Accused

(By Smt. Hazira Sharif, Adv.,)

1	Date of occurrence of offence	11.04.2023
2	Date of report of offence	11.04.2023
3	Name of complainant	Harish.V.B
4	Date of commencement of evidence	05.10.2024
5	Date of closure of evidence	26.11.2024
6	Offences complained of	Under Sections 32, 34 of Karnataka Excise Act



7	Opinion of the Judge	Accused found not guilty
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(Vishwanath A.)
Prl. Civil Judge & JMFC.,
Virajpet.

JUDGMENT

The PSI of Siddapur P.S., has filed the charge-sheet against accused for the offences punishable under Sections 32 & 34 of the Karnataka Excise Act.

2. It is the case of prosecution that, on 11.04.2023 at 10.30 AM, the accused was found in illegal possession of 48 tetra packets of Original Choice Deluxe Whiskey of 90 ML each, for the purpose of selling the same without having any permit, in front of his house situated near Sri. Mariyamma temple, Chennaianakote. Thereby the accused has committed the offences punishable under Sections 32 & 34 of the Karnataka Excise Act.

3. The copies of charge sheet materials are supplied to the accused in compliance of Section 207 of Cr.P.C. The Accused is released on bail. After hearing the prosecution and so also the accused, the charges are framed for the offences under Sections 32 & 34 of Karnataka Excise Act. The charges are read over to the accused who pleaded not guilty and claimed to be tried.

4. In order to bring home the guilt of accused, the prosecution has examined witnesses as PW1 to PW4, got marked



documents as Ex.P1 to Ex.P7. Material objects are marked as MO.1 to 3.

5. After completion of prosecution evidence, the incriminating evidence appearing against the accused is read over and his statement under Section 313 of Cr.P.C., is recorded. The accused has denied the incriminating evidence and did not choose to lead defence evidence.

6. Heard the arguments addressed by both side and also perused the entire materials on record.

7. The points that arise for consideration are as follows:

1. Whether the prosecution proved beyond all reasonable doubt that on 11.04.2023 at 10.30 AM, accused was found in illegal possession of 48 tetra packets of Original Choice Deluxe Whiskey of 90 ML each, for the purpose of selling the same without having any permit, in front of his house situated near Sri. Mariyamma temple, Chennaianakote and thereby committed the offences punishable under Sections 32 & 34 of the Karnataka Excise Act?

2. What order?

8. The findings of this Court on the above points are:



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

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

REASONS

9. Points No.1: CW1 is the police head constable who sates to have received the information of the alleged offense. As per this witness, when he was in duty at the Chennaianakote on 11.07.2023, he received the information about accused on 10.30 AM and then prepared the report at Ex.P1, went to the Siddapur P.S., and submitted it to CW8. After registration of FIR, he along with CW2, CW3 and CW8 went to the Chennaianakote Bus Stop, therein called CW4 and 5 as panchas and went near the house of accused wherein saw the accused who first denied the allegation but later admitted to have selling the liquor packets and the same are kept in the coffee plantation. Then the accused took them to his coffee plantation and showed a bag in which there were 48 tetra packets of Original Choice deluxe whiskey of 90 ML each. Accused further handed over cash of Rs.700/- stating to have earned by selling the liquor packets.

10. PW1 further sates to have seized the said tetra packets and bag as per MO1 and 2 and cash as per MO3 by drawing mahazar at Ex.P2 from 12.30 PM to 01.30 PM. The photographs at Ex.P3 and 4 was taken at the time of mahazar. In the cross examination, PW1 states it was about 11.00 AM to 11.15 AM when he reached Siddapur P.S. Panchas were called at Chennaianakote



Bus Stop. They did not see any other persons at the spot. PW1 denies the suggestion of defence that despite no search and seizure as alleged is conducted, false case has been registered against the accused for the purpose of departmental statistics.

11. CW2 who is examined as PW2 is the Police Constable who states to have accompanied PW1 and CW8 to the alleged spot of occurrence. This witness states regarding search and seizure of MO1 to 3, drawing of Ex.P2-mahazar and also regarding the Ex.P3 and 4 photographs which are said to have been taken at the spot, in the same line as deposed by the PW1. In the cross-examination, PW2 states that the CW8 had called CW4 and 5 over phone call and told them to come near Chennaianakote Bus Stop. PW2 denies the suggestion of defence that the material objects are planted and documents are created for the purpose of registering false case against the accused for the purpose of departmental statistics.

12. CW4 and 5 are stated to be the witnesses to the mahazar at Ex.P2 and are examined as PW3 and 4 respectively. Both these witnesses having identified their respective signatures in the mahazar at Ex.P2, states to have signed the said document as per the request of police, they do not know the contents of said document, police have not seized anything in their presence and they have not seen the properties at MO1 to 3 anywhere before. PW3 and 4 are cross examined by the learned APP who made use



of Ex.P6 and 7 claiming to be the previous statement, but nothing in support of prosecution case has been elicited.

13. Herein the present case, the prosecution alleged that the accused was found in illegal possession of liquor tetra packets for the purpose of selling the same without having any permit, in front of his house situated near Sri. Mariyamma temple, Chennaianakote and the said articles were seized in the presence of independent witness i.e., CW4 and 5 by drawing the mahazar at Ex.P2 at the time the photographs at Ex.P4 and 5 were taken. CW4 and 5 who are examined as PW3 and 4 does not support the prosecution case as they have stated that the police have not seized anything in their presence and they have not seen the properties at MO1 to 3 anywhere before. Thus, what is available in the prosecution case in respect of alleged possession of liquor by the accused and seizure of same is only the testimony of official witnesses.

14. It is not the case that the testimony of official witnesses cannot be believed, but their testimony shall be cogent, reliable and shall not make a way for doubt in the prosecution case. As per the official witnesses, the accused was found in illegal possession of liquor at the coffee plantation belonging to him. But nothing is produced by the prosecution to show that the accused has got house and coffee plantation at Chennaianakote Village. Further, the alleged raid is stated to have been conducted by the CW8 who on receipt of information as per Ex.P1 said to have registered the FiIR and proceeded to the spot, conducted search and seizure.



Whereas, the CW8 did not turn towards the court to give evidence despite several opportunities were granted. Hon'ble Apex Court in the case of **K L Subbayya Vs. State of Karnataka** reported in **AIR 1979 SCC 711** held that the compliance of Section 53 and 54 of the Karnataka Excise Act is mandatory and non-compliance of the same would vitiate the search and seizure and the conviction cannot be based on such vitiated seizure. Herein the case, prosecution materials is silent about compliance of Section 53 and 54 of the Karnataka Excise Act. Thus, all the above aspects would place a serious doubt in the case of prosecution to its entirety and thus, it can be held that the guilt of accused is not proved beyond all reasonable doubt. Hence, point No.1 is answered in '**Negative**'.

15. Point No.2: For the reasons recorded on the above point No.1, this Court is of consideration to acquit the accused. Hence, the following:

ORDER

Accused is acquitted of the offences punishable under Sections 32 and 34 of the Karnataka Excise Act.

The bail bonds stand cancelled.

The bonds executed in compliance of Section 437(A) of Cr.P.C., shall be in force for a period of 6 months from the date of judgment.

MO.1 and 2 being worthless are ordered to be destroyed and Cash at MO3 is ordered to be



confiscated to state, after the completion of appeal period.

(Directly dictated to the Stenographer, typed by him on computer, corrected and then pronounced by me in the open court on this the **10th Day of June 2026 at Virajpet.**)

(Vishwanath A.)
Prl. Civil Judge & JMFC.,
Virajpet.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION:-

PW.1 : B.V.Harish
PW.2 : Basavaraju
PW.3 : Jyoteeshwara
PW.4 : Tv H.R

LIST OF DOCUMENTS MARKED ON BEHALF OF THE PROSECUTION:-

Ex.P1 : Spot Mahazar
Ex.P1(a) : Signature of PW1
Ex.P2 : Mahazar
Ex.P2(a) : Signature of PW1
Ex.P2(b) : Signature of PW2
Ex.P2(c) : Signature of PW3
Ex.P2(d) : Signature of PW4
Ex.P3 and 4 : Photos
Ex.P5 : CD



Ex.P6 : Statement of PW3

Ex.P7 : Statement of PW4

LIST OF MATERIAL OBJECTS MARKED ON BEHALF OF THE PROSECUTION:-

MO1 : Tetra Packet

MO2 : Cloth bag

MO3 : ₹700/- amount

LIST OF WITNESSES EXAMINED ON BEHALF OF THE ACCUSED:-

-----Nil-----

LIST OF DOCUMENTS MARKED ON BEHALF OF THE ACCUSED :-

-----Nil-----

(Vishwanath A.)
Prl.Civil Judge & JMFC.,
Virajpet.

*MCT

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