

KAMS510002122018



**BEFORE THE I ADDL., CIVIL JUDGE & JMFC., AT  
NANJANGUD**

**PRESENT**

**SMT. SARITHA KUMARI A.M.**

**B.A., L.L.B.,**

**I ADDL., CIVIL JUDGE,& JMFC,  
NANJANGUD**

**Dated, this the 21<sup>st</sup> day of May-2026**

**C.C. No.71/2018**

**Complainant:- State by Kavalande Police station**

**(By Lrd.APP.,)**

**-V/s-**

**Accused:- 1. Rajappa, S/o.Gurumallappa,**  
Aged about 32 years,  
R/at.Hanumanapura village,  
Nanjangud Taluk.

**2. Manjunatha, S/o.Siddaramanayaka,**  
Aged about 41 years,  
R/at.Hedathale village,  
Nanjangud Taluk.

**( Accused No.1 by Sri.S S K and Accused No.2 by Sri.J G M .,Adv.,)**

### **JUDGMENT**

The PSI, Kavalande Police Station has filed the chargesheet against the accused No.1 and 2 for the offences punishable under Sections 32 and 34 of Karnataka Excise Act .

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

It is alleged that on 16.03.2017 at about 9.45 P.M in Hedathale village, the accused No.1 and 2 were found selling the illicit liquor near MSIL shop without having valid licence or permit and the accused No.1 and 2 were found in illegal possession and sale of 90 ML 42 Original Choice Deluxe Whisky pouches of 3 litre 780 ML after adulterated illicit liquor knowing fully well that it is dangerous in nature and unfit for human consumption and for accused No.1 and 2 disobedience caused obstruction to the public and hence the accused No.1 and 2 have committed the offence punishable under Sections 32 and 34 of Karnataka Excise Act.

**3. On the basis of credible information, the Police Sub**

Inspector of Kavalande Police Station had conducted raid on the accused along with panchas and his staff, seized liquor by doing the seizure Panchanama, collected sample liquor for the purpose of chemical examination, came to the police station and filed complaint on behalf of the State.

4. On the basis of the written complaint, the Station House Officer had registered the case in Crime No.43/2017 for the offence punishable under Sections 32 and 34 of Karnataka Excise Act, sent FIR to the Court. Further he had recorded the statements of police constables, sent the samples for chemical examination and received the FSL Report and after completion of investigation, filed chargesheet against the accused No.1 and 2 for the above said offences.

5. Accused No.1 and 2 got enlarged on bail. After filing of chargesheet, cognizance was taken, case was registered. Copy of chargesheet was supplied to the accused No.1 and 2 under Section 207 Criminal Procedure Code. As there were sufficient material evidence found against the accused No.1 and 2, charge

was framed against the accused No.1 and 2 for the offence under Section 273 Indian Penal Code and Section 32, 34 of Karnataka Excise Act and explained to them in vernacular language known to them, for which they pleaded not guilty and claimed to be tried for the alleged offences. Hence, case came to be posted for trial.

6. The prosecution in order to prove its case, got examined the witnesses as P.Ws.1 to 4 and got marked the documents and material object as per Exs.P1 to P5 and M.O 1 to M.O.5 respectively. The prosecution has given up the evidence of chargesheet witnesses C.W.4 & 5, After closure of the prosecution evidence, accused No.1 and 2 were examined U/sec. 313 Criminal Procedure Code. Accused No.1 and 2 denied the incriminating circumstances found against them. Accused No.1 and 2 did not choose to lead their defence evidence.

7. Heard both the sides and perused the materials on record.

8. The following points arise for my consideration:

1. Whether the prosecution proves beyond

reasonable Doubt that on 16.03.2017 at about 09.45 P.M Near Hedathale village, the accused No.1 and 2 were found selling the illicit liquor adjacent to MSIL shop in Hedathale village, found in illegal possession and sale of 90 ML 42 Original choice Deluxe Whisky pouches without having valid license or permit and thereby committed an offence punishable under Section 32 of Karnataka Excise Act?

2. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place, accused No.1 and 2 were found in illegal possession of 90 ML 42 Original choice Whisky pouches without holding any license or permit and thereby committed an offence punishable under Section 34 of Karnataka Excise Act?

3. What order?

9. My answers to the above said points are as follows:

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

2. **Point No.2 : In the Negative.**

3. **Point No.3 : As per final order,**

**For the following:**

**REASONS**

10. **Points No.1 & 2 :** As these points are inter-linked with each other and requires common discussion in order to avoid

repetition of facts and discussion, therefore these points are discussed together.

11. The prosecution in order to establish the offence alleged against the accused No.1 and 2 must prove on 16.03.2017 at about 09.45 P.M in Hedathale village, the accused No.1 and 2 were found selling the illicit liquor adjacent to MSIL without having valid license or permit and the accused No.1 and 2 found in illegal possession and sale of liquor. The prosecution to prove it's case, got examined P.Ws.1 to 4 and got marked Exs.P1 to P5 documents and M.O.1 to M.O.5. In order to examine whether the accused No.1 and 2 have committed the crime, this Court has to examine whether any convincing evidence is placed by prosecution to prove its case will have to be scrutinized.

12. The prosecution in order to prove it's case has mainly relied upon the evidence of seizure panchas. But, the mahazar witnesses i.e., P.Ws.1 has turned hostile. The learned Assistant Public Prosecutor cross-examined at length and suggested that the police have conducted the raid on the accused No.1 and 2 and

seized the liquor from the possession of the accused No.1 and 2. But, he denied all the suggestions. It was further suggested that they have given false evidence to help the accused No.1 and 2. But, he also denied the said suggestion. So, the Mahazar- Ex.P1 is not proved through independent mahazar witness.

13. C.W.1/P.W.2-M.Shivamadaiah, Police Sub Inspector, who lead the raiding team narrated the manner in which he conducted raid, apprehension of accused, seizure of articles through Ex.P.1 Mahazar and denied the suggestion put forth by the learned counsel of the accused No.1 and 2.

14. P.W.3- Shivakumara, A S I who accompanied P.W.2 for raid deposed almost similar to the evidence of P.W.2.

15. P.W.4-Madegowda, A S I deposed about registering FIR and PF.No.43/2017 and submitted to the court.

16. The prosecution neither elicited nor has stated in the evidence where the samples were kept from until they were sent for chemical analysis. It is also not know in which condition and in whose possession the samples were kept during this period. As per the well established principles of law that the samples

should have been sent to chemical examiner immediately.

17. The chemical examiner has not been examined in the above case. The Chemical Examiner has given the report – Ex.P5 stating that samples contained alcoholic substance.

18. On perusal of the evidence lead by the prosecution and examination of P.Ws.2 to 4, it can be seen that P.Ws.2 to 4 are the police officials. It is well established rule that the evidence of police officials should be corroborated by other evidence. In order to corroborate the evidence of police officials, the prosecution has examined the pancha witness. The pancha witnesses i.e., P.Ws.1 has turned hostile. Even in his cross-examination by the prosecution, the pancha witnesses has not supported the case of the prosecution. Hence, the evidence of police officials i.e.,P.Ws. 2 to 4 stands no grounds and no weightage can be attached to P.Ws.2. The evidence of P.Ws.2 to 4 does not hold ground for proving the prosecution case. Hence, the prosecution has utterly failed to prove its case and it has not brought home the guilt of the accused No.1 and 2 for the alleged offences. The prosecution

has not placed convincing evidence to prove the guilt of the accused No.1 and 2 . Hence, this Court is of the opinion that the prosecution has miserably failed to prove their case. Therefore, this Court holds **Points No.1 & 2 in the Negative.**

**19. Point No.3:** For the aforesaid findings, I proceed to pass the following:

**:- ORDER:-**

Acting under Section 248(1) of Cr.P.C. accused No.1 and 2 are hereby acquitted for the offences punishable under Sections 32 and 34 of Karnataka Excise Act.

Bail bonds of accused No.1 and 2 and surety stands cancelled.

The property seized in P.F.No.27/2017 in P.R.No.157/2025 dated: 16.03.2017 i.e.,M.O.1 to 5 being worthless are hereby ordered to be destroyed after the expiry of appeal period is over.

(Dictated on line computer to the stenographer, computerized by her, corrected, then signed by me and pronounced in the open court on this the **21<sup>st</sup> day of May-2026**)

**(Saritha Kumari A.M.)**  
**I Addl Civil Judge & JMFC.,**  
**Nanjangud.**

**ANNEXURE****List of witnesses for the prosecution:**

- P.W.1 : Chikkakoosaiah  
P.W.2 : Shivamadaiah.M  
P.W.3 : Shivakumara  
P.W.4 : Madegowda

**List of documents for the prosecution:**

- Ex.P1 : Seizure Mahazar  
Ex.P1(a-c) : Signatures  
Ex.P.2 : Statement of Pw1  
Ex.P.3 : RFSL report  
Ex.P3(a) : Signature  
Ex.P4 : Complaint  
Ex.P4(a-b) : Signature  
Ex.P.5 : FIR  
Ex.P5(a) : Signature

**List of witnesses for the accused:**

-NIL-

**List of documents for accused:**

-NIL-

**MATERIAL OBJECT**

- M.O.1 : 90 ML of 28 Original choice Whisky tetra packets  
M.O.2 : 3 Plastic jugs  
M.O.3 : 2l water bottles  
M.O.4 : 10 plastic glasses  
M.O.5 : 90 ML of 5 empty Original choice Whisky tetra packets

***(Saritha Kumari A.M.)***  
***I Addl Civil Judge & JMFC.,***  
***Nanjangud.***