

IN THE COURT OF THE JUDICIAL MAGISTRATE NO.1,SANKARI.

Present: Tmt.S.Sathiya, B.A., B.L.,

Judicial Magistrate No.1,Sankari

Wednesday the 08th day of July 2026

CC.No.151/2026

(Filing No:TNSA09-001029-2026)

State rep by its

Special Sub Inspector of police,

Sankari Police station,

Salem District,

Crime No. 157/2026

...

Complainant

-VS-

Mathaiyan (Age 76/2026) S/o. Kanthappagounder

1/123, Santhaipettai, Vaiguntham,

Sankari Tk, Salem Dt-637301

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Accused

1	Serial Number	CC.No. 151 of 2026
2	Name of the Police Station and Crime Number	Sankari Police Station Crime No 157 of 2026
3	Name of the Accused	Mathaiyan
4	Father name	Kanthappagounder
5	Occupation	Labourer
6	Residence	1/123, Santhaipettai, Vaiguntham, Sankari Tk, Salem Dt-637301
7	Age	76 Years
8	Occurrence date	13.04.2026
9	Date of Complainant	13.04.2026
10	Date of Apprehension	13.04.2026
11	Released on bail	13.04.2026

12	Commitment	Not Applicable
13	Date of Commencement of Trial	23.06.2026
14	Date of Closure of Trial	23.06.2026
15	Sentence or Order	The accused is found not guilty of offence U/s. 4(1) (C) 4(1) (a) TNP Act. Hence the accused is acquitted of all charges u/s 271(1) BNSS. The bail bond of the accused, if any shall stand cancelled after the appeal period or if any appeal is preferred till the appeal is over. Accused shall be set at liberty. There is no order as to property as there is no case property produced in this case.
16	Explanation of delay	The Final report was filed by the police on 09.06.2026 The case was taken on file by this court on 09.06.2026 and Judgment is pronounced on 08.07.2026.

This case came up for final hearing before this Court on 08.07.2026. The complainant was represented by Assistant Public Prosecutor Gr-II, Sankari. The accused was represented by learned counsels Tr.M. Rangasamy, Tr.K.S. Selvaraja, Tr.C.S. Gowtham prasath, Tr.A. Jayasiva After having perused the records of the case and hearing both sides and having stood over it for consideration till date, this Court delivers the following:

JUDGMENT

1. Case of the prosecution

The prosecution contends that, On 13.04.2026 at 09.15 Hrs Accused was involved in the selling bottles of liquor without any government permission or license and sold them for personal gain. Consequently, an FIR was registered on 13.04.2026 under Sections 4(1)(C) 4(1) (a) TNP Act.

2. Procedural History

2.1 Summons and copies

Upon service of the summons u/s.227 of the BNSS and the appearance of the accused copies of the final report and documents were given to the accused in compliance with section 230 of the BNSS on 15.06.2026.

2.2 Framing of charges

On 17.06.2026 charge was framed against accused for the offence u/s.4(1) (C) 4(1) (a) TNP Act. When the charges was read out and explained to the accused, he pleaded not guilty and claimed to be tried. Hence, the case was posted for trial in accordance with section 265(1) of the BNSS.

3. Evidence adduced

3.1 Prosecution side

a) Oral evidence

To substantiate their case, the prosecution had examined the police witnesses Tr.Kumar (HC-2166) as Pw1, and the investigation officer Mr. Senthilkumar as Pw2.

b) Documentary evidence

1. ExP1 : Signature of 1st witness in Seizure Mahazar
2. ExP2 : Signature of 1st witness in Destroyed Mahazar
3. ExP3 : Seizure Mahazar
4. ExP4 : Destroyed Mahazar
5. ExP5 : First Information Report

4. Defence side evidence

The defense did not produce any witnesses or documentary evidence.

5. Examination under Section 351 of BNSS

The circumstances appearing in the evidence of the witnesses against the accused were put to him, and the accused replied that the case against him is false and that the evidence of the prosecution is also false. He further stated that there is no evidence on his side.

6. Arguments Advanced

The prosecution side submitted that the court may consider the evidence of prosecution and convict the accused. On the other hand, the learned counsel for the accused submitted that a false case had been foisted against the accused and that the prosecution failed to adduce ample evidence to prove the charge against the accused beyond all reasonable doubts. Hence, the counsel prayed for the acquittal of the accused.

7. Point for determination

(i) Whether on 13.04.2026 the accused was in possession of 52 liquor bottles for the purpose of sale?

(ii) Whether the prosecution has proved his case beyond all reasonable doubt to convict the accused?

8. Analysis of Evidence

Point – I

(a) Burden of Proof

In the present case, the prosecution has alleged that the accused committed Offence punishable under Sections 4(1)(C) 4(1) (a) of the Tamil Nadu Prohibition Act, 1937.

Under Section 105 of the Bharathiya Sakshya Adhiniyam, the burden of proving that the accused committed the offences mentioned in the charge sheet lies on the prosecution. As per the fundamental principle of criminal jurisprudence, the prosecution must establish the guilt of the accused beyond all reasonable doubt.

(b) Relevant Legal Provisions

Before evaluating the evidence, it is necessary to extract the relevant statutory provisions for clarity. Section 4(1)(C) 4(1) (a) of the Tamil Nadu Prohibition Act, 1937, reads as follows:

“Section 4. Prohibition of the manufacture of, traffic
in, and consumption of liquor and intoxicating drugs.

(1)Whoever—

(C) sells liquor or any intoxicating drug; or ...”

To understand the term “liquor,” Section 2(9) of the Act provides:

**“Liquor includes toddy, arrack, spirits or wine
(denatured spirits), wine, spirits, beer and all
liquid consisting of or containing alcohol.”**

Therefore, for a conviction under Section 4(1)(C), 4(1) (a)the prosecution must prove:

- (i) The accused were in possession of liquor bottles.
- (ii) Such seized bottles contained alcohol as defined under the Act; and
- (iii) The possession was for the purpose of sale, not merely for personal consumption.

(c) Sufficiency of Official Witnesses

The prosecution examined Two police officials (PW1 , PW2) whose chief testimonies aligned with the allegations in the FIR and other records. PW1, in his chief examination, stated that on 13.04.2026 at Morning 09.15 Hrs, while himself, PW2, Tr.Prabu (HC) are conducting a patrol Sankari, Vaiguntham Santhaipettai area, they found the accused in the possession of 28 bottles of Express Brandy and Monitor Brandy 24 bottles and total bottles of 52, each containing 180 ml. At around Morning 09:20 Hrs, PW2 arrested the accused and seized the liquor bottles from his possession under a seizure mahazar in the presence of PW1 and Tr. Prabu (HC) further PW2, in their chief examination, corroborated the testimony of PW1 regarding the seizure of the liquor bottles from the accused. Further, all evidence deposed that during the enquiry of accused at the soc, the accused confessed to possessing the liquor bottles for the purpose of sale.

However, it is settled and Hon'ble apex courts also have consistently held that while the testimony of police officers is admissible, reliance solely on official witnesses, without corroboration from independent sources, weakens the probative value of the prosecution's case, especially when independent witnesses are available.

In this case, the alleged seizure occurred at a public place at around Morning 09.20 Hrs, a time when independent witnesses could have been easily secured. Failure to include such witnesses for the investigation casts doubt on the fairness of the investigation and the credibility of the prosecution's story. It is also

apposite to mention that the observation mahazar and Rough sketch were not prepared and produced before this court to prove the scene of crime.

(d) Possession for Sale or Personal Consumption?

The prosecution alleges that the accused possessed 52 liquor bottles for the purpose of sale. However, the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996, as amended by G.O. Ms. No. 14, Home, Prohibition and Excise (VI), dated 09.06.2017, permits possession of liquor for personal consumption within the following limits:

Type of Liquor	Permissible Quantity
IMFS (Indian Made Foreign Spirits)	4.5 Litres
Foreign Liquor	4.5 Litres
Beer	7.8 Litres
Wine	9 Litres

Thus, mere possession of 52 liquor bottles does not automatically attract penal liability under the Act. The prosecution must prove that the possession was for the purpose of sale, which could have been established through:

- i. Evidence of customers,
- ii. Independent witnesses with knowledge of the sale, or
- iii. Recovery of sale proceeds.

In the absence of such evidence in this case, the allegation of possession for sale remains unsubstantiated.

(e) Seizure of Liquor and Procedural Irregularities

As per the proviso to Section 32(c) of the Tamil Nadu Prohibition Act, an officer seizing illicit liquor must:

- (i) Draw samples in the presence of a Prohibition Officer or a Police Officer not below the rank of Inspector, and
- (ii) Destroy the remaining quantity, with a certificate specifying the total quantity seized, sample quantity, and quantity destroyed, which must be forwarded to the concerned jurisdictional judicial Magistrate.

This procedure is mandatory to prevent manipulation of seized material. However in the present case:

- (i) No samples were drawn at the scene of crime,
- (ii) No such certificate was prepared,
- (iii) No chemical analysis report was produced to prove that the seized liquid was liquor as defined in law, and

It is admitted that no such exercise was carried out by PW2, the Special Sub-Inspector of Police, which is fatal to the prosecution case. Since the mandatory provision has not been complied with, this Court is of the considered view that the evidence of PW1, who are also police personnel handpicked by PW2, regarding the

alleged seizure of illicit arrack, cannot be safely relied upon by this court to point the guilt towards accused for the alleged offence.

(f) Informant and Investigating Officer are the same.

On perusal of records, it is evident that the informant and one of the investigating officers (PW2) who had done a major part of the investigation in this case are the same person. It is now well settled that merely because the informant also conducted the investigation, the investigation does not automatically become illegal or vitiated on the ground of bias. Therefore, the accused cannot claim acquittal solely on that basis.

However, the Hon'ble apex courts have recognised an important exception to this general rule. If the accused establishes and proves bias and/or an unfair investigation by the informant-cum-investigator, and where the prosecution's case primarily rests upon the deposition of the informant-cum-investigator, without any reliance on other independent witnesses, such a factor must be given due weight while appreciating the evidence.

In this case, the defence, during cross-examination, has brought out several flaws in the investigation, suggesting bias. The absence of independent witnesses and corroborative evidence strengthens the inference of an unfair investigation, thereby diminishing the credibility of the prosecution's case.

(g) Proof of Patrol and Doubtful Documents

The prosecution has not produced any supporting documents, such as General Diary extracts and beat book to substantiate that PW1, PW2, Tr.Prabu(HC) were engaged in a patrol on the relevant date. The non-production of such readily available evidence creates an adverse inference against the prosecution. Further it is admitted by PW1 and PW2 that no sale proceeds were recovered from the accused and also no witness was examined to prove that accused involved in sale of 28 bottles of Express Brandy and 24 bottles of Monitor Brandy.

Point – II**Conclusion:-**

In the absence of independent witnesses, irregularities in seizure, failure to follow mandatory procedures, and lack of corroborative evidence, the prosecution case rests solely on the uncorroborated testimony of police witnesses and failed to prove the guilt of an accused. The Hon'ble Supreme Court and High Courts have repeatedly cautioned against convicting an accused based solely on such testimony unless it is consistent, cogent, and free from suspicion. Given these deficiencies, the benefit of the doubt must necessarily go to the accused.

9. Decision

Based on the above analysis, this Court finds that the prosecution has failed to prove the guilt of the accused beyond a reasonable doubt. The accused is found not

guilty of offence U/s. 4(1) (C) 4(1) (a) TNP Act. Hence the accused is acquitted of all charges u/s 271(1) BNSS. The bail bond of the accused, if any shall stand cancelled after the appeal period or if any appeal is preferred till the appeal is over. Accused shall be set at liberty. There is no order as to property as there is no case property produced in this case.

Dictated to Steno - typist, typed by his, corrected and pronounced by me in the open court on this the 08th day of July 2026.

Judicial Magistrate No.1
Sankari

Appendix -A

Prosecution side witness

SI.No	Rank of Witnesses	Name of the Witness	Remarks
1.	PW1	Tr. Kumar,	HC-2166
2.	PW2	Tr. Senthilkumar,	Investigaing Officer

Appendix -B

Prosecution side Exhibits

SI.No	Exhibit	Description of document
1.	Ex.P1	Signature of 1 st witness in Seizure Mahazar
2.	Ex.P2	Signature of 1 st witness in Destroyed Mahazar
3.	Exp3	Seizure Mahazar

4.	ExP4	Destroyed Mahazar
5.	Ex P5	First Information Report

Appendix -C

Property -Nil

Appendix -D

Defence side witnesses - NIL

Appendix -E

Defence side Exhibits - NIL

Judicial Magistrate No.1,
Sankari.

Note

1. No witnesses detained more than three times.
2. Nature of disposal communicated to the concerned police.
3. Accused is on bail during the pronouncement of Judgment.

CASE SUMMARY

S.No	Particulars	Purpose
i	The period of remand of the accused	Nil
ii	The date of filing of the Complainant/Final report in the Court	09.06.2026
iii	The date of Committal of the case to the Court of Session	NIL
iv	The date of questioning of the accused U/s. 228, 240, 246 and 251 of the Code of Criminal Procedure, 1973 as the case may be	17.06.2026
v	Filing of all miscellaneous petitions and their results including the results on challenge before superior Courts: except routine petitions like petitions under Section 317 of the Code.	NIL
vi	Date of Examination in-chief and cross-examination of a witness	PW1 was Chief examined and Cross examined on 23.06.2026
		PW2 was Chief examined and Cross examined on 23.06.2026
vii	Date of examination of the accused under section 313 of the Code	25.06.2026
viii	Details of abscondence of an accused and his appearance/production, as the case may be;	NIL
ix	Grant of stay by superior Courts and the results thereof	NIL

Judicial Magistrate No.1
Sankari

JUDICIAL FORM NO. 61
(Rule 106 of CrI.R.P)

Complainant : Special Sub-Inspector of Police, Sankari P.S
 Accused : Mathaiyan
 Offence : U/s. 4(1) (C) 4(1) (a) TNP Act
 Finding : Accused found not guilty for the offence U/s. 4(1) (C) 4(1) (a) TNP Act
 Sentence : Accused is acquitted under Section 271(1) of BNSS

Serial Number	Description of the accused					
	Name	Father's Name	Caste or Religion	Occupation	Residence	Age
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Mathaiyan	Kanthappagounder	Hindu	Labourer	1/123, Santhaipettai, Vaiguntham, Sankari Tk, Salem Dt-637301	76

Date of							Explanation of delay
Occurrence	Complaint	Apprehension of appearance	Released on bail	Commencement of trial	Close of trial	Sentence or order	
(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
13.04.2026	13.04.2026	13.04.2026	13.04.2026 (Station Bail)	23.06.2026	23.06.2026	08.07.2026	The Final report was filed by the police on 09.06.2026 The case was taken on file by this court on 09.06.2026 and Judgment is pronounced on 08.07.2026.

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