



Presented on : 04-01-2023

Registered on : 04-01-2023

Decided on : 27-06-2026

Duration : 3 years, 5 months, 23 days

**IN THE COURT OF THE I-ADDITIONAL CIVIL JUDGE & JMFC.,
SINDHANUR.**

PRESENT: SMT. SARASWATI HOTKAR._{B.A, L.L.B. LL.M.,}
I-ADDL.CIVIL JUDGE & JMFC.,
SINDHANUR.

C.C.NO.07/2023

DATED THIS THE 23rd DAY OF JUNE, 2026

BETWEEN:

Complainant : Excise Range Sindhanur.
.....(By A.P.P.)

V/S

Accused : Mahendra E S/o. Basavaraj Ediga.,
Aged about 21 years.
R/o Challuru, Tq:Gangavathi,
Dist:Koppal.

(Rep by N.V.P., Advocate)

J U D G E M E N T

The P.S.I, Excise Range, Sindhanur has filed this charge sheet against the accused for the offences punishable under Sections 11, 12, 14, 15, 32(1), 34 and 38(A) of K.E. Act.



2. The case of the prosecution in brief is as follows:

It is the case of the prosecution that on 04-06-2023 at about 08-00 A.M. when CW-1, 4 and 5 on patrolling duty as per the orders of their higher authority, CW-1 received credible information as accused was illegally selling liquor within the limits of CEN police station in the Gangavathi Road, near Suco bank and Reliance petrol bunk, he went to the spot for raid with his staff and panchas. At that time motorcylce Hero H.F Delux vehicle bearing No.KA-37/EC-9625 came from Sindhanur, they stopped the said vehicle, but the accused did not stop his vehicle and ranaway from the spot, and also leave his vehicle and one bag, he prepared search warrant at the spot in the presence of panchas and searched in the bag of accused, wherein he found 3 cardboard boxes 144 tetra packs of 8 P.M whiskey containing 180 ML each. He seized liquor in the presence of panchas and drawn mahazar. He separated those packs for chemical examination. He returned to police station with seized articles and lodged first information, thereafter, CW-9 registered the case, took up the investigation and also filed charge sheet against the accused .

3. Secured the presence of accused persons and enlarged him on bail. As per Sec.207 of Cr.P.C. entire prosecution papers have been supplied to accused persons. Perused the records. Charge was framed and read over to him. He pleaded not guilty and claimed to be tried.



4. The prosecution examined 6 witnesses as PW-1 to 6 and documents were marked as Ex.P-1 to 12 and objects are marked as M.O.1. The statement of accused U/Sec.313 of Cr.P.C. was recorded. He denied the incriminating evidence of prosecution and does not choose to lead any defence evidence.

5. Heard both side. Perused the materials placed on record.

6. The following points arise for my consideration.

1. Whether the prosecution has proved beyond all reasonable doubt that the accused had illegal possession of liquor and selling the same and thereby committed an offence punishable U/Sec.13, 14,, 15, 32 of Karnataka Excise Act?
2. Whether the prosecution proved beyond all reasonable doubt that the accused had possession of liquor which was illegally transported and thereby committed an offence punishable U/Sec.34 of Karnataka Excise Act?
3. Whether the prosecution proved beyond all reasonable doubt that the accused had possession of liquor which was illegally transported and thereby committed an offence punishable U/Sec.38(A) of Karnataka Excise Act?
- 4.** What order?



7. My findings to the above points as hereunder.

Point No 1 to 3 : In the Negative.

Point No 4 : As per final order, for the following:

R E A S O N S

8. POINTS NO.1 to 3: These points are interlinked with each other, to avoid repetition of the facts and circumstances they are taken together for common discussion.

To substantiate the guilt of the accused, the prosecution examined the CW-1 Yamanur as PW-1 who is the first informant in this case. He deposed in his chief examination that on 04-06-2023 at about 08-00 A.M. when CW-1, 4 and 5 on patrolling duty as per the orders of their higher authority, CW-1 received credible information as accused was illegally selling liquor within the limits of CEN police station in the Gangavathi Road, near Suco band, he went to the spot for raid with his staff and panchas. At that time motorcylce Hero H.F Delux vehicle bearing No.KA-37/EC-9625 came from Sindhanur they stopped the said vehicle, but the accused did not stop his vehicle and runaway from the spot, and also leave his vehicle and one bag, he prepared search warrant at the spot in the presence of panchas and searched in the bag of accused, wherein he found 3 cardboard boxes 144 tetra packs of 8 P.M whiskey containing 180 ML each. He seized liquor in the presence of panchas and drawn mahazar. He separated those packs for chemical examination. He returned to police station with



seized articles and lodged first information, further he handed over the entire case file to CW-9 for further investigation. Further, he identified the accused persons and seized articles.

9. The counsel for accused persons cross examined the said witness. The PW-1 deposed in his cross examination that, there were many people gathered at the time of panchanama, but he did not recorded the statements of those persons. Further he admitted that he did not obtained panchas signature on Ex.P-1. Further he did not took any photographs at the time of panchanam. Further he denied all suggestions of counsel for accused.

10. The prosecution examined CW-2 Yankoba, CW-3 Yallappa, CW-8 Hanumesh and CW-7 Anil Kumar as PW-2, 3, 5 and 6 who are spot and seizure mahazar witnesses. These witnesses identified their signatures in Ex.P-1 seizure mahazar. They deposed that at about one year back they put their signatures in Excise department office. They further deposed that they do not know the contents of Ex.P-1 and the Excise officials have not drawn any mahazar and not seized any liquor bottles in their presence.

11. These witnesses were treated as hostile. The learned Assistant Public Prosecutor cross-examined them. But nothing worth has been elicited from their mouth to prove that the police conducted mahazar and seized liquor bottles in their presence. The PW-2, 3, 5 and 6 denied the entire case of prosecution.



12. The prosecution examined the investigation officer CW-9 Siddaruda Lakkamshetty as PW-4. She deposed that she took the case file from CW-1 for the purpose of further investigation and send the liquor for chemical examination. He received chemical report. He filed requisition to RTO of Raichur to furnish B extract of said Vehicle. On 16-06-2021 he received RFSL report and spot report. Further, he filed charge sheet against the accused.

13. The Counsel for accused cross examined his. The PW-4 admitted in his cross examination that there is difference between boundaries in respect of place of occurrence in spot panchanama and the report submitted by PDO., also admits that there were lot of residential houses at the place of offence. He has not recorded the statements of eye-witnesses. He had not enquired the accused about, from where he brought the said liquor and also filed false charge sheet against accused.

14. In order to substantiate the guilt against the accused the prosecution has to prove that on 04-06-2021 at 09-45 a.m the accused had illegal possession of liquors and selling those liquors without having any license. The CW-1 seized those liquor bottles from the custody of the accused.

15. In the present case, the PW-1 and 2 who are seizure mahazar witnesses turned hostile to the case of prosecution. The learned Assistant Public Prosecutor cross examined them. But



nothing worth has been elicited from their mouth to prove that the PW-1 seized the liquor tetra-pockets/bottles from the custody of accused. Though the PW-1 and 4 i.e., Police officials deposed about the seizure of liquor pouches from the custody of accused, the evidence of those witnesses are not completely helpful to the case of prosecution. Accused had not any license to run a liquors in his house.

16. The PW-2, 3, 5 and 6 deposed that there are some public were gather at the time of mahazar. But the PW-1 has not recorded the statements of eye-witnesses who were present at the time of seizure. The case of prosecution is the accused was selling the liquor illegally without having any license. But PW-1 did not record the statements of customers or public. Moreover, he did not disclose the details of those customers and also not seized any amount from the accused which gained by the said sale. These facts create doubts about the genuineness of the case of prosecution. Hence the evidence of PW-2,3,5 and 6 are not completely helpful to the case of prosecution to substantiate the guilt against the accused. Because the evidence of PW-1 and 4 are not at all corroborated with the evidence of Mahazar witnesses PW-2,3,5 and 6. To prove the guilt of the accused the evidence of officials has to corroborate with the evidence of independent seizure mahazar witnesses. But in the present case mahazar witnesses



i.e., PW-2,3,5 and 6 completely turned hostile to the case of prosecution.

17. The prosecution has failed to proved that the Excise officials seized the liquor bottles from the custody of the accused. By looking to the entire oral and documentary evidence it appears that the prosecution has failed to prove the guilt against the accused for the alleged offences. Hence, I answer point No.1 and 2 in the “**Negative**”.

18. Point No.4: For the above discussed reasons, I proceed to pass the following:

ORDER

Acting under Section 248(1) of Cr.P.C. the accused is hereby acquitted for the offences punishable U/Sec.11, 12, 14, 15, 32(1), 34 and 38(A) of Karnataka Excise Act.

Seized M.O.1 being worthless, ordered to be destroyed after completion of period of appeal.

The bail bonds executed by accused and sureties in compliance of Sec.437-A of Cr.P.C. shall continue for the period of 6 months from the date of this order.



(Dictated to the stenographer, transcribed and typed by her, corrected by me and then pronounced in the open court on this 23rd day of June 2026)

(Sarswathi Hotkar)

I-Addl.Civil Judge & JMFC,
Sindhanur.

: ANNEXURE:

WITNESS EXAMINED ON BEHALF OF PROSECUTION:

P.W.1 : Yamanur Talwar.
P.W.2 : Yankoba
P.W.3 : Yallappa.
P.W.4 : Siddarooda Lakkamshetty.
P.W.5 : Hanumesh.
P.W.6 : Anil Kumar.

WITNESS EXAMINED ON BEHALF OF ACCUSED

--Nil --

DOCUMENTS MARKED ON BEHALF OF PROSECUTION:

Ex.P.1 : Search warrant
Ex.P.2 : Spot Mahazar.
Ex.P.2(a) to (d) : Signatures.
Ex.P.3 : Seal model.
Ex.P.4 : Complaint.
Ex.P.5 : FIR
Ex.P.6 : List of articles.
Ex.P.7 : Requisition to RTO, Koppal.
Ex.P.8 : FSL report.
Ex.P-9 : Spot Mahazar.
Ex.P.10 : Notice to owner of the vehicle.
Ex.P-11 : B extract.
Ex.P-12 : RC



DOCUMENTS MARKED ON BEHALF OF ACCUSED:

-Nil-

MATERIAL OBJECTS:

M.O.1 : Sample tetra-pack.

(Sarswathi Hotkar)

I-Addl. Civil Judge & JMFC,
Sindhanur.



Order pronounced in the open court.
(Vide separate order)

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**(Saraswati Hotkar)
I-Addl.Civil Judge & JFMC.,
Sindhaur.**