

KASM400006792024



**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.
THIRTHAHALLI.**

Dated: This the 11th Day of August 2026

:: Present ::

**SMT. GEETHAMANI B.A. LL.B.,
Senior Civil Judge & JMFC,
Thirthahalli.**

C.C.No.473/2024

Between:-State represented by the

P.S.I. of Agumbe Police Station,
Thirthahalli.

.....**Complainant**

(By Learned Senior A.P.P.)

-VS-

Dinesha K.K.,
S/o Krishnappagowda,
Age: 48 years, Occ: Shopkeeper,
R/o: Kasaravalli Village,
Ramakrishnapura Post,
Thirthahalli Taluk.

.....**Accused**

(By Sri. L.V.M./N.S.A, Adv.)

*** * ***

DATE OF OFFENCE COMMITTED	:	31.03.2024
DATE OF REPORT OF OFFENCE	:	31.03.2024
NAME OF THE COMPLAINANT	:	Basavaraj L.R.
NATURE OF THE OFFENCES	:	U/Sec. 32 & 34 of K.E.ACT

EVIDENCE COMMENCED ON	:	17-06-2025
EVIDENCE CLOSED ON	:	04-08-2026
JUDGMENT PRONOUNCED ON	:	11-08-2026
OPINION OF THE JUDGE	:	<u>ACQUITTED</u>

JUDGEMENT

The accused person is facing trial for the commission of offenses punishable under sections 32, 34 of the Karnataka Excise Act, on the basis of the charge sheet filed by the Sub-Inspector of Excise, Agumbe.

2. The case of the prosecution in brief can be seen as under:

It is the case of the prosecution that on 31-03-2024, at about 7.30 p.m., when the complainant was patrolling near Ramakrishnapura Circle, along with his staff, he received credible information regarding the sale of liquor by one Dinesh at Kasaravalli Village. On the basis of the said information, the complainant along with his staff reached near the grocery shop on Heggodu-Ramakrishnapura road and found the accused was selling liquor in a public place. On seeing the police officials, the accused ran away from the spot and he found 37 Tetra Packets of "Original Choice Deluxe Whisky," of 90 M.L. each and having a total value of ₹1,480. The complainant has seized the same and drawn a mahazar in the presence of the witnesses and

thereafter registered a FIR against the accused person for offences punishable under section 32 and 34 of Karnataka Excise Act.

3. After the filing of the charge sheet, cognizance of offenses punishable under sections 32 and 34 of Karnataka Excise Act Cognizance was taken and summons was issued to the accused in lieu of the summons accused has appeared before this court through his respective counsel and he was enlarged on bail. Copy of the charge-sheet was given to the accused in compliance of section 207 of Cr.P.C.

4. As sufficient material was available against the accused, the charges were framed read over and explained to the accused and accused pleaded not guilty and claimed to be tried.

5. To substantiate the case of the prosecution, the prosecution has examined 7 witnesses as PW-1 to PW-7 and got marked documents at Ex.P.1 to Ex.P.17 and M.O.1.

6. After the conclusion of the trial, the statement of the accused was recorded as contemplated u/s 313 of the Cr.P.C. The accused refuted the incriminatory evidence

appearing against him and stated that he has no defence evidence to lead.

7. I have heard the arguments of the learned APP and counsel for the accused.

8. The following points arise for my consideration:

1] Whether the prosecution proves beyond all reasonable doubt that, on 31.03.2024 at about 8.25 p.m., at a public place in front of the accused's grocery shop situated in Kasaravalli Village, within the jurisdiction of Agumbe Police station, Thirthahalli Taluk, the accused was found in possession of illicit liquor of 90 M.L. namely Original Choice Deluxe Whisky having a total value of Rs.1,480/- and also 37 pouches of illicit liquor without any license and thereby he committed the offence punishable u/s 32 of Karnataka Excise Act?

2] Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place the accused was found in possession of illicit liquor with an intention to sell the liquor to the public's without any license and thereby he committed the offence punishable u/s 34 of Karnataka Excise Act?

3] What order?

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

Point No.1 : In the Negative,
Point No.2 : In the Negative,
Point No.3 : As per final order,
for the following:

REASONS

10. POINT NO.1 and 2: Since both points are interconnected to each other, I have taken up both points together for common discussion in order to avoid repetition of facts.

11. It is the strong case of the PSI of Agumbe Thirthahalli Circle. The accused has committed the offence punishable under section 32 and 34 of K.E. Act. It was alleged in the complaint is that, on 31.03.2024 at about 7.30 p.m, when the complainant was patrolling near Ramakrishnapura Circle along with his staff, he received credible information regarding the sale of liquor by one Dinesh at Kasaravalli Village. On the basis of the information, the complainant along with his staff reached near the grocery shop on Heggodu-Ramakrishnapura road and found the accused was selling the liquor in a public place. ON seeing the police officials, the accused ran away from the spot and they found 37 Tetra Packets of Original Choice Deluxe Whisky, of 90 M.L each and one Tetra Pack of Original

Choice Deluxe Whisky of 90 ml. The complainant has seized the same and drawn the mahazar in the presence of the witnesses, thereafter registered FIR on the basis of the complaint by one Basavaraj.

12. I have gone through the material available on record. The complaint averments go to show that, the accused was found selling liquor in front of his grocery shop, but he was not caught red-handed at the spot. To show that, the accused is the owner of the shop, no documents have been collected. At this stage, in my opinion, there is no prima facie material to show the involvement of this accused in the alleged crime. Now, with this fact, let me discuss what are the convincing evidence produced by the prosecution.

13. In order to prove the guilt of the accused, the prosecution has examined as many as 7 witnesses, CW.1, CW.2, CW.6, CW.7, CW.8, CW.18 and CW.19 as PW.1 to 7, and got marked documents as Ex.P.1 to 17. CW.1, who is the complainant, was examined as PW.1. In his deposition, he deposed that, on 31.03.2024, when he was patrolling along with CW.2 and CW.4 at about 7.45 near Ramachandrapura Circle, he received credible information that, the accused was selling liquor near the grocery shop of Vinesh without a license. He went to the shop along with CW.7 and CW.8, who were the pancha

witnesses in this case. By seeing the police, the accused ran away from the spot and they found 37 Tetra Packets of Original Choice Deluxe Whisky, of 90 M.L each and one Tetra Pack of Original Choice Deluxe Whisky of 90 m.l. The complainant has seized the same and drawn the mahazar in the presence of the witnesses. He has identified his signature on Ex.P.1 i.e., the complaint and his signature got marked as Ex.P.1(a). He has also identified the spot mahazar as Ex.P.2 and his signature got marked as Ex.P.2(a). The photo was marked as Ex.P.3. The tetra pack pouch was marked as MO.1. U/sec.65(b) of the Indian Evidence Act, it was marked Ex.P.4 and his signature was marked as Ex.P.4(a).

14. He was subjected to cross-examined by the learned counsel for the accused. In the cross-examination, he deposed that MO.1 was on the table at the time of seizure mahazar, but the table was not seized by the police. At the time of the mahzar, FIR was not registered. So after mahazar FIR was registered. By perusal of Ex.P.2 no FIR number was mentioned in the mahazar. So, as per the Criminal Procedure Code, the FIR should be registered first, then mahazar has to be done during investigation. The FIR must precede investigation. Investigation before FIR is illegal. On this

ground itself, the accused is entitled to acquittal. The PSI of Agumbe has violated the procedure. Other allegations have been denied by the PW.1.

15. CW.2 Vinayakumar was examined as PW.2. In his deposition, he deposed that, in the same line of evidence of PW.1. He has identified Ex.P.2 mahazar and identified his signature got marked as Ex.P.2(b) and he has also identified the accused and also MO.1.

16. He was subjected to cross-examined by the learned counsel for the accused. During his cross-examination, he deposed that, he and CW.1, along with 5 members, went to the spot. When he went to the spot on credible information, the accused ran away from the spot. It is important to note that, during his cross-examination, he deposed that, they did not recover any selling liquor amount from the accused. He does not know the colour of the plastic bag in which the liquor was stocked. He has also admitted that, in mahazar, FIR number is not mentioned. The mahazar witnesses are not residents of Ramakrishnapura and other suggestions were denied by PW.2.

17. CW.6 who was examined as PW.3, is mahazar witness. In his deposition, he deposed that, he knows

CW.7 and CW.8 and he has identified the signature as per Ex.P.2(c). He put his signature at Ramakirshnapura on the say of the police. He does not know what has been written in Ex.P.2 the police did not seize any material object in his presence. He did not give any statement before the police.

18. CW.7 Dinesh, who was examined as PW.4. In his deposition, he deposed that, he put his signature as Ex.P.2(d) on the say of police, he does not know the contents of FIR. The police did not seize any material object in his presence. He did not give any statement to the police.

19. CW.2 Chandrashekar was examined as PW.5. In his deposition, he deposed that, he has identified Ex.P.2 and his signature as Ex.P2(e). He put his signature on the say of police, he does not know the contents of FIR. The police did not seize any material object in his presence. He did not give any statement to the police.

20. So, the prosecution has treated them as hostile witnesses and cross-examined them to bring out his earlier statement and to show he is lying now. Therefore, this court cannot believe the case of the prosecution. The spot and mahazar witnesses have not supported the

case of the prosecution. Even though the seizure witnesses and the Investigating Officer may prove the seizure mahazar. On a careful consideration of the evidence of PW.3 to PW.5, the alleged seizure has not been proved beyond reasonable doubt. The mahazar, by itself, is only a corroborative document in the absence of reliable evidence establishing the seizure, be relied upon to prove the alleged offence against the accused person.

21. CW.18 who is investigation officer was examined as PW.6. In his deposition, he deposed that, in the same line evidence of PW.1 and PW.2. Further he deposed that, he has identified upon Ex.P.1 as Ex.P.1(b), upon Ex.P.8 as Ex.P8(a), upon Ex.P9 as Ex.P.9(a). He was subjected to cross-examination; he stated that, the witnesses have signed and put their signatures in the police station and other suggestions were denied by him.

22. CW.19 who was examined as PW.7. In his deposition, he deposed that, in the same line evidence of PW.1, PW.2 and PW.6. He has identified his signature upon Ex.P.10 as Ex.P10(a), upon Ex.P.11 as Ex.P.11(a), upon Ex.P.13 as Ex.P13(a), upon Ex.P.14 as Ex.P14(a), upon Ex.P.15 as Ex.P.15(a), upon Ex.P.16 as Ex.P.16(a)

and lastly upon Ex.P.17 as Ex.P.17(a). During his cross-examination, he denied the suggestion that, a false case has been registered against the accused person and that the accused was falsely implicated.

23. There is a rule that when a mahazar witness turns hostile and does not support the prosecution, the case does not automatically collapse. The prosecution must rely on other evidence such as the testimony of the investigating officer and official witnesses to prove the document's contents. If the witnesses admit the signature on the mahazara document during cross-examination, it helps establish that a panachanam, spot mahazar was physically drawn, even if they deny the detailed contents later. The public prosecutor had cross-examined the hostile witnesses in order to extract truth from the mouth of the witnesses. But the prosecution has failed to extract corroborative evidence in order to prove the alleged offences against the accused person. The mahazar witnesses have not supported the case of the prosecution. So also, seizure mahazar witnesses and mahazar witnesses have not supported the prosecution case. Therefore, as a criminal rule, the benefit should go to the accused person. The prosecution case is suffering from a lack of material evidence. Therefore, there are sufficient grounds to acquit the accused. At this stage,

in my opinion is that, the prosecution has utterly failed to substantiate its case beyond all reasonable doubt.

Accordingly, I answer points No.1 and 2 as Negative.

24. Point No.3:- For my discussions to points No.1 and 2 above, I proceed to pass following;

ORDER

Acting under section 248(1) of Cr.P.C., the accused is acquitted of the offences punishable under sections 32, 34 of Karnataka Excise Act.

The bail bonds and surety bond of accused person shall stand cancelled.

M.O.1 being worthless shall be destroyed after appeal period.

(Dictated to the Stenographer, transcribed and typed by his, corrected and then pronounced by me in the Open Court on 11th day of August 2026)

(Geethmani)
Senior Civil Judge & JMFC.,
Thirthahalli.

:ANNEXURE:

List of witnesses examined on behalf of Prosecution:

Pw.1: Basavaraj L.R.
Pw.2: Vinaykumar N.K.
Pw.3: Nandan.
Pw.4: Dinesha.
Pw.5: Chandrashekara.
Pw.6: Adarsha A.P.

Pw.7: Ranganath Anthargatti.

List of documents exhibited for Prosecution:

Ex.P.1: Complaint.
Ex.P.2: Seizer Mahazar.
Ex.P.3: Photo.
Ex.P.4: Indian Evidence Act U/Sec.65(B).
Ex.P.5: Statement of PW.3.
Ex.P.6: Statement of PW.4.
Ex.P.7: Statement of PW.5.
Ex.P.8: F.I.R.
Ex.P.9: Requisition.
Ex.P.10: Letter dated 25.04.2024.
Ex.P.11: Form No.9 and 11(a).
Ex.P.12: Hakkupathra.
Ex.P.13: License letter.
Ex.P.14: FSL report.
Ex.P.15: Excise report.
Ex.P.16 & 17: Report of liquor.

List of witnesses for defence: -Nil-

List of documents for defence: -Nil-

Material object marked on behalf of prosecution:-

M.O.1 : 37 Pouches of Original Choice Deluxe Whisky

Material object marked on behalf of defence: -Nil-

**(Geethmani)
Senior Civil Judge & JMFC.,
Thirthahalli.**

