



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE
AND J.M.F.C., KUNIGAL.**

PRESENT:

Smt.Gangavva Ayatti., B.A., LL.B.(Hon's)
Addl. Senior Civil Judge & J.M.F.C.,
Kunigal

DATE: 1ST DAY OF AUGUST 2026

Complainant : State of Karnataka
Through Excise PS ,
Kunigal Range.

(By Asst Public Prosecutor)

V/s

Accused : Somashekar.,
S/o Ramanna,
Age: 23 years,
R/o : Honnegowdana Doddi Village,
Yadiyuru Hobli, Kunigal Taluk,
Tumakuru District.

(Accused by Sri.G.A.R., Advocate)

1.Date of commission of offences:	29.07.2019.
2. Date of report of offences:	29.07.2019.
3. Name of the complainant :	Excise Inspector.
4.Date of recording of evidence:	05.12.2025.
5. Date of closure of evidence:	15.07.2026.
6. Offences alleged :	U/s. 32(1) of K.E. Act.
7. Opinion of Judge :	The accused not found guilty.



J U D G M E N T

This charge-sheet is filed by Excise PS against the accused for the offences punishable under Section 32(1) of K.E. Act.

2. The gist of the prosecution case is as follows:

That on 29.07.2019, at about 4.00 pm in the evening, on the complaint received by Karnataka Lokayukta by post as to accused found in selling liquor to an extent of 0.900 liter and 1.160 ML beer i.e., 180 ML 2 tetra packets of 8 PM whiskey, 90 ML 2 tetra packets of Old taverin whiskey, 90 ML 4 No.1 MC dowells brandy, 500 ML1 King fisher beer tin and 330 ML 2 king fisher strong premium beer tins, without having permission from the competent authority in his petty shop situated in Tavarekere village near the Govt High school in Honnegowdandoddi cross and thereby they conducted raid and seized the liquor and registered the case. Final report was filed against him. After filing of the charge-sheet, court has taken cognizance of the offences against the accused and has issued summons to the him.

3. After securing the presence of accused copy of the charge sheet was furnished to accused. After hearing both sides charge was framed, read-over and explained to the accused. Accused denied the charge and claimed to be



tried.

4. To substantiate the allegations made in the charge sheet and to prove the guilt of the accused, the prosecution has examined 10 witnesses as PW1 to PW10 and got marked Ex.P1 to Ex.P8 and got marked material objects MO1.

5. After completion of prosecution evidence statement of accused as required under Section 313 Cr.P.C is recorded wherein the accused has denied all the incriminating statements appearing in the evidence of prosecution witnesses. The accused did not choose to lead any defence evidence.

6. Heard the argument.

7. The points that arise for my consideration are as under:-

1) Has the prosecution proves beyond all reasonable doubt that, on 29.07.2019, at about 4.00 pm in the evening, the accused found in selling liquor to an extent of 0.900 liter liquor and 1.160 ML beer without having permission from the competent authority in his petty shop situated near the Govt High school in Honnegowdandoddi cross thereby



committed offences punishable under
Section 32(1) of K.E. Act.?

2) What order or sentence?

8. My findings on the above points are:-

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

REASONS

9. **Point No.1:-** To substantiate the case of prosecution and allegations leveled against accused in charge sheet and to bring home the guilt of the accused, the prosecution has examined 10 witnesses as PW1 to PW10 and got marked Ex.P1 to Ex.P8 and MO.1.

10. PW1 Rangaswamy and PW4 Balarammegowda have deposed in their examination in chief that, they signed on panchanama about 3 to 4 years back at Kunigal and nothing was seized in their presence. At that time no body was present and police have not recorded his statement. They completely turned hostile to the case and in their cross examination by learned APP nothing worth is elicited.

11. PW2 Gangadhar, PW5 H.B Shivanna and PW6 S.Raghavendra have deposed in their examination in chief that, on 29.07.2019, on the directions S.P Lokayukta as to



in Tavarekere village near the Govt High school in Honnegowdandoddi cross without having permission from the competent authority one person is selling liquor thereby they visited the spot and enquired with the owner of the shop with regard to sale of liquor and conducted raid and found 9 liter of liquor. They informed the sub inspector of excise as to same and handed over accused and liquor to them. CW1 lodged complaint. They conducted raid and 180 ML 2 tetra packets of 8 PM whiskey, 90 ML 2 tetra packets of Old taverin whiskey, 90 ML 4 No.1 MC dowells brandy, 500 ML1 King fisher beer tin and 330 ML 2 king fisher strong premium beer tins in the presence of panchas.

12. PW3 Sheikh Imran, PW7 B.R.Amruth, PW8 G.V.Tirumalegowda and PW9 B.M.Gagadhariah have deposed in their examination in chief that, on 29.07.2019, while they were on patrolling duty in Beerganhalli Village at about 4.00 pm CW1 called and informed that, in Tavarekere village near the Govt High school in Honnegowdandoddi cross without having permission from the competent authority one person is selling liquor and requested him to assist in conducting joint raid. Thereafter they came to Kunigal and then went to Tavarekere Village and they requested to local persons to assist them in conducting panchanama and they agreed and came with them. Thereafter they prepared search warrant as per Section 64 of Karnataka Excise Act and entered into the



petty shop of accused Somashekara. They found 180 ML 2 tetra packets of 8 PM whiskey, 90 ML 2 tetra packets of Old taverin whiskey, 90 ML 4 No.1 MC dowells brandy, 500 ML1 King fisher beer tin and 330 ML 2 king fisher strong premium beer tins in the presence of panchas. Thereafter they enquired the accused with regard to permission and also they arrested the accused and produced before the court.

13. PW10 M.H.Raghu has deposed in his examination in chief that, on 03.08.2019 he received case file and MOs from CW2 and sent the Mo's to the FSL and received FSL Report. He recorded the statement CW8 to 10 and issued letter to the Tavarekere Gramapanchayath seeking information of owner petty shop. He received report stating that the said petty shop does not belong to Somashekara and thereafter he filed charge sheet on completion of investigation.

14. On perusal of overall evidence on record, it appears that, PW1 and 4 being the panchas have completely turned hostile to the case of the prosecution and in their cross examination by Learned APP they denied the suggestions as to conducting of mahazar in their presence. PW2, 3 and 5 to 9 were cited as raid witnesses who are the official witnesses and they have supported the case but, in their cross examination contradictions were elicited with regard to place and timings



of incident as such their evidence without any corroboration is of no avail to the prosecution.

15. During the course of cross examination of PW2 who is the complainant in the present case he clearly admitted that, he went to the spot as per the directions of SP but he did not file the copy of the said order along with the compliant and also no complaint copy received through post is filed with the compliant if at all complaint is received through post nothing prevented him from produing the same with the complaint. Further he deposed that, after coming to Kunigal he did not lodged complaint with Excise police with regard to the selling of liquor. Further he deposed that the door of the petty shop is situated towards southern side where as PW3 and other witnesses deposed that, it was situated towards northern and eastern side. Further in his cross examination it is clearly elicited that, before the court there are one packet of high wards whiskey but the said packet is not seized by the excise police. In his cross examination it is also elicited that he was not present at the time of mahazar but, his signature is found on mahazar which creates doubt as to case of the prosecution.

16. PW3 in his cross examination deposed that, CW1 did not informed as to where they are but, according to him he went to Honnegowdanadoddi Cross which creates doubt as to



without any information CW2 going to the Honnegowdanadoddi cross does not arise. Further he deposed that, none of the villagers have lodged complaint with regard to selling of liquor by the accused. According to the version of the prosecution the petty shop of the accused is situated within the 100 meters of Government High School as such, if at all the accused was found in selling the liquor the local people would have lodged the complaint. Further he denied the suggestion that CW3 and 4 were present at Tavarekere Village but the said Tavarekere Village comes after Chowdanakuppe and Honnegowdanadoddi. Further he clearly admitted that, he do not remember the time of panchanama and he written the panchanama on the say of the panchas. The above answers elicited during the course of cross examination creates doubt as to case of the prosecution with regard to accused selling liquor and there are contradictions in the evidence of PW2 and 3 itself.

17. PW5 and 6 in their cross examination have deposed that, they left the office at 12.00 pm and reached the Tavarekere Village at 2.00 to 2.30 pm. They also admitted that, when they visited the petty shop the time was about 3.45 pm and the door of the shop is situated at the eastern side. They categorically admitted that, in the petty shop there are other articles were present but, the IO has not noted the same in the mahazar. They clearly admitted that, the MO's present



before the court are the MO's which are seized on the spot but, those are empty packets which also one of the circumstance to doubt the case of prosecution. PW3 and 2 also admitted that, in the court there are 3 MC brandy tetra packs were found but, they have seized 4 packets and they have not seized high wards punch tetra packets. The above admissions elicited in the course of cross examination goes to show that, they were not present at the spot and they do not know anything about the case.

18. Even in the course of cross examination of PW5 to 9 contradictions were elicited with regard to conducting of seizure and mahazar and none of the independent witnesses have supported the case as such the prosecution failed to prove the case beyond reasonable doubt. PW10 in his cross examination admitted that, he did not received complaint as to selling of liquor by the accused and he did not visited the spot. The above admissions goes to show if at all the accused was found in selling the liquor then the local people would have lodged complaint. Though he admitted that he written letter to Tavarekere Gram panchayat seeking information of ownership of petty and found that it does not belong to accused he did not made efforts to arrest the owner of shop and collect documents as to whether the owner has given shop on rent basis or not. Further he also admitted that, in seized articles no Hywards punch fine whiskey is found and



he do not know how it is found in the MOs present before the court. He also admitted that he did not enquire as to from which shop the accused purchased the liquor and he did not cited the examiner of MOs as witness. The above contradictions elicited in the course of cross examination creates doubt as to case of the prosecution. Hence, the prosecution has failed to prove the case.

19. As per sec 40 of Karnataka Excise act there is presumption as to commission of offences in certain cases. In prosecutions under section 32 and section 34, it shall be presumed, until the contrary is proved, that the accused person has committed the offence punishable under that section in respect of,- (a) any intoxicant; or (b) any steal, utensil, implement or apparatus whatsoever in the manufacture of any intoxicant other than toddy; or (c) any material which have undergone any process towards the manufacture of an intoxicant or from which an intoxicant has been manufactured, for the possession of which he is unable to account satisfactorily.

20. For proving recovery of material objects evidence of panchas is necessary. In this case the PW1 and 4 who are the panchas have not supported the case as such believing the testimony PW2, 3 and 5 to 9 does not arise. Though as per their evidence it is proved by the prosecution that the



accused was found in possession of liquor as stated in the panchanama there are contradictions with regard to seizure of property is concerned therefore, the accused is entitle for the acquittal.

21. On perusal of the entire material evidence on record, by looking into the oral evidence adduced by the prosecution a doubt is created over the prosecution case as prosecution case is not free from contradictions, omissions, and discrepancies. At this stage, this court is of the opinion that the evidence of witnesses is a formal one. Further on perusal of entire evidence produced by the prosecution, when there is drastic stand taken by the accused that the alleged offences are false one, case of prosecution should be supported by independent witnesses. The only evidence made available by the prosecution is of officials who are part of raid team. Accordingly the prosecution has failed to prove the possession and recovery of material objects from the accused. Unless and until prosecution produces, corroborative, cogent independent oral and documentary evidence, circumstantial witnesses and local persons evidence, it is not safe to accept the alleged offences against accused. **Hence, I answer Point No.1 in the Negative.**

22. **Point No.2:-** As I have answered the above point No.1 in the negative in the result I pass the following.

**ORDER**

Exercising power under section 248(1) Cr.P.C, the accused is acquitted of the offences punishable Sec. 32(1) of K.E. Act.

The bail bonds and surety bonds under sec 437-A of the shall remain in force for 6 months.

Return M.O.s to the Kunigal Excise Police, to be dealt with in accordance with law after expiry of appeal period.

(Dictated to the Stenographer transcribed by her, then corrected and pronounced by me in the open Court on this the **01st day of August 2026**).

sd/-
(Smt.Gangavva Ayatti)
ASCJ & JMFC,Kunigal

ANNEXURE**1. List of witnesses examined for the prosecution:**

- PW 1 - Rangaswamy.T.G.
- PW 2 - Gangadhara.
- PW 3 - Shekh Imran.
- PW 4 - Balaramegowda.
- PW 5 - H.B.Shivanna.
- PW 6 - S.Raghavendra.



- PW 7. - B.R.Amruth.
PW 8. - G.V.Thirumalegowda.
PW 9. - B.M.Gangadharaiah.
PW 10.- M.H.Raghu.

2. List of witnesses examined for the defense:

-Nil -

3. List of documents exhibited for the prosecution:

- Ex.P 1 - Spot Mahazar.
Ex.P 2 - List of Articles.
Ex.P 3 - Complaint.
Ex.P 4 - FIR.
Ex.P5 - Letter to FSL.
Ex.P6 - FSL Report.
Ex.P7 - Letter to Tavarekere Gram
Panchayath.
Ex.P8 - Letter of Tavarekere Gram
Panchayath.

4. List of documents exhibited for the defense:

-Nil-

5. List of material objects:

- M.O.1 - Liquor.

sd/-

**(Smt.Gangavva Ayatti)
Addl. Sr. Civil Judge &
JMFC, Kunigal**