**IN THE COURT OF THE SESSIONS JUDGE, SESSIONS DIVISION, ALAPPUZHA**
**Present: Smt. BHARATHI S., Addl. Sessions Judge II**

Saturday the 25th day of April, 2026

**SESSIONS CASE No.69/2025** (Filed on. 16.01.2025)
(C.P. No.87/2024 of the Judicial First Class Magistrate Court, Ambalappuzha)
(Crime No.11/2023 of Excise Range Office, Alappuzha)

**Complainant** : The State represented by
the Excise Inspector,
Excise Range Office, Alappuzha.

(By Addl. Public Prosecutor, Alappuzha.)

**Accused** : Jayaprakash, aged 49/24 years,
S/o. Purushan
Ezharachira, Kakkazham Muri,
Ambalappuzha Village, Ambalappuzha Taluk.

(By Adv.Smt.J.Sherli)

Offence : u/S. 55(i) of the Kerala Abkari Act.

Plea : Not guilty

Finding : Found Not guilty

Sentence/Order : Acquitted.

**DESCRIPTION OF THE ACCUSED**

| Sl. No. | Name | Father's name | Occupation | Residence | Age |
|---|---|---|---|---|---|
| 1. | Jayaprakash | Purushan | - | Ezharachira, Kakkazham Muri,Ambalappuzha Village, Ambalappuzha Taluk. | 49/24 |

**DATES OF**

| | |
|---|---|
| Occurrence | 17.01.2023 |
| Complaint | 17.01.2023 |
| Apprehension of appearance | 17.01.2023 |
| Release on bail | 27.01.2023 |
| Commencement of trial | 27.03.2026 |
| Close of trial | 16.04.2026 |
| Sentence or Order | 25.04.2026 |
| Explanation of delay | No delay |

This case having been finally heard on 24.04.2026 and the court on 25.04.2026 delivered the following:-

**JUDGMENT**

1. This is a case taken on file based on a complaint filed by the Excise Inspector, Excise Range Office, Alappuzha alleging offence punishable u/Ss.55(i) & 67B of the Kerala Abkari Act.

2. Case of the prosecution is that on 17.01.2023 at 7.55 p.m, near to Kakkazham Puthukulangara Sreedevi Temple, accused was found engaged in sale of 2.5 litres of Indian made foreign liquor. Thus the accused is alleged to have committed offence punishable under the aforesaid provisions of law.

3. Complaint was filed before the Judicial First Class Magistrate Court, Ambalappuzha and the said court filed the case as CP.87/2024. After enquiry, the learned Judicial First Class Magistrate committed the case against the accused to the Hon'ble Sessions Court, Alappuzha. After taking cognizance, the Hon'ble Sessions Court made over the case to this court for trial and disposal.
4. Accused appeared before this court. After hearing both sides, this court framed charge against the accused for offence punishable u/S.55(i) of the Abkari Act, read over and explained to him to which he pleaded not guilty. Prosecution examined PWs 1 and 2 and marked Exts.P1 to P13, MO1 and MO2.
5. On closing the prosecution evidence, this court examined the accused u/S.351 of the Bharatiya Nagarika Suraksha Sanhita. Heard both sides u/S.255 of the Bharatiya Nagarika Suraksha Sanhita. Finding that this is not a fit case for acquittal of the accused u/S.255 of the Bharatiya Nagarika Suraksha Sanhita, this court directed the accused to adduce defence evidence. But, the accused did not adduce any defence evidence.
6. Heard both sides.
7. Following are the points arising for consideration:

1. Whether the prosecution has succeeded in satisfactorily proving that the accused was engaged in sale of Indian made foreign liquor?
2. Whether the prosecution has proved any offence as alleged against the accused?
3. Whether the accused is liable to be convicted or acquitted ?
4. In case of conviction, what shall be the proper sentence ?

**Point Nos. 1 to 3:**

8. All these points can be discussed together for the sake of convenience. PW2 is the detecting officer. He deposed about the detection and procedure followed by him. According to him, on 17.01.2023, while he was on patrolling duty along NH road and reached near to Valanjavazhy junction, he got an information that accused is selling liquor on the side of Ambalappuzha over bridge. Accordingly, himself and the party proceeded to the said place and found accused and another person standing on the southern side of a pillar of the over bridge. According to him, accused handed over a bottle to the other person by taking the same from a Scooter which was found near to the accused and the other person in return gave something like currency note to the accused. When the Excise party went near to them, the person who received the bottle ran away. He restrained the accused. On

inspecting the Scooter, he found five bottles of Indian made foreign liquor. He also detected ₹2,500/- in a purse, driving license and a mobile phone from the pocket of the accused. He then arrested the accused. He took samples from two bottles, sealed and labelled them along with the other bottles. He seized all the contraband items and the Scooter allegedly used by the accused to store the liquor. Ext.P1 is the mahazar prepared by him. He identified MO1 as the mobile phone and MO2 as the purse allegedly seized from the accused. He thereafter registered the case. Ext.P5 is the occurrence report, Ext.P6 is the property list and Ext.P7 is the copy of forwarding note submitted by this witness. According to him, except the samples, the other items were produced before the authorised officer. He identified Ext.P12 as an application submitted by him for disposal of the contraband and Ext.P13 as the inventory certified by the Executive Magistrate. He thereafter conducted the investigation. He identified Ext.P9 as the scene mahazar. He obtained Ext.P10 site plan and Ext.P11 R.C. particulars of the Scooter. Ext.P8 is the chemical report obtained in this case. He filed the complaint.

9. PW1 is an independent witness examined by the prosecution. He admitted his signature in Ext.P1 mahazar. PW1 however deposed that

he did not witness the alleged seizure. He even deposed that he did not sign in any mahazar prepared by the Excise officials. According to him, he has signed on a blank paper. He turned hostile.

10. Though prosecution examined PW1 as independent witness, he deposed that he did not witness the detection of contraband from the possession of the accused. But however, want of independent evidence alone is not sufficient to find that the prosecution case is not correct. The prosecution can prove its case by relying upon the evidence of the official witnesses alone, provided, their evidence is free from doubts and embellishments.

11. The quantity alleged to have seized is 2.5 litrtes of Indian made foreign liquor which is within the permissible quantity. There is no case for the prosecution that the liquor seized is illicit liquor or that the accused possessed it knowing the same to have been unlawfully imported, transported or manufactured. The question herein is whether the accused had indulged in sale of liquor or had kept or possessed liquor for the purpose of sale.

12. Section 55(i) of the Abkari Act deals with the offence of sale of liquor. As per the relevant portion of this section, ***whoever in contravention of this Act or of any rule or order made under this Act, sells or stores for***

***sale of liquor or any intoxicating drug shall be punishable with imprisonment for a term which may extend to 10 years and with fine which shall not be less than ₹1 lakh.***

13. According to PW1, accused had handed over a bottle to another person and received money from him. But absolutely there is no evidence with respect to the other person who allegedly purchased liquor from the accused. There is nothing which would show that the identity of the said person was revealed in the investigation.

14. Ext.P6 is the property list produced in this case. This document does not contain the seal allegedly affixed by PW2 on the samples and other contraband so as to ensure a tamper proof production of the samples before the court and the laboratory. On going through this document, it is seen that except the samples and cash, all the other items allegedly detected were produced before the authorised officer concerned and not produced before the Judicial First Class Magistrate. Though Ext.P13 is identified as the certificate of inventory, there is no inventory is seen prepared and produced in this case in accordance with law. Therefore, there is no sufficient reliable evidence regarding the contraband allegedly detected. Consequently, it cannot also be said that the

prosecution has properly proved the detection of Indian made foreign liquor as alleged from the accused.

15. Of course, the prosecution claims seizure of an amount of ₹2,500/- from the accused. Seizure of such an amount alone cannot lead to a conclusion that the said money was received by the accused as sale consideration by selling liquor. There is no sufficient evidence in order to prove the sale of liquor by the accused.

16. In view of the above and on analysis of the evidence of the prosecution, it is found that prosecution did not satisfactorily prove the allegation against the accused beyond reasonable doubt. Accused is not found guilty of the offence alleged and is entitled for an acquittal. Points are answered accordingly.

**Point No.4:**

17. In view of the findings on the above points, this point does not arise for consideration. Point is answered accordingly.

18. In the result, accused is not found guilty of offence punishable u/S. 55(i) of the Abkari Act. He is acquitted of the above offence u/S. 258(1) of Bharatiya Nagarika Suraksha Sanhita and is set at liberty. His bail bond stands cancelled. MO1 and the cash property shall be

confiscated and MO2, being valueless, shall be destroyed after the appeal period.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 25th day of April, 2026.

Sd/-
BHARATHI S.
ADDL. SESSIONS JUDGE-II

## APPENDIX

**Witnesses for the Prosecution side:-**

| | | |
|---|---|---|
| PW1/CW5 | Anilkumar | Independent witness |
| PW2/CW1 | Satheesh.S | Detecting Officer |

**Exhibits for the Prosecution side:-**

| | | |
|---|---|---|
| P1/PW1 | 17.01.2023 | Mahazar |
| P2(series)/PW2 | 17.01.2023 | Arrest memo, Arrest Notice and Inspection memo |
| P3/PW2 | 17.01.2023 | Vehicle Inventory |
| P4/PW2 | - | Driving License |
| P5/PW2 | 18.01.2023 | Occurrence Report |
| P6/PW2 | 18.01.2023 | Property List (TR. 30/23) |
| P7/PW2 | 08.02.2023 | Copy of forwarding note |
| P8/PW2 | 15.07.2023 | Chemical Report |
| P9/PW2 | 10.02.2023 | Scene Mahazar |
| P10/PW2 | - | Scene Plan |
| P11/PW2 | 29.07.2023 | RC Particulars |
| P12/PW2 | 18.01.2023 | Authorisation Letter |
| P13/PW2 | 01.07.2023 | Certificate from Tahsildar |

**Witness for the Defence side:- NIL**
**Exhibits for the Defence side:-NIL**

**Material Objects**:-

| | | |
|---|---|---|
| MO1 | Mobile Phone | PW2 |
| MO2 | Purse | PW2 |

Id/-
ADDL. SESSIONS JUDGE-II