

**IN THE COURT OF THE SESSIONS JUDGE, SESSIONS DIVISION,
ALAPPUZHA**

Present: Smt. BHARATHI S., Addl. Sessions Judge II

Thursday the 23rd day of April, 2026

SESSIONS CASE No.1403/2024 (Filed on. 19.11.2024)

(C.P. No.36/2024 of the Judicial First Class Magistrate Court, Ramankary)

(Crime No.462/2024 of Kainady Police Station)

Complainant : The State represented by
the Sub Inspector of Police,
Kainady Police Station.

(By Addl. Public Prosecutor, Alappuzha.)

Accused : Biju Kurian, aged 47/24 years,
S/o. Kurian Joseph
Polapparambu House, Kavalam Panchayath
Ward -2, Kavalam Vadakku Muri,
Kunnumma Village.

(By Adv.Sri.S.Ajesh Kumar)

Offence : u/S.55(i) and 13 r/wS.63 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.	Biju Kurian	Kurian Joseph	-	Polapparambu House, Kavalam Panchayath Ward -2, Kavalam	47/24

				Vadakku Muri, Kunnumma Village.	
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DATES OF

Occurrence	24.08.2024
Complaint	24.08.2024
Apprehension of appearance	18.09.2024
Release on bail	05.10.2024
Commencement of trial	10.03.2026
Close of trial	11.03.2026
Sentence or Order	23.04.2026
Explanation of delay	No delay

This case having been finally heard on 17.04.2026 and the court on 23.04.2026 delivered the following:-

JUDGMENT

1. This is a case taken on file based on a final report filed by the Sub Inspector of Police, Kainady alleging offence punishable u/Ss.55(a), 55(i) and 13 of the Kerala Abkari Act.
2. Case of the prosecution is that on 24.08.2024 at 8.05 p.m, near to the culvert in Lisieux church – Rajapuram road in Kunnumma Village, accused was found possessing 6 litres of Indian made foreign liquor in a Scooter bearing Reg.No.KL-66/D-5149 for the purpose of sale. Thus

the accused is alleged to have committed offence punishable under the aforesaid provisions of law.

3. Final report was filed before the Judicial First Class Magistrate Court, Ramankary and the said court filed the case as CP.36/2024. 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) and 13 r/wS.63 of the Abkari Act, read over and explained to him to which he pleaded not guilty. Prosecution examined PWs 1 to 3 and marked Exts.P1 to P11, 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 succeeded in proving that the accused was possessing Indian made foreign liquor in excess of the permitted quantity?
 3. Whether the prosecution has proved any offence as alleged against the accused?
 4. Whether the accused is liable to be convicted or acquitted ?
 5. In case of conviction, what shall be the proper sentence ?

Point Nos. 1 to 4:

8. All these points can be discussed together for the sake of convenience. PW1 is the detecting officer. He deposed about the detection and procedure followed by him. According to him, on 24.08.2024, on getting an information about unauthorised sale of Indian made foreign liquor, he along with his party engaged in vehicle inspection near to Lisieux church at Kavalam. At about 8.05 p.m, they saw a Scooter ridden by the accused and restrained it. While they were inspecting the

said Scooter, accused ran away. On inspecting the Scooter, they saw a blue coloured shoulder bag on the platform of the Scooter containing 12 bottles of Indian made foreign liquor of 500 ml each. He took sample from one of the bottles, sealed and labelled the sample bottle and remaining bottles. He seized all the contraband items and the Scooter allegedly used by him for transporting the liquor. Ext.P1 is the mahazar prepared by him. He thereafter registered the case. Ext.P2 is the first information report, Ext.P3 is the property list and Ext.P4 is the copy of forwarding note submitted by this witness. Ext.P5 is the request sent to Deputy Excise Commissioner and Ext.P6 is the inventory list prepared by the Deputy Excise Commissioner. He identified MO1 as the reserve sample and MO2 as the bag used for transporting liquor.

9. PW2 is an independent witness examined by the prosecution. He identified his signature in Ext.P1. PW2 deposed that he did not witness the alleged seizure from the accused. Though he admitted his signature in Ext.P1 mahazar, he did not support its contents. He turned hostile. He did not give any incriminating evidence against the accused.
10. PW3 is the investigating officer in this case. Ext.P8 is the site plan and Ext.P9 is the RC particulars of the vehicle obtained in this case.

Ext.P11 is the chemical report obtained in this case. He completed investigation and filed final report.

11. Though prosecution examined PW2 as independent witness, he did not depose that he had witnessed the detection of contraband from the possession of the accused or his Scooter. 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.
12. According to PW1, 6 litres of Indian made foreign liquor was recovered from a Scooter in which the accused was travelling. 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.
- 13.** 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.***

14. Prosecution has no case that PW1 has witnessed the accused in engaging sale of liquor to any other person. Absolutely there is no evidence that any other person purchased liquor from the accused.
15. There is no spot arrest of the accused. Prosecution has also no case that any contraband was detected from the physical possession of the accused. PW1 has admitted that nothing is stated in the mahazar so as to identify the person allegedly ran away from the spot. Though he deposed that he has got prior acquaintance with the accused, there is no reliable evidence to that effect also. PW1 himself further admitted that the accused was not got identified by showing to the witnesses. In the circumstance, the identification of the accused is doubtful.
16. Ext.P3 is the property list produced in this case. But, it is seen that the specimen of the seal allegedly affixed on the samples is not affixed on Ext.P3 property list so as to ensure a tamper free production of the samples. On going through this document, it is seen that except the samples, all the other items allegedly detected were produced before the authorised officer and not produced before the Judicial First Class Magistrate concerned. Though an inventory of the contraband is marked as Ext.P6, there is no certificate of the inventory produced in the case as provided u/S.53A of the Abkari Act. Therefore, there is no

sufficient 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.

17. 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.5:

18. In view of the findings on the above points, this point does not arise for consideration. Point is answered accordingly.
19. In the result, accused is not found guilty of offence punishable u/S. 55(i) and 13 r/wS.63 of the Abkari Act. He is acquitted of the above offences u/S. 258(1) of Bharatiya Nagarika Suraksha Sanhita and is set at liberty. His bail bond stands cancelled.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 23rd day of April, 2026.

Sd/-

BHARATHI S.
ADDL. SESSIONS JUDGE-II

APPENDIX**Witnesses for the Prosecution side:-**

PW1/CW1	Amsu.P.S	Detecting Officer
PW2/CW6	Babu	Independent witness
PW3/CW18	Rajeev.R	Investigating Officer

Exhibits for the Prosecution side:-

P1/PW1	24.08.2024	Mahazar
P2/PW1	24.08.2024	First Information Report
P3/PW1	24.08.2024	Property List
P4/PW1	24.08.2024	Copy of forwarding note
P5/PW1	25.08.2024	Request letter
P6/PW1	-	Inventory List
P7/PW1	05.10.2024	Report
P8/PW1	30.09.2024	Scene Plan
P9/PW1	06.09.2024	RC Particulars
P10/PW1	25.09.2024	Certificate obtained from KSEB
P11/PW1	04.02.2025	Chemical Examination Report

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

MO1	200 ml liquor (S2 sample)	PW1
MO2	Shoulder Bag	PW1

Id/-
ADDL. SESSIONS JUDGE-II