

**IN THE COURT OF SESSIONS, KOLLAM DIVISION**  
Present:- Smt. Reena Das T.R., Additional Sessions Judge,  
Additional Sessions Court (Abkari Cases), Kottarakkara.  
Saturday, the 4<sup>th</sup> day of April, 2026 / 14<sup>th</sup> Chaithram 1948.

**SESSIONS CASE No.1955 /2022**

(C.P. No.75 /2019 on the file of the Judicial Magistrate of First Class,  
Sasthamcotta in Crime No.225 /2017 of Sasthamcotta Excise Range Office)

Complainant : State of Kerala represented by the  
Excise Inspector, Sasthamcotta Excise  
Range.  
  
(By Adv. Sri. D.S. Sonu,  
Special Public Prosecutor)

Accused : Vasanthi, aged 50 years, W/o.Ramanan,  
Charuvila Puthenveedu, Naduvile Muri,  
Sooranadu North, Kunnathur.  
  
(By Adv. Sri.K. S.Mohan Kumar)

Charge : Offence punishable U/s.8(1)(2) of the  
Kerala Abkari Act.

Plea of the accused : Not Guilty

Finding of the Court : Not Guilty

Sentence or Order : Accused is acquitted U/s.235(1) Cr.P.C.

Date on which trial  
Commenced : 05.03.2026

Date on which trial  
closed : 25.03.2026

No. of days the case : 3 days  
stood posted for trial

This case having been finally heard on 01.04.2026 and  
the Court on 04.04.2026 delivered the following:-

## **J U D G M E N T**

This is a case charge sheeted by the Excise Inspector, Sasthamcotta in Crime No.225/2017 of Sasthamcotta, Excise Range Office against the accused two in numbers alleging offences punishable under Sections 8(i) & (2) of the Kerala Abkari Act.

2. The prosecution case, in brief, is that the accused, in violation of the provisions of the Kerala Abkari Act, was found in possession of 10 litres of country-made liquor on 27/08/2017 at about 2:40 PM at his residence, namely Charuvila Puthen Veedu, situated within Sooranadu North Grama Panchayat. By the aforesaid acts, the accused is alleged to have committed offences punishable under Sections 8(1) and 8(2) of the Kerala Abkari Act.

3. Upon filing of the final report, the Judicial First Class Magistrate Court, Sasthamcotta, took cognizance of the alleged offence as CP No.75/2019. Since the second accused (A2) was present, the case against A2 was committed to the Court of Sessions, Kollam. The case against the first accused (A1), who was absconding, was refiled as C.P.No.59/2022. On securing the presence of A1, process was issued, and the accused appeared before the court. After complying with the formalities under Section 207 of the Code of Criminal Procedure, the learned Magistrate committed the case to the Court of Sessions, Kollam. The case was

thereafter made over to this Court for trial and disposal. After hearing both the prosecution and the accused, a charge for the offences punishable under Sections 8(1) and 8(2) of the Kerala Abkari Act was framed, read over, and explained to the accused, to which she pleaded not guilty.

4. After closure of the prosecution evidence, the accused were examined U/S.313 Cr.P.C. She denied all the incriminating circumstances brought against her. Thereafter the matter was heard U/S.232 Cr.P.C. As it was found to be not a fit case to pass an order of acquittal U/S.232 Cr.P.C, the accused was called upon to adduce defence evidence. But, the accused did not adduce any defence evidence.

5. Heard both sides.

6. Following are the points arising for consideration:-

1. *Did the accused, on 27/08/2017 at about 2:40 PM possess 10 litres of country-made liquor at his residence, Charuvila Puthen Veedu, in Sooranadu North Grama Panchayat, and thereby commit an offence punishable under Sections 8(1) and 8(2) of the Kerala Abkari Act?*
2. *Whether the prosecution succeeded in establishing the guilt of the accused beyond the shadow of any reasonable doubt, if so*
3. *What should be the sentence or order?*

**7. Point Nos. 1 and 2:-**

To prove the case, prosecution has examined PW1 to PW4 and marked Exts.P1 to P11 documents and MO1 was marked.

8. PW1 was the Excise Inspector of Sasthamkotta Range. He deposed that on 27/08/2017, while he and his party were on patrol duty, they received reliable information regarding possession of illicit liquor at the residence of the accused situated at Charuvila Puthen Veedu in Sooranadu Panchayat. After preparing the search memo and forwarding it to the court, PW1 along with his party proceeded to the house at about 2:30 PM. On inspection, he found the front door partially open and noticed the accused inside the house holding a plastic bottle, while another accused was seen pouring liquid from a can into the bottle. PW1 stated that, in the presence of witnesses, he examined the contents of the can and bottle by smell and taste and confirmed that it was liquor. The can had a capacity of 10 litres and contained about 9.5 litres of liquid, and the bottle contained about 500 ml of liquor. During further inspection, additional plastic bottles containing liquor were also recovered. The accused were arrested at the spot. Samples of 200 ml each were collected from the contraband, sealed, labelled, and seized in accordance with procedure. The search list, seizure mahazar, and arrest documents were prepared and marked as Exts.P1 to P3 series. PW1 registered the occurrence report Ext.P4 and prepared the property list and forwarding note Exts.P5 and P6.

The seized articles were produced for proceedings under Section 53A of the Kerala Abkari Act. MO1 10-litre can with liquid was identified, and PW1 also identified the accused and proved his signature on the labels.

9. In cross-examination, PW1 stated that the search memo was sent by post and that no independent witnesses from nearby houses were examined. He admitted that no photographs of the contraband were taken and that the specimen seal impression was not separately produced before the court. He further stated that the sample was collected after mixing the liquid found in possession of the accused. He denied the suggestion that the contraband was not seized from the possession of the accused or that it was falsely implicated.

10. PW2, the WCEO at Sasthamkotta Range Office. According to her, on the date of the incident, he was on patrol duty near Villada Swamy Temple, north of Anayadi, along with Excise Officer PW1. Acting on information received by PW1, they reached the house of the second accused, where Al Murugan was seen pouring liquor from a 10-litre white can into a bottle held by the second accused, Vasanthi. CW1 registered the case, and both accused were subsequently arrested. PW2 stated that the 10-litre can containing liquor was seized, and samples of approximately 200 ml each were

collected in two glass bottles, sealed, labelled, and taken into custody. Additionally, three 1-litre plastic bottles containing liquor were also seized, sealed, and taken into custody. He assisted PW1 in preparing the seizure mahazar, Ext.P2 and the search list Ext.P1 and signed the relevant documents. The accused were identified before the court, and PW2 confirmed that he had given a statement before the investigating officer.

11. In cross-examination, PW2 admitted that he did not remember the exact time when patrolling began, the number of people present at the scene, or the detailed layout of the vicinity. He confirmed that he signed the labels and documents prepared during the investigation and denied any suggestion of falsehood or acting under instructions from his superior.

12. PW3 is the attestor of search list Ext.P1, the seizure mahazar Ext.P2, and the arrest documents Ext.P3. He stated that he knew the second accused and was able to identify him, and also knew A1 Muruga as an acquaintance of the local community. PW3 observed the excise vehicle parked near the house of accused when he returned home from work. During the proceedings, PW3 was declared hostile, and the learned prosecutor was permitted to cross-examine him under Sections 154(4) read with 145 of the Evidence Act. PW3 denied that he was falsely implicating the accused and

stated that he had not previously given any statement at the Sasthamkotta Excise Range Office.

13. PW4 was the Excise Range Inspector of Sasthamkotta. He deposed that he took over the investigation in the present case. As part of the investigation, he recorded statements of witnesses, obtained the scene plan Ext.P7 and possession certificate Ext.P8 of the location, and secured the ownership certificate from the Sooranad Grama Panchayat Secretary Ext.P9. He also submitted the Chemical analysis report Ext.P10 and a report regarding non-compliance with Section 53A of the Kerala Abkari Act Ext.P11. PW4 stated that the house where the liquor was found was in the name of the husband of the accused, Raman. After completing the investigation, he submitted the final report to the court.

14. In cross-examination, PW4 stated that the occurrence report was examined as part of the investigation. He did not recall the exact time of the Occurrence report, as it was registered on 27/08/2017 at 6:00 PM though the case was detected at 2:40 PM; the delay was attributed to preliminary inquiries into the source of liquor and the medical examination of the accused. He confirmed that the house of the accused was searched, samples were collected and produced on 27/08/2017, and sent to the FSL on 20/10/2017, remaining in court custody in the interim. PW4 admitted that

neighbors of the accused were not called as witnesses but denied that the charge sheet was false or that the investigation was conducted improperly. He also confirmed the correctness of the house number and boundaries.

15. On a careful scrutiny of the oral evidence of PW1, PW2, and PW4, and the documentary evidence marked as Exts.P1 to P11 and MO1, it is apparent that the prosecution has not established strict compliance with the mandatory procedural safeguards prescribed under the Kerala Abkari Act. Although the alleged seizure was effected on 27/08/2017, the seized articles and samples were produced before the court only on 29/08/2017. In ***Vijayan @ Puthoor Vijayan v. State of Kerala*** (2021 (5) KHC 347), the Hon'ble High Court of Kerala emphasized that strict adherence to the procedure relating to sampling, sealing, production before the court, and maintenance of tamper-proof custody is mandatory in Abkari cases.. In that case Hon'ble High Court held as under:-

Abkari Act 1077 - S.8(1), S.8(2) - Drawing of sample and steps to be followed by Thondy Clerk and measures to be ensured by Chemical Examiner Enumerated.

Steps to be followed by the Officer collecting the sample:

(I) Collection of sample from the alleged contraband by the officer concerned shall be transparent eschewing possibility of tampering the sample in any manner;

(ii) While collecting sample, the officer shall describe the nature of the specimen seal in the mahazar and the specimen seal shall be affixed on the mahazar, on the sample bottle, bottle containing the remaining part of contraband and the forwarding note;

(iii) The sample so collected shall be produced before the jurisdictional Magistrate without any delay and the delay if any, shall be properly explained;

(iv) Specimen seal affixed on the sample should be produced before the court along with the contraband for comparison;

(v) The said officer shall depose about compliance of the above before the court while giving evidence.

Steps to be followed by Thondy Clerk who is authorised to receive the thondy:

(I) The Thondy Clerk shall verify the specimen seal produced before the

court and to compare the same with a seal affixed in the mahazar, collected sample and in the forwarding note to ensure that the seal of the sample is intact and there is no scope for tampering the same in between its collection and production before the court;

(ii) While forwarding the sample to the laboratory, the Thondy Clerk shall

ensure that specimen sample seal is affixed on the forwarding note;

(iii) The forwarding letter shall contain the name of the official who is entrusted to handover the sample to the Chemical Examiner;

(iv) Specimen seal also to be provided to the Chemical examiner for verification and to ensure that the specimen seal, so provided, is tallying with the seal affixed on the sample, to rule out the possibility of tampering while on transit of the sample;

(v) Thondy Clerk must be examined to prove compliance of the above, also to prove that he has been in custody of the sample from the date of receipt of sample till the date of forwarding and also to prove compliance of item No.(i) to (iv) steps stated herein above.

Measures to be ensured by the Chemical Examiner:

(I) Chemical Examiner shall ensure production of specimen seal to verify as to whether the specimen seal provided in the forwarding note and the sample forwarded are tallying to rule out tampering of a sample during transit;

(ii) In the chemical analysis report the said fact shall be stated so as to act upon the same without examining the Chemical Examiner as provided under S.293 Cr.P.C.

In the dictum laid down in the decision referred above, it was held that the property clerk who have received sample from the detecting officer is to be examined in court to ascertain the compliance of the procedure for tamper proof collection of sample.

16. In the present case, the prosecution has failed to examine either the officer who had custody of the sample after seizure or the Thondy Clerk of the Magistrate Court to prove proper handling and safe custody of the sample. Further, there is no evidence that the specimen seal was produced before the court for verification. These omissions raise serious doubt regarding the integrity of the sample and are fatal to the prosecution case.

17. Further, it is evident that only one sample of 200 ml was drawn from the seized liquor. The settled legal position mandates that at least two representative samples must be drawn. The Hon'ble High Court, in In ***Velayudhan v. State of Kerala*** (Crl.A. No.27/2006), ***Ponnappan v. State of Kerala*** (Crl.R.P. No.2316/2011) and ***Ashokan v. State of Kerala*** (2016 (2) KLT 762), the Hon'ble High Court has consistently held that non-compliance with the requirements relating to proper sampling and sealing is fatal to the prosecution case.

18. It is also observed that the sample was forwarded to the Chemical Analysis Laboratory on 19/10/2017, analysed on 22/10/2018, but the Chemical Analysis Report, Ext.P10 was received by the court only on 05/11/2018. No satisfactory explanation has been offered for this delay. In ***Thomas @ Joy v. State of Kerala*** (2021 (5) KHC 410), it was held that an unexplained delay in

chemical analysis in Abkari cases is fatal to the prosecution case, as it raises reasonable doubt regarding the safe custody and tamper-proof condition of the sample. In the decision it was held as under:

“Abkari Act, 1077 – S.8(2) – Possession of nine litres of illicit arrack in a can – Sample reached laboratory on 04/12/2003, but same was analysed only on 23/12/2004 – Held, unexplained delay in the analysis of sample is fatal to the prosecution”.

19. Further, the prosecution has not satisfactorily proved compliance with the mandatory procedure under Section 53A of the Kerala Abkari Act. As held in ***Balakrishna Rai v. State of Kerala*** (2020 (3) KHC 286), non-compliance with statutory requirements relating to preparation of inventory and lawful disposal of seized contraband casts serious doubt on the prosecution’s case. In the present case, there is no convincing evidence that these procedures were strictly followed.

**20.** Another significant aspect is regarding possession. PW4 deposed that the house where the liquor was allegedly found was in the name of the accused’s husband, Raman. No evidence has been adduced to establish that the accused had exclusive possession or conscious control over the premises or the contraband. In ***Kumaran Narayanan v. State of Kerala*** (2022 (3) KLJ 982) and ***V.P. Rajappan v. State of Kerala*** (2015 (4) KLJ 748), it was held that

mere presence of contraband in a premises is insufficient to prove possession unless conscious possession is established.

21. It is also pertinent that the alleged occurrence took place on 27.08.2017, whereas the final report was filed only on 27.11.2019. No satisfactory explanation has been offered for this delay. In ***Gangadharan v. State of Kerala*** (2023 ICO 2023) and ***Kumaran P. v. State of Kerala*** (2016 (5) KHC 632), it was held that unexplained delay in investigation and filing of the final report entitles the accused to the benefit of doubt. The delay in the present case further weakens the prosecution's version.

22. In view of the foregoing discussion and upon consideration of the entire evidence on record, this Court finds that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. Accordingly, Points Nos. 1 and 2 are answered against the prosecution.

**Point No.3:-**

23. In the result, the accused is found not guilty for the offence punishable under sections 8(i)&(2) of Abkari Act and he is acquitted U/S.235(1) of Cr.P.C. Bail bond executed by the accused stand cancelled and he is set at liberty.

*Dictated to the Confidential Assistant, typed by her, corrected by me and pronounced in open court on the 4<sup>th</sup> day of April, 2026.*

Sd/-  
**REENA DAS T.R.**  
**ADDITIONAL SESSIONS JUDGE**

## **APPENDIX**

### **Exhibits for the prosecution:-**

P1	- 27.08.2017	: Search list
P2	- 27.08.2017	: Seizure Mahazer
P3 series	- 27.08.2017	: Arrest memo and Arrest Notice
P4	- 27.08.2017	: Crime and Occurrence report
P5	- 27.08.2017	: Property list
P6	-	: Forwarding Note
P7	- 18.09.2019	: Scene Plan
P8	- 09.10.2019	: Possession Certificate
P9	- 25.09.2019	: Ownership Certificate
P10	- 22.10.2018	: Chemical Analysis Report
P11	- 23.02.2026	: Report regarding Non-Compliance of 53A

**Exhibits for the defence** : Nil

### **Witness for the prosecution**

PW1 -	05.03.2026	: T.Rajeev
PW2 -	18.03.2026	: Saileswari Pillai
PW3 -	18.03.2026	: Suresh
PW4 -	25.03.2026	: P.A.Sahadulla

**Witness for the defence** : Nil

### **Material Objects :-**

10 Litter Can with arrack

Sd/-  
**REENA DAS T.R.**  
**ADDITIONAL SESSIONS JUDGE**

Typed by : Ullas B.  
 Compared by : Jayakrishnan P

**TABULAR FORM TO BE APPENDED TO THE JUDGMENT AS PER  
RULE 132 OF CRIMINAL RULES OF PRACTICE KERALA, 1982.**

**Description of the Accused**

- |  |   |   |
|--|---|---|
| 1. Serial No.  | : | Sessions Case No.1955 /2022<br>( C.P. No.75 /2019 on the file of the<br>Judicial Magistrate of First Class,<br>Sasthamcotta ) |
| 2. Crime No. and name of<br>Excise Range               | : | Crime No.225/2017 of Sasthamcotta<br>Excise Range.  |
| 3. Name of accused                                     | : | Vasanthi  |
| 4. Father's/Husband's Name                             | : | Ramanan (Husband)   |
| 5. Residence   | : | Charuvila Puthenveedu, Naduvile Muri,<br>Sooranadu North, Kunnathur.  |
| 6. Occupation  | : | -   |
| 7. Age   | : | 50 years  |
| 8. Occurrence  | : | 27.08.2017  |
| 9. Complaint   | : | 27.08.2017  |
| 10. Apprehension                                       | : | 27.08.2017  |
| 11. Release on bail                                    | : | 28.09.2017  |
| 12. Commitment   | : | 23.09.2022  |
| 13. Commencement of trial                              | : | 05.03.2026  |
| 14. Date on which trial closed                         | : | 25.03.2026  |
| 15. Sentence or Order                                  | : | 04.04.2026  |
| 16. Name & Designation of<br>the committing Magistrate | : | Sri.Anil Kumar T.S.,<br>Judicial First Class Magistrate,<br>Sasthamcotta.   |
| 17. Explanation for delay                              | : | ...   |

**Sd/-  
REENA DAS T.R.  
ADDITIONAL SESSIONS JUDGE**

Typed by : Ullas B.  
Compared by : Jayakrishnan P

**CALENDAR STATEMENT IN THE ADDITIONAL SESSIONS  
COURT(ABKARI CASES), KOTTARAKKARA IN SC.1955 /2022**

1. Serial No. : Sessions Case No.1955 /2022  
( C.P. No.75 /2019 on the file of the  
Judicial Magistrate of First Class,  
Sasthamcotta )
2. Crime No. and name of Excise Range : Crime No.225/2017 of Sasthamcotta  
Excise Range.
3. Name of accused : Vasanthi
4. Father's/Husband's Name : Ramanan (Husband)
5. Residence : Charuvila Puthenveedu, Naduvile Muri,  
Sooranadu North, Kunnathur.
6. Occupation : -
7. Age : 50 years
8. Occurrence : 27.08.2017
9. Complaint : 27.08.2017
10. Apprehension : 27.08.2017
11. Release on bail : 28.09.2017
12. Commitment : 23.09.2022
13. Commencement of trial : 05.03.2026
14. Date on which trial closed : 25.03.2026
15. Sentence or Order : 04.04.2026
16. Name & Designation of the committing Magistrate : Sri.Anil Kumar T.S.,  
Judicial First Class Magistrate,  
Sasthamcotta.
17. Explanation for delay : ...

**Sd/-  
REENA DAS T.R.  
ADDITIONAL SESSIONS JUDGE**

Typed by : Ullas B.  
Compared by : Jayakrishnan P