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**IN THE COURT OF THE SESSIONS DIVISION, PALAKKAD**

**Present:- Sri.Kenneth George, Additional Sessions Judge No. IV**

Thursday the 12<sup>th</sup> day of March, 2026

(25<sup>th</sup> day of Phalguna, 1947 S.E.)

**Sessions Case No. 715/2018.**

Name of the Complainant : State of Kerala,  
Rep. by the Station House Officer,  
Mannarkkad Police Station,  
Crime No.388/2018.

Name of the Accused : Kanthaswami, Aged 43 Years,  
S/o.Murukesh, Ani Nivas,  
Chanthakkada Ooru, Thavalam,  
Agali.

Charge : U/s. 55(a), (i) and 13 r/w 63 of Abkari  
Act.

Plea of the accused : Not guilty.

Finding of the judge : Guilty.

Sentence or Order : The accused is found guilty of the  
offence under Section 13 r/w 63 of  
Kerala Abkari Act and he is convicted  
and sentenced to pay fine of ₹5,000/-  
(Rupees five thousand only). In  
default of payment of fine, he shall  
undergo S.I for a period of two  
months. The accused is found not guilty  
of the offence under Section 55 (a) and  
55 (i) of Abkari Act and he is acquitted  
of the said offence under Section 235  
(1) Cr.P.C.

Crime No. of offence and  
Name Police Station. : 388/2018 of  
Mannarkkad Police Station.

Prosecution conducted by : Adv.M.J.Vijaykumar,  
Addl. Public Prosecutor

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Accused defended by : Adv. M.P.Dinesh.

This case was committed by the Judicial First Class Magistrate, Mannarkkad in C.P. No. 39/2018, dated 13-11-2018.

**Description of the Accused**

Sl.No	Name	Father's name	Occupation	Residence	Age
	Kanthaswami	Murukesh	-	Ani Nivas, Chanthakkada Ooru, Thavalam, Agali.	Aged 43 Years.

**Date of**

	Occurrence	:	04-05-2018.
	Complaint	:	22-06-2018.
	Apprehension	:	04-05-2018.
	Release on bail	:	04-06-2018.
	Commitment	:	13-11-2018.
	Commencement of trial	:	27-05-2024.
	Close of trial	:	27-02-2026.
	Sentence or Order	:	12-03-2026.

Explanation for delay:- This case records received by transfer from the Principal Sessions Court, Palakkad on 12.12.2018. Charge framed on 21-05-2022. Evidence commenced on 27.05.2024. Evidence closed and posted for hearing to 27.02.2026 on the date heard both sides and judgment pronounced on 12.03.2026.

**JUDGMENT**

The accused Kanthaswamy is facing trial for the offences punishable under Sections 55 (a), 55 (i) and 13 r/w 63 of Abkari Act. The charge sheet was submitted by SI of police, Mannarkkad police station in Crime No. 388/2018 before the Judicial First Class Magistrate, Mannarkkad who took it to file as C.P. 39/2018

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and committed the case to Sessions court, Palakkad.

2. In a nutshell, allegation against the accused is that at about 9.45 p.m on 04/05/2018 the accused was found in possession of nine litres of IMFL for the purpose of sale, and was seen transporting in the jeep bearing registration No. KL/10/F/617 along Agali – Mannarkkad public road and intercepted by PW1 and party at Aanamooli Forest Check post. The accused thereby you have committed the offence punishable under Section 55 (a) and 55 (i) of Abkari Act.

3. The case was made over to this court by the Principal Sessions Court. Accused appeared on receipt of summons. He was on bail through out trial. Learned counsel appeared for the accused. After hearing both sides, charge under Sections 55 (a), 55 (i) and 13 r/w 64 of Abkari Act was framed, read over and explained to the accused to which he pleaded not guilty. Thereafter, the case was posted for evidence.

4. Prosecution examined PW1 to PW6 and Ext.P1 to Ext.P17 and Ext.C1 and MO1 were marked. On the close of prosecution evidence, the accused was examined under Section 313 (1) (b) of Cr.P.C as to the incriminating circumstances existing against him. He denied the evidence against him. Prosecution and defence were heard under Section 232 of Cr.P.C. It was found that accused was not entitled to be acquitted at that stage. Thereafter, the case was posted for defence evidence. But, no defence evidence was adduced.

5. Heard both sides.

6. Following points arise for ditermination.

1) Whether the accused possessed 9.00 litres of IMFL at 9.45 p.m on 04/05/2018 in violation of Abkari Act and Rules and thereby committed an offence punishable under Section 55 (a) of the Abkari Act ?

2) Whether the accused possessed for sale 9.00 litres of IMFL at 9.45 p.m on 04/05/2018 in violation of Abkari Act and Rules and thereby committed an offence punishable under Section 55 (i) of the Abkari Act ?

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3) Whether the accused possessed 9.00 litres of IMFL at 9.45 p.m on 04/05/2018 in violation of Abkari Act and Rules and thereby committed an offence punishable under Section 13 r/w 63 of the Abkari Act ?

4) What are the offences, if any, committed by the accused?

5) Sentence or order?

7. **Point Nos. 1 to 3:-** As evidence is adduced touching these points together, they are considered together.

8. PW1 was the SI of police, Mannarkkad police station. According to him, at 9.45 p.m on 04/05/2018 the police party was engaged in inspection of vehicles at Aanamooli Forest check post. At that time, they saw jeep driven by the accused proceeding towards Mannarkkad. On verification of the jeep, they found a bag on the back of driver's seat. The accused did not give any explanation. On verification of bag, it contained 9 bottles of one litre capacity, labelled Ramba XXX Rum, with seal of Beverages. The bottle was broke open, and by taste and smell he realized it as IMFL. As bottles are similarly labelled he collected three of them as samples sealed, labelled and affixed with seal of S.H.O and marked as S1 to S3. The remaining six bottles were marked as P1 to P6. The accused was arrested at the spot after preparing Ext.P1 and Ext.P2 arrest and inspection memos. The factum of arrest of the accused was intimated to his wife as per Ext.P3 intimation. He then prepared Ext.P4 seizure mahazar attested by witnesses. The accused, sample and contraband were produced in the station and he registered Ext.P5 FIR. Ext.P6 is a correction regarding column No. 3 of Ext.P5. The accused was then produced in court with Ext.C1 remand application. The samples were produced in court, on next day with Ext.P7 list. The remaining six bottles were produced before authorized Deputy Excise Commissioner with Ext.P8 List – II. Deputy Excise Commissioner prepared Ext.P9 inventory and addressed to Magistrate for certification as per Ext.P9 (a) letter. Ext.P10 is the letter given by him to the Executive Magistrate for certification.

9. PW2 was the Village officer of Palakkayam village who prepared

Ext.P11 scene plan on the basis of seizure mahazar.

10. PW3 was the C.P.O of Mannarkkad police station. The witness gave identical version of PW1 which is not extracted for brevity.

11. PW4 was Beat officer of Mannarkkad Forest station. The witness is cited as attesor to Ext.P12 scene mahazar. The witness admitted attestation of Ext.P12.

12. PW5 is an independent witness, deposed that in between 9.30 p.m and 10.00 p.m on a day in the month of May, 2013 he was travelling from Mukkali to Mannarkkad in his motorcycle with his friend Anshad. On reaching Aanamooli check post he saw a jeep, way-laid by the police. On the rear side of the jeep he found MO1 big shopper containing 9 bottles. By taste and smell he found out it as liquor. The police took accused in custody. The witness identified the accused in the dock.

13. PW6 was the Additional SI of police, Mannarkkad police station. On 05/05/2017 he took up investigation in this case. Then he arrived at the spot and prepared Ext.P12 scene mahzar. He filed Ext.P13 forwarding note for sending sample for analysis. Ext.P14 is the covering letter and Ext.P14 (a) is the receipt issued from chemical lab through WCPO 9101 Rajani. Ext.P15 is a seizure mahazar dated 29/05/2018 regarding inventory of items disposed. Ext.P15 (a) and Ext.P15 (b) are the photos and Form – 15. The chemical examiner's report revealing presence of ethyl alcohol is marked as Ext.P16. Ext.P17 is a letter by CW14, who submitted final report, for preparation of inventory.

14. Now it is necessary to discuss the evidence. For arrest of the accused at the spot, there are direct evidence of PW1, PW3 and PW5 forthcoming. Evidence of PW1 shows various measures adopted ever since arrest of the accused till registration of the crime. PW3 corroborated PW1 on all material particulars. PW5 also supported prosecution regarding seizure of contraband, arrest of the accused and preparation of Ext.P4 seizure mahazar. In the absence of convincing reasons, the versions of these witnesses need not be disbelieved.

15. At the outset itself it is to be noticed that the contraband seized

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from the possession of the accused was validly purchased from Government running Beverage corporation outlet. The evidence of PW1 itself shows that the IMFL was purchased from Beverages outlet at Kanjirath. Nobody has seen accused selling IMFL. So charge under Sections 55 (a) and 55 (i) fails. The only evidence available against the accused is excess possession of IMFL.

16. Even though PW1 and PW6 speak of preparation of inventory and certification, the certificate issued by the Magistrate is not produced and marked. Ext.P15 is only a mahazar regarding certification by the executive Magistrate. That is not sufficient for compliance Section 53 A of Abkari Act. The question for consideration is whether non compliance of Section 53 A of Abkari Act vitiates the entire prosecution. In **Bharat Ambala v. State of Chattisgrah, 2025 KHC Online 6050**, Hon'ble Supreme Court clearly held that non – compliance of Section 52 A of NDPS Act will not vitiate the entire prosecution case. Section 53 A of the Act is paramateria with Section 52 A of the NDPS Act. So non – compliance of Section 53 A will not vitiate prosecution initiated against the accused. So the prosecution succeeded in proving charge under Section 13 r/w 63 of Abkari Act against the accused. The points are partly answered in favour of the prosecution.

17. **Point No. 4 and 5:** In the result, the accused is found guilty for the offence punishable under Section 13 r/w 63 of Abkari Act and he is found not guilty of offence under Section 55 (a) and 55 (i) of the Abkari Act. The accused will be heard on the question of sentence thereunder.

*Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court on this the 12<sup>th</sup> day of March, 2026.*

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**Additional Sessions Judge-IV.**  
Palakkad.

18. Heard the accused on the question of sentence. The accused submitted as follows. I may be excused.

In the result,

- i) The accused is found guilty of the offence under Section 13 r/w 63 of Kerala Abkari Act and he is convicted and sentenced to pay fine of ₹5,000/- (Rupees five thousand only). In default of payment of fine, he shall undergo S.I for a period of two months.
- ii) The accused is found not guilty of the offence under Section 55 (a) and 55 (i) of Abkari Act and he is acquitted of the said offence under Section 235 (1) Cr.P.C.
- iii) MO1 being valueless shall be destroyed after the period of appeal.

*Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court on this the 12<sup>th</sup> day of March, 2026.*

-sd/  
**Additional Sessions Judge-IV.**  
Palakkad.

#### APPENDIX

**Prosecution Witnesses :-**

- PW1 - 27-05-2024: Vipin.K.Venugopal, SI of Police, Mannarkkad.  
PW2 - 04-07-2024: K.T.Joseph, Village Officer, Palakkayam.  
PW3 - 04-07-2024: Vinu Joseph, CPO 5363.  
PW4 - 12-08-2024: Surendran.C.V., Beat Forest Officer, Mannarkkad.  
PW5 - 07-02-2026: Ratheesh, S/o.Narayanan, Nechully, Mnnarkkad.  
PW6 - 13-02-2026: Mohanakumaran.M., Addl. Sub Inspector of Police, Mannarkkad.

**Prosecution Exhibits:-**

- P1 : Arrest Memo.  
P2 : Inspection Memo.  
P3 : Arrest Intimation.

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- P4 : Seizure Mahazer.  
P5 : FIR.  
P5(a) : FIS.  
P6 : Rectification Report in FIR.  
P7 : Property List.  
P8 : Property List-II.  
P9 : Inventory List.  
P9(a) : Request for Inventory.  
P10 : Request for Inventory Certificate.  
P11 : Scene Plan.  
P12 : Scene Mahazer.  
P13 : Forwarding Note.  
P14 : Covering letter.  
P14(a): Receipt.  
P15 : Seizure Mahazer.  
P15(a): Photo.  
P15(b): Form 15.  
P16 : Chemical Examination Report.  
P17 : Request for dispose the property.

**Defence Witnesses & Exhibits** : Nil.

**Court Witnesses** : Nil.

**Court Exhibits** :

- C1 : Remand Report.

**Material Objects Marked:**

- MO1 : Big Shopper.

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**Additional Sessions Judge-IV.**  
**Palakkad.**

Typed by: Sainabi.

Compared by: Aswathy Asokan.

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***Fair/Copy/* JUDGMENT IN**

**SC No. 715/2018**

**Dated: 12<sup>th</sup> March, 2026**