

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE, OTTAPALAM

Present:- Sri. Renjith Rajan, Assistant Sessions Judge.

Tuesday, the 17th day of March, 2026
(26th day of Phalgunam, 1947 S.E)

SESSIONS CASE No 230/2020

Complainant	:	State of Kerala represented by Excise Inspector, Excise Range Office Thrithala
Name of the accused	:	Sreedharan, Aged 75/2018 years, S/o Krishnan, Kunnummil House, Nhangattiri Desom Thrithala Village, Pattambi Taluk, Palakkad District.
Charge	:	Under section 55 (i) & 13 r/w 63 of Kerala Abkari Act I of 1077
Plea of the accused	:	Not guilty
Finding of the Judge	:	Not Guilty
Sentence or Order	:	Accused is found not guilty of the offence punishable under section 55 (i) of the Kerala Abkari Act and accused is acquitted U/s. 235 (1) of the Cr.P.C.
No. of Crime and name of Excise Range office	:	Crime No.66 of 2018, of Excise Range Office Thrithala.
Name and designation of the committing Magistrate and the No. of the case on her file.	:	Smt.Asha K. N., Judicial First Class Magistrate, Pattambi C.P. No 70/2019
Prosecution conducted by	:	Smt. P. M. Jaya, Addl. Public Prosecutor, Ottapalam.
Accused defended by	:	Advocate Sri. N. Ragesh
Date on which copy of Judgment was given to the accused.	:	

J U D G M E N T

The cognizance for the offence was taken on the basis of the final report filed by the Excise Inspector, Excise Range, Thrithala against the accused in Crime No.66/2018 for the offence punishable under Section 55(i) 63 of the Abkari Act.

2. The prosecution case is that, at 12.30 p.m. on 21.09.2018, in front of house No.VI/422 at Thalenapparambu, accused was found in possession of 4 litres of Indian Made Foreign Liquor and conducting sale of the same without any authority. Thereby, accused committed offences punishable under section 55(i) of the Kerala Abkari Act and the Rules thereunder.

3. CW1, the Excise Inspector, Excise Range Office, Thrithala registered the crime. CW6 the Excise Inspector, Excise Range, Thrithala conducted the investigation of the case and submitted the final report before the Judicial First Class Magistrate Court, Pattambi (hereinafter referred to as the committal court). Thereupon the case was numbered as C.P 70/2019. On appearance of the accused before the court of committal, procedure under section 207 of Cr.P.C was complied with and the case was committed to the Honourable Court of Session, Palakkad under section 209 of Cr.P.C. The Honourable Sessions Court made over the case to this Court for disposal.

4. The accused entered appearance before this Court and he was permitted to continue on the bail bond executed by him during the committal proceedings stage. The learned Additional Public Prosecutor opened the case by giving a brief description of the case and the evidence which she proposes to adduce in order to prove the guilt of the accused.

5. After hearing both sides, charge has been framed against the accused under Section 55(i) of the Abkari Act, read over and explained the same to the accused, to which accused pleaded not guilty and claimed to be tried. Then the case was scheduled for trial.

6. In order to prove the prosecution case, PW1 to PW4 were examined and Exts.P1 to Ext.P12 were marked.

7. After closing the prosecution evidence, the accused was questioned under Section 313 (1) (b) of the Cr.P.C. with regard to the various incriminating circumstances appearing in the evidence against him. Accused denied all such incriminating circumstances and stated that he is totally innocent in this case.

8. Thereafter, both sides were heard under Section 232 Cr.P.C. This Court was of the opinion that sufficient grounds were not made out to acquit the accused at the said stage. Hence, the accused was called upon to enter on his defence and adduce evidence.

9. After hearing both sides and perusing the records available in this case, the following points arise for consideration :-

- 1 Whether the accused was in possession of 4 litres of Indian Made Foreign Liquor in violation of Abkari Act or Rules thereunder so as to be punished under Section 55(i) of the Abkari Act?
- 2 Is the accused liable to be convicted for the offence, if so, what should be the proper sentence to be imposed on the accused ?

10. **Point No.1 :-** In this case PW1 is the officer who detected the offence. He deposed that on 21.09.2018 while he was engaged on patrolling duty he found the accused engaged in sale of liquor. The

accused was arrested. He took sample and prepared seizure mahasar. After returning to the office, he registered Case against the accused. Through him, arrest memo, seizure mahazar, Crime and occurrence report, property list, inventory, correctness certificate property list and Photographs were marked as exhibit P1 to P9.

11. PW2 is the Trithala village officer at that point of time. He deposed that he prepared scene plan in this case. The scene plan was marked as exhibit P10.

12. PW3 independent witness denied the prosecution case. But he admitted the signature in Exhibit P1 arrest memmo. He denied signature in Exhibit P3 seizure mahasar

13. PW4 is the excise Inspector who conducted investigation in this case. He narrated the investigation conducted by him. Through him the scene mahazar and chemical examination report were marked as Exhibit P11 and P12. He deposed that after investigation, he laid charge sheet against the accused.

14. As per seizure mahasar, 200ml of sample was taken in a 375ml glass bottle. As per the property list, it is a 375 ml plastic bottle. As per the forwarding note, it is a 330 ml glass bottle. So in this case, prosecution did not have a consistent case regarding the sample bottle.

15. In the forwarding note, the name of the officer is not seen mentioned. The seal is not seen affixed in the property list. The seal is not produced before court. The date of occurrence in this case is 21.09.2018. The charge sheet is seen filed on 05.12.2019. In **Chandran Chandrashekharan v. State of Kerala 2016 (4) KLT 727**, our Hon'ble High Court held that *the unexplained delay in completing the investigation and in filing the final report is fatal to the prosecution case.*

16. In this case, the scene mahazar is seen prepared only on 04.10.2019. The scene plan is seen prepared on 31.01.2019. The statement of witnesses is seen recorded 04.10.2019, and on 15.11.2019. So in the present case there is unexplained delay in filing the charge sheet interrogating witnesses, preparing scene mahazar and scene plan.

17. The sample is seen forwarded to the lab only on 04.10.2018. Who was the custodian of the sample till it was produced before court is not discernible from records. As per the seizure mahazar, what was seized is a brown colour liquid. As per the chemical examination report, it is an amber coloured clear liquid. In the chemical examination report, it is no where stated that label was affixed in the sample bottle. The chemical examination report is seen filed before court only on 22.02.2020. So there is unexplained huge delay in filing chemical examination report before court. In **2021 (4) KLJ 326 Thomas @ Joy v. State of Kerala**, our Honourable High Court held, "Unexplained delay in the analysis of sample is fatal to prosecution."

18. Based on the Rulings cited and the discussions made above, this is a case in which prosecution failed to prove their case. Point found against prosecution.

19. **Point No.2 :-** In view of the findings on Point No.1, accused is found not guilty of the commission of the offence punishable under Section 55(i) of the Abkari Act and he is entitled for an order of acquittal.

In the result,

- i The accused is acquitted under S. 235 (1) of the Code of Criminal Procedure.
- ii The bail bond executed by the accused stands cancelled and he is set at liberty.
- iii The thondy money of Rs.400/- (100x4) involved in this case, which is already remitted in Cr.C.D shall be confiscated to the Government on expiry of the period of appeal or if

appeal is presented, after disposal of the appeal.

Dictated to the Confidential Assistant, typewritten by him and taken print out, corrected and pronounced by me in open Court on this the 17th day of March, 2026.

Sd/-
ASSISTANT SESSIONS JUDGE

A P P E N D I X

The following witnesses were examined :

For the Prosecution:

PW1	:	Sri. Showkathli, Assistant Excise Inspector, Excise Range Office, Thrithala
PW2	:	Sri. Krishnakumar K. C. Village Officer, Thrithala Village
PW3	:	Sri. Shemeer S/o Abbas
PW4	:	Sri. ,Abhidasan P., Excise Inspector, Excise Range Office, Thrithala

For the Defence : NIL

The following Exhibits were marked

For the Prosecution:

Ext.P1	21/09/18	Arrest Memo
Ext.P2	21/09/18	Arrest Intimation
Ext.P3	21/09/18	Seizure Mahazar
Ext.P4	21/09/18	Crime and occurrence report
Ext.P5	21/09/18	Thondi List
Ext.P6	21/09/18	Inventory List
Ext.P7	Date Nil	Correctness Certificate
Ext.P8	Date Nil	Forwarding Note

Ext.P9	Date Nil	Photograph
Ext.P10	31/01/19	Scene Plan
Ext.P11	04/10/19	Scene Mahazar
Ext.P12	30/01/20	Chemical Analysis Report

For the Defence: Nil

Material Objects Marked : Nil

Sd/-

ASSISTANT SESSIONS JUDGE

Tabular Statement as per Rule 132 Criminal Rule of Practice of Kerala.

1.	Serial No.	:	
2.	Name of Excise Range Office and Crime No. of the offence	:	Crime No. 66/2018 of Excise Range Office Thrithala

3. Description of the accused:

Name and Residence	Father's Name	Occupation	Age
Sreedharan, Aged 75/2018 years, S/o Krishnan, Kunnunmmil House, Nhangattiri Desom Thrithala Village, Pattambi Taluk, Palakkad District.	S/o Krishnan	Coolie	75/2018

4. Date of :

Occurrence	:	21/09/18
Complaint	:	21/09/18
Apprehension	:	21/09/18
Released on bail		11/10/18
Commitment	:	24/01/20
Commencement of trial	:	Charge framed on 31.01.2023 commenced on 22.01.2026

Close of trial	:	12/03/26
Sentence or Order	:	17/03/2026
Explanation for the delay	:	No delay

Sd/-
ASSISTANT SESSIONS JUDGE

JUDGMENT IN

SESSIONS CASE

No 230/2020

DATED : 17.03.2026.