

CNR No.MHKO130009632024



Received on	-	21/06/2024		
Registered on	-	21/06/2024		
Decided on	-	12/06/2026		
Duration	-	Yrs.	M.	D.
		01	11	22
<u>State of Maharashtra Vs. Vasant Maruti Waydande.</u>				
<u>R/o. Malage, Tal. Kagal, Dist. Kolhapur.</u>				

S.C.C. No. 678/2024

Exh No. 07/B

J U D G M E N T
(Delivered on 12/06/2026)

The accused is facing trial for the offence punishable u/s. 65(e) of the Maharashtra Prohibition Act.

2. Heard Ld. A.PP. Smt. S. A. Mhamulkar and Mr. S.P. Sangar Ld. advocate for the accused.

3. The points which arise for my determination along with the findings and with reasons thereon are as under :-

Sr. Nos.	Points	Findings
[1]	Does the prosecution prove that, on 25/05/2024 at 07.45 pm, at Malage bu., Tal. Kagal, accused was found in possession of total 09 lit. handmade country liquor without having any valid license or permit for selling & has thereby committed an offence punishable under Section 65(e) of The Maharashtra Prohibition Act ?	Not proved.
[2]	What order ?	As per final order.

:- REASONS :-

As to Point No.1 :-

4. In the instant case, the informant Mr. Bhandigare (PW.-2) is examined by the prosecution, during his deposition the First Information Report & panchnama proved. His deposition demonstrates that, the alleged offence was occurred on 25/05/2024. However, there is no corroboration to the deposition of this witness from any independent witness.

5. During cross-examination the informant Mr. Bhandigare (PW.-2) was unable to give the details of the vehicle number & driver of the alleged vehicle which is used for the raid. Moreover, informant Mr. Bhandigare had admitted that they had not sent the bogus customer nor inquired with the reputed people for the confirmation of the confidential information received. He is unable to tell the detail description of the spot of incidence. All these aspects creates doubts regarding the seizure of the alleged muddemal & also regarding the said muddemal was sent to the Chemical Analysis.

6. To prove the seizure panchnama at the instance of panch witnesses, prosecution has examined the panch Mr. Ananda (PW.-1) but he has not supported to the prosecution & denied the incident and description as per the panchnama. More importantly, inspite of sufficient time & opportunity has been given to the prosecution, prosecution has failed to record the evidence of the panch & other independent witnesses.

7. There is no Chemical Analysis report on record. In the absence of Chemical Analysis report, the prosecution has not examined their further witnesses. Thus, the sole testimony of the informant can not be relied upon. There is no statement of the Chemical Analysis sample carrier seems to be recorded by the Investigating Officer. In spite of such a fact, this Court has waited for much more time for the Chemical Analysis Report. However, the same is not filed on record.

8. Chemical Analysis report is a determinant factor while deciding the cases under The Prohibition Act. Even if, all the witnesses for the prosecution are examined and there is no Chemical Analysis report on record, in the absence of such report mere testimony of the prosecution witnesses corroborating the incident will not be helpful. A layman cannot decide the nature of muddemal merely on the basis of observation. In fact, the analysis report is in the form of expert opinion, on the basis of which, court can proceed further with the case.

9. In the absence of Chemical Analysis report, no fruitful purpose of the case will be served. This court has waited for sufficient time for the expert report. Due to the absence of chemical analysis report, the prosecution has not examined their further witnesses. Therefore, due to these facts, the prosecution has failed to prove that the articles which were allegedly seized from the possession of the accused were contraband articles in the form of illicit liquor. In the result, the allegations leveled against the accused are not proved. Consequently, the accused is entitled for the acquittal. Hence, I answer Point No. 1 in the negative.

As to Point No. 2 :-

10. The seized muddemal i.e. one plastic can having total 09 lit. handmade country liquor, are not claimed by anyone. Hence it is just & proper to send the alleged muddemal of country liquor to the State Excise Office Kolhapur for its disposal according to law, after appeal period is over.

11. As the point no. 1 is answered in negative, in answer to point no. 2, I proceed to pass the following order:-

ORDER

1. Accused **Vasant Maruti Waydande** is acquitted vide section 264 of Code of Criminal Procedure for the offence punishable under Section 65(e) of The Maharashtra Prohibition Act.
2. The bail bond of accused is cancelled.
3. The muddemal property in the offence i.e. a) total 09 lit. handmade country liquor be sent to The State Excise Office, Kolhapur for its disposal according to law, after appeal period is over.
4. The accused shall execute personal bond of Rs. 15,000/- (Fifteen Thousand Rupees Only) & furnish surety of like amount as a compliance of Section 437-A of Code of Criminal Procedure, 1973.
5. The copy of Judgment be sent to the concerned Police Station.

Dictated and pronounced in open Court.

Kagal.
Date:- 12/06/2026.

(Smt. P S. Patil)
Judicial Magistrate F.C., (Court No.2),
Kagal.