IN THE COURT OF THE JUDICIAL MAGISTRATE OF I CLASS, PONDURU
Present: Smt. B. Jyotsna, Judicial Magistrate of I Class, Ponduru

Tuesday this the 5th day of September' 2023

C.C.No.307 of 2022

Between:

State Represented by
Sub-Inspector of Police, Special Enforcement Bureau, Ponduru P.S.

... Complainant

A n d:

Gudla Satyanarayana, S/o Daleppadu, aged about 37 years, C/o Vysya, r/o Nadimivalasa village, G.Sigadam Mandal, Srikakulam District.

... Accused

This case came up on 30.08.2023 for final hearing before me in the presence of learned incharge Asst. PP for complainant-State and Sri D.Kiran Babu , Advocate for the accused. Upon hearing both sides and basing on the material on record, this court delivered the following:

J U D G M E N T

01. The Sub-Inspector of Police, Special Enforcement Bureau, Ponduru P.S., filed charge sheet in crime number 01/2022 against the sole accused for the offence punishable under section 34(a) (i) of Andhra Pradesh Excise Amendment Act, 2020.

02. Brief facts of the case of prosecution is that on 03.01.2022 about 19.30 hours. L.W.4/P.Srinivasa Rao, Inspector of SEB, Ponduru along with his staff went to conducted raids at Nadimivalasa village G.Sigadam mandal. They found the accused with a polythene bag containing 14 liquor bottles of Green choice Superior whiskey each 180 ml. On enquiry the accused revealed his name and details and he stated that the liquor bottles are brought for sale at higher prices in his village for livelihood. On that L.W.4 drafted occurrence report. Under the Occurrence report 14 bottles were seized and took one bottle as sample. L.W.4 produced the accused for judicial remand. Basing on the Occurrence report, L.W.4 registered a case as crime number 01/2022 under section 34(a) (i) of Andhra Pradesh Excise Amendment Act, 2020. L.W.4 on his letter of advice sent the

samples for chemical analysis and he received chemical analysis report with an opinion that the samples are “Indian made Liquor”. L.W.4/P.Srinivasa Rao, Inspector of SEB, Ponduru received the confiscation orders of the property and on completion of investigation he filed charge sheet. Hence, the case.

03. This court took cognizance for the offence punishable under section 34(a) (i) of Andhra Pradesh Amendment Act, 2020 against the accused. After appearance of the accused before this court, copies of case documents are furnished to him as per section 207 Criminal Procedure Code.

04. Basing on the record, accused was examined under section 239 Criminal Procedure Code and framed charge under section 34(a) of Andhra Pradesh Excise Act’ 1968. The contents of charge was read over and explained to him in Telugu language for which he pleaded not guilty and claimed to be tried.

05. To prove the case, P.W.1 and P.W.2 are examined. Ex.P1 to P6 and M.O.1 are marked. The evidence of L.W.2/B.Simhachalam, SEB Constable and L.W.3/P.Krishna Rao, SEB Constable are given up by learned incharge A.PP.

06. After closure of the prosecution evidence, the accused was examined under section 313 Criminal Procedure Code. The incriminating material on record was read over and explained to him in Telugu language. After understood the same, he denied and did not choose to let either oral or documentary evidence on his behalf.

07. **Now the point for determination is:**

Whether the prosecution proved the guilt of the accused for the offence punishable under section 34(a) of Andhra Pradesh Excise Act, 1968 beyond all reasonable doubt?

08. As seen from the record, the case of prosecution is that on 03.01.2022 about 19.30 hours. L.W.4/ P.Srinivasa Rao, Inspector of SEB, Ponduru along with his staff went to conducted raids at Nadimivalasa village G.Sigadam mandal. They found the accused with a polythene bag containing 14 liquor bottles of Green choice Superior whiskey each 180 ml. On enquiry the accused revealed his name and details and he stated that the liquor bottles are brought to sale at higher prices in his village. On that L.W.4 drafted occurrence report. Under the Occurrence report 14 bottles were seized and took one bottle as sample. Accused sent to judicial

remand on his arrest by L.W.4. Basing on the Occurrence report, L.W.4 registered a case as crime number 01/2022 under section 34(a) of Andhra Pradesh Excise Amendment Act' 2020. L.W.4 on his letter of advice sent the samples for chemical analysis and he received chemical analysis report with an opinion that the samples are "Indian made Liquor". L.W.4/P.Srinivasa Rao, Inspector of SEB, Ponduru received the confiscation orders of the property and on completion of investigation he filed charge sheet. Hence, the case.

09. In this case prosecution cited four witnesses. L.W.1/K.Krishnamurthy, Seb Constable was examined as P.W.1. The investigation officer L.W.4/ P.Srinivasa Rao, Inspector of SEB, Ponduru was examined as P.W.2. Other witnesses L.W.2/B.Simhachalam, SEB Constable and L.W.3/P.Krishna Rao, SEB Constable are given by learned incharge A.PP. Ex.P1: Signature of P.W.1 on Occurrence report, dated 03.01.2022, Ex.P2: Occurrence report, dated 03.01.2022, Ex.P3: First Information Report, dated 03.01.2022, Ex.P4: Letter of Advise, dated 06.01.2022, Ex.P5: Chemical analysis report, dated 11.03.2022 and Ex.P6: Attested copy of Confiscation orders dated 06.05.2022. M.O.1: Sample bottle of Green choice Superior whiskey.

10. The evidence on record shows that P.W.1 and P.W.2 visited the place of offence, from the evidence of P.W.1 and P.W.2 it is clear that the accused was found in possession of total 14 bottles of liquor bottles. P.W.1 deposed about his presence along with P.W.2. It is the combine evidence that accused revealed his name and details and also stated that he is selling the liquor bottles. On that P.W.1 drafted the occurrence report and registered a case crime number 01/2022 under section 34(a) of Andhra Pradesh Excise Amendment Act' 2020 basing on the occurrence report. The accused was arrested and sent for judicial remand. During investigation, P.W.2 sent the samples for analysis on his letter of advice. On completion of investigation he filed charge sheet.

11. Considering the above evidence on record, the findings in cross examination of the witnesses P.W.1 and P.W.2 are that the place of offence is a busy locality. They did not secure any independent persons at the place of offence. Other part of cross examination are denials for suggestions put to the witnesses by learned counsel for accused.

12. Heard the arguments of learned incharge A.P.P. and learned defense counsel. The learned Assistant Public Prosecutor argued that the section 34(a) of A.P Excise Act is clearly proved by the prosecution witnesses and so the accused shall be punished for the same. On the other hand, the learned defence counsel argued that Ex.P1 & Ex.P2 have material contradictions proves no case in favour of the prosecution. He argued that no confession statement filed by the prosecution as alleged by them moreover this case is based on occurrence report prepared by the I.O who is also the complainant in this case. Thus, owing to several material contractions and omissions, the case of the prosecution stands not proved. So, accused cannot be convicted in this case. Thus he argued to let off the accused by extending benefit of doubt.

13. Thus, from the entire evidence, it revealed that P.W.2 registered this case against the accused on basis of occurrence report. The recitals of Ex.P1 to Ex.P6 only show the investigation and cause of filing the case. The recitals of Ex.P1 to Ex.P3 are inconsistent with oral evidence of P.W.1 and P.W.2 in cross examination. Further, the prosecution though cited the Chemical examiner in this case but did not examine to corroborate with the documentary evidence Ex.P4 along with M.O.1. Furthermore, the point of selling liquor bottles by the accused was not shown by the prosecution at any point of time. Thus, it is not safe to rely only on official witnesses P.W.1 and P.W.2, as there are some inherent lapses in the case of prosecution. Hence, this court holds that the prosecution had failed to establish its case against the accused for the offence punishable under section 34(a) of Andhra Pradesh Excise Act, 1968 beyond all reasonable doubt. Therefore, this court intend to extent benefit of doubt to the accused.

14. In the result, the accused is found not guilty for the offence punishable under section 34(a) of Andhra Pradesh Excise Act, 1968. Accordingly he is acquitted under section 248 (1) Criminal Procedure Code for the above said offence. The bail bonds of the accused shall stand canceled after lapse of six months as per section 437-A Criminal Procedure Code. The case property i.e. M.O.1: Sample bottle of Green choice Superior whiskey shall be destroyed after lapse of appeal time.

Typed on my laptop by me, prints taken by typist, corrected and pronounced by me, in the open court on this the 5th day of September' 2023.

Judicial Magistrate of I Class,

Ponduru.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Prosecution:	For Defence
P.W.1: K.Krishnamurthy, SEB Constable	- NONE-
P.W.2: P.Srinivasa Rao, Inspector of SEB, Ponduru	

Documents marked

For Prosecution:

Ex.P1: Signature of P.W.1 on Occurrence report, dated 03.01.2022

Ex.P2: Occurrence report, dated 03.01.2022

Ex.P3: First Information Report, dated 03.01.2022

Ex.P4: Letter of Advise, dated 06.01.2022

Ex.P5: Chemical analysis report, dated 11.03.2022

Ex.P6: Attested copy of Confiscation orders dated 06.05.2022

For Defence: -Nil-

Material object:

For Prosecution:

M.O.1: Sample bottle of Green choice Superior whiskey

For Defence: -Nil-

Judicial Magistrate of I Class,
Ponduru.