

Calender Case No.180 of 2026
Crime No.03/2025, Thoppur Police Station, Dharmapuri
IN THE COURT OF JUDICIAL MAGISTRATE COURT NO.II

Present :Tmt.R.SUSHMITHA,B.A.,L.L.B.,(Hons.,)

The Judicial Magistrate Court No.II, Dharmapuri.

On the Tuesday, the 30th day of June 2026.

Calender Case (CC.) No.180 of 2026

In

Crime No. 03/2025

(On the file of *Thoppur* Police Station, Dharmapuri)

CNR No. TNDP040033742025

Statement as per Rule Section 125 of the Bharatiya Nagarik Suraksha Sanhita

1.	Serial Number	Calender Case (CC.) No. 180 of 2026
2.	Name of the Police Station and Crime No.	State of Tamil Nadu represented by its Sub Inspector of Police, <i>Thoppur</i> Police Station, Dharmapuri Crime No. 03 of 2025 Complainant
3.	Name of the Accused	DURAI (M) S/O. GOVINDHAN RESIDENT AT, JARUGU VILL, MANIYATHAHALLI (PO) NALLAMPALLI (TK), DHARMAPURI (DT). Occupation: -- Accused
4.	Fathers Name	
5.	Occupation	
6.	Residence	
7.	Age	
8.	Date of occurrence	07.01.2025 at about 17.00 hours
9.	Date of Charge sheet and	Date of Chargesheet : 07.01.2025

Calender Case No.180 of 2026
Crime No.03/2025, Thoppur Police Station, Dharmapuri

	Date on which chargesheet was filed into Court	Date of Filing Chargesheet: 11.02.2026
10.	Date of Apprehension	--
11.	Date of Release on bail	07.01.2025
12.	Date of Commitment	--
13.	Date of Commencement of Trial (The date of furnishing of documents u/s. 230 BNSS)	12.06.2026
14.	Charges framed against the accused and their plea	On 20.05.2026 the accused was questioned on charges were framed against the accused for the offences u/s. 4(1)(C) TNP Act 2024 When the charges was read out and explained to the accused, he pleaded not guilty and claimed to be tried. Hence the case was posted for trial in accordance with 277 of the Bharatiya Nagarik Suraksha Sanhita 2023
15.	Closure of Trial	15.06.2026
16.	Sentence or Order	The Accused is FOUND NOT GUILTY and ACQUITTED (U/s.278(1) BNSS) of the offences punishable u/s. 4(1)(c) TNP Act 2024
17.	Service of copy of the judgement or finding on the accused	Copy of the judgment was uploaded on CIS and made available for download on E-Courts Portal
18.	Explanation of delay	Not applicable

Calender Case No.180 of 2026
Crime No.03/2025, Thoppur Police Station, Dharmapuri

19.	Property Order U/s. 498 Code of Bharatiya Nagarik Suraksha Sanhita 2023	--
20.	Counsel for the Complainant	Ms.Tamilselvi, Assistant Public Prosecutor – Grade – II
21.	Counsel for Accused	Mr.S.Joykumaran, Advocate

Paragraphs in the judgement assigned continuous paragraph numbers in due obedience of the direction of the Hon'ble Supreme Court of India in BS Hari Commandant vs Union of India and others (2023 LiveLaw SC 303)

The case came up for final hearing before me today in the presence of **Mr.S.Joykumaran**, Advocate, the learned counsel for the Accused and Ms.Tamilselvi, the learned Assistant Public Prosecutor for the State. Having heard both sides, perused records and having stood over it for consideration, this Court on **30.06.2026 (Tuesday)** delivers the following.

JUDGEMENT

I. CASE OF THE PROSECUTION

1. The prosecution alleged that on 07.01.2025, at about 5.00 p.m., within the limits of Thoppur Police Station, at Jarugu Village, the accused Durai (aged 36), S/o Govindan, residing at Jarugu Village and Post, Nallampalli Taluk, Dharmapuri District, was found near the Government TASMALC Liquor Shop in possession of 26 bottles of Express Brandy, each containing 180 ml, which he had allegedly purchased without Government authorization and kept for the purpose of illegal retail sale at a higher profit. It was therefore alleged that the accused committed an offence punishable under Section 4(1)(c) of the Tamil Nadu Prohibition Act.

II. FURNISHING OF COPIES AND HEARING OF CHARGES:

2. Upon service of the summons u/s. 227 of the Bharatiya Nagarik Suraksha Sanhita 2023 (hereinafter called as Code) and on the production of the Accused, copies of the final report and the documents were given to the Accused in compliance with section 230 BNSS of the Code.

3. Thereafter, Charges was framed against the Accused u/s. 4(1)(C) TNP Act. When the charges were read out and explained to the accused, they pleaded not guilty and claimed to be tried. Hence the case was posted to trial in accordance with section 271 (1) BNSS of the Code

III. EVIDENCE ADDUCED BY THE PROSECUTION:

4. In order to prove the charges against the accused, the prosecution examined witnesses, P.W. 1 to P.W 2. Exhibits Ex.P1 to Ex.P2 were marked on behalf of the prosecution.

5. P.W. 1 is the Search and Seizure Mahazar Witnesses, P.W.2 is the Investigation officer.

IV. QUESTIONING U/S. 351 (1)(b) OF BHARATIYA NAGARIK SURAKSHA SANHITA 2023

6. The circumstances appearing in the evidence of the witnesses against the Accused were put to him and his answer was elicited. The Accused replied that the case against him is false and the case was foisted against him.

V. POINT FOR DETERMINATION:

7. Whether the prosecution has proved beyond all reasonable doubts that the accused has committed the offences u/s. 4(1)(c) TNP Act against him?

VI. APPRECIATION OF EVIDENCE AND FACTS:

a) *Whether the prosecution has proved beyond reasonable doubt that the accused has committed offence u/s.4(1)(c) TNP Act ?*

8. The prosecution alleged that on 07.01.2025, at about 5.00 p.m., within the limits of Thoppur Police Station, at Jarugu Village, the accused Durai (aged 36), S/o Govindan, residing at Jarugu Village and Post, Nallampalli Taluk, Dharmapuri District, was found near the Government TASMAL Liquor Shop in possession of 26 bottles of Express Brandy, each containing 180 ml, which he had allegedly purchased without Government authorization and kept for the purpose of illegal retail sale at a higher profit. It was therefore alleged that the accused committed an offence punishable under Section 4(1)(c) of the Tamil Nadu Prohibition Act.

9. To discharge the burden on the prosecution, the prosecution examined Mr. Pradeep SSI as PW1 who deposed on 07.01.2025, at about 5.00 p.m., while he was attached to the Dharmapuri Prohibition Enforcement Wing, the then Special Sub-Inspector of Police, Mr. Prabhakaran, received secret information regarding an illicit liquor offence. Acting on the said information, he and Head Constable Sureshkumar, who were on prohibition patrol duty, proceeded to the vicinity of the Government TASMAL Liquor Shop at Jarugu Village, Thoppur.

10. He stated that they found the accused Durai carrying a bag and behaving suspiciously. On seeing the police party, the accused attempted to flee but was apprehended. Upon enquiry, it was found that the accused was in possession of 26 bottles of Express Brandy (180 ml each), which he had kept for illegal retail sale without Government permission.

11. He further deposed that he and Head Constable Sureshkumar handed over the seized liquor bottles to Special Sub-Inspector Prabhakaran. Thereafter, the accused was arrested and, at about 6.00 p.m., a Seizure Mahazar-cum-Destruction Mahazar was prepared in the presence of himself and Head Constable Sureshkumar. He

Calender Case No.180 of 2026
Crime No.03/2025, Thoppur Police Station, Dharmapuri

stated that both of them signed the Mahazar as witnesses. He further deposed that Special Sub-Inspector Prabhakaran examined him and recorded his statement. He identified the Seizure Mahazar-cum-Destruction Mahazar, which was marked as Exhibit.P1.

12. However, he admitted in his cross-examination that during the time when the alleged bottles allegedly seized from the accused, they did not include any common people or third person as witness. He further admitted that no photographs of the said bottles seized were taken and also admitted that the liquor in the bottles seized were not put to any laboratory analysis and submit before this court. He also admitted that no observation mahazar was prepared and submitted before this court to prove the place of occurrence.

13. Prosecution further examined IO as PW2 who deposed that on 07.01.2025, while he was serving as Special Sub-Inspector of Police at Thoppur Police Station and was attached to the Dharmapuri Prohibition Enforcement Wing, he received secret information at about 5.00 p.m. regarding the illegal possession and sale of liquor. Acting upon the information, he, along with Head Constables Pradeep and Sureshkumar, proceeded to the vicinity of the Government TASMAL Liquor Shop at Jarugu Village.

14. He stated that they found the accused Durai carrying a bag. On noticing the police, the accused attempted to escape but was apprehended. During enquiry, it was found that he had illegally possessed Express Brandy bottles of 180 ml each for unauthorised retail sale. The accused was arrested at about 5.15 p.m., and his relatives were informed about the arrest.

15. He further deposed that the accused produced 27 bottles of 180 ml Express Brandy, which had been concealed. As no independent witnesses were willing to witness the seizure, the liquor bottles were seized at about 5.30 p.m. in the presence of Head Constables Pradeep and Sureshkumar, and a Seizure Mahazar

Calender Case No.180 of 2026
Crime No.03/2025, Thoppur Police Station, Dharmapuri

was prepared. The seized liquor was destroyed at the spot in accordance with the prescribed procedure. Thereafter, the accused was subjected to a physical examination and was produced before the Station Writer at about 6.00 p.m.

16. He further stated that he registered Crime No. 03/2025 of Thoppur Police Station under Section 4(1)(c) of the Tamil Nadu Prohibition Act, prepared the First Information Report, forwarded the relevant records to the jurisdictional Judicial Magistrate and the superior police officers, completed the investigation, and filed the Final Report against the accused Durai on 07.01.2025 for the offence punishable under Section 4(1)(c) of the Tamil Nadu Prohibition Act. He identified the First Information Report, which was marked as Exhibit P2.

17. However, in his cross-examination, he admitted that he did not investigate and acquaint himself regarding the fact that from where did the accused brought the alleged bottles of liquor allegedly seized from the accused. He further admitted that no forensic analysis has been conducted and produced before this court for a proof of any adulteration in liquor bottles allegedly seized from the accused . Further, he admitted that PW-1 and PW-2 are police witnesses and the liquor bottles and the liquor allegedly seized and destroyed in front of PW-1 and PW-2.

b) Whether the prosecution has proved beyond reasonable doubt that the accused has committed offence u/s. 4(1)(c) TNP Act Act?

18.The main ingredients u/s. 4(1)(C) TNP Act are

- i) Whoever, imports, exports, transports or possesses
 - ii) Liquor/ any intoxicating drug
- which is punishable u/s. 4(1)(C) of TNP Act.

The prosecution states that the accused possessed the liquor bottles which were banned by the Government for the purpose of sale as alleged in section 4 (1)(a) of TNP Act. However, the prosecution has examined 2 witnesses that is PW1 and

Calender Case No.180 of 2026
Crime No.03/2025, Thoppur Police Station, Dharmapuri

PW2, who were police witnesses. PW1 and PW2 categorically admitted in their cross-examinations that they did not submit before this Court the entries made in general diary or in the movement register as a proof for their act of patrol duty. Also it is pertinent to note, PW1 and PW2 being the police witnesses themselves, did not take any step to seize the alleged bottles front of any independent witnesses and the reason for that absence was not stated as evidence before this court. It is pertinent to note that PW2, Investigation Officer, admitted in his cross-examination that the prosecution did not investigate and produce before this Court that from where the alleged bottles of liquor was bought by the accused. PW2 also admitted that no entries in the general diary and movement register has been produced before this Court as evidence for the alleged patrol duty of PW1 and PW2 from where they seized the properties from the accused.

19. It this juncture it is also important to note that no liquor was subject to chemical analysis in laboratory to prove the nature of the liquid seized.

20. For the above mentioned discussion and also for the lack of independent witnesses for the seizure and destruction of property seized and also not production of evidence for proving that PW1 and PW2 was on patrol duty on the said day at the said time creates doubt on the prosecution and makes it weak. Hence the prosecution failed to prove charges against the aaccused beyoud reasonable doubt.

21. Therefore upon consideration of the depositions of the witnesses and the exhibits filed by the prosecution, this Court finds that the prosecution has failed to prove in accordance with section 3 of the Indian Evidence Act, 1872 the accused person has committed the offence U/s.4(1)(C) TNP Act.

VII. FINDING:

22. The complicity of the accused person the crime was failed to be brought out by the determination of Points already. Therefore, upon consideration of the

Calender Case No.180 of 2026
Crime No.03/2025, Thoppur Police Station, Dharmapuri

deposition of the witnesses and the exhibits filed by the prosecution, this Court holds that the prosecution has failed discharged its burden to prove the case against the accused beyond any reasonable doubt which remained unrebutted by the accused.

VIII.THE DECISION:

23. In light of the discussion and conclusions drawn under the previous heads this Court holds that the prosecution has FAILED TO PROVE the charges against the accused beyond all reasonable doubts.

24. Hence, the Accused is FOUND NOT GUILTY and ACQUITTED (U/s.278(1) BNSS) of the offences punishable u/s. 4(1)(C) TNP Act.

IX. PROPERTY ORDER U/S.498 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA 2023 CODE

25. No Case Property.

Typed by me in my laptop, corrected and pronounced by me in the open court on this Tuesday, the 30th day of June 2026.

**Judicial Magistrate No.II,
Dharmapuri.**

Note:

- i. No witness was retained more than three times*
- ii. The outcome of the case shall be forthwith communicated to the complainant and the learned APP of this Court vide email.*

Calender Case No.180 of 2026
Crime No.03/2025, Thoppur Police Station, Dharmapuri
LIST OF EVIDENCE

(As per Rule 107(1) of the Criminal Rules of Practice, 2019)

PROSECUTION SIDE WITNESS:

S.No	Rank of the Witness	Name of the Witness	Remarks	Date of examination	Exhibits marked
1)	PW1	Pradeep HC	Search & Seizure mahazar witness	12.06.2026	P1
2)	PW2	Prabakaran	Investigating Officer	15.06.2026	P2

APPENDIX B:

<u>S.No.</u>	<u>Exhibit</u>	<u>Date of Document</u>	<u>Description of the document</u>
1)	Ex.P1	12.06.2026	Destroyed Mahazar with Seizure Mahazar
2)	Ex.P2	15.06.2026	First Information Report

MATERIAL OBJECTS

<u>S.No.</u>	<u>Material Object</u>	<u>Date of M.O</u>	<u>Description of the M.O</u>
1.	--	--	--

Calender Case No.180 of 2026
Crime No.03/2025, Thoppur Police Station, Dharmapuri

DEFENCE SIDE WITNESSES: NIL

APPENDIX – E: NIL

DEFENCE SIDE EXHIBITS:

<u>S.No.</u>	<u>Exhibit</u>	<u>Date of Document</u>	<u>Description of the document</u>
1.	--	--	--

Judicial Magistrate No.II,
Dharmapuri.