

IN THE COURT OF JUDICIAL MAGISTRATE No. I, DHARMAPURI

Present : Thiru. A.Tamilarasu, L.L.M.,
Judicial Magistrate No. I,
Dharmapuri

C.C.No. 119 of 2026
(CNR No. TNDP04-003758-2025)

Tuesday, the 14th day of July, 2026

(திருவள்ளூர் ஆண்டு பரபாவ 2056 – ஆனி – 30ம் நாள் – செவ்வாய்க்கிழமை)

Complainant : State rep. by,
SSI of Police,
PEW – Dharmapuri Police station
Crime No. 649/2024

Accused : Karthick, aged 32/24,
S/o. Nagarajan,
Opp Shanthi Rice Mill,
Papparapatty Main road,
Old Dharmapuri Post,
Dharmapuri

Accused was defended by : Mr. K. Kumaresan,
(MS No. 1052/1994)

Finding : acquitted u/s. 271(1) BNSS

Sentence : Not applicable

Serial No.	Description of accused					
	Name	Father's name	Caste / race	Occupation	Residence	Age
1	Karthick	Nagarajan	-	-	Opp Shanthi Rice Mill, Papparapatty Main road, Old Dharmapuri Post, Dharmapuri	43/25

Date of							Explanation of delay
Occurance	Complaint	Apprehension or appearance	Release on bail	Commencement of trail	Close of trail	Sentence or order	
27.07.2024 at 17.00 hrs	27.07.2024	27.07.2024	27.07.2024 (released on Station Bail)	02.06.2026	04.07.2026	14.07.2026	No delay

This case came up for hearing before me on 04.07.2026 in the presence of Mrs. **Subathra**, Assistant Public Prosecutor – Grade I and Mr. K. Kumaresan, (MS No. 1052/1994), Counsel for Accused and after perusing the documents filed, evidence adduced and upon hearing the submission of both sides, this Court passes the following

JUDGMENT

1. ***The case of prosecution in brief:***

That on 27.07.2024 at about 17.00 hrs, the Accused abovenamed stated to have been in possession of 27 Nos. of Express Brandy bottles each containing 180 ml which he intended for retail sales in violation of the Tamil Nadu Prohibition (Amendment) Act, 2024. Hence, on the basis of suo motu complaint of Mr. S. Murugan, SSI, the Accused was charged for offence u/s. 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2024.

2. That upon receipt of final report, this Court after careful consideration taken this case on file on 05.02.2026 for offence under u/s. 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2024 against Accused.
3. That on service of summons, Accused appeared before this Court on 02.06.2026 on which day copies of documents relied on by prosecution were furnished to the Accused free of cost under Section 230 BNSS.
4. On perusal of documents, prima facie case was made out against the Accused for which charges were framed for offence u/s. 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2024. The contents of the charges against the Accused were read over and explained but Accused pleaded not guilty and claimed to be tried by this Court on 16.06.2026. Hence, this Court ordered the Accused to be tried and stand for trial.

5. On the side of prosecution, PW1 – Mrs. V. Parameshwari – WHC 413, AWPS, Dharmapuri, witness to seizure mahazar and PW2 – Mr. S. Murugan, SSI, Investigation officer were examined. Exhibits – P1 to P2 marked.
6. PW1- Mrs. V. Parameshwari – WHC 413 stated that 27.07.2024, at about 17.00 hrs, when she alongwith Mr. Kapil Dev, HC – 162 were on patrol duty under Mr. M. Murugan, SSI alone Savulur within the jurisdiction of B1- Dharmapuri Police station limit, the Accused abovenamed who was in possession of bag in his hand tried to flee from the place. On suspicion, when he was waylaid and secured, Accused was found in possession of 27 Nos. of Express Brandy bottles each containing 180 ml. On examination, the said Indian Made Foreign liquors (IMFL) were in open bottles or in bottles whose labels and capsules are not intact / tampered. The Accused stated to have voluntarily confessed that he was in possession of IMFL bottle with intention to sell in retail with higher margin. That arrest was effected on Accused and IMFL bottles in open condition or whose labels & capsules are not intact / tampered were recovered under seizure mahazar. PW1 further stated that contents of 27 Nos. of Express Brandy bottles each containing 180 ml were destroyed alongwith empty receptacles. Through PW1, seizure mahazar was marked as Ex. P1.
7. PW2 – Mr. S. Murugan, SSI, Investigation officer deposed in consonance with what was stated by PW1 as above. PW2 too deposed that contents of 27 Nos. of Express Brandy bottles each containing 180 ml were destroyed alongwith empty receptacles. That the Accused was brought to police station and based on suo motu complaint, First Information report (Ex. P2) in Cr.No. 649/2024 u/s. 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2004. That in pursuance of investigation, Accused

abovenamed was charge sheeted on 27.07.2024 for offence u/s. 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2004. With the examination of PW2, prosecution evidence was closed.

8. In this case, incriminating evidence as found from the evidence adduced by prosecution were reduced in form and questioned to the Accused under Section 351(1)(b) BNSS on 04.07.2026 which was denied by Accused and stated that there is no evidence on his side for examination.

Arguments advanced by learned Assistant Public Prosecutor:

9. That prosecution had examined 2 witnesses i.e., PW1 & PW2 and through them Exhibits P1 & P2 were marked. The prosecution had proved its case beyond reasonable doubt against the Accused for offence u/s. 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2004 and hence prayed to convict the Accused for the offences charged.

10. Arguments advanced by learned counsel for Accused:

Mere possession of IMFL bottles even if it is considered to be true as alleged, the 27 Nos. of Express Brandy bottles each containing 180 ml were not produced before the court. Though it is alleged that IMFL bottles so recovered were in open condition or its labels / capsules are not intact, even photograph of same was not produced. Though the provision under the Tamil Nadu Disposal of Articles (Confiscated under the Tamil Nadu Prohibition Act) Rules, 1979 allows destruction by competent authority adjudging confiscation, the Investigation officer herein cannot choose to destroy the same as he is not competent authority.

11. The complaint was registered suo motu by police and the investigation officer as well as complainant are same, such that entire exercise was for the purpose of statistics.

The point for determination is whether the prosecution had proved the charge under u/s. 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2004 against Accused supported by evidence beyond reasonable doubt?.

12. Heard both sides. Records perused. This court records that case was registered based on suo motu complaint lodged by Mr. S. Murugan, SSI who himself had investigated the case which is though permissible and not automatically barred from investigating, the contention of learned counsel for Accused needs to be considered in light of the same.
13. The mere perusal of First Information report states that contraband seized from Accused was in open condition viz., "அரசு மதுபான பாட்டில்கள் லேசாக திறந்த நிலையில் இருந்தது". In such situation, i.e, when the IMFL bottles whose labels and capsules are not intact or where sedimentation is found, there arises doubt or suspicion in regard to quality of fitness for consumption of stock so seized. In such given situation, the samples ought to have been drawn from contrabad and same ought to have been sent for chemical analysis to analyse whether it was spurious or not.
14. As contended by learned counsel for Accused, though the provision under the Tamil Nadu Disposal of Articles (Confiscated under the Tamil Nadu Prohibition Act) Rules, 1979 allows destruction by competent authority adjudging confiscation, the Investigation officer, Mr. S. Murugan, SSI abovenamed cannot choose to destroy the same as he is not competent authority. Though it is alleged that IMFL bottles so recovered were in open condition or its labels / capsules are not intact, even photograph of same was not produced before this court.
15. More pertinently, even when Tamil Nadu Disposal of Articles (Confiscated under the Tamil Nadu Prohibition Act) Rules, 1979 allows

destruction of liquors when the labels / capsules of bottles are not intact, it does not allow destruction of empty bottle / receptacles. The said rule allows auction of empty receptacles in fit condition and that too after clearing the traces of liquor. In either way, the Investigation officer had not complied with provisions of Tamil Nadu Disposal of Articles (Confiscated under the Tamil Nadu Prohibition Act) Rules, 1979 in destroying the contraband so seized.

16. Though recovery was made on 27.07.2024 at 17.00 hrs at Savulur, no independent witnesses were cited on the side of prosecution to support recovery / destruction. The averment that no independent witness came forward to depose / stood as witness cannot be appreciated.
17. This court records that the Tamil Nadu Liquor (Possession for Personal Consumption) Rule, 1996 allows any individual to possess 4.5 Litres (4500 ml) of Indian Made Foreign Spirits for his / her personal consumption. The recovery alleged to have been made is 4860 ml of Express brandy which when considered from the cumulative discussion above appears to have been made for statistical purpose though mere possession itself an offence.
18. No property alleged to have been recovered from Accused was ever produced before this court. The offence (possession of IMFL bottles) stated to have been committed when TASMAC shops were opened / operational and it appears to be too remote to connect the Accused to have found in possession of 27 Nos. of Express brandy bottles each containing 180 ml.
19. Hence, for the reasons stated above, giving the Accused benefit of doubt, this court records that the prosecution failed to prove the charge against Accused and thus acquits him of charge u/s. 4(1)(C) of the Tamil Nadu

Prohibition (Amendment) Act, 2004 as per Section 271(1) BNSS and set him at liberty in the interest of justice.

20. No property remanded in this case, hence no order as to property.

In the result, this Court finds the Accused not guilty of offence u/s. 4(1) (C) of the Tamil Nadu Prohibition (Amendment) Act, 2004 and hence this Court hereby orders acquittal under Section 271(1) BNSS and set Accused at liberty in the interest of justice.

Dictated by me to typist, typed by him in laptop, verified by me to be correct, pronounced by me in open Court on 14th day of July, 2026

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Dharmapuri

Prosecution side witness:

1. PW1 – Mrs. V. Parameshwari – WHC 413, AWPS, Dharmapuri,
witness to seizure mahazar
2. PW2 – Mr. S. Murugan, SSI, Investigation officer

Prosecution side evidence:

Ex. P1	27.07.2024	Seizure mahazar
Ex. P2	27.07.2024	First Information report

Prosecution side material objects :

-NIL-

Defence side witness:

-NIL-

Defence side evidence:

-NIL-

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Note :

1. That judgment pronounced in this case was duly intimated to Police.
2. That no witness were summoned more than 3 times
3. That the Accused was on bail during the trial of this case.

CASE SUMMARY

Sl. No	Description	Details		
1	The period of remand of accused	-		
2	The date of filing of the final report in the court	05.02.2026		
3	The date of committal of the case to the Court of sessions	-Not applicable-		
4	The date of questioning of the accused under section 316 BNSS	16.06.2026		
5	Filing of the miscellaneous petitions and their results including the results on challenge before superior courts, except routing petitions like petitions under Section 317 of the code	Nil		
6	The date of examination-in-chief and cross-examination of a witness	Witnesses	Examined in-Chief	Cross examination
		PW 1	02.07.2026	02.07.2026
		PW 2	02.07.2026	02.07.2026
7.	The date of examination of the accused under section 351 BNSS	04.07.2026		
8.	Details of abscondance of an accused and his appearance / production, as the case may be	-Nil-		
9.	Grant of stay by superior courts and the results thereof	-Nil-		

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