

IN THE COURT OF JUDICIAL MAGISTRATE, HARUR

Present: **Mr. DHINAKARAN.N**, Judicial Magistrate, Harur.

Thursday, the 18th day of June 2026

C.C. No.38 of 2026

State represented by

The Inspector of Police,

Morappur Police Station.

Crime No. 171/2025.

... Complainant

-VS-

Sundaram, (Age 60/2025), S/o. Chennan,

Thamaleripatti Vill, Parayapatti Po,

Harur Taluk, Dharmapuri District.

... Accused

This case was taken up for hearing on 06.03.2026 The learned Assistant Public Prosecutor, Grade-II, Mr. M. Jagadeesan, appeared for the prosecution, and the learned advocate, Thiru. M. Ilango, B.A., B.L., appeared for the accused. On 18.06.2026, after hearing arguments from both sides, reviewing documents, materials, and witness depositions, this court delivers the following:

JUDGMENT

1. The offender faces prosecution for an infraction punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937. It is the case of the prosecution that on 22.11.2025 at about 13:00 hours, at Morappur to Harur Road Santhaimedu, the accused was found in possession of 27

bottles of "Express Brandy" (each measuring 180ml) inside a white gunny bag, transported on a TVS XL two-wheeler bearing registration number TN-29-DZ-5585, without any valid license or government permit, for the purpose of selling the same in retail to the public for illicit monetary profit.

2. The investigative machinery was set in motion by the then Sub-Inspector of Police, Selvi. Nandhini, who purportedly apprehended the accused at the spot, seized the contraband and the vehicle, destroyed the liquor bottles on the spot owing to the non-availability of independent public witnesses, registered the First Information Report in Crime No. 171/2025, and after recording the statements of the police witnesses, filed the Final Report.
3. Upon appearance of the accused, the requirements under Section 230 of BNSS were duly complied with, and a formal charge under Section 4(1) (C) of the Tamil Nadu Prohibition Act, 1937 was framed against the accused. When the charge was read over and explained, the accused pleaded not guilty and claimed to be tried.
4. To bring home the guilt of the accused, the prosecution deployed three witnesses, designated as PW1 to PW3, and marked documentary evidence from Ex.P1 to Ex.P5. On the side of the prosecution, no material objects were marked since the contraband was destroyed at the spot. Upon completion of the prosecution evidence, the accused was questioned under Section 351(1)(b) of BNSS regarding the incriminating circumstances appearing in the evidence against him. The accused denied

the truth of the evidence in toto, maintained that a false case had been foisted upon him, and chose not to adduce any defense evidence.

Points for Determination

5. The following points arise for determination:

- i. Whether the prosecution has proved beyond reasonable doubt that on 22.11.2025 at 13:00 hours at Morappur Santhaimedu, the accused was in conscious possession of 27 bottles of 180ml Express Brandy without any lawful authority, and thereby committed an offence punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937?*
- ii. Whether the prosecution has proved the identity, seizure, and the subsequent lawful destruction of the alleged contraband in accordance with the statutory safeguards?*
- iii. What order as to sentence or disposal?*

Analysis of Evidence and Findings

6. To establish the first and second points, the prosecution heavily relies on the ocular testimonies of PW1 (Head Constable Vijay) and PW2 (Head Constable Carmegam), who were members of the joint patrol team. Both these witnesses uniformly deposed in their examination-in-chief that while they were on vehicle check duty along with the Investigating Officer, Nandhini, at Morappur Santhaimedu, the accused arrived on a TVS XL two-wheeler carrying a white gunny bag, attempted to flee upon

sighting the police party, and was subsequently cornered. They further stated that the bag contained 27 bottles of 180ml Express Brandy, which the accused confessed to having purchased for retail sale at premium rates. They also identified their respective signatures in the Seizure Mahazar (Ex.P1) and the Destruction Mahazar (Ex.P2). PW3 (Sub-Inspector Gokul) is an official witness who has no personal or direct knowledge of the occurrence but was examined merely to mark the institutional records, including the Destruction Mahazar (Ex.P3), FIR (Ex.P4), and the confiscation proposal sent to the Additional Superintendent of Police, PEW (Ex.P5), on account of the primary Investigating Officer, Nandhini, being away on maternity leave.

7. The absolute lack of independent public witnesses in a heavily populated commercial zone cuts deep into the core of the prosecution's narrative. It is an admitted fact by PW1 and PW2 in their cross-examination that Morappur Santhaimedu is a highly bustling, crowded locality flanked by commercial establishments and shops on both sides of the road. PW1 and PW2 explicitly conceded that if such an incident had occurred at 13:00 hours in broad daylight, it would have definitely been witnessed by the local shopkeepers and members of the public.
8. Despite this, the law enforcement team did not reduce into writing any request to the local shopkeepers to stand as witnesses, nor did they record the names of anyone who allegedly refused to cooperate. While the testimony of police personnel cannot be discarded solely on account of their official status, the absolute absence of independent corroboration in a public market area, where plenty of witnesses were readily available,

necessitates this Court to scrutinize the police version with a high degree of caution and circumspection.

9. The vulnerability of the case is deepened by the fatal admissions extracted from PW1 and PW2 during their cross-examination. Both the recovery witnesses categorically and unequivocally admitted that "இந்த வழக்கில் கைப்பற்றுதல் மகசர் மற்றும் அழித்தல் மகசரை காவல் நிலையத்தில் வைத்து தயார் செய்தோம் என்றால் சரிதான்" (It is correct to suggest that the Seizure Mahazar and Destruction Mahazar in this case were prepared only at the police station).
10. This single admission completely shatters the genesis of the prosecution's story regarding the spot-apprehension, the recovery of the contraband under a fair procedure at the scene of crime, and the immediate destruction of the liquor bottles in the presence of witnesses. If the mahazars were meticulously drawn up within the comfortable confines of the police station, the claim of a spot-seizure at 13:00 hours become highly doubtful and artificial. This directly supports the defense theory that the documents were mechanically manufactured to build up a case against the accused.
11. Furthermore, the complete non-observance of mandatory investigative procedures creates an unbridgeable lacuna in the prosecution's case. PW3, who brought the records to court, as well as PW1 and PW2, admitted that the Investigating Officer failed to prepare an Observation Mahazar or a Rough Sketch of the scene of occurrence.

12. In a criminal trial, an Observation Mahazar and a Rough Sketch are not empty formalities; they are vital tools that locate the precise topography of the crime scene, verify the visibility of the spot, and confirm the feasibility of the vehicle interception. The total absence of these structural documents leaves the court in total darkness regarding the exact spot where the accused allegedly attempted to flee from West to East, as claimed during the cross-examination. This omission, when viewed alongside the admission that no confession statement or signature was obtained from the accused, exposes a very sloppy, careless, and substandard investigation.
13. A final and incurable blow to the prosecution's case is the inexplicable, gross delay in transmitting the foundational records to this Court. The alleged date of occurrence is 22.11.2025. PW3 admitted in his cross-examination that the First Information Report (Ex.P4) reached the jurisdictional court only on 06.03.2026, which is after an astounding, unexplained delay of nearly four months. Section 176 of BNSS mandates that the copy of the FIR must be sent forthwith to the Magistrate to prevent any manipulation, colorable coloring, or post-meditated fabrications of facts.
14. A four-month delay in a simple prohibition case where the accused was allegedly caught red-handed is thoroughly fatal to the prosecution. This egregious delay, combined with the admission that all records were manufactured at the police station, leads to the inescapable conclusion that the entire case against the accused is plagued by reasonable doubts. Consequently, the prosecution has failed to prove Point No. 1 and Point

No. 2 beyond reasonable doubt, and the benefits of these deep, pervasive doubts must inevitably be extended to the accused.

Final Order

15. In the result, the prosecution has failed to establish the guilt of the accused beyond reasonable doubt for the offense under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937.

16. Holding the points for determination in favor of the accused, and acting under Section 271(1) of BNSS, this Court hereby acquits the accused, Sundaram, of the charge leveled against him.

17. The bail bond executed by the accused shall stand cancelled, and the sureties are discharged. The vehicle TN-29-DZ-5585 is ordered to be dealt with in accordance with the final orders of the confiscation proceedings initiated under Ex.P5 before the authorized officer.

Dictated to the Steno-Typist, transcribed by her, corrected and pronounced by me in the open court on this the 18th day of June, 2026.

**Judicial Magistrate,
Harur.**

APPENDIX OF EVIDENCE

1. Witness Examined on the Side of the Prosecution:

- PW1: Vijay

- PW2: Karmegam
- PW3: Gokul.

2. Documents Marked on the Side of the Prosecution:

- Ex.P1: Seizure Mahazar dated 22.11.2025.
- Ex.P2: Destruction Mahazar (attached with Ex.P1) dated 22.11.2025.
- Ex.P3: Destruction Certificate/Mahazar
- Ex.P4: First Information Report (FIR) in Crime No. 171/2025.
- Ex.P5: Request letter/Proposal for vehicle confiscation sent to the Additional Superintendent of Police, PEW.

3. Material Objects Marked on the Side of the Prosecution:

- Nil

4. Witness/ Documents/ Material on the Side of the Accused:

- Nil

**Judicial Magistrate,
Harur**

Notes:

The authorities shall be informed of the case outcome.

No witness was detained beyond three days.

Depositions were taken under the Oaths Act, 1969, and verified