

IN THE COURT OF JUDICIAL MAGISTRATE, HARUR

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

Friday, the 12th day of June 2026

C.C. No.33 of 2026

State represented by

Inspector of Police,

Prohibition Enforcement Wing, Harur.

Cr.No. 345/2025

... Complainant

Versus

Parasuraman, S/o Vedan,

Ammapettai Vill, Theerthamalai Po,

Harur Tk, Dharmapuri Dt.

... 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. C. Sakthivel, B.A., B.L., appeared for the accused. On 12.06.2026, after hearing arguments from both sides, reviewing documents, materials, and witness depositions, this court delivers the following:

JUDGMENT

1. The prosecution has laid the present final report alleging that on 03.08.2025 at about 4.00 p.m., the accused Parasuraman was found in possession of twenty-six bottles of 180 ml Black Pearl Brandy near his residence situated at Ammapettai Village within the limits of Kottapatti Police Station and within the jurisdiction of the Prohibition Enforcement Wing, Harur. According to the prosecution, the accused had stocked the said liquor bottles for the purpose of selling them in retail at a price higher than the prescribed rate without any licence or lawful authority and thereby committed an offence punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937.
2. Upon appearance of the accused, copies of the prosecution records were furnished as required under law. The substance of accusation was explained to the accused. The accused denied the allegations and claimed to be tried.
3. In support of its case, the prosecution examined PW1 to PW3 and marked Ex.P1 to Ex.P3. No material object was produced before Court. After closure of the prosecution evidence, the accused was examined under Section 351 of the Bharatiya Nagarik Suraksha Sanhita with regard to the incriminating circumstances appearing against him. The accused denied the same and did not choose to adduce any evidence in defence.
4. Upon consideration of the evidence available on record, the following points arise for determination:

- i. Whether the prosecution has proved beyond reasonable doubt that on 03.08.2025 at about 4.00 p.m. the accused was found in possession of twenty-six bottles of 180 ml Black Pearl Brandy without lawful authority as alleged?*
- ii. Whether the prosecution has further established beyond reasonable doubt that such possession was for the purpose of unlawful retail sale attracting Section 4(1)(C) of the Tamil Nadu Prohibition Act?*
- iii. To what relief?*

Discussion

Point Nos.1 and 2

- 5. Both points being interconnected are taken up together for discussion.
- 6. The prosecution principally relies upon the testimony of PW1 Sureshkumar, PW2 Venkatachalam and PW3 Chandra.
- 7. PW1 has deposed that on 03.08.2025 at about 4.00 p.m., while he was on patrol duty along with PW2 under the leadership of PW3, the police party received secret information that the accused was selling liquor without authority. Acting upon the said information, they allegedly proceeded to the house of the accused at Ammapettai Village where the accused was found in possession of twenty-six bottles of brandy intended for sale. PW1 further deposed that the liquor bottles were seized under a mahazar and that the seized property was subsequently destroyed under orders of superior officers.

8. PW2 has substantially corroborated the chief examination of PW1 regarding the receipt of information, seizure of twenty-six liquor bottles and preparation of seizure mahazar.
9. PW3, the Inspector of Police, has spoken about the detection of the offence, seizure of twenty-six bottles of Black Pearl Brandy, registration of Crime No.345 of 2025 under Section 4(1)(C) of the Tamil Nadu Prohibition Act, investigation of the case and eventual destruction of the seized liquor pursuant to the order of the Assistant Commissioner of Prohibition and Excise marked as Ex.P3.
10. The prosecution would contend that the evidence of PW1 to PW3 is consistent and inspires confidence and therefore the accused should be convicted.
11. This Court has carefully examined the oral and documentary evidence available on record.
12. At the very outset, it is seen that the occurrence is alleged to have taken place near the residence of the accused in a residential locality. Both PW1 and PW2 have admitted during cross-examination that there were houses situated near the place of occurrence. They have further admitted that persons residing nearby were available and were questioned by the police. PW3 has also admitted that private persons were present at the scene.
13. Despite the admitted availability of independent witnesses, none were associated with the seizure proceedings. No resident of the locality was examined before Court. No explanation of a convincing nature has been

offered for the failure to secure any independent witness. The prosecution case therefore rests entirely upon the testimony of police officials.

14. Though there is no legal impediment to basing a conviction solely on official witnesses, where independent witnesses are admittedly available and yet withheld, the Court is expected to scrutinize the prosecution evidence with greater care and caution. The omission assumes significance in the present case because the alleged seizure occurred in a residential area and not in a secluded place.
15. A further important circumstance emerges from the evidence regarding the alleged purpose of sale. Both PW1 and PW2 have categorically admitted that at the time of occurrence no person was present to purchase liquor from the accused. No customer was identified. No purchaser was examined. No currency allegedly received from any sale transaction was recovered. No decoy operation was conducted. Thus, there is absolutely no direct evidence of any actual sale or attempted sale.
16. The prosecution seeks to infer intention to sell solely from the alleged statement made by the accused before the police officers. Such a statement attributed to the accused cannot by itself become substantive evidence against him. The prosecution is required to establish the ingredients of the offence through legally admissible evidence. In the absence of any corroborative circumstance, the allegation regarding intention to sell remains unsubstantiated.

17. The evidence further reveals that no confession statement was obtained from the accused. PW1, PW2 and PW3 have uniformly admitted that no confession statement was recorded. Likewise, no observation mahazar and no rough sketch of the place of occurrence were prepared. Such documents ordinarily serve as important contemporaneous records corroborating the prosecution version regarding the place and manner of occurrence. Their absence assumes importance in a case founded solely upon police testimony.
18. Another glaring deficiency in the prosecution case concerns the handling of the alleged contraband. PW1 and PW2 have admitted that the bottles were destroyed. According to PW3, the liquor was subsequently destroyed pursuant to orders issued by the competent authority. However, no representative sample appears to have been preserved and no chemical examination report has been produced before the Court.
19. Consequently, there is no scientific evidence whatsoever establishing that the contents of the bottles allegedly seized from the accused were in fact liquor prohibited under law. The prosecution expects the Court to rely solely upon the oral testimony of police officials regarding the nature of the contents. In criminal proceedings, particularly those involving intoxicating substances, production of scientific evidence assumes considerable importance. The failure to preserve samples and obtain chemical analysis deprives the Court of the best available evidence.
20. The Court also notices material contradictions between the evidence of prosecution witnesses. PW3 has stated that the accused attempted to flee on

seeing the police party. However, PW2 has categorically admitted in cross-examination that the accused did not attempt to escape. This contradiction pertains to the very manner of occurrence and therefore cannot be brushed aside as a minor discrepancy.

21. Another significant circumstance adversely affecting the prosecution case is the delay in forwarding the First Information Report to the Court. PW3 has candidly admitted that though the FIR was registered on 03.08.2025, it was forwarded to Court only on 06.03.2026 along with the final report. Such an extraordinary delay remains wholly unexplained.
22. Prompt forwarding of the FIR to the jurisdictional Magistrate is one of the safeguards intended to prevent subsequent embellishment or fabrication. The unexplained delay of several months in transmitting the FIR to Court creates a serious doubt regarding the authenticity and spontaneity of the prosecution version.
23. The Court further notices that PW3 was not merely the detecting officer but also the complainant and investigating officer. While there is no absolute prohibition against such investigation, the evidence collected through such investigation requires cautious evaluation. In the present case, where there is absence of independent corroboration and several procedural safeguards have not been observed, the evidence of PW3 requires careful scrutiny.
24. The cumulative effect of the above circumstances cannot be ignored. The prosecution has failed to secure any independent witness despite availability; failed to produce any purchaser or evidence of sale; failed to obtain any

confession statement; failed to prepare an observation mahazar or rough sketch; failed to preserve samples for chemical examination; failed to explain the enormous delay in forwarding the FIR to Court; and presented evidence containing material contradictions regarding the occurrence itself.

25. The settled principle of criminal jurisprudence is that suspicion, however strong, cannot take the place of legal proof. The burden always lies upon the prosecution to establish guilt beyond reasonable doubt. Every accused enters the trial clothed with the presumption of innocence and such presumption continues until displaced by reliable and convincing evidence.

26. Having carefully appreciated the entire evidence on record, this Court is of the considered view that the prosecution has failed to establish the essential ingredients of the offence beyond reasonable doubt. The evidence available creates substantial doubt regarding the truthfulness of the prosecution case and such doubt must necessarily enure to the benefit of the accused.

27. The prosecution has failed to prove beyond reasonable doubt that the accused was found in unlawful possession of twenty-six bottles of 180 ml Black Pearl Brandy as alleged.

28. The prosecution has failed to prove beyond reasonable doubt that the alleged possession was for the purpose of unlawful sale attracting Section 4(1)(C) of the Tamil Nadu Prohibition Act.

Point No.3

29. In view of the findings recorded on Point Nos.1 and 2, the accused is entitled to the benefit of doubt.
30. Accordingly, the accused Parasuraman, S/o Vedan, is found not guilty of the offence punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937. The accused is therefore acquitted under Section 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023. The bail bond, if any, executed by the accused shall stand cancelled upon expiry of the statutory appeal period.
31. As regards the case property, the evidence of PW3 together with Ex.P3 establishes that the seized liquor bottles were destroyed pursuant to the orders of the competent authority. Since no material object remains available before this Court, no further order regarding disposal of property is necessary and the destruction already effected is hereby recorded.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the open court on this the 12th day of June 2026.

Judicial Magistrate
Harur.

APPENDIX OF EVIDENCE

I. LIST OF WITNESSES EXAMINED ON THE SIDE OF THE PROSECUTION

PW No.	Name and Description
PW1	Sureshkumar, Head Constable, Prohibition Enforcement Wing, Harur
PW2	Venkatachalam, Head Constable, Prohibition Enforcement Wing, Harur
PW3	Chandra, Inspector of Police, Prohibition Enforcement Wing, Harur

II. LIST OF DOCUMENTS MARKED ON THE SIDE OF THE PROSECUTION

Exhibit No.	Description
Ex.P1	Seizure Mahazar dated 03.08.2025
Ex.P2	First Information Report in Crime No.345 of 2025 of Prohibition Enforcement Wing, Harur
Ex.P3	Certified copy of the proceedings/order dated 19.11.2025 issued by the Assistant Commissioner, Prohibition and Excise, Dharmapuri,

**Exhibit
No.**

Description

permitting destruction of the seized liquor bottles

III. LIST OF MATERIAL OBJECTS

Nil

IV. LIST OF WITNESSES/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