

IN THE COURT OF JUDICIAL MAGISTRATE, HARUR

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

Friday, the 19th day of June 2026

C.C. No. 87 of 2025

The State represented by

The Inspector of Police,

Morappur Police Station.

(Crime No. 215 of 2024)

... Complainant / Prosecution

vs.

Palanisamy (Age 36/2025), S/o. Pachaiyappan,

Chinthalpadi Village, Pappireddipatti Taluk,

Dharmapuri District.

... Accused

This case was taken up for hearing on 05.08.2025. 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 19.06.2026, after hearing arguments from both sides, reviewing documents, materials, and witness depositions, this court delivers the following:

JUDGMENT

1. The prosecution has launched these criminal proceedings against the accused for an offense punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937.
2. The pivot of the prosecution case is that on 03.11.2024, at about 10:00 AM, the accused was found in possession of 26 bottles of "Old Chef" Brandy (180ml each) behind his residential house at Chinthalpadi village

without any valid license or government permit, kept with the ultimate objective of selling the same in retail to the general public for illicit premium profit.

3. The factual matrix of the case, as projected by the prosecution, is that on the day of the incident, while the Sub-Inspector of Police, Nandhini, along with Head Constable Mr. Karmegham and Grade-I Constable Mr. Karthikeyan, was engaged in prohibition vigilance duty within the territorial limits of Chinthalpadi village, they spotted the accused standing in a highly suspicious manner behind his house, holding a bag. Upon noticing the police party, the accused attempted to flee the spot.
4. However, he was intercepted and cornered by the police team. A physical search of the bag carried by the accused revealed the presence of 26 bottles of "Old Chef" Brandy, each measuring 180ml. On immediate interrogation, the accused reportedly confessed that he purchased the government liquor from a TASMAL outlet to sell it in retail at a higher rate for personal financial gain. Since no independent local witnesses were willing to come forward, the Sub-Inspector arrested the accused and seized the liquor bottles under a seizure mahazar prepared in the presence of the accompanying police personnel.
5. The contraband was destroyed on the spot by pouring it out, and a destruction mahazar was appended. Following this, the police party returned to the Morappur Police Station with the accused, where a case was formally registered, statements of witnesses were recorded, and upon completion of the investigation, the final report was submitted before this Court.
6. The final report and supporting documents were taken on file as C.C. No.

87 of 2025 by this Court. Copy of the case documents were furnished to the accused under Section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). When the substance of the accusation was explained to the accused, he pleaded not guilty and claimed to be tried.

7. To bring home the guilt of the accused, the prosecution examined three witnesses as PW1 to PW3 and marked the Seizure-cum-Destruction Mahazar as Ex.P1 and the First Information Report as Ex.P2. Upon completion of the prosecution evidence, the accused was questioned under Section 351(1)(b) of the BNSS regarding the incriminating circumstances appearing against him in the evidence. The accused denied all the circumstances as false and absolute fabrications, maintaining a stand of total innocence, though he chose not to adduce any defense evidence on his side.

POINTS FOR DETERMINATION

8. The following points are arise for consideration;
 - i. *Whether the prosecution has proved beyond reasonable doubt that on 03.11.2024 at about 10:00 AM, behind his house at Chinthalpadi village, the accused was in conscious possession of 26 bottles of Old Chef"Brandy (180ml each) without any legal license or permit, in contravention of the Tamil Nadu Prohibition Act?*
 - ii. *Whether the prosecution has established beyond all judicial standard of proof that the recovery, seizure, and spot-destruction of the alleged contraband were conducted in accordance with the established statutory procedures?*

- iii. *Whether the accused is liable to be convicted under Section 4(1) (C) of the Tamil Nadu Prohibition Act, 1937?*

ANALYSIS AND DISCUSSION

Point No. 1 & 2:

9. Since both these points are heavily intertwined with the appreciation of the testimony of the witnesses and the procedural validity of the search and seizure, they are taken up together for common discussion. The cornerstone of the prosecution's case rests entirely on the testimonies of PW1 (Head Constable Karmegham) and PW2 (Head Constable Karthikeyan), who were the accompanying members of the raid party. Both PW1 and PW2, in their respective examinations-in-chief, replicated the prosecution version by stating that they were on prohibition duty along with the then Sub-Inspector Nandhini, intercepted the accused behind his residence, found 26 bottles of 180ml "Old Chef" Brandy in his bag, and witnessed the preparation of the seizure and destruction mahazar (Ex.P1) at the spot. PW3, the present Sub-Inspector of Police, stepped into the witness box to formally mark the records, including the FIR (Ex.P2), owing to the maternity leave of the investigating officer.
10. The defense has subjected PW1 and PW2 to searching cross-examination, which has severely fractured the credibility of the search, seizure, and the foundational genesis of the case. A critical evaluation of the cross-examination of PW1 reveals a devastating admission that completely demolishes the theory of spot-seizure and spot-destruction. PW1 has categorically admitted in his cross-examination, "கைப்பற்றுதல் மகசர் மற்றும் அழித்தல் மகசரை காவல் நிலையத்தில் வைத்து தயார் செய்தோம் என்றால் சரிதான்" (It is correct to suggest that the seizure mahazar and

destruction mahazar were prepared at the police station). He went on to further admit that all the 26 bottles allegedly found at the spot were actually brought intact to the police station, and Form-91 along with the mahazars were filled up and signed only within the four walls of the police station.

11. This admission is not an isolated slip of the tongue; it finds absolute and unequivocal corroboration in the cross-examination of PW2. PW2 has similarly conceded in plain words that the entire paperwork, including Ex.P1, was generated at the police station and that the 26 bottles were transported from the spot to the station. These admissions completely falsify the narrative dynamic built in the examination-in-chief and the recitals of Ex.P1, which claimed that the bottles were uncapped and destroyed on the spot due to the non-availability of independent witnesses.
12. If the bottles were destroyed at the spot, the question of bringing 26 bottles intact to the police station, as admitted by both eyewitnesses, does not arise. Conversely, if they were brought to the police station, the recital in Ex.P1 regarding spot-destruction is a glaring falsehood. This contradiction tears a gaping hole in the fabric of the prosecution case, indicating that the documentation was artificially constructed at the station.
13. The prosecution case suffers from another fatal infirmity regarding the unexplained, inordinate delay in dispatching the foundational records to the Court. It is an established principle of criminal jurisprudence under the BNSS framework that the First Information Report and connected spot-mahazars must be forwarded to the Magistrate without any

unjustifiable delay to rule out any subsequent brainstorming, manipulation, or deliberate implication.

14. In the present case, the date of the alleged offense and registration of the FIR is 03.11.2024. A perusal of the record and the admission extracted during the cross-examination of PW3 reveals that the FIR (Ex.P2) reached this Court only on 05.08.2025, which is after a staggering and unexplained delay of more than nine months.
15. PW3, when confronted with this vital delay, merely stated that he was unaware of the reasons behind such an egregious postponement. There is absolutely no explanation forthcoming from the prosecution side as to why a routine prohibition FIR was kept in cold storage for nearly three-quarters of a year before being sent to the judicial repository. This immense, unchecked delay, coupled with the categorical admissions of PW1 and PW2 that all documents were manufactured at the police station, reinforces the defense theory that the case was constructed at leisure, stripping the prosecution of its claim to a clean, untainted investigation.
16. Furthermore, the procedural steps taken during the investigation are conspicuously deficient. PW3 admitted during cross-examination that the investigating officer did not prepare any observation mahazar (Rough Sketch/Site Plan) to structurally demarcate the place of occurrence. While the absence of a site plan may not be fatal in every criminal trial, its absence becomes critical when the raid is alleged to have taken place in an open area behind a residential house surrounded by neighbors.
17. Both PW1 and PW2 admitted that there were neighboring houses adjacent to the place of occurrence and residents were very much

available. However, no effort was made to enlist their participation or even record their statements to verify if the accused was indeed residing there or stood there with a bag of contraband. The absolute non-examination of independent locals, combined with the structural omissions in the investigation, leaves the court with nothing but highly compromised and self-contradictory police testimonies.

18. In a criminal trial, the burden of proving the conscious possession of the contraband and the flawless execution of the search and seizure rests squarely on the shoulders of the prosecution. When the primary recovery witnesses explicitly collapse the case by admitting to the station-house fabrication of the seizure documents and the transportation of the non-destroyed contraband, the statutory presumption under the Prohibition Act cannot be triggered against the accused. The massive delay in sending the FIR to the court puts the final nail into the coffin of the prosecution's narrative.

19. Consequently, this Court is of the firm view that the prosecution has miserably failed to prove the conscious possession of the contraband by the accused and has failed to establish a valid, lawful seizure. Both Points No. 1 and 2 are answered in the negative, in favor of the accused.

Point No. 3:

20. In view of the findings arrived at under Points No. 1 and 2, since the very foundation of physical recovery and procedural legality has been found to be deeply compromised and unreliable, the accused cannot be held liable for the offense charged.

21. The prosecution has failed to cross the threshold of proving its case

beyond reasonable doubt, and the benefit of such pervasive doubt must inevitably flow to the accused.

22. Therefore, the accused is not liable to be convicted under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937, and is entitled to an acquittal. Point No. 3 is answered accordingly.

FINAL ORDER

23. In the result, acting under Section 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the accused Palanisamy is hereby Acquitted of the offense punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937, in connection with C.C. No. 87 of 2025 on the file of this Court. The bail bond, if any, executed by the accused shall stand cancelled. Since the alleged contraband liquor is already stated to have been destroyed, no further orders are required to be passed regarding the disposal of the property.

Dictated directly to the Steno-Typist, typed by her, corrected and pronounced by me in the open Court on this the 19th day of June, 2026.

**Judicial Magistrate,
Harur.**

APPENDIX OF EVIDENCE

1. Witnesses Examined for the Prosecution:

- PW1: Mr. Karmegham (Head Constable, Morappur Police Station) – Seizure witness.
- PW2: Mr. Karthikeyan (Grade-I Constable, Morappur Police Station) –

Seizure witness.

- PW3: Mr. Gokul (Sub-Inspector of Police, Morappur Police Station) –

2. Documents Marked for the Prosecution:

- Ex.P1: Seizure-cum-Destruction Mahazar, dated 03.11.2024.
- Ex.P2: First Information Report (FIR) in Morappur P.S. Crime No. 215 of 2024, dated 03.11.2024.

3. List of Physical Properties Marked for the Prosecution:

- *None.*

4. List of Witnesses and Documents on the Defense Side:

- *None.*

**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