

IN THE COURT OF JUDICIAL MAGISTRATE, HARUR

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

Friday, the 12th day of June 2026

C.C. No.31 of 2026

State represented by

Inspector of Police,

Prohibition Enforcement Wing, Harur.

Cr.No. 314/2025

... Complainant

Versus

Kamala, W/o Muniyan,

Vallimadhurai Vill, Keeraipatty Po,

Harur Tk, Dharmapuri Dt.

... Accused

This case was taken up for hearing on 06.03.2026 The learned Assistant Public Prosecutor, Grade-I1, 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 accused Kamala was prosecuted for the alleged offence punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937 on the allegation that on 12.07.2025 at about 10.00 a.m., at Vallimadhurai Village within the limits of Harur Prohibition Enforcement Wing, she was found in

possession of twenty-seven bottles of 180 ml Mclean Brandy without licence and intended to sell the same at a higher price in retail.

2. After furnishing copies of prosecution records to the accused under Section 230 of the Bharatiya Nagarik Suraksha Sanhita, particulars of accusation were explained to her. The accused denied the allegations and claimed to be tried.
3. In order to establish the charge, the prosecution examined PW1 to PW3 and marked Ex.P1 and Ex.P2. No material object was produced before the Court since the alleged contraband liquor had been destroyed at the spot itself. The accused was examined under Section 351 BNSS regarding the incriminating circumstances appearing against her. She denied the same and did not adduce any defence evidence.
4. Upon the pleadings and evidence available on record, the following points arise for determination:
 - i. Whether the prosecution has proved beyond reasonable doubt that on 12.07.2025 at about 10.00 a.m. the accused was found in possession of twenty-seven bottles of 180 ml Mclean Brandy without licence at Vallimadurai Village?
 - ii. Whether the prosecution has proved beyond reasonable doubt that such possession was for the purpose of sale so as to attract Section 4(1)(c) of the Tamil Nadu Prohibition Act?
 - iii. To what relief?

Discussion

Point Nos.1 and 2

5. Since both points are interconnected, they are taken up together for discussion.
6. The prosecution case rests entirely upon the testimony of official witnesses. PW1 and PW2 are the Head Constables who allegedly accompanied PW3, the Inspector of Police, at the time of occurrence. PW3 is not only the detecting officer but also the complainant and investigating officer.
7. PW1 has deposed that on 12.07.2025 at about 10.00 a.m., while he was on patrol duty along with PW2 and PW3 near Vallimadurai Village, the accused attempted to run away on seeing the police party. According to him, on enquiry the accused admitted that she possessed twenty-seven bottles of 180 ml Mclean Brandy intended for sale at higher prices and the same were seized under a mahazar. PW1 further stated that the bottles were destroyed at the spot itself under orders of superior officers and that he signed the seizure-cum-destruction mahazar marked as Ex.P1.
8. PW2 has substantially supported the version of PW1 regarding the alleged seizure and destruction. PW3, the Inspector of Police, has also spoken about the detection of the offence, seizure of twenty-seven bottles, registration of FIR under Ex.P2 and filing of final report.
9. At first glance, the evidence of PW1 to PW3 appears to be consistent regarding the alleged seizure. However, on a closer scrutiny of their

evidence, several material infirmities emerge which strike at the root of the prosecution case.

10. The occurrence is alleged to have taken place in a village locality where houses were admittedly situated nearby. PW1, PW2 and PW3 have categorically admitted during cross-examination that members of the public were present in the vicinity. PW1 has stated that persons residing nearby had witnessed the occurrence. PW2 has gone a step further and stated that persons who intended to purchase liquor ran away on seeing the police. PW3 has also admitted the presence of private persons at the place of occurrence. Despite the admitted availability of independent witnesses, none were secured for witnessing the seizure or destruction proceedings.
11. The prosecution seeks to explain this omission by stating that no one came forward to act as a witness. However, PW1 admitted that the names and addresses of such persons were noted by the Inspector. If that were so, nothing prevented the prosecution from examining at least one such person during trial. The failure to examine any independent witness, despite their admitted availability, assumes significance because the entire case rests only upon police witnesses.
12. The evidence further reveals that the driver of the police vehicle, one Lokesh, had accompanied the raiding party and according to PW1 had knowledge of the occurrence. However, the said driver was neither cited nor examined as a witness. No explanation has been offered for withholding such a material witness.

13. The prosecution case also suffers from serious procedural deficiencies. PW1, PW2 and PW3 have all admitted that except Ex.P1 seizure mahazar, no observation mahazar, no rough sketch and no confession statement of the accused were prepared. In a case based entirely on a purported recovery, the absence of even a rough sketch or observation mahazar deprives the Court of important contemporaneous evidence regarding the exact place and manner of occurrence.
14. A more serious infirmity arises from the admitted fact that the entire alleged contraband was destroyed at the spot itself. No sample bottle was preserved. No sample was sent for chemical examination. Consequently, there is absolutely no scientific evidence before the Court to establish that the liquid allegedly seized from the accused was in fact liquor prohibited under law. The prosecution asks the Court to accept merely on the oral assertion of police witnesses that the bottles contained Mclean Brandy.
15. In criminal jurisprudence, particularly in prosecutions relating to intoxicants, the nature of the seized substance must ordinarily be established through legally admissible evidence. The complete destruction of the alleged contraband without preserving any representative sample has deprived the Court of the best evidence available.
16. The contradictions appearing in the evidence of prosecution witnesses also create doubt regarding the actual occurrence. PW1 stated that no person was present to purchase liquor from the accused. On the contrary, PW2 deposed

that persons were present for purchasing liquor and that they fled on seeing the police.

17. Another circumstance affecting the credibility of the prosecution case is the manner in which investigation was conducted. PW3 candidly admitted that she herself was the detecting officer, complainant and investigating officer. Although there is no absolute legal bar against such investigation, the evidence in such cases requires greater caution and scrutiny. The need for such caution becomes more pronounced where no independent witness supports the prosecution and where the entire case is based upon official testimony alone.
18. The delay in forwarding the FIR to Court is also noteworthy. PW3 admitted during cross-examination that the FIR was registered on 12.07.2025, but it reached the Court only on 06.03.2026 along with the final report. Such an extraordinary delay remains wholly unexplained. The prompt forwarding of the FIR to the court is an important safeguard against embellishment and fabrication. The unexplained delay in the present case casts an additional cloud over the genuineness of the prosecution version.
19. It is a settled principle of criminal law that the burden always lies upon the prosecution to establish its case beyond reasonable doubt. Suspicion, however strong, cannot take the place of proof. Where two views are possible, the one favourable to the accused must be adopted.
20. The cumulative effect of non-examination of independent witnesses, non-examination of the vehicle driver, absence of observation mahazar and rough

sketch, destruction of the entire alleged contraband without preserving samples, absence of chemical analysis report, contradictions in prosecution evidence and unexplained delay in forwarding the FIR creates substantial and reasonable doubt regarding the prosecution case.

21. Consequently, this Court is unable to hold that the prosecution has established beyond reasonable doubt either the possession of illicit liquor by the accused or the alleged intention to sell the same.
22. The prosecution has failed to prove beyond reasonable doubt that the accused was found in unlawful possession of twenty-seven bottles of Mclean Brandy as alleged.
23. The prosecution has failed to prove beyond reasonable doubt that the accused possessed the alleged liquor for the purpose of sale attracting Section 4(1)(C) of the Tamil Nadu Prohibition Act.

Point No.3

24. In view of the findings recorded on Point Nos.1 and 2, the accused is entitled to the benefit of doubt. Accordingly, the accused Kamala is found not guilty of the offence punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act.
25. The accused is therefore acquitted under Section 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023, by extending the benefit of doubt. The bail bond, if any, executed by the accused shall stand cancelled after expiry of the appeal period.

26. Since the entire alleged contraband liquor was admittedly destroyed during investigation itself and no material object remains available before the Court, no further order regarding disposal of property is necessary. The seizure-cum-destruction proceedings already evidenced under Ex.P1 shall form part of the record.

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 Shankar, Head Constable, Prohibition Enforcement Wing, Harur

PW2 Selvi, 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 of Document
Ex.P1	Seizure-cum-Destruction Mahazar dated 12.07.2025
Ex.P2	First Information Report in Crime No.314 of 2025 of Prohibition Enforcement Wing, Harur

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