

IN THE COURT OF JUDICIAL MAGISTRATE, HARUR

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

Friday, the 12th day of June 2026

C.C. No.32 of 2026

State represented by

Inspector of Police,

Prohibition Enforcement Wing, Harur

Cr.No. 415/2025.

... Complainant

Versus

Sundaram, S/o Chennan

Thamaraikoliyampatti Vill, Paraiyapatti 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. M. Ilango, 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 case is that on 28.09.2025 at about 12.15 p.m., the accused Sundaram was found near Maruthipatti Road, Sandhaipettai, within the limits of Morappur Police Station and within the jurisdiction of the Prohibition Enforcement Wing, Harur, in possession of twenty-six bottles of 180 ml Mens Club Brandy allegedly intended for sale in retail at a price higher than the prescribed rate without any licence or authority. On the basis of the said allegation, a case was registered against the accused for the offence punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act and after investigation a final report was laid before this Court.
2. Copies of prosecution records were furnished to the accused as contemplated under law. The substance of accusation was explained to the accused. The accused denied the allegations and claimed to be tried.
3. In order to establish its case, the prosecution examined PW1 to PW3 and marked Ex.P1 to Ex.P3. No material object was produced before the Court. When examined under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, the accused denied all incriminating circumstances appearing against him. No witness was examined on the side of the defence.
4. Upon the rival contentions and available evidence, the following points arise for determination:
 - i. *Whether the prosecution proves beyond reasonable doubt that on 28.09.2025 at about 12.15 p.m. the accused was found in possession*

of twenty-six bottles of 180 ml Mens Club Brandy without authority as alleged?

ii. Whether the prosecution further proves beyond reasonable doubt that the said possession was for the purpose of unlawful sale attracting Section 4(1)(c) of the Tamil Nadu Prohibition Act?

iii. To what relief?

Discussion

Point Nos.1 and 2

5. These points are interconnected and are therefore taken up together for consideration.
6. The entire prosecution case rests upon the evidence of three official witnesses. PW1 Suvendhar and PW2 Vanitha are the accompanying police personnel, while PW3 Chandra is the detecting officer, complainant and investigating officer.
7. PW1 has deposed that on 28.09.2025 at about 12.15 p.m., while he was on patrol duty along with PW2 under the leadership of PW3, the accused was found possessing twenty-six bottles of 180 ml Mens Club Brandy for sale. According to him, the accused admitted that he had purchased the liquor for resale at higher rates. PW1 further stated that the bottles were seized under Ex.P1 mahazar and that subsequently the seized liquor was destroyed in the police station.

8. PW2 has substantially corroborated the chief examination of PW1 regarding the alleged seizure of twenty-six bottles of Mens Club Brandy from the accused and the preparation of Ex.P1 seizure mahazar.
9. PW3, the Inspector of Police, has spoken about the detection of the offence, seizure of the liquor bottles, registration of FIR under Ex.P2 and subsequent destruction of the liquor pursuant to the order of the Assistant Commissioner of Prohibition and Excise marked as Ex.P3.
10. The learned Assistant Public Prosecutor would contend that the evidence of PW1 to PW3 is consistent and trustworthy and that the prosecution has proved the charge beyond reasonable doubt.
11. This Court has carefully considered the evidence on record.
12. At the outset, it is to be noted that the alleged occurrence is stated to have taken place in a public locality namely Maruthipatti Road, Sandhaipettai. PW3 has admitted in cross-examination that private persons were present at the place of occurrence. Though according to the prosecution such persons declined to act as witnesses, none of them were examined before this Court. No particulars of such persons have been produced. No effort appears to have been taken to secure the presence of any independent witness either at the time of seizure or during trial.
13. The significance of this omission becomes apparent because the entire prosecution case is based solely upon the testimony of police officials. Though conviction can legally be founded upon the testimony of official witnesses if found reliable, where independent witnesses are admittedly

available but withheld without explanation, the Court is required to scrutinize the prosecution evidence with greater caution.

14. Another material circumstance is that the driver of the police vehicle, one Lokesh, admittedly accompanied the raiding party. PW1 specifically admitted that the driver had witnessed the occurrence. Despite being a natural witness to the alleged seizure, he has not been examined. No explanation has been offered for withholding such an important witness. The non-examination of a material witness gives rise to an adverse inference against the prosecution.
15. The evidence further discloses significant procedural lapses. PW1, PW2 and PW3 have uniformly admitted that except the seizure mahazar, no observation mahazar was prepared. No rough sketch of the place of occurrence was prepared. No confession statement or voluntary statement was obtained from the accused. Thus, apart from the oral testimony of police officials and Ex.P1 mahazar, there is no contemporaneous record describing the exact place, manner and circumstances of the alleged seizure.
16. The evidence of prosecution witnesses also reveals material discrepancies regarding the patrol operation. PW1 stated that the patrol commenced at about 10.00 a.m. but was unable to remember the places visited before the occurrence. PW2 stated that the patrol commenced at about 8.00 a.m. and that several places including Maruthipatti, Morappur Town and Thamarai kozhiyampatti were covered. PW3, however, stated that the patrol commenced only around 11.00 a.m. These are not minor variations but

contradictions touching upon the very movement and presence of the police party prior to the alleged occurrence.

17. Similarly, PW1 stated that the driver witnessed the occurrence, whereas PW2 stated that she did not know whether the driver had witnessed it. Such contradictions assume importance because the driver, who could have clarified the facts, was not examined.
18. The prosecution case regarding the alleged intention to sell liquor is also not free from doubt. Both PW1 and PW2 admitted that no purchaser was present at the spot. No decoy purchaser was arranged. No money was recovered from the accused. No customer was examined. No evidence has been adduced to establish any overt act of sale. The allegation that the accused intended to sell the liquor rests solely upon the alleged oral statement attributed to him by the police officials. Such statement, being in the nature of a confession made to police officers, cannot by itself constitute substantive evidence against the accused.
19. The Court further notices that no sample bottle was subjected to any scientific examination. Though the prosecution has produced Ex.P3 showing authorization for destruction of the seized liquor, no sample analysis report has been produced. Consequently, there is no scientific evidence before the Court establishing that the contents of the bottles were in fact liquor falling within the ambit of the Tamil Nadu Prohibition Act. The prosecution has therefore failed to place before the Court the best available evidence regarding the nature of the alleged contraband.

20. Yet another serious infirmity appears from the evidence of PW3. During cross-examination, PW3 admitted that the FIR was registered on 28.09.2025 but was forwarded to the Court only on 06.03.2026 along with the final report. The prosecution has offered no explanation whatsoever for such an extraordinary delay. Prompt forwarding of the FIR to the jurisdictional Magistrate constitutes an important safeguard against embellishment and fabrication. The unexplained delay in the present case creates a serious dent in the prosecution version.
21. Further, PW3 admittedly acted as the detecting officer, complainant and investigating officer. Though such investigation is not automatically illegal, the evidence emerging from such investigation must be examined with caution, particularly where there is complete absence of independent corroboration and where several procedural safeguards have not been adhered to.
22. Criminal law requires the prosecution to establish its case beyond reasonable doubt. The presumption of innocence available to an accused continues throughout the trial and can be displaced only by cogent, convincing and reliable evidence. Where the evidence leaves room for reasonable doubt, the accused is entitled to the benefit of such doubt.
23. In the present case, the cumulative effect of the absence of independent witnesses, non-examination of the vehicle driver, absence of observation mahazar and rough sketch, lack of scientific evidence regarding the seized substance, contradictions in prosecution evidence, failure to establish actual

sale or attempted sale and the unexplained delay in forwarding the FIR to Court creates serious doubt regarding the prosecution case.

24.This Court is therefore unable to hold that the prosecution has proved the guilt of the accused beyond reasonable doubt.

25.The prosecution has failed to prove beyond reasonable doubt that the accused was found in unlawful possession of twenty-six bottles of Mens Club Brandy as alleged.

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

Point No.3

27.In view of the findings recorded on Point Nos.1 and 2, the accused is entitled to the benefit of doubt.

28.Accordingly, the accused Sundaram, S/o Chennan, is found not guilty of the offence punishable under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937.

29.In the result, the accused Sundaram is acquitted under Section 271(1) BNSS of the charge under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937. The bail bond, if any, executed by the accused shall stand cancelled upon expiry of the appeal period.

30.As regards the case property, the evidence of PW3 coupled with Ex.P3 establishes that the seized liquor bottles were destroyed pursuant to the order

of the competent authority. Since no material object is available before this Court, no further order regarding disposal of property is required and the destruction already effected shall stand 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	Suvendhar, Head Constable, Prohibition Enforcement Wing, Harur
PW2	Vanitha, Woman 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 28.09.2025
Ex.P2	First Information Report in Crime No.415 of 2025
Ex.P3	Certified Copy of Proceedings/Order dated 19.11.2025 of the Assistant Commissioner, Prohibition and Excise, Dharmapuri, authorising 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