

**IN THE COURT OF THE DISTRICT MUNSIF-CUM-JUDICIAL
MAGISTRATE, KOTAGIRI.**

**Present: G. AMIRDHAM. B.Sc., L.L.B.,
District Munsif-cum-Judicial Magistrate, Kotagiri**

Dated this 24th day of June 2026, Wednesday

C.C. No: 04 of 2026

CNR.No: TNNS06-000069-2026

Sl.No.	Name of the Police Station and the Crime Number of the Offence.	Kotagiri Police Station. Cr.No. 22/2026 U/s. 4 (1) (c) of TNP Act
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DESCRIPTION OF THE ACCUSED

1	Name of the Accused	Parithkhan
2	Father name of the Accused	S/o. Sheik Dawood Muthalif
3	Occupation	-
4	Residence	D.No.91, Pallivasal Street, Attapatti, Melur Taluk, Madurai.
5	Age	(Aged about 31 years)

DETAILS OF DATES

6	Occurrence	26.01.2026
7	Complaint	26.01.2026
8	Apprehension	26.01.2026
9	Release on bail	26.01.2026
10	Commitment	Not applicable
11	Commencement of Trial	11.06.2026
12	Closure of trial	22.06.2026
13	Sentence or Order	1. In the result, Accused is found not guilty for u/s. 4(1)(c) TNP Act and the accused is acquitted u/s.271(1) of BNSS. 2. The bond executed by the Accused,

		if any, is ordered to be cancelled after appeal period. 3. The Properties produced by the prosecution in P.R.No : 04 of 2026 of this case is ordered accordingly hereunder as follows: i) The M.O.1 180 ML Express Brandy Bottles - 4 are ordered to be destroyed after the appeal period. ii) The M.O.2 180 ML Seamens Brandy – 12 are ordered to be destroyed after the appeal period.
14	Service of copy of Judgment or finding on Accused	Found not guilty and acquitted.
15	Explanation of delay	The witnesses are not produced by prosecution hence delayed.

CASE SUMMARY AS PER R.O.C.NO. 814/2020/RG/F1 OF HON'BLE HIGH COURT OF MADRAS DATED : 07.04.2021

S.No.	Action	Date
1	The period of remand of the accused.	26.01.2026
2	The date of filing of the complaint	26.01.2026
3	The date of filing of the final report in the Court.	26.01.2026
4	The date of committal of the case to the Court of Session.	Not Applicable
5	The date of questioning of the accused Under Sections 228, 240, 246 and 251 of the code of Criminal Procedure, 1973, as the case may be.	23.03.2026
6	Filing of all miscellaneous petitions and their	-Nil-

	results including the results on challenge before Superior Courts; except routine petitions like petitions under section 317 of the Code.				
7	Date of Chief and Cross examination of witnesses	Name of the Examination		Date of Chief	Date of cross
		P.W.1	Shibu	11.06.2026	11.06.2026
		P.W.2	Suresh	22.06.2026	22.06.2026
		P.W.3	Sugumar	22.06.2026	22.06.2026
8	Date of examination of the accused and Under Section 313 (1) (b) of the Code.			24.06.2026	
9	Details of abscondence of an accused and his appearance / production, as the case may be;			Not applicable	
10	Grant of stay by Superior Courts and the results thereof.			Not applicable	
11	Charges framed against the accused			U/s.4(1) (c) of TNP Act.	
12	Sentence or Order			1. In the result, Accused is found not guilty for u/s. 4(1)(c) TNP Act and the accused is acquitted u/s.271(1) of BNSS. 2. The bond executed by the Accused, if any, is ordered to be cancelled after appeal period. 3. The Properties produced by the prosecution in P.R.No : 04 of 2026 of this case is ordered accordingly hereunder as follows: i) The M.O.1 180 ML Express	

		Brandy Bottles - 4 are ordered to be destroyed after the appeal period. ii) The M.O.2 180 ML Seamens Brandy – 12 are ordered to be destroyed after the appeal period.
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This case having stood over for consideration on the file of this court till this date finally came up before me on 23.06.2026 in the presence of the Tmt. C. Malarkodi, learned Assistant Public Prosecutor for the complainant and learned Advocate Tmt. Kavitha, learned counsel for the accused and upon perusing the documents and hearing the arguments of both sides this court today doth deliver the following :

J U D G M E N T

1. The Sub Inspector of police, Kotagiri Police Station has laid down the final report stating that on 26.01.2026 at about 19.15 hours limit Kotagiri P.S. at Kattabettu Bazar, the accused has 180 ML of Express Brandy – 4 and Seamens Brandy – 12 in without obtaining license and thereby the accused committed offence us. 4 (1) (c) of TNP Act.

2. Summons and copies

Upon service of the summons u/s.227 of the BNSS and the appearance of the accused copies of the final report and documents were given to the accused in compliance with section with section 230 of the BNSS on 04.03.2026.

3. Framing of charges

On 26.01.2026, a charge was framed against the accused for the offences 4 (1) (c) of TNP Act. When the charges was read out and explained to the accused, he pleaded not guilty and claimed to be tried. Hence, the case was posted for trial in accordance with section 265(1) of the BNSS.

4. Evidence adduced by Prosecution side

a) Oral evidence

To substantiate their case, the prosecution had examined the all police witnesses Shibhu (Gr.I PC) as Pw1 and police witnesses Mr. Suresh (Gr.II PC) as Pw2 and the investigating officer Mr. Sugumar (HC) as PW3.

b) Documentary evidence

1. ExP1 : Seizure Mahazar
2. ExP2 : 2nd Signature in the Seizure Mahazar
3. ExP3 : First Information Report
4. ExP4 : Form 91

c) Material object

Ex. M.O.1 – Express Brandy Bottle - 04

Ex. M.O.2 – Seasmens Brandy Bottle - 12

5. Defence side evidence

The defense did not produce any witnesses or documentary evidence.

6. Examination under Section 351 of BNSS

The circumstances appearing in the evidence of the witnesses against the accused were put to him, and the accused replied that the case against him is false and that the evidence of the prosecution is also false. He further stated that there is no evidence on his side.

7. Arguments Advanced

The prosecution side submitted that the court may consider the evidence of prosecution and convict the accused. On the other hand, the learned counsel for the accused submitted that a false case had been foisted against the accused and that the prosecution failed to adduce ample evidence to prove the charge against the accused beyond all reasonable doubts. Hence, the counsel prayed for the acquittal of the accused.

8. Point for determination

- (i) Whether on 26.01.2026 the accused was in possession of 180 ml of 04 Express Brandy bottles and 12 Seamens Brandy Bottles for the purpose of sale?
- (ii) Whether the prosecution has proved his case beyond all reasonable doubt to convict the accused?

9. Analysis of Evidence Point – I

(a) Burden of Proof

In the present case, the prosecution has alleged that the accused committed offences punishable under Sections 4(1)(c) of the Tamil Nadu Prohibition Act, 1937. Under Section 105 of the Bharathiya Sakshya Adhinyam, the burden of proving that the accused committed the offences mentioned in the charge sheet lies on the prosecution. As per the fundamental principle of criminal jurisprudence, the prosecution must establish the guilt of the accused beyond all reasonable doubt.

(b) Relevant Legal Provisions

Before evaluating the evidence, it is necessary to extract the relevant statutory provisions for clarity. Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937, reads as follows:

“Section 4. Prohibition of the manufacture of, traffic in, and consumption of liquor and intoxicating drugs.

(1)Whoever—

(i) sells liquor or any intoxicating drugs; or ...” To understand the term “liquor,” Section 2(9) of the Act provides:

“Liquor includes toddy, arrack, spirits or wine (denatured spirits), wine, spirits, beer and all liquid consisting of or containing alcohol.”

Therefore, for a conviction under Section 4(1)(i), the prosecution must prove:

- (i) The accused was in possession of liquor bottles.
- (ii) Such seized bottles contained alcohol as defined under the Act; and
- (iii) The possession was for the purpose of sale, not merely for personal consumption.

(c) Sufficiency of Official Witnesses

The prosecution examined two police officials (PW1 & PW2 & PW3), whose chief testimonies aligned with the allegations in the FIR and other records. PW1, in his chief examination, stated that on 26.01.2026, while he, PW2 and LW2 were conducting a patrol at kattabettu Bazar they found the accused in the possession of 180 ml of 04 Express Brandy bottles and 12 Seamens Brandy Bottles without obtaining license. At around 19.15 Hrs, PW2 arrested the accused and seized the 180 ml of 04 Express Brandy bottles and 12 Seamens Brandy Bottles from his possession under a seizure mahazar in the presence of PW1 and LW2. Further PW2 in their chief examination, corroborated the testimony of PW1 regarding the seizure of the 180 ml of 04 Express Brandy bottles and 12 Seamens Brandy Bottles from the accused. Further, all evidence deposed that during the enquiry of accused at the soc, the accused confessed to possessing the 180 ml of 04 Express Brandy bottles and 12 Seamens Brandy Bottles for the purpose of sale.

However, it is settled and Hon’ble apex courts also have consistently held that while the testimony of police officers is admissible, reliance solely on official witnesses, without corroboration from independent sources, weakens the probative value of the prosecution's case, especially when independent witnesses are available.

In this case, the alleged seizure occurred at a residential place at around 19.30 Hrs., a time when independent witnesses could have been easily secured. Failure to include such witnesses for the investigation casts doubt on the fairness of the investigation and the credibility of the prosecution's story. It is also apposite to mention that the Seizar mahazar and Form 91 were not prepared and produced before this court to prove the scene of crime.

(d) Possession for Sale or Personal Consumption?

The prosecution alleges that the accused possessed 180 ml of 04 Express Brandy bottles and 12 Seamens Brandy Bottles for the purpose of sale. However, the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996, as amended by G.O. Ms. No. 14, Home, Prohibition and Excise (VI), dated 09.06.2017, permits possession of liquor for personal consumption within the following limits: Type of Liquor Permissible Quantity IMFS (Indian Made Foreign Spirits) 4.5 Litres Foreign Liquor 4.5 Litres Beer 7.8 Litres, Wine 9 Litres. Thus, mere possession of 05 liquor bottles does not automatically attract penal liability under the Act. The prosecution must prove that the possession was for the purpose of sale, which could have been established through:

- (i) Evidence of customers,
- (ii) Independent witnesses with knowledge of the sale, or
- (iii) Recovery of sale proceeds.

In the absence of such evidence in this case, the allegation of possession for sale remains unsubstantiated. In the absence of such evidence in this case, the allegation of possession for sale remains unsubstantiated.

(e) Seizure of Liquor and Procedural Irregularities

As per the proviso to Section 32(c) of the Tamil Nadu Prohibition Act, an officer seizing illicit liquor must:

- (i) Draw samples in the presence of a Prohibition Officer or a Police Officer

not below the rank of Inspector, and

(ii) Destroy the remaining quantity, with a certificate specifying the total quantity seized, sample quantity, and quantity destroyed, which must be forwarded to the concerned jurisdictional judicial Magistrate.

This procedure is mandatory to prevent manipulation of seized material. However in the present case:

(i) No samples were drawn at the scene of crime,

(ii) No such certificate was prepared,

(iii) No chemical analysis report was produced to prove that the seized liquid was liquor as defined in law, and It is admitted that no such exercise was carried out by PW3, the Inspector of Police, which is fatal to the prosecution case. Since the mandatory provision has not been complied with, this Court is of the considered view that the evidence of PW1, who are also police personnel handpicked by PW3, regarding the alleged seizure of illicit arrack, cannot be safely relied upon by this court to point the guilt towards accused for the alleged offence.

(f) Informant and Investigating Officer are the same.

On perusal of records, it is evident that the informant and the investigating officers in this case are the same person. It is now well settled that merely because the informant also conducted the investigation, the investigation does not automatically become illegal or vitiated on the ground of bias. Therefore, the accused cannot claim acquittal solely on that basis.

However, the Hon'ble apex courts have recognised an important exception to this general rule. If the accused establishes and proves bias and/or an unfair investigation by the informant-cum-investigator, and where the prosecution's case primarily rests upon the deposition of the informant-cum-investigator, without any reliance on other independent witnesses, such a factor must be given due weight while appreciating the evidence.

In this case, the defence, during cross-examination, has brought out several flaws in the investigation, suggesting bias. The absence of independent witnesses and corroborative evidence strengthens the inference of an unfair investigation, thereby diminishing the credibility of the prosecution's case.

(g) Proof of Patrol and Doubtful Documents

The prosecution has not produced any supporting documents, such as General Diary extracts and beat book to substantiate that PW1 to PW3 were engaged in a patrol on the relevant date. The non-production of such readily available evidence creates an adverse inference against the prosecution. Further, it is also apposite to mention that the seizure mahazar and arrest memo, allegedly prepared on the scene of crime, contain the crime number, which is suspicious and throws a doubt on the prosecution because the crime number is generally assigned after registration of FIR at the police station, not during an unanticipated raid during routine patrol.

Point – II Conclusion:-

In the absence of independent witnesses, irregularities in seizure, failure to follow mandatory procedures, and lack of corroborative evidence, the prosecution case rests solely on the uncorroborated testimony of police witnesses and failed to prove the guilt of an accused. The Hon'ble Supreme Court and High Courts have repeatedly cautioned against convicting an accused based solely on such testimony unless it is consistent, cogent, and free from suspicion. Given these deficiencies, the benefit of the doubt must necessarily go to the accused.

10. Decision

Based on the above analysis, this Court finds that the prosecution has failed to prove the guilt of the accused beyond a reasonable doubt. Accordingly, the accused is acquitted 271(1) BNSS of the charge under 4(1)(i) read with 4(1)(A) of the Tamil Nadu Prohibition Act, 1937 and shall be set at liberty forthwith.

11. Property Order

The liquor involved in this case shall be destroyed and the empty bottles to be confiscated as mandated by law after the appeal period.

ORDER:-

Sl.No.	ORDER
1	In the result, Accused is found not guilty for u/s. 4(1)(c) TNP Act and the accused is acquitted u/s.271(1) of BNSS.
2	The bond executed by the Accused, if any, is ordered to be cancelled after appeal period.
3	3. The Properties produced by the prosecution in P.R.No : 04 of 2026 of this case is ordered accordingly hereunder as follows: i) The M.O.1 180 ML Express Brandy Bottles - 4 are ordered to be destroyed after the appeal period. ii) The M.O.2 180 ML Seamens Brandy – 12 are ordered to be destroyed after the appeal period.

Sd/- G. Amirdham
JUDICIAL MAGISTRATE,
KOTAGIRI.

Dictated to the Steno Typist and Directly typed by the Steno in the Court Computer and after making necessary corrections, this Judgment pronounced by me in open court, this the 24th day of June 2026.

Sd/- G. Amirdham
JUDICIAL MAGISTRATE,
KOTAGIRI.

APPENDIX :-

Prosecution side witnesses :-

P.W.1	Shibu	S/o. Kunjumon
P.W.2	Suresh	S/o. Kumaresan
P.W.3	Sugumar	S/o. Subaiah

Prosecution side Exhibits : -

Sl. No. of the Exhibits	Description of the Exhibits and its date	Date, when the exhibit was filed in the case	How marked	By whom filed	Remarks
1	Seizure Mahazar, dated 11.06.2025	21.05.2026	Ex.P1	PW1	Original
2	1st Signature of the Seizure Mahazar, dated 11.06.2026	21.05.2026	Ex.P2	PW2	Original
3	FIR, dated 26.01.2026	21.05.2026	Ex.P3	PW3	Original
4	Form 91, dated 05.02.2026	14.06.2026	Ex.P4	PW3	Original

Material Objects :-

Ex. M.O.1 – 180 Ml for Express Brandy Bottles - 04

Ex. M.O.2 – 180 ML of Seamens Brandy Bottles - 12

Defence side witnesses: -

-NIL-

Defence side Exhibits:-

-NIL-

**Sd/- G. Amirdham
JUDICIAL MAGISTRATE,
KOTAGIRI.**

NOTE :

1	In the result, Accused is found not guilty for u/s. 4(1)(c) TNP Act and the accused is acquitted u/s.271(1) of BNSS.
2.	The bond executed by the Accused, if any, is ordered to be cancelled after appeal period.
3.	The Properties produced by the prosecution in P.R.No : 04 of 2026 of this case is ordered accordingly hereunder as follows: i) The M.O.1 180 ML Express Brandy Bottles - 4 are ordered to be destroyed after the appeal period. ii) The M.O.2 180 ML Seamens Brandy – 12 are ordered to be destroyed after the appeal period.
4.	No witnesses had been called for evidence more than 3 days.
5.	Result of the Judgment had been informed to the prosecution for concern police.

**Sd/- G. Amirdham
JUDICIAL MAGISTRATE,
KOTAGIRI.**

Judicial Form No.61
IN THE COURT OF THE DISTRICT MUNSIF-CUM-JUDICIAL
MAGISTRATE, KOTAGIRI
C.C. No.04 of 2026
ON THE FILE OF THE DISTRICT MUNSIF-CUM-JUDICIAL
MAGISTRATE, KOTAGIRI.

Complainant : The Head Constable, Kotagiri Police Station

Accused : Parithkhan, S/o. Sheik Dawood Muthalif

Offence : U/s. 4 (1) (c) of TNP Act

Finding : Found not guilty.

Sentence :

1 In the result, Accused is found not guilty for u/s. 4(1) (c) TNP Act and the accused is acquitted u/s.271(1) of BNSS.

2 The bond executed by the Accused, if any, is ordered to be cancelled after appeal period.

3 3. The Properties produced by the prosecution in P.R.No : 04 of 2026 of this case is ordered accordingly hereunder as follows:

i) The M.O.1 180 ML Express Brandy Bottles - 4 are ordered to be destroyed after the appeal period.

ii) The M.O.2 180 ML Seamens Brandy – 12 are ordered to be destroyed after the appeal period.

Sl.	Description of the Accused						
No	Name	Father's Name	Caste or race	Occupati on	Residence		Age
(1)	(2)	(3)	(4)	(5)	(6)		(7)
1	Parithkhan	S/o. Sheik Dawood Muthalif	Muslim	-	D.No.91, Pallivasal Street, Attapatti, Melur Taluk, Madurai.		31
Date of							Explan ation of delay
Occurence	Complaint	Apprehensi on or appearance	Release on bail	Commenc ement of Trial	Close of trail	Sentence or Order	
(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
26.01.2026	26.01.2026	26.01.2026	26.01.2026	11.06.2026	22.06.2026	24.06.2026	

Sd/- G. Amirdham
JUDICIAL MAGISTRATE,
KOTAGIRI.