

IN THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS: GUNTAKALPresent: **Smt. G. Manjula,**

Judicial Magistrate of First Class, Guntakal

Monday, the 09th day of March, 2026**CALENDAR CASE No.788 of 2022****Between:**

State of Andhra Pradesh represented by
Proh & Excise Sub Inspector of Police,
Proh & Excise Police Station, Guntakal.

... Complainant.

And

Kuruvalli Boya Obulesh, age 35 years, S/o K.Navakoti Late
R/o D.No.13/165-B, Valmiki Nagar, Guntakal Town.

.... Accused

* * * * *

This case came on 02.03.2026 for final hearing before me in the presence of Assistant Public Prosecutor for the State and of Smt. **C.Gopala Krishna**, Advocate for the accused and this matter having stood over for consideration till this day, this Court delivered the following Judgment.

J U D G M E N T

1. The Inspector of Police, SEB Station, Guntakal filed charge sheet in Crime No.112 of 2020 for the offence punishable under section 34(A) of Andhra Pradesh Excise Act, 2020 of SEB Station, Guntakal against the accused.
2. The brief averments of the prosecution case is that on 15.05.2020 during the raid Lw3/ESI along with staff reached at TTD Kalyana Mandapam located on Guntakal to Kasapuram road found one male person by keeping one white polythene bag suspiciously. Then he tried to escape by seeing them. then Lw3 stopped and detained him with the help of staff. Then Lw3 enquired his trial of escape. And he replied to hold that the polythene bag contained Karnataka liquor tetra packets. To avoid arrest he tried to escape from that place but in vain. The Lw3/ESI deputed Lw1/B.Raghuramudu for mediators and after few minutes Lw1

returned and stated that due to corona none came forward to act as mediator. Then Lw3 verified the polythene bag and found Karnataka liquor tetra packets in the bag, in total 89 Haywards cheers whisky 90 ml Tetra packets for sale in Karnataka only printed in English and Kannada languages. Then Lw3 enquired his whereabouts and he disclosed his identity particulars as mentioned above and Lw3 enquired source of supply and he stated that he brought liquor tetra packets from unknown person in Bellary and selling at higher rates to customers and eking his livelihood. The Lw3 drawn a sample in Haywards cheers whisky 90 ml Tetra packet duly sealed and labeled from can containing ID liquor. The Lw3 arrested the accused for possession of ID liquor after informing the grounds of arrest and seized the property under a cover of special report drafted on the spot.

3. Basing on the said Police proceedings, LW3 registered the case in Crime No.112 of 2020 for the offence punishable under section 34(A) of Andhra Pradesh Excise Act, 2020 of SEB Station, Guntakal against the accused.

4. The chemical Examiner for (Prohibition and Excise Laboratory, Chittoor examined the seized sample and issued report opining that the sample is Indian made liquor. Thus, the accused committed the offence punishable under section 34(A) of Andhra Pradesh Excise Act, 2020.

5. The Court took cognizance on 10.10.2022 against the accused for the offence punishable under section 34(A) of Andhra Pradesh Excise Act, 2020 .

6. On 19.06.2023, on appearance of the accused, copies of documents furnished to him as required under Section 207 of Code of Criminal Procedure, 1973.

7. On 20.09.2023, the accused was present and charge was framed against the accused and he was examined under section 239 of Code of Criminal Procedure, 1973 for the offence punishable under section 34(A) of Andhra Pradesh Excise Act, 2020. The said charge was read-over and explained to the accused in Telugu, for

which the accused denied, pleaded not guilty and claimed to be tried. Hence, the case was posted for trial.

8. During the course of trial on behalf of prosecution, LW.4 was examined as Pw.1 and got marked Exs.P1 to P3 besides MO1.

9. After closing the evidence of prosecution witnesses, the accused was examined under section 313 of Code of Criminal Procedure, 1973 for the incriminating material appeared from the evidence of prosecution witnesses. He denied the same and reported no defence evidence.

10. Heard on both sides and perused the material on record.

11. Now the point for determination is:

Whether the prosecution is able to establish the guilt of the accused for the offence punishable under section 34(A) of Andhra Pradesh Excise Act, 2020 beyond all reasonable doubts?

12 POINT:

In the present case, on thorough observation of entire evidence of Pw.1, it is clearly seen that the Investigation officers have not made their best efforts in securing mediators at the time of alleged incident and they did not say any unavoidable situations which prevented them from securing the local inhabitants as mediators. At this juncture this Court inclined to rely on the judgment of ***Hon'ble A.P. High court in S.Babu Saheb @ Babu Vs state of A.P., wherein the Hon'ble high court held that*** *"the object of section 100 Cr.P.C is to ensure confidence in the neighbours and in the general public that a genuine search has been made and incriminating material has been really found and not planted. The presence of independent respectable mediators at a search is always desirable and the confession recorded by the police officials in the proceedings become inadmissible as it is hit by section 25, 27 of Indian Evidence Act, 2020, 1872.."*

13. In the said judgment Hon'ble A.P. High court clearly held that the procedure laid down under section 100 Cr.P.C is mandatory procedure and police officials must follow the said procedure in order to prove that it is a genuine search and incriminating material has been really found and not planted. But herein the case, the evidence of PW1 clearly show that the Investigation officers have not followed the mandatory procedure laid down under section 100 Cr.P.C and not even made efforts to follow the same and not served summons to any local inhabitants or the Government officials to Act, 2020 as mediators and the prosecution evidence is silent about the reason for failure to follow such procedure.

14. In ***Megha Seen Vs State of Haryana (AIR 1995 SC 2339)***, wherein the ***Hon'ble Supreme court held that*** "*when investigation officer happened to be the complainant that it would be perhaps be difficult to uphold the position that the investigation was impartial*".

15. On relying upon the above said judgment of the Hon'ble Supreme court and in view of the above observation made, this Court is of the view that PW1 examined herein are interested witnesses who prepared Ex.P2 Special report and registered First Information Report and done investigation. They can said to be witnesses interested in the result of the case projected by them. Further their evidence is not credible and trustworthy and did not inspires confidence of this Court and there may be a chance of becoming partial in proving his case. Further it is highly doubtful whether really the liquor was seized from the possession of the accused.

16. Further the confession recorded by PW1 in Ex.P1 is hit by section 25, 27 of Indian Evidence Act, 2020, as laid by the ***Hon'ble High court of Andhra Pradesh in S.Babu Saheb @ Babu Vs state of A.P. (Supra)***. In view of all the above observations made, this Court is of the view that the prosecution utterly failed to prove the guilt of the accused for the offence punishable under section 34(A) of Andhra Pradesh Excise Act, 2020 beyond all reasonable doubts and hence benefit of doubt should be given to the accused.

17. In the result, the accused is found not guilty for the offence punishable under section 34(A) of Andhra Pradesh Excise Act, 2020. Therefore, the accused is acquitted under section 248(1) of Code of Criminal Procedure, 1973 for the said offence and he is set at liberty. The bail bonds of the accused and his sureties shall remain in force for a period of six months as contemplated under section 437-A of Code of Criminal Procedure, 1973.

MO1 shall be destroyed after expiry of appeal time.

Typed to my dictation by the Stenographer, corrected and pronounced by me in open Court, on this the 09th day of March, 2026.

Judicial Magistrate of First Class, Guntakal

APPENDIX OF EVIDENCE
WITNESSES EXAMINED FOR
Prosecution

PW1: A.Swamynathan, Proh & Excise Sub Inspector of Police

Defence

NIL

Exhibits marked for the Prosecution

Ex.P1: Special Report

Ex.P2: First Information Report in Crime No.112 of 2020 of SEB Station, Guntakal.

Ex.P3: Chemical analysis report, dt.05.06.2020.

Exhibits marked for the Defence

NIL

Material objects marked on behalf of

Prosecution

MO1 : Sample tetra packet

Defence

NIL

Judicial Magistrate of First Class, Guntakal

**CALENDAR CASES TRIED
IN THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS, GUNTAKAL
CALENDAR CASE No.788 of 2022**

Complainant : Inspector of police, SEB Station, Guntakal.
Crime No.112 of 2020 of Proh & Excise Police Station, Guntakal

Kuruvalli Boya Obulesh, age 35 years, S/o K.Navakoti Late
R/o D.No.13/165-B, Valmiki Nagar, Guntakal Town..

Date of Offence	Report or Complaint	Appearance/ Apprehension of accused	Released on bail	Commence ment of trial	Close of trial	Sentence Order
15.05.2020	15.05.2020	19.06.2023	15.05.2020	07.10.2025	07.10.2026	09.03.2026

Offences :- Section 34(A) of Andhra Pradesh Excise Act, 2020.

Finding :- Found not guilty.

Sentence of Order:-

In the result, the accused is found not guilty for the offence punishable under section 34(A) of Andhra Pradesh Excise Act, 2020. Therefore, the accused is acquitted under section 248(1) of Code of Criminal Procedure, 1973 for the said offences and he is set at liberty. The bail bonds of the accused and their sureties shall remain in force for a period of six months as contemplated under section 437-A of Code of Criminal Procedure, 1973.

MO1 shall be destroyed after expiry of appeal time.

Judicial Magistrate of First Class, Guntakal

Copy Submitted :-

1. The Hon'ble I Additional District and Sessions Judge, Anantapuramu.
2. The Superintendent of Police, Anantapuramu.

DIS.No. , Dt..