

**IN THE COURT OF PRINCIPAL CIVIL JUDGE-CUM- JUDICIAL MAGISTRATE OF I
CLASS :: PEDDAPURAM.**

Present : **Smt. L.Devi Rathna Kumari,**
Principal Junior Civil Judge-cum- Judicial Magistrate of I Class :: Peddapuram.

Monday, this the 23rd day of June, 2025.

C.C.No.1307/2022

This case has come before me on 23.06.2025 for final hearing and disposal in the presence of the Assistant Public Prosecutor for the complainant/State and Sri.P.Suguna Rao, Advocate for Accused and upon hearing on both sides and the matter having been stood over for consideration till this day, this Court deliver the following:

:: J U D G M E N T ::

a)	The Serial No. of the case	:	C.C.No.1307/2022
b)	The Date of Offence	:	On 16.08.2021
c)	The Name of the Complainant	:	State represented by the Sub-Inspector of Police, Jaggampeta P.S.
d)	<u>Name of the Accused</u> :	:	Nakkaraju Suryanarayana, S/o.Sathi Babu, A/33 yrs, C/T.Kapu, Mallisala Village, Jaggampeta Mandal.
e)	The offence complained of	:	Offence under Section 7(B) r/w 8(B) AP Prohibition Amended Act
f)	The plea of Accused and his examination, if any	:	Accused pleaded not guilty.

1) The Sub-Inspector of Police, Jaggampeta Police Station, Jaggampeta has filed Charge-Sheet against the Accused in Crime No.183/2021, for the offence punishable under Section 7(B) r/w 8(B) AP Prohibition Amended Act.

2.The brief averments of the prosecution case are :-

On 16.08.2021 at about 08:30 AM, the Sub-Inspector of Police, Jaggampeta Police station, along with his staff, conducted raid and proceeded to Kondakaluva gattu, outskirts of Mallisala Village, Jaggampeta Mandal and found the accused in possession of manufacturing of ID arrack on seeing them, he tried to run away and on suspicion they detained them, and on verification they found 100 liters of I.D. arrack in ten plastic covers worth of Rs.10000/- and 500 lts of FJ wash in three big pots at the scene and he tried to escape from there police caught hold him and accused failed to furnish any license for possession of the said ID arrack and on

interrogation accused stated his name and identity particulars and the Sub-Inspector deputed one Constable, to secure mediators, but in vain. As such, he arrested the accused and seized the contraband from him and drawn samples for analysis purpose under the cover of mediator report and returned to the Jaggampeta, Police Station along with accused and the seized property and handed over the accused and the seized property to them and basing on the mediators report the Sub-Inspector of Police, Jaggampeta Police station, registered a case in Crime Number 183/2021 Under Section 7(B) r/w 8(B) AP Prohibition Amended Act. Later, sent the samples for analysis purpose and after receipt of Chemical analysis report and after completion of investigation, the Sub-Inspector filed charge sheet in this case.

3. The case is taken cognizance for the offense punishable under Section 7(B) r/w 8(B) AP Prohibition Amended Act. On appearance of the accused before the Court, copies of the documents were furnished to him as contemplated under Section 207 of Code of Criminal Procedure. The accused were examined under Section 239 of Code of Criminal Procedure, read over and explained the contents of the charge for the offense punishable under Section 7(B) r/w.8(B) AP Prohibition Amended Act in Telugu to the accused and they pleaded not guilty and claimed to be tried.

4. In the trial afforded by both parties, the prosecution cited 02 witness. LW3/K.Venakta Ramana VRO and LW.5/S.Lakshmi Kantham, SI of Police, Jaggampeta PS and they were examined as PW.1 & PW.2 and Exs.P.1 to P.3 and M.O.1 is marked through them. The evidence of LW.1/B.Banga raju, PC-515, LW.2/A.S.Gangadhar, HG-1026, , LW3/B.Banga Raju, PC-515, LW4/Pilli Ramaswamy, VRO-2 were given up by A.P.P.

5. After completion of the prosecution evidence, the accused is examined under section 313 Cr.P.C. by explaining the incriminating evidence appearing against them, in telugu. They denied it totally and reported no defence evidence. No exhibits were marked in D" Series.

6. Heard both Learned Assistant Public Prosecutor and the Learned Counsel for the Accused .

➔ **Whether the prosecution proved the guilt of the accused for the offence punishable under Section 7(B) r/w 8(B) AP Prohibition Amended Act beyond all reasonable doubt?**

POINT:-

7. After considering the arguments on both sides and scrutinizing entire evidence of prosecution, PW.1 who is the mediator has deposed that on 16.08.2021 the police caught the accused in his presence and thereby seized Mo.1 is sample bottle and he drafted the mediator report and it is marked as Ex.P1. PW.2. who is the Sub-Inspector, Jaggampeta police station, has deposed her evidence by reiterating the contents of Ex.P.1 Mediators report, about conducting raid and seizure of M.O.1 is one sample bottle from the accused. She deposed that PW1 drafted the mediators report, basing on report she arrested the Accused, and later, she registered Ex.P.2/First Information Report as a case in Crime No.183/2021, for the offence punishable under Section 7(B) r/w 8(B) AP Prohibition Amended Act. Later, the samples (M.O.1) was sent for chemical analysis and after obtaining the Chemical Analysis Report, as the said samples are distilled liquor she filed the charge sheet. The mediators report, First Information Report and Chemical Analysis Report are marked as Exs.P.1 to Ex.P.3 and the Sample bottle us marked as M.O.1.

8. On perusal and evidences of prosecution it shows that the even though the scene of offence is busy locality, the police did not mention the name of the person, whom they requested, to act as mediators as per Ex.P.1 report. Further, PW.2. did not take any action against such, person, who refused to act as mediator, as per Section 100 (8) of Cr.P.C. It was further noticed that the scene of offence is a major panchayath, but local mediators were not examined in this case. It was further noticed that the bag, which was seized, is not produced before this court and the name of illicit arrack, were not mentioned in Ex.P.1/Mediators Report; and also he did not mention the scribe of Ex.P1/Report. The PW.1. denied the suggestion put by the counsel for the accused that the entire investigation is a fake investigation and this case is falsely foisted against the accused, only for their statistical purpose. Moreover, except the evidence of PW.1, none of the prosecution witness has supported the case. Moreover, the testimonies of PW1 cannot be taken into consideration as they being official.

9. Furthermore, It is settled law that the only evidence investigation Officer, who is also a complainant cannot be taken into consideration. Further, PW.2 failed to follow the procedure laid down under Section 100(4) of Cr.P.C.

10. The evidence of PW.1, who is the Official witness, cannot be discarded on the sole ground that his evidence is found to be incredible and it is unsafe to rely upon their evidence. Our Lordship decided on this aspect which was reported in "**Kalpna Vs State(Through Cbi) 1997(20 ALD Cri805**", wherein, it was observed by the Hon'ble Apex Court that:

"Indeed, the evidence of the official witnesses cannot be discarded merely on the ground that they belong to the Police force and are, either interested in the investigation or the prosecuting agency, but prudence dictates that their evidence needs to be subjected to strict scrutiny and as far as possible corroboration of their evidence, in material particulars should be sought. Their desire to see the success of the case based on their investigation; requires greater care to appreciate their testimony;

But, the rule of Prudence is that the Testimony of a Official witness shall be corroborated, in order to prove the case of the prosecution, beyond all reasonable doubt. The evidence of PW.2 failed to establish any cogent proof of the same. The evidence of PW1 that the Accused was found in possession of illegally transporting of ID Arrack cannot be relied on, without any corroboration. When the evidence of PW1 & PW2 excluded from consideration, there remains no evidence on record, to connect the Accused with the commission of said offence. Then, the Prosecution failed to prove the seizure in the presence of any other witnesses, as contemplated under Section 100(4) of Cr.P.C. and the case of prosecution is clouded with shadow of doubt.

Even it was held by Hon'ble High Court in **Botcha Raju Vs State Represented by Inspector of Police 1994(2) ALT 69 (AP)** wherein, it was held conviction cannot be based on the sole evidence of Police officers without corroboration by disinterested witness. And in **Gyam Singh and Ors Vs State of U.P 1995 Supp(4)SCC 658**, wherein Hon'ble Supreme Court of India, observed that conviction cannot be based on uncorroborated testimony of official witness. Hence,

as per Section 100(4) of Cr.P.C. and relying upon the above case law, the Accused is entitled for benefit of doubt. The search, seizure and arrest of the Accused, is in contravention of Section 100(4) of Cr.P.C. as the above provision (Section) itself envisages to secure any of the inhabitants of the locality as mediator.

11. PW.2 did not secure any independent witness of that locality to support the case of the Prosecution and it is not a rule of prudence to convict the Accused, without any corroborating evidence. Therefore, in such circumstances, the Accused in this case, is entitled to benefit of doubt. Hence, in view of the above circumstances, the Prosecution has failed to prove the guilt of the Accused for the offence charged under section 7(B) r/w .8(B) AP Prohibition Amended Act beyond all reasonable doubt.

12. **In the result**, the Accused is **found not guilty** for the offence punishable under Section 7(B) r/w 8(B) of Andhra Pradesh Prohibition (Amendment) Act -2020. Consequently accused are **acquitted** under section 248(1) Cr.P.C. The M.O.1 shall be destroyed, after expiry of appeal time. The Bail bonds of the Accused shall stands canceled after lapse of six months.

Dictated to the Stenographer, corrected and pronounced by me, in open Court, on this the 23rd day of June, 2025.

Sd/-L.Devi Rathna Kumari
Principal Civil Judge(Junior Division)-
cum-Judicial Magistrate of I Class,
Peddapuram.

Appendix of Evidence
Witnesses Examined

For Prosecution:

PW.1. K.Venkata Ramana , VRO.

P.W.2. S.Lakshmi Kantham, SI of police, Jaggampeta

For Defence:

NIL

Exhibits Marked

For Prosecution:

Ex.P1 : Mediators Report.

Ex.P.2 : FIR

For Defence:

NIL

Ex.P.3 : Chemical Analysis Report.

Material Objects Marked :-

For Prosecution:

M.O.1 is sample bottle of ID arrack.

For Defence :- - - - Nil - - -

Sd/-L.Devi Rathna Kumari
Judicial First Class Magistrate,
Peddapuram.

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J.F.C.Magistrate,PDP

**CALENDAR AND JUDGMENT
IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-CUM-
PRINCIPAL CIVIL JUDGE (JUNIOR DIVISION):: PEDDAPURAM::**

PRESENT: Smt.L.Devi Rathna Kumari,
Judicial First Class Magistrate-cum- Principal Civil Judge(Junior Division),
Peddapuram.

Monday, the 23rd day of June, 2025

CALENDER CASE NO.1307 of 2022

Date of	:	
Offence	:	16.08.2021
Complaint	:	16.08.2021
Appearance of accused	:	07.04.2025
Arrest of the accused	:	16.08.2021
Released on bail	:	19.08.2021
Commencement of trial	:	05.06.2025
Closure of trial	:	13.06.2025
Sentence/Order	:	23.06.2025
Reasons for delay	:	No delay.
Name of the complainant	:	The state, rep by the Sub-Inspector of police, Jaggampeta Police Station (Cr.No.183/2021)
Name of the accused	:	Nakkaraju Suryanarayana, S/o.Sathi Babu, A/33 yrs, C/T.Kapu, Mallisala Village, Jaggampeta Mandal.
Offence	:	under Section 7(B) r/w.8(B) of A.P. Prohibition(Amendment) Act-2020.
Plea of the accused	:	Not guilty.
Finding and Sentence	:	The Accused is found not guilty for the offence punishable under Section 7(B) r/w 8 (B) of Andhra Pradesh Prohibition (Amendment) Act -2020. Consequently accused is acquitted under section 248(1) Cr.P.C. The M.O.1 shall be destroyed, after expiry of appeal time. The Bail bonds of the Accused shall stands canceled after lapse of six months.

Sd/-L.Devi Rathna Kumari
Judicial First Class Magistrate
Peddapuram.

Copy submitted to the Honourable Chief Judicial Magistrate, East Godavari,
Rajamahendravaram.

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J.F.C.Magistrate,PDP

