

**IN THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS: GUNTAKAL**

Present: **Smt. S. Bhargavi,**

Judicial Magistrate of First Class, Guntakal

Monday, the 06<sup>th</sup> day of July, 2026

**CALENDAR CASE No.816 of 2022**

Between:

State of Andhra Pradesh represented by  
The Sub-Inspector of Police, Kasapuram Police Station

(Cr.No.02 of 2022 of Kasapuram PS)

**... Complainant.**

And

Mudavath Thavarya Naik @ Thavu Naik, aged 33 years,  
S/o Mudavath Somla Naik, D.No.2/128A, ST Colony,  
Gundala Thanda Village, Guntakal Mandal.

**.... Accused**

\* \* \* \* \*

This case came on 02.07.2026 for final hearing before me in the presence of Assistant Public Prosecutor for the State and of Sri **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 sub Inspector of Police, Kasapuram Police Station filed charge sheet in Crime No.02 of 2022 for the offences punishable under sections 7(A) r/w 8(e) of Andhra Pradesh Prohibition Amendment Act, 2020 and Sec.34(e) of AP Excise Act of Kasapuram Police Station against the accused.

2. The brief averments of the prosecution case is that the accused is a resident fD.No.2/128A, ST Colony, Gundala Thanda Village, Guntakal Mandal and living by

agriculture and coolie works. He blessed 3 sons, as he not getting sufficient coolie works. He know the preparing the ID arrack on that the decided to earn money in easy way by preparing and selling the ID arrack and he made liquor found at near his village and on 02.01.2022 he reached liquor found and collected the about 04 liters of ID arrack and filled ID wash in 51 plastic pots mean while on credible information Lw8/K.Rajasekhar with the assistance of Lws.1 to 4 rushed to the spot and accused escaped from the spot and Lw8 seized 4 liters of ID arrack and destroyed about 1000 liters of ID wash under a cover of police proceedings.

3. Basing on the said Police Proceedings, Lw8/K.Rajasekhar registered the case in Crime No.02 of 2022 for the offences punishable under sections 7(a) r/w 8(e) of Andhra Pradesh Prohibition Amendment Act, 2020 and Sec.34(e) of AP Excise Act of Kasapuram Police Station against the accused. Subsequently, on 08.04.2022 Lw8/K.Rajasekhar has arrested the accused and forwarding the arrested accused to the Hon'ble Court along with his remand report for remand into judicial custody.

4. Lw8/K.Rajasekhar, Sub Inspector of Police forwarded the sample seized to the chemical Examiner for (Prohibition and Excise Laboratory, Chittoor examined the seized sample and issued report opining that the sample of ID arrack is injurious to health Vide CE No.406/2022, S.No.4, 219. On 10.06.2022 Lw9/G.Gopaludu took up investigation from Lw8 and on 25.06.2022 Lw9 received analysis report from Lw7/ and on 21.07.2022 Lw9 received destruction orders from Superintendent of Police vide C.No.592/SEB-ATP/2022, dt.11.07.2022. Thus, the accused committed the offence punishable under sections 7(a) r/w 8(e) of Andhra Pradesh Prohibition Amendment Act, 2020 and Sec.34(e) of AP Excise Act .

5. The Court took cognizance on 12.10.2022 against the accused for the offences punishable under sections 7(a) r/w 8(e) of Andhra Pradesh Prohibition Amendment Act, 2020 and Sec.34(e) of AP Excise Act.

6. On 10.03.2023, on appearance of the accused, copies of documents furnished to him as required under Section 207 of Code of Criminal Procedure, 1973.

7. On 19.06.2026, 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 sections 7(a) r/w 8(e) of Andhra Pradesh Prohibition Amendment Act, 2020 and Sec.34(e) of AP Excise Act. 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 Pw1 and got marked Exs.P1 to P4 and got marked MO.1.

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 sections 7(a) r/w 8(e) of Andhra Pradesh Prohibition Amendment Act, 2020 and Sec.34(e) of AP Excise Act beyond all reasonable doubts?**

**12 POINT:**

In the present case, on thorough observation of entire evidence of PWs 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, 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 shows 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 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 2020 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.P1 Police proceedings 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 ID arrack was seized from the possession of the accused.

16. The learned Assistant Public Prosecutor filed a memo along with citation and relying upon the facts attributed in criminal appeal No.167 of 2006 between **Baldev and State of Haryana of Hon'ble Apex Court, reported in 2015 AIR SCW 6174** to base conviction against the accused in this case. A perusal of said citation, the facts and circumstances attributed in the said case are not relevant to the present case on hand.

17. Further the confession recorded by PW1 in Ex.P1 is hit by section 25, 27 of Indian Evidence Act, 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 offences punishable under sections 7(a) R/w 8(e) of Andhra Pradesh Prohibition Act, 1995 beyond all reasonable doubts and hence benefit of doubt should be given to the accused.

18. In the result, the accused is found not guilty for the offence punishable under sections 7(a) r/w 8(e) of Andhra Pradesh Prohibition Amendment Act, 2020 and Sec.34(e) of AP Excise Act. 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.

MO.1 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 06<sup>th</sup> day of July, 2026.

**Judicial Magistrate of First Class, Guntakal**

**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED FOR**

**Prosecution**

Pw1: G.Gopaludu, SI, Kasapuram Police Station.

**Defence**

NIL

**Exhibits marked for the Prosecution**

Ex.P1: Police proceedings, dt.02.01.2022 at about 1.30 PM

Ex.P2: FIR in Cr.No. 02 of 2022

Ex.P3: Letter of Advise

Ex.P4: Chemical analysis report

**Exhibits marked for the Defence**

NIL

**Material objects marked on behalf of**

**Prosecution**

MO1: sample ID arrack

**Defence**

NIL

**Judicial Magistrate of First Class, Guntakal**

**CALENDAR CASES TRIED  
IN THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS, GUNTAKAL  
CALENDAR CASE No.816 of 2022**

Complainant : Sub Inspector of police, Kasapuram Police Station.  
Crime No.02 of 2022 of Kasapuram Police Station

Mudavath Thavarya Naik @ Thavu Naik, aged 33 years,  
S/o Mudavath Somla Naik, D.No.2/128A, ST Colony,  
Gundala Thanda Village, Guntakal Mandal.

| Date of Offence | Report or Complaint | Appearance/ Apprehension of accused | Released on bail | Commencement of trial | Close of trial | Sentence Order |
|-----------------|---------------------|-------------------------------------|------------------|-----------------------|----------------|----------------|
| 02.01.2022      | 02.01.2022          | 08.04.2022                          | 13.04.2022       | 20.06.2026            | 20.06.2026     | 06.07.2026     |

**Offences :-** Sections 7(a) r/w 8(e) of Andhra Pradesh Prohibition Amendment Act, 2020 and Sec.34(e) of AP Excise Act.

**Finding :-** Found not guilty.

**Sentence of Order:-**

In the result, the accused is found not guilty for the offences punishable under sections 7(a) r/w 8(e) of Andhra Pradesh Prohibition Amendment Act, 2020 and Sec.34(e) of AP Excise Act. 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..