

1 CC.No.83/2026
TNVR150021812025
Presented on : 11-08-2025
Registered on : 13-03-2026
Decided on : 11-06-2026
Duration : 0 years, 10 months, 0 days



**IN THE COURT OF JUDICIAL MAGISTRATE
ARUPPUKOTTAI**

PRESENT : Selvi. D.Jeyapradha, B.A.,B.L.,(Hon's)

Judicial Magistrate, Aruppukottai.

Thursday, the 11th day of June, 2026

Calendar Case 83/2026

The State rep. by The Sub-Inspector of Police, M.Reddiyapatti Police Station.	:	Complainant
//Verus//		
Muthuramlingam, (63/2026) S/o. Sakthivel, Middle Street, Salukkuvarpatti, Aruppukottai Taluk.	:	Accused

1.	Serial Number	CC.No.83/2026
2.	Name of the Police Station and Crime Number	M.Reddiyapatti Police Station Crime No.138/2024
3.	Name of Accused	Muthuramlingam, (63/2026)
4.	Age	S/o. Sakthivel, Middle Street, Salukkuvarpatti, Aruppukottai Taluk.
5.	Father's Name	
6.	Residence	

7.	Occupation	Accused – Labourer		
8.	Occurrence date	23.11.2024		
9.	Date of Complaint	-		
10.	Date of Apprehension	23.11.2024		
11.	Release on Bail	23.11.2024		
12.	Date of Commitment	-NA-		
13.	The Period of remand of the Accused	The accused is arrested on 23.11.2024 and released station bail on same day		
14.	The date of filling of the Complaint/ final report in the Court	13.03.2026		
15.	The date of committal of the case to the Court of Session	-NA-		
16.	The date of questioning of accused under section 251, 263, 269 and 67 of the Bharathiya Nagarik Suraksha Sanhita, 2023 as the case may be	10.04.2026		
17.	Filing of all miscellaneous Petitions and their results including the results on challenge before superior Courts, except routine petitions like petitions under section 355 of BNSS	-		
18.	Date of Examination in chief and Cross- Examination of a witness	witness	Examination of Chief	Cross- Examination
		PW1	22.05.2026	22.05.2026
		PW2	22.05.2026	22.05.2026
		PW3	03.06.2026	03.06.2026
		PW4	03.06.2026	03.06.2026
19.	Date of examination of the accused under Section 351 (b) (1) of BNSS	08.06.2026		
20.	Details of abscondence of an	-		

	accused and his appearance/ production , as the case may be and grant of stay by superior Courts and the results there of	
13.	Date of Commencement of Trial	22.05.2026
14.	Date of closure of Trial	08.06.2026
15.	Sentence or Order	11.06.2026
16.	Service of Copy of judgment of finding on Accused	Case ended in acquittal, hence copy not furnished.
17.	Explanation of delay	No delay

This case came up for final hearing before this Court on 13.03.2026 in the presence of Mr.SenthilKumar, Learned Assistant Public Prosecutor for the state and Mr.Chellapandian, M.A.,B.L., Learned counsel for the Accused. After perusal of the available case records, and upon hearing arguments of both sides and having stood over for consideration till this day, this Court delivers the following:

JUDGMENT

1. The Sub-Inspector of Police, M.Reddiyapatti Police Station, has filed a final report in connection with an incident of selling liquor bottles at an additional price which allegedly happened on 23.11.2024 at approximately 17.00hrs. As per the report, while Special Sub-Inspector Ramamoorthi along with police personnel, was patrolling and monitoring the M.Reddiyapatti in connection with prohibition and gambling-related crimes under the jurisdiction of the M.Reddiyapatti Police Station, the accused Muthuramalaingam was found with 26 liquor bottles for the purpose of selling them

at a higher price for personal profit, near the Sandana Mariamman Temple situated near road from Maravar Perungudi to Suthamadam, without any government license or permission and these bottles were seized. The seized bottles were: MONITOR DELUXE BRANDY -12 Bottles, EXPRESS SPECIAL BRANDY – 14 Bottles accordingly final report has been filed against the accused under section 4(1)(C) of Tamil Nadu Prohibition Act (herein after called as ‘TNP Act’).

2. COGNIZANCE:

Upon perusal of the charge sheet, this Court was satisfied that a prima facie case has been established against the Accused. Accordingly, this Court took cognizance of the offense under Section 4(1) (A) of TNP Act and issued summon to the accused. Upon his appearance before the Court, copies of the case records were duly furnished to him at free of cost, in compliance with Section 230 of BNSS.

3. FRAMING OF CHARGES:

Upon perusal of the records, this Court was satisfied that there is ground for proceeding against the Accused and hence, a charge is framed against him. The accused is charged under section 4(1) (A) of TNP Act. The charge is then read over and explained to him as per the mandate of section 263 of BNSS. Having understood the charge, the accused pleaded ‘not guilty’ and claimed to be tried. Hence, this court proceeded with the trial of the case.

4. PROSECUTION WITNESSES

In support of its case, the Prosecution examined four witnesses, PW1 to PW 4 and Exhibits P1 to P4 were marked along with material object PMO -1 and then prosecution's evidence was closed.

5. EVIDENCE OF THE PROSECUTION IN BRIEF:

The prosecution examined four official witnesses who stated that on 23.11.2024, during patrol duty within the limits of M.Reddiyapatti Police Station, the accused was found at Near the Sandana Mariamman Temple on the road from Maravar Perungudi to Suttamadam area in possession of a white, yellow, and black polythene bag with the word Bigg Boss written on it, containing 26 bottles of liquor without any valid license, allegedly meant for illegal sale at higher prices. PW1 (Head Constable Kathirvel) deposed about the seizure of 26 bottles of Monitor deluxe brandy and Expres Special Brandy (180 ml each), the arrest of the accused on the spot, and the preparation of a seizure mahazar in which himself and Rathivel (GR-1 PC) signed as witnesses. PW2, the Special Sub-Inspector, corroborated the occurrence, stating that he, seized the liquor and prepared the mahazar, in the absence of independent witnesses by using police personnel as witnesses, and registered the case in Crime No. 138/2024 under Section 4(1)(C) of the Tamil Nadu Prohibition Act. PW3 deposed that, head Constable Kathirvel video recorded the seizure of liquor bottles from the accused on 23.11.2024 and that the Head Constable sent the video recording to his mobile phone, which he copied onto a compact disc (CD) and handed over the

same in the police station. PW4, the Investigating Officer, deposed that he continued the investigation, produced 26 seized bottles for destruction through the Assistant Commissioner, obtained a destruction certificate, and the yellow and black polythene bag seized in this case was handed over to the court in Form 91 and received P.R. No. 174/2025. Finally filed the final report against the accused under the same provision.

6. SECTION 351(1)(b) of BNSS PROCEEDINGS:

Upon completion of the prosecution evidence, the Accused is examined under Section 351(1)(b) of BNSS, and the incriminating circumstances arising from the evidence on record are put forth to him. The accused denied all the allegations and the incriminating circumstances brought forth by the prosecution. No oral or documentary evidence was adduced on behalf of the accused. Accordingly, the defence evidence was closed.

7. POINTS FOR DETERMINATION:

On perusal of the connected documents and records, the questions that arise for consideration in this case are enumerated below,

- i. Whether the Prosecution has established the ingredients of the offence under section 4(1) (A) of the TNP Act against the Accused?**
- ii. Whether the Prosecution has proved the case beyond all reasonable doubt as against the accused?**

Both sides' counsel placed their submissions to substantiate their case.

8. APPRECIATION OF EVIDENCE AND DISCUSSION:

(Both of the above points involve similar adjudication; hence, this court is inclined to address these two points simultaneously in order to avoid recapitulation of facts and evidence)

8.1. Before addressing the points for consideration, it is pertinent to note that in criminal proceedings, the burden of proof squarely lies on the Prosecution, which must establish the guilt of the accused beyond a reasonable doubt. As per Section 104 of the Bharatiya Sakshya Adhiniyam, 2023 (herein after referred to as BSA), it is incumbent upon the Prosecution to prove the allegations levelled against the accused beyond all reasonable doubt as stated above. However, for the offence under 4(1) (A) of the TNP Act, the accused is presumed to have committed the alleged offence unless the contrary is shown. The said presumption is enumerated under section 4 (2) (a) of the TNP Act. In order to draw this presumption against the accused preliminary set of facts needs to be established by the prosecution. Such as the alleged case property of 26 bottles of government liquor was indeed recovered from the possession of the accused.

8.2 The learned counsel for the prosecution submitted that the recovery of 26 bottles of liquor from the possession of the accused has been duly established before this Court through the examination of PW1 to PW3. In such circumstances, the presumption under the relevant provisions of the Act operates against the accused,

thereby shifting the burden upon him to rebut the same. Conversely, the learned counsel for the accused contended that the prosecution has failed to discharge its initial burden of proof. It is argued that the witnesses examined on behalf of the prosecution are interested parties, and their testimonies cannot be solely relied upon, especially in the absence of any independent public witnesses. Furthermore, it is submitted that the prosecution has not established that the seized bottles actually contained liquor, as no scientific or chemical examination was conducted to confirm the contents.

8.3 Rival submissions made by both sides' counsels are considered. In this case at hand, the recovery was effected by PW2, whereas PW1 and PW3 are the witnesses for the said recovery. All of these witnesses are police officials. It is settled law that when only police witnesses have been examined, their evidence must be thoroughly scrutinised. All of the prosecution witnesses are interested in the success of the prosecution case, and therefore, the probability of their being guided by extraneous factors, other than truth, cannot be ruled out. The police witnesses cannot be straightaway termed as unreliable witnesses, however, when there is a possibility of joining any public witness in the investigation and still no genuine efforts are made to join the independent person as witness, then the testimony of the police witness does not lend sufficient credence/reliability, unless it is corroborated by independent material witness.

8.4 The prosecution witnesses PW1 to PW3, deposed that public witnesses refused to sign and testify as witnesses, despite the request from PW2, during the process of recovery and thus they could not be joined as witnesses in this case. While so, no evidence was marked to establish that the prosecution has taken bonafide efforts by sending the summons to the said witnesses or taken action against those witnesses who failed to assist the prosecution under section 214 of the BNS or for other offences. In view of the same, it is duly established that genuine efforts were not made by the Investigating Officer of this case to join the public witness. The non-joining of the public witness despite their easy availability at the time of the alleged recovery of the article creates doubt in the story of the prosecution.

8.5 In addition to the same, no scientific examination was done to establish the fact that the 26 bottles alleged to be recovered from the accused contain liquor. Reliance is placed on the decision of Hon'ble Madras High Court in **Vella pinna Thevar Vs unknown**, reported in **1970 MLJ (Cri) 689**, wherein it was held as follows,

4. A legal ground has been raised for quashing the conviction under Section 4(1) (a). The learned Counsel for the petitioner argues that the prosecution will have to establish that the articles seized from the accused were liquor under Section 3 (9) of the Act. Distilled arrack has not been subjected to scientific analysis by a Chemical Examiner. The learned Counsel bases his argument on the authority of the decision of the Supreme Court of India in State of Andhra Pradesh v. Madiga Boosenna and Ors. (1968) 1 S.C.J 160 : (1968)1 M.L.J (S.C.) 57 :(1963) 1 An. W.R. (S.C.) 57 : (1968)

M.L.J. (Crl.) 12. This argument has considerable force. Inasmuch as the prosecution has failed to prove that what has been seized from the accused is ' liquor', the conviction under Section 4 (1) (a) is set aside.

8.6 It is incumbent on the prosecution to bring on record the link evidence to show that the sample of the recovery alleged to have been made by the police witness from the accused was analysed by forensic examination without it being tampered with by anyone, failure of which is a ground in favour of the accused. From the above discussions, it could be seen that the prosecution has miserably failed to establish the foundational facts stated above to attract the presumption under section 4 (2) (a) of the TNP Act against the accused.

8.7. It is a settled principle of law that an investigation is a systematic collection of facts for the purpose of ascertaining what occurred and explaining how and why it occurred. When the same individual acts as both the complainant and the investigating officer, it may raise concerns regarding the fairness of the investigation and the accused's right to a fair trial, as guaranteed under Article 21 of the Constitution of India. Such a situation may lead to the concentration of unchecked and arbitrary powers in the hands of the police, particularly in cases involving penal statutes that impose a reverse burden of proof.

8.8. In the present case, a substantial and material part of the investigation was carried out by the de-facto complainant himself, namely PW2. Only the formal acts of obtaining destruction certificate for the liquor bottles, registration number for the

seized amount and filing the final report were performed by PW4. Thus, it is evident that the de-facto complainant and the Investigating Officer are, for all practical purposes, one and the same person. However, it is equally well settled that in every case where the informant is also the investigator, it cannot be presumed that bias has been caused to the accused, nor can the entire prosecution case be disbelieved on that ground alone, unless actual bias, procedural irregularity, or prejudice is demonstrated. Reliance is placed on the judgment of the Hon'ble Supreme Court of India in **Mukesh Singh v. State (Narcotic Branch of Delhi)**, reported in **AIR 2020 SC 4794**, wherein it has been held as follows:

10.1. Therefore, merely because the complainant conducted the investigation that would not be sufficient to cast doubt on the entire prosecution version and to hold that the same makes the prosecution version vulnerable. The matter has to be left to be decided on a case-to-case basis without any universal generalization.

11..... Only in a case where the accused has been able to establish and prove the bias and/or unfair investigation by the informant-cum-investigator and the case of the prosecution is merely based upon the deposition of the informant-cum-investigator, meaning thereby prosecution does not rely upon other witnesses, more particularly the independent witnesses, in that case, where the

complainant himself had conducted the investigation, such aspect of the matter can certainly be given due weightage while assessing the evidence on record....

From the above principles, it is evident that the mere fact of the informant acting as the investigator does not automatically vitiate the prosecution case, but the presence of procedural lapses assumes significance. In the present case, several such irregularities are apparent namely, the failure to secure independent public witnesses despite their availability, the omission to show that bonafide steps have been taken by the prosecution to secure those witnesses or to penalise them when they failed to assist the prosecution under section 214 of the BNS, the lack of steps taken to ascertain whether the seized bottles in fact contained liquor, further it is mandatory on the part of the police personnel to take video recording when search is made as per section 105 of BNSS, in this case the prosecution alleges that video was taken during the process of search and seizure, however the said video was not brought on record. In these circumstances, the fact that the informant also acted as the Investigating Officer assumes greater significance and results in prejudice to the accused's right to a fair investigation, as contemplated under the principles laid down in the aforesaid judgment.

8.9. In furtherance of the above discussion, it can be very well said that the prosecution has failed to establish its case beyond all reasonable doubt, and as a result, the benefit of the doubt ought to be reckoned in favour of the accused person.

Accordingly, this Court concludes that the prosecution has failed to establish the essential ingredients of the offence under section 4 (1) (A) of the TNP Act against the Accused beyond all reasonable doubt.

9. DECISION:

- i. In the result, this Court finds that **the Accused is not guilty of the offences under section 4 (1) (A) of the TNP Act** and thus he is acquitted from the aforementioned charge as per section 271(1) of BNSS. The Bail bond of the accused person shall stand cancelled after the lapse of the limitation period for preferring the appeal.
- ii. In this case, Item No. 1 and 2 filed in PR.No.174/2025 have been already destroyed and the destruction certificate has been submitted. It is further ordered that the white, yellow, and black polythene bag with the word Bigg Boss written on it, mentioned in Item No. 3 is ordered to be destroyed after the lapse of limitation period of Preferring appeal.

This judgment was directly typed by me in my laptop, formatted by steno and then corrected and pronounced by me in the open Court on this 11th day of June, 2026.

**Judicial Magistrate,
Aruppukottai.**

APPENDIX-A**PROSECUTION SIDE WITNESS:-**

S.No.	Rank of Witness	Name of the Witness	Remarks
1.	PW1	Kathirvel (Head Constable)	Seizure Mahazar Witness
2.	PW2	Ramamoorthi (Special Sub-Inspector)	Investigation officer
3.	PW3	Muniasamy (Head Constable)	Formal Witness
4.	PW4	Rameshwaran (Sub-Inspector)	Investigation officer

APPENDIX-B**PROSECUTION SIDE EXHIBITS:-**

S.No.	Exhibit	Description of document
1.	Ex.P1	Seizure Mahazar
2.	Ex.P2	FIR
3.	Ex.P3	Destruction certificate
4.	Ex.P4	Form 91

APPENDIX-C**MATERIAL OBJECTS**

1.	PMO -1	White, yellow, and black polythene bag with the word Bigg Boss written on it
----	--------	--

APPENDIX-D**DEFENCE SIDE WITNESS – NIL**

APPENDIX- E**DEFENCE SIDE EXHIBITS – NIL****Note:**

1. No Witnesses were detained more than three times.
2. Nature of disposal communicated to the concerned Police.
3. The Accused person is enlarged on bail during the pronounced of judgment.

Judicial Magistrate,
Aruppukottai.