

TNVR150028592025

Presented on : 17-11-2025

Registered on : 05-05-2026

Decided on : 16-06-2026

Duration : 0 years, 6 months, 29 days



**IN THE COURT OF JUDICIAL MAGISTRATE
ARUPPUKOTTAI**

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

Judicial Magistrate, Aruppukottai.

Tuesday, the 16th day of June, 2026

Calendar Case 135/2026

The State rep. by The Sub-Inspector of Police, Aruppukottai Town Police Station.	:	Complainant
//Verus//		
Balaji, (52/2026) S/o. Mariyappan, 77-Ujjisamy Kovil 1 st Street, Chokkalingapuram, Aruppukottai.	:	Accused

1.	Serial Number	CC.No.135/2026
2.	Name of the Police Station and Crime Number	Aruppukottai Town Police Station Crime No. 347/2024
3.	Name of Accused	Balaji, (52/2026)
4.	Age	S/o. Mariyappan, 77-Ujjisamy Kovil 1 st Street, Chokkalingapuram, Aruppukottai.
5.	Father's Name	
6.	Residence	
7.	Occupation	-

8.	Occurrence date	02.11.2024		
9.	Date of Complaint	-		
10.	Date of Apprehension	02.11.2024		
11.	Release on Bail	13.11.2024		
12.	Date of Commitment	-NA-		
13.	The Period of remand of the Accused	The accused is arrested on 02.11.2024 and released on 13.11.2024 in Order of the Principal district and Session Judge, Virudhunagar district at Srivilliputtur. Cr.M.P.No.4185/2024. Period of remand of the Accused is 12 days		
14.	The date of filling of the Complaint/ final report in the Court	05.05.2026		
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	06.06.2026		
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	09.06.2025	09.06.2025
		PW2	09.06.2025	09.06.2025
		PW3	10.06.2026	10.06.2026
		PW4	10.06.2026	10.06.2026
19.	Date of examination of the accused under Section 351 (b) (1)	11.06.2026		

	of BNSS	
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	09.06.2026
14.	Date of closure of Trial	11.06.2026
15.	Sentence or Order	15.06.2026
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 11.06.2026 in the presence of Mr. Senthil Kumar, Learned Assistant Public Prosecutor for the state and Mr.M.Karuppasamy, M.Sc.,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, Aruppukottai Town Police Station, has filed a final report in connection with an incident of selling liquor packets at an additional price, which allegedly occurred on 02.11.2024 at approximately 11.30hrs. As per the report, while Sub-Inspector Jothimuthu, along with police personnel, was patrolling and monitoring the Aruppukottai Town area in connection with prohibition and gambling-related crimes under the jurisdiction of the Aruppukottai Town Police

Station, the accused, Balaji, was found standing in a suspicious manner, on Aruppukottai Telephone Road, near the entrance junction of Singara Thoppu. He was found in possession of 20 liquor packets bearing the seal of the Government of Karnataka, an interstate liquor prohibited by the Government of Tamil Nadu, along with Rs.1,750/-, alleged to be the proceeds from the sale of liquor. The seized items were: AMRUT'S SILVER CUP VSOP INDIAN BRANDY – 20 packages and accordingly, a final report has been filed against the accused under Section 4(1)(A) of the Tamil Nadu Prohibition Act (hereinafter referred to as the “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 offence 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 PW4 and Exhibits P1 to P5 were marked, and the prosecution's evidence was closed.

5. EVIDENCE OF THE PROSECUTION IN BRIEF:

Four official witnesses were examined on behalf of the prosecution. PW1 (Head Constable Mareeshwaran) and PW3 (Special Sub-Inspector Selvam) deposed that on 02.11.2024, while they were on patrol duty along with PW2 (Sub-Inspector Jothimuthu) in connection with prohibition, ganja, and gambling offences, they found the accused standing near the entrance junction of Singara Thoppu, MVA Manicka Nadar area, on Aruppukottai Telephone Road, carrying a yellow and maroon bag bearing the words "Sir Vijaya Jewellers." On inspection, the bag was found to contain 20 sachet-style packets resembling Mango Fruity soft drink cartons, labelled AMRUTS SILVER CUP VSOP Indian Brandy, bearing the inscription "For Sale in Karnataka Only," along with a sum of Rs.1,750/-. According to them, when questioned, the accused admitted that he had no licence or lawful authority to possess the liquor and that he intended to sell it at a higher price for personal gain. Thereafter, the accused was arrested, the contraband liquor and cash were seized under a seizure mahazar, and PW1 and PW3 signed the seizure mahazar as witnesses.

PW2, the then Sub-Inspector of Police, substantially corroborated the evidence of PW1 and PW3. He further deposed that, in the absence of independent witnesses, the seizure mahazar was attested by the accompanying police personnel. He registered Crime No.347 of 2024 under Section 4(1)(A) of the Tamil Nadu Prohibition Act and, upon his transfer, handed over the case records to his successor for further investigation.

PW4 (Sub-Inspector Ravieshwaran), who continued the investigation, deposed that he handed over the seized 20 sachets of AMRUTS SILVER CUP VSOP Indian Brandy to the Assistant Commissioner for destruction on 08.01.2025 and obtained the destruction certificate. He further stated that the seized cash of Rs.1,750/- was deposited before the Court on 05.02.2026 through Form 91 (P.R. No.31 of 2026). After completing the investigation, he filed the final report against the accused under Section 4(1)(A), 4 (1)(C), of the Tamil Nadu Prohibition Act.

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 20 packets 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 20 packets of liquor from the possession of the accused has been duly established before this Court through the examination of PW1 to PW4. 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 packets 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 the investigating officer, 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 20 packets 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 the registration number for the seized amount and filing the final report were performed by PW4 after the transfer of PW2. 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 packets 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 for the reason that it was not accompanied with mandatory Part-B certificate under section 63(4)(c) of the Bharatiya Sakshya Adhiniyam. In these circumstances, the fact that the informant himself acted as the Investigating Officer and conducted a substantial and material portion of the investigation assumes greater significance. Such a course of investigation causes serious prejudice to the accused and infringes the accused's right to a fair and impartial 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 3 filed in PR.No. 31/2026 have been already destroyed and the destruction certificate has been submitted. It is further ordered that the amount of Rs. 1,750/- mentioned in Item No. 2 is ordered to be Confiscated to the Government after the lapse of limitation period of Preferring appeal.

Dictated to Steno-typist, transcribed and formatted by steno-typist and then corrected and pronounced by me in the open Court on this 16th day of June, 2026.

**Judicial Magistrate,
Aruppukottai.**

APPENDIX-A

PROSECUTION SIDE WITNESS:-

S.No.	Rank of Witness	Name of the Witness	Remarks
1.	PW1	Mareeshwaran (Head Constable)	Seizure Mahazar Witness
2.	PW2	Jothimuthu (Sub-Inspector)	Investigation officer
4.	PW3	Selvam (Special Sub Inspector)	Seizure Mahazar Witness
5.	PW4	Ravieshwaran (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
5.	Ex.P5	Photograph showing Rs.1,750/-

APPENDIX-C**MATERIAL OBJECTS- NIL****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.