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CRL A No. 578 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-03-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

**CRL A No. 578 of 2017
and Crl.MP.No.3761 of 2026**

1.R.Radhakrishnan @ Govindaraj

2.Baskar

3.Ayyanar @ Balachander

..Appellant(s)

Vs

State By
The Inspector Of Police,
Adayar Prohibition Enforcement Wing,
Adayar Police Station,
Sastri Nagar, Chennai-600 090.
(Cr.No.790 of 2015).

..Respondent(s)

Prayer:

This Criminal Appeal is filed under Section 374 (2) of Cr.P.C. to set aside the judgment passed against the appellants on 09.08.2017 in SC.No.152 of 2016 on the file of the learned XVI Additional Sessions Judge at Chennai and acquit them for all the charges.

For Appellant(s): Mr.K.Murugesan, Legal Aid Counsel
For Appellants 1 and 3
Mr.P.R.Varun, for 2nd appellant

For Respondent(s): Mr.L.Baskaran,
Govt. Advocate (Crl.Side)



JUDGMENT

This appeal is filed against the judgment passed in SC.No.152 of 2016 on the file of XVI Additional Sessions Judge, Chennai, thereby convicted the accused 1 to 3, for the offence punishable under Sections 4(1)(b), 4(1-A) of TNP Act r/w. 6 & 11 of Rectified Spirit Rules 2000 & u/s.465, 468 & 471 of IPC.

2. The case of the prosecution is that on 09.11.2015 while one Tr.Velu, Inspector of Police and Team of the Prohibition Enforcement Wing, Adyar Unit were in Vehicle check up duty at Velachery, Vijaya Nagar Bus Stand, they stopped a vehicle bearing No.TN-47-AT-3659 at mid night around 01.30 am and found 39 Cupboard boxes and 1 carry bag with 3 white Cans containing 35 liters of arrack. When they enquired the person, namely A2 Baskar who was sitting in the front seat of the lorry and A3 Ayyanar @ Balachander, who was the driver, stated that they purchased these spirits from A1 and they are going to sell it to a place at Salem. He further stated that they were already doing the same type of offence previously and sold the arrack as that of TASMAL alcohol. The confession of the first accused was recorded at 2.00 a.m. to 3.10 am and the confession of the 2nd accused was recorded between 3.15 am to 4.00 am. Based on the confession, they recovered 722 bottles containing 180 ml fake labelled Bennis Brandy and 1178 bottles containing 180 ml fake labelled Jet Brandy and also 35 litres 3 Can with 105 litres arrack.



Further, the Eicher Mini Lorry was also seized through seizure mahazar between 4.10 am and 5.00 am. When they opened the bottle, immediately smelled the same and found a smell of poisonous odour with irritation in eyes occurs. So they took a sample of 500 ml from the bottles.

3. The Inspector of Police Mr.E.Velu, PW9, registered a case in Crime No.790 of 2015, for the offences under sections, sec. 4(1)(aaa), 4(1-A) of TNP Act, r/w Sec. 465, 468, 471 IPC and 6 & 11 of Rectified Spirit Rules 2000 on 09.11.2015, at 06.00 am and he took up the case for investigation.

4. During the course of investigation, on 09.11.2015 at 01.45 am, A-2 & A3 were arrested and remanded to judicial custody and sent to Central Prison, Puzhal, Chennai. Based on the confession of A2 & A3, the then Inspector of Police arrested A1 on 18.11.2015 at 18.00 hrs and recorded his confession statement in the presence of witnesses and also seized the case properties under the seizure mahazar and then he was produced before said court and sent to Central Prison, Puzhal, Chennai on 19.11.2015.

5. It is submitted that after completion of elaborate and detailed investigation, based on the statement of witnesses and material evidences, the then Inspector of Police filed charge sheet against the accused A-1, A-2 & A-3 before the learned XVIII Metropolitan Magistrate, Saidapet and the same was



taken on file vide P.R.C.No.15 of 2016, dated 15.02.2016. Thereafter, this case was committed to the XVI Additional District and Sessions Judge, Chennai on 11.04.2016 and assigned S.C.No.152 of 2016, dated 26.04.2016.

6. In order to prove the charges, the prosecution has examined PW1 to PW9 and marked Exs.P1 to P11 and also produced material objects MO.1 to MO.4. On the side of the accused, no witness was examined and no document was marked to disprove the charges. On perusal of the oral and documentary evidence, the Trial Court found that the accused A1 to A3 guilty for the offences under Sections 4(1-A) TNP Act, r/w. 6 & 11 of Restricted Spirit Rules 2000, convicted and sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.3,000/- each, in default to undergo simple imprisonment for 1 month. A2 & A3 are found guilty for the offence under Section 4(1)(aaa) TNP Act, convicted and sentenced to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.2,000/- each, in default to undergo simple imprisonment for one month and all the sentences shall run concurrently. Aggrieved by the same, the present appeal has been filed.

7. The learned counsel for the appellant submitted that the Trial Court convicted the accused only on the evidence of PWs.1 to 4. They are none other than official witnesses and the prosecution failed to examine any independent witness. It is further stated that the material objects covered under Ex.P7 were



seized from the accused on 09.11.2015 and it was produced before the Magistrate only on 16.11.2015 and the samples were sent for further analysis by the communication dated 17.11.2015. There is no proper explanation for the said delay.

8. The learned counsel for the appellant further submitted that the chemical analysis report reveals that the objects contain poisonous substances. However, there was a huge delay in depositing the same before the Court. Even as per the version of the prosecution, the samples were taken separately at the scene of occurrence. If that could be the case, nothing prevented the Investigating Officer to deposit the same before the Court at the time of remanding the accused itself. Therefore, the prosecution failed to prove the recovery. Even then the Trial Court mechanically convicted the accused.

9. The learned Government Advocate (Crl.Side) for the respondent submitted that the evidence of PW1 to PW4, who are official witnesses, had been subjected to rigorous cross-examination and the Trial Court had appropriately assessed their credibility. Hence, their testimony cannot be doubted. He further submitted that the delay in forwarding the material objects for analysis was not fatal to the prosecution's case as the Trial Court had duly considered the timing of such submission in relation to the overall evidence.



10. Heard the learned counsel for both sides and perused the materials available on record.

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11. It is seen that while the respondent Police conducted routine vehicle check up at Vijaya Nagar Bus Stand along with their team, intercepted a vehicle bearing No. TN-47-AT-3659 and found the accused 2 and 3 were in possession of 39 Cupboard boxes and 1 carry bag with 3 white Cans containing 35 litres of arrack. The accused 2 and 3 stated that they purchased the fake brandy and arrack from the first accused and they are going to sell it at Salem. On their confession statement, the first accused was arrested after 10 days. Admittedly, they are not the owners of the vehicle. The Head Constable deposed as PW3 and he corroborated with the evidence of PW1 and PW2. The first accused manufactured fake bottles and labels and supplied the brandy bottles to A2 and A3. When the Police opened the bottles, they smelled it and found poisonous odour erupted and their eyes got irritated. Therefore, they took samples and sent the same to the Chemical analysis.

12. From the evidence of PWs.1 to 4 and 7, it is clear that the first accused affixed fake labels in the bottles as if they are original liquor bottles, sold away the products to the second and third accused. On the basis of the confession statement, seizure mahazar, and materials objects that were seized from the accused, it is clear that the accused were in possession of more than



100 litres. Therefore, the offence under Section 4(1)(aaa) is clearly attracted as against the accused. As per the said provision, who imports, exports or transports of liquor of 100 litres and above shall be punished with imprisonment. Thus, the prosecution has categorically proved the charges and the Trial Court rightly convicted the petitioners. This Court finds no infirmity or illegality in the order passed by the Trial Court. In view of the same, the appeal stands dismissed. The respondent is directed to secure the accused to serve the remaining period of sentence. Consequently, connected miscellaneous petition is closed.

18-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
PVS

To

1. XVI Additional Sessions Judge, Chennai
2. The Inspector Of Police, Adayar Prohibition Enforcement Wing, Adyar Police Station, Sastri Nagar, Chennai-600 090.
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G.K.ILANTHIRAIYAN, J.

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