

**SUPREME COURT OF INDIA**

Mayur Panabhai Shah

Vs.

State of Gujarat

Crl.A.No.47 of 1982

(P. N. Bhagwati and E. S. Venkataramiah, JJ.)

22.01.1982

**ORDER**

1. Special leave granted.

2. This is an appeal by special leave directed against the judgment passed by a single Judge of the Gujarat High court summarily dismissing an appeal preferred by the appellant against an order passed by the Additional Sessions Judge No. 11 Ahmedabad convicting the appellant of the offence under Section 376 of the Indian Penal Code and sentencing him to imprisonment for a period of one year. We think that this is not a case which should have been summarily rejected by the learned single Judge and moreover we do not think the learned Judge was right in observing that "Our courts have always taken the doctors as witness of truth." Even where a doctor has deposed in court, his evidence has got to be appreciated like the evidence of any other witness and there is no irrebuttable presumption that a doctor is always a witness of truth. We would therefore allow the appeal, set aside the judgment of the single Judge and remand the appeal to the High Court with a direction that the appeal may be admitted and after issuing notice to the State it may be disposed of on merits. It would be preferable if the appeal is heard by a Judge other than the learned Judge who heard the appeal at the stage of admission.

Appeal allowed.