

(1964) 06 GUJ CK 0003
In the Gujarat High Court

Govindlal Bhikhabhai

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 26-06-1964

Acts Referred:

Evidence Act, 1872 — Section 49

Citation : (1966) CriLJ 830

Hon'ble Judges : V.B. Raju, J

Bench : Single Bench

Judgement

V.B. Raju, J.—This is an appeal against the conviction u/s 12(a) of the Bombay Prevention of Gambling Act. According to the prosecution the accused No. 1 gave Re. 1/- saying the words "Bombay seven". The words "Bombay seven" have got to be explained before the words can be treated as a bet. The words can be explained by resort to Section 49 of the Indian Evidence Act by giving opinion of the persons having means of knowledge. The opinion would be relevant if the person giving that opinion has special means of knowledge. Therefore, before opinion becomes relevant, it must be shown to the Courts that the person who gave the opinion, gave the opinion by special means of knowledge. This has not been done in this case. The opinion would not, therefore, be relevant. It is not for the defence to put question to show that the witness has no special means of knowledge. The opinion would be relevant only if the person giving opinion has special means, of knowledge. Therefore, the prosecution has to prove that the person has special means of knowledge before it adduces the opinion evidence and in order to make the opinion evidence relevant u/s 49. This has not been done. This appeal is, therefore, allowed and the conviction and sentences are set aside.