

(1980) 02 GUJ CK 0004
In the Gujarat High Court

The State of Gujarat

APPELLANT

Vs

Vrajlal Arjanbhai Gohel

RESPONDENT

Date of Decision : 08-02-1980

Acts Referred:

Citation : (1981) CriLJ 527 : (1980) 2 GLR 47

Hon'ble Judges : V.V. Bedarkar, J;M.K. Shah, J

Bench : Division Bench

Judgement

M.K. Shah, J.

1-13. x x x x x x

14. With regard to the panch witness, the learned Judge has chosen to consider him not reliable and not independent on the ground that he was taken as a panch against his will and that he was a witness acting under the pressure and was, therefore, not a willing witness as he had been threatened. In the instant case, the panch had no direct talk, at all, with the police. He was asked by the head-clerk to go as a panch and on his saying that he was unwilling, the head-clerk told him that if he did not go, a criminal case would be filed against him and a warrant would be issued against him. That was the view of the head clerk with regard to the consequence which would follow if a person refuses to act as a panch. There was no direct threat or any pressure on him from the police, and once he agreed to act as a panch, there is no reason why he should go out of his way to oblige the prosecution; If at all, the natural conduct on the part of such a person would be to entertain some grievance against the prosecution and, therefore, he would be favourably inclined towards the defence and not towards the prosecution. Simply because he is a Government servant, it does not mean that he would be a party to a false panchnama being made in a false case on a trap being set, up against an innocent, person.

15 to 18. x x x x x x x x x x x x x x