

ITEM NO.56

COURT NO.7

SECTION XV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).8340/2006

(From the judgement and order dated 17/01/2006 in DBCSA No.291/2005 in  
SBCWP No.3588/2004 of The HIGH COURT OF RAJASTHAN AT JODHPUR)

ANJANA KOTHARI

Petitioner(s)

VERSUS

STATE OF RAJASTHAN & ORS.

Respondent(s)

[With appln(s) for permission to place addl. documents on record and  
office report]

Date: 23/04/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr. Babban Lal, Adv.

Mr. Apurb Lal, Adv.

Ms. Susmita Lal, Adv.

Ms. Malvika Sarkar, Adv.

Ms. Rachana Lal, Adv.

Mr. Ashesh Lal, Adv.

For Respondent(s) Mr. Kumar Kartikay, Adv.

Mr. Aruneshwar Gupta, Adv.

UPON hearing counsel the Court made the following

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2006

A First Information Report (FIR) was lodged pursuant to observation made by the High Court in its order dated 17th January 2006

which reads as under :

"This appeal is directed against the order dated 27.4.2005 in S.B. Civil Writ Petition No.3588 of 2004 by which the learned Single Judge declined to take action in terms of section 340 of the Code

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of Criminal Procedure. The alleged offences for which the application under Section 340 Cr.P.C. was filed, admittedly, were committed outside the premises of the

S.L.P.(C)No.8340/2006 .... (Contd.)

Court and therefore, the application was not maintainable. Reference may be made to the decision of Constitution Bench of the Supreme Court in Iqbal Singh Marwah and Another -VS- Meenakshi Marwah and Another reported in 2005 AIR SCW 1929.

The appellant if so advised, may file complaint in the Court within whose jurisdiction the alleged offences were committed.

The appeal is accordingly dismissed with liberty to the appellant

to file complaint in accordance with law."

Although no direction has been issued by the High Court for initiating any criminal proceeding, as is evident from the aforementioned order, it appears, that an FIR has been lodged on the basis thereof. As the High Court has not issued any such direction, no FIR could be lodged only on the basis of any observation made by the High Court. An FIR could have been lodged only if any cognizable offence was made out, independent of any observation made by the High Court and if the authorities feel that a case for investigation into a cognizable offence has been made out. The said first information report is quashed. The Special Leave Petition is disposed of accordingly.

(Subhash Chander)

Court Master

(Pushap Lata Bhardwaj)

Court Master