

## News

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**A Delhi court has declined to file a formal complaint against Delhi Art Gallery for displaying paintings by MF Husain.**



Extra Sessions The Magistrate's January 22 decision to consider attorney Amita Sachdeva's plea as a complaint matter was affirmed by Judge Pratap Singh Laler.

Recently, a Sessions Court refused to order a police investigation into a complaint against Delhi Art Gallery about the exhibition of two paintings by the late MF Husain, a well-known artist.

Extra Sessions The Magistrate's January 22 decision to consider attorney Amita Sachdeva's plea as a complaint matter was affirmed by Judge Saurabh Pratap

Singh Laler.

Sachdeva petitioned the court, arguing that the artworks offended Hindu sentiments.

The Court observed that the main evidence, including the paintings, had already been confiscated and that Sachdeva's complaint concerned the showing of allegedly objectionable paintings at a private exhibition.

"The Petitioner can call witnesses, such as gallery employees or specialists, to substantiate elements under Section 299 BNS, such as willful malice or outrage to religious sentiments, and she has firsthand evidence in the form of her images and observations. On August 19, the Court declared that claims of fraud or tampering were unfounded, hypothetical, and not worthy of a preemptive police investigation.

On December 4, 2024, Sachdeva visited the gallery and saw the paintings. She filed a complaint with the police after finding them offensive.

The paintings had allegedly been taken down when she and the investigating officer visited the gallery on December 10. She then went to the magistrate court to ask for instructions on how to file a formal complaint against the art gallery and preserve the evidence.

According to a police action report, the paintings in question were on display as part of a private exhibition. It further said that the paintings served merely to showcase the artists' original creations.

The paintings were seized after a court order. However, the police did not file a formal complaint, stating that it was impossible to determine whether a cognizable offense had been committed.

The magistrate refused to issue a formal complaint.

After the Magistrate refused to issue a formal complaint, Sachdeva filed the current revision plea at the Sessions Court.

The Sessions Court noted that the investigation Sachdeva requested was not necessary to prove the elements of Section 299 of the **Bharatiya Nyaya** Sanhita (BNS), which calls for evidence of a willful and malicious intent to offend religious sentiments by derogatory means.

"To prove these ingredients at the pre-cognizance stage, the investigation the Petitioner is requesting in this respect—such as forensic analysis of dissemination methods, in-depth investigation into the Respondents' subjective intent, or forensic

examination of the paintings to confirm authenticity—is not necessary. Since the existence and display of the artworks are already documented, the confiscated paintings, exhibition records, and CCTV footage provide direct proof of the "visible representations" under ingredient (c) and show the mode of purported dissemination without the need for specialized forensics, the statement read.

The Court further stated that her own photographs, eyewitness accounts, and the intrinsic substance of the paintings—all of which are concrete and subject to judicial examination—can be used to evaluate the possible "insult or attempt to insult" under the clause.

**"For ingredient (b), the alleged outrage to religious feelings of a particular class can be established via the Petitioner's testimony, supported by affidavits or expert opinions on cultural sensitivities, procurable without police intervention,"** the Court stated.

The Court stated that it is necessary to deduce the intentional and malevolent intent from circumstantial evidence, such as the exhibition's context.

The court ruled that even later on, the magistrate has the authority to order a police investigation.

"The Court finds no illegality in the contested order issued by the Ld. Magistrate, who made a reasoned decision while noting that the paintings and CCTV footage had already been seized and that, therefore, the investigation agency does not need to conduct any additional investigation or gather any more evidence at this time because the evidence is already in the complainant's possession and on file. It should be mentioned that the Ld. Magistrate further made it clear in paragraph 7 of the ruling that Section 225 BNSS (section 202 Cr.P.C.) may be used later if necessary," the statement read.

Amita Sachdeva, the complainant, was represented in person by Senior Advocate **Markand Adkar**.

The State was represented by Additional Public Prosecutor Mukul Kumar.

Delhi Art Gallery was represented by Senior Advocate Madhav Khurana and Advocate Piyush Swami.