



IN THE COURT OF ADDITIONAL SESSIONS JUDGE-05 NEW DELHI
DISTRICT : PATIALA HOUSE COURTS : NEW DELHI

Criminal Revision No.74/2025

In the matter of :-

Amita Sachdeva

W/o Sh. Nikhil Sachdeva

N-26, Malviya Nagar,

New Delhi-110017

.....Petitioner

(through Sh. Markand D. Adkar, Senior Advocate)

Versus

1. State of NCT of Delhi

Through the SHO

PS: Parliament Street

New Delhi

.....Respondent No. 1

(through Sh. Mukul Kumar, Addl. PP for the State)

2. Delhi Art Gallery Pvt. Ltd.

Through its CEO & MD

Ashish Anand

22A, Windsor Place, Janpath,

New Delhi-110001

.....Respondent No. 2

3. Sh. Ashish Anand

CEO & MD, Delhi Art Gallery

22A, Windsor Place, Janpath,

New Delhi-110001

.....Respondent No. 3

4. Sh. Ashwani Anand

Director, Delhi Art Gallery

22A, Windsor Place, Janpath,

New Delhi-110001

.....Respondent No. 4

(Respondent nos.2 to 4 represented through

Sh. Madhav Khurana, Senior Advocate

and Sh. Piyush Swami, Adv.)



CRIMINAL REVISION UNDER SECTION s. 438, 440 & 441 BNSS

Date of institution	:	04.02.2025
Date when judgment reserved	:	18.07.2025
Date of Judgment	:	19.08.2025

J U D G M E N T

1. This Criminal Revision Petition has been filed under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), challenging the order dated 22.01.2025 passed by the learned Judicial Magistrate First Class (JMFC), Patiala House Courts, New Delhi, in Ct. Cases/59143/2024 titled "*Amita Sachdeva Vs. State & Ors.*" (hereinafter referred to as the "*Impugned Order*").
 2. By way of the Impugned Order, the learned JMFC dismissed the Petitioner's application under Section 175(3) BNSS, seeking directions for registration of a First Information Report (FIR) and police investigation into alleged offences under Section 299 of the Bharatiya Nyaya Sanhita, 2023 (BNS), pertaining to deliberate and malicious acts intended to outrage religious feelings. Instead, the learned JMFC directed that the matter proceed as a complaint case under Section 223 BNSS, with notices to be issued to the proposed accused (Respondents Nos. 2 to 4) in terms of the first proviso to Section 223 BNSS.
 3. The Petitioner prays for setting aside the Impugned Order, registration of an FIR, and a thorough police investigation. Interim relief in the form of a stay on the proceedings before the learned JMFC has also been sought. Respondents Nos. 2 to 4, who are associated with the Delhi Art Gallery, have filed a reply opposing the petition, inter alia, on the grounds that sufficient evidence is already available for the complaint to proceed
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without police investigation, and that the Impugned Order is in accordance with settled legal principles.

Brief Facts

3. The factual matrix, as gleaned from the record, is as follows:

- o On 04.12.2024, the Petitioner visited an exhibition titled "Husain: The Timeless Modernist" at the Delhi Art Gallery, where she allegedly observed paintings depicting Hindu deities in a manner she found offensive and insulting to religious sentiments. These paintings were attributed to the late artist M.F. Husain.
- o On 09.12.2024, the Petitioner lodged a complaint with the Station House Officer (SHO), Parliament Street Police Station, alleging commission of offences under Section 299 BNS by Respondents Nos. 2 to 4 (gallery officials). No FIR was registered, prompting the Petitioner to approach the learned JMFC under Section 175(3) BNSS on 12.12.2024, along with a complaint under Section 223 BNSS.
- o The Petitioner also filed applications under Section 94 BNSS for preservation and seizure of evidence, including CCTV footage, the Network Video Recorder (NVR), and the allegedly offensive paintings. These applications were allowed by the learned JMFC on 18.12.2024, 19.12.2024 (rectified order), and subsequent dates, resulting in the seizure and preservation of the relevant evidence by the Investigating Officer (IO).
- o An Action Taken Report (ATR) dated 20.01.2025 was submitted by the IO, stating that a preliminary inquiry revealed no cognizable offence, as the exhibition was held in a private space for displaying original artworks, lacking the requisite malicious intent under



Section 299 BNS. The ATR noted that the seized evidence (CCTV footage, NVR, and paintings) had been preserved and produced before the court.

- o Vide the Impugned Order dated 22.01.2025, the learned JMFC dismissed the Section 175(3) BNSS application, observing that the allegations were not grave enough to warrant police investigation at the pre-cognizance stage, as the Petitioner possessed sufficient evidence (including photographs and seized materials) to proceed as a complaint case. The matter was fixed for issuance of notices to the proposed accused on 12.02.2025.
- o Aggrieved, the Petitioner filed the instant revision petition on 04.02.2025.

Submissions of the Parties

4. Learned Senior counsel for the Petitioner argued that the Impugned Order is erroneous, as it violates the mandate in ***Lalita Kumari Vs. Government of Uttar Pradesh (2014) 2 SCC 1***, requiring mandatory FIR registration for cognizable offences. It was contended that the offences disclosed necessitate a thorough police investigation, including forensic analysis of seized evidence, verification of the paintings' authenticity, and inquiry into potential financial fraud or tampering. The Petitioner emphasized that she cannot undertake such investigations herself, and the learned JMFC's reliance on preliminary inquiries by the police was misplaced. Petitioner in this regard relied upon judgments titled: ***Om Prakash Ambadkar Vs. State of Maharashtra, 2025 INSC 139; Alok Kumar Vs. Harsh Mandar, 2023 SCC OnLine Delhi 4213; Shahin Abdulla Vs. Union of India, WPC 940 of 2022 dated 21.10.2022 & Ashwani Upadhyay Vs. Union of India, WPC 943 of 2021 dated 28.04.2023.***



5. Per contra, learned Senior counsel for Respondents Nos. 2 to 4 contended that the Petition is misconceived, as all relevant evidence (CCTV footage, NVR, paintings, and exhibition details) has already been seized and is available on record. No police investigation is required, as the Petitioner can prove her case through evidence in her possession or by summoning witnesses under Section 223 BNSS. If any further inquiry is needed post-cognizance, the learned Magistrate retains power under Section 225 BNSS (equivalent to Section 202 CrPC) to direct limited police assistance. Reliance was placed on *Priyanka Srivastava Vs. State of Uttar Pradesh* (2015) 6 SCC 287 and *Om Prakash Ambadkar Vs. State of Maharashtra, 2025 INSC 139* to argue that mechanical directions for FIR registration are impermissible where evidence is readily available. Reliance was also placed on several judgments to argue that no cognizable offence is made out, which is discussed under a separate heading.

6. **Scope of Revision under section 438 BNSS (397 Cr.P.C 1973)**

Prior to adjudicating the case on its merits, it is essential to delineate the scope and extent of these proceedings as well as the authority vested in this court under section 438 BNSS.

Section 438 BNSS read as under:

“438. Calling for records to exercise powers of revision.

(1)The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.



Explanation.-All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 439.

*(2) The powers of revision conferred by sub-section (1) **shall not be exercised in relation to any interlocutory order** passed in any appeal, inquiry, trial or other proceeding.*

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.”

The wording of the section is verbatim the same as of section 397 Code of Criminal Procedure 1973.

A plain reading of Section 438 of the BNSS clearly indicates that Section 438(1) allows aggrieved parties to challenge the correctness, legality, or propriety of any finding, sentence, or order issued by the trial court. Such challenges can be brought before a revisional court, namely the High Court or the Sessions Judge, as Section 438 confers concurrent jurisdiction upon both judicial authorities.

Section 438 (2) BNSS prohibits the revision powers under Section 438(1) BNSS from being used on interlocutory orders in appeals, enquiries, trials, or other proceedings. This creates an explicit legislative bar against revising such orders.

It is well settled law that scope of revisional jurisdiction is limited to the extent of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed by the Trial Court and jurisdiction under section 438 BNSS to be exercised for setting right a patent defect or an error of jurisdiction or law cannot be equated with the power of Appellate Court.

As regards the scope of section 397 Cr.P.C (analogous to section 438 BNSS) in judgment titled as '**Amit Kapoor Vs. Ramesh Chander**', (2012) 9 SCC 460, Hon'ble Supreme Court of India observed as under:-



"8.Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law . There has to be a well- founded error and it may not be appropriate for the court to scrutinize the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law....."

The Hon'ble Apex Court in '**New India Assurance Co. Ltd. Vs. Krishna Kumar Pandey**', Crl. Appeal No.1852 of 2019 decided on 06.12.2019, made the following observations :

"8. The scope of the revisional jurisdiction of the High Court (or Sessions Court) under Section 397 Cr.P.C, is limited to the extent of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed by an inferior Court. The revisional Court is entitled to look into the regularity of any proceeding before an inferior Court. As reiterated by this Court in a number of cases, the purpose of this revisionsal power is to set right a patent defect or an error of jurisdiction or law."

Hon'ble Supreme Court of India in **Sanjaysinh Ramarao Chavan Vs. Dattatray Gulabrao Phalke**, (2015) 3 SCC 123 held:

"14.Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction". (emphasis supplied).



Scope of revision has been explained in para 9 of judgment of Hon'ble High Court of Delhi **Taron Mohan Vs. State & Anr. 2021 SCC OnLine 312** which reads as under:

"9. The scope of interference in a revision petition is extremely narrow. It is well settled that Section 397 CrPC gives the High Courts or the Sessions Courts jurisdiction to consider the correctness, legality or propriety of any finding inter se an order and as to the regularity of the proceedings of any inferior court. It is also well settled that while considering the legality, propriety or correctness of a finding or a conclusion, normally the revising court does not dwell at length upon the facts and evidence of the case. A court in revision considers the material only to satisfy itself about the legality and propriety of the findings, sentence and order and refrains from substituting its own conclusion on an elaborate consideration of evidence. "

The precise purpose of Revision is to examine the correctness, legality and propriety of the order in question and to set right a patent defect or an error of jurisdiction or law. Needless to say, that the power of revision needs to be exercised fairly, rationally and judiciously in order to put right any manifest error of law or jurisdiction.

In light of the aforesaid judgments, the Court proceeds to analyse the impugned order.

Analysis and Reasoning

7. Whether the allegations disclose commission of cognizable offence?

- a. During the course of arguments, Ld. Senior Counsel for Respondent No. 2 to Respondent No. 4 filed a compilation of Judgments particularly with respect to deceased painter Maqbool Fida Husain to make submission that no offence is made out on the basis of the allegations made in the complaint and as such the Ld. Magistrate rightly dismissed the application of the revisionist u/s 175(3) of BNSS. In this regard, he particularly relied upon



Judgment titled *Maqbool Fida Husain Vs. Rajkumar Pandey 2008 Cri LJ 4107* wherein a painting made by the said painter entitled 'Bharat Mata' was advertised as part of an online auction for charity for Kashmir Earthquake victims. Hon'ble High Court, while considering the scope and ambit of Section 292 IPC, quashed the summoning orders and warrants of arrest issued against the petitioner therein (MF Hussain).

- b. As far as the cognizance of offence u/s 299 BNS is concerned, it may be noted that the Ld. Magistrate in view of the proviso to Section 223 of BNSS has fixed a date for hearing Respondent No. 2 to Respondent 4 on the point of taking cognizance of the offences alleged in the complaint. As the Ld. Magistrate is yet to hear the complainant/revisionist as well as the aforesaid respondents on the point of taking cognizance of the offence mentioned in the complaint, hence, this court do not deem it appropriate to delve too much into the said issue. However, for the purpose of disposal of the present revision petition, the court would like to reproduce Para 103 of the aforesaid judgment which particularly deals with depicting of Hindu Gods and Goddesses in nude/objectionable forms. The said para no. 103 is reproduced as under:

103. In my considered view, the alleged past misconduct of the petitioner cannot have any bearing on the present case because there has been nothing which has come on record to prove the converse. It is made clear that the paintings depicting Hindu Gods/Goddesses in nude by the petitioner do not form a subject matter of the present case and as such the learned Counsels have been unable to bring to the notice of this Court any cases/complaints pending or decided in this regard to go against the petitioner. The persons who may feel aggrieved by those set of paintings have an appropriate remedy in law to get their rights redressed. Hence, commenting on those paintings would be prejudging the said paintings and passing a verdict on the same thus prejudging the rights of the accused/petitioner.



(emphasis supplied)

c. In light of the aforesaid paragraph, this court proceeds further to decide the application under consideration while assuming, though not categorically observing, that the complaint do disclose commission of cognizable offence u/s 299 BNS.

8. Impugned order whether perverse or untenable in law or is grossly erroneous or glaringly unreasonable or whether the decision is based on no material or whether the material facts are wholly ignored or whether the judicial discretion is exercised arbitrarily or capriciously?

a. Having perused the record, including the Impugned Order, ATRs, seized evidence, and submissions, this Court finds no merit in the revision petition. The primary ground for challenge—that police investigation is essential—does not withstand scrutiny. The discretion under Section 175(3) BNSS must be exercised judiciously, with application of mind, and not mechanically. As laid down in *Subhkaran Luharuka & Anr. v. State & Anr., 2010 (170) DLT 516*, the Hon'ble Delhi High Court provided comprehensive guidelines for Magistrates dealing with applications under Section 156(3) CrPC (now Section 175(3) BNSS). These guidelines emphasize:

(i) Ensuring the complainant approached the police under Section 154(1) and (3) CrPC (now Section 173 BNSS) before invoking the Magistrate's jurisdiction.

(ii) The Magistrate forming an opinion on whether cognizable offences are disclosed, whether the matter falls within jurisdiction, and whether police investigation is necessary. A preliminary satisfaction is required, and cogent reasons must be recorded.

(iii) The Magistrate should ordinarily proceed under Chapter XV CrPC (now Chapter XV BNSS) by taking cognizance



and recording evidence, postponing process if needed under Section 202 CrPC (now Section 225 BNSS).

(iv) Directions under Section 156(3) CrPC should only be issued if police investigation is essential for collecting evidence not in the complainant's possession or procurable without police aid, with reasons why Chapter XII CrPC (now Chapter XIII BNSS) is preferred over Chapter XV.

- b. In the landmark judgment of ***Lalita Kumari v. State of UP*, AIR 2014 SC 187**, the Constitutional Bench of the Hon'ble Supreme Court held that registration of an FIR is mandatory for cognizable offences under Section 154 CrPC (now Section 173 BNSS), but permitted a preliminary inquiry in limited categories where the information does not clearly disclose a cognizable offence. However, this must be completed within seven days, and the police cannot evade registration arbitrarily.
- c. This principle was nuanced in ***Ramdev Food Products Private Limited vs. State of Gujarat*, AIR 2015 SC 1742**, where a Three-Judge Bench of the Hon'ble Supreme Court clarified that directions under Section 156(3) CrPC (175(3) BNSS) cannot be issued mechanically. The Magistrate must apply judicial mind, assess the credibility of information, and weigh the interest of justice before directing investigation:

"...The direction under Section 156(3) is to be issued, only after application of mind by the Magistrate. When the Magistrate does not take cognizance and does not find it necessary to postpone instance of process and finds a case made out to proceed forthwith, direction under the said provision is issued. In other words, where on account of credibility of information available, or weighing the interest of justice it is considered appropriate to straightaway direct investigation, such a direction is issued. Cases where Magistrate takes cognizance and postpones issuance of process are cases



where the Magistrate has yet to determine 'existence of sufficient ground to proceed....'"

- d. Further, in ***Priyanka Srivastava & Anr. v. State of U.P. & Ors., (2015) 6 SCC 287***, the Hon'ble Supreme Court underscored the need for caution:

"...26. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes steps to harass their fellows citizens, efforts are to be made to scuttle and curb the same.

In our considered opinion, a stage has come in this country where Section 156(3) Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate... This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons... We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an the application under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made... We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed...."

9. Applying these principles to the present case, the Impugned Order reflects due application of mind. The circumstances do not justify interference with the Impugned Order for the following reasons:

- a) **No Requirement for Police Investigation:** The Petitioner's complaint revolves around the display of allegedly offensive paintings at a



private exhibition. Key evidence—photographs taken by the Petitioner, CCTV footage, NVR metadata, and the paintings themselves—has already been seized and preserved pursuant to her own applications under Section 94 BNSS. The ATR confirms that the exhibition was acknowledged, but no malicious intent was discerned in the preliminary inquiry. The Petitioner possesses direct evidence (her photographs and observations) and can summon witnesses (e.g., gallery staff or experts) to prove ingredients under Section 299 BNS, such as deliberate malice or outrage to religious feelings. Allegations of fraud or tampering are unsubstantiated and appear speculative, not warranting preemptive police probe.

Addressing specifically Ground K of the revision petition, wherein the Petitioner asserts that the act satisfies the essential ingredients of Section 299 BNS—namely,

- (a) deliberate and malicious intent to provoke and cause harm by outraging religious feelings;
- (b) outraging the religious feelings of a particular class of Indian citizens;
- (c) use of words, either spoken or written, or by signs or by visible representations or through electronic means or otherwise for dissemination; and
- (d) insult or attempt to insult the religion or religious beliefs of that class—and thus necessitates police investigation to substantiate these elements, this Court finds the contention untenable.

The precise text of Section 299 BNS, as confirmed through authoritative sources, requires proof of deliberate and malicious intention to outrage religious feelings through insulting means, but the investigation sought by the Petitioner in this regard—such as forensic examination of the paintings to verify authenticity, detailed inquiry into the subjective intent



of the Respondents, or forensic analysis of dissemination methods—is not essential to establish these ingredients at the pre-cognizance stage.

The seized paintings and exhibition records, along with CCTV footage, serve as direct evidence of the "visible representations" under ingredient (c), demonstrating the mode of alleged dissemination without requiring specialized forensics, as the artworks' existence and display are already preserved on record.

Similarly, the potential "insult or attempt to insult" under ingredient (d) can be assessed through the Petitioner's own photographs, eyewitness observations, and the inherent content of the paintings, which are tangible and accessible for judicial scrutiny during proceedings under Section 223 BNSS.

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.

As for deliberate and malicious intent under ingredient (a)—the most subjective element—this must be inferred from circumstantial evidence, including the context of the exhibition (e.g., its private nature, promotional materials, and gallery communications), as held in ***Ramji Lal Modi v. State of U.P. (AIR 1957 SC 620)***, wherein the Hon'ble Supreme Court emphasized that intent is to be gauged from the language or representations used, *not necessitating extrinsic police probes unless evidence is wholly inaccessible*. Here, such circumstantial proof is readily available on record and can be adduced through witness examination or documentary evidence under Section 223 BNSS, obviating the need for police-led inquiries into motive.



Directions under Section 175(3) BNSS are not warranted merely because ingredients of a cognizable offence may be prima facie disclosed. As per *Subhkaran Luharuka & Anr. v. State & Anr. (supra)* and *Priyanka Srivastava & Anr. v. State of U.P. & Ors. (supra)*, such directions are exceptional, reserved for instances where evidence is beyond the complainant's reach without state agency assistance, and must reflect judicious application of mind to avoid mechanical invocation. In this case, the ingredients can be substantiated through existing materials, rendering any further police investigation superfluous at this juncture and aligning with the principle that Magistrates should prefer proceedings under Chapter XV & XVI BNSS unless compelling reasons dictate otherwise. As held in *Om Prakash (supra)*, where the complainant holds evidence or can procure it without police aid, directions under Section 175(3) BNSS should not be issued mechanically. The learned JMFC rightly noted that the matter does not involve complex facts requiring extensive police resources at this juncture.

As stated earlier, both the parties have relied upon the judgment titled *Om Prakash (supra)*, which deals with the interpretation of Section 156 Cr.P.C. and corresponding section of BNSS i.e. Section 175. As both the parties have relied upon the said judgment, accordingly, para 23 to para 35 of the said judgment dealing with the interpretation of the aforesaid provision, are reproduced as under:

“23. This Court in a plethora of its decisions, more particularly in the case of Ramdev Food Products (P) Ltd. v. State of Gujarat reported in (2015) 6 SCC 439, has laid emphasis on the fact that the directions under Section 156(3) should be issued only after application of mind by the Magistrate. Paragraph 22 of the said decision reads thus:-

“22. Thus, we answer the first question by holding that the direction Under Section 156(3) is to be issued, only after application of mind by



the Magistrate. When the Magistrate does not take cognizance and does not find it necessary to postpone issuance of process and finds a case made out to proceed forthwith, direction under the said provision is issued. In other words, where on account of credibility of information available, or weighing the interest of justice it is considered appropriate to straightaway direct investigation, such a direction is issued. Cases where Magistrate takes cognizance and postpones issuance of process are cases where the Magistrate has yet to determine "existence of sufficient ground to proceed". Category of cases falling under Para 120.6 in Lalita Kumari (supra) may fall Under Section 202 Subject to these broad guidelines available from the scheme of the Code, exercise of discretion by the Magistrate is guided by interest of justice from case to case."

- 24. Thus, there are prerequisites to be followed by the complainant before approaching the Magistrate under Section 156(3) of the Cr.P.C. which is a discretionary remedy as the provision proceeds with the word 'may'. The Magistrate is required to exercise his mind while doing so. He should pass orders only if he is satisfied that the information reveals commission of cognizable offences and also about the necessity of police investigation for digging out of evidence neither in possession of the complainant nor can be procured without the assistance of the police. It is, thus, not necessary that in every case where a complaint has been filed under Section 200 of the Cr.P.C. the Magistrate should direct the Police to investigate the crime merely because an application has also been filed under Section 156(3) of the Cr.P.C. even though the evidence to be led by the complainant is in his possession or can be produced by summoning witnesses, with the assistance of the court or otherwise. The issue of jurisdiction also becomes important at that stage and cannot be ignored.*
- 25. In fact, the Magistrate ought to direct investigation by the police only where the assistance of the Investigating Agency is necessary and the Court feels that the cause of justice is likely to suffer in the absence of investigation by the police. The Magistrate is not expected to mechanically direct investigation by the police without first examining whether in the facts and circumstances of the case, investigation by the State machinery is actually required or not. If the allegations made in the complaint are simple, where the Court can straightaway proceed to conduct the trial, the Magistrate is expected to record evidence and proceed further in the matter, instead of passing the buck to the Police under Section 156(3) of the Cr.P.C. of course, if the allegations made in the complaint require complex and complicated investigation which cannot be undertaken without active assistance and expertise of the State machinery, it would only be appropriate for the*



Magistrate to direct investigation by the police authorities. The Magistrate is, therefore, not supposed to act merely as a Post Office and needs to adopt a judicial approach while considering an application seeking investigation by the Police.

26. The incident is of the year 2012. This Court while admitting this appeal had stayed the investigation.
27. In the overall view of the matter, we are convinced that no case is made out to put the appellant/accused to trial for the alleged offence. Continuance of the investigation by the police will be nothing short of abuse of the process of law.
28. However, before we part with the matter, we deem it necessary to discuss the changes brought to the scheme of Section 156 of the Cr.P.C. by the enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “**the BNSS**”).
29. Section 175 of the BNSS corresponds to Section 156 of the Cr.P.C. Sub-section (1) of Section 175 of the BNSS is in pari materia with sub-section 156(1) of the Cr.P.C. except for the proviso which empowers the Superintendent of Police to direct the Deputy Superintendent of Police to investigate a case if the nature or gravity of the case so requires. Sub-section (2) of Section 175 the BNSS is identical to Section 156(2) of the Cr.P.C. Section 175(3) of the BNSS empowers any Magistrate who is empowered to take cognizance under Section 210 to order investigation in accordance with Section 175(1) and to this extent is in pari materia with Section 156(3) of Cr.P.C. However, unlike Section 156(3) of the Cr.P.C., any Magistrate, before ordering investigation under Section 175(3) of the BNSS, is required to:
 - a. Consider the application, supported by an affidavit, made by the complainant to the Superintendent of Police under Section 173(4) of the BNSS;
 - b. Conduct such inquiry as he thinks necessary; and
 - c. Consider the submissions made by the police officer.
30. Sub-section (4) of Section 175 of the BNSS is a new addition to the scheme of investigation of cognizable cases when compared with the scheme previously existing in Section 156 of the Cr.P.C. It provides an additional safeguard to a public servant against whom an accusation of committing a cognizable offence arising in the course of discharge of his official duty is made. The provision stipulates that any Magistrate who is empowered to take cognizance under Section 210 of the BNSS may order investigation against a public servant upon receiving a complaint arising in course of the discharge of his official duty, only after complying with the following procedure:



- a. *Receiving a report containing facts and circumstances of the incident from the officer superior to the accused public servant; and*
 - b. *Considering the assertions made by the accused public servant as regards the situation that led to the occurrence of the alleged incident.*
31. A comparison of Section 175(3) of the BNSS with Section 156(3) of the Cr.P.C. indicates three prominent changes that have been introduced by the enactment of BNSS as follows:
- a. First, the requirement of making an application to the Superintendent of Police upon refusal by the officer in charge of a police station to lodge the FIR has been made mandatory, and the applicant making an application under Section 175(3) is required to furnish a copy of the application made to the Superintendent of Police under Section 173(4), supported by an affidavit, while making the application to the Magistrate under Section 175(3).
 - b. Secondly, the Magistrate has been empowered to conduct such enquiry as he deems necessary before making an order directing registration of FIR.
 - c. Thirdly, the Magistrate is required to consider the submissions of the officer in charge of the police station as regards the refusal to register an FIR before issuing any directions under Section 175(3).
32. *The introduction of these changes by the legislature can be attributed to the judicial evolution of Section 156 of the Cr.P.C. undertaken by a number of decisions of this Court. In the case of Priyanka Srivastava v. State of U.P. reported in (2015) 6 SCC 287, this Court held that prior to making an application to the Magistrate under Section 156(3) of the Cr.P.C., the applicant must necessarily make applications under Sections 154(1) and 154(3). It was further observed by the Court that applications made under Section 156(3) of the Cr.P.C. must necessarily be supported by an affidavit sworn by the applicant. The reason given by the Court for introducing such a requirement was that applications under Section 156(3) of the Cr.P.C. were being made in a routine manner and in a number of cases only with a view to cause harassment to the accused by registration of FIR. It was further observed that the requirement of supporting the complaint with an affidavit would ensure that the person making the application is conscious and also to see that no false affidavit is made. Once an affidavit is found to be false, the applicant would be liable for prosecution in accordance with law. This would deter him from casually invoking the authority of the Magistrate under Section 156(3). The relevant observations made by the Court are reproduced hereinbelow:*
- “27. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue*



directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order. The present is a case where the accused persons are serving in high positions in the Bank. We are absolutely conscious that the position does not matter, for nobody is above the law. But, the learned Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It is also to be noted that when a borrower of the financial institution covered under the Sarfaesi Act, invokes the jurisdiction under Section 156(3) Cr.P.C. and also there is a separate procedure under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, an attitude of more care, caution and circumspection has to be adhered to.

28. Issuing a direction stating "as per the application" to lodge an FIR creates a very unhealthy situation in society and also reflects the erroneous approach of the learned Magistrate. It also encourages unscrupulous and unprincipled litigants, like Respondent 3, namely, Prakash Kumar Bajaj, to take adventurous steps with courts to bring the financial institutions on their knees. As the factual exposition would reveal, Respondent 3 had prosecuted the earlier authorities and after the matter is dealt with by the High Court in a writ petition recording a settlement, he does not withdraw the criminal case and waits for some kind of situation where he can take vengeance as if he is the emperor of all he surveys. It is interesting to note that during the tenure of Appellant 1, who is presently occupying the position of Vice President, neither was the loan taken, nor was the default made, nor was any action under the SARFAESI Act taken. However, the action under the SARFAESI Act was taken on the second time at the instance of the present Appellant 1. We are only stating about the devilish design of Respondent 3 to harass the appellants with the sole intent to avoid the payment of loan. When a citizen avails a loan from a financial institution, it is his obligation to pay back and not play truant or for that matter play possum. As we have noticed, he has been able to do such adventurous acts as he has the embedded conviction that he will not be taken to task because an application under Section 156(3) Cr.P.C. is a simple application to the court for issue of a direction to the investigating agency. We have been apprised that a carbon copy of a document is filed to show the compliance with Section 154(3), indicating it has been sent to the Superintendent of Police concerned.

29. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is



not the police taking steps at the stage of Section 154 of the Code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellow citizens, efforts are to be made to scuttle and curb the same.

30. In our considered opinion, a stage has come in this country where Section 156(3) Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.

31. We have already indicated that there has to be prior applications under Sections 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari [(2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR.”

(Emphasis supplied)



33. In a recent pronouncement of this Court in the case of **Babu Venkatesh v. The State Of Karnataka** reported in (2022) 5 SCC 639, the observations made in **Priyanka Srivastava** (supra) were referred to and it was held as follows:

“24. This Court has clearly held that, a stage has come where applications under Section 156(3)Cr.P.C. are to be supported by an affidavit duly sworn by the complainant who seeks the invocation of the jurisdiction of the Magistrate.

25. This Court further held that, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also verify the veracity of the allegations. The Court has noted that, applications under Section 156(3)Cr.P.C. are filed in a routine manner without taking any responsibility only to harass certain persons.

26. This Court has further held that, prior to the filing of a petition under Section 156(3)Cr.P.C., there have to be applications under Sections 154(1) and 154(3)Cr.P.C.. This Court emphasises the necessity to file an affidavit so that the persons making the application should be conscious and not make false affidavit. With such a requirement, the persons would be deterred from causally invoking authority of the Magistrate, under Section 156(3)Cr.P.C.. Inasmuch as if the affidavit is found to be false, the person would be liable for prosecution in accordance with law.”

(Emphasis supplied)

34. In light of the judicial interpretation and evolution of Section 156(3) of the Cr.P.C. by various decisions of this Court as discussed above, it becomes clear that the changes introduced by Section 175(3) of the BNSS to the existing scheme of Section 156(3) merely codify the procedural practices and safeguards which have been introduced by judicial decisions aimed at curbing the misuse of invocation of powers of a Magistrate by unscrupulous litigants for achieving ulterior motives.

35. Further, by requiring the Magistrate to consider the submissions made by the concerned police officer before proceeding to issue directions under Section 175(3), BNSS has affixed greater accountability on the police officer responsible for registering FIRs under Section 173. Mandating the Magistrate to consider the submissions of the concerned police officer also ensures that the Magistrate applies his mind judicially while considering both the complaint and the submissions of the police officer thereby ensuring that the requirement of passing reasoned orders is complied with in a more effective and comprehensive manner. “ (emphasis supplied)

Perusal of the aforesaid judgment reveals that it has reiterated the observations made in **Ramdev Food Products** (supra) and **Priyanka**



Srivastava (supra), while categorically observing that Section 175 of BNSS has introduced changes to the existing scheme of Section 156(3) Cr.P.C. to codify the procedural practices and safeguards, which have been introduced by the judicial decisions aimed for curbing the misuse of invocation of powers of a Magistrate by unscrupulous litigants for achieving ulterior motives.

Seen in light of the aforesaid judgments, the Court do not find any illegality in the impugned order passed by the Ld. Magistrate, wherein the Ld. Magistrate has passed a reasoned order, while observing that the paintings as well as CCTV footage have already been seized and as such, no further investigation and collection of evidence is required on the part of the investigation agency at this stage, as the evidence is in the possession of complainant as well as on record.

It may be noted that the Ld. Magistrate has also clarified in para-7 of the order that if so required, Section 225 BNSS (section 202 Cr.P.C.) can be resorted to at a later stage.

The revisionist in the list of judgments filed, has also relied upon another judgment of Hon'ble Delhi High Court, titled as **Alok Kumar Vs. Harsh Mandar, 2023 SCC OnLine Delhi 4213**, wherein the Ld. Magistrate had allowed an application u/s.156(3) Cr.P.C., directing registration of FIR. The said order came to be challenged before the Hon'ble High Court and while setting aside the said order and quashing the FIR, the Court observed in para-126 that keeping in mind the sensitive nature of allegations and the fact that no evidence of disharmony had come on record during the preliminary enquiry conducted by the police, the Court advises that the order for registration of FIR filed by any community should be passed with more



circumspection.

Thus, this Court fails to understand as to how the said judgment supports the revisionist in the present case.

In **Shahin Abdulla Vs. Union of India, WPC 940 of 2022 dated 21.10.2022¹**, directions were passed by the Hon'ble Apex Court to the Commissioners of Police, Delhi, Uttarakhand and U.P., to ensure that immediate action be taken when any speech or any action takes place, which attracts offences u/s.153A, 153B, 295A and 505 IPC. It may be noted that the said order is primarily w.r.t. hate speech and is distinguishable from the facts of the present case, where the painting of deceased painter is showcased in a private exhibition.

The petitioner also relied upon the order in case titled **Ashwani Upadhyay Vs. Union of India, WPC 943 of 2021 dated 28.04.2023**, which too relates to hate speech and not to facts like the present one.

Thus after having perused the judgments filed by the petitioner as well by respondents, this court is of the opinion that the Ld. Magistrate rightly exercised the discretion vested in him, while dismissing the application of the petitioner for the registration of FIR.

b) Availability of Inquiry Under Section 225 BNSS, if Needed: Even assuming arguendo that further inquiry is required, the learned Magistrate is not powerless. While taking cognizance, under Section 225 BNSS (in pari materia with Section 202 CrPC), the Magistrate may postpone process issuance and direct a limited inquiry by a police officer or other person to ascertain the truth of the complaint. This provision safeguards the Petitioner's interests without necessitating FIR registration ab initio. It ensures judicial oversight and prevents misuse of police machinery for

¹ Relied upon by petitioner



fishing expeditions. Section 202 CrPC (now Section 225 BNSS) balances the need for inquiry with the avoidance of unnecessary harassment. Here, if during proceedings under Section 223 BNSS the learned JMFC finds gaps, such an inquiry can be ordered, rendering immediate police investigation redundant. The Ld. Magistrate has also noted this in para 7 of the impugned order, while observing “*if the same is required at later stage, then section 225 BNSS can be resorted to.*”.

c) Compliance with Lalita Kumari Principles: The Petitioner's reliance on *Lalita Kumari (supra)* is misplaced. While FIR registration is mandatory for cognizable offences, a preliminary inquiry is permissible where the information does not clearly disclose such an offence. The police conducted such an inquiry, concluding no cognizable offence, and the learned JMFC independently assessed this in the Impugned Order.

d) Absence of Grave Allegations or Prejudice: The allegations, while sensitive, pertain to artworks in a private gallery, not public incitement or violence. No communal unrest is reported, and the seized evidence suffices for adjudication. The Petitioner faces no prejudice, as she can lead evidence in the complaint case.

10. Revisionary jurisdiction under Section 440 BNSS is limited to correcting illegality or impropriety, not substituting the Magistrate's discretion absent perversity (*State of Haryana Vs. Bhajan Lal (1992) Supp (1) SCC 335*). No such infirmity exists in the impugned order.

11. Before concluding, the court would like to refer to judgment titled as *Shekhar Bhatia Vs The State 2008 DHC 11259* wherein a similar issue came up for consideration before Hon'ble Delhi High Court, as directions were passed by the Magistrate in the said case for the registration of the FIR. The said order was assailed before the Hon'ble High Court and the



Hon'ble High Court vide aforesaid judgment, set aside the said order and quashed the FIR so registered upon the directions of the Magistrate. In order to bring forth the context in which the said order was passed, Paragraph 1 to 6 of the said judgment are reproduced as under:

1. By this petition, the petitioner Shekhar Bhatia has assailed an order dated 30th March, 2006 passed by the learned Metropolitan Magistrate in exercise of jurisdiction under Section 156(3) of the Code of Criminal Procedure directing the SHO of the Police Station, Connaught Place to investigate the matter by registering the FIR under Section 156(3) of the Code of Criminal Procedure.

2. An article was featured in the daily edition dated 10th February, 2006 of the widely circulated newspaper in Delhi, called the 'Hindustan Times' in its cultural section informing the public about a controversy which had arisen at an art auction seeking to sell paintings of various established artists. This publication reads thus:-

"Maqbool Fida Hussain is back where he finds himself often- in the middle of a controversy over his nudes. This time, he is in the firing lines of the Hindu Janajagruti Samiti and Vishwa Hindu Parishad over a painting, Bharat Mata, which has a nude woman's outline resembling the Indian map. The artist had earlier faced the ire of hardline Hindutva groups for portraying goddesses Laxmi, Saraswati and Durga, as well as revered characters Sita and Draupadi, in the nude. The latest controversial painting, which featured in an ad for the February 6- 8 auction by Apparaoart Auctions, was taken off the sale. However, the controversy refuses to die down as the Samiti has filed a police complaint against Hussain. "We withdrew the painting because, as the event organizer. it was my job to ensure a smooth show," says Sharan Apparao, proprietor of Apparaoart Auctions.

Hussain could not be reached for comments, but he isn't without supporters. Says Dadiba Pundole (Pundole Art Gallery), known for its collection and frequent showing of Hussain's works. "Hussain is intelligent enough to know what is artistic and what not. He doesn't do anything to court attention. He paints what he likes, just as a poet writes what he feels. He doesn't need to justify himself. The so called protests are born of ignorance."

Questioning our society's embarrassment over nudity, Pundole asks; "Aren't we all born nude? There is a difference between nudity and vulgarity, and an artist has the taste to understand that. Even if something is vulgar, you accept it or reject it. How can you decide for others what to view?"

Adds Apparao; "Nakedness wasn't a taboo in the Indian shastras or history Cases in point are the Khajuraho sculptures and the Chola bronzes of 5th -6th centuries, which depicted gods and goddesses in the nude. Nude yogis are common at religious places. In art, nudity has never been looked down upon.



Apparao terms the withdrawal of Bharat Mata as a one off move. Modern morality, she says "has politicised the issued of nudity".

From the above, it appears that an art auction had been organised seeking to sell paintings of celebrated artists/painters including the legendary painter Maqbool Fida Hussain, impleaded as respondent no. 3 herein.

3. Apart from the aforesaid article, an ancillary article was published called the "Controversial Canvasses", wherein the reporter, informed the newsreading public about other paintings of Mr.M.F.Hussain, which had likewise attracted the ire and fury of certain hard-liner groups. More particularly, reference was made to two such controversial paintings, one titled 'Sita with Hanuman' and the other titled as 'Draupadi on Dice', the miniature copies of these paintings were also published alongside the article.

4. These articles led to the filing of the criminal complaint registered as CrI.C.C.No. 16334/2006 by Dr. Ram Pratap Singh, the respondent no. 2, before the court of the Additional Chief Metropolitan Magistrate, Patiala House Courts, New Delhi. The complainant had expressed a grievance that he had approached the Police Station Connaught Place with a complaint dated 25th of February, 2006 requesting the police to do the needful with regard to these features under Section 153A of the Indian Penal Code to bring the offenders to book.

No action having been taken by the SHO of the concerned police station, a direction was sought to the police to register a case, start investigation and bring the accused persons before the court.

5. The complaint was filed under Section 156(3) of the Code of Criminal Procedure before the Addl.CMM, New Delhi on the 29th of March, 2006 being complaint no.16334/2006. It was contended by the complainant (respondent no. 2 herein) that Mr.Maqbool Fida Hussain had made certain drawings/paintings which intended to be exhibited for collection of funds for the development in Kashmir. It was alleged that the said drawings/paintings hurt the religious sentiments of Hindus the world over and were on attempt to create hatred, ill-will and enmity between different religious communities. The exhibition was allegedly organised by Action India Trust arrayed in the complaint as the accused no.4. The present petitioner and the respondent no.3 were alleged to have published the aforesaid report with regard to the exhibition in the India Today on 6th of February, 2006 and in The Hindustan Times on 10th of February, 2006 respectively. The petitioner was impleaded as the accused no. 4 in the complaint while the respondent nos. 3, 4 and 5 herein, were impleaded as accused nos. 1 to 3 in the said complaint.

6. Some of the material allegations made by the complainant - the respondent no.2 herein (in the complaint) deserve to be considered in extenso and read thus:-

"6.1 That the drawings/paintings by the accused who is a reputed painter was subsequently kept for exhibition for collecting funds for



development in Kashmir and was published by leading newspapers and journals, to the knowledge of the complainant, on 6.2.2006 in the India Today and on 10.2.2006 in the Hindustan Times."

6.2 That the said drawings/paintings have hurt the religious sentiments of the Hindus the world over. It has played with the sentiments of particular religious community and is an attempt to create hatred, enmity and ill-will between different religious community.

6.4 That the said drawings/paintings are highly objectionable and can be seen to be believed. These are visual representations calculated to belittle the Hindu gods and goddesses and thereby vitiate the communal atmosphere in the country by giving provocation and affront to the Hindus. The said publication is also calculated to create hatred between different religious communities. This is also a cleverly hatched conspiracy to affect the Hindus psyche vis-a-vis their gods and goddesses.

6.9 That the repeated visual representation of the Hindu gods and goddesses is an obscene and nude way in National Newspapers and Journals is highly reproachable and brimming with potential to continue creating enmity, hatred and ill-will between the Hindus and the Muslims.

8. That after the publication of such communal and fissiparous materials in media by a painter of repute, the offence under 153-A IPC is complete and action can straightaway be taken by summoning the accused persons before this Hon'ble Court. Accused persons are also liable for action under Sections 153A/292/294/295A/298 IPC.

9. That this Hon'ble Court has jurisdiction to try all the accused persons as the said offence has been committed through national newspapers and journals by wide publication. Action India is also liable for action for giving advertisement captioned 'Art for Mission Kashmir' showing Bharat Mata in the nude, allegedly for reconstruction work in Kashmir."

12. The Hon'ble High Court while relying upon the aforesaid judgment in ***MF Husain Vs. Rajkumar Pandey (supra)*** made the following observations in Para 21 to 24 of the said judgment, which are reproduced as under:

21. In addition to the above sections, the petitioner has been implicated on grounds of alleged commission of an offence under Section 153-A and 295-A of the Indian Penal Code. It is noteworthy, that in the aforesaid judgment, this court has held that the painting was an expression of the artist's vision of a concept. In this behalf, the court had also made certain observations which have a bearing on the case set up in the complaint based on these sections. In para 107 of the judgment, the court observed thus :-

"107. I am unable to accept the plea raised by the learned counsel for the respondents that the said painting uploaded on a website could be



accessed by any person sitting across the globe who in consequence whereof could get affected by viewing the same. There can be no exasperation caused by viewing such painting on the website for the reason that a person would firstly access such a website only if he has some interest in art and that too contemporary art and in case he does view such a website, he always would have the option to not to view or close the said web page. It seems that the complainants are not the types who would go to art galleries or have an interest in contemporary art, because if they did, they would know that there are many other artists who embrace nudity as part of their contemporary art. Hence, the offence alleged u/s 294 IPC can not be made out. Similarly, the ingredients of section 298 IPC as alleged are not met since there seems to be no deliberate intention on the part of the petitioner to hurt feelings of Indians as already stated and as a matter of fact, the subject matter i.e Bharat Mata could be alleged to wound nationalist feelings of an individual and not any religious feelings. I am in agreement with the contention raised by the learned counsel for the petitioner that the impugned painting cannot form the basis of any deliberate intention to wound the religious feelings of the complainants since the figure, on the basis of the identity alleged, represents an anthropomorphic depiction of a nation as also that to hold a person liable under the above said section, mere knowledge of the likelihood that the religious feelings of another person may be wounded would not be sufficient."

22. A specific finding thus has been returned in respect of the painting itself and it has been held that the painting cannot form the basis of any deliberate intention to wound the religious feelings of the complainants since the figure, on the basis of the identity alleged, represents an anthropomorphic depiction of a nation. It has been also held that to hold a person liable under the above said section, mere knowledge of the likelihood that the religious feelings of another person may be wounded would not be sufficient.

23. Inasmuch as this petition has assailed the order of summoning, the same is to be tested on the well settled principles of law governing such a challenge. At the stage of consideration of the matter from the point of summoning, the allegations in the complaint are to be taken at their face value and assumed to be correct. This court is only concerned with the evaluation of the same for the limited purposes of assessment as to whether; complaint prima facie discloses the commission of a cognizable offence.

24. The very allegations made by the respondent no.2 in the complaint filed before the learned trial court have been considered by this court in Maqbool Fida Hussain Vs. Raj Kumar Pandey (supra). The findings of the court on the very painting would guide and bind adjudication allegations against printing of an advertisement or article relating to the painting as complained in the instant case. In view of the foregoing discussion, in the instant case, it has to be held that the complaint fails to disclose commission of offences under Section 153A, 292, 294, 295-A, 298 and 500 of the Indian Penal Code.



For this reason, the order dated 30th March, 2006 of the learned Metropolitan Magistrate in exercise of jurisdiction under Section 156(3) is hereby set aside and quashed. As a consequence, FIR No.184/2006 registered by the police station Connaught Place under Section 153A/292 & 294 of the Indian Penal Code and all proceedings arising therefrom against the present petitioner shall also stand quashed. (emphasis supplied)

13. This court, while upholding the impugned order passed by the Ld. Trial Court, draws strength from the observations made in the aforesaid judgment of the Hon'ble High Court on almost similar accusations.

Final Order:

14. In conclusion, the Impugned Order reflects a reasoned application of mind, aligning with statutory provisions and judicial precedents. No police investigation is required at this stage, as evidence is accessible, and Section 225 BNSS provides an adequate mechanism for any future inquiry.

15. The Criminal Revision Petition is dismissed. The proceedings before the learned JMFC shall continue as per law.

16. No order as to costs.

17. A copy of this order be sent to the learned JMFC for information and necessary action, along with TCR, if any. File be consigned to record room.

**Announced in the open Court
on 19th of August, 2025**

**(Saurabh Partap Singh Laler)
ASJ-05 New Delhi
Patiala House Courts
Delhi/19.08.2025**