



The Hindu, Chennai, 10 May 2008

An end to Husain's travails

By quashing the proceedings in three cases against M.F. Husain, the Delhi High Court has sent a strong message against cultural bigotry and moral vigilantism. The order provides a measure of welcome relief for India's most celebrated painter, who has suffered terribly at the hands of rank communalists and a criminal justice system that failed to factor in the utter ludicrousness of his so-called offence. Mr. Husain has been living in self-imposed exile in Dubai since 2006, thanks to a vicious and orchestrated campaign by right-wing groups, which charged him with offending religious sentiments through paintings that insulted Bharat Mata (Mother India) and Hindu gods and goddesses. The 92-year-old artist was threatened, his Cuffe Parade residence in Mumbai was ransacked, and exhibitions of his paintings were vandalised. As if this weren't enough, the harassment spilled over into the legal sphere with lower courts taking cognisance of what were clearly frivolous complaints, resulting in a chain of events — a proclamation declaring the painter an 'absconded and an order to attach his Cuffe Parade residence, not to speak of the many non-bailable warrants.

In observing that frivolous and vexatious complaints that affect the freedom of an individual should be scrutinised strictly at the magisterial level, the Delhi High Court was echoing the Supreme Court which, in a series of judgments, has cautioned lower courts from taking cognisance of them reflexively. In its 192nd report, the Law Commission recommended the enactment of a law to prevent the filing of such litigations (civil and criminal); the Commission framed a model Act by drawing upon laws in force in countries such as Britain, Australia, and Canada that deal very firmly with vexatious litigants. Orders such as the one passed by the Delhi High Court are a good precedent and will act as a check on lower courts, which — instead of upholding freedom of expression — have tended to be extremely accommodating of frivolous complaints. A recent case that made international headlines related to Richard Gere; the Supreme Court had to step in to quash the arrest warrant issued against the famous Hollywood actor for pecking Indian actress Shilpa Shetty on the cheek at a public function in New Delhi. Four more cases, which were registered in different parts of the country and transferred to a lower court in Delhi, survive against Mr. Husain. They are in different stages of the legal process but are similar inasmuch as they relate to the same tired and hollow controversy over the obscenity of his paintings. They would hopefully meet the same legal fate — a firm and forthright quashing.