

**SPEECH OF HON'BLE THE CHIEF JUSTICE IN FULL  
COURT REFERENCE ON THE SAD DEMISE OF  
JUSTICE H.R. KHANNA, FORMER CHIEF JUSTICE OF  
THIS COURT AND JUDGE OF SUPREME COURT**

My esteemed colleagues, Mr. P.P. Malhotra, learned Additional Solicitor General of India, Mr. K.C. Mittal, President and other office bearers of the Delhi High Court Bar Association, the learned Members of the Bar, Members of the bereaved family, Ladies and Gentlemen.

We have assembled here today to pay homage to late Justice H. R. Khanna, former Chief Justice of this Court and Judge of the Supreme Court of India, who breathed his last on 25<sup>th</sup> February, 2008. In passing away of Justice H.R. Khanna, the nation has lost a valiant defender of democracy. He was a man who considered civil rights of the people as an article of faith.

Justice Khanna was born on 3<sup>rd</sup> July, 1912. His early years were spent in Amritsar where he studied first at D.A.V. High School and then at the Hindu and Khalsa Colleges, Amritsar. He

completed his law from the Law College at Lahore in 1934 and soon after, he joined the Amritsar Bar.

In January, 1952, he was appointed the District and Sessions Judge, Ferozpur, and then at Ambala. He thereafter worked as District and Sessions Judge, Delhi until he was appointed Judge of the Punjab High Court. On the formation of the Delhi High Court, he was transferred to Delhi High Court on 31<sup>st</sup> October, 1966. On 1<sup>st</sup> August 1969, Justice Khanna was appointed as the Chief Justice of this Court and on 22<sup>nd</sup> September, 1971, his lordship was elevated to the Supreme Court.

Justice Khanna will always be remembered for evolving 'basic structure' doctrine. By propounding this doctrine in Keshvanand Bharati's case, Justice Khanna has ensured that no one will ever be able to take away from us what may be described as the basic features of the Constitution like basic human rights, secularism, rule of law, independence of judiciary and so on.

Justice Khanna will be remembered for the exemplary courage he showed in the Habeas Corpus case which came up for hearing before the Supreme Court in December 1975. His lone dissenting opinion in that case had led to his supersession and consequent resignation on 12<sup>th</sup> March, 1977. Conscious of his loneliness, he ended his judgment with a quote:

“As observed by Chief Justice Huges, Judges are not there simply to decide cases, but to decide them as they think they should be decided, and while it may be regrettable that they cannot always agree, it is better that their independence should be maintained and recognized than that unanimity should be secured through its sacrifice.”

A couple of days after the verdict “New York Times” in its editorial “Fading Hope in India” had paid glowing tribute to Justice Khanna. The newspaper had prophetically commented:

“If India ever finds its way back to the freedom and democracy that were proud hallmarks of its first eighteen years as an independent nation, someone

will surely erect a monument to Justice H. R. Khanna of the Supreme Court. It was Justice Khanna who spoke out fearlessly and eloquently for freedom of citizens, dissenting from the majority decision.”

The prophecy has come true and now we see the portrait of Hon’ble Justice Khanna displayed in Court No. 2 of the Supreme Court.

Justice Khanna used to carry his greatness lightly. After he was superceded, this is what he had said in his address to the Bar:

“No Judge can afford to be boastful of being always in the right, for there is yet to be born a judge who has not committed mistakes.”

Justice Khanna had served for a short while as the Chairman of the Law Commission and also as a minister in the Central Cabinet. Justice Khanna had been the author of many books, amongst others viz. Judicial Review on Confrontation;

Liberty, Democracy and Ethics; Constitution and Civil liberties and Making of India's Constitution.

Justice Khanna by temperament was a loner. He was very sensitive at heart. He had a great faith in the goodness of the people. In his autobiography 'Neither Roses nor Thorns', describing himself and journey of his life, he wrote:

“I am by temperament a loner. Gazing at the moon and stars or walking in the hills or on the sea beach is something I find soothing. I love nature and find its company congenial, for being in the midst of nature I often hear the still, sad music of humanity.

Life I have found is neither roses nor thorns; it is as I said earlier a mixed fare. It has its moments of exultation, and periods of frustration, its high points of achievements and successes, and its depressing phases of failures and disappointments. We have to take life as it is – continuous activity and struggle, with its sunshines and shadows, its joys and sorrows, its comic aspects and tragic episodes. In the journey

of life we came across people of all types. I, however, feel that by and large human beings are basically good.”

With demise of Justice Khanna the legal fraternity has lost an eminent jurist and a stalwart and it will be difficult to fill the vacuum created by his death. He will always be seen as a symbol of selfless courage who stood up for what he considered to be right without regard to personal consequences.

Justice Khanna is survived by three sons and one daughter.

We send out heartfelt condolences to the members of the bereaved family and pray to the God to give them strength to bear the loss. May the Almighty bestow peace to the departed soul.

**(AFTER REFERENCE BY LAWYERS IS OVER)**

I request you all to pay homage by standing in silence for two minutes in the memory of Justice H.R. Khanna.

**(Mukundakam Sharma)  
Chief Justice**

**3<sup>rd</sup> March, 2008**