

**SPEECH OF HON'BLE THE CHIEF JUSTICE IN FULL COURT
REFERENCE ON THE SAD DEMISE OF HON'BLE MR.JUSTICE
Y.V. CHANDRACHUD, FORMER CHIEF JUSTICE OF INDIA.**

My esteemed brother and sister Judges, Additional Solicitor General of India, Chairman, Bar Council of India, President and office bearers of Delhi High Court Bar Association, Standing Counsel for the Central Government and Government of the NCT of Delhi, learned members of the Bar, bereaved members of the family, ladies and gentlemen.

We are assembled here to express our profound sense of sorrow on the death of late Shri Y.V. Chandrachud, former Chief Justice of India, which took place in Mumbai on July 14, 2008. And I consider it a sad but proud privilege that I am allowed to pay my tribute to this great Judge, a man whom we consider the grand patriarch of the judiciary.

It is difficult to say in few words what this great man meant to me and countless of his other friends and admirers. He was a brilliant lawyer, a very learned and humane Judge and above all a great human being. His death has been a personal loss too deep for words. It is sad to think that he is no more and sadder indeed

that his presence is no longer there to guide us in these difficult times.

Justice Chandrachud was born in a distinguished and erudite family, his father was Diwan of the then Princely State of Sawantwadi. He was a brilliant student and a voracious reader and from early days in his school he acquired great mastery over English, Sanskrit and Marathi languages. He won prestigious "Hindu Raje" Scholarship in the year 1942, which had been won by his father in 1912. Amongst many other awards, he also won Sir Nathu Bhai Mangaldas Legal Scholarship, G.K. Kanga Scholarship and Judge Spencer Prize.

He stood first class first at the LL.B. Examination and joined the Bar at Bombay. His brilliance was apparent and his rise in the profession was meteoric. At the young age of 38, he was appointed to the coveted office of Government Pleader, Bombay High Court, where he made his high mark particularly in the sensational Commander Nanavati case. He held that office with great dignity and ability as is evident from the extremely high esteem he was held in by the eminent Judges, like Justice Chagla and Justice Gajendragadkar.

As a Judge in the Bombay High Court from 1961 to 1972, he made a distinct mark by his erudition and legal scholarship. He excelled in the art of writing judgments. Whatever branch of law he dealt with, his judgments were characterized by incisive analysis, original thinking, lucid exposition and felicitous expression. One has just to open the pages of law reports to see the depth of his learning and scholarship. He was truly one of the greatest and finest Judges that the Bombay High Court has produced.

Mr.Fali S. Nariman in his tribute said about him that he exhibited a genuine and refreshing sense of humility when sitting in the seat of justice and his treatment of lawyers and litigants alike – old as well as young – was simply exemplary.

He was a great strength to junior lawyers and many found their feet in his Court. He had a certain innate courtesy and treated everyone in his Court with politeness. One remarkable thing about Justice Chandrachud was that he saw to it that a client, whose case was ill-argued or badly argued, did not suffer. My brother Mukul Mudgal narrated to me that once in Supreme Court a young lawyer argued a criminal appeal before Justice

Chandrachud for quite some time. The Judges did not know nor any one in the Court knew what he was saying. Finally Justice Chandrachud formulated an argument for him and said this is what you are saying and admitted the appeal and granted bail. That was his passion for justice.

Justice Chandrachud was an accomplished public speaker. Words came naturally to him and he always spoke extempore without any notes. He regaled his audiences with his exquisite command over the language and his deep study and understanding of the subject at hand.

In his long and distinguished career as a Judge of the Supreme Court he delivered several landmark judgments – from complex constitutional issues to the eviction proceedings under rent laws, from questions of administrative laws to the death penalty – and his analysis of the law was brilliant and original and bore the testimony of his sensitive judicial mind.

In **Rudul Sah v. State of Bihar**, he laid the foundation of the compensatory jurisdiction consequential upon the deprivation of a fundamental right. He said the refusal of the Supreme Court to pass an order of compensation in favour of the petitioner will

be doing mere lip service to his fundamental right to liberty which the State Government has so grossly violated. Article 21 will be denuded of its significant content if the power of the Supreme Court were limited to passing orders of release from illegal detention. The only effective method open to the judiciary to prevent violation of that right and secure due compliance with the mandate of Article 21, is to mulct its violators in the payment of monetary compensation.

In **Shah Bano Begum**'s case his modern interpretation of Holy Quran was masterly. He held that there is no conflict between the provisions of Section 125 Cr.P.C. and those of the Muslim Personal Law on the question of a Muslim husband's obligation to provide maintenance for his divorced wife who is unable to maintain herself. In the same judgment, he expressed his anguish that Article 44 of our Constitution has remained a dead letter. He reminded the State that it is charged with the duty of securing uniform civil code for all the citizens of the country and unquestionably, it has the legislative competence to do so. He then went on to observe "Inevitably, the role of the reformer has to be assumed by the courts because, it is beyond

the endurance of sensitive minds to allow injustice to be suffered when it is so palpable.”

The judgment in **Olga Tellis v. Bombay Municipal Corporation** is a testimony of his brilliant exposition of the sweep of Article 21. To quote his words : “It does not mean merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of the death sentence, except according to the procedure established by law. That is but one aspect of right to life. And equally important facet of that right is the right to livelihood because, no person can live without the means of living, i.e. the means of livelihood.” **D. Bhuvan Mohan Patnaik v. State of Andhra Pradesh** was perhaps the first judgment by the Supreme court holding that convicts are not, by mere reason of the conviction, denuded of all the fundamental rights which they otherwise possess. Justice Chandrachud observed that though the Government possesses the constitutional right to initiate laws, it cannot by taking law into its own hands, resort to oppressive measures to curb the political beliefs of its opponents. No person, not even a prisoner, can be deprived of his life and personal liberty except according

to the procedure established by law.

In his Law Day speech delivered on 26th November, 1979, (almost thirty years back) Justice Chandrachud had said:

“An effective judicial system required not only that just results be reached but that they be reached swiftly.

I am no pessimist, but at times I see dark clouds gathering over law's rarefied atmosphere. There is some evidence – feeble I suppose, feeble I hope – of ecological pollution of the Taj Mahal of Justice. Long and interminable arguments, whisperings of heavy professional fees, the unethically excessive impost of court fees by the State which does not plough back its profits from justice back into the cause of justice by undertaking programme like free legal aid, the chronic delays in disposal of cases and, may I say the not-so-chronic delays in decision-making, are all matters which require of the men of law a careful and urgent attention I hope and pray that nothing that we will

do shall tarnish the fair name of justice which can only come from a keen social awareness, which involves a nice and judicious balancing of conflicting interests.”

He had almost prophesied a vivid description of what is happening today.

He died as he would have wished to die after celebrating his 88th birthday in the company of his family and friends. He has left behind him his wife, a loving son and a daughter. He has left the memory of a great name and enduring legacy of his judgments.

In the end I am tempted to quote a few lines from Julius Caesar, which Mr.H.M.Seervai quoted to pay his tribute to Chief Justice Chagla:

“His life was gentle; and the elements
So mixed in him, that nature might stand up
And say to all the world, 'This was a man!'”.

(AJIT PRAKASH SHAH)
Chief Justice

(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 Chandrachud.

(The Hon'ble Judges will take their respective seats for a moment after the silence, and Hon'ble the Chief Justice will announce as under)

“As a mark of respect to the departed soul, the Court is adjourned for the rest of the day”

**(AJIT PRAKASH SHAH)
Chief Justice**

24th July, 2008