

1

ADDRESS BY HON'BLE SHRI MOHIT S. SHAH, CHIEF JUSTICE,
HIGH COURT OF JUDICATURE AT BOMBAY
AT THE REFERENCE
TO LATE MR. JUSTICE SHRIKRISHNA NAUNIHALCHAND KHATRI,
FORMER JUDGE OF THIS HIGH COURT,
ON WEDNESDAY, 30 JULY 2014 AT 11 A.M.

My esteemed colleagues

Shri Khambatta, Advocate General

Shri Anil Singh, Additional Solicitor General of India

Shri D.R.Zaiwalla, Vice President, Bombay Bar Association

Shri Rajiv B.Chavan, President
Advocate's Association of Western India

Shri P.A.Jani, Vice President
Bombay Incorporated Law Society

Shri Vithal Konde-Deshmukh
Member of Bar Council of Maharashtra & Goa

Members of the family of Justice Khatri,
Ladies and Gentlemen,

We have assembled here this morning to mourn the sad demise of late Shrikrishna Naunihalchand Khatri, former Judge of this High Court, who left for his heavenly abode on Wednesday, 25th June 2014 at the age of 87.

2. Justice S.N.Khatri was born on 20th December 1926. After education at Government Jubilee High School, Chandrapur, Justice Khatri had his higher education in College of Science, Nagpur and University College of Law, Nagpur, from where he obtained his Law Degree. On 16th November 1950, he was directly appointed as Civil Judge, without being enrolled as an advocate, in the erstwhile Madhya Pradesh Judicial Service. On reorganization of States, Vidarbha area of Madhya Pradesh was allotted to Bombay State on 1st November 1956 and later on to Maharashtra State on 1st May 1960. He continued to work as Civil Judge in various districts of Maharashtra till April 1966. Thereafter, he was promoted as District Judge in 1973. From June 1974 to April 1975, he worked as Joint District Judge & Additional Sessions Judge. From November 1976 to March, 1979 he was a Judge of the City Civil Court. In April 1979, he was promoted as Selection Grade District & Sessions Judge and posted as Registrar of this Court. Thereafter, on 20th December 1982, he came to be elevated as Judge of this Court and retired on 20th December 1988.

3. The life sketch of Justice Khatri was spread over a long period of more than thirty-eight years. It was a unique example of a Judicial Officer who started his judicial career as Civil Judge in 1950 and rose to occupy the august office of Judge of the Bombay High Court in 1982. As a Judge of this High Court for a period of six years, Justice Khatri rendered a number of judgments including some landmark judgments reported in Law Reports, being judgments in cases relating to Conservation of Foreign Exchange and Prevention of Smuggling Activities Act¹ (COFEPOSA), Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale Management and Transfer) Act² (MOFA), Contempt of Courts Act³, Representation of the People Act⁴, Indian Penal Code⁵ and the Code of Civil Procedure⁶ need specific mention.

4. Justice Khatri was a simple and wonderful man who achieved greater heights by dint of his abilities and moral values. His passing away will not only leave a void in our lives but also in the hearts of all those who knew him. We all know death is inevitable but it is through our deeds that make our life immortal. Time may pass and fade away, but memories will always remain.

1 1984(2) Bom.C.R. 180

2 1985 Mh.L.J. 163

3 1987 (2) Bom.C.R. 33

4 1987 Mh.L.J. 260

5 1988 Mh.L.J. 259

6 1988 (1) Bom.C.R. 464

5. Justice Khatri has left behind him his wife Smt.Mohini Khatri, daughter Mrs.Geeta Shrikrishna Nayyar and son Shri Subhash Shrikrishna Khatri, who is working in U.S.A.

6. My colleagues and I share the feelings of all those who have gathered here for expressing our heartfelt condolences to the members of the bereaved family. May the Almighty give them strength to bear the great loss and overcome the grief.

May the departed soul rest in eternal peace.

Address by Shri Darius J. Khambata, Advocate-General of Maharashtra at the First Court Reference to late Shri S.N. Khatri, former Judge of the Bombay High Court, held on 30th July, 2014.

My Lord the Hon'ble the Chief Justice Mr. Mohit Shah, My Lord the Hon'ble Mr. Justice M.S. Sonak, Mr. Anil Singh, Additional Solicitor General of India, Mr. V.B. Konde-Deshmukh, Member, the Bar Council of Maharashtra & Goa, Mr. Dara Zaiwalla, Vice President, Bombay Bar Association, Mr. Rajiv Chavan, President, Advocates Association of Western India, Mr. Priyahas Jani, Vice-President, Bombay Incorporated Law Society, members of Justice Khatri's family, members of the Bar, ladies and gentlemen.

We are gathered here today to mourn the demise of Justice S.N. Khatri who passed away on 24th June 2014, at the ripe age of 87. Justice Khatri was born to be a Judge, for he was one who sat on the bench for 38 years - the entire span of his professional career. He was one of the few judges who did not practice at the bar at all. This did not in any way affect the quality of his judgements and his deep devotion to the cause of justice. After passing the judicial services exam, Justice Khatri was appointed a Civil Judge first in the erstwhile Madhya Pradesh Judicial Service and later in the erstwhile State of Bombay. He then rose through the hierarchy of District Courts serving in the districts of Yavatmal, Wardha, Thane and Nasik.

He was then promoted as Additional Sessions Judge in April 1966 and worked in this capacity in the districts of Yavatmal, Alibag, Ratnagiri and Satara till August 1970. Whilst serving as an Additional Sessions Judge he was selected as the Assistant Director of Law, National Police Academy, Government of India. Whilst on deputation as Assistant Director of Law, he was appointed as District and Sessions Judge on 5th May 1973. He held the office of Deputy Secretary in the Law and Judiciary Department, Government of Maharashtra and was thereafter promoted as a Judge of the City Civil and Sessions Court, Mumbai. He then became the Registrar of this Hon'ble Court.

On 20th December 1982 he was appointed Judge of this Hon'ble Court where he sat for six years until his retirement in the year 1988. Justice Khatri will be remembered most readily for his courageous and visionary decision in a case concerning a former Chief Minister of the State. [R.S. Nayak v A.R. Antulay 1984 (86) BOMLR 296]. The question before Justice Khatri was whether the State Government could claim immunity under Article 163(3) of the Constitution of India from producing minutes of a Cabinet meeting and the Note circulated at that meeting. Article 163(3) provides immunity to whether and if so, what advice was tendered by the Council of Ministers to the Governor. Justice Khatri denied immunity to a Departmental Note put upto the Cabinet. It was not, he held, either the "advice" or the "reasons for the advice". Justice

Khatri also confined the immunity to cases of actual advice and did not extend it to deemed advice. He held that Article 163(3) postulated immunity to only that class of cases where the Governor actually received advice as distinct from that class of cases where orders had been passed by the Council of Ministers for the consideration of the Governor but where no advice had ultimately been tendered to him.

He then rejected a plea for privilege under Section 123 of the Evidence Act holding that “...*the balance of public interest heavily tilts in favour of the disclosure of the documents*” and that “...*in between the two competing public interests the one of administration of justice clearly outweighs the other*”.

All this in an age where official secrets and confidentiality ruled the day rather than the right to information and transparency of governance. In those days, striking down actions of those holding high office was the exception and Justice Khatri bravely struck a blow for good governance and accountability of governance.

He wrote several good judgments. I need mention, only two more. In a judgment under the Hindu Marriage Act [Ishwarlal Sarabhai Parikh v Prabhavati Ishwarlal Parekh 1988 (1) Bom CR 464] speaking for a Division Bench Justice Khatri held that in a petition for divorce on the grounds of cruelty it was not necessary for the petitioner to prove the charge of cruelty by the highest

standard. It was enough to prove that the cruelty was of such type that the Petitioner could not be reasonably expected to live with the Respondent or that the living together of the spouses had become incompatible. Justice Khatri set aside the decision of the Pune University [Hansa Babulal Dave v University of Poona 1983 MhLJ 626] which had cancelled the performance of some students and debarred them from appearing in examinations on the ground of mass copying. Speaking for the Division Bench he held that minimal requirements of the principles of natural justice were that the person affected had to be apprised of the charges of unfair means, an opportunity of being heard and the authority conducting the proceedings must act in an unbiased manner and in good faith.

Justice Khatri personified the silent foot soldier in the battle for justice. He was simple, unfailingly courteous and fearless. It is Judges and citizen like him who have devoted their entire lives to the cause of justice, that form the bedrock of the rule of law and the foundation of our constitutional values.

My deepest condolences to his wife, daughter, son and the entire bereaved family. May his soul rest in eternal peace.

Address by Shri Anil C. Singh, Additional Solicitor General of India, at the First Court Reference to late Shri S.N. Khatri, former Judge of the Bombay High Court, held on 30th July, 2014.

My Lord the Hon'ble the Chief Justice Shri Mohit Shah, His Lordship Hon'ble Shri Justice M.S. Sonak, Shri Darius J. Khambata, Advocate General of Maharashtra, Shri Vitthal Konde Deshmukh, former Chairman and Member of Bar Council of Maharashtra and Goa, Shri Dara Zaiwalla, Vice President of Bombay Bar Association, Shri Rajiv Chavan, President of Advocates' Association of Western India, Shri P.A. Jani, Vice President of Incorporated Law Society, Members of Bar, Members of Justice Khatri family and ladies and gentleman;

Justice Shrikrishna N. Khatri, was born on 20th December, 1926, started his career as a Civil Judge and thereafter having worked as Assistant Judge, District Judge, Additional Sessions Judge and Judge of City Civil Court, he was ultimately elevated to Bombay High Court as a permanent Judge in the year 1982 and retired in the year 1988.

His judgments echo His Lordship's deep knowledge of law and mature understanding of human values. Throughout his career as a Judge, he displayed a quick grasp and keen intellect coupled with polished manners and courtesy. During his tenure as a Judge of the Bombay High Court he was party to number of landmark

judgments. The celebrated judgment in the case of R.S. Nayak vs. A.R. Antulay was assigned initially to Justice S.N. Khatri, the order of His Lordship was challenged rejecting the jurisdiction of the Bombay High Court to deal with cases under the Prevention of Corruption Act, the order was upheld by the Hon'ble Supreme Court, the judgment is reported in 1984 (3) SCR 482. Justice Khatri had authored many judgments under the provisions of Maharashtra Ownership of Flats Act. He had throughout his career adopted a sympathetic approach towards the masses. This approach is replicated in the judgments under the MOFA Act.

His death is an immense loss to the legal fraternity. I convey my heartfelt condolence to the members of his family. May the Almighty give them strength to bear the great loss.

May the departed soul rest in eternal peace.

Address by Mr. V.B. Konde-Deshmukh, Former Chairman, Bar Council of Maharashtra and Goa, at the First Court Reference to late Shri S.N. Khatri, former Judge of the Bombay High Court, held on 30th July, 2014.

Hon'ble the Chief Justice Shri Justice Mohit Shah, Mr. Justice M.S. Sonak, Hon'ble Mr. Darius J. Khambata, Advocate General, Hon'ble Mr. Anil Singh, Additional Solicitor General of India, Mr. Rajiv Chavan, President, Western India Advocates Association, Hon'ble Mr. Dara Zaiwalla, Vice President, Bombay Bar Association, Hon'ble Mr. Rajiv Chavan, President, Western India Advocates Association, Hon'ble Mr. P.A. Jani, Vice-President, Incorporated Law Society, Family members of late Shri Justice S.N. Khatri, ladies and gentlemen.

Today we have assembled to pay humble tributes to late Shri S.N. Khatri, former Judge of Bombay High Court who passed away on 24th June 2014 at Bombay. I would like to pay my humble tributes on my behalf and on behalf of Bar Council of Maharashtra and Goa to late S.N. Khatri. Though I did not have the privilege of appearing in his Court, however, the senior lawyers of this Court have spoken of Mr. Justice S.N. Khatri as a good Judge, the distinguished jurist and able administrator, whose sterling contribution added a new dimension to our service jurisprudence. He was indeed a many splendor personalities, intellectual judge, able administrator, orator, non-peril, having beautiful sense of humour the list is endless. More importantly he was the epitome of humbleness, humanity and unforgettable courtesy.

Late Justice S.N. Khatri was born on 20th December, 1926. He completed his matriculation from Government Jubilee High School, Chandrapur and his Graduation in Science from the College of Science, Nagpur. Justice Khatri after completing his law from University College of Law, Nagpur, did not enroll as an Advocate though Justice Khatri did not practice as an Advocate at all. He joined as a Civil Judge in old Madhya Pradesh State on 16th November, 1950 and in April, 1966 promoted as Assistant judge and Additional Sessions Judge and worked in this capacity at Yavatmal, Alibagh, Ratnagiri and Satara. In April, 1979, Justice Khatri was promoted as Selection Grade District and Sessions Judge and was posted as Registrar General of Bombay High Court. On 20th December, 1982. Justice Khatri was appointed as Judge in the High Court at Bombay.

Judges judge the litigants, judge the advocates and deliver justice. However, who judge the Judges? The answer is Bar is the Judge of Judges all you would agree with me that Justice S.N. Khatri passed the test of bar again with the flying color. In his Court all lawyers were not only given uniform treatment but right of being heard was never violated.

Justice S.N. Khatri has departed from our midst, but he can never leave us, leave our minds and hearts where he firmly enthroned and behooved us all to carry forward the Khatri's legacy of truth, goodness and beauty, deriving inspiration from his thoughts. "His deeds and many splendored life of this man for all seasons, the great Khatri".

I pray God that the departed soul may rest in peace and God may give courage to the family members to move on. We shall all remain with them. Thank you.

Address by Mr. Dara R. Zaiwalla, Vice President, Bombay Bar Association at the First Court Reference to late Shri S.N. Khatri, former Judge of the Bombay High Court, held on 30th July, 2014.

My Lord the Chief Justice, Hon'ble Justice M.S. Sonak, Mr. Khambata, Advocate General, Mr. Anil Singh, Additional Solicitor General of India, Mr. Konde Deshmukh, representing Bar Council of Maharashtra and Goa, Mr. Rajiv Patil, President, Advocates' Association of Western India, Mr. P.A. Jani, Vice-President, Bombay Incorporated Law Society, members of the Bar and Ladies and Gentlemen;

On behalf of the Bombay Bar Association I join in the tribute that has been paid to late Mr. Justice Khatri. I need not re-enumerate all his qualifications except that though he was not a member of the Bar, he treated the Bar with utmost courtesy and had extremely good relations with all of us. I had the honour of appearing before him in the City Civil Court and in the High Court and I remember the kindness and the courtesy which he had always shown to the members of the Bar specially the junior members of the Bar. In his passing away, we have lost a good Judge and I am sure many members of the Bar who were the honour of practicing before him surely miss him. My sympathies to the members of his family. I join the sentiments expressed by the previous speakers. On behalf of the Bombay Bar Association I take this opportunity to pray that his soul may rest in eternal peace.

Address by Shri Rajiv Chavan, President, Advocates' Association of Western India, to late Shri S.N. Khatri, former Judge of the Bombay High Court, held on 30th July, 2014.

My Lord the Chief Justice Mr. Justice Mohit Shah, Mr. Justice M.S. Sonak, Ld. Advocate General Mr. Daraius Khambata, Addl. Solicitor General, Mr. Anil Singh, Mr. Vitthal Kondhe Deshmukh, Member Bar Council of Maharashtra, Mr. Dara Zaiwala, Vice President of Bombay Bar Association, Mr. Priyahas A. Jani, Vice President of Incorporated Law Society, Members of Justice Khatri's family, Ld. Advocates, Ladies & Gentlemen,

Mr. Justice Shrikrishna Naunihalchand Khatri left for his heavenly abode, at the age of 87 on 24th June 2014 at Mumbai. We have assembled here this morning to mourn his sad demise.

Born in the year 1926 in a humble family, late Justice Khatri after graduating in Law with a First Class, was one of the few direct appointees as munsiff in the then province of C.P. & Berar. On the State's reorganisation in the year 1956, Justice Khatri chose to be attached to the then State judiciary of Bombay State and later to the Maharashtra State. Throughout his long career in the State's subordinate judiciary and later as the Judge of this Hon'ble High Court, he was always acknowledged as a stickler for rules.

Justice Khatri's stint in the Law & Judiciary Department of the Government of Maharashtra was short. Many of his colleagues especially remember him on account of an incident during emergency. In 1976 or thereabout there was an enactment in the Statute book which permitted preventive detention for writing and publishing scurrilous material and in any manner whatsoever in newspapers or magazines. At that time an article came to be published concerning a cine actress in a magazine having wide circulation in Delhi, Mumbai and all over India. The Information & Broadcasting Ministry of the Government of India was convinced that this write up was a fit case of mischief and hence a fit case for detention of the editor under provisions of that particular Act. The issue was referred to the Law Department of the Government of Maharashtra for its opinion and advise for further action. Justice Khatri was then the Joint Secretary in the Law Department. After a thorough examination and application of mind on the said article he opined that it would not attract the provisions of the said Act and hence the action proposed by the Government was not feasible. This was not to the liking of the then I & B Minister. The Union Minister flew down to Mumbai and desired that the Advocate General give his opinion on the Law Department's view in the matter. A meeting was held at the Governor's House. Justice Shrikrishna Khatri firmly stood his ground. Notably, the then Advocate General late Mr. Ramrao Adik also could not find any ground to disagree with him. The Joint Secretary's resoluteness thus averted a high handed action that the Government could have taken. The significance of

such action lay in the fact that even during emergency correct advice without bending backwards could be given by the legal department without fear of any consequences. This particularly assumes importance today as there is unnecessary clamour for 'special protection' by the bureaucracy.

In June 1984, a Special Court headed by Justice Shrikrishna Khatri was set up to try the famous Antulay case. During the hearing, charges and counter-charges of missing and added documents were made. Justice Shrikrishna Khatri, a Judge who never tolerated abuse of judicial process, had to suspend hearing for some time and order a detailed investigation.

Another incident that speaks volumes of his high moral standards and integrity deserves special mention at this juncture. After one particular matter involving a Minister was remanded by the Supreme Court, Justice Shrikrishna Khatri recused himself on the ground that in his earlier stint in the Law & Judiciary department he had worked under the same Minister and he may be accused of bias.

After his retirement as the Judge of this Hon'ble High Court Justice Khatri worked as the Chairman of Maharashtra Backward Class Commission and faced some volatile situation. But he handled this assignment with the same ease and finesse as he handled every other assignment.

Justice Shrikrishna Khatri was known to me personally. My father, being a Judge of this Hon'ble High Court, would meet Justice Khatri often. I had observed many a times that Justice Khatri had no hesitation in seeking assistance in resolving intricate legal issues from persons who were much junior to him. Justice Shrikrishna Khatri was a truly humble Judge and practiced simplicity till the end of his life. Justice Khatri's wife – Advocate Mrs. Mohini Khatri, his son Subhash – a brilliant son who graduated from I.I.T. and daughter Geeta, led a simple life. The death of Justice Khatri has caused a great void in their life which cannot be filled.

My Lord, on behalf of Advocates Association of Western India, I fully associate with the sentiments that have been expressed here by Your Lordship as well as my colleagues at the Bar. I pay humble respects on behalf of the Association to the departed soul and offer our condolences to the bereaved family of Justice Shrikrishna Naunihalchand Khatri.

May his soul rest in peace.

Address by Mr. Priyahas A. Jani, Vice President, Bombay Incorporated Law Society, at the First Court Reference to late Shri S.N. Khatri, former Judge of the Bombay High Court, held on 30th July, 2014.

It is with deep sorrow that I, on behalf of the Incorporated Law Society, associate myself with the sentiments, which have been expressed here.

On 24th June, 2014, on the demise of Hon'ble the then Shri Justice Shrikrishna Naunihalchand Khatri we have lost a noble soul.

The best and most beautiful things in the world cannot be seen, nor touched, but are felt in the heart. Justice Khatri had touched the heart of all who appeared in his Court. We understand death only after it has placed its hands on someone we love. Justice Khatri believed that people will forget what he said, people will forget what he did, but people will never forget how he made them feel. Justice Khatri made Advocates appearing before him more than comfortable. No tension in Court. Justice Khatri would sit and hear with courtesy and would decide impartially.

Nothing you love is lost. Sooner or later people always go away. You can't hold them anymore than you can hold moonlight. But if they've touched you, if they're inside you, then they're still yours. The only thing you ever really have is the ones you hold inside your heart.

May his soul rest in peace.