

**FELICITATION AND FAREWELL TO
HON'BLE MR. JUSTICE SWATANTER KUMAR**

Full Court Reference – 29th March, 2007

MY LORD THE HON'BLE CHIEF JUSTICE, MR JUSTICE
SWATANTER KUMAR, YOUR LORDSHIPS, MR. P.P.
MALHOTRA - ADDITIONAL SOLICITOR GENERAL OF
INDIA, MR. RAMESH GUPTA, CHAIRMAN, BAR COUCIL OF
DELHI, STANDING COUNSEL FOR GOVT. OF INDIA AND
THE GOVT OF NATIONAL CAPITAL TERRITORY, OFFICE
BEARERS OF DELHI HIGH COURT BAR ASSOCIATION AND
OTHER BAR ASSOCIATIONS, MRS. SWATANTER KUMAR
AND OTHER FAMILY MEMBERS, RESPECTED SENIOR
MEMBERS OF THE BAR, MY COLLEAGUES AT THE BAR,
LADIES AND GENTLEMEN:

Most of us feel that Full Court Reference is to pay homage.

Today is a different occasion, an occasion to have the
atmosphere charged with happiness and joy. It is a proud day
for the Delhi High Court Bar Association and for me, in
particular, that one of our members, an outstanding lawyer

elevated to the Bench few years ago, has now been appointed the Chief Justice of Bombay High Court; a very important High Court of the country, where the commercial hub of India lies.

It is a momentous occasion for this Hon'ble Court and its Bar. After a lapse of about thirty years, a Full Court Reference is being held to felicitate and bid farewell to an Hon'ble member of the Bar, who adorned the Bench of this Hon'ble Court and who today has become the Chief Justice designate. It was in 1977 the last Full Court Reference to felicitate and bid farewell to an Hon'ble Judge was held in this Court Room. It is extremely gratifying that the Bar's efforts to revive the tradition had met with results. Thank you, the Hon'ble Chief Justice and all the other Hon'ble Judges, on behalf of the Executive and Members of Bar.

The profession of law is a profession that is concerned with the matters of the mind and processes of reasoning. To belong to a profession that has a great history and tradition, is actually an honour. It is the legal profession beyond any other calling that is concerned with those establishments, those processes, those

appeals to reason and right, which has a dominant share in begetting civilized modern society. So that, in becoming a lawyer, one attaches to himself a great heritage, which means a deep and wide cultural life.

In the words of Mr. Justice Frankfurter **“You belong to a profession with a great tradition, a tradition which you must continue not as inert heritage, but through your own efforts on ever continuing heritage of service.”**

Truly, this profession has a heritage of service, which every lawyer worth his salt should never forget.

Hon'ble Mr. Justice Swatanter Kumar had, no doubt, a dauntless entrepreneurial spirit. His Lordship's career and achievement prove again that backed by confidence, courage and conviction, man can achieve the impossible. In the role of a lawyer, or that of a Judge, his Lordship displayed an exceptional caliber and dexterity.

His Lordship was a student when his respected father left for his heavenly abode. Began as an Oath Commissioner, he went on to create an empire, both as a lawyer and a judge. Scaling

through the law journals, one can easily find those judgments which are either brought in by his arguments or decided by him, which are living testimony to his erudition, ability, skill and commitment.

I am reminded the lines of a poet that **“the heights by great men reached and kept were not attained by sudden flight, but they, while their companions slept, were toiling upward in the night.”**

His Lordship’s participation in many landmark cases as a lawyer is well known. Where originally the matter went against, at the appellate level, sometimes at the Apex Court, his stand was proved right and upheld. Sir, you attained prominence as a lawyer by dint of hard work, study, deep thinking and intensive research, a habit which stayed with you as the mightiest weapon. Both as a lawyer and judge, you have displayed exceptional skill in differentiating the wheat from the chaff.

The contention of the Income Tax Department that details of donors must be produced under Section 11 of the Income Tax Act to get the benefit of exemption was turned down by his

Lordship. His Lordship came down heavily if the process suffered from arbitrariness, or *mala fide* in fact or in law.

Traffic in Delhi would be no longer be the same if his Lordship's judgment is implemented from 9th April 2007.

I distinctly remember a matter where his advocacy has won the truth. In a matter, which went upto the Apex Court and lost, another case was made out from the beginning, but from the part of a minor involved in it. Another plaint was drafted and he brilliantly exposed the matter before the Court, driving home the point without leaving any chance for any doubt. It was not a 'googly in court,' but brilliance and dexterity playing their roles at their best. Interim stay was granted and the client's interest was protected.

His Lordship's commitment to Lord Almighty is well known. I have seen him bowing before the idols of God while entering his chamber as a lawyer and thereafter as a Judge. One could easily make out that the prayer silently went: **“give me grace to hear patiently and to do diligently and to decide justly,**

grant me due sense of humanity and that I will not be misled by my willfulness, vanity or egotism of myself”.

Presiding as a Judge, his Lordship has always been concerned about the delay in administration of justice and gave practical solution to the concern by deciding the matters early. His Lordship’s anxiety to expedite and dispose the matters made members of the Bar feel uncomfortable on many occasions, yet they never felt hurt or bad at the end of the hearing. Those who saw him from away, felt that he is stubborn, rigid and unduly tough. For those who went near felt and knew that the hardness of diamond also had the softness of a petal and the hard-looking figure has a heart trilling with warmth and compassion, but for the right and the just.

I came in contact with his Lordship in the corridors of this Hon’ble Court way back around 1980. I had the occasion to interact with or to be with him in the Court. I remember him, being first and foremost as an extremely affectionate, humane, who enjoyed taking interest even in the smallest things of life when it came to juniors and other colleagues at the Bar.

We are sending his Lordship on 'deputation.' He would physically not be with us but his vision would continue to be with us; his words would continue to encourage us; and his achievements would continue to motivate us. Though he is not even 60 today, but if I was to add up all the hours that he put in as a judge in dispensation of justice, the hours he billed his clients as a lawyer, or a solicitor as a Senior Advocate, he should be over 200 years old, if we take into account the normal mediocre working pattern.

The Bar Judges the Bench no less than the Bench Judges the Bar. Both exercises run together but the former gives expression to its judgment only on special occasions. Judges retire, but their judgments stay. The Bar never retires. It watches the judges and the judgments. I can say today that the Bar, of which Justice Kumar was one of the leading lights, with satisfaction, that our Bar sent a gentleman to the Bench, who during his tenure as a Judge played both the roles extremely well. This honour from the Bar, however, cannot be taken for granted. Our tribute to Justice Kumkar is not ritualistic. It is an honest assessment. The Bar would only be happy indeed if it

could repeat and say the same again and again of its members.

It looks forward to doing that.

The Bar of this Court is happy to record that one of us sat as a Judge of this Court and did it with distinction. Between his Lordship's past, the present and future, I may only remind him, that there is one common factor, i.e., '**Delhi High Court Bar**'. This is the foundation of his growth. Please keep its flag high. I am not here to wish that may his paths be rose laden. But I am here to wish him, even if his paths are thorny and bumpy, may he gain the courage, fortitude and an ever-fresh spirit to tread them over and reach his goal. I feel very happy to repeat the words contained in Clause 40, if I remember correctly, of Magna Carta, that "**to no one will we sell, to no one will we deny, or delay right or justice.**" Here is a Judge, who stuck to that, in life and profession, who aimed the highest perfection and never forgot to laugh at himself better than others. Wish you all the best and Adieu Sir, Adieu.

A.S. Chandhiok
March 29, 2007