

4th February, 2020

Tribute to Late Hon'ble Mr. Justice S. Mohan
by Mr. Dushyant A. Dave,

Hon'ble Mr. Justice Sharad Bobde, The Chief Justice of India and His Companion Justices of the Supreme Court of India, Shri K.K. Venugopal, Ld. Attorney General for India, Shri Nadkarni, Ld. Additional Solicitor General of India, Sh. Kailash Vasdev, Vice-President and other office bearers and members of the Executive Committee of SCBA, distinguished members of the Bar, Mr. Jadhav, President, Advocates on Record Association, Mr. Vijay Narayan, Advocate General, Tamil Nadu, Family Members of Late Justice S. Mohan, Secretary General and other officials of the Registry, Ladies and Gentleman.

Justice S. Mohan, a Judge, Poet, Author, a connoisseur of Carnatic Music, avid tennis and cricket player, adorned this great institution admirably between October 1991 to February 1995.

Seeking divine blessings to make him "A Tree", Justice Mohan very aptly sings,

“

Weary I am of earning my daily bread

Let me be rid of this World of hatred,

Where calumny is common.. jealousy, the creed

Acrimony is in abundance, smallness is the breed,

Pray make me a tree like the one in the forest,

For a tired traveler under my shade could rest.

Pray make me a tree like the one in the forest,

For the singing birds to perch and nest.

.....
*Yet it felled, I remain faithful to the 'Sire'
As logs of woods, to kindle many a fire
Reduced to cinder and ashes without a trace,
Uno dust I return with no ill grace"*

Little wonder that he served as the President of the World Congress of Poets between 2004-2010.

The Gentleman in him had wide interest as reflected in that fact that he presided over Kalakshetra Foundation in Thiruvannamipur and St. John's Ambulance Association, Tamilnadu. With all his passions he found time to author number of books in English and Tamil including collections of poems, a remarkable feat after remarkable innings as a lawyer, advocate general, Judge of the High Court, the Chief Justice of High Courts and ultimately as the Judge of the Supreme Court of India. Few can boast of such a fulfilling life.

On death of such a man, we can only have beautiful memories and no sorrow as said by Gurudev Tagore, "Let life be beautiful like summer flowers and death be like autumn leaves".

Justice Mohan emerges as a Jurist par excellence in his Judgments but also comes out as a Social Reformer. In *UnniKrishnan, J.P. & Ors. v. State of Andhra Pradesh & Ors*, he declares,

"The fundamental purpose of education is the same at all times and in all places. It is to transfigure the human personality into a pattern of perfection through a synthetic process of the development of the body, the enrichment of the mind, the sublimation of the emotions and the illumination of the spirit. Education is a preparation for a living and for life, here and hereafter."

In *Khedat Mazdoor Chetna Sangath v. State of M.P. & Ors.*, Justice Mohan bemoans the approach the police and magistracy towards human dignity and declares,

“It cannot be said that the day of the silent poor is over. There is anger and bitterness among those who are poverty stricken. One should have regard to these aspects in enforcing law. We are of the confirmed view that the law enforcement problem has always been and remain a human problem.”

He therefore, holds,

“We are of the view that Magistracy requires to be sensitised to the values of human dignity and to the restraint on power. When it allows an inhuman conduct on the part of the police, it exhibits both the indifference and insensitiveness to human dignity and the constitutional rights of the citizens. There could be no worse lapse on the part of the judiciary which is the sentinel of these great liberties. ”

He then quotes, Joseph Adison,

“Better to die ten thousand deaths than wound my honour.”

and then concludes by declaring ,

“if dignity or honor vanishes, what remains of life.”

These words remain stark reminder even in present context.

Yet again, in ***Raghunathrao Ganpatrao v. Union of India & Anr.***, in concurring judgment for the constitution Bench, Justice Mohan speaks philosophically in stating,

“No doubt, unity and integrity of India would constitute the basic structure as laid down in Kesavananda Bharati case but it is too far-fetched a claim to state that the guarantees and assurances in these articles have gone into the process of unification and integration of the country. One cannot lose sight of the fact that it was the will of the people and the urge to breathe free air of independent India as equal citizens that brought about the merger of these princely States..”

For the Judges, he gives a serious caution, in ***Mangilal v. State of MP***, Justice Mohan says,

*“A judge must be of sterner stuff. His mental equipoise must always remain firm and undeflected. It is essential that a judge should not allow his personal prejudice to go into the decision-making as was remarked by Scrutton, L.J. in *R v. Bath Compensation Authority*:*

"The object ... is not merely that the scales be held even; it is also that they may not appear to be inclined."

A closed mind is antithetical to fair hearing. Prejudice tends to corrupt the ability to exercise independent judgment. It has a tendency to intrude upon a free mind and may influence the outcome..”

Perhaps, the vision of Justice Mohan reflected in his jurisprudence and indeed in his entire life appears to be , *“an unshakable faith in the capacity of men and women of the law to resolve difficult and contentious issues through the application of reason tempered by reason and humility.”*

He comes out as a man who was guided by Spirituality more than rituals of the religion even as Judge, perhaps because he believed as Justice Stevens once wrote in his dissent that,

“Whenever we remove a brick from the wall that was designed to separate religion and government, we increase the risk of religious strife and weaken the foundation of our democracy.”

Both loved and loathed in the Courtroom, Justice Mohan was sometimes criticized for the way he treated tenants yet praised for his judicial temperaments and rulings. He was a Judge of the mettle as once described about Judge Stephen Rinehardt that,

“Judges these days, they go along to get along. Not many. He continued to do whatever he felt right.”

Yes, Justice Mohan will live for long.

I join, Hon’ble the Chief Justice and the Distinguee attorney general of India in offering salutation to Late Justice S. Mohan and on behalf of the Supreme court Bar Association and the Executive Committee and offer out deepest condolences to his son Mr. Gautham Mohan and daughter Shrimati Subramaniam and other members of the Family.