

ANDHRA LEGAL DECISIONS

JOURNAL

1998 (6)

ADDRESS BY THE HON'BLE SRI JUSTICE P. RAMAKRISHNAM RAJU ON THE EVE OF HIS RETIREMENT

My Lord, the Hon'ble Chief Justice, My esteemed brother Judges, Sister Justice *Maruthi*, Mr. Advocate-General, Members of the Bar, Registrars, Staff members of the High Court, Friends, Ladies and Gentlemen:

My association with the High Court both as a member of the bar as well as a Judge has been for over 30 years. Now the time has come for me to bid go bye to the High Court, but I have large number of friends, both Seniors and Juniors, both in the bar as well as on the Bench, who have been very kind and affectionate for all these years. Those feelings I will always cherish very dearly for the rest of my life. The Chief Justice *Gajendragadkar* has very aptly described on such an occasion when he was given fare-well by the Bombay Bar Association in 1957. He said, I quote an ancient Sanscrit Poet who has compared human association with the meeting of logs of wood in the stream of the mighty ocean.

Logs of wood meet in the current of the sea, move on together for a time, then separate and depart, each one in its own direction.

Philosophically, the comparison may be sound, but emotionally all human parting is essentially sad. I cannot express my feelings in a better way.

To-day, the learned Advocate-General is very generous towards me in his fare-well speech. I have my limitations and short comings. A Judge who has not committed mistakes is yet to be born; but at the same time one who tries to avoid mistakes is the best Judge.

SOCRATES, Two Thousand and Four Hundred years ago described a good Judge, who has four things :

“To hear courteously, to answer wisely to consider soberly and to decide impartially.”

I would like to add one more attribute ‘sympathetically’. In the present day socio-economic scenerio, Justice Holmes coined words ‘felt necessities of times’. These words have relevancy in any given time, and law has to be applied keeping in view the ‘felt necessities of times’. As CARDOZO says, ‘I quote’ “Experience develops by reason corrected by further experience.”

In a similar tone Lord *Denning* Says “Justice must be such as well equated with what a majority of rightminded felt to be right, fair and equitable and that is what they regard as JUSTICE”. FRANK further said “Rights can never be absolute even in a free and democratic Constitution and that one kind of liberty may cancel and destroy another, and that stronger than the law of liberty is the passion for something different in name, and yet at its core the same, the passion of equality.”

I have always tried to keep these principles in mind while administering socio-economic laws, or while interpreting them, I felt that Judges should not be oblivious as Mr. Justice *Holmes* felt to ‘felt necessities of the times’. Law is always dynamic and never static, which is bound to change depending on the aspirations of the people, their necessities and their wishes. Although it is said that Judges do not make laws and they should never attempt to make laws by process of judicial interpretation, this concept is also not an exception to the changes that occur in the society. Therefore, whenever there is absolute necessity to interpret the law, even it amounts to Legislation, I have not hesitated to do so with a view to give full meaning and content to the provisions which came up before me for interpretation.

During my tenure of office, I had occasion to interact with my senior brother Judges as well as with junior brother Judges. I had the

good fortune of sitting with many Chief Justices for some time or other and thereby gained a lot and learnt more law than before. I was asked to preside over the Bench when I had hardly completed two years on the Bench. In fact I was very hesitant at that time to accept the same and told the Hon'ble Chief Justice that I had only two years of experience on the Bench had that a senior brother Judge may be thought of to preside over the Bench and the learned Chief Justice said, every Judge here is competent to preside over the Bench - I had no answer. I presided over the Bench at that time for a period of two to three months and it is for the bar to judge my performance, whether it was up to the expected standard or not - and it is perhaps for the criminal bar, as I presided over a Criminal Bench, to express their opinion, whether my performance was satisfactory or not. While I was in the Bench along with my senior brother Judges, I was always given due weight and consideration for my views. Likewise, whenever I presided over a Division Bench, I was always ascertaining the view held by my brother Judge on every issue and only after a thorough discussion we used to reach a final decision. I am happy that my entire tenure of office was very smooth and pleasant. I must acknowledge that the members of the bar, both seniors and juniors have extended their fullest co-operation and I have not felt at any point of time that their help and assistance was lacking.

I must place on record my grateful thanks to my senior partner - Mr. *M. Rajasekhar Reddy*, with whom I had the privilege of working in partnership for more than two decades till he became a Government Pleader in High Court in the year 1978. He considered me during my formative period as a lawyer, as his own brother, and encouraged me in every respect to argue any matter without hesitation and used to help me to the maximum possible extent. But for his benevolent support and co-operation, I would not have reached the stage which I have reached now. I am always grateful to him.

The Bar and the Bench are complimentary to each other; for a good judgment, the

contribution of the bar is in no less measure for every good judgment. Judgment in many respects is the reflection of the arguments advanced by the bar. Therefore, to think that the judgment is entirely the contribution of a Judge is not correct. The hard work of the Counsel certainly makes immeasurable contribution in bringing out a good and acceptable judgment. If the argument is analytic, judgment will have clarity. If the argument is slipshod, we cannot expect a perfect judgment. If at all I have rendered any judgment of some standard, it is mostly the work of the lawyers who addressed arguments before me. I have had the fortune of hearing good arguments in many cases. Both senior as well as junior lawyers have tried to perform their best and assist me. Even at times when the junior Counsel is not able to go to the core of the matter and has not come forward with full preparation, I never hesitated to adjourn the case to enable the Counsel to come up with better preparation. I always consider an efficient bar is a great asset to the Bench. I am indeed grateful to every member of the bar for extending his/her full co-operation in discharge of my duties.

All the Registrars of the High Court have extended their fullest co-operation in discharging my duties both on judicial as well as on administrative side. Every Officer and Staff members of the High Court have extended his/her co-operation in full measure. Officers and the Staff of Protocol Section were extremely good and have extended their co-operation fully, and I extend my thanks to each and every one of them. My Personal Secretary - Mr. *Koka Gangadhara Rao* has extended his co-operation ungrudgingly and with sincerity and devotion to duty. My special thanks are due to him. Mr. *M. Suryanarayana Murthy*, Court Officer is another Gentleman, who discharged his duties with meticulous care and caution in recording the Court proceedings, circulating relevant files to my residence. Mr. *Devender* and Mr. *Mohd. Sabir*, Attenders, attached to my chambers were always ready to attend to any work assigned to them and make my stay comfortable. Mr. *Mohd. Iqbal*, Driver, Mr. *Yadagiri*, Mr. *Narasimhulu*, Mr. *Srinivas*,

Mrs. *Pushpavati* and Kum. *Durga* are not only obedient but also sincere in discharging their duties. I express my thanks to all of them.

I once again express my sincere thanks to My Lord, the Hon'ble the Chief Justice for his

unfailing courtesy and affection, brother Judges, Sister Justice *Maruthi*, learned Advocate-General, Members of the bar, Registrars and Members of the High Court staff.

Thank you verymuch

Justice P.Ramakrishnam Raju

INDIAN CONSTITUTION AND SUPREME COURT

By

Hon'ble Justice, **H.R. KHANNA**
Former Judge,
Supreme Court of India

I deem it a great privilege to deliver the First Memorial Lecture of Mr. Justice K. *Madhava Reddy* Memorial Lectures. Justice Madhava Reddy was one of the most eminent lawmen of Andhra Pradesh and came to be looked upon as a doyen of Andhra Pradesh Bar. He was the Chief Justice firstly of the Andhra Pradesh High Court and thereafter of the Bombay High Court. Later he was appointed the First Chairman of the Central Administrative Tribunal at Delhi. After retirement he practised in the Supreme Court of India for nearly a decade. He was also associated with a number of educational institutions and social organisations. He made deep impression on a very large number of persons in various fields. It was with a view to commemorate his services and his way of life that his admirers, friends and followers, including members of his family formed a Thrust and also an Association.

India, during the post-independence era and also before that, produced galaxy of great jurists some of whom adorned the Bench while others preferred to remain at the Bar. It is an irony that while in other countries like United States and United Kingdom a lot has been written and spoken about the eminent men of law, there is in India much less awareness of the contribution made by those jurists in the life of the nation and its onward march. The nation owes a great deal to the eminent men of law who played a significant part in the

liberation of the country during the pre-independence years and later in post-independence era in the development, amongst others, of the Constitution of India. It is, therefore, in the fitness of things, that a Trust has been created in the memory of Justice *Madhava Reddy* and the present Lecture named after him has been arranged. The subject on which I propose to speak is "the Constitution and the Supreme Court".

The proceedings of the Constituent Assembly show that the Supreme Court attracted considerable interest of the members. Next to fundamental rights, the Court captured their imagination and they brought a touch of idealism in their deliberations about the Court. The Supreme Court was to be not only the final authority on the interpretation of the Constitution, it was to carry special responsibility for safeguarding the fundamental rights. Much less attention was paid to the High Courts and the subordinate judiciary. The members of the Constituent Assembly then deliberated on the question of the Supreme Court being the custodian of liberty whenever the question arose about the balancing of individual's rights and society's needs. The task of preparing draft provisions for the establishment of the Supreme Court was entrusted to a committee consisting of *Varadachariar, B.L. Mitter, Munshi, Ayyer* and *B.N. Raju*. This Committee in its report sent in May, 1947 dealt with the jurisdiction