

**ENROLMENT OF ADVOCATES – 02.03.2013 – SPEECH BY  
THE HONOURABLE THE ACTING CHIEF JUSTICE**

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My esteemed senior brother Mr. Justice K. Swamidurai, senior advocates, Chairman, Vice Chairman and other Members of the Bar Council of Tamil Nadu, Member, Bar Council of India, advocates, and above all, my young lawyers,

Good Morning to all of you,

When I was asked by Mr. D. Selvam, the Chairman of Bar Council of Tamil Nadu and Puducherry to deliver a lecture on the code of conduct and professional etiquette of advocates, I readily accepted mainly for the reason that you, the nearly 500 young and energetic lawyers, are going to shape the future of the judiciary in India and let me try to do my bit in encouraging you.

The lawyer community has played an important role in the freedom struggle of our country. Many of the leaders in the freedom movement were lawyers. To name a few, Bal Gangadhar Tilak, Lala Lajpat Rai and Bipin Chandra Pal.

Among the other notable freedom fighters are Sri Rajagopalachari and Saifuddin Kitchlew. Who will forget the great names of Mahatma Gandhi, Motilal Nehru, Mahamana Madan Mohan Malviya, Purushotam Das Tandon, Jawaharlal Nehru and Bharat Ratna Dr. B.R. Ambedkar? These leaders paid scant respect for their comforts and sacrificed their health and wealth for the freedom of the nation.

Today is a red letter day in your career, nay, in your life. All these years, as part of your legal education, you would have studied the evolution of law and its applicability. You would have gone through various Acts and Procedural laws. You would have heard various lectures on the subject. Now, the time has come for all of you to apply what you studied into practice. This profession is called a noble profession because in this profession you are getting a chance to wipe out the tears of the needy and in restoring the lost rights of a citizen. No other professional gets this opportunity and it is for you to make best use of this opportunity of serving a suffering litigant.

As a lawyer, you must always keep in mind that your client's interest is paramount and that your personal interests are next only to that of your client. You must do justice to the client who is coming to you seeking your help. In criminal cases, they seek refuge in you with the fond hope that you will get them some remedies like bail, acquittal etc. In civil cases, they will flock you to get their rights enforced. Apart from it, you also owe a duty towards the Court i.e. to be fair to the Court.

Let me repeat what the Bar Council of India says on the professional standards of the Advocates.

I quote:

*" Advocates have the dual responsibility of upholding the interests of the client fearlessly while conducting themselves as officers of the court. Accordingly, they are expected to adhere to the highest standards of probity and honour. An advocate's conduct should reflect their privileged position in society which derives from the nobility of this profession. In a nut shell, if you are an advocate your service to the common man should be compassionate, moral and lawful."*

There is an old saying, 'Once a lawyer, always a lawyer'. I am no exception to it. Needless to say, I have a special place for the lawyers in my heart. Moreover, young lawyers are very dear to me. I always encourage young lawyers in my Court. If the senior counsel is not available to argue the case, I insist that the junior lawyer, who is appearing in that case, to start so that he or she may get an opportunity to argue. The recent trend is somewhat disturbing. I find that some people in black robes resort to strike, give a call for boycott of the Courts and even at times, resort to blocking the roads and even take law in their own hands.

On this occasion, I would like to caution you the young lawyers on the repercussions of the court boycotts. The Supreme Court in EX.CAPT. HARISH UPPAL v. UNION OF INDIA (2003) 2 SCC 43) has gone in length of the boycott of courts by advocates. As observed in that judgment, it is unprofessional as well as unbecoming for an advocate to refuse to attend court even in pursuance of a call for strike or boycott by the Bar Association or the Bar Council. The advocates would be answerable for the consequences suffered by their

clients if the non appearance was solely on grounds of strike call. It is further observed by the Supreme Court that an advocate is an officer of the court and enjoys special status in society. They have obligations and duties to ensure smooth functioning of the court and owe a duty to their clients. The Supreme Court held that lawyers have no right to go on strike or give a call for boycott not even on a token strike. If a lawyer, holding a vakalat of a client, abstains from attending court due to a strike call, he shall be personally liable to pay costs which shall be in addition to damages which he might have to pay to his client for loss suffered by him. I request you to go through this judgment and follow the same in its letter and spirit.

Before parting, let me request you to go through the autobiography of Mr. Fali S. Nariman, a senior advocate of the Supreme Court. In his book, 'Before memory fades', in chapter titled, 'Lessons in the school of hard knocks', he has doled out important tips, 28 tips, for a budding lawyer. I may briefly refer to them.

- Let your opinions be honest and responsible.

- The essence of good lawyering is acquainting oneself with the relevant law, including case-law, on the subject at hand.
- When you argue a case in court, be clear and precise, not confused.
- Keep yourself informed and be up to date with all the reported judgments and decisions of the Supreme Court and of the High Courts.
- There is an interesting reference to an anecdote by Mr.Nariman, in his autobiography, as to what a lawyer should do when he has a bad case.

*“**Greene:** Supposing you were instructed in a case where you had two points to argue, both of them bad, but one worse than the other, which would you argue first?*

***Hailsham:** I suppose I would argue the less bad of the two.*

***Greene:** Quite Wrong. You must argue the worse, and put your very best work into it. Eventually they will drive you into a corner, and you will have to admit defeat. You*

*will then say, My Lords, there is another point I am instructed to argue. But I am not quite sure how to put it'. And you will then put the better of the two arguments, but not quite as well as it could or should be put.*

*(After a little while) One of the old gentlemen on the Bench will interrupt you. He will say, 'But surely Mr. Greene, you might put it in this way'. And he will put it exactly as you really ought to have put it in the first place. At that stage, you will lay your papers on the desk before you. You will raise your eyes to the ceiling. And, in an awestruck voice, you will say, 'Oh My Lord, I do believe...' And then you will be at least half way to winning your case.*

- As a lawyer, it is your duty to bring to the attention of the Court a case already decided on the point being argued. You may then distinguish your case from the decided case but you must cite it. Never cite an overruled case. It is improper – an instance of sharp practice.
  
- In Court, it is always better to understate a case than to overstate it. Never tell the judge you have a 'cast iron case'.

- One of the Aesop's fables reads, 'Don't count your chickens before they hatch'. In other words, never be too cocksure of winning cases.
- 'I have never heard of such a thing' are words to be scrupulously avoided in a court of law, especially when responding to what the judge has said in the court.
- Also, never say, 'Your Lordship will bear with me'.
- Never exaggerate in court about the facts of your case or the applicable law.
- It will do you no credit to put forward an absurd argument.
- Leave your anger – and all the vitriol that goes with it – outside the court room. Never take it into the court with you.
- Don't quarrel with your opponents or be nasty to them because if you have chosen the law as your profession, the major part of your life will be spent with colleagues at the Bar.

- Always address a court correctly. Each judge must be addressed according to the manner in which his station entitles him.
- Never consciously make an incorrect statement in court – or you run the risk of being ‘mentally blackballed’ by the judge.
- Don’t criticise the judge before whom you have appeared, either in the corridors of the court or in the Bar library or before clients.
- Learn to lose with dignity. Please remember only one side in the case can win. The other side must lose.
- Never give interviews or talk to the media in cases where you have appeared.
- Never complain about the inadequacy of the time set by the judge for your argument.

Now, dear young advocates, I call upon all of you to follow the above tips for your successful career.

I once again wish all of you a successful career which should be beneficial not only to you but also to the society at large.

I thank the organisers of the function for having invited me to this function and giving me an opportunity to share my views with all of you.

Thanking you,

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