

***10th January, 1929 – 21st February, 2024***

*Full Court Reference in the memory of*

***Late Shri Fali S. Nariman***

***Senior Advocate***

*held on Thursday, the 4th April 2024*

*at 10.30 a.m. in the Court of The Hon'ble The Chief Justice of India*



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## *Letter from the Registrar, Supreme Court of India*

**Mahesh T. Patankar**  
Registrar  
Supreme Court of India



**Supreme Court of India**

Tilak Marg, New Delhi-110001  
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011-23112524

F.No.99/Ref/2024/SCA(Genl)  
10<sup>th</sup> April, 2024

Lordship,

A Full Court Reference was held in the memory of late Shri Fali S. Nariman, Senior Advocate on 4<sup>th</sup> April 2024 in the Hon'ble Chief Justice's Court. Rich tributes were paid to Shri Fali S. Nariman by Shri R Venkataramani, Learned Attorney General for India; Dr. Adish C. Aggarwala, President, Supreme Court Bar Association and Hon'ble Dr. Dhananjaya Y. Chandrachud, the Chief Justice of India. After the references were read, two minutes' silence was observed in his memory.

I have the honour of forwarding a booklet containing memorial speeches delivered at the Full Court Reference, as aforesaid, along with heartfelt condolences of the Officers and members of the staff of the Supreme Court Registry to your Honour and other members of the family.

Encl.: as above.

Yours sincerely,

*MPatankar*  
10/04/24  
Registrar (Court & Building)

To,

Hon'ble Mr. Justice R. F. Nariman,  
Former Judge, Supreme Court of India,  
92, Golf Links,  
New Delhi-110003.

**LIST OF BUSINESS FOR THURSDAY THE 4TH APRIL, 2024**

**CHIEF JUSTICE'S COURT**

**AT 10.30 A.M.**

**FULL COURT REFERENCE IN THE MEMORY OF  
LATE SHRI FALI S. NARIMAN  
SENIOR ADVOCATE**

## ***Coram of Hon'ble Judges at the Full Court Reference***

- ❖ *Hon'ble Dr. Justice Dhananjaya Y. Chandrachud, Chief Justice of India*
- ❖ *Hon'ble Mr. Justice Sanjiv Khanna*
- ❖ *Hon'ble Mr. Justice Surya Kant*
- ❖ *Hon'ble Mr. Justice Aniruddha Bose*
- ❖ *Hon'ble Mr. Justice A.S. Bopanna*
- ❖ *Hon'ble Mr. Justice Hrishikesh Roy*
- ❖ *Hon'ble Mr. Justice Abhay S. Oka*
- ❖ *Hon'ble Mr. Justice J.K. Maheshwari*
- ❖ *Hon'ble Ms. Justice Hima Kohli*
- ❖ *Hon'ble Mrs. Justice B.V. Nagarathna*
- ❖ *Hon'ble Mr. Justice C.T. Ravikumar*
- ❖ *Hon'ble Mr. Justice M.M. Sundresh*
- ❖ *Hon'ble Ms. Justice Bela M. Trivedi*
- ❖ *Hon'ble Mr. Justice Pamidighantam Sri Narasimha*
- ❖ *Hon'ble Mr. Justice Sudhanshu Dhulia*
- ❖ *Hon'ble Mr. Justice J.B. Pardiwala*
- ❖ *Hon'ble Mr. Justice Dipankar Datta*
- ❖ *Hon'ble Mr. Justice Pankaj Mithal*
- ❖ *Hon'ble Mr. Justice Sanjay Karol*
- ❖ *Hon'ble Mr. Justice Sanjay Kumar*
- ❖ *Hon'ble Mr. Justice Ahsanuddin Amanullah*
- ❖ *Hon'ble Mr. Justice Manoj Misra*

- ❖ *Hon'ble Mr. Justice Rajesh Bindal*
- ❖ *Hon'ble Mr. Justice Aravind Kumar*
- ❖ *Hon'ble Mr. Justice Prashant Kumar Mishra*
- ❖ *Hon'ble Mr. Justice K.V. Viswanathan*
- ❖ *Hon'ble Mr. Justice Ujjal Bhuyan*
- ❖ *Hon'ble Mr. Justice Sarasa Venkatanarayana Bhatti*
- ❖ *Hon'ble Mr. Justice Satish Chandra Sharma*
- ❖ *Hon'ble Mr. Justice Augustine George Masih*
- ❖ *Hon'ble Mr. Justice Sandeep Mehta*
- ❖ *Hon'ble Mr. Justice Prasanna Bhalachandra Varale*

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*Reference made on 4th April, 2024*

*by*

***Attorney General For India***

***Shri R. Venkataramani***

*in the memory of*

***Late Shri Fali S. Nariman,***

***Senior Advocate***

1. *Hon'ble the Chief Justice of India, Hon'ble Judges of the Supreme Court, the Solicitor General of India, Additional Solicitors General, President and Office Bearers of the Supreme Court Bar Association, President and Office Bearers of the Supreme Court Advocates on Record Association, members of the Bar, ladies and gentlemen.*

2. *While liberty may lie in the hearts of all humans, it must be also secured to all, and at all times. Resilient social norms and constitutional orders must also remain intact in the midst waves of social and political misadventures. Constitutional architects who can dig deep and wide enough, and who can transcend partisan ideological demands or political party affiliations and stand by these values, occupy that sphere of liberty architects. Mr. Fali Nariman was one such architect.*

3. *When we gather to pay homage to such giants, who have not only enriched our jurisprudence, stood as an icon and taught the highest values of the profession, but showed us the courage and convictions to stand by values in other public callings, we find it difficult to gather our chronicles about them and compress them. Talk of the march of Indian constitutional law without reference to Mr. Fali Nariman would be like marching with a flagpole without the flag.*

4. *It is customary to set out biographical details, the outstanding ones to fill the homage pages. What is difficult in connecting the life dots and his contributions is the vastness of his life canvas. I have endeavored to capture few remarkable and unique contributions made by Mr. Nariman, and to invoke our commitments to such causes, subjects and values.*

5. *The stories of the world of arbitration both international and national, cannot be written fully without mapping the roles played and responsibilities undertaken by him. Ambassador Venu Rajamony in his message penned few years ago for the book*

on international arbitration in honour of Mr. Nariman said 'For us in India 91 year old Fali is a national, treasure' and paid rich encomiums to the range of his contributions and particularly about his work in the Kishenganga international arbitration administered by the PCA. Chief Justice. Chandrachud writing in the same volume said countless awards have rested easy on Mr. Nariman's shoulders and admiringly spoke about the notable contributions made by him to the world of arbitration. In the Tenth Annual Goff Lecture by Nariman, he critiqued what he called the 'mills of arbitration' and cautioned against the transformation of arbitration into 'international disputology'. The insights he gathered from his engagements in the international arbitration scene over a period and their encapsulation in his several writings from 2003 to 2020 give us a rich and coherent jurisprudence of the arbitration world. Mr. Brooks W Daly writing in the same volume fondly talks about the long and fruitful relationship between the permanent court of arbitration and Mr. Nariman.

6. The pages of Indian constitutional law are copiously filled by his numerous engagements in cases of perennial significance. But one case that has rendered invaluable support for invocation of international law to be embedded in domestic law is the *Vishaka* principle. His articulations in *Vishaka* are now an integral part of public law.

7. He remained president of the Bar Association of India for more than two decades. He wrote regularly for the 'Indian Advocate' the journal of the Bar Association of India. The range of his pieces capture the width of his understanding and the unfading commitment to rule of law and human rights.

8. Mr. Nariman was active and alive to political and legal developments till he breathed his last. Nariman wrote on the recent electoral bonds judgment, "I am particularly impressed that the five-judge bench has held – in no uncertain terms – that 'manifest arbitrariness' in enacted law is now an integral part of Article 14. I do hope that this will enable the Supreme Court – at some point in the future – to strike down the no-bail for now provision in the recently enacted laws.. This was his youthful reaction to current events.

9. In his autobiography 'Before Memory Fades', Nariman recounted why he returned his brief to the Gujarat Government in the Narmada rehabilitation case. The abhorrence he must have had against emergency and its perils must have persuaded him to do so troubled by his conscience against any injustice.

10. Mr. Nariman, like V.R. Krishna Iyer, used to say that he is a Nehruvian. The book he strongly recommended was Jawaharlal Nehru's book, *Discovery of India*. This was sharing his identity with Justice Krishna Iyer.

11. Relying on Nehru's *Discovery of India*, he commented that acceptance of all diversity is the sole ideology that could hold India together. According to Fali, "Whatever the source from which a minority derives its existence, religious, ethnic or linguistic, the rest of society has to make a conscious effort in coming to terms with it: but the fact of life is that the larger the majority community with greater political power, the lesser the inclination to make efforts to build bridges."

12. Civil liberties, fundamental rights, free speech, press freedom, cultural and educational rights of religious and linguistic minorities and right to property were all dear to his heart. That they were so dear to him.

13. Being a foremost lawyer in corporate matters as in any other field, Mr. Nariman was a natural choice to represent the Union Carbide Corporation in the Bhopal Gas Tragedy case.

14. Prof. Upendra Bakshi spoke against Mr. Nariman for his role in the union carbide case. Bakshi's critical letter, and his reply to it, were faithfully published by Mr. Nariman in his autobiography. In a later interview with Karan Thapar, he expressed his regret for his decision to appear for the Union Carbide Corporation. How many of us are made of such mettle?

15. He declined judgeship. The loss to the judiciary however became a gain to the Parliament much later. Presidents ranging from R. Venkataraman, K.R. Narayanan and Dr A.P.J. Abdul Kalam consulted him on important constitutional issues.

16. It is reported that the long line of public figures who took consultations with Mr. Nariman as a persuasive element, included former Prime Minister Vajpayee, Deputy Prime Minister L.K. Advani, Lok Sabha speaker Somnath Chatterjee, Dr P.C. Alexander and Dr Karan Singh and many members of Parliament from different political parties who admired the jurist in Mr. Nariman.

17. In one of his speeches to parliamentarians, Mr. Nariman elaborated on one of his favourite judgments. That was the judgment by Justice Chinnappa Reddy in *Bijoe Emmanuel*. "Our tradition teaches tolerance; our philosophy preaches tolerance; our Constitution practises tolerance; let us not dilute it," Fali said, extolling the parliamentarians to make it the policy of the nation.

18. In 1999, when PM Vajpayee had recommended to President KR Narayanan the name of Fali S Nariman for being nominated under the President's discretion to the Rajya Sabha, the tough former diplomat Brajesh Mishra, principal secretary to Prime Minister (PM) Atal Bihari Vajpayee, barely suppressed happiness to convey the glad tidings. "I think the President will be pleased with the name,"

19. It must be said to the credit of the PM and his advisers, but most of all to the credit of Fali Nariman's stature, no one thought the renowned jurist and quondam Additional Solicitor General of India would, as a member of Parliament (MP), be soft on the ruling establishment or somehow get co-opted by it. The thought simply did not occur to anyone. That is what is called independence. That is what is called autonomy.

20. Nominated MPs get very little speaking time. But some people impact their surroundings by their mere presence. Nariman did that in the Supreme Court and the Upper House of Indian Parliament. On January 27, 2000, President Narayanan, while addressing MPs on the occasion of the 50th anniversary of the Republic of India said: "Today, when there is so much talk about revising the Constitution or even writing a new Constitution, we have to consider whether it is the Constitution that has failed us or whether we have failed the Constitution." From the galleries, I noticed Nariman erupt in delighted applause, thumping the desk in front of him, with the Central Hall resounding with approbation. And as I was on my way out, he came up to me and said: "Brilliant, brilliant... Our President is brilliant..."

21. Mr. Nariman being in Parliament was akin to a conscience-keeper being in the atrium of India's legislative genius. He represented the Constitution's foundational objectives, its driving force which was about rights and duties woven into the resplendent shot-silk of democratic republicanism.

22. During his six years as parliamentarian, the world moved from the 20th century to the 21st, and Nariman moved from spending time at the Bar and before the Bench to the red carpeted and maroon upholstered chambers of Parliament. He introduced four Private Members Bills in the Rajya Sabha, namely, the Disruption of Proceedings of Parliament (Disentitlement of Allowances to Members) Bill, 2004, the Judicial Statistics Bill, 2004, the Constitution (Amendment) Bill, 2004 (to amend articles 217 and 224) and the Representation of the People (Amendment) Bill, 2004. He received assurances from the government that it would look into matters on four questions raised by him relating to budget allocation for elderly persons, prohibition of contract labour,

*village public telephones and a general issue relating to Central Vigilance Commission Bill, 2003.*

*23. In a country like India, so diverse, so variegated, there is another side to every other side as well, an inside in every inside. And so be as just as one can be, but you will still leave someone out of justice. Nariman knew this.*

*24. Nariman called attention to motions relating to the grave situation in Maharashtra due to unprecedented rain and on the hike in petrol and diesel prices in August of 2005. His special mention in the Rajya Sabha helped maintain educational autonomy in universities.*

*25. He also introduced the Report of the Committee of Privileges to the Rajya Sabha on December 18, 2000. He participated in debates on many government legislation and took interest in the law-making process.*

*26. In Mr Nariman's death, India lost its tallest spokesman for honesty in public intent and private conduct, probity in public service and private enterprise, and simple decency in public dealing and private equations. He was free of all sanctimony, all pomposity.*

*27. The brightness of his professional life was so blinding that we missed taking adequate notice of his parliamentary life. We will be failing in our duty if we do not stop and reflect on the life and works of Nariman as a parliamentarian par excellence. The Indian Parliament is richer today due to his debates, interventions and time can never erode the pillars of strength that Nariman has added to the edifice of Parliament and parliamentary democracy.*

*28. He led a full life. He has given unto us a great gift in Justice Rohinton Nariman who has to his credit a remarkable professional career and outstanding judicial contributions.*

*29. Just few days before Mr. Nariman laid his physical frame to rest, I was with him, had a warm and delightful exchange of views, and little did I know that I will see him not again. I have several fond memories of my interactions with him and they will remain my treasure chest.*

*30. May his soul rest in the divine grace.*

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*Reference made on 4th April, 2024*

*by*

***Dr. Adish C. Aggarwala (Sr.)***

***President, SCBA***

*in the memory of*

***Late Shri Fali S. Nariman,***

***Senior Advocate***

*Hon'ble Dr. Chief Justice D.Y. Chandrachud, Chief Justice of India, Other Hon'ble Judges of Supreme Court, Learned Attorney General for India Mr. R. Venkataramani, Learned Solicitor General of India Mr. Tushar Mehta, Family members of late Mr. Fali S. Nariman including his noble son Hon'ble Mr. Justice Rohinton Fali Nariman, who served as Supreme Court Judge and Solicitor General of India, Learned Additional Solicitors General of India including Mr. Vikramjit Banerji, Ms. Aishwarya Bhati, former Additional Solicitor Generals Mr. C.S. Vaidyanathan, Mr. Vishwajeet Bhattacharya, Mr. Paramjit Singh Patwalia, Senior Advocates, Vice President Mr. Sukumar Pattjoshi, Hony. Secretary Mr. Rohit Pandey, Joint Secretary Mr. Meenesh Kumar Dubey, Treasurer Ms. Yugandhara Pawar Jha and Joint Treasurer Mr. Amrendra Kumar Singh and other distinguished office bearers and members of Supreme Court Bar Association, President Mr. Manoj K. Mishra, Vice President Mr. Snehasish Mukherjee, Hony. Secretary Mr. Devvrat, Joint Secretary Ms. Rashmi Malhotra, Treasurer Mr. Puneet Singh Bindra, and Joint Treasurer Mr. Sachin Sharma, and other distinguished office bearers and members of Supreme Court Advocates on Record Association, Officers of Registry of Supreme Court including Secretary General Mr. Atul M. Kurhekar, Distinguished Mediapersons, My brothers and sisters in legal profession.*

*We have gathered here to pay homage to our most distinguished legal luminary and pure soul late Mr. Fali S. Nariman, doyen of the Bar, who passed away in New Delhi on February 21, 2024 at the age of 95. In his loss, a void is created among the legal fraternity worldwide. He was a jurist par excellence and a champion of human rights and he made an indelible imprint in the legal profession.*

*Mr. Fali Nariman started the general practice of law in 1950. Soon Mr. Nariman built up a large and lucrative practice, particularly in commercial law and civil law. Indeed, he dominated the commercial court. He assisted both Mr. Asoke Sen and Mr. Nani Palkhivala in Golak Nath case. Nariman was offered a High Court judgeship in 1966 though he was only 37 years old and as required in those days, it had the express approval of the Chief Justice of India, but he declined.*

*His appearance in an election case for H.R. Gokhale, later Union Law Minister, facilitated his first independent appearance in the Supreme Court and he shifted his practice to the Supreme Court.*

*He was designated as Senior Advocate in 1971. In 1972, Mr. Nariman was appointed Additional Solicitor General of India. As a champion of human rights, he resigned as Additional Solicitor General of India, when the Emergency was imposed in June 1975. Thereafter for over half a century, he practiced continuously in the Supreme Court of India and appeared in hundreds of leading cases, which bear testimony to his contributions to the growth of law.*

*Mr. Nariman had served as Vice-President and President of LAWASIA. Mr. Nariman was honoured with the Padma Vibhushan in 2007 and Padma Bhushan in 1991 by Government of India. He has been a mentor to Bar Association of India. He was a nominated Member of Rajya Sabha from 1999 to 2005.*

*His advocacy and lucid arguments before the Judges are worthy of emulation, particularly by the younger members of the Bar.*

*He has inspired generations and has made them believe that one can fulfill every dream with hardwork and sincerity. Being the President of Supreme Court Bar Association, I offer condolences to his family and respectfully pay homage to him.*

*Jai Bharat.*

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*Reference made on 4th April, 2024*

*by*

***Hon'ble The Chief Justice of India  
Dr. Justice Dhananjaya Y. Chandrachud***

*in the memory of*

***Late Shri Fali S. Nariman,  
Senior Advocate***

*My esteemed colleagues, the Attorney General for India, Solicitor General and law officers and Presidents of SCBA and SCAORA distinguished members of the Bar, members of Mr Nariman's family, Justice Rohinton Nariman, Sanaya, Nina, Khursheed Rohan, Mr Subhash Sharma who was not just a Jr. and members of the Registry.*

*So much has been said about Mr Fali Nariman, accolades and tributes have been showered in rich abundance to his memory. So much remains to be said. The universe of infinity or the infinity of the universe- whichever way we perceive it – defies prose and verse. The values which Fali Nariman embodied- unflinching ethics, indomitable courage and an unwavering pursuit of principle provide a balm to the soul of the profession. In the Illiad, Homer compares people to leaves, noting that in the winter they are blown to the earth and as spring comes again, the budding wood grows once more, causing Homer to state, “And so with men: one generation grows, another dies away.”<sup>1</sup>*

*But some names remain.*

*Our nation has been blessed with several talented legal minds both before and after we gained Independence. But every now and then a lawyer transcends advocacy to become a leader and pillar of the community. They do so first and foremost, through their outstanding legal acumen and incredible work ethic. These foundational attributes are buttressed by subtler but equally important qualities, such as a keen understanding of a lawyer's role in our nation's socio-legal fabric, their integrity and courage in the face of injustice, and perhaps most of all, their compassion and willingness to help others. Through their actions, the cases they argue, their written work, and the positions they hold, entire eras of the legal profession come to be associated with their presence. Mr Nariman was unquestionably a symbol of all this and more.*

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<sup>1</sup> Homer, Illiad (Book 6).

*While Mr Nariman's contributions to the Indian legal profession were the result of his hard work, his very presence in India was the result of unforeseen events, or as some would say, fate. Born on 10 January 1929 in the territory that was then Burma, it was the Japanese invasion of the Indo-Pacific that caused Mr Nariman's family to migrate to India. The arduous trek in the face of incessant bombing instilled steel in the young child who, by his own admission had until then, a rather devoted upbringing. He completed his secondary education at the Bishop Cotton School in Shimla and secured a degree in History from St. Xavier's College in Mumbai. At the Government Law College in Bombay he was instructed by several practicing members of the Bombay Bar including Nani Palkhivala, Yeshwant V Chandrachud, and Jal Vimalalal. He was, and with the benefit of hindsight, perhaps unsurprisingly, an outstanding student who was always amongst the top of his class, securing the Kinloch Forbes Gold Medal in Roman Law and Jurisprudence and standing first in the Advocates examination conducted by the Bar Council.*

*The early years of Mr Nariman's career were spent, like many of us, carefully observing and assisting senior counsel. He joined the chamber of Sir Jamshedji Kanga in Bombay. The chamber had an assembly line of brilliant juniors, - including Marzban Mistree, Rustom J Kolah, Hormasji M Seervai, Khursedji H Bhabha, Soli Sorabji, Jal Vimalalal, and Nani Palkhivala. Fali Nariman's presence rested easy amongst his peers. He excelled, arguing case after case before distinguished judges, M C Chagla and P B Gajendragadkar (who would later be elevated to the Supreme Court and ultimately hold the position of the Chief Justice of India), S R Tendolkar and JC Shah to name a few. Mr Nariman always insisted that the more work you have, the sharper are your mental faculties. Living by this principle, after a full week arguing in the Bombay High Court, Mr Nariman used to often travel to Pune to practice in the District Court, honing his skills in the art of trial advocacy. Though drawn from the Original Side, he had no air of superiority or condescension.*

*The phrase, "All roads lead to Rome" can aptly be modified for a great many Indian lawyers to say, "All roads lead to Delhi." And so it was with Mr Nariman. Despite his longstanding loyalty to the Bombay Bar, he was gradually pulled in by the gravitational force of this Court, which is the ultimate arbiter of constitutional disputes, and the nation was better off for it. While still practicing in Bombay, he began appearing at the Supreme Court, most notably assisting both A K Sen and Nani Palkhivala as they argued the landmark case of *Golaknath Nath v. State of Punjab*<sup>2</sup> before nine judges of this*

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<sup>2</sup>1967 INSC 45.

Court in 1967. In 1971 he was designated a Senior Advocate in the Supreme Court and in 1972 he was appointed Additional Solicitor General of India, at a time when the Union of India only had three law officers: the Attorney General for India, the Solicitor General of India, and Mr Nariman, the Additional Solicitor General of India.

As Nariman says in his book *“Before Memory Fades”*, “A ‘foreigner’ in Delhi has to establish himself both in integrity and ability. Only then will the Supreme Court Bar accept [them] as one of their own. But once they do, its members are the most affectionate and loyal of all comrades.”<sup>3</sup> Our Bar would submit to a decree on admission that Mr. Nariman passed this test with flying colours. He represented the Union of India in this Court and at various other forums during his tenure as ASG. He argued seminal cases such as *Bennet Coleman v. Union of India*<sup>4</sup>. He was a spirited representative of India at international events such as the conferences of LAWASIA and the International Law Association. An embodiment of the generous cultured traditions of the Parsis, he and his gracious spouse Bapsi were full of mirth. They were joyous and spread joy crowd, complemented in good measure by Dhansak and a good triple. Fali possessed an unending compendium of stories about yesteryear. They were never short of his generous chuckle and the glint in the eye.

With the imposition of the Internal Emergency in June 1975, Mr Nariman resigned as Additional Solicitor General. As Martin Luther King Jr. once mused, “Cowardice asks the question, ‘Is it safe?’ Expediency asks the question, ‘Is it politic?’ Vanity asks the question, ‘Is it popular?’ But Conscience asks the question, ‘Is it right?’”<sup>5</sup> Mr Nariman was guided by only one question. In his later years Mr Nariman often described how, in the days following his resignation as Additional Solicitor General, visitors to his house dried up to a trickle. However, his continued accomplishments at the Supreme Court are a testament not only to his enduring legal prowess that saw him through turbulent times, but also to that finest tradition of the Bar in rising above the disagreements of the day to unfailingly serve their clients, assist the Court, and work towards our nation’s betterment.

Despite appearing for countless clients of various backgrounds, creeds, and political dispensations, Mr Nariman always recognised that his highest duty was to the

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<sup>3</sup> Fali S. Nariman, *Before Memory Fades* (Hay House 2010).

<sup>4</sup> 1972 INSC 268.

<sup>5</sup> Clayborne Carson, *The Autobiography of Martin Luther King Jr.* (Grand Central Publishing 1999)

*Court and the Constitution. For example, in Air India v. Nergesh Meerza,<sup>6</sup> Mr Nariman was tasked with defending the national carrier's policy of compelling air hostesses to retire upon their first pregnancy. Recognising the incongruity between Air India's policy and the prohibition on sex discrimination found in Articles 14 and 15 of the Constitution, Mr Nariman did not unthinkingly defend the policy but instead impressed on Air India the need to amend their ways. As Justice Fazal Ali recorded in the case, and I quote:*

*"In fact, as a very fair and conscientious counsel Mr Nariman realised the inherent weakness and the apparent absurdity of the aforesaid impugned provision and in the course of his arguments he stated that he had been able to persuade the Management [of Air India] to amend the Rules so as to delete 'first pregnancy' as a ground for termination of the service."*<sup>7</sup>

*The ultimate test of a moral person is their willingness to raise a voice for justice even when it means rocking the boat '(in this case, as he would say, the aircraft)', and Mr Nariman was always willing to speak for what was right and just.*

*Mr Nariman's distinguished career continued throughout the remainder of the twentieth century and into the twenty-first. His arguments in key cases influenced the very foundations of constitutional and public law, such as his noteworthy contributions to the Second<sup>8</sup>, Third<sup>9</sup>, and Fourth Judges<sup>10</sup> Cases on judicial appointments in 1993, 1998 and 2014. His client, as he would say, was the independence of the judiciary. He argued cases on the rights of minority educational institutions under Article 30 of the Constitution, culminating in the seminal TMA Pai Foundation v. State of Karnataka decision.<sup>11</sup> Away from Delhi, he was also a seasoned lawyer before the various Tribunals established under the Inter-State River Water Disputes Act, 1956, representing the State of Karnataka for over thirty years in the Cauvery water-sharing dispute.*

*Our time here is too brief to recount even a fraction of his noteworthy arguments in our courts, but I would be remiss to not mention the arguments he advanced in Suresh Kumar Koushal v. Naz Foundation.<sup>12</sup> Mr Nariman argued that Section 377 of the Indian*

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<sup>6</sup> 1981 INSC 152.

<sup>7</sup> *Air India v. Nergesh Meerza* 1981 INSC 152.

<sup>8</sup> *Supreme Court Advocates-on-Record Association v. Union of India* 1993 INSC 318.

<sup>9</sup> *Special Reference No.1 of 1998* 1998 INSC 402.

<sup>10</sup> *Supreme Court Advocates-On Record Association v. Union of India* 2015 INSC 285.

<sup>11</sup> 2002 INSC 454.

<sup>12</sup> 2013 INSC 823.

*Penal Code cannot criminalise sexual acts between consenting adults and urged the Court to change with the times. Despite the Court upholding the provision, the passage of time and the eventual overruling of Suresh Koushal in Navtej Singh Johar v. Union of India<sup>13</sup> has since vindicated Mr Nariman's arguments and his constitutional vision of equality and dignity. The hallmark of a great lawyer is not one who wins, but one who fights well and in doing so furthers the Judges' own understanding of the issues. Mr Nariman was amongst the very best.*

*Lawyers are often likened to soldiers, engaged in gladiatorial combat before the bench. But in his own tribute to Motilal Setalvad, Mr Nariman distinguished between soldiers and grand old lawyers, noting, "Old soldiers never die. They only fade away. Grand Old Men only die. But they never fade away." Words that have a particular resonance as we are gathered here today.*

*Mr Nariman's contributions to the legal profession transcended the Court. He was the President of the Bar Association of India from 1991 to 2010, and a Member of the International Commission of Jurists from 1995 to 1998. He also served as Vice-Chairman of the Court of Arbitration of the International Chamber of Commerce and as a Member of the London Court of International Arbitration. Public law became a part of his flesh and blood. But he was at heart a quintessential lawyer who had found his moorings in commercial law. Arbitration was close to his heart. Conferences of the PCA were never complete without his presence. In 1991 he was awarded the Padma Bhushan and in 2017 the Padma Vibhushan. In this time, he also served as a nominated Member of the Rajya Sabha (from 1999 to 2005). Despite scaling these incredible heights, Mr Nariman always maintained that greatness and modesty go hand in hand. He was a man truly in the mould of his mentor Sir Jamshedji Kanga who famously even at the age of 92 always insisted, "I am still learning!"*

*Even after retiring from active practice, he authored numerous articles and books that have inspired countless lawyers, the most recent of which (titled, 'You Must Know Your Constitution') was published a few months ago. By writing opinion pieces in newspapers on complex legal issues and constitutional doctrines, Mr Nariman tried to ensure that legal discourse is not limited to lawyers and judges, and reaches everybody. A few months ago, I had written to Mr Nariman requesting him to contribute an essay to a volume on 75 years of the Supreme Court that we will be publishing in a few months. At*

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<sup>13</sup> 2018 INSC 790.

*about noon on the day before his passing, we received an email with his essay with a gracious hand-signed note. I am also reliably informed that right until the night before his passing, he was meticulously settling the draft of a written submission for an upcoming Constitution Bench hearing on arbitration law. His mental agility, dedication to his work, and commitment to the law remained uncompromised till the day he finally rested.*

*Mr Nariman's life and career before our courts lived up to the highest ideals of the legal profession. No matter the client, the government, or the case, Mr Nariman sought to advance a vision of the law grounded in liberty, equality, and justice, the foundational values of our Constitution and ultimately, our society. No matter the occasion or the opponent, he conducted himself with grace and poise.*

*Fali Nariman's life straddled time and roles of personality. He embodied the fierce and unwavering commitment to the rule of law which has defined the position of the Bar after 1947. As an inveterate lawyer, Fali Nariman was that and more. He was a mentor to many on the Bar and the Bench. He had perfected the fading art of letter writing. He would share an article or eagerly enquire about areas of emerging interests like technology in which he was a self-confessed beginner. While he was not one to mince words on a judgment he disagreed with, he was equally the fond and generous senior. A day before his passing, I received a letter from him on a recent judgment.*

*Mr Nariman fought many battles. Some of these battles continue needing to be fought. He narrated a story involving a conversation between two distinguished lawyers in our Bar library in the Emergency. One was drawing puffs on his pipe. The first said to the other:*

*"Tame bolo (you speak)!"*

*The other said*

*"Tame bolo! (you speak)"*

*When many voices fell silent during difficult times, Nariman's resounding baritone resonated in the walls of the court and beyond. His voice represented the conscious of the nation.*

*In the end, it was not Mr Nariman who gave up on these battles, it was only his body. His soul will live on in the many lives he touched and the thousands more he inspired, and his memory will always serve as a guiding light for those who pursue justice in these halls.*

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## *List of Attendees at the Full Court Reference*

- ❖ *Shri R Venkataramani,  
Ld. Attorney General for India.*
- ❖ *Shri Tushar Mehta,  
Solicitor General of India.*
- ❖ *Dr. Adish C. Aggarwala, (Sr.)  
President,  
Supreme Court Bar Association.*
- ❖ *Shri Sukumar Pattjoshi, (Sr.)  
Vice President,  
Supreme Court Bar Association.*
- ❖ *Shri Rohit Pandey,  
Hony. Secretary,  
Supreme Court Bar Association.*
- ❖ *Shri Manoj K. Mishra,  
President,  
Supreme Court Advocates-on-Record Association.*
- ❖ *Shri Snehasish Mukherjee,  
Vice President,  
Supreme Court Advocates-on-Record Association.*
- ❖ *Shri Devvrat,  
Hony. Secretary,  
Supreme Court Advocates-on-Record Association.*

xxxxx

***Attendees including Family Members of  
Late Shri Fali S. Nariman,  
Senior Advocate  
at the Full Court Reference***

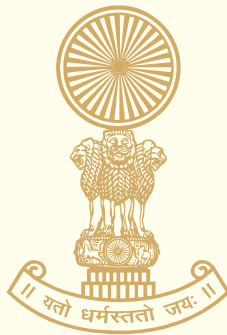
- ❖ *Hon'ble Mr. Justice R.F. Nariman, Former Judge, Supreme Court of India, Son*
- ❖ *Mrs. Sanaya Nariman, Daughter-in-law*
- ❖ *Ms. Nina R. Nariman, Grand Daughter*
- ❖ *Ms. Khursheed R. Nariman, Grand Daughter*
- ❖ *Mr. Rohan Alva, Son-in-law of Hon'ble Mr. Justice R.F. Nariman*
- ❖ *Mr. Subhash Sharma, Junior of Late Mr. Fali S. Nariman*
- ❖ *Mr. Narender Kumar, Assistant to Late Mr. Fali S. Nariman*
- ❖ *Mr. Vinod Kumar, Assistant to Late Mr. Fali S. Nariman*
- ❖ *Mr. Lakhvinder, Assistant to Late Mr. Fali S. Nariman*
- ❖ *Mr. Vijay Kumar Upadhyay, Court Clerk to Late Mr. Fali S. Nariman*
- ❖ *Mr. Mohmad Haroon, Staff of Late Mr. Fali S. Nariman*

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**THE SUPREME COURT OF INDIA**

**New Delhi - 110001**

**India**