

**MS. SWARAN MAHAJAN AND
MS. ANURATHA MAHAJAN.
FULL COURT REFERENCE - MARCH 16, 2006**

MY LORD CHIEF JUSTICE, YOUR LORDSHIPS, ADDITIONAL SOLICITOR GENERAL OF INDIA, STANDING COUNSEL FOR GOVERNMENT OF INDIA AND GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI, OFFICE BEARERS OF DELHI HIGH COURT BAR ASSOCIATION AND OTHER BAR ASSOCIATIONS, RESPECTED SENIOR MEMBERS OF THE BAR, MY COLLEAGUES AT THE BAR, LADIES AND GENTLEMEN:

Like most of you, I have never thought that we would have to assemble for a Reference like this one. Nor would any of us ever like, nay ever dream to have an assemblage like this to pay homage to departed colleagues who have been taken away not by destiny in its routine, but by man's own cruelty to man, perpetrated in its most foul manner and most gruesome order.

Sunday's telephone call broke the sad news to me. Scene at site was shocking. It was difficult to believe what I saw at the house.

Monday's newspapers reported that "a forty six year old Delhi High Court lawyer and her mother, also a lawyer, were found murdered in their Sidharth Enclave home, opposite Maharani Bagh, on Sunday morning. The police believe they

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were either strangled or smothered to death." Murders have become a common story now a days. We have learnt to forget the incidents no sooner than the newspaper is put down. The newspapers themselves get bored of such stories and follow up journalism does not last longer than few days. Public memory is also too short. Throwing shame on the national conscience, blaming the police and judiciary, the story and the fury ends happily. What else can the public do? They are helpless. But are they? The answer may need research which can perhaps offer subjects for a number of doctoral theses.

Here, we have lost two colleagues, two active members of the Bar in general and the High Court Bar Association in particular. A mother daughter duo were practicing in this Hon'ble Court and were known to be extremely good amongst their neighbours. I had the fortune to be one of their neighbours both at Defence Colony where they spent few years and at the Lawyers' Chamber Block-I. Their demise is a great personal loss to me.

The mother and daughter were working together and living well together. For the Court, they have always been respectable officers. Mrs. Swaran Mahajan hailed from a respectable family, was married into a respectable family. She graduated in law after her marriage. She set up her practice and passionately took

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it up. After moving to Delhi in 1975, she joined the Chamber of Mr. Danial Latifi , a legal legend and with the dent of hard work she became an expert in civil, service and military laws. She possessed great legal acumen, ethical esteem and photogenic memory. She handled several landmark cases.

The decision of this Hon'ble Court in Ex-Major N.C.Ajwani Vs UOI is one of the landmark cases in which she assisted the Full Bench. The court while dealing with the Doctrine of Pleasure under Army Act held that the concept of 'camouflage' is a facet of judicial review and that the court would lift the veil in all cases where it appears to court that power has been used for a collateral purpose. One of her Chamber colleagues today proudly adorns the Bench of this Hon'ble Court; Hon'ble Ms. Justice Geeta Mittal.

To speak of Mrs. Swaran Mahajan, she was always in the forefront of women's causes. She headed several women's organizations including All India Federation of Women Lawyers and relentlessly fought for the upliftment of women. It is not ironical, according to Mrs. Mahajan, when Indian mythology places women on a very high pedestal and they are worshipped and honoured - Goddess of learning Saraswati; of Wealth Laxmi; of power Parvati - we adopt double standard in so far as

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her guaranteed rights are concerned even under Constitution. We must fight against traditions, according to her, that have chained them – a fight against attitude that is ingrained in the Society. It is rather sad that one keep celebrating woman's days in all spheres, but in actual, little concern is shown for her honour and her dignity. According to her, social order based on outdated qualities of 'maleness' and 'femaleness' needs to be changed. Women, no less than men, require to be treated as "person, not statistical abstraction".

Despite the misfortunes in her life, she never lost her sensitivity. A deeply religious person, highly talented in music and painting she had an amazing emotional resilience and incredible ability to bear pain. Her difficulties made her understand others' difficulties and problems better. She played multifaceted roles; each role diametrically different, yet played them so effortlessly. She never lagged behind in lending support to a deserving hand. Following Mrs. Swaran Mahajan, her daughter Anuratha pursued her profession, whereas the other child, a son, Sunjyiev, decided to move into business after a brilliant academic career in economics, accountancy, computers and management. The daughter, Anuratha, who followed her mother's profession, also rose to heights and after her mother began to have indifferent health, shouldered the office entirely herself and looked after her mother with great devotion. The mother daughter duo

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remained very close to each other and was envious for others. And that closeness and union, even death could not defeat.

This incident, however, does not end or cannot be allowed to end with casual condolence, or the routinely long police investigation. The Bar would continue to monitor it till the end and ensure justice is done. More over, the incident is a pointer to the stark realities of our society. It is a lesson for each one of us. Was the crime a result of any professional work handled by the deceased? Was there any other kind of motive? Was there any other kind of human situation behind this? We have to educate ourselves on all these points while we join together to demand a stern action.

This incident calls to my memory the words of Prof. Amartya Sen, who said years ago in one of his lectures: "one of the most brutal features of gender inequality tends to take the form of physical violence against women." The irony here is that two women, who fought for women's causes and championed them for their folk, met with the unpredictable end. Swaran ji had fought for the rights of women and had argued in favour of a better representation of women in the judiciary! Professor Sen goes on to say: "Indeed, the frequency of battering of women even in the richest and the most developed economics is astonishingly high..... in respect of India, it must be

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acknowledged first that the frequency of assault on women is high in the country." A prophetic observation about a pathetic condition in our country.

It is no time now to dwell upon the sociological aspects or other aspects of the incident. It cannot, however, be allowed to melt down simply or casually. Each one of us must absorb the sociological lesson and value behind such incidents so as to prevent a recurrence in our lives and in those dear to us and known to us. And each of us should unite to see that the incident is probed properly and the perpetrators are brought to book in the shortest possible time.

Our hearts go to Sanjyiev and the grandchildren of Swarn ji.

While we salute the departed mother-daughter duo colleagues in homage, it is our prayer that may their souls rest in peace and may God grant enough strength to Sunjyiev and other members of the bereaved family to bear the loss and steer ahead.

Amarjit Singh Chandhiok.
President

March 16, 2006