

Justice Khanwilkar



N.V Ramana called justice A.M. Khanwilkar the former judge of the Supreme Court of India a “Hardworking, disciplined and strong proponent for the use of technology in the judiciary”, known for his work ethic, and has authored over 187 judgments and disposed of nearly 8,446 cases in the Supreme court of India.

Justice Khanwilkar has left his imprint on the key laws. He was praised for always being at the forefront of the digitization drive, as a member and chairman of the computerization committee, he played a critical role in the development of rapid and secure transmission of electronic records (FASTER) software.

He has served over 28 years as a judge. The Supreme Court Bar Association described him as a workaholic. He is the second-most senior judge after CJI Justice Ramana.

He has worked on a bunch of motley issues such as :

1) **Vijay Madanlal Choudhary v Union of India**

The Prevention of Money Laundering Act, 2002's requirements are enforced by the Directorate of Enforcement (ED), a financial investigation organization within the Department of Revenue of the Union Government (PMLA). The ED is authorized to issue summonses, get statements, make arrests, conduct searches, and take the property to conduct investigations. These organizations are not required to obey the Criminal Procedure Code of 1973. (CrPC).

The following PMLA sections were challenged before the Court:

Sections 5 and 8(4): Provide ED with the authority to seize the accused's property.

Section 17: Rights to access and examine suspected property without a warrant.

Section 19: Allows the authority of arrest.

Section 24: Presumes the accused's guilt unless proven otherwise.

Section 45: Eliminates the presumption of innocence normally accorded to accused people under criminal law. To be granted bail, the accused must demonstrate prima facie innocence and assure the Court that they will not commit another crime.

Section 50: Authorizing ED to compel accused persons to provide self-incriminating statements under fear of a fine, was challenged as infringing the accused's basic rights under Article 20 of the Constitution. It was argued that ED executes police powers and should be required to adhere to the CrPC when conducting investigations.

As ED is not a police body, comments made by the accused to ED personnel during an inquiry can be used against the accused in court.

Justice A.M. Khanwilkar with the other 2 judges upheld all the challenged provisions of the Prevention of Money Laundering Act, 2002.

1) Noel Harper v Union of India

The Supreme Court affirmed parts of the Foreign Contributions (Regulation) Amendment Act, 2020, which limit the capacity of NGOs to raise and utilize foreign contributions.

The Act is intended to guarantee that financial contributions do not interfere with or influence activities of national interest. This Act applies to any organizations that accept donations or funds from outside the country and must register with it adding strict restrictions on who can receive foreign donations and the uses. The Foreign Contributions (Regulation) Amendment Act, 2020 was passed and new clauses were added. Justice A.M. Khanwilkar upheld the Amendment on April 8th, 2022, and also stated "accepting foreign donations is a reflection on the constitutional morality of the nation as a whole being incapable of looking after its own needs and problems".

2) Indian Young Lawyers' Association v State of Kerala

The Sabarimala Temple banned women who are in their "menstruating years" from entering thus it was found unlawful by the Supreme Court.

The majority concluded that the barring of women from Sabarimala violated the basic rights of women. The custom, according to Justices Khanwilkar and others, was not an important religious practice. While the majority of the judges did not expressly indicate if the tradition

violated the right to equality under Article 14, they did state that the practice was discriminatory under Article 15.

3) Romila Thapar v Union of India

The Court evaluated the arrests of five human rights activists under the Unlawful Activities Prevention Act (UAPA) by the Maharashtra Police. The Police accused the activists of involvement in the Bhima Koregaon violence and sedition.

Notable statements made by Justice A.M. Khanwilkar

- 1) In 2021 justice Khanwilkar held that there were no infirmities in the approvals grants for the Modi government's Central Vista redevelopment project.
- 2) Laundering is a serious crime on par with terrorism. Because it not only has an impact on the social and economic fabric of the country but also encourages more horrible acts. Because the international criminal network that supports domestic extremist organizations relies on the transfer of unaccounted money over national borders, there is no compelling state interest in imposing rigorous bail terms for money laundering.
- 3) He approved the commission's 781-page report, chaired by Jayant Banthia, and authorized OBC reservation in Nagar Panchayat, Nagar Parishad, and Brihanmumbai Municipal Corporation elections.

Conclusion

A.M. Khanwilkar is known for thinking ahead of time. He accepted the fact that technology is a complex discipline for the judges of their age to understand and thus asked the judiciary to embrace technology as according to him "Technology would only promote a greater degree of confidence in the judicial process". Even today after every minute incident parties threaten each other by saying "I will see you in court", making it prominent that people still believe in the judicial system this faith is still alive because of people like Justice A.M. Khanwilkar who kept on working on himself as an individual and tried to understand the ongoing trends and is well aware of the current norms of the society which is important in jurisprudential view to make a decision. A decision taken by the judiciary to steer the society towards harmony, the law is more than arguments, punishment, penalties, extending court dates, and fees of the advocates. It is difficult to keep emotions aside and think with all due diligence because one wrong decision may haunt an individual for their lifetime.

With all due respect happy farewell Justice A.M. Khanwilkar!

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