Curing the Irreconcilable: A Case Comment on *Surendra Koli v. State of Uttar Pradesh*, 2025 INSC 1308

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Abstract

In November 2025, a three-judge Bench of the Supreme Court of India allowed a curative petition and acquitted Surendra Koli of the last surviving conviction arising out of the Nithari killings, nearly nineteen years after his arrest and fourteen years after the Court first affirmed his conviction and death sentence. The Court held that a conviction resting on a confession and recoveries already judicially discredited as involuntary and inadmissible in twelve companion prosecutions arising from an identical evidentiary foundation could not be permitted to stand, since to do so would offend Article 21 and violate the Article 14 guarantee that like cases be treated alike. This comment situates the judgment within the narrow curative jurisdiction recognised in *Rupa Ashok Hurra v. Ashok Hurra*, examines the Court's reasoning on confessional evidence, discovery evidence, and doctrinal consistency, and argues that while the outcome is constitutionally sound, the judgment enlarges the categories of curative relief by treating irreconcilable results across companion cases as an independent, freestanding ground, with significant implications for finality, multi-accused prosecutions, and death-penalty jurisprudence going forward. The comment concludes that future benches must supply a clearer limiting principle for this new ground if the exceptional character of curative jurisdiction is to be preserved.

Keywords: Curative Petition; Rupa Ashok Hurra; Article 14; Article 21; Nithari Killings; Finality of Judgments.

I. Introduction

The Nithari killings of 2005–06, in which the skeletal remains of several children and women were recovered from a drain in Noida, produced thirteen separate trials against the domestic help Surendra Koli, each built on the same confessional statement recorded under section 164 of the Code of Criminal Procedure[1] and the same class of recoveries said to have been made at his instance under section 27 of the Indian Evidence Act.[2] In the first of these matters to be litigated — the case concerning the victim Rimpa Haldar — the Supreme Court affirmed Koli's conviction and death sentence in 2011[3] and dismissed his review petition in 2014.[4] Fourteen

years after that affirmance, in *Surendra Koli v. State of Uttar Pradesh*, 2025 INSC 1308,[5] a three-judge Bench presided over by the Chief Justice allowed a curative petition and set the conviction aside, holding that the very confession and recoveries that had anchored it stood judicially discredited in the twelve companion Nithari prosecutions, where acquittals had by then attained finality. This comment analyses the reasoning of the Court, its treatment of curative jurisdiction under *Rupa Ashok Hurra v. Ashok Hurra*,[6] and the implications of grounding curative relief in inter-case inconsistency rather than in a defect internal to the impugned proceeding itself.

II. Facts and Procedural History

Koli, who worked as domestic help for Moninder Singh Pandher at House D-5, Sector 31, Noida, was taken into custody on 29 December 2006 in connection with the disappearance of one of the victims; human remains were recovered from the adjoining open strip the same day. Investigation was transferred to the CBI, and thirteen trials followed on a common evidentiary foundation.[7] In the Rimpa Haldar matter, the trial court convicted Koli in 2009 relying on his section 164 confession, recoveries of skulls and bones, a knife recovered from the premises, and DNA matching by the Centre for DNA Fingerprinting and Diagnostics; the Allahabad High Court and thereafter the Supreme Court affirmed the conviction and death sentence, the Supreme Court characterising Koli as a serial killer and the case as falling within the “rarest of rare” category.[8] The High Court later commuted the death sentence to life imprisonment in 2015, in writ proceedings challenging the rejection of his mercy petition, though the conviction itself continued to stand.[9]

The remaining twelve prosecutions diverged. Between 2010 and 2021 Koli was convicted in each,[10] but in October 2023 the Allahabad High Court acquitted him in all twelve, holding that the section 164 confession was involuntary — recorded after roughly sixty days of uninterrupted police custody, without meaningful legal aid, without the Magistrate recording clear satisfaction as to voluntariness, and in circumstances where the Investigating Officer's proximity to the recording process compromised its integrity.[11] The confession itself contained internal references to tutoring and prior coercion, attracting the statutory bar in section 24 of the Indian Evidence Act.[12] The High Court further found that the section 27 recoveries could not be treated as discoveries made at Koli's instance, since no contemporaneous disclosure memo existed, remand papers recorded a joint disclosure inconsistent with the later prosecution version, and the recovery site was already known to the police and the public before Koli's alleged pointing-out. Forensic searches of D-5 yielded no human bloodstains or remains inside the house, and the State's appeals against these twelve acquittals were dismissed by the Supreme Court on 30 July 2025, rendering them final.[13] Koli then filed the curative petition that is the subject of this comment, arguing that identical evidence could not simultaneously be legally fatal in twelve cases and legally sufficient in the thirteenth.[14]

III. Judicial Interpretation: The Court's Reasoning

The Bench framed the determinative question narrowly: whether two final outcomes of the same Court — the 2011 affirmance of conviction and the 2025 affirmance of twelve acquittals — could lawfully coexist when both rested on an identical evidentiary foundation.[15] Invoking

the curative jurisdiction recognised in *Rupa Ashok Hurra*, the Court reiterated that such relief is not a second review and does not permit re-appraisal of evidence,[16] but exists to correct a fundamental defect impeaching the integrity of the adjudicatory process, sourced in the Court's status as a court of record under Article 129 and its power to do complete justice under Article 142.[17] Applying the structural infirmities already found in the companion matters — prolonged custody without legal aid, absence of judicial satisfaction on voluntariness, contradictory recovery documentation, and forensic gaps — to the Rimpa Haldar record,[18] the Court held that "the legal conclusion cannot change from case to case when the premise is identical."[19]

Two constitutional strands anchor the holding. First, Article 21's demand for fair, just and reasonable procedure was held to be violated by allowing a conviction to stand on evidence the Court itself had since rejected as involuntary or inadmissible in the same fact-matrix, a demand the Bench treated as most acute in a case that had originally carried a sentence of death.[20] Second, Article 14 was invoked directly: since like cases must be treated alike, an arbitrary disparity in outcomes on an identical record was held to be "inimical to equality before the law," with the curative jurisdiction serving to prevent such an anomaly from hardening into precedent.[21] Notably, the Court paired its acquittal with a pointed institutional critique, attributing the miscarriage not to any singular procedural lapse but to cumulative investigative failures — an unsecured crime scene, a disclosure not contemporaneously recorded, contradictory remand papers, and unexplored leads including an organ-trade angle flagged by a governmental committee — while affirming its continuing faith in professional investigation done well.[22]

IV. Critical Analysis: The Quiet Expansion of Curative Jurisdiction

Rupa Ashok Hurra confined curative relief to a narrow, largely illustrative set of circumstances — principally a violation of natural justice through lack of hearing, or an undisclosed conflict giving rise to reasonable apprehension of bias on the part of the adjudicating judge.[23] Both grounds share a common feature: the defect lies internal to the impugned proceeding itself. *Koli III* departs from this template. Nothing was procedurally wrong with the 2011 hearing or the 2014 review considered in isolation; the defect asserted, and accepted, was purely relational — that a later, independent line of judgments concerning different victims had discredited the very evidentiary category on which the earlier conviction rested. The Bench describes the instances recognised in *Hurra* as "illustrative and not exhaustive" and anchors curative jurisdiction in the residual duty "to avert manifest injustice."[24] It then lists, among the defects that may warrant intervention, outcomes that are "irreconcilably inconsistent on the same substratum of facts and evidence."[25] That anchoring is defensible as a matter of constitutional principle, since Articles 14 and 21 are freestanding guarantees not exhausted by *Hurra*'s illustrations. But it also marks a doctrinal shift worth naming plainly: inter-case inconsistency, arising from subsequent judicial re-evaluation of a shared evidentiary foundation, is now available as an independent trigger for curative relief, distinct from bias or denial of hearing — a shift the Bench presents as an application of *Hurra* rather than an extension of it.

This shift sits uneasily against the strong presumption of finality that the Court has otherwise insisted attaches to its own judgments once review is exhausted.[26] The Bench was alive to this

tension, expressly stating that it was “mindful of finality” and that curative relief “proceeds on narrow grounds,”[27] confining its holding to a case where the same Court had, on an admittedly identical record, reached irreconcilable conclusions. The only limiting language offered is, on my reading, that relief is available where the earlier decision and a subsequent final decision of the same Court rest on the same evidentiary substratum — not merely where there is a change in the surrounding law or an academic critique.[28] Even so, the criterion of “identical evidentiary foundation” is elastic, and future litigants in multi-accused or multi-victim prosecutions arising from a common investigation will have a textual foothold to argue that any subsequent acquittal of a co-accused or a similarly situated convict opens a path to curative relief, particularly where death sentences or long-standing convictions are involved. The judgment does not articulate a test for how “identical” the evidentiary foundations must be, leaving this boundary to future benches.

The Court's institutional critique of the investigation, while sympathetic and clearly correct on the facts, also does interpretive work: it converts what might otherwise be dismissed as a technical evidentiary quarrel into a substantive due-process failure, thereby strengthening the Article 21 limb of the reasoning.[29] This is a sound and increasingly familiar judicial technique — treating systemic investigative failure as itself a constitutional infirmity rather than a mere evidentiary weakness — but it also means that the precedential reach of *Koli III* is broader than a narrow reading confined to “identical evidentiary foundation” might suggest: it implicitly invites curative benches to weigh the overall fairness of an investigation, not merely the formal admissibility of specific pieces of evidence, when companion outcomes diverge.

V. Implications for Future Jurisprudence

Three consequences appear likely to follow. First, convicts in multi-trial prosecutions arising from a common investigation — mass casualty cases, communal violence trials, and cases with multiple co-accused tried separately — now have clearer doctrinal grounding to seek curative relief where companion proceedings produce divergent outcomes on shared evidence, even after review has failed. Second, the judgment adds to a discernible trend of the Court reading Article 21 concerns, particularly in death-penalty-adjacent matters, into the procedural law of finality. *Mohd. Arif*, for instance, required review petitions in death-sentence cases to be heard in open court;[30] *Koli III* carries a comparable Article 21 sensibility to the curative stage, beyond *Hurra*'s original illustrations, reinforcing calls for a more codified, criteria-based approach to curative petitions rather than continued reliance on illustrative and open-ended categories. Third, and more institutionally, the judgment's unusually candid critique of investigative failure may be invoked in subsequent cases to argue for structural reform or accountability in the handling of high-profile multi-victim investigations, even though the Bench stopped short of directing any such inquiry here.[31]

At the same time, the judgment leaves open significant questions that future benches will have to resolve: how close must the evidentiary overlap between cases be to trigger this ground; whether a curative petition may succeed where the companion acquittal was itself decided by a different, lower forum rather than affirmed by the Supreme Court; and whether the same logic extends to civil or regulatory proceedings where consistency across parallel matters is equally

prized. Until such calibration occurs, *Koli III* stands as a powerful but doctrinally underspecified precedent — constitutionally justified in its outcome, but a meaningful widening of an otherwise tightly guarded jurisdiction.

VI. Conclusion

Surendra Koli's acquittal, nearly nineteen years after his arrest, is a rare instance of the Supreme Court correcting its own final judgment through the curative route, and the human and institutional stakes of the case justify the exceptional intervention. The Bench's insistence that "the legal conclusion cannot change from case to case when the premise is identical" is a compelling articulation of equal treatment under Article 14 and fair procedure under Article 21.[32] Yet in reaching this just result, the Court has, while presenting its reasoning as an application of existing doctrine, added a new and potentially expansive category to the narrow list of grounds illustrated in *Rupa Ashok Hurra* — irreconcilable outcomes across companion prosecutions sharing a common evidentiary foundation. Whether this category remains as exceptional in practice as the Bench intended it to be in principle will depend on how rigorously future benches police the boundary between genuine evidentiary identity and superficial factual resemblance.

Footnotes

1. Code of Criminal Procedure, 1973, § 164 (India).
2. Indian Evidence Act, 1872, § 27 (India).
3. *Surendra Koli v. State of U.P.*, (2011) 4 SCC 80, ¶ [__] (India) [hereinafter *Koli I*].
4. *Surendra Koli v. State of U.P.*, R.P. (Crl.) No. 395 of 2014 in Crl. A. No. 2227 of 2010 (India Oct. 28, 2014) (unreported order) (noted in *Koli III*, *infra* note 5, at ¶¶ 5, 7.4).
5. *Surendra Koli v. State of U.P.*, Curative Petition (Crl.) @ Diary No. 49297 of 2025, 2025 INSC 1308 (India Nov. 11, 2025) (Gavai, C.J., Surya Kant & Vikram Nath, JJ.) [hereinafter *Koli III*].
6. *Rupa Ashok Hurra v. Ashok Hurra*, (2002) 4 SCC 388 (India).
7. *Koli III*, 2025 INSC 1308, at ¶¶ 6.2–6.4.
8. *Id.* at ¶¶ 7.1–7.3 (applying the "rarest of rare" doctrine); *see also Bachan Singh v. State of Punjab*, (1980) 2 SCC 684, ¶ [__] (India); *Machhi Singh v. State of Punjab*, (1983) 3 SCC 470, ¶ [__] (India).
9. *Koli III*, 2025 INSC 1308, at ¶¶ 7.4–7.5.
10. *Id.* at ¶¶ 8.1–8.2.
11. *Id.* at ¶¶ 8.1–8.6; *Surendra Koli v. State of U.P.*, [Crl. Appeal No. __] (Allahabad High Court Oct. 16, 2023) (India).
12. Indian Evidence Act, 1872, § 24 (India) (confession caused by inducement, threat or promise, from a person in authority, is irrelevant in a criminal proceeding).
13. *Koli III*, 2025 INSC 1308, at ¶¶ 8.3–8.4, 8.6.
14. *Id.* at ¶ 5.
15. *Id.* at ¶ 10.
16. *Id.* at ¶¶ 3–4.
17. India Const. arts. 129, 137, 142, 145; Supreme Court Rules, 2013, Order XLVIII (India); *see Koli III*, 2025 INSC 1308, at ¶ 2.
18. *Koli III*, 2025 INSC 1308, at ¶¶ 11–13.
19. *Id.* at ¶ 12.
20. *Id.* at ¶ 15.
21. *Id.*
22. *Id.* at ¶ 18; *see also id.* at ¶¶ 8.5, 14.
23. *Rupa Ashok Hurra*, (2002) 4 SCC at ¶¶ [__].
24. *Koli III*, 2025 INSC 1308, at ¶ 3.
25. *Id.* at ¶ 4.
26. *Id.* at ¶ 3 ("Finality remains the rule."); *Rupa Ashok Hurra*, (2002) 4 SCC at ¶ [__]; *see also Kamlesh Verma v. Mayawati*, (2013) 8 SCC 320, ¶ [__] (India) (scope of review jurisdiction).
27. *Koli III*, 2025 INSC 1308, at ¶ 16.
28. *Id.* at ¶¶ 10, 16. The exclusion of changes in law or academic critique is the author's inference; the judgment does not address them.
29. *Koli III*, 2025 INSC 1308, at ¶¶ 14, 18; *see also Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158, ¶ [__] (India).
30. *See Mohd. Arif v. Registrar, Supreme Court of India*, (2014) 9 SCC 737, ¶ [__] (India) (holding that review petitions in death-sentence cases must be heard in open court); *see also Koli III*, 2025 INSC 1308, at ¶ 7.4 (Koli's review heard in open court).
31. *Koli III*, 2025 INSC 1308, at ¶¶ 8.5, 18.
32. *Id.* at ¶ 12.