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Curative Petitions in India: Constitutional Foundations, Judicial Evolution and the Nithari Acquittal

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ABSTRACT

The principle of finality of judgments is a vital feature of every legal system, for it brings certainty, stability, and public confidence to the administration of justice. There are, however, situations in which a final judgment may contain serious error, resulting in injustice. To address such exceptional cases, the Supreme Court of India developed the concept of curative jurisdiction. This article examines the constitutional and legal foundations of curative petitions in India and traces their development through significant judicial decisions. It also considers how curative petitions have operated in practice, discusses the available statistical trends, and analyses the Supreme Court's recent decision in the Nithari case concerning Surendra Koli. Through this case study, the article evaluates the role of curative petitions in correcting serious judicial error while maintaining the balance between the finality of judgments and the need to ensure justice.

Keywords: *Curative petition; curative jurisdiction; judicial finality; substantive justice; judicial review; criminal justice.*

I. INTRODUCTION

A legal system cannot function effectively if its verdicts remain perpetually open to review, if parties engage in interminable litigation, or if judicial authority remains ambiguous. The principle of finality holds that judicial rulings must ultimately be definitive and binding, thereby concluding litigation. Finality thus guarantees the stability of legal relations, clarity in the administration of justice, and institutional credibility. In criminal law in particular, society requires closure and victims require certainty, for the criminal justice system depends on definitive determinations of culpability, sentencing, and punishment. In the absence of finality, prosecutions may remain unresolved and the delivery of justice becomes inefficient. The doctrine of finality rests on several jurisprudential foundations. The rule of law demands predictability, certainty, and consistency in legal outcomes; where judgments remain perpetually open to revision, legal stability deteriorates and judicial authority is diminished.

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II. CONSTITUTIONAL BASIS OF CURATIVE PETITIONS IN INDIA

The Indian Constitution deliberately designates the Supreme Court as the paramount authority within the remedial framework, serving not only as an appellate court but also as the guardian of the Constitution. Article 32 secures the right to a constitutional remedy, in contrast to common law systems where remedies are predominantly procedural. Article 32 confers writ jurisdiction as a constitutional remedy, whereas Article 136 provides an extraordinary discretionary power to grant special leave in instances of grave injustice or legal error, particularly where no statutory right of appeal exists. Article 137 empowers the Supreme Court to review its own rulings, subject to the conditions prescribed by Article 145. Although not expressly articulated in the Constitution, the concept of curative jurisdiction has developed as a judicial innovation intended to reconcile the finality of Supreme Court rulings with the obligation to prevent miscarriages of justice through curative petitions. Such petitions are permissible only where there is evidence of a violation of natural justice, judicial bias, or a substantial procedural deficiency.

The constitutional principles underlying curative petitions include the safeguarding of fundamental fairness, the maintenance of public confidence in the judiciary, the correction of egregious procedural injustices, and the attainment of substantive justice. Although not expressly stated in the Constitution, curative petitions have emerged as a significant constitutional tool for addressing extraordinary instances of serious judicial error while preserving the finality and authority of Supreme Court rulings. The constitutional foundation of curative petitions derives principally from Article 137 and Article 142, together with the inherent powers of the Supreme Court under Article 129 of the Constitution of India, as well as the judicial innovation established in *Rupa Ashok Hurra v. Ashok Hurra*.¹

III. JURISPRUDENTIAL FOUNDATIONS OF CURATIVE JURISDICTION

The legal principles governing curative petitions in India rest on the following tenets.

A. *Actus curiae neminem gravabit*

This principle is fundamental to protecting litigants from the adverse consequences of errors, mistakes, or delays occurring in the course of judicial proceedings. It obliges the court to rectify its own errors and to restore the parties to their original position, thereby preventing any inequitable advantage arising from a judicial miscalculation. The underlying idea is that no person should suffer for the mistake of the court. The principle advances justice by holding the

¹ *Rupa Ashok Hurra v. Ashok Hurra*, (2002) 4 SCC 388.

court responsible for correcting its own errors, underscoring the importance of equity and sound judgment in judicial proceedings. Where the act of the court causes loss or injustice, this principle permits restitution, restoring the parties to the position they occupied before the error.²

B. Ex debito justitiae

The essence of this principle is that a court of plenary jurisdiction must possess the authority to correct its own rulings, and those of subordinate courts, irrespective of any prescribed procedure, in order to prevent an abuse of the judicial process and to repair a substantial error. Courts invoke this principle to reconsider and modify their decisions in cases of significant error, want of jurisdiction, or denial of natural justice, thereby guarding against the abuse of judicial process and preserving equity. In exceptional circumstances this may entail departing from strict procedural requirements. Ultimately, it affirms that justice must not only be done but must also be seen to be done, thereby protecting parties from the consequences of judicial error.

IV. EVOLUTION OF CURATIVE JURISDICTION THROUGH JUDICIAL INNOVATION

Before the formal recognition of the curative petition in India, the Supreme Court progressively developed the proposition that it possessed an inherent power to correct its own errors in order to prevent a miscarriage of justice. These early judicial developments significantly shaped the doctrine of curative jurisdiction, as the Court gradually moved from a rigid conception of the finality of judgments toward a more justice-oriented approach.

In the early years of Indian constitutional law, the Supreme Court strongly emphasised the finality of judgments, holding that once a matter had been conclusively resolved and all avenues of review exhausted, litigation must come to an end. The pivotal early development in the evolution of curative petitions was the seminal ruling in *A.R. Antulay v. R.S. Nayak*,³ which is regarded as the intellectual and doctrinal foundation of curative jurisdiction in India.

A.R. Antulay, the former Chief Minister of Maharashtra, faced corruption charges under the Prevention of Corruption Act, 1947. The Supreme Court had directed that his case be transferred from the Special Judge to the Bombay High Court for trial. Antulay subsequently challenged that direction, contending that the Supreme Court's own order had contravened statutory limitations and infringed his legal right to be tried by a Special Judge. The principal constitutional question before the Court was whether the Supreme Court possessed the authority to correct its own prior order where that order had resulted in injustice. The Court held that no notion of finality could bar the correction of a judicial error that occasioned a miscarriage of

² *Food Corporation of India v. SEIL Ltd.*, (2008) 3 SCC 440.

³ *A.R. Antulay v. R.S. Nayak*, (1988) 2 SCC 602.

justice. It observed that courts exist to advance justice rather than to perpetuate error, and emphasised that the mistakes of the court should not prejudice the litigant. The ruling recognised the Supreme Court's inherent power to reconsider or modify its own orders in exceptional circumstances and underscored that procedural formality must not override substantive justice. Although the term "curative petition" did not appear in the case, the ruling laid the conceptual and doctrinal foundation for the subsequent evolution of curative petitions in India.

*Rupa Ashok Hurra v. Ashok Hurra*⁴ is the seminal ruling in which the Supreme Court of India formally established the concept of the curative petition. The case arose out of a matrimonial dispute between Rupa Ashok Hurra and Ashok Hurra that had been resolved by the Supreme Court, following which the review petition against that decision was also dismissed. The petitioner then approached the Court seeking reconsideration of the final decision, contending that a serious injustice had occurred. This raised a significant constitutional question: whether any remedy lies against a final judgment of the Supreme Court after the dismissal of a review petition. The Constitution Bench held that, while the finality of judgments is essential to legal certainty and stability, the Court cannot allow its own process to occasion a miscarriage of justice. Accordingly, to prevent abuse of process and to remedy grave injustice, the Court fashioned the exceptional remedy of the curative petition in exercise of its inherent powers under Articles 129, 137, and 142 of the Constitution. The Court held that curative petitions would be entertained only in rare and exceptional circumstances, such as a breach of the principles of natural justice, denial of a hearing, judicial bias, or a serious miscarriage of justice. It also laid down stringent procedural safeguards, including certification by a senior counsel and circulation of the petition to the senior-most judges of the Court. The ruling marked a significant advance in Indian constitutional law by instituting a definitive corrective mechanism to prevent serious judicial errors from remaining unaddressed merely because of the finality of a judgment.

Curative petitions are now governed by Order XLVIII of the Supreme Court Rules, 2013, which substantially formalises the principles laid down in *Rupa Ashok Hurra*. Order XLVIII requires that a curative petition state specifically that the grounds urged were also taken in the review petition, which was dismissed by circulation. The petition must be accompanied by a certificate from a Senior Advocate affirming that it satisfies the criteria established in *Rupa Ashok Hurra*, and by a certificate from the Advocate-on-Record affirming that it is the first curative petition in the case concerned.

⁴ *Rupa Ashok Hurra*, supra note 1.

V. JUDICIAL PRACTICE AND STATISTICAL TRENDS IN CURATIVE PETITIONS

Since the remedy's inception in 2002, the Supreme Court of India has not maintained an official, cumulative, and up-to-date record of all curative petitions filed. Only a small number of petitions have been allowed. While comprehensive statistics on the total number of curative petitions filed are not publicly available, the Supreme Court's case-management system does monitor these matters.

A government report of July 2021 indicated that, since 2010, the Supreme Court had allowed no civil curative applications and three criminal curative petitions. This figure does not reflect the total number filed, since the majority are dismissed in chambers.⁵ The Supreme Court possesses curative authority under Articles 129 and 142, enabling it to correct its own judgments even after the dismissal of a review petition in order to secure justice. The Court is expected to exercise this remedial power sparingly, departing from the principle of finality only in exceptional situations.

The Supreme Court has also had occasion to consider curative petitions in civil matters. In *Latoori Singh v. State of Uttar Pradesh*,⁶ the Court addressed a curative petition arising from the dismissal of a review petition that had been treated as barred by limitation. The Court held that the petitioner was entitled to the relaxations available under the law of limitation on account of COVID-19, which it regarded as an external and disabling circumstance that may prevent a litigant from meeting procedural deadlines through no fault of his own.

The Court has also been notably proactive in securing justice through curative petitions. In *Navneet Kaur v. State (NCT of Delhi)*,⁷ it entertained a curative petition seeking commutation of a death sentence to life imprisonment. Having examined the circumstances of the case, the Court allowed the petition, commuting the sentence on account of an eight-year delay in the disposal of the mercy petition and the convict's deteriorating mental condition.

The grant of a curative petition may also turn on procedural considerations. In *National Commission for Women v. Bhaskar Lal Sharma*,⁸ the Court held that a summons issued by a competent authority could not be quashed on a superficial appreciation of the facts. The trial had not yet commenced and the evidence remained under evaluation; the summons merely required the accused to appear for trial, and the Court considered it premature to draw any substantial conclusions from its issuance.

⁵ GOV'T OF INDIA, MINISTRY OF LAW & JUSTICE, DEP'T OF JUSTICE, ANNUAL REPORT 2020-21, at 102-03 (2021).

⁶ *Latoori Singh v. State of U.P.*, 2024 SCC OnLine SC 590.

⁷ *Navneet Kaur v. State (NCT of Delhi)*, (2014) 7 SCC 264.

⁸ *National Commission for Women v. Bhaskar Lal Sharma*, (2014) 4 SCC 252.

The Court has likewise declined to entertain curative petitions in significant cases. In 2010, the Union Government filed a curative petition before the Supreme Court in the Bhopal Gas Tragedy matter, seeking enhanced compensation for the victims. In 2023, a Constitution Bench of five judges dismissed the petition, holding that curative petitions are designed to address instances of serious miscarriage of justice and cannot be used to reopen or reassess compensation that has already been settled.⁹

The Supreme Court has consistently approached its curative jurisdiction with great caution, treating it as an exceptional residuary power intended primarily to prevent a serious miscarriage of justice after all other avenues of review have been exhausted. Since its establishment in *Rupa Ashok Hurra*, the Court has emphasised that curative petitions are not a forum for rehearing or reappraisal of evidence, but a strictly delimited procedure for upholding the integrity of final judgments while securing substantive justice.

VI. REVISITING FINALITY THROUGH THE NITHARI CURATIVE PROCEEDINGS

On 11 November 2025, a three-judge bench of the Supreme Court of India allowed a curative petition filed by Surendra Koli, thereby overturning his final conviction and life sentence in the Nithari serial killings case.¹⁰ The judgment brought to a close nearly nineteen years of litigation and directed Koli's immediate release.

The facts established during the course of the litigation are as follows.

Surendra Koli was employed as a domestic servant by the businessman Moninder Singh Pandher at House D-5, Sector 31, Nithari village, Noida. Between 2005 and 2006, several children and young women from the area went missing. On 29 December 2006, skeletal remains, including skull fragments and items of clothing, were discovered in a drain behind House D-5, and subsequent excavations yielded further remains. The prosecution's case was that Koli lured the victims into the residence with sweets, strangled them, engaged in necrophilia, dismembered their bodies, and, in some instances, committed acts of cannibalism. The curative petition concerned specifically the murder of fourteen-year-old Rimpa Haldar, who went missing in 2005. A designated CBI court sentenced Koli and Pandher to death for the rape and murder of Rimpa Haldar. The Allahabad High Court confirmed Koli's death sentence while acquitting Pandher in that particular case. In 2011, the Supreme Court affirmed Koli's conviction and death sentence, describing him as a serial killer. The Allahabad High Court

⁹ *Union of India v. Union Carbide Corp.*, 2023 SCC OnLine SC 264.

¹⁰ *Surendra Koli v. State of U.P.*, 2025 INSC 1308 (India).

subsequently commuted Koli's death sentence to life imprisonment on account of the inordinate delay in the disposal of his mercy petition.

A. Constitutional grounds for reopening the final conviction

Koli faced trial in thirteen separate capital cases. Although his conviction stood in the Rimpa Haldar case, the evidentiary foundation was systematically dismantled in the other twelve related cases. In October 2023, the Allahabad High Court acquitted Koli in those twelve cases, citing a flawed investigation and unreliable evidence, and the Supreme Court affirmed those acquittals on 30 July 2025. Koli contended that his conviction in the Rimpa Haldar case could not coexist with his acquittal in the other twelve cases, since both rested on the same evidentiary foundation.

The decision in the Nithari matter, in which the Supreme Court considered and disposed of a curative petition arising from concluded criminal proceedings, has revived significant constitutional and jurisprudential debate concerning the scope, limits, and coherence of this power. The decision has raised the question whether the Court's intervention, however restrained, signifies an extension of the remedial power beyond its original parameters, disturbing the balance between judicial finality and corrective justice.

In 2009, the trial court imposed the death penalty in the Rimpa Haldar case. The Allahabad High Court confirmed Koli's death sentence while acquitting Pandher in that case. The Supreme Court affirmed Koli's conviction in February 2011 and dismissed his review petition in 2014; the High Court thereafter commuted his death sentence to life imprisonment in 2015 on account of the delay in disposing of his mercy petition.

The decisive turn came in October 2023. The Allahabad High Court, in a striking reversal, acquitted both Pandher and Koli in the twelve related cases, holding that the prosecution had "miserably failed" to establish their involvement. The High Court's reasoning was stringent: crucial evidence was inadmissible owing to procedural lapses; Koli's confession under Section 164 of the Code of Criminal Procedure was legally compromised; the forensic evidence established only the identity of the victims; and the theory of dismemberment was implausible for a person without medical skill.

This produced an unprecedented legal anomaly. Koli was acquitted in twelve cases arising from the same factual matrix and the same core evidence, yet remained convicted in the murder of Rimpa Haldar on the strength of that very evidence. The paradox undermined logical coherence and legal consistency. In July 2025, the Supreme Court's dismissal of the CBI's appeals against the 2023 acquittals rendered the anomaly untenable. A solitary conviction resting on the same

compromised confession and identical evidence that had produced acquittals in twelve related cases was later characterised by the Court as a "manifest miscarriage of justice".

Emboldened by the Supreme Court's decision of July 2025, Koli filed a curative petition, the ultimate extraordinary remedy in Indian jurisprudence. Curative jurisdiction, established in the seminal 2002 ruling in *Rupa Ashok Hurra v. Ashok Hurra*, is intended to remedy manifest miscarriages of justice arising from irreconcilable decisions of the Court, thereby safeguarding the integrity of adjudication. The curative petition raised a fundamental constitutional principle: where two decisions resting on the same evidence yield contradictory results, the integrity of adjudication is compromised and public confidence is undermined. As the Supreme Court observed, "When final orders present conflicting interpretations on the same record, the integrity of adjudication is jeopardised. In this context, intervention *ex debito justitiae* is not a matter of choice but a fundamental obligation."¹¹

B. The legal framework: the Panchsheel criteria for circumstantial evidence

Koli's acquittal rested fundamentally on the principles laid down in *Sharad Birdichand Sarda v. State of Maharashtra*,¹² which formulated the "Panchsheel test", the five essential criteria for assessing circumstantial evidence. These principles are: first, the circumstances relied upon must be fully established, each beyond reasonable doubt; second, the facts so established must be consistent only with the hypothesis of the guilt of the accused; third, the circumstances must be of a conclusive nature and tendency; fourth, they must exclude every hypothesis except that of guilt; and fifth, the chain of evidence must be so complete as to exclude any reasonable possibility of a conclusion consistent with innocence. The Allahabad High Court found that the prosecution had failed on almost every count: the chain of custody for the recovered remains was compromised; the recovery procedure breached statutory requirements; Koli's confession under Section 164 of the Code of Criminal Procedure was procedurally flawed; and there was no credible evidence that a person without medical expertise could have carried out the dismemberment alleged.

The acquittal also rested on constitutional principles that transcended the particular facts. Article 20(3) protects against self-incrimination, extending to confessions obtained through procedural violation, while Article 21 guarantees that no deprivation of life or liberty may occur save through a procedure established by law, thereby requiring that convictions rest on proof beyond reasonable doubt rather than mere suspicion. As the bench observed, "Suspicion, however

¹¹ *Surendra Koli*, supra note 10.

¹² *Sharad Birdichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116.

grave, cannot substitute for proof beyond reasonable doubt." This principle, originating in the common law and now entrenched as constitutional doctrine, demands rigorous proof even in the gravest offences.¹³

C. Judicial reasoning behind the curative acquittal

i. Irreconcilable outcomes on identical evidence

The Supreme Court acquitted Koli principally on the ground that his conviction had become untenable in light of subsequent judicial findings on the same evidence. The Court noted that twelve related charges arising from the same Nithari circumstances had resulted in acquittals, which it had itself affirmed. Those acquittals undermined the credibility of the confession and recovery evidence supporting the surviving conviction; to sustain the conviction would therefore produce inconsistent and contradictory conclusions on identical evidence. The Court regarded such contradiction as a clear miscarriage of justice that eroded public confidence in the integrity of adjudication and warranted remedial intervention.

ii. Inadmissibility of the confession under Section 164 CrPC

A primary basis for the acquittal was the Court's finding that the confession recorded under Section 164 of the Code of Criminal Procedure was neither voluntary nor legally admissible. The confession had been recorded after nearly sixty days of continuous police custody, during which the accused had only limited and unsupervised access to legal counsel. The Magistrate who recorded the statement did not clearly express satisfaction as to its voluntariness, and the presence or proximity of the Investigating Officer compromised the circumstances in which it was made. The statement itself bore indications of tutoring and coercion. These circumstances attracted the bar under Section 24 of the Indian Evidence Act against confessions procured by inducement, threat, or promise. The Court held that there was no justifiable basis for relying, in this prosecution, on the very confession that had already been rejected in the other cases.

iii. Unreliability of the recoveries under Section 27 of the Evidence Act

The Court rejected the evidentiary value of the discoveries and recoveries said to have been made under Section 27 of the Evidence Act. The prosecution was unable to produce any contemporaneous disclosure statement, and the documentary record revealed significant discrepancies between the seizure memos and the remand papers. The evidence indicated that both the police and the public were already aware of the presence of human remains at the recovery site before the accused allegedly led them there, and that excavation had begun

¹³ *Surendra Koli*, supra note 10.

beforehand. The sites were accessible and not within the exclusive knowledge or control of the accused, and thus failed to satisfy the essential legal requirement of a "discovery" attributable to the accused. As a result, the legal basis for admitting this evidence collapsed.

iv. Failure of the forensic evidence to connect the petitioner to the crimes

The forensic evidence likewise failed to supply the crucial link between the accused and the offences. Examinations conducted by specialist teams at the site did not reveal human bloodstains, bodily remains, or any transfer patterns indicative of serial killing and dismemberment. The DNA analysis established only that certain remains belonged to missing persons; it did not establish that the petitioner had committed the offences. The alleged weapons, including knives and axes, bore no biological evidence connecting them to the crimes, and no expert testimony was led to show that these implements had caused the injuries observed. Without such corroboration, the chain of circumstances remained incomplete.

v. Serious investigative lapses

A further factor influencing the Court's decision was the serious investigative deficiency that undermined the integrity of the prosecution's case. The Court noted shortcomings including the absence of prompt medical documentation during prolonged police custody, inadequate provision of legal aid, discrepancies in the official records, and the Investigating Officer's improper involvement in the confession process. The investigators overlooked possible leads and failed to secure the crime scene before excavation, resulting in the loss of forensic opportunities. These failures undermined the reliability of the evidence and raised concerns about the overall fairness of the process.

vi. Violation of constitutional guarantees

The Court further emphasised that sustaining the conviction would infringe the constitutional protections in Articles 14 and 21. Article 21 requires a fair, just, and reasonable procedure, particularly where a severe punishment is involved, while Article 14 requires equal treatment of like cases. To uphold a conviction founded on evidence held unreliable in factually identical situations would produce arbitrary inequality and violate the principles of equality and due process. The curative jurisdiction was invoked to correct this.

vii. Collapse of the circumstantial chain

Finally, once the inadmissible confession, the unreliable recovery evidence, the inconclusive forensic material, and the investigative deficiencies were excluded, the prosecution's case lacked a complete chain of circumstances sufficient to establish guilt beyond reasonable doubt.

The Court reaffirmed the fundamental principle of criminal law that suspicion, however grave, cannot take the place of proof. The evidentiary threshold for conviction was not met; the presumption of innocence therefore prevailed, and acquittal was the only course legally open to the Court.

VII. CONCLUSION

The development of curative jurisdiction in India reflects the Supreme Court's continuing effort to reconcile two competing constitutional imperatives: the finality of judicial decisions and the need to prevent miscarriages of justice. The principle of finality is essential to certainty, stability, and institutional credibility in the legal system; yet the judiciary has consistently recognised that procedural closure must not become a barrier to the correction of serious injustice. The introduction of the curative petition in *Rupa Ashok Hurra v. Ashok Hurra* represents a carefully designed constitutional safeguard intended to address the exceptional cases in which the ordinary judicial process has failed to secure justice and due process.

The Nithari curative proceedings illustrate both the necessity and the complexity of this exceptional jurisdiction. By revisiting a conviction that had already attained finality, the Supreme Court demonstrated its willingness to intervene where irreconcilable judicial findings, doubtful evidence, investigative failures, and constitutional concerns together imperilled the integrity of the legal process. The decision confirmed that curative jurisdiction is not intended to serve as an ordinary appellate mechanism, but as a residuary constitutional power to be invoked only where the continued enforcement of a judgment would result in injustice. At the same time, the case exposes deep structural problems within the criminal justice system, including flawed investigation, evidentiary inconsistency, procedural shortcomings, and the dangers of relying on sensational narratives in cases attended by public outrage and intense media attention.

The Nithari litigation raises important jurisprudential questions about the prospective scope of curative jurisdiction. The Supreme Court has traditionally maintained that curative petitions are confined to exceptional instances of a violation of natural justice, judicial bias, or a manifest miscarriage of justice. The Court's intervention in a concluded criminal case on account of later conflicting findings may suggest a gradual broadening of curative review beyond its originally narrow scope. This tendency invites debate as to whether such intervention strengthens constitutional justice or endangers the principle of finality by introducing uncertainty into judicial outcomes. The challenge of constitutional adjudication lies in preserving this delicate balance.

From a broader constitutional perspective, curative petitions affirm that the authority of the judiciary rests not on finality alone, but on fairness, reason, and public confidence in the administration of justice. In criminal law in particular, where individual liberty and human dignity are at stake, an irreversible judicial error carries consequences too grave to ignore. The Constitution requires that exceptional remedial measures remain available in the rare cases in which ordinary remedies prove inadequate. Such powers must nonetheless be exercised with institutional restraint, rigorous procedural safeguards, and exceptional prudence, so that curative jurisdiction does not become an unbounded process of rehearing.

The Nithari case is more than a criminal prosecution or acquittal; it stands as a significant commentary on the deficiencies of the criminal justice system. The discovery of human remains, the collapse of the charges, the inconsistent judicial findings, and the eventual remedial intervention together illustrate the tension among truth, evidence, and constitutional procedure. The case raises painful but unavoidable questions: did the justice system fail the victims, was an innocent person wrongly convicted, or did both tragedies occur at once? The Nithari proceedings underscore the enduring constitutional principle that, although courts must respect the finality of their decisions, they must not abandon the pursuit of substantive justice when judicial conscience and constitutional morality demand correction.
