

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRL. M.P. NO. OF 2011

IN

CURATIVE PETITION (CRIMINAL) NO. 39-42 OF 2010

IN

CRIMINAL APPEAL NO. 1672-75 OF 1996

IN THE MATTER OF:

Central Bureau of Investigation

...Petitioner

Versus

Keshub Mahindra

.....Respondent

AND ALSO IN THE MATTER OF:

State of Madhya Pradesh

Through Principal Secretary,

Department of Home Affairs,

Govt. of Madhya Pradesh,

Vallabh Bhawan,

Bhopal, M.P.

.....Applicant / Intervener

(PAPER-BOOK)

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[C.D. SINGH]

ADVOCATE FOR THE APPLICANT / INTERVENOR

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APPLICATION FOR INTERVENTION

TO,

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUSTICES OF THE HON'BLE SUPREME
COURT OF INDIA

VIII. The State of Madhya Pradesh considering the seriousness of the patients of gas victims has established a separate department named as Bhopal Gas Tragedy Relief and Rehabilitation Department in August, 1985 and a separate directorate in October, 1995 to monitor the rehabilitation programmes of gas victims.

G. PARAMOUNT CONSIDERATION IS JUSTICE TO THE VICTIMS:

The State of M.P. being a welfare State is concerned with ensuring justice to the victims of the tragedy who are its citizens. The whole issue, shorn of legal subtleties, is a moral and humanitarian one. It is of utmost importance that the issue of human suffering do not become obscure. The State as "*parens patriae*" of its citizens is under the legal, moral and social obligation to ensure that the victims of this tragedy should get their entitlements under the law. The legal and procedural technicalities should yield to the paramount considerations of justice and fairness. The consideration goes beyond legalism and our largely humanitarian. The State of M.P. is a voice of thousands of victims of the tragedy and being a

welfare State strive to provide equal justice to them. In the unfortunate incident happened on the intervening nights of 2/3.12.1984, as per the survey of Madhya Pradesh Gas Relief and Rehabilitation Department 15248 of people have died and thousands of people are temporality or permanently disabled as a result of gas leak by October, 2003. The State of M.P. as "*parens patriae*" of its citizens is under a constitutional obligation to ensure that the perpetrators of this heinous crime shall not escape from the legal liability. Therefore, the State of M.P. should be given an opportunity to assists this Hon'ble Court in the present curative petition.

H. That, the Preamble to the Constitution, read with directive principals, Articles and 38, 39 and 39A enjoin the State Government to assert and secure the rights of its citizens/subject who owing to any disability (legal, social or economical) is not able to assert their rights. It is the constitutional duty of the State to come into picture and protect and fight for the rights of the citizens. The State of M.P. whose citizens are affected by the toxic gas leakage should be granted an opportunity to assists this Hon'ble Court for ensuring the rights of the victims. Therefore, it is in

the interest of justice the applicant/State of M.P. may be allowed to intervene as an intervener in the aforesaid curative petition.

I. DOCTRINE OF CURATIVE PETITION:

In "*Rupa Ashok Hurra Versus Ashok Hurra and another*" reported in (2002) 4 SCC 388 the Constitution Bench of this Hon'ble Court has stressed upon on rendering of justice without abrogating but bypassing the principle of finality of the judgment. This Hon'ble Court whilst elucidating the doctrine of curative petition has held that:

"42. The concern of this Court for rendering justice in a cause is not less important than the principle of finality of its judgment....."

After giving our anxious consideration to the question, we are persuaded to hold that the duty to do justice in these rarest of rare cases shall have to prevail over the policy of certainty of judgment as though it is essentially in the public interest that a final judgment of the final court in the country should not be open to challenge, yet there may be circumstances, as mentioned above, wherein declining to reconsider the judgment would be oppressive to judicial conscience