

Day 1

Posted on [August 6, 2010](#) by [duty editor](#)

Blog from Shalini Sharma, Phd Candidate at SOAS who is currently on fieldwork in India studying the media experience and strategies of Bhopal Movement.

13-04-2011, DAY 1
The morning started in the characteristic Bhopali style with unpredictable chaos. While Sathyu had to rush back home to get his identity proof, a mandatory requirement to enter the Supreme Court of India, Tim and I were left standing outside the chief court due to some goof up in the passes allotted to us at the Supreme Court's reception office. Suresh and Santosh, support staff of Karuna- the young feisty lawyer representing the 5 survivors organisations, helped us in navigating the formalities that required us to fill a form, attach it with another form signed by an advocate on record and a photo id proof and then safeguard our bags, mobile phones, laptops outside the court. This is how we spent a good part of the morning session that started around 10:20 am before finally succeeding in making our way in.

I joined Abdul Jabbar of Bhopal Gas Peedit Mahila Udyog Sangathan (BGP MUS) and Jayprakash of Bhopal Gas Peedit Sangharsh Sahyog Samiti (BGPSSS) in the Public gallery. Soon Sathyu joined us. Stacks of Supreme Court reports arranged in an almost fence like fashion separated the public from the legal courtyard. The highest space was reserved for the five panel bench, the one immediately after came the senior counsels from prosecution and defendant side, followed by rows of lawyers, and then came the public gallery on both the left and the right that were packed with representatives of the victims, legal practitioners, law students, journalists and civil society representatives.

The matter is to be heard in the Chief Justice Court by a Constitutional bench which looks at issues of Constitutional importance. This one is supposedly one of the best benches comprising of- Chief Justice of India S.H. Kapadia, Justice Altamas Kabir, Justice R.V. Raveendran, Justice B. Sudershan Reddy and Justice Altaf Alam.

Senior Advocate Harish Salve, former advisor to the Prime Minister, and Senior Advocate Ram Jethmalani, recently in news for his offer to represent Binayak Sen in the court, represented the accused. Additional Solicitor General Advocate Indra Jaisingh represented the Union of India and Attorney General Ghulam Vahanavati is representing CBI. Adv Sanjay Parikh represented BGP MUS and BGPSSS. Senior Adv. U.U Lalit represented BGIA. Senior Advocates of both petitioner and defendant sides are supported by their younger colleagues referred to as Juniors in common language.

As we entered the Court, braving our way in through rows of people, we rapidly caught a fast exchange between the lawyers of the defendant, that of victims and the bench. Apparently, Mr. Salve had raised some objections with regards to impleadments being heard at this stage. However, the Court asserted that it will hear everyone as this is a unique case and everyone has the right to voice their grievances. This allowed impleadment by BGIA and others to be included. This means that the court has allowed BGIA to serve notice on various respondents. By serving notice, we mean that we can now send our applications to various parties to the case and expect them to take them into account and respond to them.

However, right at the start, the bench asked CBI for an explanation for the undue delay in filing the review petition. In response, Vahanavati argued that someone else had filed a petition challenging the 1996 order of the two-member SC bench diluting charges against the Indian accused. But, he

said, that appeal was rejected. He admitted that the Union had made a mistake, and that the mistake could not be grounds for denying justice to the victims of the disaster. He admitted that CBI like any other agency is fallible. However in the wake of the public outrage over the 7th June Verdict, the CBI said it had looked more carefully into the matter and conducted some fresh investigations. Mr. Vahanvati mentioned how all the safety measures were compromised by UCIL at the directions of UCC-US. These compromises included not only the design of the plant but also running and maintenance of the same. This was done with the knowledge of the likely danger this act poses to the lives of the people. Referring to Salman Khan's case of 2002, where the popular Indian actor was charged for killing a person by reckless driving in a drunken state, Mr. Vahanvati argued for reinstating the original charges as filed by CBI against the accused to 304-II of Indian Penal Code i.e Culpable Homicide not amounting to murder. These charges were diluted by Justice Ahmadi in a controversial judgement of 1996 to Section 304 (A) – or rash and negligent act. It was on the basis of this lowered charge that the maximum sentence of two years of imprisonment was awarded to the 7 accused on 7th June 2010 by the Chief Judicial Magistrate of Bhopal. Out of a total of eight accused individuals, one had died during the intervening years in which the matter was in being heard in the Court.

This September 13, 1996 judgement given by the Supreme Court of India is one of the key concerns before the Constitutional bench hearing the Curative petition currently. From the remarks and questions raised by the Judges it seemed that the main questions before the Court are:

A) Will they be undermining the earlier judgement by setting it aside?

B) What is the right course to ensure complete justice- Allowing this Curative Petition that is before them or dismissing it? Or should they go for a retrial?

C) If they go by the first then does this Curative Petition meet the required grounds? What will be its scope and parameters?

D) If they go by the second option i.e a retrial it would mean bringing back all the witnesses. Many of them might not be alive. Besides this would mean going through the entire process again which will result in a significant time passed before a judgement is reached. What will this mean for the victims?

E) After the 7th June Verdict, the accused filed an appeal while Union of India filed a revision petition in the High Court. In what way should the Court respond so that its decision is not undermining the powers of a lower court or violating the due process of Law?

Mr. Vahanvati in his argument made a case of reinstating the original charges as filed by CBI citing the gross miscarriage of justice. He argued that not only did UCC officials have prior knowledge of the possibility of an incident like MIC Gas leak; they deliberately decided to ignore the consequences of not acting upon this knowledge. Listing the safety measures that were either compromised or not put to use for cost cutting, the management's failure in sharing information with the community on the highly toxic nature of MIC and possible preventive measures, and various observations as made by Varadrajan Committee, Mr. Vahanvati made a case that a cumulative series of things were done or left undone that amounted to illegal omission and made the event inevitable. When the Court asked if the accused had prior knowledge to these decisions Mr Vahanvati said that Mr. Mahindra was the Director of the Board of the Company and in that capacity he presided over all board meetings and received all reports including the safety audits. He referred to Hurra vs Hurra judgement by Supreme Court which laid grounds of Curative Petition in instances where injustice is irremediable. That is, there is no other way to correct a gross miscarriage of justice but through Curative petition.

Arguing that victims cannot be denied justice on account of procedural delay, Mr. Vahanvati urged the Court to hear the matter in the light of the highest tests that the Supreme Court is expected to apply here – judicial conscience and the desire to do complete justice. That is to say, the Court will apply its conscience particularly where it can be seen that the legal code, or some portion of it, is morally indefensible or unjust. That, he said, is not only important in this case but also to send out the right message when more and more industries are being set up in India and a likelihood that similar incidents can happen.

Expressing his disagreement with the Union of India, Mr. Salve asked the Court to dismiss the Curative Petition questioning its maintainability especially when an appeal and a revision petition are lying before a lower Court. He subtly referred to the discussion he had had with Mr. Vahanvati, outside the Court, and suggested a face saving offer to the Court. He said that since a revision petition, filed belatedly by the Centre against the dilution of charges, is pending in a Madhya Pradesh trial court the Apex court could issue a clarification saying the lower court would deal with the petition without being in any way “influenced” by the 1996 judgement. This will mean that the Top court will not have to hear the Curative Petition to review its 1996 order. At this point, Avi Singh, lawyer of the Bhopal victims stood up to object to this offer made by Mr. Salve. He said that no offer could be suggested to the Court that essentially precludes other parties especially the victims to whom the Curative Petition gives an opportunity to seek justice from the Supreme Court. An order cannot be passed on an exchange of notes between counsels, he said. This angered both Salve and Vahanvati. He also urged the Court to record all such submissions that are being made in the course of the hearing. Mr. Salve and Mr. Vahanvati interpreted Mr. Avi’s objection as “back room deals” between the accused and the Union and raised strong objections. However, The Court dismissed them upholding victims’ right to raise their grievances through their Lawyer and assured all parties that a fair hearing will be given to all.

Thus came an end to the first day of the hearing and if it is anything to go by one can expect some fiery arguments and heated discussions in the Court in the future. As we moved out of the Court, I tagged behind Bhopal activists – Sathyu, Abdul Jabbar and Jayprakash who quickly exchanged notes and information. It seemed like I was waking up from a coma to remember some facts about Bhopal that are left forgotten and some that are deliberately played out.

Day 2

Posted on [April 30, 2011](#) by [editor](#)

Blog from Shalini Sharma, Phd Candidate at SOAS who is currently on fieldwork in India studying the media experience and strategies of Bhopal Movement.

19-04-2011,

DAY

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Having reached the Supreme Court in time and securing a place in the public gallery I finally got some time to take in the general ambience of the Court. I learnt that the building is shaped to project the images of scales of justice. With three wings- East, west and the Centre- the Supreme Court building stands tall with a 27.6 metre high dome. Centre is where the Chief Justice's Court is, it is the largest of the Courts and this is where the Bhopal Criminal Curative Petition is currently being heard before a Constitutional bench.

Everyone stands as the judges enter the Court. Before taking their seats Judges bow to the people in the Court who bow in return. No one sits before the judges do so. The bench opens the hearing by asking the attorney general G.E. Vahanvati to continue his argument from the first day.

He argues on the maintainability of the curative petition against the 1996 order of Supreme Court given by Chief Justice A.M. Ahmadi and S.B. Majumdar. Reasserting the point he made during the first hearing, he pointed out that because the charges were diluted by the 1996 order the Indian subsidiary and officials of Union Carbide were convicted under milder sentences (304 A of IPC) than they should have and that the crime was actually deliberate negligence leading to death (304 Part II of IPC).

The attorney general read out the order given by Supreme Court in the case of Hurra vs Hurra on 10 April 2002. Through this judgement Supreme Court evolved the concept of Curative Petition. He said that this order allowed review petitions that would cure "irremediable injustice" in the "rarest of rare case" where the principal of "natural justice" had been violated and the conflict of interest of judges who passed the order had not been revealed. He also said that the powers of the Court are not limited by Hurra vs Hurra and it can invoke its inherent powers to do complete justice.

The attorney general argued for expansion of scope of curative petitions and said that given the large number of deaths and injuries in Bhopal it was a rarest of rare case and the victims have been denied justice because of the September 1996 order. He then presented other orders of Supreme Court where petitions similar to the nature of curative petitions had been filed and judgements have been passed on them. He also stated that the accused were very much aware that conditions of disaster existed. He referred to the report given by Dr. Vardharajan Committee who identified following five factors as leading to the disaster:

- 1 high reactivity of MIC,
- 2 too large storage tanks,
3. choice of substandard materials of construction,
- 4 inadequate system of monitoring and control and
- 5 lack of proper instruments.

Justice Aftab Alam asked what exactly makes the Bhopal case different to be considered as 'rarest of rare' cases. To this Mr. Vahanvati replied that over 5000 people have lost their lives and this was because of cumulative acts of commission and omission i.e things done and those left undone. He questioned that when the company knew that MIC was so toxic why didn't it ensure safety. He said it is these decisions of the Company and its officials that made the disaster inevitable.

He also pointed that the 1996 order did not pass the test of criminal jurisprudence because the punishment, of two years that was finally pronounced on the accused, did not fit the crime.

Chief Justice Kapadia asked attorney general: Are you saying that the court set aside the order of 13 Sept 1996 and the charge of 304 Part II against the accused is restored. To this the attorney general said that all they are asking the Court is to remove the obstacle of 13 September 1996 which restricts the conviction to a lesser charge and let law take its course. He also said that the judgement of September 1996 was inconsistent and it left no option to the Chief Judicial Magistrate but to restrict himself to sentencing under the charge of death by negligence.

Mr Vivek Tankha appeared on behalf of Madhya Pradesh government. He said that the state government has had very little role to play. It seemed that the Court asked Mr. Tankha to limit his argument to legal issues as it was not going to pronounce anything on the merits of the case. Mr. Tankha argued that the work of criminal investigation was handled by the CBI. He also said that according to the state government at least 15000 people have died and not 5000. The permission of production of MIC that began on 5-Feb-1980 was given by Ministry of Chemicals and Fertilizers which is a central ministry. He said that several hundred thousand people have been permanently injured because of defects on all counts- design, structural and operational defects in the factory. He said that there were gas leaks even before 1984 and the disaster of December 84 was not a surprise for the management. Much before the 1984 leak, a worker Mohammed Ashraf Khan died succumbing to Phosgene leak on 24-Dec-1981, he said. One of the Judges then asked the Counsel of MP State to restrict the case to only the most important facts and not indulge into every detail especially the ones that have already been put before the Court. Mr. Tanka responded by saying that judicious conscious- one of the highest test that Supreme Court seeks to apply to itself in order to do complete justice- gets affected by certain facts which in turn impacts the life of thousands. Not only evidences on record show that the Carbide officials had knowledge regarding the highly toxic nature of MIC and appropriate safety measures but also the fact that they chose not to apply this knowledge to ensure proper running of the plant. This in fact created a situation where the catastrophe was inevitable.

At this point the attorney for the accused, Mr Harish Salve, pointed out that the government nominees to the board of UCIL were never charged. Mr Tankha further stated that the 1996 order converted the disaster into an accident as if it came like a surprise to the management while the fact is that the management had prior knowledge of the likelihood of the disaster.

Mr. Tankha mentioned that the government of Madhya Pradesh had filed a revision petition before the session court in Bhopal for enhancement of charges from 304 A to 304 Part II and a appeal is pending in the High Court of Madhya Pradesh for enhancement of sentences. He said that in the event the court decides that a retrial, under graver charges, was necessary the government of MP will set up a special court with a special judge that will conduct the case on day to day basis and a decision could be reached without delay in a certain specified time period. To ensure this the State will fully cooperate with the CBI.

The lawyer for BGPSS and BGPMUS, Sanjay Parikh began arguments on the locus standi of the organizations in order to explain their right to intervene as petitioners along with the CBI and Union of India. He pointed out that the review petition against September 1996 order was not filed by the CBI but by the BGPSS, BGIA & BGPMUS. Just then lunch break was announced. It was abrupt but nevertheless a happy development.

The canteen at Supreme Court offers quite subsidized food which made me remember the food in the canteen of the Indian Parliament that Rachna and I would often have in July last year while

Bhopalis were camping at Jantar Mantar opposing the 7th June verdict and two of us will make rounds of the Parliament to meet the MPs. An year later, we are in the Supreme Court comparing cost of a thali (plate full of meal) with that of one we had in the Parliament.

Some things appear almost predetermined for Bhopalis and among them the main one is that it is almost always in peak summers when Delhi is facing scorching heat that they are required to camp in close to one of the power corridors of the Capital to seek justice. This time is no different. I feel the hope, despair, struggle and determination visible on the faces of all the Bhopal activists present in the Court with an equally strange sense of trepidation. The others present in the Court, people like me, who have come to attend the hearing to either know more about the case or to witness a courtroom proceeding; to see how arguments are made in the court are often seen struggling to keep pace with the language of the law in order to understand the situation. It is in these shared moments of struggle that solidarity emerges. By now I know couple of journalists who are there to report on the case, young lawyers who come to the Court where nuances of CrPC are being debated in fine details, and the Law students for whom it is a glimpse into their future professional lives. We share notes in case any of us missed anything. We also share smiles and disappointment at the arguments made by different parties.

I said lunch came through as an abrupt development because so far the Court had only heard the petitioner and the interjections made by the defendant side. At that moment it seemed too much of a coincidence that lunch break came through just when a lawyer representing the victims stood up to make his case. Anyway, Mr Parikh picked up from where he had left and pointed out that the storage of MIC in large quantities was one of the main causes of the disaster and that all the accused had complete knowledge of this fact. He talked about the slack safety conditions and that it was made even more unsafe by shutting down the refrigeration unit. He asked for conviction of the accused under Section 304 Part II i.e culpable homicide and also called for day to day trials at a special court to add certainty to the delivery of justice within a given time period. He said that all fresh evidence required for the retrial can be presented by CBI and trial can be completed in six months.

The senior advocate Mr. U.U. Lalit who is representing five organisations- Bhopal Group for Information & Action (BGIA), Bhopal Gas Peedit Mahila Stationery Karmchari Sangh (BGPMSKS), Bhopal Gas Peedit Nirashrit Pension Bhogi Sangarsh Morcha (BGPNPMSM), Bhopal Gas Peedit Mahila Pursh Sangharsh Morcha (BGPMPMSM), Children Against Dow-Carbide (CADC) came next. He stated that applicant BGIA was also part of the review petition filed against the order dated Sept 1996 and has been assisting the prosecution for last 17 years. It is therefore essential that the case by them is also heard.

Mr. Lalit said that the order of 1996 made it an inevitable consequence that all accused were convicted under a lesser charge. He said that in the case of the accused corporation and officials had knowledge of imminently dangerous nature of the plant and the probability of causing death. Accordingly they needed to be held guilty of murder. He read out Section 300 of IPC that maintains that culpable homicide is murder when the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid. He argued that It is in the interest of justice that the 1996 order should be set aside and the lower courts should be asked to apply their minds and decide whether the charges should be 304 Part II or 302 (murder). He also pointed out to the Court that while the 1996 order diluted the charge, to 304 Part A, the evidence brought before the CJM pointed towards graver offence. He also said that in the trial court judgement of 7th June 2010, the CJM expresses his anguish at the restriction imposed by 1996 order which charged the accused under Section 304 A. The Bhopal CJM felt his hands were tied. Justice Kapadia asked Advocate Lalit if there was the

remedy that could be offered within the jurisdiction of the curative. He responded that it will take him a day to research and get back to the constitutional bench.

Most of us were surprised when Mr. Lalit made his argument. It was quite a different turn of events. While so far the debate was restricted to whether it should be Culpable homicide or deliberate negligence, this came through first as a shock only to settle down as a refreshing twist to the affair. Union of India had made a case for culpable homicide not amounting to murder by establishing knowledge. Lawyer of the accused defended by saying that his client had neither knowledge nor the power to act on the knowledge as it was a plant whose reins were controlled by American Multinational. In contrast to them, Mr. Lalit argued for charges of murder by indicating possibility of both knowledge and intention.

Now it was the turn of the defendant parties to argue their case. Mr. Salve, the senior advocate for Respondent 1, Keshub Mahindra, said that the curative petition must not be entertained in response to either public outcry or media outrage. He said that there are very stringent standards for curative petitions and there has to be evidence of “irremediable injustice” as a result of the September 1996 judgement. He said in the case of the accused UCIL and its officials the sentence under 304 A could have been altered by the Chief Judicial Magistrate by invoking Section 216 (altering of charges) of CrPc. He pointed out that the order of 1996 was legally not binding on the Chief Judicial Magistrate, Bhopal who convicted the officials and the company (7th June 2010) under Section 304. The CJM could have committed the case to the Sessions Court if he found the evidence to point towards graver sentence. Thus, the injustice if any could have been corrected. However it was already 4pm- time for the Court to break- so Mr. Salve stopped. He will continue his arguments tomorrow.

Outside the Court, sun was setting down and I saw Bhopalis engrossed in discussion with their lawyers. I too gathered my bags and books and started walking down the stairs. Through these same stairs I will be back tomorrow to the Chief Court when the sun will rise again.

Day 3

Posted on [April 30, 2011](#) by [editor](#)

Blog from Shalini Sharma, Phd Candidate at SOAS who is currently on fieldwork in India studying the media experience and strategies of Bhopal Movement.

20-04-2011,

DAY

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The Court room was completely packed. Today there were many more law students present. In neat black and white uniforms their eagerness to merge as one among the many lawyers in black robes is quite visible. Their faces reveal their struggle to grasp the vocabulary of law. I identify with them. The court room proceedings are always in English. However, the exchange is mostly limited to the Lawyers representing the different parties and the Court and is often inaudible to people attending from the gallery. When I shared this with a journalist standing next to me he replied with a grin, 'remember that we are present here but we do not exist'.

Mr. Salve, the Counsel of the accused, started his arguments challenging the maintainability of the curative petition filed by the government of India. He pointed out that the precedent on curative petition in *Hurra Vs Hurra* makes it very clear that for a curative petition to survive it had to be directed at a decision of the Supreme Court that had led to "irremediable injustice." That is to say the only way left to correct the wrong done is by means of a Curative. And this is not the situation in this case, he argued.

He pointed out that while the 1996 judgement of the Supreme Court suggested that charges against the accused corporation and the officials should be revised it did not forbid the lower court from using the Criminal Procedure Code (CrPC) for pressing higher charges. He said that the Chief Judicial Magistrate (CJM) of Bhopal was free to commit the case to a sessions court for enhancement of charges. However, it will not be proper to have the sessions court going through the evidence present before the CJM to decide on the altering of charges now, he said.

Mr. Salve said, both CBI and Government of MP had filed revision petitions for revision of charges and were thus not entitled to file curatives in this court. This is because one cannot seek same relief from two different courts. By filing the revision the government has very clearly illustrated that the injustice due to 1996 order of the Supreme Court is remediable, he said. He strongly argued for dismissing the Curative Petition stating that the grounds required for standing a Curative do not exist in this case as all remedies to secure justice are yet not exhausted.

He apprehended that if the order of 1996 is set aside then the only course left will be- a fresh committal of the case and a retrial. Defending his client, he said that the UCIL and its officials should not be charged even under Section 304 Part A because they had nothing to do with design and running of the factory as it was under the control of its American parent Company. He said that his client, Keshub Mahindra was only a non executive chairman of the Indian company and had no control over the decisions made. He said that the Bhopal factory was not only designed and made by the Americans but also run by them and so while Americans had all the knowledge about the technology his client had none.

The court asked him whether or not the officials had received information or carried out any inquiry on the death of one of their workers Ashraf Mohammed in December 1981. Mr. Salve said that the report of Ashraf Mohammed's death went directly to the Americans. At this point one of the judges remarked that this sounds as if Indians were puppets at the hands of Americans. The Chief Justice asked whether the board of Union Carbide India Limited had carried out any inquiry into the

accident in which Ashraf Mohammed died. Mr Salve said that the board must have carried out an inquiry and pointed out that the Ashraf Mohammed was exposed to Phosgene and not MIC and it was like any other accident that might occur because workers go lax on safety rules. He stressed that there had never been a MIC leak prior to the 1984 disaster.

Mr. Salve continued to say that Dr. Vardharjaan the Government scientist on the causes of the disaster has stated in his report that some of the units of the plant were required to be made of stainless steel, that some of the valves should have been different, but how will my client know of this. The court inquired whether prior to the disaster there was a plan to dismantle the plant and sell it off. Mr. Salve said that there was some correspondence between the Hong Kong office (Union Carbide Eastern) and the local management but it was very preliminary and not a subject that was under serious consideration.

He said that the Criminal Procedure Code under Section 323 states that after enquiry CJM is fully authorized to commit all pre trial material to the sessions court with a suggestion that the case had to be tried under grave offences. It could have happened routinely without the government having to wait for a NDTV run campaign to start second thinking on criminal charges against the accused. The Court said that usually the Supreme Court does not alter the charges framed by lower courts. Usually the Supreme Court just quashes the charges and sends it back. Then the Court asked Salve whether there were other instances where the Supreme Court had altered charges framed by lower courts. Mr Salve said he would try and find such judgements but he held that the Bhopal Magistrate was legally free to ignore the Supreme Court judgement of 1996. Courts also asked Mr Salve to cite instances where on the basis of materials on records the lower court has decided on its own, notwithstanding what the Supreme Court has said. One of the judges shared his reservations and that the possibility of him finding such instances is very bleak. He also said that he had been a High Court judge and he could not have thought of going against Supreme Court order then.

Mr. Salve then rhetorically asked the court whether it would have entertained a curative petition filed by the accused 15 years after the Supreme Court decision. He said that if a retrial was ordered by the court it would deny justice to the accused because they may not be able to present defence witnesses and will be violating the Article 21 that protects accused's Right to Life. He argued that the principal of "in debito justitiae" i.e justice as a matter of right followed in the curative petition applied to the accused as well. He said that the accused cannot be denied their legal right to cross examine the prosecution witnesses because now there is a higher charge against them. He said that this would be a violation of the accused's right to justice.

He said that supposing on the basis of a revision petition the Supreme Court acquits someone, a curative petition cannot be allowed to reverse the acquittal. If there is a faulty judgement and it needs correction in the opinion of this court then that correction would be incorporated on a judgement on a similar matter, but on a different case. Mr. Salve argued that while the grounds of review could be the grounds of a Curative the reverse isn't true. At which point, one of the judges pointed out that if this is the situation then there can never be a successful case for Curative.

Mr Salve stressed that the message that needs to go out is that we have a law and that law doesn't bend for anyone. The process of trial would remain the same whether there is one death or 5,000. At which point the Court asked him what message will go out if we do not respond appropriately to 5,000 deaths. Mr Salve maintained that Curative is not the solution if it is the enormity of the incidence that is causing dissatisfaction. The matter is to be decided on the basis of Law and not mere facts. He stressed that we should not allow a media trial here.

Differentiating "mistakes" from "errors" he said that there can be an error in the judgement because of different reasons which lead to misapplication of law but such errors could not be corrected by

the curative petition. The scope of the curative petition as laid down by Hurra Vs Hurra is limited to correcting “actus curae” i.e mistakes of the court whereby the process of the Court led to injustice. By this he referred to instances when some parties are not served notices or where a likelihood of bias/conflict of interest of judge presiding over the case is apprehended. None of these are demonstrated in this case; he said and called for the dismissal of the curative petition so that rule of law could prevail.

With this the day long hearing came to an end. Today only Mr. Salve presented his case in defence of the Respondent No. 1 Mr. Keshub Mahindra. There are six more accused. It is expected that they will be heard in turns; however, broadly the position is same for all- Dismiss the Curative Petition and protect the rights of the accused. The matter will be now heard next week on Tuesday, 26th April.

I leave the Court with mixed feelings, weighing the right of the accused vs those of the victims. On an impulse I turn back to look at the building which apparently is shaped to project the images of scales of justice.

Day 4

Posted on [April 30, 2011](#) by [editor](#)

Blog from Shalini Sharma, Phd Candidate at SOAS who is currently on fieldwork in India studying the media experience and strategies of Bhopal Movement.

26-04-2011,

DAY

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Today, to me it seemed that Mr. Salve essentially repeated the arguments he had made on the last hearing. He started from where he had left the Court last time- distinction between mistakes and errors. He said that, in accordance with the order given in Hurra vs Hurra, a curative petition is allowed only when the judgement is wrong on account of the acts of court. When an error is accepted as mistake of the court then it is court's duty to rectify it. This is derived from the maxim of actus curae which means that an act of the court shall prejudice no one. Hence in such a case Court says, "yes we did a mistake" and admits a curative petition. These mistakes arise from violation of natural justice and the bias of the judge/s. However, in this particular case none of the two is apparent hence the curative is not admissible.

Explaining this further he said that Union of India in its curative petition has not stated violation of natural justice as a ground for seeking curative. Also, it can't be said that bias of a judge is apparent.

Besides, the accused should not be made to suffer due to mistakes that the court has committed, he argued and cited certain judgements of Supreme Court. In no circumstances can one allow the violation of rights under Articles 14 and 21 that the Constitution gives to all its citizens including the accused. Article 14 ensures equality before law or equal protection of laws. Article 21 ensures that no person shall be deprived of his life or personal liberty except according to the procedure established by law.

He also pointed out that not hearing a potentially aggrieved party is not sufficient condition for admission of a curative petition. It has to be established that not hearing the aggrieved party has actually resulted in abuse or miscarriage of justice. Thus he argued that miscarriage of justice can be a consequence if a curative petition is allowed without hearing but is certainly not a ground for allowing curative petition at the first place.

He insisted that proper procedure of law should be followed in all circumstances. He raised following points:

- a) This court cannot bypass the process by admitting and acting upon the curative petition when the matter regarding the appropriate section of the Indian Penal Code (IPC) under which the accused should be charged is already placed in the Bhopal sessions court.
- b) It is important that Principle of finality of orders is held. He said curative petitions can be allowed only on a narrow scope because the principle of finality of orders is equally important.
- c) He said that by asking the court to direct that the charges against the accused be altered to 304 Part II, the prosecution (CBI) is asking the Supreme Court to look at the evidence that is currently pending on appeal and revision before the Bhopal courts and this is procedurally not correct.

Mr. Salve then took the judges through Paragraphs 9, 15, 33, 39, 47-50 of the Hurra Vs Hurra judgement. These mainly dealt with the question- can the jurisdiction of the Apex Court, under Article 32 of the Constitution, be invoked to challenge the validity of a final judgement/order passed by this Court after exhausting the remedy of review under Article 137 of the Constitution? He argued that it will create a bad precedence if the highest court of the land readily overruled the

view expressed by it in earlier cases.

He then said that curative petitions are not designed to revisit the judgements of the court and they are only meant to address mistakes in the way decision was made. He said that mistakes are different from saying that the judgement was wrong. For correction of errors in matters of criminal justice two issues are important- review and jurisdiction for review. If the court has made a mistake, the process of review/revision are open for remedying them. Curative petitions are remedies only for actus curae i.e when mistakes are made by the courts and the correction is done by recalling the order. He repeated that it is the violation of Principle of Natural justice and not gross miscarriage of justice which is a ground for a curative petition. Moreover, He pointed out, the judgement of 1996 has nowhere prohibited the lower court judge from sentencing under charges higher than 304 Part A and so no charge is to be made out against the accused. With this concluded his argument.

Since it was already 1:00 pm the court broke for lunch. In the canteen we were surprised to find that a world exclusive report by Times Now, one of the key English national television channels in India, showed Julian Assange claiming that Indians more than any other nationality in the world have accounts in Swiss banks thus debasing Indian rupee. Lunch time always passes quickly and so soon we found ourselves walking back to the Chief court. Mr. Jayprakash, of Bhopal Gas Peedit Sangharsh Sahyog Samiti (BGPSSS) was already there. He had been furious that so little time was given to the victims and that too only on the first day. Since then it had been mainly accused who had been given the time to argue their case. Mr. Salve, representing Keshub Mahindra, alone argued for 1.5 days. I ask JP about Abdul Jabbar (BGPMUS) who shared that he had not been keeping well however he is following the case from Bhopal and is updated on it regularly.

Now it was Senior Advocate Mr. C.U. Singh representing Respondent No. 3, Mr. Vijay Gokhale, who started his argument by saying that while he agreed with the arguments made by senior advocate Harish Salve, he only wanted to add a few more nuances to it. He pointed out that curative petition was for the purpose of correcting mistakes committed by the court for a very limited species of judicial error. In passing the judgement on Hurra Vs Hurra the court was cognizant that there were constitutional and statutory provisions for addressing grievances but what happens when that provision is exhausted. In such cases it is only when the court finds an error that shakes the judicial conscience that a curative petition be allowed.

He further argued that that it is only in a case where review under Rule 137 of the Supreme Court has been invoked by the party and the Supreme Court has disposed off the case only after that can a curative petition be allowed. When it can be shown that the court has committed an error and despite pointing out that error in the review petition the court does not address the grievance only on those cases curative petition would be allowed. However, he argued, CBI/Union of India is not a party which has invoked a review that was disposed off by the Court without hearing. This is a case where remedy in form of review always existed by the party decided not to use it for over 15 years after the 1996 order. The grounds for a curative requires error on the face of the record, he said. At this point a Judge remarked that this is a case of errors on the face of the record and something more.

He then stressed that a Curative can only be available to a party which has filed a review petition. He pointed out that grounds in which review petition is maintainable are different from the grounds in which curative petition is maintainable. He said review petitions were meant to address the content of judgements and correct errors while curative petitions addressed grievances caused due to the process by which judgement was reached and corrected "mistakes".

At this point Judges said that by saying so he is essentially contradicting the case made by Mr. Salve who had argued that there are grounds of review and there are certain other grounds for a curative while what Mr. Singh is saying is that the grounds of review and curative are same with a

precondition that a review should have been filed by a party. Following this discussion with judges, Mr. Singh agreed that the decision on Hurra Vs Hurra was illustrative and not exhaustive (ie. it can be applicable to much wider range of cases).

The judge then read out the paragraph from Hurra vs Hurra, which Mr. Singh had himself read out earlier, and argued that this can be read as meaning that only a non party can file a curative. However since a review that has been disposed off in circulation is a necessary precondition to a curative it implies that the stage of a curative can never be reached because a review as argued by Mr. Singh is filed by a party while a curative by a non party.

Mr. Singh did not address this argument by Court and instead pointed out that the CBI had not filed a review petition after the 1996 judgement therefore it was not entitled to file a curative petition. The judges pointed out while CBI had not filed the review petition the NGOs had. Mr. Singh then pointed out that the review petition of NGO's was heard and then dismissed so there was no violation of principles of natural justice. Then the Additional Solicitor General, Indira Jaisingh read the March 1997 order in which review petition filed by the NGO's was dismissed without hearing (by circulation). At this Mr. Singh pointed out that the NGO's were not the aggrieved parties. This was countered by Advocate Parekh stating that the NGO's represented the victims and therefore was the aggrieved parties.

Mr. Singh then came back to an earlier argument that following the 1996 order no applications were ever made for enhancement of charges before the CJM court by the CBI or the government of MP. He said that the appeals filed by the Government of MP and CBI against the order of 7th June 2010 clearly mention that the Supreme Court order of 1996 does not stop the lower courts from enhancing the charges. Hence through their own actions the CBI and government of MP have shown that there has been no irremediable injustice which is the necessary condition for the curative petition to be admitted.

The CJI at this point stated that the CBI may feel that the session court would also consider itself bound to this order just as the Bhopal CJM's court which felt itself bound by the '96 judgement (with regard to the appropriate sections of IPC under which accused could be charged). He wondered whether a clarification from the Supreme Court stating that the order of 1996 did not prohibit a lower court from framing a higher charge than 304 if appropriate under IPC. To this, the Senior Counsel responded by saying that the grounds of a curative are limited and not even applicable in this case. The CJI pointed out that the Court is conscious of its powers and how best to exercise that power. He said, that this court is not so powerless that even in cases of manifest injustice it will restrict itself only to the grounds of bias and natural justice. He stressed that when we have extraordinary situations staring at us we can't restrict ourselves only to these grounds and none other. He then pointed out that 1996 order was an unusual order. He said that this is an unusual case where an unusual judgement was given in unusual circumstances. He said that "This court does not pass such orders" and if the senior advocate has objections to Court's observation that he should show that the order was a usual one by giving examples of similar such orders. Or the counsel of accused must show that by issuing a clarification in form of a curative to Sessions Court so that it does not interpret the 1996 order as binding, the Apex court will be against the law. He then pointed out that one of NGO represented by Mr. Uday Lalit is now seeking enhancement of charges from 304 A (manslaughter) to 302 (murder). At this the Chief Justice clarified that Mr Lalit was merely seeking a clarification on the 1996 judgement so that the case could be transferred to lower courts leaving them to apply their own mind to decide on the charges depending on the merits of the case.

Today's proceedings jolted everyone including me whose illusions of Courts being passive receiver of Lawyers' arguments, courtesy mainstream movies, just came down in one go. I am not sure what the fate of this case eventually would be but certainly a courtroom is not always a place where you

are bowling alone rather one that sometimes throws the ball back at you saying- Sorry, not allowed!

Court – Day 5

Posted on [April 30, 2011](#) by [editor](#)

Blog from Shalini Sharma, Phd Candidate at SOAS who is currently on fieldwork in India studying the media experience and strategies of Bhopal Movement.

27-04-2011,

DAY

5

Today was a busy day inside the court. The discussion in last few days revolved around the scope of a curative, its ground and whether by admitting a curative the Apex court will commit a breach of law in anyway. While the prosecution had argued essentially in favour of admitting a curative making a case of palpable and irremediable injustice, the defendants have called for ‘No Charges’ and dismissal of curative as it is non maintainable . However yesterday the court argued with the defendant stating Bhopal case as unusual in which an unusual order was passed in unusual circumstances. This is where Siddharth Luthra, counsel for Kishore Kamdar, J. Mukund and S.P. Choudhary , picked up his argument from. He argued that the reason and circumstances in which the decision to file a curative has been taken seem to be politically motivated. He argued that,

1. Not only the basis of curative petition, as argued by prosecution, is incorrect: He explained that in the curative petition the petitioners have called for enhancement of charges to 304 Part II from the charge of 304A mentioned in the 1996 order. But, no such directions have been sought with regard to the enhancement of charges from IPC 336 & 337 to IPC 324 & 326 as the accused were originally charged with. This, he argued, shows that the petition was inconsistent as the element of “knowledge” was invoked for revision of charges from 304A to 304 Part II, but this element was not invoked for charges under assault and grievous assault.

2. But also, this basis is extraneous for the use of inherent powers of the court: He said that the manner in which curative petition originated placed it outside the scope of Hurra Vs Hurra. The decision to file the curative decision was a political decision taken by the Group of Ministers on Bhopal following the outcry in response to the 7th June 2010 verdict in the criminal case. He presented the minutes of Group of Ministers (GOM) and different dates on which CBI and the Government of MP filed revision and appeals in the Bhopal court. He said that the CBI’s petition follows the decision of GOM and demonstrates that CBI is not an independent body.

3. And the premise on which petitioner says that the order of 1996 is wrong – element of knowledge – is incorrect too: He said one of the key arguments of CBI is that the accused had knowledge that their acts would cause danger to life and health. However he argued that Section 304 A also assumes knowledge with regard to rash and negligence. At this point the Chief Justice reminded Advocate Luthra that the court was not going into the merits of the case.

4. And will violate Accused’s right to speedy trial if allowed to admit the curative: Presenting the history and time line of the case Advocate Luthra then said that any direction from the court at this late stage of the case would be unfair to the accused. He argued that by admitting the curative petition the court has violated the constitutional right of the accused under Article 21 of the constitution. The Chief Justice repeated his observation that the 1996 order was an unusual order and asked Mr. Luthra whether he could produce any other order of the Supreme Court that was similar to the 1996 order in order to say that it was a usual one.

Mr. Luthra argued that while they agree that the incident was an unfortunate one but this cannot be taken as the basis of invoking a curative. The accidents happen day in and day out, he said. However, if a curative is allowed it will cause prejudice to accused more than the other side. He

argued that a mere apprehension regarding knowledge of likelihood of act is not a ground for curative. To this, CJI replied, 'I think it is.' Mr. Luthra said, it is a callus basis that doesn't follow from law. Even if a curative has to be exercised it has to be through due process and not by affecting the right of the accused. It is then that the CJI repeated with emphasis that what they want from the Senior Counsel is to demonstrate with proper references to earlier Supreme Court cases that by issuing a clarification to the sessions court, regarding the 1996 order stating that the observations made by Supreme Court in that judgement are in no way bar to the lower court from framing a higher charge if merits of the case prove so, this Apex Court will either be going against curative petition or violating the procedure of law. He said that our comments on the basis that 1996 order was an unusual order passed by this court, if you are saying it was a usual one then guide us to proper references. Mr. Luthra said that all they are asking the court is to consider that the clarification will have consequences for the accused. With this he put his case to rest.

Then Advocate Amit Desai began his arguments on behalf of respondents. He said he had only two small points to make. The first thing that he addressed was the issue of whether a clarification could be issued by the Supreme Court with regard to 1996 order. He said that the question was whether the CJM had misunderstood the 96 order and if indeed he had this could be corrected by appeal and for that a curative petition was not required. He pointed out that not the CJM had the powers to commit it to sessions for adequate charges till the day of judgement but he was aware of his powers. By issuing a clarification to the lower court and treating a curative like an appeal this Court will in effect be bypassing the entire procedure causing prejudice to the accused setting a bad precedence. He said that even if the magistrate understood his powers in the lower court if this case now goes for trial then there will be ample power to alter, argue, or modify the charges in the journey regarded as the one leading to truth.

The CJI asked, if according to him the 1996 order was an unusual order. Advocate Desai replied that usually under CrPC (Criminal procedure code), it is only the trial courts that frame charges. However it is possible that the 1996 order suggested specific charges to avoid multiplicity of proceedings. He said that the CBI in its submissions before the Bhopal CJM's court had talked about criminal neglect "culpable negligence", "deliberate negligence" and had not made any statements that said that 304 part II was the appropriate charge in the opinion of the prosecution which it is now seeking.

It is then that the CJI said that the court is going by curative petition jurisdiction only and is aware of the limitation that it can't set out an appeal. He asked Mr. Desai if issuing a clarification is any way violating law. Mr. Desai disagreed with the idea of the court issuing a clarification and said that declarations explaining what the law was do not fall within the jurisdiction of curative petitions. He said a clarification intended by the court to clear a certain misunderstanding is tricky as it is in some sense law and in some sense only a perception that is being created. This is so because section under which charges were framed and that led to the final order are very clear. Admitting a curative on grounds other than the curative jurisdiction has the potential to be misunderstood by appellant court and that will set out a bad precedence. He therefore called the court to dismiss the curative.

Then Advocate C.U. Singh briefly got up to point out that prosecution has not made the argument that the 1996 order was an unusual one. He said that in the curative petition the CBI had mentioned no grievances against the framing of charge 304 A by the Supreme Court in 1996. He said, that because the CBI filed for 304 (II) but made arguments that hold for 304 (A) it is for this reason that the court in 1996 corrected the sections. Now CBI is citing "quashing" of charges as the error resulting into gross miscarriage of justice without explaining that it is due to their arguments that the court had quashed those charges at the first place. This cannot be considered as the mistake of the court. He further argued that the case of accused is that of no charges while 304 (A) admitted charges of deliberate negligence against them thus tying the hands of the accused. The prejudice

from 1996 order is towards accused and not towards the other side. With this brief but strong interjection he put his case to rest.

The courtroom turned quiet as the Senior Advocate Jethmalani stood up to argue his case. He explained that he was appearing for Prof. Upendar Baxi, who in his opinion was the greatest teacher of the law and was interested in Bhopal from day one and had produced two famous books on legal aspects of Bhopal. He said since Prof. Baxi is away he is presenting his case through another illustrious research scholar Mr. Ramachandra Swami. He said Professor Baxi is not so much worried about what charge accused should face, rather his concern is deeper. And that this deeper concerns results from the fact that the Government of India who had betrayed the victims by settling on a significantly less compensation amount is today arguing for a curative citing gross injustice. He explained that Government of India by legislation divested all victims of their legal right to sue and became trustee (by enacting Bhopal Act in 1985) of the survivors. After preliminary skirmish on behalf of all victims, litigation was conducted in India and the compensation was fixed at \$3.3 billion. The claims were finally settled at 1/7th the amount. He said that it is still not known who actually signed the settlement deal or how it was reached. At this point the court asked if Advocate Jethmalani's was going to make any submission on criminal matter and he responded he was coming to that point. Then the CJI pointed out that the civil curative was going to be listed immediately after the criminal curative hearings were over, subject to service (only after notices have been given and received by Union Carbide Corporation –USA and Dow Chemical Company-USA, who are respondents in the case) to all parties. Advocate Geothermal then said that in the case of the disaster the Union of India was more guilty than anybody else and Union Of India is liable to pay compensation because they are guilty of selling out in the settlement. He said that once a judgement has gone through review or the procedure of review was not invoked, the judgement attains finality. The court must only recall a judgement in which the affected parties were not heard and principles of natural justice were not followed and/or where there was evidence of bias of the judge. He said that 1996 judgement attained finality when the review filed by the Bhopal survivors organizations was dismissed in 1997 and no appeal was filed against the review in the thirty day period. He said that if the charges are altered there has to be a fresh trial and it is quiet possible that neither 304 Part II nor 304 A can be proved in the retrial.

He said that the government of India has the powers and duties of supervision to prevent such industrial disasters and that victim can argue that the Government of India is guilty of criminal breach of trust. He said that the victims are not bothered whether the accused go to jail for 2 years or 5 years, they want more compensation. He said that what will come of bring an 88 year old accused (Warren Anderson) to trial?

Mr. Jethmalani said that the 1996 judgement was not assailable. He said that the Sections dealing with culpable homicide require establishment of intent and no body will agree that a non executive chairman of a company intended to cause the disaster. He said that CBI would be lucky if they can sustain a charge of 304 A. He said that this is a case where judicial conscience has to be sharp. And so what should shock your conscience is not 1996 order but the process leading to the 1989 settlement. He said when there is fraud and corruption involved element of knowledge cannot be invoked. Union of India has filed a case in capacity of representing victims and being an aggrieved party however this, he said, is only a theory and not a reality.

At this point the court broke for lunch. Before leaving CJI announced that today was the last day of hearing for criminal curative and will close to any further argument at 4:15pm. This unsettled the prosecution side especially the victim groups who have only spoken once through their Lawyers Sanjay Parikh and Uday Lalit, on the second day, and that too for not more than 15 minutes each. Mr. Jethmalani was to continue after the lunch. Attorney General told the court that he needs at least an hour to finish his argument. Victims lawyers intervened and asked the court for more time. Court

reiterated that it will only hear the matter till 4:15pm. This effectively left no scope for the victim groups to present their case.

After the Lunch, Mr Jethmalani resumed his argument. He said that there is a need for an inquiry into how the settlement was arrived at. Any enhanced compensation should be given by the Government of India and all the related bureaucrats/officials of that time. He referred to House of Lords in England to say that finality of judgement is important to establish the practice of multiplicity of courts. Mr. Jethmalani , repeated that even though he is sitting in the defendant side he is not helping the accused but the victims. He argued that if for 24 years you had been telling a person that you not guilty of culpable homicide but now you want him to be charged under the same this situation calls for a de nova trial. This he said is the biggest opportunity for the victims. He further added that no part of evidence could be used except for the purpose of contradiction. I was still considering the argument made by Mr Jethmalani in my head when a Bhopal activist remarked, 'if he is not helping the accused then why is he saying that the evidence should go. Evidence has to be judged on the substance in it and not merely on the basis of being on record. What is on record is just a material.'

He argued that a curative be dismissed because:

- A) It is not the case of prosecution that they have discovered any fresh evidences
- B) An error on the face of the record has not been found
- C) The only grounds made by the prosecution don't give reasons sufficient to allow a curative.

He concluded his case by saying that on one hand wrongness of a judgement is not a ground for curative and on the other hand a shocking injustice is an additional requirement and not a requirement by itself.

After him, Attorney General Mr. Ghulam Vahanvati argued strongly for the maintenance of the curative petitions and responded to some of the arguments presented by Advocate Salve. He said that Advocate Salve argument against the curative petition originated in misreading of Hurra Vs Hurra judgement Hurra vs Hurra intended to raise the Court's sensibility of justice to new levels. He said that the Supreme Court has a constitutional mandate to do justice under section 141 & 142 of the constitution and these could not be whittled down. He stressed that "situations" may arise in the rarest of rare cases where the duty to do justice overrides the principal of finality. He said that declining to reconsider the 1996 judgement would cause oppressive injustice. He said that conscience comes from values and not mere law. At this point the Court asked whether the injustice caused by the 1996 order was irremediable. He said that 1996 order is quiet unambiguous with regard to the charge against the accused and the lower courts have fully followed the order because no court in the country can go contrary to the Supreme Court directions. He said that the law must change its dynamics in relation to society. When something seems incorrect, disturbing and needs to be put right, that is is the test for judicial conscience. No act of court or irregularity can come in way of justice. This requires us to come to a balance between the principle of finality of an order and the principle of opening doors for justice. He then made some references to argue that nothing in the rules should be seen to limit the powers of the court whose only mandate is to do complete justice.

Then Additional Solicitor General, Harin P. Raval read out several case laws to argue that the conviction under 304 A could stay while retrial was ordered for graver charges. He argued for 7th June 2010 conviction to stand.

It was 4:30 pm by the time Mr. Raval concluded. Possibly, The need to present their side and the desperation to not go unheard by the Court, made Advocate Parikh representing BGPSS, BGMPUS

(survivor organizations) stand up. He said that the element of knowledge that lawyer of the accused are denying was not constituted in a day. Rather it always existed. This I understand as meaning that the accused always knew of a possibility of a disaster even if they might not have known that it would happen on that particular day. It is not a matter of act on that day but instead of an act resulting into that fateful night. He said that a mere clarification of the 1996 order by the Supreme Court will not be a sufficient remedy and that judgement has to be set aside and directions need to be issued for expedited trial of the accused so that matter can be disposed off in 6 months.

Following Mr. Parikh, at Court's behest, Advocate Avi Singh represent BGIA, BGPMSKS, BGPMPMSM, BGPNPBSM, CADC (five survivor org) pointed out that as per the decision on Zahira Sheikh victims should not be made to suffer mistakes caused by the prosecution and called for a delicate balancing between rights of the accused and the rights of the victims. He said that court needed to ask two important questions

First, If this is a rarest of rare case that shocks the judicial conscience on the facts and circumstances of the judgements and its effects?

He said that we accept that CBI made a mistake in not filing for a review in time. This, prosecution had itself admitted to the court on the very first day. Having said this, he asked, Should the remedy be fashioned to remedy the manifest injustice and error of the 1996 impugned judgement only, or also the manifest injustice suffered by the victims due to the 1996 impugned judgement? Isn't it court's duty to secure justice for victims when even the prosecution failed in seeking the same for them?

He pointed out that the court is not sitting on an academic exercise for which merely issuing a clarification would be enough. Rather, court was within its powers under Article 42 of the constitution to give a decision in this case and he sought a decision in which the 1996 judgement is set aside and Bhopal sessions court is directed to frame charge without constraint, on the basis of the evidence and the current conviction (under 304 A) be allowed to stand.

With this the final hearing on the criminal curative petition came to an end. The court instructed any rejoinder or additional submissions to be submitted within a week. The Court is on summer vacation till July. The matter on civil curative will be heard after the summer vacations.

Outside, I could see Lawyers discussing the likely decision of the court, which is likely to come after the summer vacations, some were busy in heated debate while others appeared calm possibly weighed down by apprehensions. It is not an easy case they say. But didn't Mr Jethmalani argued in the court that hard cases lead to bad judgements Still there were others who seemed a bit more upbeat and were discussing the proceedings in a lighter vein. Needless to say, that all of us left the court but what happened inside the court is still lingering in our minds.