

BLOGS

Case Brief: Surendra Koli v. State of Uttar Pradesh & Anr.

Julie Nigam · 24 Oct 2026

The case of Surendra Koli v. State of Uttar Pradesh & Anr. popularly known as Nithari Killing Case.

Citation: 2025 INSC 1308

Case: Curative Petition (Crl.) of 2025 @ Diary No. 49297 of 2025

Date of judgment: 11 November 2025

Court: Supreme Court of India

Bench: Justices Bhushan R. Gavai, Surya Kant and Vikram Nath

Relevant earlier decision: [Surendra Koli v. State of U.P., \(2011\) 4 SCC 80](#)

Have you ever wondered whether the Supreme Court can acquit a person sentenced to death. Not in a second appeal, but through the rare remedy of a curative petition? [Surendra Koli v. State of Uttar Pradesh](#) answers this question in an unusual setting. The case shows that even the principle of finality cannot protect a conviction when the Court's own decisions create an irreconcilable contradiction on the same evidence.

Several children and young women went missing from Nithari, Noida, between 2005 and 2006. Human remains were later found near House D-5, where Surendra Koli worked as a domestic help. He was then convicted in thirteen cases. The Supreme Court upheld his conviction and death sentence in the Rimpa Haldar case in 2011, but the Allahabad High Court acquitted him in twelve other cases in 2023. The Supreme Court upheld those acquittals in July 2025.

Since the cases relied on substantially the same confession and recoveries, Koli remained convicted in one case on evidence rejected in the others. The Court addressed this contradiction through its exceptional curative jurisdiction.

Facts of the Case

1. Residents of Nithari reported the disappearance of children and young women from 2005 onwards.
2. In December 2006, skulls, bones, clothes and footwear were found in an open strip and a drain near House D-5, Sector 31, Noida.
3. Koli was arrested on 29 December 2006. The investigation was later transferred to the Central Bureau of Investigation (CBI), and separate FIRs were registered for different missing persons.
4. The prosecution relied mainly on Koli's alleged confession recorded under [Section 164](#) CrPC and recoveries said to have been made on the basis of his disclosure under [Section 27](#) of the Evidence Act.
5. The present case concerned Rimpa Haldar, a minor who had gone missing in 2005.

Procedural History

The Sessions Court convicted Koli in 2009 under Sections [302](#), [364](#), [376](#) of the Indian Penal Code, 1860 (IPC), and sentenced him to death. The Allahabad High Court confirmed the conviction and sentence in September 2009. The Supreme Court dismissed his criminal appeal on 15 February 2011 and treated the case as one of the “**rarest of rare**” cases.

Koli's review petition was dismissed in 2014. In January 2015, the Allahabad High Court commuted his death sentence to life imprisonment because of the delay in deciding his mercy petition. The conviction itself continued.

Meanwhile, Koli was tried in twelve other Nithari cases. The Allahabad High Court acquitted him in all twelve on 16 October 2023. It found that the confession was not voluntary, the recoveries did not satisfy [Section 27](#) and the investigation had serious defects. On 30 July 2025, the Supreme Court dismissed the State's appeals and allowed those acquittals to stand.

Koli then filed a curative petition against the 2011 conviction in the Rimpa Haldar case.

Issues Before the Court

1. Can two final outcomes of the Supreme Court stand when they are based on the same confession and the same class of recovery evidence?
2. Was the [Section 164](#) CrPC confession voluntary and legally reliable?

3. Did the alleged recoveries satisfy the requirements of [Section 27](#) of the Evidence Act?
4. Could the Supreme Court exercise curative jurisdiction after the conviction, appeal and review had already ended?
5. Did allowing the conviction to remain violate Articles [14](#) and [21](#) of the Constitution?

Arguments of the Parties

Koli argued that his confession was recorded after about sixty days of police custody without meaningful private legal assistance, and that the Magistrate had not properly verified voluntariness. He said the recoveries were from an open area already known to police and the public, with no reliable disclosure statement.

The State argued that a curative petition is not a second appeal. Since the conviction had been affirmed in appeal and review, finality should prevail.

Judgment of the Supreme Court

The Supreme Court allowed the curative petition and recalled its 2011 judgment and the 2014 review order. It set aside the trial court and High Court judgments and acquitted Koli of the charges under Sections [302](#), [364](#), [376](#) of IPC. It directed his release unless he was required in another case.

1. Curative jurisdiction is narrow but meaningful

The Court relied on the Constitution Bench decision in [Rupa Ashok Hurra v. Ashok Hurra](#), (2002) 4 SCC 388. A curative petition is not a regular appeal or a second review. It is only available in exceptional circumstances where there has been a serious miscarriage of justice or fundamental defect in the judicial process.

The Court held that irreconcilably inconsistent final results derived from the identical evidentiary foundation may warrant curative relief. Finality is important, but it cannot protect a conviction when the Court's own subsequent decisions have rejected the same evidence in indistinguishable cases. In such a case there is a need for intervention *ex debito justitiae* i.e as a matter of justice owed by the Court.

2. The confession was legally flawed

The Court found serious defects in the confession. Koli had remained in continuous police custody for around sixty days before the statement was recorded. He did not receive meaningful and private legal assistance. The Investigating Officer's presence and proximity affected the atmosphere in which the statement was made.

The confession itself contained references to tutoring and earlier coercion. The Magistrate had not recorded the clear and unqualified satisfaction about voluntariness required by [Section 164](#) CrPC. These circumstances attracted the rule under [Section 24](#) of the Evidence Act, which excludes a confession caused by inducement, threat or promise.

The Court held that the same confession could not be voluntary in one prosecution and tainted in the other twelve on the same facts.

3. The recoveries did not satisfy Section 27

[Section 27](#) permits proof only of that part of information given by an accused which distinctly relates to a fact discovered because of that information. A mere seizure from a place already known to the police is not a discovery under the section.

Here, no reliable contemporary disclosure statement was proved. The remand papers and seizure documents contained important contradictions, including whether there had been a joint disclosure. The remains were found in an open strip and a public drain. Police and members of the public already knew about the location, and excavation had started before Koli allegedly arrived.

The recoveries were therefore seizures from a known place, not discoveries caused by Koli's information, and could not support the conviction under [Section 27](#).

4. Forensic evidence did not prove authorship

DNA helped identify some remains and connect them with families, but did not prove that Koli committed the murders. Searches of House D-5 did not produce bloodstains or transfer evidence consistent with the prosecution story, and the knife and axe were not linked to blood, tissue or particular injuries. Identifying a victim is different from proving the offender's involvement. The circumstantial chain remained incomplete.

Ratio Decidendi

The ratio of the decision is that curative jurisdiction may be exercised where the Supreme Court's own final decisions produce irreconcilable outcomes on an identical evidentiary foundation and allowing the inconsistency to continue would cause a manifest miscarriage of justice.

The judgment also reinforces two evidentiary principles:

- A confession under [Section 164](#) CrPC must be shown to be genuinely voluntary. Prolonged police custody, lack of meaningful legal assistance, police influence and failure of the Magistrate to record proper satisfaction can make it inadmissible.
- [Section 27](#) of the Evidence Act applies only when the accused's information leads to a genuine discovery. Recovery from an open or already-known place, without a proved disclosure statement, is not enough.

Importance for CLAT PG Students

This case connects Articles [14](#) and [21](#) with criminal procedure, evidence and curative petitions. The Court did not intervene merely because it preferred another view of the evidence. It intervened because the same evidence had been rejected in twelve connected cases, creating an arbitrary difference between similarly placed prosecutions. The case also shows that public outrage and the seriousness of a crime cannot replace proof beyond reasonable doubt.

Conclusion

[Surendra Koli v. State of Uttar Pradesh](#) is a significant reminder that criminal courts must decide cases through reliable evidence and fair procedure, not through the emotional force of a terrible crime. The Supreme Court preserved the general rule of finality but recognised that finality cannot make an obvious contradiction permanent.

It is important to note that the same evidentiary foundation cannot support acquittals in twelve cases and a conviction in the thirteenth. The Court invoked its curative jurisdiction to maintain consistency, safeguard [Articles 14](#) and [21](#) and reiterate that guilt must be established beyond reasonable doubt.