

# PROSECUTE INDIAN ACCUSED

## HISTORY

After the gas leaked on December 3, 1984, the Station House Officer of the local police station, Bhopal registered a first information report, on the basis of which a case was subsequently registered against 12 accused. Under s. 304 A, Penal Code 1860, for causing death by negligence.

The accused were:

1. **Warren Anderson, Chairman UCC**
2. **Keshub Mahindra, Chairman UCIL**
3. **V.P. Gokhale, Managing Director, UCIL**
4. **Kishore Kamdar, Vice-President and in-charge of AP Division of UCIL.**
5. **J. Mukund, Works Manager of the Bhopal Plant.**
6. **R.B. Roy Shoudhary, Asst. Works Manager , AP Division, UCIL at Bhoapl.**
7. **S.P.Shoudary, Production Manager of the Bhopal Plant**
8. **K.V.Shetty, Plant Superintendent of the Bhopal Plant.**
9. **S.I.Qureshi, Production Asst. at the Bhopal Plant.**
10. **Union Carbide Corporation (UCC).**
11. **Union Carbide (Eastern) Inc., Hong Kong (UCE).**
12. **Union Carbide India Ltd. (UCIL)**

On registration of the crime the accused based in Bhopal, numbers five through nine, were arrested. Gokhale and Mahindra were arrested on December 7<sup>th</sup>, as was Warren Anderson who was released on bail the same day. On the December 6, 1984 the case was handed over to the Central Bureau of Investigation (CBI), but the CBI did not file a charge sheet until December 1987.

In 1989 in the settlement between Union Carbide and the Government of India quashed all criminal charges, but then restored them under review in 1991. At that point the case was split between the Indian accused who were available for trial, and the absconders, UCC, UCE and Anderson.

## JUSTICE DELAYED

Despite the ample evidence showing defects in design, acts of omission and commission before , during and after the disaster, the courts took the view in 1996 that the disaster that had killed thousands and injured hundreds of thousands, was “an act of god for which no human being was responsible.”



J. Mukhund



Kishore Kamdar



Keshub Mahindra

## **LEGAL TIMELINE**

### **December 3, 1984:**

Gas leaks from the Union Carbide Factory in Bhopal India. In three days about 8,000 people die.

**December 7, 1984** - Prime accused Warren Anderson amongst nine others arrested in India – Anderson is released on bail of 25,000 rupees, upon a promise to return.

**December 1, 1987** - Central Bureau of Investigation (CBI) files charge sheet against Warren Anderson, chairman of UCC, and eleven other accused

**October 3, 1991** - Supreme Court of India revoked criminal immunity granted to UCC and all other accused in the Bhopal gas leak disaster case in response to review and writ petitions filed by BGMUS, BGPSSS and others.

**November 11, 1991** - Criminal cases against all the accused revived in the CJM's Court at Bhopal.

### **September 13, 1996:**

In response to petitions by the Indian accused Keshub Mahindra and others, the Supreme Court brings down the charges from 304-2, punishable by 10 years of imprisonment, to 304-a, punishable by only two years or fines. 304-a is "death due to negligence".

### **January 29, 1998:**

Accused Assistant Works manager R.B. Roy Choudhury dies.

### **February 6, 2006:**

Keshub Mahindra and other Indian accused presented their statements before the Chief Judicial Magistrate in which they denied any role or knowledge of the disaster, after deposition of 178 witnesses for the

The charges were reduced from "culpable homicide" to "death due to negligence." However, beyond the reduction of charges the prosecution of the accused has been hampered by inexcusably slow judicial procedures, which have allowed the accused to live freely while those in Bhopal still suffer indignity and wait for justice. Meanwhile the case has become more complex and an additional burden as potential evidence is affected by time and changes, for example at the factory site. It was only in February of 2006 that the surviving Indian accused finally presented their statements to the Bhopal court. In the interim, one accused, R.B. Roy Choudhury, has already passed away.

## **CBI NEGLIGENCE**

The pace of the criminal case has been slow because of insufficient attention to the case by the CBI, and because CBI lawyers are thoroughly unprepared to deal with the scientific and technical issues of the case. The CBI has neglected to push forward the prosecution of the Indian accused, just as it has let Warren Anderson, UCC and UCE abscond. In 1992, Union Carbide Eastern Hong Kong, which was a wholly owned subsidiary of Union Carbide Corporation and registered in Delaware, United States de-registered itself and reappeared as two new companies: Union Carbide Asia, and Union Carbide Asia Pacific. Instead of the "following the assets" the CBI has given up on prosecution of UCE, saying they cannot prosecute a company that has de-registered itself. We are asking for a special prosecution cell because the CBI has allowed UCC to go, rather than following an effective course of action. It has been almost two years since the United States rejected the extradition request and the government of India has still not sent a revised request. Meanwhile, the Bhopal survivors still wait for criminal justice for the Indian accused.

**WE DEMAND that the central government of India set up a Special Prosecution Cell in the Central Investigation Bureau with representatives from the Ministry of External Affairs for speedy prosecution of Union Carbide India, Ltd, now Eveready Industries India Limited, and its culpable executives Keshub Mahindra, Vijay Gokhale, Kishore Kamdar, J. Mukund, and S.P. Choudhury. To strengthen the arguments for conviction of the defendants, help and participation must be sought from non-government scientists, doctors, and other professionals, as well as from representatives of survivor organizations.**

**This padyatra is our march for justice and dignity until our last breath. 21 years is enough!**

*Bhopal Gas Peedit Mahila Stationery Karmachari Sangh +91 755 93031 32959 \_ Bhopal Gas Peedit Mahila Purush*

*Sangharsh Morcha +91 755 93290 26319 \_ Bhopal Group for Information and Action +91 755 98261 67369*

*Bhopal ki Aawaaz +91 755 98261 82226 \_ [www.bhopal.net/march](http://www.bhopal.net/march)*