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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3832 OF 2015

Mr. Intekhab-E-Aalum Shaikh S/o.

Habeebullah Shaikh

..Petitioner.

V/s.

State of Maharashtra

..Respondent.

Mr. Rahul Singh for the petitioner.

Mr. K.V. Saste, A.P.P. For the State.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 18th NOVEMBER, 2015

P.C. :-

Heard learned counsel for the petitioner and the learned
A.P.P. For the State.

2. This petition is filed by the petitioner for seeking the writ of habeas corpus with the direction to Respondent nos. 2 to 8, to produce his daughter Ms. Fatima Shaikh before this Court. The petitioner and respondent no.2 were husband and wife. The petitioner filed Petition No. A/1990/2004 before the Family Court at Bandra for divorce. In this petition, an application was also made at Exh. 13 for custody of the minor daughter Ms. Fatima Shaikh. Thereafter, the parties filed consent terms in this petition for interim access of the said minor daughter. The petitioner thereafter by filing pursis withdrew the petition on the ground that

he has given talaq to respondent no.2 on 24th August, 2010. The petitioner thereafter filed Regular Darkhast for execution of the interim access order. The same was dismissed. The petitioner thereafter also filed Misc. Application No. 117 of 2014 for contempt action against respondent no.2 . The said application is also dismissed.

3. The order of interim access by consent was merged in the final order of withdrawal of the petition. Therefore, no fault can be found in the order dismissing the petitioners darkhast as well as contempt proceedings. It is not in dispute that the daughter Ms. Fatima is in the custody of respondent no. 2. The petitioner has alternative remedy to file the proceedings for the custody and/or access of the said daughter before the appropriate forum.

4. In view of the above circumstances, we are not inclined to entertain the petition. Same is dismissed accordingly.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)