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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4059 OF 2015

Sou. Usha Sunil Mahale-Patil ..Petitioner.
V/s.
The State of Maharashtra and Ors. ..Respondents

Mr. A.B. Tajane i/by Mr. P.D. Pise for the petitioner.
Mrs. M.M. Deshmukh, A.P.P. For the State.
Mr. Bhavesh Paramr for respondent no. 4.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.
DATED : 21st DECEMBER,2015**

P.C. :-

Heard the learned counsel for the petitioner, respondent no.
4 and learned A.P.P. For the State.

2. The Petition is filed for the following reliefs :

“(b) The Hon'ble High Court, Bombay, be pleased to issue writ of Habeas Corpus and any other appropriate writ, order or direction, thereby directing respondent no. 1 to3 to immediately produce the petitioner's son Harsh who is in illegally custody of respondent no. 4 , before this Hon'ble High Court, Bombay.

(c) The Hon'ble High Court, Bombay, be pleased to issue writ of Mandamus or writ of Certiorari and any other appropriate writ, order or direction, thereby directing respondents to grant the permanent custody of the petitioners minor son Harsh to the petitioner with immediate effect.

(d) The Hon'ble High Court, Bombay be pleased to issue writ of Habeas Corpus and any other appropriate

writ, order or direction, thereby directing respondent no.1 to 3 to take appropriate legal action against the respondent no. 4 for his illegal act of detaining the minor son Harsh and not giving the custody to the petitioner.”

3. Petitioner and respondent no. 4 are husband and wife. During the wedlock, they have given birth to a son namely Harsh who is presently 13 years old. Respondent no.4 husband filed a petition for divorce which is pending in the Family Court. The Petitioner alleges that respondent no. 4 has taken forcible custody of her son Harsh. In pursuance of the notice, respondent no. 4 is present along with son Harsh. We have interacted with him. He states that he is staying with respondent no. 4 and not willing to go the petitioner and will continue to stay with his father only.

4. In the above circumstances, we are not inclined to entertain the petition especially when the petitioner has an alternate remedy to approach the Family Court for custody of the child. Petition is dismissed.

(V.L.ACHLIYA,J.)

(RANJIT MORE,J.)