

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 2047 OF 2021

Mithesh Suresh Parmar	...Petitioner
Versus	
The State of Maharashtra & ors.	...Respondents

Mr. Ganesh Bhujbal, for the Petitioner.
Smt. A. S. Pai, PP for the State/Respondent no.1.
Ms. Racheeta R. Dhuru, for Respondent nos.5 to 7.

**CORAM: S. S. SHINDE &
N. J. JAMADAR, JJ**
DATED: 28th SEPTEMBER, 2021

PC:-

1. Heard Mr. Bhujbal, the learned Counsel for the petitioner and Ms. Dhuru, the learned Counsel for respondent nos.5 to 7.
2. This petition for *habeas corpus* is instituted to produce respondent no.7, with whom the petitioner claimed to have solemnized marriage.
3. When the petition was listed before this Court, on the previous occasion, the learned Counsel for respondent nos.5 to 7 had pointed out to the Court that the petitioner had instituted a petition for identical relief before the High Court of Judicature for Rajasthan at Jodhpur. A copy of the order passed by a Division Bench of Rajasthan High Court on 19th May,2021 was

tendered for the perusal of the Court.

4. The aforesaid order indicates that the petitioner had preferred a petition for *habeas corpus*, being D.B. Habeas Corpus Petition No.133/2021, and on 19th May, 2021, the said petition came to be dismissed as withdrawn.

5. In pursuance of the aforesaid submission, we had directed the petitioner to place on record copy of Habeas Corpus Petition No.133/2021 filed before the High Court of Judicature for Rajasthan at Jodhpur with annexures thereto.

6. Mr. Bhujbal, the learned Counsel for the petitioner, now seeks leave to withdraw the petition with liberty to challenge the order passed by the learned Magistrate under Section 97 of the Code of Criminal Procedure, 1973, ("the Code").

7. In view of the aforesaid submission, the petition stands dismissed as withdrawn with liberty to avail an appropriate remedy against the order passed by the learned Magistrate under Section 97 of the Code.

8. Ms. Dhuru, the learned Counsel for respondent nos.5 to 7, presses for costs as the petitioner had already invoked the writ jurisdiction of the Rajasthan High Court.

9. Since it is the claim of the petitioner that he has solemnized marriage with respondent no.1, we do not deem it

appropriate to saddle the petitioner with costs.

10. Subject to the aforesaid liberty, the petition stands dismissed.

[N. J. JAMADAR, J.]

[S. S. SHINDE, J.]