

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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WRIT PETITION NO.954 OF 2020

Shri. Jitin Kamal Kanuga

..Petitioner

Versus

The State of Maharashtra & Ors.

..Respondents

Mr. Rohan Mahadik a/w Pramod Londhe & Nilesh Lonkar i/by The
Juris Partners, for the Petitioner.

Mr. V. B. Konde-Deshmukh, APP for the Respondent/State.

CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ.

DATE : 6th JANUARY, 2023

PC.

1. Counsel for the petitioner for want of instructions seeks withdrawal of appearance.
2. As such, appearance of Rohan Mahadik i/by The Juris Partners for the petitioner stands discharged.
3. The petition pertains to the issuance of writ of habeas corpus, as it is claimed by the petitioner that the respondent No.2 i.e. wife of the petitioner has illegally detained respondent Nos.3 and 4 i.e. daughters born out of wedlock with petitioner of respondent No.2 and to restore custody of said children i.e. respondent Nos.3 and 4 to the petitioner. The petitioner has also sought other ancillary reliefs in the matter.
4. From the record, it is reflected that the respondent

No.2/wife has initiated DV Act proceedings being No.86 of 2015. Apart from above, respondent/wife has initiated divorce proceedings under the Special Marriage Act being Marriage Petition No.107 of 2019.

5. Similarly, the petitioner has initiated Misc. Application No.87 of 2019 for questioning the award of maintenance.

6. As such, it can be inferred that out of matrimonial discord the parties are litigating before the various judicial forum.

7. In the aforesaid background, it cannot be said that the petitioner is entitled for relief of issuance of writ of habeas corpus for production of children i.e. respondent Nos.3 and 4 who are in the custody of respondent No.2. i.e. mother i.e. natural guardian. The petitioner, in our opinion, has appropriate alternate remedy of seeking custody of respondent Nos.3 and 4 i.e. children from respondent No.2 in custody proceedings to be dealt with by the competent judicial forum.

8. In the aforesaid background, the petition stands disposed of with liberty to the petitioner to take recourse to such proceedings as are advisable and permissible in law as regards grievance in the matter of custody of respondent Nos.3 and 4.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]