

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

**CRIMINAL PUBLIC INTEREST LITIGATION NO.55 OF 2014**

**Shaikh Mohd. Aslam**

**..... Petitioner**

**V/s**

**The State of Maharashtra & Ors.**

**..... Respondents**

Mr. M.A. Vaid i/b Mr. K.R. Iyer for the Petitioner.

Dr. F.R. Shaikh, APP for Respondent No.1/State.

Mr. Jamshed Ansari for Respondent Nos.7 to 13.

Mr. Rakesh Sawant for Respondent No.14.

**CORAM : A.S. OKA &**

**A.A. SAYED, JJ.**

**DATED : 07 JUNE 2016**

**ORDER:**

1     The Respondents have raised an objection to the locus of the Petitioner to file the present PIL by contending that the Petitioner has acted as a broker between the Respondent Nos.7 to 13 and the Respondent No.14. The particulars of amount paid to the Petitioner have been set out in the Affidavit of Respondent No.14 Shri Hifzur Rahman Ansari. We have perused the prayers made in the Petition. The substantive prayers are prayer clauses (A) and (B) which read thus:

*“(A) That this Hon'ble Court be pleased to issue Writ Order or direction in the nature of Mandamus directing the Respondent No.4 an independent agency to investigate the above offences under section 156(3) of Cr.P.C. against the Respondent Nos.2,3, 7 to 14;*

*(B) In alternative this Hon'ble Court be pleased to issue Writ Order or direction in the nature of Mandamus directing the Respondent No.5 to investigate the above offences under section 156(3) of Cr.P.C. against the Respondent Nos.2,3, 7 to 14;”*

2 The power under sub-section (3) of section 156 of the Code of Criminal Procedure, 1973 (for short “the said Code”) is of the learned Magistrate. Therefore, the prayer clauses (A) and (B) are misconceived. It is for the Petitioner to adopt appropriate remedy in accordance with law. Therefore, we decline to entertain this PIL. All contentions of the parties on merits are kept open. The issue of the locus of the Petitioner is kept open.

**(A.A. SAYED, J.)**

**(A.S. OKA, J.)**

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