

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

WRIT PETITION NO. 4905 OF 2015

Ali Akbar Adamjee Peerbhoy	...	Petitioner
V/s.		
The Union of India & Ors.	...	Respondents

Mr.S.G. Kudale for the Petitioner.
Mrs.A.S. Pai, APP for the State.
Mr.S.D. Patil for Respondent No.1.

**CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 6th FEBRUARY, 2017.

P.C. :

1] Heard.

2] By this petition, the Petitioner is seeking following reliefs;

“b) This Hon'ble Court be pleased to issue the writ of mandamus, order, directions, or any other order, direction or appropriate writ, in the nature of mandamus directing the Respondent Nos.1 herein to refer the matter of the Petitioner for the purpose of investigation to CBI thereby further directing to complete the entire probe within stipulated time limit including filing of the charge sheet so as to see that the Respondent Nos.5 and 6 herein are brought to justice forthwith so that they will not indulge in further vilification campaign against the Petitioner just to grab the Petitioner's property situated at

Matheran Hill Station admeasuring the area as mentioned in the documents annexed to this Petition;

- c) After the filing of the charge-sheet if this Hon'ble Court arrives at the conclusion that the act of the Respondent Nos.5 and 6 herein in the commission of offence was with deliberate intention to defame the Petitioner and it has caused substantive legal injury to the Petitioner then in that case the Respondent Nos.5 and 6 herein be directed to make the payment of compensations as warranted in the given facts and circumstances of the case to the extent of Rs.13 Crores approximately thereby keeping open the issue of enhancement of the compensations in accordance with law.*
- d) Pending the hearing and final disposal of this Petition, the Respondent No.4 herein be directed to take the decision in respect of the proceedings pending before him as regards the Petitioner's entitlement in respect of property in question not being influenced by the pending criminal Writ Petition;*
- e) This Hon'ble Court further be pleased to issue further writ of mandamus order directions or any other order directions or appropriate writ in the nature of mandamus directing the Respondent Nos.2 and 3 herein to provide the necessary protection at the cost of the Respondent Nos.5 and 6 herein to the Petitioner with a view to see that no physical mental harm is caused to the Petitioner and his members of family.”*

3] Mr.Kudale, learned counsel for the Petitioner, does not dispute that the Petitioner neither approached with the concerned Police Officer under Section 154 (1) of Code of Criminal Procedure,

nor approached with the Protection Branch of the Police Department. The Petitioner has directly approached this Court by invoking provisions under Article 226 of the Constitution of India. We are of the opinion that the Petitioner first must approach the concerned Police Officer and in case of failure of any action, can approach this Court or the Court of learned Magistrate.

4] In that view of the matter, we are not inclined to grant this petition and, therefore, the petition is dismissed.

5] It is further made clear that we are not gone into the merits of the allegations and all points are kept open.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]