

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

CRIMINAL WRIT PETITION NO. 4844 OF 2015

Nishith Suresh Desai ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

Mr. Shyam Kalyankar for the Petitioner.
Ms. S.V. Gajare, A.P.P. for the State.

CORAM : A. V. NIRGUDE, J.

DATE : 17th DECEMBER, 2015.

P.C. :

1. The petitioner challenges impugned order dated 27.07.2015 passed by the learned Sessions Judge, Mumbai, partly allowing petitioner's application under Section 454 of Cr.P.C. seeking return of property. It is not in dispute that the petitioner is the victim of a fraud and lost an amount of over Rs.3.84 lakhs. Upon his complaint, investigation took place. Accused were arrested and certain amount lying in the account of the accused was also seized. There are two accounts belonging to the accused. In one account, there is a sum of Rs.1.54 lakhs and in the other account a sum of Rs.3.80 lakhs is lying. The petitioner-complainant made application for

return of property i.e. the amount he had lost due to the fraud. The learned Sessions Judge partly allowed his application directing payment of Rs.1.54 lakhs to the petitioner but refused to payment of more amount. The application is opposed only on the ground that there are other similarly placed victims whose demands would come in future and they would also be entitled to refund of their amount. The difficulty of the prosecution agency is genuine. In my view, the application should be partly allowed to the extent of Rs.2 lakhs, but the application shall remain pending, giving liberty to the petitioner-complainant to press the application for further refund of amount. At the moment it is allowed to the extent of Rs.2 lakh. The amount shall be disbursed to the petitioner on giving usual undertaking. The application of the petitioner under Section 457 of Cr.P.C. shall remain pending.

2. The Writ Petition is partly allowed and accordingly stands disposed of.

(A.V. NIRGUDE, J.)