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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 6453/2024, CRL.M.A. 24671/2024 and CRL.M.A. 24672/2024

CHANSON HOSPITALITY PVT. LTD. & ORS.Petitioners

Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr. Sachin Chaudhary and Mr.
Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA – HUFRespondent

Through: Mr.Sanjay Mann, Mr.Shashank
Bajpai and Ms.Shaniya Gupta,
Advocates

+ CRL.M.C. 6455/2024, CRL.M.A. 24685/2024 and CRL.M.A. 24686/2024

CHANSON HOSPITALITY PVT. LTD. & ORS.Petitioners

Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr. Sachin Chaudhary and Mr.
Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA – HUFRespondent

Through: Mr.Sanjay Mann, Mr.Shashank
Bajpai and Ms.Shaniya Gupta,
Advocates

+ CRL.M.C. 6456/2024, CRL.M.A. 24690/2024 and CRL.M.A. 24691/2024

CHANSON HOSPITALITY PVT. LTD. & ORS.Petitioners

Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr. Sachin Chaudhary and Mr.
Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA – HUFRespondent

Through: Mr.Sanjay Mann, Mr.Shashank
Bajpai and Ms.Shaniya Gupta,



Advocates.

+ CRL.M.C. 6457/2024, CRL.M.A. 24693/2024 and CRL.M.A. 24694/2024
CHANSON HOSPITALITY PVT. LTD. & ORS.Petitioners
Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr. Sachin Chaudhary and Mr.
Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA – HUFRespondent
Through: Mr.Sanjay Mann, Mr.Shashank
Bajpai and Ms.Shaniya Gupta,
Advocates.

+ CRL.M.C. 6458/2024, CRL.M.A. 24700/2024 and CRL.M.A. 24701/2024
CHANSON HOSPITALITY PVT. LTD. & ORS.Petitioners
Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr. Sachin Chaudhary and Mr.
Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA HUFRespondent
Through: Mr.Sanjay Mann, Mr.Shashank
Bajpai and Ms.Shaniya Gupta,
Advocates.

+ CRL.M.C. 6460/2024, CRL.M.A. 24704/2024 and CRL.M.A. 24705/2024
CHANSON HOSPITALITY PVT. LTD. & ORS.Petitioners
Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr. Sachin Chaudhary and Mr.
Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA – HUFRespondent
Through: Mr.Sanjay Mann, Mr.Shashank



Bajpai and Ms.Shaniya Gupta,
Advocates.

+ CRL.M.C. 6462/2024, CRL.M.A. 24708/2024 and CRL.M.A.
24709/2024

CHANSON HOSPITALITY PVT. LTD. & ORS.Petitioners

Through: Mr.Ramesh Gupta, Sr. Advocate with
associate counsel (appearance not
given) Mr.Ramesh Gupta, Sr.
Advocate with Mr. Sachin Chaudhary
and Mr. Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA – HUFRespondent

Through: Mr.Sanjay Mann, Mr.Shashank
Bajpai and Ms.Shaniya Gupta,
Advocates.

+ CRL.M.C. 6464/2024, CRL.M.A. 24712/2024 and CRL.M.A.
24713/2024

CHANSON HOSPITALITY PVT. LTD. & ORS.Petitioners

Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr. Sachin Chaudhary and Mr.
Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA – HUFRespondent

Through: Mr.Sanjay Mann, Mr.Shashank
Bajpai and Ms.Shaniya Gupta,
Advocates.

+ CRL.M.C. 6467/2024, CRL.M.A. 24718/2024 and CRL.M.A.
24719/2024

CHANSON HOSPITALITY PVT. LTD. & ORS.Petitioners

Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr. Sachin Chaudhary and Mr.
Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA HUF

.....Respondent



Through: Mr.Sanjay Mann, Mr.Shashank Bajpai and Ms.Shaniya Gupta, Advocates.

+ CRL.M.C. 6469/2024, CRL.M.A. 24724/2024 and CRL.M.A. 24725/2024
CHANSON HOSPITALITY PVT. LTD. & ORS.
.....Petitioners

Through: Mr.Ramesh Gupta, Sr. Advocate with Mr. Sachin Chaudhary and Mr. Himanshu Pal, Advocates.

versus

RAM KUMAR GUPTA HUF

.....Respondent

Through: Mr.Sanjay Mann, Mr.Shashank Bajpai and Ms.Shaniya Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

28.08.2024

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1. By way of the present petitions, the petitioners seek setting aside of the order dated 20.01.2024 passed by the learned ASJ, Tis Hazari Courts, New Delhi, in Criminal Appeal No.192/2023 titled "CHANSON HOSPITALITY PVT. LTD. & ORS. Vs RAM KUMAR GUPTA-HUF"

2. An appeal had been preferred by petitioners challenging the order of conviction and order on sentence dated 06.05.2023 passed by the learned Judicial Magistrate, West Tis Hazari Courts, New Delhi, whereby the petitioners have been convicted under Section 138 of the Negotiable Instruments Act (hereinafter, referred to as ("*the NI Act*")) and sentenced to undergo simple imprisonment of two years and to pay compensation of Rs. 47,85,000/- under Section 357(3) of the Cr. P.C. In default of payment of compensation, the convicts to further undergo SI for a period of six months.



3. In the said appeal, vide order dated 21.09.2023, the learned Appellate Court directed the petitioners to deposit 20% of the compensation amount. Subsequently, the petitioners moved an application before the Ld. Appellate Court seeking modification of the said order and prayed that the compensation amount be adjusted in the security amount already deposited by the petitioner with the respondent amounting to Rs. 1,26,00,000/-. However, the said application for modification of order dated 20.09.2023 came to be dismissed vide order dated 21.01.2024.

4. Learned counsel for the petitioners submits that the impugned order dated 20.01.2024 is ex-facie harsh and unjustified therefore, the same is liable to be set aside. He submits that the Ld. Appellate Court erred to hold that the dispute of the parties regarding refund of the security deposit of Rs. 1,26,00,000/- is a subject matter of civil litigation pending between the parties and in these circumstances, it would not be appropriate to permit the appellants to get the said amount adjusted. Even though it was observed by the Appellate Court that the amount of Rs.1,26,00,000/- is paid by the petitioners to the respondent, still the court passed the impugned order directing deposit of 20% of the cheque amount.

It is stated that there are 11 appeals filed by the petitioners and 20% of the compensation amount in all the appeals are less than or equal to Rs. 1,26,00,000/- and therefore, the learned Appellate Court has erred in not considering the fact that the petitioners have already paid a sum which is more than 20% of the compensation amount. In support, reliance has been placed on the judgement of the Supreme Court in case of Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd., reported



as **2023 SCC OnLine SC 1144**. Accordingly, it is prayed that petitioners be exempted from depositing 20% of the compensation amount as directed.

5. *Per contra*, the learned counsel for the respondent has opposed the present petition contending that there is no infirmity or illegality with the impugned order. It is stated that learned Appellate Court had rightly appreciated and applied the provisions of Section 148 NI Act while ordering the petitioners to deposit 20% of the fine imposed by learned Trial Court. It is further stated that the entitlement of the petitioners herein to refund of the said security amount of Rs. 1,26,00,000/- is subject matter of a civil litigation and a suit for recovery is filed by the appellants themselves bearing Civ DJ No. 716/2018 which is pending adjudication. Therefore, as the recovery proceedings are initiated by the petitioner and the same are pending, it is prayed that present petition should be dismissed since it is devoid of any merits.

6. I have heard the submissions of the learned counsel for the parties and gone through the records.

7. As noted above, by the impugned order the Appellate Court has directed the petitioner to make deposit of the 20% of the compensation amount. As observed by the appellate court, neither it is disputed that the cheques were issued for rent as per the lease agreement dated 02.05.2013 nor it is contested that Rs.1,26,00,000/- was deposited towards security and the said amount has not been refunded till date. However, the parties are at dispute regarding the entitlement of the petitioners to claim refund of Rs. 1,26,00,000/- security amount from the respondent in the civil proceedings. The main contention of the petitioners here is that the security amount be



adjusted against the 20% of the compensation amount which the petitioners were directed to deposit.

Considering the aforesaid submissions and observation of the appellate court that refund of the said amount is being contested by the respondents in a civil suit of recovery filed by the petitioners, which is pending before the concerned court, and in view thereof, it would not be appropriate to permit the petitioners to get the said amount adjusted against the directions issued u/s 148 NI Act. This court is inclined to concur with the view of the appellate court. The appellate court has rightly applied its mind and the order directing the petitioner to deposit 20% of compensation amount doesnot suffer from any infirmity moreover, the said order is in conformity with the parameters laid down by the Supreme Court in Rakesh Ranjan Shrivastava v. State of Jharkhand reported as **2024 SCC OnLine SC 309**.

8. In view of the above, the present petitions are dismissed alongwith pending applications.

MANOJ KUMAR OHRI, J

AUGUST 28, 2024

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