HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 47310 of 2026

Rahul Kumar Jainer

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Abhishek Kumar Jaiswal, Sandeep Kumar Patel
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE DEEPAK VERMA, J.

1. Heard learned counsel for the applicant; learned A.G.A. for the State and perused the record.

2. The present 528 B.N.S.S. application has been filed to quash the recovery warrant dated 14.07.2026 as well as non bailable warrant dated 31.08.2026 passed in Case No.791/11 of 2025 (Smt. Guddan Versus Rahul Kumar Jainer) under section 147 of B.N.S.S., Police Station-Khatauli, District-Muzaffarnagar, pending in the Court of Principal Judge, Family Court, Court No.2, Muzaffarnagar.

3. Learned counsel for the applicant submits that opposite party no. 2 is the wife of the applicant and, owing to matrimonial disputes, she initiated proceedings under Section 144 BNSS seeking maintenance, which were allowed vide order dated 15.05.2025. It is further submitted that, for recovery of the maintenance amount, opposite party no. 2 moved an application under Section 147 BNSS before the learned court concerned, pursuant to which recovery warrant as well as non bailable warrant were issued against the applicant by the impugned order dated 31.08.2026. Learned counsel for the applicant has placed reliance upon the judgment of the Hon'ble Supreme Court in **Rajnesh Vs. Neha and Another**, (2021) 2 SCC 324.

4. Learned counsel for the applicant further submits that the impugned order is contrary to the law laid down by the Hon'ble Supreme Court in **Rajnesh**

Vs. Neha and Another, (2021) 2 SCC 324, wherein it was held that an order of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1955, Section 20(6) of the Protection of Women from Domestic Violence Act, 2005, or Section 128 Cr.P.C., as applicable. It was further observed that an order of maintenance may be enforced as a decree of a civil court in accordance with the provisions of the Code of Civil Procedure, 1908, particularly Sections 51, 55, 58 and 60, read with Order XXI thereof.

5. It is further submitted that the impugned order directing recovery of the arrears of maintenance through recovery warrants and non bailable warrant against the applicant was passed without following the procedure prescribed under the Code of Civil Procedure.

6. The matter involves a settled position of law. The only question for consideration is whether the learned court concerned could issue recovery warrants and non bailable warrant for recovery of arrears of maintenance without following the procedure prescribed by law. In view of the settled legal position, the requirement of calling for a counter-affidavit from opposite party no. 2 is dispensed with.

7. In view of the aforesaid facts and circumstances, the application is **partly allowed**, and the impugned order dated 31.08.2026 is, hereby, quashed.

8. It is, however, clarified that the court concerned may proceed to enforce the maintenance order and recover the arrears of maintenance in accordance with the provisions of the Code of Civil Procedure, as applicable, and the law laid down by the Hon'ble Supreme Court in **Rajnesh Vs. Neha** (supra).

(Deepak Verma,J.)

October 27, 2026
Meenu Singh

Digitally signed by :-
MEENU SINGH
High Court of Judicature at Allahabad