



2026:AHC-LKO:21721

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 528 BNSS No. - 974 of 2026

Mariya Zafar And Another

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And
Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Abhishek Srivastava, Satendra Kumar
Verma

Counsel for Opposite Party(s) : G.A., Kushagra Dikshit, Neerav
Chitravanshi

A.F.R.

Court No. - 15

HON'BLE BRIJ RAJ SINGH, J.

1. In pursuance of the directions issued by this court Sri Kushagra Dixit, Advocate, has brought the Income Tax Returns of opposite party No. 2, Mohd. Saleem, for the Assessment Years 2023-24 and 2024-25 in a sealed cover. The same is opened in the court and are taken on record.

2. Considering the nature of order proposed to be passed, issuance of notice to the opposite party No. 2 is dispensed with.

3. Heard Sri Abhishek Srivastava, learned counsel for the petitioners, Sri Kushagra Dikshit, learned counsel for the Income Tax Department and Sri Rao Narendra Singh, A.G.A.I, and perused the record.

4. The petitioners have filed the present application with the following main prayer:

"... for the facts reasons and circumstances mentioned in the accompanying affidavit, the Hon'ble Court may kindly be pleased to-1. Quash impugned order dated 19-01-2026 passed by Ld. Court of Additional Chief judicial Magistrate-Ist, Court

No. 25, Lucknow in the Complaint No. 2268/2024 styled as Mariya Zafar Vs. Mohd. Saleem & Ors. Us. 12 D. V. Act Ps. Kaisergabh, District Lucknow in the interest of justice.

2. Direct the respondent No. 2 to produce- 1. Bank Statements all banks' accounts linked with his Adhar No. 6795-6007-6885 personal as well as firm/company in registered in his name for the Financial Year 2020-21, 2021-22 & 2022-23.

II. Details/Record of Income Tax Return for the Financial Year 2020-21, 2021-22 & 2022-23 linked with his Adhar No. 6795-6007-6885 and PAN Card No. CHUPS3288R.

III. Details/Record of GST Return linked with his Adhar No. 6795-6007-6885 and PAN Card No. CHUPS3288R."

5. Learned counsel for the petitioners submits that the petitioner no. 1 was married on 18.03.2017 to the opposite party No. 2, Mohd. Salim, according to Muslim customs. At the time of marriage, the petitioner no. 1's parents gave dowry as per demand of opposite party no. 2 and his family members. They imposed conditions that she must do all household work, not pursue further studies, and not take up employment.

6. The learned counsel has further submitted that the petitioner is a B-Tech Gold Medalist from Azad Institute of Technology and wished to continue her studies, but she accepted the conditions. Despite this, she was continuously harassed by her husband, mother-in-law, father-in-law, brother-in-law, and sisters-in-law, who taunted her for insufficient dowry and demanded a car and transfer of her father's house in Indira Nagar to her husband's name. When the petitioner no. 1 refused, she was abused, forced to do all household chores, even washing clothes of all family members. Her jewelry was forcibly taken by her mother-in-law, and she was denied personal expenses. On 28.07.2017, she was beaten severely by her husband for not fulfilling dowry demands, and her parents were threatened with divorce if demands were not met. She was sent back to her parental home until demands were fulfilled. Later, after persuasion, she was taken back on 13.12.2019, but with the condition that her parental

family could not contact her until demands were met. Despite compliance, she continued to face harassment. In February 2020, when she became pregnant, she was still forced to do heavy household work. On 28.02.2020, her mother-in-law and sister-in-law Uzma pushed her down the stairs, causing bleeding and miscarriage.

7. The learned counsel for the petitioners has further stated that on 15.03.2021, several in-laws entered her room, pressured her to transfer her father's house, abused and assaulted her, and threatened divorce if she disclosed the incident. On 25.05.2021, the petitioner was sent back to her parental home again. Later, she discovered she was pregnant. When she informed her in-laws, they blocked her calls and refused to take her back. On 24.01.2022, she gave birth to a son, Mohd. Saqib. Her husband and in-laws visited the hospital but refused to take her back. Since then, she has been living with her parents along with her child.

8. Learned counsel for the petitioner has also stated that the petitioner has no income and is dependent on her parents. Her husband earns about ₹2,00,000 per month from interior designing and property income. On 23-04-2023 the petitioners filed a Complaint U/s 12 of 'Protection of Women from Domestic Violence Act, 2005' (herein after D. V. Act for short) before the Ld. Court of Additional Chief Judicial Magistrate-Ist, Lucknow against the respondent no. 2 and his family members which was registered as Criminal Complaint No. 2268/2023 styled as Mariya Jafar and Ors. versus Mohd. Saleem and others. On 11-12-2024, Mohd. Saleem (husband) filed his objection against the aforesaid complaint under section 12 DV act. The opp. party no. 2 also filed completely false and concocted Affidavit of Assets and Liability in compliance of the judgement date 04-11-2020 passed by Hon'ble Supreme Court in case of **Rajnish versus Neha and others, (2021) 2 SCC 324**, wherein false disclosure of income, assets and liabilities has been made with intention to deny the legitimate claim of the petitioner.

9. Learned counsel for the petitioner also submits that on 17-4-25; the

petitioner no. 1 filed an application Under Section 91 of the Code of Criminal Procedure, 1973 (94 BNSS 2023) with following relief: -"श्रीमान न्यायालय से विनम्र प्रार्थना निम्न हैं कि :-

I. कि श्रीमान न्यायालय आदेशित करे कि *CADD Centre* शाखा मुशीपुलिया मुख्य शाखा - मुर्ती भवन, जी- 17 से जी-20, अशोक मार्ग, श्री राम टॉवर्स के पास, सदुल्ला नगर, नरही, हजरतगंज, लखनऊ, उत्तर प्रदेश 226001 से विपक्षी स०-1 द्वारा वर्ष 2007-2008 में *Architecture* से *PG Diploma* कोर्स से विपक्षी के सभी सम्बंधित दस्तावेज एवं रिकॉर्ड किया जाय।

II. कि श्रीमान न्यायालय आदेशित करे कि *UIDAI (Unique Identification Authority of India)* क्षेत्रीय कार्यालय तीसरी मंजिल, समाज कल्याण निर्माण निगम बिल्डिंग टीसी-46 वी. विभूति खंड, गोमती नगर, लखनऊ, उत्तर प्रदेश 226010 से विपक्षी स०-1 (आधार स०-679560076885) के सभी बैंक खातों की जानकारी के सम्बन्ध में सम्बंधित सभी दस्तावेज एवं रिकॉर्ड तलब किया जाय।

III. कि श्रीमान न्यायालय आदेशित करें कि कार्यालय आयकर विभाग (प्रत्यक्ष कर भवन) पता-57 रामतीर्थ मार्ग लखनऊ पिनकोड 226001 से विपक्षी स०। का *PAN CARD* स०-CHUPS3288R आधार स०- 679560076885 से सम्बंधित *ITC* (मूल्यांकन 2020-2021. 2021-2022, 2020-2023) के सम्बन्ध में सम्बंधित सभी दस्तावेज एवं रिकॉर्ड तलब किया जाय

IV. कि श्रीमान न्यायालय आदेशित करे कि कार्यालय व्यापार कर पता- आर एफ बहादर मार्ग, लखनऊ पिनकोड से विपक्षी नं०-1 का *GST* सं० 09 CHUPS32RIZS, *PAN CARD* स०-CHUP3288R आधार स०- 679560076885 से सम्बंधित सभी दस्तावेज एवं रिकार्ड तलब किया जाय।

V. कि श्रीमान न्यायालय आदेशित करे कि कार्यालय सम्भागीय परिवहन अधिकारी पता-एस 111,4, कानपुर रोड, हिदनगर कॉलोनी, ट्रांसपोर्ट नगर, लखनऊ, उत्तर प्रदेश 226012 से कार वाहन स *UP32CU941* के पंजीकरण के सम्बन्ध में सम्बि सभी दस्तावेज एवं रिकॉर्ड तलब किया जाय।

VI. कि श्रीमान न्यायालय आदेशित करे कि शाखा प्रबन्धक *HDFC BANK* शाखा- 38 प्रणय टावर्स, दरबारी लाल शर्मा मार्ग, हजरतगंज लखनऊ 226001 से खाता स०-059410000356 के सम्बन्ध पूर्व 3 वर्ष का बैंक स्टेटमेंट तलब

लिया जाय।"

10. *On 06-08-2025, the opposite no. 2 filed his objection against the aforesaid application in response to application Under Section 91 CrPC. Vide impugned order dated 19-01-2026 passed by the Ld. Court of Addl. Chief Judicial Magistrate-First, Lucknow, the application preferred by the petitioner Under Section 91 CrPC has been rejected in most illegal manner without application of mind.*

11. Learned counsel for the petitioners has submitted that the application filed by the petitioner under Section 91, Cr.P.C. has been rejected in a most arbitrary and illegal manner for the reason that the petitioner has taken specific plea in the application under Section 91, Cr.P.C. that the opposite party No. 2 is an Architect and he is filing a return in the Income Tax Department. In response to the said application, the opposite party No. 2 filed objection in which he has stated that he is Labour and he has simply passed High School. He has further submitted that the Firm was registered in the year 2010, but the same has been closed. The petitioner's application has been rejected, whereby the court below has observed that there is no need to summon the Income Tax Returns of opposite party No. 2 to ascertain the income and the reason has been recorded that in case the opposite party is concealing the material fact, then he will be prosecuted under Section 340 Cr.P.C.

12. It has been submitted by counsel for the petitioner that the Hon'ble the Supreme Court in the case of **Rajnesh (supra)** has laid down the guidelines in para-72 whereby it is provided the affidavit of disclosure of Assets and Liabilities annexed at Enclosures I, II and III of this judgment, as may be applicable, shall be filed by the parties in all maintenance proceedings, including pending proceedings before the Family Court/District Court/Magistrate's Court concerned, as the case may be, throughout the country. Para 72.5 further provides that if apart from the information contained in the Affidavits of Disclosure, any further information is required, the court concerned may pass appropriate orders in respect thereof. Para 72.6. (f) provides that if there is any dispute with respect to the declaration made in the Affidavit of Disclosure, the aggrieved party may seek permission of the court to serve interrogatories,

and seek production of relevant documents from the opposite party under Order 11 CPC. On filing of the affidavit, the court may invoke the provisions of Order 10 CPC or Section 165 of the Evidence Act, 1872, if it considers it necessary to do so. The income of one party is often not within the knowledge of the other spouse. The court may invoke Section 106 of the Evidence Act, 1872 if necessary, since the income, assets and liabilities of the spouse are within the personal knowledge of the party concerned. Para 72.10 further provides that the Family Court/District Court/Magistrate's Court concerned must make an endeavour to decide the I.A. for interim maintenance by a reasoned order, within a period of four to six months at the latest, after the Affidavits of Disclosure have been filed before the court. The learned counsel has specifically laid emphasis on para 72.6 of the judgment in the case of **Rajnesh (supra)**, which reads as under:

"72.6. If there is any dispute with respect to the declaration made in the Affidavit of Disclosure, the aggrieved party may seek permission of the court to serve interrogatories, and seek production of relevant documents from the opposite party under Order 11 CPC. On filing of the affidavit, the court may invoke the provisions of Order 10 CPC or Section 165 of the Evidence Act, 1872, if it considers it necessary to do so. The income of one party is often not within the knowledge of the other spouse. The court may invoke Section 106 of the Evidence Act, 1872 if necessary, since the income, assets and liabilities of the spouse are within the personal knowledge of the party concerned."

13. It has been submitted by learned counsel for the petitioner that it is utter violation of the judgment, quoted above, and the petitioner has given application requesting that Income Tax Returns of the opposite party No. 2 may be summoned from the Income Tax Department, but the application has been rejected in arbitrary and illegal manner, in violation of the guidelines provided in the case of **Rajnesh (supra)**.

14. This court, while hearing the application on 17.03.2026 had passed the following order:

"In pursuance of the order passed by this court, service has been effected on the Income Tax Department/opp. party No. 3, on whose behalf Sri Neerav Chitravanshi, Advocate, and Sri Kushagra Dikshit, Advocate, have put in appearance by filing their vakalatnama, which is taken on record.

It is case of the petitioners that the application filed under Section 91 Cr.P.C. has been rejected in most arbitrary and illegal manner by the learned court below. The opposite party No. 2, namely, Mohd. Saleem, is an Architect and is running a firm, namely, CONSWARE, and he is proprietor of the aforesaid Firm having PAN No. CHUPS3288R and Adhar Card No. 6795 6007 6885. The opposite party No. 2 has mentioned himself as a labourer in the proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005, though he is Architect, therefore, the opposite party No. 3 is directed to bring the income tax return of the last two years filed by the opposite party No. 2, namely, Mohd. Saleem, on the next date.

List this case on 25.03.2026 as fresh, showing the names of Sri Neerav Chitravanshi, Advocate, and Sri Kushagra Dikshit, Advocate, as counsel for the respondent."

15. In pursuance of the directions issued by this court Sri Kushagra Dixit, Advocate, has brought the ITRs of opposite party No. 2 in sealed cover. The same is opened in the court. ITRs of opp. party No. 2, Mohd. Saleem, of the AY 2023-24 and 2024-25, indicate that the opposite party No. 2 is an Architect and in the AY 2023-24 his total income was Rs. 4,85,290.00 and in the AY 2024-25 his income was Rs. 5,07,680.00.

16. After going through the record and hearing learned counsel for the petitioner as well as the learned Counsel for the Income Tax Department and Sri Rao Narendra Singh, learned A.G.A.I, one fact has come before this court that the opposite party No. 2 is an Architect, which is very much clear after looking into the ITRs of opp. party No. 2 for the AYs 2023-24 and 2024-25 and he is also having his income.

17. This fact requires re-consideration by the court below, therefore, the order dated 19-01-2026 passed by Ld. Court of Additional Chief judicial Magistrate-Ist, Court No. 25, Lucknow, in the Complaint No. 2268/2024 styled as Mariya Zafar Vs. Mohd. Saleem & Ors. Us. 12 D. V. Act Ps. Kaisergabh, District Lucknow, is hereby set aside and the said court is directed to take fresh decision in the matter in the light of judgment of Hon'ble the Supreme Court in the case of *Rajnesh versus Neha and others, (2021) 2 SCC 324*, within 6 weeks from the date of production of certified copy of this order, after affording opportunity of hearing to the parties concerned.

18. The petitioner may also be provided copy of the ITRs of opposite party No. 2 of AYs 2023-24 and 2024-25, filed in the court today.

March 26, 2026

A.Nigam

(Brij Raj Singh,J.)