



2026:AHC:53914-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL DEFECTIVE No. - 212 of 2026

Akul Rastogi

.....Appellant(s)

Versus

Shubhangi Rastogi

.....Respondent(s)

Counsel for Appellant(s) : Pragya Pandey
Counsel for Respondent(s) :

Court No. - 29

**HON'BLE ARINDAM SINHA, J.
HON'BLE SATYA VEER SINGH, J.**

(Per: Arindam Sinha, J.)

1. The appeal is up for admission. Mr. Rakesh Kumar Singh, learned advocate appears on behalf of applicant-appellant husband and submits, his client is aggrieved by judgment dated 6th February, 2026 of the Family Court rejecting his application for leave to prosecute for perjury. He submits, there are several counts on which she made false statements in pleadings in respect of her claim for maintenance. Firstly, she did not disclose that she is working lady but instead said she is house wife. Secondly, he demonstrates from pages 231, 236, 346 and 362 of the appeal brief that she had aggregate in excess of Rs. 20 lacs held on fixed deposit receipts (FDR) in Bank of Baroda and HDFC Bank. On query he submits, the deposits were made by her father, in her favour as she had stated in her pleadings, filed also in the domestic violence case. At present his client's inquiry revealed there is about Rs. 4 lacs on FDR. The rest she has encashed. He seeks admission of the appeal on submission, the Family Court erred on facts and in law to have rejected his application. He hands up, inter alia, English translation of impugned judgment along with other documents, as compiled in a brief.

2. It is well settled that a husband is obliged to maintain his wife. This position has emanated from situations, where the spouses have separated and the wife has sought for maintenance, either on the criminal side or under maintenance provisions in Hindu law. So much so, this obligation of the husband to maintain the wife attaches even after death of the husband in the law allowing the widow to claim maintenance from her father-in-law. It is

also well settled that when a document is relied upon, entirety of the document must be seen as relied upon. A part of it for purpose of canvassing the allegation and rest rejected is not permissible in law of evidence.

3. Perused impugned judgment. There is clear finding of the Family Court that applicant-appellant did not produce any document to demonstrate respondent-wife was employed. She, saying she is not employed, cannot be compelled to prove the negative. Onus was on applicant to show she is in employment. So far as the FDRs are concerned, they had been made by her father, who has no obligation to maintain her after her marriage, except in case she is widowed. It is applicant's own case that respondent has broken the FDRs and only about Rs. 4 lacs remain deposited. It is demonstration of respondent's need to maintain herself in absence of applicant providing any maintenance.

4. Rule 11 in order 41, Code of Civil Procedure provides for power to dismiss appeal without sending notice to the lower Court. Thus necessity of admission of appeal. In view of aforesaid, we exercise the power to dismiss the appeal at admission stage. Mr. Singh submits, respondent had filed affidavit in the maintenance case pursuant to guidelines in judgment of the Supreme Court in **Rajesh vs. Neha** reported in (2021) 2 SCC 324. His client thus is entitled to rely on the affidavit for the purpose of having sought for leave to prosecute. This submission is in nature of explanation but it does not provide any material for us to admit the appeal on cogent evidence produced to show that respondent had made false statement before the Family Court. He adds, respondent has also suppressed other financial details in her affidavit filed pursuant to the guidelines. Suppression is not or cannot be said to be a false statement made.

5. The appeal is dismissed. Registry will communicate the dismissal to the Family Court, who had passed impugned judgment.

March 17, 2026
sailesh

(Arindam Sinha,J.)

(Satya Veer Singh,J.)