



2026:AHC:88382-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL No. - 594 of 2025

Dr Garima Dubey And 3 Others

.....Appellant(s)

Versus

Dr. Saurabh Anand Dubey

.....Respondent(s)

Counsel for Appellant(s) : Akarsh Dwivedi, Mrigendra Singh,
Suvrat Dwivedi
Counsel for Respondent(s) : Abhishek Tripathi, Firoz Haider, Priya
Saxena, Sanjay Kumar Pal

Court No. - 2

**HON'BLE ATUL SREEDHARAN, J.
HON'BLE VIVEK SARAN, J.**

1. Present appeal has been filed by the appellant who is a wife. The divorce petition has been filed by the respondent-husband. The appellant no.1 is M.D. (Gynaecologist) and the respondent-husband is Neurosurgeon. Both are residents of Prayagraj. Appellant nos..2,3 and 4 are the children of the appellant and the respondent out of which appellant nos.2 and 3 are daughters and appellant no.4 is a son. Their names are not being given in the order to protect their identity and privacy. The appellants are aggrieved by the impugned order dated 07.04.2025 by which an application for maintenance filed by the wife and the three children under Sections 24 and 26 of the Hindu Marriage Act, 1955 has been rejected in part. The application of the Appellant No.1 under Section 24 of the Hindu Marriage Act has been dismissed, however application under Section 26 for maintenance of the children has been allowed and undisputedly, the respondent is paying Rs.60,000/- per month towards their maintenance.

2. Learned counsel for the appellant submits that the learned trial court failed to appreciate that presently the appellant is not working

as she was removed from the hospital after filing of the case by the respondent-husband. He further submits that the appellant-wife is entitled to be supported by the respondent-husband to ensure that she can sustain the same standard of living which she enjoyed before the separation.

3. Learned counsel for the respondent on the other hand submits that the respondent has faithfully been paying the maintenance amount of Rs.60,000/- per month to the children without demur. He further submits that the appellant herein is a trained specialized Gynecologist who could earn more than the respondent himself in a State like Uttar Pradesh. He further submits that learned trial court has dismissed her application under Section 24 precisely as applicant is more capable of maintaining herself because of her qualification.

4. Heard learned counsel for the parties and perused the records of the case.

5. Undisputedly, the appellant is a trained Gynecologist being a Post-Graduate possessing a degree in M.D. (Gynecology). The judgment of the Hon'ble Supreme Court placed before this Court by learned counsel for the appellant **Chaturbhuji v. Sitabai** reported in **2008 AIR SC 530** is a case where the husband was aggrieved by the maintenance awarded to the wife under Section 125 of the Cr.P.C.. In that case, the Supreme Court had come to the conclusion that the wife was unemployed and she was in a position to show that the husband has sufficient means to maintain her. In such a situation, the Supreme Court dismissed the appeal filed by the husband. However, in the present case the facts disclose a totally different set of circumstances. As already held hereinabove the appellant is a Gynecologist and is capable of earning handsomely in her line of

expertise.

6. The contention put forth by learned counsel for the appellant that she is presently not working is rejected. Where a qualified person is capable of earning more than enough through the use of her expertise and still refrains from doing so only to impose a burden upon her husband, in such a situation the Courts can deny maintenance under Section 24. Therefore, having gone through the order passed by the learned trial court where the application under Section 24 was rejected where the learned trial court has held that the appellant was earning handsomely based upon her ITRs which reflected that she was earning more than Rs.31 lakhs per annum.

7. Under the circumstances, this Court is of the opinion that the impugned order cannot be faulted. Appeal is **dismissed**.

April 21, 2026
Deepika

(Vivek Saran,J.) (Atul Sreedharan,J.)