

Deepa Joshi vs Gaurav Joshi on 16 April, 2026

Author: Sanjay Karol

Bench: Sanjay Karol

2026 INSC 370

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026
(ARISING OUT OF SLP (CRL.) NO.15662 OF 2025)

DEEPA JOSHI

... APPELLANT

VERSUS

GAURAV JOSHI

...RESPONDENT

JUDGMENT

AUGUSTINE GEORGE MASI, J.

1. Leave Granted.

2. The present Criminal Appeal arises out of the judgment and order dated 26.06.2025 passed by the High Court of Uttarakhand at Nainital in Criminal Revision No.201 of 2025, whereby the High Court partly allowed the enhanced the maintenance awarded by the Family Court from 8,000/- per month to 15,000/- per month, payable from the date of the application i.e. 18.09.2024.

3. The appellant-wife and the respondent-

husband were married on 07.05.2023 at New Delhi in accordance with Hindu rites and customs. Following the marriage, the appellant resided at the matrimonial home along with the respondent and his family members. The record indicates that the relationship between the parties did not remain cordial and, according to the appellant, she was subjected to neglect and acts of physical as well as mental harassment during her stay in the matrimonial home.

4. Within a year of their marriage, the appellant was forced to leave the matrimonial home and return to her parental residence. Since then, she has been residing separately and is stated to have no independent source of income for her sustenance.

5. In these circumstances, the appellant instituted proceedings under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter BNSS), on 18.09.2024 before the competent court at Tanakpur, District Champawat, seeking maintenance quantified at 50,000/- per month. Upon establishment of the Family Court at Champawat, the proceedings stood transferred and were registered as Misc. Criminal Case No. 54 of 2024. Despite service of notice, the respondent did not enter appearance and the matter proceeded ex parte.

6. The Family Court, by judgment dated 25.02.2025, awarded maintenance of 8,000/- per month to the appellant, taking into account the respondent's salary structure and the deductions reflected therein. Aggrieved by the quantum so fixed, appellant preferred Criminal Revision No. 201 of 2025 before the High Court of Uttarakhand. The High Court, vide the impugned judgment dated 26.06.2025, partly allowed the revision and enhanced the maintenance to 15,000/- per month, maintaining the date of commencement as 18.09.2024. Still dissatisfied, the appellant has approached this Court by way of the present appeal.

7. Learned counsel for the appellant submits that the amount of 15,000/- per month is grossly inadequate and does not reflect the true earnings of the respondent. It is urged that the respondent is in salaried employment and is earning a substantial monthly income, which has not been correctly appreciated by the courts below. It is further contended that the appellant has no independent source of income and is wholly dependent upon maintenance as claimed.

8. It is submitted that both the Family Court and the High Court have placed undue reliance on deductions reflected in the respondent's salary, particularly those arising out of loan repayments and financial commitments. According to the appellant, such deductions are largely voluntary in nature and relate to acquisition of assets and, therefore, cannot be permitted to dilute the respondent's primary obligation to maintain his wife. It is also contended that the respondent possesses sufficient means and that the maintenance awarded constitutes only a small fraction of his income, thereby rendering it wholly disproportionate.

9. Per contra, learned counsel for the respondent submits that the High Court has already enhanced the maintenance after due consideration of the material on record and no further interference for enhancement is warranted. It is contended that the respondent's actual disposable income is reduced on account of various financial liabilities and deductions, which have been rightly taken into account. It is further submitted that the respondent does not have unlimited financial capacity and that the amount awarded is reasonable in the facts and circumstances of the case.

10. Having considered the submissions and the material placed on record, we are of the view that the quantum of maintenance fixed by the High Court requires a limited reconsideration.

11. The object of maintenance proceedings is well settled. In *Chaturbhuj v. Sita Bai*¹, this Court held that the provision is intended to prevent destitution and that a wife is not required to establish absolute inability to survive before claiming maintenance. In *Shamima Farooqui v. Shahid Khan*², it was emphasized that maintenance must not be illusory and should enable the wife to live with dignity. Further, in *Rajnesh v. Neha and Another*³, this Court reiterated that maintenance must be fair, reasonable and commensurate with the status of the parties and the financial capacity of the husband.

12. Tested on the aforesaid principles, it emerges 1 (2008) 2 SCC 316 2 (2015) 5 SCC 705 3 (2021) 2 SCC 324 that the determination of maintenance must be guided by a balanced assessment of the earning capacity of the husband and the reasonable needs of the wife. In the present case, it is not in dispute that the respondent is in salaried employment and has a regular source of income. The Family Court, while determining maintenance, appears to have accorded considerable weight to deductions reflected in the salary, and the High Court has, to an extent, corrected the inadequacy by enhancing the amount.

13. However, deductions arising out of financial commitments such as loan repayments, particularly where they contribute towards creation of assets, cannot be placed on the same footing as necessary expenditure so as to substantially reduce the liability of maintenance. The liability to maintain a spouse is a primary obligation and cannot be subordinated to such financial arrangements.

14. It is also not in dispute that the appellant has no independent source of income and has been residing separately shortly after the marriage. The maintenance awarded must therefore enable her to sustain herself with a reasonable degree of dignity, consistent with the status of the parties. At the same time, it is necessary to ensure that the determination remains fair and reasonable and does not impose an excessive burden upon the respondent. The exercise is one of achieving a just balance between competing considerations.

15. Insofar as the financial capacity of the respondent is concerned, it is borne out from the compliance affidavit filed pursuant to the order dated 06.02.2026 that the respondent is employed as a Manager with Canara Bank and is drawing a gross monthly income of 1,15,670/-. The Courts below have taken note of certain deductions from the said income, including repayments towards loans. However, it is well settled that repayments of loans, particularly where such repayments result in creation or acquisition of assets, partake the character of capital investment and cannot be equated with essential or unavoidable expenditure. Such financial commitments, being voluntary in nature, cannot be accorded precedence over the statutory and legally enforceable obligation of maintenance.

16. The obligation of the husband to maintain his spouse is a primary and continuing duty, which must be discharged in a manner that enables the wife to live with dignity and in a standard commensurate with that enjoyed during the subsistence of the marriage. Viewed thus, deductions on account of asset-generating repayments cannot be permitted to substantially dilute the respondent's real earning capacity for the purpose of determining maintenance. We are of the opinion that a sum of 25,000/- per month would be just, fair and reasonable in the facts of the

present case.

17. The impugned judgment dated 26.06.2025, passed by the High Court of Uttarakhand, is modified to the extent that the maintenance payable to the appellant-wife shall be enhanced to 25,000/- per month.

18. Arrears, if any, shall be cleared within a period of three months. The maintenance amount shall be paid on or before the 7th day of each calendar month.

19. The appeal is disposed of in above terms.

20. Pending application(s), if any, shall stand disposed of.

.....J. [SANJAY KAROL]J. [AUGUSTINE
GEORGE MASIH] NEW DELHI;

APRIL 16, 2026.