

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No. 249 of 2025

Suresh Chandra Mathpal

.....Appellant

Versus

Geeta Mathpal and Another

.....Respondents

Present:-

Mr. Sanjay Bhatt, Advocate for the petitioner.

Mr. Saurabh Kumar Pandey, Advocate for the respondents.

Coram: **Hon'ble Ravindra Maithani, J.**
 Hon'ble Alok Mahra, J.

Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this appeal is made to the order dated 01.04.2025, passed in Civil Suit No.69 of 2022, Suresh Chandra Mathpal Vs. Smt. Geeta Mathpal and Another, by the court of Principal Judge, Family Court, Nainital, District Nainital ("the case"). By it, the application filed by the appellant for forensic examination of mobile phone has been rejected.

2. Heard learned counsel for the petitioners and perused the record.

3. The case is pending between the parties under Section 13 of the Hindu Marriage Act, 1955 for divorce. The appellant is the petitioner in the case. The appellant had deposited the mobile phone of the respondent no.1 in the Court, which was sealed on 28.05.2022. The appellant, thereafter, moved an application in the case with the averments that in the mobile phone that had been deposited by him in the court, there is objectionable chatting, obscene photographs and videos and the respondent no.1 had denied existence of such material in the mobile phone. Therefore, the mobile phone may be sent for forensic examination. This

application was objected to by the respondent no.1 on the ground that the respondent no.1 does not know about any video or chatting, etc. in the mobile phone. She was never supplied with any copy of such chatting, etc. The application of the appellant has mainly been rejected on the ground that whatever material is available in the mobile phone, a copy of it has not been provided to the respondent no.1.

4. Learned counsel for the appellant submits that the mobile phone of the respondent no.1 is deposited in the court in the case by him; it contains objectionable videos, photographs and chatting of the respondent no.1. Therefore, it needs to be sent for forensic examination; the appellant may, after taking the mobile phone, get a copy of objectionable material done and that may be provided to the respondent no.1, but he submits that the mobile phone needs to be forensically examination.

5. Learned counsel for the respondents submits that the mobile phone does not belong to the respondent no.1.

6. Be it as it may, it is the case of the appellant that the mobile phone of the respondent no.1 has been deposited by him in the case, which contains objectionable material. The appellant may take the mobile phone back and get a copy of the objectionable material done and provide it to the respondent no.1, and thereafter, he is free to move an application before the court concerned for forwarding the mobile phone for forensic examination. Once it is done, the court below shall decide such application in accordance with law.

7. The impugned order dated 01.04.2025 is modified, accordingly and the appeal stands disposed of.

(Alok Mahra, J.)

(Ravindra Maithani, J.)

05.01.2026

Ravi Bisht