

13.02.2025
tkm/ct 28
sl no.13

C.R.R. 3734 of 2024

In Re : An application under section 528 of the Bharatiya Nagarik
Suraksha Sanhita 2023

And

In Re : Pushpak Bhattacharyya petitioner

Mr. Subrata Bhattacharya

Mr. Atanu Basu

Mr. I Dutta

..... for the petitioner

1. Petitioner assails proceeding under section 125 Cr.P.C on the ground that opposite party-wife has prayed for decree of nullity on the ground of non-consummation of marriage

2. I have considered the averments in the impugned application praying for maintenance. Opposite party-wife unequivocally stated that the marriage has been solemnized on 30.10.2022 according to the Special Marriage Act 1994. Petitioner also admits the marriage. But opposite party-wife has prayed for nullity of marriage on the ground of non-consummation of marriage. This prayer by no stretch of imagination disputes the existence of a marital tie between the parties and her claim to maintenance.

3. Accordingly I am of the opinion there was no jurisdictional error on the part of the magistrate to entertain the prayer for maintenance.

4. Application is dismissed.

(Joymalya Bagchi, J.)