

24.06.2026

Serial no. 26

[Srimanta]

Ct. No. - 29

CRR 1722 of 2026

In re : An Application under Section 528 of the Bharatiya Nagarik Sureaksha Sanhita, 2023

-And-

In the matter of : BIPLAB KUMAR ROY ALIAS BIPLAB KUMAR ROY

... .. Petitioner

*Mr. Soupal Chatterjee,
Mr. Anupam Das,
Ms. Madhumita Chatterjee, Advocates*

... .. For the Petitioner.

*Mr. Rajib Ghosh,
Mr. N. Banerjee, Advocates*

.....For the Opposite Party No. 2.

1. Opposite party/wife is not represented.
2. In this application, the petitioner has prayed for quashment of the proceeding being T. R. No. 51/2025 presently pending before learned Judicial Magistrate, 3rd Court, Krishnagar, Nadia.
3. Being aggrieved by the aforesaid proceeding, learned Counsel for the petitioner submits that the opposite party no. 2 herein prior to her marriage with the petitioner she was married with one Kanai Lal Karmakar under the Hindu Marriage Act, 1955 on 10th May, 2016. During continuance of the said marriage, the opposite party no. 2 fraudulently entered into a purported marriage with the petitioner deliberately suppressing her prior marriage on 14.02.2024.

4. He further submits that the opposite party no. 2 and said Kanai Lal Karmakar filed a suit for dissolution of their marriage on mutual consent under Section 13B of the Hindu Marriage Act. However said suit got dismissed by way of an order dated 6th July, 2022 passed in MAT Suit No. 138/2020. Therefore Opposite party no. 2's said marriage with Kanai Lal Karmakar is still subsisting.
5. From the aforesaid background it is clear that when the purported marriage with the petitioner had taken place the spouse of the opposite party no. 2 was living. Therefore, petitioner submits that the opposite party no.2 is not legally married wife of the petitioner. However, she started the impugned proceeding under Section 144 of the BNSS claiming a monthly maintenance of Rs.50,000/- on 02.05.2025 being Misc. Criminal Case No. 331/2025 before learned Chief Judicial Magistrate, Krishnagar, Nadia. In view of the above background, the petitioner has prayed for quashment of the said proceeding as it is not maintainable in the eye of law.
6. Having heard learned Counsel for the petitioner and relying upon the documents filed by way of supplementary affidavit by the petitioner and in the absence of any contrary document or evidence, it appears that on 10.05.2016 the marriage of the opposite party no. 2 herein took place with one Kanai Lal Karmakar and it further appears that though

a suit for dissolution of marriage on mutual consent was filed before learned District Judge, Bankura but it was dismissed vide order dated 06.07.2022. There is nothing to show that prior to the marriage with the petitioner on 14.02.2024, the earlier marriage of opposite party no. 2 was dissolved. Therefore, the opposite party herein who married said Kanai Lal Karmakar and whose marriage is still subsisting is not entitled to maintenance under Section 125 as according to Hindu Law such marriage with the petitioner is void *ab initio* under Section 11 of the Hindu Marriage Act, 1955. In this context, reliance has been placed upon **Yamunabai Anantrao Adhav -Vs.- Anantrao Shivram Adhav & Anr.** reported in **(1988) 1 SCC 530**. In view of above, further continuance of the said proceeding in the above background would be mere abuse of the process of the Court.

7. CRR/1722/2026 thus stands allowed.
8. The impugned proceeding being T.R. No. 51/2025 arising out of Misc. Criminal Case No. 331/2025 presently pending before learned Judicial Magistrate, 3rd Court, Krishnagar, Nadia is hereby quashed.

(Dr. Ajoy Kumar Mukherjee, J.)