

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24901 of 2025

Arising Out of PS. Case No.-77 Year-2024 Thana- ARA MUFFSIL District- Bhojpur

Kanhaiya Choudhary @ Kanhaiya Lal Choudhary @ Kanhaya Choudhary
S/o- Radha Mohan Choudhary Village- Sarangpur Ps- Ara Muffasil Dist-
Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Chanamuni Devi W/o- Ram Ayodhya Choudhary Village- Sarangpur Ps- Ara
Muffasil Dist- Bhojpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Malti Kumari, Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 18-11-2025

Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

2. The petitioner has preferred application under
Section 528 of BNSS for quashing the order taking cognizance
dated 17.02.2025 passed by the learned Additional Chief
Judicial Magistrate - VIth, Bhojpur at Ara in Ara Muffasil P.S.
Case No.77 of 2024 by which cognizance has been taken has
been taken of offence against the petitioners under Sections 498
(A)/34 of the Indian Penal Code.

3. Learned counsel appearing on behalf of
petitioner submitted that from the very perusal of the FIR no
case is made out against the petitioner under Sections 498



(A)/34 of the Indian Penal Code. Referring to the provision of Section 498A he submitted that the allegation can be made only when the husband or relatives of the husband of the woman subject the woman to cruelty. In the present case the informant, who has claimed as the wife of the petitioner, had admitted that she was already married to one Ram Ayodhya Choudhary ten years ago. She is aged about 32 years and she has developed a strained relationship with her husband the said Ram Ayodhya Choudhary, who allegedly also developed illicit relationship with another woman. Learned counsel further submitted that no case is made out under Section 498A of the Indian Penal Code against the petitioner in absence of any evidence on record, that the O.P. No.2, even before getting separated from her husband Ram Ayodhya Choudhary, has illegally performed marriage with the petitioner. Learned counsel submitted that he has been given information that the O.P. No.2 has lodged criminal cases against several other persons also and just to harass the petitioner, who is aged about 21 years and taking advantage of his immature age has roped in the matrimonial case on a false accusation and as such, continuation of the prosecution will be malicious and vexatious in nature.

4. The law in this regard is well settled by the Apex



Court in case of ***State of Haryana and Ors. v. Bhajan Lal and Ors.*** reported in ***1992 Supp. (1) SCC 335*** and the FIR is fit to be quashed. The Apex Court in para-102 has held as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under [Article 226](#) or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and



continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

5. *Per contra*, learned APP appearing on behalf of the State submitted that there is no infirmity in order taking cognizance under Sections 498 (A)/34 of the Indian Penal Code, which has been taken on the basis of the material collected in course of investigation.

6. Heard the parties.

7. Having considered the rival submissions made on behalf of the parties and from perusal of the very content of the FIR, in which the O.P. No.2 has admitted that she was married to one Ram Ayodhya Choudhary and the said Ram Ayodhya Choudhary before taking divorce from the O.P. No.2 developed illicit relationship with another girl and performed second marriage with her. In that regard the O.P. No.2 has lodged matrimonial case against her husband, the said Ram Ayodhya Choudhary. In such circumstances, even though she has developed relationship with the petitioner, it will not be considered as valid marriage because she has not desolved her marriage with her first husband Ram Ayodhya Choudhary, in



accordance with law.

8. In view of the facts and circumstances of the case, as well as, the law laid down by the Apex Court in case of ***Bhajan Lal (supra)***, I find that no case for allegation under Section 498 (A) of Indian Penal Code is made out against the petitioner. As such, the FIR in connection with Ara Muffasil P.S. Case No.77 of 2024 along with entire proceeding is hereby **quashed and set-aside.**

9. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.11.2025
Transmission Date	22.11.2025

