



Serial No. 08
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 31 of 2025

Date of Decision: 16.07.2025

Smti. Phyrnailang Thangkhiew,
Daughter of Late B.S. Majaw,
Resident of Nongkseh, Block-II, P.O- Kynton, P.S- Jhalupara,
East Khasi Hills District,
Meghalaya.

.....Petitioner

VERSUS

1. The State of Meghalaya,
Represented by the Learned Public Prosecutor.
2. Smti. X, Wife of Shri. XY,
Resident of XYZ.

.....Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.K. Hassan, Adv.

For the Respondent(s) : Mr. H. Kharmih, Addl. P.P
Mr. S. Sengupta, Addl. P.P (For R 1)
Ms. N.M. Kharshemlang, Adv. (For R

2)

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| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |



JUDGMENT & ORDER (ORAL)

1. Mr. H. Kharmih, learned Addl. P.P has produced the copy of the case diary before this Court today and the same is perused accordingly.
2. Heard Mr. S.K. Hassan, learned counsel for the petitioner who, at the outset, has fairly conceded that the accused/son of the petitioner is in a relationship with the survivor who is the daughter of the respondent No. 2/complainant herein.
3. The learned counsel in his prayer for grant of bail on behalf of the said accused person has submitted that there are two points for consideration placed before this Court. Firstly, that the relationship between the accused person and the survivor is one of a romantic relationship inasmuch as they are boyfriend and girlfriend and being adolescence, their age ranging from 19 years as far as the accused person is concerned and about 17 years or so being the age of the survivor, it is, but natural that there would be expression of emotions between them resulting in the incident of sexual relationship. Secondly, the fact that the accused person is a young man who is still a student and presently studying in class-XII, he is slated to appear for his internal examination, the next examination being scheduled on 21.07.2025 till 26.07.2025 and as such, so as not to jeopardize the academic future of the accused person, it is prayed that this petition may be allowed and that the accused may be enlarged on bail with any conditions that this Court may deem fit and proper to impose.
4. Per contra, Mr. H. Kharmih, learned Addl. P.P has strongly objected to the prayer made in this petition on the ground that the



investigation reveals that the survivor has been subjected to vicious sexual assault by the accused person who is supposed to be her boyfriend. However, his conduct is such that, what he has inflicted on the survivor is nothing short of aggravated sexual assault. This has been revealed by the survivor in her statement under Section 183 BNSS made before the learned Magistrate.

5. It is the further submission of the learned Addl. P.P that the accused person had gone to the extent of recording the act between him and the survivor and has even circulated the same via virtual mode and as such, the contents of the same have gone viral. This has greatly affected the reputation and image of the survivor whose identity has been revealed and, in the process, has caused the survivor to undergo a very difficult and traumatic experience. Under such circumstances, it is prayed that the prayer made in this petition be rejected.

6. Ms. N.M. Kharshemlang, learned counsel for the respondent No. 2/complainant has endorsed the submission made by the learned Addl. P.P. and has submitted that the complainant has also strongly objected to the prayer made in this petition taking into account the facts and circumstances of the case wherein the survivor is undergoing a very difficult period as a result of the sexual assault perpetrated on her by the accused person. In fact, when the complainant and other family members had advised the accused person not to have any relationship with the survivor, he has ignored their advice and had gone ahead with the relationship resulting in the incident as has been narrated above. Accordingly, it is prayed that this petition may not be allowed.

7. This Court has carefully considered the submission made and has



also perused the petition and the case diary wherein is found the statement made by the survivor before the learned Magistrate.

8. The submission of the learned counsel for the petitioner is that the relationship between the accused and the survivor is a romantic relationship and that further, being of a young age, the act alleged to have committed may not be taken into account as an act of sexual assault, but only that of the consequence of a love relationship. In that regard, the learned counsel has referred to the case of Smti. Ephina Khonglah v. State of Meghalaya where vide order dated 22.11.2021 passed in BA No. 14 of 2021 this Court has in the facts and circumstances of that particular case opined that cases where the romantic element is present between the accused and the survivor, the same has to be looked into from a different point of view and such act could not be considered a criminal act prima facie. The same situation being present in this instant case, it is the contention of the learned counsel for the petitioner that the accused person in this case can also be extended the same benefit.

9. The learned Addl. P.P has however maintained that the conduct of the accused as regard the said relationship and the manner in which the act was perpetrated on the survivor, particularly the fact that he had recorded such act and had circulated it via social media would only point out that there is nothing romantic present in such relationship.

10. This Court has perused the statement made by the survivor and has noted that the survivor has indicated that her relationship with the accused person is anything but romantic inasmuch as he has treated her very cruelly and has used words which have affected her personality and her character. The survivor has also stated that he has defamed her and her



family members by circulating the said video of the act.

11. In the considered opinion of this Court, the statement of the survivor at this point of time carries a lot of weight and has portrayed the accused person in a bad light. This Court is also convinced that far from being a love relationship between the accused and the survivor, the accused person, prima facie has turned out to be the abuser in the relationship. Be that as it may, it would be incumbent upon the Trial Court to look into this aspect of the matter in course of trial and the evidence recorded to be appreciated, including the electronic evidence.

12. Considering that this particular case is serious in nature, this Court is not inclined to allow the prayer made in this petition at this juncture. Accordingly, this petition is found to be devoid of merits and is hereby dismissed.

13. In the fitness of things, in the light of what has been submitted by the learned Addl. P.P as regard the circulation of the said video in question involving the accused person and the survivor, the concerned court is directed to pass necessary orders to ensure that the content is not to be kept in circulation, if not already done.

14. Let copy of this order be issued upon the learned Special Judge (POCSO), East Khasi Hills District, Shillong for compliance.

15. Petition stands disposed of.

Judge