



Serial No.14
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Rev. P. No. 8 of 2025

Date of Order: 15.10.2025

Shri. Rabbi Ali
Son of Shri Sakat Ali
Resident of Bisondai Village,
Pt-1, Golakganj P.S.
District Dhubri, Assam-783334
Presently residing at Demseiniong,
Laitumkhrach, Shillong
East Khasi Hills District,
Meghalaya.

Vs. State of Meghalaya.
Represented by its Commissioner
Secretary (Home) Police Department
Govt. of Meghalaya, Shillong.

.....Petitioner.

.....Respondent.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

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

For the Respondent(s) : Mr. H. Kharmih, Addl. PP.

(ORAL):-

Heard Mr. S. Thapa, learned Counsel appearing for the petitioner and
Mr. H. Kharmih, learned Addl. PP appearing for the State-respondent.

Being aggrieved by order dated 21-08-2025 passed in Spl. (POCSO)
Case No. 8 of 2025 by the learned Special Judge (POCSO) Shillong



directing for framing of charges, the petitioner has filed this revision application before this Court.

Assailing the impugned order, Mr. S. Thapa, learned Counsel appearing for the petitioner submits that the jurisdiction of the Special POCSO Court was challenged by the petitioner on the ground that the survivor was above 18 years of age at the time of the occurrence of alleged offence, but the learned Trial Court rejected the challenge in gross violation of established principles of law. He submits that the learned Trial Court erroneously passed the impugned order by ignoring the principle of standard margin of error applicable in the present case as the claim of minority of the age of the survivor by the prosecution is based on an Ossification Test Report. He further contends that the learned Trial Court overlooked the proposition of law laid down in various judicial pronouncements and wrongly came to a finding that the survivor was a minor at the time of the alleged incident. He submits that the age of the survivor being a foundational fact in an offence under the POCSO Act, the determination of the same has to be strictly in accordance with law. He, therefore, submits that impugned order of the Trial Court rejecting the plea of the petitioner is not valid in law and requires interference by this Court.

Mr. H. Kharmih, learned Addl. PP appearing for the State-respondent, on the other hand, submits that the finding of the Trial Court is based on the materials on record and the Trial Court is not required to evaluate the merits of the evidence of a case at the stage of framing of charge. He submits that the determination of the age of the survivor is dependent on the evidence adduced during the course of the trial and the petitioner has the liberty to raise question with regard to the age of the



survivor after evidence in that regard is recorded at the trial. He, therefore, submits that the impugned order does not call for any interference at this stage.

Considered the submission made on behalf of the parties and also perused the materials on record. It appears that the learned Trial Court has decided to proceed with the framing of charge against the petitioner on the basis of the Ossification Report showing the age of the victim between 16 – 17 years. The observation recorded by the Trial Court in the impugned order dated 21-08-2025 passed at the stage of framing of charge cannot be faulted at this stage as the same is based on materials on record accompanying the chargesheet. The observation made by the Trial Court in the impugned order is only for the purpose of deciding whether the trial can proceed against the petitioner and cannot be regarded as final insofar as the question of determination of age of the survivor is concerned. The question as to whether the petitioner is entitled to the benefit of principle of standard margin of error will also depend on the evidence recorded in the trial. As it is the settled position of law that the age of the survivor can be determined only after evidence in this regard is adduced at the time of trial, the petitioner's liberty to question the age of the survivor remains open in terms of Section 34 of the POCSO Act. Hence, at this juncture, no interference is called for with the impugned order.

It is made clear that in the event petitioner raises any question before the Trial Court with regard to the age of the survivor, the same shall be decided first by the learned Trial Court in accordance with Section 34 of the POCSO Act and other related provisions of law before proceeding further with the trial of the case.



With the above, this revision application stands disposed of.

Judge

Meghalaya
15.10.2025
“Biswarup PS”

