



Serial No.10
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Pet. No. 35 of 2024

Date of decision : 11.08.2026

Shri Elrick Bareh
Son of Smti Kyrmen Bareh
Resident of Jalapet, Bri- Sutnga
East Jaintia Hills District,
P.S. Khilehriat, Meghalaya.

.....Petitioner

-VERSUS-

1. State of Meghalaya
Through its Commissioner and
Secretary, Home (Police)
Department,
Govt. of Meghalaya
Shillong.
2. The Superintendent of Police
East Jaintia Hills District,
Shillong, Meghalaya
3. Smti Rikut Shyrmang
D/o Smti Chil Shyrmang
Resident of Jalapet, Bri-Stunga
East Jaintia Hills District,
P.S. Khliehriat, Meghalaya
4. Miss X (Survivor)
(Impleaded vide order
dated 03.06.2026
passed in Crl. Misc No 88 of 2026)

.....Respondents

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

**Appearance:**

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

For the Respondent(s) : Mr. J. Thabah, GA. (R:1 & 2)
Mr. S. Panthi, Adv. (R: 3 & 4)

Judgment and Order (Oral)

1. This is an application under section 482 Cr.P.C. praying for quashing and setting aside of the FIR dated 07.08.2023 and the related Special (POCSO) Case No. 2 of 2024 u/s 5(j)(ii)/5(l)/6 POCSO Act, 2012 pending before the Court of Special Judge (POCSO) Act, Khliehriat, East Jaintia Hills District.
2. The brief fact of the case is that an FIR dated 07.08.2023 came to be lodged by the respondent No.3 against the petitioner on the basis of the advice of the doctor of Sutnga, Community Health Centre, (CHC) upon the respondent No.4/survivor being found pregnant after medical checkup. Accordingly, the police registered a case being Khliehriat Women P.S. Case No. 35 (08) 2023 u/s 5(j)(ii)/5(l)/6 POCSO Act, against the petitioner. After completion of the investigation, a charge sheet under the aforesaid section of law bearing Charge Sheet No.03/2024 dated 01.02.2024 was filed against the petitioner. Accordingly, a case has been registered as Special (POCSO) Case No. 2 of 2024 and the petitioner is made to face trial before the Court of the Special Judge (POCSO), Khliehriat.
3. Mr. S. Thapa, learned counsel appearing for the petitioner submits that relationship between the petitioner and the respondent No.4/survivor and their co-habitation was with mutual understanding. He submits that filing of the FIR dated 07.08.2023 was solely in compliance to the requirement of law without there being any willingness on the part of the respondent No.3 and respondent No.4/survivor. He submits that the petitioner and the respondent No.4/survivor have been in a romantic relationship since the time of Behdiengkhlam Festival in the year 2022. He submits that the petitioner is a



rustic villager with no criminal antecedent and commission of the incident was due to consensual act resulting from romantic relationship and not driven with any ill motive or malafide. The learned counsel submits that the respondent Nos.3 & 4 do not wish to continue with the criminal proceedings against the petitioner as they are now residing happily as a family. He further submits that the petitioner has been taking good care, both financially and emotionally including physical wellbeing of the respondent No.4/survivor. The learned counsel has placed reliance on the decision of this Court in Crl. Petn. No. 92 of 2023 to impress upon this Court about the permissibility of quashing of a POCSO Case by consent.

4. Mr. J. Thabah, learned GA appearing for the State-respondents has no objection to the prayer made in this criminal petition and submits that necessary order may be passed.

5. Mr. S. Panthi, learned counsel appearing for the respondent Nos. 3 & 4 submits that both the respondent Nos. 3 & 4 have no objection to the quashing of the criminal proceeding against the petitioner and further submits that an affidavit to that effect has been filed by the respondent No.4/survivor before this Court.

6. Before proceeding further with the facts and situation of the case in hand, it would be appropriate to take note of the relevant part of the judgment dated 12.03.2026 passed in Crl. Petn. No. 92 of 2023. Para 34 of the judgment reads as under: -

“Thus, from the aforesaid discussion, quashing of a POCSO case under Section 528 BNSS by consent, is permissible even if it is a special statute and there is no specific exclusion of any present law/custom. However, the said discretion has to be used with due care and caution and circumspection in exceptional cases, to do justice. As noted earlier, there cannot be any straitjacket formula as to in which cases the said discretion can or cannot be exercised, inasmuch as, that would depend on the facts and circumstances of each case i.e., the age of the parties coming before the Court; whether the consent given by the victim is an informed consent and not under coercion of the family members or the boy; that the victim and the accused are



married and have a child or are living together as husband and wife, per the customs in the State of Meghalaya, etc. Where parties are living together as husband and wife or are married, a police report, or a report from any authority, be called for, verifying the said claim. Also, while considering whether the consent of the victim is an 'informed consent', it is necessary that the victim places her affidavit on giving her 'No Objection' to the quashing of the case. That, before such an affidavit is accepted, in order to ensure that the consent is an informed consent, the victim may be sent before the Secretary, MLSA or Secretary, DLSA to ascertain whether the consent given is an informed consent, by giving her time to ponder over the same; and a report be called for, before such quashing petition is considered. While quashing the case, the Government schemes that may be available to a victim in a POCSO Act and the child born from the said relationship also be given due weightage as suggested and directed by the Apex Court in the case of Re: Right to privacy of adolescents(supra) ”

7. The respondent No.4/survivor has filed an affidavit on 16.06.2026 before this Court asserting that she is happily living with the petitioner as husband and wife without any objection from any quarter and their relationship is accepted and recognized by the society as per the prevailing tradition and custom. She also expressed that she does not have any objection to the quashing of the criminal proceeding against the petitioner pending before the Special Judge (POCSO), Khliehriat. The respondent No.4/survivor in her affidavit further asserted that the consent/no objection accorded by her is free from any force, coercion or undue influence of any kind and the same is accorded out of her own free will and volition with full understanding of consequences.

8. Since the present criminal petition seeks quashing of the entire proceeding of Special (POCSO) Case No. 2 of 2024 with the consent of the respondent No.4/survivor, on premises that the petitioner and the respondent No.4/survivor are residing together as husband and wife, the respondent No.4/survivor was ordered by this Court to be present before the Secretary, Meghalaya State Legal Services Authority, for the purpose of



ascertaining whether the consent given by the respondent No.4/survivor was an informed consent or not. The Meghalaya State Legal Services Authority, Shillong by communication vide Memo No. MSLSA. 1/2020/154 dated 14.07.2026 forwarded a report dated 13.07.2026 of the Member Secretary, MSLSA. Perusal of the report reveals that the petitioner, aged about 25 years and the respondent No.4/survivor victim aged about 19 years are living and cohabitating together though they are not formally married. Both of them are living together in Lad Narwan Village, Bri Sumer, East Jaintia Hills District in a house constructed by the parents of the respondent No.4/survivor. The respondent No.4/survivor expressed her unwillingness to pursue the case against the petitioner because of the mutual love and willingness to live together happily. No force or coercion was applied on the respondent No.4/survivor to extract her consent to quash the proceeding pending against the petitioner.

9. The report of the Secretary, MSLSA dated 13.07.2026 and the affidavit dated 16.06.2026 of the respondent No.4/survivor undoubtedly project that the consent given by the respondent No.4/survivor is an informed consent and not under any threat or coercion from the family members or the petitioner. It is also clear that the petitioner and the respondent No.4/survivor are living as husband and wife and their relationship has been accepted by the society.

10. As the petitioner and the respondent No.4/survivor are living together as husband and wife on being recognized by their respective family members and the society, sending the petitioner to jail would not serve the cause of justice, rather it would cause great injustice to the respondent No.4/survivor. Since it is clear to this Court that the consent given by the respondent No.4/survivor is a genuine and informed consent and that it would be greater injustice to send the petitioner to jail, a case has been made out for invoking inherent jurisdiction of this Court for issuing necessary direction.

11. Resultantly, the FIR dated 07.08.2023 and the related proceeding of Special (POCSO) Case No. 2 of 2024 u/s 5(j)(ii)/5(l)/6 of the POCSO Act,



2012 pending before the Special Judge (POCSO), Khliehriat is hereby set aside and quashed.

12. The criminal petition stands allowed.

Judge

Meghalaya
11.08.2026
"Abhinandan,PS"