



Serial No.04
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn.No.39/2025

Date of Order: 16.04.2026

1. Shri Anbesson Kharbani
2. Smti. A (Survivor)

..... Petitioners

Vs.

1. The State of Meghalaya, through Public Prosecutor.
2. The Officer-in-Charge, Mawshynrut Police Station, West Khasi Hills District, Meghalaya
3. WPSI Aidahun Thongni, Nongstoin Women Police Station, Nongstoin, West Khasi Hill District, Meghalaya.

..... Respondents

Coram:

Hon'ble Mrs. Justice Revati Mohite Dere, Chief Justice

Appearance:

For the Petitioners: Mrs. A. Synrem, Adv

For the Respondents : Mr. S. Sengupta, Addl.PP

i) Whether approved for reporting in Law journals etc.: Yes

ii) Whether approved for publication in press: Yes



JUDGMENT: (Oral)

Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and the aforesaid petition is taken up for final disposal.

3. Mr. S. Sengupta, learned Addl.PP waives notice on behalf of all the respondents.

4. By this petition, the petitioners seek quashing of the FIR registered with Mawshynrut Police Station being P.S. Case No.3(2) of 2021 for the alleged offences punishable under Sections 5 and 6 of the POCSO Act, 2012 and consequently, the proceeding being Special POCSO Case No.48 of 2023 pending before the Court of the learned Special Judge (POCSO), West Khasi Hills, Nongstoin.

5. Quashing is sought by consent, on the premise that the petitioners i.e., petitioner No. 1 (original accused) and Petitioner No.2 (victim) are living together as husband and wife and have two children born from the said relationship.



6. A few facts giving rise to the filing of the aforesaid petition are as under:-

7. An FIR was lodged by the Officer-in-Charge of Nongstoin Women Police Station, West Khasi Hills District, Nongstoin on the information received by her from the District Child Protection Officer (DCPO) that there was a teenage pregnancy of the petitioner No.2. Pursuant thereto, an FIR was lodged by the Officer-in-Charge of Nongstoin Women Police Station, West Khasi Hills District, Nongstoin alleging the aforesaid offences, as the petitioner No.2 was aged 16 years at the relevant time. Although, the investigation revealed that the minor girl had a voluntary physical relationship with the petitioner No.1, who at that time was about 25-26 years old, resulting in the birth of a male child on 22nd September, 2020 FIR was lodged, having regard to the fact, that the petitioner No.2 was a minor. After investigation, chargesheet was filed in the said case and the case is presently pending before the learned Special Judge (POCSO), West Khasi Hills, Nongstoin, being Special POCSO Case No.48 of 2023.



8. The aforesaid petition has been filed jointly by the petitioner No.1, who is an accused and the petitioner No.2 (survivor), seeking quashing of the FIR/proceeding by consent.

9. Since this is a petition seeking quashing of the proceeding by consent, the parties were directed to appear before the Secretary, High Court Legal Services Committee on 8th April, 2026, in order to enable the Secretary, High Court Legal Services Committee to find out and submit a report whether the consent given by the petitioner No.2 is an informed consent; whether she has received any benefits under any of the Schemes either, from the State or Central Government etc. Pursuant thereto, the Secretary, High Court Legal Services Committee has submitted her report dated 15th April, 2026 in a sealed envelope. The said envelope is opened and the said report is taken on record. From the said report, it appears that the petitioner No.1 and petitioner No.2 were in a relationship and from the said relationship have two children, one aged 5.6 years and another 2.6 years. The report reveals that the petitioners are living together as husband



and wife happily and the petitioner No.2 has no objection to the quashing of the proceeding against the petitioner No.1.

10. It further appears from the report that the petitioner No.1 is working as a mason and is looking after the needs of the petitioner No.2 and the children. It further appears that the petitioner Nos.1 and 2 could not get married though they intended to get married, as the petitioner No.2 did not have a birth certificate and EPIC, which are requisite for marriage in the church. It further appears from the report that the parties have applied for the same and the same is under process. It also further appears that the families of both sides have consented to the decision to get married. According to the report, the petitioner No.1 is taking care of all the household expenses and personal expenditure including school fees etc. and will continue to take care of the same. It further appears that the petitioners' elder son is studying in Class-I in a Government L.P. School. The report reveals that the petitioner No.2 has not received any compensation or benefits from any of the Schemes, either of the State or Central Government for herself or for her children. The



report also reveals that the petitioner No.2 has no birth certificate, EPIC and Aadhaar Card, and that her children were born at home. She does not have any documents, as a result of which, she could not apply for the birth certificate of her children. The report reveals that she would want assistance to obtain all the aforesaid documents. The report also reveals that the petitioner No.2 does not wish to resume her studies though she has completed standard 10 nor is she interested in pursuing any vocational training, even if given an opportunity.

11. This Court (***Coram: Chief Justice and Justice Thangkhiew***) in its judgment passed in ***Criminal Petition No.92 of 2023*** dated 12th March, 2026 has in paragraphs 31, 33, 34 and 35 observed as under:

“31. The ground realities in the State of Meghalaya cannot be ignored and lost sight of. It shows high incidents of adolescent consensual relationships culminating in elopement and early marriage or living together, as husband and wife, which is recognised by the society. Infact, cases of adolescent relationships where the parties i.e., the victim and the boy have got married or are living together as husband and wife and have a child from the said relationship are far too many, resulting in parties filing petitions under Section 528 BNSS (earlier, Section 482



Cr.P.C.) seeking quashing of the proceeding by consent of the parties.

32.

33. What also cannot be lost sight of is, that in Meghalaya, matrilineal system is a rare, ancient societal structure among the Khasi, Garo and Jaintia tribes, where lineage and inheritance pass through the mother. Children take their mother's surname, the youngest daughter inherits the property (is the custodian of ancestral property) and the husband often moves into the wife's house. The system is believed to have originated from an agrarian society and the need to protect the family structure, ensuring women's economic security, social stability and the preservation of tribal identity. Infact, in the Khasi community, women have more independence than women in many patriarchal communities, including the freedom to select their partners, remarry without shame and take an active role in public places like market place and businesses. It is in this background that this Court would have to consider a case seeking quashing of a POCSO case by consent, keeping in mind all factors, including the girl's (victim's) and her child's social security, by ensuring that she and the child get the benefit of the government schemes, including under the POCSO Act.

34. 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, as 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 record 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 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).

35. No doubt, we are conscious of the fact that a case under POCSO Act, is not a case against an individual, but is an offence against the society as a whole, however, the administration or enforcement of the law cannot be divorced from lived realities. Rendering justice demands not only that the law be applied with precision, but also that it be tempered with fairness, compassion and empathy when the situation/facts of a case, warrant it. Thus, it is necessary to maintain a fine balance between the competing interests of justice, deterrence and rehabilitation. Where the victim and the boy are married or are living together as husband and wife (and recognised), and have a child/children, sending the boy to jail would not serve the cause of justice, rather it would cause great injustice to the victim and the child born from the said consensual relationship, as ultimately, the aim of the law is to do justice. Thus, in cases where the court comes to the



conclusion, that the consent given by the victim is a genuine and informed consent and that it would be greater injustice to send the boy to jail, instead of letting the parties live together as one family, the Court may consider quashing the case, pending trial, keeping in mind what is stated aforesaid. We may note, considering the large number of POCSO cases, in particular *Romeo – Juliet* cases, it is the responsibility of the State Government to create awareness amongst the people, including the children about the provisions of the POCSO Act, its punishment, etc., not only in the cities but also in the interior and remote places, including schools, colleges, etc.”

12. Considering the aforesaid judgment of this Court in ***Shri Shalenbor Wahlang v. State of Meghalaya & anr*** passed in ***Crl.Petn.No.92 of 2023*** dated 12th March, 2026, the report of the Secretary, High Court Legal Services Committee, the fact that the parties i.e., the petitioner Nos.1 and 2 are living happily together as husband and wife and have children from the said relationship and that there is no objection and informed consent given by the petitioner No.2 to the quashing of the proceeding initiated against the petitioner No.1, there is no impediment in allowing the petition.

13. Accordingly, the FIR bearing P.S. Case No.3(2) of 2021 registered with Mawshynrut Police Station for the alleged



offences punishable under Sections 5 and 6 of the POCSO Act, 2012 and consequently, the proceeding being Special POCSO Case No.48 of 2023 pending before the Court of the learned Special Judge (POCSO), West Khasi Hills, Nongstoin are quashed.

14. Needless to state, that the petitioner No.2 and her children be extended all benefits as may be applicable to them i.e., the Schemes from either the State or Central Government, which are as under:

- (i) Scheme for Care and Support to Victims of under Sections 4 and 6 of the POCSO Act (exclusively for POSCO victims) [Nirbhaya Fund];
- (ii) Mission Vatsalya Scheme (Child Protection Services);
- (iii) Beti Bachao, Beti Padhao (BBBP) Scheme;
- (iv) Meghalaya Victim Compensation Scheme, 2022;
- (v) Meghalaya Health Insurance Scheme;
- (vi) Ayushman Bharat-PM-JAY (free health);
- (vii) Mission 1000 Days-Meghalaya;
- (viii) Rashtriya Bal Swasthya Karyakram (RBSK);
- (ix) Chief Minister's Safe Motherhood Scheme or CM-SMS;
- (x) Special Training Programme for age-appropriate admission of Out of School Children (OoSC) and Back to School Campaign;
- (xi) Samagra Siksha (Back to School);



- (xii) NALSA (Child-Friendly Legal Services for Children) Scheme 2024;
- (xiii) NALSA (Legal Services to Persons with Mental Illness and Persons with intellectual Disabilities) Scheme, 2024;
- (xiv) Mission Shakti-Women's Safety, Support and Empowerment; and
- (xv) Insurance or any other scheme.

15. In order to enable the petitioner No.2 to get the benefits of the above said schemes, the District Child Protection Officer (DCPO), West Khasi Hills District, Nongstoin as well as the Secretary, DLSA, West Khasi Hills District, Nongstoin are directed to ensure that the benefits as may be applicable to the petitioner No.2 and her children are made available to them at the earliest and in any event within eight weeks from the date of receipt of this order.

16. The authorities concerned to help the petitioner No.2 to process her birth certificate and that of her children, including with the EPIC and Aadhaar Cards.

17. Compliance report to be submitted to this Court after nine weeks.



18. The Registry to forward forthwith a copy of this order to both, the Member Secretary, Meghalaya State Legal Services Authority and the Commissioner and Secretary, Social Welfare Department, Shillong (the DCPO, West Khasi Hills District, Nongstoin as well as the Secretary, DLSA, West Khasi Hills District, Nongstoin) to enable them to take steps and ensure compliance of the order.

19. Rule is made absolute on the aforesaid terms.

20. The petition is allowed and disposed of on the aforesaid terms.

21. Stand over to **29th June, 2026** for recording compliance.

(Revati Mohite Dere)
Chief Justice

Meghalaya
16.04.2026
"Lam DR-PS"