



Serial No.07
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn.No.92/2023

Date of Order: 10.04.2026

1. Shri Shalenbor Wahlang

2. Smti. B

..... Petitioners

Vs.

1. The State of Meghalaya, represented by the Secretary Govt. of Meghalaya, Home (Police) Department, East Khasi Hills District, Meghalaya.

2. Smti. Skhemkeri Syiem

..... Respondents

Coram:

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

Appearance:

For the Petitioners : Ms. L. Khiangte, Adv with
Mr. T.H. Rakesh, Adv

For the Respondents : Mr. R. Gurung, Addl.PP with
Mr. S. Sengupta, Addl.PP
Mr. S.P. Mahanta, Amicus Curiae

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. By this petition, the petitioners i.e., the petitioner No.1 (accused) and petitioner No.2 (victim) seek quashing of the FIR registered with Diengpasoh Police Station being Diengpasoh P.S. Case No.05(5) of 2019 for the alleged offences punishable under Sections 5 and 6 of the POCSO Act, 2012 and consequently, the proceeding being Special POCSO Case No.103 of 2019 pending before the Court of the learned Special Judge (POCSO), East Khasi Hills District, Shillong.

4. Quashing is sought on the premise that the petitioner Nos.1 and 2 are living together as husband and wife and from the said relationship have two children aged about six and a half years and five months.



5. A few facts as are necessary to decide the petition are as under.

6. At the relevant time, the petitioner No.1 was 22 years of age and the petitioner No.2 was 16 years of age. It is the petitioners' case that they were in a consensual relationship. It is further the petitioners' case that in 2019, the petitioner No.2 went for a medical checkup, as she had stomach ache and that it was the doctor at the hospital who disclosed that the petitioner No.2 was two months pregnant. Accordingly, on the direction of the hospital, the petitioner No.1 informed the concerned police station. Thereafter, the respondent No.2 i.e., the grandmother of the petitioner No.2 lodged an FIR as against the petitioner No.1 on the instructions of the officials of the Social Welfare Department. It is not in dispute that thereafter, the petitioner Nos.1 and 2 started living together as husband and wife and that the said relationship was not opposed to by the parents of either of the parties. From the said relationship the petitioners have two sons, one, aged six and a half years and the other, aged five months.



7. Considering the aforesaid, the parties have approached this Court by filing the aforesaid petition seeking quashing of the FIR and consequently, the proceeding under the POCSO Act.

8. Notice was issued to the respondent No.2 i.e., the grandmother of the petitioner No.2 and the original complainant.

9. The petitioners as well as the respondent No.2 appeared before this Court and expressed their no objection to the quashing of the proceeding in view of the aforesaid facts. Despite the same, this Court deemed it appropriate to direct the parties i.e., the petitioner Nos.1 and 2 and the respondent No.2 to appear before the Secretary, High Court Legal Services Committee to enable the Secretary to submit her report in terms of the judgement of this Court dated 12th March, 2026 passed in the aforesaid petition i.e., the Reference made by the learned Single Judge before the Division Bench.

10. Accordingly, the Secretary, High Court Legal Services Committee has submitted her report in a sealed envelope. The said envelope was opened. After perusing the report, it appears



that the petitioner No.2 (victim) and the respondent No.2 (original complainant) have given their informed consent to the quashing of the proceeding as against the petitioner No.1. In the report, it is stated that though they are not formally married, they are living together as husband and wife in their own house along with their children aged six and a half years and five months. It further appears from the report that the eldest son is studying in Class-1 in a private school where the monthly fees are of ₹1500/-. It further appears from the report that the petitioner No.1 is working as a mason and earning ₹800/- per day and that the same is sufficient to take care of the household needs including school fees and other expenditures.

11. The report further mentions that the petitioner No.2 is the house wife and takes care of the house and the children and that she is living happily with the petitioner No.1. It is further disclosed by the petitioner No.2 that although she has passed Class-VI, she does not wish to resume her education, however, is interested in cooking and wishes to pursue some course in the said field, if given an opportunity. It is further stated that she



has not received any benefits from the government or any other authority. It also appears from the report that she has an Aadhaar Card.

12. This Court in the Reference answered in the aforesaid petition, i.e., the judgment 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.”



13. Considering the judgment of this Court in the aforesaid petition on a reference, the report of the Secretary, High Court Legal Services Committee and what was expressed by the parties in the Court on the last date and keeping in mind the fact, that the parties i.e., the petitioner No.1 and petitioner No.2 are living together as husband and wife since 2019 and having regard to the fact, that there are two children born from the said relationship, the FIR bearing P.S. Case No.05(5) of 2019 under Sections 5 and 6 of the POCSO Act registered with Diengpasoh Police Station and consequently, the proceeding pending before the learned Special Judge (POCSO), East Khasi Hills District, Shillong being Special POCSO Case No.103 of 2019 are quashed and set aside.

14. Needless to state, that the petitioner No.2 and the 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 POCSO 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; and
- (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), East Khasi Hills District, Shillong as well as the Secretary, DLSA, East Khasi Hills District, Shillong are directed to ensure that the benefits as may be applicable to the petitioner



No.2 and the 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. A compliance report of the benefits extended to the petitioner No.2 and the children be placed before this Court on the next date.

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

18. Rule is made absolute on the aforesaid terms.

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



20. Stand over to **11th June, 2026** for recording compliance.

(Revati Mohite Dere)
Chief Justice

Meghalaya
10.04.2026
"Lam DR-PS"