



Serial No.05
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn.No.82/2026

Date of Order: 30.06.2026

1. Shri Bansuklang Marthong
2. Miss B (Victim/Child Survivor) Petitioners

Vs.

1. The State of Meghalaya, represented by the Secretary, State Home Department, Shillong, East Khasi Hills District, Meghalaya.
2. Superintendent of Police, West Khasi Hills District, Nongstoin, Meghalaya.
3. Officer-in-Charge, Nongstoin Police Station, West Khasi Hills District, Meghalaya.
4. Shri XX (Complainant) Respondents

Coram:

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

Appearance:

For the Petitioners : Ms. B. Sun, Adv with
Ms. S.R. Marak, Adv

For the Respondents : Mr. A.S. Dey, GA for R/1-3

i) Whether approved for reporting in Law journals etc.: No

ii) Whether approved for publication in press: No

**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., petitioner No.1 (original accused) and petitioner No.2 (prosecutrix), seek quashing of the FIR registered with the Nongstoin Police Station, West Khasi Hills District, being FIR No.02 (01) 2025, dated 13th January, 2025 and consequently, the proceeding pending before the learned Special Judge (POCSO), Nongstoin, West Khasi Hills District, Meghalaya, being Special (POCSO) Case No.25 of 2025. Quashing is sought on the premise that the parties i.e., the petitioner No.2 and respondent No.4 (original complainant), have no objection to the quashing of the FIR/proceeding qua the petitioner No.1. It is pertinent to note that respondent No.4 is the brother-in-law of the petitioner No.1 and brother of petitioner No.2. Quashing is also sought on the premise that the



relationship between the parties i.e., the petitioner No.1 and petitioner No.2 was consensual.

4. The petitioner No.1, at the relevant time was 21 years of age and the petitioner No.2, 17 years of age. It appears that the relationship between the two, was a romantic relationship and was consensual and that from the said relationship a child was born, who is presently more than one year old. The respondent No.4 (brother of petitioner No.2) lodged an FIR as against the petitioner No.1, alleging offences under the POCSO Act.

5. Pursuant to the order dated 16th June, 2026, the petitioners as well as the respondent No.4 appeared before the Secretary, High Court Legal Service Committee to enable the Secretary to submit her report as to whether the consent given by the petitioner No.2 (prosecutrix) and the respondent No.4 (original complainant) was an informed consent; whether the petitioner No.2 has received any benefits under any of the Schemes of the State or Central government for herself or her child etc. Pursuant thereto, the Secretary, High Court Legal Service Committee has submitted her report dated 16th June,



2026 in a sealed envelope. The envelope is opened and the report of the Secretary, High Court Legal Service Committee is taken on record.

6. From a perusal of the report, it appears that the petitioner No.1 has passed Class-IX and he runs his own salon in the village and earns about ₹5000-6000/- every month. The report also reflects that the petitioner No.1 contributes his income at home as well as towards the petitioner No.2 and their daughter, who is presently one year and five months. From the report, it is evident that pursuant to the order passed by the trial court imposing a condition on the petitioner No.1, not to meet the petitioner No.2, the parties have been living separately. The report also reflects that although the parties are living separately, the petitioner No.1 is taken care of the financial needs of the petitioner No.2 and their daughter. The report also reflects that the parties intend to get married and that the families of both sides have no objection to them staying together and getting married. From the report, it also appears that the petitioner No.2 does not have an Aadhaar or an Epic Card, nor does her daughter have an Aadhaar Card. The report also



reveals that the petitioner No.1 is capable, competent and willing to take care of all the financial needs of the petitioner No.2 and their child once they start living together. The petitioner No.2 is present in Court and so also respondent No.4. Both when questioned reiterate what was disclosed by them before the Secretary, High Court Legal Service Committee i.e., that they have no objection to the quashing of the FIR/proceeding qua the petitioner No.1, as the petitioner No.1 and petitioner No.2 intend to live together and get married out of love and affection for each other, without any conditions attached. The petitioner No.2 also states that she is happy in the relationship and has no complaint against the petitioner No.1.

7. From the report, it also appears that the petitioner No.2 nor her child have received any compensation or benefit from the Central or State government in connection with the said case. From the report, it also appears and which fact is reiterated by the respondent No.4, who is present in Court, that he has no objection if the FIR is quashed, as the petitioners are happy in their relationship and, he has no objection if they live together and also if they get married. The respondent No.4 has produced



a photo copy of his Aadhaar Card duly attested by Notary, Shillong. The same is taken on record.

8. This Court in ***Shri Shalenbor Wahlang v. State of Meghalaya & anr*** passed in ***Crl.Petn.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.”

9. Considering the peculiar facts of the case, the fact that the parties i.e., the petitioner No.1 and petitioner No.2, intend to live



together (presently, they are unable to live together because of the condition imposed by the trial court whilst granting anticipatory bail to the petitioner No.1) and intend to get married; they have a child, who is currently one year and five months of age; the report of the Secretary, High Court Legal Service Committee; the no objection given by the petitioner No.2 (prosecutrix) and the respondent No.4 (original complainant) and having regard to the judgment as reproduced hereinabove, there is no impediment in allowing the petition. If infact, if the petition is not allowed, it is the petitioner No.2 and her child, who will be seriously affected by the same.

10. Considering the aforesaid, the petition is allowed and the FIR registered with the Nongstoin Police Station, West Khasi Hills District, being FIR No.02 (01) 2025, dated 13th January, 2025 and consequently, the proceeding pending before the learned Special Judge (POCSO), Nongstoin, West Khasi Hills District, Meghalaya, being Special (POCSO) Case No.25 of 2025 are quashed and set aside.



11. Needless to state, that the DCPO, West Khasi Hills District, Nongstoin and the Secretary, DSLA, West Khasi Hills District, Nongstoin, to take steps and verify whether the petitioner No.2 has received any benefit under any of the Central or State government Schemes for herself and her child. The Schemes 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.”

12. The DCPO, West Khasi Hills District, Nongstoin as well as the Secretary, DSLA, West Khasi Hills District, Nongstoin, to assist the petitioner No.2 in getting all such benefits, as may be applicable to her and her child, including enrolling her into a vocational course, which she may want to pursue.

13. The Registry to forthwith forward a copy of this order to the Member Secretary, Meghalaya State Legal Services Authority, Shillong and Commissioner and Secretary, Social Welfare Department, Shillong as well as to the DCPO, West Khasi Hills District, Nongstoin and the Secretary, DSLA, West Khasi Hills District, Nongstoin, to enable them to take steps and comply with the same.

14. The petition is allowed and Rule is made absolute on the aforesaid terms.

15. Petition is accordingly disposed of.



16. Stand over to **25th August, 2026** for recording compliance of the directions given.

17. All parties to act on the authenticated copy of this order.

(Revati Mohite Dere)
Chief Justice

Meghalaya
30.06.2026
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