



Serial No.12
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Pet. No. 52 of 2024

Date of decision: 20.08.2026

1. Shri Jhonry Chyne Son of -Shri Roland
Kharmalki R/o Village: Malki Kharmalki
Block-B District: East Khasi Hills,
Meghalaya-793001.
2. Smti.XXX W/O Shri. Jhonry Chyne R/o
Village: XYZ Block-B
District:East Khasi Hills Meghalaya-793001

.....Petitioners

-VERSUS-

1. State of Meghalaya Represented by the
Secretary Home Police Department.
2. Smti.Medalin Nongsiej D/o T Nongsiej R/o
Mawlai Mawroh, Pingwait District East
Khasi Hills Meghalaya-793008

.....Respondents

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. K.V.E. Kharnongbak, Adv.

For the Respondent(s) : Mr. R. Gurung, GA.
None for R:2.

Judgment and Order (Oral)

1. By this application, u/s 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) the petitioners have prayed for quashing of the criminal



proceeding pending against the petitioner No.1 before the Court of the Special Judge (POCSO), Shillong in Special (POCSO) Case No. 2 of 2020.

2. The brief facts of the case are that an FIR dated 05.06.2019 was lodged by the respondent No.2 with the Mawlai Police Station, Shillong alleging that the petitioner No.1 sexually assaulted her daughter, the petitioner No.2/survivor, and due to the sexual assault, the petitioner No.2/survivor was undergoing treatment in Robert Hospital. Accordingly, the police registered a case being Mawlai Police Station Case No. 60 (6) 2019 u/s 506 IPC read with Section 5(i)/6 of the POCSO Act and the matter was investigated into. After completion of the investigation, a charge sheet u/s 506 IPC read with Section 5(i)/6 of the POCSO Act was filed and a case was registered as Special (POCSO) Case No. 2 of 2020 against the petitioner No.1. On 01.04.2022, the charges against the petitioner No.1 were altered/added to include offences defined and punishable u/s 3(a)/5(1)/6 of the POCSO Act, 2012 and u/s 375(a) falling u/s 375(sixthly)/376(2)(j)(n)/376(3) of the IPC, 1860 and the trial is now pending before the Special Judge (POCSO), Shillong.

3. Mr. K.V.E. Kharnongbak, learned counsel appearing for the petitioners submits that relationship between the petitioner Nos.1 & 2 and their co-habitation was with mutual understanding. He submits that both the petitioners are now married to each other and their marriage was registered on 11.06.2024 before the Marriage Officer, Shillong. He submits that filing of the FIR dated 05.06.2019 by the respondent No.2 was due to misunderstanding and communication gap. He submits that out of their relationship, the petitioner Nos.1 & 2 have a baby daughter born to them on 25.04.2022. The learned counsel submits that the petitioner No. 2/survivor and the respondent No.2 do not wish to continue with the criminal proceedings against the petitioner No.1 as they are now residing happily as a family. He further submits that the petitioner No.1 has been taking good care of the petitioner No.2/survivor and the child, both financially and emotionally including their physical wellbeing. He submits that the petitioner Nos.1 & 2



have jointly approached this Court seeking quashing of the criminal proceedings pending against the petitioner No.1. 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. R. Gurung, learned GA appearing for the State-respondent No.1 has no objection to the prayer made in this criminal petition and submits that necessary order may be passed.

5. There is no appearance on behalf of the respondent No.2 despite service of due notice.

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 petitioner No.2/survivor has filed a separate affidavit on 22.05.2026 before this Court asserting that she is married and happily living with the petitioner No.1 along with the minor child and she has no issues with her marriage as the petitioner No.1 is taking due care of her. It is also stated in the affidavit that their marriage was solemnized before the office of Marriage Officer, East Khasi Hills District, Shillong on 11.06.2024 under the Marriage Act, 1954 in presence of the witnesses. A copy of the marriage certificate has been annexed with the affidavit as Annexure-2. She also expressed that she does not have any objection to the quashing of the criminal proceeding against the petitioner No.1 pending before the Special Judge (POCSO), Shillong. The petitioner No.2/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 2020 with the consent of the petitioner No.2/survivor, on premises that the petitioner Nos. 1 & 2 are residing together as husband and wife and have a child from their relationship, the petitioner No.2/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 petitioner No.2/survivor was an informed consent or not. The Meghalaya State Legal Services Authority, Shillong by communication vide Memo No. MSLSA. 1/2020/155 dated 14.07.2026 forwarded a report dated 13.07.2026 of the Member Secretary, MSLSA stating that the petitioner No.1 is now aged about 28 years and the



petitioner No.2/survivor, aged about 23 years, are living together since the year 2018 as husband and wife happily and have been blessed with a daughter, now aged about 4 (four) years. Both the families have recognized their relationship and have no objection to it. The report further states that a joint prayer has been made by the petitioners to quash the criminal proceedings pending against the petitioner No.1. No force or coercion was used on the petitioner No.2/survivor to give her consent for quashing the FIR/proceedings.

9. The report dated 13.07.2026 and the affidavit dated 22.05.2026 of the petitioner No.2/survivor undoubtedly project that the consent given by the petitioner No.2/survivor is an informed consent and not under any threat or coercion from the family members or the petitioner No.1. It is also clear that the petitioner Nos.1 & 2 are married and have a child and are living together as husband and wife.

10. As the petitioner Nos. 1 & 2 are married and are living together as husband and wife on being recognized by their respective family members and have a child, sending the petitioner No.1 to jail would not serve the cause of justice, rather it would cause great injustice to the petitioner No.2/survivor and the child born out of relationship between the petitioner Nos. 1 & 2. Since, it is clear to this Court that the consent given by the petitioner No.2/survivor is a genuine and informed consent and that it would be greater injustice to send the petitioner No.1 to jail, a case has been made out by the petitioners for invoking inherent jurisdiction of this Court for issuing necessary direction.

11. Resultantly, further proceedings of Special (POCSO) Case No. 2 of 2020 pending before the Special Judge (POCSO), Shillong is hereby set aside and quashed.

12. The criminal petition stands allowed.

Judge

Meghalaya
20.08.2026
"Abhinandan,PS"