



Serial No.06
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Pet. No. 109 of 2023

Date of order : 07.07.2026

1. Shri Banpyntngenlang Swer
S/o Shri Modrallin Mawlong,
R/o Phanniewlah Lyngiong
Village,
East Khasi Hills District,
Meghalaya.

2. Smti X (Victim)
D/o.....
R/o.....

.....Petitioners

-VERSUS-

1. State of Meghalaya,
Represented by the
Secretary,
Department of Home and
Police, Shillong,
Meghalaya.
2. Superintendent of Police,
East Khasi Hills District,
Shillong,
Meghalaya.
3. Smti Thwin Mawlong
W/o (L) I. Marbaniang,
R/o Tyrsad Umkesh,
East Khasi Hills District,
Meghalaya.
4. Smti. Skilmon Swer
W/o Shri. M. Mawlong.
R/o Phnanniewlah Lyngiong



East Khasi Hills District,
Meghalaya.

.....Respondents

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mrs. R. Dutta, LAC.

For the Respondent(s) : Mr. N.D. Chullai, AAG. With
Ms. Z.E. Nongkynrih, GA.

Judgment and Order (Oral)

1. By this application, under section 482 Cr.P.C. (Section 528 of BNSS) the petitioners have prayed for quashing of the criminal proceeding pending against the petitioner No.1 before the Court of the Special (POCSO) Judge, Shillong.

2. The brief facts of the case are that an FIR dated 17.11.2018 was lodged jointly by the respondent Nos. 3 & 4 with the Mawngap Police Station to the effect that the petitioner No.2/victim, who was hospitalized at Ganesh Das Hospital, Shillong for delivering a child, had got married to the petitioner No.1 of their own at an early age and both the family members are content with it so that their future married life would not be affected. On the basis of the said FIR, the police registered Mawngap P.S Case No. 55 (11) of 2018 u/s 5 (j)(ii)/6 of POCSO Act. After completion of the investigation, a charge sheet u/s 5 (f)(ii)/6 of POCSO Act was filed and a case was registered as Special (POCSO) Case No. 116 of 2019 against the petitioner No.1. Upon cognizance being taken, the petitioner No.1 was summoned and charges were framed against him u/s 3 (a)/5(j)(ii)(I)/6 POCSO, 2012 and u/s 375 (sixthly)/376(3) IPC by the Special Judge (POCSO), Shillong. The petitioner No.1 pleaded not guilty and claimed trial.



3. Mrs. R. Dutta, learned Legal Aid Counsel appearing for the petitioner submits that relationship between the petitioner Nos.1 & 2 and their co-habitation was with mutual understanding. She submits that filing of the FIR by the respondent Nos. 3 & 4 was against the will of the petitioner No.2 under influence of some close relatives. She further submits that the petitioner Nos. 1 & 2 are now formally married in the Church which was performed in presence of the families from both the sides and out of their relationship, they have a daughter who is about 5 years old now. The learned LAC submits that the petitioner No.2 does not wish to continue with criminal proceedings against the petitioner No.1 as they are now residing happily as a family. She 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 LAC 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. N.D. Chullai, learned AAG appearing for the State-respondent Nos. 1 & 2 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 Nos. 3 & 4, despite service of due notice upon them.

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. Since, the present criminal petition seeks quashing of the entire proceeding of Special (POCSO) Case No. 116 of 2019 with the consent of the petitioner No.2/victim, on premises that the petitioner Nos. 1 & 2 have got married and have a child from the said marriage, both the petitioner Nos. 1 & 2 were directed to be present before the Secretary, High Court Legal Services Committee, for the purpose of ascertaining whether the consent given by the petitioner No.2 was an informed consent. The Secretary, High Court Legal Services Committee, by the report dated 14.05.2026 placed before this Court, informed that the petitioner Nos. 1 & 2 are formally married in the Church in presence of the families from both the sides and that out of their relationship, they have a 5 years old daughter studying in their village Government School. The report further stated that the petitioner No.2 is living with the petitioner No.1 and got married to him voluntarily out of love and there was no force, coercion or condition imposed on her from the petitioner No.1. The present criminal petition has been filed jointly by the petitioner Nos. 1 & 2 voluntarily



without any coercion from any quarter and that the petitioner No.2 has no complain against the petitioner No.1.

8. In addition to the above report, the petitioner No.2 has filed a separate affidavit on 06.07.2026 before this Court asserting that she is happily married and living with the petitioner No.1 in her residence along with the minor child and she has no issues with her marriage as the petitioner No.1 is taking due care of her and the child and she wish to continue living with him for the rest of her life. 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 in her affidavit further asserted that the consent/no objection accorded by her is free from any influence, coercion and consideration of any kind and the same is accorded out of her own free will and volition and in sound health and mind.

9. Perusal of the record reveals that the petitioner No.1 was around 23 years of age and the petitioner No.2 was about 20 years at the time of filing of the instant criminal petition before this Court. The report dated 14.05.2026 of the Secretary, High Court Legal Services Committee and the affidavit dated 06.07.2026 of the petitioner No.2 undoubtedly project that the consent given by the petitioner No.2/victim 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 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 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. 116 of 2019 u/s 3 (a)/5(j)(ii)(I)/6 POCSO, 2012 and u/s 375 (sixthly)/376(3) IPC arising out of Mawngap P.S. Case No. 55 (11) of 2018 is hereby set aside and quashed.

12. The criminal petition stands allowed.

Judge

Meghalaya
07.07.2026
"Abhinandan,PS"