



Serial No.07
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Pet. No. 128 of 2023

Date of decision : 29.07.2026

1. Shri Budmiki Nongspung.
S/o Shri. PaiaKharsati,
R/o Mawkajut, Puriang,
East Khasi Hills District, Meghalaya.
2. Miss X.
3. Smti. Todapyrkhat Lamare
W/o Shri. Tngenland Sohtun
R/o Mawkajut, Puriang,
East Khasi Hills District, Meghalaya-
793021.

.....Petitioners

-VERSUS-

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

.....Respondent

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. P.S. Nongbri, Adv.
Ms. L. Myrchiang, Adv.

For the Respondent(s) : Mr. H. Abraham, 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 Judge (POCSO), Shillong in Special (POCSO) Case No. 75 of 2022 u/s 5(j)(ii)/6 of the POCSO Act, 2012.

2. The brief facts of the case are that an FIR dated 10.08.2022 was lodged by one Dr. B. Suting of Mawryngkneng PHC with the Mawryngkneng Police Station to the effect that the petitioner No.2/victim came to Mawryngkneng PHC on 10.08.2022 for her antenatal check-up and on examination, she was found to be approximately 20 (twenty) weeks pregnant. Accordingly, the police registered a case being Mawryngkneng P.S. Case No. 26 (08) 2012 u/s 5(j)(ii) of the POCSO Act, against the petitioner No.1. After completion of the investigation, a charge sheet u/s 5 (f)(ii)/6 of POCSO Act vide Charge Sheet No.14/2022 dated 10.10.2022 was filed and a case was registered as Special (POCSO) Case No. 75 of 2022 against the petitioner No.1 which is now pending before the Special Judge (POCSO), Shillong.

3. Ms. P.S. Nongbri, learned counsel appearing for the petitioners submits that relationship between the petitioner Nos.1 & 2 and their co-habitation was with mutual understanding. She submits that filing of the FIR dated 10.08.2022 was solely in compliance to the requirement of law without there being any instruction from the petitioner No.3 and was against the will of the petitioner No.2. She submits that the petitioner Nos.1 & 2 are in a love relationship since April 2019 and with the consensus of the elders of the family members of both sides, they started living together as husband and wife since the month of March 2022. She submits that out of their relationship, the petitioner Nos.1 & 2 have a baby daughter born on 27.12.2022 at Bethany Hospital, Shillong. The learned counsel submits that the petitioner Nos. 2 & 3 do not wish to continue with criminal proceedings against the petitioner No.1 as they are now residing happily as a family. She further submits that the petitioner No.1 has been taking good care of the petitioner No.2 and the child, both financially and emotionally including their physical wellbeing. She submits that the petitioner Nos.1, 2 & 3 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. H. Abraham, learned GA appearing for the State-respondent has no objection to the prayer made in this criminal petition and submits that necessary order may be passed.

5. 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) ”

6. Since the present criminal petition seeks quashing of the entire proceeding of Special (POCSO) Case No. 75 of 2022 with the consent of the petitioner No.2/victim, 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 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 was an informed consent or not. The Meghalaya State Legal Services Authority, Shillong by communication vide Memo No. MSLSA. 1/2020/156 dated 14.07.2026 forwarded a report dated 13.07.2026 of the Member Secretary, MSLSA stating that the petitioners are living together as husband and wife happily and have formally solemnized their marriage on 04.01.2025 and out of their relationship, they have a 3 years old daughter. Both the families have recognized their relationship and have no objection to it. The report further stated that the present petition before this Court has been filed jointly having discussed the matter at home with the family members and the petitioner No.1 did not put any force or coercion on the petitioner No.2/victim to live together. The petitioner No.2 gave her consent voluntarily to quash the criminal proceeding.

7. In addition to the above report, the petitioner No.2 has filed a separate affidavit on 18.06.2026 before this Court asserting that she is happily married and living with the petitioner No.1 at the maternal house of the grandmother of petitioner No.1 located at Mawkajut village, Puriang, East Khasi Hills District along with the minor child and she has no issues with her marriage as the petitioner No.1 is taking due care of her. 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 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. Perusal of the report of the Secretary, MSLSA dated 13.07.2026 further reveals that the petitioner No.1 is around 22 years of age and the petitioner No.2 is about 19 years 8 months old. The said report and the affidavit dated 18.06.2026 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.

9. 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.

10. Resultantly, further proceedings of Special (POCSO) Case No. 75 of 2022 u/s 5(j)(ii)/6 of the POCSO Act, 2012 pending before the Special Judge (POCSO) Shillong is hereby set aside and quashed.

11. The criminal petition stands allowed.

Judge

Meghalaya
29.07.2026
"Abhinandan,PS"