Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 24 of 2026

Date of Decision: 30.10.2026
Uploaded on: 04.11.2026

1. Pynshaistar Kharkrang, S/o Shri. Phurming Sawkmie, R/o Mawtharap Village, P.S. Mairang, Eastern West Khasi Hils District, Meghalaya.

2. Miss "X" (the Victim)

3. Mr. "Y" (Complainant)

....Petitioners

- versus -

1. State of Meghalaya through its Commissioner and Secretary, Home (Police) Department, Govt. of Meghalaya, Shillong.

2. The Superintendent of Police, Eastern West Khasi Hills District, Mairang.

....Respondents

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

Appearance:

For the Petitioners : Mr B. Blah, Adv.

For the Respondents : Mrs. N.G. Shylla, PP

i)	Whether approved for reporting in Law journals etc.:	No
ii)	Whether approved for publication in press:	Yes

JUDGMENT: (Oral)

Heard learned counsel for 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), the petitioner No. 2 (survivor) and the petitioner No. 3 (original complainant and father of the survivor) seek quashing of the FIR registered with the Mairang Police Station, being FIR No. 38 (10) of 2021 and consequently, the proceeding pending before the learned Special Judge (POCSO), West Khasi Hills District, Nongstoin, being Special POCSO Case No. 6 of 2024.. The said FIR has been registered by the petitioner No. 3 qua the petitioner No. 1 alleging offences punishable under Section 5 read with Section 6 of the POCSO Act.

4. Quashing is sought on the premise that the parties, i.e., the petitioner Nos. 1 and 2 were living together as husband and wife, and have now got married on 27.10.2026 and have three children from the said relationship, i.e., one daughter aged 4 years old, a son aged 2 and a half years and an infant aged about

5 months. Vide order dated 05.05.2026 passed by this Court, the petitioners were directed to appear before the Secretary, High Court Legal Services Committee, to enable the Secretary to submit a report as to whether the consent given by the petitioner No. 2 was an informed consent; whether the petitioner No. 2 and her children have received any benefits from any of the Schemes of the State or Central Government, etc.

5. Pursuant thereto, the Secretary, High Court Legal Services Committee has submitted her report in a sealed envelope. The envelope was opened on 22.05.2026. From the report, it appears that the petitioner No 1 (accused) is today, about 23 years of age and the petitioner No. 2 is about 20 years. If further appears that the petitioners were living together as husband and wife for many years, in the house belonging to the petitioner Nos 2's late maternal grandmother alongwith their three children, aged 4 years, 2 ½ years and 5 months. The report further reveals that the petitioner No. 1 is the sole bread winner of the family and is working as a Daily Wage labourer, and is taking care of the expenditure of the household and the family.

The report also reveals that the petitioner No. 2 was staying with the petitioner No. 1 voluntarily out of love and affection, without coercion or force, and that she has no objection to the quashing of the proceeding. The report further reveals that the petitioner No. 2 has not received any compensation or benefit from the Government or any other authorities for herself and her children, and that she does not wish to continue with her education, but is interested in doing vocational course in tailoring, if given an opportunity.

6. During the pendency of the aforesaid petition and post the report submitted by the Secretary, High Court Legal Services Committee, learned counsel for the petitioners tendered a photo copy of the Marriage Certificate of the petitioner Nos. 1 and 2 dated 27.10.2026, issued by the Office of the Marriage Officer, Eastern West Khasi Hills District, Mairang. The said photo copy of the Marriage Certificate was taken on record.

7. The respondent No. 3 (original complainant and father of the survivor) appears through VC. When questioned, he states that he has no objection to the quashing of the FIR and

consequently, the proceeding initiated at his behest, since the petitioner Nos. 1 and 2 are living together happily as husband and wife alongwith their three children.

8. This Court in its judgment in the case of ***Shri Shalenbor Wahlang and anr. v. State of Meghalaya & anr.*** passed in ***Crl.Petn. No. 92 of 2023*** dated **10th April, 2026** in paragraphs 31, 33, 34 and 35 has observed as hereunder:

> "*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 observations made in the aforesaid judgment, the report of the Secretary, High Court Legal Services

Committee, the marriage of the petitioner Nos. 1 and 2 on 27.10.2026, the fact, that the petitioner Nos. 1 and 2 have three children from the said relationship, aged 4 years, 2½ years and 5 months and the fact, that the petitioner Nos. 2 and 3 have no objection to the quashing of the FIR and proceedings, there is no impediment in allowing the petition.

10. The petition is, accordingly allowed and the FIR registered with the Mairang Police Station, being FIR No. 38 (10) of 2021 and consequently, the proceeding pending before the learned Special Judge (POCSO), West Khasi Hills District, Nongstoin, being Special POCSO Case No. 6 of 2024 for the offences punishable under Section 5 read with Section 6 of the POCSO Act, are quashed and set aside.

11. The petition is disposed of and Rule is made absolute on the aforesaid terms.

12. Needless to state that during the pendency of the petition, the DCPO as well as the Secretary, DLSA, Eastern West Khasi Hills District, Mairang to take all such steps to ensure that the

petitioner No. 2 and her three children get benefits of all Schemes as may be applicable to them. To that effect, the DCPO as well as the Secretary, DLSA to submit their reports on the next date. The said Schemes 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;

(xiv) Mission Shakti-Women's Safety, Support and Empowerment; and

(xv) Insurance or any other scheme.

13. In the event, compensation is given to the petitioner No. 2, the same to be kept in a Fixed Deposit in the name of the petitioner No. 2 till she attains the age of 25 years, however, she will be entitled to quarterly interest on the said amount, and shall be free to deal with the said amount on attaining the age of 25 years.

14. **Registry to forward forthwith a copy of this order to both the DCPO, Eastern West Khasi Hills District, Mairang and the Secretary, DLSA, Eastern West Khasi Hills District, Mairang, to enable them to take steps and comply with the same**

15. Although, the petition is disposed of, list the matter on **27th January, 2027,** for recording compliance of the directions given in paragraphs 12 and 13 of the judgment.

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

(**Revati Mohite Dere**)
Chief Justice

Meghalaya
30.10.2026
"Sylvana PS"

Verified
Digitally signed by: SYLVANA LIZ KHARBHIH
Signed On: 04-11-2026 12:35:31 IST