Serial No. 04
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 36 of 2026

Date of Decision: 28.10.2026
Uploaded on: 03.11.2026

1. Chandan Thakur, S/o Shri. Sanjay Kumar Thakur, R/o Pythorbah Block-1, Near St. Nanak School, District East Khasi Hills, Shillong, Meghalaya.

2. Miss X/Complainant/Survivor, R/o Pynthorbah Block-1, Near St. Nanak School, District East Khasi Hills, Shillong, Meghalaya.

....Petitioners

- versus -

State of Meghalaya represented by the Secretary, Government of Meghalaya.

.....Respondent

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

Appearance:

For the Petitioners : Ms. P. Chettri, Adv.

For the Respondent : Ms. O.A.I. Bang, GA

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

JUDGMENT: (Oral)

Heard learned counsel for the petitioners and learned Addl Public Prosecutor for the respondent – State of Meghalaya.

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) and the petitioner No. 2 (original complainant and survivor seek quashing of the FIR registered with the Sadar Police Station, being Sadar P.S. Case No. 20(01) of 2024 and consequently, the proceeding pending before the learned Special Judge (POCSO), Shillong, being Special (POCSO) No. 33 of 2024.

4. Quashing is sought on the premise that the parties, i.e., the petitioners are married and living together as husband and wife, and that from the said relationship, they have two children, aged 4 years and 3 years respectively.

5. Vide order dated 05.10.2026, the petitioners were directed to appear before the Secretary, High Court Legal Services Committee, to record the statement of the petitioner No. 2 as to whether the consent given by the petitioner No. 2 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 two children. Pursuant thereto, the Secretary, High Court Legal Services Committee has submitted her report in a sealed envelope. The said envelope is opened and the report dated 09.10.2026 is perused. From the said report, it appears that the petitioner No. 2 had entered into a romantic relationship with the petitioner No. 1 in 2021 and that from the said relationship, she became pregnant in 2022. From the said relationship, the petitioners have two children, aged 4 years and 3 years respectively. From the report, it further appears that the petitioner No. 1 and the petitioner No. 2 are married and are living together as husband and wife. It further appears that the petitioner No. 2 has studied up to Class 8th and that the petitioner No. 1 is working for the maintenance of the family, i.e., the petitioner No. 2 and the two children. The report further reveals that the petitioner No. 2 has expressed her desire to undergo vocational training as a Beautician since she does not desire to resume her studies.

6. The report further reveals that neither the petitioner No. 2 nor her two children have received any benefits from any of the State or Central Government Schemes and that ₹4 lakhs has

been recommended under the Victim Compensation Scheme, out of which ₹2 lakhs has been kept in a Fixed Deposit in the name of the petitioner No. 2 till she attains the age of 25 years.

7. According to the learned counsel for the petitioners, the petitioners are presently in the process of giving their eldest daughter in legal adoption to a close relative and that the adoption process is underway at Williamnagar. Pursuant to one of the earlier orders passed by this Court, the Secretary, DLSA and the DCPO, East Khasi Hills District, Shillong have also submitted their reports with respect to the Schemes made available to the petitioner No. 2 and her two children. From the said reports, it appears that final compensation of ₹4 lakhs has been recommended by the Victim Compensation Committee on 27.04.2026, however, due to the pending trial case, only interim compensation of ₹2 lakhs has been disbursed to the petitioner No. 2 (survivor) on 14.09.2026, and the said amount has been kept in a Fixed Deposit in the petitioner No.2's name.

8. It further appears from the report that the District Social Welfare Officer, Shillong will be taking necessary steps in

enrolling the petitioner No. 2 for a vocational programme. It further appears that the Secretary, DLSA in coordination with the DCPO, Shillong has assisted the petitioner No. 2 in applying for the ST certificate and that the said application is under process. It further appears that the ST certificate for her son will be applied for only after the petitioner No. 2 receives her own, as well as an NOC from the clan. It also appears that the Aadhar Card of the petitioner No. 2 is under process. The report further reveals that the petitioner No. 2 had availed of the benefits of some of the Schemes and that she is not entitled to some of them.

9. 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."

10. Keeping in mind the observations made in the aforesaid judgment, the report of the Secretary, High Court Legal Services Committee, the fact that the petitioner Nos. 1 and 2 are married and are living together as husband and wife alongwith their two children, aged 4 years and 3 years respectively, no purpose will be served in continuing with the proceeding qua the petitioner No. 1. Accordingly, the FIR registered with the Sadar Police Station, being Sadar P.S. Case No. 20(01) of 2024 and consequently, the proceeding pending before the learned Special Judge (POCSO), Shillong, being Special (POCSO) No. 33 of 2024, are quashed and set aside.

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

12. Needless to state that all such assistance be rendered by the authorities, i.e., the DCPO and the Secretary, East Khasi Hills District, Shillong, to the petitioner No. 2 and her two children.

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

14. With the aforesaid observations, the petition stands disposed of.

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

(**Revati Mohite Dere**)
Chief Justice

Meghalaya
28.10.2026
"Sylvana PS"

Verified
Digitally signed by: SYLVANA LIZ KHARBHIH
Signed On: 03-11-2026 17:33:16 IST