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MLHC010014132026

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 124 of 2026

Date of Decision: 10.11.2026
Uploaded on: 11.11.2026

1. Rakhel Mawpat, W/o (L) Tista Khiewtam, R/o Umniuh – Nongrim Village, Pynursla, East Khasi Hills district, Meghalaya.

2. Miss X (victim) aged 17 years, In Pynursla PS Case No. 49/2025 (Through her mother Smti. Rakhel Mawpat.

3. Mr. B. (accused/CICL) in Pynursla P.S. Case No. 49/2025.

....Petitioners

- versus -

The State of Meghalaya, represented by the Commissioner & Secretary, Home (Police) Department.

....Respondent

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

Appearance:

For the Petitioners : Mr. S. Deb, Legal Aid Counsel

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:	No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

At the outset, learned counsel for the petitioners seeks leave to amend the name of the petitioner No. 3 since he is a

child in conflict with law. Leave granted. Amendment to be carried out forthwith during the course of the day.

2. Heard learned counsel for the respective parties.

3. Rule. Rule is made returnable forthwith with the consent of the parties and the aforesaid petition is taken up for final disposal.

4. By this petition, the petitioners, i.e., the petitioner No. 1 (mother of the petitioner No. 2 and original complainant), petitioner No. 2 (survivor) and petitioner seek quashing of the FIR registered with the Pynursla Police Station, being Pynursla P.S. Case No. 49 of 2025 against the petitioner No. 3 for the alleged offences punishable under Section 5 read with Section 6 of the POCSO Act.

5. Quashing is sought on the premise that the petitioner Nos. 2 and 3 were in a consensual relationship, and were living together as husband and wife for about 3 years and have a child aged 7 months from the said relationship. The petitioner No. 2

has now become a major aged 18 years and the petitioner No. 3 (accused) has also recently turned 18 years.

6. Vide order dated 18.08.2026, the petitioners appeared before the Secretary, High Court Legal Services Committee, to enable the Secretary to submit her report as to whether the consent given by the petitioner No. 2 (survivor) was an informed consent, whether the petitioner and her child had received any benefits under any of the Schemes of either the State or Central Government. Pursuant thereto, the Secretary, High Court Legal Services Committee has submitted her report. The said report dated 26.08.2026 is perused.

7. From the said report, it appears that at the time of the incident, the petitioner Nos. 2 and 3 were below 18 years. Today, the petitioner Nos. 2 and 3 are majors, above 18 years of age. They have been living together for the last 2 years alongwith their child, who is currently about 7 months of old. It appears from the said report that the petitioner No. 3 has passed Class 9th and is working as a daily wage labourer and is taking care of the household expenditure and of the petitioner No. 2 and

their child. It further appears from the report that the petitioner No. 2 is not keen in pursuing her education, however, is interested in a doing a vocational training course in cooking, if given an opportunity. The report further reveals that neither the petitioner No. 2 nor her child have received any benefits from any of the State or Central Government Schemes. The report reveals that the petitioner No. 2 has given her consent to quashing of the case as the relationship was consensual and voluntarily. The petitioner No. 1 (original complainant and mother of the petitioner No. 2) has also given her consent to the quashing of the FIR.

8. Infact, vide order dated 03.09.2026, having regard to the report of the Secretary, High Court Legal Services Committee that the petitioner No. 2 nor her child had received any benefits under any of the State or Central Government Schemes, this Court directed the Secretary, DLSA as well as the DCPO, East Khasi Hills District, Shillong, to ensure that the petitioner No. 2 as well as her child receive all such benefits as they may be

entitled to, under any of the State/Central Government Schemes.

9. Pursuant thereto, the Secretary, DLSA has submitted a report. The said report dated 04.11.2026, reveals that interim compensation of ₹1,50,000/- under the Meghalaya Victim Compensation Scheme, 2022, has been disbursed to the survivor, i.e., the petitioner No. 2 on 29.10.2026 and that the same has been deposited with the assistance of the Support Person in the petitioner No. 2 ‘s bank, in a Fixed Deposit, till the petitioner No. 2 attains the age of 25 years. However, the petitioner No. 2 will be entitled to quarterly interest on the said amount. If further appears that the District Legal Services Authority, Shillong in coordination with the DCPO has assisted the survivor in applying and obtaining MHIS documents. It further appears that the Secretary, DLSA and the DCPO, East Khasi Hills District, Shillong are assisting the petitioner No. 2 in applying for PAN card, Aadhar card and birth certificate for her child. It further appears that the some of the Schemes, the survivor is not entitled and some which she is entitled to, has been informed to her.

10. 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.*
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> *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."

11. Having regard to the aforesaid judgment, the fact that the petitioner Nos. 2 and 3 are both, majors, above 18 years of age and are living together as husband and wife for the last 2 years, and have a child aged 7 months old from the said relationship, and also having regard to the no objection given by the petitioner

Nos. 1 and 2, there is no impediment in allowing the petition. The petition is, accordingly allowed and the FIR registered with the Pynursla Police Station, being Pynursla P.S. Case No. 49 of 2025 and consequently, the proceeding, being Juvenile Justice Case No. 54 of 2026 pending before the Principal Magistrate, Juvenile Justice Board, stand quashed and set aside.

12. Needless to state, that the Secretary/DCPO, East Khasi Hills District, Shillong to appoint a Support Person to assist the petitioner No. 2 , in availing any other help/assistance, as she may require for herself and her child.

13. The Registry to forward forthwith a copy of this order to both, the Member Secretary, Meghalaya State Legal Services Authority, Shillong and Commissioner and Secretary, Social Welfare Department, Shillong as well as to the DCPO, East Khasi Hills District, Shillong and the Secretary, DLSA, East Khasi Hills District, Shillong to enable them to take steps to appoint a support person, to assist the petitioner No. 2 and her child.

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

15. Petition is, accordingly disposed of.

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

(**Revati Mohite Dere**)
Chief Justice

Meghalaya
10.11.2026
"Sylvana PS"

Verified
Digitally signed by: SYLVANA LIZ KHARBHIH
Signed On: 11-11-2026 12:44:22 IST