Serial No.22
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn.No.154/2026

Date of Decision: 28.10.2026
Uploaded on: 03.11.2026

1. Shri Elbinson Jana, aged about 29 years, S/o Late Martin Warjri.
2. Smti. xxxxx xxxxx aged about 21 years, w/o Elbinson Jana. .... Petitioners

Vs

1. State of Meghalaya, represented by the Superintendent of Police, Eastern West Khasi Hills District, Mairang, Meghalaya.
2. Officer-in-Charge, Mairang Police Station, Eastern West Khasi Hills District, Mairang, Meghalaya.
3. Dr. P. Marbaniang, Medical & Health Officer, Tirot Singh Memorial Civil Hospital, Mairang, Eastern West Khasi Hills District, Meghalaya. ..... Respondents

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

Appearance:

For the Petitioners : Mr. B. Deb, Adv

For the Respondents : Mr. A.S. Dey, Sr,GA with
Mrs. I. Lyngwa, GA

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT: (Oral)

Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties in all the aforesaid petitions and is taken up for final disposal.

3. By this petition, the petitioners i.e. petitioner No.1 (original accused) and petitioner No.2 (survivor), seek quashing of the FIR registered with the Mairang Police Station, being Mairang P.S. Case No.24(07) 2021, at the behest of the respondent No.3 i.e., the Medical and Health Officer, as against the petitioner No.1 for the alleged offences punishable under Section 5 read with Section 6 of the POCSO Act and consequently, the proceeding pending before the learned Special Judge (POCSO), West Khasi Hills District, Nongstoin, being Special (POCSO) Case No.38 of 2022.

4. Quashing is sought on the premise that the relationship between the petitioners was consensual and that out of the said relationship, there is a child born, who is currently five years of age. Learned counsel for the petitioners submits that the petitioners are living together as husband and wife, alongwith their son and as such, the proceeding be quashed.

5. Vide order dated 12th October, 2026, the petitioners were directed to appear 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 was an informed consent and whether the petitioner No.2 has received any benefits from any of the Schemes, either under the State or Central Government etc.

6. Learned PP was also directed to submit a report from the officer of the concerned police station, as to whether what is stated in the petition is true and correct i.e., the petitioners are living together as husband and wife.

7. Pursuant thereto, the Secretary, High Court Legal Services Committee has submitted her report in a sealed envelope. The learned Sr.GA has also tendered a report of the Officer-in-Charge, Mairang Police Station, Eastern West Khasi Hills District.

8. The report tendered by the Secretary, High Court Legal Services Committee is opened and the report dated 26th October, 2026 is perused. From a perusal of the said report, it appears

that the relationship between the petitioner Nos.1 and 2 was consensual and that at the relevant time, the petitioner No.1 was 23 years of age and the petitioner No.2, 17 years; that from the said relationship, the petitioners have a daughter who was born in 2021; that the petitioner No.2 is presently pursuing her education in class-IX and has expressed her desire to acquire tailoring skills in future and continue her education; that the petitioner No.2 has not received any benefit for herself or her child from any schemes of either of the State or Central Government; and that the petitioner No.1 is employed as a salesman in a motor company and is earning about ₹7000 per month.

9. The report of the police also reveals that the petitioners are cohabiting together as husband and wife with their daughter, who is five years old and who is currently studying in Nursery. The report further reveals that the survivor i.e., the petitioner No.2 is currently 21 years of age.

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.
> 32. .....
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> 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. Keeping in mind the observations made in the aforesaid judgment; the report of the Secretary, High Court Legal Services Committee; the report of the Officer-in-Charge, Mairang Police Station, Eastern West Khasi Hills District, the fact that the petitioner are living together as husband and wife alongwith their five years old child and also keeping in mind the no

objection given by the petitioner No.2 to the quashing of the FIR and consequently, the proceeding, there is no impediment if the petition is allowed.

12. Accordingly, the petition is allowed and the FIR registered with the Mairang Police Station, being Mairang P.S. Case No.24(07) 2021, at the behest of the respondent No.3 i.e., the Medical and Health Officer, as against the petitioner No.1 for the alleged offences punishable under Section 5 read with Section 6 of the POCSO Act and consequently, the proceeding pending before the learned Special Judge (POCSO), West Khasi Hills District, Nongstoin, being Special (POCSO) Case No.38 of 2022, are quashed and set aside.

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

14. Petition is disposed of accordingly.

15. Needless to state, that the petitioner No.2 and her child be extended all benefits as may be applicable to them i.e., the

Schemes from either the State or Central Government, which 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; and

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

(xv) Insurance or any other scheme.

16. In order to enable the petitioner No.2 to get the benefits of the above said schemes, the District Child Protection Officer (DCPO), Eastern West Khasi Hills District, Mairang as well as

the Secretary, DLSA, Eastern West Khasi Hills District, Mairang are directed to ensure that the benefits as may be applicable to the petitioner No.2 and her child are made available to them at the earliest and in any event within eight weeks from the date of receipt of this order.

17. Needless to state, the DCPO as well as the Secretary, DLSA, Eastern West Khasi Hills District to appoint a support person since the petitioner No.2 is desirous in continuing her education/vocational training.

18. A compliance report of the benefits extended to the petitioner No.2 and her child be placed before this Court on the next date.

19. If compensation under the Victim Compensation Scheme is granted to the petitioner No. 2, the said money received will be kept in a Fixed Deposit till the petitioner No. 2 attains the age of 25 years. However, the petitioner No. 2 would be entitled to quarterly interest on the said amount and would be free to deal with the said amount on attaining the age of 25 years.

20. **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 District Child Protection Officer (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.**

21. Although, the petition is disposed of, list the petition on **21st December, 2026** for recording compliance of the directions given in paragraphs 15 to 19 aforesaid.

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

(**Revati Mohite Dere**)
Chief Justice

Meghalaya
28.10.2026
"Lam DR-PS"

Verified
Digitally signed by: LAMPHRANG KHARCHANDY
Signed On: 03-11-2026 16:39:13 IST