



Serial No.06
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn.No.44/2025

Date of Order: 22.04.2026

1. Shri Phrangbatnam Kharkongor

2. Smti. X

..... Petitioners

Vs.

1. The State of Meghalaya, represented by Secretary,
Government of Meghalaya, Home (Police) Department,
Meghalaya.

2. "Y" (Complainant)

..... Respondents

Coram:

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

Appearance:

For the Petitioner : Ms. R. Kharshiing, Adv

For the Respondents : Mrs. T. Yangi B., AAG with

Ms. S. Kh. Nongrum, GA

Ms. M. Surong, Adv for R/2

Respondent No.2 is present in person

i) Whether approved for reporting in Law journals etc.: Yes

ii) Whether approved for publication in press: No

JUDGMENT: (Oral)

Heard learned counsel for the 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. Mrs. Yangi, learned AAG waives notice on behalf of respondent No.1 and Ms. M. Surong waives notice on behalf of respondent No.2.

4. By this petition, the petitioner No.1 (original accused) and petitioner No.2 (victim) seek quashing of the FIR registered with Madanryting Police Station being P.S. Case No.47(05) of 2021 at the behest of respondent No.2 (original complainant) for the alleged offences punishable under Sections 5 and 6 of the POCSO Act, 2012 and consequently, the proceeding being Special POCSO Case No.101 of 2021 pending before the Court of the learned Special Judge (POCSO), Shillong, East Khasi Hills District.

5. Quashing is sought on the premise that the petitioner No.1 and petitioner No.2 are married and have a daughter aged 5 years.



6. A few facts giving rise to the filing of the aforesaid petition are as under:

7. The petitioner No.1 at the relevant time was 23 years and the petitioner No.2 was 17 years and 8 months. According to the petitioners, the relationship between them was consensual and that from the said relationship, the petitioner No.2 gave birth to a female child on 17th May, 2021. It appears that since the petitioner No.2 was pregnant, her mother i.e., the respondent No.2 (original complainant), lodged an FIR with the Madanryting Police Station on 1st May, 2021, alleging the aforesaid offences as against the petitioner No.1. After investigation, chargesheet was filed in the said case before the learned Special Judge (POCSO), Shillong, East Khasi Hills District.

8. It appears that the petitioner No.2 in her statement recorded under Sections 161 and 164 CrPC has categorically stated that she was in consensual romantic relationship with the petitioner No.1 from 2019 and that they had engaged in physical relationship and that the said relation was free and voluntary. According to the petitioner No.2, the said consensual



relationship led to her becoming pregnant and delivering a female child in May, 2021. According to the petitioner No.2, the FIR was lodged by her mother i.e., the respondent No.2. During the pendency of the aforesaid case, the petitioner No.1 and petitioner No.2 solemnized their marriage on 3rd April, 2025 before the Marriage Registrar, Shillong. The child is presently 5 years of age.

9. This Court vide order dated 20th March, 2026 had directed the Secretary, High Court Legal Services Committee to interact with the petitioner No.2 to find out whether the consent given by her was an informed consent; whether she had received any benefit or compensation either from the State or Central Government; whether she wanted to pursue her education/vocational training etc. Pursuant thereto, the Secretary, High Court Legal Services Committee has submitted her report on 16th April, 2026. In the said report filed by the Secretary, High Court Legal Services Committee, it is noted as under:



That the parties i.e., the petitioner No.1 and petitioner No.2 are presently 28 and 23 years of age respectively and are living together in Laitkor, Mawrie-Nonglum, East Khasi Hills District, Shillong, along with their daughter aged about 5 years; that the daughter was born out of their relationship in the respondent No.2's house; that in 2025, the petitioners solemnized their marriage before the Marriage Registrar, Shillong, in the presence of the families from both sides; that the petitioner No.1 has passed his 9th standard, works as a driver and earns a salary of ₹8000/- per month; that the petitioners' daughter aged 5 years is studying in KG; that the petitioner No.2 has also passed 9th standard and has no separate income of her own; that the petitioner No.1 contributes towards the household and pays for the personal expenditure of the petitioner No.2 and her daughter including her school fees; that the respondent No.2 (mother of the petitioner No.2), who runs a small shop also contributes in some way from the amount earned by her; that the petitioner No.2 is living with the petitioner No.1 happily and has got married to him, without force or coercion; that the petitioner No.2 has no objection if the case is quashed against



the petitioner No.1 since she is happily married and has a child from the said relationship; that the petitioner No.2 has not received any compensation or benefit from either the State or Central Government for herself or for her daughter; and that the petitioner No.2 has an Aadhaar Card but her daughter is yet to get an Aadhaar Card.

10. The respondent No.2 is present in person. She has filed her affidavit dated 21st April, 2026. In the said affidavit, she has stated that the FIR has been lodged due to some misunderstanding and emotional distress. She has stated that the petitioner Nos.1 and 2 were in a consensual relationship and from the said relationship, a female child was born on 17th May, 2021. She has further stated that the petitioner Nos.1 and 2 got married before the Marriage Registrar, Shillong and are living happily together as husband and wife alongwith their child and that the petitioners are taken care of each other and their child. She has further stated that she has no objection to the quashing of the FIR/proceeding. When questioned, she reiterates what is stated by her in the affidavit.



11. The aforesaid petition has been filed seeking quashing of the FIR/proceeding since the parties have got married to each other on 3rd April, 2025 and since they have a child from the said relationship. The marriage certificate is annexed to the petition at page 75 as Annexure-VIII.

12. This Court (**Coram: Chief Justice and Justice Thangkhiew**) in its judgment passed in **Criminal Petition No.92 of 2023** dated 12th March, 2026 has in paragraphs 31, 33, 34 and 35 observed as under:

“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.”

13. Considering the aforesaid factual position, the observations made by this Court in the aforesaid judgment, the fact, that the petitioner No.1 and Petitioner No.2 are married and have a child aged 5 years studying in KG; that the respondent No.2 (original complainant and mother of the petitioner No.2) and the petitioner No.2 have no objection to the quashing of the proceeding, this Court having regard to the peculiar facts, deems it appropriate to quash the FIR registered with Madanryting Police Station being P.S. Case No.47(05) of 2021 for the alleged offences punishable under Sections 5 and 6 of the POCSO Act, 2012 and consequently, the proceeding being Special POCSO Case No.101 of 2021 pending before the Court of the learned Special Judge (POCSO), Shillong, East Khasi Hills District.

14. 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.

15. In order to enable the petitioner No.2 to get the benefits of the above said schemes, the District Child Protection Officer



(DCPO), East Khasi Hills District, Shillong as well as the Secretary, DLSA, East Khasi Hills District, Shillong 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.

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

17. 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 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.

18. Rule is made absolute on the aforesaid terms.



19. The petition is allowed and disposed of on the aforesaid terms.

20. Stand over to **1st July, 2026** for recording compliance.

(Revati Mohite Dere)
Chief Justice

Meghalaya
22.04.2026
"*Lam* DR-PS"