



**Serial No.02**  
**Daily List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

Crl.Petn.No.17/2026

Date of Order: 23.04.2026

1. Shri Vicky Kharsati

2. Smti. XYZ

..... Petitioners

Vs.

1. The State of Meghalaya, represented by the Secretary to the Govt. of Meghalaya, Home (Police) Department, Meghalaya.

2. Dr. Mrs. B. Suting, Medical Officer In-Charge Mawryngkneng PHC, East Khasi Hills District, Meghalaya.

..... Respondents

**Coram:**

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

**Appearance:**

For the Petitioner : Mr. M.F. Qureshi, Adv

For the Respondents : Mr. S. Sengupta, Addl.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 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. Mr. S. Sengupta, learned Addl.PP waives notice on behalf of respondent Nos.1 and 2.

4. By this petition, the petitioner No.1 (original accused) and petitioner No.2 (victim) seek quashing of the FIR registered with Mawryngkneng Police Station being P.S. Case No.16(06) of 2022 for the alleged offences punishable under Sections 5 and 6 of the POCSO Act, 2012 and consequently, the proceeding being Special POCSO Case No.46 of 2022 pending before the Court of the learned Special Judge (POCSO), Shillong, East Khasi Hills District.

5. A few facts that are relevant to decide the aforesaid petition are as under:

6. At the relevant time, the petitioner No.2 (victim) was 17 years and the petitioner No.1 (original accused) was 21 years. It is the petitioners' case that they were in a consensual



relationship and were living together since then as husband and wife. According to the petitioners, they got married as per the local practice prevailing in the State of Meghalaya and that the petitioner No.1 has moved into the petitioner No.2's house. From the said relationship, the petitioners have two children, one aged three years and eight months and another, nine months.

7. Quashing is sought by consent of the petitioner No.2 (victim).

8. The complainant in the present case is the Medical Officer to whom the petitioner No.2 had gone when she was pregnant, pursuant to which the Medical Officer disclosed the incident and lodged an FIR. The prosecutor is representing the said respondent.

9. It is the petitioners' case, that they were in love and had performed a marriage based on mutual trust and free consent; that they got married with the wishes of their families and are happily residing together with their two children, one aged three years and eight months and another, nine months.



10. This Court vide order dated 20<sup>th</sup> March, 2026 had directed the parties to appear before the Secretary, High Court Legal Services Committee so as to enable the Secretary to submit her report as to whether the consent given by the petitioner No.2 was an informed consent; whether she had received any benefit or compensation either from the State or Central Government; and whether she intends to pursue her education/any vocational training etc.

11. Pursuant thereto, the Secretary, High Court Legal Services Committee has submitted her report on 15<sup>th</sup> April, 2026. The said report was taken on record. In the said report, it is stated that the petitioner No.1 is presently 23 years of age and the petitioner No.2 is 20 years and are living together in a joint family in the house belonging to the petitioner No.2's mother along with the two children born from the said relationship. It is further stated that the petitioner No.1 has completed his 9<sup>th</sup> standard and is working as a mason, whereas, the petitioner No.2 has passed 10<sup>th</sup> standard and is not working. It is further stated in the report, that the elder child is studying in Nursery in



a government school and that the petitioner No.1 contributes towards the household expenditure and takes care of the personal expenditure of the petitioner No.2 and her children, including school fees. From the report, it appears that the petitioner No.2 is living with the petitioner No.1 on her own accord happily and voluntarily without force or coercion. The report further discloses that the petitioner No.2 has not received any compensation or benefit from either the State or Central Government for herself or for her children. It also appears that the respondent No.2 does not wish to resume her studies, though she is interested in baking and would like to pursue a vocational training course in the said stream, if given an opportunity.

12. The aforesaid petition has been filed seeking quashing of the FIR/proceeding since the parties have got married, as per the practice prevalent in some of the districts in the State of Meghalaya and are living together happily with their two children.



13. This Court (**Coram: Chief Justice and Justice Thangkhiew**) in its judgment passed in **Criminal Petition No.92 of 2023** dated 12<sup>th</sup> 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.”

14. 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 two children, one aged three years and eight months and another nine months; that the petitioner No.2 has no objection to the quashing of the FIR/proceeding, this Court having regard to the peculiar facts, deems it appropriate to quash the FIR registered with Mawryngkneng Police Station being P.S. Case No.16(6) of 2022 for the alleged offences punishable under Sections 5 and 6 of the POCSO Act, 2012 and consequently, the proceeding being Special POCSO Case No.46 of 2022 pending before the Court of the learned Special Judge (POCSO), Shillong, East Khasi Hills District.

15. Needless to state, that the petitioner No.2 and her children 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), 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 children are made available to them at the earliest and in any event within eight weeks from the date of receipt of this order.



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

18. 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.

19. Rule is made absolute on the aforesaid terms.

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

21. Stand over to **2<sup>nd</sup> July, 2026** for recording compliance.

**(Revati Mohite Dere)**  
**Chief Justice**

Meghalaya  
23.04.2026  
"Lam DR-PS"