Serial No.19
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 149 of 2026

Date of order: 28.10.2026
Uploaded on: 03.11.2026

1.

2. Smti. A. (Prosecutrix), aged about 19 years, through the I.O. Nongstoin P.S. Case No. 89 (12) 2021.

....Petitioners

- **versus** -

1. The State of Meghalaya, represented by the Secretary, Government of Meghalaya, Home (Police) Department, East Khasi Hills District, Meghalaya.

2. The Superintendent of Police, West Khasi Hills District, Meghalaya.

3. The Officer in charge, Nongstoin Police Station, West Khasi Hills District, Meghalaya.

4. Investigating Officer, Nongstoin P.S. Case No. 89(12) 2021 U/s 5(j)(ii)(l)/6 of the POCSO Act, Nongstoin, West Khasi Hills District, Meghalaya.

5. Smti. B. (Complainanat) through the Investigating Officer, Nongstoin P.S. Case No. 89(12) 2021 U/s 5(j)(ii)(l)/6 of the POCSO Act, Nongstoin, West Khasi Hills District, Meghalaya.

....Respondents

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

Appearance:

For the Petitioner : Ms. D.D. Fancon, Legal Aid Counsel

For the Respondents : Mr. A.O.I. Bang, GA
Ms. A. Thungwa, GA
Mr. D. Susngi, Adv. [R5]

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 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. By this petition, the petitioners, i.e., the petitioner No. 1 (accused) and the petitioner No. 2 (survivor) seek quashing of the FIR registered with the Nongstoin Police Station, being FIR No. 89 (12) of 2021 and consequently, the proceeding pending before the learned Special Judge (POCSO), West Khasi Hills District, Nongstoin, being Special POCSO Case No. 24 of 2025.

4. Quashing is sought on the premise that the petitioner No. 1 is aged 24 years and the petitioner No. 2 is aged 19 years, and are living together as husband and wife with the consent of the respective families alongwith their two children, aged 4 years and 1 year respectively. The respondent No. 5 is the original complainant and mother of the petitioner No. 2.

5. Pursuant to the order dated 29.09.2026, the petitioners and the respondent No. 5 were directed to appear before the Secretary, High Court Legal Services Committee on **09.10.2026** 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 had received any benefits under any of the Schemes of the State or Central Government, for herself or for her children, and the Secretary was to also record whether the respondent No. 5 had any objection to the quashing of the proceeding.

6. Pursuant to the said order dated 29.09.2026, the Secretary, High Court Legal Services Committee has submitted her report in a sealed envelope. The said envelope was opened

and the report dated 09.10.2026 of the Secretary is taken on record. From the said report, it appears that the petitioner No. 2 was in a romantic relationship with the petitioner No. 1 and that the relationship between them was consensual. It appears from the said relationship that the petitioner No. 2 became pregnant and gave birth to a child in 2022 when she was 16 years of age, and gave birth to the second child when she was 17 years of age. From the report, it appears that the petitioner No. 2 has studied up to Class 9th and that presently, she does not wish to continue with her studies. It further appears from the report that the petitioner No. 1 is providing the petitioner No. 2 and the two children, and that they are living together as husband and wife. The report further reveals that the petitioner No. 2 and her two children have not received any benefits from any of the State or Central Government Schemes. Although, the petitioner No. 2 expressed before the Secretary, High Court Legal Services Committee that she was interested in vocational training in bakery, today, learned counsel for the petitioners states that the petitioner No. 2 wants to pursue a vocational course either in farming or tailoring. The report further reveals that the

respondent No. 5, who is the original complainant and mother of the petitioner No. 2, wants the case to come to an end and has no objection to the quashing of the said case, since the petitioner No. 1 is taking care of the petitioner No. 2 and the children.

7. Learned GA has also tendered a report of WPSI D.P.Nongbri, District Special Branch, Nongstoin, West Khasi Hills. The said report dated 28.10.2026 is taken on record. The report reveals that what is stated in the petition is true and correct, i.e., the petitioners are living together as husband and wife alongwith their two children.

8. 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."

9. Keeping in mind the observations made in the aforesaid judgment, the report of the Secretary, High Court Legal Services Committee, the report of the WPSI D.P.Nongbri, District Special Branch, Nongstoin, West Khasi Hills, the no objection given by the petitioner No. 2 and the respondent No. 5 (original complainant and mother of the petitioner No. 2) and having regard to the fact that the petitioners are living together as husband and wife alongwith their two children, there is no impediment in allowing the petition. The petition is accordingly allowed and the FIR registered with the Nongstoin Police Station, being FIR No. 89 (12) of 2021 and consequently, the proceeding pending before the learned Special Judge (POCSO), West Khasi Hills District, Nongstoin, being Special POCSO Case No. 24 of 2025, are quashed and set aside.

10. The petition is disposed of and Rule is made absolute on the aforesaid terms.

11. Needless to state that the DCPO as well as the Secretary, DLSA, West Khasi Hills District, Nongstoin to take all such steps to ensure that the petitioner No. 2 and her two children get benefits of all Schemes as may be applicable to them. The said Schemes 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;

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

(xv) Insurance or any other scheme.

12. A support person be appointed to assist the petitioner No. 2 in availing all the Schemes, including ensuring that the petitioner No. 2 is enrolled in any vocational training relating to farming and tailoring.

13. Both, the DCPO as well as the Secretary, West Khasi Hills District, Nongstoin to submit their reports with respect to the Schemes made available to the petitioner No. 2 and the children before the next date.

14. **A copy of this order be forwarded forthwith to both the DCPO, and the Secretary, DLSA, West Khasi Hills District, Nongstoin, to enable them to comply with the given directions**.

15. Although, the aforesaid petition is disposed of, list the matter for recording the benefits extended to the petitioner No.

2 and her children on **21st December, 2026**, and to enable the DCPO as well as the Secretary, DLSA to submit their reports.

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 17:34:06 IST