Serial No.03
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn.No.126/2026

Date of order: 15.09.2026

.... Petitioners

Vs

1. State of Meghalaya, represented by the Commissioner & Secretary, Home (Police) Department.
2. Mrs. C (complainant)
   in Sadar PS Case No.274(11) 2017, now registered as Special (POCSO) Case No.16/2025 (through its Investigating Officer Inspector C.M. Sangma, Sadar Police Station, Shillong, Meghalaya).
3. Miss. X (victim)
   in Sadar PS Case No.274(11) 2017, now registered as Special (POCSO) Case No.16/2025 (through its Investigating Officer Inspector C.M. Sangma, Sadar Police Station, Shillong, Meghalaya). ..... Respondents

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

Appearance:

For the Petitioner : Mr. S. Deb, LAC

For the Respondents : Mr. A.S. Dey, GA

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)

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, preferred by the petitioner through the High Court Legal Services Committee, the petitioner seeks quashing of the FIR registered with the Sadar Police Station, being Sadar P.S. Case 274(11) of 2017, the chargesheet filed in the said case and consequently, the proceeding pending before the learned Special Judge (POCSO), East Khasi Hills District, Shillong, being Special POCSO Case No.16 of 2025.

4. Quashing is sought on the premise that the petitioner (original accused) and the respondent No.3 (survivor) are living together as husband and wife since 2017 and that from the said relationship have a child, who is currently eight years of age. It appears that at the relevant time when the offence took place, the petitioner was 18 years of age and the respondent No.3, 17 years 11 months and 27 days, three days shy of attaining the age of majority.

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5. Learned counsel for the petitioner has submitted that the relationship was a romantic relationship and that the parties i.e., the petitioner and the respondent No.3 have been living together as husband and wife since 2017.

6. Pursuant thereto, notice was issued to all the respondents.

7. The respondent Nos.2 and 3 were also directed to appear before the Secretary, High Court Legal Services Committee before the next date, so as to enable the Secretary to submit her report, as to whether the consent given by respondent Nos.2 and 3 was an informed consent and whether the respondent No.3 and her child has received any benefit under any of the Schemes either of the State or Central Government etc.

8. Learned GA was also requested to submit a report of the concerned police station, as to whether the contents of the petition were true and correct.

9. Pursuant thereto, Mr. Dey, learned GA has submitted the report of the concerned officer C.M. Sangma, attached to Women P.S., Shillong. The said report dated 15th September, 2026 is

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taken on record. From the said report, it appears that what is stated in the aforesaid petition is true and correct.

10. The Secretary, High Court Legal Services Committee has also submitted her report in a sealed envelope. The envelope is open and the report dated 2nd September, 2026 is perused. From the said report, it appears that the respondent No.3 was in love with the petitioner and had physical relation with him out of her own free will. That pursuant thereto, she became pregnant in 2017 and gave birth to a son in December, 2017. She has stated that her son passed away within a month. From the report, it further appears that thereafter the respondent No.3 was again blessed with a daughter when the respondent No.3 was 18 years of age. The report reveals that the petitioner is taking care of the respondent No.3 and her child and that the respondent No.3 is working as a Cleaner at the Women's College and earning about ₹10,000/- per month. The report further reveals that the respondent No.3 has not received any benefit under any of the Schemes either of the State or Central Government. The report further reveals that the respondent No.3 wants to open a shop in front of her house and if she receives some

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assistance/compensation, she will be able to do so. The report further reveals that that the respondent No.3 has completed Class-XI and does not wish to continue with her education and that she has no objection to the quashing of the FIR and consequently, the proceeding. From the report, it further appears that according to the respondent No.2 (complainant and mother of the respondent No.3 (survivor), the petitioner is taking good care of her daughter and she does not wish to proceed with the case.

11. Learned counsel appearing for the respondent Nos.2 and 3 reiterates what is stated by them in the report, i.e. that the petitioner and the respondent No.3 are living happily together as husband and wife with their child and that the said respondent Nos.2 and 3 have no objection to the quashing of the FIR.

12. 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

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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

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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

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> 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. Having regard to the aforesaid judgment; the report of the Secretary, High Court Legal Services Committee; the police report reiterating the fact that the petitioner and the respondent No.3 are living together as husband and wife since 2017 with their daughter aged 7 to 8 years; the no objection given by the respondent Nos.2 and 3, this Court finds no impediment if the petition is allowed.

14. Accordingly, the petition is allowed and the FIR registered with the Sadar Police Station, being Sadar P.S. Case 274(11) of 2017, the chargesheet filed in the said case and consequently, the proceeding pending before the learned Special Judge

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(POCSO), East Khasi Hills District, Shillong, being Special POCSO Case No.16 of 2025, are quashed and set aside.

15. The petition is allowed and rule is made absolute on the aforesaid terms.

16. Needless to state, that the respondent No.3 and her daughter 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;

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(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.

17. In order to enable the respondent No.3 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 respondent No.3 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.

18. The DCPO/Secretary, DLSA, East Khasi Hills District, Shillong to appoint a support person to help the respondent No.3 and her child to get all such benefits, as they may be entitled to any of the Schemes, including compensation under the victim compensation scheme.

19. A compliance report of the benefits extended to the respondent No.3 and her child be placed before this Court on the next date.

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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), 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.

21. Although, the petition is disposed of, list the petition on **11th November, 2026** for recording compliance of the directions given in paragraphs 16 to 18 aforesaid.

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

(**Revati Mohite Dere**)
Chief Justice

Meghalaya
15.09.2026
"*Lam* DR-PS"

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Verified
Digitally signed by: LAMPHRANG KHARCHANDY
Signed On: 16-09-2026 14:34:06 IST