Serial No. 07
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 108 of 2026

Date of order: 14.10.2026

Shri. Skhemborlang Syiemlieh, S/o Smti. Wanphylla Syiemlieh, R/o Nonglum, Umlyngka 3rd Mile 699, Lumdiengjri, Upper Shillong, East Khasi Hills District, Meghalaya.

...Petitioner

- versus -

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

2. Smti. Y (Complainant), through the Officer-in-charge, Lumdiengjri Police Station, Shillong, Meghalaya.

3. Miss X (Survivor/represented by her Guardian).

....Respondents

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

Appearance:

For the Petitioner : Mr. P. Ghosh, Adv.
Ms. N.M. Kharshemlang, Adv.

For the Respondents : Mr H. Kharmih, Addl PP
Mr. S.A. Majaw, Adv. [R2&3]

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

ii) Whether approved for publication in press: Yes/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 and the aforesaid petition is taken up for final disposal.

3. By this petition, the seeks quashing of the FIR dated 10.06.2025 registered with the Lumdiengjri Police Station, being Lumdiengjri P.S. Case No. 69 (06)2025 at the behest of the respondent No.2 – mother of the survivor (respondent No.3), against the petitioner for the alleged offences punishable under Section 5(j)(ii) read with Section 6 of the POCSO Act, and consequently, the proceeding pending before the learned Special Judge (POCSO), Shillong, being Special POSCO Case No. 71 of 2025.

4. Quashing is sought on the premise that the petitioner and the respondent No. 3 are living together as husband and wife, and have a child, aged 8 to 9 months old from the said

relationship. On 25.09.2026, this Court had directed the parties to appear before the Secretary, High Court Legal Services Committee, to enable the Secretary to submit a report as to whether the consent given by the respondent No. 3 was an informed consent and whether the respondent No. 3 has received any benefits under the State or Central Government Schemes for herself and the child.

5. The Police were also directed vide order dated 02.09.2026 to verify the contents of the petition, i.e., the petitioner and the respondent No. 3 are living together as husband and wife, and have a child born from the said relationship.

6. Pursuant thereto, both, the Officer-in-Charge of the Lumdiengjri Police Station as well as the Secretary, High Court Legal Services Committee, have submitted their respective reports.

7. The report of the Officer-in-Charge of the Lumdiengjri Police Station reveals that the petitioner (accused) and the respondent No. 3 (survivor) are living together as husband and

wife, and from the said relationship have a child, who is currently 8 to 9 months old. The report further reveals that the survivor has disclosed that she was living with the petitioner (accused) peacefully and that the petitioner was taking care of her as well as their child by providing for their day-to-day needs. The report also reveals that both the petitioner and the respondent No. 3 are living together in a rented house and that the contents in the petition are correct.

8. The Secretary, High Court Legal Services Committee has submitted her report in a sealed envelope, which is opened. The said report dated 29.09.2026 is taken on record. From the said report, it appears that the respondent No. 3 (survivor) entered into a romantic relationship with the petitioner out of love and own free will when she was 17 years of age, and that from the said relationship, she was blessed with a daughter, who is presently, 8 to 9 months old. It appears from the report that the petitioner is providing for the needs of the survivor and the child. The report further reveals that the respondent No. 3 is not interested in resuming her studies but is interested in vocational

training, and that she has not received any compensation under the Victim Compensation Scheme, either for herself or for her child.

9. The respondent No. 2 (original complainant and mother of the respondent No. 3) does not dispute that the petitioner and the respondent No. 3 are living together with their child born from the said relationship. She further disclosed that she has no objection to the quashing of the proceeding.

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. .....

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. Having regard to the observations made in the aforesaid judgment, the report of the Officer-in-charge of the Lumdiengjri Police Station, the report of the Secretary, High Court Legal Services Committee and the no objection given by the respondent No. 3, there is no impediment in allowing the petition. Infact, the respondent No. 3 is present in person. It appears that the respondent No. 3 is now a major, above 18 years of age. When questioned, she reiterates what is stated by her before the Secretary, High Court Legal Services Committee.

12. Considering the aforesaid, there is no impediment in allowing the petition and as such, the FIR dated 10.06.2025 registered with the Lumdiengjri Police Station, being Lumdiengjri P.S. Case No. 69 (06)2025, and consequently, the proceeding pending before the learned Special Judge (POCSO),

Shillong, being Special POSCO Case No. 71 of 2025, stand quashed and set aside.

13. Needles to state, that the DCPO, East Khasi Hills District, Shillong as well as the Secretary, DLSA, East Khasi Hills District, Shillong to ensure that the respondent No. 3 gets benefits for herself and her daughter, as they may be entitled to, under the following Schemes;

(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.

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

15. 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 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.

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

17. Petition is, accordingly disposed of.

18. Although, the petition is disposed of, list the matter on **11th November, 2026** for recording compliance of the directions given in paragraphs 13 and 14 of the judgment.

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

(**Revati Mohite Dere**)
Chief Justice

Verified
Digitally signed by: SYLVANA LIZ KHARBHIH
Signed On: 14-10-2026 18:12:34 IST