

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
WADAKKANCHERY**

Present: Naseeb. A. Abdul Razak
Judicial First Class Magistrate, Wadakkanchery

Dated this the 31st Day of March, 2026

C.M.P. NO. 4309/2025

Petitioner/complainant : Musthafa.N.M, Narothepparambil House,
Paruthipra desom, Enkakkad .P.O, Enkakkad
Village, Thalappilly Taluk.

(Repd. By Adv. K. Viswanathan)

Respondent/accused : Jayan.P.V, aged 41 years, S/o Vasudevan,
Pallikkattil House, Malakka desom, Manalithara
Village, Thalappilly Taluk.

This complaint, filed u/s.190 r/w s.200 of the Cr.P.C, having come up for hearing on 04.03.2026 and having stood over to today, the court has passed the following:-

ORDER

1. The averments and allegations in the complaint are that the accused had blasted granite rocks and excavated red earth from the property purchased from the complainant and situated adjacent to the property of the complainant. For the said purpose, the accused has used huge quantity of explosives. Upon enquiry with the office of the Mining and Geology Department, the complainant came to know that the accused has not obtained any permission for using the explosives. The act of the accused has caused damage to the basement of the house of the complainant. Even though there was an agreement by the accused with the defacto complainant that he would excavate and remove granite stones and rocks from the property without causing any damage to the properties of the defacto complainant. He acted in violation of the terms and conditions of the agreement executed by him. Upon mediation, the accused had assured that the complainant would be duly and

sufficiently compensated. But he failed to do so. The acts of the accused are in violation of law, especially those relating to the mines and minerals. Even though the complainant lodged petitions before the SHO, Wadakkanchery and thereafter before the District Police Chief, no action has so far been taken by the police. Hence this complaint.

2. Upon the receipt of the complaint, a report was called for from the Village Officer under whose territorial jurisdiction the property comes and the complainant and the respondent are residing as part of enquiry under Section 223 of BNSS r/w Section 225 of BNSS. The Village Officer has reported that there is no material to show that the act of the respondent has caused any harm, loss or damage to the complainant. At the same time, he has also reported that there is no records to show that the respondent has applied for any use of explosives. But there is no material to assume that the respondent has used any explosives at all. The averments in the complaint would go to show that it was upon the alleged failure of the respondent to comply with the terms and conditions of the agreement with the complainant that the respondent would compensate for any loss cost to the complainant that the complainant got aggrieved and instituted this complaint. Thus it appears that the complainant is not basing his cause of action upon any of the act of the respondent rather he is basing his cause of action upon the failure of the respondent to comply with the assurance allegedly given to him. But such a failure to comply with the assurance as such cannot be taken as a ground to initiate criminal proceedings against a person. Moreover, the alleged illegal quarrying or mining by blasting rocks and excavating ordinary earth would come under the purview of the authorities of the Authorised Officer of the Mining and Geology Department as well as the Revenue Authorities including the Village Officer. The report of the Village Officer does not indicate that the any such action was taken or warned. Therefore, I am of the considered view that there is no tenable grounds to initiate and proceed with criminal proceedings against the respondent on the basis of the allegations and averments in

this complaint. Therefore, this complaint is liable to be dismissed under Section 226 of the BNSS.

3. **In the result**, complaint is dismissed under Section 226 of BNSS.

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open Court on this the 31st Day of March, 2026)

Sd/-
Judicial First Class Magistrate,
Wadakkanchery

Judicial First Class Magistrate,
Wadakkanchery

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