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ADR IN CRIMINAL COMPOUNDABLE OFFENCES: SCOPE AND LIMITATIONS

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ABSTRACT

India's criminal justice system follows a largely adversarial and punitive approach, which has resulted in excessive criminalisation and a heavy backlog of cases before courts. A significant number of these cases are private in nature, including offences such as simple hurt, defamation, criminal trespass, and matrimonial disputes. Continuing criminal proceedings in such matters often serves little practical purpose and instead increases hostility between parties. Compoundable offences under Section 320 of the Code of Criminal Procedure, 1973, provide a legal framework for resolving less serious offences through settlement and compromise. This paper examines the role of Alternative Dispute Resolution (ADR) mechanisms in addressing criminal compoundable offences. It analyses how mechanisms such as Lok Adalats and plea bargaining facilitate settlement, reduce unnecessary litigation, and promote reconciliation between parties. The paper also discusses the judicial approach towards compromise in criminal matters, with reference to key Supreme Court decisions that have permitted quashing of proceedings in disputes of a personal nature. While ADR offers advantages such as speedy justice, reduced burden on courts, and victim satisfaction, the paper also highlights challenges including coercion, power imbalance, and the lack of uniform statutory guidelines. The study underscores the need for careful and regulated use of ADR in criminal compoundable offences.

INTRODUCTION.

India's criminal justice system is primarily punitive and adversarial. Although such a framework is essential for dealing with serious crimes that endanger social morality and public order, its indiscriminate application to minor and private disputes has led to excessive criminalization and drawn-out litigation. There is a large number of criminal cases which is pending before various courts of India that are of mostly private in nature matter like simple hurt, defamation, criminal trespass, and matrimonial disputes. Moreover, burdening courts and escalating hostility between parties, the continuation of criminal proceedings in such cases frequently serves little purpose.

The growing compounding of offenses and the growing context of Alternative Dispute Resolution (ADR) mechanisms represent a change towards restorative justice. ADR in criminal matters can be an effective method to resolve disputes through dialogue, compromise, and reconciliation rather than through adversarial adjudication. While ADR has mostly been associated with civil disputes, its gradual acceptance in criminal law—particularly in compoundable offences—reflects a practical response to systemic inefficiencies in criminal justice administration.

CONCEPT OF COMPOUNDABLE OFFENCES UNDER CRIMINAL LAW.

Compoundable offenses are mentioned in Section 320 of the Code of Criminal Procedure, 1973. Compoundable offences are less serious in nature in most of its cases it affects an individual. The provision categorises compoundable offences into two distinct classes: offences compoundable without the permission of the court and offences compoundable with the permission of the court. Compoundable offences are not considered that severe, therefore a leniency can be provided to that type of cases.

Permitting compounding is justified by the realization that some crimes primarily affect individual victims rather than society as a whole. Continuing criminal proceedings in these situations might be a waste of time for the legal system. Thus, compounding accomplishes two goals: it lessens needless litigation and facilitates parties' voluntary reconciliation. In compoundable cases the accused can be acquitted on reaching a settlement. Therefore, it serves a basic function of ADR which focus on settlement between both the parties. Since it somehow functions similar so it will be better to resolve such matter through ADR so that the court can have time to listen to other big and more important matter.

ADR MECHANISMS IN CRIMINAL JUSTICE.

ADR mechanisms have slowly found acceptance in criminal matters involving compoundable offences. Lok Adalat's, established under the Legal Services Authorities Act, 1987, are empowered to dispose of cases through compromise or settlement. They play a important role in resolving minor criminal disputes, particularly cheque dishonour cases, matrimonial disputes and other matter which are compoundable in nature.

ADR will be much beneficial in criminal matters but more it will be much more beneficial if it

is used before getting into trial by which the matter can be settled out of the court without taking the matter to proceedings. Another important mechanism is plea bargaining, introduced through Chapter XXI-A of the CrPC, which allows the accused to plead guilty in exchange for reduced punishment or charges in offences punishable up to seven years.

MODES OF ADR MECHANISM IN CRIMINAL LITIGATION: PROVISIONS IN INDIAN LAWS.

1. Plea Bargaining.

Plea bargaining is the term for pre-trial discussions between the prosecution and the defendant, typically led by the prosecution's attorney, in which the defendant consents to enter a guilty plea in exchange for specific concessions from the prosecutor. The type of plea bargaining as practiced in India is that of charge and the sentence bargaining. Prior to its formal inclusion in the CrPC, the provision may be found in Sections 206(1) and 206(3) of the CrPC, as well as Section 208(1) of the Motor Vehicles Act 1988, which allow accused to plead guilty and pay a modest fee after the case is closed.

2. Probation.

Probation allows offenders to avoid harsh punishments. Section 562 of the Code of Criminal Procedure, 1898, was India's first piece of legislation governing probation. The law allows courts to release first-time offenders on probation for minor offenses punishable by up to two years in prison. Further Sec 360 of the CrPC 1973 has the provision of probation to the offenders along with Probation of Offenders Act 1958. Under the provisions of probation, certain class of offender is released on promise of good behaviour under certain limiting circumstances.

3. Compounding of offences.

Sec 320 of CrPC provides about compounding of offences where the victim and the offender may enter into a compromise to drop charges against the accused. Sec 320 also gives the table providing the list of compoundable and non-compoundable offences. In some of the less serious offences like adultery, causing hurt, defamation or trespass, the permission from the court is not required for compounding the offences, whereas, offences such as criminal breach of trust, outraging the modesty of woman, grievous hurt etc., the permission from the court is required before compounding.

4. Mediation.

Mediation differs from arbitration and conciliation in that it is not a legally binding process. Mediation involves a third party attempting to resolve a conflict in a friendly manner. Mediation indirectly may be said to be incorporated in Sec 74 of the Arbitration and Conciliation Act 1996, where it is provided that settlement agreement between the parties to the dispute will have the same effect as that of arbitral award. This settlement may result as the negotiation between the parties or through a mediator in between them. Though mediation is not followed in criminal cases, but some of the matters such as cases of domestic violence, which is as such a criminal Compoundable offense, is encouraged to be resolved by mediations. It will be an effective way and less time consuming as court proceedings.

JUDICIAL APPROACH TOWARDS ADR IN CRIMINAL MATTERS.

The judiciary plays very important role in elaborating and defining the use and approach of such mechanism like ADR in criminal matters.

In *Gian Singh v. State of Punjab*, the Supreme Court held that criminal proceedings involving disputes of a purely personal nature may be quashed on the basis of compromise, even where the offences are non-compoundable, provided they do not affect public interest. The judgement marked a importance on how ADR methods can be a useful way of dealing with such type of matter which does not interfere with public at large. Recognizing that settlement and reconciliation might occasionally serve justice more effectively than punitive prosecution, this ruling marked a major change toward a restorative strategy. This judgment marked a significant shift towards a restorative approach, acknowledging that reconciliation and settlement can sometimes better serve justice than punitive prosecution.

In another case *Narinder Singh v. State of Punjab*, the Court laid down detailed guidelines for quashing criminal proceedings on the basis of compromise. The Court emphasised factors such as the nature of the offence, the stage of proceedings, and the impact on society. In this the court said a criminal case which does not comply with the given factors then it cannot be compromised or squashed merely on the basis of settlement. The Court emphasized that the power to quash must be used with diligence and after carefully considering considerations such as the nature and gravity of the offense, the level of the criminal proceedings, the voluntariness of the compromise, and the potential impact on society. The Court underlined that compromise

should typically be accepted early in proceedings, such as during an investigation or before the start of trial, rather than after evidence has been recorded. It also ruled that offenses involving public interest, economic offenses, or crimes against the state should not be dismissed purely on the basis of a settlement between the parties. Through these judgments, the Supreme Court has effectively balanced the objectives of restorative justice with the need to protect societal interests.

SCOPE AND ADVANTAGES OF ADR IN COMPOUNDABLE OFFENCES.

When it comes to criminal offenses that are compoundable, alternative dispute resolution (ADR) has many benefits. It ensures speedy justice by avoiding long trials and procedural delays. ADR also reduces the burden on courts, enabling them to focus on serious crimes requiring adjudication. From the victim's perspective, ADR provides a chance for them to justify or come to a settlement before getting the matter into much more complications. And meaningful participation in the resolution process gives them a sense of satisfaction and closure.

COMPARATIVE PERSPECTIVE AND CHALLENGES.

Restorative justice conferences are being used more frequently in the UK for minor crimes, allowing victims and offenders to have a structured conversation. The majority of criminal cases in the US are resolved through plea bargaining, which dominates criminal adjudication. These models show that, with sufficient protections and supervision, deterrence and negotiated justice can coexist. Many other countries are adopting ADR way for easy and fast trial of matters and their main objective from implementing this is that most of the cases get settled out of court as it is beneficial for both the parties and the system.

Despite its advantages, ADR in criminal law faces significant challenges. One of the primary concerns is the risk of coercion, particularly in cases involving power imbalance between parties. There is also a lack of uniform statutory guidelines governing criminal mediation, leading to inconsistent application across jurisdictions. It does not have a much more strong written law which would have make it a more effective way of implementation across compoundable criminal cases.

CONCLUSION.

A reformative move away from a strictly punitive justice system and toward a more restorative and practical approach is reflected in the growing acceptance of Alternative Dispute Resolution procedures in criminal compoundable offenses. ADR provides a workable way to guarantee prompt justice and lessen the burden on the judiciary given the massive backlog of criminal cases in India, especially those resulting from private and personal disputes. By focusing on reconciliation, settlement, and voluntary resolution between parties, compounding offenses under Section 320 of the Code of Criminal Procedure closely adheres to the fundamental tenets of alternative dispute resolution.

ADR will be a much easier way if approach which can create an easement in the legal process and ensure speedy trial of the case as we know the cases which are pending before the courts are much higher than solved cases. ADR will be a much progressive way of dealing with cases which are compoundable and personal in nature. As india is a developing country there for it has so much of possibility in future there it will be a better way for people to opt for ADR as it will create more opportunities.

Footnotes (Bluebook – 20th Edition)

1. Code of Criminal Procedure, No. 2 of 1974, § 320 (India).
2. Gian Singh v. State of Punjab, (2012) 10 SCC 303 (India).
3. Narinder Singh v. State of Punjab, (2014) 6 SCC 466 (India).
4. State of Madhya Pradesh v. Laxmi Narayan, (2019) 5 SCC 688 (India).
5. B.S. Joshi v. State of Haryana, (2003) 4 SCC 675 (India).
6. Law Comm'n of India, 142nd Report on Concessional Treatment for Offenders Who Plead Guilty (1991).