**ADR in Criminal Cases**

* **ADR in criminal cases in Bangladesh:** The term Alternative Dispute Resolution is often used to describe a wide variety of dispute resolution mechanism that are short of, or alternative to, full scale court process. In short, it means to resolve any dispute between the parties outside the court. Bangladesh has introduced this system in the Civil Justice System. ADR has not been yet widely introduced in criminal justice system. Section 345 of the Code of Criminal Procedure enacts provision for compromise between the adversary parties to a little extent. Besides this Gram Adalat Ain, 2006 and Birodh Mimangsha (PauraElaka) Board Ain, 2004 deals to dispose of some petty criminal offences by compromise. The Criminal Court has no other alternatives but to acquit the offenders if compromise petition is submitted in case of compoundable offences.

The opportunity of ADR in criminal cases should be increased by widening the scope of section 345 of Cr.PC. It is needed to widen the ambit of compoundable offences may have the adverse effect on the public peace and tranquility. The success of the ADR will ensure the peace in society.

Compounding means compromise or amicable settlement. Generally a criminal act in which a person agrees not to report the occurrence of a crime or not to prosecute a criminal offender in exchange for money or other consideration is called compounding offences. On the other hand, it can be said that compoundable offences are those which can be compromised by the parties to the dispute. The permission of the court is not necessary. Note that the aggrieved party or the victim may compound an offence. Not even the public prosecutor has the power to compound an offence. Offences which may lawfully be compounded are mentioned in section 345 of the Cr.P.C. An offence created by a special Law is not compoundable. The court cannot allow compounding of an offence which is not compoundable under section 345.Compoundable offence may be of two types:

A. Compounding with the permission of the court.

B. Compounding without the permission of the court.

Section 345 (1) provides the list of offences which can be compounded without the permission of the court. Section 345 (2) provides the list of offences which can be compounded only with the permission of the court. Penal code, 1860 covers wide range of offences, defining the offences and the provisions of punishment. Whereas the code of criminal procedure prescribes the procedure to try the offences compoundable can also be compromised outside the court. Main object of compounding is to maintain peace in the society. But all kinds of offences are not compoundable, basically in case of heinous offences. Except the offences mentioned in the column of section 345 of the Code of Criminal procedure cannot be compounded, such as murder, rape, kidnapping, dacoity, smuggling, abduction etc.

* **General rule of compounding of offences:**

1. Compounding of abetment of offences: when any offence is compoundable under section 345 of Cr.PC, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.
2. Person competent to compound: when the person who would otherwise be competent to compound an offence under section 345 of CrPC is (under the age of eighteen years or is) an idiot or a lunatic, any person competent to contract on his behalf may (with the permission of the court) compound such offence.
3. No composition in some case: when the accused has been sent for trial or when he has been convicted and an appeal is pending no composition for the offence shall be allowed without the leave of the court to which he is sent or the case may be, before which the appeal is to be heard.
4. Direction of high court division to compound cases: The high court division acting in the exercise of its power of revision under section 439 (and a court of session so acting under section 439A) may allow any person to compound any offence which he is competent to compound under section 345 of Cr.PC.
5. Acquittal: The composition of an offence under section 345 of Cr.PC shall have the effect of an acquittal of the accused with whom the offence has been compounded.
6. No compounding except section 345: No offence shall be compounded except as provided by section 345 of Cr.PC.

* **Guiding principles in compromise of criminal cases**

No compromise can be made before charge sheet is submitted. Following points should be kept in mind while compromising an offence:

1. The compromise proceeding should be guided by legal process and no legal provisions shall be hampered by compromise.
2. Patience hearing should be given to both the parties.
3. Conciliator should not impose any decision over the parties.
4. Extra benefit should not be given to any parties.
5. No one should be declared guilty or convicted in conciliation proceeding.
6. Equality should be ensured in case of male and female.
7. Deed of compromise should be in written form.
8. Copy of the deed of compromise should be provided both the parties.

* **Stages of compounding offences**

At any stage of criminal proceeding the parties may take initiative to submit deed of compromise and even in appellate stage it can be submit before the court. The order is discharge of the accused when the deed is filed before framing of charge whereas the accused is to be acquitted if the compromised deed is submitted after framing of charge whereas the accused is to be acquitted if the compromised deed is submitted after framing of charge.

Before pronouncement of judgement compromise deed can be filed. The Pakistan Supreme court permits submission of deed of compromise after serving the conviction and acquit the accused in appellate stage. But when the lower courts record is called for under section 435 of the code of criminal procedure, Magistrate cannot permit the parties to submit compromise deed.