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Influence of Mediation in Criminal Matters of the Judiciary

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ABSTRACT

Although it is rarely used in criminal cases, mediation is a recognized and well-established method of resolving disputes that is typically used in civil cases. Nonetheless, it is a possibility in certain low-level criminal cases (particularly those that are compoundable), such as assault, wrongful imprisonment, harassment, molesting, cheating, adultery, etc. However, we cannot state that the use of mediation in criminal trials can always continue.

Keywords: *Mediation, Criminal case, Trial, Speedy disposal, Save time.*

I. INTRODUCTION

Mediation in criminal cases refers to a voluntary and structured process where the victim, the offender, and/or other affected parties (if any) come together to resolve the harm caused by a crime. It involves the assistance of a trained mediator who facilitates communication and negotiation between the parties involved. But such a process usually also involves a magistrate's consent and presence. Depending on the legal system and the parties agreement, mediation in criminal cases may address a variety of charges, from less serious to more serious ones. It frequently serves as a substitute for or addition to customary judicial procedures, with the goals of lessening the adversarial character of the criminal justice system and fostering community involvement, healing, and understanding. In addition, participants have the chance to ask questions, communicate directly, share viewpoints, and express sentiments during the mediation process. This can assist victims in getting closure, expressing their worries, and asking the offender for an apology or reparation. Mediation provides an opportunity for offenders to own up to their mistakes, recognize the consequences of their behaviour, and actively engage in making apologies.

(A) Objectives of mediation in criminal cases:

Promoting restorative justice principles which the harm caused by the crime, attending to the victim's needs, and encouraging the offender's rehabilitation and accountability is the main goal of mediation in criminal cases. Through open communication, empathy, and understanding,

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mediation helps the victim and the offender come to a mutually agreeable decision or resolution.

(B) Type of criminal matter for mediation:

While it is true that not all crimes especially serious ones are appropriate candidates for mediation, there are some criminal cases that are typically thought to be a good fit for the process, depending on the jurisdiction and particulars of the case:

- i. **Property Crime:** The victim's injury is the main concern, and a settlement that might entail repair or restitution is sought after.
- ii. **Minor Offence:** When there is a chance for communication and a resolution in situations involving small physical altercations or non-serious assaults, mediation may be an effective course of action. The objectives are to deal with the underlying problems, advance comprehension, and possibly stop reoffending.
- iii. **Juvenile Offence:** When dealing with young criminals, mediation is frequently used. It offers a chance to confront the harm done, hold the youth accountable, and direct them toward recovery and future good conduct.
- iv. **Community related offence:** Certain jurisdictions employ mediation as a means of handling violations that have an immediate effect on the community, like minor public order infractions, neighborhood conflicts, or noise disruptions. The goals of mediation are to repair social harmony and stop such occurrences from happening again.

(C) Benefit of mediation in criminal matter:

- i. **Victim Empowerment and Voice:** Mediation provides victims with an opportunity to actively participate in the resolution process. It allows them to express their feelings, share the impact of the crime, and have their voice heard. This empowerment can contribute to the healing process and provide a sense of closure and satisfaction for the victim.
- ii. **Offender Accountability and Responsibility:** By giving offenders a chance to face the repercussions of their conduct head-on, mediation encourages offender accountability. Offenders can accept responsibility for their actions and have a greater understanding of the hurt they have caused by talking with and interacting with the victim. This accountability can lessen the chance of reoffending and aid in rehabilitation.
- iii. **Restorative Justice and Healing:** The goals of mediation are to mend the damage that the crime has caused and, to the greatest extent that it is feasible, to restore relationships. It provides a forum for honest communication, compassion, and understanding, all of

which can aid in the healing process for both the perpetrator and the victim. The guiding concepts of restorative justice place a strong emphasis on mending the harm done to people and communities, encouraging reconciliation, and dealing with underlying problems.

- iv. **Speed and Efficiency:** When compared to conventional court procedures, mediation can be a speedier and more effective process. It lessens the load on the legal system, permits flexible scheduling, and prevents protracted court delays. All parties involved can save time and money by using mediation to resolve disputes. It prevents protracted court delays. All parties involved can save time and money by using mediation to resolve disputes.
- v. **Customized Resolutions:** Mediation enables innovative and distinctive solutions that are suited to the particulars of each situation. The parties can work together to create agreements that are acceptable to both parties and go beyond what is required by law. Results that take into account the individual needs and preferences of both the perpetrator and the victim may result from this flexibility.
- vi. **Maintenance of Community Peace and Harmony:** The goal of mediation is to mend fences and rebuild trust between the wronged party and the victim. It can assist in maintaining connections that are significant to all parties involved, such as links to one's family or community, by encouraging communication and understanding. By resolving underlying issues and averting further disputes, mediation also promotes peace in the society.
- vii. **Reduced Recidivism:** Mediation has the ability to lower recidivism rates by incorporating offenders actively in the settlement process and emphasizing accountability and rehabilitation. Offenders are more likely to engage in good behavioral changes and refrain from committing new crimes when they accept responsibility for their acts and recognize the impact on others.

It's crucial to remember that the advantages of mediation might change based on the particulars of the case, the parties' desire to participate, and the efficiency of the mediation procedure.

(D) Future trend in mediation:

- i. **Enhanced Recognition and Integration:** The importance of mediation in criminal cases is becoming more widely acknowledged as restorative justice ideals acquire broader acceptance and comprehension. With specific laws and regulations, legal

systems and legislators may incorporate mediation as an additional or substitute strategy inside the criminal justice system on a growing basis.

- ii. **Extension of Mediation Programs:** It is possible for mediation programs to be established and extended in many jurisdictions. For a broader variety of criminal cases, mediation services may be provided by mediation centers, community-based organizations, or specialized court programs. More victims, offenders, and communities may have access to mediation as a result of this expansion.
- iii. **Technology and Online Mediation:** The use of technology in mediation, such as online platforms and video conferencing, may become more prevalent. Technological advancements can facilitate remote mediation sessions, enabling broader access to mediation services and accommodating parties from different locations.
- iv. **Research and Evidence-Based Practices:** Ongoing investigations into the efficacy and consequences of mediation in criminal cases can yield important insights. Policymakers, practitioners, and stakeholders can all benefit from evidence-based methods, which can help to improve and refine mediation procedures and results.
- v. **Collaboration and Integration with the Legal System:** There may be a rise in the amount of cooperation that mediators and the legal system undertake. Various phases of the criminal justice system, including post-conviction mediation, pre-trial diversion programs, and sentencing conferences, might incorporate mediation. The criminal justice system's general efficacy and efficiency may be improved by this cooperation.

II. CONCLUSION

It's crucial to remember that not all criminal cases lend themselves to mediation, or are even permitted to do so. Mediation may not be appropriate for serious offenses such as violent crimes, murder, sexual offenses, or instances involving vulnerable victims because of power imbalances, safety issues, or the need for expert support and intervention.

In contrast, the choice to proceed with mediation in situations when it is appropriate is made by the victim, the perpetrator, and the legal authorities. Depending on local rules, regulations, and the availability of qualified mediators, the precise eligibility and appropriateness requirements may change.
