

**Explanation:- intent
that she shall be used**



Explanation:- When a female under the age of eighteen years is sold, let for hire, or otherwise, disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution. Explanation II:- For the purposes of this Section “ illicit intercourse” means sexual intercourse between persons not united by marriage, or by any union or tie which, though not amounting to a marriage, is recognized by the personal law or custom of the community to which they belong or, where they belong to different communities, or both such communities, as constituting between them a quasi-marital relation.” Section 372 of the Code requires: i) Selling, or letting for hire, or other disposal of a person; ii) Such person should be under the age of 18 years.

iii) The selling, letting for hire or other disposal must be with intent or knowledge of likelihood that the person shall at any age be employed or used for: a) Prostitution, or b) Illicit intercourse with any person, or c) Any unlawful and immoral purpose. Section 372 applies to males or females under the age of eighteen years. It applies to a married or an unmarried female even where such female, prior to sale or purchase, was leading an immoral life. It also applies where the girl is a member of the dancing girl caste. The word ‘ prostitution’ is not confined to acts of natural sexual intercourse, but includes any act of lewdness.

It means surrender of a girl’s chastity for money. The offence under Section 372 is cognizable, non-bailable and non-compoundable and is triable by the Court of Session. The Devdasi custom in which minors are dedicated to the

service of a temple as dasis amounts to a disposal of such minors. Knowing it to be likely that they will be used for the purpose of prostitution, within the meaning of this section. Adoption of daughter by dancing girl would be an offence if it was done with the intention or knowledge specified in this section. In *Sahebava Birappa v. R* [(1925) 27 Bom LR 1022], it was observed that the ceremony of tying a talimani to a minor girl, worshipping a basin of water by her and distribution of food, is merely a preliminary step before the selling, letting out or disposing of the girl for the purpose of prostitution, and is no offence under Section 372 of the Code.