

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-4436-2018

Date of decision : 10.09.2018

Vivek Sharma

... Petitioner

Versus

Vani Sharma

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Harsh Goyal, Advocate
for the petitioner.

Mr. Rajesh Gupta, Advocate
for the respondent.

AMOL RATTAN SINGH, J.(ORAL)

Though at the time when the order dated July 24, 2018 had been passed by this Court, no notice had been issued to the respondent, thereby avoiding her having to be brought before this Court yet again, and instead the trial Court had been directed to send its report in terms of the aforesaid order, learned counsel for the respondent has still appeared and has contested this petition.

Pursuant to the order of this Court dated July 24, 2018, a report of the trial Court has been received, stating, in effect, that since the respondent has been using the amount of Rs.3 lacs given by the petitioner to her in terms of the compromise entered into between the parties on 18.06.2015, but which compromise was not honoured by the respondent, with the petitioner also paying Rs.5000/- per month as maintenance *pendente lite* during the pendency of the divorce proceedings, the petitioner

ordinate Bench) vide its order dated December 03, 2016, had referred to non-payment of the amount of Rs.3 lacs along with interest incurring thereon.

As regards whether the petitioner had withdrawn money from his mothers' account or from his own account, it is stated in the report of learned Additional District Judge that the money was drawn from the account of the petitioners' mother, Kamlesh Rani, who is a senior citizen.

However it has been observed by that Court that since the petitioner is not a senior citizen, he would be entitled to interest only at the rate of 4% per annum as per norms of the RBI as regards interest payable on any amount in saving account.

Though learned counsel for the respondent has submitted that this Court (co-ordinate Bench) in its order dated September 30, 2016, had not granted any interest on the sum of Rs.3 lacs to be returned by the respondent to the petitioner, it is seen that in the subsequent order dated December 03, 2016, the following lines definitely find mention therein:-

“However, till date, the aforementioned amount of Rs.3 lacs has not been paid and interest incurring thereon.”

That being so, the contention of learned counsel for the respondent that it was only an observation made by the Court especially as vide the said order it had stayed the payment of maintenance till the amount of Rs.3 lacs was returned to the petitioner, is a contention that cannot be accepted.

In the opinion of this Court, as regards the period prior to September 30, 2016, when the first order was passed by this Court in CR no.5853 of 2016, no interest would be payable to the petitioner from the

respondent as no such interest has been granted by that order, the direction

simply being that the respondent return the amount of Rs. 3 lacs to the petitioner within one month from that date.

However the said amount not having been returned within one month and having been returned only 28.04.2017, the petitioner would be entitled to normal bank interest accruing in a savings account, for the said period of about 7 months, which interest if taken @ 4% per annum, the total amount of such interest would be Rs.7000/- on Rs.3 lacs.

Accordingly, this petition is disposed of with a direction to the trial Court to ensure that the aforesaid amount of Rs.7000/- is well adjusted in terms of the payment to be made by the petitioner to the respondent by way of maintenance.

(AMOL RATTAN SINGH)
JUDGE

September 10, 2018.
D.K.

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No