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SLP(C)No. 17022 OF 1998

ITEM No.17

Court No. 6

SECTION IVB
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.17022/1998

(From the judgment and order dated 29.2.98 in CM No. 7051/98
of The High Court of Punjab and Haryana at Chandigarh)

JAGDISH KUMAR

Petitioner (s)

VERSUS

ANITA

Respondent (s)

(With Appln(s). for exemption from filing O.T.)
(With prayer for interim relief)
With SLP(C)No.17026/1998@@
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(With Appln(s). for exemption from filing O.T.)
(With prayer for interim relief)

Date : 15/10/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. VS Chauhan, Adv.
Mr. N Chaudhary, Adv.
Mr. T.Raja,Adv.

For Respondent (s) Mr. Ranbir Singh Yadav,Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed. There shall be
no order as to costs.

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(Alka Dudeja)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7208 OF 2001@@
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(Arising out of S.L.P.(C) No. 17022/98)

Jagdish Kumar ... Appellant

Vs.

Anita ... Respondent

With C.A. No. 7209 of 2001 @ S.L.P(C) No. 17026/98@@
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O R D E R@@
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Leave granted.

The appellant herein filed a First Appeal from order before the High Court, which was barred by limitation. Since there was a delay of two years, 3 months and 15 days, the appellant moved an application for condonation of delay along with an affidavit explaining the reason for delay in filing the appeal. The High Court dismissed the application for condonation of delay and, therefore, the appeal also stood dismissed. It is against the said judgment, the appellant has preferred this appeal.

Heard counsel for the parties.

We are satisfied that the appellant has made out sufficient cause for condonation of delay. We, accordingly, condone the delay and set aside the judgment under challenge. The matter is sent back to the High Court to decide the appeal on merits.

Insofar as the judgment under challenge in C.A. No.7209 of 2001 @ SLP (C) No. 17026/98 is concerned it depends on the result of the order and judgment that may be passed in the appeal. Since the appeal is being remitted to the High Court for decision on merits the judgment under challenge in this appeal also is set aside without expressing any opinion on the merits for the matter. The High Court shall also consider the question of maintenance which may be granted to the wife.

For the aforesaid reasons the appeals are allowed. There shall be no order as to costs.

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.....J.
(V.N. KHARE)

.....J.
(B.N. AGRAWAL)

NEW DELHI
OCTOBER 15, 2001.