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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 5256/2014 & Crl.M.A. No.2366/2016

MANOJ TIWARI ..... Petitioner  
Through Ms.Sapna Chauhan, Adv. with  
Mr.Aman Bhatnagar.

versus

POONAM TIWARI ..... Respondent  
Through Mr.H.K. Singh, Adv.

**CORAM:**  
**HON'BLE MR. JUSTICE P.S.TEJI**

**ORDER**  
% **31.03.2016**

The present petition has been filed by the petitioner on the ground that the appeal filed by the petitioner was dismissed by the Appellate Court on the ground of limitation.

Learned counsel for the petitioner has submitted that the learned Trial Court has miscalculated the delay as five months but practically, the order was passed on 20<sup>th</sup> January, 2014 and the appeal was filed on 10<sup>th</sup> May, 2014 no doubt, after more than four months but not as observed by the Court below i.e. period of five months. Moreover, the statutory time provided for the appeal was thirty days which is further required to be reduced. In such situation, the delay was actually for a period of approximately seventy days.

It has been submitted by learned counsel for the respondent that the Trial Court awarded maintenance of Rs.9,000/- per month which

is being paid.

In the facts and circumstances, after hearing the parties, the Court is of the considered opinion that the ends of justice would be secured if the appeal is being heard on merit and restored to its original number.

In the facts and circumstances, the Appellate Court is directed to decide the appeal on merit within a period of two months from the date of appearance of the parties, condoning the delay in filing the appeal, subject to the condition that during the pendency of the appeal, the petitioner shall pay the amount of maintenance at the rate of Rs.9,000/- per month.

With the above observation, the present petition is disposed of.

The parties are directed to appear before the Court below on 25<sup>th</sup> April, 2016 subject to payment of costs of Rs.5,000/-.

**P.S.TEJI, J**

**MARCH 31, 2016**

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