

3. The Judicial Magistrate First Class, Satana, ('JMFC'), by Judgment and Order dated 12/08/2003, has declined maintenance to the respondent no.1, *inter alia*, on the ground that the respondent no.1 was not living with the petitioner without any justifiable cause and further, the respondent no.1 was able to maintain herself.

4. The material on record indicates that the petitioner had entered into a second marriage. In fact, this position was admitted by the petitioner. In view of such admission, the petitioner's offer that the respondent no.1 returns to the matrimonial home and starts cohabiting with the petitioner, can hardly be styled as *bona fide* offer. This circumstance justifies the refusal on the part of the respondent no.1 to stay with the petitioner. The learned JMFC was obviously not right in denying maintenance to the respondent no.1 on this ground. The learned ASJ has rightly interfered with the Judgment and Order dated 12/08/2003 made by the JMFC and awarded maintenance to the respondent no.1.

5. The material on record, as assessed by the Sessions Court, indeed indicates that the respondent no.1 was unable to maintain herself. The finding to the contrary recorded by the JMFC was really not supported by any material on record. Such perverse finding was rightly interfered by the learned ASJ in exercise of revisional jurisdiction. This is not a case of re-assessment of evidence but rather a case where a finding has been interfered with on account of perversity.

6. There is no jurisdictional error in the impugned orders. The petition is therefore dismissed. The petitioner shall pay costs of Rs.2,500/- (Rupees Two Thousand Five Hundred Only) to the respondent no.1.

(M. S. SONAK, J.)