



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: UI-2021-000339
PA/50662/2020 [IA/00233/2020]

THE IMMIGRATION ACTS

**Heard at Field House, London
On Wednesday 29 June 2022**

**Decision & Reasons Promulgated
On Friday 12 August 2022**

Before

UPPER TRIBUNAL JUDGE SMITH

Between

**MI
[ANONYMITY DIRECTION MADE]**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

An anonymity order was made by the First-tier Tribunal. This is an appeal on protection grounds. It is therefore appropriate to continue that order. Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies, amongst others, to both parties. Failure to comply with this direction could lead to contempt of court proceedings.

Representation:

For the Appellant: Mr S Bukhari of Bukhari Chambers, solicitors

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer.

DECISION AND REASONS

BACKGROUND

1. The Appellant appeals against the decision of First-tier Tribunal Judge Gandhi promulgated on 3 June 2021 (“the Decision”). By the Decision, the Judge dismissed the Appellant’s appeal against the Respondent’s decision dated 17 June 2020 refusing her protection and human rights claims.
2. The Appellant is a national of Pakistan. She came to the UK as a visitor on 29 October 2018. She claimed asylum on 31 October 2018. The basis of her protection claim is a fear of her family who she says seek to force her to marry. She claims to have suffered violence at the hands of her father for her refusal to marry. She also says that she fears Lashkar-e-Tayyaba (LeT) as she says that the man that she was due to marry has connections with that group. She relies on the guidance given in SM (lone women-ostracism) (CG) [2016] UKUT 67 (IAC) (“SM”). She says that she falls within that guidance as she would be returning to Pakistan alone and with no family support.
3. The Judge rejected the claim. She did not believe it. She set out at [17] to [26] of the Decision numerous inconsistencies which caused her to reject the claim. I will come to those which are challenged below. The Judge did not need to go on to consider sufficiency of protection or internal relocation as she did not believe the claim. The Respondent had relied on both as additional answers to the claim.
4. The Appellant challenged the Decision first on the grounds that the Judge had failed to consider the expert evidence and had made errors in relation to the burden of proof. That application for permission to appeal was refused by First-tier Tribunal Judge Neville on 19 August 2021 for the following reasons:
 - “1. The application is in time. The first of the two grounds in support asserts that the Judge, when assessing the credibility of the appellant’s account, failed to have regard to the expert report she had adduced. This is not arguable. A fair reading of the Judge’s reasons at [17] clearly shows her to have weighed the consistency of the appellant’s account with the expert evidence against its internal inconsistencies.
 2. The second ground is correct to state that the Judge describes the standard of proof in terms of ‘a real risk’ rather than ‘a reasonable degree of likelihood’. This discloses no arguable material error of law, however, as these different terms both describe the same standard of proof: R (Sivakumar) v SSHD [1998] AC 958; PS (Sri Lanka) v SSHD [2008] EWCA Civ 1213 , [11]. The Judge commits no arguable error of law by choosing to use one over the other, and at [26] can be seen to be fully aware of the correct standard of proof.”
5. The Appellant renewed her application for permission to appeal to this Tribunal but on entirely different grounds. She challenges three

paragraphs of the credibility findings made by the Judge. The details of the grounds and the credibility findings challenged are set out below.

6. Permission to appeal was granted by Upper Tribunal Judge Owens on 25 January 2022 for the following reasons so far as relevant:

“... 2. it is just arguable that the judge made errors of fact about the appellant’s relationship with her uncle and misunderstood her evidence about whether the appellant’s family had contacted her uncle when she ran away and that these errors/misunderstandings may have affected the judge’s view of the appellant’s credibility.

3. All grounds are arguable.”

7. The matter comes before me to decide whether there is an error of law in the Decision and, if I conclude that there is, whether to set aside the Decision for re-making. If the Decision is set aside, I may either retain the appeal in this Tribunal for redetermination or remit it to the First-tier Tribunal to re-hear the appeal.
8. I had before me the Appellant’s and Respondent’s bundles as before the First-tier Tribunal. I do not need to refer to the Appellant’s bundle. I refer to documents in the Respondent’s bundle as [RB/xx].
9. Having heard submissions from Mr Bukhari and Mr Clarke, I indicated that I would reserve my error of law decision and issue that in writing. I therefore turn to that consideration.

DISCUSSION AND CONCLUSIONS

10. I begin my consideration of the errors of law asserted by setting out the credibility findings which are challenged by the Appellant. Those are at [25(e)], [25(g)] and [25(k)]. In order to put those findings in context, however, it is necessary to cite the section between those findings as follows:

“e. What I find more concerning is that the appellant’s mother must have been aware of the appellant’s close relationship with her uncle as she was always there when the appellant spoke to her uncle. Her mother’s view was that the appellant should obey her father in relation to the marriage. I do not find it credible therefore that the appellant was able to stay at her uncle’s house for six weeks without being found by her family. I would have expected her mother to have told her father about the close relationship the appellant had with her uncle and for her uncle’s house to have been searched by the family or at very least her uncle to have been suspected of collusion in her disappearance. Despite this nobody looked for her at her uncle’s house or even questioned her uncle as to her whereabouts.

f. With regards to whether or not the family would have noticed that the mobile phone was missing when the appellant called her uncle, that depends on numerous issues such as how long the appellant was on the phone for, how often she or other members of the family borrowed the

phone to talk to people, and whether anyone required the phone at the time that the appellant was using it and therefore was looking for it. This by itself therefore does not damage the appellant's credibility.

g. However, I accept Ms Jones's submissions that it seems odd that the appellant was helping her mother dial her uncle's phone number when his phone number was saved in the mobile phone and the appellant could have taught her mother to access her uncle's name on the phone to then dial it.

h. I also agree with Miss Jones that the appellant stated in her witness statement that her family did not report her missing to the police because that news might be picked up by a journalist whereas in her asylum interview, she said that she did not report it due to family honour and made no mention about the news being picked up by journalists. The appellant says in her oral evidence she came to know about this after the interview when her uncle told her. She has given no details of when this conversation took place and given no details about how this conversation came about. This lack of detail leads me not to accept her explanation for the discrepancy.

j. The appellant was asked if her uncle told her after the interview, why she had not provided a letter from him in support of this. She said that he had been ill for over 10 days. When asked a further question about this issue, she then changed her answer to say he's been sick for over two months. She has provided no explanation for this discrepancy.

k. I agree with Miss Jones, however, that the appellant was specifically asked about her father's connections in the asylum interview and she made no mention of her father having connections with the police. Additionally, this is also not mentioned in her witness statement and was only mentioned for the first time at the hearing. She has not provided a satisfactory explanation for this as she states that she was not asked about whether her father had any connections with the police in her interview. Although she was not specifically asked about police connections she was nevertheless asked if her father had any connections with influential people. I would have expected her, had this been true, to have mentioned it in her asylum interview."

11. The first ground challenges [25(e)] of the Decision. It is said that the Appellant had never said that she had a close relationship with her uncle, prior to her staying with him before she left Pakistan. It is said that the Appellant went to him because she knew that he was liberal and educated. It is also said that the Judge was wrong to say that the Appellant's father had not questioned the Appellant's uncle regarding her whereabouts. It is said that it was the Appellant's case that her father had been looking for her and that her uncle told her parents that she was not staying with him.
12. Reference is made in these regards to various questions and answers in the Appellant's asylum interview in particular [162], [171] to [173] and [175]. When asked what happened when the Appellant was released

from the locked room on her pretence to go along with the marriage, she said at [162] (RB/37) the following:

“Then I contacted my mother’s cousin in Gujrawala. His name is [S]. I contacted him because he is liberal minded and educated. He always treated me as his own daughter. I contacted him with a request that he gets me out of that place. One day when my father was out of Muslim Chuk I came out of the house and went to uncle [S]”.

13. Having told the interviewer that she had stayed with her uncle for about six weeks and that her parents did not know where she had gone, the Appellant said in answer to question [171] that she knew that her parents were looking for her because her uncle knew that (question [172]). She also said that her uncle told her parents that the Appellant was not with him (question [173]). However, when asked directly at question [174] whether the Appellant’s parents had asked her uncle if she was with him, she said this:

“They did not have a lot of connection with uncle [S] but uncle [S] knew they were looking for me here and there. Uncle [S]’s mutual friends must have mentioned it.”

14. The Appellant was then asked (question [175]) why she was comfortable contacting her uncle to stay with him when the rest of the family did not maintain contact. She repeated that her uncle was liberal and educated and that he had said that he would help her when she had spoken to him ([RB/39]).
15. Dealing first with the relationship which the Appellant had with her uncle, whilst I accept that she sought his help because he was liberal and educated, she also said that he “always treated [her] as his own daughter”. Mr Bukhari accepted this was the case but said that this was not a reason to find that the Appellant’s mother would know that the Appellant had a close relationship with him. Mr Clarke argued in response that the ground was misconceived. The Judge was entitled to view that as evidence that the Appellant had a close relationship and that this relationship had been going on for some time.
16. I agree with Mr Clarke’s submission. The Appellant’s own description of her relationship with her uncle indicates a close relationship. She spoke with him on the phone in the presence of her mother. The Judge was therefore entitled to reach the view that her mother would know that she had that close relationship. I reject Mr Bukhari’s submission that the Judge’s finding was speculative. It was one which was open to her.
17. Mr Clarke argued that the second part of the challenge to [25(e)] turned on the first. Thus, if the first part was misconceived as I agree it was, then so was the second part. Mr Bukhari’s submission in this regard was that the Appellant had been nervous at the time of the interview and had made some mistakes. She might have exaggerated or given too much

information. That does not however explain how the Judge erred in making the finding she did.

18. In relation to whether the Appellant's parents had searched her out at her uncle's address, the evidence she gave at [174] of the interview as cited above could not have been clearer. Whilst she said that her uncle knew that her parents were looking for her, she expressly said that her uncle must have found out about this from his mutual friends which contradicts any suggestion that her parents had directly asked her uncle about her whereabouts.
19. The Judge has not misunderstood the evidence in making the finding she did at [25(e)]. She was entitled to reach that finding on the evidence she had. For those reasons, the first ground is not made out.
20. I turn then to the second ground which challenges the Judge's finding at [25(g)] on the basis that the Appellant's account in this regard was "clearly plausible" and that the contrary was not put to the Appellant. It is also therefore said to be unfair.
21. I do not read what is said at [25(g)] as being central to the Judge's credibility findings. The point being made emerges from questions asked at [176] to [180] of the asylum interview as follows:
 - "176. Q: How did you have uncle [S]'s contact details?
A: My mother used to take with him so threw [sic] my mother I got his contact details. I used to connect with uncle [S] for my mother. I used to dial the numbers.
 177. Q: Did you ask your mother for your uncle's number?
A: I did not ask my mother to give me the number. His number is saved in the mobile anyway.
 178. Q: Why did you just say that you used to dial the numbers for your mum if [S]'s number is saved in the phone?
A: Because my mother does not know how to operate the phone and I used to just connect him by the same number.
 179. Q: Is it your mum's mobile phone?
A: It was the phone for the house.
 180. Q: Who was in the house when you made the call to uncle [S]?
A: Everyone was at home but I went to a secluded place and spoke to him. At that time I was under the pretence I was happy."
22. Taking the Appellant's points in reverse order, it cannot be said to be unfair for the Judge to have taken against the Appellant the issue regarding the dialling of the number, whether it was saved and why she

would have needed to dial the number if it was saved. That point was clearly put to the Appellant in interview and the Judge was entitled to take that into account including her explanation. It is also clear from what is said at [25(g)] that this point was made by the Respondent in her submissions. The Appellant was legally represented at the hearing. If it was thought that a new point was being taken to which the Appellant had not had the opportunity to respond, Counsel for the Appellant could have made that submission but there is no record that it was made nor is it said in the grounds that such a submission was made.

23. As Mr Clarke pointed out, the Judge's finding at [25(g)] also has to be read with [25(f)] of the Decision. Although the Judge found that the submission recorded at [25(f)] did not on its own impact on credibility, as the questioning at interview and these two paragraphs taken together make clear, they all relate to the same issue namely whether it was credible that the Appellant would be able to contact her uncle using a mobile phone within her home without her family being aware of that. The Judge was entitled to be sceptical about the Appellant's evidence in that regard.
24. Mr Bukhari's submission in this regard was that an asylum interview and subsequent examination of that interview record should "not be an exercise in catching someone out". I accept that and I accept also that the Judge's finding is peripheral. However, it is one which the Judge was entitled to make on the evidence. Even if it were not, the findings on this issue were not central to her overall conclusions and are therefore not material. The second ground is not made out.
25. In terms of the grounds as pleaded, turning finally to what is said at [25(k)], the Judge's finding again has to be read in the context of what the Appellant said at interview. The questioning in this regard begins with questions about how the man that the Appellant says she was due to marry would come to find out about her return. She said that he was part of a religious extremist movement (see questions [307] to [311] at [RB/47-48]). The questioning then turned to whether the Appellant could relocate within Pakistan without the knowledge of her parents. The questioning was as follows:

"312. Q: What about if you returned to Islamabad?

A: Everywhere is like this, my parents will not spare me. I have escaped with my life from there.

313. Q: What about Karachi?

A: Same everywhere. They will locate me and find me. How long will I keep hiding.

314. Q: How does your family have the ability to find you anywhere in Pakistan?

A: My father is quite resourceful as well, he knows a lot of people. They are reasonably well off and well connected.

315. Q: Are they currently searching entire Pakistan for you?

A: I do not know but I am sure they must have done that.

316. Q: What are your father's connections?

A: He has got friends.

317. Q: How do you know?

A: Because I have lived there and I know.

318. Q: What connections and friends does he have?

A: My father's friends, some educated and some are not educated. He knows some of the ruffians and scoundrels he has connections with.

319. Q: Why does he have these connections?

A: I do not know why he has these connections."

26. As a matter of fact, the Judge correctly recorded at [25(k)] that the Appellant was asked about connections and did not mention that her father had any connections with the police.

27. As the Judge went on to record, the Appellant also failed to mention any such connections in her witness statement. Her statement is dated 27 October 2020 and follows the Respondent's decision refusing her claims. At [74] of the decision letter, ([RB/72]), the Respondent said this about that aspect of the claim:

"Careful consideration has been given to the reasons you have mentioned above [concerning internal relocation]. However, it is noted that you fear non state agents, people who do not have influence throughout your home country and who have not demonstrated that these people have been able to trace you in the past given that you have had no contact from these people since coming to the UK in 2018 and you were also able to stay freely at your Uncle's house for 6 weeks without encountering any threats or problems from them (AIR 166-168)"

Having set out extracts from background evidence about internal relocation within Pakistan, at [76] of the decision ([RB/74]), the Respondent concluded that the Appellant had "failed to demonstrate that they have either the power or influence to locate you throughout Pakistan."

28. In spite of that very clear indication of the Respondent's case in this regard, the Appellant fails to say anything about her father having connections to the police. That is despite her explaining at [15] of the statement that she could not trust the police because they were corrupt.

29. Mr Bukhari's submissions in this regard came perilously close to giving evidence. He said that it was well known that the police in Pakistan are corrupt and therefore that when referring to "ruffians and scoundrels", the Appellant must have intended to include the police. Her answers indicated that her father was someone who got things done and that would include being able to turn to those in authority if necessary.
30. When it was pointed out to Mr Bukhari that the Appellant had not mentioned any police connections in her statement despite being put on notice of the lack of any such connections mentioned in interview, he submitted that the Appellant's previous advisers had not properly presented her case. However, this was a statement which the Appellant had signed. She said that what was in that statement was true. If she had concerns about what was said (or not said) it was for her to mention that. She is not uneducated. Mr Clarke relied on the fact that, in light of the questions asked, if the Appellant considered that her father had police connections, she would have mentioned them prior to the hearing. There was therefore an inconsistency in her evidence.
31. More importantly for my purposes, it cannot be said that it was not open to the Judge to find as she did that the Appellant's evidence was inconsistent. First, it defies belief that the Appellant would mention her father's connections to "ruffians and scoundrels" and speak of the educational levels of those who her father is said to know but fail to say that some were in the police. Second, even having been put expressly on notice of the Respondent's case that her family (and the man that she was to marry) would not have sufficiently influential contacts to find her, the Appellant failed to mention that her father had such contacts. Third, even when mentioning the police in her statement, the Appellant again failed to say that another reason she could not turn to the police was because her father had connections with them.
32. The Appellant's third ground does not disclose any error of law.
33. The foregoing reasons given by the Judge for disbelieving the Appellant's claim are only part of the reasons relied upon. I accept that some of the findings at [25] of the Decision are favourable to the Appellant (see (b), (d) and (o) as well as (f) and (j) cited above). However, the Judge has provided a further six reasons within that paragraph for not believing the Appellant's claim. None of those are challenged.
34. More importantly, and centrally to the claim, the Judge disbelieves the core of that claim for the reasons set out at [19] to [24] of the Decision. In particular, the Judge disbelieved the claim because in her initial interview the Appellant claimed not to remember or know the name of the man who she was being forced to marry but at the later interview was able to provide various details about him ([19]). She was also unable to provide a satisfactory explanation for the discrepant answers regarding [MN] ([20] to [21] of the Decision). Those rather more significant discrepancies caused the Judge to say this:

“22. I accept that in her screening interview she may have been stressed particularly because she had just been detained. Nevertheless, there is no indication before me that the appellant has any significant mental health difficulties, learning disabilities, or cognitive problems (such as memory difficulties or brain damage) for example. In light of this I do not accept that stress would have caused her to deny she knew the name of a man that she was enamoured with and did not know the name of the man that she was supposedly being forcibly married to.

23. Further in her oral evidence she stated that a few months after the screening interview she went through the contents of it with her legal representatives. Despite this, she did not ever provide any corrections to her screening interview.”

35. This brings me on to the overarching submission made by Mr Bukhari that the Judge had focussed unduly on what were unimportant and peripheral matters regarding for example whether the Appellant would have sought out her uncle when trying to escape her family and whether her parents would have gone to her uncle to find her. He pointed out that the core of the Appellant’s claim is that she is at risk of honour killing for refusing to enter into a forced marriage.
36. That submission is entirely misconceived when [19] to [24] of the Decision is read alongside [25] of the Decision. Mr Bukhari sought to persuade me that the findings in relation to the core of the claim were infected by the errors challenged in the grounds. That ignores however that the findings on the core of the claim were made before the findings which are challenged and that [25] of the Decision begins with the words “[t]here are also numerous other discrepancies” (my emphasis). When that point was put to him, Mr Bukhari frankly admitted that the Appellant “had made it difficult for herself”. He said that she had been ill-prepared and scared and had been “told not to talk too much” and therefore had not volunteered information at an early stage.
37. There are at least three problems with that submission. First, it amounts once again to Mr Bukhari giving evidence. The Appellant herself has not said any such thing when answering the points put by the Respondent. The second is that the Appellant has not challenged these paragraphs of the Decision. The third is that even when asked directly what was the error, Mr Bukhari was unable to explain how the Judge fell into error in these paragraphs. He submitted merely that there was “a very fine line” in the findings that the Appellant was not credible and not and that when one looked at the entirety of the Decision, the Judge had erred. That is not even arguable, particularly when one looks at the structure of the Decision.
38. The Appellant has not challenged any of the reasoning at [19] to [24] of the Decision nor the other adverse credibility findings at [25] of the Decision. Even if, contrary to my primary conclusions, there were any minor errors in the Judge’s reasoning under challenge, I would have concluded that any such errors were not material to the overall adverse

credibility finding and would have refused to set the Decision aside in consequence.

39. As it is, though, I conclude that the Appellant has failed to establish that there is any error of law in the Decision. The Appellant's challenge therefore fails.

CONCLUSION

40. For the foregoing reasons, I conclude that the grounds disclose no error of law in the Decision. I therefore uphold the Decision with the consequence that the Appellant's appeal is dismissed.

DECISION

I am satisfied that the Decision does not involve the making of a material error on a point of law. I therefore uphold the Decision of First-tier Tribunal Judge Gandhi promulgated on 3 June 2021 with the consequence that the Appellant's appeal remains dismissed.

Signed L K Smith

Dated: 30 June 2022

Upper Tribunal Judge Smith