



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

Appeal Number: PA/04120/2017

THE IMMIGRATION ACTS

**Heard at Field House
Heard on 6th of February 2018
Prepared on 6th of February 2018**

**Decision & Reasons Promulgated
On 13th of February 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE WOODCRAFT

Between

**MR CHANDRAKUMAR VEERASINGAM
(Anonymity order not made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Slatter of Counsel

For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

The Appellant

1. The Appellant is a citizen of Sri Lanka born on 17th of August 1982. He appeals against a decision of Judge of the First-tier Tribunal Kainth sitting at Harmondsworth on 31st of May 2017 who dismissed the Appellant's appeal against a decision of the Respondent dated 7th of April 2017. That decision was to refuse the Appellant's claim for international protection.

2. The Appellant entered the United Kingdom on 5th of December 2006 using a false passport and claimed asylum two days later. That application was refused by the Respondent on 18th of December 2006 and the Appellant's appeal against that decision was dismissed by the Tribunal on 15th of February 2007. The Appellant became appeal rights exhausted on 27th of June 2007 and he voluntarily departed from the United Kingdom on 29th of March 2010. He re-entered the United Kingdom on 16th of November 2015 and lodged further submissions on 15th of April 2016 which were treated by the Respondent as a fresh claim. It was the refusal of those further submissions which gave rise to the present proceedings.

The Appellant's Case

3. The Appellant's claim was that if returned to Sri Lanka he would face mistreatment due to his political opinion. He feared being arrested unlawfully by the Terrorism Investigation Department (TID) and being ill-treated by them. Following his voluntary return to Sri Lanka in March 2010 he was stopped by immigration officers on arrival and questioned by the TID for approximately 2 to 3 hours. He was shown photographs of himself participating in an anti Sri Lankan government rally in London. He was detained and further questioned for one day by interrogating officers. He secured his release through payment of a bribe by his uncle with whom he remained until he left Colombo on 9th of April 2010 for India. The TID have visited his uncle's address looking for him.
4. In India he married a Christian lady and the Appellant converted to Christianity. Her family disapproved of the marriage and attacked the Appellant. He realised that his life was at risk from his in-laws and decided to go back to Jaffna in Sri Lanka where he stayed at his parents' house. He was arrested there on 23rd of January 2015 and taken to two separate detention camps before his uncle was once again able to secure the Appellant's release via an agent with the payment of a bribe on 13th of July 2015. During detention he was ill-treated. Using a false passport, he left Sri Lanka via the airport arriving in the United Kingdom on 16th of November 2015.
5. The Respondent did not accept that the Appellant was a person of interest to the Sri Lankan authorities and did not accept the Appellant's claim to have been detained by the police in March 2010 or arrested without cause in January 2015 or held in two separate camps until 13th of July 2015. The Respondent made adverse credibility observations in the light of the previous Tribunal proceedings which had resulted in the dismissal of the Appellant's appeal in January 2007.
6. I pause to note here that the Appellant's claim on that occasion was that he had been arrested by the Sri Lankan authorities and questioned about involvement with the LTTE. He claimed that he was held for seven months and beaten every two days until he was released on 24th of March 2002 after his father contacted some members of an organisation called the EPDF. The Appellant was told to sign on weekly at a police station and

when he did so on the 3rd occasion he was detained and again ill-treated. The Appellant claimed he subsequently joined the LTTE at the end of 2003 and underwent training. Immigration Judge Turquet, at the hearing in 2007, did not find the Appellant's account to be credible and considered that his claim had a number of inconsistencies. The Judge indicated that she was not satisfied as to the veracity of any material aspect of the Appellant's assertions on which he based his claim to need international protection. The number of inconsistencies and the implausibility of the account led the Judge to be unable to rely on the Appellant's accounts.

The Decision at First Instance

7. In his determination Judge Kainth took the 2007 decision of Judge Turquet as his starting point following the authority of **Devaseelan [2002] UKAIT 702**. He also formed an adverse view of the Appellant's credibility. The Appellant had not made any enquiries of any of the various Tamil organisations based in the United Kingdom to confirm the Appellant's involvement in demonstrations. At its highest the Appellant's involvement was as a mere spectator joining in the chanting. The Appellant's claim that he had not disclosed his attendance at such demonstrations because it was not significant was rejected by the Judge. At the time the Appellant had contact with family members including his brother and it was inconceivable that the Appellant would not disclose such information with a view to seeking further advice. The Appellant had every opportunity to answer open questions as to the last time he attended a demonstration and yet he had answered incorrectly first saying April 2009 and then changing that to May 2009.
8. The Appellant's claim that he returned to Sri Lanka voluntarily in 2015 notwithstanding that he was in violation of the terms of his release in March 2010 did not stand up to scrutiny. The Appellant's claim to have suffered violence from his wife's family in India was also not plausible. India was a substantial country with a population of more than 1.2 billion people. The Appellant would have had the opportunity to live in a different location in order not to be found by his in-laws. The Appellant was inviting the Tribunal to accept that his fear of further assault from his in-laws was greater than the concerns he had in returning to Sri Lanka. The Judge rejected that proposition. The Appellant claimed to be a person of interest of the Sri Lankan authorities yet had returned to his parents' address notwithstanding that he was a wanted man. He was detained within a very short period of time upon arrival. The Appellant's account of time spent in detention contained no further detail other than to say he had been interrogated and beaten.
9. The Judge directed himself in accordance with the country guidance authorities of **GJ [2013] UKUT 319** and **MP [2014] EWCA Civ 829**. A record of past LTTE activism did not as such constitute a risk factor for Tamils returned to Sri Lanka because the government's concern now was only with current or future threats to the integrity of Sri Lanka as a unitary state. This is so even if the returnee had past links with the LTTE which

were more elaborate. Diaspora activism actual or perceived was the principal basis on which the Sri Lankan government was likely to treat returning Tamils as a current or future threat. However, that did not mean that diaspora activism was the only basis on which a returning Tamil might be regarded as posing such a threat. There may be other cases where the evidence showed particular grounds for concluding that the government might regard the applicant as posing a current threat to the integrity of Sri Lanka.

10. The Judge at [40] of the determination indicated that the evidence in this case did not identify that the Appellant had a significant role in relation to post-conflict Tamil separatism within the diaspora or that the Appellant's name appeared on a computerised stop list. In seeking to establish that he was of continuing adverse interest to the authorities the Appellant had produced as evidence two documents described as police messages dated 25th of July 2015 and 4th of December 2015. They were provided to the Appellant's father who in turn had posted the same to the Appellant.
11. Both police messages recorded the Appellant's name with a slightly different spelling ("W" for "V"). The July 2015 message made reference to the Appellant being required to attend the police station in order to obtain a statement but no further information was provided (in the message) as to what that statement was said to be in connection with. The documents provided little assistance to the Appellant. If the Appellant really was a person of interest to the authorities it was very likely he would have been detained prior to (and prevented from) departure. The Judge relied on the reference in **GJ** that the authorities utilised sophisticated social [it appears this is a spelling mistake for "facial"] mapping technology yet the Appellant was not captured by such technology and it was not his evidence that he was disguised when departing. The Appellant did not come within any of the risk factors in **GJ** and was not a person of interest. His account was neither plausible nor credible. He did not face a real risk of ill-treatment. The Judge also dismissed the appeal under Article 8 but there was no onward appeal against that part of the determination.

The Onward Appeal

12. The Appellant applied for permission to appeal on grounds settled by counsel who had not appeared at the First-tier and did not appear before me. The grounds argued that the Judge had failed: (i) to make a finding on the evidence of the Appellant's brother and (ii) have regard to news reports of honour killings in India in circumstances similar to those of the Appellant. The Judge had made material errors of law in consideration of the two police messages. The spelling difference (spelling the Appellant's name with W as opposed to V) was because names were often spelt differently when transliterated from Sinhalese to English. This could be shown by the evidence of a statement from a registered translator. The Appellant's name was a Tamil name and would therefore have originated in the Tamil script. Both police messages clearly linked the Appellant's original claim of arrest at the airport in 2010 on the Appellant's return to

Sri Lanka from the United Kingdom. The first message specifically referred to this and the 2nd referred to the Appellant's failure to attend to give a statement in the same case.

13. The evidence in **GJ** was that it was possible to leave Sri Lanka through the airport with an agent even if the individual was wanted. There were mass demonstrations on a daily basis outside Westminster throughout April and May 2009 leading up to the end of the conflict where many organisations were involved. It was not reasonable to expect the Appellant to have approached Tamil organisations to see if they had any photographic evidence of the Appellant's participation. Given the numbers of people who attended it was highly unlikely that the various Tamil groups would have been in a position to assist the Appellant and identify evidence since he had no link with any of them.
14. Permission to appeal was at first refused by First-tier Tribunal Judge Black on 19th of October 2017. He stated there was no requirement for the Judge to make findings on all matters before him provided he had addressed the issues in dispute. The Judge had given adequate reasons for his finding that the Appellant had not attended demonstrations in the United Kingdom in 2009 having noted the implausibility of and inconsistency in the evidence. The medical evidence was not consistent it referred to an injury sustained while lifting a heavy weight on the date on which the Appellant claimed he was allegedly beaten. The finding that the Appellant would have been detained prior to departure was consistent with **GJ** given the Appellant's account of returning to his family home in Sri Lanka despite being a person of earlier adverse interest to the authorities. The Judge's decision was detailed and adequately reasoned on the evidence. The adverse findings on credibility were open to the Judge and sustainable on the evidence.
15. The Appellant renewed his application for permission to appeal to the Upper Tribunal on the same grounds as before. This time the application for permission to appeal came before Upper Tribunal Judge Bruce on 6th of December 2017. In a very brief decision she wrote that although the First-tier Tribunal had made clear findings adverse to the Appellant for the reasons set out in the grounds it was arguable it had done so without having taken relevant information into account and conversely had placed weight on immaterial matters.
16. The Respondent replied to the grant of permission by letter dated 16th of January 2018 opposing the Appellant's appeal. She argued that the Judge was entitled to conclude that the Appellant's claim to return to Sri Lanka from India lacked credibility in the light of his self-declared risk in Sri Lanka and the Appellant's failure to adequately explore internal relocation within India. The Respondent also echoed the point made by Judge Black in refusing permission to appeal that the medical evidence did not support the claim of beating. The Appellant's brother was not an eyewitness to the claimed events, his source was the Appellant and to a lesser extent their parents. His witness statement upon which he had not been cross

examined could only be assessed in the round with the general credibility of the Appellant's account. The Appellant's own evidence was vague and lacking in detail.

The Hearing Before Me

17. In consequence of the brief grant of permission to appeal the matter came before me to determine whether there was a material error of law in the decision of the First-tier Tribunal such that it fell to be set aside and the decision remade. If there was no such error the decision of the First-tier would stand.
18. For the Appellant, counsel who had not settled the grounds of onward appeal indicated he relied on those grounds. The issues relating to the spelling of the Appellant's name, the police message forms and the Appellant's ability to leave Sri Lanka showed the clearest errors by the Judge. The Judge had complained that the police messages had a different spelling for the Appellant but the Appellant had put in fresh evidence that names were often spelt differently. It was clear what the importance of the 2nd message was: that it was in connection with the arrest at the airport in 2010. These were two key documents and the Judge had erred in rejecting them.
19. The Judge rejected the possibility that the Appellant could have left Sri Lanka even though he was wanted but that too was in error. The Judge had not said why it was implausible that the Appellant would have suffered violence from his wife's family. The Appellant and his wife had already moved away from his wife's parents without success and that was why the Appellant had returned to Sri Lanka. The brother's evidence corroborated the Appellant's evidence and confirmed that the Appellant had been hospitalised. There was background material on the difficulties people had in interreligious marriages. The grounds indicated why the Judge had erred in rejecting the Appellant's evidence concerning participation in demonstrations in London. He was not a member of any organisation and had no links to them. There was no reason why the Appellant would contact any of the organisations if he was not a member of them.
20. In reply, the Presenting Officer indicated that [40] of the determination which dealt with the two police messages had to be read as a whole. The remark about the incorrect spelling was more of an observation rather than being given as a reason for the Judge's final conclusion. The Judge had applied the correct principles of **Tanveer Ahmed**. It was a question of interpretation. It may have said in the document that it was about the Appellant's previous arrest but it did not say what the arrest was for or give any details. The Judge's rejection of those documents was open to him as he was looking at the documentary evidence in the round.
21. The issue of whether the Appellant could be recognised by the authorities on leaving the airport because of facial mapping techniques was not a point which had been considered in **GJ**. The Judge was making an

interesting observation on the use of modern technology. The Judge had regard to the Appellant's previous unsuccessful asylum claim based on alleged connections to the LTTE whose dismissal the Appellant had not appealed. The Appellant's evidence was vague about the demonstrations he had attended and he could not say which organisation had organised them. The Judge's observation was perfectly legitimate as the Appellant chose not to contact any organisations. The Judge was entitled to say that this was the Appellant's claim and he the Appellant needed to take steps to produce evidence to support it.

22. The important parts of the Judge's decision were at [35] and [36]. These dealt with the delay in indicating involvement with demonstrations and his return to Sri Lanka from India notwithstanding that he was a person of interest. The Appellant had moved 40 km away from his in-laws' house which was hardly moving anywhere at all and did not take into account the options the Appellant had to relocate in India, a vast country, as opposed to return to Sri Lanka when he was wanted there. This undermined the Appellant's account. One had to look at the determinations a whole. There might be one or two matters of concern but they did not undermine the credibility findings in the determination which was sustainable. In conclusion counsel pointed out that the brother had given evidence and that was recorded in the determination when he had adopted his witness statement.

Findings

23. The Appellant adopts a reasons-based challenge to the determination in which the Judge made an adverse credibility assessment of the Appellant as indeed had Judge Turquet in 2007. There were a number of difficulties with the Appellant's account which the Judge pointed out. It was difficult to see why the Appellant should return to his parents address in Sri Lanka in March 2010 when he was still said to be a person of interest to the Sri Lankan authorities. The Appellant himself claimed that he had participated in demonstrations in the United Kingdom in 2009 which if true would not reduce his profile in the eyes of the Sri Lankan authorities. It was particularly implausible however that the Appellant would return to Sri Lanka to escape his in-laws and thus face the very real danger that the Sri Lankan authorities posed rather than avoid both problems by moving to a safer part of India.
24. In assessing the possibility of relocation within India one has to take into account the sheer size of India both geographically and in population terms. The Appellant had made very little effort to relocate from his in-laws strongly suggesting that there was no threat from them. I do not accept the criticism that the Judge failed to give reasons why he rejected the Appellant's claim to have been assaulted by his in-laws. The surrounding circumstances of that account were inherently implausible. There was a further problem as pointed out in the First-tier decision refusing permission, the medical evidence relied upon by the Appellant was inconsistent.

25. In submissions before me the Appellant claimed that the main criticism of the Judge's decision was the Judge's treatment of the two police messages. I agree with the submission made by the Respondent that the criticism of the spelling of the Appellant's name is more of an observation than forming the basis of a wholesale rejection of the Appellant's claim. There are more significant problems with the documents which the Judge pointed out. The two police report forms are brief and as the Judge pointed out contained very little information to support the Appellant's claim. The English used in the translations is broken (it is not clear whether that is the fault of the interpreter or a reflection of the original document). The documents are dated five years after the Appellant's alleged arrest in March 2010. Both forms referred to proceedings in the Magistrates' court of Negombo although no supporting information (such as court documents from Negombo) was provided to the Judge. The messages are from one police officer to another. It is not at all clear why the Appellant's relative could obtain these rather than more substantial documents.
26. The Judge's conclusion at the end of [40] was that the police forms were of a type which could be easily reproduced, they were message forms as opposed to something more substantial such as warrants issued by the police or the courts. It was a matter for the Judge what weight he placed on the evidence before him. The documents were unimpressive and left as many questions unanswered as they attempted to answer. I find that this ground of appeal is a mere disagreement with the cogent reasons given by the Judge.
27. The Appellant had not played a significant role in post-conflict separatism. He claimed to have been involved in a demonstration in 2009 but the Judge was unimpressed by the failure of the Appellant to produce any supporting evidence of any involvement in diaspora activities. The Appellant's claim that he could not do this because he was only a minor player who was not a member of an organisation is not an adequate answer to the criticism made of the Appellant's case by the Judge. For the Appellant to have attended the demonstration he must have been told about it and he could work backwards from the source of the information that the demonstration was taking place to someone who could confirm his attendance at the demonstration and/or the level of the Appellant's involvement.
28. The problem for the Appellant was that he had been found once already by another Judge to be someone whose evidence was not credible. When the Appellant was once again vague in his evidence in the 2nd appeal it was not surprising that the Judge regarded the Appellant's account with a sceptical eye. The Judge noted that the brother had attended the Tribunal and adopted his statement indeed the Judge summarise that evidence at [22]. The brother claimed that he had advised the Appellant not to return to Sri Lanka in 2010 and was aware of the difficulties the Appellant had experienced in marrying out of caste and faith. His evidence was not particularly clear referring only to becoming aware through his parents that the Appellant was experiencing "some problems from the Sri Lankan

authorities". It is difficult to see how much further this witness's evidence took matters. What the brother's evidence came down to was an assertion that the Appellant had told him some aspects of the Appellant's case (although not necessarily important aspects).

29. The Judge was not obliged to set out each and every piece of evidence he relied on. In this case although he had summarised the brother's evidence since the brother's evidence did not take the case materially further it was not necessarily a requirement upon the Judge that he should deal in terms with it.
30. I do not consider that the Appellant is able to indicate any material error of law in the determination. The First-tier Tribunal with reason found the Appellant to be an economic migrant. The Appellant had made an unsuccessful and implausible application for asylum already which had been roundly rejected in 2007. The Appellant has since made a 2nd implausible application for asylum which was also roundly rejected ten years later in 2017. The Appellant is unable to demonstrate any material error of law in the decision of the First-tier Tribunal and I dismiss the Appellant's onward appeal.

Notice of Decision

The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold the decision to dismiss the Appellant's appeal

Appellant's appeal dismissed

I make no anonymity order as there is no public policy reason for so doing.

Signed this 8th of February 2018

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Judge Woodcraft
Deputy Upper Tribunal Judge

TO THE RESPONDENT
FEE AWARD

No fee was payable and I have dismissed the appeal and therefore there can be no fee award.

Signed this 8th of February 2018

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Judge Woodcraft
Deputy Upper Tribunal Judge