



IAC-FH-AR-V1

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

Appeal Number: AA/10841/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 29 February 2016**

**Decision &  
Promulgated  
On 6 April 2016**

**Reasons**

**Before**

**UPPER TRIBUNAL JUDGE McWILLIAM**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**N R**

**(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr D Clarke, Home Office Presenting Officer  
For the Respondent: Mr P Richardson, Woodford Wise Solicitors

**DECISION AND REASONS**

1. I will refer to the respondent as the appellant as she was before the First-tier Tribunal. The appellant is a citizen of Pakistan and her date of birth is [ ] 1990. She made an application for asylum and this was refused by the

Secretary of State in a decision dated 1 December 2014. She appealed against this decision and her appeal was allowed by First-tier Tribunal Judge Hendry on asylum grounds.

2. Permission was granted by Upper Tribunal Judge Canavan on 23 December 2015. The appellant's case is that prior to coming to the UK she lived with her family in Jellum Pakistan. She came to the UK in June 2012. She had been granted a visa in order to study. When she was aged 12 she was engaged to her cousin. I shall refer to the cousin as A. When the appellant was 18 she decided that she did not want to marry A. She communicated this to her mother, but her mother like the appellant, was powerless to do anything about it because A was from a powerful family.
3. In 2009 when the appellant was studying she met S. Their friendship developed in secret. S came to the UK in 2011 and he remained in contact with the appellant. In 2011 A threatened the appellant and physically assaulted her. The appellant persuaded her parents to allow her to come to the UK in order to study and it was arranged for her to come here and live with her maternal aunt. She did not tell anyone in Pakistan that she was coming to the UK because she did not want A to find out.
4. Whilst she was living with her aunt, she suggested to the appellant that she married her son, M. The appellant did not want to marry M, but felt unable to object because her family who supported the marriage were financially supporting her. However, the appellant left her aunt's home and told M about her relationship with S and did not go through with the marriage to M. In retaliation M informed the appellant's family and A's family about the appellant relationship with S. S is from a different caste to the appellant.
5. On 9 January 2013 A and his father reported the appellant as missing to the police. A notice was served on the appellant's father requiring him to resolve the issue between the appellant and A. A summons was issued on 14 January 2013 requiring the appellant's father to attend an arbitration council. On 21 April 2014 A and his father applied for a fatwa against the appellant which was granted on 2 May 2014. They made a First Information Report ("FIR") at Civil Lines police station in Jellum which asserted that the appellant had violated Islamic law. The police attended the appellant's home asking her whereabouts. The appellant's mother sent copies of the fatwa and the FIR along with verification from an advocate to the appellant. On 18 April 2014 the appellant and S were married in a Muslim ceremony, in the UK, against the wishes of her family
6. In support of the appellant's claim she submitted the abovementioned documents. The FIR that she submitted in support of her application was dated 2 May 2014. She lodged a second FIR which was identical other than that it was lodged at a different police station.

7. The respondent's case was that the FIR was not genuine and in support of this a document verification report was relied upon. The respondent's case was that as this document was not genuine it followed that the rest of the documents that were relied upon by the appellant were not genuine. It was noted that the fatwa and the FIR were provided by the appellant's mother and the verification letter from the advocate was also obtained by the appellant's mother.
8. The judge made findings at paragraphs 81 and 82 as follows:

“81. The SSHD also raised particular issue because of the document relied on by the appellant as the FIR lodged at Civil Lines police station. There was conflicting evidence about this report. The SSHD stated that the FIR report was not accepted as genuine because enquiries instigated by the High Commission in Islamabad showed that the FIR under the reference given related to a different person and crime. It was for the appellant to show that any documents on which she seeks to rely can be relied on Tanveer Ahmed [2002] UKIAT 00439. The SSHD said that this meant that the FIR documentation could not be relied on, and that this cast doubt on the other documents she had produced and on which she sought to rely. I take account of the relative ease with which forged and fraudulent documents can be obtained from Pakistan, as indicated by the background information, and the report from the High Commission that the FIR could not be verified, but there was no such evidence about any of the other documents, including the Fatwa. The appellant had produced a series of documents relating to the background of the dispute between her family and A and his family, which covered a period from January 2013 to April 2014. The FIR was not the only document which she had produced.

82. Broadly, I accepted as credible the appellant's account about the history of her engagement, her meeting with S, departure to the UK, and her ultimate marriage to S. She was an effective witness in her oral evidence. This background was at the core of her claim for asylum.”

### **Error of Law**

9. In my view the judge conflated the issue of a document not being reliable and the Secretary of State's case that it was not genuine i.e. it was fraudulent. A consideration of reliability requires an assessment in accordance with Tanveer Ahmed which was carried out by the judge here. However, whether or not the appellant has produced a fraudulent document requires a finding as to whether the Secretary of State has discharged the burden of proof and it requires the judge to engage with the assertions made by the respondent and the contents of the document

verification report. Although there is mention in the judge's decision of the document being fraudulent, it is clear that the judge did not engage with conclusions and assertions in the document verification report.

10. There was in this case evidence of dishonesty and fraud and the judge needed to engage with this and reach clear conclusions why the respondent has or has not discharged the burden of proof and in this case it is relevant that the documents, namely the FIR fatwa and the verification evidence are inextricably linked and thus capable of being undermined by the document verification report.
11. The judge materially erred and the decision to allow the appeal is set aside.
12. Mr Clarke raised issues relating to the judge's conclusions on relocation. Mr Richardson objected to the issue being raised as a ground of appeal on the basis that permission was granted in relation to the issue of the document verification report only. In my view Judge Canavan was not seeking to limit the scope of the grant of permission, but in any event, this is not material to my decision. Suffice to say at this point that in relation to internal relocation in my view the conclusions reached by the judge at paragraph 86 are inadequately reasoned; however, for other reasons the decision is flawed.

### **Notice of Decision**

13. Both parties agreed with me that the matter is remitted to the First-tier Tribunal for a re-hearing. Both parties agreed.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed            Joanna McWilliam

Date 16 March 2016

Upper Tribunal Judge McWilliam