



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

Appeal Number: PA/11742/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 29 October 2021**

**Decision & Reasons
Promulgated
On 24 February 2022**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

**H R
(AN ANONYMITY ORDER IN FORCE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Paramjorthy, Counsel, instructed by Paramount Chambers Solicitors

For the Respondent: Mr T Lindsay, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the appellant. Breach of this order can be punished as a contempt of court. I make this order because the appellant is an asylum seeker and is entitled to anonymity.
2. This is an appeal by a citizen of Sri Lanka against a decision of the First-tier Tribunal dismissing his appeal against a decision of the Secretary of State on 21 September 2018 refusing him international protection. The appeal has previously been determined unsatisfactorily and I decided that the First-tier

Tribunal erred in law and set aside its decision. I gave my reasons on 21 July 2020. I ordered that the case be heard again in the Upper Tribunal and in due course it came before me.

3. I begin by outlining the refusal letter because it indicates the case that I have to determine.
4. The appellant said in a screening interview conducted on 24 April 2018 that he had been arrested on three occasions in Sri Lanka, twice by the police and once by the Terrorist Investigation Unit. He said he had no connections to the LTTE. He had helped find accommodation and work for two friends he knew from college and he believed there was an arrest warrant outstanding against him in Sri Lanka. He said that in the event of his return he would be arrested and detained and his life would be at risk.
5. It is the appellant's case that he entered the United Kingdom in March 2018 clandestinely and he claimed asylum on 24 April 2018. He said he left Sri Lanka on 16 March 2018, flying to Dubai and then to Malaysia. He left Malaysia after a day for a destination he did not know and then on 19 March 2018 he travelled by car to the United Kingdom.
6. He based his claim for asylum on an imputed political opinion. The appellant had provided no evidence of significant pro-Tamil activities after leaving Sri Lanka and was not a journalist, or someone who had given evidence to the Lessons Learned and Reconciliation Commission or done anything else to put him on a computerised "stop list" that would identify him to the Sri Lankan authorities as a possible LTTE supporter.
7. It was the appellant's case that the police had showed his mother an arrest warrant and that his older sister had read it because his mother was illiterate. There was no good supporting evidence for this part of the claim and the Secretary of State gave it "little weight".
8. The Secretary of State could not work out why, if, as the appellant claimed, he had been arrested on three occasions because he was suspected of being involved with the LTTE he would have been released. Further his claim to have been detained in 2018 and the released made no sense if, as he claimed, he had never been involved with the LTTE.
9. The Secretary of State did not believe his claim to have remained in hiding in Sri Lanka for two weeks after his release on 2 March 2018 and so failed to keep to the terms of his conditional release which required him to report each week.
10. In short, the Secretary of State did not believe the appellant.
11. Additionally he asserted that he had a strong claim on Article 8 grounds but, given the appellant's relatively short stay in the United Kingdom, the "private and family life" claim added nothing to the protection claim that the Secretary of State had rejected.
12. Before me it is for the appellant to prove his case but the standard of proof is low. It is sufficient if he shows there is a real risk of his being subjected to serious ill-treatment in the event of his return. If the treatment he risks is because of a protected reason then he is a refugee. This is not a case where there is any reason to find that he is disqualified from protection.

13. In order to succeed under Article 8 of the European Convention on Human Rights the appellant must prove on the balance of probabilities any facts on which he needs to rely. The Secretary of State must then show that any consequential interference is proportionate to a proper purpose.
14. I begin by considering the evidence from the appellant in the Secretary of State's bundle.
15. The appellant presented himself for an "Initial Contact and Asylum Registration Questionnaire" on 24 April 2018. Then he gave his name and said he was born on 16 October 1986 and that he is a national of Sri Lanka.
16. He claimed to have been asleep when he was driven through immigration control in the United Kingdom.
17. He identified himself as a Sri Lankan moor. He followed the religion of Islam and his main language was Tamil.
18. He was asked about his health and indicated some problem that was being addressed. He also said that he had depression which he managed by talking to people. He did not consider himself suicidal although he did have "thoughts".
19. He said he had been arrested three times because he was accused of having contact with the LTTE. He said he was arrested and tortured.
20. He was interviewed about his claim. I have not been able to find the date of the interview.
21. He said that he had depression but was fit enough to be interviewed. He had not been diagnosed with depression and was not receiving counselling and was not taking any medication, other than paracetamol.
22. He said he should have indicated in answers to questions at his screening interview that he had been suspected of being involved in terrorism. Whilst it is right that he did answer that question in the negative and he accepts as much, he had made it quite clear in answer to an earlier question that he was accused of having contact with the LTTE.
23. He said that he was born in Madawala in Kandy, and lived there since his birth, save for the one month trip to Vavuniya for the family wedding.
24. Asked if he had any family in Sri Lanka he referred to his mother, a cousin and an older sister with three children. They all lived at his house in Madawala. His last contact with his family in Sri Lanka was with his mother. Prior to arriving in the United Kingdom, he had never lived in any other country.
25. He was educated to O level standard. He owned his own business. He worked as a glasscutter.
26. In the United Kingdom he was being supported by a friend. He said he had an older brother living in the United Kingdom but did not know his brother's whereabouts. He identified his brother and said that he came to the United Kingdom a long time ago. The appellant did not know his immigration status or any other details. He said there had been family problems which had caused his brother to become angry and leave Sri Lanka for the United Kingdom. He

said that his brother did not call home and neither the appellant nor his family had any contact with him.

27. The appellant said he spoke a little Sinhalese. He gave his full address in Kandy.
28. He was then asked details about his journey to the United Kingdom. He repeated the substance of the answers he gave at the screening interview. He said that he went from Colombo to Dubai by air and then from Dubai to Malaysia. He then went on a ten hour flight to a destination that was not known to him and travelled by car for the rest of the journey. He was pressed about the name of the country that he entered by air before starting his car journey but insisted he did not know.
29. The agent had been paid by his cousin.
30. The appellant had a Sri Lankan passport but the agent had taken it.
31. The interviewing officer made clear that he was asking questions about Sri Lanka in order to test the appellant's claim to be a Sri Lankan national as there was no documents to support it. The appellant appeared to answer them to the satisfaction of the interviewing officer.
32. The appellant summarised his claim for asylum as being the result of a decision made after he had been arrested on three occasions, twice by the police and once by the TID (that is the Terrorist Investigation Department) on suspicion of involvement with the LTTE. He said bluntly that he was afraid of the TID. He believed that in the event of his return to Sri Lanka he would be arrested and detained and "I have no guarantee of my life".
33. He said that neither he nor his family had any connections with the LTTE at all.
34. He was asked if there are any specific reasons that he knew of for the authorities in Sri Lanka to think he was involved with the LTTE, if in fact neither he nor members of his family were involved in any way. The appellant gave a detailed answer to that question. He said he knew two people, one Suthan and one Ramesh. He got to know them when they were studying in the EPI Institute in Kandy. They were from Vavuniya and he helped them get accommodation. They were students and after their studies they started work in his shop from 2007 to 2010. During that time the authorities came and checked the shops, looking for suspected people.
35. In February 2008 two policeman came to his shop at around noon when the appellant and his father were present. They wanted to check the identities of Suthan and Ramesh. Suthan had satisfactory identification documents but Ramesh did not. The police asked about the people who the appellant identified as his employees. The police took "everyone" to the police station and the appellant, Suthan and Ramesh were each detained for two days. His father was detained too but the appellant discovered later that his father was released after 24 hours. They were fingerprinted and after two days released but warned that there would be further checks in the future.
36. He confirmed again that he met Suthan and Ramesh when they were students. He became friends with them and helped them because he was sorry for them.

37. Suthan was arrested in Colombo in 2016 and he understood Suthan had given the appellant's name to the police. On 31 January 2018 the TID arrested the appellant. The appellant says: "It seems Suthan was trying to recreate LTTE, so they wanted me to tell how I know Suthan".
38. The appellant said that he gave detailed answers to their questions but was not believed. The TID checked his home, took away his passport and some personal belongings. The appellant was handcuffed and taken to the fourth floor in Colombo where he was detained for 28 days. During that detention he was sometimes kept in a dark room and he was interrogated, particularly about Suthan. His questioners wanted to know the names of other people involved and seemed particularly interested in supporting branches in "foreign countries".
39. He said that during the first week on three occasions during interrogation he was assaulted. He was kicked with boots. He said out of the 28 days he was detained on five occasions he was beaten by being kicked with boots or slapped and subjected to torture. He said the interrogators pushed a bottle into his rectum.
40. With the help of his cousin he contacted an agent who helped him leave detention.
41. He said that immediately before his most recent arrest the authorities obtained his signatures on two sheets of paper, one blank and the other containing writing in Sinhalese that he could not understand but he had to sign them both before his release. They took his photographs and fingerprints and stipulated that every Friday he should return to the fourth floor to sign.
42. In between the first arrest in February 2008 and the incident he described in January 2018 he was also arrested in December 2008. He said he thought Suthan may have been involved with the LTTE or maybe both Suthan and Ramesh were involved but he did not know. He helped them because he had become friendly with them.
43. They never told him that they were members of the LTTE. He did not suspect them of being members. He said, "I had no clue".
44. The appellant denied being a supporter of the LTTE.
45. He was pressed to explain why he was arrested on the first occasion. He said he was suspected because of the company he kept. He said that at that time he did not understand the authorities to know that Suthan and Ramesh were involved with the LTTE but the authorities were suspicious and that was sufficient reason to arrest him.
46. He was detained in a cell with rudimentary furnishings and sanitation. During his first arrest he was interrogated on only one occasion. He believed the interrogation lasted three to four hours and he was asked about Suthan and Ramesh. He employed them and that, he felt, made him an object of suspicion.
47. He said that in answer to questions he was open about his business details. His father also came and spoke to the authorities. He did not know the reason but

the police seemed to accept their assurances that he was not involved with the LTTE.

48. The appellant was asked if he signed any release documents or any conditions of release and he said there were no conditions but he repeated his claim to have been asked to sign a form in Sinhalese and he did not know what it said. He was asked why he had signed a form he could not read and he said he wanted to be released. He had no explanation for his father being released after only 24 hours.
49. He was then asked about his second arrest.
50. He said he was with Ramesh and they went to purchase vegetables at Katugastota market and were stopped at a checkpoint and asked to produce identification. Ramesh had no identification documents with him and that led to increased police interest, especially when Ramesh said that he used to live in Vavuniya. He heard Ramesh being questioned about other relatives he had and explaining that he had a relative in Colombo. They were then taken to Katugastota Police Station and kept, separately, for fourteen days. He said he understood that Ramesh was questioned on three occasions about how he knew the appellant but he did not know what they had asked Ramesh. The appellant had an uncle in Katugastota who helped arrange his release.
51. The appellant explained that at that time he had a wholesale vegetable shop and that is why he was travelling by lorry. He started his glass business in 2010 with his cousin.
52. He said he was detained on his own and interrogated on three occasions. Each interrogation lasted for two to three hours. Sometimes two people questioned him and sometimes three. He was asked how he knew Ramesh and the details about his travel history and the people he knew.
53. He said he was released when his uncle paid money. The police had informed his family that they had been arrested. He and Ramesh were released together. He did not sign any papers and there were no conditions. He went home. There seemed to be no further ramifications.
54. He was then directed to the third occasion that he was arrested.
55. He said that Suthan was arrested and under interrogation identified the appellant who was arrested as a consequence. He understood from things said by the TID that Suthan had asked where he lived and that is how he came to name the appellant.
56. He was asked why the police had shown interest after ten years and the appellant said they alleged that he was going to restart the LTTE with Suthan and other people. They thought that the appellant was involved because he had arranged for accommodation for Suthan and found him a job.
57. The appellant said that he was kept on his own when he was detained. He explained how on the occasion of his third detention the TID handed him over to the "Fourth Floor" of the CID on 31 January 2018. He was asked questions about the LTTE in Sri Lanka and in what foreign countries the LTTE was based. He was interrogated on five occasions during that arrest. He said he cooperated with the authorities. He did not know very much but was happy to

tell what he did. He only knew Suthan as a friend and the appellant was not involved with any group or organisation.

58. When prompted he said he was tortured. He said (question 121):
 “The torture I forgot to tell you is that they soaked a plastic bag in the petrol and put it on my head”.
59. He was not allowed out of his cell but was provided with meals although he often did not eat the food.
60. He was released because his cousin found an agent who secured his release. He said that his family knew he had been arrested because he was arrested from his home and the arresting officers told his elder sister who was present how he could be traced.
61. He said that he was arrested on 2 March 2018. He was forced to sign release papers and he was told to go to the police every fourth week but he did not do that. He left Sri Lanka and came to the United Kingdom.
62. He did not experience any problems in Sri Lanka after his release but, on his agent’s advice, he was hiding.
63. He was asked to explain why he remained in touch with Suthan and Ramesh after he had been arrested in 2008. He said they were friends and he trusted them.
64. He was then asked why he did not ask Ramesh and Suthan about their involvement with the LTTE if it had led to him being arrested on three occasions. He said that on a couple of times he asked them and they said they had no connection with the LTTE.
65. He said he had had contact with Ramesh between 2003 and 2009 and with Suthan until September 2009. He lost contact with Ramesh after Ramesh said that his uncle was going to help him leave Sri Lanka for Canada. Suthan left in September 2009, saying he was going to visit his sick father and he never returned.
66. He said that his mother had told him that there was a warrant for his arrest and that he will be caught wherever he went. The police had showed his mother the warrant. His mother could not read but his elder sister had explained it. He did not know when that was issued and he did not know of any reason why the police would issue a warrant after his release.
67. He was asked about relocation. He said that he could not hide anywhere. He did not know how the authorities would find him but he was confident that they would. He had not been involved in any kind of violence or issues in Sri Lanka.
68. The appellant said that his father died in 2012.
69. The appellant had visited the United Kingdom. He said, “I came to England with my mother to UK on 22nd March 2008 and they returned back on 28th April 2008.” The visit was timed to include a birthday party for his elder brother’s child’s first birthday.
70. He lost contact with his elder brother after his father’s death in 2012. He did not know his brother’s date of birth but suggested that he was about 40 years old.

71. He was told that records showed that when he travelled to the United Kingdom in 2008 he had used the name "M R H" but his Sri Lankan identity card said that he was called "H R". The appellant denied ever changing his name. He did not regard the omission or addition of the name "Mohamed" as a change (questions 153).
72. The appellant had signed a statement dated 15 March 2019 and a supplementary statement dated 27 October 2021. I consider those now.
73. His statement dated 15 March 2019 formally adopted the answers given at the screening interview and his full interview and set out to address points raised in the refusal letter.
74. The appellant complained that he found it difficult to think straight. He felt he had brought problems on his family and would become a burden to them. He had been helped by his general medical practitioner but was thinking about taking his life. He complained that he could not sleep and suffered from "flashbacks" about what happened in Sri Lanka. He had nurtured serious thoughts about taking his own life. This is something that had been encouraged by his interrogators and he remembered their voices.
75. He confirmed that he was a Muslim and spoke Tamil and that he had a mother, cousin and elder sister living at the family home in Kandy. He confirmed that he had no contact with his brother in the United Kingdom following a family disagreement.
76. He said he had a good life in Sri Lanka. He was a glasscutter by training and he earned a good income from his business. He said that his part of Kandy was known for its beauty and had a large Tamil population and which is how he came to know a lot of Tamil people, including Suthan and Ramesh when they were studying at the EPI Institute in Kandy.
77. He was not concerned that they identified as Tamils from the north of Sri Lanka. There are a lot of Tamils in the north of Sri Lanka and a lot of Tamils from Kandy had links with the north. He found them accommodation and they became friends. When they completed their studies they came to work in the glass business. The authorities were doing checks in shops and other places.
78. He remembered how in February 2008 two police officers came around midday to his business premises where he and his father, Suthan and Ramash were present. The police wanted to check identities. Ramesh did not have any identification. They were all detained and questioned. He confirmed that their fingerprints were taken and he had to sign something in the Sinhala language.
79. He outlined the circumstances of his second arrest. Again he explained how he and Ramesh had gone to purchase vegetables in December 2008. At that time he had a wholesale vegetable business which was doing well and he wanted fresh stock. Again Ramesh had no identity with him when challenged.
80. Ramesh talked about having a cousin in Pettah which is a busy part of Colombo and of seeing his cousin in February 2008. This information made the police even more interested and the appellant and Ramesh were detained. The police found the appellant's family details and informed his relatives that he had been arrested. An uncle helped secure the appellant's release by paying a bribe. He

and Ramesh were later released from detention and went home with his uncle and the appellant continued his business. He said he kept a low profile.

81. The appellant came to understand that Suthan was arrested in 2016 and had named the appellant and this led to the appellant's arrest in January 2018.
82. He repeated the core of his account and of the details of his detention which he described as "serious ill-treatment". He was mocked, slapped and kicked with boots.
83. At paragraph 30 he gave quite a detailed account of a police officer grabbing a glass bottle that had been used by one of the interrogators for drinking and how another officer held him down, used insulting language and inserted the bottle into his anus. They then soaked a plastic bag in petrol and put it over his head so he started to suffocate. He still gets "flashbacks".
84. He thought there was no way out.
85. His signature was taken on two sheets of paper.
86. He had left detention on 2 March 2018 with a duty to report every Friday but he did not report. Rather he relocated to another suburb in Colombo and stayed there with his agent.
87. He was able to leave Sri Lanka undetected with the assistance of an agent who provided a false passport. The agent accompanied him through the airport and guided him to a particular immigration counter. He gave details of his journey to the United Kingdom.
88. He then said that whilst in the United Kingdom he had been heavily involved with the TGTE (Transitional Government of Tamil Eelam) in "sur place" activities. He started to attend rallies and protests to highlight the importance of Tamil separatism to the public. He said the TGTE supported them properly and would not let the Sri Lanka government ill-treat them.
89. He had taken part in a rally outside Downing Street and in a march in front of the Sri Lankan High Commission and at an event to commemorate the genocide of Tamils, particularly in July 2018.
90. He was frightened of going back to Sri Lanka.
91. He explained again that he had lived with Ramesh between 2003 and 2009 and had contact with Suthan until September 2009 when he said he was going to see his father.
92. The appellant's family members had advised him an arrest warrant had been issued.
93. He said that was accused of being a "halal Tiger". People had been to the family home as recently as February 2019. He was worried about returning to Sri Lanka.
94. Turning directly to the refusal letter he addressed the Secretary of State's contention that it was not credible that he had been arrested and detained on three occasions with such long gaps between the arrests if there was serious interest in him. He explained that he was told in 2018 that Suthan had been arrested in 2016 and had provided information about him. He did not know

what had been said but it was enough in the minds of the Sri Lankan authorities to justify his detention. He denied that the story was made up. He said he was telling the truth.

95. He accepted that the authorities might have sophisticated intelligence but he said he was in detention on 2 March and he left on that day and went to stay with an agent and did not register with the authorities in Sri Lanka. He avoided further trouble by getting out of the country. He said that the authorities had told his mother that there was a warrant. It had not been produced. He could not obtain a copy through regular channels and did not want to endanger anyone by trying irregular means.
96. He made a further statement dated 27 October 2021.
97. There he formally adopted his earlier statement and said that he continued to be politically active in the United Kingdom. He found it therapeutic to attend demonstrations.
98. He said at the end of 2019 the Rajapakseg returned to power. Gotabhaya Rajapakse is the person who prescribed the TGTE in 2014. He is now president of Sri Lanka and his brother the prime minister. The appellant said that he was very worried about returning to Sri Lanka. A member of the TGTE had confirmed in a letter dated 26 October 2021 his involvement and he feared return. He said that he had not always been "in the best frame of mind" when he attended demonstrations in the United Kingdom but he attached photographs of some that he had taken. He had been to demonstrations where he had not taken photographs.
99. He outlined the demonstrations that he had attended. These are Remembrance Day on 18 May 2018 at Downing Street, organised by the TGTE, Black July protests in July 2018 and 2019 and 2021 in and around Trafalgar Square organised by the TGTE, martyr's day on 23 November 2018 and 2019 and 2020. He also attached letters from the TGTE dated 27 November 2018 and 26 October 2021 confirming that he had been to events. He saw no need to say any more in the witness statement.
100. He was involved in handing out booklets to the public, calling for the deprescription of the LTTE and put up posters for the TGTE elections and also participated in blood donation and remembrance of Colonel Dhileepan and was involved in demonstrations outside the Sri Lankan High Commission in 2019 and 2021.
101. He said he knew that if he returned to Sri Lanka he would be questioned about his political activity and this, together with his previous record of arrest and detention in February 2008, November 2008 and 2018 and the fact the authorities had told his family there was an arrest warrant for breaching reporting conditions placed him at risk.
102. He said his mother and sister had left the family home at the end of 2019 but he was still in contact with his mother. They had sought internal refuge with a Christian family his mother knew. He said that family were directly affected by the Easter Sunday bombings in Sri Lanka when his mother gave them moral support and prayers. Essentially the women supported each other.

103. He was concerned about the difficulties he had brought his family.
104. His general medical practitioner had been trying to help him.
105. He did have serious mental health issues and was taking medication but he found it difficult to concentrate and focus. He said:
- “One of the things that helps me are attending demonstrations and I can vent my anger in respect of what the Sri Lankan authorities have done to me and what they are going to do to those who oppose them in Sri Lanka.”
106. He suffers from anxiety and dizzy spells.
107. It was confirmed at the beginning of the hearing that he was not going to give evidence before me.
108. I did hear evidence. Mr Sockalingam Yogalingam, a member of the Transitional Government of Tamil Eelam had written a letter dated 26 October 2021. I summarise that letter below.
109. Mr Yogalingam described himself as an “MP”, being part of the democratically elected political formation of the worldwide Tamil diaspora. He said that at present the Tamil people have “absolutely no prospect of articulating their political aspirations or of exercising their fundamental rights in their homeland”. He identified the appellant as one of the “victims” who worked with the TGTE. The appellant was a volunteer at public events and had attended meetings. He knew the appellant had actively worked in TGTE activities, such as blood donation and a Sri Lankans Independence Day demonstration in front of the High Commission and the Black July protest in Downing Street and distributing leaflets and other things. He said how the appellant campaigned against the ongoing genocide in Sri Lanka and described the appellant as “an ardent supporter of our mission”.
110. Mr Yogalingam attended and adopted the letter as his evidence-in-chief.
111. He was cross-examined. He said he knew that the appellant had attended meetings and had helped him personally. He had met him and seen him on many occasions. He had not counted them but it was certainly much more than once or twice. He was asked if he recalled his name. He did. He knew him as “H---” which he identified as a Muslim name.
112. He was not re-examined.
113. I found Mr Yogalingam truthful about the activities of the appellant.
114. Other documentation in the bundle includes a letter from Mr Nimalan Seevaratnam dated 27 November 2018. Mr Seevaratnam was then and may still be a member of the Transitional Government of Tamil Eelam and he identified the appellant as an activist. The writer expressed the view that the appellant would be tortured if he returned. I believe Mr Seevaratnam’s evidence about the appellant’s conduct that he has seen but give little weight to his opinion on the risk on return. I do not know how much Mr Seevaratnam knows about the appellant’s experiences in Sri Lanka or how biased his opinions are because of his political views.
115. There are photographs of demonstrations in which the appellant is playing a part. He can be seen clearly in some of the photographs either with a placard

- and/or near the front of the crowd clearly protesting against the oppression of Tamil people.
116. There is also a supporting letter dated 14 March 2019 at page 78 in the bundle. The writer requested anonymity but said that the appellant had a good life in Sri Lanka but the appellant had problems because he had studied with two Tamil boys and found them work in the glass business. The letter is self-serving and I give it little weight but it certainly does not harm the appellant's case.
 117. There was a supplementary bundle served on 29 October 2021. This is more photographs of the appellant apparently involved in TGTE activities although photographs in this bundle without comment or explanation may not be adding very much. However he does appear to be engaged in election hearing or distributing similar documents for the TGTE.
 118. I have a letter from "Talking Therapies" dated 1 April 2021. This refers to the appellant having benefited from therapies and addressed his sense of hopelessness.
 119. There is also a psychiatric report from Dr Raj Persaud dated 27 October 2021. Professor Persaud is a well-qualified consultant psychiatrist with a lot of experience. His most relevant postgraduation qualifications are his being a fellow of the Royal College of Psychiatrists.
 120. He put the appellant's risk of suicide as "moderate to high" because of a sense of hopelessness. He asked himself if the appellant was exaggerating or fabricating symptoms and found that unlikely.
 121. As is so often the case in reports of this kind Dr Persaud explained that it is very difficult for a person without considerable insight into mental health conditions to exaggerate or feign the necessary *range* of symptoms to provide a convincing but false diagnosis.
 122. It was his opinion that the appellant should not give evidence.
 123. He had prepared an earlier report dated 15 March 2019. He was then satisfied the appellant had a "serious psychiatric disorder". He attributed this to past trauma and fears of being returned to Sri Lanka.
 124. In the report dated 15 March 2019 he had said how the appellant had provided an account of being arrested and detained in Sri Lanka on three occasions and that he became upset while recounting the ill-treatment, including the insertion of the bottle.
 125. Mr Paramjorthy addressed me first. He adopted his skeleton argument dated 27 October 2021 and made additional helpful oral submissions.
 126. However for the purposes of determining the appeal I find it more convenient to set out here the Secretary of State's submissions made by Mr Lindsay. Mr Lindsay adopted a skeleton argument served at an earlier stage in anticipation of an earlier hearing by Mr Tony Melvin, Senior Presenting Officer dated 27 January 2021.
 127. For reasons that are absolutely not to Mr Melvin's discredit that skeleton argument rather petered out towards the end because, as Mr Melvin explained, he was unable to get access to an electronic bundle but he did what he could

and what he did is, with respect, particularly relevant and I understand Mr Lindsay's desire to rely on it.

128. First, Mr Melvin made criticisms of the medical evidence. He said that Dr Persaud had consultations in December 2018 and March 2019 and had received the GP records. Dr Persaud found that the appellant suffered from depression and post-traumatic stress disorder as a result of experiences in Sri Lanka and that the appellant had understated how traumatised and suicidal he was because of embarrassment about disclosing his worries to his GP.
129. Dr Persaud found the appellant to be at a significant risk of suicide and recommended specialist services.
130. However Mr Melvin said that the GP was first seen about depression in October 2018 and told the GP about being tortured in jail in Sri Lanka and referred to poor sleep and concentration and other matters. He was known to be improving until his brother died in a traffic accident in Sri Lanka which, perhaps understandably, made him feel low.
131. The GP noted that he said a friend had stopped him taking an overdose of paracetamol and advised him to essentially increase his exercise and social activities. He was also given some medication.
132. Mr Melvin argued that Dr Perusaud's report had been produced "solely to improve the appellant's chance of a successful claim" and it was unclear why Dr Perusaud said that the appellant was not fit to give evidence given the details given in an asylum interview. There was no indication in the GP records that the appellant suffered from any embarrassment while undergoing his examinations. The GP had not referred the appellant for counselling services and expressed no immediate concern of suicide or self-harm.
133. Mr Melvin invited the Tribunal to place greater weight on the GP records given they disclosed opinion over months, rather than a one off consultation. He just said that Dr Perusaud's "report is based on a blind acceptance of the appellant's claim to have been tortured recently by the authorities in Sri Lanka" and that did not sit easily, he suggested, with the GP's opinion that the depression can be managed with medication.
134. Mr Melvin said that there was a particular difficulty in the appellant's case. He claimed to have been arrested in 2018 and speculated that it was because his friend who was arrested in 2016 had given his name to the authorities. He submitted it just did not make sense that the Sri Lankan authorities would wait so long to contact the appellant if they had arrested his friend in 2016. There was no problem with the authorities between 2008 and 2018 and in his interview he did not refer to the arrest of Suthan.
135. Mr Lindsay then submitted, additionally, that I should look very carefully at the appellant's account of being arrested and detained on three occasions. He described this as a matter of "great importance". Indeed it is. According to Dr Perusaud the appellant's detention has triggered his ill health and his fear.
136. Mr Lindsay submitted that without the detentions there was no case here. The appellant's sur place activities were not sufficiently important or persistent to identify him as someone who was any kind of threat to the unity of the Sri

Lankan state. The Sri Lankan state is understood to have sophisticated intelligence. If that is right it may be that the appellant will be identified as a minor player in some demonstrations but not as someone who represents a risk to the unity of the state.

137. At its highest, the appellant would be no more than on a watchlist and if they watched him they would find nothing except a rather poorly man trying to re-establish himself in Sri Lanka.
138. Mr Lindsay recognised there were difficulties in his case because Dr Perusaud had expressly said that in his opinion the appellant was not exaggerating his symptoms but Dr Perusaud could not exclude the possibility of someone feigning symptoms, meaning that if they were feigned, they were feigned very well.
139. He said that there was no hint in the report of any diagnosis that did not depend on what the appellant says.
140. I do not agree with that. The diagnosis depends on how the appellant presented overall, including his signs of distress when telling of his experiences. The process of diagnosis is rather more subtle and involved than Mr Lindsay suggested.
141. He said that the appellant would not be at risk on return because he has no strong views to hide.
142. I considered Mr Paramjorthy's submissions and his reply.
143. I have no hesitation in concluding that the appellant would not be at risk if he can be returned safely. He has family in Sri Lanka and his mental health problems can be addressed by their support. This is not a "suicide case".
144. I also accept that the appellant would be unlikely to be in trouble because of his sur place activities. They are repeated but relatively minor. I have reminded myself of the guidance given in **KK and RS (Sur place activities: risk) Sri Lanka CG [2021] UKUT 00130 (IAC)**. This appellant's activism is of a very low order although persistent. He displays banners, attends demonstrations and encourages support by distributing leaflets. He is not a speaker or an organiser or a leader. There are no family connections. What matters crucially here is what is known about him in Sri Lanka.
145. As is so often the case, making the decision in this appeal is far from easy.
146. I start as far as I can with findings that are not dependent on the appellant's evidence.
147. I am impressed with the observations of Dr Persaud and I am not prepared to write them off in the way the Secretary of State argues that I should. Dr Persaud is very highly qualified and experienced. He says, and I accept, that he does not take uncritically what he is told and looks for a range of symptoms and signs falling in line with an established pattern before reaching any diagnosis. He is satisfied that the appellant was not behaving fraudulently and I have absolutely no basis whatsoever to go behind that.
148. I do not accept that the place for me to start is with general practitioner's records. The nature of general medical practice is that the general medical

practitioner, although no doubt competent to diagnose certain psychiatric disorders, is not a specialist and the lack of support from there does not undermine Dr Persaud's evidence. Dr Persaud was clearly concerned that the GP was not doing more and gave appropriate advice. It follows from this that I have no difficulty in concluding that something somewhere has upset the appellant deeply. I do not know what that is but he says it was his ill-treatment.

149. I cannot confidently dismiss his own account because of delays in disclosure. I accept that people can find it very difficult to talk about personal assaults of the kind this appellant says he has experienced, even when their own safety is at risk. It is, I find, recognised that people often, or at least sometimes which will do for these purposes, suppress memories of horrible experiences. They do not talk about them, even to people who are trying to help them. I found the observations about the torture with the bottle particularly disconcerting. Applying the lower standard of proof I am entirely satisfied that this is a man who has been abused.
150. Returning to Mr Melvin's conundrum, I do not know why it took so long for the authorities to find the appellant if, as he suggests is the case, he was identified by Suthan when he was detained in 2016. I also regard it as an obvious deficiency in the appellant's case.
151. If the appellant had invented an account he could have claimed that Suthan was arrested in 2018, shortly before the appellant. He did not have to invent to invent an account of his young associate being detained some years before he was arrested. If that was fabricated he could have made it much nearer in time and the case would have been none the worse. Perhaps he is a bad liar but he may be telling the truth.
152. Alternatively the authorities might be interested with him for reason that are not known to the appellant. It is not something the appellant can properly know.
153. Having considered all the material before me "in the round" I am satisfied that the appellant was detained in 2018 and ill-treated as he has now suggested to Dr Persaud.
154. That really is enough. It has crossed my mind that he may have been detained then by the authorities just seeking to extract some sort of vengeance to punish him for past activities and his arrest in 2018 did not indicate any level of further risk, but that is speculation on my part for which there is no evidential basis.
155. Clearly the fact that he was released is unhelpful to the suggestion of any continuing interest, but that history which I am satisfied is made out, taken with the sur place activities, I find tips matters in favour of saying that he is now a refugee. I make it plain that I am not certain about these conclusions. There is a great deal I cannot be certain about. I also know that that is not the point. The standard of proof is low and the appellant has achieved it. In all the circumstances I allow the appeal on asylum grounds.

Notice of Decision

156. This appeal is allowed on asylum grounds.

Jonathan Perkins

Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 3 February 2022