



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

Appeal Number: AA/06866/2014

THE IMMIGRATION ACTS

Heard at Bradford

On 3rd February 2015

**Decision & Reasons
Promulgated**

On 11th February 2015

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**ZOHAIB KHURSHID
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Tetley, Counsel, instructed by Parker Rhodes
Hickmotts

For the Respondent: Miss R Petterson, Home Office Presenting Officer

DECISION AND REASONS

1. This is the Appellant's appeal against the decision of Judge Upson made following a hearing at Bradford on 14 October 2014.

Background

2. The Appellant is a citizen of Pakistan, born on 9th December 1984. He married on 1st May 2010. He moved to Muscat in November 2010 seeking

work but his wife could not get a visa and they went to Lahore where they stayed for a month. There they arranged to leave Pakistan with the help of an agent. He entered the UK on 25th June 2011 and, in April 2012, travelled in a lorry to Belgium. He said that he claimed asylum in Belgium but returned to the UK on 13th September 2013.

3. The basis of his claim is that he married a woman from a different caste and whose family seeks to do him harm. He says that an FIR has been issued against him asserting that he kidnapped a girl and accusing him of rape. His wife's family have made threats against his friend and have shot his cousin.
4. The judge did not believe the Appellant's account of the events which led him to claim asylum in the UK and dismissed the appeal. He noted that there was no independent evidence to support it and said that he had had regard to the fact that although he claimed to have come to the UK as a place of safety he did not seek asylum on arrival. Notwithstanding his claimed lack of education the judge found it difficult to accept that he would not have sought protection on arrival in the United Kingdom and his position was damaged further by his leaving to go to Belgium. He said that these aspects of the Appellant's account were against him when considering credibility.
5. The judge said that he found it difficult to accept the Appellant had not kept his Nikka Nama with him because it was a very important document and he would have wanted to keep it close.
6. He did not accept the Appellant's explanation for not having reported problems with his wife's family to the police because he did not want to give his wife a bad name. So far as the FIR was concerned, the judge could not understand how the Appellant would not know whether the police had been looking for him, which was his evidence, and if an FIR was issued against him it was inconceivable that his wife's family would search for him but not the police. He could not accept that his wife's family, who did come looking for him, would not have passed on their knowledge of his whereabouts to the police.
7. So far as the copies of the death certificates were concerned, the judge rejected the Appellant's explanation that his brother had to go behind the wishes of his mother in obtaining copies because his family blame him for their predicament. The judge also observed that if the Appellant was wanted by the police for serious offences he would not have been able to travel in and out of Pakistan in the way he described.
8. Finally, even if the Appellant had problems with his wife's family he could have reported his difficulties to the police and in any event it remained open to him to relocate within Pakistan.

The Grounds of Application

9. The Appellant sought permission to appeal on the grounds that the judge had misapplied Section 8 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 by making a general adverse credibility findings against the Appellant and concluding that he had been untruthful without taking into account all of the relevant circumstances. The judge had also erred in placing weight upon the fact that the Appellant could not produce his Nikka Nama when it could not have contributed in any way to supporting the claim of having been attacked by members of his wife's family. The conclusions in respect of the FIR were reached without taking into account the country background material which confirms that there are serious shortcomings within the Pakistani police. The Appellant had given a proper explanation for the production of a photocopied death certificate. Finally the judge did not consider the Appellant's claim that his wife's family could use the application process for an ID card in order to find him against the background material and was wrong to made an adverse finding by linking the issue of the ID card to the FIR.
10. Permission to appeal was granted by Judge Simpson on 17th November 2014.
11. On 5th December 2014 the Respondent served a Reply defending the determination.

Submissions

12. Mr Tettey relied on his detailed grounds and submitted that the judge had failed to consider the Appellant's case in the round and had not engaged with the country background material. He had engaged in speculation and his reasoning was inadequate.
13. Mrs Petterson defended the determination and submitted that the grounds amount to a disagreement with the decision. In any event, no challenge had been made to the judge's conclusions that the Appellant had an internal flight option available to him.

Findings and Conclusions

14. There is no error of law in this determination.
15. Section 8 of the 2004 Act states that:

“In determining whether to believe a statement made by or on behalf of a person who makes an asylum claim or a human rights claim, a deciding authority shall take account, as damaging the claimant's credibility, of any behaviour to which this Section applies.”
16. The judge did not conclude that the delay in the claim was determinative of credibility. There is no error in starting his consideration with the fact of the delay in the claim, which he then properly considered in detail before concluding, at paragraph 35, that Section 8 should be applied against the Appellant in this case.

17. The judge did not base his findings upon the lack of a Nikka Nama, but that would at the least have confirmed that the marriage had taken place. The judge was plainly entitled to consider that there were inconsistencies in the Appellant's explanation for not having reported matters to the police and to conclude that the family would have given the police whatever knowledge they had of his whereabouts. It was open to the judge to reject the Appellant's explanation for the fact that the death certificates were only copies. He was entitled to conclude that the Appellant's account of being the subject of an FIR was inconsistent with his being wanted by the police for serious offences.
18. In any event, no attempt is made in the grounds to grapple with the judge's unchallenged and wholly sustainable conclusion that, even if the Appellant had difficulties with his wife's family, he plainly had an internal flight option open to him.

Decision

19. The original judge did not err in law and his decision stands. The Appellant's appeal is dismissed.

No anonymity direction is made.

Signed

Date **3rd February 2015**

Upper Tribunal Judge Taylor