



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

Appeal Number: AA/08802/2014

THE IMMIGRATION ACTS

Heard at Manchester Crown Court

**Decision and
Promulgated**

Reasons

On 18 March 2016

On 1 April 2016

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

[M F]

and

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person (Unrepresented)

For the Respondent: Ms C Johnstone, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a national of Pakistan born on [] 1990. She arrived in the United Kingdom on 10 October 2011, with a Tier 4 student visa valid until 12 December 2012. She claimed asylum on 9 June 2014. Her claim was refused on

24 September 2014 and the same day a decision was made to remove her from the United Kingdom.

2. The appellant appealed against that decision and her appeal was heard before the First-tier Tribunal on 15 January 2015 and dismissed in a decision promulgated on 11 February 2015. Permission to appeal to the Upper Tribunal was granted on 10 April 2015.

The Appellant's Case

3. The appellant claims to be at risk on return to Pakistan. Her claim as initially stated was that, as a result of her marriage in 25 March 2012 to a man whom she had met on the train when travelling to college in the UK, her parents wanted to kill her because she had married outside her caste and had failed to marry the man chosen by her father. She claimed that she had argued with her husband and he had hit her and thrown her out of the house several months ago and that she had then gone to stay with her brother until recently when she had to move out because her sister-in-law did not want her there.

4. The respondent, in refusing the appellant's claim, did not believe her account of her relationship because she had failed to provide any evidence of the marriage and knew little about her husband. Although her claimed husband was named on the birth certificate of her son as his father, the respondent did not consider that that was evidence of the marriage. Given that the appellant's evidence was that she went to live with her brother, the respondent rejected her account of being at risk of an honour killing at the hands of her family. The respondent did not accept that the appellant would be at risk on return to Pakistan and considered that in any event there was a sufficiency of protection available to her and that she could also safely relocate to another part of Pakistan.

5. The appellant appealed that decision to the First-tier Tribunal and her appeal was heard before First-tier Tribunal Judge Siddiqi on 15 January 2015. The appellant was not represented before the Tribunal. By the time of the hearing, the appellant's claim had changed. She claimed that she had been unable to obtain proof of her marriage from the various mosques in her area and that, as a result, her family believed that she had not been married and that her son was illegitimate. She was therefore at risk on return to Pakistan from her family and the wider community as an unmarried mother.

6. Judge Siddiqi found the appellant's account to be lacking in credibility. She did not believe the appellant's initial claim to be credible and rejected her account of her relationship with the father of her son, noting the lack of documentary evidence to support her claim to have lived with him. She did not accept the appellant's account of threats from members of her family, she did not accept her account of the breakdown of her relationship with her family and she did not accept that the appellant was at risk from her family. She found that the appellant could rely on the support of her family on return to Pakistan, but even if not, that she could relocate to another part of the country.

The judge found, further, that the appellant's removal to Pakistan would not breach her Article 8 rights. Accordingly she dismissed the appeal on all grounds.

7. Permission to appeal was sought by the appellant to appeal to the Upper Tribunal. With her application for permission she submitted some documentary evidence which she stated proved that she had been living with her former partner. She asserted that it would be difficult to survive in Pakistan as a single mother with a child.

8. Permission to appeal was granted on 10 April 2015.

Hearing and submissions

9. At the hearing, Ms Johnstone relied on the respondent's rule 24 response, whereby the respondent submitted that the judge was entitled to reject the appellant's claim to have lived with her former partner, when there was documentary evidence, including her driving licence and her son's birth certificate, showing her to have been living with her brother at the relevant time. The judge was entitled to make the adverse credibility findings that she did. The judge's finding, that the appellant would be at no risk on return as a single mother with a child, was consistent with the country guidance in SM (lone women - ostracism) (CG) [2016] UKUT 67.

10. The appellant, in response, submitted that she had not previously been asked to provide proof of cohabitation with her former partner but was now producing such proof. She would be at risk in Pakistan on the basis of having had a baby outside marriage. She had believed herself to be married but, having contacted the mullahs, now realised that she had been tricked and that the marriage was not registered anywhere. She produced a different copy of her driving licence showing her address as the same as that of her former partner.

Consideration and findings.

11. Permission was granted on the grounds that the judge had arguably failed to consider the appellant's explanation for having changed the basis of her claim and had failed to explain the significance of whether or not the appellant had lived with her child's father when her claimed fear was in fact of having had a child out of wedlock. However, on a close and careful reading of all the evidence in this case, it is clear that the change in the basis of the appellant's fear and the lack of evidence of her relationship with her child's father were significant matters, in that they undermined the credibility of her account of her family circumstances in the UK, which in turn undermined her account of the breakdown of her relationship with her family in the UK and Pakistan and the threats made to her.

12. It seems to me that the judge was entitled to draw adverse conclusions from the fact that the appellant, having initially based her claim entirely upon

the threats from her family as a result of her marriage outside her caste, then claimed for the first time at the hearing before her to have discovered that her marriage was not in fact registered and that she was at risk on the basis of having an illegitimate child. That was particularly so when the change to the basis of her fear came several months after the refusal of her claim, and further to the respondent pointing out the absence of any evidence to show that there had been a marriage. The judge pointed out at [36(c)] that the appellant made no reference, in her grounds of appeal, to any threats from her family as a result of the discovery that she was not married and was entitled to expect that if there was a genuine reason for the change in the basis of the appellant's claimed fear of return, the appellant would have referred to that and to her status as an unmarried mother of an illegitimate child, at that stage. The judge was entitled to conclude that the appellant's entire claim, as regards her relationship and the threats from her family, had been fabricated, and was accordingly entitled, in my view, to place no weight upon her new claim to be at risk from her family.

13. Whilst it is the case that the judge did not specifically refer to the appellant's circumstances in the context of the country guidance, I would agree with Ms Johnstone that, on the evidence before her, her conclusions were consistent with recent guidance in SM (lone women - ostracism) (CG) [2016] UKUT 67. The judge, for the reasons cogently given, did not accept the appellant's account of the breakdown of her relationship with her family and accordingly considered that the appellant would have the benefit of their support on return. As such, she would not fall within the risk factors identified in SM. The judge found, in the alternative, that the appellant, being a well-educated woman, would be able to re-establish herself in another part of the country. For the reasons given, and on the basis of the limited and unreliable evidence before her, the judge was entitled to conclude that the appellant had failed to demonstrate that she would be at risk on return.

DECISION

14. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Signed

Upper Tribunal Judge Kebede