



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

Appeal Number: PA/01714/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 2 March 2018**

**Decision & Reasons
Promulgated
On 27th March 2018**

Before

UPPER TRIBUNAL JUDGE KING TD

Between

EE

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms D Qureshi, Counsel, instructed by Synthesis Chambers
Solicitors

For the Respondent: Mr S Walker, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Pakistan, born in 1985. She seeks to appeal against the decision of the respondent dated 21 January 2016, refusing to grant her asylum and other protection in the United Kingdom.
2. The appellant contends that she is at risk on return from the actions of her husband and from her own father and brothers. Further, having now given birth to a small son and without other support she would be a lone woman returning to Pakistan and at risk of ostracism and/or ill-treatment under

the country guidance case of **SM & MH (lone woman - ostracism)**
Pakistan [2016] UKUT 00067.

3. The appellant entered the United Kingdom in January 2013 as a special visitor, for medical treatment, and thereafter remained unlawfully until she was apprehended in 2014. On 1 September 2015 she claimed asylum which was refused by the decision now under challenge.
4. Her appeal was originally heard and dismissed by the First-tier Tribunal in a decision of 3 October 2016. An appeal to the Upper Tribunal against that decision resulted in a finding in her favour by Deputy Upper Tribunal Judge Murray, that there had been a material error of law in that decision. Thus the matter was remitted to the First-tier Tribunal for a fresh decision to be made.
5. That hearing came before First-tier Tribunal Judge Spicer on 1 November 2017, resulting once again in her appeal being dismissed.
6. It was the case as advanced on behalf of the appellant at that hearing that in 2003 she had entered into an arranged marriage with a Mr SA, a much older man than she. It was an abusive relationship. It ended in divorce at the instigation of the appellant.
7. Thereafter the appellant formed a relationship with a MA who was the brother of SA. Having become pregnant in or around October 2010 she underwent a termination for fear that her situation would become known to her family. Unfortunately, news of her action spread to her family. The appellant did not know what happened to MA and fled to the United Kingdom in January 2013 because of the risk to her life at the hands of her brothers, father and ex-husband.
8. Whilst in the United Kingdom the appellant entered into a further relationship with TA and has become pregnant. She has given birth to a daughter. TA is a Pakistani national who does not have leave to remain in the United Kingdom. They meet regularly but do not live together as a couple.
9. The Judge in the determination considers the basis of claim in great detail. Though the marriage to SA was accepted as was the divorce, it was the finding of the Judge that there was no basis upon which the ex-husband would bear ill-will towards the appellant and the evidence that he does so was not found to be credible.
10. It was noted that the appellant had made an application to come to the United Kingdom for medical treatment. It was an application supported by her father and she was to be accompanied by her mother. It was not accepted that she had fled her family for safety and it was a finding of the Immigration Judge that, far from being in danger from her family, she had received constant support from it.

11. The Judge considered the relationship with MA and did not find that it had taken place nor had indeed the claimed termination. Overall, therefore, the Judge did not accept that there was any basis upon which the appellant should fear return and indeed the finding was that upon return she would be supported by her family.
12. The Judge however considered the alternative, namely that the appellant could not return home and looked at the guidance in **SM & MH (lone women - ostracism) Pakistan [2016] UKUT 00067** and found that the appellant would be eligible for help from the Choices Programme and in particular could return to one of the other cities in Pakistan, in particular Karachi. It was noted the appellant remained in contact with TA and it was considered that he would be able to be supportive of her return both with help and financial support.
13. Permission to appeal to the Upper Tribunal was granted on the basis that the Judge had given inadequate consideration to the background evidence as to risk of lone females with a child born out of wedlock, returning to Pakistan without family support and had failed to assess whether there were insurmountable obstacles to the appellant's reintegration. As to the adverse credibility findings, such were found simply to be argumentative.
14. Thus the matter comes before me in pursuance of that grant of permission.
15. Ms Qureshi relies upon the grounds of appeal as submitted, contending that the appellant would be at risk on return by reason of her pregnancy. She submits that the appellant ticks all the risk factor boxes as set out in the case of **SM**. She contends that the background country information does not support the Judge's assumption that the appellant's father would accept her into the family home and protect her. In the event it is contended that the analysis of **SM**, particularly on the basis that the appellant would return to Pakistan as a lone woman, is fundamentally flawed and inadequate.
16. Mr Walker, on behalf of the respondent, invites me to find that there is no error of approach, particularly in relation to the credibility of the account itself. Although evidence has been presented to show that there would be a lack of support from family in Pakistan were she to return, there was evidence as the Judge has indicated, that there was a pattern of consistent support throughout the difficult circumstances of her divorce. There was no reason without further indication that she would be at risk thereby.
17. In terms of her return as a lone woman he submits that it was entirely open to the Judge to note the nature of the relationship that she was having with TA did not exclude thereby his support of her. In the event he submits the Judge had properly looked at the guidance in **SM & MH**.

18. At the heart of the appellant's claim is of course her fear of ill-treatment at the hands of her family were she to return to Pakistan with her small child. Her ex-husband had very little to do with her for many years after the divorce and indeed had little contact with her before. The Judge found that he would have had no continuing interest in her, adverse or not. He also noted the appellant indicated that she remained in contact with her mother and that in those circumstances it would have been entirely possible for the appellant to gauge the attitude of her father and other family members to her situation and circumstances, but no evidence has been presented as to that matter.
19. Rather, reliance has been placed upon the generality of background evidence rather than obtaining clear evidence from her own particular family one way or the other.
20. It is fundamental to the determination that the basis upon which the appellant has sought to come to the United Kingdom was not accepted and her credibility fundamentally found to be undermined. In those circumstances it is entirely appropriate to expect there to be some evidence as to the likelihood of family support or not.
21. In terms of internal relocation as an alternative, there is some merit in the contention that consideration of return, particularly with a young child, was inadequate, particularly when the evidence of the appellant so far as TA was concerned was that although there was a relationship it was not yet a committed one. If such were to have been a case relying upon internal relocation then I would have little hesitation in indicating that that matter should have been considered or reconsidered in greater detail. However, that is the alternative position adopted by the Judge, the primary one being, as I have indicated, that the appellant can return to her supportive family, even with a child out of wedlock. The burden is upon the appellant to show to the contrary, albeit to the lower standard, particularly given the circumstances of a significant delay in her making her asylum appeal. The Judge has given clear reasons for finding that her claim lacked credibility and that the circumstances of her having come to the United Kingdom spoke more eloquently of full family support than the contrary.
22. In those circumstances the appellant's appeal before the Upper Tribunal shall be dismissed. The findings of the First-tier Tribunal shall therefore stand, namely that the asylum claim is dismissed as is that in respect of humanitarian protection or Article 8 ECHR. Further, the appeal is dismissed on human rights grounds.

Notice of Decision

The appeal before the Upper Tribunal is dismissed. The decision of the First tier Tribunal to dismiss the appeal on all grounds is upheld.

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

Date 26th March 2018

Upper Tribunal Judge King TD