



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

Appeal Number: PA/09602/2016

THE IMMIGRATION ACTS

Heard at Field House

**Decision & Reasons
Promulgated**

**Heard on 2nd of February 2018
Prepared on 2nd of February 2018**

On 13th of February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE WOODCRAFT

Between

[T S]

~~(Anonymity order not made)~~

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms R Chapman of Counsel

For the Respondent: Mr T Wilding, Home Office Presenting Officer

DECISION AND REASONS

The Appellant

1. The Appellant is a citizen of Sri Lanka born on [] 1984. She appeals against the decision of Judge of the First-tier Tribunal McIntosh sitting at Taylor House on 27th of March 2017 who dismissed the Appellant's appeal against a decision of the Respondent dated 25th of August 2016. That

decision was to refuse to grant the Appellant international protection on refugee and human rights grounds.

2. The Appellant travelled from Sri Lanka to India in 1990 before returning to Sri Lanka in 2004. In 2005 she travelled to India on a student visa valid until 2009. The Appellant married her husband, an Indian citizen, and obtained a spouse visa in 2009. She travelled to Sri Lanka every 6 months to visit her parents last travelling there in 2013. On 26th of January 2012 the Appellant applied from Switzerland for a six-month visit visa to the United Kingdom stating that she intended a visit of one week. This was issued to her valid from 30th of January 2012 until 30th of July 2012. The Appellant thereafter made two visits to the United Kingdom of between one and two weeks in 2012.
3. On 9th of September 2014 the Appellant applied from India for a six-month visit visa to the United Kingdom stating she intended a two-week visit. This was issued and the Appellant travelled to the United Kingdom by air on 27th of September 2014. On 25th of March 2015 she applied for leave to remain in the United Kingdom on compassionate grounds outside the immigration rules. This application was rejected by the Respondent on 8th of October 2015 as the Appellant did not enrol her biometrics as required. On 21st of January 2016 the Appellant made an appointment to claim asylum which was registered by the Respondent on 13th of February 2016 with the Appellant's daughter as her dependent. It was the refusal of that application on 25th of August 2016 that has given rise to the present proceedings.

The Appellant's Case

4. The Appellant and her husband worked in the family computer business formed and registered in Switzerland in 2012 and also registered in India. This company hosted a website of an organisation, the Transitional Government of Tamil Elam, the TGTE. The Appellant also had an association with the separatist group the LTTE. Both of her parents had assisted that organisation and her uncle had been shot by the Sri Lankan army. Between 2005 and 2010 she undertook training with them delivering and collecting parcels.
5. In October 2013 the Appellant was arrested in Sri Lanka for helping the LTTE. She was held in detention for 3 days during which she was questioned extensively about the LTTE and the details contained on the company website that assisted the TGTE. During this period, she was ill-treated including being raped. Her release from detention took place after the intervention of her uncle in Switzerland who had a great deal of influence in Sri Lanka. The uncle paid a bribe for the Appellant's release and made arrangements for her to leave the country. After spending 2 or 3 days in a house in Colombo she travelled to India where she continued to work with the TGTE. The Sri Lankan authorities made visits to the Appellant's home enquiring about her whereabouts.
6. She went to register herself in India at a police station but felt the Indian authorities were monitoring her. The company's business premises were

visited by Indian security officers. The family home was raided and police visits continued even after she and her husband moved. The Appellant was detained for a few hours by the Indian authorities and slapped and abused by the officers. This detention which took place in Chennai was confirmed by an Indian advocate who was able to secure the Appellant's release. As the Appellant's two sisters were already in the United Kingdom arrangements were made for the Appellant to come to this country on a visit visa which she subsequently overstayed.

7. After coming to the United Kingdom, she lost contact with her husband, last having contact with him in October 2015. Her husband was still being monitored by the authorities in India. As a result of what she suffered in Sri Lanka she suffered from stress and depression, had attempted suicide twice in India and had been admitted to Newham hospital for 8 days between 21 December 2015 and 29 December 2015 after feeling suicidal. She was attending counselling in this country feeling guilty and depressed about the ill-treatment she had received in the past. She was seen for the purposes of the appeal by Dr Dhumad who diagnosed her with post-traumatic stress disorder, a moderate risk of suicide and moderate to severe depression.
8. At the hearing before Judge McIntosh in March 2017 the Appellant produced an affidavit from her mother and a signed statement from her uncle in Switzerland in support of the appeal. Her uncle said that he was unable to attend the hearing of the appeal because he had a personal engagement in Switzerland and was unable to travel. The Respondent did not accept the credibility of the Appellant's claim.

The Decision at First Instance

9. The Judge began her findings at [42] of the determination. The Judge found inconsistencies in the Appellant's account which led to her conclusion at [60] that the Appellant's account was not credible. The Appellant was able to travel between India and Sri Lanka on a regular basis and able to travel to Switzerland without difficulty. The Appellant had failed to provide any documentary evidence in relation to the business which she ran with her husband. Her name did not appear on the business documents. The Judge noted that the uncle who had made a statement in support of the claim had not provided supporting evidence of the business in that statement when it was reasonable to have expected him to have done that.
10. There was little information in relation to any charges made against the Appellant's husband. It was inconsistent that the authorities in India would seek to detain the Appellant but take no significant action against her husband if both were running a website for the TGTE and were being monitored by the Indian authorities. It was inconsistent that the Appellant applied for a visa initially without her husband and then applied for a visa to travel with him. When it was granted he still did not travel with her despite the alleged targeting of him by the authorities and he did not remain with her in a safe country. Once she arrived in United Kingdom she

did not seek asylum, she sought to travel on to Canada to be there with her brother. The Judge felt this undermined the credibility of the claim.

11. At [50] to [54] the Judge gave her findings on the medical evidence in the case. She had summarised the medical evidence at [31] to [38] which included a summary of the psychiatric report the Appellant was relying on from Dr Dhumad dated 5th of October 2016. It was Dr Dhumad's opinion that the Appellant's presentation was consistent with a diagnosis of moderate depressive episodes with somatic (i.e. physical) symptoms. The Appellant also suffered from PTSD. The Judge noted the Appellant had sought medical assistance for depression and may have received medical treatment for that in India as she had received medication there. The Appellant had told the GP in the United Kingdom she was married to a doctor when that was not the case.
12. On review by the Newham mental health team at Newham General Hospital the Appellant was given a differential diagnosis of moderate to severe depression, possible postnatal depression or possible post-traumatic stress disorder. The Appellant had become upset and unsettled when discussing her period of detention. The Judge found it difficult to make findings in relation to whether any sexual abuse had occurred. The Appellant had not disclosed those matters to her family and thought that starting a family would be an appropriate way of ensuring her family remained ignorant of what had happened to her. The Appellant had been married since 2009 but seemed to have chosen to conceive her first child (in January 2014) after her release from detention. It was inconsistent that the Appellant would start a family before securing a safe destination for herself and her husband. The Appellant had previously travelled to Switzerland which would have been a safe country.
13. The Judge was unable to make findings on whether the Appellant suffered from PTSD brought on by the treatment she had received in Sri Lanka or as a result of postnatal depression or depression as a result of the circumstances in which she would find herself should her asylum claim be refused. The Appellant had received treatment for her condition.
14. The Judge also rejected other evidence put forward by the Appellant. She referred to an affidavit from the Appellant's mother and the statement from the uncle in Switzerland. The concerns expressed by the Appellant in relation to her husband were inconsistent. He had an opportunity to travel to the United Kingdom on a visit visa but had not done so. Accusations would have been made against him as he would have been seen as an integral part of the business that was hosting the TGTE website.
15. The letter from the Indian advocate dated 17th of October 2016 had certain material omissions. There were no details of the terms of the Appellant's release or any prohibitions on her activities. There were no details of any alleged harassment or documentation of continued searches of the Appellant's home or business premises. It was reasonable to expect the advocate to obtain a copy of the released documents of the charges on which the Appellant was said to have been arrested and detained. The

advocate's letter referred to events in April 2014. It was reasonable to have expected a record of the advocate's intervention and instruction (as the advocate would have that on file) but no record had been provided.

16. The Appellant had said when interviewed by the Respondent she would provide documentary proof of her registration at the police station in India and documents relating to the company she jointly owned with her husband and uncle but these documents had not been forthcoming. The Judge place no evidential weight on the statement from the uncle or the advocate and rejected the credibility of the Appellant's claim. She accepted that the Appellant had suffered from depression and was currently supported by her sister with whom she was residing but the Appellant's parents continued to reside in Sri Lanka.
17. The Appellant's continued involvement with the TGTE whilst in the United Kingdom was to participate in discussions at meetings and to receive information. The Judge classified this as being a low-level role. There were no reports in the local press or elsewhere of anyone being arrested in Sri Lanka because of their membership of association with one of the prescribed groups. In the light of that the Judge found that the Appellant could return safely to Sri Lanka and dismissed the appeal. She dealt with the Appellant's claim under Article 8 in relation to family life and rejected that too and there has been no appeal against that part of the determination.

The Onward Appeal

18. The Appellant appealed against that decision on grounds prepared by counsel who had not appeared at first instance and did not appear before me. The bulk of the grounds concerned the Appellant's complaints about the Judge's treatment of the medical evidence. The Judge had not referred to previous suicide attempts by the Appellant or to the current risk that she might attempt suicide in the future. This risk engaged Article 3 but the Judge had not dealt with that. The previous attempts at suicide were noted in both the psychiatric report and the NHS records.
19. In the country guidance case of **GJ** one of the Appellants therein had mental health issues having been described by a psychiatrist as having clear plans to commit suicide if returned to Sri Lanka. That person was described as very ill, too ill to give reliable evidence. The psychiatric resources in Sri Lanka were sparse and limited to the cities. Returning that particular Appellant in **GJ** to Sri Lanka breached Article 3. In the Respondent's 2012 operational guidance note (at least five years old by the time that the First-tier came to decide this appeal) there were only 25 working psychiatrists and the whole of Sri Lanka. The Judge had perversely noted that she was unable to make a finding as to whether the Appellant suffered from PTSD. Dr Dhumad had said that in his opinion the Appellant's psychological symptoms were consistent with response to traumatic experience such as torture and there was a causal relationship between the Appellant's current psychological symptoms in her traumatic experience in Sri Lanka. The Judge given no reason for rejecting holy

rejecting this independent expert evidence. No reasons were given to explain why the Judge had not accepted that the Appellant met the threshold of international protection on medical grounds.

20. The grounds made three more specific complaints. Firstly, the Judge had given no adequate reasons why she rejected the evidence of the Appellant's uncle and the Indian lawyer. Secondly, the Judge had in places failed to make material findings on material issues such as whether the Appellant had suffered the sexual abuse alleged. The Judge had made no specific findings of fact on whether the Appellant was arrested in Sri Lanka or India and whether she was subject to torture and sexually abused or was involved in activities for the TGTE outside supporting their website. Thirdly, whether the Appellant's activities with the TGTE in the United Kingdom would give rise to a risk of persecution upon return.
21. The Judge had relied on out of date information in drawing her conclusions on the risk of *sur place* activity. Involvement in the Tamil separatist movement abroad was expressed to be a risk category in **GJ**. Overall the Judge had demonstrated a cumulative lack of anxious scrutiny. The grounds concluded at paragraph 30 that this was a complex protection case involving a young child [although the grounds had not up to that point referred to the Appellant's daughter].
22. The application for permission to appeal came on the papers before Resident Judge Appleyard on 13th of October 2017. In granting permission to appeal he found all the grounds arguable including the assertion that the Judge's approach to the medical evidence was flawed. The Judge had selectively extracted findings from the medical evidence, had failed when looking at Article 3 to make reference to the Appellant's suicide attempts and her conclusions were at odds with country guidance. The Judge arguably failed to assess whether the Appellant's risk of suicide engaged Articles 3 or 8. The Appellant had erred in her approach to corroborative evidence [which appears to be a reference by the Resident Judge to paragraph 21 of the grounds which referred to the treatment of the evidence of the uncle and the Indian lawyer]. The Judge had failed to make material findings or assess risk on return in relation to the *sur place* activities.
23. The Respondent replied to the grant of permission by letter dated 21st of November 2017 stating that she opposed the Appellant's appeal. The Judge had directed herself appropriately. She clearly considered the medical evidence in detail in coming to the conclusion that it did not meet the high threshold in relation to Article 3 or Article 8 medical grounds which to be engaged required more than just a lack of treatment in the country to which the Appellant would be returned. No material error was made out.

The Hearing Before Me

24. At the hearing before me to determine whether there was a material error of law in the determination such that the determination fell to be set aside, counsel relied on the grounds of onward appeal. The evidence of Dr

Dhumad showed that the Appellant had made previous suicide attempts and ultimately had been sectioned under the Mental Health Act when admitted to Newham Hospital. The risk of suicide was felt to be high. I asked counsel to clarify why if that were the case Dr Dhumad had merely said that the risk of suicide was moderate and not high at section 16.4 of his report. Counsel replied that the report went on to say that although the risk at present was moderate it would become greater if attempts were made to remove the Appellant. The risk of suicide was in itself a separate ground to the risk the Appellant faced from the Sri Lankan authorities and the Judge had not dealt with it.

25. Dr Dhumad had made it clear he did not consider that the Appellant was feigning her symptoms. He had spent two hours interviewing the Appellant. The Judge had not referred to the diagnosis of the Appellant as suffering from PTSD. The Judge overlooked the fact that the medical aspects showed a risk to the Appellant's mental and physical integrity. [68], where the Judge found that the Appellant's condition was not life-threatening or critical, was not enough to explain why there was no risk of suicide. The Judge had not given clear reasons why she did not accept what Dr Dhumad had said about the risk of PTSD. I queried with counsel the contents of [54] where the Judge had said in terms that she was unable to make a finding that the Appellant suffered from PTSD. Counsel responded that there was an obligation on the Judge to make findings not say that she could not make findings. It was unclear whether the Judge had said she could not make a finding at all on the diagnosis of PTSD or that she could not make a finding that the Appellant was suffering from PTSD because of the treatment she had received.
26. A number of experts had expressed concern about the Appellant's mental health and there had been child protection concerns. At [52] the Judge had found it difficult to make findings in relation to whether any sexual abuse occurred. It was incumbent upon her to make findings. At [60] the Judge had said that she had considered the overall claim of the Appellant and found the account not to be credible. Counsel accepted that there were findings which had been made by the Judge but her rejection of the claim was based on secondary points such as the supposed lack of business documentation. It was not accepted by the Appellant that there was such a lack as there were documents at the end of the Appellant's bundle showing the establishment of the company in Switzerland.
27. Most of the Judge's adverse credibility conclusions came from her analysis of the position of the Appellant's husband and the Appellant's delay in claiming asylum. The points taken by the Appellant were more than a disagreement with the result. That the Indian lawyer had not provided documents the Judge would have liked to have seen was not necessarily an unreasonable point to be taken by the Judge but it was insufficient. The country of origin information report relied upon by the Judge to find that the Appellant's sur place activities would not put the Appellant at risk was out of date. Involvement with the TGTE was a risk category in itself according to **GJ**. There was no engagement with the letter from a member of the TGTE who had said that the Appellant's involvement was greater

than Judge had found at [62] (that the Appellant's role was at a low level). The Judge failed to give anxious scrutiny and the determination should be set aside.

28. In response the presenting officer stated that the Judge had made adequate findings and was aware of the substance of the medical evidence. The Appellant's challenge had unnecessarily compartmentalised the determination rather than looking at the determination as a whole. Dr Dhumad had made clear that the Appellant only had a moderate risk of suicide. One had to question why they would be an increased risk when there had been no suicide attempts since the Appellant had been in the United Kingdom. The two attempts Dr Dhumad referred to had taken place in India. There was no explanation from Dr Dhumad why there would be a heightened risk to the Appellant's health such that she might do something she had not done since arriving in the United Kingdom in 2014.
29. The Judge had not failed to make a finding on PTSD it was that she could not make a finding as to the reason for PTSD because of the different possible reasons that had been given. At [51] of the determination the Judge noted that there were 3 different diagnoses by medical professionals. How in those circumstances was the Judge to come to a finding? If the Judge did not accept the Appellant's account then the Appellant would not be suffering PTSD because of what the Appellant claimed had happened. Although the Judge had not referred to either the case of **J** or **X and Y** this case was far removed from a suicide risk case. From the rejection of the Appellant's account it followed that the condition the Appellant presently finds herself in was not as a result of alleged mistreatment at the hands of the authorities in either Sri Lanka or India.
30. The Judge did not say that she was not making a finding about whether the Appellant was sexually abused it was that the Judge had great difficulty with the Appellant's claim that the Appellant had been sexually abused. The Judge did not accept the Appellant's narrative. The Judge had made a finding about the Indian lawyer's evidence, it was not accepted. At [59] the Judge had begun the paragraph by saying "in the circumstances" she place no evidential weight on the uncle's statement or the advocate's letter. The circumstances the Judge was referring to were in the previous two paragraphs, [57] and [58], her finding that the letter from the lawyer was inadequate because of omissions and there were no documents provided regarding the company which the Appellant had previously promised she would supply. The uncle should have been in a position to give further evidence as to his involvement with the Appellant.
31. The Judge had dealt with the claim about diaspora activities and found the Appellant was operating at a low level. The evidence the Appellant relied upon did not establish a profile that would mean she would come to the attention of the Sri Lankan authorities upon return. The Judge had applied anxious scrutiny to this case. In conclusion counsel argued that the risk of self-harm to the Appellant was reported as high based on the letter from the community health trust drafted by a psychiatrist. This seemed to be the reason why the Appellant had been admitted to Newham hospital.

There had not been a suicide attempt in the United Kingdom but the medical authorities evidently felt it was likely that there would be one if the Appellant was not treated. The sectioning of the Appellant (who had agreed to be admitted) was a pre-emptive move. That was a factor in Dr Dhumad's assessment.

32. The Appellant had given her explanation why she wished to cover up the sexual abuse. The Judge had made a material error of fact stating that the Appellant had conceived her daughter after experiencing problems in India. The conception was in January 2014 before she was detained by the Indian authorities. The Appellant had produced evidence of the company although counsel accepted that it was not entirely clear when she had produced it. The documents at the end of her bundle were written in French. Counsel accepted that the uncle's statement did not refer in terms to those documents.

Findings

33. The Appellant's challenge in this case to the findings of the Judge is a reasons-based challenge arguing that the Judge has overlooked important aspects of the medical evidence and has insufficiently reasoned other parts of the determination when rejecting the Appellant's claim. The Appellant's claim broke down into two parts. The first was that she feared return to Sri Lanka because she had been involved outside the country for the TGTE working for a company that hosted their website and because she had been arrested and ill-treated in Sri Lanka by the authorities in 2013 for helping the LTTE. The 2nd part of the claim was that as a result of the ill-treatment the Appellant claimed to have suffered in both Sri Lanka and subsequently in India she now had severe psychological symptoms, had attempted suicide and was a suicide risk. The Appellant's argument is that her psychiatric condition is set out in some detail in the medical evidence and this had not been properly considered by the Judge.
34. The Judge had not found the Appellant to be a credible witness and was concerned about a number of aspects of the Appellant's claim in reaching that conclusion. There was an absence of evidence of the Appellant's involvement with the company that hosted the TGTE website. Given the claim that this activity put her at risk upon return it was a core part of the claim and the Appellant needed to provide evidence to substantiate it. Although corroboration is not required as a matter of course in asylum appeals, where the information to support a claim could be reasonably easily obtained but it has not been it is open to a Judge, as here, to draw an adverse inference.
35. It was inconsistent that if the Appellant's husband was at risk he would not have travelled to the United Kingdom with the Appellant on a visit visa he was issued with. That he did not travel to a place of safety when he had the opportunity to do so, strongly suggested that he did not consider himself at risk undermining the claim that the Indian authorities had an adverse interest in the Appellant. A letter said to support the Appellant's claim written by an Indian lawyer had omissions of a type which if the

lawyer had been genuinely involved in the case would not have occurred thereby undermining the credibility of the letter and that part of the Appellant's case. The Appellant herself had substantially delayed her claim for asylum after arriving in this country which taken with the husband's non-arrival suggested a motive for coming to this country that was not connected to the need for international protection.

36. The Judge was also concerned as to the nature of the medical evidence which was not as clear as was put in submissions. Whilst it was clear the Appellant was suffering from depression as the Judge herself noted, the causes of that depression were not straightforward. The treating physician at Newham General hospital indicated the Appellant could have been suffering from postnatal depression or possible post-traumatic stress disorder or moderate to severe depression. It was not for the Judge to speculate on what the Appellant's condition might be or what was causing it. It was for the Appellant to produce evidence to show to the appropriate standard that what the Appellant was suffering was caused by the Appellant's previous experiences.
37. The Appellant relied very heavily on the report of Dr Dhumad but that too is not as clear as was argued. Dr Dhumad found that the Appellant's current psychological symptoms were caused by the Appellant's arrest and torture in 2013 but if the Appellant could not show to the lower standard that those events had occurred that somewhat undermined Dr Dhumad's conclusion. The doctor spent two hours interviewing the Appellant but he had not seen the Appellant being cross-examined or heard any observations (as the Judge had) from the presenting officer as to why the Appellant's claim could not be accepted. By contrast the Judge was in possession of more information than Dr Dhumad and better placed to assess the credibility of the Appellant's claim. It was not Dr Dhumad's function to cross examine his patient. Whilst he had clinical experience in diagnosing mental health problems the establishment of the truth behind the Appellant's claims was a matter for the Judge.
38. It was not the case that the Judge made her findings on credibility and then rejected Dr Dhumad's report. That would be to make the error disapproved of in the case of Mibangi. The Judge was looking at all of the evidence holistically. The risk of suicide was moderate. The treating physicians at Newham Gen Hospital in December 2015 had been concerned that there might be a risk of suicide but the Appellant had not attempted suicide in the United Kingdom. A difficulty with paragraph 16.4 of Dr Dhumad's report (that the risk of suicide would be greater if the Appellant felt deportation was close) is that Dr Dhumad referred to the protective factors for the Appellant as being the Appellant's daughter and her husband. The Appellant's case is that she has not had any contact with her husband since October 2015 implying that what she told Dr Dhumad was different to what she told the Judge. This would not be the first time that what the Appellant told a doctor was different to what she told the Tribunal, see [50] of the determination. There the Judge noted that the Appellant had told her GP in the United Kingdom that she was married to a

doctor suggesting that the Appellant was an unreliable historian of her own account. It was for the Judge to make a finding on credibility.

39. There were a number of reasons why the Appellant might be depressed as the Judge was aware. Dr Dhumad's report was one factor to be taken into account. It had to be given weight because of his professional experience and qualifications but it was not determinative by itself of the case. The Appellant's circumstances were quite different to those of the Appellant in **GJ** referred to in the grounds of onward appeal. That Appellant had clearly expressed an indication to commit suicide. In this case Dr Dhumad was speculating that the risk of suicide would increase if the Appellant felt the deportation was close. Dr Dhumad specifically reported at paragraph 10.7 that the Appellant had no active plans to attempt suicide. He also referred at section 11.2 that the Appellant's condition had worsened after the refusal of her asylum application but it had not led to a suicide attempt then. It is speculation to argue on the basis of this medical evidence that the Appellant is a suicide risk.
40. The refusal of the Appellant's asylum application had come after the Appellant's period of time in Newham General hospital. At page 41 of the Appellant's bundle it was stated that the Appellant was admitted into hospital at Newham General because she was considered to be high risk to herself and her daughter's safety and well-being. It is not surprising that the Judge should have indicated in her determination that it was difficult to make findings in relation to whether the sexual abuse the Appellant complained of had in fact occurred.
41. The Judge was concerned that the Appellant should have wished to start a family in India before securing a safe destination for herself and her husband. Whilst it is correct that the Appellant's case is that she conceived in January 2014 she had been living in India since 2005. In interview she said that because of the arrest in 2013 in Sri Lanka her life in India became miserable. Whilst she said that people from Q Branch came to the company and accused her of working for the LTTE after she became pregnant, she also referred to the authorities in India coming to her company three to four times and also to her house to ask questions. The evidence suggested that the Appellant's complaints of harassment from the Indian authorities included episodes before she became pregnant leading to the Judge's querying of this part of the case. The evidence was not as clear-cut as was submitted.
42. The Judge had not said in her determination that the Appellant became pregnant after the Indian authorities visited her company/house. What the Judge said was that the Appellant's perception was the authorities were treating her differently following her return to India. That followed from what the Appellant had said in her substantive asylum interview and the Judge did not make a material error of fact at that point of the determination. The Appellant had indicated that her problems began when she returned to India after her detention in Sri Lanka in 2013.

43. The Appellant's answers in interview were that after what had happened to her in detention she was worried whether she might get pregnant at all. The Judge's point was that it was inconsistent the Appellant would wish to start a family at that stage. In those circumstances it was open to the Judge to conclude as she did that it was implausible that the Appellant would seek to become pregnant rather than seek international protection. As the grounds conceded it was a matter for the Judge to decide how much weight could be placed on the evidence presented to her.
44. The Appellant relied on evidence of the company she said she jointly owned with her husband and uncle because that was the link to the Appellant's support for the TGTE. However, the Appellant did not produce evidence that she was involved with the company even though she had promised in her substantive asylum interview that that was what she would do. What was actually produced were a number of documents concerning a company operating in Switzerland and India but which were not linked to the Appellant herself. The witness statement of the uncle did not clarify the matter and it was open to the Judge to reject his evidence accordingly.
45. The Appellant's case was not helped by the vague reason given by the uncle why he could not travel from Switzerland to the United Kingdom for something as important as the Appellant's asylum appeal. Through his contacts he had apparently arranged for the Appellant's release from Sri Lanka on payment of a bribe yet he could not make the flight to the United Kingdom. In those circumstances the Judge had to evaluate a statement written by a witness who was not present and who could not be cross examined on the veracity of that statement. The statement did not take the Appellant's case significantly further because it did not clarify the issue regarding the company. In those circumstances it was open to the Judge to place no weight on the statement. The criticisms of the determination made in the grounds and in submissions to me are a mere disagreement with the Judge's findings. The disagreement with the Judge's findings regarding the inadequate letter received from the lawyer in India are also not indicative of a material error of law.
46. There were a number of serious problems with the Appellant's case. For example, at [60] the Judge pointed out that when it was clear that the authorities were aware that the Appellant had escaped from Sri Lanka they were said to have continued to attend the Appellant's parents' home in Sri Lanka. That as the Judge pointed out would be superfluous. The fact that the Appellant put forward such implausible evidence inevitably led the Judge to question the veracity of what the Judge was being told. The finding at [60] that the Appellant's claim was not credible was not made in isolation. The Judge relied on cogent reasons which she gave in her determination.
47. The final point made by the Appellant is that the Judge's conclusions on risk from sur place activities was based on out of date evidence. The grounds of onward appeal noticeably do not indicate what difference any up to date background material would make to the Judge's conclusions.

What **GJ** in fact said at paragraph 356 (7) (d) was: “Individuals who are, or are perceived to be, a threat to the integrity of Sri Lanka as a single state because they are, or are perceived to have a significant role in relation to post-conflict Tamil separatism within the diaspora and/or a renewal of hostilities within Sri Lanka would be at risk”.

48. The important words there are “significant role”. This Appellant did not have a significant role in post-conflict Tamil separatist activities within the diaspora. Her role was a low-level one. Although the Judge was criticised for not accepting or indeed referring to a letter of support the Appellant had received, given that the author of the letter had not made himself available to be cross examined, it is difficult to see what weight the Judge could have given to that evidence. In any event it was not necessary for the Judge to set out each and every piece of evidence put before him or her. The grounds are quite wrong at paragraph 25 when they claim that the Judge had made no specific findings of fact on whether the Appellant’s activities in the United Kingdom would give rise to a risk of persecution.
49. The Judge had found in terms at [64] that on the basis of the background material the Appellant could safely return to Sri Lanka because mere involvement with prescribed organisations did not give rise to a risk. As I have indicated **GJ** requires a significant level of support for diaspora activities to give rise to risk on return but this Appellant could not show that. The Appellant had sought to raise a large number of different arguments each of which the Judge carefully considered and gave cogent reasons for rejecting. The Appellant’s overall credibility was rejected for sound reasons. The medical evidence was not clear-cut, it was looked at in some detail by the Judge but it did not necessarily confirm the Appellant’s case. Dr Dhumad’s report was predicated on an assumption that the Appellant’s account was correct but the Judge was in a better position to evaluate the Appellant’s credibility.
50. Dr Dhumad had said that the nature of the Appellant’s psychological symptoms were consistent with the response to a traumatic experience. He postulated “such as torture”. It was not for the Judge to speculate on what the cause of the Appellant’s psychological problems were, it was for the Appellant to demonstrate that they arose from what she claimed had happened to her in Sri Lanka in 2013 and to a lesser extent what had happened in India. The Judge did not accept that the events described in India had happened at all for the reasons she gave.
51. The Judge inevitably had more problems in determining what had happened in Sri Lanka in 2013 since the Appellant’s overall credibility was suspect. As the Judge pointed out there were a number of possible traumatic events which could be contributing to the Appellant’s depression. Dr Dhumad postulated torture because that was what the Appellant had said had happened to her and he found that the Appellant symptoms were consistent with that account. If however that account was not be believed or accepted then that diagnosis to a large extent fell away. The objections taken by the Appellant to this determination are mere disagreements with conclusions which were open to the Judge. The

Appellant and her representatives have embarked on a lengthy search for errors in a bid to overturn this determination. The components of the determination should not be looked at in isolation from each other. The determination should be looked at holistically. On that basis I find that the Judge gave sufficient reasons why she rejected the Appellant's claim and dismissed the appeal. I do not find that the Appellant is able to demonstrate any material error of law in this determination and I dismiss the Appellant's appeal against the decision of the First-tier Tribunal.

Notice of Decision

The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold the decision to dismiss the Appellant's appeal

Appellant's appeal dismissed

I make no anonymity order as there is no public policy reason for so doing.

Signed this 8th of February 2018

.....
Judge Woodcraft
Deputy Upper Tribunal Judge

TO THE RESPONDENT
FEE AWARD

No fee was payable and I have dismissed the appeal and therefore there can be no fee award.

Signed this 8th of February 2018

.....
Judge Woodcraft
Deputy Upper Tribunal Judge