



IAC-FH-CK-V1

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

Appeal Numbers: AA/04075/2015
AA/04191/2015
AA/04193/2015
AA/04194/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 17 November 2015**

**Decision & Reasons Promulgated
On 9 December 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE G A BLACK

Between

**P M
S K
U S
M E**

(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr N Garrod, Counsel instructed by Marsh & Partners
Solicitors

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

DECISION AND REASONS

1. This is an appeal by the appellants. The main appellant, a citizen of Sri Lanka, made an application for asylum which was refused by the Secretary

of State. Their appeals were heard by First-tier Tribunal (Judge Pacey) (“the Tribunal”), who in a decision promulgated on 14 July 2015, dismissed their appeals on all grounds.

2. The appellant’s claim was that his alleged involvement with the LTTE took place in 2009 and that this had come to light and placed him at risk from in or around 2013. That was the date that his problems started and he claimed that threats had been made to him. His claim was that a person known to him as K bore a grudge against him and he (the appellant) believed that [K] had given his name to the police in 2013 in connection with the 2009 matters. The Tribunal did not find the appellant’s claim to be credible.

Grounds for permission

3. In the grounds applying for permission the appellants contend that the Tribunal erred by taking into account that the appellant had returned to Sri Lanka in 2011 to collect his son, which caused the Tribunal to doubt that he was in fear of persecution.
4. The second ground was that the Tribunal failed to place weight on an arrest warrant and had taken into account factors as to how it was or was not obtained and/or rather the lack of information about how it was obtained. Accordingly it found that the appellant did not come within the risk categories in the country guidance of **GJ.** It is contended that if there is an arrest warrant then there is a reasonable likelihood that the person would then appear on a “stop” list.
5. The third ground was that the Tribunal failed to take into account the appellant’s evidence in cross-examination where he explained why there were two different dates on the arrest warrant; an original date of issue and a further date for re-issue.

Permission to appeal

6. Permission to appeal was granted on renewal to the Upper Tier by Deputy Upper Tribunal Judge Mandalia, who looked at the Record of Proceedings from the First-tier Tribunal. Those records confirmed that the appellant had explained why the arrest warrant had carried two dates. It appeared therefore that the Tribunal had not taken this evidence into account. It was accepted that the Tribunal failed to make any finding on the genuineness of the arrest warrant which was at the heart of the appellant’s claim. The permitting judge further observed that the Tribunal had made a number of negative credibility findings and also commented that ultimately the grounds may amount to a disagreement with the decision.

First-tier decision

7. In the Decision and Reasons the Tribunal found the appellant's account to be lacking in credibility and additionally the Tribunal relied on points made in the refusal letter. At [34] the Tribunal found that it was not credible that the appellant was in fear from events in October 2009 because he returned to Sri Lanka for four days in 2011 and there was no evidence that the authorities had shown no adverse interest in him. At [35] the Tribunal found it lacking in credibility that the appellant did not enquire as to how his mother had obtained a copy of the arrest warrant issued in his name. At [36] the Tribunal found that there was no documentation from the Sri Lankan lawyer to support how he came to obtain the relevant documents.
8. At [37] the Tribunal found that the appellant failed to explain why the arrest warrant should show two dates. [It is accepted that the appellant did explain this in cross examination.] At [38] the Tribunal found it lacking in credibility that K would harbour a grudge after eleven years. The appellant himself had provided no evidence to substantiate his claim to have reported that individual to the police or how he knew he was in Cyprus in 2011 [38 and 39] and in general the Tribunal found the evidence about that individual to be vague, particularly in light of its centrality to the appellant's claim. The Tribunal found it lacking in credibility that the appellant would not have made enquiries as to whether or not that person was in Sri Lanka.
9. There was no evidence that the individual was well-connected so that he could engage the authorities' help if the appellant returned [41 & 42]. The appellant provided few details about his asylum claim in Cyprus. The Tribunal found it lacking in credibility that he would not have been given reasons for the refusal of that claim in writing. At [42] the Tribunal found it lacking in credibility that the appellant delayed making his UK asylum claim until July 2013. Those were the main points taken into account by the Tribunal in reaching its decision.

Discussion and decision

10. I heard submissions from both representatives that I have taken into account. I also rely on the Rule 24 response prepared by Mr Melvin. As submitted by Mr Melvin this morning, implicit in the findings made by the Tribunal, in particular that the arrest warrant was a copy, is the inference that it was not a reliable document. I agree. Whilst accepting that the Tribunal did not specifically make a finding in terms as to the genuineness or not of the arrest warrant, I am satisfied the Tribunal's main focus was on the fact that the arrest warrant itself was in fact a copy. The Tribunal was concerned with that the document was not reliable as evidence. There was therefore no need for the Tribunal to consider the matter further and no error is disclosed.
11. I am satisfied that the Tribunal erred in failing take into account the explanation given by the appellant in cross-examination as to the two dates shown on the warrant. However, I do not find this to be a material

error of law. First of all the document was itself a copy and secondly, given the other concerns raised and in light of the Tribunal's overall credibility findings, and further because there was no other evidence to support the appellant's explanation.

12. As to the criticism of the chronology I find no material error of law there. The Tribunal has taken into account all relevant matters in that regard. There is no evidence to support the claim that the Tribunal misunderstood the chronology of events which is clearly set out in the summary of the appellant's claim at [6 -20] of the decision. The Tribunal had in mind that the authorities found explosives at a property in 2009 and found that that fact did not deter the appellant from returning to Sri Lanka in 2011 and did not come to the attention of the authorities. The arrest warrant apparently was not issued until December 2013, yet the appellant made his claim on 29 July 2013.
13. Overall I find the appellant's grounds to be a disagreement with the findings made none of which are material to the decision, particularly given the significant negative credibility findings made by the Tribunal (**Shizad (sufficiency of reasons : set aside) [2013] UKUT 85 (IAC)**).

Notice of Decision

Accordingly I dismiss the appeal and the decision shall stand.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 30.11.2015

GA BLACK
Deputy Upper Tribunal Judge G A Black

TO THE RESPONDENT FEE AWARD

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

Signed

Date 30.11.2015

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