



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal No: AA/03575/2015  
Appeal No: AA/03578/2015  
Appeal No: AA/03581/2015

THE IMMIGRATION ACTS

**Heard at Field House**  
On 3 March 2016

**Decision and Reasons Promulgated**  
On 15 April 2016

Before

**THE HONOURABLE LORD BURNS**  
**(SITTING AS JUDGE OF THE UPPER TRIBUNAL)**

Between

**MR LWP**  
**And Others**  
**(Anonymity order made)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the appellant: Ms N Ahmad; Nag Law Solicitors  
For the respondent: Mr T Melvin, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The first appellant (the appellant) is the husband of the second appellant and father of the third appellant. They are citizens of Sri Lanka. The appellant appeals against the decision of the First-tier Tribunal promulgated 28 July 2015 dismissing an

appeal from the decision of the respondent refusing him asylum as a refugee and humanitarian protection. The decision of the respondent is dated 13 February 2015.

2. The appellant was born on [ ] 1979 in Galli, Sri Lanka. He is a Sinhalese. He first arrived in the UK on 24 October 2010 on a student visa and completed a degree in project management at Bedfordshire University. Although the dates are not entirely consistent in the decision letter and determination of the First-tier Tribunal, it appears that he left the UK for Sri Lanka in March 2012 for about 2 weeks and again in June 2012 in order to return to Sri Lanka to be married to the second appellant. He appears to have left Sri Lanka for the last time in June 2012 arriving in the UK on 24 July 2012.
3. He claims to have encountered problems in Sri Lanka from August 2009 when he was stopped by the police at a checkpoint and taken to a police station for further enquiries. This was because he had helped disabled people some of whom were Tamil and ex LTTE members. He was questioned for two days. On 5 August 2009 he was again arrested and taken to an Army camp for questioning. He was detained for two days during which he was beaten.
4. He left Sri Lanka in October 2010. After completing his degree at Bedford University he returned to Sri Lanka in about June 2012 in order to get married. Whilst on honeymoon he claimed that the Terrorist Investigation Division (TID) discovered that he had returned. At paragraph 18 the First-tier Tribunal narrates that he was instructed to report to the TID on 17 June 2012 and did so two days later. He was arrested for failing to comply with conditions on which he was released from detention in August 2009, questioned and beaten. He was taken to court and released on bail on 22 June 2012 after paying 100,000 rupees and upon a condition that he signed on at the TID offices every week. However, he fled Sri Lanka on 23 June 2012 arriving in the UK on 24 July 2012.
5. His claim for asylum was based on his fear of returning to Sri Lanka. He claimed that the authorities were looking for him and that since his departure his brother-in-law has been arrested.
6. The appellant first claimed asylum on 18 January 2014. He underwent a screening interview on 18 February 2014. His solicitors proposed certain amendments to that interview in a letter dated 27 February 2014. He was interviewed again on 9 February 2015. On 13 February 2015 his claim for asylum and international protection were refused by the letter referred to.
7. In that letter certain inconsistencies were noted in respect of the appellant's claims regarding his arrests and detentions. At the screening interview of 18 February 2014 he is recorded as claiming that he had first been arrested on 3 August 2009 for three days and thereafter again arrested on 5 August 2009 for two days. The solicitor's letter of 27 February 2014 sought to correct these dates. It was claimed in that letter that his first arrest was on 4 August as opposed of 3 August 2009 and that after three days he had been released on 7 August 2009 but arrested the next day.

Further inconsistencies were highlighted in respect of his answers in respect of these matters in his interview of 9 February 2015. At answer 91 in that interview he had again claimed to have been arrested on 3 August and 48 hours later.

8. In respect of his final detention in June of 2012 he had claimed in the interview of February 2015 that the TID had discovered he was in Sri Lanka because of his wedding. The respondent did not find it credible that the authorities would have found out about his return in that way. His claims to have been arrested in both in 2009 and 2012 were found to be inconsistent with background information since he or his family had never been involved with the LTTE and had never been involved in anti Sri Lankan Government activity.
9. In his appeal to the First-tier Tribunal the appellant and his wife gave evidence. In his grounds of appeal he accepted that there were inconsistencies in respect of the dates of arrest and release but claimed that he was a torture victim and had been traumatised by that torture. The tribunal found that his attempts in his statement dated 14 July 2015 to respond to criticisms of credibility made by the respondent were inadequate and contained further embellishments and contradictory evidence. The appellant was found to be vague and evasive. At paragraph 41 it is narrated that the appellant claimed that the inconsistencies between his accounts of being arrested and released were the fault of his solicitor and that he, the appellant, had not read the solicitor's letter dated 27 February 2014. The tribunal found that he was seeking to amend the recorded screening interview and that his attempts to change the dates of his arrest were due to the fact that he had not been arrested on those dates as claimed. His evidence was rejected as incredible and inconsistent. Further, the tribunal found that, had the appellant actually been arrested in August 2009, the authorities would have his records and would have been keeping a track of his movements. The appellant's evidence had been that the authorities did not know of his travel to the UK or that he had applied for a student visa in 2009. He had contradicted himself by saying that after his release the authorities were keeping a check on his movements. There was no proper explanation as to why the appellant had returned to Sri Lanka in March or June of 2012 when, according to his evidence, the authorities had made many visits to his parents' house looking for him. Furthermore the appellant had travelled to Sri Lanka and returned to the UK without problems and the tribunal concluded that he was of no interest to the authorities and had invented the visits by the authorities to his parents' house in order to claim asylum.
10. The appellant claimed that his name had been given to the authorities in March or April 2012 by LTTE members who had been arrested and had given information about the appellant assisting the LTTE between 2008 and October 2010. This was found to be fabrication on the basis that, if the authorities had known of this work, they would have taken action much earlier than June 2012. He had been arrested and released on two occasions in 2009 and it was incredible that the authorities would wait until his return from the United Kingdom in 2012 before again arresting and detaining him. In any event, he had left Sri Lanka on three occasions through

normal channels with his own passport without problems. This demonstrated that the authorities had no interest in him.

11. The appellant had produced various documents from Sri Lanka said to vouch his arrest in 2012. These included a letter from his attorney dated 18 June 2015, a report given to the magistrate by Sri Lankan police and a warrant for the appellant's arrest signed by a magistrate upon the basis of the police information. The documentation from the police and the warrant was dismissed by the tribunal as having been produced in order to embellish the appellant's claim. They had existed since 2012 but had only been sent to the appellant in June of 2015 without explanation. There was no explanation as to what happened to the money given as surety for the appellant's release on 22 June 2012.
12. On the basis of the tribunal's assessment of the credibility of the appellant's claims, the judge dismissed his claim for asylum and humanitarian protection. The appeals of the second and third appellants were also refused.
13. Before this tribunal, Ms Ahmad made two principal submissions. Firstly the tribunal had erred in law in its credibility findings. While it had described the appellant as being vague and evasive no examples had been given in order to substantiate that. It was submitted that there was no proper basis advanced by the tribunal for the findings of credibility made against the appellant. Secondly, Ms Ahmad submitted that the judge had erred in law in his approach to the supporting evidence advanced by the appellant. The only mention of this was at paragraph 48 and no proper analysis of the documents had been conducted. She referred to *PJ v SSHD* [2014] EWCA Civ 1011. While the documents had only been obtained shortly before the hearing, if genuine they showed the appellant was at risk. They were central to the appellant's claim. In the skeleton argument advanced prior to the First tribunal's hearing the respondent was invited to verify the new material and to ask for an adjournment if required. No such request had been made. There was no proper basis for rejecting these documents.
14. Mr Melvin for the respondent submitted that the tribunal was entitled to make the findings of credibility that were made having regard to the fact that the appellant had returned repeatedly to Sri Lanka and had been able to leave the country using his own passport without any problem. This substantially undermined his claim of being at risk on return to Sri Lanka. The tribunal had set out in paragraphs 39 to 49 the basis upon which his evidence was rejected is incredible and the tribunal could not be said to have materially erred in that respect.
15. In relation to the documentation produced, Mr Melvin referred to a letter from the British High Commission, Colombo dated 3 July 2015 which confirmed that 86.7% of letters provided by Sri Lankan attorneys were not credible. The documents founded on by the appellant included information from an attorney which forwarded the documents including the warrant for arrest and the police report. Having regard to the overall findings and credibility the tribunal was entitled to

reject that evidence in the way that it had done at paragraph 48 of the determination.

### **Decision**

16. The tribunal sets out at paragraphs 39 to 49 of the Determination detailed examples of the inconsistencies and contradictions given by the appellant in respect of his account of his various arrests and detentions. His solicitors attempted, in the letter of 27 February 2014, to correct some of those issues but the appellant then blamed them for providing erroneous information in that letter. At paragraph 49 the tribunal points out that the appellant claimed that the authorities were unaware of his travel to the United Kingdom or that he had applied for a student visa. That was despite the fact that the appellant claimed to have been arrested in August 2009. It was a legitimate for the tribunal to conclude that, had that been the case, the authorities would have his records and would be keeping an eye on his movements. There was a contradiction to the extent that the appellant himself stated that, after his release, the authorities were keeping a check on his movements. The tribunal was entitled to come to the conclusion at paragraph 43 that he had invented the visits by the authorities to his parents' house since, if true, the appellant would have known of those visits and would have been aware of the risk of arrest and detention if he did return. Furthermore, the tribunal was entitled to be sceptical about his claims that his moves were being checked by the authorities who waited for two years until his return to Sri Lanka before arresting and detaining him but allowed him repeatedly to enter and leave the country. The description of his evidence as vague and evasive was justified and cannot be said to be a material error in law standing the sustainable findings of credibility of which the tribunal made on the basis of the factors set out above.
17. Having arrived at these legitimate conclusions about the appellant's credibility the tribunal was entitled to reject the documentation he produced as being fabricated. The tribunal was entitled to have regard to its late appearance. No application was made by the respondent to postpone the hearing and there was no obligation on the tribunal to do so. The findings on the credibility of the appellant's account and the ability to leave and enter Sri Lanka were a sufficient basis on which to reject that body of evidence.
18. For these reasons this appeal is refused. The appeals of the second and third appellants are also refused.

### **Notice of Decision**

The appeals are refused.

Signed

Date

Lord Burns  
Sitting as a Judge of the Upper Tribunal

**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

Lord Burns  
Sitting as a Judge of the Upper Tribunal