



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

Appeal Numbers: AA/07812/2014
AA/07817/2014
AA/07051/2014

THE IMMIGRATION ACTS

Heard at Birmingham

**Decision & Reasons
Promulgated**

On 25 January 2016

On 16 March 2016

**Before
DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA**

Between

[R R]

[A S]

[A N]

(anonymity directions not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: first appellant in person

For the respondent: Mr Johnston, Senior Presenting Officer

DETERMINATION AND REASONS

The appellant and the circumstances of the appeal

1. The appellants are nationals of Pakistan and the second and third appellants are the first appellant's dependents. The first and second appellants are partners and the third appellant is their minor child. As the second and third appellant's appeals rests or falls with that of the first appellant, I shall consider the first appellant's appeal and referred to her as "the appellant".

2. The appellant's appeal the Upper Tribunal was against the determination of First-tier Tribunal Judge Tully dated 9 December 2014 refusing her appeals against the decision of the respondent dated 3 September 2014 refusing her asylum and humanitarian protection in the United Kingdom.
3. Permission to appeal was at first refused by first-tier Tribunal Judge Scott Baker on 12 January 2015 and subsequently granted by Upper Tribunal Judge Lindsay on 22 April 2015 on limited grounds stating that it is arguable that the Judge has erred in law as he has not considered whether the appellant would be at risk from the authorities on return to Pakistan as the unmarried mother of a child, (the second dependent) she has had with a married man (the first dependent) and with whom she has an ongoing romantic relationship. The decision is incomplete without consideration as to whether there is a future risk of serious harm to the appellant and her dependents on this basis.
4. The First-tier Tribunal Judge in his determination found the following which I summarise. The appellant's claimed partner, the second appellant made his own asylum claim on 5 January 2011 which was refused on 19 July 2011. He became appeal rights exhausted in January 2012. An application for permission to seek judicial review was refused on 23 February 2012.
5. Essentially the appellant's case is that she met the first dependent in Pakistan in June 2008 when she was already married. They entered into a relationship which ended in June 2010. In August 2010, the appellant came to the United Kingdom as a student. The first appellant in September 2010 also came to the United Kingdom as a student and they resumed their relationship in October 2010. They moved in together in December 2010. The appellant says that she returned to Pakistan in December 2010 to discuss marriage to the first dependent with her family and return to the United Kingdom on a student visa in January 2011. They underwent an Islamic marriage service on 14 February 2011.
6. Essentially the appellant's claim is the same as the first dependent's asylum claim which he made in his own right and which was refused. This is that he was previously married and is not divorced from his first wife, that both families have disapproved of his relationship with the appellant and have threatened them that they have reported them for adultery which is being pursued by the authorities in Pakistan.
7. Although the decision reached by immigration Judge Aziz relates to the first dependent claim, I find it has direct bearing on this matter because the factual matrix of both claims is essentially the same. The Judge relied on the case of **Devaseelan [2002] UKIAT 00702** in which it was said that the first Tribunal's determination stands as an assessment of the claim the appellant was making at the time of the

first determination. That decision is always the starting point. There is a material overlap of evidence in both appeals.

8. In the earlier determination of the second appellant, Judge Aziz accepted that the first dependent had been married in Pakistan that he had started a relationship with the appellant in 2008 and that they had continued that relationship in the UK when they both came here as students. There has been no further evidence produced on these matters and this was not disputed by the respondent at the hearing. These findings are adopted in this appeal. Judge Aziz further accepted that the relationship between the appellant and the first dependent was romantic in nature and this finding is also preserved. The relationship is also ongoing.
9. Judge Aziz accepted that the appellant and the first dependent families were not supportive of the relationship and concluded that the families, including the first dependent's first wife, were unhappy about the situation. However, the Judge concluded on the evidence before him that the parties had "essentially fabricated and asylum and human rights application on the back of a relationship which is disapproved of by both families".
10. Judge Aziz's findings are the starting point and the fresh evidence provided has to be considered. The appellant reproduced the FIR in respect of the appellant husband and asserts that it is genuine. She has however not sought to explain address the factors raised by Judge Aziz in respect of that warrant. The documents provided by the appellant are not such that reliance can be properly placed upon them. The judge placed no reliance on them to prove the appellant's claim.
11. "I find that the appellant has continued in her concoction of an asylum claim. I find that this gives amounts to little more than an attempt to re-litigate the issues raised in the first appeal, which was determined against the parties. I do not accept that the appellant has been the subject of legal proceedings in Pakistan or that she is at risk from the State as a result."
12. "Whilst Judge Aziz accepted that both families may be unhappy about the relationship she has with the first dependent I find that there is no reliable evidence other than the claim of the parties that they have issued threats. In view of my findings I am not prepared to accept the word of the parties in this case is reliable. Even if threats having issued the parties would be returning to Pakistan as a family unit. I have been offered no explanation why the parties could not live in an area away from the family".
13. There is also sufficiency of protection in Pakistan because it has a functioning security system and the parties could avail themselves of

such a protection if required. The Judge dismissed the appeal on all grounds.

14. The grounds of appeal state the following in respect of the ground permission was granted. The Judge failed to consider objective material and the Pakistan penal code and country of origin information and women's position in Pakistan. The Judge only found regarding threats is flawed and stated at paragraph 33 that even if threats have been issued the parties would be returning to Pakistan as a family unit.

Discussion and findings whether there is an error of law

15. I have given anxious scrutiny to the determination of First-tier Tribunal Judge Tully and have taken into account the parties submissions at the hearing, the full notes of which are in my Record of Proceedings.
16. The Judge in his determination found that the appellant has fabricated her asylum claim based on her relationship with the second appellant. The Judge was entitled to take into account the guidance given in **Devaseelan** that the determination of First-tier Tribunal Judge Aziz, in respect of the second appellant's asylum claim based on the same matrix of facts, as the starting point. There is no material error of law in the Judge's evaluation of the appellant's appeal in this regard.
17. Permission to appeal was granted on the basis that the Judge did not consider whether the appellant and her dependents are at risk of serious harm from the State authorities because of their relationship. The Judge accepted that the families of the parties may have disapproved their relationship but did not accept that they have been threatened with harm or that they will come to any harm from their respective families. The Judge also did not accept that their families have reported them to the authorities in Pakistan for adultery and placed no reliance on the documentary evidence provided that their families have reported them to the authorities.
18. In light of this therefore, there was no reason for the Judge to suspect or consider that the authorities, in themselves, would have any interest in the appellant and her husband. The appellant's case was put on the bases that she and her partner's family have reported them for adultery to the authorities. The Judge did not accept the documentary evidence provided that the authorities have any knowledge of their relationship or that the families have reported them for adultery. Having not accepted this evidence, there was no reason for the Judge to consider whether the authorities would have any interest in the appellant's and second appellant's second marriage. There was no evidence before the Judge that in Pakistan people do not divorce and marry again such as to give them cause for concern that the

authorities would look into their relationship in the absence of any report by their families.

19. Therefore, the Judge was entitled to find that the appellant would be returning with her husband and child as a family unit and the authorities would have no interest in them as no one has reported them for adultery to the authorities. The appellant would return as a married woman with her husband and child. There is no reason to believe that the authorities would have any interest in them.
20. The Judge also considered that the appellant and her family can relocate within Pakistan. He was entitled to make this finding on the bases that Pakistan is a huge and populous country with many towns and cities and that the appellant and her husband and child can live elsewhere.
21. The Judge in a careful determination did not find the appellant credible and did not find the evidence credible. He found that the appellant had continued in a concoction of an asylum claim which amounted to little more than an attempt to re-litigate the issues raised in her husband's appeal which has been determined against the parties.
22. There was no credible background evidence provided that in any way supported the appellant's thesis that she, her husband and child would be at risk from the authorities in Pakistan.
23. The appellant's grounds of appeal are her last desperate attempt to re-litigate the issues once again. Two first-tier Tribunal Judges have found the appellant and her husband not to be credible and their claim not credible. It has not been accepted that their families have reported them for adultery to the authorities or that they are at risk for this or any other reason in Pakistan from anyone.
24. I find that no error of law has been established in the First-tier Tribunal Judge's determination. I find that he was entitled to conclude that the appellant's not entitled to be recognised as a refugee or to be granted humanitarian protection in this country. I uphold the decision.

DECISION

I find that there is no error of law and I dismiss the appeal

March 2016

Dated this 7th day of

Signed by
Deputy Judge of the Upper Tribunal
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Mrs S Chana