



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

Appeal Number: IA243452014

THE IMMIGRATION ACTS

Heard at Field House

**Decision &
Promulgated**

Reasons

On 7 June 2016

On 8 June 2016

Before

UPPER TRIBUNAL JUDGE JORDAN

Between

KUNALENDRAN

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms A. Benfield, counsel, instructed by Birnberg Peirce & Partners, solicitors

For the Respondent: Mr I. Richards, Home Office Presenting Officer

FINDING ON ERROR OF LAW

1. The appellant complied with my directions of 7 April 2016. Both he and his wife attended the hearing.
2. Although the respondent has been supplied with the evidence of the appellant's marriage, Mr Richards did not have the file and the respondent has not commented upon the contents of the material submitted.
3. I have seen a boxed copy of a wedding DVD apparently professionally prepared which records the appellant's wedding whose cover features photographs of the appellant and his wife. Although I have not viewed its

contents, I heard from the appellant by way of a summary of the contents of the DVD.

4. I was shown a photograph album containing photographs of what purports to be a wedding involving the appellant and his wife.
5. I was shown but did not study copies of bank statements purporting to verify the payment of monies incurred in relation to the marriage.
6. The appellant contends this material was before the First-tier Tribunal Judge and that the marriage was attended by about 120 guests and, if this had been a charade, it was not likely that so many would have been complicit in it.
7. I am satisfied that the First-tier Tribunal Judge made an error of law in failing to take this material into account in his assessment of whether this was a marriage of convenience. His conclusion that he was not satisfied that the *'claimed religious ceremony was anything other than an attempt to give the appearance of a subsisting marriage'* was not lawfully open to him without a proper assessment of the material. In particular, he failed to give due consideration to the likelihood (if the event took place as claimed) that it was no more than a costly and elaborate lie involving the participation of a large cast of persons who took part in the deception.
8. I set aside the decision of the First-tier Tribunal.
9. The decision is to be re-made in the First-tier Tribunal.

ANDREW JORDAN
JUDGE OF THE UPPER TRIBUNAL
7 June 2016