



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/11480/2016**

Appeal Number:

Ex-tempore judgement

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 21 June 2017

Promulgated

On 05 July 2017

Before

UPPER TRIBUNAL JUDGE McWILLIAM

Between

MRS NAZIA KHURRAM
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Shah, 786 Law Associates

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

DECISION AND REASONS

1. The Appellant is a citizen of Pakistan and her date of birth is 28 November 1983. She made a claim for asylum which was refused by the Secretary of State in a decision of 5 October 2016. The Appellant appealed against that decision and her appeal was dismissed by Judge of the First-tier Tribunal McIntosh, in a decision promulgated on 9 January 2017, following a hearing at Taylor House on 21 November 2016. Permission was granted to the Appellant by Upper Tribunal Judge Martin in a decision of 15 May 2017.

2. The Appellant's evidence, in a nutshell, is that she married Mr Khurram Ajaz Bhutta in November 2006, against the wishes of their respective families, who sought revenge soon after the marriage. The Appellant gave evidence of having been physically assaulted by her in-laws and her husband having been seriously assaulted by her brother. The Appellant also claimed to be at risk from the authorities as a result of her husband's involvement with MQM. The judge stated as follows;

"21. The appellant fears that if she and her husband were to return to Pakistan they would be persecuted by their respective families and her husband would face persecution and prosecution from the Pakistani army who now have a regime of attack against members of MQM. Members of MQM are detained and some are killed. The appellant fears that her husband would be located by the army and treated in the way described.

22. The appellant fears that upon return to Pakistan both she and her husband would be easily located because her brother has access, as a journalist to resources that would allow him to easily find them."

3. The judge rejected the Appellant's claim to be at risk from family members (see paragraphs 36 and 37). Mr Shah abandoned any challenge to this. In regards to the Appellant's husband's membership of MQM, the judge concluded that the Appellant's husband would not be of any interest to the authorities. He made the following finding;

"38. With regard to the appellant's husband's involvement with MQM, this was for a very limited period in 2007 when he worked voluntarily to obtain charitable funds for the organisation. The appellant suggests that her husband would have attracted adverse interest from the Pakistani Government upon their return. I find, taking into account the objective evidence that it is unlikely that her husband would be of interest to the authorities."

4. The grounds, as I indicated to Mr Shah at the hearing before me, are insufficiently particularised. Mr Shah helpfully focused on one ground stating that the others were not pursued. The sole ground relied on was that the judge had failed to take into account evidence at page 30 of the AB (which post-dated the Country of Origin Information Report on which the judge relied) which established, according to Mr Shah, during a raid on the MQM headquarters in 2016 the Pakistan Rangers seized identity documents, including the Appellant's husband's. As a result he and Appellant are now at risk.
5. The document at page 30 is a printout from a website entitled "PTA bans MQM's official website in Pakistan" dated 23 August 2016 stating that the Pakistani government has banned access to MQM's official website and this is after the government's action taken against the political party the evening before. The documents cites a quote which reads as follows: "Sindh Rangers on Monday night initiated action against Muttahida Qaumi

Movement (MQM), for allegedly inciting violence in the metropolis". It is this evidence which Mr Shah relies on to argue that the Appellant would be at risk because the authorities have seized her husband's membership card in a raid and thus will identify him. It is, in my view, at best a tenuous argument.

6. The judge did take the document into account. The judge set out a very comprehensive account of the Appellant's evidence including the document that Mr Shah referred me to at page 30 of the AB. Reference is made to this at paragraph 24 of the decision:

"24. Mr Khurram Ajaz Bhutta stated that Mr Ayub is currently in Pakistan and is fully aware of the risks that the couple face. He sent copies of newspaper articles confirming the close relationship that Mr Bhutta's father has with the vice president as well as a copy of a Public Notice of Disownment of a Child that was ringed and I note comes from a newspaper article dated in 2016. I understood that the Pakistani Government had banned the MQM's official website in Pakistan and had asked all Pakistani ISP's to block access to their website. As a consequence the belief is that the appellant's father would disclose the whereabouts of Mr Khurram Ajaz Bhutta to the Pakistani Government if he were to return to Pakistan and he would therefore be in danger."

7. The evidence must be viewed in the context of the finding at paragraph 38, to which there is no challenge. The significance of the finding is that the Appellant's husband's role was insignificant and historic so that even if the evidence, at page 30 of the AB, establishes that MQM is now an illegal organisation and that a raid took place during which membership cards were seized, it is not arguable that this would result in the identification of the Appellant's husband thereby putting him at risk.
8. The judge, having taken into account the evidence including that at page 30 of the AB, had regard to the background material before him. Paragraph 32 and of the decision reads as follows;

"32. The Country of Origin Information (COI) Report for Pakistan dated 9 August 2015 states: In relation to the MQM, this was led by Altaf Hussain and was founded in 1984. The party was formed to represent the interests of Urdu speaking migrants (from India, following partition). The MQM is the fourth largest party in the National Assembly with 25 seats and is part of a coalition Government in Sindh.

9. The grounds inadequately explain how the above background evidence or indeed the findings in respect of the Appellant's husband's limited and historic role are materially undermined by the document at page 30 of the AB. The judge was entitled to conclude that the Appellant's husband was of no interest to the authorities.

10. The judge had regard to Section 8 of the 2004 Act noting that the Appellant made a claim for asylum in 2016, six years after having left Pakistan, ten years after the marriage and nine years after her husband worked for MQM on a voluntary basis. He stated as follows;

34. I am aware of the provisions of Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (the 2004 Act) and in view thereof make the following findings in relation to the claimant's credibility. In so doing I appreciate that Section 8 is not the starting point for my assessment of credibility but a factor I take into account in my overall assessment of it (**SM [2005] UKAIT 00116**)."

11. Mr Shah although having initially indicated to me that the sole ground of appeal related to the document at page 30 of the AB, addressed me in respect of Section 8 of the 2008 Act. He submitted that the judge was wrong to take into account the delay by the Appellant in making a claim for asylum because it only became apparent in 2016 that her husband would be at risk as a result of the ban on the organisation and the raid on the premises. This does not sit well with the Appellant's claim that she was at risk on return as a result of her marriage which formed the basis of her claim to be at risk on return from family members. The judge was wholly entitled to conclude that the Appellant had delayed without good reason making a claim.

12. Although Mr Shah in oral submissions argued before me that the account of the Appellant's evidence as set out by the judge was not accurate. This was not raised in the grounds of appeal or inadequately expanded on in oral submissions.

13. For the above reasons there is no error of law and the decision of the First-tier Tribunal to dismiss the appeal on asylum grounds is maintained.

No anonymity direction is made.

Signed Joanna McWilliam

Date 3 July 2017

Upper Tribunal Judge McWilliam

