



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/06402/2017**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 15 January 2018

Promulgated

On 01 February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY

Between

**MRS PARIMALAM SITHAMPARANATHAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms F Allen, Counsel instructed by A & P Solicitors

For the Respondent: Ms K Pal, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals, with permission, against a decision of Judge of the First-tier Tribunal Lawrence who, in a determination promulgated on 17 August 2017, dismissed her appeal against a decision of the Secretary of State, dated 20 June 2017, to refuse to grant asylum.
2. The appellant is a citizen of Sri Lanka born on 21 February 1952. The basis of her claim to asylum was set out in short form in answer to questions at interview. She said that she had lived in the same house as her nephew, Bavanathan, who had been involved in the LTTE. In 2015 the army had come to the home in which they were living, found some notices relating to Black July, and when they searched the house then detained the appellant for two days before releasing her after a bribe was paid.

3. Judge Lawrence heard evidence from the appellant and from her son and daughter. He noticed that there were significant discrepancies between the appellant's evidence and that given by her children, in particular relating to whether or not the appellant had lived with Bavanathan in his house rather than nearby. He concluded, having taken into account the appellant's age and the fact that she was nervous throughout the hearing, that her claim lacked credibility and that she would not face persecution on return to Sri Lanka.
4. Grounds of appeal were submitted which argued that the judge's finding that the appellant was not credible was not open to him and stating that he had declined to make findings of fact on whether her two cousins were high-ranking former members of the LTTE as he considered that that was not the reason for the claimed arrest and was therefore not material and that he had an obligation to make findings of fact on material issues and had erred in law in not doing so. Reference was also made to a decision of the Upper Tribunal in **PP (Sri Lanka) v SSHD [2017] UKUT 00117** which stated that:

“A Tamil female single head of household residing in the former conflict zone of north and north eastern Sri Lanka may be at risk of sexual abuse and exploitation perpetrated by members of the police, military and paramilitary state agents.”
5. The grounds went on to state that the appellant was a widow with no close family in Sri Lanka and would therefore be vulnerable if returned.
6. The appellant did not, when interviewed, state that she had any relation other than Bavanathan, who had been connected to the LTTE. The grounds of appeal to the First-tier Tribunal are short. They stated that the Secretary of State had not accepted that the appellant was a supporter of the LTTE from 2003 onwards and had not assessed her risk due to her family and affiliation with the LTTE. They also stated that the respondent had failed to appreciate that a perception that she was engaged in Diaspora activities in Britain would act as a trigger which would lead to an investigation for her history.
7. I would comment that the appellant's own witness statement stated that she had supported the LTTE until 2005 but not thereafter and that indeed she had come to Britain to visit her sons in July 2007 and returned to Sri Lanka in January the following year and had then stayed in Colombo for two years. In her statement she said that the army, in 2015, had come to her home, near Pillai, to ask about Bavanathan and had then searched the house. This was the evidence which was not accepted by the judge who gave clear reasons for so doing. It is also of note that in the statement she did not make a reference to any other relative that supported the LTTE although there is a picture of another cousin, Gunaseelan, with Bavanathan and an LTTE leader in the appellant's bundle.
8. Be that as it may, at the hearing of the appeal before me, Ms Allen, argued that the determination in **PP (Sri Lanka) [2017] UKUT 00117** made it

clear that a single female head of household in northern or north eastern Sri Lanka might be at risk. I note that that determination does, however, state that each case is fact sensitive. Further risk factors are referred to in that determination: these are living in isolation from others, low socio-economic status, dependence on the distribution of relevant aid or provisions of other services by security forces and the perception of former LTTE membership links or sympathies.

9. Ms Allen argued that the judge had not taken into account the full evidence of the appellant in that he had not considered her position as a single woman and her connections with the LTTE. Ms Pal argued that the judge had properly considered all matters and was entitled to find that the appellant's claim was a fiction and that she would not be at risk. She pointed out that the appellant had been represented at the hearing before the First-tier Judge by experienced Counsel who had not referred to **PP** either in his submissions or in his skeleton argument and clearly did not consider that that was an argument which it would be appropriate to pursue. She argued the judge could not be faulted for not making a decision on an argument that was not made before him.

Discussion

10. I consider there is no material error of law in the determination of the Immigration Judge. The reality is that the appellant based her claim on one incident which was not found to be credible. She did not state that she feared returning to Sri Lanka because she was a lone female head of household and indeed the reality is that she does not claim to have had anything to do with the LTTE since 2005 and was happy in 2007 to come to Britain and then return the following year. Indeed she spent time in Colombo after her return. I consider that the judge did properly consider all evidence before him. I would also add that **PP** is not a country guidance case but in any event it emphasises that each issue is fact sensitive. This is not a case where the appellant has referred to any long period of, or any, abuse by the army, apart from the one incident which the judge found was not credible. He gave clear findings for that conclusion which was fully open to him.
11. The judge dismissed the appeal on Article 8 grounds. That has not been challenged before me.

Notice of Decision

11. I therefore find that there is no material error of law in the determination of the First-tier Judge and I dismiss his appeal: the decision of the Judge in the First-tier shall stand.

No anonymity direction is made.

Signed:

A handwritten signature in black ink, appearing to read 'A. McGeachy'. The signature is fluid and cursive, with a large initial 'A'.

Date: 31 January 2018

Deputy Upper Tribunal Judge McGeachy