



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

Appeal Number: PA/08956/2016

**THE IMMIGRATION ACTS**

**Heard at Liverpool**

**On 14 March 2018**

**Decision & Reasons  
Promulgated  
On 05 April 2018**

**Before**

**DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL**

**Between**

**MOHAMED [M]  
(ANONYMITY DIRECTION NOT MADE)**

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant  
Respondent

**Representation:**

For the Appellant: Miss K Wass, Counsel instructed by David Benson  
Solicitors

For the Respondent: Mr C Bates, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, a national of Sri Lanka, has permission to challenge the decision of Judge Ransley of the First-tier Tribunal (FtT) sent on 30 March 2017 dismissing on grounds of adverse credibility the appellant's appeal against the decision made by the respondent on 12 August 2016 refusing his protection claim.

2. There is really only one ground of appeal advanced: that the judge erred in his assessment of the evidence produced by a Sri Lankan attorney Mr A A Seneviratne. This evidence was produced to support the appellant's claim that a couple of days after his return to Sri Lanka (from Qatar) on 10-11 December 2014 he was arrested and detained by the CID for two days and accused of having direct dealings and contact with the LTTE through his business of supplying SIM cards in connection with anti-regime activities. The attorney's evidence stated that on 6 July 2016 he had attended at the CID in Colombo and was informed that the Magistrates' Court had issued an arrest warrant. The grounds focus on the judge's remarks at paragraphs 56-57:

"56. I am prepared to accept the author of the letter, namely Mr A A Seneviratne, is a member of the Bar Association of Sri Lanka. In the letter dated 27<sup>th</sup> July 2016 he stated that at the Appellant's request he attended at the CID in Colombo on 26<sup>th</sup> July 2016 to enquire as to why there had been frequent visits in search of the Appellant. The letter stated:

*'The CID informed me that the Magistrates' Court had issued an arrest warrant against [MS] currently and the warrant is pending for a considerable period of time. Therefore the state authority visited my client's house in search of [MS]. ... I was only gathering information that CID has an adverse interest which is [MS] and CID refused to provide any further information regarding case details against [MS]. Therefore I am unable to obtain any court documents or copy of the warrant against [MS]. ...'*

57. Mr Williams argued that the lawyer's letter should be accepted as 'independent evidence'. I disagree. It is necessary to assess the lawyer's letter in the light of all the evidence before this Tribunal. When looked at in this light, I find that the lawyer's letter was written for the specific purpose of explaining away a lacuna in the Appellant's evidence, namely the absence of any documentary evidence to substantiate the Appellant's claim that an arrest warrant had been issued against him. When the rest of the Appellant's evidence is so lacking in credibility, I am not prepared to accept the lawyer's letter as reliable evidence (Tanveer Ahmed\*)."

3. The grounds are not numbered but (giving them my own numbering) contend that the judge's treatment of the attorney evidence evinces legal error because (i) it fails to explain why the evidence of the attorney is not evidence independent of the appellant's; (ii) it wrongly criticises the appellant for failing to provide other documentary evidence to substantiate that an arrest warrant had been issued against him; (iii) the respondent had tendered no evidence to suggest the attorney was lying; (iv) the judge did not apply the approach set out by the Court of Appeal in **PJ (Sri Lanka) [2014] EWCA Civ 1011**; and (v) as a result of the aforesaid errors the judge erred in her assessment of risk on return.
4. I am grateful to Miss Wass and Mr Bates for their submissions.

5. I am not persuaded that the judge materially erred in law.
6. Before setting out my views on the attorney evidence, it is important to bear in mind the judge's other findings; none of which were challenged by the appellant. The judge found, inter alia, that the appellant gave inconsistent evidence about his claimed arrest and detention by the army in March 2011 (paragraphs 29-33); that he had failed to satisfactorily explain why he chose to return to Sri Lanka in June 2014 and to stay there until 10 September 2014 even though on his own account armed uniformed men had visited his parents' house at the end of August 2014 saying the appellant was required to report to the CID in Colombo (paragraphs 29-34); that he had failed to satisfactorily explain how he had had no problems entering, staying in and exiting Sri Lanka during this period (paragraphs 35-37); that he had failed to satisfactorily explain why he had yet again returned to Sri Lanka in December 2014 and had stated he had done so with the intention of settling down permanently and starting a business (paragraphs 42-43); that he did not satisfactorily explain why the CID who arrested him in December 2014 would not have taken his passport to prevent him from leaving the country (paragraph 46) or how he had been able to leave the country without problems (paragraph 51); that he had also not satisfactorily explained why he had travelled in and out of Sri Lanka in December 2015 (paragraph 51); and that the appellant's delay in claiming asylum was damaging to his credibility (paragraphs 62-64).
7. Turning to the judge's treatment of the attorney evidence, I see no error in her assessment that it was not "independent" evidence. Of course, it was to be regarded as independent evidence in the trite sense that it was not from the appellant; but the judge was clearly aware from the documentary evidence (especially the affidavit from the appellant's father) that Mr Seneviratne was a family lawyer who was said to have been instructed by him to make enquiries about why his son was experiencing problems with the CID. Given that the attorney was a family lawyer and that no explanation had been given for why the father had not asked this attorney to make enquiries nearly two years earlier (as soon as the police had visited the father's home in August 2014), it was open to the judge to regard the motivation for the production of this evidence as being to remedy a lacuna in the appellant's evidence and to attach adverse weight to that fact.
8. Miss Wass sought to argue that the judge's statement in the last sentence of paragraph 57 stated that she had made up her mind that the appellant was not credible before assessing the attorney's evidence. I cannot agree with that submission. At paragraph 57 in the last sentence the judge stated "[W]hen the rest of the Appellant's evidence is so lacking in credibility, I am not prepared to accept the lawyer's evidence as reliable evidence (Tanveer Ahmed)". She clearly meant to convey here that she was applying the holistic approach to documentary evidence enjoined by the Tribunal in **Tanveer Ahmed**, it was very relevant in this case that the

rest of the evidence had serious shortcomings. That is the logical consequence of a **Tanveer Ahmed** approach to a case when, apart from the documentary evidence, virtually everything else points against credibility of the appellant's account.

9. As regards ground (ii), I fail to see that the judge criticised the appellant for an alleged failure to provide other documentary evidence. The focus was on what evidence the appellant had sought to provide. As regards (iii), it was not incumbent on the judge to expect the respondent to prove the attorney was lying: the judge assessed the attorney's evidence as unreliable and the respondent did not allege false representations. As to (iv), the principles set out in **PJ (Sri Lanka)** support the judge's approach (e.g. that the involvement of lawyers does not create a rebuttable presumption that they are reliable) and no specific failure on the part of the judge to follow **PJ** is identified. All I need say about (v) is that Mr Pratt conceded it was dependent on a successful challenge to the treatment of the attorney evidence, and thus must fall away with the other grounds.
10. For the above reasons I conclude that the judge did not materially err in law and her decision to dismiss the appeal must stand.

No anonymity direction is made.



Signed:  
2018

Date: 30 March

Dr H H Storey  
Judge of the Upper Tribunal