Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/00423/2018

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 23 January 2019	**On 04 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY

Between

T K
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms J Fisher, of Counsel instructed by Messrs Duncan Lewis & Co Solicitors
For the Respondent: Ms N Willocks-Briscoe, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against a decision of Judge of the First-tier Tribunal Watson who in a determination promulgated on 26 October 2018 dismissed the appeal of TK against a decision of the Secretary of State to refuse to grant asylum made on 12 December 2017.

2. The appellant is a citizen of Pakistan born on 13 April 1987. She entered Britain as a student in July 2013 having leave to remain in that capacity until September 2016. In

that month she applied for a residence card as a dependant of her uncle an Italian citizen as a dependent relative of an EEA national but that application was refused in March 2017. In June 2017 she applied for asylum.

3. The appellant's claim is that she met a Pakistani man, SU, while she was studying accountancy in Lahore in 2007. They had kept their relationship secret. He came to Britain to study in 2009. In 2013 when she arrived in Britain they had started living together. In September 2016 her uncle, SS, had started living in the same house where she was living with SU. She shared a room with her uncle while SU lived in another room in the house. After some months her uncle found out about the relationship with SU, told her family and threats were issued against her. She also received threats from a cousin, US to whom she had been engaged before leaving Pakistan in 2013. Her relationship with SU had broken down and she suffered from depression and attempted suicide. She claimed that if returned to Pakistan she would either commit suicide or her family would kill her for dishonouring them.

4. The Secretary of State did not find the appellant's claim to be credible. It was not accepted that she had been engaged to her cousin, US, and in any event should she not wish to return to her home area relocation would not be unduly harsh.

5. The judge set out the appropriate standard of proof in paragraph 9 of the determination and then referred to the documentary evidence which included the application for leave to remain as a dependant of SS who was an EEA national. SS had provided a letter stating that they were both living at 13B Upper Tooting Road and the appellant was dependent upon him. That application was refused and the appellant applied for JR of the decision. While that was pending she applied for asylum. The appellant attended a screening interview on 13 June 2017. She said that she had had depression for two months and was taking medication and had tried to commit suicide a week before. She said her parents were in Pakistan, her uncle would not talk to her and her boyfriend of eight years had left her and that is why she wanted to kill herself. She said that she lived with a friend and had one paper outstanding from her BSc course in accounting. She stated she feared her parents would kill her as they had come to know about her relationship with SU.

6. At her asylum interview in November 2017 she said that she had last had contact with her parents and brother in Pakistan in June 2017 at the time of her suicide attempt her many relatives who had found out she had had a relationship in Britain complained that the family had been dishonoured and that she had no contact with them. She stated that when she had made the EEA application she was still in a relationship with SU and he said that they could go to Pakistan together and he would speak to her father and they could live anywhere in Pakistan. She told her father that she needed some extra time to finish her studies. The judge noted the evidence of the appellant's mental health which included a care plan which showed that the appellant had self-harmed in July 2017 and described her as having developed depression, becoming homeless after the end of a long term relationship and reporting that her family had threatened her. It said that she had an elevated

suicide risk and it was noted that she had said that SU wanted to marry someone else and that her family would kill her if they knew.

7. The judge also noted a letter from a psychiatrist who said that the appellant had a personality disorder and unstable relationships but had no plans to end her life although she could act impulsively. She had failed one exam and had recently moved.

8. A letter dated 27 September 2018 addressed to the appellant's solicitors from a mental health nurse said that she had suicidal ideation but no current plans. She was on medication including and antipsychotic.

9. There is evidence that she had attended A&E after deliberately banging her head in June 2017 and had stated that family members in Pakistan had rejected her due to her relationship in Britain.

10. A psychiatric report from Dr George was noted as well as letters from the appellant's father containing threats telling her to come to Pakistan and get married and said that her fiancé was waiting. The letter detailed family members stating that they were all educated, in positions of power in every part of Pakistan and there were text messages from a cousin threatening the appellant's life. There were also text messages to and from SU which the judge said were entirely consistent with a disintegrating relationship. There were also claimed threatening messages from the appellant's claimed fiancé in Pakistan.

11. The judge noted the appellant's oral evidence as well as evidence from SH, a special constable, who stated that when he met the appellant with SU and that it was clear that they were a couple. He had never seen the appellant's uncle but he was not too concerned about any threat to the appellant from an uncle.

12. A friend of the appellant also gave evidence about the appellant and her relationship with her uncle.

13. In paragraphs 26 onwards the judge set out her findings of fact. She noted the appellant's evidence which she stated was consistent with the appellant's family being of some wealth and a family to whom education was important. She noted that the appellant had come to Britain on her own at the age of 26 and was unmarried and found that the appellant had been allowed a great deal of freedom by her family who were fully aware of European life, her father having lived and worked in Europe himself for four years. She stated that she found that she could not rely on the claimed threatening letters from the appellant's father and the attacks from the claimed fiancé. She considered that those documents were self-serving. The appellant had claimed that there were family members all over Pakistan who were in the police force but the appellant had been unable to name them. The judge noted that the letters had been sent to a flat to which the appellant said that she had moved and the appellant had said that she had been telephoned to be told that the

letters had arrived but that she had given no explanation as to who the people who telephoned her were. The judge noted that at one point the appellant had stated that she was living with SU in the shared house and that when her uncle arrived SU had simply moved to a different room in the house and she had shared a room with her uncle with SU staying in the same house for several months. The judge said that she found that totally unbelievable, particularly given that the uncle did not know that the appellant had been living with another man who had effectively moved to a different room in the house for six months after he had arrived. The judge therefore stated that the core account of the appellant was not credible in any way and stated that she considered that against the background of a failed EEA application. The judge pointed out that the appellant's father is a man who had paid for her education in a city away from him and supported both her and her sister in obtaining higher qualifications. She had been allowed to come to Britain at the age of 26 on her own. The judge found that the appellant was a woman who had had a genuine relationship with SU which had come to an end and that they had been acknowledged as a couple in the area where they lived and that the relationship had ended and the appellant was completely distraught about that and that that caused her to self-harm and come to the attention of the medical services after the ending of the relationship. A further incident of self-harm had been precipitated when SU had told her that he was planning to marry another person. The judge stated that she found that the appellant had not shown she was engaged to another person before coming to Britain and that the text messages or letters from Pakistan could not be relied on. She rejected the appellant's account of having been supported by and living with her uncle in the same room after SU moved into the next door room at all times in a house shared with other men. The judge found in paragraph 33 that:

> "I find she suffers from an unstable personality disorder as our NHS consultant diagnoses, and moderate depression which is as a reaction to life events and in particular to the break up of her relationship with *SU*. She has self-harmed by inflicting superficial cuts to her arms and by headbanging. She is at risk of further self-harm and of suicide but this cannot be quantified and is unpredictable. She has no intent at the date of the expert report of Dr George."

14. The judge's conclusions were set out in paragraphs 34 onwards. Firstly she found that the appellant had not shown to the lower standard that she had received threats from her family as claimed. She also discounted evidence of what the appellant had told a special constable, SH, who had also given evidence.

15. The judge accepted that the appellant was worried about returning to Pakistan. She had not completed her course and had had a failed relationship. The judge wrote:

> "I find that she is ashamed for herself in many ways and would find it hard to face her family. This is a long way from finding that she is at a risk of harm from her family. She is educated as is her sister. The family have lived in a city, funded by the father who has also funded all aspects of the education. She has travelled on her own to Europe and her father's personal experience of European culture and will have been aware of what she was travelling to. All this is not consistent with a profile of a person at risk of honour killing in accordance with the country guidance information."

16. The judge stated, moreover, that if she were wrong in her finding on that point and as she accepted that honour killing was a clear risk in some part of the Pakistani community she should consider the issues of sufficiency of protection and internal relocation.

17. The judge referred to a functioning police force and that there was progress in the prevention of anti-woman practices. She pointed out that the appellant had been living a reasonably independent life in a foreign country and was a person who would be able to approach the police for assistance. The judge had noted that the appellant had said that she would be able to complete her qualifications in Pakistan and had given evidence that she could do so. The appellant had also been considering returning voluntarily when her student visa ran out but had decided to try and apply for the EEA visa instead. The judge rejected the appellant's claim that her cousin US has power and influence and that he was well-known for murdering people. That was not supported by any documentary evidence. She concluded that the appellant had not shown to the lower standard that either her claimed cousin or her father would be able to locate her if she chose to relocate within Pakistan. Given the appellant's age, skills and education the judge considered she would be able to relocate to a large city. The judge also referred to a report by a Dr Holden but stated there was nothing therein to depart from the country guidance. The appellant had not shown that there were well-connected family members who would be able to trace her.

18. With regard to the issue of suicide risk the judge noted that Dr George had assessed her depression as moderate and could not quantify a suicide risk but said that her medication treatment were available set out in the refusal letter though other therapy might not be available in remote areas of Pakistan the appellant the judge had the option of returning to her own city or relocating to an urban area and treatment would be available. The judge said that the appellant's previous attempt at self-harm be noted as superficial but there was clearly at risk of self-harm which it was suggested in the reports was related to her immigration status. The judge stated that it was also accepted that the breakdown of a longstanding relationship had caused her immense pain and stated that the psychiatric report did not conclude that there was a high risk of her committing suicide and that removal of the appellant did not breach Article 3.

19. The grounds of appeal argue that the judge had made a number of factual errors in stating that the appellant had only made her claim because she had failed to obtain status in Britain – the grounds asserted that by that stage the appellant had already told her GP that her family would kill her and in any event the appellant's EEA application was still being litigated. Moreover, they argued that the judge had been wrong to state that the appellant could have blocked the number from which messages from the fiancé her family had arranged for her in Pakistan was being sent stating that this was not a point raised by the respondent and that WhatsApp pictures were not stored by the person receiving the message but were created by the sender at the start of the message. The suggestion that messages could be arranged

to bolster a claim did not demonstrate there was no reasonable degree of likelihood that they were genuine. The grounds also stated that the judge was wrong to assert that the appellant had been inconsistent about where she had stayed. It was accepted that the appellant's witness had poor recollection. The appellant had always been consistent about where she lived and the judge had erred by stating the appellant had been moved to a different address by the Home Office.

20. It was also claimed that the judge had failed to consider evidence stating that the appellant had told Mr H of her arranged marriage and she had told the other supporting witness of this and that when she had found at a railway station stating she wished to jump under a train she told paramedics she was the victim of threats to kill from her family. Moreover it appeared that she had made a report to police and consistently reported to health professionals that she is being threatened by her family.

21. It is also asserted that the judge had failed to consider the background evidence relating to arranged marriages and honour killings and stated that the judge had not properly considered the expert report of Dr Holden.

22. Finally it was argued that the judge had not properly considered the appellant's risk of suicide particularly referring to the opinion of Dr George that her illness had entered a chronic phase.

23. At the hearing of the appeal before me Ms Fisher relied on the grounds of appeal asserting that the judge had not properly considered the medical report nor the evidence that the appellant had told the general practitioner about the arranged marriage and that that rebutted the judge's allegations that the appellant had fabricated her claim. She referred to the communications from the appellant's claimed fiancé and had stated the fact that messages could bolster a claim did not mean that they were not genuine. She stated that with regard to the addresses that the witnesses had been inconsistent and not the appellant. She stated that all conflicts of evidence should be resolved in the appellant's favour and argued that the judge was not entitled to consider that the appellant's break up with US had caused the breakdown rather than being caused by her being threatened by her family. Moreover she said that the appellant had reported the incident to Mr H and asserted that the judge had not considered all the evidence. She stated that the analysis of the medical evidence was cursory and the judge should not have placed weight on the country guidance case of **SM and MH (Pakistan) CG [2012] UKUT 00067 (IAC)**. She referred to the case of **KA and Others (Pakistan) CG [2010] UKUT 216 (IAC)** stating that the judge should have considered the issues before her on the particular facts of the appellant and had erred by making no reference to the appellant's mental health considering the issue of relocation. It was asserted that the judge had not made proper reference to the documentation including a psychiatric report and a report from the consultant and had not placed weight on the fact the appellant had self harmed on two occasions. She argued that the judge had not applied the guidance in

the case of **J [2005] EWCA Civ 69** and had failed to have regard to the expert evidence.

24. In replying Ms Willocks-Briscoe pointed out that the judge was correct to find that the EEA application had been refused in March 2017 but that it was not until the following month that the appellant had raised the issue of her fears of returning to Pakistan with the Home Office. She argued that the judge was correct to find that the appellant had fabricated her story and had given adequate reasons for her conclusions. The judge had properly considered the issues surrounding the various addresses at which the appellant had lived and was entirely entitled to conclude that the letters were created to bolster the appellant's claim. She stated that the evidence that the appellant had been moved by the Home Office had come from letter from the Ilford Medical Centre and therefore the judge was entitled to reach that conclusion. In any event that was not material. With regard to the judge's treatment of the appellant's mental health. Clearly, the judge was aware of all the background documentation which she set out in some detail and her conclusions thereon were fully open to her. The judge had accepted that the appellant's conditions were diagnosed by NHS professionals and had obviously engaged with Dr George's report. The judge had looked at the evidence, found inconsistencies therein and was entitled to reach the conclusion which she did. Moreover the judge had clearly considered the expert report which did not add anything to the appellant's claim. Indeed the expert's report should not see anything different from the country guidance case on which the judge relied.

Discussion

25. I consider there is no material error of law in the determination of the Judge. The judge correctly stated that this appellant comes from a prosperous family where her father had funded her education and indeed her living away from home both in Lahore and in Britain. Moreover the appellant was aged 26 when she came to Britain and of course is now 31. It must clearly be the case that if her father wished to "marry her off" to a cousin he would surely have done so before she came to Britain, let alone the fact that a fiancé so much older than she (she has asserted that her claimed fiancé is up to 20 years older) would accept that she would be leaving to study abroad for some years. That is the context in which the judge correctly considered the appellant's claim.

26. The grounds of appeal on which Ms Fisher relied are, if not disingenuous, very largely merely a disagreement with findings which the judge was fully entitled to make on the evidence before her. The judge was correct to state that the appellant made her claim when she had failed to obtain status in Britain. The fact that she said to her GP "that her family would kill her" is not a "claim" made to the Home Office for asylum and her application to remain under the Immigration (EEA) Regulations had been refused. Moreover, with regard to the communications from the appellant's family the judge was entitled to be sceptical of the letters received given the context of the fact that her father was prepared to fund his daughter's studies in Britain despite her

being aged 26 and would go on funding her studies here if he felt that she should return to marry a fiancé who was so much older than her.

27. Moreover the judge was entitled to consider that there were inconsistencies regarding the appellant's address after she had left the house where she was living with SU as the judge was entitled to place weight on what the appellant's witnesses said. It is also correct as Ms Willocks-Briscoe pointed out that the issue of the appellant being moved by the Home Office was an issue that was raised by the health centre and therefore the judge was entitled to place some weight on that. Be that as it may the reality is that the appellant's claim that her uncle moved into a room with her in the shared house where SU, who had been sharing her room moved to another room, but the uncle did not become aware of this for six months is implausible particularly given that the house was shared by various people and as SH stated the appellant and SU were known as a couple in Tooting.

28. There is nothing to show that the judge did not properly consider the evidence. While both SH and the appellant's other witness referred to the arranged marriage in or around 2014 that of itself does not indicate that the appellant was being forced into an arranged marriage. It is inconsistent that the appellant's father would have paid for her to come to Britain to study at a time when he was forcing her into an arranged marriage and angry that she did not return to Pakistan to marry.

29. It is simply not correct that the judge did not consider background evidence. She properly considered the relevant country guidance case as well as the report of Dr Holden but properly concluded that she should take into account the appellant's particular circumstances when considering the likelihood of an honour killing or the ability of the appellant to relocate should she wish to. The judge's findings were made having taken into account all the evidence, including the medical evidence and she reached findings and conclusions which were fully open to her on the evidence.

30. The judge was correct to consider the issues of internal relocation and protection even though she had found that the appellant was not credible, and she was correct to apply the relevant country guidance. It would have been an error for her not to do so. The judge properly considered the issue of suicide risk and referring to the relevant medical reports and reached conclusions thereon which were open to her. Moreover, she clearly had those reports in mind when considering the issue of internal relocation – which is only relevant of course should the appellant decide that she did not wish to return to her family.

31. For these reasons I find there is no material error of law in the determination of the Judge and that her decision to dismiss this appeal shall stand.

Notice of Decision

The appeal is dismissed.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed  Date: 27 February 2019

Deputy Upper Tribunal Judge McGeachy