



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

Appeal Number: PA/13333/2016

THE IMMIGRATION ACTS

**Heard at Bradford
On 8th January 2019**

**Decision & Reasons
Promulgated
On 24th January 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE KELLY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

M S K

(ANONYMITY DIRECTION NOT MADE)

Respondent

Representation:

For the Appellant: Mrs R Pettersen, Senior Home Office Presenting Officer

For the Respondent: Ms G Patel, Counsel instructed by Parker Rhodes
Hickmotts Solicitors

DECISION AND REASONS

Introduction

1. In a decision promulgated on the 24th April 2018, I held that whilst her primary findings of fact were unimpeachable, First-tier Tribunal Judge Mensah had erred in law by allowing the appeal against refusal of the appellant's Protection Claim without adequately explaining why the appellant would be at risk on return to Pakistan if he were to relocate with his wife and children to an area away from Lahore, where family members of his wife continue to reside and wish to seek revenge for the shame and

dishonour they perceive his marriage has brought upon them. Having made that decision, I concluded that it was necessary to hear further argument and (if the parties wished) further evidence concerning the issue of the feasibility of relocation. The delay in re-making the First-tier Tribunal's decision is due in large measure to the fact that a hearing listed on the 25th September 2018 had to be abandoned due to lack of an Urdu interpreter.

2. As before, I shall refer to the parties in accordance with their status in the First-tier Tribunal, that is to say, to MSK as "the appellant" and to the Secretary of State as "the respondent".
3. I hereby extend the anonymity direction that was made in the First-tier Tribunal.

The Primary Facts

4. The relevant facts are now accepted to be as follows.
5. The appellant first entered the UK on the 29th November 2009. He returned to Pakistan between May and June 2010 where he married his wife in secret before returning to the United Kingdom alone. The marriage had been against the wishes of his wife's family. His wife therefore ran away from home and the appellant brought her to the United Kingdom in November 2010. Her father immediately told the Pakistani police that she had been kidnapped and put up posters offering a substantial reward for information leading to her return. The appellant's wife returned to Pakistan on the 17th May 2012 to visit her ailing mother. However, upon doing so, she was locked up, beaten, and raped. She nevertheless managed to escape and return to the UK. The appellant's wife has a cousin (Kashif Butt) who is a local councillor for the Pakistan Muslim League. The appellant thus fears that he and his wife will be harmed by her father upon returning to Pakistan as revenge for bringing perceived shame and dishonour on his wife's family.

The appellant's case at the hearing on the 9th January 2019

6. The appellant's case at the hearing before me on the 9th January 2018 may conveniently be summarised as follows.
7. The appellant no longer has contact with his family in Pakistan. However, in September 2018, he spoke by telephone to his friend, RM, who continues to reside in Lahore. RM told him that he had spoken to the appellant's sister, SK, and she had said that the appellant's father-in-law was still looking for him and wants to kill him.
8. The appellant's wife has told him that on the last occasion that she was in Pakistan (2012), she discovered that her cousin, KB, had been elected as a local councillor for the Pakistan Muslim League.

- 9.** There is a national online digital database in Pakistan. Details of every purchase of a house, motor vehicle and SIM card is recorded on that database. Given the political connections of his wife's family (above) his father-in-law would be able to gain access to this database and thus discover his whereabouts were he to relocate within Pakistan.

The hearing

- 10.** In addition to the evidence that was before the First-tier Tribunal, I had a supplementary witness statement from the appellant (dated the 20th September 2018) upon which he was cross-examined by Mrs Pettersen through the medium of an Urdu interpreter. The appellant's wife did not give evidence. I thereafter heard helpful submissions from both representatives before reserving my decision.
- 11.** I am bound to be selective in my references to the evidence when explaining the reasons for my factual findings. However, I wish to emphasise that I considered all the evidence in the round in arriving at my conclusions.

Findings

- 12.** I adopt the uncontentious facts that are set out at paragraph 5 (above). I make the following further findings in respect of the oral testimony that the appellant gave at the hearing before me on the 9th January 2019.
- 13.** I attach little weight to the appellant's oral testimony because (a) Judge Mensah found that he was not a credible witness for the reasons she gave in her decision promulgated on the 26th October 2017 (the judge based her positive findings on the testimony of the appellant's wife, who did not give evidence before me); (b) he fails to provide any explanation for why (as he claims) he no longer has contact with his own family and/or why he could not have requested (through RM if necessary) a written statement from his sister speaking directly to his father-in-law's supposed continued interest in him, rather than relying upon the double-hearsay statement of what she supposedly told RM and what RM supposedly passed on to him; and (c) there is no evidence to explain why the appellant's sister is said to believe that the appellant's father-in-law continues to seek him beyond a vague reference to the fact that they reside in the same area. I am not therefore satisfied - even to the standard of a reasonable degree of likelihood - that the appellant's father-in-law continues to be strongly motivated to find the appellant and kill him some six years after he married his daughter.
- 14.** Given that the source of the information is the appellant's wife (who Judge Mensah found to be a credible witness) I accept the appellant's claim that her cousin was elected as a local councillor in 2012. I am not however satisfied that he continues to hold that or any other political position some six years' later. In any event, the Pakistan Muslim League no longer holds power in Pakistan. Moreover, I do not have any evidence to suggest that a local councillor who is a member of the national governing party would

have the power or influence necessary to gain access to the national database for the purpose of pursuing a private vendetta. I am fortified in reaching this conclusion by the vagueness of the appellant's reply when he was asked by Mrs Pettersen as to how his wife's family might be able gain access to the national database. He replied:

"I only know the procedure, which is you have to hand in your national identity card, which in turn gets into the police national database. Because they [his wife's family] are well connected they will be able to get access to it through the police".

- 15.** I accept that it is increasingly necessary in Pakistan to possess a Computerised National Identity Card (CNIC) in order to gain access to public services such as education. I also accept that relevant information, such as a person's photograph, name, parentage, and address, is kept on a central database operated by the National Database and Registration Authority (NADRA). This much is clear from the EASO Country of Information Report, beginning at page 106 of the appellant's bundle of documents. I have not however been provided with any evidence of instances of the security of the database being compromised, whether by corrupt officials or otherwise. On the contrary, the EASO report states that the core of the system is a "highly secure and intelligent National Data Warehouse" [page 106 of the appellant's bundle]. I interpret this to mean that it will only be possible to access an individual's personal information via the NADRA website if one is in possession of that person's login details. I cannot see how the appellant's father-in-law could possibly come into possession of such details save in the extremely unlikely event that the appellant chose to share them with him. As I noted above, the appellant was quite unable to explain how else his father-in-law might be able to gain access to such a secure system. I am therefore satisfied that there is no real risk of the appellant's whereabouts in Pakistan being discovered by his father-in-law, whether via the NADRA database or otherwise.

Conclusion

- 16.** I adopt Judge Mensah's conclusions and observations that (a) Pakistan is a large country, (b) the family would be returning as a unit, thus providing each other with mutual comfort and support whilst proving to the Pakistani police the palpable falsity of the kidnap allegation, (c) it is not reasonably likely that his wife's cousin has the ability to use his position (if indeed he still holds it) to locate the appellant and his family, and (d) the appellant has shown himself capable of supporting his family in the UK and there is no reason why he should not continue to do so on return to Pakistan. Judge Mensah nevertheless concluded that it would be unduly harsh for the family to relocate within Pakistan for two reasons: (a) the appellant would be forced to isolate himself from his own family in Lahore, and (b) it would "not be easy to live under the radar with children who have to attend school etc.". So far as the first reason is concerned, the appellant claims no longer to be in touch with his family in any event. So far as the

supposed difficulty of “living under the radar” is concerned, I reject this for the reasons that I gave at paragraph 15 (above).

- 17.** I therefore conclude that it would be reasonable for the appellant, his wife, and children to reside in an area of Pakistan other than Lahore where I am satisfied there would not be a real risk of harm from the appellant’s father-in-law.

Notice of Decision

Having already set aside the decision to allow the appellant’s appeal against refusal of his Protection Claim, I now substitute a decision to dismiss that appeal.

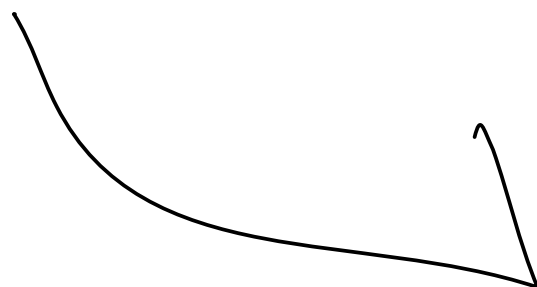
Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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: 10th January 2018

Deputy Upper Tribunal Judge Kelly

A large, handwritten signature in black ink, starting from the date and extending across the bottom right of the page.

