



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

Appeal Number: PA/11464/2018

THE IMMIGRATION ACTS

Heard at Leeds

**On 17 January 2020
Decision given orally at hearing**

**Decision & Reasons
Promulgated
On 24 February 2020**

Before

THE HON. MR JUSTICE LANE, PRESIDENT

Between

**KNK
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S A Salam, instructed by Nido Legal Ltd

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Foster who, following a hearing in Bradford on 6 September 2019, dismissed the appellant's appeal against the refusal by the respondent of the appellant's protection claim. Permission was refused by the First-tier Tribunal but was granted by the Upper Tribunal. The judge who granted permission in the Upper Tribunal considered that there was a possible tension in the First-

tier Tribunal judge's acceptance of independent evidence that divorce carries great stigma in Pakistan and that families feel a need for vengeance that can include murder; with his conclusion that the appellant's subjective fear of violence at the hands of her former husband or close relatives is not justified objectively.

2. The judge found that the appellant had come to the United Kingdom as a result of her marriage to a British citizen of Pakistani origin living in the United Kingdom. That marriage was an arranged marriage. It was not a successful marriage. It ended in divorce. The judge accepted the evidence of the appellant that there had been violence and threats, whilst the marriage was in being and whilst the divorce was pending. That is plain from paragraphs 25 to 28 of the judge's decision.
3. The judge at paragraph 35 held that the appellant's objective fear was sound. She feared that if she returned to Pakistan her ex-husband's family would seek to do her harm. However, importantly, the judge, having found that the family was one of some influence in Pakistan, made this finding at paragraph 37:-

"37. On the evidence the appellant's former husband's family and in particular her mother-in-law have known her whereabouts since October 2017, first at her aunt's house and latterly with her brother in Oldham. They have made little attempt to contact her and no recent threats have been made to harm her. The appellant in her witness statement and in her oral evidence at the hearing gave few examples of any direct threats made against her. Such threats were made in the midst of the breakdown of the marriage and have not been repeated. The appellant's former husband and his immediate family are in the UK and not in Pakistan. I take account of the influence that the family has in Pakistan but there is not evidence of any intent on their part to do the appellant harm. Taking the evidence as a whole, I find that the appellant's subjective fear of harm is not objectively based."

4. There is, despite Mr Salam's submissions, nothing wrong in law with that finding. The judge concluded that there had been no violence or threats of violence since the conclusion of the divorce proceedings. That is entirely compatible with the findings at paragraphs 25 to 28 that, at an earlier stage, there had been such threats. The fact that such threats had been made was plainly a relevant matter to have considered in determining what might happen if the appellant were to go to Pakistan. The fact is, however, that the judge on the basis of oral evidence has given a number of reasons for concluding that there would be no real risk of harm to the appellant from the family in Pakistan. Given that finding, whether or not the family is one of influence is immaterial. There would, according to the judge, be no reasonable likelihood of the family taking hostile action.
5. The judge considered the position of lone women in Pakistan. The judge concluded that the appellant would not be alone because she had her parents who could provide her with support. At paragraph 48, the judge noted that this would nevertheless still result in the appellant being in an

irregular situation because she was a divorcee and she would face stigmatisation and social rejection. However, the judge did not find that this would amount to a real risk of serious harm. Again, that finding was entirely open to the judge to make. It should be noted that, in making that finding, the judge was not in any sense suggesting that the elderly parents of the appellant would be able to protect her against hostile acts carried by the ex-husband's family. For the reasons the judge had given at paragraph 37, there would be no real risk of such hostile acts. The finding here was about the societal position of the appellant as a lone woman.

6. The final ground of challenge brought by the appellant against the judge's decision concerns Article 8 of the ECHR. At paragraph 49 the judge said:-

"49. The appellant did not make a case based on family and private life grounds under article 8 and I find no reason to support such an application."

7. Mr Salam submits that paragraph 276ADE of the Immigration Rules, which has an Article 8 component, should have been considered by the judge. But this point is, with respect, a bad one. The judge's findings were plainly that, if returned to Pakistan, there would be no real risk of harm to the appellant from the ex-husband's family and there would not be any significant problem for her as a lone woman living in Pakistan, albeit that she would suffer some societal stigmatisation. Those findings could not possibly lead to a successful result under paragraph 276ADE or otherwise in relation to Article 8. For these reasons, there is no material error of law in the judge's decision and I dismiss the appeal.

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: 21 February 2020

The Hon. Mr Justice Lane
President of the Upper Tribunal
Immigration and Asylum Chamber