



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04723/2018

THE IMMIGRATION ACTS

Heard at Field House
On 7 December 2020

Decision & Reasons Promulgated
On 3 June 2021

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

C F R
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Martin, Counsel, instructed by Indra Sebastian Solicitors
For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the Appellant. Breach of this order can be punished as a contempt of court. I make this order because the Appellant is an asylum seeker and is entitled to privacy.
2. This is the resumed hearing of an appeal by a citizen of Sri Lanka against the decision of the First-tier Tribunal dismissing her appeal against the decision of the respondent on 26 March 2018 refusing her asylum or leave to remain on any other basis. The appeal has been determined unsatisfactorily by the First-tier Tribunal. I found an error of law and

gave my reasons in a decision dated 4 March 2020 and the case came before me to be redetermined.

3. It is for the Appellant to prove her case but it is sufficient if she shows that there is a real risk of her being persecuted or seriously ill-treated for other reasons in the event of her return or that removal is contrary to her human rights.
4. Appropriately, Mr Martin relied heavily on the skeleton argument that had been served on the Tribunal.
5. I am not sure that the details of the Appellant's immigration history are a particularly important to my reasoning but it is part of the overall history and I set out a summary. It shows that the Appellant entered the United Kingdom in 2009 travelling on her own passport with the advantage of a student visa. She applied for leave to remain in April 2010 but the application was rejected. She made a similar application in May 2010. The application was refused with no right of appeal on 22 June 2010. On 7 July 2010 she applied successfully for leave to remain as a student so that she had leave to remain as a student until 31 May 2012, extended on her application until 23 August 2015.
6. The Appellant says that on 17 March 2013 she returned to Sri Lanka and re-entered the United Kingdom just over a month later on 23 April 2013.
7. On 22 August 2015, that is the day her leave to remain as a student expired, she applied for leave to remain on compassionate grounds. The application was refused subject to an in-country right of appeal which she does not seem to have exercised. On 4 March 2016 she applied for leave to remain on outside the Rules and the application was rejected on 13 May 2016. On 24 May 2016 she applied for leave to remain outside the Rules on compassionate grounds and that was refused on 18 January 2017.
8. On 29 March 2017 she made a human rights application that was refused with no right of appeal on 18 August 2017. On 25 September 2017 she claimed asylum.
9. In her screening interview on 24 October 2017 she gave her full name and her date of birth which is in March 1978. She said that she was Sinhalese and followed the Buddhist religion.
10. She said she left Sri Lanka in June 2006 for Heathrow Airport coming to the United Kingdom to study.
11. She lived with her brother (she identifies him by his name and the family name is the same as hers but she is not recorded as saying that he is her brother) who was originally from Sri Lanka whose wife is British.
12. Asked to explain in outline her reasons for her claim, she said in answer to question 4.1:

"I received threats from my ex-boyfriend because I separated from him. They started since 2009, he warned if I go back to Sri Lanka I will be killed. Both of my parents have been threatened by him."
13. The Appellant then indicated that in future she would prefer to be interviewed by a woman. She sent by letter corrections to answers given at her screening interview. She added that she had scars on her body because of injuries done by her ex-boyfriend. She said she entered the United Kingdom in June 2009, not 2006 as recorded in her screening interview.

14. On 19 March 2018 the Appellant was interviewed about her claim by a female officer.
15. She said that she had parents and a married elder brother living in Sri Lanka. Her relatives lived at different addresses in Bandaragama. She had recently been in contact with her parents and her brother.
16. Her father was a farmer but he had been injured when her mother was pregnant carrying her and had not worked again. Her mother had worked as a housekeeper in Kuwait, Jordan and Saudi Arabia.
17. The Appellant said that she had relatives in the United Kingdom. She was educated to A level standard in Sri Lanka and left school at 19.
18. The Appellant said she had a partner in the United Kingdom who had himself claimed asylum but she was coy about identifying him.
19. The Appellant had worked in Sri Lanka as a data entry operator then came to the United Kingdom in 2009 openly on her own passport.
20. The Appellant had returned to Sri Lanka in March 2013 because her father had severe backpains and she wanted to visit him and her mother. She stayed in Sri Lanka for a month and returned to the United Kingdom. That was her only return visit to Sri Lanka.
21. Starting at question 44 the Appellant outlined the events that she said made her frightened to return to Sri Lanka. In summary, she had become friendly with a police officer in the Sri Lankan Special Taskforce (STF). She explained how their relationship developed and they spent time together and how on one occasion he clearly wanted to have sexual intercourse with her and had arranged time away together at private accommodation. The Appellant did not want intercourse with him. He forced himself on her and raped her. After that they talked and argued and he took her on his motorbike. He said he intended to go home but she was still "fighting" with him and they became angry and she fell off the motorbike. He drove off. She lost consciousness. When she regained her senses she was surrounded by a crowd of people and she was taken to hospital and treated there for about a week for injuries sustained when she fell from the motorbike.
22. The Appellant was asked "Who exactly do you fear?", and she replied "I am in fear of my boyfriend".
23. She was asked at question 48 what she believed would happen to her in the event of her return to Sri Lanka. She said that in 2005 she started working for a year. There were no problems. Her assailant was working in Batticaloa. She understood from friends that he had transferred to Colombo.
24. On a day in 2006 she was at work and had a call informing her that someone was waiting and at about 9 o'clock in the morning her assailant came into the office with two other people who were waiting outside. He was in uniform carrying a machinegun. I find the rest of the answer to question a little confusing because it is on punctuated but the meaning is clear enough. It is recorded in the following terms:

"He came and told me at that time we were separated because after the incident he frightened me and told me we will go outside in forcing way, by force. I was frightened so I said no if I don't go with him he will leave a problem for my family, still I didn't want to go so I didn't go. Normally I finish work at 4:30, when I came out I saw him standing there, he

was standing outside with another four people saying he was wearing the uniform and with weapons also with him that the three other people were with him in uniform.”

25. She was pressed to explain what she thought would happen if she returned. I remind myself that the interview was on 19 March 2018. The Appellant said:

“Last December he had come over to my house and told my parents that if she returns back you have to hand her over to me and threaten them and I will give problems for you also the whole family if you don’t hand her over when she returns to Sri Lanka.”
26. She then described herself as “scared and worried”. Her parents were too old to do anything to protect her.
27. She was then asked about her assailant described as an ex-partner. She named him and gave his date of birth. He was born in 1974. He lived in Sri Lanka in Mathugana. She believed him to be a member of the Special Taskforce. He had gone to Colombo; she assumed that was because of promotion.
28. The Appellant was questioned about her chronology. She said the relationship was suggested in 2002 but she was not interested but in 2003 they did become more friendly and that is when she thought the relationship started. The “accident” happened on 19 December 2004. They had had nothing to do with each other since then. She did not want any kind of contact but said that her assailant did want to resume the relationship (question 58).
29. They had not lived together.
30. He proposed a relationship in April 2002. She outlined the development in their relationship from disinterest on her part to friendliness, to starting to trust him and then beginning to fall in love.
31. The Appellant said he had not contacted her since she had been in the United Kingdom but he had spoken with her parents. She did not know if he was presently involved in a relationship, she had no dealings with him.
32. The Appellant indicated that she did not want her mother to meet him because her mother did not trust people in the Special Forces Taskforce.
33. The Appellant then explained that he visited her three times after the breakup and on each of those occasions he was wearing uniform which she described. In answer to question 89 she said that after he raped her:

“I told him I was going to complain, then he said even if I don’t complain I won’t get frightened, nothing will happen to me. And then he said that even if I go to report I will punish you again.”
34. She explained that he said this in anger but his message was that she would have more trouble if she went to the police. She believed that police officers, especially in the Special Taskforce, could do anything.
35. She said that her father had reported him to the police for harassment when he gave the family problems.
36. She said that she did not report the matter to the police because he had threatened her. He said that what he did “today” would happen again and he would make problems for her

family. She regarded this as common in Sri Lanka but the police force does nothing in response to a complaint about a police officer.

37. Her father had complained in 2007 but she could not remember the date or did not know the date. Her father's account was that he was visited by the assailant and two others. They were not wearing uniform. They treated him roughly. Her assailant told her mother in the presence of her father that he wanted their daughter and would give the whole family problems.
38. She said they had visited on two previous occasions but she was scared. She lived with relatives for a while. On each of the three occasions he visited the home he was threatening.
39. She did not tell her family until 2006 what had happened to her and her parents did not know about her accident (see question 102).
40. She then explained how her assailant had visited her parents some time in 2006 and threatened them and that prompted her to say what had happened. She was not sure when he came a second time, it was in 2006 or 2007, but that was when her father complained to the police. They took detailed notes but did nothing and he only complained once.
41. He visited again in December 2017. Again I find the recorded answer a little confusing and I set it out below. This is the answer to question 109:

“they told my parent the day I am coming and they wanted to find out a contact number of myself and my parents said that she has moved out of the place and we have no contact and they were really frightened and scared.”
42. It seems that in answer to question 105 and 106 the Appellant said that her father had explained to the police that she had been raped but the police took no action.
43. In answer to question 110 she said:

“Because my father went and complained, the police threatened us all the time and he said my daughter has no peace and then he said that my daughter's life is ruined and in danger. That is what the complaint he made to the police.”
44. She did not know if the assailant knew that there had been a complaint when he visited. She confirmed that her father complained in 2007. After that:

“... they used to call the landline and my mother used to answer only because my father can't hear and they used to ask where I was. They used to phone and ask but they never visited my house, only in December 2017. They used to call and ask where I am, when I'd be coming, the address in the UK and I want the phone number as well.”
45. There were phone calls once in three or four months. Her mother told her that the calls were always from her assailant. Her mother would recognise his voice.
46. After a short break she confirmed that she went back to Sri Lanka for a short visit in 2013. It was explained that she had stayed at her mother's home for two weeks. During the course of that visit while she was “outside with my mother” her assailant visited her father and asked where the Appellant was living. Her father does have hearing difficulties but did unwisely tell her assailant that she was staying with them and had

gone with her mother but he did not know where. In fact she stayed with her friend after that because she was scared.

47. She confirmed that the visit in 2013 was because her father had severe backache and she wanted to see her parents.
48. She stayed with a friend in Wellamapitiya. Her assailant accepted her father's explanation that she was not there and did not wait.
49. The Appellant had no problems at the airport.
50. It was put to her that the fact she was able to travel freely suggested that the assailant did not have the authority that she suggested. She said that he did not know that she had arrived or when she left. She did not know what powers he would have.
51. She was asked to explain how, if, as she had suggested, he had sufficient power to make a complaint pointless, how he would not have sufficient power to know who was coming and leaving at the airport. She did not think he had that much power.
52. She was asked why she returned to Sri Lanka in 2013 if she thought her life was in danger. She replied:

“because I was thinking that in 2013 it is a long period and then he would forget about me, I thought he would have a partner and get married and another thing he didn't know when I was going to come and so I thought I wouldn't have any problem.”
53. She said a photograph had been taken to show her scars.
54. She was asked why she did not claim asylum when she first entered the United Kingdom. She said she had come for her education and no other reason. Her younger brother was living in the United Kingdom and that made things easier.
55. The Appellant was pressed to explain why she did not claim asylum when she returned in 2013.
56. She said she went to two solicitors when her visa expired and explained to them she had problems and they invited her to get a student visa. She was asked why she could not return to Sri Lanka and relocate. She said that if she went to Sri Lanka her parents and friends would have problems. She said her friend would have problems too (I assume this is a reference to her present partner). Her friend could not go back. She could not explain how anybody would know they had relocated but she would be found. She insisted that the only person she feared was her previous boyfriend.
57. In answer to a general question at the end about anything she wanted to add, she said that on an occasion in 2006 her assailant and three others were waiting for her when she came out of work. They were armed. He pulled her into a jeep and threatened her that if she informed anybody what had happened to her “all my colleagues will do the same thing as I did to you, me and all my friends”. He then told her she should not tell anyone, including her parents and if she did “your life will be under threat and I will ensure you don't leave.”
58. Finally she said that another reason for wanting to remain in the United Kingdom was to be with her younger brother who had always taken care of her and she wanted to be with him.

59. I have a bundle prepared for the First-tier Tribunal. It is dated 9 August 2019 and includes photographs of scars on the Appellant's body, her general medical notes and a psychiatric report from a consultant psychiatrist that I consider in more detail below. There are other supporting documents in that bundle and I have considered them.
60. The psychiatric report is prepared by Dr Robin Lawrence whose relevant specialist qualifications include his being a member of the Royal College of Physicians and a member of the Royal College of Psychiatrists. He has been a consultant at St Thomas's Hospital in the National Health Service. The report is dated 9 June 2018 and is based on an examination on 24 May 2018.
61. The report includes the appropriate expert directions. I am entirely satisfied that Dr Lawrence is competent to give opinions on the matters that he does and directed himself properly before preparing an expert report.
62. He began the report by saying how the Appellant had told him at the end of the interview that she had told him things she had not told anyone else. Dr Lawrence said:
- "she knew that the purpose of the assessment was in order to prepare a court report and waived her right to confidentiality to the Court but in view of the sensitive nature of the content of this report, I request that this report is not made public."
63. Under the heading of collateral information he noted an e-mail from Counsel following a conference where concerns were expressed about the Appellant's ability to give instructions. The conference had not been fruitful and Counsel offered the opinion that it would be wrong to question her extensively without knowing she was fit to give evidence.
64. Documents given to Dr Lawrence included a letter dated 8 May 2018 addressed to the "honourable judge" and written by the Appellant's mother. It was in Sinhalese but in translation it said "lover making a lot of problem to her life by distrusting her" and "He has threatened her" and "Presently on and off he is threatening our family".
65. In summary Dr Lawrence found symptoms that were "highly consistent with post-traumatic stress disorder". He then outlined the history as given to him. Dr Lawrence noted that the Appellant gave an account of being raped and then of the assailant trying to re-establish a relationship (page 20 in the bundle, page 17/66 in the report), of her being forced into a jeep where he threatened her and then having given that account Dr Lawrence noted that the Appellant:
- "was hyperventilating, pale, she felt sick and was trembling. This was a further PTSD response, which is diagnostic of PTSD (again, it is almost impossible to simulate)."
66. The Appellant explained that when she applied for a study visa in 2008 her doctor had advised her to leave Sri Lanka because she was scared everywhere and her parents were worried for her and thought it would be good for her to study and to live with or near her younger brother who was lawfully in the United Kingdom. She was not a successful student and Dr Lawrence suggested that her failure was "possibly" the result of PTSD.
67. The Appellant repeated her claim that when she returned to Sri Lanka in 2013 for a brief visit her assailant (Dr Lawrence used the word "boyfriend"- page 22 and 19/66) came and threatened her parents and she was afraid.

68. The Appellant talked of her family history and her father's accident before she was born. She explained that when she was 6 years old her mother went to be a housekeeper in the Middle East and it was her father's relatives, particularly his parents who brought up the Appellant.
69. She then explained how she had been abused by a cousin when she was 8 or 9 years old. She described the abuse as "it was kind of rape. Four or five times, I'm not sure". Again the description was accompanied by hyperventilation of the type seen before. The Appellant explained how she was something of a loner and had just two or three friends at her place of work and always wanted to stay away from people and wanted to be alone which Dr Lawrence described as "highly consistent with her history of childhood sex abuse".
70. The Appellant talked about her relationship with her boyfriend which was not sexual although they enjoyed some intimacies. She had been prescribed a very mild sleeping pill.
71. Dr Lawrence said that the Appellant:
- "was one of the most frightened and ashamed patients I have ever seen. I do not think there is any doubt that she is suffering from PTSD and that this is a consequence of having been raped. She is clearly also traumatised by her experiences as a child."
72. The report shows that Dr Lawrence considered the possibility of malingering, not because it was suggested but because it is something he has to consider and discounted it. The extreme shame was a powerful diagnostic symptom of rape and other physical signs indicated post-traumatic stress disorder with severe secondary depression. He was concerned that the Appellant was not being treated appropriately (there was no reason to think her medical advisors had been told much of the matters that concerned Dr Lawrence) and he suggested certain things to be done. He said the treatment would not be fully effective if she was afraid of returning to the source of the threat.
73. He addressed his mind to the possibility of her taking her life in the event of return to Sri Lanka. He said that "she would be placed at very high risk if she were to be forcibly returned to Sri Lanka."
74. He then directed his mind specifically to questions asked by the legal representatives. I found questions 5 and 6 and their answers particularly illuminating. I set them out below:
- "5. *The Home Office is proposing to remove her to Sri Lanka, what would be your view of the likely impact to her mental health if this were to happen?*
- This young woman is extremely vulnerable. She experienced maternal abandonment when she was 6. An older cousin sexually abused her repeatedly when she was 8 or 9. She has always kept quiet, withdrawn and shy and this made her particularly vulnerable to rape at a later stage. She describes the rape very clearly and she describes the continued terror at meeting her assailant or any of his police cronies. The fear has generalised to everywhere and every authority/policeman in Sri Lanka. Therefore if she were to return to Sri Lanka in order to live, I expect her to become a recluse at best. Her PTSD would certainly be retriggered, her mental health would deteriorate and it is entirely possible that she could develop psychotic symptoms (paranoia, her belief that she is being followed or stalked, hearing the voice of her assailant or other severe symptoms). This has to be taken especially seriously in view of the fact that her doctor in Sri Lanka called this post-traumatic psychosis.

'What is your knowledge, if any, of the services available in Sri Lanka and the likelihood of assessing the same?'

Services are detailed in the body of my report. It is highly unlikely that she would access these services. She is very afraid that other people in Sri Lanka would know that she has been raped because she feels extreme shame and she would not disclose her trauma."

75. Dealing with the question of suicide Dr Lawrence said:

"She would be placed at very high risk if she were to be forcibly returned to Sri Lanka. Even the act of treating her depression is associated with an increased risk of suicide because of an increase in the patient's energy levels. Any form of detention is definitely associated with increased risk of suicide."

76. There is an addendum to that report dated 3 August 2020 following an examination on 28 July 2020.

77. It seems that the Appellant is receiving benefiting from appropriate medical treatment but is still far from well. The Appellant still believed that in the event of her return to Sri Lanka her assailant would want to hurt her and she was scared.

78. Additionally she said that her parents would want her to go into an arranged marriage and she did not want that. She was developing a relationship with a kind man in the United Kingdom.

79. The Appellant was vague about the degree of physical intimacy between her and her friend and I see no reason for me to know more than the Appellant was able to say. What is clear, on the Appellant's case, is that she is not able to enjoy a relationship with a man of a kind that would be regarded by many people as ordinary and wholesome and there were occasions when she has "pulled away" from him, which behaviour Dr Lawrence found typical of a person who had been sexually abused.

80. The Appellant and her friend are not able to marry because of "the visa situation" (I think this means that neither of them has any clear right to be in the United Kingdom). They had planned a temple marriage but that was not possible during lockdown.

81. The Appellant was very concerned how she would be able to manage in the event of a return to Sri Lanka. Her family would want to arrange a marriage for her which she did not want but she did not understand how she could live independently in Sri Lanka.

82. The papers served on the Secretary of State include a hospital "diagnosis ticket" dated 27 September 2004 referring to a date of admission of 19 September 2004 relating to the Appellant and recording lacerations to her scalp, right and left elbows, chest wall and elsewhere. I have a letter from the Appellant's mother in Sri Lanka dated 8 May 2018. This includes copies of her diary. The diary is said to be 2004 although it is printed for 2000 and the printed date is struck out and overwritten in manuscript confirming hospital visits. I set out the two most important paragraphs from the letter:

"My daughter left our country in the year 2009 because her lover made a lot of problem to her life by distrusting her. He has threatened her life by using cruel words and therefore she had to hide somewhere out of our residence. Further presently on and off he is threatening our family members by inquiring my daughter and he is saying when she comes to Sri Lanka he will kill her. Therefore as a mother I am very scared about my daughter's life.

If my daughter comes to Sri Lanka, it will be a trouble for her life again and also a problem for our family also. There are no any suitable protection for her life other than stay in your country.”

83. There is also a letter from the Appellant’s brother dated 11 May 2018. He was very anxious that she was able to speak to a suitably qualified medical practitioner because he was doubtful about her ability to tell what had happened. He said that he had been looking after her in the United Kingdom. He had been looking after her in Sri Lanka when their mother was away working as a housemaid. He was clearly fond of her and said he was like a father and mother to her, as well as a brother. He referred rather obliquely to coming to understand that the road traffic injuries were really involving her boyfriend. He did not know the cause of the injuries when he was in Sri Lanka and it had only recently been explained to him. His sister was frightened of returning to Sri Lanka and he feared might kill herself if she went.
84. Of particular interest is the letter from the Sahana Sevana Medical Centre dated 7 May 2018 and signed by a Dr W S Shanthy. Dr Shanthy said the letter is to certify that the Appellant was taking treatment from him from 2005 to 2008 and that she suffered from severe depression “due to road traffic accident and some personal issues” and he referred her to a consultant psychiatrist. There was then a letter dated 15 December 2004 from a medical centre signed by a doctor saying that the Appellant had “post-traumatic psychosis” after she met with a road traffic accident in September 2004.
85. I have considered Mr Martin’s skeleton argument and the Reasons for Refusal Letter and the submissions of both Mr Martin and Ms Cunha.
86. I reject Mr Martin’s contention that the Appellant case is capable of supporting a finding that she is a refugee. She has identified one enemy and that is a former lover who treated her badly and, she says, wants to do her harm. Mr Martin has suggested that the Appellant is in a group identified as “people who have had relationships with members of the security forces”. He may be right that is a social group but, if her story stands up to analysis, the Appellant claims to fear violence and other oppressive treatment at the hands of a personal enemy. Any fear that she might have or risk that she might run is solely because of that personal enemy and not because of membership of a particular social group.
87. Refugee protection is not there for people with personal problems but because they attract ill-treatment for things they are or believe.
88. Neither do I accept that the Appellant will be portrayed as an enemy of the state presumably by reason of untruthful representations by reason of her assailant. I follow the argument that the Appellant’s assailant has sufficient status in the Special Police Force to somehow “mark her card” but the fact is that on her version of events he bore her a grievance that had not gone away but rather rekindled when she returned to Sri Lanka and remains a threat now but she was able to enter and leave the country freely. Even if that fear is well genuine it is not well founded.
89. I have re-checked Mr Martin’s skeleton argument and my notes of the hearing to make quite sure that the Appellant was not relying on a risk of “honour killing” (to use a convenient but hideously inappropriate phrase) because this suggestion does lurk in

correspondence. This was not argued before me and I see no reason to think that it should have been.

90. That said I am impressed with Dr Lawrence's reports. Ms Cunha is right that Dr Lawrence does not actually say in terms that the Appellant was not fit to give evidence but it was clearly going to be a very traumatic experience for her. It is a matter of fact that I have not had the benefit of hearing her cross-examined, but given her state and history, almost any adverse indicator could have been attributed to her state of health, rather than her underlying integrity. I certainly do not disbelieve her because I have not heard her give evidence but the fact is that I have not and that necessarily weakens her case.
91. I do accept that the Appellant was raped in the circumstances that she explained. The evidence that she has been subjected to trauma which has left a significant mark that was detected by Dr Lawrence is compelling. I give a great deal of weight to his observations about her state when she was recounting some of her story and his opinion that she could not be feigning the things that he saw. She is a very upset woman. If I may say so life has not been kind to her. Her mother left her when she was a little girl. Her mother no doubt acted for the most commendable of reasons. The Appellant's father was not able to earn a living and so her mother did all that she could to earn money. She is not to be criticised leaving the Appellant as a young child may well have made its mark. I do not need to know the details but I accept that she did have sexual experiences with her close relatives when she was a child she ought not to have had. Again I accept Dr Lawrence's evidence about how her behaviour now, as a "loner", fits in with his expert expectations about how a victim of such abuse should behave. That, coupled with his expert observations about her extreme physical reaction to telling her story persuades me that the Appellant is truthful and substantially reliable in her account of past trauma.
92. I also found the Appellant's account of slowly developing a trusting and then loving relationship with a person who raped her to have been told powerfully. I concentrated on what was said to the Secretary of State in answer to questions in interview because that had the advantage of being unfiltered by anyone who may have had any desire to present it in the best possible light. The story of a woman sexually inexperienced and disinterested or reluctant to involve in sexual activity and a partner who had different intentions and, perhaps, expectations, and was profoundly disappointed and angry when she would not cooperate is, I suspect, familiar to all but the most inexperienced lawyers and others. There is an inherent plausibility about that part of her story. Further there is clear evidence that she was indeed admitted to hospital after a motorbike accident and I find the deliberately vague reference to "personal matters" in one of the medical notes to be significant. It does not obviously refer to sprains and bruising from falling off a motorcycle although she clearly did and that was a convenient excuse for a lot of distress. I am entirely persuaded that something else happened to her that was very horrible and should not have happened and has done her damage.
93. I further accept that the Appellant has a close relationship with her brother and family in the United Kingdom and when she came to the United Kingdom as a student she wanted to look to her brother for support as she had done as a child and beyond. This is not in any way inconsistent with the genuine desire to study and I am not suggesting she was not entitled to entry as a student but she wanted away from Sri Lanka and with her brother and that remains the case.

94. However, I do not accept the Appellant's claim that her assailant is looking out for her in Sri Lanka. There is actually little evidence that that is so. She has little or no direct evidence of that and such direct evidence as there is from her mother is decidedly thin.
95. Clearly the Appellant was not expecting problems when she returned to Sri Lanka. Although it is very human and understandable that she wanted to see her parents, she was not going back in anticipation of it being a last visit or something as compelling as that. She would not have gone back if she had had a reason to suspect that she would be sought out for bad reasons.
96. It just makes no sense to me that a person who had had a relationship with her many years before that was unhappy would want to be a nuisance to her. He might at the time have wanted to frighten her to protect himself from the complaints and if that was his intention he succeeded. It might suit his purposes very well that she is out of Sri Lanka but her returning would not be a reason to frighten her but a reason to keep right out of the way. It is not a case of him pestering her after the attack until she had to leave the country. The story was not told that way.
97. I remind myself that the standard of proof is low and that bad people do not necessarily behave in a way that I or any other judge would consider rational and I recognise the Appellant's genuine fear of being returned.
98. I also find that the Secretary of State was right when she contrasted the clear and, I found, extremely persuasive account of her developing relationship with her vagueness about her then partner's job and role in the police. The part of the story necessary to show there was a continuing risk was much less persuasively told than the part of the story that established there was a seriously unpleasant and criminal incident. I am not diminishing the seriousness of what happened. I do not accept that the Appellant is at risk from her former friend in the event of her return, I find that part of the evidence to be untrue.
99. Little has been said about alternative arrangements within Sri Lanka. I have seen nothing to show that the police are completely unaccountable so that effective protection is unavailable if there is a kernel of truth in her story but I do not accept there is a kernel in truth in that part of her story.
100. What we are left with then is a damaged woman happy in the United Kingdom and does not want to return to Sri Lanka where her circumstances would be difficult. She clearly wants to develop a relationship with a person in the United Kingdom but she would not give details about that. I do not criticise her for that because I do not know the reasons; they may be deeply personal; they may be cynically tactical. I do not know; the fact is I am not told about that relationship except that it is there and I cannot give much thought or weight to it.
101. I do accept that the Appellant would be under some pressure to marry. She is not a youngster and her parents are ageing and want her to be happy and settled. This is not a case where there is a risk of "forced marriage", it was not argued that way nor made out. The understandable social and personal pressure does not amount to something the entitles her to remain in the United Kingdom.
102. I am very aware of the need for suitable medical treatment for this Appellant and particularly of Dr Lawrence's concerns that removal could cause her to take her own life.

However I do not accept that the Appellant would not get proper medical treatment. As indicated, the Appellant has produced evidence that a mental health problem was diagnosed and arrangements made to see a consultant in Sri Lanka and the background evidence shows that she can be treated in Sri Lanka.

103. I accept that the Appellant has a subjective fear of returning. I noted that Dr Lawrence referred to a risk of the Appellant feeling that she was being followed or pursued even if that was not rationally so. She has not established a well-founded fear and she has not shown that her needed for mental health treatment cannot be met. She has not shown that removal would be contrary to her rights under article 3 of the European Convention on Human Rights.
104. I appreciate that the Article 8 balancing exercise is generally easier to resolve in an appellant's favour but this Appellant has no strong "private and family life". I do not know enough about her relationship with her present partner to make clear findings. I accept that her relationship with her brother is probably at the "family life" end of the "private and family life continuum. Certainly there is strong emotional support for her in that relationship but she has no leave to be in the United Kingdom and it is in the public interest to maintain immigration control.
105. There are not very serious obstacles in the way of reintegration into life in Sri Lanka. Her parents are there. It is her country of nationality and medical treatment is available.
106. She speaks adequate English and has the wit to earn her living but these are not weighty points in the balancing exercise.
107. Case such as this are difficult. I do not accept the Secretary of State's version that the Appellant is a dishonest woman in every respect whose story is to be swept aside as self-serving nonsense. I find that she has had a very traumatic experience in life and that has damaged her and she remains damaged and wants to settle with her brother in the United Kingdom who has long been her friend and supporter.
108. I do not accept that she is at risk now of serious ill-treatment even if she thinks she is and I do not accept she needs international protection of any kind. It follows therefore that I dismiss this appeal.

Notice of Decision

109. I dismiss this appeal.

Jonathan Perkins

Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 26 May 2021