



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-003504

First-tier Tribunal No: PA/53508/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 24th of January 2025

Before

DEPUTY UPPER TRIBUNAL JUDGE FROMM

Between

HB
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Saifolahi, Counsel, instructed by Lawmatic Solicitors

For the Respondent: Ms C Newton, Senior Presenting Officer (by CVP)

Heard at Field House on 16 January 2025

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant and any member of her family is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant or any member of her family. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appeals with the permission of the Upper Tribunal against a decision, dated 11 June 2024, of Judge of the First-tier Tribunal Hoffman (“the judge”) dismissing the appeal brought by the appellant on the grounds that removing her to Bangladesh would breach the United Kingdom’s obligations under the Refugee Convention and the Human Rights Convention.
2. The First-tier Tribunal made an anonymity order and I have continued the order in view of the fact this appeal concerns international protection issues.

The factual background

3. The appellant’s immigration history is as follows. She was twice refused a visit visa in 2015 but she succeeded in her application in 2019. She left Bangladesh on 26 May 2019 and entered the United Kingdom the same day as a visitor. She claimed asylum on 29 October 2019, the day her visa was due to expire.
4. In brief summary, the appellant’s account was as follows. She married FM in 1998 when she was 17 years of age. FM was 12 years her senior. The appellant was mistreated by FM and his family, with whom she lived. FM was away working in Kuwait much of the time. The appellant secretly entered into a relationship with SA whom she also married subsequently on 2 April 2019, shortly before she left Bangladesh. The appellant claims her family have disowned her and she fears FM and his family, who have powerful connections. FM’s family have made false accusations against her which led to her being tried in her absence and sentenced to ten years’ imprisonment. The appellant’s three children, aged 22, 19 and 17 at the date of hearing, claimed asylum as her dependants.
5. The respondent did not accept her account and rejected her application on 10 August 2022. The appellant appealed.
6. The appellant was represented by counsel at the hearing in the First-tier Tribunal. She attended and gave evidence. She submitted a bundle containing a detailed witness statement, copies of some documents supporting her account, an expert report and the respondent’s CPIN Women fearing gender-based violence, Bangladesh, January 2024. The respondent was represented at the hearing and opposed the appeal.

The judge’s decision

7. The judge dismissed the appeal on all grounds. The judge identified the issues in dispute as being: (1) whether the appellant was at risk of persecution based on her fear of FM and his family, (2) if so, whether she would receive state protection or she could safely relocate, (3) whether she met the requirements of the Immigration Rules for a grant of leave on private life grounds, and (4) whether the appellant’s removal would breach Articles 2, 3 or 8 of the Human Rights Convention.

8. The judge was not satisfied to the lower standard that the appellant was at risk of persecution in Bangladesh. He made the following findings:
- (1) The appellant claimed she left FM's family on 25 May 2019 and an FIR was issued on 26 May by FM's sister accusing her of stealing cash, gold and a cheque book. However, the police General Diary entry recorded the theft as taking place on 19 March 2019, two months before she left Bangladesh [16];
 - (2) The appellant tried to reconcile these different versions in cross-examination by claiming she also left home on 19 March 2019, following which the accusation was made, but she then returned to FM's family. This event was missing from her witness statement [17];
 - (3) The appellant had given contradictory evidence as regards when FM's family found out about her relationship with SA. If FM's family had reacted to that discovery in March by making a false accusation against her, it was "implausible" they would let her leave on the pretext she was taking the children to visit the doctor and she would be staying with her aunt [18];
 - (4) It was "even more implausible" that they would allow her to do so again in May and the appellant's explanation that they did so because they were embarrassed was inconsistent with her account of them being abusive and controlling [18];
 - (5) It was possible to obtain fraudulent police and court documents in Bangladesh [20] - [22];
 - (6) The expert report of Mr Saqeb Mahbub was of only limited assistance because he restricted himself to saying the contents of the documents produced by the appellant "resemble" the contents of genuine documents. This did not mean they were genuine and Mr Mahbub had not checked with the police or courts that the documents were genuine [23];
 - (7) The appellant gave contradictory evidence as to whether she had personally spoken to her lawyer in Bangladesh and this also damaged her credibility [24];
 - (8) The contents of a press report of the appellant running away, dated 27 May 2019, included that she had been accused of adultery and this contradicted the appellant's evidence that no one found out about the relationship until two months after she arrived in the United Kingdom [25];
 - (9) The affidavit sworn on 2 April 2019, declaring an intention to marry, was genuine but that did not mean the contents were true. It was unclear how the appellant could have married SA given she was still married to FM [26];
 - (10) The appellant had not provided a divorce certificate [26];
 - (11) When she applied for entry clearance in 2019, the appellant named her husband as FM, not SA [26];
 - (12) The appellant was still married to FM and had not married SA [26];
 - (13) The appellant was not a victim of abuse from FM and his family and she had not been convicted in her absence [27];
 - (14) It followed there were not very significant obstacles to her integration in Bangladesh [29];

- (15) The appellant had developed a private life in the United Kingdom [30];
- (16) There would be no interference with family life because she would return with her children [30];
- (17) The appellant had not shown she could speak English or be financially independent [31];
- (18) The appellant can obtain medical treatment in Bangladesh and her children can pursue their educations there [31];
- (19) The best interests of the appellant's youngest child were to remain with the rest of the family [31]; and
- (20) Little weight could be given to the appellant's private life because her status had always been precarious [31].

The issues on appeal to the Upper Tribunal

9. In granting permission to appeal, Upper Tribunal Judge Loughran said it was arguable the judge failed to include the documentary and expert evidence which corroborated the appellant's account in his assessment of whether the appellant's account was truthful. It was arguable that, instead, the judge used his rejection of the appellant's account to reject the documentary and expert evidence. She described the remaining grounds as "unparticularised and difficult to follow" and also noted they appeared to be a disagreement with the judge's findings. However, she granted permission to argue all of them.
10. The respondent has not uploaded a rule 24 response. However, Ms Newton confirmed the respondent opposed the appeal.
11. A bundle had been uploaded on the Upper Tribunal's platform running to 541 pages.

The submissions

12. Ms Saifolahi focused on the matter highlighted by Judge Loughran in her grant of permission. She relied on the well-known authorities of Ahmed (Documents unreliable and forged) Pakistan [2002] UKIAT 00439 Starred (Tanveer Ahmed) and QC (verification of documents; Mibanga duty) China [2021] UKUT 00033 (IAC). She led me through the structure of the judge's findings. He had made findings on the appellant's credibility before looking at background evidence on the availability of fraudulent documents in Bangladesh. He then turned to the expert report and gave reasons at [23] for finding the report was of limited assistance only as to whether the documents were genuine. At the end of that paragraph, he said,

"Taking into account the credibility and plausibility issues identified earlier in this determination, I attach little weight to his assessment of these documents."

13. Ms Saifolahi's overarching submission was that the judge's approach was flawed and he had erred by failing to look at the evidence in the round. Instead he had made findings on the appellant's credibility and the

background evidence and only then, based on those findings, rejected the expert evidence.

14. Applying Tanveer Ahmed, Ms Saifolahi also argued the judge had erred by focusing on whether the documents were fraudulent instead of looking at their content and deciding whether to give them weight.
15. Ms Saifolahi did not address me on the other grounds of appeal and she agreed that the appellant's private life ground of appeal would stand or fall with the outcome of the protection claim.
16. Ms Newton made submissions that the judge had not erred. In reply, Ms Saifolahi maintained that the judge had not taken a holistic approach.
17. Having heard full submissions I reserved my decision.

Decision on error of law

18. Having carefully considered the oral submissions made to me, the relevant parts of the judge's decision and the parts of the evidence relied on by the parties, I have concluded that none of the grounds relied on by the appellant in the original grounds or as expanded on by Ms Saifolahi in her submissions are made out. My reasons are as follows.
19. It is, of course, well-known that decision-makers must look at the evidence in the round or holistically. As regards documents, the decision-maker must consider whether reliance can be placed on them after looking at all the evidence in the round: Tanveer Ahmed. It is axiomatic that a fact-finder must not reach their conclusion before surveying all the evidence and it would be an error to artificially separate the expert evidence by reaching conclusions on credibility and then asking whether that conclusion should be displaced by the expert evidence: QC.
20. I am unable to accept Ms Saifolahi's argument that the judge fell into any such error in his decision. As discussed in QC, the decision-maker has to start somewhere and how they go about setting out their findings is a matter for them. The important thing is to show that they have considered all the relevant evidence before making a decision. In my judgement, that is precisely what the judge has done in this case.
21. For example, having dealt with certain frailties in the appellant's oral evidence, he turned to the documents. He began by looking at the background evidence from which he concluded that he had to recognise that fraudulent police and court documents could be obtained in Bangladesh. He then reminded himself at [22] that,

"I must therefore bear that in my mind when carrying out an holistic assessment of the evidence before me."

22. It is perfectly clear from this sentence that the judge was conscious of the need to look at the evidence holistically and, moreover, that he carried out his assessment accordingly.
23. Paragraph [23] focuses on the judge's assessment of Mr Mahbub's report, which commented on the contents of the documents which the appellant had produced. The judge was perfectly entitled to attach little weight to the expert's comment that the contents resembled the contents of genuine documents for the reason he gave: the whole point of a fraudulent document is that it resembles the real thing. It is clear the judge was focused on the contents of the documents and assessing whether they supported the appellant's account. He was entitled to find they did not.
24. I have considered the final sentence of the paragraph which Ms Saifolahi highlighted to me. In effect, she argued the judge's use of the words, "taking into account the credibility and plausibility issues identified earlier" showed the judge had rejected the reliability of the documents only after reaching conclusions on the appellant's credibility. However, I do not find it possible to reconcile that interpretation with what the judge had stated in [22] as regards the need to look at the evidence holistically. Nor does this argument accord with the first sentence of [27], where the judge stated,

"Ultimately, having considered all the evidence in the round, I am not satisfied even on the lower standard that the appellant faces a risk of persecution ..."
25. My reading of the sentence highlighted by Ms Saifolahi is that, when the decision is read as a whole, what the judge was meaning to say was that he was looking at the evidence as a whole, including specifically the oral evidence, before concluding on the reliability of the documents. It is not a fair reading of the decision to suggest the judge had already made up his mind about credibility before considering the documents. His overall conclusion about credibility is at [27].
26. Nor do I consider the judge's use of the term "fraudulent" in relation to the documents means he lost focus on the issue of whether the contents of the documents could be relied on. The fact that fraudulent police and court documents can be obtained is obviously relevant as it provides a factual context for the judge to make his assessment about a contested matter. Furthermore, as said above, the judge's reasoning focused on the contents of the documents, as assessed by the expert.
27. The judge's decision does not contain any error law. It is well-structured and contains numerous cogent reasons based on the evidence for the judge's overall conclusion that the claim put forward by the appellant could not be believed to the lower standard applicable.

Notice of Decision

The decision of the First-tier Tribunal, dismissing the appellant's appeal on all grounds, did not involve the making of an error of law and shall stand.

Signed

N Froom

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated

16 January 2025