



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

Appeal Number: AA/00023/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 22<sup>nd</sup> July 2015**

**Decision and Reasons Promulgated  
On 29<sup>th</sup> July 2015**

**Before**

**UPPER TRIBUNAL JUDGE FINCH**

**Between**

**AB**

(An anonymity order is made)

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms N. Braganza, instructed by Camden Law Centre

For the Respondent: Ms J. Isherwood, Home Office Presenting Officer

**Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269), I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This direction applies to, amongst others, the parties. Any failure to comply with this direction could give rise to contempt of court proceedings.**

**DECISION AND REASONS**

### History of Appeal

1. The Appellant, who was born on 10th November 1987, is a national of Pakistan. She entered the United Kingdom on 23rd February 2011 with leave to remain as a Tier 4 (General) Student until 6th July 2015. She became pregnant on 31st December 2013 and her son was born on 28th September 2014. She does not know the identity of her son's father and in February 2014, when her parents and brothers found out that she was pregnant, they began to threaten her with an honour killing and say that they would also kill her baby.
2. As a consequence she left her course, as her family knew where she was studying, and on 9th June 2014 her leave to remain as a student was curtailed by the Respondent. On 13th August 2014 the Appellant applied for asylum and was given a screening interview. Her substantive asylum interview took place on 10th November 2014. The Respondent refused her application on 4th December 2014. She accepted the Appellant's identity and nationality and the fact that she had given birth to a child whilst in the United Kingdom. However, she did not accept that the Appellant would be at risk of persecution if she were to be removed to Pakistan.
3. The Appellant appealed against this decision and her appeal was heard by First-tier Tribunal Cassel on 13th April 2015. The Appellant's appeal was dismissed in a decision and reasons promulgated on 29th April 2015. The Appellant applied for permission to appeal on 13th May 2015 and permission was granted by First-tier Tribunal Judge Andrew on 1st June 2015. She did so on the basis that First-tier Tribunal Judge Cassel had made no findings in relation to the risks on return to the Appellant's child. She added that it was an arguable error of law to have not addressed the expert report in detail and to have considered this in the round with all other evidence. Finally, she noted that the Judge had not given any clear reasons as to why there can be no departure from **KA and Others (Domestic Violence – risk on return) Pakistan CG [2010] UKUT 216 (IAC)**.
4. In the Respondent's response to the grounds of appeal under Rule 24 she submitted that the Judge had considered the Appellant's risk on return and had found against her for sustainable reasons. She also asserted that the medical report by Dr. Gil Darryn had been comprehensively considered by the Judge in paragraph 32 of the decision and reasons.

### Error of Law Hearing

5. At the hearing counsel for the Appellant noted that at paragraph 14 of the decision and reasons the Judge had applied the incorrect standard of proof and that at paragraph 17 there were no findings of fact in relation to the circumstances which led to the Appellant becoming pregnant.
6. She also noted that at paragraph 18 of the decision and reasons the Judge accepted that the Appellant's father was no longer supportive and had stopped providing her with financial support and that at paragraph 19 the Judge accepted that the Appellant had reported the threats to the police in the United Kingdom.

7. In addition, she submitted that the failure to consider the Appellant's credibility in the context of the available background and expert evidence did amount to a material error of law. She added that paragraph 32, which addressed the question of asylum, was wholly unsatisfactory.
8. When she replied the Home Office Presenting Officer noted that the risk of the Appellant being separated from her son had not been part of her claim for asylum and that the circumstances in **KA** were different as the children in that case had a father in Pakistan. She also noted that in paragraph 38 of the decision and reasons the Judge had considered Section 55 of the Borders, Citizenship and Immigration Act 2009 and found that it was in the Appellant's son's best interests to remain with her. She also noted that there was no evidence that the Appellant would be separated from her son. She did not address other submissions made by the Appellant's counsel.
9. At paragraph 28 of the decision and reasons the Judge did state that she had taken into account the Appellant's age, her level of education and the evidence in both oral and documentary form. I accept that this may have included a very brief implicit reference to Dr. Darryn's expert report.
10. However, the Judge only devoted one short paragraph to her consideration of whether the Appellant was entitled to asylum. I do not find it to be a comprehensive consideration of the Appellant's claim or the expert evidence. In this paragraph it was not clear whether she accepted that the Appellant was a single woman with a child who may be entitled to protection as a member of a particular social group. In addition, she did not make any findings of fact about whether her fear of ill-treatment was well-founded or whether there would be a sufficiency of protection for her in Pakistan.
11. Instead she makes a bare assertion that the expert report by Dr. Darryn only highlighted certain difficulties which had already been extensively address in the country guidance case of **KA**.
12. It is trite law that a judge must consider all the evidence in a case in the round before coming to a decision as to an appellant's credibility and any risk on return. (See, for example, **Karanakaran v Secretary of State for the Home Department [2000] EWCA Civ 11**). In paragraphs 26 to 31 the Judge singularly failed to do so and did not consider any objective or expert evidence when considering the credibility of the Appellant's account but merely considered issues of internal consistency in her own evidence.
13. In paragraph 32 the Judge also asserted that the difficulties which may be faced by the Appellant had already been addressed in **KA**. However, the Judge gave no reasons for this assertion. Neither did she take into account the fact that the country guidance case was now more than five years old and that Dr. Gil Daryn had referred to a number of reports and articles which post-dated **KA**. Furthermore, in **KA** the Court of Appeal had found that "whether a woman on return faces a real risk of an honour killing will depend on the particular circumstances". Therefore, the country guidance itself required the Judge to consider the Appellant's own particular circumstances in the light of the

objective and expert evidence before reaching a decision. There is nothing in the decision and reasons to show that the Judge did so.

14. In addition, in paragraph 33 of the decision and reasons the Judge found that the Appellant was at some risk if she returned to Lahore but gave no reasons for reaching such a finding or the basis for it.
15. For all of these reasons I am satisfied that there were material errors of law in the First-tier Tribunal Judge's decision and findings and that it should be set aside in its entirety. I am also satisfied that, as there will need to be a complete re-hearing, this is a proper case for remission to the First-tier Tribunal.

Conclusions:

1. The First-tier Tribunal Judge's decision and reasons did include material errors of law.
2. The decision should be set aside in its entirety.
3. The appeal should be listed for a *de novo* hearing in the First-tier Tribunal.

Directions

1. The appeal is remitted to the First-tier Tribunal for a *de novo* hearing.
2. The appeal should not be re-listed before First-tier Tribunal Judge R. Cassel.

Date 24<sup>th</sup> July 2015

A handwritten signature in black ink that reads "Nadine Finch". The signature is written in a cursive, slightly slanted style.

Upper Tribunal Judge Finch