



IAC-FH-AR-V1

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

Appeal Number: AA/11770/2015

THE IMMIGRATION ACTS

Heard at Field House

On 15th April 2016

**Decision & Reasons
Promulgated
On 28th April 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHANA

Between

**[Z H]
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Khan, Counsel, instructed by Thompson & Co Solicitors

For the Respondent: Mr T Melvin, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Pakistan born on [] 1989. The appellant appeals against the decision of the respondent refusing her asylum and humanitarian protection in the United Kingdom. First-tier Tribunal Judge

Callow dismissed the appellant's appeal on 9 May 2015. The judge stated that the appellant's husband's appeal is dependent upon the results of his wife's appeal.

2. Permission to appeal was granted by First-tier Tribunal Judge Grant-Hutchison in a decision dated 7 March 2016 stating that it is arguable that the judge did not make any findings on sufficiency of protection afforded to the appellant with regard to the risk posed by the SSP and any assessment of internal relocation within with regards to the possible risk that the appellant may face from the SSD on return to Pakistan.
3. The First-tier Tribunal Judge in her decision made the following findings which I summarise. At paragraph 19 the judge states that in respect of the exercise of assessment of credibility of the appellant she relies on the provisions of Section 8 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004. She states that as the appellant's credibility is the founding issue in this appeal and she is mindful of the guidance in **Chiver [1994] UKAIT 10758** and states that it is perfectly possible for an Adjudicator to believe that a witness is not telling the truth about some matters, has exaggerated the story to make his case better or is simply uncertain about matters but still to be persuaded that the centrepiece of the story stands. This is particularly also when the criteria of an adjudicator is the reasonable likelihood of persecution occurring were a person to return to a particular country.
4. The judge at paragraph 23 stated that

“Prior to addressing the credibility of the appellant's claim it is necessary to consider the guidance in **KA and Others (Pakistan) CG** and in particular the respondent's recent guidance referred to at paragraph 7C above that indicates that the risk of honour killing in Pakistan is not restricted geographically or otherwise.”
5. The judge stated at paragraph 28 that:

“For the most part the appellant's account has been accepted by the respondent. In giving her evidence, supported by her husband, the appellant has given credible evidence addressing the core issues in this appeal. At the lower standard, in the round it has been established that the appellant has received threatening calls from let alone her uncle but also from members of the SSP and that it is likely that the brother-in-law and his family were attacked by the SSP. Despite a threat of non disclosure, the appellant's brother-in-law identified the SSP in his report (FIR) to the local police.”
6. The judge considered assessment of risk starting at paragraph 29. The judge states that “findings of fact is such that the appellant's claim is to be assessed on her factual assertions. Referring to the case of **KA and Others (Pakistan) CG** that a fact sensitive decision addressing the risk of

an honour killing on return to Pakistan, it was held that such an event would depend on the particular circumstances of the appellant.”

7. At paragraph 30 the judge states that

“The appellant is a young married woman and holds a Pakistan BA degree and certain qualifications that she obtained in the United Kingdom. Her husband is also an intelligent person and he too has been in the United Kingdom obtaining qualifications. Unlike the challenges that might be faced by a single woman returned to Pakistan threatened with an honour killing the appellant would be returned with her husband wherein there would be no immediate degree of hardship. The appellant would continue to communicate with her mother via Skype and in the event that she discovers the appellant unlikely that she would disclose this to the appellant's uncle and his son.”

8. The judge noted that it has been established that there is a reasonable likelihood of hostility from the appellant's uncle such as to raise a risk of serious harm in her home area. While there might not be effective protection for the appellant and her husband in her home area Chakwal it does not extend to all of Pakistan. As the appellant will be removed to her home country with her husband, she obviously does not face the challenges that would have to be dealt with by a single woman in a patriarchal society.
9. The judge stated at paragraph 32:

“In considering internal relocation I have considered the guidance in **Januzi [2006] UKHL 5**. The particular circumstances in the present appeal are such that the appellant comes from the city of Chakwal. While she may be at risk of an honour killing she and her husband have a viable option of internal relocation. Pakistan is a very large country geographically and has a large population estimated at just under 200 million as of December 2015. If the appellant and her husband relocate in Pakistan there is only a remote possibility of being traced. In the absence of any evidence of being in a position of responsibility it has not been established how the uncle might access personal details held by National Registration Authority (NADRA) in Pakistan. The appellant and her husband are well able to relocate to another city in Pakistan and find employment. They are capable of living a relatively normal life without undue hardship: **AH (Sudan) [2007] UKHL 49**.”

The judge accordingly dismissed the appellant's claim for asylum and humanitarian protection.

10. The grounds of appeal are the following. The First-tier Tribunal Judge erred in failing to make any findings with regard to sufficiency of

protection or internal relocation against the risk posed by SSP despite both accepting that the appellant received death threats from members of SSP, and having cited objective evidence indicating the organisation's influence. In the case of **AW (Sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)** which requires the judge to make an assessment of sufficiency of protection upon return to Pakistan. In doing so the judge must have regard to the circumstances of the appellant. The judge did not make a finding regarding sufficiency of protection upon return to Pakistan with regards to the risk the appellant faced from the SSP and failing to do so erred in law.

11. The judge accepted at paragraph 28 of the determination that the appellant received threatening telephone calls from the SSP threatening her life upon return to Pakistan and that it was likely that the SSP attacked her brother-in-law's home. As such the SSP poses a significant risk of serious harm for the appellant upon return to Pakistan.
12. The judge made no reference to the Pakistani authorities' ability to provide sufficiency of protection to the appellant in face of such a threat. **AW (Sufficiency of protection)** requires the judge to make reference to the appellant's circumstances with regard to sufficiency of protection. By failing to do so and not to make an assessment of the Pakistani state's ability to provide to sufficient protection to the appellant with regard to the accepted risk from SSP the judge erred in law.
13. The second ground of appeal states that the judge made his findings in respect of internal relocation at paragraph 32 but did so fully on the basis of the accepted risk the appellant faces from her uncle but failed to make such an assessment with regards to the risk that the appellant faces from the SSP. The objective evidence before the judge indicated that the SSP has influence country-wide and the determination makes no mention of this influence and no findings are made with regard to the appellant's ability to relocate internally not protect herself from the risk posed by SSP.
14. At the hearing I heard submissions from both parties as to whether there is an error of law in the determination of the First-tier Tribunal Judge. Mr Khan relied on his grounds of appeal and said that the judge stated that there four issues to be decided and correctly identified the sufficiency of protection from the SSP. He however failed to address it in his conclusions. The appellant's claim at paragraph 26 of her witness statement was that her uncle was a member of the SSP so therefore there were threats from the uncle as well as the SSP. SSP is a banned organisation and they have hostility towards inter-faith marriages because the appellant and her husband are Sunni and Shia. The judge accepted the evidence but made no findings.
15. Mr Melvin on behalf of the respondent stated that it is clear from the decision that the appellant may be at risk in the local area but there is no evidence that the uncle was a member of the SSP or has influence all over

Pakistan. The judge noted that Pakistan is a large country and the appellant and her husband can relocate within that country. The judge noted the case of **AW (Pakistan - sufficiency of protection)** and it has been assessed by the judge in his determination.

Findings as to whether there is an Error of Law in the Determination

16. The judge in a very careful and detailed determination set out all the evidence in the appeal and laid down a large amount of background evidence and case law in her decision. This demonstrates that the judge was fully appraised of the evidence and the background information that he must apply to the facts of this case.
17. The judge clearly set out the main issues in the appeal which is whether the appellant received any threatening telephone calls from the SSP and that they threatened to kill her and her husband on return not Pakistan. Second, whether the home of the appellant's brother-in-law was attacked by the SSP. Third, whether the appellant unduly delayed in making her claim for asylum and, fourth, whether the appellant has demonstrated that there are insufficiencies of protection available to her and her husband or that it would be unduly harsh or unreasonable to expect them to live away from their home city.
19. From the reading of the determination it is evident that the judge found that there might be some risk to the appellant in her home area of Chakwal. However, he said that the appellant can relocate within Pakistan which is a large and populous country with her husband. The judge at paragraph 29 considered the assessment of risk to the appellant. It is implicit that the judge who accepted that the appellant had been threatened by the SSP said that the appellant has cause for concern in her home area but not anywhere else. He noted that the appellant's uncle was merely a member of the SSP and if the appellant and her husband relocated within Pakistan there would be a very remote chance that they will be found by anybody.
20. The judge in his determination set out the case law which shed light about the sufficiency of protection in Pakistan. The judge noted that the appellant was an educated woman as was her husband. That demonstrated to him that they were resourceful and "can work and look after themselves in Pakistan". The judge found that the appellant has not demonstrated that she would be at risk on return. From the evidence he was entitled to come to these conclusions on all the evidence including background evidence and case law. The judge found that the appellant will return to Pakistan, what is essentially a patriarchal society, with her husband and will not be subjected to harm as she will have the protection

of her husband and would not be a lone woman in Pakistan. These were findings open to the judge on the evidence.

Notice of Decision

21. I find that the judge was entitled or indeed bound to come to the conclusions he did on the evidence before him. I find that the judge has not made a material error of law and I uphold the determination.

Appeal 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 26th day of April 2016

Deputy Upper Tribunal Judge Chana

**TO THE RESPONDENT
FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 26th day of April 2016

Deputy Upper Tribunal Judge Chana