



**IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2021-001123
FtT No: PA-07727-2019**

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 24 May 2023**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**S N R
(anonymity order in place)**

Appellant

and

SSHD

Respondent

Heard at Edinburgh on 17 May 2023

For the Appellant: Mr T Ruddy, of Jain, Neil & Ruddy, Solicitors
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. FtT Judge O'Hagan dismissed the appellant's appeal by a decision promulgated on 25 October 2021.
2. The appellant sought permission to appeal to the UT on grounds set out in 15 paragraphs over 11 pages. FtT Judge Grant gave permission on 3 December 2021.
3. Mr Ruddy dealt firstly with ground 1, on whether the claim falls within the Refugee Convention category of a particular social group. In light of what follows, that question may again be left to the FtT.
4. Ground 2 is on whether the appellant's mental health was adequately considered in relation to credibility. In oral submissions, Mr Ruddy said that the

Judge's self-directions were not applied. I did not see much force in that argument, but it becomes irrelevant, in light of the other grounds.

5. Mr Ruddy submitted that the strongest points for the appellant were in grounds 3 and 4.
6. Ground 3 challenges [27, 28 & 29] of the FtT's decision, where the Judge finds that the name of the station has not been inserted in the heading of 3 "extracts from the Information Book of Police Station", which in each case "weakens the weight" she can attach to the document.
7. Mr Ruddy demonstrated from the copies of the original and translated documents that there is a short passage in English in the heading of the 3 forms, where the name of the station has not been inserted, but the name "Borella Police Station" is present in the originals in the corresponding passage in Sinhalese, the language of the rest of the documents.
8. Mr Mullen accepted that the Judge fell into a misconception about the 3 documents.
9. Ground 4 drills into whether the Judge went wrong, also at [28], in noting an inconsistency over whether an incident took place at the back door or at the front door of the appellant's house. Mr Ruddy referred further to the underlying evidence.
10. Mr Mullen accepted that the Judge made more of the matter than could reasonably be sustained from the evidence.
11. There is also apparent force in ground 6, challenging the analysis in the decision at [30] that the weight to be given to police documents was weakened because they are extracts from an Information Book not "First Information Reports", and the expert did not explain what part an Information Book plays in the criminal process.
12. The Judge seems to have made a great deal from very little. The appellant's case was not conditioned upon the documents being in the particular form of "FIR's".
13. There are numerous other reasons in the decision, and numerous other challenges in the grounds. It is doubtful whether those other, fainter, challenges rise above disagreement, but they do not need to be resolved. Mr Mullen, in course of the debate, conceded, fairly and correctly, that errors had been identified to an extent where he could not argue that the decision must have been the same, if those were to be excised. The outcome was agreed, as follows.
14. The decision of the FtT is set aside, and stands only as a record of what was said at the hearing.

15. The nature of the case is such that it is appropriate under section 12 of the 2007 Act, and under Practice Statement 7.2, to remit to the FtT for an entirely fresh hearing, not before Judge O'Hagan.
16. The FtT ordered anonymity, which is maintained at this stage.
17. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant 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 her. Failure to comply with this order could amount to a contempt of court.

Hugh Macleman
Judge of the Upper Tribunal, Immigration and Asylum Chamber
24 May 2023