



IAC-AH-CO-V1

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

Appeal Number: AA/07928/2014

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 27 October 2015**

**Decision & Reasons Promulgated  
On 20 November 2015**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**CHARITHA PRABATH RANGANA SENEVIRATHNA  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Khan

For the Respondent: Mr Harrison

**DECISION AND REASONS**

1. The appellant, Charitha Prabath Rangana Senevirathna, was born on 13 September 1980 and is a male citizen of Sri Lanka. The appellant appealed to the First-tier Tribunal (Judge Holt) against a decision dated 18 September 2014 of the respondent to remove him from the United Kingdom having rejected the appellant's asylum claim. The First-tier Tribunal dismissed the appellant's appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. There are two grounds of appeal. First, the appellant asserts that the judge failed to understand the evidence adduced by him. The appellant in

his written evidence had stated that he had “decided to instruct a lawyer to help me obtain a copy of the documents held in the Sri Lankan courts.” These documents related to an arrest warrant allegedly issued against the appellant. At [28], Judge Holt recorded that:

“In this case there was evidence from the appellant that he does in fact have contacts with the police because he told me he has a friend whose father is a retired police officer. It is his case to use these contacts to obtain (what he claims to be) genuine documentation which corroborates, he says, his suspicion that he is wanted on an arrest warrant.”

3. I can find nothing in the written evidence or in the Record of Proceedings (which gives an account of the appellant’s oral evidence tendered before the First-tier Tribunal) that indicate that the appellant has ever said that he used a contact with the police to obtain documents. Judge Holt clearly believed [27] that it was necessary to have a police contact in order to obtain an arrest warrant from the Sri Lankan court; she cites the COIS Report of 17 March 2012 which indicates that this is the case. She appears also to have accepted the respondent’s submission (again I cannot find this in the Record of Proceedings) that the appellant used contacts with the police to obtain fabricated documentation with the help of a Sri Lankan lawyer. I stress that there is nothing in the papers to indicate the appellant ever made such a claim. The judge clearly believed that it was significant that the appellant had used the police contact to obtain the documents because she refers it to again [30] when rejecting the appellant’s documentary evidence as unreliable. The fact remains that the appellant has stated throughout that he sought to obtain the documents not through his police contact but via services of the Sri Lankan lawyer. The judge has, therefore, not adequately assessed the appellant’s claim but has rather assessed the appeal on a basis which the appellant never advanced to her.
4. Secondly, the appellant’s wife gave evidence before the First-tier Tribunal. Part of her account (see her written evidence) corroborated that of the appellant. Although the judge refers to the wife having given evidence, there has been no assessment whatever of the credibility of that evidence which the judge was obliged to consider was part of the totality of the evidential material before her.
5. I consider that both of the errors perpetrated by the judge are sufficiently serious to leave me to set aside her decision. In the light of the nature of the errors, I remit this matter to the First-tier Tribunal (not Judge Holt) for that Tribunal to remake the decision. None of the findings of fact shall stand.

### **Notice of Decision**

6. The decision of the First-tier Tribunal promulgated on 12 December 2014 is set aside. The appeal is remitted to the First-tier Tribunal (not Judge Holt) for that Tribunal to remake the decision.

No anonymity direction is made.

Upper Tribunal Judge Clive Lane

4 November 2015