



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

Appeal Number: AA/04767/2015
AA/04880/2015

THE IMMIGRATION ACTS

**Heard at Glasgow
on 7 December 2015**

**Decision & Reasons
Promulgated
On 4 January 2016**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**REBECCA JUSTEN
JESSICA JUSTEN JOHN**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the First Appellant: Mr K Forrest, Advocate, instructed by Gray & Co.,
Solicitors
For the Second Appellant: Mrs F Farrell of P G Farrell, Solicitors
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellants are Christians and nationals of Pakistan. They claim to have been at risk from the Taliban, as a result of which they fled to the UK. They are mother and daughter. Another daughter, a minor, accompanied them. The first appellant's husband and son remained in Pakistan, because they did not have visas for the UK.
2. The respondent did not consider the appellants' claims credible, and held that in any event "taken at highest" sufficiency of protection and internal relocation were both available.
3. Judge Handley dismissed the appellant's appeals by determination promulgated on 2 July 2015. He had some concerns regarding the evidence. He accepted that the first appellant is a Christian, but not that

she is either a high profile or an evangelical one (paragraph 35). He considered that areas of relative safety were available, and referred to country guidance to the effect that relocation was normally a viable option unless an individual was accused of blasphemy which was being seriously pursued. He did not accept that the appellants were in that situation (paragraph 36).

4. The appellants appeal to the Upper Tribunal on the following grounds:

2. **The FTTJ erred in law because:**

2.1 Paragraph 29: the issue discussed was not a significant discrepancy, or if it was, it was no more than a minor one. The letter received by her family in January 2014 was after she had left Pakistan. She was entitled to assume that questions would be restricted to matters that pre-dated her entry to the UK. The FTTJ was not entitled to conclude that the appellant's credibility was damaged of a "*serious discrepancy*" arose.

2.2 Paragraph 30: the incidents between December 2012 and December 2013 should have been considered in the round, nor individually analysed. The appellant alleges that 4 incidents took place between December 2012 and December 2013 and all allegedly related to the appellant's religion. The basis of any analysis should not have been whether the police were told that 2 of these incidents (*attack on the son and attack on the appellant*) related to religion, but whether they were plausible, having regard to time, place and circumstance. If not, and appeared to be isolated incident, then the conclusions in this paragraph would have been open to the FTTJ. But having regard to other guidance considered in the round, including the appellant's evidence (*unclear if this is accepted or rejected*) that the police were not sympathetic to such complaints, the conclusion in the last sentence of this paragraph as not open to the FTTJ.

2.3 Para 31: it is not clear whether the FTTJ accepts that the (2) letters referred to blasphemy either specifically or implicitly. Persecution is in the mind of the persecutor: both the December 2012 and December 2013 letters referred (*implicitly in the earlier one which allegedly mentions "... consequences ..."*) to blasphemy (*specifically in the later one*). Only if evidence of their contents and/or whether they were even received is rejected can the threat of blasphemy be excluded. They are not so the issue is a crucial one. No proper finding is made, and the basis of the conclusion in this paragraph - that the appellant herself accepts she was not evangelising - is unsafe. What may be evangelising to one person may not be to another. The test is whether in Pakistan teaching even basic facts which include a reference to Jesus might be considered blasphemous by some.

2.4 Paragraph 33: it is not clear what part of Section 8 has been engaged. From the second sentence here, it is assumed to be S8(4). The basis of the claim is a series of incidents allegedly occurring within one year, at the end of which the appellant alleges she left her home country and attempted to claim asylum as quickly as possible (*see the later part paragraph 7 in her Statement*). S8(4) talks of not claiming asylum after a "reasonable opportunity". There is no basis for arguing the appellant delayed doing so. Section 8 raises a rebuttable presumption of incredibility in certain circumstances such as that envisaged by sub section 4. Either that presumption does not arise in the first place or if it does has clearly been rebutted here.

- 2.5 Paragraph 34: the risk identified in AK is of "... becoming a victim on blasphemy ..."** (*Headnote 5*). As above (*paragraph 2.3*) it is not clear whether it has been accepted that the appellant has been accused of blasphemy. The second sentence in paragraph 36 in the decision does not help because no reference is made to the contents of either letter. In any event, AK also says that individual factors should be assessed on a case by case basis. Relevant factors here include the appellant's experience in Christian teaching, the allegation she has had to move before on account of alleged possible threats, and the status of her husband (a Christian leader). No account is taken of any of these factors.
- 2.6 Paragraph 36: according to AK, internal relocation is not viable if allegations of blasphemy are being seriously pursued** (*Headnote 8*). Reference is made to paragraphs 2.3 and 2.5 above. Whether the blasphemy allegations are credible is crucial. In any event internal relocation must take account of personal circumstances (*such as her experience, her husband's status and her previous attempts to relocate and their effect*). This has not been done.
- 2.7 The FTTIJ has left out of account evidence which should have been taken into account.** No reference is made to the evidence referred to at paragraph 13 in her statement.

5. Mr Forrest firstly identified the principal item of documentary evidence on which he said the case relied. This is a photocopy dated 10/02/14 and headed "to whom it may concern", signed by Mr Justen John, Director ARP Mission Schools, Sahiwla, Pakistan. It states that the author recently received a "threat letter" addressed to his wife, the first appellant, from unknown senders describing themselves as *Mujahedeen-i-Islam*; that the police declined to register a complaint, describing this as a religious matter; and that the police advice was to move away "to have our lives secured". The document has an attesting stamp from an advocate of the High Court and Commissioner for Oaths. Why such a document should be stamped in that way, and to what effect, has not been explored.
6. I note since the hearing that among the rather disorganised papers placed on file for the appellants there is a copy translation of an undated letter to "Miss Rebecca" warning her to keep away from preaching or else, "We will have you, your daughter and the whole family implicated in blasphemy laws in such a manner that there will be no way left ... we will kill you and will be able to find you in any corner of Pakistan". This is signed *Mujahedeen-i-Islam* and accompanied by what may be a copy of the original document in Urdu.
7. Mr Forrest based his submissions only on 2.3, 2.5 and 2.6 of the grounds. He said that three significant points were not in doubt: the first appellant was a Christian; was a teacher of history in several schools; and Christians form a relatively small minority in Pakistan, who suffer discrimination. Each claim of persecution arising in that context had to be decided case by case. The judge failed to make any finding on the critical allegation that she was the victim of blasphemy allegations. He expressed doubts about the first threatening letter (no copy produced, as it was not retained) at paragraph 29 but reached no clear conclusion. At paragraph 32 he seemed to have no doubts about the second letter. He failed to put

matters in context of the background evidence about such threats. He identified the question whether accusations of blasphemy were being seriously pursued but left it open. A rehearing was required for such findings to be made.

8. Mrs Farrell adopted the submission made by Mr Forrest, and said that the two cases stood or fell together.
9. Mr Matthews submitted that the case turned on the application of *AK and SK (Christians: risk) Pakistan CG [2014] UKUT 00569 (IAC)*, as the judge held at paragraph 36. The appellants said that there had been an attempt to register a FIR on their side, not that any FIR had been filed against them. The judge based his decision on the salient features of the case, particularly as set out at paragraph 31 – first appellant not preaching, but imparting historical information; not an evangelical Christian; not aware of any blasphemy charges; able to remain in her home town before leaving Pakistan; did not tell her employers until after she resigned; husband [and son] continuing to live in the same area. No risk at the level calling for protection was proved but even if matters rose to that level internal relocation was available.
10. I reserved my determination.
11. *AK and SK* is headnoted thus:

1. Christians in Pakistan are a religious minority who, in general, suffer discrimination but this is not sufficient to amount to a real risk of persecution.

2. Unlike the position of Ahmadis, Christians in general are permitted to practise their faith, can attend church, participate in religious activities and have their own schools and hospitals.

3. Evangelism by its very nature involves some obligation to proselytise. Someone who seeks to broadcast their faith to strangers so as to encourage them to convert, may find themselves facing a charge of blasphemy. In that way, evangelical Christians face a greater risk than those Christians who are not publicly active. It will be for the judicial fact-finder to assess on a case by case basis whether, notwithstanding attendance at an evangelical church, it is important to the individual to behave in evangelical ways that may lead to a real risk of persecution.

4. Along with Christians, Sunnis, Shi'as, Ahmadis and Hindus may all be potentially charged with blasphemy. Those citizens who are more marginalised and occupy low standing social positions, may be less able to deal with the consequences of such proceedings.

5. The risk of becoming a victim of a blasphemy allegation will depend upon a number of factors and must be assessed on a case by case basis. Relevant factors will include the place of residence, whether it is an urban or rural area, and the individual's level of education, financial and employment status and level of public religious activity such as preaching. These factors are not exhaustive.

6. Non state agents who use blasphemy laws against Christians, are often motivated by spite, personal or business disputes, arguments over land and property. Certain political events may also trigger such accusations. A blasphemy

allegation, without more, will not generally be enough to make out a claim under the Refugee Convention. It has to be actively followed either by the authorities in the form of charges being brought or by those making the complaint. If it is, or will be, actively pursued, then an applicant may be able to establish a real risk of harm in the home area and an insufficiency of state protection.

7. Like other women in Pakistan, Christian women, in general, face discrimination and may be at a heightened risk but this falls short of a generalised real risk. The need for a fact sensitive analysis is crucial in their case. Factors such as their age, place of residence and socio-economic milieu are all relevant factors when assessing the risk of abduction, conversions and forced marriages.

8. Relocation is normally a viable option unless an individual is accused of blasphemy which is being seriously pursued; in that situation there is, in general, no internal relocation alternative.

12. The judge clearly had reservations about some of the evidence from the first appellant. He thought she was to an extent exaggerating. He did not need to resolve matters any further than he did because taking her account at highest and applying country guidance, it failed. She is not an evangelical. Any threat against her did not progress to the registration of a charge of blasphemy. No such charge has been initiated with the authorities, still less pursued. She was able to remain at home for some considerable time, and her husband and son are still there. The facts did not demonstrate a local risk, and certainly not one which precluded relocation within Pakistan. The judge's conclusions at paragraphs 36 and 37 were well justified. No error of law has been shown.
13. The determination of the First-tier Tribunal shall stand.
14. No anonymity direction has been requested or made.



17 December 2015
Upper Tribunal Judge Macleman