



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

Appeal Number: PA/00143/2015
PA/00328/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 5 April 2016**

**Decision Promulgated
On 13 April 2016**

Before

Upper Tribunal Judge Southern

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

Mrs A. G.

Mr T. R.

(Anonymity Direction made)

Respondents

Representation:

For the Appellant: Mr T. Wilding, Senior Home Office Presenting Officer

For the Respondents: Mr J. Knight of Duncan Lewis, Solicitors

DECISION

1. The Secretary of State has been granted permission to appeal against the decision of First-tier Tribunal Judge Lloyd who, by a decision promulgated on 13 November 2015, allowed the respondents' appeal against refusal of their asylum and human rights claims. That means, of

course, that it is the Secretary of State that is the appellant before the Upper Tribunal and that the claimants are the respondents. However as I will need to reproduce extracts from the decision of the First-tier Tribunal, it is convenient to refer to the parties as they were before the First-tier Tribunal.

2. The immigration history of the appellants and the nature of their protection claim was summarised by the Judge as follows. Both are citizens of Pakistan. The first appellant is a Christian and the second appellant is an Ahmadi Muslim. They married in Pakistan on 7 July 2013, having been in a relationship together for eight years before that. They kept their marriage secret from their respective families for fear of violent reprisal as they know that both parents would not accept their interfaith marriage.

3. The appellants first arrived in the United Kingdom on 12 January 2014. The first appellant was admitted as a student and the second appellant as her dependant. The judge recorded the evidence offered of the circumstances in which the need to make an asylum claim had arisen:

“...in April 2015 the first appellant returned to Pakistan in order to spend Easter with her family. They wanted her to enter into an arranged marriage and she was constrained to tell her family that she was already married. That provoked rage and a sense of breach of honour for her family. They confined her to her room, confiscated her passport and phone and had subjected her to beating. They had also e-mailed the second appellant demanding that he divorce her. Both appellants were threatened with their lives. The First appellant had managed to escape with the assistance of her mother on 26 April 2015; and had returned to the UK on the same date when she claimed asylum and was detained. The sense of revenge and breach of honour is one that was felt by both appellants’ families.”

4. The judge recorded the evidence of both appellants that they had involved themselves in “activities related to the Ahmadi community”, and that the second appellant had preached the Ahmadi faith both in Pakistan and in the United Kingdom and would continue to do so should he return to Pakistan. The judge recognised that there were two aspects of the protection claim being advanced. First, each appellant faced persecutory ill treatment from their own families. That had been demonstrated in respect of the first appellant by the reaction of her family during the recent visit. The appellant had produced copies of a FIR dated 24 April 2015, laid by the first appellant’s brother, accusing the second appellant of conspiracy to abduct the first appellant and to enter a “false marriage with her”. The FIR alleged also that the second appellant had been “unlawfully preaching his Ahmadi religion. An arrest warrant in the name of the second appellant was also put before the judge. Secondly the second appellant said that he had received death threats in Pakistan because of his practicing and preaching of his religious beliefs and, because of his commitment to continuing to do so

should he return to Pakistan, he would face a real risk of persecution, as would his wife who would accompany him wherever he established himself in Pakistan.

5. In his decision, the judge has set out some very clear findings of fact. Before doing so he made clear that he recognised that these findings were of critical importance to the determination of this appeal, as the respondent's case was that the account advanced by the appellants was untrue and that the FIR and arrest warrant were false documents. The judge observed:

“Essentially, this is an appeal which rests upon the critical issue of credibility of the appellants.”

And then made clear that he accepted the appellants' evidence:

“The Secretary of State in her letter of refusal and at this appeal... has roundly challenged the credibility of both appellants. It was contended that their accounts to the interviewing officers and now to this Tribunal had been fabricated as a means of securing their stay in the UK.

I do not accept that they are lacking in credibility. I have found both the appellants to be credible in the central core of the evidence they have presented in support of their claims”

The judge specifically found as a fact that:

“... both appellants are at serious risk of revenge and retribution from their families because of the relationship and marriage they have entered into.”

And:

“I believe the first appellant's account of the retribution now being exacted by her biological brother on behalf of his family and also, on the part of the second appellant, the risks arising not only by virtue of the rift with his own family but more especially the risks arising not only by virtue of the rift with his own family but more especially the risks to him and his wife arising from his determination to adhere to his Ahmadi faith.

In the circumstances of family retribution described in the evidence, I find that there is little prospect of adequate state protection for both appellants if they were to have to be return to their home country.”

The Judge then made clear that he recognised that the dynamics of the possibility of internal relocation differed depending upon the nature of the risk to be avoided:

“Of course, in the context of the family difficulties, then their internal relocation may be viewed as a prospect for them. But, in reality, I accept the evidence that has been presented by the first appellant that the influence of her family is likely to extend beyond the locality where she

has been brought up. Indeed, it seems that the blunt determination of her brother to wreak revenge is something that will extend beyond mere regional boundaries.

I do not consider that the respondent has presented sufficient evidence to persuade this tribunal that the First Information Report and the arrest warrant are mere forgeries and fabrications designed to support the appellants' account."

6. Finally, the judge made clear that as the appellants were husband and wife these claims were "interlinked":

"... Whatever decision I make must apply to both of them. If they are removed they must be removed to Pakistan together..."

On that basis, having accepted the appellants as credible witnesses whose evidence was accepted, and that it was supported by the documentary evidence of the FIR and arrest warranty, the judge allowed both appeals.

7. The grounds upon which permission to appeal was sought and granted are narrowly drawn:

"It is respectfully submitted that the Judge has failed to give reasons why the First Appellant's family influence is likely to extend beyond the locality where she was brought up."

There is no challenge to the positive credibility findings made by the judge nor to his finding of fact that the FIR and arrest warrant are genuine documents upon which he could rely as to the truth of their contents. It might be noted also that the grounds make no attempt to challenge the findings in relation to the risk faced on return to Pakistan by the second appellant on account of his commitment to practice and preach his religious beliefs. Therefore, that the second appellant succeeds in his appeal in that respect goes unchallenged. Given the fact that the judge accepted that the appellants would be confronted jointly by whatever difficulties either one of them attracted to themselves, the grounds lead nowhere at all and, frankly, it is hard to see that a grant of permission to appeal can be justified.

8. Put another way, the finding of fact at paragraph 38 of the decision to the effect that the evidence of the appellants was accepted, taken together with the finding at paragraph 42 that the FITR and arrest warrants were genuine documents are, taken together, a complete answer to the Secretary of `State's challenge to this decision. Plainly, the second appellant would be at risk wherever he sought to re-establish himself in Pakistan because he would be at risk of arrest and prosecution. The arrest warrant is the product of the FIR filed by the first appellant's brother and it is in that sense that the reach of her family extends beyond the home area where the family is located.

9. The dispute between the parties concerning the credibility of the account advanced by the appellants was a matter for the judge to resolve and, having heard oral evidence he was best placed to do so. It is entirely clear from a reading of the decision as a whole why the judge reached the conclusions he did. Those conclusions are supported by reasoning that is legally sufficient so that his findings of fact are simply unassailable.
10. The second ground for seeking permission to appeal comes into play only if the respondent succeeds in making good her first ground. As this she has failed to do there is no need to say anything further concerning the second ground.

Summary of decision:

11. First tier Tribunal Judge Lloyd made no error of law material to the outcome of this appeal.
12. The Secretary of State's appeal to the Upper Tribunal is dismissed so that the decision of First-tier Tribunal Judge Lloyd is to stand.

Signed



Date: 7 April 2016

Upper Tribunal Judge Southern