



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/00510/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons**

**On 29 August 2017**

**Promulgated**

**On 18 September 2017**

**Before**

**DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL**

**Between**

**MR AHAMED NUSRATH MOHAMED ISMAIL  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr J Gajjar, Counsel, instructed by KQ Solicitors

For the Respondent: Mr S Whitwell, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, a national of Sri Lanka, has permission to challenge the decision of First-tier Tribunal Judge (FtT) Judge Davidson sent on 24 March 2017 against a decision made by the respondent on 11 January 2016 refusing to grant asylum or humanitarian protection. The crux of the appellant's challenge is that the judge erred in rejecting the appellant's claim as not credible. The appellant's claim was that he would be at risk on return because in 2010 he had been arrested and ill-treated by the

authorities because they believed he was involved in actively assisting a high-ranking police officer, ASP Lakshman Cooray, who had colluded with a bomb attack by LTTE operatives in April 2009.

2. The factors the judge counted against the appellant's credibility were that he had delayed five years before making an asylum claim; that he had ceased studying before the end of his student visa; that it was implausible he would have transported the three LTTE men around Sri Lanka in such a danger-ridden operation; that it was unclear how the appellant could have known Cooray when Cooray worked in Jaffna whereas the appellant worked in Matara on the other side of Sri Lanka; that the COI linked Cooray with a political assassination of a government minister in 2008 and three unsuccessful assassination attempts on former President Rajapaksa; that there was no COI linking Cooray to the April 2009 bombing in Matara; that the COI noted Cooray had used an official government vehicle in Gumpaha and that Cooray's level of activity in the LTTE was "far removed from the level of asking people like the Appellant to transport suicide bombers around to plant random bombs among civilians" (paragraph 31); that given the appellant had never claimed LTTE membership it was unlikely he would have become involved in the way he claimed; that his own particulars as to the time he heard the bomb blast (11.45 a.m.) were inconsistent with the background COI showing it was 10.30 a.m; that it was implausible that despite the authorities on his account looking for him since August 2009 he had been able to go about his normal business until January 2010, especially as he claimed the police had fingerprinted him in September 2009; that it was not credible that whilst claiming to have been arrested and tortured between 4 January 2010 and 31 January 2010, he also claimed to have been able to supply a photograph, fingerprints, and other biometrics as well as various supporting documents to confirm his application for a visa to study in the UK; and finally:

"35. I note that he left Sri Lanka on his own passport on before 13.2.2010. Again it is simply not credible that someone, allegedly the associate of someone who was implicated in political assassinations such as Lakshman Cooray, and who had recently been arrested and tortured by the authorities, would have been allowed to leave the country unhindered so soon after his arrest. The Appellant claims that he bribed officials, but it is extremely doubtful that someone who was associated with someone as high profile as Lakshman Cooray would have been able to bribe themselves out of that situation".

3. I am grateful to both representatives for their submissions, Mr Gajjar's concisely amplifying the appellant's written grounds.
4. I am not persuaded that the grounds disclose any error of law on the part of the judge.
5. It is contended that the judge erred by failing to engage with the appellant's reasons for the delay in his claiming asylum. Whilst it is correct that the judge does not spell out his reasons in paragraph 27, the

judge was plainly aware of the terms in which Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 stipulates behaviour damaging to credibility - he actually cites the wording relating to "a reasonable opportunity" to make an asylum claim. Earlier the judge had noted that he took into account the appellant's evidence which included his witness statement in which he offered an explanation for the delay. It is clear from paragraph 27 that the judge agreed with the respondent's reasons for finding that the appellant had not explained why he had failed to avail himself of what was plainly a reasonable opportunity over the period since he entered the UK in February 2010 until he claimed asylum in September 2015.

6. It is contended that the judge's finding that it was implausible that the appellant would have driven three LTTE men around Colombo at the request of PC Cooray was flawed by legal error because it did not adequately consider the fact that the appellant knew Cooray due to the latter coming to his shop four times a week to buy things for his own vehicles. Again, whilst the judge does not expressly refer to this aspect of the appellant's claim, it is entirely clear that he considered it and found it did not square with the known circumstances as to the way Cooray operated. This ground voices a mere disagreement with the judge's findings. The same can be said for the contention that the judge was wrong to find it implausible the appellant would have become involved with Cooray in transporting the three LTTE operatives.
7. I see nothing in the complaint that the judge erred by failing to put to the appellant the matter of he and Cooray being from opposite ends of the country. The appellant was represented and had every opportunity to present his case. It was not incumbent on the judge to put to the appellant all the difficulties attaching to his account.
8. It is submitted that the judge also erred in finding that it was not likely the appellant would have been able to take all the steps necessary for obtaining a student visa whilst been detained and tortured - because this overlooked that the appellant employed the help of an agent. This contention amounts again to a mere disagreement with the judge's findings; and the suggestion that the explanation proffered remedied all the concerns with this aspect of his claim is itself difficult to understand, certainly without any explanation of how the appellant was able to liaise with the agent whilst in detention over this period to continue pursuing this application.
9. I do not accept that the appellant can derive any assistance from the country guidance given at paragraph 394 of **GJ (Sri Lanka) [2013] CG 00319 UKUT (IAC)** as regards the pervasive bribery and corruption that exists at the airport in Colombo. That paragraph was clearly addressing the general situation. It did not address the likelihood of persons who had been identified as key suspects in high-profile acts of terrorism being able to utilise bribes to exit Sri Lanka.

10. It is argued that the judge “demonstrably fails to engage with the appellant’s oral and written evidence as to the fact that he had provided his fingerprints and photographs prior to being detained”. I fail to see any force in this submission. What the judge found implausible in the appellant’s account was that he had been able on his own account to go about his business between August 2009 and January 2010, given that he said he had been worried they were looking for him in August 2009. In this context, his evidence that he had actually been fingerprinted in September 2009 “as part of their investigation into his perceived links with the LTTE” only added to the degree of implausibility.
11. Viewed in the round the judge’s reasons for rejecting credibility properly relied on a range of shortcomings in the appellant’s account, encompassing both material inconsistencies and serious implausibilities. The inconsistencies included both points of internal inconsistency and external inconsistency (lack of accord with COI).
12. For the above reasons I conclude that the judge did not materially err in law, and the appellant’s challenge fails.
13. No anonymity direction is made.

Signed

Date: 15 September 2017

A handwritten signature in black ink that reads "H H Storey". The signature is written in a cursive style with a large, stylized 'S' at the end.

Dr H H Storey