



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

Appeal Number: PA/05659/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 14th September 2018**

**Decision & Reasons
Promulgated
On 10th October 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE ESHUN

Between

**PRABASH [P]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Jafar, Counsel

For the Respondent: Mrs Z Kiss, HOPO

DECISION AND REASONS

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge Chudleigh who in a decision promulgated on 25 June 2018, dismissed his appeal against the respondent's refusal on 16 April 2018 to grant him asylum on the basis of imputed political opinion.
2. The appellant is a citizen of Sri Lanka born on 26 October 1981. He is of Sinhalese ethnicity.

3. He came to the UK on a Tier 4 Student visa granted on 20 January 2010. He returned to Sri Lanka for a holiday on 19 August 2012. He claimed that on 25 August 2012 he was arrested, tortured and detained for seven days before his father paid a bribe to secure his release. He claimed that he was of interest to the authorities as he was involved in assisting his father with renting a property in October 2006 to a Mr Baljat Raviraj who was a member of the LTTE and as he had become friends with Ramesh Kamar who was an LTTE member in the period up to 2008.
4. In oral evidence he described his association with Ramesh as a good friend with whom he studied and travelled to countries including Singapore and Malaysia. After 2008 he had no contact with Ramesh. He did not know that Ramesh was involved with the LTTE. They never discussed such matters.
5. The appellant claimed that when he was arrested on 25 August 2012 he was told that Ramesh had mentioned his name to the authorities. He was told that Raviraj was an LTTE member and that the appellant's father's property was used for supporting LTTE in carrying out attacks in Colombo.
6. The judge found that the appellant's case was inconsistent as to who answered the door to the authorities on 25 August 2012. In his asylum interview the appellant said it was his mother but in a letter to the Tribunal prepared for the appeal, the appellant's father said it was he who answered the door.
7. The appellant claimed to have been tortured in custody. In paragraph 14 of his witness statement he described scars on his right thigh, right leg, chin and head. The judge noted however that there was no mention in the report of Dr S E Joss dated 30 May 2018 of any injuries to the chin. The appellant said that he had forgotten to mention it to Dr Joss.
8. The appellant claimed that a friend of his father's who was a businessman arranged for him to be released after the payment of a bribe and then exited without problem from Sri Lanka after payment of another bribe.
9. The appellant arrived back in the UK in September 2012 but did not claim asylum until 16 October 2017. His explanation for the delay was that he feared he would be sent back to Sri Lanka and because he had a student visa for two years.
10. The appellant submitted a number of documents in support of his claim including the medical report from Dr Joss, a course certificate, a deed for the property rented to Raviraj, but no tenancy agreement. There were also documents allegedly issued by the Magistrates' Court of Colombo regarding his arrest, a letter from his father, his father's birth certificate, a letter from his wife who is now in Sri Lanka with his daughter, copies of his wife's passport and visa, a letter from his GP regarding his depression and anxiety, and his daughter's birth certificate.

11. The judge noted that there was a document from a Magistrates' Court dated 1 October 2012 which recorded that the appellant was charged with aiding and abetting LTTE terrorists and supporting the LTTE's international network. It also mentioned that the appellant had escaped from custody and an application for an arrest warrant. There was also what purported to be an arrest warrant dated 2 October 2012.
12. The judge also had before her a letter which appeared to be from an attorney in Sri Lanka dated 6 June 2018 which confirmed that there is a case filed by Criminal Investigation Division, Kollupitiya Police Station against the appellant on the charges of supporting the LTTE terrorist organisation. The attorney also confirmed that there was an arrest warrant issued against him by the Magistrates' Court of Colombo for his arrest. The attorney's opinion was that since this was an open arrest warrant, the appellant will be arrested at the airport on his arrival to Sri Lanka.
13. The respondent produced a bundle of three letters from the British High Commission in Colombo relating to verification checks on documents. A letter dated 5 June 2017 indicated that from July 2014, 277 verification checks were carried out on police and court documents and that 91% were determined to be not genuine. In addition, there was a letter dated 3 July 2015 that maintained that there is widespread abuse of attorney letters in Sri Lanka and that the vast majority, 86.7% of those looked at since January 2014 had been found to be not credible.
14. In evidence when the appellant was asked why he did not appoint a lawyer before January 2018 despite knowing of the alleged arrest warrant since 2013, he said he did not need a lawyer in 2013 but needed one now. He got the documents as his UK solicitor told him to do so. He said the first set of court documents he obtained were handed to a Mr Patel in April 2017 who claimed to be a solicitor but he lost contact with Mr Patel and he lost the documents.
15. In her findings and consideration, the judge relied on the approach from the Upper Tribunal in **GJ and Others (post-civil war: returnees) Sri Lanka CG [2013] UKUT 319 (IAC)**.
16. The judge said that the appellant's case was founded on the events of August 2012. But for the alleged arrest, the appellant would not be at risk on return as he is not a Tamil, he has not ever engaged in any LTTE activities and he is not an LTTE member or supporter. The civil war is over and the guidance indicates that the government's present objective is "*to identify Tamil activists in the diaspora who are working for Tamil separatism and to destabilise the unitary Sri Lankan state ...*" and that "*its focus is on preventing both (a) the resurgence of the LTTE or any similar Tamil separatist organisation and (b) the revival of the civil war within Sri Lanka*".

17. The judge considered the appellant's contention that he was arrested and tortured because of his relationship with Ramesh up to 2008 and because he introduced Raviraj to his father. The judge said this tale did not make sense in the context of the guidance in **GJ**. There was no suggestion that the authorities would be interested in anyone who had engaged in that sort of activity so long ago. The judge held that the authorities in Sri Lanka are interested in Tamil activists who are working for Tamil separatism and to destabilise the unitary Sri Lankan state at the present (post-civil war) time. The appellant is not a Tamil. He has been in the UK most of the time since 2008 and has had nothing at all to do with any activities that might be of concern to the authorities in Sri Lanka.
18. The judge said that the indication in **GJ** is that the authorities have sophisticated means of identifying individuals who may be a threat. If that is right, then it is inexplicable why they would be interested in the appellant. Not only did he do nothing wrong, but his activities took place in or before 2008 and the concern of the authorities relates to current activities, not historic ones.
19. Accordingly the judge found that the appellant's story was not consistent with the country guidance.
20. In the light of the objective evidence the judge accepted that bribery is pervasive in Sri Lanka and that torture of detainees is not implausible. She accepted that the appellant has scars on his body that could have been caused by blows from a hard object. However, there were various discrepancies in the evidence. Dr Joss made no mention of an injury to the chin, yet the appellant maintained in his witness statement that his chin was injured. There was a discrepancy as to whether the mother or the father answered the door to the CID. These are important details and the discrepancies cast doubt on the appellant's account.
21. The judge held that she was wholly unconvinced by the appellant's evidence as to why he did not claim asylum sooner. His leave expired on 7 June 2014, yet he did not claim asylum until more than three years after this time.
22. The judge found the appellant's account as to why he did not instruct a lawyer in Sri Lanka sooner to lack credibility and she did not accept his explanation as to why he failed to seek legal assistance when he learned of the alleged arrest warrant in 2013.
23. The judge considered the Magistrates' Court document and the attorney's letter but found that they were not documents which were of particular assistance to her in determining the claim. She noted that there was evidence that the vast majority of verification checks undertaken by the High Commission in Colombo indicated that similar documents were not credible.

24. The judge held that it seemed unlikely that the appellant's father would have escaped the interest of the authorities if the appellant's account were true. The father was the owner of the property and would have been more culpable than the appellant if there was concern about to whom it was rented.
25. In conclusion, the judge held that the appellant's account was not a truthful one. She did not believe that he has been arrested and tortured as claimed, or that he was of any interest to the authorities in Sri Lanka.
26. I heard submissions from Mr Jafar and Mrs Kiss.
27. I was not persuaded by Mr Jafar's first argument that the judge gave too much emphasis to the fact that the appellant is not Tamil and therefore his account could not be credible and therefore would not be at risk if he were to be returned to Sri Lanka. I accept that the three applicants in **GJ** were Tamils. I also accept that at paragraph 98 of **GJ** the evidence there indicated that Sinhalese who are non-Tamils were also arrested on suspicion of LTTE activities. However, in this case, as held by the judge, the appellant had done nothing wrong and in any event his activities took place in or before 2008. Mr Jafar submitted that this was not supported in **GJ** as the first applicant in **GJ**'s case was allowed because of his historical account of links with the LTTE. I question what activities the appellant would have been involved in before 2008 which the authorities would be interested in. His activities from his evidence amounted to his friendship with Ramesh Kamar with whom he studied and travelled. There was no evidence from the appellant about what Ramesh got up to with the LTTE. The appellant said when he was arrested he was told that Raviraj, whom he had introduced to his father, was an LTTE member and that his father's property was used for supporting the LTTE in carrying out attacks in Colombo. As held by the judge his father was the owner of the property and would have been more culpable than the appellant and yet there was no evidence that his father was ever harassed, arrested and tortured by the authorities in Sri Lanka.
28. Whilst I accept that **GJ** does not limit risk to just Tamils, I agreed with Mrs Kiss' submission that the appellant's story simply does not add up. The judge was entitled to find that the appellant's account was not a truthful one.
29. Mr Jafar submitted that the arrest warrants issued by the Magistrates' Court in Colombo and the lawyer's letter authenticated the veracity of the appellant's evidence. He argued that the judge failed to give due weight to these documents and erred in holding that the documents were of no particular assistance to her.
30. I find no error of law in the judge's consideration of the court documents and the lawyer's letter and her reliance on evidence from the British High

Commission that from July 2014, 277 verification checks carried out on police and court documents determined that 91% of them were not genuine. I find that the judge was entitled to rely on evidence that there is widespread abuse of attorney letters in Sri Lanka and that a vast majority of those looked at since January 2014 had been found to be not credible. In any event, the judge did not accept the appellant's explanation as to why he failed to seek legal assistance when he learned of the alleged arrest warrant in 2013.

31. I was not persuaded by the argument that the judge placed too much emphasis on the delay by the appellant in claiming asylum. He came back to the UK in 2012 after an alleged arrest, detention and torture, and learned of an arrest warrant in 2013 and yet did not claim asylum until 2017. On the evidence, the judge's finding was open to her.
32. I find that the judge did not err in her approach to **GJ**. Her findings were sound and disclosed no error of law.
33. The judge's decision for dismissing the appellant's appeal shall stand.

No anonymity direction is made.

Signed

Date: 5 October 2018

Deputy Upper Tribunal Judge Eshun