



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

Appeal Number: PA/03794/2018

THE IMMIGRATION ACTS

**Heard at Bradford
On 27 February 2019**

**Decision & Reasons Promulgated
On 12 March 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**SALMA AKTER
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Chaudhry, instructed by Blackstones, solicitors
For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 1 July 1988 and is a female citizen of Bangladesh. The appellant entered the United Kingdom on a visit visa in July 2013. On 1 July 2014, the appellant claimed asylum. By a decision dated 5 March 2018, the Secretary of State refused the appellant's application for international protection. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 3 May 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The circumstances are somewhat unusual. The appellant married her husband on 20 March 2009 in Bangladesh. She claims that her husband

that hit her about two years later for the first time. The couple travelled to the United Kingdom where they have been supported by the appellant's brother. In December 2013, the appellant's husband left the matrimonial home. The appellant understood that her husband had gone to Bangladesh. The appellant was threatened over the telephone from Bangladesh by a husband who was unhappy that she was pregnant. The child (I) of the appellant had a husband was born on 8 September 2014. The husband returned from Bangladesh and resumed cohabitation with the appellant. For the past three years, the husband, by the appellant's own account, has not behaved badly towards her. Both the appellant and her husband have now separately claimed asylum. The appellant's husband's application remains outstanding.

3. The judge found the appellant to be a generally credible witness [35]. He found that she had not sought to 'bolster her account.' However, having considered the evidence of the verbal abuse, threats and occasional assaults which the appellant had suffered, the judge was not satisfied that the treatment which the appellant had received at the hands of her husband was 'sufficiently serious by its nature or repetition as to constitute a severe violation of the basic human right.' The judge had regard to the fact that at least for the last three years and whilst the couple been living together again in the United Kingdom, the appellant has not been subjected to any bad behaviour at the hands of a husband. The appellant had described a husband as a 'good father'.
4. The judge also found that, applying the lower standard of proof, the appellant had not established that she would be at risk on return to Bangladesh. Whilst he found that the appellant had a genuine subjective fear that her husband might harm her in Bangladesh and the judge acknowledged that there was a 'possibility' that such harm may occur, he found the risk to be 'highly speculative or too remote.' [39]
5. On appeal, the appellant submits the judge's conclusions are irrational. It made no sense that the judge should find that the appellant 'genuinely fears' that her husband's behaviour will deteriorate on return to Bangladesh but that the risk of it occurring was 'too remote.' I find that the judge did not fall into legal error. He has done nothing more than to distinguish between the appellant's *subjective* fear (which he acknowledged was real) the *objectively* considered likelihood that that fear should be realised. In other words, the appellant believes that her husband's behaviour may deteriorate but, carrying out the objective assessment which he was obliged to do, the judge found that his behaviour was not reasonably likely to deteriorate. There is no contradiction or irrationality in the judge's reasoning.
6. The basis upon which permission was granted concerned the judge's finding that 'threats of and/or actual violence the appellant did not constitute serious harm. [see permission to appellant (Judge Rintoul)]. It was part of the judge's task to determine whether the treatment which the appellant had suffered in the past at the hands of her husband constituted

persecution or treatment which crossed the Article 3 ECHR threshold. In order to answer that question, the judge has correctly directed himself to the provisions of paragraph 339K of the Immigration Rules. I find that he has reached finding as regards past treatment which was available to him on the evidence of the appellant. Even if that is not correct and the appellant has been persecuted or ill-treated, it was open to the judge to find that, notwithstanding past ill-treatment, there were no substantial grounds for finding there to be a real risk that the appellant would suffer such treatment again at the hands of a husband. In reaching that finding the judge had regard to the very significant fact that the husband had not threatened or intimidated the appellant for at least the last three years, during which time they have been bringing up their child whilst living together in the United Kingdom. It was open to the judge to find that the husband had, for whatever reason, mended his ways and that he had not done so solely because he has been living outside Bangladesh. There is no evidence before the judge to show that the husband's behaviour was likely to deteriorate should he leave the jurisdiction of the United Kingdom. The judge's finding as to risk on return to Bangladesh was, irrespective of his findings as regards the husband's past treatment of the appellant, sufficient to dispose of the appeal.

7. Finally, the grounds complained that the judge failed to have regard to section 55 of the Borders, Citizenship and Immigration Act 2009. I do not find at this ground has been established. The child is only three years old and the appellant is his primary carer. There was no evidence at all that the husband had behaved poorly towards the child; indeed, the appellant's own evidence was to the contrary. The judge has correctly considered the child as part of the appellant's family unit when considering their reintegration in Bangladesh [58 *et seq*].
8. The judge found that the appellant might experience 'problems' upon return to Bangladesh but that these would not amount to 'very significant obstacles' to her reintegration into the country of her nationality where she could expect to continue to be supported by the appellant's brother [55] and where she continued also to have the support of her father [54]. The judge has correctly considered risk on return on the basis that the appellant will not return with her husband and only with the child so as a single mother.
9. I am satisfied that the judge has not erred in law the reasons advanced in the grounds of appeal or at all. This appeal is dismissed.

Notice of Decision

10. This appeal is dismissed.

Signed

Date 7 March 2019

Upper Tribunal Judge Lane