



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

Appeal Number: PA/04822/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 2 October 2019**

**Decision & Reasons Promulgated
On 10 October 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**DDM
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Anzani, instructed by Nag Law Associates

For the Respondent: Mr Singh, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born in 1977 and is a male citizen of Sri Lanka. His application for asylum was refused on 2 August 2016. He appealed to the First-tier Tribunal which, in a decision promulgated on 6 June 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. Both parties agree that the judge misunderstood part of the evidence of the appellant. At [33], the judge discusses an article put in evidence by the appellant from the Columbo Telegraph. The article bears two dates, 9 April 2019 at the head of the document but also January 18, 2016. The

judge noted that the article concerned an investigation conducted ‘during the last few weeks to identify those who gave orders to kill the rugby player...’ The appellant produced an arrest warrant indicating that he was wanted in connection with this murder/manslaughter. The warrant is dated to June 2016. The judge considered that it was ‘highly improbable that a warrant could be issued for the arrest of a person who was not in the country at the time the death occurred and literally years before the investigation into [the rugby player’s] death began.’

3. It is clear that the judge overlooked the second date and has simply recorded the later date, which is presumably that on which the particular copy of the article was printed. The gap in time between the article and the investigations was, as a consequence, much shorter than the judge assumed. Mr Singh, who appeared for the Secretary of State, argued that the sentence which I have quoted above contains two separate parts; a finding that it was highly improbable that a warrant would be issued for the arrest of a person is not in Sri Lanka at the time of the murder and, secondly, an observation that is not probable that warrant would be issued against the appellant years before the investigation began. I disagree. It may be the case that the appellant shall have to explain why he claims that it is reasonably likely that the warrant would be issued in respect of a crime which occurred when the appellant was out of Sri Lanka but is clear that uppermost in the judge’s mind was his incorrect observation that the arrest warrant had been issued long before the investigation started. Mr Singh also submitted that there were a number of other, separate and severable findings concerning the appellant’s credibility at [34-37]. Those findings alone could justify the judge’s finding that the warrant should be rejected on the basis of *Ahmed [2002] UKIAT 00439*. However, I accept the submission of Ms Anzani, who appeared for the appellant. She submitted that, whilst those paragraphs do contain negative credibility findings, they also accept parts of the appellant’s account. In consequence, it appeared that the judge’s (erroneous) findings in respect of the newspaper article may have weighed heavily in his rejection of the appellant’s credibility. I find that this is case in which the error of law infects the credibility findings overall. As a result, it will be necessary for there to be a hearing *de novo* in the First-tier Tribunal.

Notice of Decision

The decision of the First-tier Tribunal promulgated on 6 June 2019 is set-aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision at or following a hearing.

Signed

Date 2 October 2019

Upper Tribunal Judge Lane

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.