



RPD File No. / N° de dossier de la SPR : TB2-10212

Private Proceeding / Huis clos

Reasons and Decision – Motifs et Décision

Claimant(s)	XXXX XXXX	Demandeur(e)(s) d'asile
Date(s) of Hearing	March 5, 2018	Date(s) de l'audience
Place of Hearing	Toronto, Ontario	Lieu de l'audience
Date of Decision and reasons	March 13, 2018	Date de la décision et des motifs
Panel	Anthony da Silva	Tribunal
Counsel for the Claimant(s)	Ceri P Forbes	Conseil(s) du (de la/des) demandeur(e)(s) d'asile
Designated Representative(s)		Représentant(e)(s) désigné(e)(s)
Counsel for the Minister		Conseil du (de la) ministre

2018 CanLII 121559 (CA IRB)

REASONS FOR DECISION

[1] The claimant, XXXX XXXX, claims to be a citizen of Sri Lanka. She seeks refugee protection pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act (IRPA)*¹.

ALLEGATIONS

[2] The claimant alleges as follows:

[3] She was born and raised in the village of XXXX in the district of Kilinochchi, a stronghold of the Liberation Tigers of Tamil Eelam (LTTE), during the war.

[4] In 2007, the LTTE took over half of her land and she and her husband were forced to bribe them to prevent them from recruiting her son.

[5] In 2009, during intense fighting between the Sri Lankan Army (SLA) and the LTTE, she and her son became separated from her husband. She never heard from her husband again and believes he is likely dead.

[6] After she and her son were released from an army camp, they returned to her land and had no problems until October 2011 when her son was abducted by individuals in a white van. She reported the abduction to the police, but her son was never found.

[7] In November 2011, she was taken by the army for interrogation, during which she was accused of helping the LTTE. After two days, she was released, but informed that they would return if they had further questions.

[8] In May 2012, she was taken by members of the army and the EPDP (Eelam People's Democratic Party). They accused her of giving her land voluntarily to the LTTE during the war and told her that they suspected her son of having secretly joined the LTTE. During the

¹ *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, as amended, sections 96, 97(1)(a) and 97(1)(b).

interrogation, she was beaten and sexually assaulted. She was released three days later after her cousin paid a bribe.

[9] A week after her release, members of the EPDP and the Karuna Group took her to their camp and demanded that she pay 50 Lakhs. She informed them she could not come up with that amount of money and was released on the condition that she pay them that amount in a month's time. They told her to sell her land to pay them or they would make false accusations of her having assisted the LTTE.

[10] Fearing for her safety, her relatives advised her to leave the country. After her cousin made arrangements through an agent, the claimant came to Canada and made a claim for refugee protection.

DETERMINATION

[11] The panel finds that the claimant is neither a Convention refugee in accordance with section 96 nor a person in need of protection in accordance with section 97(1) (a) and (b) of the *IRPA*.

ANALYSIS

Identity

[12] Several documents² were available in support of the claimant's identity, namely a copy of her birth certificate and National Identity Card. The panel is persuaded, on a balance of probabilities, that the claimant is who she claims to be and is a citizen of Sri Lanka.

² Exhibit 1, Package of information from the referring CBSA/CIC; Exhibit 6.

Credibility

The claimant's PIF narrative versus her testimony

[13] The panel found the claimant's testimony to be inconsistent with her Personal Information Form (PIF) narrative.³ The panel also noted that during her testimony she confused and conflated events described in her written PIF narrative. The panel also found her allegation regarding a stranger who approached her at the Scarborough Town Centre, claiming to know her and everything about her, to be implausible. The panel finds the claimant not to be a trustworthy and reliable witness, and credibility to be the determinative issue in this case.

[14] During her testimony, she stated that she was farming with her son in November 2011. The panel notes, however, that she stated in her PIF narrative that her son was abducted in October in 2011, and that in November 2011 she was taken by the army for interrogation.⁴ She also testified that in November 2011 she was released two days later after her cousin bribed the captors, but her PIF narrative indicates that the cousin bribed them after her alleged interrogation-detention of three days in May 2012.⁵ When asked why she made no mention of the cousin bribing the army in November 2011, she explained that she was nervous.

[15] She was also asked why the army suspected her of helping the LTTE, to which she replied: "I can't remember." The panel notes, however, that her PIF narrative indicates that their suspicion was based on her having given half of her land to the LTTE.⁶ Asked if the army had said anything to her upon her release, she replied: "I can't remember." The panel notes, however that her PIF narrative states: "I was warned that I should have no connections with anyone working against the government. If I had any information about such things I should pass it on."⁷

[16] She also testified that a week after her release members of the Karuna Group came back and took her to their camp where they demanded that she pay them 50 Lakhs. She indicated that

³ Exhibit 2, Personal Identification Form (PIF).

⁴ Ibid, at para. 12, 13.

⁵ Ibid, at para. 14.

⁶ Ibid,

⁷ Ibid. at para. 15.

she remembered members of the Karuna Group but couldn't remember the others. In contrast to her testimony, the claimant's PIF narrative states: "A week after my release, the EPDP and the Karuna Group came to me and took me to their camp."⁸

[17] The EDPD and Karuna Group were two distinct paramilitary groups that came to prominence during the LTTE war and became aligned with the government forces. The panel notes, however, that there was no evidence presented that indicated that the two groups worked together in detaining and extorting Tamils. The panel finds the conflating of the two paramilitary groups an attempt by the claimant to embellish her situation.

[18] The panel finds that the claimant's inconsistencies and omissions during her testimony undermine her overall credibility.

The mysterious stranger at the Scarborough Town Center

[19] The claimant was asked about her family currently in Sri Lanka. She testified that she had had no contact with them since leaving the country in 2012, but she knew that none of her family or neighbours were left in her home area in Sri Lanka. When asked how she knew that these people had all left, she testified that a stranger had approached her in the Scarborough Town Centre and volunteered this information. She was also asked if she could return to Sri Lanka, now six years later, she testified that she could not because the people who had tortured her were still there. Asked how she knew that her alleged persecutors were still around, she replied that the stranger at the Scarborough Town Center had told her this.

[20] The panel found the claimant's allegation that she was approached by a random stranger at the Scarborough Town Center who apparently knew everything about her past and about her family and the current situation in Sri Lanka, to be implausible. Instead, the panel finds the "stranger" to be a construct put forth by the claimant to support her alleged awareness of the situation concerning her family and persecutors in Sri Lanka despite having no contact with anyone there since her departure in 2012. In *Shahamati*, the Federal Court of Appeal has stated:

⁸ Exhibit 2, Personal Identification Form (PIF), para. 16.

“the Board is entitled, in assessing credibility, to rely on criteria such as rationality and common sense.”⁹

[21] In considering, the claimant’s testimony, the panel finds her to be not credible and her subjective evidence to be unreliable. The panel therefore does not accept her allegations as described in her PIF narrative. As indicated in *Gebetas*: “As stated by this Court numerous times, general findings of lack of credibility can affect all relevant evidence submitted by an applicant, including documentary evidence and ultimately cause the rejection of a claim.”¹⁰

CONCLUSION

[22] After careful consideration of the evidence, including the claimant’s testimony and submissions by the claimant’s counsel, the panel determines that the claimant is not credible and has therefore not satisfied the burden of establishing a serious possibility of persecution on Convention grounds, or that, on a balance of probabilities, she would be subject personally to a danger of torture, or face a risk of cruel and unusual treatment or punishment, if she were returned to Sri Lanka.

[23] The panel concludes that the claimant is not a Convention refugee or a person in need of protection and rejects her claim.

(signed)

“Anthony da Silva”

Anthony da Silva

March 13, 2018

Date

⁹ *Shahamati, Hasan v. M.E.I.* (F.C.A., no. A-388-92), Pratte, Hugessen, McDonald, March 24, 1994.

¹⁰ *Gebetas v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 1241 (CanLII), at para. 29