

CANADA / JUDGMENT

MB9-26879

COURT

Refugee Appeal Division

DECIDED

2 March 2020

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RAD File No. / No de dossier de la SAR : MB9-26879 MB9-26880 / MB9-26881 Private Proceeding / Huis clos Reasons and Decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX XXXXXXXXXX XXXX XXXXXXXXXX XXXX Personnes en cause Appeal considered / heard at Ottawa, Ontario Appel instruit / entendu à Date of decision March 2, 2020 Date de la décision Panel Jillan Sadek Tribunal Counsel for the persons who are the subject of the appeal Claude Whalen Conseil des personnes en cause Designated representative XXXX XXXX Représentant(e) désigné(e) Counsel for the Minister N/A Conseil du ministre REASONS FOR DECISION
OVERVIEW

- [1] The appellants, XXXX XXXX (the principal appellant), his wife, XXXX XXXX (the associate appellant), and their child, XXXX XXXX (the minor appellant), are citizens of India.
- [2] The appellants allege that they are unable to return to India because they fear they will be killed or mistreated by the police. They allege that the police in their region of Punjab is seeking the principal appellant because they believe he is affiliated with terrorists. The police would like the principal appellant to help them identify a XXXX XXXX who hid in their home the night of XXXX XXXX, 2016, when the police carried out a raid at the XXXX next to their home. The appellants obtained visas for Canada, with assistance from a smuggler, they claim; they left India for Canada on XXXX XXXX, 2017. In XXXX 2017, the appellants claimed refugee protection at the Immigration Office in Montréal.
- [3] The Refugee Protection Division (RPD) rejected their refugee protection claim on account of internal flight alternatives (IFAs) in Bangalore and Mumbai. I agree with the RPD, as I will explain below, that the determinative issue is the IFA.

DETERMINATION

- [4] I dismiss the appeal. The RPD was correct in determining that the appellants are neither Convention refugees nor persons in need of protection. ROLE OF THE REFUGEE APPEAL DIVISION
- [5] My role is to review all the evidence and to establish whether the RPD made the correct decision.¹

ANALYSIS

- [6] The RPD rendered a negative decision in this case because the panel was of the opinion that IFAs were available in Bangalore and Mumbai.
- [7] The appellants are challenging the RPD's conclusions regarding the first prong of the IFA-the risk of persecution or serious harm. The appellants are not challenging the RPD's conclusions regarding the second prong-the reasonableness of proposed IFAs.
- [8] After listening carefully to the hearing and reviewing the documents on the record, I am of the opinion that the RPD was correct, IFAs are available in Bangalore and Mumbai, and that this is the determinative issue. The Refugee Protection Division did not err in its analysis of the first prong of the internal flight alternative
- [9] The appellants maintain that the RPD erred in concluding that Punjab police would not pursue them if they were to move to another state. The appellants' argument is based on objective evidence, exclusively on Tab 10.6 of the National Documentation Package on India.² The appellants state that Punjab police would be notified if the appellants tried to establish themselves in a new city, owing to the tenant verification system and the Crime and Criminal Tracking Network and System (CCTNS).
- [10] The appellants' memorandum includes the following: [translation] Local police would not have to contact the police in the proposed IFAs to find the appellants. They fear that once they have registered themselves in the proposed IFAs, the local police will be notified accordingly when the police in the IFAs conduct checks with them³...On a balance of probabilities, the local police will ask that they be sent back. The evidence shows that they remain persons of interest for the police. The police also threatened to kill them if they came back⁴...It would be wrong to conclude that communications between police stations are lacking, thereby casting doubt on the local police being unaware that they are in the proposed IFAs. Although communications systems are not flawless, one cannot conclude that they would not make it possible for local police to find out the appellants' whereabouts⁵...The CCTNS clearly contains more than the names of those who have been the subject of FIRs (charges). One can reasonably conclude that the appellants' names are in there given the police's ongoing interest in them.⁶
- [11] Contrary to what the appellants suggest, there is little indication that the RPD ignored the objective evidence on the tenant verification system and the CCNTS. During the hearing, the principal appellant testified that he could not live in Mumbai or Bangalore because he would have to show identification and a police check would be done.⁷ The RPD did not dispute that a tenant verification system is in place, nevertheless, it pointed out that it was highly unlikely that verification of this kind would be problematic for the appellants, taking into account the context of the police's interest in the principal appellant.

- [12] The RPD was correct in noting that the police had not looked for the appellants at their distant relatives' when they stayed with them in XXXX for six or seven months. In fact, the appellants testified that the police only searched for them in their village of Sudana, Punjab, where the XXXX was raided.
- [13] During the hearing, the RPD established that the Sudana police twice brought the principal appellant to the police station to question him about XXXX XXXX XXXX who had hidden in their home on XXXX XXXX, 2016, and to ask him to identify the suspects based on their photographs. The principal appellant testified that he had not been formally arrested or charged with anything whatsoever and that he was released after his father paid a bribe and on the condition that he would report to the police station each time the police requested it and that he was required to help the police arrest the militants.⁸
- [14] With respect to the tenant verification system, I note that, in this case, given that there is no evidence of a formal charge being laid against the principal appellant, and no evidence that he has a criminal record or that a warrant for his arrest has been issued, there is little indication that tenant verification or CCTNS verification would have any effect on the principal appellant. Although it is true that the documentary evidence specifies that landlords are required to share information on their tenants with the police and that the police must conduct background checks, it is stipulated that there are no written procedures and it is presumed that the police cross-reference with lists of wanted individuals.⁹
- [15] In addition, according to the objective evidence, Punjab police would only track someone who has moved to another state "in 'extreme' cases."¹⁰ In this instance, given that no arrest warrant has even been issued, it cannot be considered an extreme case.
- [16] For these reasons, I am of the opinion that the RPD was correct in its analysis of the first prong of the IFA.

CONCLUSION

- [17] I conclude that the RPD correctly determined that an internal flight alternative is available to the appellants in Bangalore or Mumbai. The RPD was right to determine that they would face no risk of persecution or serious harm and that it would not be unreasonable for them to relocate there. Therefore, the appellants do not face a serious possibility of persecution or, on a balance of probabilities, a danger of torture, a risk to their lives or a risk of cruel and unusual treatment or punishment in India.
- [18] I dismiss the appeal and confirm the RPD's determination that the appellants are neither Convention refugees nor persons in need of protection. (signed) Jillan Sadek
Jillan Sadek
March 2, 2020 Date IRB translation Original language: French
1Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93; Rozas del Solar v. Canada (Citizenship and Immigration), 2018 FC 1145. 2RPD-1, Refugee Protection Division (RPD) record, Exhibit 3, Archive - National Documentation Package (NDP), India, May 31, 2019, Tab 10.6: Surveillance by state authorities; communication between police offices across the country,

including use of the Crime and Criminal Tracking Network and Systems... Immigration and Refugee Board of Canada (IRB). June 25, 2018. IND106120.E. 3 P-2, appellants' memorandum, paragraphs 14-17, appellants' record, p. 5. 4 P-2, appellants' memorandum, paragraph 20, appellants' record, p. 5. 5 P-2, appellants' memorandum, paragraph 22, appellants' record, p. 6. 6 P-2, appellants' memorandum, paragraph 24, appellants' record, p. 8. 7 Around minute 51 of the recording of the hearing before the RPD, October 9, 2019. 8 Around minute 29 of the recording of the hearing before the RPD, October 9, 2019. 9 RPD-1, RPD record, Exhibit 3, Archive - NDP, India, May 31, 2019, Tab 14.8: Requirements and procedures for tenant registration (or tenant verification), including implementation, particularly in Delhi, Mumbai, Kolkata and Bengaluru (2016-May 2019). Immigration and Refugee Board of Canada. May 14, 2019. IND106289.E. 10 RPD-1, RPD record, Exhibit 3, Archive - NDP, India, May 31, 2019, Tab 12.8: Situation of Sikhs outside the state of Punjab, including treatment by authorities; ability of Sikhs to relocate within India, including challenges they may encounter... IRB. May 13, 2013. IND104369.E.

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