

Federal Court



Cour fédérale

Date: 20240618

Docket: IMM-1683-22

Citation: 2024 FC 936

Montréal, Quebec, June 18, 2024

PRESENT: Mr. Justice Gascon

BETWEEN:

**SRAN, PRITPAL SINGH AND SRAN,
RUCHIKA**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicants, Mr. Pritpal Singh Sran, accompanied by his wife, Ruchika Sran, are citizens of India. They seek judicial review of a decision dated February 11, 2022 [Decision], whereby the Refugee Appeal Division [RAD] dismissed their appeal and confirmed the Refugee Protection Division's [RPD] decision denying their refugee claim. The RAD rejected their claim

for refugee protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] because it did not find them credible due to multiple inconsistencies and contradictions in their testimony and evidence. More specifically, the RAD determined that they failed to establish the central elements of their claim.

[2] Mr. Sran and his wife submit that the RAD's Decision is unreasonable because it is not rational or adequately justified. According to them, their explanations are not only credible, but also consistent with the various documents contained in the record. They allege that the RAD failed to clarify how their explanations were not credible, such that the Decision is unreasonable.

[3] For the following reasons, the application for judicial review will be denied. In my view, the RAD reasonably concluded that Mr. Sran and his wife failed to establish the central elements of their claim and that numerous inconsistencies and contradictions rendered their testimony not credible. The conclusions of the RAD are reasonable in light of the record and the applicable law.

II. Background

A. *The factual context*

[4] Mr. Sran was a motorcycle salesman in India. He claims that in May 2018, a man named Randeep attended the shop he worked at so that he could purchase a motorcycle. Randeep found the motorcycles in the shop to be too expensive, so Mr. Sran offered to privately sell Randeep his own motorcycle, at a reduced price. Randeep accepted.

[5] On May 26, 2018, Randeep and his father, a high-ranking police officer, came to Mr. Sran's private dwelling, as agreed, and purchased the motorcycle for 650,000 rupees. There were some discussions amongst them as to who would take care of the motorcycle registration, and it was agreed that Randeep's father would handle it.

[6] A few months later, in early August 2018, Randeep told Mr. Sran that he was dissatisfied with the motorcycle and that he wanted to return it. Mr. Sran refused. On August 12, 2018, Randeep allegedly arrived at Mr. Sran's home with a group of people, and aggressively accused Mr. Sran of cheating him. Mr. Sran alleges that during the altercation, they physically assaulted him, reminded him that Randeep's father was a police officer, threatened him if he did not refund the motorcycle, and slapped Ms. Sran while pulling at her hair. Both Mr. Sran and his wife claim they required medical treatment after this altercation.

[7] Following the altercation, and despite noticing the motorcycle was damaged, Mr. Sran decided to take it back and refunded Randeep the full amount he had paid for the motorcycle.

[8] About a month later, on September 5, 2018, Mr. Sran and his wife left India because they had already planned a trip to Canada and the United States. They did not leave their country due to the alleged incident with Randeep or any other problems.

[9] In February 2019, Mr. Sran returned to India. A month later, on March 19, 2019, a second altercation allegedly occurred whereby Mr. Sran was arrested and beaten by the police after they accused him of being a gang member. The police also accused him of murder because his motorcycle was allegedly involved in a murder. Mr. Sran tried to explain to the police that

Randeep owned the motorcycle at the time of the alleged murder. The police made him sign blank papers and took his fingerprints.

[10] On March 23, 2019, although he was allegedly accused of murder, Mr. Sran was released from jail after his family paid an 80,000-rupee bribe. He alleges that Randeep once again beat him upon his release from jail. Then, despite still having a valid Canadian visa from his recent trip, Mr. Sran asserts that he paid someone 100,000 rupees to help him leave India on March 28, 2019, and that he subsequently reunited with his wife in Canada. Almost four months later, on July 23, 2019, Mr. Sran and his wife filed a refugee claim together.

[11] About two years later, slightly before their refugee hearing before the RPD, Mr. Sran and his wife amended their narrative on two occasions, with the assistance of counsel, to say that the police were looking for them at the homes of relatives all over India, including an aunt in Delhi and others in Punjab.

B. *The RPD and RAD decisions*

[12] The hearing before the RPD was held on July 19, 2021 and August 30, 2021.

[13] On October 4, 2021, the RPD rejected their claim for lack of credibility as well as a lack of prospective risk in India. To this effect, the RPD noted that their testimony was spontaneous, evasive, incoherent, and implausible. In particular, the RPD noted that Mr. Sran and his wife failed to establish the sale of the motorbike and damage to the motorbike, as they claimed to have proof of the sale but did not provide it. Moreover, the RPD found that they failed to

establish that Mr. Sran's name appears in databases in India as a criminal or person of interest. Ultimately, having considered the documentary evidence, testimony, and submissions, the RPD determined that Mr. Sran and his wife failed to establish the central elements of their claim, and that on a balance of probabilities, they had not established that they face a prospective risk should they return to India.

[14] On February 11, 2022, the RAD confirmed the RPD's decision and dismissed the appeal filed by Mr. Sran and his wife. In its reasons, the RAD noted multiple discrepancies that undermined Mr. Sran's credibility. More specifically, Mr. Sran was questioned extensively about the lack of paper trail for the sale of the motorbike, and he was unable to provide any evidence that the sum of money paid by Randeep was ever deposited into his account or that it even changed hands. Moreover, the RAD noted that the documentation they did provide indicates that they kept the motorcycle insured in their own name after the alleged sale. The RAD also took issue with the claim that Mr. Sran and his wife were beaten. To this effect, the RAD observed that the medical notes failed to mention visible injuries that would be associated with a prolonged assault, undermining the probative value of these notes. Finally, the RAD found that Mr. Sran and his wife failed to establish the events surrounding the alleged murder. The RAD noted the improbability that Mr. Sran would be released from jail after the payment of an 80,000-rupee bribe without any paperwork and without any conditions attached to his release, despite being accused of murder and acknowledging that murder is a very serious crime in India.

[15] Ultimately, the accumulation of numerous inconsistencies and unsupported assertions led the RAD to conclude that Mr. Sran and his wife were not credible, and that they had consequently failed to establish the central elements of their refugee claim.

C. *The standard of review*

[16] The jurisprudence has clearly determined that the standard of reasonableness applies to assessments of credibility made by the RPD and the RAD (*Aguebor v Canada (Minister of Employment and Immigration)*, (1993) 160 NR 315 (FCA) at para 4; *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at para 13 [*Lawani*]; *Gomez Florez v Canada (Citizenship and Immigration)*, 2016 FC 659 at para 20; *Soorasingam v Canada (Citizenship and Immigration)*, 2016 FC 691). This is confirmed by the Supreme Court of Canada’s landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], where the court established a presumption that the standard of reasonableness is the applicable standard in judicial reviews of the merits of administrative decisions (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [*Mason*]).

[17] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on “an internally coherent and rational chain of analysis” and is “justified in relation to the facts and law that constrain the decision maker” (*Vavilov* at para 85; *Mason* at para 64). The reviewing court must therefore ask whether the “decision bears the hallmarks of reasonableness—justification, transparency and intelligibility” (*Vavilov* at para 99). Both the outcome of the decision and its reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 15, 95, 136).

[18] Such a review must include a rigorous and robust evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a “reasons first” approach and begin its inquiry by examining the reasons provided with “respectful attention”, seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene “only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process” (*Vavilov* at para 13), without “reweighing and reassessing the evidence” before it (*Vavilov* at para 125).

[19] The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are “sufficiently serious shortcomings” (*Vavilov* at para 100).

III. Analysis

[20] Mr. Sran and his wife submit that the RAD’s Decision is unreasonable because it is not rational or adequately justified. According to them, their explanations were not only credible, but also consistent with the various documents contained in the record. They allege that the RAD failed to clarify how their explanations were not credible, such that the Decision is unreasonable. They take issue with the three main credibility findings made by the RAD in the Decision.

[21] With respect, I do not agree and find their arguments without merit.

[22] As the respondent, the Minister of Citizenship and Immigration [Minister] correctly noted, this Court has affirmed on numerous occasions that the accumulation of contradictions, inconsistencies, and omissions regarding crucial elements of a refugee claim can lead to a negative conclusion with respect to an applicant's credibility (*Lawani* at para 22, citing *Sary v Canada (Citizenship and Immigration)*, 2016 FC 178 at para 19; *Quintero Cienfuegos v Canada (Citizenship and Immigration)*, 2009 FC 1262 at para 1).

[23] As ably presented by counsel for the Minister at the hearing before the Court, the Decision eloquently illustrates that the RAD enumerated many valid reasons as to why it questioned Mr. Sran and his wife's credibility. Notably, the RAD explained in detail that their testimony contained unexplained contradictions and glaringly implausible assertions.

A. *The RAD reasonably concluded that Mr. Sran and his wife failed to provide documentary evidence which could establish the sale and subsequent damage to the motorcycle*

[24] The RAD first expressed doubts about the sale of the motorcycle. In light of the evidence on the record, it was open to the RAD to conclude that the RPD correctly found that Mr. Sran's failure to provide any documentary evidence supporting their allegations about the sale and subsequent damage to the motorcycle undermined their credibility.

[25] The RAD specifically noted that Mr. Sran was a professional motorcycle seller who had considerable experience in motorcycle sales, including with the relevant documentation involved with such sales. Accordingly, the RAD did not find Mr. Sran's explanation, to the effect that he was not in possession of that paperwork because he had allegedly left it up to the purchaser, to be compelling. Mr. Sran said he did so because Randeep's father was a police officer and he did not

want to argue with him. Moreover, the RAD subsequently noted that this explanation was also contradictory to the record. Indeed, the evidence on file showed that Mr. Sran had provided the registration papers for the motorcycle, which established that the motorcycle was first registered in his name in 2015 with the taxes being paid in full until 2030.

[26] The RAD had every reason to find it hard to believe that Mr. Sran sold the motorcycle to Randeep in the first place since there was nothing in the documentary evidence to indicate or support that the motorcycle was sold on May 26, 2018, nor that it was afterwards returned on August 12, 2018. Moreover, the insurance papers submitted by Mr. Sran remained under Mr. Sran's name from February 10, 2017 until February 9, 2019, even after the alleged sale of the motorcycle occurred. In addition, Mr. Sran did not try to explain why there were no financial records associated with the sale, nor any documents indicating a change in insurance or relating to a potential refund of the taxes he said he had prepaid on the motorcycle.

[27] Given these important contradictory factual elements, and contrary to Mr. Sran and his wife's contentions, it was reasonable for the RAD to determine that their failure to provide any documentation regarding such a key element in their claim undermined their credibility. Indeed, where the RAD is unsatisfied with an applicant's explanation for various inconsistencies, it is open to the RAD to draw a negative credibility finding (*Lin v Canada (Citizenship and Immigration)*, 2010 FC 183 at para 19).

[28] As the RAD pointed out in the Decision, the sale of the motorcycle to Randeep was the catalyst of Mr. Sran's troubles and the triggering element at the source of their refugee claim.

The repeated contradictions surrounding a central element of his story were certainly sufficient to undermine Mr. Sran's credibility.

B. *The RAD reasonably concluded that Mr. Sran and his wife failed to establish that they were attacked*

[29] Turning to the second main credibility finding, Mr. Sran and his wife alleged that they sought medical care after being beaten by Randeep and his friends on August 12, 2018, and that Mr. Sran sought medical care after he was again beaten upon being released from jail on March 23, 2019. In support of these allegations, they had submitted two medical notes dated July 13, 2021, from Chalana Nursing Home.

[30] After conducting its own analysis (which differed from the previous RPD analysis), the RAD gave no weight to the medical notes, as it found the information in the notes inconsistent with the assaults described by Mr. Sran and his wife in their written narrative. For instance, said the RAD, the medical notes contained no mention of any injury to Mr. Sran's face, nor any bruising, despite his assertion of being punched in the face. Mr. Sran's testimony also contradicted this documentary evidence. Indeed, in his testimony, Mr. Sran stated that he was slapped on his face, and beaten with sticks. However, in their notes, the doctor indicates that they found that Mr. Sran's "blood pressure was high" and that there appeared to be "some injuries". There is no description of any injury, and no reference to his face. More specifically, there is no mention of any type of injury that might have been sustained if someone was beaten with an instrument such as a stick. In light of the evidence on file, it was certainly open for the RAD to find the medical notes unhelpful and to give them no weight.

[31] It is trite law that the RPD and the RAD must be shown great deference in their findings of fact, as these decision makers have “the benefit of seeing and hearing the applicant’s testimony and that possesses a level of expertise”, and the RAD “as a specialized tribunal has complete jurisdiction to determine the plausibility of the applicant’s testimony and draw the necessary inferences” (*Jin v Canada (Citizenship and Immigration)*, 2012 FC 595 at para 10). Moreover, this Court has repeatedly noted that a lack of credibility concerning the central elements of a refugee claim can extend and trickle down to other elements of the claim, and that in such instances, “it is open to the [RAD] not to give evidentiary weight to assessments or reports based on underlying elements found not be credible” (*Lawani* at para 24, citing *Brahim v Canada (Citizenship and Immigration)*, 2015 FC 1215 at para 17).

[32] This is the case here, and I find nothing unreasonable in the RAD’s analysis in this respect.

C. The RAD reasonably concluded that Mr. Sran and his wife failed to establish the events surrounding the alleged murder

[33] I am also satisfied that the RAD reasonably found that Mr. Sran did not establish that Randeep committed any murder or that his father (whose name he chose not to disclose), in his capacity as a high-ranking police officer, was trying to frame Mr. Sran for this alleged murder. To this effect, the RAD observed that despite being questioned quite extensively on why he thought he was being framed for a crime committed by Randeep, Mr. Sran could only make suppositions. There was no evidence to explain why Mr. Sran believed the murder occurred during the brief period during which Randeep had possession of the motorcycle. In addition, during his testimony, Mr. Sran was unable to provide any details of the murder he was allegedly

accused of committing. Indeed, there was no indication of the identity of the victim, the sex of the victim, the age of the victim, the location of the crime, the motivation for the crime, how the murder was carried out, or the date of the murder. Furthermore, the RAD noted the implausibility of Mr. Sran's claim that despite being allegedly accused of murder, he was released from jail after the payment of an 80,000-rupee bribe without any paperwork and without any conditions attached to his release.

[34] I pause to underline that, in its reasons, the RAD clearly took into account the testimony of Mr. Sran and could not find any plausible explanation for the dearth of documentary evidence regarding the alleged murder.

[35] As the Court noted in *Lawani*, "the [RAD] is also entitled to draw conclusions concerning an applicant's credibility based on implausibilities, common sense and rationality. It can reject evidence if it is inconsistent with the probabilities affecting the case as a whole, or where inconsistencies are found in the evidence [...]. Situations where implausibility findings can be made include where the applicant's testimony is outside of the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the events could not have taken place as alleged" (*Lawani* at para 26).

[36] Here, it was again most certainly open to the RAD to find Mr. Sran's testimony implausible. As he himself admitted, murder is a serious crime. The fact that Mr. Sran could not point to a single factual element regarding the alleged murder, and that he was apparently able to pay a relatively small bribe to be released on such extreme charges, is entirely outside the realm

of plausibility. Moreover, Mr. Sran could not provide a single piece of documentary evidence to corroborate any element of his claims.

[37] I acknowledge that caution is required regarding implausibility findings in refugee cases (*Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 at para 7). Indeed, implausibility findings should only be made in the clearest of cases and with showing sensitivity to cultural differences, and the RAD must always sufficiently set out its reasons for making such findings (*Alhaj v Canada (Citizenship and Immigration)*, 2018 FC 98 at para 14; *Rahal v Canada (Citizenship and Immigration)*, 2012 FC 319 at para 44; *Kiyarath v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1269 at para 22). Otherwise, these findings can be seen as arbitrary and unreasonable (*Lawani* at para 36).

[38] However, in the case at bar, it is clear that the RAD's implausibility findings regarding Mr. Sran's claims on the alleged murder do not fall in the category of arbitrary or unreasonable conclusions. On the contrary, the RAD's assessments were made in clear and unmistakable terms with detailed explanations on why, in the eyes of the panel, Mr. Sran's testimony fell outside the realm of what could reasonably be expected.

[39] Contrary to the assertions made by Mr. Sran and his wife, the RAD considered all of their explanations for each element of their refugee claim. Here, Mr. Sran and his wife's arguments essentially demonstrate their disagreement with the RAD's conclusions and assessment of the documentary evidence, but fail to identify any error in the RAD's reasoning.

[40] On judicial review, it is not the role of a reviewing court to reweigh the evidence. The RAD's credibility findings were essentially factual and based on its assessment of all the evidence. These findings are well within the RAD's area of expertise and they deserve a high degree of deference from the Court. It is not the Court's role to reassess the evidence to reach a conclusion more favourable to an applicant. The role of the Court is to assess whether the Decision bears the hallmarks of reasonableness (*Vavilov* at paras 99, 125; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59). In the present case, the RAD properly assessed the evidence before it and simply weighed the evidence differently from what Mr. Sran and his wife would have preferred. There is nothing unreasonable in the RAD's analysis that warrants the intervention of this Court.

IV. Conclusion

[41] For these reasons, this application for judicial review is dismissed. The RAD was alive to the issues raised by Mr. Sran and his wife, and their mere disagreement with the RAD's conclusions and weighing of evidence are not grounds justifying the Court's intervention.

[42] There are no questions of general importance to be certified.

JUDGMENT in IMM-1683-22

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.
2. There is no question of general importance to be certified.

"Denis Gascon"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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STYLE OF CAUSE: SRAN, PRITPAL SINGH ET AL v THE MINISTER OF
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