



HIGH COURT OF AUSTRALIA

Public Information Officer

8 October, 2003

RE PHILIP RUDDOCK IN HIS CAPACITY AS MINISTER FOR IMMIGRATION AND MULTICULTURAL AFFAIRS; EX PARTE APPLICANT S154 OF 2002

The High Court of Australia today dismissed an application for constitutional writs by a Sri Lankan woman who belatedly raised claims she was raped by police in Sri Lanka.

The woman, 29, known as Applicant S154, is an ethnic Tamil and a Christian. In 1996 she moved to the Maldives and lived with her employer, a Muslim Pakistani. They married in 1998 and a few days later arrived in Australia, along with S154's mother. S154 applied for a protection visa, contending she was suspected by the authorities of belonging to the Tamil Tigers separatist group. The Immigration Department denied her a protection visa because it was not satisfied she was a person to whom Australia owed protection obligations under the Refugees Convention. She was not regarded as being associated with the Tamil Tigers, had never been arrested or detained under anti-terrorist laws, had been free to travel in and out of Sri Lanka, was of no interest to the authorities and had no well-founded fear of persecution.

The decision was affirmed by the Refugee Review Tribunal, but was reversed by the Federal Court in 2000 on the ground that the RRT failed to make findings about S154's claim, made for the first time at the RRT hearing, that she feared being recruited by the Tamil Tigers. The matter was remitted to the RRT and heard by another Member. At the second hearing, S154 said she was raped by police questioning her about the Tamil Tigers. She said she had not raised this before because she did not want her mother or husband to know. The Member replied, "OK, I don't need to ask you any further question about that particular incident." The Member subsequently asked S154 whether she wanted to say anything further about the claim

The RRT also affirmed the original decision to refuse S154 a protection visa, holding that she had never even mentioned being taken to the police station until the second hearing. She had also not mentioned rape to a psychologist whom she saw 10 times. The Member said he was satisfied the claim was untrue and designed to bolster S154's case.

S154 then applied to the High Court for constitutional writs. S154 claimed the Member's comment conveyed the impression that the Member had accepted her evidence and she was denied natural justice. The Court held that the Member was openly sceptical and gave her several opportunities to say more about the incident at the police station, so he did not mislead her. The Court, by a 4-1 majority, dismissed the application.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*