

**RE P (FORCED MARRIAGE)
[2011] EWHC 3467 (Fam)**

Family Division

Baron J

20 September 2010

Marriage – Forced marriage – Consent – Nullity not available – Appropriate remedy if no valid consent

P was born in England of Pakistani parents. When she was about 15 years old her parents told her that they wished to arrange a marriage for her, but she made it clear that she would not accept this. When she was about 20 years old and planning to join the police service (despite her family's opposition), she went to Pakistan with her mother and some of her siblings to attend a memorial service for her grandfather. On arrival at the home of her paternal uncle, her mobile phone, cash, passport and credit cards were removed from her. Unbeknown to her, the family had for some time been discussing a marriage to a Pakistani man who lived close to the paternal uncle. P was told that the marriage would take place in 2 weeks' time. She objected strongly, but her protests were ignored and she was told that if she did not co-operate she would have to stay in Pakistan. The intended husband was not aware of P's objections until after the marriage ceremony, when she refused to have sex with him. About 8 days later the couple separated. P returned to the uncle's home and remained there for about 16 months; her husband regularly visited her during this period. P managed to send a letter to England and this led to the police visiting the uncle's house. Eventually there was a court hearing in Pakistan. At that hearing P was frightened into giving evidence that someone else had written the letter. Therefore she returned to the village with her uncle. Shortly afterwards P was sent back to England, where she was met by her father and brother. She made her home with her family. About a year later, she discovered that her husband was planning to enter the UK as her spouse; she wrote a letter to the authorities stating that she had been forced into the marriage and did not support his entry. However, as she later discovered, her husband had already been granted a 2-year spousal visa. For some years P was unaware that he had entered the UK. Secretly her family from time to time provided him with her passport and other documents to support his application for permanent leave to remain. After P discovered these facts she applied to the court. A decree of nullity was not available because proceedings had not been instituted within 3 years from the date of the marriage (s 13(2)(a) of the Matrimonial Causes Act 1973). Accordingly, P sought a declaration that her marriage to the man was not capable of recognition under English law. Some months before the hearing she was thrown down a flight of stairs by two Asian males, and was told not to continue with the case.

Held – granting a declaration that the marriage between the man and the woman was not capable of recognition –

(1) The court discounted entirely a statement in English in support of the man provided by the woman's mother, who did not speak English; it had been prepared by a solicitor using the woman's father as a translator, and signed on that basis. This highly unsatisfactory procedure meant that the court could not be sure that the mother was giving untainted independent evidence, not informed by the father's ideas (see para [23]).

(2) The burden was on the woman to satisfy the court that she had been forced into the marriage on the ordinary civil standard of the balance of probabilities. Applying *Hirani v Hirani* [1984] FLR 232, the crucial question was whether the pressure was 'such as to destroy the reality of consent and overbears the will of the individual'. On these facts the woman had not given valid consent; she had been subjected to

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unacceptable pressure such that her free will was overborne. This was not reluctant consent, but no consent at all (see para [24]), (Annex para [7]).

(3) Where appropriate, a genuine case of forced marriage should be dealt with by way of decree of nullity; however, where, as in this case, s 13(2)(a) of the Matrimonial Causes Act 1973 meant that a decree of nullity could not be made, the appropriate remedy was a declaration pursuant to the inherent jurisdiction that the marriage, at its inception, was not a valid marriage due to lack of consent (applying *B v I (Forced Marriage)* [2010] 1 FLR 1721 and *SH v NB (Marriage: Consent)* [2009] EWHC 3274 (Fam)) (see para [53]), (Annex paras [14]–[16]).

Statutory provisions considered

Matrimonial Causes Act 1973, ss 11–14
 Senior Courts Act 1981
 Mental Health Act 1983
 Family Law Act 1986, ss 55, 58(5)
 Forced Marriage (Civil Protection) Act 2007, s 63A

Cases referred to in judgment

B v I (Forced Marriage) [2010] 1 FLR 1721, FD
City of Westminster v IC (By His Friend the Official Solicitor) and KC and NN [2008] EWCA Civ 198, [2009] Fam 11, [2009] 2 WLR 185, [2008] 2 FLR 267, CA
Hirani v Hirani [1984] FLR 232, CA
Mahmood v Mahmood [1993] SLT 589, Ct Sess
Mahmud v Mahmud [1994] SLT 599, Ct Sess
NS v MI [2006] EWHC 1646 (Fam), [2007] 1 FLR 444, FD
P v R (Forced Marriage: Annulment: Procedure) [2003] 1 FLR 661, FD
SH v NB (Marriage: Consent) [2009] EWHC 3274 (Fam), [2010] 1 FLR 1927, FD

Teertha Gupta and *Mehvish Chaudhry* for the applicant
Rachel Langdale QC and *Gina Allwood* for the respondent

BARON J:

[1] This is an application for a declaration that a marriage which took place in Pakistan on 22 July 2002, between MP (to whom I shall refer for ease of reference as ‘the wife’) and MH (to whom I shall refer as ‘the husband’) is not capable of recognition under English law. The basis upon which the declaration is sought is that the wife did not consent to the marriage, her assertion being to the effect that she was forced into marriage.

[2] The parties are in agreement as to the law. The juniors on each side have prepared an agreed note setting out the principles to be applied in a case such as this. I have read that document and accept it as a proper statement of the current law. I incorporate and append it to this judgment as Annex 1.

[3] Cases such as this engender much emotion. For that reason this has been a lengthy and, at times, stressful hearing for each of the parties. At the outset the wife wanted to participate by listening to the case in the video suite. Arrangements to that effect were put in place. However, fortunately she has been able to remain in court for most of the proceedings. Occasionally, when she felt too upset to listen to parts of the evidence, she left the court for short periods. Most of the time the wife sat at the back of the court with a female friend who had come to support her. I am satisfied that this litigation has been a very painful experience for her, not least because, shortly before the trial, she was set upon by two Asian males and thrown down some 16 steps. She says, and I accept, that she was told that she should not continue with this

court case. The police have investigated the matter but, to date, no one has been charged. The wife is convinced that her own family were behind the attack. On the basis of the evidence before me, I can make no such findings. However, despite this I am satisfied that the wife was placed under a great deal of physical and emotional pressure to withdraw this case. That sort of pressure is wholly unacceptable in a civilised society, given that courts are set up to deal fairly with all those who appear before them.

[4] The husband in this case also appeared to be very stressed and worried throughout. He shook visibly when he went into the witness box and I was obliged to rise early on Friday afternoon because he did not feel well enough to continue. At times he appeared to be tearful. I was told by his leading counsel that he was upset at the breakdown of what he thought was a genuine and agreed marriage. Indeed, he told me that he had entered into marriage in the belief that the parties would have a happy life together in England. Miss Langdale QC, on his behalf, said that he had been distressed because he had been vilified and accused of being violent. I accept her submissions on his behalf in that limited regard.

[5] I am conscious that the parties have found this case to be particularly difficult because they perceive that family honour and justice are involved. They are fortunate that they have both had excellent representation; the wife through Mr Gupta and his junior (who were acting pro bono with their expert solicitor) and the husband by his team led by Miss Langdale. Both sides deserve equal praise and both parties can be assured that their cases have been put both fairly and in excellent fashion.

[6] Most importantly from my perspective, both the husband and wife accept that this marriage is over. Indeed, the husband would have agreed to a divorce. That concession was not accepted by the wife because she considers that what happened to her in Pakistan was 'wrong' and she seeks, as she put it to me, 'justice for the wrongs' that were perpetrated against her. Thus this case is not about the technical end of the marriage. It is, from the wife's perspective, about fairness and a recognition that her treatment by her own family was unjust.

[7] Both wider families in this case originate from the same village in Pakistan. They are proud people and I am clear that, in accordance with tradition, family honour is extremely important. I am in no doubt that this litigation is seen as a slur upon that honour. The concept of being honourable is a good one. Indeed, I am of the view that everyone should strive to live a good and honourable life. Varying cultures have different perceptions and traditions. All are worthy of equal respect and I start from that position. I make it clear at the outset of this judgment that I pay full regard to Pakistani traditions and cultural expectations. They are different from those in Western culture but that does not make them any less worthy.

[8] Family traditions in Pakistan have stood the test of time and have brought stability to that society. As such, I know that:

- (i) respect for family elders is dominant;
- (ii) the decisions of the older generation have to be given prominence; and
- (iii) children are expected to obey their parents' wishes.

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Parents, for their part, wish the best for their children and, as part of their responsibility, tradition provides that they should arrange a marriage in order to secure a good partner and ultimately advantage their offspring. A wedding is not planned because the participants are 'in love'. It is planned on the basis of a suitable match. The ceremony is surrounded by lavish tradition and takes place over a lengthy period. As in every culture, it is seen as a time for celebration; an excuse to wear wonderful outfits and have a party. Many similar ceremonial features apply in Eastern and Western society. I expect that a wedding engenders the same sort of tensions within every household.

[9] I am clear that both Eastern and Western culture have the common precept that marriage must be consensual. Neither culture accepts a forced marriage. Parties must consent freely and genuinely. This means, in short-form, that consent cannot arise from fear or pressure. Such is obvious if any relationship is to have the prospect of working well. In Eastern tradition the bride and groom are often related as cousins. In that way the family's credentials are known. I appreciate that difficulty can arise when the older generation seeks to plan a match for a son or daughter who has been born and brought up in the UK. It is clear that such children can find themselves caught in a clash of cultures places of them in a particularly difficult position because the expectations between parent and child can be so different.

[10] *The factual matrix in this case*

The wife was born in England of Pakistani parents on 3 February 1982 (now 28 years old). Her mother and father settled in Britain prior to her birth and have four children, two boys and two girls. They were (and are) a family with traditional values. In due time the wife's elder sister had an arranged marriage. This, as I find, was when the wife was about 16 years of age. Her older sister went to Pakistan, married a local man and eventually came back to England. The wife told me, and I accept, that from the age of about 15 years she was told that her parents would arrange a similar marriage for her. From the outset she told them that she would not accept this, but her parents said that she had no option. I am satisfied that she made it clear to them that an arranged marriage was not a path that she wished to travel down.

[11] I have had the privilege of observing these parties over 4 days, both in and out of the witness box. I am clear that the wife, although small in stature, has a steely determination about her and I am clear that she is a very strong character. She is certainly not submissive by nature. I am sure that she sees herself as an independent person who is capable and entitled to make her own way in life. As a child the wife decided that she wanted to be a police officer. Her parents eschewed this idea because it was not thought a suitable job for a woman. In the light of this they persuaded her to continue with her education. After school she went to university to study diagnostic radiotherapy. She did not enjoy the course and decided to abandon it. She remained determined in her ultimate goal to join the police force.

[12] In 2002 the wife was persuaded to visit Pakistan to attend the memorial service for her beloved grandfather who had died some 7 or 8 months previously. She travelled with her mother and some of her siblings to the family village. As an intelligent woman, I have little doubt that she must have suspected that her mother would use the opportunity to arrange her marriage. She told me, and I accept, that before the trip she reinforced her

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view to both of her parents that she was not interested in marriage. Upon arrival in Pakistan, she went to stay at the family compound where her paternal uncle, then aged about 65 years old, was in charge. He is a respected elder in his community who is supported financially by members of his family in England. Locally the uncle is in a position of prominence as an elected counsellor. The wife told me, and I accept, that around the time of her arrival in Pakistan her mobile phone, her cash, her passport and her credit cards were removed from her. She felt and was effectively marooned within Pakistan.

[13] Whilst there, as I find, her mother entered into final negotiations with the husband's family. The older generation agreed that MH would make a perfect husband. With hindsight, I believe that there may have been general discussions about a possible match over many years. However, I am clear that nothing was concluded until this visit.

[14] *The husband*

The husband was born on 15 December 1975 (34 years old). He has no less than seven sisters and one brother. His family lived close to the paternal uncle and both families knew each other as members of the same community. Although the husband's family were not wealthy, they were seen as hard working and respectable. At the relevant date all but three of their daughters had married and were living away from home, as was the husband's elder brother. The husband remained at home but worked in a medical store in Rawalpindi. His counsel has described him as a humble man and I have no reason to suppose that this description is other than correct. Certainly, as he told me, he expected to obey his parents and he knew that he had to take on the responsibility of marriage when he was told that a suitable girl had been found.

[15] His outlook on life was so different to that of the wife. His horizons were different. His expectations were different. He had not been exposed to the Western influences in the same way that she had been. By so stating, I am not being critical. I am simply highlighting the fact that they were very different. If any parent was objectively seeking to analyse what was in their child's best interests I believe that they would have appreciated that these parties did not have any commonality of experience or interest. Accordingly, those essential prerequisites which are fundamental to the formation of a favourable marriage were missing. Parties who have been brought up thousands of miles apart with different influences will, on the balance of probabilities, find it more difficult to gel as a couple. Of course, over time some will but it will rarely be immediate. Thus, I conclude that arranged marriages will probably have less chance of success if parents look to their traditional family villages when seeking to arrange the marriage of British Asians. However such generalities are not a matter for me because I have to consider whether this wife and this husband entered into a marriage on the basis of mutual consent.

[16] I have no doubt that the husband, as a respectful and traditional son, accepted the arrangements that his parents had made on his behalf. He assumed, as was right, that they were acting in his best interests and he entered into this marriage genuinely hoping that it was for the long term. His consent was thus free and obvious.

[17] *The events leading up to the marriage*

The wife told me that she had been to Pakistan on only two previous occasions, once when she was a baby and once when she was 8 to 10 years old. She denied a visit as a teenager and I accept that evidence on her behalf.

[18] When she visited Pakistan as a little girl, I am clear that she met the husband and his sister, SJ. The latter gave evidence before me. She told me that she was some 3 to 4 years older than the wife. SJ said that when they played together as children the wife told her that she knew she was to marry her brother and had effectively consented at that age. I do not accept that evidence. It is simply unrealistic to talk about consent when a child is 8 or 10 years old. I am convinced that this was introduced in oral evidence (for it was not in her statement) to give authenticity to SJ's claim that the wife was happy about the marriage in 2002, agreed to it and was happy thereafter. I reject all SJ's evidence to that effect.

[19] In 2002 the wife's mother took the opportunity, as I have already outlined, to discuss her daughter's wedding with the husband's family. The elders then agreed. The husband and the wife were then told that their marriage would take place in about 2 weeks' time. I am satisfied that, apart from the time referred to some 10 years earlier, the wife had not met and did not know the husband. Likewise, he did not know her. I was told that tradition dictated that bride and groom should not meet prior to the ceremony. Accordingly, the wife told me that she did not speak to or meet the husband before the wedding took place. When he first gave his evidence, the husband told me that, although he had seen the wife from afar, he had not spoken to her before the wedding because this was what his religion dictated.

[20] When SJ gave evidence she told me that when she went on a pre-wedding shopping trip with the wife and her elder brother. She said that they met the husband at his work. She was clear that they all ate together. She informed me that she had permitted the prospective husband and wife to sit alone at a separate table to talk in private. She told me that she could not hear what they were saying. However, SJ was certain that the wife was very happy about the wedding. This evidence does not chime with the evidence of either the husband or wife. It was not in SJ's statement and I totally reject it. Insofar as it was supportive of her evidence that the wife was a full and happy participant in this wedding, I equally reject it. Whilst these ladies may have gone on an accompanied (chaperoned) shopping trip, I do not accept that it was in preparation for or in the expectation of a happy forthcoming wedding. I do not accept that the intended bride and groom met.

[21] The wife told me that when she was informed that she was going to take part in an arranged marriage she objected strongly and informed her uncle and mother that she did not agree. I accept that evidence. I am sure that her parents knew that she did not want to get married. Indeed, as I find, she made this obvious to them on many occasions.

[22] It is noteworthy that the wife had recently given up her course at university. She had informed her parents that she wanted to join the police force. I am confident that her parents perceived this as an unacceptable choice and, therefore, took the opportunity of the trip to Pakistan as the ideal time to arrange the marriage which they felt would offer the best future for their daughter. In so doing, I am clear that they were not acting out of any form of malice. They were doing what they considered was right, honourable and in

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her long-term interests in accordance with their traditions. I note that the wife's father was not present during the period. I would have expected him to have been in Pakistan if this had been a long-established wedding date. His absence reinforces my view that the plan was only finalised during the trip because it was perceived as an auspicious opportunity given the wife's then expressed intentions to pursue an unacceptable career.

[23] I was expecting to hear evidence from the wife's mother, because she had sworn a statement on behalf of the husband. However, she did not attend this court. I issued a witness summons at the request of the husband's counsel, but the lady returned the conduct money and defied the order. I made it clear to Miss Langdale QC that if the witness did not attend I was unlikely to take account of her statement, particularly as it was only in English and the lady does not speak this language. Apparently it had been prepared by a solicitor using her own husband as a translator and it was signed on that basis. To my mind, that procedure is highly unsatisfactory. It means that I cannot be sure that the lady was giving untainted, independent evidence which was not informed by her own husband's ideas. In the circumstances, I wholly discount the mother's evidence. Accordingly, this part of the husband's case has no support from the wife's family. Her paternal uncle (who was the other relevant participant in the wedding arrangements) has never sworn a statement (which I might have expected him to do) and so there is no corroboration from that source.

[24] The wife told me that once she had informed her family that she did not consent to marry, she was told that she only had two choices. First, she could marry and return home. Secondly, she could remain in Pakistan on the basis that she would never be allowed to return to the UK. She told me that she was treated very badly by her uncle and suffered at his hands, both emotionally and physically. I am clear that:

- (i) her mobile phone, passport, moneys and credit cards had been removed;
- (ii) she felt that she was effectively marooned in Pakistan;
- (iii) she was told that she must marry and her objections were ignored;
- (iv) she was informed that if she did not marry she would effectively have to remain alone in Pakistan for the rest of her life.

Such pressure upon her was unacceptable and was such that her free will was overborne because she was isolated and ostracised by her own family. She was made to feel that she was letting her parents down by her attitude and that she was not behaving honourably. I am absolutely clear that she knew that she had no effective choice but to follow the wishes of her family. Therefore, she did not give a valid consent to this marriage which was forced upon her. Hers was not reluctant consent. It was no consent at all. On this basis her claim succeeds.

[25] Over the last 4 days I have heard a great deal of evidence about many other matters, most of which go to credit alone. I am clear, however, that whatever the wife's fully expressed views about the wedding were, they were never passed on to the groom's family. He thought that his bride was consenting to marriage. As a matter of honour, the difficulties within the

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wife's family were hidden from her future in-laws. Accordingly, from the husband's perspective, the wedding was a joyful and genuine occasion. He acted in good faith in the expectation of a full, normal, happy future life.

[26] I have seen a 3-hour DVD of the wedding. I have been referred to particular parts which each of the parties contend show happiness or sadness (depending on their case) I have seen the signing of what the husband submits was the Nikah ceremony, which itself is denied by the wife, for she maintains that it occurred prior to the DVD. It is her case that during the Nikah ceremony she felt pressured to agree. I have already made it clear that I accept that her consent of the signing of that document was not freely given. I did not find the DVD helpful to resolve the issue of consent. In fact, none of the footage was helpful. I was able to observe a very colourful and beautifully made DVD. I accept the groom looked happy and, as times, the wife appeared relaxed. But as at the date of the ceremony itself, this wife was already in the middle of an event about which she had no alternative but to participate. To the outside world she appeared assured and she appeared to agree but this was only because her family had required her to act in this way and she had been pressured into it. I note and accept that parts of her original statement were incorrect. As I surmise it should have been more carefully compiled I am satisfied that parts of her later accounts to me have been embellished to make her case appear stronger. This is due to her character and the need, as she perceived it, to win this case. I criticise her for these lapses, even though I can understand her motivation. I am particularly critical of her attempt to make the husband appear a violent monster. Having seen him give evidence, I do not accept that picture of him. Despite these criticisms, I am sure that the core of her case is correct. In short, I am sure that she was telling me the truth about her state of mind at the date when 'consent' was given. She did not want to marry.

[27] I have been given a schedule of findings which I have been asked to make in this case. For the avoidance of doubt, I find para 1 made out; I find para 2 made out; I find paras 3 and 4 made out. The case could (and some might state should) have stopped at that point but each party sought to bolster or undermine their opponent's stance with a number of other extraneous allegations. As I have now heard all the evidence, even though they are not central to my findings about consent, I will deal with the other issues so far as I regard them as relevant.

[28] *The wedding night and the honeymoon*

The wife contends that there was no sexual intercourse on the wedding night and the husband agrees. He says that she told him that she was menstruating. He says that there was intercourse thereafter. The wife says there was never sexual congress. The husband indicates that the marriage was consummated and happy. His sister told me that the parties had a happy 3-day honeymoon in a hotel in Islamabad. That latter evidence was patent nonsense and I reject it. The wife claims that she was punched by the husband when she refused to have sexual intercourse with him. I do not accept that allegation. She told me that she left this marriage as a virgin. I accept that evidence. Given the husband's upbringing, that finding convinces me that this husband did not treat this wife badly. Marriage entitled him to have a sexual relationship but he did not force the issue. On the balance of probabilities, I am clear that the wife

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did not consent to sexual intercourse and this husband did not oblige her. His forbearance in the circumstances is noted. I am clear that the husband attempted to have sexual intercourse with his wife, but that she rebuffed him. [29] Each party agrees that after some 8 days, in July 2002, the parties separated. The wife says that she went to live in her uncle's house. The husband says she returned to England for a 3-month sojourn. Her passport shows that she did return to England and went back to Pakistan some 3 months later. The husband told me that he was happy for his bride to go because she told him that she was returning for work. I do not accept his explanation because it flies in the face of logic. Moreover, this lady did not have a job at the time.

[30] The wife says she never left Pakistan, rather she claims that she was sent back to her uncle's house where she remained a virtual prisoner over the next 16 months. She could not explain the entries in her passport.

[31] I was not given any expert evidence as to the authenticity of the passport stamps. The two explanations which I have been given simply do not chime. Unravelling the evidence, I am clear that the wife did not remain with her husband in his family home, this was because she had made it abundantly clear to them that she did not accept the marriage. As such, she was sent back to her own family who were expected to ensure that she came to appreciate her obligations and was made to comply with the expectations of her new family. I am sure that is what her uncle tried to accomplish. On the balance of probabilities, and it is a fine balance, I accept that she remained in Pakistan in her uncle's home. I so state because, if she had returned to England, it would have been in the expectation that she was taught to accept the marriage into which she had entered. If this had occurred there would have been a risk that she might have refused to return to Pakistan. Thus the balance tips in favour of her explanation but only because I have come to the conclusion that if she had returned to England it would have been almost impossible to get her to return to Pakistan given her attitude.

[32] I find that throughout this period the husband was keen to make the marriage work. Over the next 16 months or so, I accept that the wife lived in her uncle's home and that the husband visited her on a regular basis. He had the hope that by kindness, or otherwise, she could be persuaded to enter fully into this marriage and perform her wifely duties. The wife says that her uncle was nasty and violent. Her evidence is not gainsaid by him and so I accept it. I am clear that the husband did not know fully what was going on in his wife's home. That stated, she was isolated, alone and lived in fear. It is obvious that she became very depressed. She says that she attempted to take her own life. I accept that she took an overdose of tablets. Whether this was a serious suicide attempt or a cry for help I do not know. I am clear that she was very unhappy.

[33] As I find that she wrote at least one letter which was smuggled out of the house and was sent back to England. It resulted in the police visiting her uncle's house and a court hearing in Islamabad. The evidence by the husband and his sister is to the effect that the wife remained in their home and was happy. I reject that evidence. The husband told me that when the police came to the village they went to her uncle's house but asserts that if they had visited his home they would have found the wife contented and happy. This evidence, with all due respect to him, is simply rubbish. The police were given a mission to find the wife, to check upon her whereabouts and to determine her

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state of health. Given the contents of her letter that she was effectively being held against her will, in logic the police would first have checked with her husband and gone to his home. The fact (as he accepts) that they did not go to his house and found the wife at her uncle's address convinces me that she was living there as she asserts.

[34] Both parties agree that there was a court hearing before a judge in Islamabad. The husband states (and I accept) that this was seen as bringing great dishonour on to his family. I accept the wife's account that she was taken to the hearing and gave evidence to the effect that the letter had been written by some other person who was disaffected and who bore her a grudge. As I find, she did so because she was terrified that if she told the truth she would be punished and, as she put it to me, thought she may be killed.

[35] The wife was able to speak independently to two women, probably from the UK Embassy, and she informed me that she spoke to the judge. I accept her evidence. She said to me that she felt that she could not seek immediate assistance to leave for England because she was 'too afraid'. I accept that evidence. She decided to return with the family to the village. I do not believe that she returned to the village as a happy wife.

[36] The police raid and the court appearance marked a real crisis within both families. The husband's family are essentially law-abiding. The wife's mother was summoned to Pakistan to seek to resolve the problem of her wayward daughter as the older generation are required to do. In the face of the disgrace which had been brought upon both families it was agreed that the wife should be re-exported to England. I do not know if this was in response to an order which emanated from the Pakistani court because such has never been placed before me or whether the families finally accepted that the wife would never comply. Eventually, a few weeks later, on 12 October 2003, the wife was driven to the airport by her uncle and husband. She was put on a plane for the UK. She was met on arrival by her father and brother. There is a dispute as to whether her mother was on the plane with her. I make no finding about that point, although I accept that her mother had travelled to Pakistan from England to try and resolve issues. She travelled back to England on the same date as her passport shows.

[37] The original expectation had been that the husband would move to England. I am confident that this remained an aspiration so far as the groom was concerned. Consequently, when the wife returned to England, her family felt obliged to try and bring the husband to the UK despite their daughter's attitude.

[38] Upon her return the wife told me she thought that her family had 'abandoned' her. She noticed that all signs of her previous presence in the family home had been, as she put it to me, 'eradicated'. Thus, although, she lived at home she continued to feel isolated. In the light of this, she was determined to pursue a career. First she worked in banking. She supplemented her earnings by working as a cleaner in order to save money. Her ultimate goal was to join the police force.

[39] In October 2004 the wife discovered papers in the family home that showed that the husband was planning to come to the UK. In the light of this, she wrote a letter, dated 28 October 2004, to the Foreign and Commonwealth Office, stating in clear terms that she did not support the husband's entry into the UK because she had been forced into marriage. The contents of that letter

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speak for themselves. That letter was of no effect because the husband had already been granted a 2-year spousal visa in Islamabad.

[40] I am sure that the husband hoped his marriage might be resuscitated on his arrival in England and, as such, his entry was, from his perspective, genuine. In November 2004 he arrived in the UK. He maintains that he lived at 47 Douglas Road, Derby with the wife's family. I do not accept that evidence. I am clear that the wife is correct when she states that she did not know he was in the country. I am convinced that her parents were working behind the scenes to try and bring the couple together in a manner that was secret to their daughter. I so state because her family were doing their best to tread a careful path. On the one hand they thought they had an obligation to the husband and his family. Whilst on the other hand they were seeking to maintain stability within their own home. They were trying to control their own daughter and hoped that they would eventually persuade her of the righteousness of their position.

[41] In fact, the wife continued to follow her own dreams. She saved monies and, on 21 November 2005 she joined the police force. Like so many people who defy their parents' wishes, I am sure that she still had deep feelings for her own family. She had tried to be a good and dutiful daughter in many ways but felt compelled to follow her own destiny.

[42] In his first statement the husband indicated that this marriage ended in 2006. Since then he has sought to move the date forward to sometime in 2008. I do not accept the manner in which his case has been put. This marriage was never happy. It may be that he harboured the belief, or the hope, that it would be consummated but the parties never lived together in this country. I accept that the wife did not even know the husband was in England until late 2005. Accordingly, I do not accept the husband's evidence about the wife visiting him on a regular basis.

[43] I have heard a great deal of evidence about the immigration application that was made by the husband for permanent leave to remain in the jurisdiction. His evidence appeared to show that the wife supported the application. Doing the best I can, I believe the following occurred:

[a] On 30 August 2007 the husband and the wife's father visited a Mr T. He is a solicitor in the locality who specialises in immigration matters. He made a clear attendance note on that occasion, setting out what documents he had seen. He listed a number of other documents which he required to process the application. I have seen another attendance note, dated 11 September 2007, in which he lists the documents which he had then received. That note states that both the husband and the wife appeared before him. Mr T secured a payment of £1,000 in cash from the husband. The latter told me that that sum had been obtained as to £700 from his savings and, as to the rest, by way of loans from friends. I do not accept that. I have seen, at about this time, he had obtained a bank loan from the National Westminster Bank for £5,000. He withdrew £2,000 in cash from his account. I am confident that was the source of £1,000 paid to the solicitor. I doubt that it would have been necessary for him to secure a bank loan in this way if his wife had truly been supporting his application, because, by this stage, she was earning good money and could have assisted him. The wife denies any involvement in the legal process.

[b] Certainly in 2004 the wife did not want the husband within the jurisdiction. Her account clashes directly with Mr T who gave evidence to me

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and was very clear that he saw her in his office. I must say that I formed the view that Mr T was a heavily pressed and busy solicitor. He had no less than four members of staff upon whom he relied to do much of his work. He explained to me (in support of his own application for costs) that by attending my court he had 'lost £1,000 plus VAT in fees'. This demonstrated that he was a very busy man. He explained to me how many people he saw in a day. His evidence was as follows:

'I saw 8 to 10 people a day most days, five days a week. It is difficult for me to remember who I see. I deal with 150 cases, many, many cases; 50 to 60 phone calls a day, every second, every minute is busy.'

[c] I accept that Mr T had (and has) a heavy throughput of cases and sees many people. He told me that he 'knew' that it was the wife because he had her passport and he compared the face on the passport with the person before him. Despite this evidence, I formed the view that Mr T – and this is in no way disrespectful to him – was rather slapdash in his approach to his work. I so state for there were many aspects of the documents which were placed before me that should have caused any solicitor to make more careful inquiry. For example, there are two versions of the wife's signature in the documents. Any solicitor should have called into question the difference in those signatures and yet Mr T never even noticed it. Mr T's oral evidence about the preparation of the form that went to the immigration authorities was, if I may say so, rather muddled. First, he appeared to indicate that the document had been signed in his presence. Then he indicated that it had been prepared by his secretary after the documentation had been handed to her by him. Finally he indicated that, although the document bore the date of 12 September 2007, that was not the date upon which it had been signed by the parties. He said the date had been added to the form to mark the date that the documentation was sent. Of course there is nothing illegal in so dating a document. Nevertheless, Mr T was unclear as to how and when it was the document came to be signed.

[44] I have reached the conclusion, on the balance of probabilities, that Mr T was not telling me deliberate untruths. However, I do believe that his memory failed him. As such, I cannot accept his evidence that he recalls that it was this wife that was in his office. Too much time has passed. The records of his meetings, even on his own evidence, were not wholly accurate. For example, it is clear that the wife's father was supposedly in attendance at the meeting on 11 September, and yet that fact did not appear on the attendance note. In the light of all this, indeed I accept that a woman was present, I am not convinced that it was the wife. I accept that the wife was not present.

[45] I am satisfied that the wife's passport and other documents of hers (used to support the husband's application) were obtained by members of her family and were passed on to Mr T by them. The wife told me all these documents were obtained by her family when her elder brother telephoned to inform her that he was moving from the family home and required some assistance with the processing of his mortgage. He asked her if she would assist him financially by providing documents in support. She agreed and, in those circumstances, passed over all the necessary documentation. The same documents were used for the husband's application to the immigration

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authorities. They were returned to the wife and her elder brother informed her that he had secured the mortgage on his own account. The wife's explanation strikes me as being utterly believable.

[46] I am also clear that subsequently, when the wife's passport was required by the immigration authorities for a second time, it was removed from her by stealth in circumstances where she did not give her consent. She told me that she had gone for a summer holiday and, upon her return, had gone to see her parents with her passport still in her bag. Unknown to her, the passport had been removed and retained by her family. She reported her passport missing when she could not find it. Obviously she did not suspect that her own mother and/or father had retained it. She obtained a second replacement passport. Eventually, after the violent incident (to which I referred to at the outset of this judgment) her parents' home was searched by the police and her father produced the wife's passport. It is perfectly clear, therefore, that her passport was obtained and retained by her own family.

[47] I acquit the husband of knowledge as to how the wife's passport had been obtained. He relied upon the wife's parents, asking them for documents and, I suspect, he assumed that they had the wife's consent in obtaining them. I have come to the conclusion that the wife's family helped him probably because it was part of their agreement that they would support him in coming to this jurisdiction.

[48] In the light of my judgment and clear findings, I am prepared to make the declaration which is sought pursuant to the court's inherent jurisdiction and under the terms of the Forced Marriage (Civil Protection) Act 1997. Consequently I declare that the marriage which was entered into in Pakistan in July 2002 was invalid because no proper and free consent was given by the wife in respect of that ceremony. That is my judgment.
See below for Annex 1.

Order accordingly.

Solicitors: *Dawson Cornwell* for the applicant
Smith Partnership for the respondent

PHILIPPA JOHNSON
Law Reporter