

Federal Court



Cour fédérale

**Date: 20160705**

**Docket: IMM-50-16**

**Citation: 2016 FC 744**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, July 5, 2016**

**PRESENT: The Honourable Mr. Justice Annis**

**BETWEEN:**

**VISHAL CHOUDHARY**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Introduction

[1] This is an application for judicial review filed under subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA) of a decision made by the Refugee Protection Division (RPD) on November 24, 2015, denying the applicant's claim for refugee

protection. The applicant wishes to have the decision set aside and referred for reconsideration before a different panel.

[2] The applicant, a citizen of India, first came to Canada in November 2011 to participate in a taekwondo tournament. He remained in Canada for three days, after which time he returned to India.

[3] The applicant claims that police officers accused one of his brother's friends of having ties with terrorists. When this friend left the village, the police officers allegedly turned on the applicant's brother, Arun, whom they allegedly harassed and arrested on several occasions in an attempt to make him divulge information about his friend. On at least three occasions, the applicant's father allegedly had to pay bribes in order for his son to be released. The pressure was allegedly such that the applicant's brother allegedly left India for the United States in August 2010.

[4] Following Arun's departure, the police officers allegedly went after the applicant's family. The applicant described raids of the family home during which police officers got out of three or four vehicles, surrounded the house, asked questions, conducted searches and mistreated his family. They were always trying to find out more about terrorist plots. Each time, his father had to pay them bribes so they would leave. The applicant was allegedly present for at least two of these police operations. He was asked questions about his brother and about his brother's friend and about terrorist plots.

[5] The applicant alleges that he was arrested and detained by police for three days in December 2011. The police officers accused him of having maintained ties with foreign militants following his return from Canada.

[6] Following this incident, the applicant allegedly went to Delhi for six months while waiting for the necessary documents to go to Canada.

[7] On May 9, 2012, the applicant arrived in Canada and filed an application for refugee protection approximately two weeks later.

[8] On November 24, 2015, the RPD heard the applicant's claim and denied it on December 14, 2015.

[9] The RPD determined that the applicant was not a Convention refugee nor a person in need of protection under sections 96 and 97 of the IRPA for two specific reasons.

[10] Firstly, the RPD noted that several elements undermined the applicant's credibility, including the omission of two arrests, each accompanied by detention for a day or two, from the statement appended to his Personal Information Form. The applicant asserts that these facts were mentioned in another document. The applicant describes the events as follows:

[TRANSLATION] Even though he had been called down to the police station on two occasions...

[11] I do not agree with the description. Spending a day or two in jail is not simply “being called down to the police station” and it is not something that is easy to forget, as the applicant claims. There is no reason for the Court to intervene with regard to the RPD’s determination on the applicant’s lack of credibility.

[12] Even if I were to accept the applicant’s argument that the member allegedly ignored an important element of the applicant’s credibility assessment, namely that the arrests had been declared in the initial forms that he had filled out for his refugee claim, I note that the RPD also determined that an internal flight alternative (IFA) existed for the applicant in Delhi.

[13] The applicant asserts that the member committed an error subject to examination in failing to consider in his or her decision the documentary evidence mentioning that criminal background checks are done in all Indian states and that section 144 of the Indian Penal Code requires all tenants in Delhi to be registered with the police.

[14] However, a close look at the member’s reasons shows that the member did not argue this fact. On the contrary, the member’s decision focuses instead on the fact that the applicant’s profile did not sufficiently support the conclusion that the police were still interested in him as described in paragraphs 24 and 25 of the decision:

[TRANSLATION]

[24] It is clear from the applicant’s statement that it was the local police who were interested in his brother, then in his family and himself, and that bribes were paid to them on numerous occasions. To the panel wondering how the police officers could

have visited his family on numerous occasions and then left them alone after being paid a bribe, the applicant responded that “that’s how things are done in India—they harass people to get money—it’s a business.”

[25] In light of this, the panel feels that the applicant did not discharge his burden of proof to show that Delhi is not a safe location to which he could relocate. The panel does not see why the applicant should be sufficiently interesting three years after his departure for the local authorities in his village—located in a different state—to deploy the resources necessary to seek him out, given that they had mostly taken advantage of the situation to extort bribes from his family. The panel also believes that the applicant’s allegations that his registration in Delhi would allow his village’s corrupt authorities to find him are speculative, given that there is nothing to indicate that his personal information is wanted and would necessarily come to their attention.

[My emphasis.]

[15] The applicant’s documentation on how tenant information is verified suggests that there is no written procedure for the method used by police to verify the information, but that it is presumed that the lists are compared to the lists of persons wanted by the police. I note that the applicant has not presented any objective evidence to corroborate his arrests, nor to certify that he must report to the police station each month, which would have suggested that his name was on a list of wanted persons.

[16] I am of the opinion that the determinations that the police were probably not interested in the applicant and that he, as a result, has an internal flight alternative are in keeping with the standard of review of reasonableness.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application is dismissed and that there are no questions to certify.

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"Peter Annis"

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-50-16

**STYLE OF CAUSE:** VISHAL CHOUDHARY v. MCI

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** JUNE 28, 2016

**JUDGEMENT AND REASONS:** ANNIS J.

**DATED:** JULY 5, 2016

**APPEARANCES:**

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Charles Junior Jean FOR THE RESPONDENT

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