

RWANDA / JUDGMENT

UBUSHINJACYAHA vs UWIZEYIMANA

RPAA 00538/2023/CA

COURT

Court of Appeal

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UBUSHINJACYAHA vs UWIZEYIMANA

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Text

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UBUSHINJACYAHA vs UWIZEYIMANA [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00538/2023/CA (Mukandamage P.J.) 21 Gashyantare 2025] Amategeko agenga ibimenyetso mu manza – Ibimenyetso mu manza nshinjabyaha – Mu manza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye (principe de la liberté de la preuve en matière pénale) ababuranyi bakaba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi Urukiko nirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa. Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Karongi, Ubushinjacyaha burega Uwizeyimana icyaha cyo gusambanya umwana no guhoza ku nkeke uwo bashyingiranwe nyuma yuko acyetsweho icyaha cyo gusambanya umwana we yakoze mu ijoro ryo ku wa 14/06/2020, bivugwa ko yatashye yasinze, umugore we Tuyisenge aramuhunga kubera ko yari asanzwe ataha yasinze akamukubita, hanyuma asigarana n'abana babo mu rugo, afata umukuru muribo witwa N. V. w'imyaka cumi n'itatu (13) n'amezi cumi na kumwe (11) y'amavuko amukuramo imyenda aramusambanya. Urwo Rukiko rwaciye urubanza rusanga hari ibimenyetso bigaragaza ko Uwizeyimana yakoze icyaha cyo guhoza ku nkeke uwo bashyingiranwe n'icyaha cyo gusambanya umwana we yakoze mu buryo bw'impurirane mbonezabyaha, rumuhanisha igihano cy'igifungo

cya burundu. Uwizeyimana yajuririye Urukiko Rukuru/Urugereko rwa Rusizi avuga ko yahamijwe icyaha cyo gusambanya umwana kandi ntacyo yakoze, ko yabeshyewe kubera amakimbirane afitanye n'umugore we, ko ibyo raporo ya Muganga yagaragaje nta gihamya ko bikomoka ku gusambanywa nawe, asaba kugirwa umwere kuko nta bimenyetso bimuhamya icyo cyaha. Urwo Rukiko rwaciye urubanza rusanga ibimenyetso byashingiweho n'Urukiko rwabanje ruhamya Uwizeyimana icyaha cyo gusambanya umwana we bidashidikanywaho, rwemeza ko akomeza guhanishwa igihano cy'igifungo cya burundu kubera impamvu nkomezacyaha yo kuba yarasambanyije umwana we w'imyaka cumi n'itatu (13) y'amavuko. Uwizeyimana yajuririye Urukiko rw'Ubujurire, avuga ko yahamijwe icyaha cyo gusambanya umwana hashingiwe ku bimenyetso bishidikanywaho, agasaba kugirwa umwere. Avuga kandi ko ibyo umwana we yavuze bitari bikwiye gushingirwaho n'urukiko rumuhamya icyaha, kuko ari ibyo yabwirijwe na nyina kubera amakimbirane bafitanye. Anenga kandi imvugo z'abatangabuhamya kubera ngo ibyo bavuze aribyo babwiwe. Asoza kandi agira icyo avuga kuri raporo ya Muganga yashingiweho, ko hari ibyo igaragaza ko bimeze neza (normal), ariko hari aho itera gushidikanya ndetse ko indwara ya trichomonase vaginale basanganye umwana itaterwa no gusambanywa gusa, ko hatanagaragazwa ko ariwe yaturutseho, cyane cyane ko atapimwe. Ubushinjacyaha bwo buburana buvuga ko impamvu z'ubujurire zatanze na Uwizeyimana ari nazo yari yatanze mu Rukiko Rukuru/Urugereko rwa Rusizi, urwo rukiko rukaba rwaragaragaje ko nta shingiro zifite, kuko ari mu Bugenzacyaha yemeye icyaha asobanura uburyo yagikoze n'ubwo nyuma yabihakanye. Ku bijyanye n'imvugo z'abatangabuhamya anenga, Ubushinjacyaha buvuga ko Urukiko rwagaragaje ko ibyo avuga nta gaciro byahabwa rushingiye ku murongo watanze mu rubanza n° RPAA 00020/2020/CA rwaciye n'Urukiko rw'Ubujurire rwagaragaje ko Urukiko arirwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa. Kubijyanye na raporo ya Muganga, Ubushinjacyaha buvuga ko Urukiko rubanza rwasobanuye impamvu iyo raporo ya Muganga (umuhanga) yahabwa agaciro kayo, ko ibyo Uwizeyimana aburanisha bitamukuraho uburyozwacyaha, kuko umuhanga wasuzumye uwo mwana yagaragaje ibyo yabonye bihura n'ibyo uregwa yemeraga ko yasambanyije uwo mwana. Incamake y'icyemezo: Mu manza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye (principe de la liberté de la preuve en matière pénale) ababuranyi bakaba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi ko Urukiko arirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa.

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Amategeko yashingiweho: Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, ingingo ya 87. Imanza zifashishijwe:

Ubushinjacyaha vs Ndayishimiye Jean Damascène, RPAA 00692/2021/CA rwaciye n'Urukiko rw'Ubujurire ku wa 20/01/2023. Ubushinjacyaha vs Ntampaka Frodouard, RPAA 00495/2023/CA rwaciye n'Urukiko rw'Ubujurire ku wa 13/12/2024. Ubushinjacyaha vs Ntakirutimana Ephrem Dendo, RPAA 00617/2022/CA rwaciye n'Urukiko rw'Ubujurire ku wa 28/02/2024.

Ubujurire nta shingiro bufite.

Urubanza I. IMITERERE Y'URUBANZA [1] Uwizeyimana Mathias yacyetsweho icyaha cyo gusambanya umwana we yakoze mu ijoro ryo ku wa 14/06/2020, bivugwa ko yatashye yasinze, umugore we Tuyisenge Alphonsine aramuhunga kubera ko yari asanzwe ataha yasinze akamukubita, hanyuma asigarana n'abana babo mu rugo, afata umukuru muribo witwa N. V. w'imyaka cumi n'itatu (13) n'amezi cumi na kumwe (11) y'amavuko amukuramo imyenda aramusambanya, umwana yashaka kuvuza induru akamukubita, bucyeye umwana ahura na nyina atashye ararira, amubwira ko se yaraye amusambanyije, nawe ahita ajya kumurega mu buyobozi. [2] Nyuma y'iperereza, Ubushinjacyaha bwatanze ikirego mu Rukiko Rwisumbuye rwa Karongi burega Uwizeyimana Mathias icyaha cyo gusambanya umwana no guhoza ku nkeke uwo bashyingiranwe, busaba ko ahamwa n'ibyo byaha, agahanishwa igifungo cya burundu giteganywa n'ingingo ya 133 n'iya 147 z'Itegeko n° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange. [3] Uwizeyimana Mathias yaburanye yemera icyaha cyo guhoza ku nkeke uwo bashyingiranwe, ahakana icyo gusambanya umwana we, avuga ko bamubeshyera, ko yacyemeye mu Bugenzacyaha kubera gukubitwa. [4] Mu rubanza n° RP 00269/2020/TGI/KNG rwaciwe ku wa 23/09/2021, Urukiko Rwisumbuye rwa Karongi rwasanze hari ibimenyetso bigaragaza ko Uwizeyimana Mathias yakoze icyaha cyo guhoza ku nkeke uwo bashyingiranwe n'icyaha cyo gusambanya umwana we yakoze mu buryo bw'impurirane mbonezabyaha, birimo imvugo ze mu Bugenzacyaha yemera ko yasambanyije umwana we abitewe n'ubusinzi ndetse n'amadayimoni, imvugo z'umwana wahohotewe, imvugo za nyina w'umwana Tuyisenge Alphonsine, raporo ya Muganga na raporo y'inzeho z'ibanze igaragaza ko Uwizeyimana Mathias abuza amahoro umugore we, maze rumuhanisha igifungo cya burundu kuko ari cyo kinini giteganyijwe ku byaha byombi. [5] Uwizeyimana Mathias yajuririye Urukiko Rukuru/Urugereko rwa Rusizi avuga ko yahamijwe icyaha cyo gusambanya umwana kandi ntacyo yakoze, ko yabeshyewe kubera amakimbirane afitanye n'umugore we, ko ibyo raporo ya Muganga yagaragaje nta gihamya ko bikomoka ku gusambanywa nawe, asaba kugirwa umwere kuko nta bimenyetso bimuhamya icyo cyaha. Uhagarariye Ubushinjacyaha yavuze ko ubujurire bwa Uwizeyimana Mathias nta shingiro bufite, kuko ibimenyetso byashyingiweho n'urukiko

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rumuhamya icyaha bidashidikanywaho, ko ibyo avuga ko yemeye icyaha kubera gukubitwa nta bimenyetso abitangira, asaba ko hagumaho imikirize y'urubanza rwaciwe ku rwego rwa mbere. [6] Mu rubanza n° RPA 00352/2021/HC/RSZ rwaciwe ku wa 27/11/2023, Urukiko Rukuru, Urugereko rwa Rusizi rwasanze ibimenyetso byashyingiweho n'Urukiko rwabanje ruhamya Uwizeyimana Mathias icyaha cyo gusambanya umwana we bidashidikanywaho, rusanga kandi raporo ya Muganga itashyingirwaho mu kwemeza imyaka y'umwana mu gihe hari icyemezo cy'amavuko cyatanze n'urwego rubifitiye ububasha, hanyuma rwemeza ko akomeza guhanishwa igifungo cya burundu kubera impamvu nkomezacyaha yo kuba yarasambanyije umwana we w'imyaka cumi n'itatu (13) y'amavuko. [7] Uwizeyimana Mathias yajuririye Urukiko rw'Ubujurire, urubanza ruhabwa n° RPAA 00538/2023/CA, ruburanishwa mu ruhamye ku wa 05/02/2025, Uwizeyimana Mathias yunganiwe na Me Uwiduhaye Julienne, naho Ubushinjacyaha buhagarariwe na Uwizeye Jean Marie, Umushinjacyaha ku rwego rw'Igihugu. [8] Mu myanzuro

no mu miburanire, Uwizeyimana Mathias avuga ko yahamijwe icyaha cyo gusambanya umwana hashingiwe ku bimenyetso bishidikanywaho, agasaba kugirwa umwere. Mu mwanzuro w'inyongera, Uwizeyimana Mathias avuga ko mu gihe yaba ahamwe n'icyaha cyo gusambanya umwana yagabanyirizwa igihano, ariko mu iburanisha yavuze ko iyo ngingo y'ubujurire yatanze impitagihekandi ituzuzwa cyangwa ngo isobanure iyatanze ku gihe asaba kugirwa umwere, ahubwo asaba ko urukiko rwakwibwiriza rukagabanya igihano Uwizeyimana Mathias yahawe. Uhagarariye Ubushinjacyaha avuga ko ubujurire bwatanze na Uwizeyimana Mathias nta shingiro bufite, kuko ntacyo agaragaza anenga isesengura ryakozwe n'Urukiko Rukuru/Urugereko rwa Rusizi mu rubanza yajuririye. [9] Ikibazo rero kigomba gusuzumwa ni icyo kumenya niba Uwizeyimana Mathias yarahamijwe icyaha cyo gusambanya umwana we hashingiwe ku bimenyetso bishidikanywaho. II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba Uwizeyimana Mathias yarahamijwe icyaha cyo gusambanya umwana hashingiwe ku bimenyetso bishidikanywaho. [10] Uwizeyimana Mathias n'umwunganira bavuga ko yahamijwe icyaha cyo gusambanya umwana hashingiwe ku bimenyetso bishidikanywaho, harimo imvugo ze mu Bugenzacyaha aho yavuze ko ibyo yakoze yabitewe n'ubusinzi n'amadayimoni, ibyo bikaba bidakwiye gufatwa nko kwemera icyaha, kuko bidasobanutse. Bavuga ko ibyo yemeye yabitewe n'izindi mpamvu zo kuba yarahohotewe agategekwa ibyo agomba kuvuga, ko rero atazi uburyo yakoze icyaha. [11] Uwizeyimana Mathias n'umwunganira bavuga kandi ko ibyo umwana we yavuze bitari bikwiye gushingirwaho n'urukiko rumuhamya icyaha, kuko ari ibyo yabwirijwe na nyina kubera amakimbirane bafitanye. Bavuga ko Uwizeyimana Mathias atari gusambanya umwana kandi na musaza we witwa Ndagijimana Eric bari bari kumwe mu cyumba, kandi ko imvugo z'umwana n'iza nyina bigaragara ko zisa, hakaba harabayeho guterura iby'ubwo bavuze, hakoreshwa amagambo amwe nko ku kibazo cya kane (4) cyabajijwe umwana, igisubizo yatanze kikaba gisa neza neza n'icyo nyina yatanze ku kibazo cya gatanu (5). [12] Uwizeyimana Mathias n'umwunganira banavugaga ko imvugo z'abatangabuhamya nazo zitagomba gushingirwaho n'urukiko rwabanje, kubera ko ibyo TUYISENGE Alphonsine avugaga ari ibyo yabwiwe n'umwana, ndetse n'abandi batangabuhamya ibyo bavuze akaba ari ibyo babwiwe ntabwo babonye. [13] Uwizeyimana Mathias n'umwunganira bavugaga ko raporo ya Muganga yashingiweho hari ibyo igaragaza ko bimeze neza (normal), ariko itera gushidikanya ku nkomoko y'amaraso yabonetse mu gitsina

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cy'umwana, ngo hamenyekane niba ari ay'ibikomere byo gusambanywa cyangwa ari ay'imihango, ndetse ko indwara ya trichomonase vaginale basanganye umwana itaterwa no gusambanywa gusa, ko hatanagaragazwa ko ariwe yaturutseho, cyane cyane ko atapimwe. [14] Uwizeyimana Mathias n'umwunganira basaza basaba ko hashingiwe ku rubanza n° RPAA 0149/10/CS rwaciye n'Urukiko rw'Ikirenga ku wa 14/03/2014, haburana Ubushinjacyaha na Ntawicumurame, rwemeje ko nta muntu ugomba kwemezwa ko ahamwe n'icyaha hatagaragajwe ibimenyetso ntashidikanywaho bigaragaza uruhare rwe mu cyaha, nta cyaha aba yakoze akagirwa umwere, ko rero yagirwa umwere kuko nta bimenyetso bimuhamya icyaha cyo gusambanya umwana. [15] Uhagarariye Ubushinjacyaha avugaga ko impamvu z'ubujurire zatanze

na Uwizeyimana Mathias ari nazo yari yatanze mu Rukiko Rukuru/Urugereko rwa Rusizi, urwo rukiko rukaba rwaragaragaje ko nta shingiro zifite, kuko ari mu Bugenzacyaha yemeye icyaha asobanura uburyo yagikoze n'ubwo nyuma yabihakanye. Avuga ko kuba Uwizeyimana Mathias akomeje guhakana icyaha aregwa ntacyo byamumarira, kuko hari n'umurongo watanze n'Urukiko rw'Ubujurire mu rubanza n° RPAA 00110/2022/CA rwaciwe ku wa 20/05/2023, haburana Ubushinjacyaha na Mujaarugamba Norbert uvuga ko atari buri gihe ko uregwa wemeye icyaha mu nzego z'iperereza yagera imbere y'Urukiko akagihakana aribyo bihabwa agaciro, cyangwa ngo byanze bikunze hagaragazwe ibindi bimenyetso, ahubwo umucamanza afite ububasha bwo gusuzumana ubushishozi no guha agaciro izo mvugo z'uregwa wemeye icyaha, harebwe ibikorwa aregwa, igihe asanga uko kwemera kudashidikanywaho, akabiha agaciro ashingiye ku mutimanama we. [16] Uhagarariye Ubushinjacyaha avuga kandi ko mu gika cya 16 cy'urubanza rwajuririwe, Urukiko Rukuru/Urugereko rwa Rusizi, rushingiye ku murongo watanze mu rubanza n° RPAA 0012/08/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 26/11/2010, haburana Ubushinjacyaha na Hakizimana Servelien na Sibomana uvuga ko nta cyabuza ko imvugo z'urega cyangwa z'uwahohotewe (victime) zumvwa n'urukiko kandi rukaziha agaciro igihe rusanga zikubiyemo ukuri, kuko ari rwo rwonyine ruhamya mu bwisanzure bwarwo, ko ibimenyetso byose bishinje cyangwa bishinjura aribyo kandi bishobora kwemerwa. [17] Uhagarariye Ubushinjacyaha avuga ko ku bijyanye n'imvugo z'abatangabuhamya Uwizeyimana Mathias avuga ko zivuguruzanya, mu gika cya 15 cy'urubanza rujuririrwa hagaragajwe ko ibyo avuga nta gaciro byahabwa rushingiye ku murongo watanze mu rubanza n° RPAA 00020/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/01/2022, haburana Ubushinjacyaha na Sindihokubwabo Théodomir, aho rwemeje ko Urukiko arirwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye, kandi ikaba ikwiye kwemerwa cyangwaguhakanwa, ko Urukiko rutitsa ku mubare w'abatangabuhamya, ahubwo rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga, uko byagenze ntacyo bihimbira. [18] Kubijyanye na raporo ya Muganga, Uhagarariye Ubushinjacyaha avuga ko Urukiko Rukuru/Urugereko rwa Rusizi, (mu gika cya 22 cy'urubanza rwajuririwe), rwasobanuye impamvu iyo raporo ya Muganga (umuhanga) yahabwa agaciro kayo, ko ibyo Uwizeyimana Mathias aburanisha bitamukuraho uburyozwacyaha, kuko umuhanga wasuzumye uwo mwana yagaragaje ibyo yabonye bihura n'ibyo yemera ko yasambanyije uwo mwana kandi anashinjwa n'uwo mwana wahohotewe, ko rero kuba ibyo umuhanga yabonye abyita imihango y'abakobwa bitashingirwaho muri uru rubanza rumukuraho uburyozwacyaha mu gihe ibyo abiburanisha mu buryo bwo guhunga icyaha yakoze, cyane cyane ko Muganga wasuzumye umwana aba azi gutandukanya amaraso y'imihango n'amaraso yazanywe no guhohoterwa. Asoza asaba ko ntacyahinduka ku rubanza rwajuririwe. UKO URUKIKO RUBIBONA

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[19] Impaka kuri iyi ngingo y'ubujurire zishingiye ku kumenya niba Uwizeyimana Mathias yarahamijwe icyaha cyo gusambanya umwana we w'imyaka cumi n'itatu (13) y'amavuko hashingiwe ku bimenyetso bishidikanywaho. [20] Kubyerekeranye n'ibimenyetso mu manza n'itangwa ryabyo, mu rubanza n° RPAA 00692/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku

wa 20/01/2023, haburana Ubushinjacyaha na Ndayishimiye Jean Damascène, hasesenguwe ingingo ya 119 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo¹, harebwe cyane cyane ku mwihariko w'imanza nshinjabyaha, maze urukiko rusobanura ko mu manza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye (principe de la liberté de la preuve en matière pénale) ababuranyi bakaba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi ko Urukiko arirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa. Iri hame ryashingiweho mu zindi manza zakurikiyeho zaciwe n'uru rukiko, harimo n'urubanza n° RPAA 00495/2023/CA rwaciwe ku wa 13/12/2024, haburana Ubushinjacyaha na Ntampaka Frodouard. [21] Nk'uko bigaragara mu rubanza n° RPA 00352/2021/HC/RSZ rwaciwe ku wa 27/11/2023, Urukiko Rukuru, Urugereko rwa Rusizi rwahamije Uwizeyimana Mathias icyaha cyo gusambanya umwana w'imyaka cumi n'itatu (13) y'amavuko, rumuhanisha igifungo cya burundu, rushingiye ku bimenyetso bikurikira:

- imvugo za Uwizeyimana Mathias mu Bugenzacyaha no mu Bushinjacyaha, aho yavuze ko mu ijoro ryo ku wa 14/06/2020 yatashye yasinze, asanga umugore we adahari kandi atari kurara adakoze imibonano mpuzabitsina, maze afata umwana we amujyana mu cyumba araramo n'umugore we, aramusambanya, avuga kandi ko ibyo yakoze abitewe n'abadayimoni;
- imvugo z'umwana wahohotewe wavuze ko mu ijoro ryo ku wa 14/06/2020, se Uwizeyimana Mathias yatashye yasinze, nyina Tuyisenge Alphonsine aramuhunga ajya kurara mu baturanyi, hanyuma se aramufata amujyana mu cyumba cyabo amutegeka gukuramo imyenda, aramusambanya, yataka akamukubita, mu gitondo abyutse ahura na nyina amubwira ibyabaye;
- imvugo za Tuyisenge Alphonsine, nyina w'umwana, wavuze ko mu ijoro ryo ku wa 14/06/2020 yaraye mu rugo rwa Hakuzwimana ahunga umugabo we Uwizeyimana Mathias wari wasinze, atahutse mu gitondo umwana amubwira ibyamubayeho, arebye ku gitsina cy'umwana abona harimo amaraso ndetse n'amasohoro yumiye ku matako ye, ikariso ye ayisanga ku buriri bwe n'umugabo;
- raporo yakozwe ku wa 18/06/2020 na Dr Habanabashaka Désiré wo ku bitaro bya Murunda wasuzumye umwana, igaragaza ko yamusanganye indwara zanduririra mu myanya ndangagitsina, ko bishoboka ko umwana yakoze imibonano mpuzabitsina, ko yabonye igitsina cy'umwana cyagize ihungabana, kandi ko hari amaraso yumwe agaragaza ku bice by'igitsina (she had sexual transmitted disease trichomonas vaginale, probable she had sexual intercourse, probable she had sexual trauma as I have seen, dry hemoragie on labia major). [22] Urukiko rw'Ubujurire rurasanga nk'uko Urukiko Rukuru/Urugereko rwa Rusizi rwabibonye, ibyo Uwizeyimana Mathias n'umwunganira bavuga ko imvugo ze zo mu iperereza zitagomba gufatwa nk'ikimenyetso kimuhamya icyaha cyo gusambanya umwana nta shingiro bifite, kuko ibyo yemeye mu nzego z'ikurikiranacyaha zihura n'ibyo umwana yavuze ko yahohotewe na se, kandi zikaba zunganiwe na raporo ya Muganga igaragaza ko umwana yasamanyijwe. Ibyo Uwizeyimana Mathias avuga ko yahatiwe kwemera icyaha

atakoze nta shingiro bifite kuko nta kimenyetso yabitangiye.

1 Iyo ngingo ihura n'ingingo ya 87 y'Itegeko n° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso.

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- [23] Urukiko rw'Ubujurire rurasanga na none kuba Uwizeyimana Mathias avuga ko ibyo umwana amurega ari ibyo yabwirwijwe na nyina kubera amakimbirane bafitanye nta shingiro bifite, kuko ibyo abo bombi bavuga na Muganga yarabibonye mu mwanzuro wa raporo ye wagarutsweho haruguru ko umwana yasambanyijwe. Nta mpamvu rero ibyo bimenyetso bitagombaga guhabwa agaciro n'Urukiko rwabanje. [24] Urukiko rw'Ubujurire rurasanga kandi ibyo Uwizeyimana Mathias avuga ko imvugo z'abatangabuhamya zitari zikwiye gushingirwaho nta shingiro bifite, kuko nta bindi bimenyetso bigizwe n'ubuhamya bwatanzwe n'abandi bantu bwashingiweho mu guca urubanza yajuririye. [25] Urukiko rw'Ubujurire rurasanga kandi kuba Uwizeyimana Mathias avuga ko raporo ya Muganga itari ikwiye gushingirwaho kubera ko iteye urujijo ku nkomoko y'amaraso yabonetse mu gitsina cy'umwana nta shingiro bifite, kubera ko mu gitsina cy'umwana habonetse amaraso yumye, kandi iyo aba akomoka ku mihango Muganga yari kubigaragaza. Byongeye kandi, ntabwo Muganga yabonye amaraso gusa, ahubwo yasanze n'umwana yakoreshejwe imibonano mpuzabitsina, n'igitsina cye cyahungabanye (she had sexual transmitted disease trichomonas vaginale, probable she had sexual intercourse, probable she had sexual trauma as I have seen, dry hemoragie on labia major). Kuba rero Uwizeyimana Mathiasatarapimwe ngo bigaragare ko nawe afite uburwayi basanye umwana we ntibyatesha agaciro ibindi bimenyetso byatanzwe, maze ngo hemezwe ko umwana atasambanyijwe. [26] Urukiko rw'Ubujurire rurasanga rero ibimenyetso byashingiweho n'Urukiko Rukuru/Urugereko rwa Rusizi mu guhamya Uwizeyimana Mathias icyaha cyo gusambanya umwana we byuzuzanya kandi bidashidikanywaho, kandi bigaragaza ko icyo cyaha yagikoze, bityo ubujurire bwe nta shingiro bufite. [27] Urukiko rurasanga rero, kuba ubujurire bwatanzwe na Uwizeyimana Mathias nta shingiro bufite, hagomba kugumaho imikirize y'urubanza yajuririye, cyane cyane ko igihano cy'igifungo cya burundu yahawe gihwanye n'uburemere bw'icyaha yakoze cyo gusambanya umwana we w'imyaka cumi n'itatu
- (13) y'amavuko, we afite imyaka mirongo ine (40) y'amavuko. Icyo gihano kandi ni nacyo cyatanzwe n'uru Rukiko mu manza zitandukanye zakemuye ikibazo gisa n'ikiri muri uru rubanza, harimo n'urubanza n° RPAA 00617/2022/CA rwaciwe ku wa 28/02/2024, haburana Ubushinjacyaha na Ntakirutimana Ephrem Dendo wasambanyije umwana we w'imyaka cumi n'umwe (11) y'amavuko, aburana ahakana icyaha, ariko Urukiko rusanga kimuhama, rumuhanisha igifungo cya burundu. [28] Hashingiwe ku bimaze gusobanurwa haruguru Urukiko rw'Ubujurire rurasanga ubujuririre bwatanzwe na Uwizeyimana Mathias nta shingiro bufite urubanza yajuririye rukaba rugomba kugumana agaciro mu ngingo zarwo zose. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko ubujurire bwatanzwe na Uwizeyimana Mathias nta shingiro bufite; [30] Rwemeje ko urubanza n° RPA 00352/2021/HC/RSZ rwaciwe

n'Urukiko Rukuru, Urugereko rwa Rusizi ku wa 27/11/2023 rugumanye agaciro mu ngingo zarwo zose; [31] Rwemeje ko igihano cy'igifungo cya burundu Uwizeyimana Mathias yahawe muri urwo rubanza ku cyaha cyo gusambanya umwana we w'imyaka cumi n'itatu (13) y'amavuko n'icyo guhoza ku nkeke uwo bashyingiranwe kigumyeho; [32] Ruvuze ko amagarama y'urubanza aherereye ku Isanduku ya Leta, kuko Uwizeyimana Mathias yajuriye afunze, akaba asonewe kuyatanga..

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