

RWANDA / JUDGMENT

UBUSHINJACYAHA v MUTIGANDA N'ABANDI

RPA 00103/2021/CA

COURT

Court of Appeal

DECIDED

14 February 2025

CASE / FILE NUMBER

RPA 00103/2021/CA

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UBUSHINJACYAHA v MUTIGANDA N'ABANDI

- Source: Amategeko
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- Date: 2025-02-14
- Case/document no.: RPA 00103/2021/CA
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Text

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UBUSHINJACYAHA v MUTIGANDA N'ABANDI [Rwanda URUKIKO RW'UBUJURIRE - RPA 00103/2021/CA (Tugireyezu, P.J.) 14 Gashyantare 2025] Amategeko agenga imanza z'inshinjabyaha - Icyaha cy'iterabwoba - Imitwe cyangwa amashyirahamwe ashamikiye ku mutwe w'iterabwoba - Mu gihe bigaragaye ko umutwe wamaze kwemezwa nk'umutwe w'iterabwoba wari usanzwe ugizwe n'indi mitwe cyangwa amashyirahamwe bifite intego imwe bituma n'iyi mitwe cyangwa amashyirahamwe awugize bihita bihinduka imitwe y'iterabwoba. Amategeko agenga imiburanishirize y'imanza - Ibimenyetso - Ubuhamya - Imvugo cyangwa ubuhamya by'umuntu wese (ufite ubushobozi), bishobora kumvwa kandi bigashingirwaho mu rubanza n'iyi yaba yarabaye umuburanyi muri urwo rubanza. Apfa gusa kuba afite amakuru ahagije ku birebana n'ingingo igibwaho impaka. Amategeko agenga imiburanishirize y'imanza - Ibimenyetso - Ubuhamya - Urukiko ntirutegetswe kwemeza imvugo zivugiwe imbere yarwo mu gihe zivuguruza izavugiwe imbere y'inzego z'iperereza, ahubwo ubwarwo nirwo rukora isesengura kugira ngo rumenye imvugo ihuza n'ukuri kw'ibyabaye. Amategeko agenga imanza z'inshinjabyaha - Icyaha

cy'iterabwoba – Kuba mu mutwe w'iterabwoba - Ibikorwa bigize icyaha cyo kuba mu mutwe w'iterabwoba ni ukwinjira mu mutwe w'iterabwoba, ukwemera kuwinjiramo cyangwa gutangira kuwugiramo uruhare cyangwa gukora ikintu cyose kiwongerera ubushobozi. Amategko agenga imanza z'inshinjabyaha – Icyaha cy'iterabwoba - Ubwinjiracyaha - Nta bwinjiracyaha bwo kuba mu mutwe w'iterabwoba bubaho kuko gukora igikorwa kimwe mu bigize icyo cyaha ubwacyo icyaha kiba cyatsotsobwe. Incamake y'ikibazo: Muri Mata 2019, Ndayisenga Vedaste amaze gupanga na Haragirimana Abdallah bagahuza umugambi wo kujya mu gisirikare kitemewe cya Kayumba Nyamwasa, yagiye mu Karere ka Nyanza, ahura na Niyonizye Claude, Mutiganda Thierry, Nshimiye Eric, Maniraho Théoneste na Ndayisenga Claude abashishikariza kujya muri icyo gisirikare, abizeza ko hari umukobwa witwa Umugwaneza Shakira wari kuzabafasha kugera Uganda. Nyuma y'ibyo biganiro Ndayisenga Claude ageze iwabo yahise abibwira ababyeyi be nabo bihutira kubigeza ku bayobozi b'inzego z'ibanze, batangira gukurikiranwa n'inzego z'iperereza. Ubushinjacyaha bwabareze mu Rukiko Rukuru, urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibe icyaha cyo gushishikariza abantu kujya mu mutwe w'ingabo utemewe, icyaha cyo kwemera kuba mu mutwe w'iterabwoba, n'icyaha cyo kuba icyitso cy'abaregwa kuri Umugwaneza Shakila, busaba ko abaregwa bahamwa n'ibyaha baregwa, Umugwaneza Shakira agahanishwa igifungo cy'imyaka cumi n'itanu (15), naho abandi buri wese agahanishwa igifungo cy'imyaka makumyabiri (20). Urukiko rwasanze abaregwa uretse Umugawaneza, bahamwa n'icyaha bashinjwaga rubahanisha igifungo cy'imyaka 15. Abaregwa bajuririye icyo cyemezo mu rukiko rw'ubujurire batanga inzitizi bavuga ko bakwiye kurekurwa kuko bashinjwe n'umushinjacyaha utabifitiye ububasha kuko icyaha cyo kurema umutwe w'ingabo utemewe gikurikiranwa n'umushinjacyaha mukuru cyangwa uwo yabihereye

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uruhushya kandi kuri bo akaba atariko byagenze. Bakomeza bavuga ko ibyaha byo kuba mu mutwe w'ingabo utemewe n'icyo kuba mu mutwe w'iterabwoba bitabangikanwa ko bo icyo bemera ari icyo kuba mu mutwe w'ingabo utemewe. Ubushinjacyaha busobanura ko ibyo byaha koko bitabangikanywa ariko ko abaregwa bakoze icyaha cyo kuba mu mutwe w'iterabwoba. Urukiko rwasanze icyaha abaregwa bakurikiranyweho ari icyaha cyo kuba mu mutwe w'iterabwoba. Hakomeje hasuzumwa ibindi bibazo byajuririwe aho Haragirimana yavugaga ko atigeze akora icyaha yahamijwe ahubwo ko Ndayisenga amushinja kubera urwango amufitiye ko n'abandi bamushinja bavuga ibyo babwiwe na Ndayisenga kuko atigeze ahura nabo. Ubushinjacyaha buvuga ko ibyo uregwa avuga nta shingiro bifite kuko ubwe yivugiye mu bugenzacyaha ko nta kibazo yari asanzwe afitanye na Ndayisenga. Bukomeza buvuga ko Haragirimana ari we wahaye amakuru Ndayisenga amubwira ko Uganda hari igisirikare cya Kayumba Nyamwasa.

Ndayisenga na Mutiganda kandi basaba ko inyito y'icyaha bahamijwe yahinduka bagahanirwa ubwinjiracyaha bwo kwemera kujya mu mutwe w'iterabwoba kuko n'ubwo bari bemeye kujya mu gisirikare cya Kayumba Nyamwasa bafashwe bataragerayo bityo bagasaba ko bagabanyirizwa igihano. Ubushinjacyaha buvuga ko igikorwa cyo kwemera kujya mu ngabo zitemewe n'umutwe w'iterabwoba bakoze kigize icyaha cyuzuye kuko bafashwe biteguye kugenda bityo n'igihano

kikaba kitagabanywa kuko bagabanyirijwe bihagije. Incamake y'icyemezo: 1. Mu gihe bigaragaye ko umutwe wamaze kwemezwa nk'umutwe w'iterabwoba wari usanzwe ugizwe n'indi mitwe cyangwa amashyirahamwe bifite intego imwe bituma n'iyi mitwe cyangwa amashyirahamwe awugize bihita bihinduka imitwe y'iterabwoba.

2. Ibikorwa bigize icyaha cyo kuba mu mutwe w'iterabwoba ni ukwinjira mu mutwe w'iterabwoba, ukwemera kuwinjiramo cyangwa gutangira kuwugiramo uruhare cyangwa gukora ikintu cyose kiwongerera ubushobozi.
3. Nta bwinjiracyaha bwo kuba mu mutwe w'iterabwoba bwabaho kuko gukora igikorwa kimwe mu bigize icyo cyaha ubwacyo icyaha kiba cyatsotsobwe Ubujurire nta shingiro bufite; Abaregwa bahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba. Amategeko yashingiweho: Itegeko N° 46/2018 ryo ku wa 13/08/2018 ryeyekeye kurwanya iterabwoba, ingingo ya 18 Imanza zifashishijwe: RPA 00047/2021/CA, Ubushinjacyaha na Maj (Rtd) Mudathiru Habib alias Mussa n'abandi rwaciwe n'Urukiko rw'Ubujurire ku wa 14/03/2024; RPA 00016/2020/CA, Ubushinjacyaha na Abayisenga Venant n'abandi, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/03/2024; RPA 00012/2019/CA, Ubushinjacyaha na Lt Mutabazi Joël n'abandi, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/11/2019; RPA 00029/2022/CA, Ubushinjacyaha na Habineza, rwaciwe n'Urukiko rw'Ubujurire, ku wa 23/02/2024

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RPA 00016/2020/CA, Ubushinjacyaha na Abayisenga Venant n'abandi, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/03/2024; RPA 00016/2020/CA, Ubushinjacyaha na Abayisenga Vénant n'abandi, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/03/2024; RPAA 00293/2021/CA, Ubushinjacyaha na Murindahabi Jean de Dieu, rwaciwe n'Urukiko rw'Ubujurire ku wa 15/07/2022; RPA 00060/2021/CA, Ubushinjacyaha na Nsabimana Callixte alias Sankara n'abandi, rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022; RPAA 00086/2022/CA, Ubushinjacyaha na Munyanshoza Eric, rwaciwe n'Urukiko rw'Ubujurire ku wa 24/03/2023. Urubanza I. IMITERERE Y'URUBANZA [1] Mu kwezi kwa kane k'umwaka wa 2019, uwitwa Ndayisenga Vedaste alias Abdoullah wari umuhamagazi wa adhan ku musigiti uri Nyagatare yaketsweho ko nyuma yo kuvugana n'uwitwa Haragirimana Abdallah yagiye mu gace avukamo mu Karere ka Nyanza, mu Murenge wa Kibirizi, Akagari ka Cyeru, mu Mudugudu wa Muyebe ahura na Niyonizeye Claude, Mutiganda Thierry, Nshimiye Eric, Maniraho Théoneste na Ndayisenga Claude baganira ku byerekeranye n'igisirikare kitemewe cya Kayumba Nyamwasa n'ibyo kukijyamo n'inzira banyura bakagera Uganda, abizeza ko hari umukobwa witwa Umugwaneza Shakira wamusezeranyije kumuhuza n'umusore witwa Kabila uzabageza Uganda batanyuze mu nzira zemewe n'amategeko. Nyuma y'ibyo biganirako Ndayisenga Claude ageze iwabo yahise abwira ababyeyi be ko hari umuhungu ufite umugambi wo kumujyana hamwe na bagenzi be mu gisirikare cy'iterabwoba cya Kayumba Nyamwasa, maze nabo bihutira kubigeza ku bayobozi b'inzego z'ibanze, batangira gukurikiranwa n'inzego z'iperereza. [2] Iperereza rirangiye, Ubushinjacyaha bwatanze ikirego mu Rukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi bukurikiranyeho Haragirimana Damien alias Abdallah na bagenzi be

icyaha cyo gushishikariza abantu kujya mu mutwe w'ingabo utemewe, icyaha cyo kwemera kuba mu mutwe w'iterabwoba, n'icyaha cyo kuba icyitso cy'abaregwa kuri Umugwaneza Shakila. Ubushinjacyaha bwashyize Urukiko guhamya abaregwa ibyaha baregwa, Umugwaneza Shakira agahanishwa igifungo cy'imyaka cumi n'itanu (15), naho abandi buri wese agahanishwa igifungo cy'imyaka makumyabiri (20). [3] Abaregwa bese baburanye bahakana icyaha ahubwo bagasaba kurenganurwa bavuga ko nta ruhare bagize mu byaha baregwa. [4] Mu rubanza No RP 00001/2020/HC/HCCIC rwaciwe ku wa 18/11/2021, Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi rwasanze hari ibimenyetso byemeza ko abaregwa bahamwa icyaha birimo: - Inyandikomvugo za Ndayisenga Vedaste alias Abdoullah mu Bugenzacyaha zo ku wa 29/11/2019;

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- Ubuhamya bwa Ndayisenga Claude; - Imvugo za Mutiganda Thierry abazwa mu Bugenzacyaha. Urukiko rushingiye kuri ibyo bimenyetso, rwemeje ko Haragirimana Damien alias Abdallah, Ndayisenga Vedaste alias Abdoullah, Mutiganda Thierry na Nshimiye Eric bahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba; rwemeza ko Ndayisenga Vedaste alias Abdoullah, Mutiganda Thierry na Nshimiye Eric bahamwa n'icyaha cyo kwemera, ku bushake, kwinjira cyangwa gutorerwa kujya mu mutwe w'ingabo zitari ingabo zemewe z'igihugu; rwemeza ko Haragirimana Damien Alias Abdallah na Ndayisenga Vedaste alias Abdoullah bahamwa n'icyaha cyo gushishikariza abantu kujya mu mutwe w'ingabo utemewe; ariko kuko ibikorwa bakoze nta ngaruka zikomeye byagize kuko n'ubwo bari bafite imigambi mibi ku mutekano w'u Rwanda n'abarutuye, batahuwe nta kibi barakora, rwabagabanyirije igihano, ruhanisha buri wese igifungo cy'imyaka cumi n'itanu (15). Rwasanze kandi Umugwaneza Shakira, Niyonizeye Claude na Maniriho Théoneste badahamwa n'ibyaha baregwa kuko nta bimenyetso bidashidikanywaho bibibahamya, rutegeka ko bahita barekurwa urubanza rukimara gusomwa. [5] Haragirimana Damien alias Abdallah, Ndayisenga Vedaste alias Abdoullah, Mutiganda Thierry na Nshimiye Eric ntibishimiye imikirize y'urwo rubanza, bajuririra mu Rukiko rw'Ubujurire, urubanza ruhabwa N° RPA 00103/2021/CA, iburanisha ryarwo rishyirwa ku wa 13/11/2024 ariko kuri uwo munsu ntirwaburanishwa kubera umucamanza yari arwaye, rwimurirwa ku wa 14/11/2024, Mutiganda Thierry yunganiwe na Me Rugamba Jules, Haragirimana Damien alias Abdallah yunganiwe na Me Nshuti Salim, Ndayisenga Vedaste alias Abdoullah yunganiwe na Me Ntazika Nehemie, Nshimiye Eric yunganiwe na Me Mukakalisa Jeanne d'Arc naho Ubushinjacyaha buhagarariye na Ninahazwa Roselyne, Umushinjacyaha ku rwego rw'Igihugu. Urubanza rwaraburanwe rurapfundikirwa ababuranyi bamenyeshwa ko urubanza ruzasomwa ku wa 27/11/2024. Uwo munsu ugeze, urukiko rwasanze mbere y'uko rufata icyemezo, ababuranyi bagomba kubanza kugira icyo barusobanurira ku birebana n'inyito z'ibyaha abaregwa bahamijwe, maze rwemeza ko urubanza ruzongera gupfundurwa ku wa 05/12/2024 saa tatu. Kuri uwo munsu, urubanza ntibwaburanishijwe kuko hari ababuranyi bamwe batari bitabye, maze rwimurirwa ku wa 09/12/2024 ababuranyi bunganiwe nka mbere. [6] Ku wa 09/12/2024, iburanisha ryarakomeje, maze urukiko rubaza

ababuranyi ibibazo bitandukanye birimo, kumenya niba umutwe w'igisirikare cya RNC ya Kayumba Nyamwasa ari umutwe w'iterabwoba, kumenya niba icyaha cyo kuba mu mutwe w'iterabwoba n'icyo kuba mu mutwe w'ingabo utemewe byabangikanywa hashingiwe ku bikorwa bimwe nk'uko abaregwa babihamijwe. Abaregwa n'ababunganira bahise bazamurira inzitizi irebana na procedure basaba ko abaregwa bakwiye guhita barekurwa kuko bakurikiranwe mu buryo bunyuranyije n'amategeko badakurikiranwe n'Umushinjacyaha Mukuru ubwe cyangwa uwo yabihereye uburenganzira nk'uko biteganywa n'ingingo ya 200 y'itegeko no 68/2018 ryo ku wa 30/06/2018 riteganywa ibyaha n'ibihano muri rusange, ko rero kuba abaregwa barakurikiranywe atari Umushinjacyaha Mukuru ubikoze cyangwa ngo abitangire uburenganzira/ uruhushya abaregwa bakwiye guhita barekurwa nk'uko byemejwe mu rubanza No RPA 00029/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 23/02/2024, haburana Ubushinjacyaha na Habineza. Kuri uwo munsu urubanza rwongeye gusubikwa rwimurirwa ku wa 07/01/2025 kuko Abavoka bunganira abaregwa n'Ubushinjacyaha bari basabye umwanya wo gukora ubushakashatsi kuri ibyo bibazo. Ku wa 07/01/2025, urubanza rwarakomeje ariko kuri uwo munsu ntirwarangira, iburanishwa ryimurirwa ku wa 27/01/2025 ari nabwo rwapfundikiwe.

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- [7] Mu mwanzuro w'ubujurire no mu miburanire yabo, Haragirimana Damien alias Abdallah n'umwunganira bavuga ko urukiko rwamuhamije ibyaha nta bimenyetso bidashidikanywaho bikimuhamya basaba ko yarenganurwa kuko Urukiko rwamuhamije icyaha atakoze rushingiye ku mvugo za Ndayisenga Vedaste alias Abdoullah rwirengagije impamvu y'urwango amufitiye yarugaragarije yatumye amushinja ibinyoma kandi agenda yivuguruza. Haragirimana Damien alias Abdallah n'umwunganira bavuga kandi ko Urukiko rwemeje ko yashishikariye Ndayisenga Vedaste alias Abdoullah gukora ibyaha akurikiranyweho akoresheje Youtube, nyamara rwirengagiza ko nta channel ya Youtube agira kandi nta kimenyetso rwashingiyeho cyemeza ko yaganiriye nawe ibiganiro byerekeranye n'ibyaha yakoze. Naho mu mwanzuro w'inyongera wo ku wa 04/12/2023, Haragirimana Damien alias Abdallah yasabye ko hakorwa iperereza kugira ngo urukiko rwibonere ko yarangwaga n'imico myiza ndetse runamenye n'amakimbirane yari afitanye na Ndayisenga Vedaste alias Abdoullah umushija. [8] Mu mwanzuro w'ubujurire no mu miburanire yabo, Ndayisenga Vedaste alias Abdoullah n'umwunganira bavuga ko n'ubwo yaburanye ahakana icyaha ariko mu ibazwa mu Bugenzacyaha yemeye icyaha anasobanura uko yagikoze, ko uko kwemera icyaha kwe kwashingirwaho akagabanyirizwa igihano agahanishwa igifungo cy'imyaka itatu (3) n'amezi atandatu (6), bingana na ½ cy'igifungo cy'imyaka irindwi (7), igihano gito giteganyirijwe icyaha cyo kwemera ku bushake kwinjira cyangwa gutorerwa kujya mu mutwe w'ingabo zitari ingabo zemewe z'igihugu akanagisubikirwa. basaba kandi ko inyito y'icyaha yahinduka ikaba ubwinjiracyaha mu kuba mu mutwe w'iterabwoba bitewe n'uko baganiriye kugeza n'aho barengera bakajya mu buzima bw'igisirikare gikorera hanze y'u Rwanda. [9] Mu mwanzuro w'ubujurire no mu miburanire yabo, Mutiganda Thierry n'umwunganira basaba guhindurirwa inyito y'icyaha agahanirwa ubwinjiracyaha bwo

kwemera kujya mu mutwe w'iterabwoba, ndetse akagabanyirizwa igihano no kugisubikirwa. Asobanura kandi ko n'ubwo mu rukiko rubanza yari yahakanye icyaha ariko ko yari yacyemeye mbere mu Bugenzacyaha asaba ko uko kwemera kwe kwakwakirwa kukamubera impamvu nyoroshyacyaha maze kugashingirwaho ahabwa igihano gito gishobora gituma asubira mu buzima busanzwe kuko na mbere hose atari asanganwe imico mibi. [10] Mu mwanzuro w'ubujurire no mu miburanire yabo, Nshimiye Eric n'umwunganira bavuga ko icyaha yemera ari uko atatanze amakuru nk'uko Ndayisenga Claude yayatanze, kuko yasanze bagenzi be baganira ibirebana n'igisirikare abatega amatwi, akaba ahakana icyaha cyo kuba mu mutwe w'iterabwoba ngo kuko uwo mugambi ntawo yigeze agira kuva yabaho. Nshimiye Eric n'umwunganira basaba Urukiko kumugabanyiriza igihano ku cyaha yemera cyo kuba ataratanze amakuru nk'uko Ndayisenga Claude yayatanze maze n'ibyo rumuhanishije rukemeza ko bisubitswe. [11] Mu myanzuro yakozwe n'Ubushinjacyaha, bwavugaga ko impamvu z'ubujurire z'abaregwa bose nta shingiro zifite kuko urukiko rwasobanuye mu buryo burambuye ibimenyetso rwashingiyeho, ko n'ubwo impamvu zabo nta shingiro zifite, Ndayisenga Vedaste Alias Abdoullah, Mutiganda Thierry, Nshimiye Eric bakongera kugabanyirizwa igihano hashingiwe ku biteganywa n'ingingo ya 2 y'itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko n° 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange maze bagahanishwa igifungo cy'imyaka irindwi (7) n'amezi atandatu (6), kingana na kimwe cya kabiri ($\frac{1}{2}$) cy'imyaka cumi n'itanu (15), igihano gito giteganyirijwe icyaha cyo kwemera kuba mu mutwe w'iterabwoba,

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kuko aricyo cyaha kirusha ibindi bahamijwe gukomera. Naho ku birebana n'isubika gihano basabye, uhagarariye Ubushinjacyaha avuga ko batarihabwa kuko igihano bahawe kirenze imyaka 5 ishobora gusubikwa. Mu gihe cy'iburanisha, uhagarariye Ubushinjacyaha yasabye ko ibyo kugabanyirizwa abaregwa byari byanditse mu mwanzuro wakoze n'Ubushinjacyaha byahinduka, hakagenderwa kubyo avugira mu iburanisha maze asaba ko abaregwa bakongera kugabanyirizwa igihano kuko bagabanyirijwe kandi icyo bahawe kikaba kingana n'uburemere bw'icyaha bakoze. [12] Mu gihe cy'iburanisha abaregwa n'abavoka babunganira bazamuye inzitizi basaba ko ko barekurwa kuko bakurikiranwe mu buryo bunyuranyije n'amategeko naho Ubushinjacyaha bwo buvuga ko iyo nzitizi nta shingiro igomba guhabwa kuko ntaho ingingo ya 200 y'Itegeko rihana ibyaha ivuga ko urwo ruhushya rugomba kuba rwanditse kuko uruhushya rushobora kuba rwanditse cyangwa ruri mu magambo, ko kuba rero abaregwa barakurikiranywe Umushinjacyaha Mukuru ntabitambamire bivuze ko yabitangiye uruhushya. [13] Urukiko ruherereye kuri izo mpaka, rurasanga ibibazo bikwiye gusuzumwa muri uru rubanza ari: 1. Kumenya niba inzitizi yatanze n'abaregwa basaba ko barekurwa kuko bakurikiranywe mu buryo bunyuranyije n'amategeko ifite ishingiro; 2. Kumenya niba Haragirimana Damien alias Abdallah yarahamijwe icyaha nta bimenyetso simusiga bikimuhamya bishingiweho; 3. Kumenya niba inyito y'icyaha Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry bahamijwe yahinduka bagahanirwa ubwinjiracyaha bwo kwemera kujya mu mutwe w'iterabwoba; 4. Kumenya niba igihano Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry bahanishijwe cyakongera

kugabanywa ndetse bakagisubikirwa; 5. Kumenya niba Nshimiye Eric yarahamijwe icyaha cyo kuba mu mutwe w'iterabwoba kandi ntacyo yakoze no kumenya niba Nshimiye Eric yaganyirizwa igihano ku cyaha yemera cyo kuba ataratanze amakuru. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO II.1. Kumenya niba inzitizi yatanze n'abaregwa basaba ko barekurwa kuko bakurikiranywe mu buryo bunyuranyije n'amategeko ifite ishingiro [14] Abaregwa n'ababunganira bazamuye inzitizi basaba guhita barekurwa kuko bakurikiranwe mu buryo bunyuranyije n'amategeko kuko batakurikiranwe n'Umushinjacyaha Mukuru ubwe cyangwa uwo yabihereye uburenganzira nk'uko biteganywa n'ingingo ya 200 y'itegeko no 68/2018 ryo ku wa 30/06/2018 riteganywa ibyaha n'ibihano muri rusange, ko rero kuba abaregwa barakurikiranywe atari Umushinjacyaha Mukuru ubikoze cyangwa ngo abitangire uburenganzira/uruhushya abaregwa bakwiye guhita barekurwa nk'uko byemejwe mu rubanza No

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RPA 00029/2022/CA rwaciye n'Urukiko rw'Ubujurire ku wa 23/02/2024, haburana Ubushinjacyaha na Habineza Olivier1. [15] Abaregwa n'ababunganira bakomeza basobanura ko ikirego cy'Ubushinjacyaha kitagombaga kwakirwa ku rwego rwa mbere hashingiwe ku biteganywa n'ingingo ya 200, igika cya 3, y'Itegeko riteganywa ibyaha n'ibihano muri rusange, kuko mu byaha baregwa byo gushishikariza abantu kujya mu mutwe w'ingabo utemewe n'icyo kwemera, ku bushake, kwinjira cyangwa gutorerwa kujya mu mutwe w'ingabo zitari ingabo zemewe z'igihugu bidashobora gukurikiranwa cyangwa kuregerwa bidakozwe n'Umushinjacyaha Mukuru ubwe cyangwa ngo bikurikiranwe n'uwo yabihereye uburenganzira/uruhushya, bakaba bakwiye kurekurwa Ubushinjacyaha bwabona ari ngombwa bukazabakurikirana bushya. [16] Abaregwa n'ababunganira basobanura ko ingingo ya 200 y'itegeko ryavuzwe haruguru iteganywa ko kugira ngo umuntu akurikiranweho icyaha cyo kurema umutwe w'ingabo utemewe cyangwa kuwujyamo bikurikiranwa biregwe cyangwa bitangiwe uruhushya n'Umushinjacyaha Mukuru cyangwa Umushinjacyaha Mukuru wa Gisirikare bitewe n'uwakoze icyaha, ko n'ubwo hatanditswemo uburyo urwo ruhushya rutangwamo n'Umushinjacyaha Mukuru ariko ko bigaragara ko urwo ruhushya rugomba kuba rwanditse ndetse ko muri pratique basanzwe babona ibyo byangombwa biba byanditse, bityo ko ibyaha abaregwa bakurikiranyweho byagombaga gukurikiranwa ari uko bikozwe n'Umushinjacyaha Mukuru ubwe cyangwa akabitangira uburenganzira bwanditswe. [17] Abaregwa n'ababunganira kandi baturiza ku kuba ingingo ya 200 yavuzwe haruguru itareba ibirebana n'icyaha cyo kuba mu mutwe w'iterabwoba cyangwa kuwujyamo ariko bakavuga ko umutwe w'igisirikare wa RNC atari umutwe w'iterabwoba kuko ntaho wigeze ugaragazwa ku rutonde rw'imitwe y'iterabwoba, ko icyo bemera ari uko bari bagiye mu mutwe w'ingabo utemewe ariko ko batari bagiye mu mutwe w'iterabwoba, banavuga kandi ko hakurikijwe imirongo yagiye itangwa n'inkiko, icyaha cyo kurema umutwe w'ingabo utemewe cyangwa kuwujyamo bidashoboka ko cyabangikanywa n'icyo kuba mu mutwe w'iterabwoba hashingiwe ku bikorwa bimwe. [18] Uhagarariye Ubushinjacyaha avuga ko ibyo abaregwa n'ababunganira bavuga ko abaregwa bakurikiranwe mu buryo bunyuranyije n'amategeko bashingiye ku kuba abaregwa barakurikiranwe bidakozwe n'Umushinjacyaha Mukuru ubwe cyangwa ngo abitangire uruhushya kuko nta rugaragara muri dosiye, bityo ko

bakwiye kurekurwa Ubushinjacyaha bwabona ari ngombwa bukazabakurikirana bushya, nta shingiro bifite kuko ntaho ingingo ya 200 y'Itegeko riteganywa ibyaha n'ibihano muri rusange bitsitsaho ivuga ko urwo ruhushya rugomba kuba rwanditse kuko uruhushya rushobora kuba rwanditse cyangwa ruri mu magambo, ko rero kuba ikirego cyaratanzwe n'Umushinjacyaha ku rwego rw'igihugu ari uko Umushinjacyaha Mukuru yemeje ko bakurikiranwa kuko nta kibazo yabigizeho ngo ahagarike ikurikiranacyaha kuko iyi

1 Muri urwo rubanza, Urukiko rw'Ubujurire rwasanze ikirego cyatanzwe ku rwego rwa mbere kitaragombaga gusuzumwa mu mizi mu gihe Umushinjacyaha Mukuru ku giti cye atatanze uruhushya rwo gukora iperereza no gukurikirana Habineza Olivier ku cyaha cyo kurema umutwe w'ingabo utemewe cyangwa kuwujyamo. Kubera izo mpamvu zose, Urukiko rw'Ubujurire rwasanze icyo kirego cyaratanzwe mu buryo bunyuranyije n'amategeko, bityo rero ibyakozwe byose bikaba bigomba guteshwa agaciro, Habineza Olivier akaba agomba kurekurwa uru rubanza rukimara gusomwa, Ubushinjacyaha bukubahiriza ibiteganywa n'Umushingamategeko. Reba igika cyarwo cya 16 na 17.

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ningo igomba kurebwa mu nyungu z'umutekano w'igihugu, kuba byarakozwe rero byumvikanisha ko Umushinjacyaha Mukuru ari uko yabyemeye cyangwa yabitangiye uburenganzira. [19] Ku bijyanye n'urubanza No RPA 00029/2022/CA rwaciwe ku wa 23/02/2024 n'Urukiko rw'Ubujurire, haburana Ubushinjacyaha na Habineza, abunganira abaregwa bavuga ko rwatanze umurongo ko Umushinjacyaha Mukuru ari we ubwe utanga urwo ruhushya, uhagarariye Ubushinjacyaha avuga ko Urukiko rw'Ubujurire rukwiye kongera gusuzuma iki kibazo, ndetse rugasobanura ingingo ya 200 y'itegeko neza rukabihuza n'icyo Umushingamategeko yari agamije, rugasuzuma umurongo rwari rwafashe kuko bigaragara ko rwari rwibeshye mu kuwufata kubera isesengura ritariye rwakoze, rugasobanura impamvu udakwiye gukomeza kugenderwaho mu nyungu z'ubutabera, hanyuma rukemeza ko uwo murongo uhindutse maze rukemeza ko kuba ikirego cyaratanzwe bisabwe n'Umushinjacyaha ku rwego rw'igihugu wabihereye ububasha n'Umushinjacyaha Mukuru nta tegeko ryishwe. [20] Ku birebana n'ibivugwa n'abaregwa n'ababunganira ko umutwe w'igisirikare cya RNC ya Kayumba Nyamwasa atari umutwe w'iterabwoba kuko utagaragara ku rutonde rw'imitwe y'iterabwoba, uhagarariye Ubushinjacyaha avuga ko nta shingiro bikwiye guhabwa kuko hari imanza zitandukanye zemeje ko RNC ari umutwe w'iterabwoba. Akomeza asobanura ko mu rubanza No RPA 00047/2021/CA, rwaciwe ku wa 14/03/2024, haburana Ubushinjacyaha na Rtd Maj Mudathiru n'abandi, mu gika cya [117], uru rukiko rwasobanuye ko umutwe wa P5 ari umutwe w'iterabwoba kuko wari ufite umugambi wo gukora ibikorwa by'iterabwoba ugaragazwa n'uburyo washakishije abarwanyi ukabaha imyitozo ya gisikare nyuma ukabajyana mu bikorwa by'iterabwoba naho mu rubanza No RPA 00016/2020/CA rwaciwe ku wa 22/03/2024, haburana Ubushinjacyaha na Abayisenga Venant n'abandi, mu gika cya [178], rugaruka ku byasobanuwe mu rubanza No RPA 00047/2021/CA, rwemeje ko P5 ari umutwe w'iterabwoba, ndetse ko hari amasezerano ashirahamwe ihuriro ry'amashyamba atavugaga rumwe na Leta y'u Rwanda yiswe plat form five (P5) yakorewe i Buruseli ku wa 14/08/2015, iryo huriro rigizwe n'amashyamba 5 ariyo: Amahoro PC, FDU Inkingi,

PDP - Imanzi, PS - Imberakuri na RNC, ko rero kuba RNC yari iri muri P5 yagaragaye ko ari umutwe w'iterabwoba byumvikana ko nayo ari umutwe w'iterabwoba kuko abayigize aribo bajyaga mu mutwe w'iterabwoba P5 yabaga yakoze, byumvikana rero ko n'iyi mitwe iyigize ari imitwe y'iterabwoba. [21] Uhagarariye Ubushinjacyaha akomeza asobanura ko ikindi kigaragaza ko RNC ari umutwe w'iterabwoba ari ibyemejwe mu rubanza No RPA 00012/2019/CA, haburana Ubushinjacyaha na Gatabazi Joel n'abandi, kuva ku gika cya [103] kugera ku cya [105] urukiko rwasesenguye ibikorwa by'uwitwa Nshimiyimana Joseph rusanga hari ibimenyetso bigaragaza ko yakoranye na FDLR na RNC ibikorwa by'iterabwoba, ko rero kuba umutwe wa RNC uri muri P5, uyu nawo ukaba waremejwe nk'umutwe w'iterabwoba, ndetse RNC ku giti cyayo ukaba waremejwe nk'umutwe ukora ibikorwa by'iterabwoba, bihagije kwemeza mu buryo bweruye ko RNC ari umutwe w'iterabwoba. [22] Ku birebana n'ibivugwa n'abaregwa ko icyaha cyo kurema umutwe w'ingabo utemewe cyangwa kuwujyamo bidashoboka ko cyabangikanywa n'icyo kuba mu mutwe w'iterabwoba hashingiwe ku bikorwa bimwe, uhagarariye Ubushinjacyaha avuga ko yemeranya n'abaregwa kuko mu rubanza No RPA 00060/2021/CA mu gika cya [97] no mu rubanza No RPA

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00047/2021/CA, mu gika cya [134] rwasobanuye ko igihe umutwe umaze kwemezwa nk'uw'iterabwoba bidashoboka kuregwa icyaha cyo kuba mu mutwe w'ingabo utemewe, ahubwo abakurikiranywe baregwa gusa kuba mu mutwe w'iterabwoba harebwe ko uba ugamije ibikorwa by'iterabwoba nk'uko biteganywa mu ngingo ya 2, iya 18 n'ya 19 z'Itegeko N° 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba. [23] Mu gusoza, uhagarariye Ubushinjacyaha avuga ko n'ubwo urukiko rwasanga inzitizi y'abaregwa ifite ishingiro rukabona koko ko uruhushya rutatanze nk'uko biteganywa n'ingingo ya 200 yagarutsweho haruguru, abaregwa batafungurwa nk'uko babisaba ahubwo urukiko rwasuzuma niba ibikorwa bakurikiranyweho bigize icyaha cyo kwemera kuba mu mutwe w'iterabwoba kuko ibivugwa mu ngingo ya 200 bashingiyeho batanga inzitizi bitareba icyaha cyo kuba mu mutwe w'iterabwoba kiri mu byaha bahamijwe kuko n'ubwo icyo icyaha cyo kwemera, ku bushake, kwinjira cyangwa gutorerwa kujya mu mutwe w'ingabo zitari ingabo zemewe z'igihugu n'icyo gushishikariza abandi kujya mu mutwe w'ingabo utemewe byavanwa mu byaha bagomba kuregwa, bitatuma icyo kuba mu mutwe w'iterabwoba batagikurikiranwaho. UKO URUKIKO RUBIBONA [24] Impaka zishingiye ku kumenya niba inzitizi yatanze n'abaregwa basaba ko barekurwa kuko bakurikiranywe mu buryo bunyuranyije n'amategeko ifite ishingiro. Mu gusuzuma iyo nzitizi akaba ari ngombwa kubanza kumenya ibi bikurikira: - Kumenya niba umutwe w'igisirikare cya RNC ya Kayumba Nyamwasa abaregwa bari bagiye kujyamo ari umutwe w'iterabwoba cyangwa umutwe w'ingabo zitemewe no kumenya niba byari ngombwa gusaba icyemezo cy'Umushinjacyaha Mukuru mu gukurikirana abaregwa ku buryo abaregwa bagomba kurekurwa kuko hatatanze uruhushya rw'Umushinjacyaha Mukuru ruteganywa mu ngingo ya 200 y'itegeko no 68/2018 ryo ku wa 30/06/2018 riteganywa ibyaha n'ibihano muri rusange - Kumenya niba ibikorwa abaregwa bakurikiranyweho byo kuba mu mutwe w'iterabwoba bishobora kubangikanywa n'ibyaha byo kurema umutwe w'ingabo utemewe ku buryo abaregwa babikurikiranwaho byombi ndetse bakanabihamywa byombi.

- a. Kumenya niba umutwe w'igisirikare cya RNC ya Kayumba Nyamwasa abaregwa bari bagiye kujyamo ari umutwe w'iterabwoba cyangwa umutwe w'ingabo zitemewe no kumenya niba byari ngombwa gusaba icyemezo cy'Umushinjacyaha Mukuru mu gukurikirana abaregwa ku buryo abaregwa bagomba kurekurwa kuko hatatanzwe icyemezo cy'Umushinjacyaha Mukuru giteganywa mu ngingo ya 200 y'itegeko no 68/2018 ryo ku wa 30/06/2018 riteganywa ibyaha n'ibihano muri rusange [25] Kugira ngo hamenyekane niba abaregwa barakurikiranywe mu buryo bunyuranyije cyangwa bukurikije amategeko ku buryo byari ngombwa ko mu kubakurikirana no kubarega hagomba gutangwa uruhushya rw'Umushinjacyaha Mukuru rutegeka kubakurikirana, ni ngombwa kubanza kumenya niba RNC abaregwa bari bagiye kujyamo ari umutwe w'iterabwoba cyangwa umutwe n'ingabo zitemewe. [26] Nk'uko byagarutseweho haruguru, abaregwa bavugaga ko RNC atari umutwe w'iterabwoba kuko utari ku rutonde rw'imitwe y'iterabwoba, ko ahubwo ari umutwe w'ingabo zitemewe naho

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Ubushinjacyaha bwo bukemeza ko RNC ari umutwe w'iterabwoba ndetse ko n'inkiko zamaze kubyemeza. [27] Ku birebana no kumenya niba RNC ari umutwe w'iterabwoba cyangwa umutwe w'ingabo zitemewe, urubanza N° RPA 00047/2021/CA2 rwaciye ku wa 14/03/2024 haburana Ubushinjacyaha na Maj (Rtd) Mudathiru Habib alias Mussa na bagenzi be, Urukiko rw'Ubujurire rwemeje ko umutwe wa P5 ari umutwe w'iterabwoba kuko ufite umugambi wo gukora ibikorwa by'iterabwoba ugaragazwa n'uburyo washakishije abarwanyu ukabaha imyitozo ya gisikare, irangiye ukabavana muri Kivu y'Amajyepfo (Bijabo) ukabajyana muri Kivu y'Amajyaruguru hafi y'umupaka w'u Rwanda, nyuma mu ijoro ryo ku wa 04/10/2019, bamwe muri abo barwanyu bagafatanyaga n'umutwe wa RUD- URUNANA gukora ibitero by'iterabwoba mu Kinigi mu Karere ka Musanze byishe abaturage cumi na bane (14), bikomeretsa abandi cumi n'umunani (18) binasahura imitungo yabo nk'uko abarwanyu ba RUD-URUNANA bari muri icyo gitero babigarukaho mu mvugo zabo. [28] Mu rubanza No RPA 00016/2020/CA3 rwaciye ku wa 22/03/2024, haburana Ubushinjacyaha na Abayisenga Venant n'abandi, Urukiko rwagaragaje ko nk'uko bigaragazwa n'amasezerano ashirahamwe ihuriro ry'amashyamba atavugaga rumwe na Leta y'u Rwanda yiswe plat form five (P5) yakorewe i Buruseli ku wa 14/08/2015, iryo huriro rigizwe n'amashyamba 5 ariyo: Amahoro PC, FDU-Inkingi, PDP – Imanzi, PS – Imberakuri na RNC, ndetse ko iyo P5 ari ishira hamwe ry'iterabwoba ukorera muri DRC ugamije gukora ibikorwa by'iterabwoba ku butaka bw'u Rwanda. [29] Mu rubanza N° RPA 00012/2019/CA5 rwaciye ku wa 22/11/2019 n'Urukiko rw'Ubujurire, haburana Ubushinjacyaha na Lt Mutabazi Joël n'abandi, uru rukiko mu gusobanura iby'uwitwaga Nshimiyimana Joseph rwasanze hari ibimenyetso bigaragaza ko yakoranye na FDLR na RNC ibikorwa by'iterabwoba birimo gukora inama yateguye igitero cyabereye ku isoko rya Kicukiro kigahitana abantu 2, hagakomereka 46. [30] Urukiko rw'Ubujurire rurasanga harebwe ibivugwa muri izi manza zimaze kuvugwa haruguru, bigaragara ko RNC ya Kayumba Nyamwasa ari imwe mu mitwe yari igize ihuriro rya P5 kandi nk'uko byemejwe n'Urukiko rw'Ubujurire mu rubanza N° RPA 00047/2021/CA uwo umutwe byagaragaye ko ari umutwe w'iterabwoba aho wakoze ibikorwa bitandukanye by'iterabwoba birimo kuba mu

ijoro ryo ku wa 04/10/2019, bamwe muri abo barwanyi barafatanyije n'umutwe wa RUD-URUNANA gukora ibitero by'iterabwoba mu Kinigi mu Karere ka Musanze byishe abaturage cumi na bane (14), bikomeretsa abandi cumi n'umunani (18) binasahura imitungo yabo nk'uko abarwanyi ba RUD-URUNANA bari muri icyo gitero babigarukaho mu mvugo zabo, bikaba byumvikana rero ko kuba P5 yakoze ibikorwa by'iterabwoba na RNC nk'imwe mu bagize iryo huriro nayo yabigizemo uruhare. Ibyo bikaba byumvikanisha ko mu gihe bigaragaye ko umutwe wamaze kwemezwa nk'umutwe w'iterabwoba wari usanzwe ugizwe n'indi mitwe cyangwa amashyirahamwe bifite intego imwe bituma n'iyi mitwe cyangwa amashyirahamwe awugize bihita bihinduka imitwe y'iterabwoba. Ku bw'ibyo,

2 Reba igika cyarwo cya 117 3 Reba igika cyarwo cya 180 4 Reba igika cyarwo cya 207 5 Reba igika cyarwo cya 103 na 105

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kuba RNC yari imwe mu mitwe igize P5 yamaze kwemezwa nk'umutwe w'iterabwoba bikaba bikwiye guhita byumvikanisha ko RNC nayo ari umutwe w'iterabwoba. [31] Urukiko rw'Ubujurire rurasanga, uretse no kuba RNC ya Kayumba Nyamwasa igirwa umutwe w'iterabwoba no kuba ari umwe mu bagize umutwe w'iterabwoba wa P5 nk'uko bisobanuwe haruguru, ikindi kigaragaza ko ari umutwe w'iterabwoba ni ibikorwa wakoze ubwayo kuko nk'uko byemejwe mu rubanza N° RPA 00012/2019/CA haburana MUTABAZI Joel n'Ubushinjacyaha na RNC ubwayo ifatanyije na FDLR bakoze ibikorwa by'iterabwoba birimo gukora inama yateguye igitero cyabereye ku isoko rya Kicukiro kigahitana abantu 2, hagakomereka 46. [32] Urukiko rw'ubujurire rurasanga rero n'ubwo muri izo manza zavuzwe haruguru nta rubanza rwavuze mu buryo bweruye ko RNC ya Kayumba Nyamwasa ari umutwe w'iterabwoba, ariko bigaragara ko zerekanye uruhare rutaziguye RNC ya Kayumba Nyamwasa yagize mu bikorwa bitandukanye by'iterabwoba bigizwe n'ibitero bitandukanye RNC iri muri P5 cyangwa ifatanyije na FDLR bagiye bagaba ku Rwanda, bikica abantu abandi bikabakomeretsa ndetse bigasenya n'ibikorwa remezo bitandukanye. Uru rukiko rurasanga rero ibyo bikorwa by'iterabwoba RNC ya Kayumba Nyamwasa yagiye ikora bigaragaza nta gushidikanya ko RNC ya Kayumba Nyamwasa atari umutwe w'ingabo utemewe kuko utari ugamije kugaba igitero cy'intambara ku Rwanda nk'uko bivugwa mu ngingo ya 200, igika cya 1 n'icya 2, y'itegeko No 68/2018 ryo ku wa 30/06/2018 riteganya ibyaha n'ibihano muri rusange, ko ahubwo nk'uko ibikorwa byayo byayigaragaje mu bitero yagabye ku butaka bw'u Rwanda, mu Turere twa Musanze na Kicukiro aho yabaga iri muri P5 cyangwa ifatanyije na FDLR, byemeza ko uwo mutwe wa RNC ya Kayumba Nyamwasa ari umutwe w'iterabwoba. [33] Urukiko rw'Ubujurire rurasanga rero kuba RNC ya Kayumba Nyamwasa ari umutwe w'iterabwoba, byumvikana ko abaregwa bagombaga gukurikiranwaho icyaha cyo kuba mu mutwe w'iterabwoba bityo mu kubakurikirana akaba atari ngombwa ko bagombaga gukurikiranwa n'Umushinjacyaha Mukuru cyangwa uwo yabihereye uruhushya kuko Itegeko N° 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba ridategeka ko mu gukurikirana abakekwaho kuba mu mutwe w'iterabwoba ari ngombwa ko bitangirwa uruhushya rw'Umushinjacyaha Mukuru, ahubwo icyo cyemezo kikaba kivugwa gusa mu ngingo ya 200, igika cya 3 y'itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ku birebana gusa n'icyaha cyo kurema no kwemera

kuba mu mutwe w'ingabo utemewe, ku bw'ibyo inzitizi yatanze n'abaregwa basaba kurekurwa kuko bakurikiranywe mu buryo bunyuranije n'amategeko ikaba nta shingiro ifite. [34] Ku birebana n'urubanza No RPA 00029/2022/CA rwaciye ku wa 23/02/2024 n'Urukiko rw'Ubujurire, haburana Ubushinjacyaha na Habineza, abunganira abaregwa bavuga ko rwatanze umurongo ko Umushinjacyaha Mukuru ari we ubwe utanga urwo ruhushya, Urukiko rw'ubujurire rurasanga uru rubanza bitsitsaho rutakwifashisha muri uru rubanza kuko rurebana n'icyaha cyo kurema no kwemera kuba ku bushake mu mutwe w'ingabo utemewe nyamara muri uru rubanza uru rukiko rwamaze kugaragaza ko abaregwa bari bakwiye gukurikiranwaho icyaha cyo kuba mu mutwe w'iterabwoba.

1. b. Kumenya niba ibikorwa abaregwa bakurikiranyweho byo kuba mu mutwe w'iterabwoba bishobora kubangikanywa n'ibyaha byo kurema umutwe w'ingabo utemewe ku buryo abaregwa babikurikiranwaho ndetse bakabihamywa byombi.

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[35] Impaka kuri iyi ngingo zishingiye ku kumenya niba abaregwa byamaze kwemezwa ko bagomba gukurikiranwaho ibyaha byo kuba mu mutwe w'iterabwoba bashobora no kongera gukurikiranwa ku byaha byo kurema umutwe w'ingabo utemewe ndetse bakanabihamywa byombi hashingiwe ku bikorwa bimwe. [36] Mu gika cya 43 na 44 by'urubanza rujuririrwa, Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha byambuka imbibi rwakurikiranyeho Haragirimana Damien alias Abdallah, Ndayisenga Vedaste alias Abdallah, Mutiganda Thierry na Nshimiye Eric ndetse rubahamya icyaha cyo kuba mu mutwe w'iterabwoba n'icyo kuba mu mutwe w'ingabo bitemewe hashingiwe ku bikorwa bimwe naho Haragirimana Damien alias Abdallah na Ndayisenga Vedaste alias Abdoullah bo banakurikiranwa ku cyaha cyo gushishikariza abantu kujya mu mutwe w'ingabo utemewe. [37] Nyamara ikibazo cyo kumenya niba icyaha cyo kurema umutwe w'ingabo utemewe cyangwa icyo kuba cyangwa kwemera kuba mu mutwe w'iterabwoba byabangikanywa byombi, Urukiko rw'ubujurire rusanga byaratanzeho umurongo mu manza zitandukanye zaciye n'uru Rukiko, harimo urubanza No RPA 00016/2020/CA rwaciye n'Urukiko rw'Ubujurire ku wa 22/03/2024 haburana Ubushinjacyaha na Abayisenga Venant n'abandi. Muri urwo rubanza, Urukiko rw'Ubujurire rwemeje ko icyaha cyo kuba mu ishyirahamwe ry'iterabwoba kidashobora kubangikana n'icyo kuba mu mutwe w'ingabo bitemewe, ko ahubwo bituma icyaha abaregwa bakoze kidashora kuba icyo kujya mu mutwe w'ingabo bitemewe ahubwo bagomba guhamwa n'icyaha cyo kuba mu ishyirahamwe ry'iterabwoba⁶, bityo bikaba bidakwiye kongera kugibwaho impaka muri uru rubanza. [38] Urukiko rw'Ubujurire rurasanga rero kuba abaregwa barakurikiranywe ndetse bagahamya icyaha cyo kuba mu ishyirahamwe ry'iterabwoba, icyo gushishikariza abantu kujya mu mutwe w'ingabo utemewe n'icyo kuba mu mutwe w'ingabo binyuranije n'urwo murongo wavuzwe haruguru uvuga ko ibyo byaha byombi bidashobora kubangikanywa, byumvikanisha ko rero ari amakosa urukiko rubanza rwakoze akaba agomba gukosorwa maze muri uru rubanza abaregwa bagakurikiranwa gusa ku cyaha cyo kuba mu mutwe w'iterabwoba.

2. II.2. Kumenya niba Haragirimana Damien alias Abdallah yarahamijwe icyaha nta bimenyetso simusiga bikimuhamya bishingiweho. [39] Haragirimana Damien alias Abdallah n'umwunganira bavuga ko urukiko rwamuhamije ibyaha nta bimenyetso bidashidikanywaho bishingiweho, basaba ko yarenganurwa kuko Urukiko rwamuhamije icyaha atakoze rushingiye ku mvugo za Ndayisenga Vedaste alias Abdoullah rwirengagije ko amufitiye urwango yarugaragarije rwatumye amushinja ibinyoma ndetse no kuba yaragiye yivuguruza kandi ko mu bandi bareganwa hamwe ntawe umushinja, ko ibyo bavuga ari ibyo bumvanye Ndayisenga Vedaste alias Abdoullah. [40] Haragirimana Damien alias Abdallah n'umwunganira bavuga kandi ko Urukiko rwemeje ko yashishikariye Ndayisenga Vedaste alias Abdoullah gukora ibyaha akurikiranyweho akoresheje Youtube, nyamara rwirengagiza ko nta channel ya Youtube agira kandi nta kimenyetso rwashingiyeho cyemeza ko yaganiriye nawe ibiganiro byerekeranye n'ibyaha yakoze. Naho mu

6 Reba igika cya 234 cy'urubanza N° RPA 00016/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 22/03/2024 haburana ubushinjacyaha na Abayisenga Venant n'abandi, p.70

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mwanzuro w'in Yongera wo ku wa 04/12/2023, Haragirimana Damien alias Abdallah yasabye ko hakorwa iperereza kugira ngo urukiko rwibonere ko yarangwaga n'imico myiza ndetse runamenye n'amakimbirane yari afitanye na Ndayisenga Vedaste alias Abdoullah umushija na cyane cyane ko yagejeje mu Rukiko icyemezo cy'uko asanzwe arangwa n'imico myiza hamwe n'ikigaragaza ko asanzwe afitanye amakimbirane na Ndayisenga Vedaste alias Abdoullah. [41] Haragirimana Damien alias Abdallah avuga kandi ko abatangabuhamya bose babajijwe, baba abo bakurikiranywe hamwe bavuga ko Ndayisenga Vedaste Alias Abdoullah ari we wabashishikariye ndetse bamwe bagafatwa bagiye kugenda, nta n'umwe umushinja ndetse batanamuzi, ahubwo bari basanzwe baziranye na Ndayisenga; bose bakaba bavuga ibyo Ndayisenga Vedaste Alias Abdoullah yababwiye gusa mu magambo, ariko nta kindi bashobora kugaragaza cyemeza ko hari aho yari ahuriye n'imigambi yabo. [42] Uhagarariye Ubushinjacyaha avuga ko impamvu z'ubujurire za Haragirimana Damien alias Abdallah nta shingiro zifite kuko Ndayisenga Vedaste Abdoullah yavugiye mu Bugenzacyaha no mu mu Rukiko rw'Ibanze rwa Busasamana aburana ku ifungwa n'ifungurwa yemeza ko Haragirimana Damien alias Abdallah yamushishikariye kujya mu gisirikare cya Kayumba Nyamwasa, ko ibyo yireguza avuga ko Ndayisenga Vedaste Abdoullah amubeshyera nta shingiro byahabwa kuko abazwa mu Bugenzacyaha Haragirimana Damien alias Abdallah yivugiye ko ntacyo bari basanzwe bapfa cyari gutuma amubeshyera, bityo ko kuba abyireguza ubu ari uburyo bwo guhunga icyaha. Uhagarariye Ubushinjacyaha asobanura ko n'ubwo haba hari icyo baba bari basanzwe bapfa, atari byo byatesha agaciro imvugo za Ndayisenga Vedaste alias Abdoullah, wemeza ko yamushishikariye kujya mu gisirikare cya Kayumba Nyamwasa, cyane ko Urukiko arirwo rufite ububasha bwo gusuzuma imvugo ze nk'uko byatanze umurongo n'Urukiko rw'Ikirenga, mu rubanza No RPAA 0117/07/CS rwo ku wa 17/09/2010 haburana Ubushinjacyaha na Cpl Ngabonziza Faustin & Sgt Biziyaremye Jean Baptiste. [43] Ku birebana n'ibyo Haragirimana Damien Abdallah avuga ko Urukiko rwemeje ko yashishikariye Ndayisenga Vedaste Alias Abdoullah gukora ibyaha akurikiranyweho akoresheje

Youtube nyamara rwirengagije ko nta channel ya Youtube agira, uhagarariye Ubushinjacyaha avuga ko iyo miburanire nta shingiro ifite kuko ntaho Ndayisenga Vedaste Alias Abdoullah avuga ko Haragirimana Damien Abdallah yamweretse amashusho y'igisirikare cya Kayumba Nyamwasa kuri channel ye ya Youtube, ahubwo avuga ko Haragirimana Damien Abdallah yamuhaye amakuru y'uko muri Uganda hari igisirakare cya Kayumba Nyamwasa, amukangurira kukijyamo, amubaza aho yabivanye amubwira ko nawe yabivanye kuri Youtube. UKO URUKIKO RUBIBONA [44] Impaka muri uru rubanza zishingiye ku kumenya niba ibimenyetso byashingiweho mu guhamya Haragirimana Damien Abdallah bidahagije mu kugaragaza uruhare rwe mu ikorwa ry'icyaha kandi ko bishidikanywaho kuko imvugo zonyine za Ndayisenga Vedaste Alias Abdoullah zitashingirwaho kuko yagiye yivuguruza ndetse bakaba bafitanye urwango, ikindi kandi abandi batangabuhamya babajijwe bakaba bataramuvuze ndetse bakaba batanamuzi no kumenya niba hakorwa iperereza kugira ngo ukuri kugaragare.

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3. a. Ibirebana no kumenya niba imvugo za Ndayisenga Vedaste zitashingirwaho kuko yagiye yivuguruza kandi akaba ari we wenyine washingiweho ndetse anamufitiye urwango [45] Mu rubanza No RP 00001/2020/HC/HCCIC rwaciwe ku wa 18/11/2021, Urukiko Rukuru, Urugereko rwiheriye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi rushingiye ku mvugo za Ndayisenga Vedaste Alias Abdoullah ushinja Haragirimana Damien Abdallah kuba ariwe wamuhaye amakuru y'igisirikare cya Kayumba Nyamwasa ndetse anamushishikariza kukijyamo, rwemeje ko Haragirimana Damien Abdallah ahamwa n'icyaha cyo gushishikariza abantu kujya mu mutwe w'ingabo utemewe n'icyaha cyo kuba mu mutwe w'iterabwoba. [46] Ku birebana n'ikibazo cyo gushingira ku mvugo z'umuntu umwe kandi zivuguruzanya, mu rubanza N° RPA 00016/2020/CA, Urukiko rw'Ubujurire rwatanze umurongo uvuga ko imvugo cyangwa ubuhamya by'umuntu wese (ufite ubushobozi), bishobora kumvwa kandi bigashingirwaho mu rubanza n'iyi yaba yarabaye umuburanyi muri urwo rubanza. Apfa gusa kuba afite amakuru ahagije ku birebana n'ingingo igibwaho impaka⁷. Naho ku birebana n'imvugo z'umuntu umwe wivugururije mu nzego zitandukanye, mu rubanza N° RPAA 00293/2021/CA, hatanzwe umurongo uvuga ko Urukiko rudategetswe kwemeza imvugo zivugiwe imbere yarwo mu gihe zivuguruza izavugiwe imbere y'inzego z'iperereza, ahubwo ko ubwarwo arirwo rukora isesengura kugira ngo rumenye imvugo ihuza n'ukuri kw'ibyabaye⁸. Ibyo kandi byongeye no gushimangirwa mu rubanza No RPAA 00450/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 26/04/2024, haburana Ubushinjacyaha na Muhabwizina Odette. [47] Urukiko rw'Ubujurire rurasanga kuba Haragirimana Damien Abdallah n'umwunganira bavuga ko imvugo za Ndayisenga Vedaste Alias Abdoullah zitashingirwaho kuko ari we wenyine washingiweho, kandi akaba yaragiye yivuguruza nta shingiro bifite kuko mu Bugenzacyaha Ndayisenga Vedaste Alias Abdoullah yagaragaje ko Haragirimana Damien Abdallah ariwe wamuhaye amakuru yerekeranye n'igisirikare cya Kayumba Nyamwasa ndetse anamushishikariza kukijyamo ndetse anabisubiramo aburana mu Rukiko rw'Ibanze rwa Busasamana, ku ifunga n'ifungurwa by'agateganyo. N'ubwo yageze mu Rukiko Rukuru akabihakana, Ndayisenga

Vedaste akavuga ko Haragirimana atigeze amushishikariza kujya mu mutwe wa Kayumba Nyamwasa, kandi ko yabivuze bihagije ubwo yabibazwagaho kugeza ubwo bamusharuje icyuma ku kaboko, ko icyo yasobanuye ari uko Haragirimana Damien yabimweretse kuri Youtube⁹, Urukiko rw'ubujurire rurasanga bitaba impamvu yo gutesha agaciro iyo mvugo ya Ndayisenga Vedaste alias Abdoullah hashingiwe gusa ko ari imvugo ye wenyine kubera ko ubuhamya by'umuntu wese (ufite ubushobozi), bushobora kumvwa kandi bugashingirwaho mu rubanza n'iyi yaba yarabaye umuburanyi muri urwo rubanza, apfa gusa kuba afite amakuru ahagije ku birebana n'ingingo igibwaho impaka nk'uko byasobanuwe haruguru. [48] Urukiko rurasanga kandi kuba Ndayisenga Vedaste alias Abdoullah yarahinduye imvugo yakoreye mu Bugenzacyaha ubwo yari ageze mu Rukiko Rukuru, akavuga ko ibyo yemeye mbere

7 Reba igika cya 151 cy'urubanza n° RPA 00016/2020/ca rwaciwe n'Urukiko rw'Ubugurire ku wa 22/03/2024, haburana Ubushinjacyaha na ABAYISENGA Vénant n'abandi 8 Reba igika cya 28 cy'urubanza N° RPAA 00293/2021/CA rwaciwe n'Urukiko rw'Ubugurire ku wa 15/07/2022, haburana Ubushinjacyaha na MURINDAHABI Jean de Dieu 9 Reba igika cya 12 cy'urubanza rujurirwa.

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yabikoze kubera itotezwa, bitabuza urukiko kuzishingiraho kubera ko uretse no kuba ibyo yavugiye imbere y'urukiko Rukuru nta bimenyetso yabigaragarije, urukiko ntirutegetswe kwemeza imvugo zivugiye imbere yarwo mu gihe zivuguruzwa izavugiye imbere y'inzego z'iperereza, ahubwo ko ubwarwo arirwo rukora isesengura kugira ngo rumenye imvugo ihuza n'ukuri kw'ibyabaye nk'uko byasobanuwe haruguru. Rurasanga kandi imvugo yavugiye mu Bugenzacyaha arizo zikwiye kugenderwaho kuko no mu iburanisha ry'uru rubanza¹⁰, Ndayisenga Vedaste Alias Abdoullah yongeye kubishimangira avuga ko Haragirimana Damien Abdallah ariwe wamuhaye amakuru y'ibyerekeye igisirikare cya Kayumba Nyamwasa anasobanura ko baganiriye inshuro nyinshi akajya amubwira ko muri Uganda hari igisirikare cya Kayumba Nyamwasa, ko yabibonye kuri Youtube ndetse anasaba ko imvugo ye yo mu Bugenzacyaha ariyo yakomeza kugenderwaho kuko mu Rukiko Rukuru yari yavuze ko atabimukanguriye ariko byatewe n'uko atari asobanukiwe n'ijambo "gukangurira" icyo rivuze. [49] Ku birebana n'ibyo Haragirimana Damien Abdallah n'umwunganira bavuga ko imvugo ya Ndayisenga Vedaste Alias Abdoullah itashingirwaho kuko yamushyizeho icyaha kubera amakimbirane bari bafite mbere, Urukiko rw'Ubugurire rurasanga iyi miburanire nta shingiro yababwira kuko ubwe abazwa mu Bugenzacyaha, Haragirimana Damien Abdallah yivugiye ko nta kibazo bari bafitanye¹¹, kuba yaravuze ko bafitanye ikibazo bwa mbere mu Rukiko akaba ari uburyo bwo guhunga icyaha. Iyi ngingo kandi Haragirimana Damien alias Abdallah aburanisha y'uko Ndayisenga Vedaste alias Abdoullah amufitiye urwango, yagiweho impaka n'impande zombi mu gihe cy'iburanisha, Urukiko rusanga iyo mvugo ya Ndayisenga Vedaste Alias Abdoullah igomba gushingirwaho kuko igaragaza ukuri kw'ibyabaye (principe de la liberté de la preuve en matière pénale) kandi Urukiko nirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa nk'uko byemejwe mu rubanza N° RPAA 00692/2021/CA rwaciwe ku wa 20/1/2023, haburana

Ubushinjacyaha na Ndayishimiye Jean Damascène. [50] Urukiko rurasanga ikindi kigaragaza ko imvugo ya Ndayisenga Vedaste Alias Abdoullah ishinja Haragirimana Damien Abdallah ko ariwe wamubwiye iby'igisirikare cya Kayumba Nyamwasa ndetse anamushishikariza kujyamo ikwiye gufatwa nk'ukuri kandi ko itakozwe kubwo kumwihimuraho, ni uko yabivuze mbere atari yamenya ko bazafatwa nk'uko byemejwe n'abo baregwanwa hamwe barimo Maniriho Théoneste, Nshimiye Eric, Niyonizeye Claude na Mutiganda Thierry aho bose bemeje ko ubwo Ndayisenga Vedaste Alias Abdoullah yababwiraga iby'igisirikare cya Kayumba Nyamwasa yanababwiye ko amakuru yayahawe na Abdallah¹². [51] Ku birebana n'ibivugwa na Haragirimana Damien Abdallah n'umwunganira ko mu bo baregwanwa nta wundi umushinje, Urukiko rw'Ubujurire rurasanga nta shingiro bifite kuko n'ubwo abo baregwanwa ntawe umuvugaga ko yahuye cyangwa yaganiriye na Haragirimana Damien Abdallah, ariko Maniriho Théoneste, Nshimiye Eric, Niyonizeye Claude na Mutiganda Thierry baregwanwa hamwe bose bemeje ko ubwo Ndayisenga Vedaste Alias Abdoullah yababwiraga iby'igisirikare cya Kayumba Nyamwasa yanababwiye ko amakuru yayahawe na Haragirimana Damien Abdallah, ibyo bikaba byumvikana ko n'ubwo batamushinje ariko bashimangiye ibyo Ndayisenga Vedaste Alias Abdoullah yari yavuze ko Haragirimana Damien Abdallah ariwe

10 Reba inyandikomvugo y'iburanisha ryo ku wa 14/11/2024, urupapuro rwa 4 11 Reba inyandikomvugo yo ku wa 15/12/2019 y'ibazwa rya Haragirimana Damien Abdallah mu Bugenzacyaha 12 Uyu uvugwa ni Haragirimana Damien alias Abdallah

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wamushishikariye kujya mu gisirikare cya Kayumba Nyamwasa. Hakaba nta cyabuza Urukiko kuzishingiraho. [52] Hashingiwe ku bisobanuro bitanzwe haruguru, Urukiko rw'Ubujurire rurasanga kuba Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi rwarahamije Haragirimana Damien Abdallah ibyaha rushingiye ku mvugo za Ndayisenga Vedaste Alias Abdoullah nta kosa rwakoze kuko nta gushidikanya kugaragara muri izo mvugo, bityo ingingo y'ubujurire ya Haragirimana Damien y'uko imvugo za Ndayisenga Vedaste zitashingirwaho kuko yagiye yivuguruzwa kandi akaba ari we wenyine washingiweho ndetse banafitanye urwango nta shingiro ifite.

4. b. Ibirebana n'iperereza Haragirimana Damien alias Abdallah asaba [53] Haragirimana Damien asaba ko hakorwa iperereza kugira ngo ukuri kugaragare, hagenzurwe niba koko asanzwe arangwa n'imico myiza ndetse n'uko asanzwe afitanye amakimbirane na Ndayisenga Vedaste, cyane cyane ko yatanze muri dosiye ibimenyetso bigaragaza ko asanganywe imico myiza byatanze n'inzego z'ibanze hamwe n'icyemezo ko asanganywe amakimbirane na Ndayisenga Vedaste. [54] Uhagarariye Ubushinjacyaha avugaga ko ibyo gusaba iperereza nta shingiro bikwiye guhabwa kuko ari ubwa mbere asabye iperereza kuko ntaho yigeze ariburanisha mbere, kandi ko n'iyi ryakorwa hakagaragara ko yitwaraga neza bitavuguruzwa ibimenyetso byashingiweho kuko kuba witwaraga neza bidakuraho ko wakora icyaha. [55] Urukiko rurasanga iperereza Haragirimana Damien Abdallah yasabye ngo hagaragazwe ukuri ko yari asanzwe yitwara neza ndetse hanagaragazwe ko yari afitanye

amakimbirane na Ndayisenga Vedaste alias Abdoullah bityo ko hatashirirwa ku mvugo ya Ndayisenga Vedaste, Urukiko rw'Ubujurire rurasanga kuba Haragirimana Damien alias Abdallah yaba yari asanzwe yitwara neza no kuba yari afitanye amakimbirane na Ndayisenga Vedaste atari ikimenyetso cyamuhaguraho icyaha akurikiranweho. Rusanga kandi atari ngombwa gukora iryo perereza kuko rubona ibimenyetso rufite bihagije mu gusuzuma urubanza. Iby'uko Urukiko rudategetswe byanze bikunze gukora iperereza cyangwa se kubaza abatangabuhamya buri gihe cyose uko umuburanyi abisabye mu gihe rwumva rwanyuzwe n'ibimenyetso rwashyikirijwe kandi n'ababuranyi bose bahawe umwanya uhagije wo kubyisobanuraho byemejwe mu rubanza RPAA 0101/09/CS rwaciye ku wa 09/03/2012. [56] Hashingiwe ku bisobanuro byavuzwe haruguru, Urukiko rw'Ubujurire rurasanga ingingo y'ubujurire ya Haragirimana Damien y'uko yahamijwe icyaha nta bimenyetso bidashidikanywaho bishingiweho nta shingiro ifite, ariko nk'uko byasesenguwe haruguru, Urukiko rukaba rutaragombaga guhamya Haragirimana Damien Abdallah ibyaha byo gushishikariza abantu kujya mu mutwe w'ingabo utemewe n'icyo kuba mu mutwe w'iterabwoba icyarimwe, hashingiwe ku ihame ryo kuba ibyo byaha byombi bitabangikanywa nk'uko byavuzwe haruguru, ahubwo Haragirimana Damien Abdallah akaba akwiye guhamya n'icyaha cyo kuba mu mutwe w'iterabwoba.

5. II.3. Kumenya niba inyito y'icyaha Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry bahamijwe yahinduka bagahanirwa ubwinjiracyaha bwo kwemera kujya mu mutwe w'iterabwoba

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- [57] Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry n'ababunganira basaba ko inyito y'icyaha bahamijwe yahinduka bagahanirwa ubwinjiracyaha bwo kwemera kujya mu mutwe w'iterabwoba kuko n'ubwo bari bemeye kujya mu gisirikare cya Kayumba Nyamwasa bafashwe bataragerayo. [58] Uhagarariye Ubushinjacyaha avuga ko iyi mpamvu yabo y'ubujurire nta shingiro ifite kuko igikorwa cyo kwemera kujya mu ngabo zitemewe n'umutwe w'iterabwoba bakoze kigize icyaha cyuzuye cyo kwemera kujya mu ngabo zitemewe n'umutwe w'iterabwoba kuko bo na mugenzi wabo Nshimiye Eric bafashwe biteguye kugenda bajya muri uwo mutwe w'ingabo zitemewe ukaba n'umutwe w'iterabwoba, bigaragaza nta gushidikanya ko bari bemeye kuwujyamo; nk'uko byasobanuwe mu gika cya 27 by'urubanza rujiririrwa. [59] Uhagarariye Ubushinjacyaha asobanura ko Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry bahamijwe kwemera kujya mu mutwe w'ingabo byumvikana ko bemeye ndetse banafatirwa mu nzira bajya mu mutwe w'ingabo utemewe kuko icyaha cyari cyamaze gutsotsobwa kuko nta bwinjiracyaha bwabaho igihe wamaze kubyemera. UKO URUKIKO RUBIBONA [60] Kuri iyi ngingo, Urukiko rw'Ubujurire ruributsa ko abaregwa bakurikiranywe ku cyaha cyo kuba mu mutwe w'iterabwoba nk'uko byasobanuwe haruguru, bivuze ko ibyo kubangikanya ibi byaha byombi abaregwa bari bakurikiranweho banahamijwe, bitongera kugibwaho impaka kuri uru rwego, akaba ariyo mpamvu, impaka kuri iyi ngingo zishingiye ku kumenya niba kuba Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry baremeye kujya mu mutwe w'iterabwoba wa RNC wa

Kayumba Nyamwasa bagafatwa bataragerayo bigize icyaha cyo kwemera kuba mu mutwe w'iterabwoba cyangwa ubwinjiracyaha kuri icyo cyaha. 6.

Ku birebana no guhindurirwa inyito y'icyaha [61] Ingingo ya 18 y'Itegeko N° 46/2018 ryo ku wa 13/08/2018 ryeyekeye kurwanya iterabwoba iteganya ko "Umuntu uba cyangwa wemera kuba mu mutwe w'iterabwoba cyangwa ugira uruhare mu bikorwa by'umutwe w'iterabwoba cyangwa ukora ikintu cyose cyongerera ubushobozi undi mutwe w'iterabwoba, aba akoze icyaha..." [62] Ubwinjiracyaha buhanirwa iyo umugambi wo gukora icyaha wagaragajwe n'igikorwa kimwe cyangwa byinshi biboneka, bidashidikanywa by'intangiriro y'icyaha biganisha ku ikorwa ryacyo, nyuma bigahagarikwa, bikabuzwa kugera ku cyifuzo cyangwa bikazitirwa n'impamvu zidakomoka ku bushake bwa nyir'ugukora icyaha. [63] Izi ngingo zisomewe hamwe zumvikanisha ko ubwinjiracyaha bubaho mu gihe ibikorwa biboneka, bidashidikanywaho by'intangiriro y'icyaha biganisha ku ikorwa ryacyo, biba byahagaritswe cyangwa byabujijwe kugera ku cyifuzo cyangwa byazitiwe n'impamvu idakomoka ku bushake bwa nyir'ugukora icyaha, mu gihe icyaha cyo kuba mu mutwe w'iterabwoba, yaba umuntu wamaze kwinjira mu mutwe w'iterabwoba, yaba uwamaze kwemera kuwinjiramo cyangwa uwatangiye kuwugiramo uruhare cyangwa ukora ikintu cyose kiwongerera ubushobozi aba yamaze gukora icyaha (infraction consommée). Byumvikanisha rero ko igihe cyose umuntu yamaze kwemera kuba, yamaze kwemera kuwinjiramo cyangwa yatangiye kuwugiramo uruhare

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aba akoze icyaha, bityo bikaba bikwiye kumvikana ko nta bwinjiracyaha bwo kuba mu mutwe w'iterabwoba bwabaho kuko gukora igikorwa kimwe mu bigize icyo cyaha ubwacyo icyaha kiba cyatsotsobwe. [64] Dosiye y'urubanza igaragaza ko Ndayisenga Vedaste alias Abdoullah yemera ko yashishikarijwe kujya mu gisirikare cya RNC ya Kayumba Nyamwasa aremera anashishikariza n'abandi naho Mutiganda we yemera ko yashishikarijwe kujya muri icyo gisirikare nawe aremera ariko bombi bafatirwa mu nzira bataragera muri Uganda aho icyo gisirikare gikorera. [65] Urukiko rw'Ubujurire rurasanga nk'uko byasobanuwe haruguru, kuba mu mutwe w'iterabwoba, kwemera kuba muri uwo mutwe cyangwa kugira uruhare mu bikorwa byayo cyangwa gukora ibiwongerera ubushobozi aribyo umushingamategeko yagaragaje ko ari icyaha, bivuze ko kwemera kuwubamo ubwabyo bigize icyaha (infraction consommée) aho kuba ubwinjiracyaha bwacyo. [66] Kuba Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry basaba guhamywa n'ubwinjiracyaha bw'icyaha kuko bemeye kuwujyamo ariko bagafatwa bataragerayo, Urukiko rusanga atari nta shingiro byahabwa kuko kwemera kuba muri uwo mutwe byihagije ubwabyo ngo icyaha cyo kwemera kuwubamo kibe cyamaze gutsotsobwa, kabone n'ubwo uwemeye kuwujyamo yafatirwa mu nzira ataragera muri uwo mutwe ngo atangire kuwubamo no kuwugiramo uruhare. [67] Hashingiwe ku bisobanuro bitanzwe haruguru, Urukiko rw'Ubujurire rurasanga abaregwa bavuga ko Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi rwaragombaga guhamya Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry ubwinjiracyaha bw'ibyaha bakurikiranyweho, nta shingiro bifite kuko icyaha bakoze cyari cyamaze gutsotsobwa nk'uko byasobanuwe haruguru, bityo bakaba bagomba guhamwa n'icyaha cyo kuba mu mutwe w'iterabwoba.

7. II.4. Kumenya niba igihano Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry bahanishijwe cyakongera kugabanywa ndetse kigasubikwa [68] Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry n'ababunganira basaba ko bagabanyirizwa igihano ndetse bakagisubikirwa. Basobanura ko n'ubwo mu rukiko rubanza bari bahakanye icyaha ariko ko bari bakemeye mbere mu Bugenzacyaha basaba ko uko kwemera kwabo kwakwakirwa kukababera impamvu nyoroshyacyaha maze kugashingirwaho bahabwa igihano gito, maze bagahanishwa igifungo cy'imyaka itatu (3) n'amezi atandatu (6), bingana na $\frac{1}{2}$ cy'igifungo cy'imyaka irindwi (7), igihano gito giteganyirijwe icyaha cyo kwemera, ku bushake, kwinjira cyangwa gutorerwa kujya mu mutwe w'ingabo zitari ingabo zemewe z'igihugu bakanagisubikirwa. [69] Uhagarariye Ubushinjacyaha avuga ko abaregwa batakongera kugabanyirizwa igihano kuko bagabanyirijwe kandi icyo bahawe kikaba kingana n'uburemere bw'icyaha bakoze. UKO URUKIKO RUBIBONA

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- [70] Impaka kuri iyi ngingo zishingiye ku kumenya niba ukwemera icyaha Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry bakoreye mu Nzego z'iperereza kwababera impamvu nyoroshyacyaha yatuma bongera kugabanyirizwa igihano cyangwa se niba batakongera kubagabanyiriza kuri uru rwego kuko bagabanyirijwe bihagije. [71] Iberebana n'ukwemera icyaha gushingirwaho mu kugabanya igihano, kwasobanuwe mu manza zitandukanye harimo N° RPA 00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022 haburana Ubushinjacyaha, Nsabimana Callixte alias Sankara na bagenzi be 13 n'urubanza N° RPAA 00086/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 24/03/2023 haburana Ubushinjacyaha na Munyanshoza Eric 14. Muri izo manza Urukiko rw'Ubujurire rwasobanuye ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano iyo nibura kujuje ibi bikurikira: kuba kudashidikanywaho, ni ukuvuga kutarimo kugoreka amakuru arebana n'uburyo icyaha cyakozwe, kuva gitegurwa kugeza gishyirwa mu bikorwa; hagaragazwa abakigizemo uruhare n'uruhare rwa nyiri ukwemera, ndetse n'inzira zose zakoreshejwe n'uburyo bwakoreshejwe kugira ngo kigerweho, kuba uwemera agaragaza ko yumva uburemere bw'ibikorwa yemera n'ingaruka zabyo, kuba abyicuza, ni ukuvuga agaragaza ko ababajwe n'ibyabaye kandi akaba yumva bitari bikwiye kuba, ndetse ko atazabisubira, kuba abisabira imbabazi no kuba yiteguye gusubiza ibyo yangije uko abitegerejweho kandi ibyo bigakorwa bitarenze byibuza mu iburanisha ku rwego rwa mbere, runasobanura ko ukwemera icyaha gukorewe mu nzego z'iperereza gushobora kugirira uregwa akamaro mu kumugabanyiriza igihano mu gihe kwakomeje gukorwa kuva mu nzego z'iperereza no mu rukiko ku rwego rwa mbere mu rukiko rwamuburanishije mu mizi y'urubanza, aho kuba ukwemera gukoze mu nzego z'iperereza kwaje kurangwa no kwisubiraho mu nkiko ziburanisha imizi y'urubanza, kukongera gukorwa ku rwego rwa nyuma. [72] Naho ikibazo cyo kongera kugabanyirizwa igihano cyatanzweho umurongo mu rubanza N° RPA 00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022 haburana Ubushinjacyaha, Nsabimana Callixte alias Sankara na bagenzi be. Muri urwo rubanza Urukiko rw'Ubujurire rwagaragaje ko mu rwego rw'ibirego nshinjabyaha iyo abaregwa nta kindi banenga

urubanza rwajuririwe, uretse kuvuga gusa ko batagabanyirijwe bihagije, buri mucamanza ku rwego urwo arirwo rwose, yemerewe gutanga igihano mu bushishozi bwe kijyanye n'uburemere bw'icyaha ndetse n'ingaruka zacyo hakurikijwe ibiteganywa n'ingingo ya 4915 y'Itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganywa ibyaha n'ibihano muri rusange, ariko ko mu bujurire, Umucamanza agomba kuzirikana ko yemerewe gusa guhindura igihano cyatanzwe n'Umucamanza wo mu Rukiko rubanza, ari uko amaze kugaragaza ko Urukiko rubanza rwaba rwarakoresheje nabi itegeko cyangwa ubushishozi bwawo mu gutanga icyo gihano¹⁶. [73] Hakurikijwe ibi bisobanuro, uru Rukiko rurasuzuma mu bika bikurikiyeho, niba hari ukwibeshya kugaragarira buri wese kwabaye, cyangwa gukoresha nabi ubushishozi cyangwa itegeko mu kugena ibihano byahawe Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry kugaragara mu rubanza rujuririrwa.

13 Reba igika cya 136 cyarwo 14 Reba igika cyarwo cya 26 15 Iteganywa ko "Umucamanza atanga igihano akurikije uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo" 16 Reba rubanza N° RPA 00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022 haburana Ubushinjacyaha, Nsabimana Callixte alias Sankara na bagenzi be, igika cya 252-254

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[74] Dosiye igaragaza ko Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry bagifatwa haba mu Bugenzacyaha no mu Bushinjacyaha bemeye icyaha basobanura n'uko cyakozwe ariko bageze mu rukiko ku rwego rwa mbere baburana bahakana icyaha, bongera kucyemera bageze kuri uru rwego. Dosiye igaragaza ko Urukiko Rukuru, Urugereko rwiheriye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi rwari rwabahamije icyaha cyo kwemera, ku bushake, kwinjira cyangwa gutorerwa kujya mu mutwe w'ingabo zitari ingabo zemewe z'igihugu, kuri Ndayisenga Vedaste alias Abdoullah we hakiyongeraho n'icyo gushishikariza abantu kujya mu mutwe w'ingabo utemewe, maze rubahanisha buri wese igifungo cy'imyaka cumi n'itanu (15), nk'igihano gito giteganywa ku cyaha cyo kuba mu mutwe w'iterabwoba. [75] Urukiko rw'Ubujurire rurasanga kuba Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry bavugaga ko bagabanyirizwa igihano kuko bemeye icyaha mu nzego z'iperereza nta shingiro bikwiye guhabwa kuko nk'uko byasobanuwe haruguru ukwemera icyaha gukorewe mu nzego z'iperereza gushobora kugirira uregwa akamaro mu kumugabanyiriza igihano mu gihe kwakomeje gukorwa kuva mu nzego z'iperereza no mu rukiko ku rwego rwa mbere mu rukiko rwamuburanishije mu mizi y'urubanza, aho kuba ukwemera gukoze mu nzego z'iperereza kwaje kurangwa no kwisubiraho mu nkiko ziburanisha imizi y'urubanza, kukongera gukorwa ku rwego rwa nyuma. Bityo kuba Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry baremeye icyaha mu nzego z'iperereza ariko bagera mu Rukiko ku rwego rubanza bakaburana bahakana icyaha n'ubwo bongeye kucyemera kuri uru rwego, uko kwemera kwabo kukaba kutashyirwaho nk'impamvu nyoroshyacyaha yaherwaho bagabanyirizwa igihano. [76] Nk'uko byasobanuwe haruguru, mu bujurire, Umucamanza agomba kuzirikana ko yemerewe gusa guhindura igihano cyatanzwe n'Umucamanza wo mu Rukiko rubanza, ari

uko amaze kugaragaza ko Urukiko rubanza rwaba rwarakoresheje nabi itegeko cyangwa ubushishozi bwari mu gutanga icyo gihano, ibyo bikaba byumvikanisha ko mu gihe uregwa yajuriye asaba kugabanyirizwa igihano, Urukiko rwajuririye ruba rugomba gusuzuma impamvu uwajuriye ashingiraho asaba kugabanyirizwa igihano niba zifite ishingiro ariko rukanasuzuma niba igihano uregwa yahawe gihwanye n'uburemere bw'icyaha yahamijwe kuko imikoreshereze mibi y'itegeko cyangwa ubushishozi mu gutanga igihano butareberwa gusa mu mpamvu zajuririye ahubwo zinareberwa mu kuba igihano cyatanze gikwiriye. [77] Mu gika cya 40 na 42 by'urubanza rujurirwa, Urukiko rwari rwahanishije Haragirimana Damien alias Abdallah, Ndayisenga Vedaste alias Abdoullah, Mutiganda Thierry na Nshimiye Eric igifungo cy'imyaka 20 ku cyaha kirushije ibindi gukomera mu byaha bari bahamijwe ari cyo kuba mu mutwe w'iterabwoba, ariko rushingiye ku ngingo ya 49 y'itegeko rigena ibyaha n'ibihano muri rusange, rusanga n'ubwo bahamijwe ibyo byaha, rwabagabanyiriza kubera ko nta ngaruka zikomeye ibyo byaha bahamijwe byateje kuko n'ubwo bari bafite imigambi mibi ku mutekano w'u Rwanda n'abarutuye, batahuwe nta kibi barakora, bityo buri wese ahanishwa igifungo cy'imyaka 15 nk'igihano gito giteganirijwe icyaha cyo kuba mu mutwe w'iterabwoba gikomeye mu byaha bahaniwe. [78] Urukiko rw'Ubujurire rurasanga no kuri uru rwego Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry bahamijwe icyaha cyo kuba mu mutwe w'iterabwoba. Rurasanga kandi mu gutanga igihano ku rwego rubanza, urukiko rwari rwabahaye igihano gito giteganirizwa icyo cyaha ariko bo bajurira basaba gusa kongera kugabanyirizwa icyo gihano ntacyo banenga icyemezo cy'urukiko ahubwo basaba gusa ko urukiko rwabagabanyiriza rushingiye ku kwemera

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icyaha nyamara nk'uko byagaragajwe haruguru ukwemera icyaha kwabo ntikwashingirwaho nk'impamvu ituma bagabanyirizwa igihano kuko ku rwego rwa mbere baburanye bahakana icyaha. Urukiko rw'Ubujurire rurasanga harebwe uburemere bw'icyaha cyo kuba mu mutwe w'iterabwoba abaregwa bahamijwe rukabigereranya n'igihano cy'igifungo cy'imyaka 15 bahawe, rusanga urukiko rubanza rwarabagabanyirije bihagije kuko icyo gihano gihwanye n'uburemere bw'icyaha bahamijwe, bityo hakaba hagomba kugumaho imikirize y'urubanza rwa mbere. [79] Ku birebana n'isubikagihano Ndayisenga Vedaste alias Abdoullah na Mutiganda Thierry n'ababunganira basaba, Urukiko rw'Ubujurire rurasanga batarihabwa kuko igihano cy'imyaka cumi n'itanu (15) bahanishijwe amategeko¹⁷ atemera ko gisubikwa kuko kirengeje imyaka itanu.

8. II.5. Kumenya niba Nshimiye Eric yarahamijwe icyaha cyo kuba mu mutwe w'iterabwoba kandi ntacyo yakoze no kumenya niba Nshimiye Eric yagabanyirizwa igihano ku cyaha yemera cyo kuba ataratanze amakuru ndetse n'icyo rumuhaye rukagisubika. [80] Nshimiye Eric n'umwunganira bavuga ko icyaha yemera ari uko atatanze amakuru nk'uko Ndayisenga Claude yayatanze, kuko yasanze bagenzi be baganira ibirebana n'igisirikare abatega amatwi, akaba ahakana icyaha cyo kuba mu mutwe w'iterabwoba ngo kuko uwo mugambi ntawo yigeze agira kuva yabaho. Nshimiye Eric n'umwunganira basaba Urukiko kumugabanyiriza igihano ku cyaha yemera cyo kuba ataratanze amakuru nk'uko Ndayisenga Claude yayatanze

maze n'icyo rumuhanishije rukemeza ko gisubitswe. [81] Uhagarariye Ubushinjacyaha avuga ko iyi mpamvu y'ubujurire ya Nshimiye Eric nta shingiro ifite kuko Urukiko rwasobanuye ibimenyetso bigaragaza ko yashishikarijwe na Ndayisenga Vedaste alias Abdoullah kujya mu gisirikare cya Kayumba akabyemera, agafatwa we na Mutiganda Thierry na Ndayisenga Vedaste alias Abdoullah biteguye kuva iwabo mu Karere ka Nyanza ngo bagende bazanyure Nyagatare, bazambuke bajye Uganda baciye inzira zitemewe n'amategeko, nk'uko bigaragara mu gika cya 27 n'icya 28 by'urubanza rujuririrwa. [82] Ku birebana n'impamvu ya Nshimiye Eric n'umwunganira yo gusaba kugabanyirizwa igihano ku cyaha yemera cyo kuba ataratanze amakuru, uhagarariye Ubushinjacyaha avuga ko iyi mpamvu nta shingiro ifite kuko ibyo yemera byo kudatanga amakuru bitagize icyaha kandi ibimenyetso bigaragaza ko Nshimiye Eric yashishikarijwe kujya mu mutwe w'iterabwoba wa RNC ugizwe n'ingabo zitemewe, yemera kuwujyamo, afatwa we na bagenzi be Mutiganda Thierry na Ndayisenga Vedaste bahagurutse bagiye Nyagatare, aho bari gukomereza muri Uganda baciye inzira zitemewe (panya). Uhagarariye Ubushinjacyaha avuga ko uregwa atakongera kugabanyirizwa igihano kuko yagabanyirijwe kandi icyo yahawe kikaba kingana n'uburemere bw'icyaha yakoze kandi ko isubikagihano asaba ataryemererwa n'itegeko kuko yahanishijwe igifungo cy'iremezo kirenze imyaka itanu (5), mu gihe itegeko ryemerera gusa isubikagihano uwahanishijwe igifungo cy'iremezo kitarengeje imyaka itanu (5). UKO URUKIKO RUBIBONA

17 Nk'uko biteganywa mu ngingo ya 64 y'Itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganyira ibyaha n'ibihano muri rusange isubikagihano ni icyemezo cy'urukiko gihagarika irangiza rubanza ku gihano itegeko riteganyiriza igifungo kitarengeje imyaka itanu (5). isubikagihano ritangwa hashingiwe ku buremere bw'icyaha

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[83] Impaka kuri iyi ngingo zishingiye ku kumenya niba hari ibikorwa Nshimiye Eric yakoze byerekana ko yemeye kujya mu mutwe w'iterabwoba cyangwa ibikorwa bye bigarukira gusa ku kuba ataratanze amakuru. [84] Dosiye igaragaza inyandikomvugo y'ibazwa mu Bugenzacyaha ya Ndayisenga Vedaste Alias Abdoullah yo ku wa 29/11/2019. Muri icyo nyandiko, Ndayisenga Vedaste Alias Abdoullah yavuze ko amaze kuganira na Mutiganda Thierry ibyerekeye igisirikare cya Kayumba Nyamwasa gikorera muri Uganda, bashatse abandi basore bari barashatse kujya mu gisirikare cy'u Rwanda bakabangira kugira ngo bababwire iby'icyo cya Kayumba Nyamwasa bazajyane, babanza kujya kwa Maniriho Théoneste babimubwiye arabyemera, bajya kwa Ndayisenga Claude ababwira ko ari tayari, bajya kwa Nshimiye Eric nawe arabyemera ariko nyuma Ndayisenga Claude aza gutanga amakuru batangira kubakurikirana. Ndayisenga Vedaste Alias Abdoullah yasobanuye ko Niyonizeye Jean Claude yababwiye ko ibyabo byamenyekanye, bituma we n'abandi babiri aribo Mutiganda Thierry na Nshimiye Eric bagenda batarindiriye abandi kuko bari bazi ko bagiye gufatwa ariko bafatwa bageze ahitwa ku Gasoro. [85] Dosiye igaragaragaza inyandikomvugo ya Mutiganda Thierry yo ku wa 29/11/2019, abazwa mu Bugenzacyaha. Mutiganda Thierry ku kibazo cya 2 yasubije ko nyuma y'uko Ndayisenga Vedaste Alias

Abdoullah ababwiye ibyo kujya mu gisirikare cya Kayumba Nyamwasa mu babyemeye harimo na Nshimiye Eric, ko nyuma y'uko bumvikanye iby'urugendo, Ndayisenga Claude yatanze amakuru agera ku mudugudu maze babonye ko ibyabo byamenyekanye bahita bahaguruka ari batatu we, Ndayisenga Vedaste Alias Abdoullah na Nshimiye Eric ariko bahita bafatwa batararenga umutaru. [86] Dosiye igaragaragaza inyandikomvugo ya Nshimiye Eric yo ku wa 12/12/2019, abazwa mu Bushinjacyaha. Muri icyo nyandiko, Nshimiye Eric yavuze ko yemera icyaha, asobanura ko Ndayisenga Vedaste Alias Abdoullah yamubwiye ko ubwo bamwangiye kujya mu Gisirikare cy'u Rwanda, bazajyana mu gisirikare cya RNC ya Kayumba Nyamwasa gikorera y'Uganda kuko cyo kidasaba amashuri maze arabyemera. Asobanura ko yabimubwiye ku cyumweru ku wa kane bahita bagenda, ndetse ko agenda nta muntu wo mu muryango we yari yabwiye, ko yafatiwe mu Mudugudu wa Mututu ari kumwe na Mutiganda Thierry. [87] Urukiko rw'Ubujurire rurasanga Ndayisenga Vedaste Alias Abdoullah na Mutiganda Thierry baragaragaje ko nyuma y'uko basobanuriye Nshimiye Eric ibirebana n'igisirikare cya RNC ya Kayumba Nyamwasa ndetse n'uburyo bwo kukijyamo yaremeye ndetse bamaze kumenya ko bagiye gufatwa, bahita bagenda batarindiriye uko abandi baza ariko bafatirwa nzira bari kumwe na Nshimiye Eric. Izo mvugo kandi zashimangiye na Nshimiye Eric mu ibazwa rye, aho yagaragaje ko nyuma yo kumusobanurira iby'icyo gisirikare yabyemeye ndetse baragenda atabwiye abo mu muryango we afatwa ageze mu Mudugudu wa Mututu ari kumwe na Mutiganda Thierry. Ibyo byumvikana rero ko ibikorwa bya Nshimiye Eric bitagarukira gusa ku kubwirwa no kudatanga amakuru gusa nk'uko abiburanisha, ahubwo yarasobanuriye aremema ndetse afata inzira ajya muri uwo mutwe w'Iterabwoba w'igisirikare cya RNC ya Kayumba Nyamwasa ariko afatirwa mu nzira agenda nk'uko nawe abiyemerera, ibyo bikorwa rero bikaba bigize icyaha cyo kuba mu mutwe w'iterabwoba nk'uko yabihamijwe n'urukiko ku rwego rubanza. [88] Ku birebana n'ibivugwa na Nshimiye Eric n'umwunganira ko icyaha yemera ari uko yamenye amakuru ntayatange ndetse ko yafashwe ari mu kazi, Urukiko rw'Ubujurire rurasanga

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nta shingiro byahabwa ahubwo ari imvugo akoresha ashaka guhunga icyaha cyo kuba mu mutwe w'iterabwoba kuko nk'uko byasobanuwe haruguru, nawe ubwe mu nzego z'iperereza yiyemereye ko yafashwe ari kumwe na Mutiganda Thierry kandi uyu we akaba yarasobanuye ko bafashwe bageze ku Gasoro bagiye mu gisirikare cya RNC ya Kayumba Nyamwasa kuko bari bamenye amakuru ko ibyabo byamenyekanye bagiye gufatwa bikaba byumvikanisha rero ko Nshimiye Eric yemeye ndetse akajya mu mutwe w'iterabwoba wa RNC ya Kayumba Nyamwasa. [89] Ku birebana n'ibisabwa na Nshimiye Eric n'umwunganira ko yagabanyirizwa igihano ku cyaha yemeye cyo kudatanga amakuru, uru rukiko rurasanga nta shingiro byahabwa kuko icyaha yakoze kandi cyamuhamye atari ukudatanga amakuru nk'uko babivuga, ahubwo ari icyaha cyo kuba mu mutwe w'Iterabwoba, ku bw'ibyo hakaba hagomba kugumishwaho igihano yahanishijwe n'urukiko rubanza. [90] Ku birebana n'isubikagihano Nshimiye Eric n'ababunganira basaba, Urukiko rw'Ubujurire rurasanga atarihabwa kuko igihano cy'imyaka cumi n'itanu (15)

ahanishijwe, amategako¹⁸ atemera ko gisubikwa kuko kirengeje imyaka itanu. [91] Hashingiwe ku bisobanuro bitanzwe haruguru, Urukiko rw'Uburire rurasanga imikirize y'urubanza igomba guhinduka gusa ku birebana n'ibyaha abaregwa bahamijwe. III. ICYEMEZO CY'URUKIKO [92] Rwemeje ko ubujurire bwa Haragirimana Damien alias Abdallah, Mutiganda Thierry, Ndayisenga Vedaste alias Abdoullah na Nshimiye Eric, nta shingiro bufite; [93] Rwemeje ko imikirize y'urubanza n° RP 00001/2020/HC/HCCIC rwaciwe n'Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi ku wa 18/11/2021 ihindutse ku birebana n'ibyaha abaregwa bahamijwe; [94] Rwemeje ko Haragirimana Damien alias Abdallah, Mutiganda Thierry, Ndayisenga Vedaste alias Abdoullah na Nshimiye Eric bahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba; [95] Rwemeje ko igihano cy'igifungo cy'imyaka cumi n'itanu (15) Haragirimana Damien alias Abdallah, Mutiganda Thierry, Ndayisenga Vedaste alias Abdoullah na Nshimiye Eric bahanishijwe n'Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi kigumyeho kuri buri wese; [96] Ruvuze ko Haragirimana Damien alias Abdallah, Mutiganda Thierry, Ndayisenga Vedaste alias Abdoullah na Nshimiye Eric basonewe amagarama y'urubanza kuko baburana bafunze.

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Prepared on 12 October 2026 · Esheria