

RWANDA / JUDGMENT

UBUSHINJACYAHA v. KAYITARE

RPAA 00497/2023/CA

COURT

Court of Appeal

DECIDED

5 May 2025

CASE / FILE NUMBER

RPAA 00497/2023/CA

Source: amategeko.gov.rw · Research copy typeset by Esheria. Not court-issued or certified.

UBUSHINJACYAHA v. KAYITARE

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-05-05
- Case/document no.: RPAA 00497/2023/CA
- Collection: Court of Appeal

Text

Page 1

UBUSHINJACYAHA v. KAYITARE [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00497/2023/CA (Rutazana, P.J.) 05 Gicurasi 2025] Amategeko agenga ibyaha n'ibihano – icyaha cy'ubwinjiracyaha bw'ubwicanyi – Kugabanya ibihano – Nta cyabuza Urukiko kugabanyiriza igihano uregwa, hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha kabone n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro. Incamake y'ikibazo: Uwitwa Bahizi André ubwo yari ageze hafi y'urugo rwe ataha yahuye n'abantu baramukomeretsa, hakekwa ko byakozwe na Kayitare Jacques afatanyije na Turikumwe Saidi. Kayitare Jacques yahise afatwa ashyikirizwa inzego z'ikurikiranacyaha, iperereza rirangiye Ubushinjacyaha bumurega hamwe na Turikumwe Saidi mu Rukiko Rwisumbuye rwa Nyagatare bubakurikiranyeho ubwinjiracyaha mu cyaha cy'ubwicanyi, busaba ko kibahama bagahanishwa igifungo cya burundu. Kayitare Jacques yaburanye ahakana icyaha ashinjwa, naho Turikumwe Saidi aburanishwa adahari ariko yarahamagajwe mu buryo bukurikije amategeko. Urukiko Rwisumbuye rwa Nyagatare rwemeje ko Kayitare Jacques na Turikumwe Saidi bahamwa n'ubwinjiracyaha mu cyaha cy'ubwicanyi cyakorewe Bahizi André, maze rutegeka ko buri wese ahanisha igifungo cy'imyaka 25. Kayitare Jacques yajuririye Urukiko Rukuru, Urugereko rwa Rwamagana avuga ko yahamijwe icyaha

atakoze kuko uwo bavuga wakubiswe akaba atamuzi; bityo asaba ko hakorwa iperereza hagakurikiranwa abakoze icyo cyaha, anasaba kugabanyirizwa igihano kandi agasubizwa amafaranga ye na telefoni byatwawe n'abamufashe. Uhagarariye Ubushinjacyaha yaburanye avuga ko ubujurire bwa Kayitare Jacques nta shingiro bufite kuko atabasha kuvuguruza ibimenyetso byashingiweho n'Urukiko rumuhamya icyaha. Urukiko Rukuru, Urugereko rwa Rwamagana, rwasanze ubujurire bwa Kayitare Jacques nta shingiro bufite kuko atashoboye kuvuguruza ibimenyetso byashingiweho ahamwe n'icyaha ku rwego rwa mbere, ariko rwamugabanyirije igihano kuko ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi kandi hakaba nta yindi myitwarire idasanzwe yamugaragayeho, maze rumuhanisha igifungo cy'imyaka 20. Kayitare Jacques yongeye kujurira mu Rukiko Rukuru rw'Ubujurire, avuga ko yahamijwe icyaha mu buryo bugenekereje nta kimenyetso simusiga Urukiko rushingiye cyemeza nta shiti ko yagikoze, kuko isuka bavuga ko yakubise Bahizi André itagaragajwe, kandi ko Raporo y'Ubuyobozi bw'inzego z'ibanze ikaba itashingirwaho nk'ikimenyetso kimushinja kuko ari inyandikomvugo ikorwa n'Ubuyobozi buhereye ku byabaye, bityo asoza asaba Urukiko kwemeza ko ari umwere.

Page 2

Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Kayitare Jacques nta shingiro bufite kuko atabasha kuvuguruza ibimenyetso byashingiweho n'Urukiko Rukuru, Urugereko rwa Rwamagana rumuhamya icyaha, bityo rero akaba atagaragaza icyo anenga urubanza yajuririyeye. Urukiko rw'Ubujurire rwasanze n'ubwo icyaha cy'ubwinjiracyaha bw'ubwicanyi Kayitare Jacques yakoze ari icyaha cy'ubugome, kuba nta ngaruka zikomeye cyateye kandi akaba nta kindi cyaha yahamijwe n'inkiko mu buryo buzwi byamubera impamvu nyoroshyacyaha zashingirwaho igihano yahanishijwe cyongera kugabanywa, hashingiwe ku ngingo ya 2 (b) y'Itegeko N° 059/2023 ryo ku wa 4/12/2023, rihindura Itegeko N 68/2018 ryo ku wa 30/8/2018 riteganyaga ibyaha n'ibihano nk'uko ryahinduwe kugeza ubu, iteganyaga ko iyo umucamanza yemeje impamvu nyoroshyacyaha, igifungo kimara igihe kizwi kiva ku mezi 6 kuzamura gishobora kugabanywa, ariko ntikijye munsu ya kimwe cya kabiri cy'igihano gito giteganyirijwe icyaha cyakozwe; bityo igihano cy'igifungo cy'imyaka 20 Kayitare Jacques yahanishijwe kikaba gikwiriye kugabanywa, agahanishwa igifungo cy'imyaka cumi n'ibiri n'amezi 6.

Incamake y'icyemezo: Nta cyabuza Urukiko kugabanyiriza igihano uregwa, hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha kabone n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro. Ubujurire nta shingiro bufite. Amategeko yashingiweho: Itegeko N° 059/2023 ryo ku wa 4/12/2023, rihindura Itegeko N 68/2018 ryo ku wa 30/8/2018 riteganyaga ibyaha n'ibihano nk'uko ryahinduwe kugeza ubu, ingingo ya 2; Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, ingingo ya 49.

Imanza zifashishijwe: Urubanza RPAA 00039/2021/CA rw' Ubushinjacyaha na Shakabatenda; rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07/2021; Urubanza RPAA 00445/2023/CA rw'Ubushinjacyaha na Ayingeneye; rwaciwe n'Urukiko rw'Ubujurire, ku wa 27/12/2024; Urubanza RPAA 00582/2021/CA rw' Ubushinjacyaha na Nyiraminani Julienne n'abandi; rwaciwe n'Urukiko rw'Ubujurire ku wa 25/02/2025.

Urubanza I. IMITERERE Y'URUBANZA [1] Mu ijoro ryo ku wa 04/03/2018 hamenyekanye amakuru y'uko mu Mudugudu wa Kabukungu, Akagari ka Ndatemwa Umurenge wa Kiziguro, Akarere ka Gatsibo mu Ntara

Page 3

y'Iburasirazuba, uwitwa Bahizi André ubwo yari ageze hafi y'urugo rwe ataha yahuye n'abantu baramukomeretsa, hakekwa ko byakozwe na Kayitare Jacques afatanyije na Turikumwe Saidi. [2] Kayitare Jacques yahise afatwa ashyikirizwa inzego z'ikurikiranacyaha, iperereza rirangiye Ubushinjacyaha bumurega hamwe na Turikumwe Saidi mu Rukiko Rwisumbuye rwa Nyagatare bubakurikiranyeho ubwinjiracyaha mu cyaha cy'ubwicanyi, busaba ko kibahama bagahanishwa igifungo cya burundu. Kayitare Jacques yaburanye avuga ko icyaha ashinjwa atacyemera, naho Turikumwe Saidi aburanishwa adahari ariko yarahamagajwe mu buryo bukurikije amategeko. [3] Mu rubanza RP 00141/2018/TGI/NYG rwaciwe n'Urukiko Rwisumbuye rwa Nyagatare ku wa 30/06/2020, rwemeje ko Kayitare Jacques na Turikumwe Saidi bahamwa n'ubwinjiracyaha mu cyaha cy'ubwicanyi cyakorewe Bahizi André, rutegeka ko buri wese ahanisha igifungo cy'imyaka 25. Ibyo Urukiko rwabishingiye ku mpamvu n'ibimenyetso bikurikira:

- Kuba Kayitare Jacques yemera ko yahuye na Bahizi André kandi umugore we akaba amushinja ko yamunyuzeho afite amasuka;
- Kuba hari abatangabuhamya barimo Uwingeneye Madina, Birangamoya na Baranoga Pascal bamushinja, hakaba n'abana barimo Ndayabeza Gakuru na Mugarura Aman bemeza ko Kayitare Jacques yabirukankanye afite inkoni yari yatse Bahizi André kandi ko babonye batongana;
- Raporo ya muganga igaragaza ko Bahizi André yari yakomerekejwe mu mutwe. [4] Kayitare Jacques yajuririye Urukiko Rukuru, Urugereko rwa Rwamagana avuga ko yahamijwe icyaha atakoze kuko yafashwe avuye guhinga nyamara uwo bavuga wakubiswe akaba atamuzi; asaba ko hakorwa iperereza hagakurikiranwa abakoze icyo cyaha, anasaba kugabanyirizwa igihano kandi agasubizwa amafaranga ye na telefoni byatwawe n'abamufashe. [5] Uhagarariye Ubushinjacyaha yaburanye avuga ko ubujurire bwa Kayitare Jacques nta shingiro bufite kuko atabasha kuvuguruza ibimenyetso byashingiweho n'Urukiko rumuhamya icyaha. [6] Mu rubanza RPA00492/2020/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 11/02/2022, rwasanze ubujurire bwa Kayitare Jacques nta shingiro bufite kuko atashoboye kuvuguruza ibimenyetso byashingiweho ahamwa n'icyaha ku rwego rwa mbere, bigizwe n'imvugo y'uwahohotewe, imvugo z'abatangabuhamya bamushinja, raporo ya muganga igaragaza ko Bahizi André yari yakomeretse mu mutwe

afite n'ibisebe mu gahanga, na raporo y'inzeho z'ibanze ibisobanura. [7] Urukiko cyakora rwamugabanyirije igihano kuko ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi kandi hakaba nta yindi myitwarire idasanzwe yamugaragayeho, hanagamijwe gutanga ubutabera buboneye no guhuza uburemere bw'icyaha n'inyungu z'igihano k'ugihawe; rumuhanisha igifungo cy'imyaka 20. [8] Kayitare Jacques yongeye kujurira mu Rukiko Rukiko rw'Ubujurire, urubanza ruhabwa RPAA 00497/2023/CA, ruburanishwa mu ruhamwe ku wa 07/02/2025 no ku wa 14/03/2025,

Page 4

yunganiwe na Me Mugabo Sharif Yussuf naho Ubushinjacyaha buhagarariwe na Habineza Jean Damascène, Umushinjacyaha ku Rwego rw'Igihugu. [9] Mu bujurire bwe Kayitare Jacques avuga ko yahamijwe icyaha mu buryo bugenekereje nta kimenyetso simusiga Urukiko rushingiyeho cyemeza nta shiti ko yagikoze. Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Kayitare Jacques nta shingiro bufite kuko atabasha kuvuguruza ibimenyetso byashingiweho n'Urukiko Rukuru, Urugereko rwa Rwamagana rumuhamya icyaha, bityo rero akaba atagaragaza icyo anenga urubanza yajuririyeho. [10] Hashingiwe ku mpaka zagaragajwe haruguru, Urukiko rurasuzuma niba Kayitare Jacques yarahamijwe icyaha hadashingiwe ku bimenyetso byemeza ko yagikoze. II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba Kayitare Jacques yarahamijwe icyaha hadashingiwe ku bimenyetso byemeza ko yagikoze [11] Kayitare Jacques na Me Mugabo Sharif Yussuf umwunganira bavuga yajuririyeho kuko yahamijwe icyaha hashingiwe ku bimenyetso birimo icyuho ku buryo bidahagije kugira ngo hemezwe ko yagikoze, cyane cyane ko atafatiwe mu cyuho kandi ntihagaragazwe icyo yapfaga na Bahizi André. [12] Me Mugabo Sharif Yussuf asobanura ko imvugo za Bahizi André zigaragaza ko yatandukanye na Kayitare Jacques atarakubitwa, kuko avuga ko yahuye nawe (ari kumwe na Turikumwe Saidi) hanyuma hakaza abana Kayitare Jacques agahita ashikuzwa Bahizi André inkoni yari afite akirukankana abo bana akanahita yikomereza agataha. Kayitare Jacques n'umwunganira bavuga kandi ko ibi binashimangirwa n'imvugo z'abo bana n'abandi batangabuhamya bakurikira babajijwe mu Bugenzacyaha:

- Ndayabeza Gakuru na Mugarura Aman bavuze ko bahuye na Kayitare Jacques mu nzira akabirukankana afite inkoni yari yambuye Bahizi André;
- Uwingeneye Madina wavuze ko yabonye Kayitare Jacques mu masaha ya saa tatu z'ijoro afite isuka n'umuhini wayo, inzoga ya chief zebra n'inkoni ya Bahizi André arimo yirukankana abana ashaka kuyibakubita, hanyuma Uwingeneye Madina amuturuka inyuma aramufata amubaza impamvu yirukankana abo bana mu gihe bakirimo kubisiganira haza uwitwa Baranoga Pascal arababwira ngo bamukomeze yishe umuntu;
- Baranoga Pascal nawe yavuze ko ubwo yari mu rugo yumvise ikintu gikubise bajya kureba, bamuritse n'itoroshi basanga Bahizi André yegetse mu miyenzi hafi y'urugo rwe, umugore we avuga ko ahuye n'umuntu yiruka cyane, bamwirukaho bageze mu Mudugudu bahasanga igikundi cy'abantu bafashe Kayitare Jacques. [13] Me Mugabo Sharif Yussuf avuga ko izo mvugo z'abatangabuhamya zuzuzanya n'imvugo ya Bahizi André mu kugaragaza ko bitari

gushoboka ko Kayitare Jacques aba ari ahantu habiri icyarimwe, kuko atari kuba arimo kwirukankana abana ngo yongere ajye no gutegeza Bahizi André hafi y'iwe amukubite isuka mu mutwe nk'uko abishinjwa, cyane ko ntaho byagaragajwe ko nyuma yo kwirukankana abana Kayitare Jacques yaba yararagariye mu nzira akabona kujya gukora icyaha ashinjwa.

Page 5

- [14] Me Mugabo Sharif Yussuf avuga kandi ko isuka bavugaga ko Kayitare Jacques yakubise Bahizi André itagaragajwe, naho Raporo y'Ubuyobozi bw'inzego z'ibanze ikaba itashingirwaho nk'ikimenyetso gishinja Kayitare Jacques kuko ari inyandikomvugo ikorwa n'Ubuyobozi buherereye ku byabaye. Asoza asaba Urukiko gushingira ku ngingo ya 111 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza nshinjabyaha rukemeza ko Kayitare Jacques ari umweme. [15] Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Kayitare Jacques nta shingiro bufite, kuko ibimenyetso bikurikira byashingiweho n'Urukiko Rukuru, Urugereko rwa Rwamagana byemeza ko yagikoze:
- Kuba mu ibazwa rya Kayitare Jacques yaremeye ko yahuye na Bahizi André kandi ko bashyamiranye ubwo we na Turikumwe Saidi bamusabaga ko aza bagasangira inzoga yo mu bwoko bwa chief zebra akabyanga, akanemera ko yamwatse inkoni yari afite;
 - Kuba Kayitare Jacques yari atahanyeye n'umugore we ariko nk'uko uyu abisobanura bagera mu nzira Kayitare Jacques agasubira inyuma bataragera mu rugo, avuga ko agiye kubaza abantu bari bamaze kugirana ikibazo impamvu yabibabwirye; ko rero muri icyo gihe rero ari bwo we na Turikumwe Saidi bakurikiye Bahizi André bakamugirira nabi;
 - Kuba kandi mu ibazwa rye Kayitare Jacques avugaga ko avuye guhinga nta suka yatahanyeye mu gihe umugore we yemeza ko yayitahanyeye idakwiriye neza, hakaba hari n'abatangabuhamya bemeza ko bayimubonye; ko n'ubwo iyo suka itabonetse kuko hari nijoro Kayitare Jacques ariwe wabazwa aho yayishyize;
 - Kuba kandi Kayitare Jacques yari kumwe na Turikumwe Saidi wari usanzwe afitanye ikibazo na Bahizi André kuko uyu yigeze kumukubita ubwo yari yibye nk'uko Bahizi André yabisobanuye, bikaba bivugaga ko hari n'impamvu yo kumugirira nabi ngo kuko uretse kumukomeretsa bikomeye, yavuye ko banamwambuye 12.000 FRW yari avuye kwishyura aho yagemuraga amata. [16] Uhagarariye Ubushinjacyaha akomeza asobanura ko mu Rukiko Rukuru, Urugereko rwa Rwamagana Kayitare Jacques yashatse kwemera icyaha ariko ntiyabisobanura neza, kuko yasabye kugabanyirizwa igihano ngo ku mpamvu y'uko nta wundi wakoze icyaha wafashwe ariko Urukiko ntirwabiha agaciro; ko rero kuba kuri uru rwego rw'ubujurire noneho asaba kugirwa umweme byaba ari ingingo nshya itemewe mu bujurire hashingiwe ku murongo watanze rubaza RPAA 00048/2020/CA rwaciye n'uru Rukiko ku wa 26/05/2022 haburana Ubushinjacyaha na Bimenyimana Jean Paul, aho rwasobanuye ko bitemewe kuzana mu bujurire ingingo nshya itarasuzumwe mu rukiko rubanza kuko umucamanza wo ku rwego rw'ubujurire aba afite gusa inshingano yo gukosora amakosa yaba yarakozwe n'Urukiko ku rwego rubanza. [17] Uhagarariye

Ubushinjacyaha asoza asaba Urukiko gushingira ku ngingo ya 1071, igika cya 3, y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, rukemeza ko Kayitare Jacques ahamwa n'icyaha ashinjwa kuko atashoboye kuvuguruza ibimenyetso byashingiweho mu kukimuhamya.

1 Iyo ngingo igira iti: “... icyakora, iyo icyaha cyabonewe ibimenyetso bikigaragaza, ugukurikanyweho cyangwa umwunganira ashobora kwerekana impamvu zose yireguza, zerekana ko ikirego kitakwemerwa, zihamya ko icyo aregwa atari icyaha cyangwa se ko ari umwere n'izindi mpamvu zose zivuguruza izimuhamya icyo cyaha”.

Page 6

UKO URUKIKO RUBIBONA [18] Impaka muri uru rubanza zishingiye ku kumenya niba Urukiko Rukuru, Urugereko rwa Rwamagana rwarahamije Kayitare Jacques ubwinjiracyaha mu cyaha cy'ubwicanyi cyakorewe Bahizi André hadashingiwe ku bimenyetso byemeza ko yagikoze. [19] Ikibazo cy'ibimenyetso mu manza n'itangwa ryabyo cyasesenguwe mu rubanza RPAA 00692/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 20/01/2023, haburana Ubushinjacyaha na Ndayishimiye Jean Damascène, Urukiko rukaba rwarasobanuye 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. Uyu murongo wakurikijwe mu manza zitandukanye zaciwe n'uru Rukiko, mu ziheruka harimo nk'urubanza RPAA 00537/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 21/02/2025 haburana Ubushinjacyaha na Ubonabenshi Edison (igika cya 23), n'urubanza RPAA 00485/2023/CA rwaciwe ku wa 21/03/2025 haburana Ubushinjacyaha na URIHO Japhey (igika cya 20). [20] Kayitare Jacques anenga urubanza rujuririrwa kuba yarahamijwe icyaha cy'ubwinjiracyaha mu cyaha cy'ubwicanyi cyakorewe Bahizi André ubwo yakomeretswaga ageze hafi y'urugo rwe nta kimenyetso gishingiweho cyemeza ko yagikoze, kuko hatagaragajwe ko nyuma yo kwirukankana abana bavuzwe haruguru Kayitare Jacques yaba yaragarukiye mu nzira akabona kujya gukora icyaha ashinjwa, ko bitari gushoboka ko aba arimo kwirukankana abo bana ngo anasubire inyuma aje kugirira nabi Bahizi André; ndetse hakaba hatagaragajwe isuka bavuga ko yakumukubise. [21] Dosiye igaragaza ko Bahizi André atanga ikirego yasobanuye ko ubwo yari atashye yageze ahantu hari urutindo ahasanga Kayitare Jacques ahagararanye na Turikumwe Saidi bafite inzoga ya chief, Kayitare Jacques afite isuka idakwikiye ariko iri mu muhini wayo; bamusaba ko basangira iyo nzoga arabyanga, hanyuma haza abana babiri bari bavuye gushesha Kayitare Jacques ashikuza Bahizi André inkoni yari afite yirukankana abo bana, Bahizi André we arakomeza arataha ageze hafi y'urugo rwe yumva umuntu aramuteze yitura hasi, uwo muntu amupfuka umunwa yumva ijwi ari irya Turikumwe Saidi avuga ngo turakwica tu, yumva undi muntu aramunize ariko we ntiyamumenya, hanyuma Kayitare Jacques we amutemaguza isuka, bumvise haje abantu bahita biruka. [22] Ku bijyanye n'imvugo z'abandi batangabuhamya, dosiye igaragaza ibikurikira:

- Umugore wa Kayitare Jacques witwa Uwamwibaza Pélégie, mu ibazwa rye mu Bugenzacyaha yasobanuye ko ubwo bari batashye bavuye guhinga Kayitare Jacques yari afite isuka (nini) bari bahingishije n'umuhini wayo, irimo agahato gato kadafashe kuko yari yakutse. Yasobanuye kandi ko ubwo bari mu nzira bataha, bageze ahitwa Ndatemwa bahasanze abagabo babiri bakubita Kayitare Jacques inkoni bari bafite ngo kuko yari abatutse (abise ba shahu), hanyuma umugore we amusabira imbabazi barakomeza baragenda, ariko bageze imbere Kayitare Jacques asubira inyuma avuga ko agiye kubaza

Page 7

abo bantu icyo bamuhoye, kandi ko yasubiyeyo afite ya suka n'umuhini wayo irimo agahato gato kadafashe;

- Ndayabeza Gakuru na Mugarura Amani babazwa mu Bugenzacyaha basobanuye ko ubwo bari bavuye gushesha basanze Bahizi André ari kumwe n'umugabo barimo gutongana/barwana, Bahizi André avuga ngo baramwishe, abo bana bahageze barahagarara, uwo mugabo yaka Bahizi André inkoni yari afite arabirukankana, abo bana bageze imbere basubira inyuma kureba Bahizi André ntibamubona, uwo mugabo arongera arabirukanakana, kubera ubwoba barataha; hanyuma muri iryo joro bageze mu Mudugudu baza kumva ko hari umugabo bafashe amaze gukubita Bahizi André, bagiye kureba basanga ni wawundi wahoze abirukankana (Kayitare Jacques niwe wari wafashwe);
- Abatagabuhamya Uwingeneye Madina na Birangamoya Manevure mu ibazwa ryabo mu Bugenzacyaha basobanuye ko ubwo Kayitare Jacques yafatwaga bavuga ko asize yishe umuntu, yari afite isuka n'umuhini, ariko ko iyo suka yaje gutwarwa n'umugore wa Kayitare Jacques nawe wari aho. [23] Dosiye kandi igaragaza ko hari inyandikomvugo y'ifatira ry'umuhini w'isuka wari uriho amaraso, kandi mu gihe yabazwaga mu Bushinjacyaha umugore wa Kayitare Jacques witwa Uwamwibaza Pélégie akaba yaremeje ko yabonye uwo muhini asanga ari uwo Kayitare Jacques yari afite hamwe n'isuka ubwo bavaga guhinga, anemeza ko wari uriho amaraso; no mu iburanisha muri uru Rukiko akaba yaremeje ko bamweretse uwo muhini agasanga ari uw'isuka yabo. [24] Dosiye kandi igaragaza ko kuva yafatwa Kayitare Jacques we yahakanaga icyaha ashinjwa, akavuga ko ubwo yari avuye guhinga nta suka n'umuhini yari afite kuko amasuka bahingishije bari bayasizeyo, akanavuga ko atigeze ahura na Bahizi André ndetse ko atamuzi. [25] Urukiko rw'Ubujurire rurasanga mu mvugo z'abatagabuhamya Ndayabeza Gakuru na Mugarura Amani ntaho bavuga ko ubwo basangaga Kayitare Jacques arimo gutongana/kurwana na Bahizi André akamwambura inkoni yari afite akabirukankana, yahise akomeza nawe agataha; ahubwo icyumvikana mu mvugo z'abo batangabuhamya ni uko Kayitare Jacques yabirukanye, baragenda bageze imbere baragaruka arongera arabirukana, ibi bikaba byumvikanisha ko n'ubwo Kayitare Jacques yabirukanaga atahise ava aho ngo akomeze atahe nk'uko umwunganira ashaka kubyumvikanisha mu miburanire ye. [26] Urukiko rw'Ubujurire rurasanga rero nk'uko byagaragajwe haruguru, kuba umugore wa Kayitare Jacques yemeza ko ubwo bari mu nzira bataha yasubiye inyuma akajyana isuka yari afite irimo n'umuhini

wayo; kuba Ndayabeza Gakuru na Mugarura Amani bemeza ko basanze Kayitare Jacques arimo gutongana/kurwana na Bahizi André uyu avuga ngo baramwishe; kuba kandi Bahizi André avuga ko Kayitare Jacques ari mu bamukubise ubwo yari ageze hafi y'urugo rwe ataha, kandi ko uyu ari we wamukubise isuka mu mutwe; kuba abatangabuhamya Uwingeneye Madina na Birangamoya Manevure bari mu bafashe Kayitare Jacques ubwo Bahizi André yari akimara gukomeretswa nabo bemeza ko ubwo yafatwaga yari afite isuka n'umuhini; kuba uwo muhini wari uriho amaraso nk'uko bigaragazwa n'inyandikomvugo y'ifatira ryawo bikanemezwa n'umugore wa Kayitare Jacques, ari ibimenyetso bihagije kandi bigaragaza ko Kayitare Jacques ari mu bakomerekeje Bahizi André hashingiwe ku murongo watanze mu rubanza rwagaragajwe haruguru (igika cya 19) cyane cyane ko atabasha kugaragaza ko uwo muhini waba waravuye mu maboko ye n'undi waba yarawukoresheje.

Page 8

[27] Urukiko rw'Ubujurire rurasanga kuba isuka itaragaragaye bidakuraho ko Bahizi André yakomerekejwe mu mutwe hashingwe kuri raporo ya muganga (expertise medicale) iri muri dosiye, igaragaza ko yari afite ibikomere bibiri bigari (larges) ku gice cy'umutwe ahagana mu gahanga no mu musaya w'iburyo; kandi nk'uko byasobanuwe haruguru umuhini w'isuka Kayitare Jacques yari afite ubwo yafatwaga Bahizi André akimara gukomeretswa ukaba wari uriho amaraso. [28] Hashingiwe ku bisobanuro byose byatanze, ubujurire bwa Kayitare Jacques bukaba nta shingiro bufite. [29] Urukiko rw'Ubujurire rurasanga ariko n'ubwo ubujurire bwa Kayitare Jacques budahawe ishingiro, nta cyabuza ko hasuzumwa ibijyanye n'igihano yahanishijwe hagamijwe kureba niba gihwanye n'uburemere bw'icyaha yakoze, nk'uko byatanzweho umurongo n'uru Rukiko mu rubanza RPAA 00039/2021/CA rwaciwe ku wa 02/07/2021 haburana Ubushinjacyaha na Shakabatenda Jean de Dieu, aho rwarasesenguye ingingo ya 49, igika cya mbere y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu2 maze rugatanga umurongo uvuga ko "nta cyabuza Urukiko kugabanyiriza igihano uregwa, hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha kabone n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro"; uwo murongo kandi ukaba waragiye ukurikizwa mu zindi manza zaciwe n'uru Rukiko, mu zaciwe vuba hakaba harimo nk'urubanza RPAA 00445/2023/CA rwaciwe ku wa 27/12/2024 haburana Ubushinjacyaha na Ayingeneye Jeanne (igika cya 25) n'urubanza RPAA 00582/2021/CA rwaciwe ku wa 25/02/2025 haburana Ubushinjacyaha na Nyiraminani Julienne n'abandi (igika cya 27 n'icya 28). [30] Uru Rukiko rw'Ubujurire rurasanga n'ubwo icyaha cy'ubwinjiracyaha bw'ubwicanyi3 Kayitare Jacques yakoze ari icyaha cy'ubugome, kuba nta ngaruka zikomeye cyataye kandi akaba nta kindi cyaha yahamijwe n'inkiko mu buryo buzwi byamubera impamvu nyoroshyacyaha zashingirwaho igihano yahanishijwe cyongera kugabanywa hashingiwe ku ngingo ya 2 (b) y'Itegeko N° 059/2023 ryo ku wa 4/12/2023, rihindura Itegeko N 68/2018 ryo ku wa 30/8/2018 riteganyaye ibyaha n'ibihano nk'uko ryahinduwe kugeza ubu, iteganyaye ko iyo umucamanza yemeje impamvu nyoroshyacyaha, igifungo kimara igihe kizwi kiva ku mezi 6 kuzamura gishobora kugabanywa, ariko ntikijye munsu ya kimwe cya kabiri cy'igihano gito giteganyirijwe icyaha

cyakozwe; bityo igihano cy'igifungo cy'imyaka 20 Kayitare Jacques yahanishijwe kikaba gikwiriye kugabanywa, agahanishwa igifungo cy'imyaka cumi n'ibiri n'amezi 6. III. ICYEMEZO CY'URUKIKO [31] Rwemeje ko ubujurire bwa Kayitare Jacques nta shingiro bufite.

2 Iyo ngingo ya 49 iteganya 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».

3 Ingingo ya 21, igika cya 3, y'Itegeko N 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano nk'uko ryahinduwe kugeza ubu, iteganya ko ubwinjiracyaha bw'icyaha gihanishwa igifungo cya burundu buhanishwa igihano cy'igifungo kingana n'imyaka makumyabiri n'itanu (25).

Page 9

[32] Rwemeje ko urubanza RPA 00492/2020/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 06/11/2023 ruhindutse gusa ku bijyanye n'igihano Kayitare Jacques ahanishijwe. [33] Ruhanishije Kayitare Jacques igihano cy'igifungo cy'imyaka cumi n'ibiri n'amezi atandatu. [34] Rutegetse ko Kayitare Jacques asonewe amagarama y'urubanza kuko aburana afunze.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.amategeko.gov.rw/view/doc/9931/10436>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/attemptedmurder-court-of-appeal-2025>

Prepared on 11 October 2026 · Esheria