

RWANDA / JUDGMENT

UBUSHINJACYAHA v KAYIBANDA N'ABANDI

RPA 00002/2019/CA - RPA 00015/2019/CA

COURT

Court of Appeal

DECIDED

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UBUSHINJACYAHA v KAYIBANDA N'ABANDI

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UBUSHINJACYAHA v KAYIBANDA N'ABANDI [Rwanda URUKIKO RW'UBUJURIRE – RPA 00002/2019/CA-RPA 00015/2019/CA (Gakwaya, P.J, Kaliwabo na Tugireyezu, J.) 19 Nyakanga 2019]

Amategeko agenga imiburanire y'imanza mpanabyaha -- Guhindura imvugo k'uregwa – Umucamanza uburanisha urubanza mu mizi niwe wemeza ko ibyo uregwa yemeye mu gihe cy'iperereza ari ukuri kudashidikanywaho n'iyi yakwisubiraho mu rukiko akagira ibyo ahindura cyangwa ahakana ku byo yari yavuze mbere. Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rukuru, haregwa Kayibanda, Girukwayo, Habarugira, Murekezi na Hagenimana babarega icyaha cy'ubufatanyacyaha mu cyaha cyo gukwiza impuha zigamije kwangisha Leta y'u Rwanda mu bihugu by'amahanga, n'icyaha cy'ubufatanyacyaha mu cyaha cyo gutera inkunga iterabwoba.Urukiko rwafashe icyemezo, rwemeza ko Kayibanda na Girukwayo bahamwa nibyo byaha, naho Hagenimana ahamwa n'icyaha cy'ubufatanyacyaha mu cyaha cyo gutera inkunga imitwe y'iterabwoba, Murekezi ahamwa n'icyaha cyo kwemera kuba mu ishyirahamwe rikora iterabwoba. Urukiko rwarabibahamije ibyaha rushingiye ku kwemera icyaha bakoreye

m'Ubugenzacyaha no m'Ubushinjacyaha, naho Habarugira rumugira umwere. Kayibanda, Murekezi na Hagenimana bajuririye Urukiko rw'Ikirenga, urubanza rw'imurirwa mu Rukiko rw'Ubujurire rumaze gushyirwaho. Bakaba barajuririye bavuga ko Urukiko Rukuru rwabahamije ibyaha kandi barabihakanye mu Rukiko kandi rugashingira ku mvugo y'umutangabuhamya nawe yaje guhindura ubuhamya bwe imbere y'Urukiko ko kandi kuba barabyemeye imbere y'Ubugenzacyaha n'Ubushinjacyaha ari uko bakorewe ibabazamubiri babyemera kugahato. Ubushinjacyaha bwo buvuga ko Urukiko rwabahamije icyaha bushingiye ku buhamya bwatanzwe butigeze buvuguzwa ndetse no kuba bariyemereye ibyaha m'Ubugenzacyaha no m'Ubushinjacyaha kandi nta gahato kabayeho bakaba batabigaragariza ibimenyetso ko kabayeho, bityo bugasanga nta kosa Urukiko rwakoze rubamya ibyaha. Incamake y'icyemezo: 1. Umucamanza uburanisha urubanza mu mizi niwe wemeza ko ibyo uregwa yemeye mu gihe cy'iperereza ari ukuri kudashidikanywaho n'iyi yakwisubiraho mu rukiko akagira ibyo ahindura cyangwa ahakana ku byo yari yavuze mbere, bityo Kayibanda, Murekezi na Hagenimana bakaba bahamwa n'ibyaha barezwe hashingiye ko bemereye ibyaha baregwa imbere y'Ubugenzacyaha ndetse n'Imbere y'Ushinjacyaha. Ubujurire nta shingiro bufite. Amategeko yashyimiye: Itegeko No 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 57 n'ya 86 Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 119 Imanza zifashishijwe Urubanza RPA 0176/11/CS; Ubushinjacyaha v Mukashema Janvière n'undi rwaciye n'Urukiko rw'Ikirenga kuwa 16/10/2015.

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Inyandiko z'abahanga zifashishijwe: Michel Franchimont, Manuel de Procédure Pénale, 2ème Ed., Collection scientifique de la Faculté de Droit de Liège, 2006, p.1042 Urubanza I. IMITERERE Y'URUBANZA [1] Uru rubanza rwatangiriye mu Rukiko Rukuru, Ubushinjacyaha burega Kayibanda Donatien, Girukwayo Samuel, Habarugira Samuel, Murekezi Yohani na Hagenimana Simon buvuga ko mu mwaka wa 2014 uwitwa Samvura Elie alias Mwidishyi, umurwanashyaka wa FDLR, yatangiye kwigisha bamwe mu baturage bo mu Murenge wa Bugarama, ababwira ko barenganywa na Leta, nko kuba bakwa umusoro ku nzu zituwemo kandi zitabinjiriza umusaruro, kuba bahinga umuceri ariko bakaba badashobora gufataho na muke wo kugaburira abana, kuba barambuwe amasambu ntibahabwe ingurane, n'ibindi. Ubushinjacyaha buvuga ko ari muri urwo rwego uyu Samvura Elie yatumiye mu nama Girukwayo Samuel, Kayibanda Donatien, Murekezi Yohani, Habarugira Samuel na Hagenimana Simoni, akabakangurira kujya muri FDLR no gutanga inkunga zo kuyifasha, izi nama zikaba zarabaga zinarimo uwitwa Shukuru bivugwa ko ari umukongomani ukorana na FDLR muri Repubulika Ihariyira Demokarasi ya Congo (DRC), akaba n'umuhuza w'abarwanashyaka bayo bakorera mu Rwanda. [2] Ubushinjacyaha kandi bwaregaga abo bamaze kuvugwa, ko bakoze icyaha cyo gukwirakwiza ibihuha bigamije kwangisha u Rwanda mu bihugu by'amahanga, buvuga ko Kayibanda Donatien, Girukwayo Samuel na Habarugira Samuel babwiye umupolisi w'umurundi witwa Ntakirutimana Jean Marie alias Gafako ko hari impunzi z'Abarundi n'Abanyamurenge bayobowe na Colonel Mukanika bakorera imyitozo mu Rwanda bagamije gutera igihugu cy'u Burundi, ndetse ko bashushanyije inzu zikorera Gasutamo ya Ruhwa bagaragaza ko yakozwe n'u Rwanda, bagamije kwica umwe

mu bakozi uhakorera kuko ababangamira ku mupaka, buvuga ko icyo gishushanyo Kayibanda Donatien yagihaye uwo mupolisi w'i Burundi. [3] Ku itariki ya 15/02/2018, Urukiko Rukuru rwaciye urubanza RP 00014/2017/HC/KIG, rwemeza ko Kayibanda Donatien na Girukwayo Samuel bahamwa n'icyaha cy'ubufatanyacyaha mu cyaha cyo gutera inkunga imitwe y'iterabwoba n'icy'ubufatanyacyaha mu cyaha cyo gukwiza impuha zigamije kwangisha Leta y'u Rwanda mu bihugu by'amahanga, kuri Kayibanda Donatien rushingira ku mvugo ye mu Bugenzacyaha no mu Bushinjacyaha, aho yemeye ibyo aregwa, no ku mvugo ya Girukwayo Samuel umushinja, naho kuri Girukwayo Samuel rushingira ku kuba yaremeye ibyaha byose aregwa mu Rukiko Rukuru, ruhanisha Kayibanda Donatien igifungo cy'imyaka 7 naho Girukwayo rumuhanisha igifungo cy'imyaka ine (4). [4] Urukiko rwemeje na none ko Hagenimana Simon ahamwa n'icyaha cy'ubufatanyacyaha mu cyaha cyo gutera inkunga imitwe y'iterabwoba rushingiye ku mvugo ye mu Bugenzacyaha no mu Bushinjacyaha, aho yemereye kuba yatanze inkunga yo gushyigikira ingabo z'Umwami kandi akaba ashinjwa na Girukwayo Samuel, rumuhanisha igifungo cy'imyaka itanu (5) n'ihazabu ya 104.000 Frw, rwemeza kandi ko Murekezi Yohani ahamwa n'icyaha cyo kwemera kuba mu ishyirahamwe rikora iterabwoba rushingiye ko yacyemeye mu ibazwa rye mu Bugenzacyaha no mu Bushinjacyaha kandi ko nawe ashinjwa na Girukwayo, rumuhanisha igifungo cy'imyaka 7, naho Habarugira Samuel rwemeza ko ari umwere. [5] Kayibanda Donatien, Murekezi Yohani na Hagenimana Simon ntibishimiye imikirize y'urubanza, bajuririra Urukiko rw'Ikirenga, Kayibanda Donatien avuga ko Urukiko rwamuhamije icyaha rwirengagije ukwiregura kwe, ko ubuhamya bwa Girukwayo Samuel bwashingiweho yageze

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mu Rukiko akabuhindura, ko Ubushinjacyaha butagaragaza inyandiko buvuga irimo impuha, kandi ko amafaranga avugwa ko yatanze inkunga ya FDLR yayahaye sebukwe Samvura Elie mu rwego rwo kumusura, akaba ataratangiwe mu nama kuko nta nyandiko-mvugo yayo Ubushinjacyaha bwerekana. Murekezi Yohani avuga ko yahamijwe icyaha hashingiwe ku buhamya bwa Girukwayo Samuel butagaragaye mu iburanisha ndetse atigeze yisobanuraho, asaba kugirwa umwere kuko ibyaha aregwa atabikoze. Hagenimana Simon asaba kurenganurwa kuko Urukiko rwashingiye ku buhamya bwa Girukwayo Samuel kandi yarageze imbere y'Urukiko Rukuru akabuhakana, kandi ko kuvuga ko yemeye icyaha mu Bugenzacyaha bitari gushingirwaho kuko yacyemejwe n'inkoni. [6] Nyuma y'ishyirwaho ry'Urukiko rw'Ubujurire, ubujurire bwabo bwoherejwe muri urwo Rukiko hashingiwe ku ngingo ya 52 na 105 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko1, buhabwa n° RPA 00002/2019/CA - RPA 00015/2019/CA. [7] Ku wa 19/06/2019, iburanisha ry'urubanza ryabereye mu ruhamwe, Kayibanda Donatien yunganiwe na Me Karugu Céline, Hagenimana Simon yunganiwe na Me Nyirabasinga Hélène, Murekezi Yohani yunganiwe na Me Nsengimana Faustin, Ubushinjacyaha buhagarariwe na Niyonzima Vincent, Umushinjacyaha ku Rwego rw'Igihugu. [8] Ikibazo kigomba gusuzumwa muri uru rubanza akaba ari ukumenya niba Kayibanda Donatien, Murekezi Yohani na Hagenimana Simon barahamijwe ibyaha baregwa hashingiwe ku bimenyetso bidashidikanywaho; II. IKIBAZO KIRI MU RUBANZA N'ISESENGURA RYACYO Kumenya niba Kayibanda Donatien, Murekezi Yohani na Hagenimana Simon barahamijwe ibyaha baregwa

hashingiwe ku bimenyetso bidashidikanywaho.

- a. Kuri Kayibanda Donatien [9] Kayibanda Donatien ajurira avuga ko Urukiko Rukuru rwamuhamije icyaha cyo gutera inkunga FDLR no kwitabira inama zayo rushingiye ku buhamya bwa Girukwayo Samuel, kandi uyu yarisubiyeho mu Rukiko Rukuru, akavuga ko yahawe ubutumwa (mission) na Kubana Zefaniya bwo kumushinja. Avuga kandi ko asanzwe afite icyo apfa na Girukwayo Samuel wamushinje, kuko yamwatiye umurima ku bihumbi cumi na bine (14.000 Frw), akamwishyura ibihumbi birindwi gusa (7.000 Frw), maze akamwambura asigaye. [10] Ku byerekeranye n'amafaranga ibihumbi bibiri (2000 Frw) aregwa ko yatanze muri FDLR, Kayibanda Donatien asobanura ko yayahaye sebukwe Samvura Elie kuko yari amaze iminsi afunguwe kugirango azagure inzoga ndetse amuguriza n'amafaranga igihumbi (1000 Frw) ngo azagure ifumbire; ko rero atayamuhaye mu rwego rwo gutera inkunga FDLR. Avuga ko kuba mu Bugenzacyaha yaremeye ibyaha aregwa, byatewe n'ibabazamubiri yakorewe, abarimukoreye bakaba bari bamupfutse mu maso ku buryo atari aho yari aherereye, kandi ko umupolisi wamubajije mu Bugenzacyaha yamuherekeje no mu Bushinjacyaha akamubwira ko ibyo yemeye mbere agomba gukomeza kubyemera kugira ngo azamurekure.

1 Ingingo ya 52 iteganya ko Urukiko rw'Ubujurire rufite ububasha bwo kuburanisha ku rwego rw'ubujurire bwa mbere, imanza zaciwe mu rwego rwa mbere n'Urukiko Rukuru, Urukiko Rukuru rw'Ubucuruzi n'Urukiko Rukuru rwa Gisirikare n'ingingo ya 105, igika cya 1, ivuga ko : « Guhera igihe iri tegeko ritangiriye gukurikizwa, uretse imanza zatangiye kuburanishwa, imanza zose zitakiri mu bubasha bw'urukiko zaregowe, zohererezwa Urukiko rubifitiye ububasha hakurikijwe ibiteganywa n'iri tegeko.

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- [11] Ku birebana n'ibaruwa irimo impuha aregwa, Kayibanda Donatien avuga ko hari ibaruwa yahawe na Nsengiyumva ngo ayimushyirire umurundi, ariko arayigarura kubera ko atamubonye, kandi ko atari azi ibyari biyikubiyemo kuko atigeze ayifungura. [12] Me Karugu Céline umwunganira, avuga ko Kayibanda Donatien yahamijwe icyaha n'Urukiko hashingiwe ku mvugo za Girukwayo Samuel wivugururije, no kuba yaremeye icyaha mu Bugenzacyaha no mu Bushinjacyaha kandi ibazwa rye ryarakozwe mu buryo bunyuranyije n'amategeko kuko yakorewe ibabazamubiri, ndetse runashingira ku ibaruwa Nsengiyumva yamuhaye, kandi atarigeze ayifungura ngo amenye ibiyirimo, ndetse akaba yarayishubije uwari wayimuhaye, akaba asanga iperereza ryakozwe n'Ubushinjacyaha rituzuye ku buryo ryashingirwaho mu guhamya uwo yunganira ibyaha. Ku birebana n'inkunga Kayibanda Donatien aregwa kuba yatanze muri FDLR, Me Karugu Céline avuga ko nta kimenyetso gihari kigaragaza aho iyo nkunga yagombaga kugezwa n'umuntu yagombaga gushyikirizwa, asaba ko Urukiko rwemeza ko uwo yunganira ari umwere kuko nta bimenyetso simusiga bihari bimuhamya ibyaha aregwa. [13] Uhagarariye Ubushinjacyaha avuga ko Urukiko Rukuru nta kosa rwakoze kuko mu gufata icyemezo rwashingiye ku buhamya bwa Girukwayo Samuel, wemeje ko yasanze Kayibanda Donatien na bagenzi be bafite

igishushanyo kiriho amakuru yo guteranya u Burundi n'u Rwanda, Girukwayo Samuel akaba atarigeze avuguruza aya makuru. Ku birebana n'ibaruwa ikubiyemo impuha yashingiweho mu kurega Kayibanda Donatien, uhagarariye Ubushinjacyaha avuga ko nayo yayemeye mu Bugenzacyaha nk'uko no mu iburanisha atayihakana, ariko akaba ahakana gusa ibiyikubiyemo. Bukomeza buvuga ko Kayibanda Donatien atagomba guhakana ibyaha aregwa kandi yarabyemereye mu Bugenzacyaha no mu Bushinjacyaha nk'uko n'Urukiko Rukuru rwabyemeje mu gika cya 26 cy'urubanza rujuririrwa, kandi ko n'ibyo avuga ko yemejwe n'inkoni mu Bugenzacyaha atari byo, ndetse ko no mu Bushinjacyaha aza kubazwa yari kumwe n'umupolisi wari wamubajije mu Bugenzacyaha atari byo kuko abarinda abantu bakurikiranyweho ibyaha, atari Abagenzacyaha, kandi ko Abashinjacyaha batabaza abaregwa bahagarikiwe n'Abapolisi. UKO URUKIKO RUBIBONA [14] Ingingo ya 86 y'Itegeko N° 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko "ibimenyetso bishobora gushingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba babigiyeho impaka. Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose bishinja cyangwa bishinjura ari byo kandi bishobora kwemerwa". [15] Ingingo ya 57 y'Itegeko N° 30/2013 ryo ku wa 24/5/2013 ryavuzwe haruguru, iteganya ko "umuntu wese wagize uruhare mu ikorwa ry'icyaha, ashobora kumvwa nk'umutangabuhamya". [16] Imikirize y'Urubanza rwajuririwe igaragaza ko Kayibanda Donatien yahamijwe icyaha cy'ubufatanyacyaha mu gutera inkunga iterabwoba no gukwirakwiza impuha zigamije kwangisha Leta y'u Rwanda mu mahanga maze ahanishwa igifungo cy'inyaka irindwi (7). Ibimenyetso byashingiweho, akaba ari uko mu ibazwa rye mu Bugenzacyaha n'imbere y'Ubushinjacyaha yemeye ibyo aregwa akavuga n'uruhare yabigizemo, invugo ze ubwo yaburanaga ku ifunga n'ifungurwa ry'agateganyo mu Rukiko Rwisumbuye rwa Gasabo ndetse n'invugo za Girukwayo Samuel barezwe hamwe, kandi akaba yaramushinje2. [17] Ku birebana n'ibazwa rye mu Bugenzacyaha, Kayibanda Donatien amaze kumenyeshwa ibyaha aregwa, yasobanuye neza uburyo sebukwe witwa Samvura Elie alias Mwidishyi yatangiye

2 Reba urubanza RP 00014/2017/HC/KIG, P. 5 - 9

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amubwira uburyo yakandamijwe, ko yambuwe amasambu ye ntahabwe ingurane, ayo asigaranye bakamutegeka kuyahingamo umuceri aho gushyiramo imyaka ijyanye n'ubwo butaka, kuba afite abana batanu yishyurira amashuri ariko akaba yarabuze amafaranga bigatuma ajya guhinga muri Congo, no kuba amafaranga yishyurwa mutuelle yariyongereye, ndetse amubwira ko nawe ubwe yarenganijwe kuko hari ubutaka bwe ataherewe ingurane; aribwo Samvura Elie yaheraga aho akamushishikariza kuba umuyobohe wa FDLR kugira ngo igire abayobohe benshi ibashe guhangana mu ruhando rw'andi mashyaka, no mu matora, byaba ngombwa hagakoreshwa n'imbunda, nawe amwemerera kuba umuyobohe wa FDLR. [18] Inyandiko ziri muri dosiye zigaragaza ko mu ibazwa rye Kayibanda Donatien yemeye ko mu mpera za 2014, Samvura Elie yamutumiye yasuye n'umukongomani witwa Shukuru ukorana na FDLR baturirira aho kwa sebukwe, amusobanurira ko ari we wakira urubwiruko akarwohereza ku basirikare ba FDLR,

maze aha sebukwe amafaranga igihumbi (1000 Frw) yo kwakiriza uwo mushyitsi wari uturutse muri FDLR, ko kandi yongeye guhamagarwa na sebukwe mu kwa 01/2015 asanga bari kumwe na Shukuru, Bwanakweli, Girukwayo Samuel, ko Shukuru yari azanywe no gusaba inkunga yo kumufasha urugendo yari agiyemo ku Kibuye, aho yari ashyiriye umuyobozi w'ingabo ubutumwa bwa FDLR, ko we icyo gihe yatanze 2.000 Frw, naho Girukwayo Samuel, we agatanga 2000 Frw, [19] Inyandiko ziri muri dosiye zigaragaza na none ko mu ibazwa rye Kayibanda Donatien yemeye ko yari ashinzwe gushishikariza abantu kwinjira muri FDLR, ko kandi muri urwo rwego, Nsengiyumva Vincent amaze kubimusaba, yamwemeraye kumufasha kujya muri FDLR maze amuhuza na Girukwayo ngo azabimufashemo ariko kubera ko muri FDLR bari barahagaritse kwakira abantu, bafatwa Shukuru ataraza kumutwara. [20] Ku birebana n'ibimenyetso mu bufatanyacyaha mu cyaha cyo gukwiza impuha zigamije kwangisha Leta y'u Rwanda mu bihugu by'amahanga, muri dosiye bigaragara ko Kayibanda Donatien yemeye ko hari abapolisi b'Abarundi bamuhaye akazi ko kujya abaha amakuru ku mpunzi z'Abarundi ziri mu Rwanda zitegura gutera u Burundi zifatanyije n'abanyarwanda, nabo bamwemerera igihembo, kandi ko hari amakuru yaje kubaha afatanije na Nsengiyumva Vincent arebana n'uko Minembwe hari ingabo ziri kuhitoreza ziyobowe na Mekanika w'umunyamurenge, zitegura gutera u Burundi, ko kandi afatanije na Nsengiyumva Vincent bongeye kubwira uwo mupolisi w'umurundi ko hari undi mutwe uri kwitwara mu kibaya cya Fizi kugira ngo uzatere u Burundi, naho mu kwezi kwa 8/2016 bashyira umupolisi w'umurundi witwa Ntakirutimana Jean Marie alias Gafako, urupapuro rwari rushushanyijeho uburyo douane yubatswe, rugaragaza aho Abarundi n'Abanyarwanda bakorera, ariko ko icyo rwari rugamije muri rusange ari ukwerekana ko hari umurundi ukora kuri icyo douane uzicwa. [21] Inyandiko ziri muri dosiye zigaragaza ko, mu Bushinjacyaha, nabwo Kayibanda Donatien yemeye ko yinjiye muri FDLR kandi ko yatanze inkunga y'ibihumbi bitatu (3.000Frw) mu rwego rwo kugurira abasirikare ba FDLR ibyo kurya, abiha Samvura kugira ngo nawe ayahe umukongomani witwa Shukuru, avuga ko abo bari kumwe mu nama batanga aya mafaranga ari Samvura Elie, Shukuru, Girukwayo na Bwanakweli. Ubwo yaburanaga ku ifunga n'ifungurwa ry'agateganyo, Kayibanda Donatien yavuze ko mu byo aregwa hari ibyo yemera n'ibyo atemera, avuga ko yagiye kwa Samvura, amuha amafaranga yo kugura Soda nk'umuntu ufunguwe kandi ko ubwo yajyagaye, yasanze Girukwayo Samuel n'umukongomani witwa Shukuru, anasobanura uko, we na bagenzi be bagiyemo mu mugambi wo kujya baha Abarundi amakuru y'impunzi z'Abarundi ziba mu Rwanda, ziteguraga gutera u Burundi, ariko ko bishakiraga amafaranga. [22] Urukiko rurasanga n'ubwo Kayibanda Donatien ahakana ibyaha aregwa, mu Bugenzacyaha no mu Bushinjacyaha yaremeye ndetse akanasobanura mu buryo burambuye uburyo sebukwe Samvura Elie ari we wamushishikariye kwifatanya n'umutwe wa FDLR ndetse atanga inkunga yo

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kugurira abasirikare bayo ibiryo no kuyifasha mu bindi bikorwa byayo bibi nk'uko byagaragajwe haruguru, ndetse yemera n'uruhare yagize mu gukwirakwiza impuha mu bapolisi b'Abarundi abaha amakuru atari yo, ko impunzi z'Abarundi n'iz'Abanyamurenge ziri mu Rwanda, zirimo kwitwara mu Bugarama kugirango ngo zizatere u Burundi. [23] Urukiko rurasanga kuba

Kayibanda Donatien yarageze imbere y'uru Rukiko agahakana ibyo aregwa, avuga ko amafaranga yahaye Sebukwe Samvura Elie ari ayo kumugurira inzoga nk'umuntu wari ufunguwe, rutabiha agaciro kubera ko haba mu Bugenzacyaha no mu Bushinjacyaha yasobanuye neza inshuro yatanze inkunga n'icyo iyo nkunga yari igenewe, ko yari iyo kwakira umushyitsi Shukuru wari uturutse muri FDLR, gutanga inkunga yo kohereza ubutumwa bwa FDLR no kugurira abasirikare bayo ibyo kurya ; ibyo kandi akabikora azi neza icyo iyo nkunga atanze yari igenewe. [24] Ku birebana n'ibyo Me Karugu Céline avuga ko Kayibanda Donatien atahamwaga n'icyaha cyo gutera inkunga imitwe y'iterabwoba kuko nta kigaragaza aho amafaranga yatanze yari kujya n'icyo yari gukora, Urukiko rurasanga nta shingiro bifite kuko mu gihe cy'iperereza Kayibanda Donatien ubwe, yasobanuye neza ko amafaranga we na bagenzi be batanze yari ayo gufasha FDLR mu kwakira umushyitsi Shukuru wari uturutse muri FDLR, gutanga inkunga yo kohereza ubutumwa bwa FDLR ku Kibuye no kugurira abasirikare ba FDLR ibyo kurya. Ibyo kandi bikaba byaranasobanuwe na Girukwayo Samuel waburanye yemera icyaha kandi ashinja Kayibanda Donatien. [25] Urukiko rurasanga kandi Kayibanda Donatien anasobanura neza mu ibazwa rye mu Bugenzacyaha ko yari ashinzwe gukangurira abantu kujya muri FDLR, ko kandi muri urwo rwego nyuma yo kubisabwa na Nsengiyumva Vincent, yamuhuje na Girukwayo Samuel kugirango azamufashe kujya muri FDLR n'ubwo yafashwe atarashobora kumwohereza muri FDLR kubera impamvu zitamuturutseho. Urukiko rero rurasanga ibyo bikorwa bisobanuwe haruguru bigize icyaha cyo gutera inkunga ishyirahamwe ry'iterabwoba nk'uko yagihamijwe n'Urukiko Rukuru. [26] Ku birebana n'icyaha cyo gukwirakwiza impuha zigamije kwangisha Leta y'u Rwanda mu mahanga, Urukiko rurasanga kuba Kayibanda Donatien yeremeye mu Bugenzacyaha no mu Bushinjacyaha no mu Rukiko rwamuburanishije ibirebana n'ifunga n'ifungurwa ry'agateganyo ko hari abapolisi b'Abarundi bamuhaye akazi ko kujya abaha amakuru ku mpunzi z'Abarundi ziri mu Rwanda zitegura gutera u Burundi zifatanyije n'abanyarwanda, nabo bamwemerera igihembo, kandi ko hari amakuru yaje kubaha afatanije na Nsengiyumva Vincent arebana n'uko mu Minembwe hari ingabo ziri kuhitorea ziyobowe na Mekanika w'umunyamurenge ko kandi zitegura gutera u Burundi, nyuma we na Nsengiyumva Vincent bakongera kumubwira ko hari undi mutwe uri kwitwaga mu kibaya cya Fizi kugirango uzatere u Burundi kandi atari ukuri, ari ibimenyetso bimuhamya icyaha cyo gukwirakwiza impuha zigamije kwangisha Leta y'u Rwanda mu bihugu by'amahanga nk'uko byemejwe n'Urukiko Rukuru. [27] Urukiko rurasanga ariko mu guhamya Kayibanda Donatien icyaha cyo gukwirakwiza impuha zigamije kwangisha Leta y'u Rwanda mu mahanga, rutashingira, nk'uko byakozwe n'Urukiko Rukuru, ku kimenyetso kigizwe n'urupapuro rwahawe umupolisi w'Umurundi witwaga Ntakirutimana Jean Marie alias Gafako mu kwezi kwa 8/2016 bivugwa ko rwari rushushanyijeho uburyo douane yubatswe, rugaragaza aho Abarundi n'Abanyarwanda bakoreraga, ko kandi rwari rugamije muri rusange kwerekana ko hari umurundi ukora kuri iyo douane uzicwa, kuko Kayibanda Donatien avuga ko, ubwo yarushyiraga uwo mupolisi w'umurundi, atari azi ibirukubiyemo kandi n'Ubushinjacyaha bukaba butarashoboye kugaragaza ibyari birukubiyemo no kubisobanura, ngo hamenyekane mu buryo budashidikanywaho niba koko rwari rukubiyemo ayo makuru avugwa haruguru n'ibisobanuro by'ayo makuru.

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- [28] Kuri ibi byaha byombi byo gutera inkunga iterabwoba no gukwirakwiza impuha zigamije kwangisha Leta y'u Rwanda mu mahanga, Urukiko rurasanga mu bushishozi bwarwo imvugo Kayibanda Donatien yavuze abazwa mu Bugenzacyaha no mu Bushinjacyaha ari zo zikwiye gufatwaho ukuri kuko yasobanuye mu buryo burambuye kandi busobanutse uko yakoze ibyaha aregwa n'ubwo yageze imbere y'Urukiko akabihakana. Iki gitekerezo cy'uko umucamanza uburanisha urubanza mu mizi ari we wemeza ko ibyo uregwa yemeye mu gihe cy'iperereza ari ukuri, kabone n'ubwo yaba yarageze mu Rukiko akabihakana, kinemezwa n'abahanga mu mategeko³, ndetse kikanagaragara mu rubanza RPA 0176/11/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 16/10/2015 haburana Ubushinjacyaha na Mukashema Janvier na Bihimana Jean Baptiste⁴. [29] Kuba Kayibanda Donatien avuga ko yakubiswe kugirango agire ibyo yemera mu Bugenzacyaha, Urukiko rw'Ubujurire rurasanga rutabiha agaciro kuko ibyo yemereye mu Bugenzacyaha bihura n'ibyo yemeye mu Bushinjacyaha. Byongeye kandi, Urukiko rurasanga imvugo Kayibanda Donatien yemereye mu Bugenzacyaha no mu Bushinjacyaha inashimangirwa n'ibyemejwe na Girukwayo Samuel warezwe hamwe na Kayibanda Donatien, akaba yaramushinje ko bafatanyaga mu bikorwa byo gushaka abayoboke no gushyigikira umutwe wa FDLR, ndetse ko nawe yari mu gikorwa cyo guha amakuru abarundi y'ukuntu impunzi zizahatera zivuye mu Rwanda. [30] Urukiko rurasanga kuba Kayibanda Donatien avuga ko afite icyo apfa na Girukwayo Samuel wamushinje, bitahabwa agaciro kuko icy'ingenzi Urukiko rwabonye, ari uko imvugo zabo bombi mu gihe cy'iperereza zihura kandi umwe yarabajijwe ukwe nk'uko babisobanura, ndetse Girukwayo Samuel akaba yarakomeje no kubyemeza n'imbere y'Urukiko Rukuru. [31] Kuba Kayibanda Donatien avuga ko Girukwayo Samuel yivugurije mu Rukiko rubanza, ngo akavuga ko yari yatumwe na Kubana Zephane gushaka amakuru atuma bagenzi be bafatwa, Urukiko rurasanga bidafite ishingiro kuko nk'uko bigaragara muri kopi y'urubanza rw'Urukiko Rukuru, Girukwayo Samuel atigeze yivuguriza, ahubwo asobanura neza ko yagiye kwa Samvura Elie agasanga yo Kayibanda na Simoni barimo gutanga inkunga ishyigikira FDLR. [32] Hashingiwe ku bisobanuro bitanzwe haruguru, Urukiko rw'Ubujurire rurasanga mu guhamya Kayibanda Donatien ibyaha aregwa, Urukiko Rukuru rwarashingiye ku bimenyetso bidashidikanywaho byasobanuwe haruguru, ku bw'ibyo ubujurire bwe bukaba budafite ishingiro, bityo n'igihano yahanishijwe cy'igifungo cy'imyaka irindwi (7) kikaba gihamyeho.
- b. Kuri Murekezi Yohani [33] Murekezi Yohani avuga ko impamvu yatumye ajurira, ari uko yahamijwe icyaha cyo gutera inkunga umutwe w'iterabwoba wa FDLR kandi ntacyo yakoze kuko atigeze aba mu nama aregwa ndetse ko atazi n'abo baregwa hamwe, akaba yemera gusa ko yagiye kwa Samvura Elie gusaba inkunga yo kuvuza umugore we. Ku birebana no kuba ashinjwa na Girukwayo Samuel, avuga ko uyu yasobanuye ko Kubana Zefaniya yamusabye kujya yandika abantu baje mu nama, nyamara Zefaniya akaba abihakana, ko kandi Girukwayo Samuel yemeje ko bwari ubwa mbere yari amubonye kwa Samvura Elie kuko yari ahanyuze yigendera. [34] Me Nsengimana Faustin wunganira Murekezi Yohani avuga ko icyo banenga urubanza rwaciwe n'Urukiko Rukuru, ari uko rutagaragaje niba Murekezi Yohani yaragiye kwa Samvura Elie yatumiwe cyangwa hari imishyikirano

yagiranye na Girukwayo ngo yemere kujya muri iryo shyirahamwe ry'iterabwoba, kuko kuba Murekezi Yohani yaranyuze mu rugo rwa Samvura,

3 Michel Franchimont, Manuel de Procédure Pénale, 2ème Ed., Collection scientifique de la Faculté de Droit de Liège, 2006, p.1042: Le juge apprécie souverainement la sincérité d'un aveu fait par le prévenu au cours de l'instruction préparatoire, même quand cet aveu a été ultérieurement retracté devant le tribunal. 4Reba icyegeranyo cy'ibyemezo by'inkiko, V.1, Mutarama 2017, P. 147-160

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agasuhuza abo ahasanze maze akikomereza, ubwabyo bitagize icyaha. Avuga ko mu gika cya 59 cy'urubanza rwajuririwe, Urukiko rwavuze ko Murekezi Yohani atagaragaje ubushake bwo kumenya FDLR, ko rero ubwo nta bushake yagaragaje, nta n'icyaha yakoze, asaba ko uwo yunganira yagirwa umwere kuko ibigize icyaha bituzuye. [35] Uhagarariye Ubushinjacyaha avuga ko nk'uko bigaragara mu gika cya 51 cy'urubanza rujuririrwa, Urukiko Rukuru rwahamije Murekezi Yohani icyaha, rushingiye ku mpamvu y'uko yabyemeye mu Bugenzacyaha ndetse agasaba n'imbabazi kuko atahaye amakuru ubuyobozi. [36] Ku birebana n'uko umwunganizi wa Murekezi Yohani avuga ko Urukiko Rukuru rwavuze ko nta bushake bwo gukora icyaha yagize mu gika cya 59 cy'urubanza, uhagarariye Ubushinjacyaha avuga ko muri iki gika kijyanye no kugena igihano, Urukiko rwashakishaga uburyo bwo kugabanyiriza Murekezi Yohani igihano, ko rero atari ukugaragaza ko nta cyaha yakoze, kuko mu gika cya 53, Urukiko Rukuru rwagaragaje neza ko yahamijwe icyaha cyo kujya mu mutwe w'iterabwoba wa FDLR. UKO URUKIKO RUBIBONA [37] Ingingo ya 119 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, iteganya ko mu manza nshinjabyaha, ibimenyetso bishingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye. Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa. [38] Ingingo ya 57 y'Itegeko N° 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, iteganya ko umuntu wese wagize uruhare mu ikorwa ry'icyaha, ashobora kumvwa nk'umutangabuhamya. [39] Imikirize y'urubanza rwajuririwe igaragaza ko Murekezi Yohani yahamijwe icyaha cyo kwemera kuba mu ishyirahamwe rikora iterabwoba maze ahanishwa igifungo cy'imyaka irindwi (7). Ibimenyetso byashingiweho bikaba bigizwe n'imvugo ze yakoreye mu Bugenzacyaha no mu Bushinjacyaha, imvugo yavugiye mu Rukiko Rwisumbuye, ubwo yaburanaga ku birebana n'ifunga n'ifungurwa ry'agateganyo, imvuga za Girukwayo na Kayibanda bamushinja kuba bari kumwe muri izo nama. [40] Ku birebana n'inyandikomvugo zo mu Bugenzacyaha, Murekezi Yohani yemeye ko yagiye mu nama zitandukanye zigamije gushishikariza abantu kujya mu mutwe wa FDLR no gutanga inkunga zo kuyifasha mu bikorwa byayo zabaga ziyobowe na Samvura Elie, ariko ko nta mafaranga we yatanze kuko yari umukene, ko ahubwo yemeye gushaka abayoboze, ibi bisobanura akaba ari nabyo yasubiyemo mu Bushinjacyaha, ariko ageze imbere y'Urukiko Rukuru ndetse n'imbere y'uru Rukiko arabihakana. [41] Urukiko rurasanga n'ubwo Murekezi Yohana yageze imbere y'uru Rukiko agahakana ibi bikorwa, imvugo yavugiye mu nzego z'iperereza zigomba guhabwa agaciro kuko yemeye ko yagiye mu nama zayoborwaga na Samvura

Elie na Shukuru zabashishikarizaga gushyigikira umutwe wa FDLR, maze akemera ko azajya ashaka abayoboke ba FDLR; kuba yarabivugiye mu Bugenzacyaha, akanabisubiramo mu Bushinjacyaha ntacyo ahinduyeho, bikaba byerekana ko ari ukuri. [42] Hashingiwe ku nyandiko z'abahanga mu mategeko bemeza ko umucamanza uburanisha urubanza mu mizi afite ubushobozi bwo gushishoza no gusesengura akoresheje umutima nama we, imvugo z'uregwa yakoreye imbere y'inzego z'iperereza mbere yo kuregerwa urukiko, kabone n'iyi

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yaba nyuma yarazihinduye imbere y'Urukiko5, hashingiwe kandi no ku murongo wafashwe n'Urukiko rw'Ikirenga mu rubanza rwaciwe ku wa 18/07/2008, aho Ubushinjacyaha bwari bukurikiranye Sgt Ntaganira Eugène alias Barabizi na bagenzi be6, Urukiko rw'Ubujurire rurasanga Urukiko Rukuru rutarakoze amakosa mu kwemeza ko Murekezi Yohana ahamwa n'icyaha akurikiranyweho kubera ko hari izo mvugo yemereye mu Bugenzacyaha no mu Bushinjacyaha, aho asobanura neza mu buryo burambuye uko yitabiraga inama za FDLR n'uko yemeye ko azafasha mu gushaka abayoboke. [43] Urukiko rurasanga uretse n'imvugo Murekezi Yohana yavugiye mu nzego z'iperereza, mu ibazwa rya mugenzi we barezwe hamwe witwa Girukwayo Samuel, haba mu Bugenzacyaha ndetse no mu Bushinjacyaha, yaremeje ko babaga bari kumwe muri izo nama, cyakora ntiyagaragaza ko hari amafaranga yatanze. [44] Urukiko rurasanga kuba Murekezi Yohani avuga ko Urukiko Rukuru rwashingiye ku buhamya bwa Girukwayo Samuel kandi yarivugurujwe bidafite ishingiro kuko nk'uko bigaragara muri kopi y'urubanza RP 00014/2017/HC/KIG7, Girukwayo Samuel ativugurujwe, ahubwo akaba yaremeje ko babaga bari kumwe mu nama bakoranaga na Samvura Elie na Shururu wo muri FDLR, ibyo kandi na Kayibanda Donatien akaba abimushinja mu mvugo ze yakoreye mu Bugenzacyaha nk'uko byemejwe n'Urukiko Rukuru8. [45] Urukiko rurasanga kuba Murekezi Yohani avuga ko yajuriye kubera ko yahamijwe icyaha cyo gutera inkunga umutwe w'iterabwoba wa FDLR bidafite ishingiro kuko nk'uko byemejwe n'Urukiko Rukuru, ibikorwa Murekezi Yohani yakoze bitagize icyaha cyo gutera inkunga ishyirahamwe rikora iterabwoba kubera ko nta mafaranga yashoboye gutanga kubera ubukene, ahubwo bigize icyaha cyo kwemera kuba mu ishyirahamwe ry'iterabwoba FDLR kuko yemeye kujya yitabira izo nama zayo, kugumana n'abazitabiraga, agahuza nabo ibitekerezo, ndetse akaba yari yemeye kuzajya ashaka abayoboke bayo. Kuba kandi Murekezi Yohani yaremeje kujya mu ishyirahamwe ry'iterabwoba FDLR binatesha agaciro imiburanire ya Me Nsengiyumva Faustin wunganira Murekezi Yohani, aho avuga ko ibikorwa Murekezi Yohani yakoze bitagize icyaha kuko bigarukira gusa ku kuba yarageze mu rugo rwa Samvura Elie. [46] Urukiko rurasanga ibivugwa na Me Nsengiyumva Faustin wunganira Murekezi Yohani y'uko Urukiko Rukuru ruterekanye ko yagiye mu nama yatumiwe cyangwa ko hari imishyikirano yagiranye na Girukwayo nta shingiro bifite, kuko Murekezi Yohani ubwe, ubwo yabazwaga mu Bugenzacyaha yavuze inshuro yagiye muri izo nama kandi ko buri gihe yabaga yatumweho na Samvura Elie, bivuze ko yabaga azi gahunda zigiye kuganirwaho. [47] Hashingiwe ku mategeko n'ibisobanuro bigaragajwe haruguru, Urukiko rw'Ubujurire rurasanga hari bimenyetso bidashidikanywaho nk'uko byasobanuwe haruguru, Urukiko Rukuru rwashingiyeho mu guhamya Murekezi Yohani icyaha ashinjwa, bityo ubujurire bwe bukaba nta shingiro bufite,

hakaba hagumyeho imikirize y'urubanza rwaciwe n'Urukiko Rukuru, aho yahanishijwe igifungo cy'imyaka irindwi (7).

- c. Kuri Hagenimana Simon [48] Hagenimana Simon avuga ko impamvu yatumye ajurira ari uko yahamijwe ibyaha atakoze, ndetse na Girukwayo Samuel akaba yaravuze ko yamubeshyeye we na bagenzi be. Asobanura ko icyo apfa na Girukwayo Samuel umushinja, ari uko yigeze gufata umwana ku ngufu, akamutangaho

5 Michel FRANCHIMONT, Ibidem. 6RPAA 0010/06/CS, Ubushinjacyaha vs Sgt NTAGANIRA Eugène alias BARABIZI na bagenzi be. 7 Reba urubanza RP 00014/2017/HC/KIG, igika cya 46, P. 19 8Reba urubanza RP 00014/2017/HC/KIG, igika cya 46, P. 19

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amakuru. Avuga ko atigeze aba muri FDLR kandi ko nta n'inkunga yigeze aha uwo mutwe kuko atanawuzi, uretse kuwumva kuri radio gusa. Kubirebana n'ibyo yemeye mu Bugenzacyaha, avuga ko nta kintu yemeye, ko ahubwo yasinyishijwe ku ngufu kubera gukubitwa. [49] Me Nyirabasinga Hélène avuga ko Hagenimana Simon atigeze yemera icyaha nk'uko bigaragara mu gika cya 22 cy'urubanza rujuririrwa, kandi ko ibyo yavugiye mu Rukiko ari byo bikwiye guhabwa agaciro; ko imvugo yo mu Bugenzacyaha Urukiko rwashingiyeho rumuhamya icyaha nk'uko bigaragara mu gika cya 30 n'icya 31 idakwiye guhabwa agaciro. Ku birebana n'inkunga y'ibihumbi mirongo itanu (50.000 Frw) Ubushinjacyaha buvuga ko Hagenimana Simon yatanze muri FDLR, Me Nyirabasinga Hélène avuga ko nta shingiro bifite kuko butabasha kubitangira ibimenyetso, asaba Urukiko gushingira ku rubanza RPA 0066/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 4/1/2019, rukemeza ko Hagenimana Simon ari umwere. [50] Uhagarariye Ubushinjacyaha, avuga ko mu gika cya 27 cy'urubanza rujuririrwa, Urukiko rwerekana aho rushingira ruha agaciro ukwemera icyaha kwa Hagenimana, we n'umwunganizi we bakaba batasabye ko iki gika gikurwaho, bityo rero ko ibyo batanenze bikwiye kuguma mu rubanza. Akomeza avuga ko iby'uko hari icyo apfa na Girukwayo Samuel ari bwo bwa mbere abivuze, bikaba nta gaciro bigomba guhabwa. UKO URUKIKO RUBIBONA [51] Ingingo ya 119 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, iteganya ko mu manza nshinjabyaha, ibimenyetso bishingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye. Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa. [52] Ingingo ya 57 y'Itegeko N° 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, iteganya ko umuntu wese wagize uruhare mu ikorwa ry'icyaha, ashobora kumvwa nk'umutangabuhamya. [53] Imikirize y'Urubanza rwajuririwe igaragaza ko Hagenimana Simon yahamijwe ubufatanyacyaha mu cyaha cyo gutera inkunga imitwe y'iterabwoba maze ahanishwa igifungo cy'imyaka 5 n'ihazabu ya 104.000 Frw. Ibimenyetso byashingiweho akaba ari imvugo ze zo mu Bugenzacyaha, mu Bushinjacyaha no mu Rukiko Rwisumbuye ubwo yaburanaga ibirebana n'ifunga n'ifungurwa ry'agateganyo hamwe n'imvugo za Girukwayo zimushinja ko babaga bari kumwe mu nama. [54] Inyandiko ziri muri dosiye zigaragaza ko mu Bugenzacyaha, Hagenimana Simon yabajijwe akemera ko yahaye Samvura Elie inkunga

y'amafaranga agera ku bihumbi mirongo itanu na bibiri (52.000 Frw) mu bihe bitandukanye yo koherereza ingabo z'Umwami Kigeli, ubwo yari mu bikorwa byo gushaka inkunga y'inkweto za bote zo koherereza izo ngabo. Avuga ko icyamuteye gushyigikira izo ngabo ari uko Samvura Elie yamubwiye ko azamuha akazi, amusobanurira ko izo ngabo zimwe ziba muri Amerika, izindi mu Bubiligi, muri Cuba, no mu Bufaransa, anamubwira ko inkweto yashakaga zagombaga kujya muri Repubulika Iharanira Demokarasi ya Congo (RDC) i Kavumu, zikurizwa indege zikajya muri ibyo bihugu. Yasobanuriye Ubugenzacyaha ko abandi batanze inkunga muri FDLR ari Girukwayo Samuel, Kayibanda. [55] Inyandiko ziri muri dosiye zigaragaza kandi ko mu Bushinjacyaha, Hagenimana Simon yakomeje kwemera ko yatanze inkunga y'ingabo z'umwami, kandi ko hari umwana we, Samvura Elie yajyanye muri FDLR, naho we akaba nta bikorwa bya FDLR yagiyemo, ko kandi yanakomeje

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no kubyemera ubwo yaburanaga ku ifunga n'ifungurwa ry'agateganyo, aho yavuze ko yahuye na Samvura akamusaba inkunga amubwira ko Umwami Kigeli agiye gutaha, maze ngo abanza kumuha amafaranga ibihumbi bine (4.000 Frw) ahwanye n'umuguru umwe w'inkweto, akomeza kujya amuha amafaranga, ku buryo yaje gufatwa amaze kumugezaho ibihumbi mirongo itanu na bibiri (52.000 Frw). [56] Urukiko rurasanga n'ubwo Hagenimana Simon mu Rukiko Rukuru no mu Rukiko rw'Ubujurire yahakanye ko nta ruhare yagize mu gutera inkunga ingabo za FDLR, imvugo yavuze mu gihe cy'iperereza ndetse n'ubwo yaburanaga ku ifunga n'ifungurwa ry'agateganyo ari zo zigomba gufatwaho ukuri kuko yemeye ko hari inkunga yatanze igera ku bihumbi 52.000 Frw yo gushyigikira ingabo z'Umwami Kigeli n'imiguru 15 y'inkweto za bote. Mu busesenguzi bw'Urukiko, Urukiko rw'Ubujurire rukaba rurasanga ibyo yitaga ingabo z'umwami ari umutwe wa FDLR kuko mu ibazwa rye mu Bugenzacyaha no mu Bushinjacyaha yemeje ko bagenzi be baregwa hamwe Kayibanda na Girukwayo nabo batanze inkunga yo gushyigikira FDLR naho Girukwayo Samuel mu Bugenzacyaha akaba yaravuze ko hari amafaranga 500 Hagenimana Simon yamuhaye ngo ashyire Samvura Elie, bikaba bigaragara ko bari mu mugambi umwe wo gutera inkunga FDLR. [57] Urukiko rurasanga, kuba Hagenimana Simon avuga ko Girukwayo Samuel yamushinje kubera ibibazo bafitanye by'uko yafashe umwana ku ngufu akamutangaho amakuru nta shingiro byahabwa kuko atabitangira ibimenyetso. Ikindi kandi n'iyi baba bafite icyo bapfa koko, kuba ibyo Girukwayo Samuel amushinje bihura n'ibyo Hagenimana Simon, we ubwe yiyemereye mu ibazwa rye mu nzego z'iperereza, byerekana nta gushidikanya ko ari ukuri. [58] Urukiko rurasanga kuba Hagenimana Simon avuga ko yasinyishijwe ku ngufu mu Bugenzacyaha nabyo bitahabwa agaciro kuko ibirebana n'inkunga yatanze ingana na 52.000 Frw, yanabisubiyemo mu Bushinjacyaha no mu Rukiko Rwisumbuye rwa Gasabo, ubwo yaburanaga ku birebana n'ifunga n'ifungurwa ry'agateganyo, akaba atavugaga ko naho yasinyishijwe ku ngufu. [59] Urukiko rurasanga urubanza RPAA 0066/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 4/01/2019, Me Nyirabasinga Hélène uhagarariye Hagenimana Simon asaba ko rwakwifashishwa mu gutesha agaciro imvugo Hagenimana Simon yakoreye mu nzego z'iperereza, rutakwifashishwa muri uru rubanza kuko ibibazo biri muri izo manza zombi atari bimwe. Mu rubanza RPAA 0066/15/CS, Urukiko rwasanze imvugo zo mu Bugenzacyaha no mu Bushinjacyaha

zitagaragaza neza icyaha Dusabimana yemeye, rwemeza ko kwemera icyaha atari ko buri gihe biba ikimenyetso gishinja uregwa; muri uru rubanza ho rero, ibyo Hagenimana Simon yemeye bikaba byarasobanuwe nawe mu buryo burambuye neza, Urukiko mu bushishozi bwarwo rukaba rusanga bigomba gufatwa nk'ikimenyetso kimushinja, nk'uko umuhanga mu mategeko abivuga ko umucamanza uburanisha urubanza mu mizi, ari we ureba ukuri kw'imvugo uregwa yavugiye mu nzego z'iperereza kabone n'iyi yagera imbere y'Urukiko akazihakana⁹. Uyu murongo kandi akaba ari nawo wagendeweho n'Urukiko rw'ikirenga mu rubanza RPA 0176/11/CS rwaciwe n'Urukiko rw'ikirenga kuwa 16 Ukwakira 2015, haburana Ubushinjacyaha na Mukashema Janvière na Bihimana Jean Baptiste¹⁰. [60] Urukiko rurasanga rero, mu guhamya Hagenimana Simon icyaha, Urukiko Rukuru rwarashingiye ku bimenyetso bidashidikanywaho byasobanuwe haruguru, ku bw'ibyo ubujurire bwe bukaba nta shingiro bufite; icyemezo cy'Urukiko Rukuru kimuhanisha igifungo cy'imyaka itanu (5) n'ihazabu ya 104.000 Frw, kikaba kigumye. III. ICYEMEZO CY'URUKIKO

⁹ Michel FRANCHIMONT, Ibidem ¹⁰Urukiko rw'ikirenga, icyegeranyo cy'ibyemezo by'inkiko, V.1, Mutarama, 2017, 147-160

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[⁶¹] Rwemeye ko ubujurire bwa Kayibanda Donatien, Murekezi Yohani na Hagenimana Simon nta shingiro bufite; [62] Rwemeje ko nta gihindutse ku mikirize y'urubanza RP 00014/2017/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 15/02/2018. [63] Rutegetse ko amagarama y'urubanza aherera ku isanduku ya Leta.

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