

RWANDA / JUDGMENT

UBUSHINJACYAHA v. KABAYIZA

RPAA 00987/2024/CA

COURT

Court of Appeal

DECIDED

16 May 2025

CASE / FILE NUMBER

RPAA 00987/2024/CA

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

UBUSHINJACYAHA v. KABAYIZA

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-05-16
- Case/document no.: RPAA 00987/2024/CA
- Collection: Court of Appeal

Text

Page 1

UBUSHINJACYAHA v. HAKIZIMANA [Rwanda URUKIKO RW'UBUJURIRE – RPAA 01309/2024/CA (Mukamurenzi, P.J.) 28 Gicurasi 2025] Amategeko agenga imanza z'inshinjabyaha – Ibimenyetso – Mu manza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi ko Urukiko arirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa. Amategeko agenga imanza z'inshinjabyaha – Ibimenyetso – Abatangabuhamya – Agaciro k'ubuhamya bw'abatangabuhamya bafite icyobapfa n'abaregwa – Nubwo abatangabuhamya baba bafite icyo bapfa n'abaregwa, ntibifatwa nk'umuziro kuri bo utuma batabazwa, icy'ingenzi ni uko invugo yabo itapfa kwemerwa cyangwa ngo ihakanwe itabanje gusuzumwa n'Urukiko. Incamake y'ikibazo: Hakizimana Jean alias Marindogo yakurikiranyweho n'Ubushinjacyaha icyaha cyo gusambanya umwana we ufite imyaka 4, nyuma y'iperereza bumuregera Urukiko Rwisumbuye rwa Ngoma busaba ko kimuhama agahanishwa igifungo cya burundu. Hakizimana yaburanye ahakana icyaha avuga ko uwitwa Uwamariya Esther umushinja amubeshyera kuko bafitanye amakimbirane. Urukiko Rwisumbuye rwa Ngoma rwaciye urubanza rwemeza ko Hakizimana ahamwe n'icyaha cyo gusambanya umwana, rumuhanisha igifungo cya burundu. Uregwa yajuririye mu Rukiko

Rukuru, Urugereko rwa Rwamagana avuga ko icyaha cyo gusambanya umwana rushingiye ku buhamya bw'umugore umushinja amubeshyera kubera amafaranga ibihumbi mirongo ine na bitanu (45.000 Frw) amurimo. Urukiko Rukuru, Urugereko rwa Rwamagana rwaciye urubanza rwemeza ko urubanza rwaciye n'Urukiko Rwisumbuye rwa Ngoma ruhindutse ku birebana n'igihano, ruhanisha Hakizimana Jean Pierre alias Marindogo igifungo cy'imyaka cumi n'itandatu (16) rushingiye kukuba atarabashije kuvuguruza ibimenyetso byashingiweho bihumbi icyaha, ariko akaba nta kindi cyaha arahamirwa mu buryo buzwi. Hakizimana yajuririye mu Rukiko rw'Ubujurire avuga ko asaba yarenganurwa kuko yahamijwe icyaha cyo gusambanya umwana nta bimenyetso simusiga bishingiweho, ko Urukiko Rukuru rutahaye agaciro ibisobanuro yatanze aburana aho yasobanuye ko icyaha aregwa yagihimbiwe n'umugore witwa Uwamaliya Esther bapfa amafaranga yamuhaye ngo arongore umuvandimwe we witwa Jaqueline, ntabikore ndetse ntanamusubize amafaranga yamuhaye, ko imvugo ze n'iza Uwanyiligira Béatrice zitagombaga gushingirwaho mu kumuhamya icyaha cy'ubusambanyi kuko batigeze bamubona asambanya umwana we. Ubushinjacyaha buvuga ko impamvu y'ubujurire idakwiye guhabwa ishingiro kuko uregwa yahawe umwana arisobanura, Urukiko rusesengura ibisobanuro bye, rusanga bitavuguruza ibimenyetso bigizwe n'imvugo z'abatangabuhamya Uwamariya Esther n'Uwanyirigira Béatrice na raporo ya muganga wasuzumye uwo mwana agasanga koko yarasambanyijwe.

Page 2

Incamake y'icyemezo: 1. Mu manza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi ko Urukiko arirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa.

2. Nubwo abatangabuhamya baba bafite icyo bapfa n'abaregwa, ntibifatwa nk'umuziro kuri bo utuma batabazwa, icy'ingenzi ni uko imvugo yabo itapfa kwemerwa cyangwa ngo ihakanwe itabanje gusuzumwa n'Urukiko. Ubujurire nta shingiro bufite. Nta mategeko yashingiweho Imanza zifashishijwe: RPAA 0117/07/CS rwaciye ku wa 17/09/2010 haburana Ubushinjacyaha na Cpl Ngabonziza Faustin na Sgt Biziyaremye Jean Baptiste, RPAA 00692/2021/CA rwaciye ku wa 20/01/2023 haburana Ubushinjacyaha na Ndayishimiye Jean Damascène Urubanza I. IMITERERE Y'URUBANZA [1] Tariki ya 21/01/2020, umugore witwa Uwamariya Esther yabonye umwana wa Hakizimana Jean Pierre alias Marindogo ufite imyaka ine (4) y'amavuko wahawe izina rya U, arimo kugenda nk'ufite ikibazo, ahamagara nyirakuru, aramumwereka, amukuramo ikabutura asanga afite igisebe mu gitsina ; bahamagara se bamubaza niba aziko afite icyo kibazo, avuga ko abizi, ko hashize iminsi mike arwaye, bamusaba kumujyana kwa muganga, ariko aho kumujyanayo ahondagura ibinini abimushyira mu gitsina. Uwanyirigira Béatrice na Uwamariya Esther banavuze ko babajije U ababwira ko yaranaga na se byagera mu ijoro akamujya hejuru akamushyiramo ibintu bye akababara, raporo ya muganga yagaragaje ko umwana yasambanyijwe. [2] Iperereza rirangiye, Ubushinjacyaha bwareze Hakizimana Jean Pierre alias Marindogo mu Rukiko Rwisumbuye rwa Ngoma, bumukurikiranyeho icyaha cyo gusambanya umwana busaba ko kimuhama agahanishwa igifungo cya burundu. [3] Hakizimana Jean Pierre alias Marindogo

yireguye ahakana icyaha aregwa, avuga ko Uwamariya Esther umushinja amubeshyera kubera ko bafitanye amakimbirane, ko yafashe umwana we agiye kwa nyirakuru aramukingirana ahamagara Ubugenzacyaha ngo bumufate avuga ko yamusambanyije kandi amubeshyera, asaba kurenganurwa no kugirwa umwere. [4] Mu rubanza RP 00202/2020/TGI/NGOMA rwaciwe ku wa 27/09/2021, Urukiko Rwisumbuye rwa Ngoma rwasanze hari ibimenyetso byatanze n'Ubushinjacyaha bigaragaza ko Hakizimana Jean Pierre alias Marindogo yakoze icyaha akurikiranyweho bikurikira : a) Kuba Hakizimana Jean Pierre alias Marindogo yemera ko U ari umwana we, ko yararaga mu cyumba cye ;

Page 3

- b) Kuba uwo mwana yarabwiye Uwamariya Esther ko yasambanyijwe na se wamujiyaga hejuru akamushyiramo ibintu bye ; c) Kuba raporo ya muganga igaragaza ko akarangabusugi ke kashwanyaguritse ; d) Kuba Hakizimana Jean Pierre alias Marindogo yari asanganywe imyitwarire mibi yo gushaka gusambanya abagore n'abakobwa nk'uko byemezwa n'ubuyobozi bw'aho yari atuye ;

Urukiko rushingiye kuri ibyo bimenyetso, rwemeje ko Hakizimana Jean Pierre alias Marindogo ahamwe n'icyaha cyo gusambanya umwana U, rumuhanisha igifungo cya burundu. [5] Hakizimana Jean Pierre alias Marindogo yajuririye imikirize y'urubanza mu Rukiko Rukuru, Urugereko rwa Rwamagana avuga ko Urukiko Rwisumbuye rwamuhamije icyaha cyo gusambanya umwana rushingiye ku buhamya bw'umugore umushinja amubeshyera kubera amafaranga ibihumbi mirongo ine na bitanu (45.000 Frw) amurimo, ko n'ibyo Urukiko rwemeje ko yashyize ikinyi mu gitsina cy'umwana we atari byo, kandi nta n'umubyeyi wakora ibyo bintu. Uhagarariye Ubushinjacyaha yavuze ko ubujurire bwa Hakizimana Jean Pierre alias Marindogo nta shingiro bufite kuko adashobora kuvuguruza ibimenyetso bihamya ko yakoze icyaha akurikiranyweho byashingiweho n'Urukiko ku rwego rwa mbere. [6] Mu rubanza RPA 01319/2021/HC/RWG rwaciwe ku wa 30/10/2024, Urukiko Rukuru, Urugereko rwa Rwamagana rwasanze Hakizimana Jean Pierre alias Marindogo atarashoboye kuvuguruza ibimenyetso byashingiweho bimuhamya icyaha ariko rusanga kuba nta kindi cyaha arahamirwa mu buryo buzwi ari impamvu ituma igihano yahanishijwe kigabanywa; rwemeza ko urubanza RP 00202/2020/TGI/NGOMA rwaciwe n'Urukiko Rwisumbuye rwa Ngoma ku wa 27/09/2021 ruhindutse ku birebana n'igihano, ruhanisha Hakizimana Jean Pierre alias Marindogo igifungo cy'imyaka cumi n'itandatu (16). [7] Hakizimana Jean Pierre alias Marindogo yajuririye imikirize y'urwo rubanza mu Rukiko rw'Ubujurire, urubanza ruhabwa RPAA 01309/2024/CA, iburanisha mu ruhamye rishyirwa ku itariki ya 09/05/2025; uwo munsu iburanisha ryimurirwa ku itariki ya 20/05/2025, Hakizimana Jean Pierre alias Marindogo yitaba Urukiko yunganiwe na Me Nyirihirwe Hilaire naho Ubushinjacyaha buhagarariye na Uwanziga Lydia, Umushinjacyaha ku rwego rw'Igihugu. [8] Mu mwanzuro w'ubujurire no mu miburanire ye, Hakizimana Jean Pierre alias Marindogo n'umwunganira bavuye ko yajurije agamije gusaba ko yarenganurwa kuko yahamijwe icyaha cyo gusambanya umwana nta bimenyetso simusiga bishingiweho, ko Urukiko Rukuru rutahaye agaciro ibisobanuro yatanze aburana aho yasobanuye ko icyaha aregwa yagihimbiwe n'umugore witwa Uwamariya Esther bapfa amafaranga yamuhaye ngo arongore umuvandimwe we witwa

Jaqueline, ntabikore ndetse ntanamusubize amafaranga yamuhaye, ko imvugo ze n'iza Uwanyiligira Béatrice zitagombaga gushingirwaho mu kumuhamya icyaha cy'ubusambanyi kuko batigeze bamubona asambanya umwana we. [9] Uhagarariye Ubushinjacyaha avuga ko impamvu y'ubujurire ijyanye n'uko Urukiko rutahaye agaciro ibisobanuro bye, idakwiye guhabwa ishingiro kuko uregwa yahawe umwana

Page 4

arisobanura, Urukiko rusesengura ibisobanuro bye, rusanga bitavuguruza ibimenyetso byatanzwe n'Ubushinjacyaha bigizwe n'imvugo z'abatangabuhamya Uwamariya Esther n'Uwanyirigira Béatrice na raporo ya muganga wasuzumye uwo mwana agasanga koko yarasambanyijwe. [10] Ikibazo gisuzumwa mu rubanza ni icyo kumenya niba Hakizimana Jean Pierre alias Marindogo yarahamijwe icyaha cyo gusambanya umwana nta bimenyetso bidashidikanywaho bihamya ko yagikoze. II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA

Kumenya niba Hakizimana Jean Pierre alias Marindogo yarahamijwe icyaha cyo gusambanya umwana nta bimenyetso bidashidikanywaho bihamya ko yagikoze. [11] Hakizimana Jean Pierre alias Marindogo avuga ko yajuriye agamije gusaba ko yarenganurwa ngo kuko yahamijwe icyaha cyo gusambanya umwana nta bimenyetso simusiga bishingiweho bimuhamya icyo cyaha, ko Urukiko Rukuru rutahaye agaciro ibisobanuro yatanze agaragaza ko icyaha aregwa cyahimbwe n'umugore witwa Uwamariya Esther bapfa amafaranga ibihumbi mirongo inani na bitanu (85.000 Frw) yamuhaye kugira ngo arongore umuvandimwe we witwa Jacqueline, ntiyamurongora ndetse ntiyanamusubiza amafaranga yamuhaye. Anavuga ko umwana ashinjwa gusambanya atigeze aba iwe, ko yabanaga na nyirakuru mu Mudugudu wa Kabeza, mu gihe we yabaga mu Mudugudu wa Kimanzi, ko rero imvugo z'abatangabuhamya, raporo y'inzezo z'ibanze ndetse na raporo ya muganga bitagombaga gushingirwaho mu kumuhamya icyaha kuko nta kuri kuzirimo. [12] Me Nyirihirwe Hilaire umwunganira avuga ko ubuhamya bwa Uwanyiligira Béatrice butagombaga gushingirwaho mu guhamya Hakizimana Jean Pierre icyaha cy'ubusambanyi kuko atigeze abona umwana U. asambanywa na se Hakizimana Jean Pierre kuko ibyo yavuze ari amabwire, kandi ko iyo uhuje imvugo ze n'iza Uwamariya Esther, ndetse na raporo y'inzezo z'ibanze usanga byose ari bimwe, byarakozwe mu buryo busa, kandi ntawemeza ko yamwiboneye asambanya umwana we cyangwa ngo amubone ashya ibinini mu gitsina cye, kuko nk'uko abivuga akanini ka penisiline kashyizwemo n'undi mwana witwa Mukaneza. Anavuga ko kuba umwana yararwaye ku gitsina kikabyimba bitatewe no kuba ise yaramusambanyije kuko nta bimenyetso bibigaragaza uretse gushingira ku mvugo z'umwana utagejeje ku myaka 14, kandi nazo zikaba zitunganiwe n'ibindi bimenyetso kamarampaka. [13] Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Hakizimana Jean Pierre alias Marindogo budakwiye guhabwa ishingiro, kuko atabashije kuvuguruza ibimenyetso byatanzwe n'Ubushinjacyaha nk'uko Urukiko Rukuru rwabisobanuye mu gika cya 10 cy'urubanza rujuririrwa. Asobanura ko yahamijwe icyaha hashingiwe ku bimenyetso bigizwe n'imvugo z'umutangabuhamya Uwamariya Esther wabonye umwana wa Hakizimana Jean Pierre agenda nabi akamubaza icyo yabaye akamubwira ko nijoro ise amujya hejuru, akamushyiramo igitsina cye akababara akarira, imvugo z'uregwa mu nzego z'iperereza aho yemera ko yaranaga n'uwo mwana mu cyumba kimwe, iz'umutangahamya Uwanyirigira

Béatrice akaba n'umujyanama w'ubuzima usobanura uko yamenye amakuru ko umwana wa Hakizimana Jean Pierre yasambanyijwe, ajya kumureba asanga koko yarahohotewe, amubajije uko byagenze amubwira ko

Page 5

se ari we wamusambanyije, ko hanashingiwe kuri raporo ya muganga igaragaza ko umwana yasambanyijwe. [14] Akomeza avuga ko ibyo Hakizimana Jean Pierre avuga ko atigeze abana n'uwo mwana nta gaciro bikwiye guhabwa, kuko mu mvugo ze mu Bugenzacyaha no mu Bushinjacyaha yavuze ko ararana n'abana mu cyumba ariko bo bakarara ukwabo kubera ko banyara ku buriri, naho ibyo avuga ko umutangabuhamya Uwamariya Esther atagombaga gushingirwaho ngo kuko hari icyo bapfa nabyo nta shingiro bifite, kuko agenda yivuguruza hamwe avuga amafaranga 15.000 Frw, ahandi 35.000 Frw, ahandi 45.000 Frw, muri uru Rukiko ho akaba yaravuze 85.000 Frw, ko ibi ubwabyo bigaragaza ko ibyo avuga nta kuri kurimo. Anavuga ko ibyo banenga imvugo z'umunyabuzima Uwanyirigira Béatrice, ko atari we wari kugezwaho ikibazo cy'umwana, ko uwamubwiye yamwisangagaho kuko bafite icyo bapfana, atari inenge kuko badahakana ko yari ashinzwe iby'ubuzima. Naho ibyo avuga ko ubuyobozi bumubeshyera, atari byo kuko bwo bwagejejweho ikibazo bugikorera raporo, ndetse bugaragaza ko busanzwe bumufiteho amakuru y'uko atangira abakobwa ashaka kubasambanya. [15] Uhagarariye Ubushinjaha asoza avuga ko kuba imvugo z'abatangabuhamya hari ibyo zihurizaho atari inenge kuko babazwaga ku kibazo kimwe, ko zitanateshwa agaciro n'uko ntawamubonye asambanya uwo mwana kubera ko icyo cyaha gikorera mu bwihisho, kandi ibyo abatangabuhamya bavuze bikaba bidashidikanywaho kuko raporo ya muganga ibyemeza, ko rero imvugo z'umwana nta cyari kubuza urukiko kuzishingiraho kuko zunganiwe n'ibyo bimenyetso uregwa atashoboye kuvuguruza. UKO URUKIKO RUBIBONA [16] Hakizimana Jean Pierre alias Marindogo avuga ko yahamijwe icyaha cyo gusambanya umwana we nta bimenyetso simusiga bishingiweho, ngo kuko intandaro y'icyaha aregwa ari amakimbirane afitanye n'umugore witwa Uwamariya Esther umubeshyera gusambanya umwana we bitewe n'amafaranga yanze kumwishyura. Naho Ubushinjacyaha bukavuga ko atabasha kuvuguruza ibimenyetso byashingiweho n'inkiko zibanza bihamya ko yakoze icyaha akurikiranyweho. [17] Ibyerekeye ibimenyetso mu manza z'inshinjabyaha, byatanzweho umurongo n'Urukiko rw'Ubujurire mu rubanza RPAA 00692/2021/CA rwaciwe ku wa 20/01/2023 haburana Ubushinjacyaha na Ndayishimiye Jean Damascène. Muri urwo rubanza, uru Rukiko rwasobanuye ko mu manza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi ko Urukiko arirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa. Iri hame ryakurikijwe no mu zindi manza zaciwe n'uru Rukiko, harimo nk'urubanza RPAA 00385/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 18/03/2025, haburana Ubushinjacyaha na Manirakiza Jean Bosco. [18] Naho mu rubanza RPAA 0117/07/CS rwaciwe ku wa 17/09/2010 haburana Ubushinjacyaha na Cpl Ngabonziza Faustin na Sgt Biziyaremye Jean Baptiste, Urukiko rw'Ikirega rwasobanuye ko n'ubwo abatangabuhamya baba bafite icyo bapfa n'abaregwa, bitafatwa

Page 6

nk'umuziro kuri bo utuma batabazwa, ko icy'ingenzi ari uko imvugo yabo itapfa kwemerwa cyangwa ngo ihakanwe itabanje gusuzumwa n'Urukiko1 . [19] Nk'uko urubanza rujuririrwa rubigaragaza, Urukiko Rukuru, urugereko rwa Rwamagana rushingiye ku mvugo z'abatangabuhamya Uwamariya Esther n'Uwanyirigira Béatrice baturiza ku kuba nyuma yo kubona umwana agenda nabi bararebye mu gitsina cye bakabona harimo ibisebe, bamubaza icyabiteye akababwira ko nijoro ise amujya hejuru akamushyiramo igitsina cye akababara, kuri raporo ya muganga igaragaza ko umwana yahohotewe no ku mvugo za Hakizimana Jean Pierre alias Marindogo aho yemera ko yaranaga n'uwo mwana mu cyumba. Urukiko Rukuru rwemeje ko ibyo bimenyetso bigaragaza nta shiti ko Hakizimana Jean Pierre alias Marindogo ariwe wasambanyije uwo mwana we nk'uko abiregwa kandi akaba yaranabihamijwe n'Urukiko Rwisumbuye. Urukiko Rukuru rwanasanze imyiregurire ye ishingiyeye ku kuvuga ko abeshyerwa n'ababivuze bamuhora umwenda w'amafaranga ababereyemo nta shingiro bifite. [20] Urukiko rw'Ubujurire rurasanga ibyo Hakizimana Jean Pierre n'umwunganira bavuga ko yahamijwe icyaha cyo gusambanya umwana nta bimenyetso simusiga bishingiweho nta shingiro bifite, kuko nk'uko urubanza rujuririrwa rubigaragaza, hashingiye ku mvugo z'umutangabuhamya Uwamariya Esther, uyu akaba ari umuturanyi wa Hakizimana Jean Pierre wabonye umwana agenda nabi, amwereka nyirakuru, barebye basanga afite ibisebe mu gitsina kandi ameze nabi, ahita atumaho ise, aje amwemerera ko yari azi ko umwana arwaye mu gitsina, kandi ko nta mubyeyi yabyeretse, amusaba kumujyana kwa muganga, arabyanga, ahubwo afata ibinini arabihonda amushyira mu gitsina. Umutangabuhamya yanavuze ko yahise abimenyesha umuyobozi w'umudugudu nawe abibwira umunyabuzima bajya kureba umwana, bemeza ko bamujyana kwa muganga, ko yanabajije umwana amubwira ko ari ise wabimuteye kuko yajyaga amurara hejuru, ko ubwo umwana yamaraga kubimubwira yabonye se araturika ararira. [21] Urukiko rw'Ubujurire ruranasanga ibyo uwo mutangabuhamya avuga binashimangirwa n'umunyabuzima Uwanyirigira Béatrice, wavuze ko umuyobozi w'umudugudu yamubwiye ko umwana wa Marindogo afite ikibazo, ajya kumureba, abajije ise amubwira ko umwana we arwaye akabyimba, amurebye asanga ise yafashe ibinini arabihondagura abishyira mu gitsina cy'umwana kuko cyavaga amaraso cyanabyimbye, amubaza impamvu atamujyanye kwa muganga amubwira ko nta bwishingizi agira. Umutangabuhamya yanavuze ko yagerageje kuganiriza umwana, amubaza niba ubwo nyina yamuzanaga yari arwaye, umwana arahakana, avuga ko ise ari we wabiteye kuko iyo baryamye amujya hejuru akamujomba ikintu akarira. [22] Urukiko ruranasanga raporo ya muganga wasuzumye umwana, igaragaje ko imyanya ndangagitsina y'umwana w'imyaka 4 ibyimbye kandi itukuye, mu gitsina harimo ipuderi, akarangabusugi gatukuye kandi gacitse. Bikaba bivuze muri aya magambo : Fille de 4 ans amenée par une dame agent de santé communautaire pour viol, chez qui nous avons objectivé un gonflement et rougeur au niveau des organes génitaux externes, présence des poudres à la vulve, hymen rouge et déchiré. [23] Urukiko rurasanga ibyo Hakizimana Jean Pierre alias Marindogo n'umwunganira bavuga ko abo batangabuhamya batagombaga gushingirwaho kubera amakimbirane afitanye na Uwamariya Esther ashingiyeye ku mafaranga yamuhaye yanze kumusubiza, yarabiburanishije

1 Reba igika cya 8 cy'urwo rubanza.

Page 7

nk'impamvu yireguza mu nkiko zibanza, zigaragaza ko nta shingiro bifite. Kuri uru rwego naho akaba nta kimenyetso yatanze ahubwo ibyo avuga ku mubare wayo mafaranga amurimo n'impamvu yayo agenda abihindura kuko yatangiye avuga ko amubeshyera kubera ko amufitiye amafaranga ibihumbi cumi na bintu (15.000 Frw), mu Bushinjacyaha avuga ko Esther ko amushinja icyaha bitewe n'uko atamwishyuye amafaranga ibihumbi mirongo itatu na bitanu (35.000 frw y'inzoga yari yamuhaye ngo amugurishirize, mu Rukiko Rukuru avuga ibihumbi mirongo ine na bitanu (45.000 Frw), naho kuri uru rwego akaba avuga ibihumbi mirongo inani na bitanu (85.000 Frw) yamuhaye kugira ngo arongore umuvandimwe we. Uku kugenda ahindagura umubare w'amafaranga yari afitiye umutangabuhamya Uwamariya Esther bigaraza ko ibyo avuga atari ukuri. [24] Uru Rukiko runarebye umurongo w'Urukiko rw'Ikirenga mu rubanza RPAA 0117/07/CS rwavuzwe haruguru, rurasanga niyo bari kuba bafitanye amakimbirane atari impamvu yatuma ubuhamya bwe budashingirwaho, mu gihe ibyo avuga bifite ireme kuko bigaragaza ko ariwe wabonye ko umwana we afite ibisebe mu gitsina, abibwira ise Hakizimana yanga kumujyana kwa muganga, ajya kubibwira umuyobozi w'umudugudu kugira ngo ajyanwe kwa muganga, uyu nawe abimenyesha Uwanyirigira Béatrice w'umunyabuzima, warebye umwana, agasanga koko afite ibisebe mu gitsina, byashyizweho ifu y'ikinini gihondaguye, ndetse na raporo ya muganga ikaba yaraje ishimangira ibyo abatangabuhamya bavuga babonye mu gitsina cy'umwana, ndetse ikagaragaza ko mu gitsina cye hatukuye n'akarangabusugi gacitse. [25] Urukiko rurasanga nanone ibyo Hakizimana Jean Pierre avuga ko uwo mwana we ashinjwa gusambanya batabanaga, ko yabanaga na nyirakuru mu mudugudu utandukanye n'uwo atuyemo, nabyo nta shingiro bifite kuko abazwa mu Bugenzacyaha yavuze ko nyina w'uwo mwana yari yamumuzaniye ku itariki ya 17/01/2020, ko bararaga mu cyumba kimwe, ariko uwo mwana na musaza we bakarara ku buriri bwabo kubera kunyara ku buriri. Imvugo ze nazo zigaragaza ko yari azi ko umwana afite ikibazo ku gitsina n'ubwo yavugaga ko arwaye akabyimba, akanavuga ko hari undi mwana wamushyize ikinini cya peni mu gitsina, ko ari cyo cyatumye ava amaraso. [26] Urukiko rw'Ubujurire rurasanga kandi ibivugwa n'umwunganizi wa Hakizimana Jean Pierre alias Marindogo ko yahamijwe icyaha hashingiwe ku mvugo z'umwana gusa kandi zitunganiwe n'ibindi bimenyetso kamarampaka nta shingiro bifite, kuko kuba umwana yarabwiye abatangabuhamya bavuzwe ko bigera nijoro ise akamujya hejuru akamujomba ikintu akababara, atari iyo mvugo yonyine yashingiweho, kuko nk'uko byasobanuwe mu bika bibanziriza iki, hari ibimenyetso byavuzwe byashingiweho bigaragaza ku buryo budashidikanywaho ko Hakizimana Jean Pierre yasambanyije umwana we, kandi akaba atarabashije kubivuguruza. [27] Urukiko rw'Ubujurire rushingiye ku murongo watanze mu rubanza RPAA 00692/2021/CA ku byerekeye ibimenyetso mu manza z'inshinjabyaha wibukijwe haruguru no ku bimaze gusobanurwa, rurasanga nta kosa ryakozwe n'Urukiko Rukuru, urugereko rwa Rwamagana mu kwemeza ko Hakizimana Jean Pierre alias Marindogo ahamwe n'icyaha cyo gusambanya umwana we w'imyaka 4, kuko isesengura ry' imvugo z'abatangabuhamya, iza Hakizimana ubwe na raporo ya muganga bigaragaza ko ikintu umwana yavuze ise yamujombaga ari igitsina yamushyiraga mu

gitsina cye, kuko umuganga yabonye ko mu gitsina cy'umwana hatukuye ndetse n'akarangabusugi gacitse. Kuba ari we wabikoze binashimangirwa n'imyitwarire ye nyuma yo gusabwa nk'umubyeyi kujyana umwana kwa muganga ntahite abikore, ahubwo

Page 8

akigira inama yo kumwivurira akoresheje ikinini cya peni (pénicilline) yahondaguye akagishyira umwana mu gitsina agira ngo atajyanwa kwa muganga bikagaragara ko yasambanyijwe. [28] Urukiko rw'Ubujurire rurasanga rero ubujurire bwa Hakizimana Jean Pierre alias Marindogo nta shingiro bufite kuko hari ibimenyetso bifatika bihamya ko yakoze icyaha cyo gusambanya umwana, kandi akaba atarabashije kubihinyuza. Bityo urubanza rwaciwe n'Urukiko Rukuru, urugereko rwa Rwamagana rukaba rugumanye agaciro karwo. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko ubujurire bwa Hakizimana Jean Pierre alias Marindogo nta shingiro bufite ; [30] Rwemeje ko urubanza RPA 01319/2021/HC/RWG, rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana kuwa 30/10/2024 rudahindutse ; [31] Rwemeje ko igihano cy'igifungo cy'imyaka cumi n'itandatu (16) yahanishijwe mu rubanza rujuririrwa kidahindutse ; [32] Rutegetse ko Hakizimana Jean Pierre alias Marindogo asonerwa gutanga amafaranga y'amagarama y'urubanza kuko aburana afunzwe.

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/9816/10310>

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

Prepared on 14 October 2026 · Esheria