

RWANDA / JUDGMENT

UBUSHINJACYAHA v. HAKIZIYAREMYE

RPAA 00443/2023/CA

COURT

Court of Appeal

DECIDED

29 April 2025

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UBUSHINJACYAHA v. HAKIZIYAREMYE

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Text

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UBUSHINJACYAHA v. HAKIZIYAREMYE [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00443/2023/CA (Rutazana, P.J.), 29 Mata 2025] Amategeko agenga ibyaha n'ibihano muri rusange – icyaha cyo gukubita cyangwa gukomeretsa ku bushake – Ubusembure – Ubusembure bwumvikana nk'impamvu ngabanyagihano igizwe no kuba uwakoze icyaha yarabitewe n'uko yari yabanje gukorera igikorwa kimubabaza gikomeye kandi kimurenganya. Habaho ubusembure igihe hari ibikorwa ukurikiranyweho icyaha yakorewe n'uwakorewe icyaha (victime), bituma ako kanya amukorera icyaha aregwa. Ni ishingano y'uregwa uburanisha ubusembure kubuzamura no ku butangira ibimenyetso, umucamanza akaba afite ishingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana. Amategeko agenga ibyaha n'ibihano muri rusange – Guhindura inyito y'icyaha – Guhindura inyito y'icyaha ni uburenganzira n'inshingano umucamanza afite mu gihe cyose asanga ibikorwa uregwa akurikiranyweho bidahuye n'inyito byahawe n'inkiko zabanje, hakurikijwe ihame ry'uko umucamanza aregerwa ibikorwa bigize icyaha ataregerwa inyito yacyo. Incamake y'ikibazo: Hakiziyaremye Moise yakubise Kimasa Robert igice cy'icupa mu nda arakomereka, ahita afatwa maaze atangira gukurikiranwa. Nyuma y'iperereza Ubushinjacyaha bwareze Hakiziyaremye Moise mu Rukiko Rwisumbuye rwa Gasabo

bumukurikiranyeho icyaha cyo gukubita cyangwa gukomeretsa ku bushake, busaba ko kimuhama agahanishwa igifungo cy'imyaka cumi n'itanu (15) n'ihazabu ingana na 5.000.000Frw. Hakiziyaremye Moise yaburanye ahakana icyaha avuga ko abamushinja bose ari akagambane bamukoreye. Urukiko Rwisumbuye rwa Gasabo rushingiye ku mvugo y'uregwa mu Bugenzacyaha no mu Bushinjacyaha ndetse n'imbere y'Urukiko, akaba ntacyo yagaragaje apfa n'abatangabuhamya ku buryo bamubeshyera, bityo rwemeje ko ahamwa n'icyaha ashinjwa, maze rumuhanisha igifungo cy'imyaka 15 n'ihazabu ingana na 5.000.000Frw. Hakiziyaremye Moise yajuriye mu Rukiko Rukuru avuga ko atari we nyirabayazana w'ibyabaye, ariko ageze mu iburanisha avuga ko yemera icyaha ariko ko yagikoze yitabara, bityo asaba kugabanyirizwa igihano kuko yamaze kugororoka. Uhagarariye Ubushinjacyaha yavuze ko mu Rukiko Rwisumbuye Hakiziyaremye yaburanye ahakana icyaha no mu myanzuro ye y'ubujurire akomeza kugihakana, ndetse no mu iburanisha akaba atemera icyaha neza, bityo ko ibyo bigaragaza ko aticuza, akaba adakwiriye kugabanyirizwa igihano. Urukiko Rukuru rwasanze n'ubwo Hakiziyaremye Moise avuga ko yaje kwemera icyaha, ariko mu myanzuro ye y'ubujurire yarakomeje kugihakana, maze rwemeza ko ubujurire bwe nta shingiro bufite. Hakiziyaremye Moise yongeye kujurira mu Rukiko rw'Ubujurire, avuga ko yakoze icyaha asembuwe n'imyitwarire y'agasuzuguro ya Kimasa Robert, kandi ko mu rubanza rujuririrwa

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yahanishijwe igihano kidahuye n'ibikorwa bigize icyaha yakoze, asaba ko yahanishwa igifungo kitari muni y'imyaka itatu (3) ariko kitarenze imyaka itanu (5). Uhagarariye Ubushinjacyaha avuga ko nta busembure bwabayeho kuko uregwa atagaragaza igikorwa kimurenganya yakorewe na Kimasa Robert, ariko kubera impinduka zabaye ku ngingo zimwe na zimwe zo mu Itegeko N° 68/2018 ryo kuwa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange, busaba ko yagabanyirizwa igihano hashingiye ku biteganywa mu ngingo ya 11, igika cya 3 y'Itegeko N° 059/2023 ryo kuwa 04/12/2023 rihindura Itegeko N° 68/2018, maze agahanishwa igihano cy'igifungo cy'imyaka 4 n'ihazabu ingana n'amafaranga y'u Rwanda 500.000Frw. Urukiko rw'Ubujurire rwemeza ko Hakiziyaremye Moise akwiriye guhanisha igihano cy'igifungo cy'umwaka umwe (1) n'ihazabu ingana na 300.000Frw. Incamake y'icyemezo: 1. Ubusembure bwumvikana nk'impamvu ngabanyagihano igizwe no kuba uwakoze icyaha yarabitewe n'uko yari yabanje gukorerwa igikorwa kimubabaza gikomeye kandi kimurenganya. Habaho ubusembure igihe hari ibikorwa ukurikiranyeho icyaha yakorewe n'uwakorewe icyaha (victim), bituma ako kanya amukorera icyaha aregwa. Ni ishingano y'uregwa uburanisha ubusembure kubuzamurira no ku butangira ibimenyetso, umucamanza akaba afite ishingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana.

2. Guhindura inyito y'icyaha ni uburenganzira n'inshingano umucamanza afite mu gihe cyose asanga ibikorwa uregwa akurikiranyeho bidahuye n'inyito byahawe n'inkiko zabanje, hakurikijwe ihame ry'uko umucamanza aregerwa ibikorwa bigize icyaha ataregerwa inyito yacyo.

3. Kuba itegeko N°59/2023 ryo 04/12/2023 ryaratangajwe nyuma y'uko uregwa ajuririye, kandi ingingo yaryo ya 11 (yahinduye ingingo ya 121 iteganya ko icyo cyaha gukubita no gukomeretsa ku bushake ku buryo bwa kiboko bubabaje gihanishwa igifungo kitari muni y'amezi 6 ariko kitarenze umwaka 1, iri tegeko rishya niryo rigomba gukurikizwa kuko ariryo riteganya igihano cyoroheje iteganya ko mu gihe hari amategeko ahana, rimwe ryariho mu gihe icyaha cyakorwaga, irindi ryaratangajwe nyuma y'uko icyaha gikorwa, ariko urubanza rutaracibwa burundu, itegeko rishya niryo rikurikizwa iyo riteganya igihano cyoroheje. Ubujurire bufite ishingiro kuri bimwe. Amategeko yashingiweho: Itegeko N° 68/2018 ryo kuwa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 121 ryakoreshwaga igihe icyaha cyakorwaga (nk'uko yahinduwe n'ingingo ya 11 y'Itegeko N° 59/2023 ryo kuwa 04/12/2023. Imanza zifashishijwe: Urubanza RPAA 00086/2023/CA, rw' Ubushinjacyaha na Uwizeyimana Jean Marie Vianney; rwaciwe ku wa 19/12/2024; Urubanza RPAA 00074/2024/CA, rw' Ubushinjacyaha na Mutaganda Théogène, rwaciwe ku wa 20/12/2024.

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Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 13/01/2020 mu Mudugudu wa Masango, Akagari ka Kabuga ya I, Umurenge wa Rusororo, Akarere ka Gasabo mu Mujyi wa Kigali, ahagana mu ma saa kumi zishyira saa kumi n'imwe za mu gitondo Hakiziyaremye Moise n'uwitwa Kimasa Robert bashwaniye mu kabari kitwa Peace Corner, Hakiziyaremye Moise akubita Kimasa Robert igice cy'icupa mu nda arakomereka, ahita afatwa atangira gukurikiranwa. [2] Nyuma y'iperereza Ubushinjacyaha bushingiye ku mvugo ya Hakiziyaremye Moise mu Bugenzacyaha no mu Bushinjacyaha aho yemeye ko yari mu kabari kavuzwe haruguru, imvugo z'abatangabuhamya bamushinja, amafoto na Raporo ya muganga bigaragaza ko Kimasa Robert yakomerekejwe mu nda, bwareze Hakiziyaremye Moise mu Rukiko Rwisumbuye rwa Gasabo bumukurikiranyeho icyaha cyo gukubita cyangwa gukomeretsa ku bushake, busaba ko kimuhama agahanishwa igifungo cy'imyaka cumi n'itanu (15) n'ihazabu ingana na 5.000.000Frw. Hakiziyaremye Moise yaburanye ahakana icyaha avuga ko abamushinja bose ari akagambane bamukoreye. [3] Mu rubanza RP 00203/2020/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 30/03/2021 rwemeje ko Hakiziyaremye Moise ahamwe n'icyaha ashinjwa, rumuhanisha igifungo cy'imyaka 15 n'ihazabu ingana na 5.000.000 Frw. Ibyo Urukiko rwabyemeje rushingiye ku mvugo ya Hakiziyaremye Moise mu Bugenzacyaha no mu Bushinjacyaha ndetse n'imbere y'Urukiko aho yemeye ko yageze muri ako kabari Kimasa Robert yakomerekerejwemo n'imvugo z'abatangabuhamya Ahishakiye Claude, Niyonkuru Emmanuel, Nikombabona Issa Mupenzi na Munyaneza Théophile bamushinja ko ari we wamukomerekeje, akaba ntacyo agaragaza apfa n'abo batangabuhamya ku buryo bamubeshyera, n'ibyo avuga ko yashinjwe icyo cyaha ku kagambane akaba nta bimenyetso abigaragariza. [4] Hakiziyaremye Moise yajuriye mu Rukiko Rukuru avuga ko atari we nyirabayazana w'ibyabaye, ageze mu iburanisha avuga ko yemera icyaha ariko ko yagikoze yitabara, asaba kugabanyirizwa igihano kuko yamazwe kugororoka. [5] Uhagarariye Ubushinjacyaha yavuze ko mu Rukiko Rwisumbuye Hakiziyaremye Moise yaburanye ahakana icyaha no mu myanzuro ye y'ubujurire akomeza kugihakana, ndetse no mu iburaanisha akaba atemera icyaha neza, ko rero bigaragaza ko aticuza, bityo akaba adakwiriya

kugabanyirizwa igihano. [6] Mu rubanza RPA 00606/2021/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 07/09/2023 rwasanze n'ubwo Hakiziyaremye Moise avuga ko kuri urwo rwego aje kwemera icyaha, adasobanura uko yagikoze kuko n'ubwo avuga ko yitabaraga, bihujwe n'imvugo z'abatangabuhamya bamushinja, bigaragara ko ariwe warwanye akanakomeretsa Kimasa Robert ku buryo bubabaje; rwasanze kandi no mu myanzuro ye y'ubujurire yarakomeje guhakana icyaha, ko n'ubwo mu iburanisha yavuze ko acyemera adasobanura neza icyo yemera icyo aricyo, byongeye kandi akaba ntacyo agaragaza anenga imikirize y'urubanza rujuririrwa kugira ngo gikosorwe, bityo rwemeza ko ubujurire bwe nta shingiro bufite.

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[7] Hakiziyaremye Moise yongeye kujurira mu Rukiko rw'Ubujurire, urubanza ruhabwa RPAA 00443/2023/CA, ruburanishwa mu ruhamwe kuwa 08/04/2025 Hakiziyaremye Moise yunganiwe na Me Musasangohe Illuminée, naho Ubushinjacyaha buhagarariwe na Butera Oscar, Umushinjacyaha ku rwego rw'Igihugu. [8] Hakiziyaremye Moise n'umwunganira bavuga ko Urukiko Rukuru rwamuhanishije ibihano bitajyanye n'ibikorwa bigize icyaha yakoze, kuko nta kigaragaza ko Kimasa Robert atashoboye kugira icyo yikorera mu gihe runaka kubera igikomere yatewe na Hakiziyaremye Moise; bavuga kandi ko Urukiko Rukuru rutitaye ku kuba Hakiziyaremye Moise yarakoze icyaha biturutse ku busembure yakorewe na Kimasa Robert wamwambuye umukobwa bari bazanye akamubyinisha, ntirwanaha agaciro impamvu nyoroshyacyaha y'uko ari ubwa mbere akurikiranywe n'inkiko mu buryo buzwi. [9] Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Hakiziyaremye Moise nta shingiro bufite kuko yakomerekeje bikomeye Kimasa Robert mu nda bikaba byumvikanisha ko yamaze iminsi nta kindi kintu yikorera, kandi akaba atarasembuwe nk'uko ashaka kubyumvikanisha; ko ariko yagabanyirizwa igihano hashingiwe ku mpinduka zazanywe n'Itegeko N° 059/2023 ryo kuwa 04/12/2023 rihindura Itegeko N° 68/2018 ryo kuwa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange. [10] Hakurikijwe impaka zagaragajwe haruguru, Urukiko rurasuzuma ibibazo bikurikira:

- Kumenya niba Hakiziyaremye Moise yarakoze icyaha ashinjwa biturutse ku busembure;
- Kumenya niba Hakiziyaremye Moise yarahaniwe icyaha kidahuye n'ibikorwa bigize icyaha yakoze, n'igihano akwiriye guhanishwa. II. ISESENGURA RY' IBIBAZO BIGIZE URUBANZA 1. Kumenya niba Hakiziyaremye Moise yarakoze icyaha biturutse ku busembure [11] Hakiziyaremye Moise n'umwunganira bavuga ko yakoze icyaha asembuwe n'imyitwarire y'agasuzuguro ya Kimasa Robert waje akamwambura umukobwa w'inshuti ye bari bazanye mu kabari, akamubyinisha. [12] Uhagarariye Ubushinjacyaha avuga ko nta busembure bwabayeho kuko na Hakiziyaremye Moise atagaragaza igikorwa kimurenganya yakorewe na Kimasa Robert hashingiwe ku byasobanuwe mu rubanza RPA0154/13/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 08/12/2017 haburana Ubushinjacyaha na Habyarimana Festus (igika cya 51); ko kandi n'iyi byaba byarabayeho koko Kimasa Robert akabyinisha uwo mukobwa ntacyo byari kwangiriza Hakiziyaremye Moise ku buryo byaba impamvu ituma amukomeretsa ku buryo bubabaje. UKO URUKIKO RUBIBONA [13] Impaka kuri iyi ngingo

zishingiye ku kumenya niba Hakiziyaremye Moise yarakoze icyaha yarakomerekeje Kimasa Robert biturutse ku busembure.

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[14] Ikibazo cyo kumenya igihe imyitwarire y'uwakorewe icyaha ifatwa nk'ubusembure no kumenya ufite inshingano zo kubugaragaza cyatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza RPAA038/15/CS rwaciwe ku wa 15/09/2017 haburana Ubushinjacyaha na Sezikeye Emmanuel (igika cya 21), uwo murongo ukaba waranakomeje gukurikzwa mu zindi manza zaciwe n'uru Rukiko rw'Ubujurire, harimo nk'urubanza RPAA 00610/2022/CA rwaciwe ku wa 25/09/2024 haburana Ubushinjacyaha na Nahimana Christophe (igika cya 17) n'urubanza RPAA 00462/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 15/11/2024 haburana Ubushinjacyaha na Nsengimana Jean-Claude (igika cya 16-17). Izo manza zihuriye ku murongo ukurikira: "Ubusembure bwumvikana nk'impamvu ngabanyagihano igizwe no kuba uwakozwe icyaha yarabitewe n'uko yari yabanje gukorera igikorwa kimubabaza gikomeye kandi kimurenganya. Habaho ubusembure igihe hari ibikorwa ukurikiranyweho icyaha yakorewe n'uwakorewe icyaha (victim), bituma ako kanya amukorera icyaha aregwa. Ni ishingano y'uregwa uburanisha ubusembure kubuzamura no ku butangira ibimenyetso, umucamanza akaba afite ishingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana." [15] Ku birebana n'uru rubanza, icyumvikana nk'imyitwarire Hakiziyaremye Moise avuga ko Kimasa Robert yagize igatuma amukomeretsa ni uko avuga ko yamusuzuguye akamwambura umukobwa w'inshuti ye bari bazanye mu kabari akamubyinisha. [16] Urukiko rw'Ubujurire rushingiye ku murongo wavuzwe haruguru watanze mu manza zinyuranye zaciwe n'Urukiko rw'Ikirenga n'Urukiko rw'Ubujurire ku bijyanye n'imyitwarire ifatwa nk'ubusembure, rurasanga kuba Kimasa Robert yari kubyinisha umukobwa wari wazanye na Hakiziyaremye Moise ubwabyo bitagize igikorwa kibabaza, gikomeye kandi kimurenganya ku buryo cyamuteye ububabare bukomereye bugatuma adashobora gutekereza ku byo agiye gukora, ku buryo byasobanura ko icyo yagombaga guhita akora muri ako kanya ari ugukubita Kimasa Robert igice cy'icupa mu nda akamukomeretsa. [17] Hashingiwe kuri byo bisobanuro, impamvu y'ubujurire ya Hakiziyaremye Moise ijyanye n'uko yakozwe icyaha kubera ubusembure ikaba nta shingiro ifite. 2. Kumenya niba Hakiziyaremye Moise yarahaniwe icyaha kidahuye n'ibikorwa bigize icyaha yakozwe [18] Hakiziyaremye Moise n'umwunganira bavuga ko mu rubanza rujuririrwa yahanishijwe igihano kidahuye n'ibikorwa bigize icyaha yakozwe, kuko Raporo ya muganga yakozwe n'ibitaro bya Gisilikali bya Kanombe iri muri dosiye muri IECMS, igaragaza ko Kimasa Robert "yakomeretse ku nda kandi afite igikomere gikeneye kozwa no gupfukwa" ("there is wound on the abdomen which need to clean and future") no mu mwanzuro wayo hakavugwamo ko yagize "severe traumatic injury of abdomen"; ko rero Hakiziyaremye Moise yagombaga guhanwa hashingiwe ku biteganywa mu ngingo ya 121 igika cya 2 y'Itegeko N°68/2018 ryo kuwa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange iteganywa ko "Umuntu wese, abishaka, ukomeretsa undi, umukubita cyangwa umusagarira ku buryo bwa kiboko bubabaje aba akozwe icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo

kitari muni y'imyaka itatu (3) ariko kitarenze imyaka itanu (5) n'ihazabu y'amafaranga y'u Rwanda atari muni y'ibihumbi magana atanu (500.000 Frw) ariko atarenze miliyoni imwe (1.000.000 Frw). [19] Hakiziyaremye Moise n'umwunganira bakomeza basobanura ko Urukiko Rukuru rwirengagije ibikubiye mu ngingo ya 49 y'Itegeko ryavuzwe haruguru kuko rutahanishije

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Hakiziyaremye Moise ibihano bihuye n'icyaha yakoze, rukaba rwarakoresheje ubushishozi bwawo nabi, bityo bagasaba Urukiko rw'Ubujurire gukosora iyo nenge kugira ngo Hakiziyaremye Moise ahabwe ubutabera buboneye. Basaba Urukiko kwemeza ko ahamwa n'icyaha giteganywa mu ngingo ya 121 yavuzwe haruguru ariko ko nta mpamvu nkomeza cyaha zihari; rukanemeza ko ibihano amaze gukora bihwanye n'icyaha yakoze maze rugatega ko ahita arekurwa. [20] Uhagarariye Ubushinjacyaha avuga ko ku bijyanye n'icyaha Hakiziyaremye Moise yakoze, Raporo ya muganga igaragaza ko yakomerekeje bikomeye Kimasa Robert mu nda (severe injury of abdomen) », ko rero byumvikanisha ko uyu yamaze iminsi nta kindi kintu abasha kuba yakwikorera; akaba koko akwiriye guhanwa hashingiwe ku ngingo ya 121 igika cya 3 y'Itegeko N°68/2018 ryo ku wa 30/08/2018 rishyiraho ibyaha n'ibihano muri rusange nk'uko ryavugururwe kugeza ubu, ariko mu rubanza rujuririrwa Urukiko rukaba ntaho rwari guhera rumugabanyiriza igihano hakurikijwe imiburanire ye. [21] Uhagarariye Ubushinjacyaha avuga ko ariko kubera impinduka zabaye ku ngingo zimwe na zimwe zo mu Itegeko N° 68/2018 ryo kuwa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange, Hakiziyaremye Moise yagabanyirizwa igihano hashingiye ku biteganywa mu ngingo ya 11, igika cya 3 y'Itegeko N° 059/2023 ryo kuwa 04/12/2023 rihindura Itegeko N° 68/2018 ryavuzwe haruguru, agahanishwa igihano cy'igifungo cy'imyaka 4 n'ihazabu ingana n'amafaranga y'u Rwanda 500.000 Frw. UKO URUKIKO RUBIBONA [22] Impaka kuri iyi ngingo zishingiye ku kumenya niba mu rubanza rujuririrwa Hakiziyaremye Moise yarahanishijwe igihano giteganyirijwe icyaha cyo gukubita cyangwa gukomeretsa byateye uwagikorewe kudashobora kugira icyo yikorera ku buryo budahoraho, nyamara we avuga ko ibikorwa yakoze bigize icyaha cyo gukubita cyangwa gukomeretsa ku bushake ku buryo bwa kiboko bubabaje. [23] Ingingo ya 121, igika cya 1 n'icya 2, y'Itegeko N° 68/2018 ryo kuwa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, iteganywa ko "Umuntu wese, abishaka, ukomeretsa undi, umukubita cyangwa umusagarira ku buryo bwa kiboko bubabaje aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari muni y'imyaka itatu (3) ariko kitarenze imyaka itanu (5) n'ihazabu y'amafaranga y'u Rwanda atari muni y'ibihumbi magana atanu (500.000 FRW) ariko atarenze miliyoni imwe (1.000.000 Frw)....."; naho ingingo ya 11, igika cya 1, y'Itegeko N° 59/2023 ryo kuwa 04/12/2023 ihindura ingingo ya 121 yavuzwe haruguru igateganywa ko "Umuntu, abishaka, ukomeretsa undi, umukubita cyangwa umusagarira ku buryo bwa kiboko bubabaje aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari muni y'amezi 6 ariko kitarenze umwaka 1 n'ihazabu itari muni ya 100.000 Frw ariko itarenze 300.000 Frw". [24] Nk'uko byasobanuwe mu rubanza RS/INJUST/Pen 00004/2017/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 23/02/2018, haburana Ubushinjacyaha na Mukaruyange Athanasie, guhindura inyito y'icyaha ni

uburenganzira n'inshingano umucamanza afite mu gihe cyose asanga ibikorwa uregwa akurikiranyweho bidahuye n'inyito byahawe n'inkiko zabanje, hakurikijwe ihame ry'uko umucamanza aregerwa ibikorwa bigize icyaha ataregerwa inyito yacyo. Uwo murongo ni nawo

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wakomeje gukurikizwa mu zindi manza zaciwe n'uru Rukiko, zimwe mu ziheruka gucibwa hakaba harimo nk'urubanza RPAA 00086/2023/CA rwaciwe ku wa 19/12/2024, haburana Ubushinjacyaha na Uwizeyimana Jean Marie Vianney (igika cya 24) n' urubanza RPAA 00074/2024/CA rwaciwe ku wa 20/12/2024, haburana Ubushinjacyaha na Mutaganda Théogène (igika cya 16). [25] Hashingiwe ku bimaze gusobanurwa mu gika kibanziriza iki, hakaba nta kibuzwa uru Rukiko gusuzuma niba icyaha Hakiziyaremye Moise yahaniwe gihuye n'ibikorwa bigize icyaha cyakozwe, ari nabyo bigiye gusuzumwa mu bika bikurikira. [26] Nk'uko dosiye y'uru rubanza ibigaragaza, Ubushinjacyaha bwareze Hakiziyaremye Moise icyaha cyo gukubita cyangwa gukomeretsa uwitwa Kimasa Robert bushingiye ku ibimenyetso bikurikira maze busaba ko kimuhama:

- Kuba Hakiziyaremye Moise abazwa mu Bugenzacyaha no Bushinjacyaha yaremeye ko kuri uwo munsu yageze mu kabari Kimasa Robert yakomerekeyemo;
- Kuba umutangabuhamya witwa Ahishakiye Claude akaba na Manager w'ako kabari yemeza ko Hakiziyaremye Moise yinjiye mu kabari yasinze azanye n'umukobwa batabashije kumenya amazina ye, maze nyuma y' iminota mike akumva induru nyinshi abantu bose bari muri ako kabari biyamirira ngo ni uyu ubikoze agiye kureba asanga Kimasa Robert avirirana amaraso ku nda;
- Kuba umutangabuhamya witwa Niyonkuru Emmanuel ushinze akazi ko kurinda umutekano muri ako kabari nawe yemeza ko Hakiziyaremye Moise yazanye n'umukobwa muri ako kabari, ahageze agura inzoga ya petit mitzing ye yo kunywa, anagurira uwo mukobwa inzoga bita knowless; hanyuma Kimasa Robert akora kuri uwo mukobwa ashaka kumubyoresha maze Hakiziyaremye Moise ahita afata icupa yarimo kunyweramo arikubita hasi, igice cyaryo akijomba Kimasa Robert mu nda aramukomeretsa, akomeza ahamya ko yahise amufata amwica mu gikari hasi ahamagara Polisi.
- Kuba umutangabuhamya witwa Nikombabona Issa Mupenzi nawe yemeje ko Kimasa Robert yashatse kubyinisha umukobwa wari wazanye na Hakiziyaremye Moise muri ako kabari uyu amubwira ko ibyo atabikunda, ahita akubita hasi icupa yari arimo kunyweramo rimenekamo kabiri, ikimene cyaryo akijomba Kimasa Robert mu nda aramukomeretsa, ushinze kurinda umutekano muri ako kabari ahita amwica hasi ahamagarara Polisi.
- Kuba kandi mu ibazwa ry' uyu mutangabuhamya Nikombabona Issa Mupenzi yarabajijwe niba yakwibuka uwakomerekeye Kimasa Robert akomeza ko n'ubwo atazi amazina ye ariko amubonye yamumenya, maze akajyanwa muri kasho uregwa yari afungiyemo basohora abafungwa 3 benda gusa no kungana, bamubaza uwabikoze uwo ariwe yerekana Hakiziyaremye Moise; umwe muri abo bafungwa basohowe witwa Munyaneza Théophile nawe akaba yemeza koko uwo Nikombabona Issa Mupenzi yerekanye ari Hakiziyaremye

Moise avuga ko ariwe wakomerekeje Kimasa Robert.

- Kuba hari amafoto ya Kimasa Robert na Raporo ya muganga bigaragaza ko yakomerekejwe mu nda. [27] Nk'uko byavuzwe haruguru, mu bujurire bwe Hakiziyaremye Moise asaba ko yahanirwa icyaha kijyanye n' ibikorwa bigize icyaha nyakuri yakoze, kuko yemera ko yakubise Kimasa

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Robert akanamukomeretsa mu nda ku buryo bubabaje amuteye ikimene cy'icupa bikamutera igikomere cyagombaga kozwa no kwitabwaho, ariko ko atigeze amutera ubumuga budahoraho bwatumye atabasha kugira icyo yikorera mu gihe runaka dore ko na Raporo ya muganga itabigaragaje. [28] Urukiko rw'Ubujurire rurasanga Hakiziyaremye Moise yemera ko yakubise Kimasa Robert igice cy' icupa mu nda agakomereka ku buryo bubabaje, ibi bikaba binashimangirwa n'imvugo z'abatangabuhamya bavuzwe haruguru zanasashingiweho n'inkiko ku nzego zabanje zimuhamya icyaha, hakaba n'amafoto yafotowe Kimasa Robert na Raporo ya muganga bigaragaza ko yakomerekejwe mu nda ("...we find the following: there is wound on the abdomen which need to clean and to future"), no mu umwanzuro w'iyo raporo hakavugwamo ko Kimasa Robert yakomerekejwe mu buryo bubabaje ku nda (severe traumatic injury of abdomen). [29] Urukiko rw'Ubujurire rurasanga hashingiwe ku byo Hakiziyaremye Moise yiyemerera no ku bimenyetso bimaze kugaragazwa mu gika kibanziriza iki, yarakomerekeje Kimasa Robert ku bushake kandi ku buryo bwa kiboko bubabaje, ariko hakaba nta kigaragaza ko uko gukomereka kwamuteye kudashobora kugira icyo yikorera ku buryo budahoraho (non permanent incapacity to work/incapacité de travail non permanente), ibi bikaba byari bikwiriye kuba byaragaragajwe na muganga nyamara muri Raporo yavuzwe haruguru bikaba bitagaragaramo, hakaba nta n'indi raporo cyangwa ikindi kimenyetso cyatanze kibigaragaza; uru Rukiko rukaba ntaho rwahera rubyemeza; hashingiwe kuri ibyo bisobanuro byose, ibikorwa Hakiziyaremye Moise yakoze bikaba bigize icyaha cyo gukubita no gukomeretsa ku bushake ku buryo bwa kiboko bubabaje giteganywa kandi kigahanwa mu ngingo ya 121 y'Itegeko N° 68/2018 ryo kuwa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange ryakoreshwaga igihe icyaha cyakorwaga (nk'uko yahinduwe n'inigingo ya 11 y'Itegeko N° 59/2023 ryo kuwa 04/12/2023 ryavuzwe haruguru). [30] Urukiko rw'Ubujurire rurasanga kuba iryo Tegeko N° 59/2023 ryo kuwa 04/12/2023 ryaratangajwe nyuma y'uko Hakiziyaremye Moise ajuriye muri uru Rukiko kandi ingingo yaryo ya 11 (yahinduye ingingo ya 121 yavuzwe haruguru) ikaba iteganywa ko icyo cyaha gukubita no gukomeretsa ku bushake ku buryo bwa kiboko bubabaje gihanishwa igifungo kitari munsu y'amezi 6 ariko kitarenze umwaka 1 n'ihazabu itari munsu ya 100.000 Frw ariko itarenze 300.000 Frw, iri tegeko rishya ariryo rigomba gukurikizwa kuko ariryo riteganywa igihano cyoroheje hashingiwe ku ngingo ya 6 y'Itegeko N° 68/2018 ryo kuwa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange, iteganywa ko mu gihe hari amategeko ahana, rimwe ryariho mu gihe icyaha cyakorwaga, irindi ryaratangajwe nyuma y'uko icyaha gikorwa, ariko urubanza rutaracibwa burundu, itegeko rishya niryo rikurikizwa iyo riteganywa igihano cyoroheje. [31] Urukiko rw'Ubujurire rushingiye ku bimaze gusobanurwa byose, rurasanga Hakiziyaremye Moise akwiriye guhanisha igihano cy'igifungo cy'umwaka 1 n'ihazabu ingana na 300.000Frw; ibijyanye no kuba ari ubwa mbere

akurikiranyweho icyaha bikaba bitashingirwaho agabanyirizwa igihano harebwe uburyo yakomerekejemo Kimasa Robert nk'uko byagaragajwe haruguru. III. ICYEMEZO CY'URUKIKO [32] Rwemeje ko ubujurire bwa Hakiziyaremye Moise bufite ishingiro kuri bimwe.

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[33] Rwemeje ko urubanza RPA00606/2021/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 07/09/2023 ruhindutse ku bijyanye n'inyito y'icyaha gihama Hakiziyaremye Moise n'igihano ahanishijwe. [34] Rwemeje ko Hakiziyaremye Moise ahamwa n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake ku buryo bwa kiboko bubabaje. [35] Rwemeje ko Hakiziyaremye Moise ahanishwa igifungo cy'umwaka umwe (1) n'ihazabu ingana n'amafaranga y'u Rwanda ibihumbi magana atatu (300.000 Frw). [36] Rutegetse ko Hakiziyaremye Moise ahita arekurwa uru rubanza rukimara gusomwa kuko igihano cy'igifungo ahanishijwe kiri muni y'igihe amaze afunze. [37] Rutegetse ko Hakiziyaremye Moise asonewe amagarama y'urubanza kuko yaburanye afunze.

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