

RWANDA / JUDGMENT

UBUSHINJACYAHA v HATEGEKIMANA

RPAA 00346/2024/CA

COURT

Court of Appeal

DECIDED

20 December 2024

CASE / FILE NUMBER

RPAA 00346/2024/CA

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

UBUSHINJACYAHA v HATEGEKIMANA

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2024-12-20
- Case/document no.: RPAA 00346/2024/CA
- Collection: Court of Appeal

Text

Page 1

UBUSHINJACYAHA v HATEGEKIMANA [Rwanda URUKIKO RW'UBUJURIRE - RPAA 00346/2024/CA (Rugabirwa, P.J.) 20 Ukuboza 2024] Amategeko agenga imanza z'inshinjabyaha – Ukwemera icyaha – Ukwemera icyaha kugira agaciro - Ukwemera icyaha gushobora kugirira ushinjwa akamaro ni ugukozwe nibura iburanisha ku rwego rwa mbere ritarapfundikirwa. Incamake y'ikibazo: Hategekimana yateranye amagambo na Masabo kugeza barwanye ariko abaturage barabakiza. Nyuma yo kubakiza, Hategekimana yateye ibuye Masabo aramukomeretsa, ajya kwivuza ku kigo nderabuzima cyari aho hafi ariko avuyeyo asanga Hategekimana yamuteze afite umuhoro awumutemesha mu mutwe no mu ijosi, bamusubiza ku kigo nderabuzima birananirana bamwohereza ku bitaro bikuru. Hategekimana yashyikirijwe inzego z'ubugenzacyaha, akorerwa dosiye, ubushinjacyaha bumurega icyaha cy'ubwinjiracyaha bw'ubwicanyi mu Rukiko Rwisumbuye rwa Nyamagabe. Uregwa yemera ko yatemye Masabo akoresheje umuhoro kandi hari n'abatangabuhamya babyemeza. Urwo rukiko rwasanze Hategekimana ahamwe n'icyaha cy'ubwinjiracyaha cy'ubwicanyi bumuhanisha igihano cy'igifungo cy'inyuma 25. Uregwa yajuririye icyo cyemezo mu Rukiko Rukuru avuga ko inyito y'icyaha ashinjwa yahinduka ngo kuko yasembuwe akitabara ariko ubushinjacyaha bukavuga ko

atigeze asemburwa kuko Masabo nta ntwaro yari afite. Urukiko Rukuru rushingiye ku kuba ari ubwa mbere uregwa yari akoze icyaha, rwasanze akwiye kugabanyirizwa rumuhanisha igifungo cy'imyaka 15. Hategekimana ntiyanyuzwe maze ajuririra icyo cyemezo mu Rukiko rw'Ubujurire avuga ko yaburanye yemera icyaha bityo ko akwiye kongera kugabanyirizwa igihano. Uru Rukiko rwasuzumye ikibazo cyo kumenya niba Hategekimana yakongera kugabanyirizwa ibihano kubera ko yemera icyaha akanagisabira imbabazi. Uregwa asobanura ko akwiye kongera kugabanyirizwa igihano hashingiwe ku mpamvu nyoroshyacyaha z'uko yemeye icyaha cy'ubwinjiracyaha bw'ubwicanyi ku buryo budashidikanywaho anagisabira imbabazi ndetse n'umuryango we wazimusabiye kuri Masabo akazimuha, kuba ari ubwa mbere aguye mu cyaha, no kuba nta ngaruka zikomeye icyaha cyateje, agahanishwa igifungo cy'imyaka 12 n'amezi 6. Ubushinjacyaha buvuga ko Hategekimana atakongera kugabanyirizwa igihano, kubera ko Urukiko Rukuru rwakimugabanyirije rumuhanisha igifungo cy'imyaka 15, aho kumuhanisha igifungo cy'imyaka 25. Incamake y'icyemezo: Ukwemera icyaha gushobora kugirira ushinjwa akamaro ni ugukozwe nibura iburanisha ku rwego rwa mbere ritarafundikirwa. Ubujurire bufite ishingiye kuri bimwe. Amategeko yashingiweho: Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 21;

Page 2

Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 2. Imanza zifashishijwe: RPAA 00048/2020/CA, Ubushinjacyaha na Bimenyimana Jean Paul, rwaciye n'Urukiko rw'Ubujurire. Urubanza I. IMITERERE Y'URUBANZA [1] Ubushinjacyaha bwakurikiranyeho Hategekimana Védaste icyaha cy'ubwinjiracyaha bw'ubwicanyi kubera ko ku wa 27/02/2020, mu gihe cya saa cyenda z'urukerera (3h00), Hategekimana Védaste yateranye amagambo na Masabo Vincent aho bari muri centre ya Mushubi bararwana abantu barabakiza bigeze aho Masabo Vincent kuko akora kuri agence ya STARS itwara abagenzi ajya guha shoferi amafaranga yagurishije amatike, Hategekimana Védaste afata ibuye ararimutera rimufata ku ijosi arakomereka ahita ajya kwa muganga ku Kigo Nderabuzima cya Mushubi, akimanuka yasanze Hategekimana Védaste yamuteze afite n'umuhoro ahita amutema mu mutwe no ku ijosi arakomereka cyane asubizwa ku kigo nderabuzima cya Mushubi birananirana bamwohereza ku bitaro bya Kaduha . Hategekimana Védaste yaburanye yemera icyaha, uretse ko yavuze ko yagikoze yitabara. [2] Urukiko Rwisumbuye rwa Nyamagabe rwaregwe, rushingiye ku mvugo za Hategekimana Védaste wemera ko yatemye Masabo Vincent akoresheje umuhoro, ku mvugo z'abatangabuhamya barimo Muragijimana Thérèse, Siborurema Emmanuel na Nzisengerimana Eugène bamushinja kuba yaratemye Masabo Vincent akoresheje umuhoro ku ijosi no ku mutwe, ku nyandikomvugo y'ifatira ry'umuhoro, ku mafoto ya Masabo Vincent agaragaza ko yakomerekejwe mu mutwe no ku ijosi nk'uko binagaragazwa na raporo ya muganga yo ku wa 28/02/2020, rwaciye urubanza N° RP 00079/2020/TGI/NYBE ku wa 16/06/2020, rwemeza ko Hategekimana Védaste ahamwe n'icyaha cy'ubwinjiracyaha bw'ubwicanyi, rumuhanisha igifungo cy'imyaka 25. [3] Hategekimana Védaste yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Nyanza, asaba ko inyito y'icyaha yahinduka, akagabanyirizwa ibihano, kuko yasembuwe na Masabo Vincent akamukomeretsa

yitabara. Naho uhagarariye Ubushinjacyaha avuga ko inyito y'icyaha itahinduka, ndetse ko n'igihano yahanishijwe cyagumaho, kuko atasembuwe na Masabo Vincent kubera ko ubwo yamuhoteraga atari afite intwaro, ko ahubwo yari yagambiriye kumwica harebwe intwaro yamutemesheje (umuhoro) mu mutwe no ku ijosi (mu cyico). [4] Urukiko Rukuru rushingiye ku kuba Hategekimana Védaste yaremereye icyaha cy'ubwinjiracya bw'ubwicanyi mu Bugenzacyaha akanasobanura uko yagikoze, nyamara yagera mu Rukiko Rukuru akagihakana avuga ko yasembuwe na Masabo Vincent kandi atari ukuri, kuko nta kimenyetso yatanze kivuguruza imvugo ye ya mbere yanashingiweho n'Urukiko Rwisumbuye rumuhamya icyaha, atagabanyirizwa ibihano kubera ko atemera icyaha aregwa, ariko ko akwiye kukigabanyirizwa kubera ko ari ubwa mbere akurikiranyweho icyaha, rwaciye urubanza N° RPA 00568/2020/HC/NYZ ku wa 30/04/2024, rwemeza ko urubanza rwajuririwe ruhindutse gusa ku bijyanye n'igihano, rumuhanisha igifungo cy'imyaka cumi n'itanu (15).

Page 3

[5] Hategekimana Védaste yajuririye na none urwo rubanza mu Rukiko rw'Ubujurire, ubujurire bwe buhabwa N° RPAA 00346/2024/CA, urubanza ruburanishwa mu ruhamye ku wa 10/12/2024, Hategekimana Védaste yunganiwe na Me Ruganza Bin Seba, naho Ubushinjacyaha buhagarariye na Ntawangundi Béatrice, Umushinjacyaha ku rwego rw'Igihugu. [6] Mu mwanzuro w'ubujurire no mu miburanire, Hategekimana Védaste n'umwunganira bavuga ko akwiye kongera kugabanyirizwa ibihano kubera ko yaburanye yemera icyaha anagisabira imbabazi nk'uko yanazihawe n'uwo yakoreye icyaha, kuba ari ubwa mbere aguye mu cyaha, no kuba nta ngaruka zikomeye icyaha cyateje. [7] Naho uhagarariye Ubushinjacyaha avuga ko Hategekimana Védaste atakongera kugabanyirizwa ibihano kuko yabigabanyirijwe ku buryo buhagije, ahanishwa igifungo cy'imyaka 15, aho guhanishwa igifungo cy'imyaka 25. [8] Urukiko ruherereye kuri izo mpaka, rurasanga ikibazo gikwiye gusuzumwa muri uru rubanza ari icyo kumenya niba Hategekimana Védaste yakongera kugabanyirizwa ibihano hashingiwe ku mpamvu nyoroshyacyaha yatanze zavuzwe haruguru. II.ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba Hategekimana Védaste yakongera kugabanyirizwa ibihano kubera ko yemera icyaha akanagisabira imbabazi [9] Hategekimana Védaste n'umwunganira bavuga ko hashingiwe ku ingingo ya 2 (b) y'Itegeko N° 059/2023 ryo ku wa 04/12/2023, iteganya ko uwari guhanishwa igifungo kimara igihe kizwi kiva ku mezi 6 kuzamura ashobora kugabanyirizwa ibihano, ariko ntikijye muni ya kimwe cya kabiri cy'igihano gito giteganyirijwe icyaha cyakozwe, Hategekimana Védaste akwiye kongera kugabanyirizwa ibihano hashingiwe ku mpamvu nyoroshyacyaha z'uko yemeye icyaha cy'ubwinjiracyaha bw'ubwicanyi ku buryo budashidikanywaho anagisabira imbabazi nk'uko n'umuryango we wazimusabiye kuri Masabo Vincent yahohoteye akazimuha nk'uko bigaragazwa n'ibaruwa yashyikirije uru Rukiko iri muri dosiye, kuba ari ubwa mbere aguye mu cyaha, no kuba nta ngaruka zikomeye icyaha cyateje, agahanishwa igifungo cy'imyaka 12 n'amezi 6, aho kuba igifungo cy'imyaka 15 yahawe mbere. [10] Uhagarariye Ubushinjacyaha avuga ko Hategekimana Védaste atakongera kugabanyirizwa igihano, kubera ko Urukiko Rukuru rwakimugabanyirije

rumuhanisha igifungo cy'imyaka 15 hakurikijwe uburemere bw'icyaha yakoze, aho kumuhanisha igifungo cy'imyaka 25. Asaba ko icyo gihano yahawe gikwiye kugumaho, kuko nta kosa ryo mu rwego rw'amategeko urwo Rukiko rwakoze ryatuma yongera kugabanyirizwa ibihano. UKO URUKIKO RUBIBONA [11] Ingingo ya 21, igika cya 2, y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ko "Ubwinjiracyaha burahanirwa n'ubwo icyari kigambiriwe kitashoboraga kugerwaho bitewe n'impamvu nyir'ugukora icyaha atashoboye kumenya". Naho igika cya 3 cy'iyi ngingo kigateganya ko "Ubwinjiracyaha bw'icyaha cy'ubugome cyangwa icyaha gikomeye buhanishwa kimwe cya kabiri (1/2) cy'igihano giteganyirijwe icyo cyaha. Ku

Page 4

cyaha gihanishwa igifungo cya burundu, ubwinjiracyaha buhanishwa igihano cy'igifungo kingana n'imyaka makumyabiri n'itanu (25)". [12] Naho ingingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 ryavuzwe haruguru igateganya ko "Ingingo ya 60 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ihinduwe ku buryo bukurikira: "Iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano ku buryo bukurikira: (b) igifungo kimara igihe kizwi kiva ku mezi 6 kuzamura gishobora kugabanywa, ariko ntikijye muni ya kimwe cya kabiri cy'igihano gito giteganyirijwe icyaha cyakozwe". [13] Nk'uko byatanzweho umurongo mu rubanza N° RPAA 00048/2020/CA rwaciwe n'uru Rukiko ku wa 26/05/2022, mu gika cyarwo cya 24, haburana Ubushinjacyaha na Bimenyimana Jean Paul, ukwemera icyaha gushobora kugirira ushinjwa akamaro ari ugukozwe nibura iburanisha ku rwego rwa mbere ritarapfundikirwa. [14] Nk'uko bigaragarira mu gika cya 6 cy'urubanza N° RP 00079/2020/TGI/NYBE rwaciwe n'Urukiko Rwisumbuye rwa Nyamagabe ku wa 16/06/2020, Hategekimana Védaste yaburanye avuga ko yakoze icyaha yitabara, kubera ko yatemye Masabo Vincent akoresheje umuhoro bitewe n'uko ariwe wari amaze kumukubita icyuma ku ijosi, ariko urwo Rukiko rusanga ataritabaraga, kuko mu Bugenzacyaha yivugiye ko igihe yatemaga Masabo Vincent inshuro ebyiri akoresheje umuhoro nta ntwaro uyu yari yitwaje yo kumurwanya, ko ahubwo yamutemye abitewe n'inzoga nk'uko byanashimangiwe n'abatangabuhamya barimo Muragijimana Thérèse, Siborurema Emmanuel na Nzisengerimana Eugène bashinje Hategekimana Védaste kuba yaratemesheje Masabo Vincent umuhoro ku ijosi no ku mutwe bapfuye umugenzi. [15] Nk'uko bigaragarira mu bika bya 13-18 by'urubanza rujuririrwa, Hategekimana Védaste yahakanye icyaha cy'ubwinjiracyaha bw'ubwicanyi kubera ko yakoze icyaha yitabara, ariko Urukiko Rukuru rusanga yari agamije kwica Masabo Vincent harebwe igikoresho cyakoreshejwe n'igice cy'umubiri cyibasiwe kandi ko nta ntwaro uyu yari yitwaje yo kumurwanya nk'uko yabiyemereye mu Bugenzacyaha. [16] Hashingiwe ku bisobanuwe haruguru, Urukiko rw'Ubujurire rurasanga Hategekimana Védaste atagabanyirizwa ibihano hashingiwe ku mpamvu y'uko yemeye icyaha akanagisabira imbabazi, kubera ko atigeze yemera icyaha cy'ubwinjiracyaha bw'ubwicanyi ku buryo budashidikanywaho ngo anagisabire imbabazi guhera ku rwego rwa mbere kugera muri uru Rukiko nk'uko byatanzweho umurongo mu rubanza N° RPAA 00048/2020/CA rw'Ubushinjacyaha na Bimenyimana Jean Paul rwaciwe ku wa 26/05/2022 rwavuzwe haruguru. [17] Urukiko rw'Ubujurire rurasanga ahubwo hashingiwe ku ngingo ya 2 (b)

y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 ryavuzwe haruguru, Hategekimana Védaste akwiye kongera kugabanyirizwa ibihano kubera ko ari ubwa mbere akoze icyaha ku buryo buzwi, agahanishwa igifungo cy'imyaka cumi n'ibiri (12) n'amezi atandatu (6), aho kuba gifungo cy'imyaka 15 yahawe mbere. III. ICYEMEZO CY'URUKIKO [18] Rwemeje ko ubujurire bwa Hategekimana Védaste bufite ishingiro kuri bimwe.

Page 5

[19] Ruvuze ko imikirize y'urubanza N° RPA 00568/2020/HC/NYZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza, ku wa 30/04/2024, ihindutse gusa ku birebana n'igihano Hategekimana Védaste ahanishijwe. [20] Ruhanishije Hategekimana Védaste igifungo cy'imyaka cumi n'ibiri (12) n'amezi atandatu (6). [21] Rutegetse ko amagarama y'urubanza aherera ku Isanduku ya Leta.

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/8989/9334>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/hategekimana-vedaste-attemptedmurder-court-of-appeal-2024>

Prepared on 12 October 2026 · Esheria