

RWANDA / JUDGMENT

UBUSHINJACYAHA v MUHIRE

RPAA 00122/2023/CA

COURT

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UBUSHINJACYAHA v MUHIRE

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Text

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UBUSHINJACYAHA v MUHIRE [Rwanda URUKIKO RW'UBUJURIRE - RPAA 00122/2023/CA (Nyirandabaruta, P.J.) 15 Ukuboza 2025] Amategeko agenga imanza z'inshinjabyaha – Ibiyobyabwenge – Gucuruza ibiybyabwenge - kwemeza niba ibiyobyabwenge uregwa yafatanywe atari ibyo kwikoreshereza ku giti cye (simple drug possession) ahubwo ari ibyo gucuruza cyangwa gukwirakwiza (drugs trafficking/drug distribution), hashingirwa ku bimenyetso bikurikira: kuba uregwa yafatanwa iminzani yabugenewe mu gupima, amasashe yifashishwa mu gupfunyikamo ibiyobyabwenge, amafaranga menshi bafatiye aho hantu, ahakoreshwa nk'ububiko, ubwinshi bw'ibiyobyabwenge basanze aho hantu, urujya n'uruza rw'abantu ahafatiwe ibiyobyabwenge, abatangabuhamya bemeza ko uwo muntu asanzwe acuruza ibiyobyabwenge. Amategeko agenga imanza z'inshinjabyaha – Gucuruza ibiyobyabwenge – Abaguzi - Umuntu ntagirwa umucuruzi no kuba hari abaguzi babonetse aho acururiza, ahubwo igihe cyose afite ibicuruzwa kandi yiteguye kubiha umuntu wese umugana ashaka ibyo agurisha, aba ari umucuruzi. Incamake y'ikibazo: Inzego z'umutekano zamenye amakuru ko Muhire yacuruzaga ibiyobyabwenge bwo mu bwoko bwa Héroïne, zijya iwe arafatwa. Abajijwe mu Bugenzacyaha no mu Bushinjacyaha, Muhire yemeye ko amaze amezi atatu acuruza kandi anywa

heroine anasobanura n'aho ayikura. Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Nyarugenge icyaha icyaha cyo gucuruza ibiyobyabwenge bya Héroïne. Uregwa yaburanye avuga yemera icyaha cyo gufatanywa no kunywa ibiyobyabwenge, ahakana ko yabicuruzaga. Urukiko rwasanze ahamwa n'icyaha aregwa, rumuhanisha igifungo cy'imyaka 25 n'ihazabu ya 20.000.000 Frw. Uregwa yajuririye icyo cyemezo mu Rukiko Rukuru, urukiko rusanga ubujurire bwe budafite ishingiro ariko rumugabanyiriza ibihano, ahanishwa igifungo cy'imyaka 15. Muhire yatanze ubujurire bwa kabiri mu Rukiko rw'Ubujaire asaba ko inyito y'icyaha yahinduka. Urukiko rwasuzumye ikibazo cyo kumenya niba inyito y'icyaha Muhire yahamijwe cyo gucuruza Héroïne yahinduka agahanirwa kuyinywa. Uregwa asobanura ko yemera icyaha cyo kuba yaranywaga ibiyobyabwenge ariko ko atabicuruzaga kuko nta baguzi bigeze basanga aho yafatiwe kandi akaba yarafatanywe ingano nkeya cyane bigaragara ko ari ibyo kunywa. Ubushinjacyaha buvuga ko uregwa anywa kandi agacuruza Héroïne nk'uko yabyemeye mu ibazwa rye, bikaba byemezwa n'abaturanyi be ko acuruza ibiyobyabwenge bityo inyito y'icyaha ikaba idakwiye guhinduka. Incamake y'icyemezo: 1. Kwemeza niba ibiyobyabwenge uregwa yafatanywe atari ibyo kwikoreshereza ku giti cye (simple drug possession) ahubwo ari ibyo gucuruza cyangwa gukwirakwiza (drugs trafficking/drug distribution), hashingirwa ku bimenyetso bikurikira: kuba uregwa yafatanwa iminzani yabugenewe mu gupima, amasashe yifashishwa mu gupfunyikamo ibiyobyabwenge, amafaranga menshi bafatiye aho hantu, ahakoreshwa nk'ububiko, ubwinshi

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bw'ibiyobyabwenge basanze aho hantu, urujya n'uruza rw'abantu ahafatiwe ibiyobyabwenge, abatangabuhamya bemeza ko uwo muntu asanzwe acuruza ibiyobyabwenge;

2. Umuntu ntagirwa umucuruzi no kuba hari abaguzi babonetse aho acururiza, ahubwo igihe cyose afite ibicuruzwa kandi yiteguye kubiha umuntu wese umugana ashaka ibyo agurisha, aba ari umucuruzi. Ubujurire, nta shingiro bufite. Nta mategeko yashingiweho Imanza zifashishijwe: RPAA 00408/2020/CA, Ubushinjacyaha na Niyitegeka Augustin rwaciwe n'Urukiko rw'Ubujaire ku wa 27/06/2022; RPAA 00386/2024/CA, Ubushinjacyaha na Nshimiyimana Sumayire rwaciwe n'Urukiko rw'Ubujaire ku wa 29/01/2025; RPAA 00343/2021/CA, Ubushinjacyaha na Uwemeyimana Joseph rwaciwe n'urukiko rw'Ubujaire ku wa 24/02/2023; RPAA 00436/2020/CA, Ubushinjacyaha na Ahimpereye Ndeze François, rwaciwe n'Urukiko rw'Ubujaire ku wa 28/6/2022. Urubanza I. IMITERERE Y'URUBANZA

- [1] Abakozi b'urwego rwa ANU (ishami rya polisi rishinzwe kurwanya ibiyobyabwenge) rwahawe amakuru n'abaturage ko Muhire anywa akanacuruza Héroïne, maze ku wa 14/12/2019, bamufatira mu Murenge wa Kimihurura, Akagari ka Kimihurura, Umudugudu w'Intambwe, bamufatana udupaki 6 twa Héroïne. [2] Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Nyarugenge, icyaha cyo kunywa no gucuruza ibiyobyabwenge cya Héroïne, bamusabira igihano cy'igifungo cya burundu. [3] Muhire yaburanye avuga ko anywa Héroïne atayicuraza, ariko ko utwo dupaki yadufatanywe akaba abisabira imbabazi. [4] Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza No RP 01627/2019/TGI/NYGE ku wa 30/01/2020, ruhamya Muhire icyaha cyo gucuruza ibiyobyabwenge bya Héroïne

rushingiye ku bimenyetso byatanze n'Ubushinjacyaha birimo ubuhamya bwa Nasingizwe JMV n'ubwa Munyaneza bamushinja kunywa akanacuruza Héroïne kandi ko bamufatanye udupaki 6 twayo, runashingira ku kuba Muhire ubwe yaremeye icyaha mu Bugenzacyaha no mu Bushinjacyaha; rumuhanisha igifungo cy'imyaka 25 n'ihazabu ya 20.000.000 Frw.

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- [5] Muhire yajuriye mu Rukiko Rukuru avuga ko atigeze acuruza Héroïne ahubwo ayinywa, asaba ko yahanirwa icyaha cyo kuyinywa. [6] Uhagarariye Ubushinjacyaha avuga ko Muhire Patrick anywa akanacuruza Héroïne, ko ibyo avuga ko atayicuruza nta shingiro byahabwa. [7] Urukiko Rukuru rwaciye urubanza No RPA 00348/2020/HC/KIG ku wa 08/02/2023, rwasuzumye ikibazo cyo kumenya niba Muhire yahanirwa icyaha cyo kunywa Héroïne aho kuba icyo kuyicuruza, rushingiye ku buhamya bw'abatangabuhamya n'imvugo za Muhire mu Bugenzacyaha no mu Bushinjacyaha yemera ko amaze amezi 3 n'igice acuruza Héroïne akaba yarafatanywe udupaki 6 twayo, rwemeje ko ahamwe n'icyaha cyo kunywa no gucuruza ikiyobyabwenge cya Héroïne, cyokora rumugabanyiriza igihano rushingiye kuba ari ubwa mbere akurikiranyweho icyaha n'ingano nto ya Héroïne yafatanywe (udupaki 6), rumuhanisha igifungo cy'imyaka cumi n'itanu (15). [8] Muhire yajuririye imikirize y'urwo rubanza mu Rukiko rw'Ubujurire, urubanza ruhabwa No RPAA 00122/2023/CA, ruburanishwa mu ruhamwe ku wa 02/12/2025 Muhire yunganiwe na Me Kallagi Arnold naho Ubushinjacyaha buhagarariwe na Rudatinya Nyangezi Gaspard, Umushinjacyaha ku rwego rw'Igihugu. Hari kandi Niyonsaba Jean de Dieu, umusemuzi wakoze umurimo wo gusemura (kuko Me Kallagi Arnold atazi ikinyarwanda avuga igifaransa) amaze kurahira indahiro iteganywa n'Ingingo ya 208 y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha.¹ [9] Mu myanzuro y'ubujurire bwe yo ku wa 21/12/2023 no mu miburanire ye, Muhire na Avoka umwunganira bavugaga ko Urukiko Rukuru rwamuhamije icyaha cyo gucuruza Héroïne kandi nta gikorwa cyo kuyicuruza cyabaye nta n'umugambi yari afite. Bavugaga kandi ko ibimenyetso byashingiweho bishidikanywaho, bidafite ireme kandi bitera urujijo, basaba ko Muhire yarenganurwa agahanirwa icyaha cyo kunywa no gufatanwa ibiyobyabwenge bya Héroïne. [10] Uhagarariye Ubushinjacyaha avugaga ko ibyo Muhire avugaga nta shingiro byahabwa kuko yafatanywe udupaki 6 twa Héroïne ku makuru yari yatanze n'abaturage ko ari kuyicuruza. [11] Hashingiwe kuri izo mpaka Urukiko rurasuzuma niba inyito y'icyaha yahinduka Muhire agahanirwa icyaha cyo kunywa aho kuba icyo gucuruza Héroïne.

II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA

Kumenya niba inyito y'icyaha Muhire yahamijwe cyo gucuruza Héroïne yahinduka agahanirwa kuyinywa

1 Ingingo ya 208: Mbere yo gutangira imirimo ye, impuguke, umusemuze, uhindura mu ndimi cyangwa umuganga, abanza kurahira muri aya magambo: «Jyewe... , ndahiriye ko nzakora umurimo nshinzwe ntacyo nirengagije, nkawukora uko ugomba gukorwa nta buhemu. Niba ntawukoze uko bikwiye nzabihanirwe n'amategeko.»

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[12] Muhire n'Avoka umwunganira bavuga ko Urukiko Rukuru rwamuhamije icyaha cyo gucuruza Héroïne kandi nta gikorwa cyo kuyicuruza cyabayeho, nta n'umugambi wo kuyicuruza yari afite. Bavuga kandi ko ibimenyetso byashingiweho bishidikanywaho, bidafite ireme kandi bitera urujijo, agasaba ko yarenganurwa agahanirwa icyaha cyo kunywa ibiyobyabwenge no kubifatanwa gusa. [13] Basobanura ko Muhire yafatanywe udupaki dutandatu (6) twa Héroïne, iyo yafashwe ikaba yari iyo kunywa kandi ko n'ingano yayo ubwayo ibigaragaza kuko itageze no kw'igarama rimwe (1); ko yemera ko yaguye mu ngeso mbi yo kunywa ibiyobyabwenge ariko atigeze na rimwe abicuruza; ko ibikorwa yakoze bigaragaza neza ko icyaha yakoze ari icyo kunywa ibiyobyabwenge atari icyo kubicuruza. Basaba Urukiko gushingira ku murongo watanze mu rubanza N° RPAA 00118/2024/CA, rwaciye n'Urukiko rw'Ubujurire ku wa 21/03/2025 haburana Ubushinjacyaha na Karangwa alias Ephrem Habyarimana (igika cya 15), aho rwasobanuye ko "Iyo nta bimenyetso bigaragaza ko uregwa yafatanwe ingano nto y'ibiyobyabwenge yahinze, yatunze cyangwa yabitse yari agamije kubikwirakwiza no kubigurisha, afatwa nk'uwari ugamije kubyikoreshereza (simple drug possession) aho kubicuruza no kubikwirakwiza (drug trafficking /drug distribution), agahabwa ibihano bito." [14] Bakomeza bavuga ko Urukiko Rukuru rwashingiye ku kuba Muhire yaremeye icyaha mu Bugenzacyaha n'ubwo nyuma yagihakanye; basobanura ko yafashwe ari kunywa Héroïne abazwa hashize iminsi 2 atayinywa, ibyo bikaba byaratumye yemera icyaha kubera igitutu n'ububabare bukabije bw'umubiri wose buterwa no kubura ibiyobyabwenge mu mubiri ku muntu wari warabaswe nabyo, harimo ububabare bw'umugongo, mu nda, umutwe n'ibindi, bityo kwiyeemerera icyaha akaba yarabikoze ku gitutu cyane cyane ko atari afite intege zikwiye zo kuba yatekereza neza, nk'umuntu wari urwaye izo ndwara zose icyarimwe. [15] Bavuga ko abahanga mu mategeko bavuga ko abantu bafite ibiyobyabwenge bya Héroïne (mu mubiri) baba bafite ubushobozi bucyeye bwo gufata ibyemezo, cyane cyane mu gihe cyo kubikuramo cyangwa mu minsi ya mbere yo kwifata kandi ko ubushakashatsi bakoze bwerekana ko ibiyobyabwenge bya Héroïne bishobora guhungabanya ubifata mu kwifatira ibyemezo ku bushake, bikagira ingaruka ku bushobozi bwabo bwo gusubiza neza mu iperereza.2 [16] Basaba ko hashingirwa ku murongo watanze mu rubanza N° RPAA 00366/2021/CA rwaciye n'Urukiko rw'Ubujurire ku wa 31/01/2023 haburana Ubushinjacyaha na Hafashimana Odance (igika cya 22) aho Urukiko rwasobanuye ko "kuba uregwa yemera icyaha byonyine atari ikimenyetso cyihagije kugira ngo byemezwe ko ukuri kwabonetse, ahubwo ari ikimenyetso mu bindi, kigira akamaro iyo giherekejwe n'ibindi bimenyetso bihuje n'ikiburanwa".

- [17] Bavuga kandi ko abatangabuhamyari ari abapolisi bafashe Muhire bavuga ko bahawe amakuru ko anywa akanacuruza Héroïne nyuma bakaza kumufatana udupaki dutandatu, ariko ko

2 Sylvia Baedorf Kassis, MPH., Ethical Considerations in Research Using the Drug of Addiction as Treatment:

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ibyo abatangabuhamyari bavuze bitagaragaza igikorwa cyo gucuruza Héroïne. Ibi bikaba binyuranyije n'ingingo ya 2 y'itegeko n° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso ivuga ko "ikimenyetso gishingiye ku buhamya bivuga amagambo avugiwe imbere y'urwego rufite ububasha cyangwa yarushyikirijwe mu nyandiko n'umuntu wabonye cyangwa wumvise ibyerekeranye n'ikibazo kiri mu mpaka", basaba ko yahanirwa icyaha cyo gufatanywa no kunywa Héroïne.

- [18] Uhagarariye Ubushinjacyaha avuga ko ibyo Muhire n'Avoka umwunganira bavuga nta shingiro byahabwa kuko yafatanywe Héroïne udupaki 6 ku makuru yatanze ko arikuyicuruza, ko kandi abatangabuhamyari Nasingizwe J M V na Munyaneza, bamushinja kuba baramufatanye udupaki 6 twa Héroïne ku makuru bahawe n'abaturage ko Muhire anywa akanacuruza Héroïne, kandi ko akimara gufatwa imbere y'Ubugenzacyaha yemeye icyaha anavuga ko yari amaze amezi atatu acuruza ibyo biyobyabwenge, ko rero ibimenyetso Urukiko Rukuru rwashingiyeho nta gushidikanya kubirimo, nta rujijo bitera kandi bifite ireme kuko bihujwe na kamere y'ikiburanwa, bityo Muhire akaba atahanirwa icyaha cyo gufatanwa no kunywa ibiyobyabwenge bihambaye bya Héroïne, ko ahubwo yahanirwa kubicuruza nk'uko yabihamijwe mu rubanza rujuririrwa. UKO URUKIKO RUBIBONA

- [19] Impaka muri uru rubanza zishingiye ku kumenya niba ari nta bimenyetso by'uko Muhire yacuruzaga Héroïne ahubwo yabinywaga gusa ku buryo inyito y'icyaha yahamijwe cyo kubicuruza yahinduka agahanirwa kubifatanwa no kubinywa. [20] Ibijyanye no kumenya ibishingirwaho kugira ngo hemezwe ko ibikorwa uregwa yakoze bigize icyaha cyo kugurisha ibiyobyabwenge byasobanuye mu rubanza N° RPAA 00408/2020/CA rwaciwe n'uru Rukiko ku wa 27/06/2022, haburana Ubushinjacyaha na Niyitegeka Augustin. Muri urwo rubanza Urukiko rw'Ubujurire rwasobanuye ko mu kwemeza niba ibiyobyabwenge uregwa yafatanywe atari ibyo kwikoreshereza ku giti cye (simple drug possession) ahubwo ari ibyo gucuruza cyangwa gukwirakwiza (drugs trafficking/drug distribution), hashingirwa ku bimenyetso bikurikira: kuba uregwa yafatanwa iminzani yabugenewe mu gupima, amasashe yifashishwa mu gupfunyikamo ibiyobyabwenge, amafaranga menshi bafatiye aho hantu, ahakoreshewa nk'ububiko, ubwinshi bw'ibiyobyabwenge basanze aho hantu, urujya n'uruza rw'abantu ahafatiwe ibiyobyabwenge, abatangabuhamyari bemeza ko uwo muntu asanzwe acuruza ibiyobyabwenge, (...). Ibi bisobanuro byongeye kugarukwaho mu manza zitandukanye zaciwe n'uru Rukiko, nk'urubanza N° RPAA 00386/2024/CA rwaciwe ku wa 29/01/2025 haburana Ubushinjacyaha na Nshimiyimana Sumayire (igika cya 15), n'urubanza N° RPAA 00343/2021/CA rwaciwe ku wa 24/02/2023 haburana Ubushinjacyaha na

Uwemeyimana Joséph.

- [21] Mu rubanza N° RPAA 00436/2020/CA rwaciwe ku wa 28/6/2022 haburana Ubushinjacyaha na Ahimpereye Ndeze François (igika cya 24), uru Rukio rwatanze umurongo ko umuntu ntagirwa umucuruzi no kuba hari abaguzi babonetse aho acururiza, ahubwo igihe cyose

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afite ibicuruzwa kandi yiteguye kubihira umuntu wese umugana ashaka ibyo agurisha, aba ari umucuruzi.

- [22] Mu rubanza rujuririrwa, Muhire n'ubundi yari yajuriye asaba ko inyito y'icyaha yahamijwe yahinduka agahanirwa icyaha cyo kunywa Héroïne aho kuba icyo kuyicuruza, Urukiko Rukuru rwemeza ko icyaha yakoze ari icyo kunywa no gucuruza Héroïne rushingiye ku mpamvu y'uko Muhire yemeye icyaha mu Bugenzacyaha no mu Bushinjacyaha kandi ko n'abatangabuhamya Nisingizwe JMV na Munyaneza Innocent bavuga ko bari basanzwe barahawe amakuru n'abaturage ko Muhire anywa akanacuruza Héroïne kandi bamufatanye udupaki dutandatu (6) twa Héroïne.
- [23] Dosiye y'urubanza igaragaza ko Muhire abazwa mu Bugenzacyaha3 ku wa 04/12/2019, nyuma yo kumenyeshwa ko akurikiranyweho icyaha cyo gucuruza no kunywa ibiyobyabwenge bya Héroïne yasubije ko abyemera, asobanura ko amaze umwaka abinywa, ndetse akaba amaze amezi atatu n'igice abicuruza; avuga aho abikura, igiciro abiranguraho n'icyo abicuruzaho; ko abigura kwa Niyongira Damascène utuye Kanyonyomba mu Gatsata kuri ADPR, igarama 1 rya Héroïne rigizwe n'udupfunyika 18 arigura 20.000 Frw, yarugurisha agakuramo 32.000 Frw, kandi ko yaranguraga inshuro 4 mu cyumweru. Muri iyo nyandikomvugo Muhire yanasobanuye uburyo bakora, ko iyo amaze kohereza amafaranga akoresheje telephone Niyonsaba Damascène amurangira aho abisize, ko akenshi ari ku cyapa cyangwa ku ipoto, yahagera akabifata, imvugo bakoresha we na Niyonsaba Damascène ndetse n'iyi we n'abakiriya abicuruzaho bakoresha.
- [24] Dosiye igaragaza ko ibyo Muhire yavugiyemo mu Bugenzacyaha yabisubiyemo ubwo yabazwaga mu Bushinjacyaha ku wa 17/12/20254; yakomeje kwemera icyaha cyo kunywa no gucuruza ibiyobyabwenge bya Héroïne; ko yari amaze umwaka abinywa n'amezi atatu abicuruzaga akanabinywa. Igaragaza kandi nyandikomvugo zo ku wa 14/12/2019 z'ibazwa rya Munyaneza Innocent na Nisingizwe Jean Marie Vianney, abapolisi bo mu Ishami rya Polisi y'Igihugu rishinzwe kuranya ibiyobyabwenge (ANU)5 bamufashe babajijwe, baturiza kuba Muhire ubusanzwe uba mu Murenge wa Remera yarafatiwe mu Murenge wa Kimihurura, mu Mudugudu w'Intabwe, aho akorera, bakaba baramusanze arimo kunywa ibiyobyabwenge bya mugo (Héroïne); bavuga ko bari barahawe amakuru n'abaturage ko acuruza akananywa ibyo biyobyabwenge, bakaba baramufashe abinywa ababonye ashaka kubimira bararwana Amira pieces 2 ariko bamufatana izindi 6; ko ikigaragaza ko abicuruza ari uko bari basanzwe bafite ayo makuru, bakaba baranabimufatanye kandi ko nawe ubwe yemera ko abinywa akanabicuruza.

[25] Urukiko rw'Ubujuje rurebye uburyo Muhire yemeye ibyaha aregwa muri izo nzego z'iperereza n'ukuntu yasobanuye uburyo abona n'uburyo acuruza ibiyobyabwenge cya Héroïne,

3 Reba inyandikomvugo yo ku wa 14/12/2019 4 Reba inyandikomvugo yo ku wa 17/12/2019 5 Reba inyandikomvugo ya Munyaneza Innocent n'ya Nsingizwe Jean Marie Vianney zo ku wa 14/12/2019

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bigaragara ko yabajijwe asubiza yisanzuye kandi ibitekerezo bye biri ku murongo, asobanura akantu ku kandi ku bijyanye n'igihe amaze anywa anacuruza ibiyobyabwenge bya Héroïne, aho abirangura n'uburyo bimugeraho ndetse n'abo abigurishaho n'uburyo bakorana, imvugo bakoresha, ibyo yemeye byahuzwa n'imvugo y'abatangabuhamya y'uko bari barahawe amakuru y'uko Muhire anywa akanacuruza ibiyobyabwenge bya Héroïne bikerekana ko nta kosa inkiko zabanje zakoze kuba zaramuhamije ibyaha byo kunywa no gucuruza ibiyobyabwenge byo mu bwoko bwa Héroïne. [26] Kubyo Muhire n'umwunganizi we bavuga ko yabajijwe hashize iminsi 2 afashwe, ibiyobyabwenge yamize bitaramushiramo, arwaye ababara umubiri wose atanabasha gutekereza neza kubera ibyo biyobyabwenge bigatuma yemera icyaha atakoze, bagasaba ko uko kwemera icyaha kwe kwashingiweho mu rubanza rujurirwa ahamywa icyaha cyo gucuruza ibiyobyabwenge bya Héroïne kwateshwa agaciro bashingiye ko ngo abahanga mu mategeko bavuga ko abantu bafite ibiyobyabwenge bya Héroïne baba bafite ubushobozi bucyeye bwo gufata ibyemezo, cyane cyane mu gihe cyo kubikuramo cyangwa mu minsi ya mbere yo kwifata no ku bushakashatsi bavuga ko bakoze bwerekana ko ibiyobyabwenge bya Héroïne bishobora guhungabanya ubifata mu kwifatira ibyemezo ku bushake, bikagira ingaruka ku bushobozi bwabo bwo gusubiza neza mu iperereza, uru Rukiko rurasanga nta shingiro bifite, kuko nk'uko byagaragajwe haruguru, uburyo Muhire yasobanuye imikorere y'ibyaha aregwa mu Bugenzacyaha no mu Bushinjacyaha byerekana neza ko yari afite ubwenge n'ibitekerezo bizima, avuga ibintu bisobanutse nta gucurikiranya amagambo, byerekana ko igitutu bavuga ko yaba yarashyizweho n'ibiyobyabwenge ntacyo. Ibyo bigaragazwa kandi n'uko ibyo Muhire yemeye mu Bugenzacyaha yabisubiyemo mu Bushinjacyaha kuko naho abazwa yemeye icyaha ku buryo budashidikanywaho asobanura uko yagikoze kandi hari hashize iminsi 3 kuva abajijwe mu Bugenzacyaha. [27] Urukiko rw'Ubujuje rurasanga ibyo Muhire n'Avoka umwunganira baburanisha byavuzwe n'abahanga mu mategeko ndetse n'ubushakashatsi bavuga ko bakoze, bitagaragaza ko umuntu wese ufite Héroïne mu mubiri we atakaza byanze bikunze ubushobozi bwo gutekereza, cyangwa ngo byerekane ikigero cya Héroïne umuntu agomba kuba afite muri we kugira ngo agere aho abura ubushobozi bwo kuba yatekereza neza ngo berekane n'ikigero cya Héroïne Muhire yari afite igihe yabazwaga ngo babihuze n'ibivugwa n'abahanga ndetse n'ubushakashatsi bavuga ko bakoze, bityo bikaba bitashingirwaho ngo ibyo Muhire yemereye mu nzego z'iperereza bigaragara ko nta kibazo yari afite biteshwe agaciro. [28] Urukiko rurasanga ukwiyemerera icyaha mu Bugenzacyaha no mu Bushinjacyaha kwa Muhire kunganiwe n'ubuhamya bwatanze na Munyaneza Innocent na Nsingizwe Jean Marie Vianney bahamije ko bari basanzwe barahawe amakuru n'abaturage ko Muhire anywa akanacuruza ibiyobyabwenge

bya Héroïne, bityo umurongo Avoka umwunganira aburanisha watanzwe mu rubanza N° RPAA 00366/2021/CA rw'Ubushinjacyaha na Hafashimana Odance w'uko kuba uregwa yemera icyaha byonyine atari ikimenyetso cyihagije kugira ngo byemezwe ko ukuri kwabonetse...ukaba utashingirwaho kuko ibyo Muhire yemeye bishyigikiwe n'umuhamya bw'abatangabuhamya bamushinja. [29] Rurasanga rero ibyo bimenyetso bihagije kandi bigaragaza ku buryo budashidikanywaho ko Muhire yacuruzaga ibiyobyabwenge bihambaye bya Héroïne, kuba yari afite ingano yabyo itari nyinshi bikaba atari byo byatuma bifatwa nk'aho byari ibyo kwikoreshereza gusa (simple drugs

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possession) kuko yari abifite ategereje abo abigurishaho, dore ko yanagaragaje bamwe mubo yari asanzwe babigurisha. [30] Urukiko rw'Ubujurire rushingiye ku bisobanuro byose byatanzwe, rurasanga ibyo Muhire n'Avoka umwunganira bavuga ko Urukiko Rukuru rwamuhamije icyaha cyo gucuruza Héroïne ari nta gikorwa cyo gucuruza cyabaye nta n'umugambi wo kuyicuruza yari afite; ko ibimenyetso byashingiweho bishidikanywaho, bidafite ireme kandi bitera urujijo nta shingiro bifite, bityo ubujurire bwatanzwe na Muhire bugamije ko inyito y'icyaha yahamijwe n'Urukiko Rukuru ihinduka agahanirwa gufatanwa no kunywa ibiyobyabwenge bya Héroïne aho guhanirwa kubicuruza bukaba nta shingiro bufite, igihano cy'igifungo cy'imyaka 15 Muhire yahanishijwe kikaba kigomba kugumaho.

III. ICYEMEZO CY'URUKIKO

[31] Rwemeje ko ubujurire bwa Muhire Patrick alias Sande nta shingiro bufite; [32] Rwemeje ko imikirize y'urubanza No RPA 00348/2020/HC/KIG, rwaciwe n'Urukiko Rukuru, ku wa 08/02/2023, idahindutse, igihano cy'igifungo cy'imyaka cumi n'itanu (15 ans) Muhire Patrick alias Sande yahanishijwe n'Urukiko Rukuru kigumye; [33] Ruvuze ko amagarama y'urubanza aherera ku isanduku ya Leta, kuko Muhire Patrick alias Sande afunze.

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