

RWANDA / JUDGMENT

# UBUSHINJACYAHA v MUNYAKAZI N'ABANDI

RS/INJUST/RP 00003/2023/SC

COURT

Supreme Court

DECIDED

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## UBUSHINJACYAHA v MUNYAKAZI N'ABANDI

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### Text

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UBUSHINJACYAHA v MUNYAKAZI N'ABANDI [Rwanda URUKIKO RW'IKIRENGA - RS/INJUST/RP 00003/2023/SC (Hitiyaremye, P.J, Kazungu na Muhumuza J.) 27 Kamena 2025] Amategeko agenga imanza nshinjabyaha – Umugambi wo gukora icyaha – Icyaha cyo gucura umugambi wo gukora icyaha kiba cyuzuye igihe cyose abantu 2 cg benshi basangiye igitecyerezo cyo gukora icyaha, bakaba bumva kimwe uko icyaha kiri bukorwe, kabone nubwo icyaha ubwacyo cyakorwa numwe muri bo cg ntigikorwe. Incamake y'ikibazo: Muri uru rubanza, Ubushinjacyaha bwakurikiranye abaregwa buvuga ko Munyakazi na bagenzi be bacuze umugambi wo kwica uwitwa Sifa nk'uko byemejwe n'abatangabuhamya batandukanye nuko ku mugoroba wo ku wa 22/02/2020 hagati ya saa kumi n'ebyiri (18h00) na saa moya (19h00) hatwikwa abana 2 ba Manifashe na Sifa ubwo bari mu nzu yabo, bikorwa habanje kumenwa ikirahure cy'idirishya ry'icyumba bari baryamyemo, umwana wari ufite imyaka 2 yahise apfa, undi wari ufite imyaka 3.5 arashya bikomeye biza no kumuviramo ubumuga bwo gucika akaguru. Ubwo urubanza rwagera mu Rukiko Rukuru, Urugereko rwa Musanze, abaregwa bahanaguweho ibyaha mu rubanza RPA 00395/2021/HC/MUS

rwaciwe ku wa 07/07/2022 muri urwo rubanza abitwa Nsengiyumva, Munyakazi, Mugiraneza na Uwamariya bahamijwe icyaha cy'ivangura rishingiye ku bwoko ariko ko ntibahamwa n'ibyaha by'ubwicanyi naho abitwa Munyamahoro na Hitimana ntibahamwa n'icyaha. Ubushinjacyaha bwashubirishijemo urubanza ku mpamvu z'akarengane, rucibwa n'Urukiko Rw'Ikirenga, bukaba bwaravugaga ko Urukiko rwirengagije ibimenyetso bihagije bishinja abaregwa ibyaha baregwaga birimo icyaha cy'ubwicanyi, Gutwikira undi ku bushake inyubako, Gukomeretsa ku bushake byateye ubumuga buhoraho n'icyaha cy'ivangura ko kandi ibyo byaha byabanjirijwe n'ivangura bakoreraga uwitwa Sifa kuva agishakana n'uwitwa Manifashe. Ubushinjacyaha rero bwashubirishijemo urubanza buvuga ko Urukiko Rukuru rwagize abere abaregwa ku byaha byavuzwe rishingiye ku kuba nta wababonye babikora cyangwa bava kubikora, ko ndetse nta bimenyetso bihari bibahuza n'aho byakorewe igihe byakorwaga, ngo ibyo rukaba rwarabikoze rwirengagije ubuhamya burimo ubwa Munyamahoro mu Bugenzacyaha wagaragaje ko habayeho gucura umugambi wo kugirira nabi Sifa kuko Nsengiyumva yazaga iwabo (kwa Munyakazi), akabashishikariza kwifatanya na we, aho yakoresheje ijamba "kumwiyungaho", kugira ngo bazice Sifa. Mu bibazo byasumwe n'Urukiko Rw'Ikirenga harimo ikijyanye no kumeya niba hari ibimenyetso Urukiko Rukuru, Urugereko rwa Musanze, rwirengagije bihamya Munyakazi, Mugiraneza, Uwamariya, Munyamahoro na Nsengiyumva icyaha cy'ubwicanyi, icyo gutwikira undi ku bushake n'icyo gukomeretsa umuntu ku bushake bikamuviramo ubumuga buhoraho. Urukiko rwasanze hari ibikorwa byakozwe mu bihe bitandukanye ariko mu rwego rw'umugambi wakozwe n'imiryango ya Munyakazi na Nsengiyumva ugamije kugirira nabi umuryango wa Sifa na Jérôme, kubera ivangura rishingiye ku bwoko. Ko ibyashyingiweho n'Urukiko Rukuru mu guhamya abaregwa icyaha cy'ivangura rishingiye ku bwoko, ari na byo byari gushingirwaho rubahamya icyaha cy'ubwicanyi, icyo gutwikira undi inyubako ku bushake n'icyo gukubita no gukomeretsa ku bushake byateye ubumuga buhoraho.

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Incamake y'icyemezo: Icyaha cyo gucura umugambi wo gukora icyaha kiba cyuzuye igihe cyose abantu 2 cg benshi basangiye igitecyerezo cyo gukora icyaha, bakaba bumva kimwe uko icyaha kiri bukorwe, kabone nubwo icyaha ubwacyo cyakorwa numwe muribo cg ntigikorwe. Gusubirishamo urubanza ku mpamvu z'akarengane bifite ishingiye; Munyakazi, Mugiraneza, Munyamahoro, Uwamariya na Nsengiyumva bahamwa n'ibyaha bakurikiranyweho icy'ivangura, icy'ubwicanyi, icyo gutwikira undi ku bushake, n'icyo gukomeretsa ku bushake byateye ubumuga buhoraho; Hitimana ahamwa n'icyaha cy'ivangura rishingiye ku bwoko. Amategeko yashyingiweho: Itegeko No 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, Ingingo ya 48, 53 n'ya 81. Itegeko No 68/2018 ryo ku wa 30/08/2018 ritaganya ibyaha n'ibihano muri rusange, Ingingo ya 20, 61, 62, 107, 121, 163 n'ya 180. California Penal Code Section 182-185 Imanza zifashishijwe: Ubushinjacyaha vs Nshimiyimana Alexis n'abandi, RPAA 0059/08/CS rwaciwe n'Urukiko Rw'Ikirenga ku wa 19/11/2010. Inyandiko z'aabahanga: Charles Montaldo, What Is a Conspiracy? Crime and Criminal Justice, [http://crime.about.com/od/Crime\\_101](http://crime.about.com/od/Crime_101). Raoul Declercq, La preuve en matière pénale, Bruxelles, Editions juridiques Swinnen H., 1988, p.25. H-D. Bosly et Damien Vandermeersch, Droit de la procédure pénale, Bruxelles, La Charte, 2001, p.926. Michel

Franchimont, Ann Jacobs et Adrien Masset, Manuel de procédure pénale, Bruxelles, Larcier, 2012, 4<sup>e</sup> édition, p.1191

Urubanza I. IMITERERE Y'URUBANZA [1] Ku mugoroba wo ku wa 22/02/2020 hagati ya saa kumi n'ebiri (18h00) na saa moya (19h00) mu Mudugudu wa Marantima, Akagari ka Rwebeya, Umurenge wa Cyuve, Akarere ka Musanze, hatwitswe abana 2 ba MANIFASHE Jérôme na SIFA Célestine ubwo bari mu nzu yabo, bikorwa habanje kumenwa ikirahure cy'idirishya ry'icyumba bari baryamyemo. Umwana witwa IKIREZI KUNDWA Délice wari ufite imyaka 2 yahise apfa, undi witwa UMUTONIWACU AGATAKO Winner wari ufite imyaka 3.5 arashya bikomeye biza no kumuviramo ubumuga bwo gucika akaguru.

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[2] Ibyo bimaze kuba, hakozwe iperereza hafatwa MUNYAKAZI Evariste, umukobwa we UWAMARIYA Visensiya, abahungu be MUNYAMAHORO Innocent na MUGIRANEZA Ildephonse, hafatwa na NSENGIYUMVA Théoneste wari SEDO w'Akagari ka Cyamvumba mu Murenge wa Kabatwa, ndetse na HITIMANA Jean de Dieu wari Umukuru w'Umudugudu wa Marantima. MUNYAKAZI Evariste, abahungu be n'umukobwa we ndetse na NSENGIYUMVA Théoneste, Ubushinjacyaha bwabakurikiranyeho icyaha cy'ivangura, icy'ubwicanyi, icyo gutwikira undi ku bushake n'icyo gukubita no gukomeretsa undi ku bushake byateye ubumuga buhoraho, naho HITIMANA Jean de Dieu bumukurikiranaho icyaha cy'ivangura, maze bubaregera Urukiko Rwisumbuye rwa Musanze. [3] Mu rubanza N° RP 00209/2020/TGI/MUS, rwaciwe ku wa 08/04/2021, urwo Rukiko rwemeje ko NSENGIYUMVA Théoneste, MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, MUNYAMAHORO Innocent na UWAMARIYA Visensiya bahamwa n'ibyaha by'ivangura rishingiye ku bwoko, ubwicanyi, gutwikira undi ku bushake no gukomeretsa ku bushake, rubahanisha igifungo cya burundu buri wese. Rwemeje kandi ko HITIMANA Jean de Dieu ahamwa n'icyaha cy'ivangura rishingiye ku bwoko, maze rumuhanisha igifungo cy'imyaka 7 n'ihazabu ya 1.000.000 Frw. [4] Abaregwa bose bajuririre uru rubanza mu Rukiko Rukuru, Urugereko Rwa Musanze, ubujurire bwabo bwandikwa kuri N° RPA 00395/2021/HC/MUS, maze ku wa 07/07/2022, urwo Rukiko rwemeza ko NSENGIYUMVA Théoneste, MUNYAKAZI Evariste, MUGIRANEZA Ildephonse na UWAMARIYA Visensiya bahamwa n'icyaha cy'ivangura rishingiye ku bwoko ariko ko badahamwa n'ibyaha by'ubwicanyi, gutwika ku bushake inyubako y'undi no gukomeretsa ku bushake umuntu byateye ubumuga buhoraho, rubahanisha igifungo cy'imyaka 7 n'ihazabu ya 1.000.000 Frw. Rwemeje kandi ko MUNYAMAHORO Innocent na HITIMANA Jean de Dieu ari abere ku byaha bari bakurikiranyweho, rutegeka ko bahita bafungurwa. [5] Rwasobanuye ko nta bimenyetso bihari bihagije kandi bidashidikanywaho ku byaha by'ubwicanyi, gutwika ku bushake inyubako y'undi no gukomeretsa ku bushake umuntu byateye ubumuga buhoraho ku baregwa bose bari babikurikiranyweho. Rwasobanuye kandi ko nta kimenyetso kidashidikanywaho gihamya HITIMANA Jean de Dieu icyaha cy'ivangura rishingiye ku bwoko; ko kandi nta kimenyetso cy'igikorwa cy'ivangura rishingiye ku bwoko cyagaragajwe kuri MUNYAMAHORO Innocent. [6] Ubushinjacyaha bwandikiye Perezida w'Urukiko rw'Ubujurire busaba ko urwo rubanza

rwasubirwamo ku mpamvu z'akarengane. Amaze gusuzuma ubwo busabe, yasabye Perezida w'Urukiko rw'Ikirenga ko rwasubirwamo ku mpamvu z'akarengane, uyu amaze gusuzuma raporo yarukorewe, ku wa 03/11/2023 afata icyemezo N° 165/CJ/2023 ko rwongera kuburanishwa, rwandikwa kuri N° RS/INJUST/RP00003/2023/SC. [7] Urubanza rwahamagawe ku wa 15/05/2024, ababuranyi bose baritaba, ariko ntirwaburanishwa<sup>1</sup>, ndetse rugenda rusubikwa kubera impamvu zitandukanye<sup>2</sup>, rwongera

1 Kugira ngo Ubushinjacyaha bubaze abatangabuhamya bagarutsweho mu rubanza rwaciwe n'Urukiko Rukuru Urugereko rwa Musanze butigeze bubaza, ndetse bubaza n'abandi batangabuhamya bashyize ubuhamya bwabo bwanditse muri system ku munsu w'iburanisha. 2 Zirimo kuba umwe mu bacamanza bagize inteko atari akibarizwa mu Rukiko rw'Ikirenga no kuba Urukiko rwarakoze iperereza aho icyaha cyakorewe.

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kuburanishwa ku wa 07/05/2025, Ubushinjacyaha buhagarariwe na PN GAKWERERE Javan; MUNYAKAZI Evariste, NSENGIYUMVA Théoneste, MUGIRANEZA Ildephonse, UWAMARIYA Visensiya na MUNYAMAHORO Innocent bunganiwe na Me UWAMAHORO NYIRANZAYINO Christine; HITIMANA Jean de Dieu yunganiwe na Me NYIRABERA Josephine. [8] Mu myanzuro hamwe no mu miburanire ye, uhagarariye Ubushinjacyaha avuga ko Urukiko Rukuru, Urugereko rwa Musanze, rwirengagije ibimenyetso bihagije bishinja abaregwa ibyaha byavuzwe, ko kandi ibyo byaha byabanjirijwe n'ivangura bakoreraga SIFA Célestine kuva agishakana na MANIFASHE Jérôme, nyuma bakaza no gucura umugambi wo kumwica nk'uko byemejwe n'abatangabuhamya batandukanye. [9] MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, UWAMARIYA Visensiya, MUNYAMAHORO Innocent na NSENGIYUMVA Théoneste bavuga ko nta mugambi wo kwica SIFA Célestine bigeze bacura, ko nta n'ibimenyetso bihari bibahuza n'aho ibyaha baregwa byakorewe, kuko ku wa 22/02/2020 batiriwe mu rugo, ndetse mu masaha abana batwikiweho ko batari bakageze mu rugo. HITIMANA Jean de Dieu na we avuga ko nta bimenyetso bihari bimuhamya icyaha cy'ivangura akurikiranweho kuko atigeze yirengagiza ikibazo cyose SIFA Célestine yaba yaramugejejeho. [10] Muri uru rubanza, Urukiko rwasuzumye ibibazo bikurikira:

- a) Kumenya niba hari ibimenyetso bihamya MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, UWAMARIYA Visensiya, MUNYAMAHORO Innocent na NSENGIYUMVA Théoneste icyaha cy'ubwicanyi, icyo gutwikira undi ku bushake n'icyo gukomeretsa umuntu ku bushake bikamuviramo ubumuga buhoraho, Urukiko Rukuru, Urugereko rwa Musanze, rwirengagije;
  - b) Kumenya niba hari ibimenyetso bihamya MUNYAMAHORO Innocent na HITIMANA Jean de Dieu alias Bondo, icyaha cy'ivangura rishingiye ku bwoko, byirengagijwe n'Urukiko Rukuru, Urugereko rwa Musanze;
  - c) Kumenya ibihano byahabwa abaregwa. II. ISESENGURWA RY'IBIBAZO BIGIZE URUBANZA
1. Kumenya niba hari ibimenyetso bihamya MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, UWAMARIYA Visensia, MUNYAMAHORO Innocent na NSENGIYUMVA Théoneste icyaha cy'ubwicanyi, icyo gutwikira undi ku bushake n'icyo gukomeretsa umuntu ku bushake

bikamuviramo ubumuga buhoraho, Urukiko Rukuru, Urugereko rwa Musanze, rwirengagije. [11] Uhagarariye Ubushinjacyaha avuga ko Urukiko Rukuru rwagize abere abaregwa ibyaha byavuzwe rushingiye ku kuba nta wababonye babikora cyangwa bava kubikora, ko ndetse nta bimenyetso bihari bibahuza n'aho byakorewe igihe byakorwaga, ibyo rukaba rwarabikoze rwirengagije ubuhamya bwa MUNYAMAHORO Innocent mu Bugenzacyaha wagaragaje ko habayeho gucura umugambi wo kugirira nabi SIFA Célestine kuko NSENGIYUMVA yazaga

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iwabo (kwa MUNYAKAZI), akabashishikariza kwifatanya na we, aho yakoresheje ijamba “kumwiyungaho”, kugira ngo bazice SIFA. [12] Yakomeje avuga ko muri ubu buhamya bwe, MUNYAMAHORO yavuze ko abo akeka batwitse abana ba SIFA Célestine ari NSENGIYUMVA, MUGIRANEZA na UWAMARIYA kuko bahorana amakimbirane na we. Uhagarariye Ubushinjacyaha yasobanuye kandi ko MUNYAMAHORO yavuze ko MUGIRANEZA yatoraga abasaba (ababyeyi be n'abavandimwe be) guhagurukira SIFA bakamwica, bitaba ibyo bakagurisha bakimuka. Avuga ko iki gitekerezo cya MUGIRANEZA na UWAMARIYA yakigarutseho mu ibazwa rye mu Bugenzacyaha, avuga ko uyu musaza we yakivuze koko. [13] MUNYAKAZI Evariste yireguye avuga ko atemera ibyaha aregwa, ko inzego z'umutekano zageze ahabereye icyaha zigasanga nta kindi kintu cyahiye, akibaza uburyo inzu itwikishwa lisansi ntikongoke, kandi ko zanasanze nta muriro wazimijwe, ndetse n'umwana umwe yamaze kumanwa mu nzu, bityo SIFA Célestine akaba akwiye kugaragaza uwamufashije kuzimya ndetse no gukura umwana umwe mu nzu. [14] MUGIRANEZA aburana ahakana ibyaha aregwa. Avuga ko ntacyo apfa na SIFA Célestine ku buryo yashaka kumugirira nabi, ko NSENGIYUMVA amwanga kuko yafungishije umuvandimwe we, bityo akaba nta mugambi bashobora gukorana, ko atemera ubuhamya bwa GAKARA Danani na HABYARIMANA Emmanuel kuko hari ibyo bapfa. [15] UWAMARIYA Visensiya ahakana ibyaha aregwa, avuga ko nta mugambi wo kugirira nabi SIFA Célestine wabayeho, ko abo aregwana nabo ari abantu bakuru ku buryo adashobora gukorana na bo umugambi. Na we avuga ko atemera ubuhamya bwa GAKARA Danani, ubwa HABYARIMANA Emmanuel n'ubwa RUCAGU Boniface kuko bafitanye amakimbirane n'iwabo. [16] MUNYAMAHORO Innocent avuga ko atemera ibyaha aregwa, ko NSENGIYUMVA ataje iwabo ngo abashishikarize kugirira nabi SIFA Célestine, ko nta mugambi wo gukora ibyo byaha wabayeho, ko umunsi icyaha kiba yari yasuye n'ababyeyi b'umugore we, akaba atari gusurwa ngo ajye no mu gikorwa cyo kugirira nabi SIFA. Asoza avuga ko atemera ubuhamya bwa GAKARA Danani, ubwa HABYARIMANA Emmanuel n'ubwa RUCAGU Boniface, kuko hari amakimbirane hagati yabo. [17] NSENGIYUMVA Théoneste yiregura avuga ko atari inshuti y'umuryango wa MUNYAKAZI ku buryo bari gucura umugambi uvugwa, ko nta kibazo yari afitanye na Jérôme kuko yamugurishije ubutaka kugira ngo imodoka ye ibone inzira, mu gihe abandi baturanyi bari bayimwimye. Avuga ko atemera ubuhamya bwa MUNYAMAHORO kuko ntaho bari buhuriye ngo bacure umugambi avuga, ko nta mwanya yagiraga. Asaba ko Urukiko rwaha ishingiro ubuhamya bwa UWIMBABAZI Providence n'ubwa MUKUNDENTE Liliane bavuze ko nta vangura ryari mu Mudugudu wa Marantima. Asoza avuga ko atemera ubuhamya bwa HABYARIMANA Emmanuel.

[18] Me UWAMAHORO NYIRANZAYINO Christine wunganira MUNYAKAZI, NSENGIYUMVA, MUNYAMAHORO, MUGIRANEZA na UWAMARIYA, avuga ko ubuhamya MUNYAKAZI na MUNYAMAHORO batanze mu Bugenzacyaha nta gaciro

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bwahabwa, ko icyo bavuze ari ugukeka, ko ibyo MUNYAMAHORO yavuze yabitewe n'igihunga. Yongeraho ko batemera ubuhamya bwa HABYARIMANA Emmanuel n'ubwa GAKARA Danani. Yakomeje asobanura ko ikibazo cyabayeho ari icy'inzira y'imodoka ya Jérôme ariko kikaba cyarakemutse, ko ubuyobozi bwemeje ko Jérôme azagura na MUNYAKAZI aho akeneye kunyuza imodoka ye, ibyo bikaba byarakorewe raporo. Avuga ko mu maraporo yose yakozwe nta n'imwe igaragaza ko ivangura rivugwa ryabayeho, bityo akaba nta kimenyetso cyatanze kigaragaza umugambi uvugwa muri iyi dosiye. Yavuze kandi ko batemera ubuhamya bwa HABYARIMANA Emmanuel n'ubwa GAKARA Danani. UKO URUKIKO RUBIBONA [19] Muri uru rubanza, ipfundo ry'ikibazo gihari ni ukumenya niba hari ibimenyetso bihamya abaregwa bavuzwe haruguru, icyaha cy'ubwicanyi, gutwikira undi ku bushake n'icyo gukomeretsa umuntu ku bushake bikamuviramo ubumuga buhoraho, Urukiko Rukuru, Urugereko rwa Musanze, rwirengagije. [20] Ingingo ya 20 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, nk'uko ryahinduwe, iteganya : « Gucura umugambi wo gukora icyaha ni ubwumvikane hagati y'abantu babiri (2) cyangwa benshi bugamije gukora icyaha cyakorwa n'umwe cyangwa benshi muri bo. Gukora umugambi wo gukora icyaha bihanishwa igihano giteganyirijwe icyaha cyacuriwe umugambi. Umuntu wese uru mu mugambi wo gutegeka, akabimenyesha ubutegetsu bw'igihugu, inzego z'ubutabera cyangwa iz'umutekano, ko hategurwa ibyaha, akabumenyesha n'amazina y'abagome n'ay'ibyatso byabo, asonerwa igihano giteganyirijwe icyaha cyo gucura umugambi mu gihe ibyo abikoze mbere y'uko icyaha gicurirwa umugambi gikorwa ». [21] Nk'uko bisobanurwa muri California Penal Code Section 182-185, ntabwo ari ngombwa ko habaho igikorwa runaka kidashikanywaho cy'intangiriro yo gukora icyaha kugira ngo habeho umugambi wo gukora icyaha (Conspiracy), igikuru ni uko hagaragazwa ko abantu 2 cyangwa barenze bari bagamije kandi bumvikanye gukora icyaha<sup>3</sup>. [22] Uwitwa Charles MONTALDO na we asobanura ko atari ngombwa ko hagaragazwa igikorwa (action) runaka kigamije gushyira mu bikorwa icyaha cyo gucura umugambi wo gukora icyaha ; ko ubwumvikane bwo gukora icyaha buhagije n'iyi nta gikorwa cyo kugerageza gukora icyaha cyabayeho<sup>4</sup>. [23] Ibivuzwe haruguru byumvikanisha ko kugira ngo umugambi wo gukora icyaha ubeho, bisaba ubwumvikane bwo gukora igikorwa gifatwa nk'icyaha n'itegeko. Uko gusangira igitekerezo cyo gukora icyaha, kumva kimwe ko icyaha muri bugikore, ni cyo kivamo gucura

3 Conspiracy is when “two or more persons conspire to commit a crime.” They do not actually have to take any action towards committing the crime, but it must be proven that they both intended and agreed on that end. California Penal Code of 2005, Section 182-185. 4 The crime of conspiracy can be charged whether or not the crime is ever actually carried out. And in some jurisdictions, no action toward carrying out the crime has to be proven for a conspiracy to exist. For example, if two people plan to rob a bank and they go buy ski masks to wear during the robbery, they can be charged with conspiracy to commit bank robbery, even if they never

actually rob the bank or even attempt to rob the bank. Buying ski masks is not a crime, but it furthers the conspiracy to commit a crime, Charles Montaldo, What Is a Conspiracy?, Crime and Criminal Justice, [http://crime.about.com/od/Crime\\_101](http://crime.about.com/od/Crime_101).

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umugambi wo gukora icyaha uhanwa n'itegeko kabone nubwo icyaha ubwacyocyakorwa n'umwe mu bacuze umugambi cyangwa ntigikorwe, ko ubwumvikane bwo gukora icyaha buhagije. [24] Ingingo ya 81 y'Itegeko N° 62/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, iteganya ko Urwego rufite ububasha rwemera gusa ikimenyetso gicukumbuwe n'ubwenge bw'umuntu iyo ari ingirakamaro, gisobanuye, gihuje n'ibivugwa mu kibazo kandi gusa ari uko itegeko ryemera gutanga ikimenyetso hashingiwe ku mpamvu zose z'ibyabaye. [25] Umuhanga mu mategeko Raoul DECLERCQ, avuga ko haseguriwe ku biteganywa n'amategeko, mu gufata icyemezo, umucamanza mu bwigenge no bwisanzure ari we uha agaciro ibimenyetso afite muri dosiye5. Naho abahanga H-D. Bosly na Damnien VANDERMEERSCH, bakavuga ko, iyo itegeko ridateganya uburyo bwihariye bwo gutanga ikimenyetso, umucamanza uburanisha urubanza mu bwisanzure ari we ugena agaciro k'ibyo [k'ibimenyetso] ashingiraho aca urubanza, afata icyemezo6. [26] Ibivuzwe haruguru na byo byumvikanisha ko amategeko yemera ko umucamanza mu bwigenge no bwisanzure bwe, ari we uha agaciro ibimenyetso afite muri dosiye, kandi ko ibimenyetso bishingira ku mpamvu zose z'ibyabaye. [27] Dosiye y'urubanza igaragaza ko MANIFASHE Jérôme yaje gutura mu Mudugudu wa Marantima mu mwaka wa 2008 ; icyo gihe abaturanyi be harimo umuryango wa MUNYAKAZI n'uwa NSENGIYUMVA bamwakiriye neza, babana neza nta kibazo. [28] Dosiye ikomeza yerekana ko mu mwaka wa 2016 ari bwo yashyingiranywe na SIFA Célestine, maze guhera ubwo ibibazo biratangira bigizwemo uruhare n'imiryango ya MUNYAKAZI na NSENGIYUMVA yacuze umugambi wo kugirira nabi umuryango wa MANIFASHE na SIFA Célestine, kuva icyo gihe haba ibikorwa by'urugomo birimo : kwita SIFA inzoka, indyanyi, kumubwira ngo azajye gutura i Karwasa aho abandi batutsi batuye, kumukomera asohotse, kumushungera bamubonye, kumutera amabuye, kubwira Jérôme ko bazabonana kuko yabazanyemo indyanyi, kubaka urukuta rw'amabuye mu nzira rugamije kubuza imodoka ye gusohoka mu rupangu, kumutera ibuye bakamukoretse, gutera umwanda wo mu musarani iwabo mu rugo nk'uko byemejwe n'umutangabuhamya MURWANASHYAKA Célestin wabajijwe n'Urukiko Rwisumbuye rwa Musanze. Dosiye igaragaza ko ibyo bikorwa byageze n'aho UWAMARIYA akubita SIFA, Urukiko rw'Ibanze rwa Muhoza rukamuhanisha igifungo cy'imyaka itatu (3) n'ihazabu ya 500.000 Frw. [29] Nk'uko byasobanuwe n'Ubushinjacyaha, ibi bikorwa byakozwe mu bihe bitandukanye ariko mu rwego rw'umugambi wakozwe n'imiryango ya MUNYAKAZI na NSENGIYUMVA ugamije kugirira nabi umuryango wa SIFA Célestine na Jérôme, kubera ivangura rishingiye ku bwoko.

5 « Sous réserves des exceptions prévues par la loi, le juge apprécie librement et souverainement la valeur probante des éléments qui se trouvent à sa disposition pour fonder sa décision » (Raoul Declercq, La preuve en matière pénale, Bruxelles, Editions juridiques Swinnen H., 1988, p.25). 6 « Lorsque la loi n'établit pas un mode spécial de preuve, le juge du fond apprécie souverainement en fait la valeur probante des éléments sur lesquels il fonde sa conviction » (H-D. Bosly et Damien Vandermeersch, Droit de la procédure pénale, Bruxelles, La Charte, 2001, p.926).

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- a. Ku bireba MUNYAKAZI Evariste [30] Urukiko rusanga MUNYAKAZI Evariste ashinjwa n'umuhungu we MUNYAMAHORO Innocent, aho mu ibazwa rye, ku wa 23/02/2020, mu Bugenzacyaha, yabajijwe uruhare rw'ababyeyi be mu itwikwa ry'abana ba SIFA, agahita asubiza ko atabahakanira, kuko bari bafitanye amakimbirane yateye imanza hagati yabo, yongeraho ko bashobora kuba barafatanyije na NSENGIYUMVA ku buryo atazi<sup>7</sup>. [31] Undi mutangabuhamy witwa GAKARA Danani yabwiye Ubugenzacyaha ko akeka ko abana batwitswe n'abo mu muryango wa MUNYAKAZI kubera urwango bafitiye SIFA kuko ari umututsikazi<sup>8</sup>. Ndetse na UWAMARIYA Visensiya ku kibazo cyo kumenya uwabayaragize uruhare mu gutwikira abana ba SIFA mu nzu, nubwo yashubije ko atamuzi, ariko yongeyeho ko nta muturanyi ubanye neza na we.<sup>9</sup>
- b. Ku bireba UWAMARIYA Visensiya [32] Umutangabuhamy MUKANTAZINDA Béatha, mu ibazwa rye mu Bugenzacyaha, ku wa 25/02/2020, yavuze ko igihe bari mu nzu kwa MUNYAKAZI umwana w'umukobwa (UWAMARIYA) yaje yiruka avuga ngo bazimye amatara kwa SIFA abana barahiye. Uyu mutangabuhamy yasobanuye kandi ko uwo mukobwa yaje Innocent (MUNYAMAHORO) amaze gusohoka agiye ku muhanda<sup>10</sup>. [33] Mu ibazwa rye mu Bugenzacyaha twabonye hejuru, MUNYAMAHORO Innocent yavuze ko mu bo akeka batwitse abana ba SIFA harimo UWAMARIYA Visensiya. MUNYAKAZI na we yavuze ko mu bo akeka bagize uruhare muri icyo cyaha harimo UWAMARIYA<sup>11</sup>. [34] Urukiko rusanga kandi mu nyandikomvugo y'iburanisha mu Rukiko Rwisumbuye rwa Musanze, ku wa 23/02/2021, UWAMARIYA yaravuze ko [umunsi icyaha kiba] musaza we yamuhamagaye bajya ahantu<sup>12</sup>, nyuma aza kugaruka kwanura imyenda bamesaga ku kiliziya. Muri iryo buranisha kandi yavuze ko yageze mu rugo ajya kuvoma, avuyeyo asanga ikibazo cyabaye n'abapolisi bamaze kuza. Nyamara imbere y'urwo Rukiko, mu iburanisha ryo ku wa 31/05/2021, yavuze ko ku wa 22/02/2020 yari ku kiliziya arimo gufura imyenda ya korari, ageze mu rugo ajya mu itorero, avuyeyo asubira ku kiliziya, avayo asanga batwitse abana bavugwa, aribwo hahise haza abantu bakamubaza NSENGIYUMVA na MUNYAKAZI. Mu Rukiko Rukuru ho yavuze ko avuye kuvoma yabonye moto 4 zishoreranye, hanyuma ageze iwabo asanga barimo bavuga ngo abana ba SIFA bahiye. [35] Urukiko rusanga kuba UWAMARIYA mu mvugo ze mu nzego zitandukanye yarananzwe no kwivuguruza, hamwe akavuga ko icyaha cyabaye ari iwabo mu rugo ahandi akavuga ko yavuye kuvoma asanga byabaye, iyo bihujwe n'imvugo za MUNYAKAZI na MUNYAMAHORO mu

7 Inyandikomvugo y'ibazwa rya Munyamahoro Innocent yo ku wa 23/02/2020, p.3, C29. 8 Inyandikomvugo y'ibazwa rya Gakara Danani yo ku wa 26/02/2020, p.2, C 73 9 Inyandikomvugo y'ibazwa rya Uwamariya Visensia ryo ku wa 25/02/2020, p.3, C25. 10 Inyandikomvugo y'ibazwa rya Mukantazinda Béatha yo ku wa 25/02/2020, p.2, C50. 11 Inyandikomvugo y'ibazwa rya Munyakazi Evariste yo ku wa 23/02/2020, p.2, C13 12 Inyandikomvugo y'iburanisha yo ku wa 23/02/2021, p.6.

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Bugenzacyaha aho ku ikubitiro bamukeka mu bakoze icyaha ndetse n'iya MUKANTAZINDA Béatha, uku kwivuguruza kugaragaza ko ashaka guhunga uruhare rwe mu gukora icyaha.

- c. Ku bireba NSENGIYUMVA Théoneste [36] Urukiko rusanga ashinjwa na MUNYAKAZI wavuze mu ibazwa rye mu Bugenzacyaha ko amukeka mu bagize uruhare mu cyaha kuko yari afitanye amakimbirane na SIFA, ko igihe icyaha kiba yari yiriwe mu rugo. Ashinjwa kandi na MUNYAMAHORO Innocent wavuze mu ibazwa rye mu Bugenzacyaha ko amukeka mu bakoze icyaha, ko ndetse yazaga iwabo kubasaba gufatanya na we bakazica SIFA. Ibi bishimangirwa n'imvugo z'umutangabuhamya HABYARIMANA Emmanuel uvuga ko umuryango wa Sifa watotezwaga na NSENGIYUMVA Théoneste na MUNYAKAZI babaziza ko ari umututsikazi, ko igihe icyaha cyabaga NSENGIYUMVA yanze gutabara ahubwo akajya kwihisha mu rugo rw'umuturanyi. Ibi ni na byo bivugwa na UWABERA Alice wari Umunyamabanga Nshingwabikorwa w'Umurenge wa Cyuve uvuga ko icyaha kikimara kuba yatabaye, SIFA akamubwira ko abo akeka ari NSENGIYUMVA Théoneste n'umuryango wa MUNYAKAZI kuko ari bo bahora bamutoteza bamuziza ko ari umututsikazi. [37] Rusanga uretse aba batangabuhamya bamushinja, ubwe yarananzwe no kwivuguruza aho yagiye abazwa ku kibazo cyo kumenya aho yiriwe umunsi icyaha kiba : mu Bugenzacyaha yavuze ko yari yagiye muri gahunda zitandukanye mu Murenge wa Kabatwa, agataha yagera mu rugo akimara gukuramo inkweto akumva induru iravuze kwa SIFA, ahita ajya gutabara. Nyamara abazwa mu Bushinjacyaha, yavuze ko yageze iwe nyuma ya saa moya n'igice (19h30) asanga inzego z'umutekano zahageze, yinjiye mu rugo rwa SIFA na Jérôme nk'utabaye ahita afatwa na polisi. Bigaragagara kandi ko umunsi abazwa mu Bushinjacyaha ku wa 02/03/2020 ari nabwo yahawe inyandiko n'Umunyamabanga Nshingwabikorwa w'Umurenge wa Kabatwa ivuga ko ku wa 22/02/2020 yiriwe muri uwo Murenge akangurira abantu ubuhinzi bw'ibireti nyamara mu byo we yivugiye yakoze byose ku wa 22/02/2020 mu Murenge wa Kabatwa, ibyo gukangurira abantu ubuhinzi bw'ibireti ntibirimo. Igihe uru Rukiko rwakoraga iperereza, umugore we IKITEGETSE na NTAMABYARIRO Daphrose, umugore wa MUNYAKAZI, bavuze ko NSENGIYUMVA yaje avuye ku kazi ahetse igikapu asanga ibyaha byamaze kuba. Umugore we yavuze ko yari amaze icyumweru akora adataha imuhira, ko aribwo yari atashye.
- d. Ku bireba MUGIRANEZA Ildephonse [38] Umutangabuhamya GAKARA Danani mu Bugenzacyaha yasobanuye ko abo akeka gutwikira abana mu nzu ari MUNYAKAZI n'abahungu be kuko bari bafitanye amakimbirane n'umuryango wa Jérôme, aho banabwiraga uyu ko bazabonana kuko yabazanyemo umugore w'umutsikazi. Uruhare rwe

kandi mu cyaha rugaragazwa nuko yabwiraga abavandimwe be ko bakwiye kwikiza SIFA, byakwanga bakimuka bakamuhunga, iki gitekerezo cye kikaba cyaremejwe na MUNYAMAHORO na UWAMARIYA.

- e. Ku bireba MUNYAMAHORO Innocent [39] Urukiko rusanga ashinjwa na GAKARA Danani wavuze ko akeka ko abatwitse abana ba SIFA ari MUNYAKAZI n'abahungu be; hakiyongeraho ubuhamya bwa nyirabukwe MUKANTAZINDA Béatha wavuze ko ubwo UWAMARIYA yazaga yiruka avuga ngo nibazimye

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amatara abana ba SIFA bahiriye mu nzu, ni bwo Innocent yasohotse. Hejuru y'ibi kandi MUNYAMAHORO yivugiye mu Bugenzacyaha ko NSENGIYUMVA yazaga iwabo kubashishikariza kwica SIFA, ariko ntiyabibwira ubuyobozii kugira ngo bukumire ikorwa ry'icyaha hakiri kare. Byongeye kandi aho MUNYAMAHORO Innocent yabajijwe hose ntiyigeze avuga ko yageze iwabo ku mugoroba w'icyaha cyabereyeho.

- f. Umwanzuro rusange [40] Urukiko rusanga MUNYAMAHORO Innocent yaravuze mu Bugenzacyaha ko abo akeka bakoze icyaha cyo gutwika abana ba SIFA na Jérôme ari : NSENGIYUMVA, MUGIRANEZA na UWAMARIYA. Naho MUNYAKAZI (papa we) yavuze ko abo akeka bagize uruhare muri icyo cyaha ari : NSENGIYUMVA, UWAMARIYA n'umugore we. Ibi akaba ari ikigaragaza umugambi wo gukora icyaha kuko aba batangabuhamya bombi bavuga ko cyakozwe n'umuntu urenze umuntu umwe. [41] Urukiko rusanga Urukiko Rukuru rwarahamije gusa MUNYAKAZI Evariste, NSENGIYUMVA Théoneste, UWAMARIYA Visensiya na MUGIRANEZA Ildephonse icyaha cy'ivangura, rushingiye ku bimenyetso birimo ubuhamya bwa MUNYAMAHORO Innocent mu Bugenzacyaha ndetse n'abatangabuhamya nka HABYARIMANA Emmanuel na GAKARA Danani ; nyamara uko bigaragara urwango bari bafitiye SIFA kandi rushingiye ku ivangura ni rwo rwatumye bacura umugambi wo gutwika abana be, mu gihe we (SIFA) bamubuze. UWAMARIYA abazwa mu Bugenzacyaha yavuze ko nta muturanyi wari ubanye neza na SIFA ; MUKANTAZINDA Béatha yavuze ko igihe icyaha cyari kimaze gukorwa, UWAMARIYA yaje iwabo abwira abari mu nzu ngo bazimye amatara kwa SIFA abana bahiriye mu nzu, hakaba hibazwa aho yavaga, uburyo yamenye ko abana bahiye, n'impamvu atasabye abantu gutabara. [42] Urukiko rukaba rusanga ibyashingiweho n'Urukiko Rukuru mu guhamya abaregwa icyaha cy'ivangura rishingiye ku bwoko, ari na byo byari gushingirwaho rubahamya icyaha cy'ubwicanyi, icyo gutwikira undi inyubako ku bushake n'icyo gukubita no gukomeretsa ku bushake byateye ubumuga buhoraho ; kuko iryo vangura ari ryo ryaje kugira ubukana bwavuyemo ubugome, abaregwa bacura umugambi wo gutwikira abana mu nzu, contexte ibyaha byakozwemo ni iyo, irasobanutse; kwemeza ko ari abere kuko ntawababonye bajya gukora icyaha cyangwa bava kugikora, ni ukwigiza nkana kuko n'ubundi ntibari kujya kugikora kumugaragaro cyangwa umuntu abareba. [43] Urukiko rusanga kandi abakoze icyaha ntawari bubabone kuko ukurikije uko batuye, nk'uko bigaragara ku gishushanyo kiri muri dosiye cyakozwe n'Ubugenzacyaha, ndetse Urukiko rwiboneye uko amazu yabo yegeranye, ku buryo

abaregwa byari biboroheye gucunga ko SIFA agiye, asize abana bonyine mu rugo no gucunga ko agaruka, kugira ngo bashyire mu bikorwa umugambi mubisha wabo; ikindi kandi icyumba abana bari baryamyemo gihereye inyuma y'inzu batuyemo, mu gikari, hariherereye, harihishe cyane ku buryo usanzwe utahazi, utari umuturanyi wa bugufi, utamenya ko ariho baryamye. [44] Urukiko mu iperereza rwakoze ku wa 18/03/2025, SIFA yavuze ko umunsi no ku masaha icyaha cyakoreweho ubwo yari avuye guhaha, yabonye NTAMABYARIRO Daphrose, uyu na we amubonye ariruka ajya mu rugo iwe ; SIFA ageze mu rugo asanga abana be bamaze kubatwika, ahita yumva ko NTAMABYARIRO yamucungaga. Urukiko rusanga iyi ari indi mpamvu

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yumvikanisha ko icyaha cyateguriwe mu rugo kwa MUNYAKAZI, ndetse ko n'abagikoze baturutse muri urwo rugo kimwe n'urwa NSENGIYUMVA, kuko ingo zabo ziregeranye kandi iyo miryango yombi ni yo yashakaga kugirira nabi SIFA. [45] Urukiko rusanga invugo zakorewe mu Bugenzacyaha ku wa 23/02/2020 icyaha cyaraye kibaye, ari zo zikwiye guhabwa agaciro. Iri sesengura rihuye n'ibyandikwa na Michel Franchimont, Ann Jacobs, na Adrien Masset, mu gitabo cyabo Manuel de procédure pénale, aho bavuga ko umucamanza ashobora guha agaciro ibyavuzwe n'umutangabuhamya mu gihe cy'iperereza, akakima ibyo avugiye mu iburanisha<sup>13</sup> ; ibi bigahura n'ibyo aba bahanga bandika muri icyo gitabo, aho bavuga ko umucamanza ashobora gushingira [ icyemezo ] ku byavuzwe nta ndahiro ikozwe igihe cy'iperereza cyangwa igihe cy'anketi nubwo bitasubirwamo [ uko byavuzwe mbere ] hakozwe indahiro mu iburanisha<sup>14</sup>. [46] Urukiko rushingiye ku ngingo z'amategeko zibukijwe, ibyanditswe n'abahanga mu mategeko n'ibisobanuro byatanze, rurasanga mu rubanza No RPA 00395/2021/HC/MUS, Urukiko Rukuru, Urugereko rwa Musanze, rwariengagije ibimenyetso bigaragarira buri wese byari gutuma abaregwa bahamwa n'ibyaha byose bashinjwa, bityo bakaba bahamwa n'icyaha cyo gutwikira undi inyubako ku bushake, icyo kwica, n'icyo gukubita no gukomeretsa byateye ubumuga buhoraho.

- 2) Kumenya niba hari ibimenyetso bihamya MUNYAMAHORO Innocent na HITIMANA Jean de Dieu alias Bondo, icyaha cy'ivangura rishingiye ku bwoko, byirengagijwe n'Urukiko Rukuru, Urugereko rwa Musanze. [47] Uhagarariye Ubushinjacyaha avuga ko umunsi SIFA Célestine yakubiswe na UWAMARIYA, ku wa 19/02/2019, umutangabuhamya wari uhari, RUCAGU Boniface, yavuze ko mu magambo yavugiye aho, yumvise MUNYAMAHORO yita SIFA indyanyi, ko baboherereje indyanyi ngo ize ibarye, bityo akavuga ko bitumvikana uko yaba umwere kuri iki cyaha. [48] Asobanura ko kuri HITIMANA Jean de Dieu, MUNYAKAZI yavuze ko ari we wamugiriye inama yo kubaka rwa rukuta rw'amabuye mu nzira y'imodoka ya Jérôme, ibi bikaba ari uburyo bugaragaza ko na we yari ashigikiye umugambi wo kubangamira umuryango wa Jérôme na SIFA. [49] Asoza avuga ko MUNYAMAHORO na HITIMANA bari bazi umugambi wacuzwe wo kugirira nabi SIFA ariko ntihagire uwubwira ubuyobozi. Yagarutse ku buhamya bwa GAKARA Danani n'ubwa MURWANASHYAKA Célestin bavuze ko umuryango wa Jérôme na SIFA watotezwaga kuko umugore ari umututsikazi, kandi ko HITIMANA Jean de Dieu icyo kibazo yari akizi ntagire icyo

agikoraho, ariko ubwo buhamya bukaba bwariyengagijwe.

13 « (...) le juge peut légalement décider que la déclaration d'un témoin entendu sans serment au cours de l'information préparatoire présente plus de crédit que celle faite ultérieurement par celui-ci à l'audience, fût-ce sous serment » (Michel Franchimont, Ann Jacobs et Adrien Masset, Manuel de procédure pénale, Bruxelles, Larcier, 2012, 4<sup>e</sup> édition, p.1191). 14 « Le juge peut fonder sa conviction sur des déclarations faites sans serment au cours de l'instruction préparatoire ou au cours de l'information alors même qu'elles ne sont pas confirmées sous serment à l'audience » (Michel Franchimont et alii, op.cit. p.1160).

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[50] MUNYAMAHORO Innocent aburana avuga ko ibyo kuvuga ko SIFA ari indyanyu cyangwa inzoka yabishinjwe na RUCAGU Boniface, ariko ko atari byo kuko iyo biza kuba byo icyo gihe yari bubikurikiranweho. [51] Me UWAMAHORO NYIRANZAYINO Christine umwunganira, avuga ko Urukiko Rwisumbuye rwagendeye ku marangamutima, kuko abatangabuhamya rwabajije barimo n'abayobozi bavuze ko ikibazo cy'ivangura batigeze bakimenya kandi aricyo bivugwa ko ari intandaro y'ibindi byaha byakozwe. Anavuga ko Ubushinjacyaha budakwiye gushingira ku mvugo zishinje MUNYAMAHORO zavugiye mu rubanza UWAMARIYA Visensiya yashinjawamo icyaha cyo gukubita no gukomeretsa, ngo buzikoreshe muri uru rubanza kuko bitafatwa nk'ingingo nshya azanye. [52] HITIMANA Jean de Dieu aburana avuga ko nta kibazo cy'ivangura cyigeze kigaragara mu Mudugudu wa Marantima, ko mu mwaka wa 2017, MANIFASHE yatewe ibuye bakurikirana ikibazo cy'urwo rugomo, ko mu mwaka wa 2019, habaye ikibazo cy'inzira gusa hagati ya MANIFASHE na kwa MUNYAKAZI, nta kibazo cy'ivangura cyagaragajwe. Avuga kandi ko burangare yigeze agira mu gukemura ibibazo yagezwagaho, ko ahubwo yabikemuraga vuba agakora na raporo, ko rero ibivugwa na GAKARA Danani, RUCAGU Boniface, HABYARIMANA Emmanuel na MURWANASHYAKA bitahabwa agaciro, cyane cyane nka HABYARIMANA Emmanuel ari we wamusimbuye ku buyobozi bw'umudugudu, bityo akaba ashaka kumufungisha kugira ngo atazamubangamira. [53] Anavuga ko atigeze agira MUNYAKAZI inama yo kubaka urukuta rw'amabuye mu nzira ya Jérôme, kuko icyo yashakaga ari ingurane. Asoza avuga ko igihe ikibazo cyabaga kwa SIFA batavuye bakahasanga SIFA, bamusaba kwerekana ahantu umuriro wakomotse, abereka akantu gato katurutseho umuriro, aba ari we uhamagara Exécutif w'Akagari iperereza riratangira na we ahita ashirwa mu bakekwa. [54] Ku bijyanye n'ibyavuye mu iperereza ryakozwe n'Urukiko, HITIMANA Jean de Dieu avuga ko ubuhamya bwa HABYARIMANA Emmanuel budakwiye guhabwa agaciro kuko yivuguruza : mu iperereza yavuze ko HITIMANA yafashwe avuye gutabara, mu gihe ahandi yavuze ko yareberaga. Akomeza avuga ko imvugo y'uko MUGIRANEZA yaba yarabaye secrétaire we nk'umuyobozi w'umudugudu atari byo, ndetse n'iby'uko yavanguraga MANIFASHE na SIFA yanga gukora raporo z'ibyo bamuregeye atari ukuri kuko yakoze raporo ku rugomo rwakorewe MANIFASHE igihe yaterwaga amabuye. [55] Me NYIRABERA Josephine umwunganira, avuga ko imvugo z'abamushinje, UWABERA Alice na GAKARA Danani nta kuri kurimo kuko ari we wasabye buyobozi bw'akagari gukemura ikibazo cy'inzira

y'imodoka cyari hagati ya MUNYAKAZI na MANIFASHE Jérôme, kandi ko MUNYAKAZI yivugiye imbere y'Urukiko ko nta nama yo kubaka urukuta HITIMANA yigeze amugira, ibyavugiwe mu Rukiko akaba ari byo bikwiriye kugenderwaho. [56] Anavuga ko Ubushinjacyaha bwatangiye bushinja HITIMANA kuba icyitso mu cyaha cy'ivangura, bugeraho buvuga ko ari gatozi, ibyo na byo bikaba bigaragaza ko nta ruhare yagize mu ikorwa ry'icyaha aregwa, bityo Urukiko rukaba rukwiye kubona ko ibyagarutsweho byose birimo gushidikanya, kubera iyo mpamvu rukemeza ko atigeze aba icyitso mu cyaha cy'ivangura

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rishingiye ku bwoko, ndetse rukemeza ko nta mpamvu zituma urubanza rusubirwamo ku mpamvu z'akarengane. [57] Asoza avuga ko atemera ubuhamya bwa MURWANASHYAKA Célestin n'ubwa HABYARIMANA Emmanuel kuko ibyo bavuga atari ukuri : urugero niwwe wakoze raporo yo ku wa 20/4/2017 ku muntu wari wateye amabuye MANIFASHE Jérôme. Asaba ko hazashingirwa ku buhamya bwa MUKANDUTIYE Albertine, ubwa MUKAMARARA Espérance n'ubwa NTIBARIKURE Vicentien. Asaba Urukiko kuzareba raporo zigaragara ku rupapuro (cote) rwa 79 n'urwa 87 kuko zishinjura HITIMANA. UKO URUKIKO RUBIBONA [58] Ikibazo kiri muri uru rubanza ni ukumenya niba hari ibimenyetso bifatika bihamya MUNYAMAHORO Innocent na HITIMANA Jean de Dieu alias Bondo, icyaha cy'ivangura rishingiye ku bwoko, byirengagijwe n'Urukiko Rukuru, Urugereko rwa Musanze. [59] Ingingo ya 163 y'Itegeko No 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe, iteganya ko umuntu wese ukoze kimwe mu bikorwa bikurikira aba akoze icyaha: 1o Igikorwa kibangamira umuntu umwe cyangwa abantu benshi cyangwa gitandukanya umuntu cyangwa abantu benshi hashingiwe ku isano muzi, ubwoko, inkomoko, umuryango, inzu, ibara ry'uruhu, igitsina, akarere, ubwenegihugu, idini, ibitekerezo bya politiki, ibyiciro by'ubukungu, umuco, ururimi, imibereho muri sosiyete, ubumuga bw'umubiri cyangwa bwo mu mutwe cyangwa isura y'umubiri; 2o Igikorwa kigamije kuvutsa umuntu umwe cyangwa benshi uburenganzira bwabo buteganywa mu mategeko y'u Rwanda cyangwa mu masezerano mpuzamahanga u Rwanda rwemeje hashingiwe ku isano muzi, ubwoko, inkomoko, umuryango, inzu, ibara ry'uruhu, igitsina, akarere, ubwenegihugu, idini, ibitekerezo bya politiki, ibyiciro by'ubukungu, umuco, ururimi, imibereho muri sosiyete, ubumuga bw'umubiri cyangwa bwo mu mutwe cyangwa isura y'umubiri; 3o Igikorwa cyose gishishikariza umuntu kuvutsa undi muntu cyangwa abantu benshi uburenganzira bwabo buteganywa mu mategeko y'u Rwanda cyangwa mu masezerano mpuzamahanga u Rwanda rwemeje hashingiwe ku isano muzi, ubwoko, inkomoko, umuryango, inzu, ibara ry'uruhu, igitsina, akarere, ubwenegihugu, idini, ibitekerezo bya politiki, ibyiciro by'ubukungu, umuco, ururimi, imibereho muri sosiyete, ubumuga bw'umubiri cyangwa bwo mu mutwe cyangwa indi miterere y'umubiri. [60] Ingingo ya 53 y'Itegeko No 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, iteganya ko Urwego rufite ububasha rusuzuma ukwemerwa cyangwa ukutemerwa n'agaciro by'ikimenyetso gishingiye ku buhamya, ko rutita ku mubare w'abatangabuhamya, ko ahubwo rwita cyane ku bumenyi bw'ibyabaye no ku budakemwa bw'ubuhamya batanga. [61] Ingingo ya 48 y'Itegeko No 062/2024 ryo ku wa 20/06/2024 rigenga

ibimenyetso, iteganya ko umuntu wese wagize uruhare mu ikorwa ry'icyaha cyangwa uwakorewe icyaha ashobora kumvwa nk'umutangabuhamya.

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- [62] Ibirebana n'agaciro k'ubuhamya byatanzweho umurongo mu rubanza No RPAA 0059/08/CS rwaciwe ku wa 19/11/2010 haburana Ubushinjacyaha, NSHIMIYIMANA Alexis, TWAGIRUMUKIZA Anastase na HABIMANA Bosco, aho Urukiko rw'Ikirenga rwavuze ko ubuhamya bw'abantu budateshwa agaciro n'uko bafitanye amasano hagati yabo, cyangwa se bafite inyungu mu rubanza, kuko agaciro kabwo kadashingiye ku babutanga, ahubwo gashingiye ku kuri gukubiye muri ubwo buhamya, kwemezwa gusa n'Urukiko nyuma yo gusesengura imvugo z'abatangabuhamya.
- a. Ku bireba MUNYAMAHORO Innocent [63] Urukiko rusanga kuba ashinjwa n'umutangabuhamya GAKARA Danani ko we na se ndetse na MUGIRANEZA batoraga babwira MANIFASHE Jérôme ko bazabonana kuko yashatse umugore w'umututsikazi; rusanga kandi umutangabuhamya RUCAGU Boniface, mu Bugenzacyaha, muri dosiye y'urubanza UWAMARIYA Visensiya yarezwemo icyaha cyo gukubita no gukomeretsa SIFA, yaravuze ko barwana yari ahari, maze yumva MUNYAMAHORO Innocent yita SIFA indyanyu yaje kubarya; iyi mvugo ye ikaba ari ikimenyetso cy'ivangura rishingiye ku bwoko.
- b. Ku bireba HITIMANA Jean de Dieu [64] Kuri HITIIMANA Jean de Dieu, kuba MUNYAKAZI Evariste mu ibazwa rye mu Bugenzacyaha yaravuze ko ari we wamugiriye inama yo kubaka urukuta rw'amabuye mu nzira kugira ngo imodoka ya MANIFASHE na SIFA niyinjira mu rupangu ntizasohoke, no kuba umutangabuhamya GAKARA Danani avuga ko itotezwa ryakorerwaga SIFA yaribonaga, akarebera, ntagire icyo abikoraho, ibyo bikaba byanashimangiwe n'umutangabuhamya MURWANASHYAKA Célestin wabajijwe n'Urukiko Rwisumbuye rwa Musanze ubwo rwakoraga iperereza ku wa 05/03/2021, wavuze ko HITIMANA atajyaga agaragaza ibibazo kwa MANIFASHE bamugezagaho, ndetse ko yavuze ko abatutsi bafite ahandi bakwiye gutura, Urukiko rusanga ibi ari ibimenyetso bigaragaza ko na we yakoreye ivangura SIFA Célestine. [65] Urukiko rusanga nta raporo n'imwe HITIMANA yigeze akora irimo itotezwa rishingiye ku ivangura rishingiye ku bwoko ryakorewe umuryango wa MANIFASHE na SIFA, kandi muri dosiye rigaragara ndetse bamwe bakaba barahamijwe icyo cyaha n'inkiko zombi zibanza, icyo akaba ari ikimenyetso cy'uko yari arishyigikiye. Kuba Urukiko Rukuru rutarakimuhamije akaba ari ukwirengagiza ibimenyetso. [66] Hashingiwe ku bisobanuwe haruguru, Urukiko rurasanga hari ibimenyetso bihagije bihamya MUNYAMAHORO Innocent na HITIMANA Jean de Dieu alias Bondo, icyaha cy'ivangura rishingiye ku bwoko.
- 3) Kumenya ibihano byahabwa abaregwa [67] Uhagarariye Ubushinjacyaha asaba ko MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, UWAMARIYA Visensiya, NSENGIYUMVA Théoneste na MUNYAMAHORO Innocent bahamwa n'impurirane mbonezabyaha y'icyaha cy'ubwicanyi, icyo gutwikira undi inyubako ku bushake, icyaha cyo gukomeretsa undi ku bushake byateye ubumugabuhoraho n'icyaha cy'ivangura rishingiye ku bwoko bakoreye

umuryango wa MANIFASHE Jérôme n'umugore we SIFA Célestine, rukabahanisha buri wese igifungo cya burundu.

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- [68] Akomeza avuga ko HITIMANA Jean de Dieu alias Bondo yahamwa n'icyaha cy'ivangura rishingiye ku bwoko yakoze afatanyije na MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, MUNYAMAHORO Innocent, UWAMARIYA Visensiya na NSENGIYUMVA Théoneste, rukamuhanisha igifungo cy'inyaka irindwi (7) n'ihazabu ya 1.000.000 Frw. [69] MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, MUNYAMAHORO Innocent, UWAMARIYA Visensiya, NSENGIYUMVA Théoneste na Me UWAMAHORO NYIRANZAYINO Christine ubunganira basaba Urukiko kwemeza ko bose bagizwe abere ku byaha byose bakurikiranyweho muri uru Rukiko. [70] HITIMANA Jean de Dieu na Me NYIRABERA Josephine umwunganira bavuga ko nta mpamvu zituma uru rubanza rusubirishwamo ku mpamvu z'akarengane kuko ingingo zose zitangwa, Urukiko Rukuru rwazisuzumye rugasanga nta shingiro zifite, agasaba Urukiko gutegeka ko urubanza rusubirishwamo ku mpamvu z'akarengane rudahindutse kuri HITIMANA Jean De Dieu. UKO URUKIKO RUBIBONA [71] Ikibazo kiri muri uru rubanza ni ukumenya ibihano byahabwa abaruregwamo. [72] Ingingo ya 180, igika cya kabiri, y'Itegeko No 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe, iteganya ko iyo umuntu ahamijwe n'Urukiko icyaha cyo gutwikira undi inyubako ku bushake ahanishwa igifungo kitari muni y'inyaka icumi
- (10) ariko kitarenze imyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda atari muni ya miliyoni eshatu (3.000.000 Frw) ariko atarenze miliyoni eshanu (5.000.000 Frw). [73] Ingingo ya 107 y'Itegeko No 68/2018 ryo ku wa 30/08/2018 rimaze kuvugwa, iteganya ko umuntu wica undi abishaka, aba akoze icyaha. Iyo abihamijwe n'Urukiko, ahanishwa igifungo cya burundu. [74] Ingingo ya 121, igika cya 3, y'Itegeko No 68/2018 ryo ku wa 30/08/2018 rimaze kuvugwa, iteganya ko iyo gukubita cyangwa gukomeretsa byateye indwara cyangwa kudashobora kugira icyo umuntu yikorera ku buryo budahoraho, igihano kiba igifungo kitari muni y'inyaka icumi
- (10) ariko kitarenze imyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda atari muni ya miliyoni eshatu (3.000.000 Frw) ariko atarenze miliyoni eshanu (5.000.000 Frw). Iyo byateye indwara idakira, ubumuga buhoraho butuma ntacyo yikorera, kubuza burundu urugingo rw'umubiri gukora no gutakaza igice cy'umubiri, igihano kiba igifungo kitari muni y'inyaka icumi (10) ariko kitarenze imyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda atari muni ya miliyoni eshatu (3.000.000 Frw) ariko atarenze miliyoni eshanu (5.000.000 Frw). [75] Ingingo ya 163, igika cya 2, y'Itegeko No 68/2018 ryavuzwe haruguru, iteganya ko umuntu uhamijwe n'Urukiko gukora kimwe mu bikorwa bivugwa mu gika cya mbere cy'iyi ngingo ahanishwa igifungo kitari muni y'inyaka itanu (5) ariko kitarenze imyaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda atari muni y'ibihumbi magana atanu (500.000 Frw) ariko atarenze miliyoni imwe (1.000.000 Frw).

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[76] Ingingo ya 61, igika cya 3, y'Itegeko No 68/2018 ryavuzwe haruguru, iteganya ko impurirane mbonezamugambi ibaho iyo: 2° ibikorwa bitandukanye bigize ubwabyo ibyaha bitandukanye, bihujwe n'uko bigamije umugambi w'icyaha kimwe. [77] Ingingo ya 62, igika cya 2, y'itegeko No 68/2018 ryavuzwe haruguru, iteganya ko mu gihe cy'impurirane mbonezamugambi ivugwa mu gaceka 2° k'igika cya 3 cy'ingingo ya 61 y'iri tegeko, umucamanza atanga igihano ntarengwa cyo hejuru giteganyirijwe icyaha kirusha ibindi gukomera. [78] Urukiko rusanga harabayeho impurirane mbonezamugambi ku byaha byakozwe na MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, MUNYAMAHORO Innocent, UWAMARIYA Visensiya na NSENGIYUMVA Théoneste kuko bakoreye SIFA Célestine ivangura rishingiye ku bwoko, baramutoteza bamuziza ko ari umututsikazi bagamije kumugirira nabi, ari byo byaje kuvamo gutwika aho abana bari baryamye mu nzu umwe agapfa, undi agasigarana ubumuga buhoraho, bityo rugasanga igihano ntarengwa cyo hejuru bagomba guhanishwa ari igifungo cya burundu giteganyijwe ku cyaha cy'ubwicanyi. [79] Urukiko rusanga ku bireba HITIMANA Jean de Dieu, kuko ahamwa n'icyaha cy'ivangura rishingiye ku bwoko, agomba guhanishwa igifungo cy'imyaka irindwi (7) n'ihazabu y'amafaranga miliyoni imwe (1.000.000 Frw). III. ICYEMEZO CY'URUKIKO [80] Rwemeje ko ikirego cyatanzwe n'Ubushinjacyaha gisaba gusubirishamo ku mpamvu z'akarengane, urubanza No RPA 00395/2021/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze, ku wa 07/07/2022, gifite ishingiro; [81] Rwemeje ko imikirize y'urubanza No RPA 00395/2021/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 07/07/2022 ihindutse kuri byose; [82] Rwemeje ko MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, MUNYAMAHORO Innocent, UWAMARIYA Visensiya na NSENGIYUMVA Théoneste bahamwa n'ibyaha bakurikiranyweho icy'ivangura, icy'ubwicanyi, icyo gutwikira undi ku bushake, n'icyo gukomeretsa ku bushake byateye ubumuga buhoraho; [83] Rwemeje ko HITIMANA Jean de Dieu ahamwa n'icyaha akurikiranyweho cy'ivangura rishingiye ku bwoko; [84] Ruhanishije NSENGIYUMVA Théoneste, MUNYAKAZI Evariste, MUGIRANEZA Ildephonse, MUNYAMAHORO Innocent na UWAMARIYA Visensiya igifungo cya burundu kuri buri wese; [85] Ruhanishije HITIMANA Jean de Dieu igifungo cy'imyaka irindwi (7) n'ihazabu ya miliyoni imwe (1.000.000 Frw);

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