

RWANDA / JUDGMENT

UBUSHINJACYAHA v. MICOMYIZA

RPAA 00992/2024/CA

COURT

Court of Appeal

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UBUSHINJACYAHA v. MICOMYIZA

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Text

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UBUSHINJACYAHA v. MICOMYIZA [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00992/2024/CA (Ndahayo, P.J.), 27 Ugushyingo 2025] Amategeko agenga imiburanishirize y'imanza nshinjabyaha – Icyaha cy'ubwicanyi – Kugabanyirizwa ibihano – Ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano iyo gukoze byibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa, kudashidikanywaho, kuba uwemera agaragaza ko yumva uburemere bw'ibikorwa yemera n'ingaruka zabyo, abyicuza, abisabira imbabazi no kuba yiteguye gusubiza ibyo yangije uko abitegerejweho. Amategeko agenga imiburanishirize y'imanza nshinjabyaha – 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. Amategeko agenga imiburanishirize y'imanza nshinjabyaha – Ubusembure – Ni inshingano y'uregwa uburanisha ubusembure kubuzamura no kubutangira ibimenyetso, umucamanza akaba afite inshingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana. Amategeko agenga imiburanishirize y'imanza nshinjabyaha – Kwemera icyaha mu iperereza no kugihakana

mu rukiko – Umucamanza uburanisha urubanza mu mizi niwe ureba agaciro invugo y’uwiemerera icyaha mu wego rw’iperereza ifite, kabone n’iyo nyirayo yageze imbere y’Urukiko akayihindura. Amategako agenga imiburanishirize y’imanza nshinjabyaha – Ikiburanwa mu rukiko rubanza no mu bujurire – Ibiburanwa mu rwego rw’ubujurire biba bigomba kuba byari byaburanweho mu rukiko rubanza. Impamvu itaraburanyweho mu rubanza rujuririrwa ikaba itasuzumwa ku rwego rw’ubujurire kuko itafatwa nk’inenge iri mu rubanza cyangwa ikosa ryakozwe n’Urukiko rubanza ku buryo byashingirwaho biba impamvu y’ubujurire Incamake y’ikibazo: Mu Karere ka Gicumbi, abantu bari ku ironde bahuye n’umuntu wikoreye umufuka baramuhagarika bashaka kumenya ikiri muri uwo mufuka ariko uwari Uwikoreye awushyira hasi arahunga barebyemo basanga harimo umuntu wishwe, baza gusanga uwo muntu wishwe ari uwitwa Mukarihamye Gaudence. Iperereza ryatangiye gukorwa maze hakekwa Micomyiza Christophe na Rukundo Emmanuel, maze Ubushinjacyaha bwabarereze icyaha cy’ubwicanyi mu Rukiko Rwisumbuye rwa Gicumbi, busaba ko hemezwa ko kibahama buri wese agahanishwa gufungwa burundu. Micomyiza Christophe yaburanye yemera icyaha avuga ko yishe Mukarihamye kubera ko ngo yamuroze kutabasha gukora imibonano mpuzabitsina n’umugore we yashatse kugira ngo abe ariwe wenyine bazajya baryamana gusa. Rukundo Emmanuel umugabo wa Mukarihamye we yaburanye avuga ko nta cyaha yakoze asaba kurenganurwa kuko nta ruhare yagize mu iyicwa ry’umugore we.

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Urukiko Rwisumbuye rwa Gicumbi rushingiye ku mvugo za Micomyiza Christophe wemera icyaha, iz’abatangabuhamya ndetse no kuri raporo ya muganga, rwemeje ko Micomyiza Christophe ahamwe n’icyaha, rumuhanisha igifungo cya burundu, runemeza ko Rukundo Emmanuel we adahamwe n’icyaha. Micomyiza yajuririye mu Rukiko Rukuru, avuga ko yajuriye agamije gusaba imbabazi kuko yakoze icyaha atabigambiriye anasaba kugabanyirizwa ibihano no kubisubikirwa. Ubushinjacyaha bwavuze ko Micomyiza yishe umuntu kandi uwo yishe nawe akaba yari afite abantu be bamukeneye, bityo imikirize y’urubanza rujuririrwa ikaba itakagombye guhinduka. Urukiko Rukuru rwemeje ko ubujurire bwa Micomyiza ku bijyanye no kugabanyirizwa ibihano bufite ishingiro, bityo rwemeza ko imikirize y’urubanza rwaciwe n’urukiko Rwisumbuye rwa Gicumbi ihindutse ku bijyanye n’ibihano, maze rumuhanisha igifungo cy’imyaka makumyabiri n’itanu (25). Urukiko Rukuru rwashingiye icyemezo cyarwo ku kuba rusanga Micomyiza Christophe akwiye kugabanyirizwa igihano yahanishijwe ku rwego rwa mbere kuko yicuza icyaha yakoze ariko runashingira ku bugome yakoranye icyaha aho rwasobanuye ko yishe uyu mudamu yitwaje gusa ko amuroga, nyuma yo kumwica agahitamo kujya guta kure umubiri we kugira ngo utazaboneka ngo ushyingurwe mu cyubahiro maze rumuhanisha igifungo cy’imyaka makumyabiri n’itanu (25). Micomyiza ntiyishimiye imikirize y’urubanza arujuririra nanone mu Rukiko rw’Ubujurire, avuga ko Urukiko Rukuru rwanze kumugabanyiriza igihano kandi yaraburanye yemera icyaha agasaba imbabazi, agasaba kongera kugabanyirizwa avuga ko nta bushake yari afite bwo gukora icyaha. Micomyiza avuga kandi ko igihano cy’igifungo cy’imyaka 25 yahanijwe kiremereye kandi yaremeye icyaha, bityo asaba urukiko kuzashingira ku ngingo ya 57 y’itegeko N 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha

n'ibihano muri rusange iteganya igabanya ry'igihano mu gihe habaye ubusembure.

Ubushinjacyaha busaba Urukiko rw'Ubujurire kwemeza ko impamvu z'Ubujurire za Micomyiza nta shingiro zifite, busaba ko hagumaho imikirize y'urubanza rwaciwe n'Urukiko Rukuru kuko nta makosa rwakoze. Incamake y'icyemezo: 1. Ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano iyo gukozwe byibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa, kudashidikanywaho, kuba uwemera agaragaza ko yumva uburemere bw'ibikorwa yemera n'ingaruka zabyo, abyicuza, abisabira imbabazi no kuba yiteguye gusubiza ibyo yangije uko abitegerejweho.

2. 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 ukurikiranyweho icyaha yakorewe n'uwakorewe icyaha (victime), bituma ako kanya amukorera icyaha aregwa.

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3. Ni inshingano y'uregwa uburanisha ubusembure kubuzamura no kubutangira ibimenyetso, umucamanza akaba afite inshingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana.

4. Umucamanza uburanisha urubanza mu mizi niwe ureba agaciro imvugo y'uwiyemerera icyaha mu rwego rw'iperereza ifite, kabone n'iyonyiraye yageze imbere y'Urukiko akayihindura. 5. Ibiburanwa mu rwego rw'ubujurire biba bigomba kuba byari byaburanweho mu rukiko rubanza. Impamvu itarubanyweho mu rubanza rujuririrwa ikaba itasuzumwa ku rwego rw'ubujurire kuko itafatwa nk'inenge iri mu rubanza cyangwa ikosa ryakozwe n'Urukiko rubanza ku buryo byashingirwaho biba impamvu y'ubujurire.

Ubujurire nta shingiro bufite. Nta mategeko yashingiweho. Imanza zifashishijwe:

Urubanza RPA 0343/10/CS rw'Ubushinjacyaha na Mpiranya Boniface rwaciwe n'Urukiko rw'Ikirenga ku wa 27/02/2015;

Urubanza RPAA 038/15/CS rw'Ubushinjacyaha na Sezikeye Emmanuel, rwaciwe n'Urukiko rw'Ikirenga ku wa 15/09/2017;

Urubanza RPA 0010/06/CS - RPA0011/06/CS - RPA 0012/06/CS, rw'Ubushinjacyaha na Sgt Ntaganira na bagenzi be, rwaciwe n'Urukiko rw'Ikirenga ku wa 18/07/2008;

Urubanza RPAA 00024/2021/CA, rw'Ubushinjacyaha na Mukayisenga rwaciwe n'Urukiko rw'Ubujurire ku wa 29/07/2022;

Urubanza RPAA 00888/2024/CA, rw' Ubushinjacyaha na Uwamahoro Claire, rwaciwe n'Urukiko rw'Ubujurire ku wa 27/05/2025. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 19/01/2022 saa saba z'ijoro (1h00'), mu Mudugudu wa Kirimo, Akagari ka Ngondore, Umurenge wa Byumba, mu Karere ka Gicumbi, abantu bari ku irondo bahuye n'umuntu wikoreye umufuka baramuhagarika bashaka kumenya ikiri muri uwo mufuka ariko uwari Uwikoreye awushyira hasi arahunga barebye basanga harimo umuntu wishwe, baza gusanga

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uwo muntu wishwe ari uwitwa Mukarihamye Gaudence. Hahise hatangira gukorwa iperereza hakekwa Micomyiza Christophe na Rukundo Emmanuel, iryo perereza rirangiye, Ubushinjacyaha bwabarereze icyaha cy'ubwicanyi mu Rukiko Rwisumbuye rwa Gicumbi, busaba ko hemezwa ko kibahama buri wese agahanishwa gufungwa burundu. [2] Micomyiza Christophe yaburanye yemera icyaha avuga ko yishe Mukarihamye kubera ko ngo yamuroze kutabasha gukora imibonano mpuzabitsina n'umugore we yashatse kugira ngo abe ariwe wenyine bazajya baryamana gusa. Rukundo Emmanuel umugabo wa Mukarihamye we yaburanye avuga ko nta cyaha yakoze asaba kurenganurwa kuko nta ruhare yagize mu iyicwa ry'umugore we. [3] Mu rubanza RP 00310/2022/TGI/GIC rwaciwe ku wa 09/09/2022, Urukiko Rwisumbuye rwa Gicumbi rushingiye ku mvugo za Micomyiza Christophe wemera icyaha, iz'abatangabuhamya ndetse no kuri raporo ya muganga, rwemeje ko Micomyiza Christophe ahamwa n'icyaha, rumuhanisha igifungo cya burundu, runemeza ko Rukundo Emmanuel we adahamwa n'icyaha. [4] Micomyiza Christophe yajuririye mu Rukiko Rukuru, mu iburanisha ryo kuwa 19/07/2024 avuga ko yajuriye agamiye gusaba imbabazi kuko yakoze icyaha atabigambiriye akubita uwo mudamu fer a beton yibwira ko ari igisambo, anasaba kugabanyirizwa ibihano no kubisubikirwa kugira ngo ajye kwita ku mwana we atazi uko abayeho kuko ngo mama we yarwayen'umubyeyi we akaba ashaje. [5] Ubushinjacyaha bwavuze ko Micomyiza Christophe yishe umuntu kandi uwo yishe nawe akaba yari afite abantu be bamukeneye, bwongeraho ko umucamanza ashobora kugabanya igihano ariko ko atabitegetswe kandi ko ibyo Micomyiza avuga ko yasanze umugore anyanyagiza ibintu iwe akamwica, akamuhisha mu nzu nyuma akaza kumwikorera akajya kumujugunya ari impamvu zatumye atagabanyirizwa ibihano, bityo rero imikirize y'urubanza rujuririrwa ikaba itakagombye guhinduka. [6] Mu rubanza RPA 01546/2022/HC/KIG rwaciwe ku wa 19/09/2024, Urukiko Rukuru rwemeje ko ubujurire bwa Micomyiza Christophe ku bijyanye no kugabanyirizwa ibihano bufite ishingiro, rwemeza ko imikirize y'urubanza RP 00791/2021/TGI/GSBO rwaciwe n'urukiko Rwisumbuye rwa Gicumbi ku wa 18/03/2022 ihindutse ku bijyanye n'ibihano, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25). [7] Urukiko Rukuru rwashingiye icyemezo cyarwo ku kuba rusanga Micomyiza Christophe akwiye kugabanyirizwa igihano yahanishijwe ku rwego rwa mbere kuko yicuza icyaha yakoze ariko runashingira ku bugome yakoranye icyaha aho rwasobanuye ko yishe uyu mudamu yitwaje gusa komamuroga, nyuma yo kumwica agahitamo kujya guta kure umubiri we kugira ngo utazaboneka ngo ushyingurwe mu cyubahiro maze rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25). [8] Micomyiza Christophe na none ntiyishimiye imikirize y'urubanza arujuririra mu Rukiko rw'Ubujurire, urubanza ruhabwa RPAA00992/2024/CA, ruburanishwa ku wa 10/10/2025, ariko

uwo munsu iburanisha rirasubikwa ryimurirwa ku wa 04/11/2025 kubera ko umwunganizi wa

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Micomyiza Christophe yari arwaye nk'uko byagaragajwe n'icyemezo cya muganga kimuha ikiruhuko (repos medical). [9] Ku wa 04/11/2025, iburanisha ry'uru rubanza ryarasubukwe, Micomyiza Christophe yitaba yunganiwe na Me Kayitera Canisius, Ubushinjacyaha buhagarariwe na Niyonkuru Françoise. [10] Mu myanzuro ya Micomyiza Christophe na Me Kayitera Canisius umwunganira bavuga ko Urukiko Rukuru rwanze kumugabanyiriza igihano kandi yaraburanye yemera icyaha agasaba imbabazi, agasaba kongera kugabanyirizwa kuko nta bushake yagize bwo gukora icyaha ahubwo ngo yabitewe n'uko yasanze Mukarihamye arimo kunyanyagiza ibintu iwe agamije kumuroga. [11] Uburanira Ubushinjacyaha avuga ko Ubushinjacyaha busaba Urukiko rw'Ubujurire kwemeza ko impamvu z'Ubujurire za Micomyiza Christophe nta shingiro zifite, asaba Urukiko gutegeka ko hagumaho imikirize y'urubanza rwaciwe n'Urukiko Rukuru. [12] Urukiko rw'Ubujurire ruhereye kuri izi mpaka, rusanga ikibazo kigomba gusuzumwa ari ikijyanye no kumenya niba Micomyiza Christophe yemera icyaha ku buryo budashidikanywaho ku buryo byatuma agabanyirizwa ibihano no kumenya niba hari indi mpamvu nyoroshyacyaha yashingirwaho yongera kugabanyirizwa igihano cy'imyaka 25. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO Kumenya niba Micomyiza Christophe yemera icyaha ku buryo budashidikanywaho ku buryo byatuma agabanyirizwa ibihano no kumenya niba hari indi mpamvu nyoroshyacyaha yashingirwaho yongera kugabanyirizwa igihano cy'imyaka 25. [13] Micomyiza Christophe na Me Kayitera Canisius umwunganira bavugako Urukiko Rukuru rutitaye ku busembure bwatumye akora iki aregwa, kuko ngo nyakwigendera Mukarihamye Gaudence mbere y'uko amwica yaje mu rugo rwa Micomyiza Christophe afite ishashi irimo ibintu atangira kubisuka mu rugo rwe abivugiraho n'amagambo menshi agamije kumuroga. Akomeza avuga ko nyakwigendera Mukarihamye yamwikanze maze agafata isuka yari mu rugo akayitera Micomyiza ku bw'amahirwe ye igafata igikuta cy'inzu, bigatuma nawe agira umujinya akamukubita fer a beton yari aho mu rugo akamwica. [14] Bakomeza bavuga ko ibyo Ubushinjacyaha bwavuze ko yahuye n'inkeragutabara yikoreye umufuka urimo umurambo wa Mukarihamye atari ukuri, ahubwo ngo Micomyiza amaze kubona Mukarihamye apfuye yavugije induru, inkeragutabara ziraza kandi ko zasanze umurambo wa nyakwigendera mu rugo kwa Micomyiza Christophe aho yari yamusize abonye yituye hasi akiruka akajya kuri polisi ya Kaniga kwishyikiriza urwego rw'umutekano ababwira icyaha yakoze. [15] Bavuga ko Micomyiza Christophe yaburanye yemera icyaha mu nzego zose, akaba asaba imbabazi no kugabanyirizwa ibihano, kubera ko nyakwigendera atapfuye kubera ko yari yateguye kumwica, ahubwo ngo yamusanze iwe atega uburozi nyuma yo kumuroga kutagira ubushake bwo gukora imibonano mpuzabitsina. [16] Micomyiza Christophe na Me Kayitera Canisius umwunganira bongeraho ko kuba Urukiko Rukuru rwaremeye ukwemera icyaha kwe ariko rukamuhanisha igihano cy'igifungo cy'imyaka 25

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ngo babona kiremereye bityo ngo Urukiko rukaba rutaritaye ku kwemera icyaha n'ubusembure bwatumye akora icyaha nk'uko yakomeje kubisobanurira inzego zose ko iyo uwo mugore ataza muri urwo rugo, iki cyaha kitari kubaho, bityo bakaba, basaba bushishozi bw'Urukiko rw'Ubujurire kugira ngo ruzamugabanyirize igihano kuko n'umuryango wa nyakwigendera wagaragaje ko baribasanzwe babanye neza ku buryo ibyabaye bitabuza imiryango yabo gukomeza kubana mu mahoro kuko bamaze kumuha imbabazi. [17] Basoba basaba Urukiko rw'Ubujurire gushingira ku kuba ubushinjacyaha butarashatse ibimenyetso ngo bwemeze ko byaba ari byo cyangwa ataribyo ko Micomyiza Christophe yakoze iki cyaha yitabara kubera ubusembure bwabayeho ngo bubigaragaze, ahubwo akaba yarahamijwe icyahabaye kugenekereza, basaba kuzashingira kandi ku ngingo ya 57 y'itegeko No 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange iteganyaga igabanya ry'igihano mu gihe habaye ubusembure. [18] Uburanira Ubushinjacyaha avuga ko Ubushinjacyaha busanga n'ubundi Urukiko Rukuru rwarahamye Micomyiza Christophe rushingiye ku ngingoya 21 y'itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange kandi ngo impamvu umucamanza atamuhamishije igifungo kiri munsu y'imyaka 25 nabyo yabisobanuye avuga ko Micomyiza Christophe yakoranye icyaha ubugome bukabije bwo kwica nyakwigendera Mukarihamye Gaudence akajya kujugunya umubiri we kure kugira ngo utazaboneka ngo ushyingurwe mu cyubahiro. [19] Akomeza avuga ko ashingira ku murongo watanze mu rubanza RPAA00288/2022/CA, rwaciye n'Urukiko rw'Ubujurire ku wa 30/01/2024 haburana Ubushinjacyaha na Dushimimana Théoneste (igika cya 23), uvuga ko iyo abaregwa nta kindi banenga urubanza rwajuririwe uretse kuvuga gusa ko batagabanyirijwe bihagije, buri mucamanza ku rwego urwo arirwo rwose, yemerewe gutanga igihano mu bushishozi bwe kijyanye n'uburemere bw'icyaha ndetse n'ingaruka zacyo ariko ko mu bujurire, Umucamanza agomba kuzirikana ko yemerewe gusa guhindura igihano cyatanzwe mu Rukiko rubanza, ari uko amaze kugaragaza ko urwo Rukiko rwaba rwarakoresheje itegeko cyangwa ubushishozi bwawo nabi mu gutanga icyo gihano. [20] Uburanira Ubushinjacyaha yongeraho ko, ku bijyanye n'ubusembure Micomyiza Christophe n'umwunganira bavugaga, Ubushinjacyaha busanga batabitangira ibimenyetso, kuko nta kigaragaza ko yakubiswe isuka n'ya nyakwigendera ikindi kandi ko atabiburanishije mu rubanza yajuririye ahubwo yavuze ko yemera icyaha agasobanura ko yishe nyakwigendera Mukarihamye Gaudence amuteraguye ibyuma ahantu hatandukanye, mu gatuza, mu nda n'ahandi atibuka, ngo amuziza ko yari amubonye ari mu gikari iwe afite isashi yakoragamo agakuramo ibintu akanyanyagiza mu nzu abicishije ahantu hatari hakinze ibirahure kandi aho ariho Micomyiza yabikagamo ibiryo, akaba rero yaramwishe akamuhisha mu nzu ye byageze mu gicuku akajya kumuta, ariko yagera ku gasozi agahura n'ironde agahita ajugunya umurambo hasi akirukanka agatorokera muri Uganda ari naho yafatiwe akagarurwa mu Rwanda. [21] Akomeza avuga ko kuba bavugaga ko Ubushinjacyaha butakoze iperereza rihagije, Ubushinjacyaha ngo busanga nta shingiro bifite kuko ntacyari kububwira ko Mukarihamye Gaudence yaje kuroga mu gihe nta kintu yari afite ngo gishingirweho, bityo iperereza ryakozwe ubushinjacyaha bukaba bubona ryari rihagije.

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[22] Asoza asaba Urukiko rw'Ubujurire kwemeza ko nta makosa Urukiko Rukuru rwakoze, bityo ko n'ubujurire bwa Micomyiza Christophe nta shingiro bufite, kandi ko ibyo yajuririye mu Rukiko Rukuru, bitarimo ubusembure Rukiko rw'Ubujurire kuko atari amakosa cyangwa inenge biri mu rubanza rwajuririye kuko bitaburanishijweho. UKO URUKIKO RUBIBONA [23] Impaka muri uru rubanza zishingiye ku kumenya niba Micomyiza Christophe yemera icyaha ku buryo budashidikanywaho ku buryo byaba impamvu yo kongera kumugabanyiriza ibihano no kumenya niba hari indi mpamvu nyoroshyacyaha yatuma agabanyirizwa ibihano. [24] Mu rubanza RPA 0343/10/CS haburana Ubushinjacyaha na Mpiranya Boniface rwaciwe n'Urukiko rw'Ikirenga ku wa 27/02/2015 (igika cya 13), Urukiko rw'Ubujurire rwatanze umurongo uvuga ko ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano iyo gukoze byibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa, kudashidikanywaho, kuba uwemera agaragaza ko yumva uburemere bw'ibikorwa yemera n'ingaruka zabyo, abyicuza, abisabira imbabazi no kuba yiteguye gusubiza ibyo yangije uko abitegerejweho. [25] Ku bijyanye n'ubusembure byatanzweho umurongo mu rubanza RPAA 038/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 15/09/2017 haburana Ubushinjacyaha na Sezikeye Emmanuel, aho Urukiko rw'Ikirenga rwasobanuye ko 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 (victim), bituma ako kanya amukorera icyaha aregwa. Uwo murongo kandi uvuga ko ari inshingano y'uregwa uburanisha ubusembure kubuzamura no kubutangira ibimenyetso, umucamanza akaba afite inshingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana. [26] Dosiye y'urubanza igaragaza ko ku wa 12/08/2022, Micomyiza Christophe abazwa mu bugenzacyaha yemeye icyaha cyo kwica Mukarihamye Gaudence asobanura ko hari nka saa tanu z'amanywa abona nyakwigendera yinjira iwe aramwihisha nibwo ngo yabonye nyakwigendera afite isashi akuramo ibintu anyanyagiza mu nzu avuga amagambo, Micomyiza ngo abihuza n'uko bamubwiye ko ariwe umuroga, ahita amwinjirana amutera icyuma mu ijosi, amutera ikindi munda ndetse akomeza kumutera ibyuma inshuro nyinshi kubera umujinya mwinshi yari afite, amaze kumwica amuhambira mu myenda no muri supaneti ashyira mu mufuka ajya kumujugunya ahantu kure ageze mu nzira ahura n'abantu baramwirukankana atura hasi ariruka, aza gufatwa nyuma. [27] Dosiye igaragaza kandi ko ku wa 17/08/2020, Micomyiza Christophe abazwa mu Bushinjacyaha nabwo yemeye icyaha asobanura uko yabikoze nk'uko yabisobanuye bwa mbere mu bugenzacyaha. Hari kandi ubuhamya bwa Niyigena Francois na Nsabimana babazwa mu Bugenzacyaha basobanuye uko ubwo bari batashye bava muri centre bahuye na Micomyiza yikoreye umufuka abikanze atura hasi ariruka bamwirukaho arabasiga ariko nyuma bahamagara umukuru w'umudugudu, RIB na Police bahageze barebye basanga harimo umuntu wapfuye ari Mukarihamye Gaudence, bakeka Micomyiza bagiye iwe bahasanga amaraso mu nzu, kandi Micomyiza akaba yari yamaze gutoroka.

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[28] Dosiye igaragaza nanone raporo ya muganga yo ku wa 20/01/2021, igaragaza ko Mukarihamye Gaudence yishwe n'ibikomere byinshi. [29] Urukiko rurasanga Micomyiza Christophe n'umwunganira bavuga ko Urukiko Rukuru rutagabanyirije Micomyiza Christophe igihano rumuhanisha igifungo cy'imyaka 25 rwirengagije ko yaburanye yemera icyaha agasaba imbabazi, bagasaba ko yongerera akagabanyirizwa, nta shingiro bifite kuko nk'uko byagarutsweho n'ubushinjacyaha, Micomyiza Christophe yagabanyirijwe igihano akurwa ku gifungo cya burundu igenewe uwahamwe n'icyaha cy'ubwicanyi kubera ko rwasanze yaremeye icyaha agasaba imbabazi ariko kubera ubugome yakoranye icyaha rusanga akwiye guhanishwa igifungo cy'imyaka 25. [30] Urukiko rw'Ubujurire rurasanga kandi Micomyiza Christophe atemera icyaha kuburyo budashidikanywaho kuko ibyo we n'umwunganira bavuga ko Mukarihamye Gaudence yamuteye isuka ikamuhusha, akabona kumutera icyuma akamwica, nta kimenyetso abitangira cyashingirwaho n'Urukiko ngo rwemeze ko byabayeho cyane ko mu bisobanuro yatanze mu bugenzacyaha no mu bushinjacyaha ku byerekeye uko icyaha cyakozwe yasobanuye ko yateye ibyuma byinshi nyakwigendera mu ijosi no mu nda. [31] Kuba rero Micomyiza Christophe yarageze muri uru Rukiko agahindura imvugo ntabwo ibyo yavugiye mu Rukiko aribyo byafatwa nk'ukuri mu gihe nta kindi kimenyetso kigaragaza ukuri kw'ibyo avuga kandi mu bugenzacyaha no mu bushinjacyaha yaravuze ibitandukanye. [32] Ibi bihura n'umurongo watanze mu rubanza RPA 0010/06/CS - RPA0011/06/CS - RPA 0012/06/CS, rwaciwe n'Urukiko rw'Ikirenga ku wa 18/07/2008, haburana Ubushinjacyaha na Sgt NTAGANIRA na bagenzi be (igika cya 46), uvuga ko umucamanza uburanisha urubanza mu mizi ariwe ureba agaciro imvugo y'uwiyemerera icyaha mu rwego rw'iperereza ifite, kabone n'iyi nyirayo yageze imbere y'Urukiko akayihindura. [33] Ku bijyanye no kuba Micomyiza asaba ho hashingirwa ku kuba harabayeho ubusembure agasaba kugabanyirizwa ibihano mu kubisuzuma hashingirwa ku byemejwe mu manza RPAA 00024/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/07/2022, haburana Ubushinjacyaha na Mukayisenga ndetse n'urubanza RPAA 00888/2024/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 27/05/2025 haburana Ubushinjacyaha na Uwamahoro Claire (igika cya 22), ari narwo ruheruka gucibwa, rwatanze umurongo uvuga ko ibiburanwa mu rwego rw'ubujurire biba bigomba kuba byari byaburanweho mu rukiko rubanza. Impamvu itaraburanyweho mu rubanza rujuririrwa ikaba itasuzumwa ku rwego rw'ubujurire kuko itafatwa nk'inenge iri mu rubanza cyangwa ikosa ryakozwe n'Urukiko rubanza ku buryo byashingirwaho biba impamvu y'ubujurire. [34] Nk'uko rero bimaze gusobanurwa haruguru, uru Rukiko rurasanga muri uru rubanza n'ubwo nta kimenyetso cy'ubusembure Micomyiza yatanze, nta n'ubwo iyi ngingo y'ubujurire ijyanye n'ubusembure igomba kwakirwa ngo isuzumwe kuko itaburanishijwe mu rubanza rujuririrwa ahubwo ikaba yaratanzwe bwa mbere mu bujurire muri uru Rukiko kandi nabwo ikabayaratanze n'umwunganizi wa Micomyiza ibihe by'ubujurire byararenze. [35] Urukiko rurasanga na none kuba Micomyiza Christophe n'umwunganira bavuga ko Ubushinjacyaha butashatse ibimenyetso byemeza ubusembure bwakozwe na Mukarihamye Gaudence, bakabona ko habayeho kugenekereza mu kumuhamya icyaha, nta shingiro bifite, kuko

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ibimenyetso byashingiweho byo kuba yaremeraga ko ariwe wishe Nyakwigendera mu nzego z'iperereza, akaba ataravuze ko yamwishe kubera ubusembure, imvugo z'abatangabuhamya, na raporo ya muganga ni ibimenyetso bihagije bigaragaza ko yakoze icyaha aregwa bityo iperereza ryakozwe rikaba ryari rihagije bitari ngombwa ko hakorwa irindi. [36] Urukiko rw'Ubugurire kandi rurasanga nta mpamvu yindi yatuma Micomyiza Christophe yongera kugabanyirizwa igihano yahawe cy'igifungo cy'imyeka 25 hashingiwe ku kuba yarakoranye icyaha ubugome bukabije harebwe uburyo yishe nyakwigendera amuteye icyuma yarangiza agafata umurambo akajya kuwujugunya kugirango utazaboneka ngo ushyingurwe mu cyubahiro. [37] Uru rukiko rurasanga rero kuba Urukiko Rukuru rwarahanishije Micomyiza Christophe igifungo cy'imyeka 25 ku cyaha cy'ubwicanyi nta kosa rwakoze, hashingiwe ku bimaze gusobanurwa byose bityo ubujurire bwe bukaba nta shingiro bufite, hakaba hagomba gukumaho imikirize y'urubanza rwajuririwe mu ngingo zarwo zose. III. ICYEMEZO CY'URUKIKO [38] Rwemeje ko ubujurire bwa Micomyiza Christophe nta shingiro bufite; [39] Rwemeje ko imikirize y'urubanza RPA 01546/2022/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 19/09/2024, idahindutse; [40] Rutegetse ko Micomyiza Christophe akomeza guhanishwa igifungo cy'imyeka makumyabiri n'itanu (25).

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