

RWANDA / JUDGMENT

UBUSHINJACYAHA v. NIYOMURAGIJE

RLR V.2 - 2020

COURT

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UBUSHINJACYAHA v. NIYOMURAGIJE

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UBUSHINJACYAHA v. NIYOMURAGIJE [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00475/2018/CA (Kaliwabo, P.J.), 17 Gicurasi 2019] Amategeko agenga ibimenyetso – Ibimenyetso mu manza nshinjabyaha – Ukwivuguruza k'umuburanyi – Amakimbirane hagati y'uregwa n'uwakorewe icyaha – Ukwivuguruza k'umuburanyi si ikimenyetso gihagije kimushinja icyaha mu gihe nta bindi bimenyetso simusiga bikimushinja kuko adafite inshingano yo gutanga ibimenyetso bimushinja – Amakimbirane hagati y'uregwa n'uwakorewe icyaha ubwabyo si ikimenyetso kigaragaza ko uregwa yakoze icyaha ashinjwa. Amategeko agenga ibimenyetso – Ibimenyetso mu manza nshinjabyaha – Ibimenyetso biziguye (les preuves indirectes) – Ibimenyetso biziguye (les preuves indirectes) bigira agaciro iyo isesengura ryabyo ryerekana ko nta wundi mwanzuro byageraho uretse ibikorwa bigize icyaha ushinjwa akurikiranyweho. Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Ngoma, Ubushinjacyaha burega Niyomuragije icyaha cyo kwica umubyeyi we Uzamukunda hashingiwe ku kuba yaremeraga ko ariwe wamuvanye mu rugo avuga ko agiye kumugurira inzoga nyuma uyu mubyeyi akaza kuboneka yishwe. Ubushinjacyaha bwashingiye kandi ku mvugo z'abavandimwe ba Niyomuragije bahamije ko bari basanganywe amakimbirane kubera ubujura bwa Niyomuragije, ndetse bunashingira ku

kuba ngo hari amaraso yabonetse ku

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myenda no ku mubiri w'uregwa. Urwo Rukiko rwemeje ko uregwa ahamwa n'icyaha cyo kwica umubyeyi we maze rumuhanisha igifungo cya burundu. Uregwa ntiyishimiye imikirize y'urwo rubanza maze ajuririra Urukiko Rukuru, Urugereko rwa Rwamagana avuga ko nta ruhare yagize mu rupfu rw'umubyeyi we, ko ntacyo bari basanzwe bapfa kuko n'uwo munsu bari bagiyeye gusangira inzoga, ko abavandimwe bamushinja ibinyoma kugira ngo bazasigare bigabanira imitungo y'umuryango. Urukiko Rukuru rwahamishijeho imikirize y'urubanza rwajuririwe hashingiwe ngo ku kuba uregwa atarashoboye kuvuguruza ibimenyetso byashingiwe ho mu Rukiko Rwisumbuye ndetse no kuba yaritangiye umutangabuhamya akamushinja mu mwanya wo kumushinjura, ubuhamya bwe bwibanze mu kugaragaza ko hari hasanzwe amakimbirane hagati y'uregwa n'umubyeyi we. Niyomuragije yarongeye ajuririra Urukiko Rw'Ikirenga, Ubujurire bwe bwoherezwa mu Rukiko Rw'Ubujurire nyuma y'ivugurura ry'ububasha bw'Inkiko. Akaba yaragaragazaga ko Urukiko Rukuru rwirengagije ko yatashye mbere y'umubyeyi we kubera uburwayi bw'igicuri yari asanganywe, kandi ko nta kibazo yari asanzwe afitanye n'umubyeyi we kuko n'uwo munsu bari basangiye, yongeyeho ko amaraso bivugwa ko yamubonetseho bayitiranyije n'amakashi y'ibitoki yari ku ikabutura ye, ko Ubugenzacyaha bwayifatiriyeye umurambo utarashyingurwa ku buryo aya maraso yagombaga gupimishwa muri "laboratoire" yabugenewe kugira ngo asanishwe n'urupfu rwa Uzamukunda. Ubushinjacyaha bwo buvuga ko ubuhamya bwatanze n'abavandimwe b'uregwa bugaragaza amakimbirane yari

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afitanye n'umubyeyi wabo Uzamukunda, ubwo buhamywa ngo bunagaragaza kandi uburyo yatashye imyenda ye iriho amaraso. Ubushinjacyaha bwongeraho ko umutangabuhamya yahamije ko yabonye Niyomuragije agegena igiti cyabonetse hafi y'umurambo kiriho amaraso, bunavugaga kandi ko, kuba amaraso atarapimwe bitavanaho ireme ry'ibindi bimenyetso byatanze. Incamake y'icyemezo: 1. Amakimbirane hagati y'uregwa n'uwakorewe icyaha ubwabyo si ikimenyetso kigaragaza ko uregwa yakozwe icyaha ashinzwe. Bityo Urukiko Rukuru ntirwagombye kuba rwarahagarariye ku mvugo irebana n'imibanire ngo ruyifate nk'ubuhamya bushinja nyamara nta gikorwa cyirebana n'ubwicanyi kirimo.

2. Ukwivuguruza k'umuburanyi si ikimenyetso gihagije kimushinja icyaha mu gihe nta bindi bimenyetso simusiga bikimushinja kuko adafite inshingano yo gutanga ibimenyetso bimushinja. Bityo imvugo ya Niyomuragije waranzwe no kwivuguruza ku birebana n'amaraso bivugwa ko yaba yarabonetse ku myenda ye no ku mubiri we, ntizishobora kuba ikimenyetso kimushinja ubwicanyi.

3. Ibimenyetso biziguye (les preuves indirectes) bigira agaciro iyo isesengura ryabyo ryerekana ko nta wundi mwanzuro byageraho uretse ibikorwa bigize icyaha ushinjwa akurikiranyweho. Ubujurire bufite ishingiro; Imikirize y'urubanza rwajuririwe irahindutse; Amagarama y'urubanza aherereye ku isanduku ya Leta. Amategeko yashingiweho:

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Itegeko No 30/2013 ryo kuwa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 165. Imanza zifashishijwe: Prosecutor vs Ntagerura, ICTR-99-46-A' Judgment, 7 July 2006, par.306. Urubanza I. IMITERERE Y'URUBANZA [1] Kuwa 01/01/2016 Niyomuragije Xavier wo mu Murenge wa Rubona yajyanye umubyeyi we Uzamukunda Vestine kwa Musabimana Eliane aho yamuguriye inzoga. Mu ijoro ryo kuwa 01/01/2016, mu gihe cya saa ine z'ijoro umurambo wa Uzamukunda wabonetse mu nzira ufite ibikomere, Niyomuragije afatwa akekwa ho kuba ariwe wamwishe akoresheje igiti cy'ingereveriya. [2] Mu Rukiko Rwisumbuye rwa Ngoma mu rubanza RP 0069/16/TGI/NGOMA, Ubushinjacyaha bwazeze Niyomuragije Xavier bushingiye ku kuba yemera ko ariwe wamuvanye mu rugo avuga ko agiye kumugurira inzoga nyuma uyu akaza kuboneka yishwe. Ubushinjacyaha bwashingiye kandi ku mvugo z'abavandimwe ba Niyomuragije aribo Nzeyimana Samuel, Umwali Anitha na Niyibizi Kevin bahamije ko aba bari basanganywe amakimbirane kubera ubujura bwa Niyomuragije, ko igiti cy'ingeriveriya cyabonetse hafi y'umurambo wa Uzamukunda cyari cyaciwe na Niyomuragije, ko hari amaraso yabonetse ku myenda no ku mubiri wa Niyomuragije.

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Ubushinjacyaha bwashingiye kandi ku mvugo ya Musabimana Eliane wavuze ko nyuma yuko Uzamukunda na Niyomuragije basohotse iwe, uyu yaje kugaruka yahinduye umupira yari yambariye. [3] Urukiko Rwisumbuye rwa Ngoma, rumaze gusuzuma imyiregurire y'ababuranyi,

rwasanze

ibimenyetso by'Ubushinjabyaha byavuzwe haruguru bifite ishingiro, kuwa 12/05/2016 ruca urubanza ruhamya Niyomuragije Xavier icyaha cyo kwica umubyeyi we Uzamukunda Vestine, rumuhanisha igifungo cya burundu. [4] Niyomuragije Xavier yajuririye Urukiko Rukuru, Urugereko rwa Rwamagana avuga ko nta ruhare yagize mu rupfu rw'umubyeyi we, ko ntacyo bari basanzwe bapfa kuko n'uwo muni bari bagiye gusangira inzoga, ko yamusize akinywa inzoga we agataha kare kubera uburwayi bw'igicuri asanganywe, ko yatabaranye n'abavandimwe be baturujwe ko umubyeyi wabo yapfuye. Uyu yajuriye avuga kandi ko nta maraso yamubonetseho, ko abavandimwe bamushinja ibinyoma kugira ngo bazasigare bigabanira imitungo y'umuryango. [5] Mu rubanza RPA 00174/2017/HC/RWG rwaciwe kuwa 27/02/2018 Urukiko Rukuru rwagumishijeho imikirize y'urubanza rujuririrwa rubashingiye ku kuba Niyomuragije Xavier atarashoboye kuvuguriza ibimenyetso byashingiye ho mu rubanza rwaciwe n'Urukiko Rwisumbuye, ko kandi umutangabuhamya Nzeyimana Samuel watanze na Niyomuragije ariko

mu ibazwa rye akamushinja mu mwanya wo kumushinjura (ubuhamya bwe bwibanze mukugaragaza ko hari hasanzwe amakimbirane hagati ya Niyomuragije na Uzamukunda).

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[6] Niyomuragije Xavier yajuririye urwo rubanza mu Rukiko rw'Ikirenga, nyuma y'ivugurura ry'ububasha bw'Inkiko ikirego cye cyohererezwa Urukiko rw'Ubujurire hakurikijwe ingingo ya 52 n'ya 105 z'Itegeko No 30/2018 ryo kuwa 02/06/2018 rigena ububasha bw'inkiko. [7] Mu mwanzuro w'ubujurire, Niyomuragije Xavier yavuze ko Urukiko Rukuru rwirengagije ko yatashye mbere y'umubyeyi we kubera uburwayi bw'igicuri yari asanganywe, ko nta kibazo yari asanzwe afitanye n'umubyeyi we kuko n'uwo munsu bari bagiye gusangira inzoga, ko yitiriwe igiti cyakoreshejwe mu kwica Uzamukunda kandi nta muntu wakimubonye. Mu miburanire ye, Niyomuragije Xavier yunganiwe na Me Nyirabasinga Helene yagarutse ku maraso bivugwa ko yamubonetseho avuga ko abeshyerwa kuko ngo bayitiranye n'amakashi y'ibitoki yari ku ikabutura ye, ko nta perereza ryakozwe ngo amaraso avugwa apimwe ndetse asanishwe n'aya Uzamukunda wishwe. [8] Ubushinjacyaha bwo buvuga ko ubuhamya bwatanzwe n'abavandimwe ba Niyomuragije Xavier bugaragaza amakimbirane yari afitanye na Uzamukunda Vestine, n'uburyo yatashye imyenda ye iriho amaraso, ko kandi Musabimana Eliane yahamije ko Niyomuragije yatahanye na Uzamukunda akaza kugaruka yahinduye umupira, ko Niyibizi Kevin yabonye Niyomuragije agegena igiti cy'ingeriveriya ari nacyo cyabonetse hafi y'umurambo kiriho amaraso. Ubushinjacyaha buvuga kandi ko, kuba amaraso atarapimwe bitavanaho ireme ry'ibindi bimenyetso byatanzwe, ko kurwara igicuri bitagize impamvu ivanaho Niyomuragije icyaha ashinjwa.

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[9] Urukiko rwifuje kumva abatangabuhamya muri uru rubanza, aribo Nzeyimana Samuel, Niyibizi Kevin, Umwali Anitha na Musabimana Eliane, bese ntibarwitaba. [10] Muri uru rubanza harasesengurwa ireme ry'ikimenyetso gihamya amakimbirane yari hagati ya Niyomuragije na Uzamukunda, icy'amaraso yaba yarabonetse kuri Niyomuragije, inkomoko y'igiti cyakoreshejwe mu kwica Uzamukunda no kumenya iby'uburwayi bw'igicuri Niyomuragije avuga ko byatumye ataha mbere ya Uzamukunda. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO A. Ku birebana n'amakimbirane hagati ya Niyomuragije Xavier na Uzamukunda Vestine [11] Niyomuragije Xavier yunganiwe na Me Nyirabasinga Helene yaburanye avuga ko, kubera inyungu yo kumuheza muri gereza no kwikubira umutungo w'umuryango, abavandimwe be bagambanye kumushinja amakimbirane yaba yari hagati ye na Uzamukunda, nyamara ko nta kibazo yari afitanye n'umubyeyi we byatuma amwica, ko we n'umubyeyi we bakundaga gusangira inzoga kandi ko no ku munsu apfa bari basangiye inzoga kwa Musabimana Eliane, bityo ko iki kitagize ikimenyetso kimushinja urupfu rwa Uzamukunda. [12] Ubushinjacyaha buhagarariwe na PN Niyonzima Vincent buvuga ko amakimbirane yari hagati ya Uzamukunda na Niyomuragije uyu ayashinjwa n'umuvandimwe we Nzeyimana Samuel yari yitangiye nk'umutangabuhamya

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umushinjura, ko umubyeyi we yamuzizaga ingeso yo kwiba kandi ibi ngo na raporo y'inzezo z'ibanze ikaba yarabigaragaje. UKO URUKIKO RUBIBONA [13] Urukiko rurasanga, ingingo ikomeye Urukiko Rukuru rwashingiyeho ruca urubanza RPA 00174/2017/HC/RWG ari imvugo ya Nzeyimana Samuel wagaragaje ko Uzamukunda yacyahaga Niyomuragije amuziza ubujura bwe, ko uyu yamwishe ashaka kumwikiza, ko we (Nzeyimana) nta makimbirane afitanye n'abavandimwe be ku buryo atahangara kubeshyera murumuna we, ngo n'isambu y'umuryango yagurishije yayiguzemo indi nayo akayandika ku muryango; Urukiko

rukaba

rwarabibonyemo

ikimenyetso cy'umutangabuhamya ushinja Niyomuragije kandi yari yamutanze ho nk'umutangabuhamya umushinjura. [14] Urukiko rurasanga, Urukiko Rukuru, Urugereko rwa Rwamagana rwarananiwe gusobanura ikibazo nyamukuru kirebana n'ibimenyetso bishinje Niyomuragije urupfu rwa Uzamukunda Vestine ahubwo ikibazo rukimurira mu makimbirane hagati ya Uzamukunda na Niyomuragije. Urukiko rurasanga, Nzeyimana Samuel, unavuga ko adatuye mu Murenge umwe na Uzamukunda kandi atari ahari ku munsu umubyeyi wabo yicwa, ubuhamya bwe bwibanda ku mibanire yari hagati ya Niyomuragije na Uzamukunda yerekana ko batari babanye neza, akavuga n'uburyo we nta kibazo afitanye n'umuryango. Iyi mvugo igaruka ku mibanire (nayo idafitiwe gihamya) ntabwo ubwayo yaba ikimenyetso gishinje Niyomuragije urupfu rwa Uzamukunda. Kuba inshuti cyangwa umwanzi w'umuntu byaba impamvu yo gukora cyangwa kudakora icyaha ariko si cyo kimenyetso gishinje umuntu

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icyaha. Urukiko Rukuru ntirwagombye guhagararira kuri iyi mvugo

irebana

n'imibanire

ngo

ruyifate

ho nk'umutangabuhamya watanze na NIYOMURAGIJE akaba amushinja, nyamara nta gikorwa na kimwe kirebana n'ubwicanyi Nzeyimana amushinja kuko ubwe yivugira ko adatuye mu murenge umwe n'ahabereye icyaha. [15] Urukiko rurasanga kandi Urukiko Rukuru rwaraciye urubanza rudasobanuye impamvu rushingiyeho aho mu mvugo yarwo iri rusange iboneka mu gika cya 12 cya kopi y'urubanza RPA 00174/2017/HC/RWG, rugira ruti "Niyomuragije ntiyashoboye kuvuguruza ibimenyetso byashingiweho mu guca urubanza rujiririrwa", nyamara uyu anenga ubuhamya yatangiye ndetse agahakana n'amaraso bivugwa ko yamubonetseho. Urukiko rwagombye kugaragaza ireme ruvuga ko riri mu bimenyetso ushinjwa anenga. B. Ku birebana n'amaraso bivugwa ko yabonetse kuri Niyomuragije no ku giti cyabonetse hafi y'umurambo. [16]

Niyomuragije yunganiwe na Me Nyirabasinga yajuriye avuga ko amaraso yitirirwa ko yari ku myenda yari yambaye ari ukwitiranya amakashi y'ibitoki n'ibizinga bijyanye n'imirimo yakoraga harimo n'ibiraka yahabwaga ku ibagiro, ko ntamaraso yamubonetseho. Niyomuragije avuga ko yatashye asanga Umwali ahishije bagasangira ariko ko nta muntu wigeze amubaza amaraso yaba yari ku myenda ye, kandi ko nta n'imyenda yinitse mu mazi. Me Nyirabasinga umwunganira aburana avuga ko Ubugenzacyaha buvuga ko bwafatiriye ikabutura bivugwa ko yariho amaraso kandi ko bayifatiriye umurambo utarashyingurwa ku buryo aya maraso yagombaga gupimishwa muri "laboratoire" yabugenewe kugira ngo asanishwe n'urupfu rwa Uzamukunda.

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[17] Me Nyirabasinga akomeza avuga ko bitumvikana uburyo Musabimana wacuruzaga inzoga yaba yarakurikiranye kugira ngo amenye ko Niyomuragije agarutse mu kabare yahinduye imyenda, ko ikimenyetso kamarampaka cyari ugupima amaraso abonetse, kutabikora kukaba gutera ugushidikanya kurengera ushinjwa. [18] Ubushinjacyaha bwaburanye buvuga ko kuba amaraso atarapimwe bidashobora gusimbura ibindi bimenyetso birimo n'imvugo za Niyomuragije ubwe wemeye ko amaraso yamubonetseho yatewe n'uko yabaye mu bambere batabaye ndetse ko n'ikabutura ye yayihanaguje amaguru, nyamara ngo ibi byose bikaba ari ibinyoma kuko yageze aho umurambo wari uri nta maraso akiva. [19] Ubushinjacyaha buvuga kandi ko Niyomuragije wahakanye ko atigeze agaruka mu kabare hari ahandi yemeye ko yagarutse aje gufata inzoga bagombaga kunywera mu rugo, bityo ko ibyo Musabimana Eliane avuga bifite ishingiro kuko yamubonye koko. Bukomeza buvuga ko nta nyungu abavandimwe ba Niyomuragije bafite mu kumushinja. Ubushinjacyaha busobanura kandi ko imvugo ya Niyomuragije yuko amaraso bivugwa ko yabonetse ku ikabutura ye ari amavuta y'ingurube, iyi mvugo yavugurujwe na mushiki we Umwali Anitha wasobanuye ko amavuta y'ingurube Niyomuragije yayazanye muri "sachet" iri mu gafuka ku buryo atigeze ameneka ku myenda ye. UKO URUKIKO RUBIBONA [20] Urukiko rurasanga ikimenyetso cy'amaraso avugwa ko yaba yarabonetse ku mubiri no ku myenda ya Niyomuragije

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aricyo kimenyetso cyakabaye gihatse ibindi muri iyi dosiye nyamara uburyo cyateguwe ntibyemeza Urukiko ko ayo maraso ari ayatarukiye kuri Niyomuragije akora icyaha cyo kwica Uzamukunda. Niyomuragije wabajijwe ibijyanye n'amaraso yaba yaramubonetse ku itama no ku gutwi ndetse n'ayabonetse ku myenda ye yabitanzeho ibisobanuro binyuranye aho yavuze ko yabwiwe n'abandi bantu ko hari amaraso yumiye ku gutwi no ku itama, ko ayo yaba yarayavanye aho umurambo wa Uzamukunda wari uri kuko yawegereye awureba (ifoto iboneka kuri cote 35 iragaragaza amaraso menshi mu gisambu aho umutwe wa Uzamukunda wajanjaguriwe). Mu bindi bisobanuro, Niyomuragije yavuze ko ikabutura ye yandujwe n'amakashi y'ibitoki ndeste n'amavuta y'ingurube yamugiyeho, naho mushiki we Umwali Anitha akavuga ko amavuta y'ingurube Niyomuragije yayazanye mu isashi (sachet) iri mu gafuka ku buryo atigeze amumenekaho. Mu yindi mvugo Niyomuragije yavuze ko umwenda we wabonetseho amaraso yawuhanaguje amaguru amaze kwoga nyuma yo kuva aho umurambo wari uri bawuriza mu

modoka. [21] Urukiko rurasanga imvugo ya Niyomuragije, waranzwe no kwivuguruza ku birebana n'amaraso bivugwa ko yaba yarabonetse ku myenda ye no ku mubiri we, zidashobora kuba ikimenyetso kimushinja ubwicanyi hashingiwe gusa kuri iyo mpamvu yo kwivuguruza k'ushinjwa. Imvugo yemera icyaha iba ikimenyetso gishinja nyirayo iyo Urukiko ruyisesenguye rugasanga ihuza n'ibindi bimenyetso kandi ifite ireme rihuza n'uko ibintu byagenze; ntabwo ukuri kwayo gushakirwa mu ukwivuguruza kw'ushinjwa kuko adategetswe kwishinja. [22] Urukiko rurasanga Ubushinjacyaha bwaranyuzwe n'ibimenyetso biziguye (preuves indirectes) nyamara bwari

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bufite inzira yo kubona ibimenyetso bitaziguye (les preuves directes) byari kubonerwa mu gupimisha amaraso buvuga ko yabonetse ku myenda ya Niyomuragije no kuyasanisha n'umurambo. Mu gihe Ubushinjacyaha buburanisha imvugo yuko Niyomuragije yageze mu rugo abavandimwe be bakamubonaho amaraso, uyu ngo akaba yarahise yinika imyenda mu mazi mbere yo gusubira mu kabari (bivuze ko iyi myenda atariyo yari yambaye igihe yajyaga gutabara), mu gihe kandi Ubushinjacyaha bwerekana ko iyi myenda yafatiriwe ndetse n'umurambo utarashyingurwa, aha niho hari izingiro ry'ibimenyetso kuko ibipimo byari kuboneka byari kuba simusiga bikemura impaka z'amaraso yaba yaratarukiye Niyomuragije mu gihe cyo gutabara ndetse no kuyatandukanya n'amavuta y'ingurube cyangwa amakashi; kutabikora bikaba bituma ntawakwemeza nta shiti ko imyenda yafatiriwe yariho amaraso afitanye isano n'umurambo wa Uzamukunda. Ibimenyetso biziguye (les preuves indirectes) bigira agaciro iyo isesengura ryabyo ryerekana ko nta wundi mwanzuro byageraho uretse ibikorwa bigize icyaha ushinjwa akurikiranyweho. "It is settled jurisprudence that the conclusion of guilty can be inferred from circumstantial evidence if it is the only reasonable conclusion available on the evidence. If there is also reasonably open from that evidence and which is consistent with the non- existence of that fact, the conclusion of guilty beyond reasonable doubt cannot be drawn"1 C. Kubirebana n'igiti cyakoreshejwe mu kwica Uzamukunda [23] Niyomuragije yunganiwe na Me Nyirabasinga anenga ikimenyetso cy'igiti cy'ingereveriya ashinjwa kuba yaricishije Uzamukunda aho avuga ko nta muntu wamubonye aca icyo giti, 1 Prosecutor vs Ntagerura, ICTR-99-46-A' Judgment, 7 July 2006, par.306

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ko kuba bivugwa ko cyavuye mu biti byari hafi y'urugo rwabo bitavuze ko ari we wagiciye, ko badasobanura uburyo yavuye mu kabare akaza gucongira igiti bavuga ko cyari kigegennye. [24] Ubushinjacyaha bwo busobanura ko Niyibizi Kevin (murumuna wa Niyomuragije) yamubonye mu gitondo agegena iki giti ngo akagihisha, ko Ubugenza cyaha bwageze aho iki giti cyavuye bugasanga cyaraciye mu biti byari hafi y'urugo rwa Uzamukunda, kandi ko Umwali nawe yemeza ko yaherekeje Niyomuragije amubonye kumumurikira ngo ajye ku musarani uri hafi y'ibiti bivugwa muri iyi dosiye, ko kandi iki giti cyabonetse hafi y'umurambo wa Uzamukunda kiriho amaraso, bityo ko nta wundi muntu wakoresheje iki giti uretse Niyomuragije wari wagiteguye. UKO URUKIKO RUBIBONA [25] Urukiko rurasanga ikidashidikanywaho aruko Uzamukunda

yicishijwe igiti cy'ingereveriya nk'uko cyabonetse hafi y'umurambo kandi kiriho amaraso, ikibazo kikaba ari ukumenya uwakoresheje iki giti. Urukiko rurasanga mu kwemeza ko iki giti cyakoreshejwe na Niyomuragije, Urukiko rwashingiye ku mvugo ya Niyibizi Kevin, umwana uvuga ko yamubonye agegena igiti cy'ingeriveriya, yibwira ko ari kumukorera agakinisho (akamarimari) nyamara ngo akaza guhisha icyo giti cyasanishijwe n'ibiti by'ingeriveriya byari hafi y'urugo rwa Uzamukunda mu rutoki; aha kandi akaba ariho Umwali Anitha avuga ko yaherekeje Niyomuragije mu ijoro avuga ko agiye ku musarani. [26] Urukiko rurasanga imvugo y'umwana Niyibizi Kevin itihagije mu gushinja Niyomuragije kuko, uretse no kuba

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ivugwa n'umwana muto udafite ubushishozi buhagije, nta n'ubwo Urukiko rwemeranywa n'iyi mvugo yuko Kevin yabonye Niyomuragije ahisha iki giti kuko atari kumenya ko afite icyo ahishe atazi ko hari icyaha giteganijwe. Urukiko nanone rusanga imvugo ya Umwali ko waherekeje Niyomuragije ku musarane hafi y'ibiti idashinja uyu ko yari agiye gufata igiti cyakoreshejwe mu kwica Uzamukunda kuko isesengura ry'imvugo z'Ubushinjacyaha ryerekana ko Niyomuragije ashinjwa kuba yarishe umubyeyi we mu gihe bavaga kwa Kangoro (nk'uko biboneka mu nyandiko itanga ikirego) hanyuma uyu akaza mu rugo guhindura imyenda (ari nacyo gihe Umwali yamuherekeje ku musarane) akabona gusubira mu kabare nk'uko byahamijwe na Musabimana Eliane; ibi bikaba bivuze ko Niyomuragije atagiye ku musarane agamije gufata igiti yicishije Uzamukunda kuko ibisobanuro bivuzwe haruguru byaba byumvikanisha ko Uzamukunda yari yamaze kwicwa. D. Ku birebana n'uburwayi bw'igicuri Niyomuragije avuga ko abana nabwo [27] Niyomuragije yajuriye avuga ko asanzwe agira uburwayi bw'igicuri kandi ko afata imiti ku buryo buzwi na gereza n'abavandimwe, ko ku munsu ashinjwa kwica Uzamukunda uyu yari yamusabye gutaha hakiri kare kugira ngo ataza gufatwa n'uburwayi ku buryo bubagora gutaha, bityo ko atabazwa urupfu rwe kuko batatahanye. [28] Ubushinjacyaha bwo busobanura ko igicuri Niyomuragije arwara kitamubuza gukora icyaha, ko kandi kitagombera amasaha runaka, bityo ko adashobora kubitwaza ahakana urupfu rwa Uzamukunda, ko nubwo avuga ko yatashye

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kare nyamara nawe yemera ko yasubiye mu kabare agiye gushaka inzoga ngo bagombaga kunywera mu rugo. UKO URUKIKO RUBIBONA [29] Urukiko rurasanga imvugo ya Niyomuragije yuko yatashye kare kubera indwara y'igicuri nta shingiro ifite kuko mu ibazwa rye yasobanuye uburyo yageze mu rugo iwabo agasubira kwa Musabimana Eliane agiye gushaka inzoga ajyana mu rugo, uyu akaba yarasobanuye n'icyatumye adatwara iyi nzoga (ko itariryoshye) iyi mvugo akayihurizaho na Musabimana Eliane. Urukiko rurasanga uburwayi bw'igicuri Niyomuragije avuga ko afite ataribyho bimushinjura ku cyaha ashinjwa, kuko nta sano na rito bifatanyeho, ahubwo ko ashinjurwa no gushidikanya kuboneka mu bimenyetso by'Ubushinjacyaha nk'uko byasobanuwe haruguru. [30] Urukiko rurasanga Niyomuragije Xavier yarahamijwe icyaha cyo kwica umubyeyi we Uzamukunda Vestine nta kimenyetso gifatika Urukiko rushingiyeho bityo ugushidikanya kuri mu bimenyetso byatanzwe n'Ubushinjacyaha bikaba bigomba kungukira ushinjwa nk'uko biteganywa mu ngingo ya 165 y'Itegeko N°30/2013 ryo kuwa 24/05/2013 ryerekeye

imiburanishirize y'imanza z'inshinjabyaha. III. ICYEMEZO CY'URUKIKO 2 Iyi ngingo iteganya ko Iyo urubanza rwakurikiranywe mu buryo bwose, ntihagire ibimenyetso nyakuri biboneka byemeza nta shiti abacamanza ko ushinjwa yakoze icyaha koko, bagomba kwemeza ko atsinze.

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[31] Rwemeje ko ubujurire bwa Niyomuragije Xavier (ubaruwe ku izina rya Xaverine) bufite ishingiro; [32] Rwemeje ko Niyomuragije Xavier (Xaverine) agizwe umwere ku cyaha cyo kwica Uzamukunda Vestine; [33] Rwemeje

ko

imikirize

y'urubanza

RPA 00174/2017/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana kuwa 27/02/2018 ihindutse; [34] Rutegetse ko Niyomuragije Xavier (Xaverine) ahita afungurwa uru rubanza rukimara gusomwa; [35] Rutegetse ko amagarama y'urubanza aherera ku isanduku ya Leta.

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