

RWANDA / JUDGMENT

UBUSHINJACYAHA vs NTAMPAKA

RPAA 00495/2023/CA

COURT

Court of Appeal

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UBUSHINJACYAHA vs NTAMPAKA

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Text

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UBUSHINJACYAHA vs NTAMPAKA [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00495/2023/CA (Rukundakuvuga P.J.) 13 Ukuboza 2024] Amategeko agenga ibimenyetso – Ibimenyetso mu manza nshinjabyaha – ubuhamya – Ubuhamya bw'umwana utarengeje imyaka cumi n'ine – Mu manza nshinjabyaha ibimenyetso byose iyo byagiweho impaka bishobora gushingirwaho mu kwemeza ko uregwa yakoze icyaha, Urukiko nirwo rusuzuma niba ibyo abatangabuhamya bavuga byakwemerwa cyangwa ntibyemerwe Incamake y'ikibazo: Uru rubanza rwatangiye Ubushinjacyaha burega Ntampaka mu Rukiko Rwisumbuye rwa Nyagatare, icyaha cyo gusambanya umwana witwa N.G w'imyaka 10 busaba ko ahamwa nicyo cyaha agahanishwa igifungo cya burundu. Ntampaka we yahakanye icyaha, avuga ko ibyo aregwa ari ibinyoma bigamije kumuriganya inka yakoreye kuko abamurega baturanye n'uwo yahoze akorera. Urukiko mu rubanza RP00202/2019/TGI/NYG rushingiye ku buhamyabutandukanye harimo nubwa N.G., raporo ya muganga, raporo z'inzego z'ibanze, n'icyemezo cy'amavuko cya N.G., rwemeje ko Ntampaka ahamwa n'icyaha cyo gusambanya umwana utarageza ku myaka 14 y'amavuko, rumuhanisha igifungo cy'imyaka 25. Ntampaka yajuririye icyo cyemezo mu Rukiko Rukuru/urugereko rwa Rwamagana avuga ko yahamijwe icyaha atakoze, ko hashingiwe ku bimenyetso

bidafatika, agasaba kugirwa umwere. Ubushinjacyaha bwo bwagaragaje ko Ntampaka yahamijwe icyaha hashingiwe ku bimenyetso bidashikanywaho. Urukiko mu rubanza RPA00030/2021/HC/RWG rwasesenguye ibimenyetso byashingiweho n'Urukiko Rukuru rusanga ubujurire bwa Ntampaka nta shingiro bufite kuko atavuruzwa ibyo bimenyetso; rwemeza ko imikirize y'urubanza rwajuririwe idahindutse, ko igihano cy'igifungo cy'imyaka 25 Ntampaka yahanishijwe kigumyeho. Ntampaka yajuririye imikirize y'urwo rubanza mu Rukiko rw'Ubugurire, avuga ko asaba kugirwa umwere kuko mu kumuhamya icyaha hirengagijwe amategeko agenga itangwa ry'ibimenyetso. Anenga Urukiko Rukuru gushingira ku buhamya bw'umwana w'imyaka icumi budashyigikiwe n'ibindi bimenyetso na raporo ya muganga itagaragaza ko byanze bikunze N.G yasambanyijwe. Uhagarariye Ubushinjacyaha avuga Ntampaka nta nenge cyangwa amakosa yagaragaje biri mu rubanza rwajuririwe; ahubwo ko agarura nyinshi mu ngingo zamaze gusuzumwa n'Urukiko rubanza ndetse zigafatwaho umwanzuro. Urukiko mu rubanza RPAA00495/2023/CA rweje ko umuhamya bw'umwana wohohotewe bugomba guhabwa agaciro kuko bufite ibindi bimenyetso bibushimangira netse ko na raporo ya muganga igomba guhabwa agaciro, bityo ko ubujurire bwa Ntampaka nta shingiro bufite. Incamake y'icyemezo: Mu manza nshinjabyaha ibimenyetso byose iyo byagiweho impaka bishobora gushingirwaho mu kwemeza ko uregwa yakoze icyaha, Urukiko nirwo rusuzuma niba ibyo abatangabuhamya bavuga byakwemerwa cyangwa ntibyemerwe. Bityo, ibyo ibimenyetso bishobora no kuba imvugo z'abatangabuhamya, harimo n'abana batarageza ku myaka cumi n'ine (14) y'amavuko iyo ubuhamya bwabo bwunganiwe n'ibindi bimenyetso. Nta mategeko yashingiweho. Imanza zifashishijwe:

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RPAA 00052/2023/CA haburana Ubushinjacyaha na Niringiyimana Lambert, rwaciwe n'Urukiko rw'Ubugurire ku wa 29/01/2024. Urubanza I. IMITERERE Y'URUBANZA [1] Ku itariki ya 07/01/2019, Ntampaka Frodouard wo mu Mudugudu wa Nsheke, Akagari ka Nsheke, Umurenge wa Nyagatare, Akarere ka Nyagatare mu Ntara y'Iburasirazuba, yacyetsweho icyaha cyo gusambanya umwana w'imyaka 10 witwa N.G1. Uwo mwana yabwiye ababyeyi be ko bahuriye mu nzira Ntampaka Frodouard amusaba kujya kumukorera ibishyimbo, ariko bageze mu murima aramusambanya. Ntampaka Frodouard yarashakishijwe atangira gukurikiranwa. Nyuma y'iperereza, Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Nyagatare, busaba ko ahanishwa igifungo cya burundu. Ntampaka Frodouard we yahakanye icyaha, avuga ko ibyo aregwa ari ibinyoma bigamije kumuriganya inka yakoreye kuko abamurega baturanye n'uwo yahoze akorera. [2] Mu rubanza RP00202/2019/TGI/NYG rwaciwe ku wa 11/11/2020, Urukiko Rwisumbuye rwa Nyagatare rushingiye ku bimenyetso birimo ubuhamya bwa N.G. wahohotewe, ubwa Hategekimana Samuel na Karasankima Télesphore, raporo ya muganga, raporo z'inze z'ibanze, n'icyemezo cy'amavuko cya N.G., rwemeje ko Ntampaka Frodouard ahamwa n'icyaha cyo gusambanya umwana utarageza ku myaka 14 y'amavuko, akaba yaragombaga guhanishwa igifungo cya burundu ariko kuko nta kindi cyaha yigeze ahanirwa, rumugabanyiriza igihano, rumuhanisha igifungo cy'imyaka 25. [3] Ntampaka Frodouard yajuririye icyemezo cyafashwe n'Urukiko Rwisumbuye rwa Nyagatare avuga ko yahamijwe icyaha atakoze hashingiwe ku

bimenyetso bidafatika, agasaba kurenganurwa no kugirwa umwere. Ubushinjacyaha bwo bwagaragaje ko Ntampaka Frodouard yahamijwe icyaha hashingiwe ku buhamya bwa N.G, raporo ya muganga igaragaza ko N.G yahohotewe, no kuba yarabanje guhisha amazina ye igihe afatwa. [4] Mu rubanza RPA00030/2021/HC/RWG rwaciwe ku wa 02/11/2023, Urukiko Rukuru/Urugereko rwa Rwamagana, rwasesenguye ubuhamya bwa N.G, ubwa Karasankima Telesphore na Hategekimana Samuel, na raporo ya muganga, rusanga ubujurire bwa Ntampaka Frodouard nta shingiro bufite ; rwemeza ko imikirize y'urubanza rwajuririwe idahindutse, ko igihano cy'igifungo cy'imyaka 25 Ntampaka Frodouard yahanishijwe kigumye. [5] Ntampaka Frodouard yajuririye imikirize y'urwo rubanza mu Rukiko rw'Ubujurire, urubanza rwe ruhabwa RPAA00495/2023/CA. Iburanisha mu ruhame ryashyizwe ku wa 03/12/2024 uwo munsu ugeze Ntampaka Frodouard yitaba yunganiwe na Me Ntahomvukiye Edouard naho Ubushinjacyaha buhagarariye na Butera Oscar Umushinjacyaha ku rwego rw'Igihugu. [6] Mu bujurire bwe Ntampaka Frodouard avuga ko asaba kugirwa umwere kuko mu kumuhamya icyaha hirengagijwe amategeko agenga itangwa ry'ibimenyetso. Anenga Urukiko Rukuru/Urugereko rwa Rwamagana gushingira ku buhamya bw'umwana w'imyaka icumi budashyigikiwe n'ibindi bimenyetso bifatika kandi burimo kwivuguruza. Avuga ko n'abandi batangabuhamya bashingiweho bavuga ibyo batiboneye n'amaso kuko bavuga ibyo babwiwe n'umwana kandi imvugo zabo zikaba zirimo kuvuguruzanya, ko n'ibyo raporo ya muganga igaragaza bitavuze byanze bikunze ko umwana yasambanyijwe. Asaba Urukiko rw'Ubujurire kwikorera iperereza kugira ngo hamenyekane ukuri kumurenganura.

1 Iri ni izina uwakorewe icyaha yahawe mu rwego rwo kurindira umutekano.

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[7] Uhagarariye Ubushinjacyaha avuga ko mu bisobanuro Ntampaka Frodouard yatanze ubwe ndetse n'umwunganira batagaragaje inenge cyangwa amakosa biri mu rubanza rwajuririwe nk'uko bivugwa mu ngingo ya 183 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe kugeza ubu ; ahubwo bagarura nyinshi mu ngingo zamaze gusuzumwa n'Urukiko rubanza ndetse zigafatwaho umwanzuro ; bakaba bazisobanura nk'aho ari bwo bwa mbere zigiye gusuzumwa. [8] Urukiko ruherereye kuri izo mpaka, rurasanga ibibazo bikwiye gusuzumwa muri uru rubanza ari ibi bikurikira : Kumenya niba hari inenge ziri mu buhamya bwashingiweho n'Urukiko mu guhamya Ntampaka Frodouard icyaha cyo gusambanya Umwana ; Kumenya niba amakuru ari muri raporo ya muganga yarasesenguye nabi. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA Kumenya niba hari inenge ziri mu buhamya bwashingiweho mu guhamya Ntampaka Frodouard icyaha cyo gusambanya umwana. [9] Ntampaka Frodouard avuga ko mu kumuhamya icyaha hirengagijwe amategeko agenga itangwa ry'ibimenyetso, hashingirwa ku buhamya bw'umwana w'imyaka 10 burimo kwivuguruza kandi budashyigikiwe n'ibindi bimenyetso bifatika, kuko nta wundi muntu wamubonye akora icyaha, kandi ko se w'umwana n'umutangabuhamya Hategekimana Samuel bivugiyeho ko amakuru bayahawe n'umwana, bityo ubwo buhamya bwose budakwiye gushingirwaho kuko ari amabwire y'umwana. Avuga kandi ko uwo mwana batahuye ndetse ko ibyo bishyamba ari

imbuto ngufiya atari imishingiriho ku buryo icyo abimujyanamo hatari kubura umuntu ubabona, nyamara nta mutangabuhamya uvuga ko yababonye kuko aho atahageze, ko abatangabuhamya bavugaga ko bari hafi aho, ari ibinyoma kuko batari kumva umwana arize ngo babure kuza kureba icyo abaye. [10] Ntampaka Frodouard avugaga na none ko ubuhamya bwa Karasankima Telesphore se wa N.G butashingirwaho mu kumuhamya icyaha kuko afite umuvandimwe we witwaga Bagire William baturanye, nawe wigeze kumubeshyera ko yasambanyije umwana we w'imyaka 7, ariko nyuma aza kuburana agirwa umwere. Bityo ko babonye afunguwe batabyishimiye ariyo mpamvu bongeye kumubeshyera, kuko umwana atari amuzi, ari ubwa mbere bari bahuye, ndetse ko ubwo bamubwiraga ngo yerekane uwamusambanyije atari kumutoranya mu bandi ngo amumenye ahubwo yabwiye na se ngo abe ariwe yerekana kuko bafitanye ibibazo, ku bw'ibyo ko uwo mutangabuhamya amwihannye ashingiye ku ngingo ya 71 y'itegeko No15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo. [11] Me Ntahomvukiye Edouard avugaga ko imvugo z'umwana ziteye urujijo kuko abazwa mu Bugenzacyaha yivugiyeye ko atigeze avuza induru, ko Ntampaka Frodouard yari yamubwiye ko nayivuze amwica, anavugaga ko amutwara nta bantu bamubonye, ariko arongeraga avugaga ko yatatse abitwaga Nsange n'umugore we barimo guhinga baramwumva ntibasobanukirwa ibyo ari byo ngo bahurire. Iyo mvugo y'umwana ikaba yumvikanisha neza ko ibyo avugaga ari ibyo yabwiye cyangwa yumvanye uwo yise Nsange na madamu we kuko akoresha imvugo yo gusubira mu byo bavuze, kandi yivugiyeye neza ko ibyo biba nta muntu wabibonye ndetse ko nta n'induru yavugiyeye. Akomeza avugaga ko ubuhamya bwatanze na se w'umwana burimo kwivugurura no kuvuguruzanya gukabije ku buryo Urukiko rutagombaga kubushingiraho, kuko ubwo yari agiye gutanga ikirego mu Bugenzacyaha yavuze ko umwana yaje arira avugaga ko bamusambanyije, barebye basanga yakomeretse ku gitsina, nyamara raporo ya muganga wamupimye ntivugaga ko hari ibikomere byabonetse ku gitsina cy'umwana. Avugaga kandi ko ari umwana ari na se bese bavuze ko batari basanzwe bazi Ntampaka Frodouard, nyamara se w'umwana yavuze ko bakurikiye uwamusambanyije baramubura, bakomeje kubaririza bamugeraho, umwana aramwerekana ;

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akibaza ukuntu bakurikiye umuntu batari, badafite n'icyo bamureberaho, barangiza bakavugaga ko bamufashe. [12] Me Ntahomvukiye Edouard anenga kandi raporo y'inze z'ibanze avugaga ko ubuhamya buyikubiyemo bushingiye ku busabe bw'uwaru uyikeneye byatumye umuyobozi wayikoze yandika ibyo abwiye, adafiteho amakuru y'ukuri, ikaba ntacyo yagombaga gufasha Urukiko mu cyemezo cyarwo. [13] Ubushinjacyaha buvugaga ko umwana wasambanyijwe yavuze ko Ntampaka Frodouard yamujyanye mu bishyamba ahatari abantu, ntiyabasha gutanga kuko yamubuzaga ; aho amurekuriye, umwana agenda arira mu nzira ahuye n'abantu bamubaza ikimuriza arabasobanurira. Bikaba byumvikana ko atari gukora icyaha ari abantu abonwa n'abantu. Buvugaga kandi ko Ntampaka Frodouard n'umwunganira batagaragaje inenge ziri mu rubanza rwajuririye, ahubwo bagarurira ingingo zamaze gusuzumwa n'Urukiko rubanza zigafatwaho umwanzuro ; bakazisobanura nk'aho ari bwo bwa mbere zigiyeye gusuzumwa.

Busobanura ko kuba abatangabuhamya bavuga ibyo batiboneye bitatesha agaciro ubuhamya, kuko bashobora kuvuga ibyo babonye cyangwa ibyo bumvise, Urukiko ari rwo rwonyine ruha agaciro ubuhamya rushingiraho ruca urubanza, kandi ko Ntampaka Frodouard uretse kuvuga ko atemera ubuhamya bwatanzwe, atagaragaza ibindi bimenyetso bibuvuguruza. Ku bijyanye n'abatangabuhamya avuga ko bafitanye ibibazo, buvuga ko nta bimenyetso agaragaza by'ikibazo yari afitanye n'abamushinja, kandi ko n'ubwo haba hari umutangabuhumya bafitanye ikibazo, bitabuza Urukiko kumva ubuhamya bwe, rukaba ari rwo rubuha agaciro. [14] Ubushinjacyaha bwongeraho ko ku bijyanye na raporo yakozwe n'abayobozi bayikoze bashingiye ku makuru bahawe kuko batari bahari igihe ibyabaye byabaga, kandi ko abayobozi icyo bashinzwe ari ugukurikirana ibyabereye aho bayobora, bagakora raporo bashingiye ku makuru bahawe mu bushishozi bwabo, Raporo yabo ikizerwa nk'iyakozwe n'abagiriwe icyizere cyo kuyobora abaturage, ko haramutse hari inenge iri muri iyo raporo, uyinenga agomba gutanga ibimenyetso ashingiraho. UKO URUKIKO RUBIBONA [15] Impaka ziri muri iyi ngingo zishingiye ku kumenya agaciro kahabwa ubuhamya bwatanzwe n'umwana w'imyaka 10, no kumenya niba hari icyatuma ubuhamya bwa se w'umwana budashingirwaho mu gihe Ntampaka Frodouard avuga ko bafitanye ibibazo. [16] Ibijyanye n'agaciro gahabwa imvugo z'umwana utagejeje ku myaka 14, uru Rukiko rwabitanzeho umurongo mu manza zitandukanye, uruheruka akaba ari urubanza RPAA00052/2023/CA rwaciwe ku wa 29/01/2024, haburana Ubushinjacyaha na Niringiyimana Lambert. Muri urwo rubanza, uru Rukiko rwasobanuye ko mu manza nshinjabyaha ibimenyetso byose iyo byagiweho impaka bishobora gushingirwaho mu kwemeza ko uregwa yakoze icyaha kandi ko ibyo ibimenyetso bishobora no kuba imvugo z'abatangabuhamya, harimo n'abana batarageza ku myaka cumi n'ine (14) y'amavuko iyo ubuhamya bwabo bwunganiwe n'ibindi bimenyetso ; urukiko rukaba arirwo rusuzuma niba ibyo abatangabuhamya bavuga byakwemerwa cyangwa ntibyemerwe. [17] Mu bika bikurikira hakaba hagiye gusuzumwa niba ubuhamya bwatanzwe na NG nta bindi bimenyetso bibwunganira ku buryo Urukiko Rukuru/Urugereko rwa Rwamagana rwaba rwarakoze ikosa mu kubushingiraho icyemezo. [18] Mu buhamya N.G yatanze mu Bugenzacyaha ku wa 10/01/2019, yavuze ko ku wa 07/01/2019 mu gihe cya 09:00 z'amanywa, yahuriye mu nzira n'umugabo atari asanzwe aza kuko ari bwo bwa mbere yari amubonye, amusaba kujya kumukorera ibishyimbo. Bageze mu bishyimbo, yamusabye ko basambana ariko umwana aramwangira amubwira ko iwabo bamubujije. Avuga ko uwo mugabo yahise amufata amukubita hasi, amukuramo ikariso amushyiramo igitsina cye aramubabaza, yajya kuvuza induru undi

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akamubwira ko amwica. Avuga ko amurekuye yahise ajya kubibwira iwabo, bashaka uwo mugabo baramubura. [19] Uretse izi mvugo za NG, Hari kandi inyandiko-mvugo yo ku wa 10/01/2019 ya Karasankima Télèsphore, se w'umwana wahohotewe, mu Bugenzacyaha yasobanuye ko umwana yabagezeho arimo kurira, abatekerereza ibyamubayeho barakurikirana babura uwo mugabo, bakomeza kubaririza, nyuma umwana aza kumwerekana. Hari na none inyandiko-mvugo ya Hategekimana Samuel yavugiye mu Bugenzacyaha ku wa 11/01/2019, ko igihe yari arimo gusarura ibishyimbo ari kumwe n'umugore we, bumvise umwana arira ariko ntibabyitaho, hashize akanya

babona N.G abanyuzeho agana aho abyezi be bari barimo gusarura imyaka, kuko umudamu we yari amuzi, amubaza ikimuriza amubwira ko hari umuntu umuhohoteye. Avuga ko hacyiye akanya babona se aje ari kumwe na N.G, nuko abafasha gushakisha Ntampaka Frodouard baramubura, asubiye mu murima asanga bamufashe bavuga ko yari kumwe n'abandi barimo kugenda, umwana amubonye ahita atera induru avuga ko ariwe wamuhohoteye. [20] Uretse izi mvugo z'abatangabuhamya, muri dosiye harimo kandi raporo ya muganga yo ku wa 08/01/2019, yerekana ko N.G yagaragazaga ugutukura kw'igitsina cye, ko n'akarangabusugi ke kari kagutse (la victime présente une rougeur de la muqueuse vulvaire et un hymen distendu). [21] Urukiko rw'Ubujurire rurasanga, ubuhamya bw'umwana busobanura uko ibintu byamugendekeye mu bwumvikana kandi mu mvugo idategwa. Ubwa Hategekimana Frodouard bukemeza ko uwo mwana mbere y'uko agera aho ababyeyi be bari bari, we n'umugore we bamubonye kandi bakamubona arira avuga ko hari umuhohoteye. Naho ubwa se w'umwana bukagaragaza ko umwana yabagezeho arira, n'uburyo bagiye gushakisha uwaba yamuhohoteye, bakabanza kumubura ariko nyuma umwana akaza kumubona akamumenya. Ibi byose bikunganirwa na raporo ya muganga wamupimye agasanga igitsina cye cyatukuye ndetse akarangabusugi kagutse. [22] Uru rukiko rurasanga izi mvugo za Hategekimana Samuel n'iza Karasankima Télèsphore zunganira iz'umwana kuko, uko umwana avuga ibyamubayeho n'uburyo aba bavuga uko umwana yabagezeho ameze bigaragaza ko ibyo umwana avuga ariko byagenze koko. Naho ibivugwa n'uwunganira Ntampaka Frodouard ko imvugo z'umwana zitera urujijo kuko hari aho avuga ko hari abamwumvise ataka, ahandi akavuga ko atari kubona uko avuze induru kuko Ntampaka Frodouard yari yamubwiye ko amwica ; bitahabwa ishingiro kuko Hategekimana Samuel uvuga ko bamwumvise ataka yanavuze ko batabyitayeho ; bigaragaza ko uko gutaka kutumvikanye cyane bitewe n'uko uwa muhohoteraga yarwanaga no kumupfuka umunwa amubuza gutaka. [23] Ku bijyanye n'ubuhamya bwa se w'Umwana, Ntampaka Frodouard avuga ko butagombaga gushingirwaho kuko bafitanye ibibazo, uru Rukiko rusanga nta shingiro byahabwa kuko Ntampaka Frodouard yagiye ahindura imvugo z'ibyo bapfa, aho mu Bugenzacyaha yavuze ko icyo bapfa ari uko se w'umwana yavuze ko yamumeneye inzu akamwiba, mu Rukiko Rwisumbuye rwa Nyagatare avuga ko bamuziza inkya ye yakoreye, muri uru Rukiko arahindura avuga ko afungwa bwa mbere bari bamubeshyeye ko yasambanyije umwana wa Bagire William uvukana na se w'uwo bamushinja ubu, imvugo ze rero zikaba zitagaragaza ukuri kuko zagiye zihindagurika. Uru Rukiko rurasanga, uretse no kuba nta gihamya cy'ibyo bapfa, nta n'icyo ubwabyo byahindura ku ireme ry'ubuhamya bwatanzwe na se w'umwana kuko ibyo umwana yamubwiye bihura n'ibyo yabwiye Hategekimana Samuel kandi bikaba bigaragara ko bose basobanura ibyabaye ako kanya umwana akimara guhohoterwa. Byongeye kandi ubu buhamya bwunganirwa na raporo ya muganga wasuzumye uyu mwana. Bityo rero uru Rukiko rukaba nta kosa Urukiko Rukuru/urugereko rwa Rwamagana rwakoze mu gushingira ku buhamya bw'umwana n'ubwa se, rukemeza ko Ntampaka Frodouard yamuhohoteye. Kumenya niba amakuru ari muri raporo ya muganga yarasesenguwe nabi.

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[24] Ntampaka Frodouard avuga ko Urukiko Rukuru/Urugereko rwa Rwamagana rwashingiye kuri raporo ya muganga yo ku wa 08/01/2019 igaragaza ko igitsina cya N.G gifite ugutukura ndetse n'akarangabusugi ke kagutse (la victime présente une rougeur de la muqueuse vulvaire et un hymen distendu), ko rero iyi Raporo ya muganga isobanutse kandi itagaragaza ko umwana yasambanyijwe. [25] Me Ntahomvukiye Edouard, avuga ko umuganga, nk'umunyamwuga, yatanze raporo ishingiyeye ku byavuye mu bizamini byafashwe, nyamara ko ibimenyetso yagaragaje, nko gutukura, bishobora guterwa n'impamvu zitandukanye, zirimo no kwishima, kandi nta gihamya ko byanze bikunze haba harabayeho gusambanywa. Ku byerekeye akarangabusugi kagutse avuga ko nabyo atari ikimenyetso gihamya ko umuntu yasambanyijwe, kuko n'imibiri y'abantu iteye mu buryo butandukanye. Yongeraho ko urebye ikinyuranyo cy'imyaka kiri hagati y'ukekwaho icyaha n'uwagikorewe, iyo koko haba harabayeho gusambanywa, umwana w'imyaka icumi (10) yari kugaragaza ibimenyetso bikomeye by'ibikomere ku myanya myibarukiro ye, bigaragaza ko Urukiko rutashishoje bihagije mu gufata icyemezo cyarwo. [26] Uhagarariye Ubushinacyaha avuga ko muganga atasabwe kwemeza ko uriya mwana yasambanyijwe, ahubwo we yaramusuzumye ; agaragaza uko yabonye igitsina cye kimeze, yemeza ko cyari cyahungabanyijwe nk'uko amagambo yakoresheje abisobanura. Ibyo kwemeza ko byaturutse ku isambanywa, hari izindi nzego z'ubutabera zibifite mu nshingano zagombaga kubyemeza, hamaze gusuzumwa n'ibindi bimenyetso bishinja icyaha ndetse na nyuma yo kubijyaho impaka mu Rukiko kw'ababuranyi. Avuga ko icyo impande zombi zihuriraho ari uko igitsina cy'umwana cyari cyahungabanyije kandi bigaragarira amaso ; kuba ababyeyi b'umwana bakoresha ijamba igisebe naho muganga akavuga ko ku gitsina hari hatukuye ndetse akavuga n'uburyo yasanze akarangabusugi kameze, bitatesha agaciro icyemezo kuko imvugo y'umuhanga (expert) itahura byanze bikunze n'iy'umuntu usanzwe utabifitemo ubumenyi bwihariye. UKO URUKIKO RUBIBONA [27] Impaka kuri iki kibazo zishingiye ku kumenya niba raporo ya muganga yarasesenguye nabi ku buryo Urukiko Rukuru rutari kuyishingiraho mu kwemeza ko umwana yasambanyijwe. [28] Raporo ya muganga yo ku wa 08/01/2019, yerekana ko N.G yagaragazaga ugutukura kw'igitsina cye, ko n'akarangabusugi ke kari kagutse (la victime présente une rougeur de la muqueuse vulvaire et un hymen distendu). [29] Urukiko rw'Ubujurire rurasanga ibi muganga yabonye, ubihuje n'ubuhamya bw'umwana bwagaragajwe haruguru kimwe n'ubwa se w'umwana ndetse n'ubwa Hategekimana Samuel bahamije ko umwana yahohotewe, bigaragaza ko uku gutukura no kwaguka kw'akarangabusugi bifitanye isano n'ibikorwa bya Ntampaka Frodouard kuri uwo mwana. Naho ibyo Ntampaka Frodouard n'umwunganizi we bavugaga ko gutukura kw'igitsina no kwaguka kw'akarangabusugi bishobora guturuka ku zindi mpamvu zirimo kwishima cyangwa imiterere y'umuntu ku giti cye, nta shingiro byahabwa kuko badashobora gusobanura impurirane y'ugutuka k'umwana ko ahohotewe no kuba muganga yarabonye ibyo bimenyetso ku gitsina cy'umwana bukeye bwaho. [30] Hashingiyeye rero ku byagaragajwe byose, Urukiko rw'ubujurire rurasanga ibyo Ntampaka Frodouard n'umwunganira banenga urubanza rwajuririwe byose nta shingiro bifite, kubera iyo mpamvu urubanza

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[32] Rwemeje ko imikirize y'urubanza no RPA00030/2021/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 02/11/2023, idahindutse ; [33] Rwemeje ko igihano cy'igifungo cy'imyaka makumyabiri n'itanu (25ans) Ntampaka Frodouard yahanishijwe n'Urukiko Rukuru, Urugereko rwa Rwamagana kigumyeho ; [34] Rutegetse ko Ntampaka Frodouard asonewe amagarama y'urubanza kuko aburana afunze.

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