

RWANDA / JUDGMENT

UBUSHINJACYAHA v NZABONIMANA

RPAA 00474/2023/CA

COURT

Court of Appeal

DECIDED

20 December 2024

CASE / FILE NUMBER

RPAA 00474/2023/CA

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UBUSHINJACYAHA v NZABONIMANA

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- Date: 2024-12-20
- Case/document no.: RPAA 00474/2023/CA
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Text

Page 1

UBUSHINJACYAHA v NZABONIMANA [Rwanda URUKIKO RW'UBUJURIRE - RPAA 00474/2023/CA (Ndahayo, P.J) 20 Ukuboza 2024] Amategeko agenga ibimenyetso n'itangwa ryabyo – Ibimenyetso mu manza nshinjabyaha – Mu manza nshinjabyaha, ibimenyetso byose, iyo byagiweho impaka bishobora gushingirwaho mu kwemeza ko uregwa yakoze icyaha (principe de la liberté de la preuve en matière pénale) kandi ibyo ibimenyetso bishobora no kuba imvugo z'abatangabuhamya, urukiko rukaba arirwo rusuzuma niba ibyo bavuga byakwemerwa cyangwa ntibyemerwe. Incamake y'ikibazo: Ubushinjacyaha bwakurikiranye NZABONIMANA Vincent mu Rukiko Rwisumbuye rwa Nyagatare, bumurega icyaha cyo gusambanya umwana, wavutse tariki ya 02/04/2006, akaba ari uwo umugore we yashakanye iwe, bumusabira ko ahamwa n'icyo cyaha, agahanishwa igifungo cya burundu. Yaburanye ahakana icyaha. Urukiko rushingiye ku mvugo y'umwana wahohotewe, imvugo z'abatangabuhamya bamushinja, raporo ya muganga n'icyemezo cy'amavuko cy'uwahohotewe kigaragaza ko yavutse tariki ya 02/04/2006, rwahamije NZABONIMANA Vincent icyaha cyo gusambanya umwana utarageza ku myaka 14 y'amavuko, rumuhanisha igifungo cya burundu. NZABONIMANA Vincent ntiyishimiye imikirize y'urwo rubanza, arujuririra mu Rukiko Rukuru avuga ko yahamijwe icyaha cyo gusambanya umwana

hashingiwe ku bimenyetso birimo ibinyoma n'ibihimbano, ko umwana ashobora kuba yarasambanyijwe mu gihe nyina yari yarabataye ku gasozi, agasaba kurenganurwa no kugirwa umwere. Urukiko rwaciye urubanza rwemeza ko ubujurire bwe, nta shingiro bufite, ko imikirize y'urubanza rwaciye n'Urukiko Rwisumbuye, ihindutse ku gifungo yahanishijwe mbere, rumuhanisha igifungo cy'imyaka 25. Na none ntiyishimiye imikirize y'urubanza arongera arujuririra mu Rukiko rw'Ubujujire, avuga ko Urukiko rwashingiye ku bimenyetso bishidikanywaho kandi byuzuyemo ibinyoma n'urwango ababutanze bari bafitiye uregwa, asaba ko hemezwa ko ari umwere. Ubushinjacyaha bwo buvuga ko ubujurire bwe nta shingiro bukwiye guhabwa, ko Urukiko rwakwemeza ko urubanza yajuririye rudahindutse mu ngingo zarwo zose, kuko ibyo avuga nta bimenyetso abitangira kandi ibyashingiweho bihagije. Incamake y'icyemezo: Mu manza nshinjabyaha, ibimenyetso byose, iyo byagiweho impaka bishobora gushingirwaho mu kwemeza ko uregwa yakozwe icyaha kandi ibyo ibimenyetso bishobora no kuba imvugo z'abatangabuhamya, urukiko rukaba arirwo rusuzuma niba ibyo bavuga byakwemerwa cyangwa ntibyemerwe. Urukiko rurasanga rero muri uru rubanza ikimenyetso cyashingiweho ari imvugo z'umwana uvugwa ko yasambanyijwe, ubuhamya bwa TWEBAZE Anne Marie na NUBUHORO Alphonsine ndetse na raporo ya muganga. Iyo raporo ikaba itafatwa nk'ikimenyetso cyashingirwaho mu kwemeza ko uwo mwana yasambanyijwe n'uregwa cyane ko muganga atavugaga ko uwo mwana akarangabusugi nta kindi cyakangije usibye kuba yarasambanyijwe kandi iby'iyi raporo igaragaza bikaba nta cyashingirwaho mu ku bihuza n'uregwa cyane ko hari hanashize igihe kirekire kijya kungana n'amezi atanu ibikorwa aregwa bibaye. Hakaba hari ugushidikanya ku kumenya niba uregwa yarakozwe icyaha aregwa bityo hakaba hagomba kwemezwa ko ari umwere.

Page 2

Ubujujire bufite shingiro. Amategeko yashingiweho: Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe kugeza ubu, ingingo ya 111. Imanza zifashishijwe: RPAA 00044/2021/CA, Ubushinjacyaha na Migambi Vianney, rwaciye n'Urukiko rw'Ubujujire ku wa 29/12/2023; RPAA 00523/2022/CA, Ubushinjacyaha na CYUZUZO Pascal n'abandi, rwaciye n'Urukiko rw'Ubujujire ku wa 25/06/2024; RPAA 00523/2023/CA, Ubushinjacyaha na Ndangurura Isaac, rwaciye n'Urukiko rw'Ubujujire ku wa 24/09/2024. Urubanza IMITERERE Y'URUBANZA [1] Ubushinjacyaha bwakurikiranye NZABONIMANA Vincent mu Rukiko Rwisumbuye rwa Nyagatare, bumurega icyaha cyo gusambanya umwana, buvuga ko mu kwezi kwa 10/2018, ari mu Mudugudu wa Kimpala, Akagari k'Urugarama, Umurenge wa Gahini, Akarere ka Kayanza, Intara y'Iburasirazuba, yasambanyije umwana N.E1 wavutse tariki ya 02/04/2006, akaba ari umwana umugore we NUBOHORO Alphonsine yashakanye iwe. Ubushinjacyaha bumusabira ko ahamwe n'icyo cyaha, agahanishwa igifungo cya burundu hashingiwe ku ngingo ya 4 y'Itegeko n° 69/2019 ryo ku wa 08/11/2019 rihindura Itegeko n° 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange. [2] NZABONIMANA Vincent yaburanye ahakana icyaha, avuga ko ubwo yavaga muri Gereza, yasanze umugore we NUBUHORO Alphonsine yarashatse undi mugabo, ajya kuba ku babyeyi be aho abana be nabo babaga, ko ariko ntaho yahuriraga na N.E, kuko yararaga mu cyumba cye n'abana bakarara

ukwabo. [3] Mu rubanza No RP 00566/2019/TGI/NYG rwaciwe ku wa 26/11/2020, Urukiko Rwisumbuye rwa Nyagatare rushingiye ku mvugo ya N.E nk'uwahohotewe, imvugo z'abatangabuhamya bamushinja, raporo ya muganga n'icyemezo cy'amavuko cya N.E kigaragaza ko yavutse tariki ya 02/04/2006, rwahamije NZABONIMANA Vincent icyaha cyo gusambanya umwana utarageza ku myaka 14 y'amavuko, rumuhanisha igifungo cya burundu. [4] NZABONIMANA Vincent ntiyishimiye imikirize y'urwo rubanza, arujuririra mu Rukiko Rukuru Urugereko rwa Rwamagana, urubanza ruhabwa No RPA 00027/2021/HC/RWG, ruburanishwa mu ruhame ku wa 03/10/2023, NZABONIMANA Vincent yiburanira, naho Ubushinjacyaha buhagarariwe na UWIZEYIMANA Joséphine, Umushinjacyaha ku rwego rw'Igihugu.

Izina ryahawe umwana kubera umutekano we muri uru rubanza.

Page 3

[5] Mu myanzuro ya NZABONIMANA Vincent no mu miburanire, avuga ko yahamijwe icyaha cyo gusambanya umwana hashingiwe ku bimenyetso birimo ibinyoma n'ibihimbano, ko umwana N.E ashobora kuba yarasambanyijwe mu gihe nyina yari yarabataye ku gasozi, agasaba kurenganurwa no kugirwa umwere. [6] Ubushinjacyaha buvuga ko NZABONIMANA Vincent yahamijwe icyaha cyo gusambanya umwana hashingiwe ku kuba ashinjwa n'umwana aregwa ko yamusambanyije ndetse na raporo ya muganga igaragaza ko N.E yasambanyijwe, naho ku bivugwa ko yahamijwe icyaha hashingiwe ku buhamya bw'ibihimbano, avuga ko nta kuri kwabyo, agasaba ko urubanza rwajuririwe rugumana agaciro karwo. [7] Mu rubanza No RPA 00027/2021/HC/RWG rwaciwe ku wa 23/10/2023, Urukiko Rukuru Urugereko rwa Rwamagana rwemeje ko ubujurire bwa NZABONIMANA Vincent, nta shingiro bufite, rwemeje ko imikirize y'urubanza No RP 00566/2019/TGI/NYG rwaciwe n'Urukiko Rwisumbuye rwa Nyagatare ku wa 26/11/2020, ihindutse ku gifungo NZABONIMANA Vincent yahanishijwe mbere, ruhanisha NZABONIMANA Vincent igifungo cy'imyaka makumyabiri n'itanu (25). [8] Urukiko Rukuru Urugereko rwa Rwamagana rwashingiye icyemezo cyarwo ku kuba, ibimenyetso byashingiweho n'Urukiko Rwisumbuye rwa Nyagatare, kimwe n'ibyaburanishijwe n'Ubushinjacyaha, birugaragariza ko NZABONIMANA Vincent yakoze icyaha cyo gusambanya umwana N.E ufite imyaka 12 y'amavuko. [9] NZABONIMANA Vincent na none ntiyishimiye imikirize y'urubanza arongera arujuririra mu Rukiko rw'Ubujurire, urubanza ruhabwa No RPAA 00474/2023/CA, ruburanishwa ku wa 03/12/2024, NZABONIMANA Vincent yunganiwe na Me NYIRAHABIMANA Martine, Ubushinjacyaha buhagarariwe na PN NIYONKURU Francoise, Umushinjacyaha ku rwego rw'Igihugu. [10] Mu myanzuro ya NZABONIMANA Vincent n'umwunganizi we bavuga ko Urukiko rwashingiye ku bimenyetso bishidikanywaho kandi byuzuyemo ibinyoma n'urwango ababutanze bari bafitiye uregwa, basaba ko hemezwa ko ari umwere. [11] Uburanira Ubushinjacyaha yavuze ko ubujurire bwa NZABONIMANA Vincent nta shingiro bukwije guhabwa, asaba Urukiko rw'Ubujurire kwemeza ko urubanza yajuririye rudahindutse mu ngingo zarwo zose, kuko ibyo avuga nta bimenyetso abitangira kandi ibyashingiweho bihagije. [12] Urukiko ruhereye kuri izi mpaka, rusanga ikibazo gikwiye gusuzumwa ari ikijyanye no Kumenya niba Urukiko Rukuru Urugereko rwa

Rwamagana rwarahamije NZABONIMANA Vincent icyaha cyo gusambanya umwana nta bimenyetso bidashidikanywaho rushingiyeho II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba Urukiko Rukuru Urugereko rwa Rwamagana rwarahamije NZABONIMANA Vincent icyaha cyo gusambanya umwana nta bimenyetso bidashidikanywaho rushingiyeho

Page 4

- [13] NZABONIMANA Vincent na Me NYIRAHABIMANA Martine umwunganira mu mategeko, bavuga ko Urukiko Rukuru Urugereko rwa Rwamagana rwamuhamije icyaha cyo gusambanya umwana nta bimenyetso bidashidikanywaho bikimushinja rushingiyeho, kuko uwo mwana bavuga ko yasambanyije yamusanze kuri gereza avuga ko aje kuvugisha ukuri, amubwira ko yamubeshyeye ko ibyo yavuze ari ibinyoma yahimbiwe na nyina akamutegeka kumushinja, kandi ngo nta wundi mutangabuhamya wabajijwe uretse imvugo y'umwana, iya nyina n'iya mushiki w'umugabo, hakaba nta n'ikindi kimenyetso, kuko NZABONIMANA Vincent yasabye kujya gupimwa we n'umwana ariko barabyanga. [14] Bakomeza bavuga ko ubuhamya bwatanzwe na NUBUHORO Alphonsine akaba n'umugore we basanzwe bafitanye amakimbirane n'imibanire mibi, naho TWEBAZE Anne Marie akaba mushiki wa MUHWEZI Evariste watwaye umugore we NUBUHORO Alphonsine, batabwemera bagasaba ko butashingirwaho muri uru rubanza mu guhamya iki cyaha NZABONIMANA Vincent, kuko bombi bavuga ibyo babwiwe n'umwana, aho kuba barabyiboneye, kandi n'Urukiko Rukuru rukaba rutaragombaga gushingira ku buhamya bwabo kuko budashigikiwe n'ibindi bimenyetso, nk'uko biteganywa n'ingingo 63 (4) y'itegeko z'itegeko No 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ndetse n'ingingo za 3 na 4 z'iryo tegeko, kuko nta bimenyetso bihuje kamere n'ikiburanwa byatanzwe. [15] Me NYIRAHABIMANA Martine kandi ashingira ku rubanza No RPAA 00053/2019/CA, bavuga ko rusa n'urwa NZABONIMANA Vincent aho umugore n'umugabo bari basanganywe amakimbirane, baraye barwanye umugore arahukana, ariko bucya ajya kurega umugabo we ko batararanye, yaraye asambanyije umwana w'umugore yahashakanye, ariko ngo Urukiko rwasanze uwaregwaga ari umwere, basaba Urukiko rw'Ubujurire kuzarushingiraho rukamurenganura kuko nta cyaha yakoze. [16] NZABONIMANA Vincent na Me Nyirahabimana Martine umwunganira kandi, banenze raporo ya muganga Urukiko rwashingiyeho, bakavuga ko kuba yarakozwe ku itariki ya 26/03/2019, icyaha cyo gusambanya umwana NZABONIMANA Vincent ashinjwa bavuga ko cyakozwe mu kwezi kwa 10/2018, ni ukuvuga hashize igihe kingana n'amezi 6, iki gihe ari kirekire bikaba bituma iyi raporo idakwiye gushingirwaho kuko nta kigaragaza ko uyu mwana yasambanyijwe na NZABONIMANA Vincent kuko nta kimenyetso kigaragaza nta shiti ko akarangabusugi k'umwana wasambanyijwe kakuweho na NZABONIMANA Vincent, kandi nta kimenyetso kigargaza ko icyaha aregwa yagikoze inshuro nyinshi uretse kubivuga gusa. [17] Bashingira kandi ku manza zitandukanye zirimo urubanza No RPAA 00270/2022/CA, urubanza No RPAA 00390/2022/CA no ku ngingo ya 1112 y'itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryahinduye Itegeko n° 058/2023 ryo ku wa

04/12/2023, n'ingingo ya 29 (1) (e)3 y' Itegeko Nshinga rya Repubulika y'u Rwanda, bagasaba Urukiko rw'Ubujurire kwemeza ko ibimenyetso byashingiweho mu guhamya NZABONIMANA Vincent icyaha cyo gusambanya umwana, harimo ugushidikanya bityo hakomezwa ko ari umwere.

2Ingingo iteganya ko: Gushidikanya birengera ushinjwa. Iyo urubanza rwakurikiranywe mu buryo bwose, ntihagire ibimenyetso nyakuri biboneka byemeza nta shiti abacamanza ko ushinjwa yakoze icyaha koko, bagomba kwemeza ko atsinze. 3Ingingo iteganya ko: Buri muntu afite uburenganzira ku butabera buboneye, burimo uburenganzira bwo: (e) kutaryozwa icyaha atakoze; uburyozwacyaha ni gatozi ku wakoze icyaha;

Page 5

[18] NZABONIMANA Vincent kandi avuga ko umugore we umushinja yari yarataye abana akajya kwishakira undi mugabo akagenda amwibye 3.600.000 Frw, akaza guhamagarwa n'Ubuyobozi bw'Umurenge we Gahini akajya gutwara abana ndetse n'umugore bakamusaba ko basubirana, bityo ko bafite icyo bapfa akaba atabura kumuhimbira icyaha amubeshyera, anashingira ku ngingo ya 152 y'Itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryahinduwe n'Itegeko n° 058/2023 ryo ku wa 04/12/2023, agasaba Urukiko kuzasuzuma neza uwamubeshyeye agahanishwa icyo gihano giteganyijwe uwabeshyeye undi kandi azi neza ko amubeshyeye. [19] Uhagarariye Ubushinjacyaha avuga ko kuba NZABONIMANA Vincent ashingira ku ngingo ya 3 n'iya 4 z'itegeko ry'Ibimenyetso akavuga ko Urukiko rwamuhamije icyaha rwirengagije amategeko ku buryo bugaragarira buri wese no kuba umwana yaramubwiye ko yamubeshyeye abitegetswe na nyina, iyi mpamvu ubushinjacyaha ngo busanga nta shingiro ifite kuko nta bimenyetso abitangira kuko atagaragaje uwajyanye n'uyu mwana kuri gereza, bityo ibyo avuga bikaba nta shingiro bifite. [20] Akomeza avuga ko kubijyanye n'ubuhamya bwa NUBUHORO Alphonsine umugore wa NZABONIMANA Vincent avuga ko ngo bari basanzwe bafitanye amakimbirane na TWEBAZE Anne Marie mushiki wa MUHWEZI Vedaste, bakaba basaba ko butashingirwaho kuko bavuga ibyo babwiye, Ubushinjacyaha ngo busanga nta shingiro bifite kuko nta tegeko rihari ribuza Urukiko gushingira ku buhamya bwatanze n'uwahohotewe, mu gihe umwana wasambanyijwe yavuze ibyamubayeho akabibwira nyina ndetse n'abandi, abo bantu bagatanga ubuhamya, rero ngo ntacyabuza ko bushingirwaho igihe cyose bwasesenguwe n'Urukiko, nk'uko byatanzweho umurongo mu rubanza N° RPAA 00754/2021/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 24/04/2023 haburana Ubushinjacyaha na IRADUKUNDA Jean Marie Vianney, n'urubanza N° RPAA0118/11/CS, rwaciwe ku wa 13/11/2015 rw'Ubushinjacyaha na NGURINZIRA, kuko rwatangajwe mu cyegeranyo (igika cya 13 Vol [2017] 1 RLR), hakaba hari n'izindi manza zashingiye kuri uyu murongo zashyizwe muri dosiye. [21] Uhagarariye ubushinjacyaha akomeza avuga ko ibivugwa na NZABONIMANA ko yari afitanye n'umugore we amakimbirane no kuba uwo mugore we yaragiye amusahuye amafaranga ibihumbi magana atandatu (600.000), ariko ngo mu bujurire akaba avuga ko ayo yamwibye ari 3.600.000 Frw, byose ngo nta bimenyetso yabitangiye, uretse ku bivuga mu magambo gusa, nabyo bikaba bitashingirwaho. [22]

Uburanira Ubushinjacyaha kandi avuga ko ku bijyanye na raporo ya muganga NZABONIMANA Vincent n'mwunganira bavuga ko itashingirwaho kuko yakozwe hashize igihe kirekire kingana n'amezi atandatu (6 mois), nabyo nta shingiro byahabwa kubera ko igihe cyose umwana yagaragarije ko yahohotewe ntacyari kubuza kumupimisha cyane ko ngo atamusambanyirije ahagaragara ngo abantu babe baramufatiye mu cyuho, kandi ngo uwo mwana yavuze ko yahoraga amusambanya akamubwira ko nabivuga azamwica, bigatuma abihisha. [23] Uburanira Ubushinjacyaha avuga ko kandi kuba NZABONIMANA Vincent avuga ko asaba Urukiko kuzahana uwamubeshyeye, Ubushinjacyaha busanga iyi mpamvu nta shyingiro ifite, hashingiwe ku kuba ingingo ya 152 y'itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryahinduye Itegeko n° 058/2023 ryo ku wa 04/12/2023, ibyo iteganya bitandukanye n'ibyo yanditse, kuko iteganya ku cyemezo gifashwe n'urugereko

Page 6

ruburanisha abana, kandi Urukiko yajuririye akaba atarirwo rwafata icyemezo cyo guhana uwamubeshyeye cyane ko atanafite ububasha bwo gusabira inzego z'ubutabera ibihano. Asoza asaba Urukiko kwemeza ko Ubujurire bwa NZABONIMANA Vincent nta shingiro bifite kuko nta bimenyetso atanga bivuguruzwa ibyatanzwe n'Ubushinjacyaha bikanashingirwaho n'inkiko zibanza mu kumuhamya iki cyaha, bityo rukemeza ko n'urubanza yajuririye rudahindutse. UKO URUKIKO RUBIBONA [24] Impaka muri uru rubanza zishingiye ku kumenya niba NZABONIMANA Vincent yarahamijwe icyaha cyo gusambanya umwana nta bimenyetso bidashidikanywaho bishingiweho, akaba yagirwa umwere. [25] Mu gusuzuma iki kibazo hakwifashishwa ibyasuzumwe mu manza zindi ku byerekeye agaciro kagomba guhabwa ibimenyetso mu manza nshinjabyaha. Urukiko rw'Ubujurire rwaciye imanza zitandukanye zirimo, urubanza N° RPAA 00044/2021/CA, rwaciye n'Urukiko rw'Ubujurire ku wa 29/12/2023 Ubushinjacyaha buburana na MIGAMBI Vianney (igika cya 20), n'urubanza N° RPAA 00523/2022/CA, rwaciye n'Urukiko rw'Ubujurire ku wa 25/06/2024 Ubushinjacyaha buburana na CYUZUZO Pascal n'abandi (igika cya 25). Izi manza zose zahuriye ku kuba "Mu manza nshinjabyaha, ibimenyetso byose, iyo byagiweho impaka bishobora gushingirwaho mu kwemeza ko uregwa yakoze icyaha kandi ibyo ibimenyetso bishobora no kuba imvugo z'abatangabuhamya, urukiko rukaba arirwo rusuzuma niba ibyo bavuga byakwemerwa cyangwa ntibyemerwe". [26] Dosiye igaragaza inyandikomvugo y'ibazwa rya NZABONIMANA Vincent mu bugenzacyaha ku wa 31/03/2019, aho yayakanye icyaha agasobanura ko yagambaniwe n'umugore we akamubeshyera kuko icyaha bamurega cyo gusambanya umwana ntacyo yakoze. [27] Dosiye igaragaza ubuhamya bwatanzwe na TWEBAZE Anne Marie mu bugenzacyaha ku wa 02/04/2019, aho yasobanuye ko umwana N.E yamubwiye ko NZABONIMANA Vincent yavuye muri gereza akajya amusambanya, ko byabaye mu kwa 10/2018 aho ngo bararanye amajoro 2 akamubwira ko nabivuga azahita amutera icyuma, ubwa 3 akaba yaranze ko amusambanya. Hari kandi ubuhamya bwa NUBUHORO Alphonsine nawe yatanze mu bugenzacyaha ku wa 02/04/2019, aho nawe yavuze ko umwana N.E yamubwiye ko NZABONIMANA Vincent yamusambanyije avuye muri gereza mu kwa 9/2018, umwana akaba yarabimubwiye mu kwezi kwa mbere. [28] Dosiye kandi igaragaza

ubuhamya bwa N.E wabwiye ubugenzacyaha ko ku wa 31/03/2019, NZABONIMANA Vincent yamusambanyije ubugira kabiri aho byahereye mu kwa 10/2018 akiva muri gereza, akajya amubwira ko nabivuga azahita amutema akamusiga ari agatumbi. Hakaba na raporo ya muganga yo ku wa 26/03/2019, igaragaza ko akarangabusugi k'umwana N.E kangijwe n'ikintu cyinjijemo. Hari na none ifishi ya mutuelle igaragaza ko N. E yavutse muri 2006. [29] Urukiko Rukuru Urugereko rwa Rwamagana rwahamije NZABONIMANA Vincent icyaha cyo gusambanya umwana rukaba rwarasobanuye ko rusanga NZABONIMANA Vincent yemera ko ubwo yari amaze gufungurwa yagiye kuba iwabo, akaba ari naho abana be babaga

Page 7

harimo na N.E (uyu akaba ari umwana NUBUHHORO Alphonsine yashakanye iwe afite), umwana rero akamushinja ko yamusambanyije inshuro ebyiri (2). [30] Urukiko Rukuru rwasanze ibi binahuzwa na raporo ya muganga igaragaza ko akarangabusugi k'uwo mwana kashwanyagujwe n'ikintu kinjijwemo, bikuzuzanya kandi n'uko ngo uwo mwana yabibwiye nyina witwa NUBUHHORO Alphonsine nawe watanze ubuhamya ko uwo mwana we yabimubwiye. Urukiko Rukuru rero rwasanze kuba imvugo ya N.E yunganirwa n'ibindi bimenyetso ikwiye kwemerwa nk'uko biteganywa n'ingingo ya 49 y'Itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ivuga ko:« (...) Umwana utagejeje ku myaka cumi n'ine (14) yumvwa atagombye kurahira ariko icyemezo cy'Urukiko ntigishobora gushingira kuri ubwo buhamya bwonyine. Muri ibyo bihe, ubuhamya bw'umwana, bugomba gushyigikirwa n'ibindi bimenyetso». [31] Urukiko rw'ubujurire rurasanga nk'uko bimaze gusobanurwa haruguru, impamvu zashingiweho mu guhamya icyaha NZABONIMANA Vincent ari imvugo z'umwana aregwa ko yasambanyije abandi babajijwe aribo TWEBAZE Anne Marie na NUBUHHORO Alphonsine ari nawe nyina w'uwo mwana basubiyemo iby'uwo mwana yababwiye ko NZABONIMANA Vincent yamusambanyije ubuhamya bwabo bukaba nta gishya buzana usibye gusubiramo ibyo uwo mwana yababwiye. [32] Ku bijyanye na raporo ya muganga, Urukiko rurasanga iyo raporo yarakozwe ku wa 26/3/2019 mu mwanzuro wayo muganga akaba avuga ko amaze kumusuzuma yasanze akarangabusugi k'uwo mukobwa karangijwe n'ikintu kinjijemo «L'hymen de la fille a été déchiré par un objet pénétrant ». hagereranyijwe n'igihe icyaha NZABONIMANA Vincent aregwa cyakozwe mu kwezi kwa 10/2018 iyo raporo yakozwe hashize igihe kijya kungana n'amezi atanu. [33] Urukiko rw'Ubujurire rurasanga iyo raporo itafatwa nk'ikimenyetso cyashingirwaho mu kwemeza ko uwo mwana yasambanyijwe na NZABONIMANA Vincent cyane ko muganga atavuga ko uwo mwana akarangabusugi nta kindi cyakangije usibye kuba yarasambanyijwe kandi iby'iyo raporo igaragaza bikaba nta cyashingirwaho mu ku bihuza na NZABONIMANA Vincent uregwa cyane ko hari hanashize igihe kirekire kijya kungana n'amezi atanu ibikorwa aregwa bibaye. [34] Nk'uko rero bimaze gusobanurwa haruguru, Urukiko rw'Ubujurire rurasanga ikimenyetso cyashingiweho mu kwemeza ko NZABONAMANA Vincent yakoze icyaha aregwa ari imvugo z'umwana aregwa ko yasambanyijwe ibindi bimenyetso byashingiweho bigizwe n'ubuhamya bwa TWEBAZE Anne Marie na NUBUHHORO Alphonsine ndetse na raporo ya muganga bikaba bitafatwa nk'ibigaragaza ko ibyo uwo mwana yavuze ari ukuri ngo bitume hemezwa nta gushidikanya ko NZABOMANA yasambanyije uwo mwana nk'uko

abiregwa. [35] Mu gusuzuma kandi hakwifashishwa ibyemejwe mu rubanza RPAA 00523/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 24/09/2024 aho ubushinjacyaha bwaburanaga n'uwitwa NDANGURURA Isaac waregwaga icyaha cyo gusambanya umwana w'imyaka cumi n'itatu. Muri urwo rubanza hakaba haratanzwe ikimenyetso cy'imvugo z'uwo mwana wavugaga ko yasambanyijwe ariko Urukiko rugasanga nta kindi kimenyetso gishyigikira izo mvugo bigatuma rwemeza ko NDANGURURA Isaac ari umwere kubera gushidikanya.

Page 8

[36] Urukiko rw'Ubujurire rero rurasanga ku bijyanye n'uru rubanza kubera impamvu zavuzwe haruguru hagomba kwemezwa ko hari ugushidikanya ku kumenya niba NZABONIMANA Vincent yarakoze icyaha aregwa bityo hakaba hagomba kwemezwa ko ari umwere hashingiwe ku biteganyijwe mu ngingo ya 111 y'Itegeko N0 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe kugeza ubu igira iti: « Gushidikanya birengera ushinjwa. iyo urubanza rwakurikiranywe mu buryo bwose ntihagire ibimenyetso nyakuri biboneka byemeza nta shiti abacamanza ko ushinjwa yakoze icyaha koko bagomba kwemeza ko atsinze». III. ICYEMEZO CY'URUKIKO [37] Rwemeye kwakira ubujurire rwashyikirijwe na NZABONIMANA Vincent; [38] Rwemeje ko ubwo bujurire bufite ishingiro; [39] Rwemeje ko imikirize y'urubanza No RPA 00027/2021/HC/RWG rwaciwe ku wa 23/10/2023, Urukiko Rukuru Urugereko rwa Rwamagana ihindutse; [40] Rutegetse ko NZABONIMANA Vincent adahamwa n'icyaha yari akurikiranyweho cyo gusambanya umwana; [41] Rutegetse ko NZABONIMANA Vincent ahita afungurwa uru rubanza rukimara gusomwa ; [42] Rutegetse ko amagarama y'uru rubanza aherera kw'isanduku ya Leta.

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Prepared on 12 October 2026 · Esheria