

RWANDA / JUDGMENT

UBUSHINJACYAHA v. NZIRORERA

RPAA 00522/2024/CA

COURT

Court of Appeal

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UBUSHINJACYAHA v. NZIRORERA

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Text

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UBUSHINJACYAHA v. NZIRORERA [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00522/2024/CA (Rutazana, P.J.) 25 Gashyantare 2025] Amategeko agenga ibyaha n'ibihano – icyaha cy'ubwicanyi – Kugira ngo hamenyekenane niba uwakubise undi ku bushake yari afite umugambi wo kumwica cyangwa niba yari agamije gusa kumukubita cyangwa kumukomeretsa, urupfu rukaba ingaruka atateganyije, bisuzumirwa mu cyakoreshejwe (intwara ishobora kwica) mu kumukubita no ku gice cy'umubiri cyakubiswe (mu cyico). Amategeko agenga ibyaha n'ibihano – 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 ukurikiranyeho icyaha yakorewe n'uwakorewe icyaha (victime), bituma ako kanya amukorera icyaha aregwa. Ni ishingano y'uregwa uburanisha ubusembure kubuzamura no ku butangira ibimenyetso, umucamanza akaba afite ishingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana. Amategeko agenga ibyaha n'ibihano – Kugabanyirizwa igihano – Iyo umucamanza yemeje impamvu nyoroshyacyaha, igifungo cya burundu gishobora kugabanywa ariko ntikijye munsu y'igihano cy'igifungo cy'inyaka 15. Incamake y'ikibazo: Uwitwa Nzirorera Damien yishe Majyambere Silas

amuteye icyuma mu nda (munsi y'umukondo) no ku itako. Uregwa yahise afatawa atangira gukurikiranwa, iperereza rirangiye Ubushinjacyaha bumurega mu Rukiko Rwisumbuye rwa Gasabo bumukurikiranyeho icyaha cy'ubwicanyi, busaba ko kimuhama agahanishwa igihano cy'igifungo cya burundu. Nzirotera Damien yaburanye yemera icyaha aregwa, avuga ko byose byatewe n'ubusinzi kuko ntacyo yapfaga na Majyambere Silas ahubwo yari inshuti ye. Urukiko Rwisumbuye rwa Gasabo, rushingiye ku bimenyetso bitandukanye no ku mvugo ye yiyemerera ko ari we wamwishe, rwemeza ko Nzirotera Damien ahamwa n'icyaha cy'ubwicanyi buturutse ku bushake, maze rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25). Nzirotera Damien yajuririyemo Urukiko Rukuru, avuga ko icyaha yemera ari ubwicanyi budaturutse ku bushake kuko hatagaragajwe ko hari icyo yari asanzwe apfa na nyakwigendera; avuga kandi ko yakozwe icyaha kubera ubusembure kuko Majyambere Silas ari we washoje imirwano. Uhagarariye Ubushinjacyaha avuga ko uregwa yakozwe icyaha ku bushake kuko yateye nyakwigendera icyuma mu cyico, avuga kandi ko nta busembure bwabayeho kuko hari hashize akanya barwanye bakabakiza bakibwira ko byarangiye. Urukiko Rukuru rushingiye ku mvugo z'umutangabuhamya wari uhari, wasobanuye neza ko nyakwigendera yatewe icyuma hashize iminota nka mirongo itatu (30) abakijije ubwo barwanaga, maze rwemeza ko Nzirotera Damien yakozwe icyaha yabigambiriye, kandi ko nta busembure bwabayeho, bityo ko kuba ari ubwa mbere akoze icyaha mu buryo buzwi; kuba yari akiri muto

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agikeneye kwiteza imbere no guteza imbere igihugu muri rusange, rwasanze byamubera impamvu nyoroshyacyaha yatuma agabanyirizwa igihano, maze rumuhanisha igifungo cy'imyaka cumi n'itanu (15). Nzirotera Damien yongeye kujurira Urukiko rw'Ubujurire avuga ko yishe nyakwigendera bidaturutse ku bushake kuko yasembuwe, asaba Urukiko kwemeza ko ari cyo kimuhama, maze akagabanyirizwa igihano. Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Nzirotera Damien nta shingiro bufitse kuko bushingiye ku mpamvu zivuguruzanya kandi zidashobora kubangikanywa, aho ku ruhande rumwe avuga ko nta bushake bwo gukora icyaha yagize ariko ko yagikoze asembuwe, ku rundi agasaba ko yakongera kugabanyirizwa igihano, bityo ko ibisobanuro uregwa atanze mu Rukiko bitahabwa agaciro kuko bitandukanye n'ibyo yemereye mu Bugenzacyaha. Urukiko rw'Ubujurire rwemeje ko Nzirotera Damien ahamwa n'icyaha cy'ubwicanyi buturutse ku bushake, maze ahanishwa igifungo cy'imyaka 15, kikaba ari nacyo gihano gito gishoboka, kikaba rero kidashobora kongera kugabanywa. Incamake y'icyemezo: 1. Kugira ngo hamenyekenane niba uwakubise undi ku bushake yari afite umugambi wo kumwica cyangwa niba yari agamije gusa kumukubita cyangwa kumukomeretsa, urupfu rukaba ingaruka atateganyije, bisuzumirwa mu cyakoreshejwe (intwari ishobora kwica) mu kumukubita no ku gice cy'umubiri cyakubiswe (mu cyico).

2. 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. Ni ishingano y'uregwa uburanisha ubusembure kubuzamurira no ku butangira ibimenyetso, umucamanza

akaba afite ishingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana.

3. Iyo umucamanza yemeje impamvu nyoroshyacyaha, igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igihano cy'igifungo cy'imyaka 15. Ubujurire nta shingiro bufite. Amategeko yashingiweho: Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 2; Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 107. Imanza zifashishijwe: Urubanza RPAA 0110/10/CS rw' Ubushinjacyaha na Uwamurengeye, rwaciwe n'Urukiko rw'Ikirenga ku wa 31/01/2014; Urubanza RPAA 00332/2023/CA rw'Ubushinjacyaha na Kabarere Pascasie; Urukiko rw'Ubujurire ku wa 20/12/2024;

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Urubanza RPAA 00258/202/CA rw' Ubushinjacyaha na Ntirandekura Josué alias Kaduruvayo, Urukiko rw'Ubujurire ku wa 20/12/2024; Urubanza RPAA 00309/2024/CA, rw' Ubushinjacyaha na Muhayimana Annonciata, rwaciwe ku wa 29/01/2025; Urubanza RPAA038/15/CS rw' Ubushinjacyaha na Sezikeye Emmanuel, rwaciwe n'Urukiko rw'Ikirenga ku wa 15/09/2017; Urubanza RPAA 00610/2022/CA rw' Ubushinjacyaha na Nahimana Christophe, rwaciwe n'Urukiko rw'Ubujurire ku wa 25/09/2024; Urubanza RPAA 00462/2023/CA rw' Ubushinjacyaha na Nsengimana Jean-Claude, rwaciwe n'Urukiko rw'Ubujurire, ku wa 15/11/2024.

Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 06/07/2020, mu Mudugudu wa Nyakabungo, Akagari ka Kagugu, Umurenge wa Kinyinya, Akarere ka Gasabo mu Muji wa Kigali, Nzirodera Damien arimo gusangira inzoga n'uwitwa Majyambere Silas mu kabari k'uwitwa Bizimana Fulgence baratonganye bivamo imirwano hanyuma Nzirodera Damien afata icyuma agitera Majyambere Silas mu nda (muni y'umukondo) no ku itako ahita yitaba Imana.

- [2] Nzirodera Damien yahise afatawa atangira gukurikiranwa, iperereza rirangiye Ubushinjacyaha bumurega mu Rukiko Rwisumbuye rwa Gasabo bumukurikiranyeho icyaha cy'ubwicanyi, busaba ko kimuhama agahanishwa igihano cy'igifungo cya burundu. [3] Nzirodera Damien yaburanye yemera icyaha aregwa, avuga ko byose byatewe n'ubusinzi kuko ntacyo yapfaga na Majyambere Silas ahubwo yari inshuti ye. Asobanura ko barwanye hanyuma Majyambere Silas amufata mu ijosi amuturutse inyuma, yumvise agiye guhera umwuka mu gihe yarimo amwiyaka afata icyuma cyari kiri ku meza arakimutera kimukomeretsa mu nda. [4] Mu rubanza RP 01033/2020/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 31/08/2020, rwasanze hari ibimenyetso bigaragaza ko Nzirodera Damien yishe Majyambere Silas ku bushake, birimo imvugo ze aho yiyemerera ko ari we wamwishe, imvugo z'abatangabuhamya bamushinja, na raporo ya muganga wasuzumye nyakwigendera igaragaza ko yishwe atewe icyuma mu nda no ku itako; maze rwemeza ko Nzirodera Damien ahamwe n'icyaha cy'ubwicanyi buturutse ku bushake, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25). [5] Nzirodera Damien yajuririye Urukiko Rukuru, avuga ko icyaha yemera ari ari ubwicanyi budaturutse ku bushake kuko

hatagaragajwe ko hari icyo yari asanzwe apfa na nyakwigendera cyangwa ngo abe yari yitwaje igikoresho cyo kumwicisha, kuko icyuma cyakoreshejwe yagisanze aho icyaha cyabereye; avuga kandi ko yakoze icyaha kubera ubusembure kuko Majyambere Silas ari we wabanje kumuhamagara ngo amugurire inzoga akaba ari nawe washoje imirwano nyuma yo kumwita imbwa kuko nawe yari yanze kugura inzoga, bakarwanira icyuma kikamukomeretsa bikavamo gupfa.

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[6] Uhagarariye Ubushinjacyaha yavuze ko Nzirorera Damien yakoze icyaha ku bushake kuko yateye Majyambere Silas icyuma mu cyico (mu nda no ku kibero) kandi ko nta busembure bwabayeho kuko hari hashize akanya barwanye bakabakiza bakibwira ko byarangiye. [7] Mu rubanza RPA 01092/2020/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 11/04/2024, rwasobanuye ko kuba Nzirorera Damien atemera invugo z'abatangabuhamya nta shingiro bifite kuko ibyo bavuze bihura n'ibyo ubwe yiyemereye, maze rushingiye ku mvugo z'umutangabuhamya witwa Bizimana Fulgence wari uhari wasobanuye neza ko nyakwigendera yatewe icyuma hashize iminota nka mirongo itatu (30) abakijije ubwo barwanaga, rwemeza ko Nzirorera Damien yakoze icyaha yabigambiriye. [8] Ku bijyanye n'ubusembure nabwo rwemeje ko ntabwabayeho kuko kuba Nzirorera Damien avuga ko Majyambere Silas yari yamuhamagaye kugira ngo amugurire inzoga bitafatwa nk'imyitwarire ya nyakwigendera yatumye yicwa, kuko niba bari banarwanye bakabakiza byari byarangiye nk'uko umutangabuhamya yabivuze, ahubwo Nzirorera Damien nyuma y'aho akaba yarongeye akubikira Majyambere Silas akamukubita icyuma bikamuviramo gupfa. [9] Urukiko kandi rushingiye ku kuba Nzirorera Damien ari ubwa mbere akoze icyaha mu buryo buzwi, kuba yari akiri muto agikeneye kwiteza imbere no guteza imbere igihugu muri rusange, rwasanze byamubera impamvu nyoroshyacyaha yatuma agabanyirizwa igihano, bityo rumuhanisha igifungo cy'inyaka cumi n'itanu (15). [10] Nzirorera Damien yongeye kujurira Urukiko rw'Ubujurire, urubanza ruhabwa RPAA 00522/2024/CA, ruburanishwa mu ruhamwe kuwa 07/02/2025 yunganiwe na Me Ruturwa Rumende Eson, naho Ubushinjacyaha buhagarariye na Habineza Jean Damascène, Umushinjacyaha ku rwego rw'Igihugu. [11] Ubujurire bwa Nzirorera Damien bushingiye ku mpamvu zikurikira :

- Kuba yarahamijwe icyaha cy'ubwicanyi hashingiwe ku kuba yaracyemeye nyamara icyo yemeye ari uko yishe nyakwigendera bidaturutse ku bushake, agasaba Urukiko kwemeza ko ari cyo kimuhama.
- Kuba Urukiko rutarahaye agaciro ibisobanuro yatanze bigaragaza ko icyaha ashinjwa yagikoze biturutse ku busembure.

- Gusaba kugabanyirizwa igihano. [12] Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Nzirodera Damien nta shingiro bufite kuko bushingiye ku mpamvu zivuguruzanya kandi zidashobora kubangikanywa, aho ku ruhande rumwe avuga ko nta bushake bwo gukora icyaha yagize ariko ko yagikoze asembuwe, ku rundi agasaba ko yakongera kugabanyirizwa igihano. [13] Urukiko rurasuzuma ibibazo bikurikira bigize urubanza :
- Kumenya niba inyito y'icyaha Nzirodera Damien ashinjwa ikwiriye guhinduka agahanirwa icyaha cy'ubwicanyi budaturutse ku bushake.
- Kumenya niba icyaha Nzirodera Damien ashinjwa yaragikoze biturutse ku busembure.
- Kumenya niba Nzirodera Damien ashobora kongera kugabanyirizwa igihano.

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II. ISESENGURA RY' IBIBAZO BIGIZE URUBANZA 1. Kumenya niba inyito y'icyaha Nzirodera Damien ashinjwa ikwiriye guhinduka agahanirwa icyaha cy'ubwicanyi budaturutse ku bushake [14] Nzirodera Damien avuga ko yajuriye agamije gusaba Urukiko guhindura inyito y'icyaha ashinjwa, agahanirwa icyaha cy'ubwicanyi budaturutse ku bushake kuko atigeze agambirira kwica Majyambere Silas ahubwo yari inshuti ye nk'uko n'umugore wa nyakwigendera yabyemeje, ndetse akaba ari nawe wamuhamagaye ngo agende amugurire inzoga, akamusanga mu kabari k'uwitwa Bizimana Fulgence bagasangira. [15] Nzirodera Damien akomeza asobanura ko ibyavuzwe na Bizimana Fulgence ko yateye nyakwigendera icyuma nyuma y'iminota 30 amaze kubakiza kuko bari babanje kurwana agikuye aho cyari kiri mu byombo nta shingiro byahabwa, kuko nyakwigendera yari yamufashe mu ijosi yamunize amuturutse inyuma, akaba rero atari gushobora kunama kugira ngo afate icyuma; avuga ko ahubwo icyuma yagikuye ku meza aho cyari kiri akakimutera yitabara kuko yari yamunize. [16] Nzirodera Damien avuga ko n'imvugo z'abatangabuhamya zidakwiriye gushingirwaho kuko ibyo bavuze byose bwari uburyo bwo gukingira ikibaba Bizimana Fulgence kuko yari yamufungiranye hamwe na nyakwigendera ubwo barimo barwana abasaba ko bamwishyura ikirahuri cye bari bamenye muri icyo mirwano. Asoza avuga ko icyari kugaragaza ko yari afite ubushake bwo kwica Majyambere Silas ari uko hakurikijwe ibyo yasobanuye haruguru, yari kuba yaramuteye icyuma mu mutima cyangwa ku bindi bice byo hejuru kuko bareshyaga nyamara bikaba atariko byagenze kuko yakimuteye mu itako no mu rukenyerero. [17] Uhagarariye ubushinjacyaha avuga ko kuba Nzirodera Damien yaragize ubushake bwo gukora icyaha bigaragazwa n'uko mu ibazwa rye mu Bugenzacyaha yasobanuye ko ari we wabanje guhamagara Majyambere Silas kuko bari basanzwe baziranye undi akamurangira aho ari agafata moto akahamusanga (bitandukanye n'ibyo yavuze mu Rukiko ko Majyambere ari we wamugamagaye), kandi akaba yaremeye icyaha agasobanura ko yafashe icyuma aho cyari kiri akagitera mugenzi we inshuro ebyiri (ku kaguru no mu nda), kandi ko yari azi uburemere bw'icyuma n'ingaruka cyagira ku muntu ugitewe kuko yivugiye ku yari asanzwe ari mucoma. [18] Uhagarariye Ubushinjacyaha asaba ko ibisobanuro Nzirodera Damien atanze mu Rukiko bitahabwa agaciro kuko bitandukanye n'ibyo yemereye mu Bugenzacyaha binashimangirwa n'imvugo y'umutangabuhamya, hashingiwe ku murongo ukurikira watanze mu rubanza RPA 0010/ 06/CS - RPA 0011/06/CS - RPA 0012/06/CS rwaciwe n'Urukiko rw'Ikirenga

ku wa 18/07/2008, haburana Ubushinjacyaha na Sgt Ntaganira na bagenzi be: “Umucamanza ntategetswe gushingira ku mvugo ihakana icyaha mu Rukiko nyamara ushinjwa yaracyemeye mu nzego z’ikurikiranacyaha. Umucamanza ashobora gushingira ku mvugo yavugiye mu nzego z’ikurikiranacyaha iyo asanze arizo zihuje n’ukuri kw’ibyabaye kandi zifite ibindi bimenyetso bizunganira.” UKO URUKIKO RUBIBONA [19] Impaka kuri iyi ngingo zishingiye ku kumenya niba inyito y’icyaha cy’ubwicanyi Nzirorera Damien ashinjwa ikwiriye guhinduka kikaba ubwicanyi budaturutse ku bushake.

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[20] Ikibazo cyo kumenya inyito ikwiriye ku cyaha cyakorewe umuntu wapfuye akomerekejwe cyakemuwe mu rubanza RPAA 0110/10/CS rwaciwe n’Urukiko rw’Ikirenga ku wa 31/01/2014 haburana Ubushinjacyaha na Uwamurengeye, aho rwasobanuye ko kugira ngo hamenyekenane niba uwakubise undi ku bushake yari afite umugambi wo kumwica cyangwa niba yari agamije gusa kumukubita cyangwa kumukomeretsa, urupfu rukaba ingaruka atateganyije, bisuzumirwa mu cyakoreshejwe (intwaro ishobora kwica) mu kumukubita no ku gice cy’umubiri cyakubiswe (mu cyico). Uyu murongo ni nawo wakomeje gukurikizwa mu zindi manza zaciwe n’uru Rukiko, mu ziheruka gucibwa hakaba harimo nk’urubanza RPAA 00332/2023/CA rwaburanywe hagati y’Ubushinjacyaha na Kabarere Pascasie (igika cya 17), urubanza RPAA 00258/202/CA haburana Ubushinjacyaha na Ntirandekura Josué alias Kaduruvayo (igika cya 12), zombi zaciwe n’Urukiko rw’Ubujurire ku wa 20/12/2024 n’urubanza RPAA 00309/2024/CA, rwaciwe ku wa 29/01/2025 haburana Ubushinjacyaha na Muhayimana Annonciata. [21] Ku birebana n’uru rubanza, dosiye igaragaza ko mu gika cya 16, icya 17 n’icya 18 by’urubanza rujuririrwa ikibazo kijyanye no guhindura inyito y’icyaha cyaburanyweho bisabwe n’uregwa, maze urwo Rukiko rusanga ibyo avuga nta shingiro bifite rushingiye ku bimenyetso bigizwe no kuba yemera ko yafashe icyuma akagitera Majyambere Silas, no ku mvugo y’umutangabuhamya witwa Bizimana Fulgence wasobanuye ko Nzirorera Damien yateye nyakwigendera icyuma hashize umwanya (iminota 30) amaze kubakiza ubwo barwanaga akabafungirana kugira ngo babanze bamwishyure ikirahure cy’urugi rwe bari bamennye. [22] Urukiko rw’Ubujurire rurasanga kuri uru rwego, uretse gusa kongera gusaba ko inyito y’icyaha ashinjwa yahinduka, Nzirorera Damien atagaragaza ikosa ryakozwe n’Urukiko Rukuru mu mpamvu rwashingiyeho rwanga kwemeza ko icyaha ashinjwa gihundurirwa inyito kikaba ubwicanyi budaturutse ku bushake. [23] Urukiko rw’Ubujurire narwo rurasanga, nk’uko n’Urukiko Rukuru rwabisobanuye, bikaba binahuje n’umurongo wavuzwe haruguru watanze n’Urukiko rw’Ikirenga ukanashingirwaho mu zindi manza zitandukanye zaciwe n’Urukiko rw’Ubujurire, kuba nyuma y’iminota 30 babakiranuye, Nzirorera Damien yarafashe icyuma (intwaro yica) akagitera Majyambere Silas inshuro 2 mu itako no mu nda (mu cyico) agahita apfa nk’uko uregwa abiyemerera bikanashimangirwa n’abatangabuhamya bavuzwe haruguru, bigaragaza ko ubushake bwo kwica, bityo rero iyi mpamvu y’ubujirre ikaba nta shingiro ifite.

2.Kumenya niba Nzirodera Damien yakoze icyaha biturutse ku busembure [24] Nzirodera Damien na Me Ruturwa Rumende Eron umwunganira bavuga icyaha cyakozwe biturutse ku busembure. Basobanura ko Majyambere Silas yahamagaye Nzirodera Damien kugira ngo amugurire inzoga, aragenda barasangira, hanyuma Majyambere Silas amusaba ko nawe agura inzoga, undi amushyirira ko nta mafaranga afite, nyakwigendera atangira kumutuka amubwira ko ari imbwa amutera n'imigiri, ko rero ibyo bikorwa bye aribyo byamuviriyemo urupfu. [25] Akomeza asobanura ko imvugo y'umutangabuhamya witwa Bizimana Fulgence Urukiko Rukuru rwashyiriyeho mu gika cya 20 cy'urubanza rujuririrwa rwemeza ko nta busembure bwabayeho atari ukuri, kuko uwo mutangabuhamya yavuze ko nyakwigendera yatewe icyuma nyuma y'iminota 30 amaze kubakiranura, ariko akaba atagaragaza icyo bari bagikora mu gipanga cye muri icyo minota 30.

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[26] Uhagarariye Ubushinjacyaha avugaga ko Nzirodera Damien atagaragaza icyo anenga ibisobanura Urukiko rwashyiriyeho rwemeza ko nta busembure bwabayeho bigizwe n'imvugo y'umutangabuhamya wemeza ko yabakijije bikarangira, ariko nyuma Nzirodera Damien akaza gufata icyuma akagitera mugenzi we akamwica. Akomeza asobanura ko impamvu Nzirodera Damien aburanisha y'uko nyakwigendera yari yamunize nta bimenyetso ayitangira kandi bitari gushoboka ko amuniga ngo nawe abone uko ajya gufata icyuma anakimutere. UKO URUKIKO RUBIBONA [27] Impaka kuri iyi ngingo zishyiriyeho ku kumenya niba hari ikosa Urukiko Rukuru rwakozwe mu kutemeza ko Nzirodera Damien yakozwe icyaha cyo kwica Majyambere Silas biturutse ku busembure. [28] Ikibazo cyo kumenya igihe imyitwarire y'uwakorewe icyaha ifatwa nk'ubusembure no kumenya ufite inshingano zo kubugaragaza cyatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza RPAA038/15/CS rwaciye ku wa 15/09/2017 haburana Ubushinjacyaha na Sezikeye Emmanuel (igika cya 21), unakomeza gukurikizwa mu zindi manza zaciye n'uru Rukiko nyuma yarwo harimo nk'urubanza RPAA 00610/2022/CA rwaciye ku wa 25/09/2024 haburana Ubushinjacyaha na Nahimana Christophe (igika cya 17) n'urubanza RPAA 00462/2023/CA rwaciye ku wa 15/11/2024 haburana Ubushinjacyaha na Nsengimana Jean-Claude (igika cya 16- 17). Izo manza zihuriye ku murongo ukurikira: "Ubusembure bwumvikana nk'impamvu ngabanyagihano igizwe no kuba uwakozwe icyaha yarabitewe n'uko yari yabanje gukorera igikorwa kimubabaza gikomereye kandi kimurenganya. Habaho ubusembure igihe hari ibikorwa ukurikiranyweho icyaha yakorewe n'uwakorewe icyaha (victime), bituma ako kanya amukorera icyaha aregwa. Ni inshingano y'uregwa uburanisha ubusembure kubuzamura no ku butangira ibimenyetso, umucamanza akaba afite inshingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana." [29] Dosiye igaragaza ko mu gika cya 20 cy'urubanza rujuririrwa, Urukiko Rukuru rwasanze nta busembure bwabayeho kuko nk'uko umutangabuhamya witwa Bizimana Fulgence yabivuze, nyuma y'igihe kigera ku minota 30 barwanye akabakiza bikarangira, ari bwo Nzirodera Damien yafashe icyuma akagitera Majyambere Silas bikamuviramo gupfa. [30] Kuri uru rwego, uretse gusa gusaba gusuzuma ko habayeho ubusembure, Nzirodera Damien

ntagaragaza inenge ziri mu mpamvu Urukiko Rukuru rwashingiyeho rwemeza ko nta ubusembure bwabayeho. [31] Urukiko rw'Ubujurire rurasanga nk'uko Urukiko Rukuru rwabisobanuye bikaba binahuje n' umurongo wavuzwe haruguru watanzwe mu rubanza rwaciwe n'Urukiko rw'Ikirenga ukanashingirwaho mu zindi manza zitandukanye zaciwe n'Urukiko rw'Ubujurire, ibivugwa na Nzirodera Damien ko Majyambere Silas ariwe wabanje kumuhamagara kugira ngo basangire inzoga, nyuma akaza gutangira kumutuka no kumutera imigeri kuko yari amusabye ko nawe agura inzoga akamubwira ko nta mafaranga afite, bitagize impamvu y'ubusembure kuko hashingiwe ku buhamya bwatanzwe na Bizimana Fulgence wari kumwe nabo, babanje gutongana no kurwana hanyuma arabakiza, nyuma y'iminota 30 akaba ari bwo Nzirodera Damien yateye Majyambere Silas icyuma, bikaba rero byumvikana ko harebwe icyo gihe cyari gishize, uko kubanza gutukana

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no kurwana bitafatwa nk'imyitwarire ya nyakwigendera yatumye uregwa ahita amukorera icyaha ako kanya. Hashingiwe kuri ibyo bisobanuro iyi mpamvu y'ubujurire ikaba nta shingiro ifite. 3. Kumenya niba Nzirodera Damien akwiriye kongera kugabanyirizwa igihano [32] Nzirodera Damien asaba kugabanyirizwa igihano hashingiwe ku kuba yemera icyaha akanagisabira imbabazi. [33] Uhagarariye Ubushinjacyaha avuga ko Nzirodera Damien yahanishijwe igifungo cy'imyaka 15, kikaba ari cyo gihano gito gishoboka ku cyaha cy'ubwicanyi yahamijwe, kikaba rero kidashobora kongera kugabanywa. UKO URUKIKO RUBIBONA [34] Impaka kuri iyi ngingo zishingiye ku kumenya niba igihano cy'igifungo cy'imyaka 15 Nzirodera Damien yahanishijwe kubera icyaha cy'ubwicanyi yahamijwe gishobora kongera kugabanywa hashingiwe ku mpamvu nyoroshyacyaha. [35] Ingingo ya 107, igika cya 2, y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, iteganya ko icyaha cy'ubwicanyi buturutse ku bushake gihanishwa igifungo cya burundu; ibijyanye no kuba igifungo cya burundu cyagabanywa kubera impamvu nyoroshyacyaha byavugwaga muri iri tegeko byaje guhindurwa mu ngingo ya 2 (a) y' Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ko iyo umucamanza yemeje impamvu nyoroshyacyaha, igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igihano cy'igifungo cy'imyaka 15. [36] Izi ngingo zombi zisomewe hamwe zumvikanisha ko iyo hari impamvu nyoroshyacyaha zemejwe n'umucamanza igihano cy'igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igifungo cy'imyaka 15. [37] Nk'uko bigaragara mu bika bya 25, 26 na 27 by'urubanza rujuririrwa, Urukiko Rukuru rwemeje ko Nzirodera Damien ahanishwa igihano cy'igifungo cy'imyaka cumi n'itanu (15), rushingiye ku mpamvu nyoroshyacyaha zinyuranye zirimo kuba yaremeye icyaha, kuba ari ubwa mbere yari agikoze, kuba yari akiri urubiruko ruto rwari rugikeneye kwiteza imbere ubwe ndetse no guteza imbere igihugu muri rusange, rwasanze yagabanyirizwa igihano bikamuha amahirwe yo kwikosora no gutekereza kungaruka z'icyaha yakoze no kugaruka mu muryango. [38] Urukiko rw'Ubujurire rurasanga Nzirodera Damien ahamwa n'icyaha cy'ubwicanyi buturutse ku bushake, kandi akaba yahanishijwe igifungo cy'imyaka 15, kikaba ari nacyo gihano gito gishoboka hashingiwe ku byasobanuwe haruguru (igika cya 35 n'icya 36), kikaba rero kidashobora kongera

kugabanywa. III. ICYEMEZO CY'URUKIKO [39] Rwemeje ko ubujurire bwa Nzirorera Damien nta shingiro bufite.

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[40] Rwemeje ko urubanza RPA 01092/2020/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 11/4/2024 rudahindutse mu ngingo zarwo zose. [41] Rwemeje ko igifungo cy'imyaka cumi n'itanu (15) Nzirorera Damien yahanishijwe kigumyeho. [42] Rutegetse ko Nzirorera Damien asonewe amagarama y'urubanza kuko aburana afunze.

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