

RWANDA / JUDGMENT

UBUSHINJACYAHA v. MINANI

RPA 0124/10/CS

COURT

Supreme Court

DECIDED

28 November 2014

CASE / FILE NUMBER

RPA 0124/10/CS

Source: amategeko.gov.rw · Research copy typeset by Esheria. Not court-issued or certified.

UBUSHINJACYAHA v. MINANI

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2014-11-28
- Case/document no.: RPA 0124/10/CS
- Collection: Supreme Court

Text

Page 1

UBUSHINJACYAHA v. MINANI [Rwanda URUKIKO RW'IKIRENGA – RPA 0124/10/CS (Mutashya, P.J., Nyirinkwaya na Hitiyaremye, J.) 28 Ugushyingo 2014] Amategeko yerekeye ibimenyetso – Ubujura – Kuba abasangiye n'uwahohotewe aribo bamutwaye kuri moto nyuma ikabira bigaragaza ko aribo bayibye. Amategeko mpanabyaha – Inyito y'icyaha – Ntibyaba ubwinjiracyaha bw'ubuhotozi kuko nubwo yasanze mu mugende nta kindi yari yabaye uretse urushinge yari yatewe ku itako kandi hakaba nta n'ikigaragaza ko haba hari icyahagaritse uwo mugambi ahubwo ni ubujura bukoreshye kiboko bukoze n'abantu barenze umwe kuko yahawe umuti muri fanta atabizi ntamenye ibyamubayeho kugeza ubwo bamutwaye kuri moto bamujugunye mu gishanga kugeza ubwo atoraguwe yataye ubwenge atazi aho ari – Itegeko-Teka n° 21/77 ryo kuwa 18/08/1977 rishyiraho Igitabo cy'amategeko ahana mu Rwanda, ingingo ya 297. Incamake y'ikibazo: Nkurikiyimana Jean Claude yatanze ikirego kuri polisi avuga ko yatezwe n'umuntu ngo amutware kuri moto saa tatu n'igice kuko ariko kazi yakoraga. Amugejejeho aho yajyaga bahasanga undi muntu bamusaba kubategereza iminota 30 bamugurira fanta igihe atarayinwya ajya hanze agarutse ayinyoye yumva isa nkirimo umuti abibabwiye bamusubaza ko ari uko yari imaze umwanya ipfunduye. Vuga ko ibyakurikiyeho ntabwo yibuka uretse ko mu

gitondo yatoraguwe mu

Page 2

gishanga n'umusore nuko polisi iraza ajyanwa mu bitaroaho uamaze iminsi ibiri atumva. Nyuma y'iperereza Ubushinjacyaha bwaregeye Urukiko Rukuru, Urugereko rwa Nyanza burega Minani Frédéric bumushinja ubwinjiracyaha bw'ubuhotozi n'ubujura bukoresha kiboko kuko nyuma yo kujugunywa muri icyo gishanga uwakorewe icyah yibwe moto. Urukiko rwamuhamije ibyo byaha rumuhanisha igifungo cya burundu runamutegeka gutanga 1000 000.Frw. Uru rukiko rwashingiye ku kuba Minani Frederic yaremeye kwishyura 100 000Rwfmu rwego rwo kwishyura iyo moto ndetse e no ku mvugo z'abantu batandukanye bemeje ko bamubonanye na Jean Claude Nkurikiyimana ku wa 2 Gashyantare 2007. Yajuririye mu Rukiko rw'Ikirenga avuga ko yahamijwe icyaha atakoze. Ubushinjacyaha bwo buvuga ko abatangabuhamya baturiza ku Kabare icyuzi ndetse bakanahuriza ku ikoti Minani Frederic yari yambaye. Bushimangira ko kuba ushinjwa yaremeye kwishyura 100. 000 ari ikigaragaza uruhare rwe mu iyibwa rya moto bityo icyaha yakoze akaba ari ubujura bukomeye. Ku bijyanye n'ubwinjiracyaha bw'ubwicanyi, bwavuze ko bubona icyo cyaha yagihanagurwaho kuko raporo ya muganga itagaragaza niba umuti yahawe wari ugamije kumwica cyangwa kumuca intege gusa kandi iyo raporo ikaba igaragaza ko nta kintu gikomeye yari yabaye. Incamake y'icyemezo:

1. Kuba abasangiye na Nkurikiyimana Jean Claude aribo bamutwaye kuri moto kandi yataye ubwenge nyuma akaza gutoragurwa mu

Page 3

gishanga naho moto ikabura bigaragaza ko abo basangiye aribo bayibye.

2. Kuba raporo ya muganga n'inyandiko mvugo y'uwahohotewe bigaragarza ko Nkurikiyimana Jean Claude yasanze mu mugende ntabikomere afite uretse urushinge yatewe ku itako bituma hatakwemezwa ko abamutwaye moto bashatse no kumwica dore ko nta n'ikigaragaza ko haba hari acyatumye uwo mugambi batawugeraho. Bityo rero, ubwinjiracyaha bw'ubuhotozi ntibumuhama kuko urubanza rwaciwe nta bimenyetso bifatika bihari bimuhamya icyaha.
3. Nkurikiyimana Jean Claude yakorewe ubujura bukoresha kiboko kuko hakurikijwe ibivugwa n'ingingo ya 297 gukoresha kiboko ari ugukora ibikorwa by'agahato ku mubiri w'umuntu bigahura neza no kuba uwahohotewe yarahawe umuti usinziriza atabizi muri fanta ntamenye ibyamubayeho kugeza bamutwaye kuri moto bakamujugunya mu gishanga nijoro bikagera mu gitondo ataragarura ubwenge. Ubujurire bufite ishingiro. Urubanza rujuririrwa ruhindutse kuri bimwe. Ushinjwa ahamwa ntahamwa n'ubwinjiracyaha bw'ubuhotozi. Ahamwa n'ubujura bukoresha kiboko bukozwe nijoro n'abantu barenze umwe Ahanishijwe igifungo cy'imyaka icumi. Nta gihindutse ku ndishyi za 1000 000,00 Frw nk'uko yeategetswe n'Urukiko Rukuru.

Page 4

Amagarama y'urunanza aherereye ku isanduku ya leta. Amategeko yashingiweho Itegeko Ngenga n° 31/2007 ryo kuwa 25/07/2007 rikuraho igihano cyo kwicwa mu ngingo yaryo, 302 na 303 Itegeko-Teka n° 21/77 ryo kuwa 18/08/1977 rishyiraho Igitabo cy'amategeko ahana mu Rwanda, ingingo ya 297 na 401. Nta manza zifashishijwe Urubanza I. IMITERERE Y'URUBANZA [1] Nkurikiyimana Jean Claude wakoraga akazi ko gutwara abantu kuri moto yatanze ikirego kuri Polisi ya Busasamana avuga ko kuwa 03/02/2007 hagati ya saa tatu n'igice na saa ine z'ijoro umuntu yamutegeye i Mugandamure amusaba ngo amujyane mu Mujyi wa Nyanza mu kabare icyuzi, bahageze ahasanga undi muntu, amubwira ko aba abategereje iminota 30 kuko hari undi muntu bategereje nyuma akaza kubageza ku Gasoro, yemera gutegereza hashize akanya haza n'undi musore waje ahabasanga, bamuha Fanta, igihe atarayinywa ajya hanze, agarutse anywa ya Fanta ariko yumva irasa nk'aho irimo umuti arabibabwira, bamusubiza ko ari uko imaze akanya ipfunduwe,

Page 5

ibyakurikiyeho akaba atabyibuka usibye ko mu gitondo yatoraguwe n'umusore witwa Théogène mu gishanga cya Bishya, Polisi iraza bamujyana mu bitaro aho yamaze iminsi 2 ngo atumva ateshaguzwa, abamutaye mu mugezi bakaba baramwibye moto, telefone, amafaranga yari yakoreye, uruhushya rwo gutwara imodoka n'ibindi byangombwa. [2] Yasobanuye kandi ko nyuma yaho uwitwa Umuhoza Saouda yaje kumureba mu rugo amutekerereza ibyamubayeho, amubaza uko umusore waje nyuma yari yambaye, amubwira ko yari yambaye ipantalo y'ikoboyi n'ikoti ry'umukara ririho utundi tubara mu kaboko, ahita avuga ko uwo muntu yaje iwe mu rugo mw'ijoro adasanzwe ahagenda kandi ko ari uw'i Gitarama, akaba yitwa Minani Frédéric. [3] Mu iperereza ryakurikiye abantu batandukanye bemeje ko babonye Minani Frédéric mu ijoro ryo kuwa 03/02/2007 ari kumwe na Nkurikiyimana Jean Claude mu kabare icyuzi kari mu Mujyi wa Nyanza nubwo we yakomeje kubihakana avuga ko ataranakandagira i Nyanza, ndetse ko iryo joro yari mu kiriyo i Gitarama. [4] Iperereza rirangiye, Ubushinjacyaha bwaregeye Urukiko Rukuru, Urugereko rwa Nyanza, bushinja Minani Frédéric na Nzabandora Jean-Pierre ibyaha by'ubwinjiracyaha bw'ubuhotozi n'ubujura bukoreshye kiboko, Nkurikiyimana Jean Claude nawe aregera indishyi. [5] Urwo rukiko rwaciye urubanza RP 0466/07/HC/NYA kuwa 31/03/2010, rwemeza ko

Page 6

Minani Frédéric ahamwa n'ibyaha akurikiranyweho, rumuhanisha igifungo cya burundu, rumutegeka gutanga indishyi z'akababaro zingana na 1.000.000 Frw, naho Nzabandora agirwa umwerek. [6] Urukiko mu gufata icyemezo rwashingiye ku kuba Minani Frédéric yaremeye gutanga 100.000 Frw mu rwego rwo kwishyura iyo moto yari yibwe hamwe n'invugo z'abantu batandukanye bagiye bagaragaza ko bamubonanye na Nkurikiyimana Jean Claude kuwa 03/02/2007. [7] Kuri Nzabandora wagizwe umwerek, Urukiko rwavuze ko ibimenyetso byatanzwe n'Ubushinjacyaha bidahagiye kugaragaza uruhare rwe, cyane ko yaba we cyangwa Minani

Frédéric nta n'umwe wari uziranye n'undi. [8] Minani Frédéric yajuririywe Urukiko rw'Ikirenga kuwa 26/04/2010 avuga ko yahamijwe icyaha atakoze. Urubanza rwaburanishijwe mu ruhamye kuwa 14/07/2014 Minani Frédéric yunganiwe na Me Nsengiyaremye Jean Claude hamwe na Me Nsengiyumva Niyondora, Ubushinjacyaha buhagarariye na Bunyoye Grace, Nkurikiyimana Jean Claude uregera indishyi yunganiwe na Me Mwizerwa Marie Grace, uwo munsu rwemeza ko hari abatangabuhamya bagomba kumvwa kugira ngo rurushaho gusobanukirwa. [9] Urubanza rwakomeje kuwa 06/10/2014, Minani Frédéric yunganiwe na Me Nsengiyaremye Jean Claude, Ubushinjacyaha buhagarariye na Bunyoye Grace, Nkurikiyimana Jean Claude yunganiwe na Me

Page 7

Mwizerwa Marie Grace Uwo munsu Urukiko rwumvise abatangabuhamya Umuhiza Saouda, Ndagijimana Thierry, Umutesi Aline na Nshimyumuremyi Ephroni, ababuranyi bahabwa umwanya wo kujya impaka ku buhamya bwabo. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO: A. Kumenya niba Minani Frédéric yarahamijwe icyaha

cy'ubwinjiracyaha

bw'ubuhotozi n'icy'ubujura bukoresha kiboko hadashyirwa ku bimenyetso bidashidikanwaho. [10] Minani Frédéric avuga ko Urukiko Rukuru rwamuhamije ibyaha atakoze rushyirwa ku mvugo z'abatangabuhamya bavuguruzanya kandi atigeze abona usibye uwitwa Mutesi Aline wabaga i Gitarama wigeze kuba inshuti ye agashyirwa no kumurongora ariko akaza kumwanga kubera imyitwarire ye mibi, runashyirwa ku masezerano y'ubwishyu bwa moto yasinye yabanyije gukorera icyarubozo akanakomeretse mu mutwe. [11] Nkurikiyimana Jean Claude uregera indishyi asobanura ko hari umuntu wamutegeye hafi yo ku Bigega amusaba ko yamugeze mu kabare icyuzi, bageze ahasanga undi muntu, bamubwira ngo ategereze kuko bategereje umuntu uva i Mugandamure, abaza "stationnement", hashize akanya gato haza Minani Frédéric usibye ko icyo gihe atari amuzi izina,

Page 8

bamuhiza Fanta, ibyakurikiyeho akaba atabyibuka ariko abamotari bagenzi be bamubwiye ko yasaga n'uwashyirwa. [12] Ku bijyanye n'aho bamutoraguye mu gitondo n'uko yari ameze, avuga ko yari hirya y'icyuzi cya Nyamagana, ariyemwe ku mugende, nta bikomere afite usibye ko bari bamuteye urushyirwa mu itako. [13] Umutangabuhamya Umuhiza Saouda asobanura ko yari aturanye na Nkurikiyimana Jean Claude, yumva abantu bavugaga ko bamutoraguye mu cyuzi cya Nyamagana bakamujyana kwa muganga, aya kumusura mu bitaro, Claude amutekerereza ibyamubayeho, amubwira n'ikoti umwe mu bamujyanye yari yambaye ko ryari umukara ririhwa akabaza k'umweru ku rutugu, ubwo amubwira ko hari umuntu waraye aje kumusura witwa Minani Frédéric wari wambaye ikoti rishya gutyo, baraganira, aza guhaguruka hari umuntu umubipye. [14] Yemeza ko yari asanzwe aya kuko yari yarigeze kuza iwabo i Mugandamure ari hamwe n'umusore witwa Abuba wigaga i Nyanza, ndetse ko uwo munsu bivugwa moto yibwaho Minani Frédéric yamusanze i Mugandamure mu cya gatatu, amubwira ko yari yaje ku Bigega ariko ko yashatse kubanza kumusura kuko agifite umwanya, bamarana iminota nka 40 baganira

bicaye muri “salon”, bigeze hafi ya saa mbiri za nijoro aragenda. [15] Umutangabuhamya Ndagijimana Thierry avuga ko ku mugoroba wo kuwa 03/02/2007 yari mu kabare icyuzi, abona Nkurikiyimana Jean Claude azanye n’undi muntu, hashize akanya haza undi wari wambaye agakoti

Page 9

k’agatiriningi (training) kajya gusa na “mauve” gafite utubara twera ku maboko, bamugurira fanta, hashize akanya gato abona Nkurikiyimana Jean Claude ameze nk’uwasinze agenda adandabirana, abo bari kumwe baramufata bamushyira kuri moto ye, bayijyaho ari batatu, Nkurikiyimana Jean Claude abari hagati. [16] Avuga kandi ko inkuru imaze kumenyekana ko abatwaye Nkurikiyimana Jean Claude bamwibye moto bakanamujugunya mu mazi, umukuru wa Polisi y’i Nyanza yabawiyeye ko yahuye nabo, ashaka kubafata, bamubwira ko bajyanye umuntu kwa muganga, arabihorera. [17] Yemeza kandi ko amaze kumva ko umwe mu batwaye Nkurikiyimana Jean Claude bakamwiba moto yafashwe akaba ari kuri polisi y’i Nyanza yagize amatsiko yo kujya kureba, abonye Minani Frédéric aramumenya. [18] Ku bijyanye n’aho Nkurikiyimana Jean Claude bamutoraguye n’uko yari ameze, avuga ko bagiye kumutwara mu gitondo mu modoka ya Polisi, bamusanga mu nzu y’umuturage wari wamukuye mu gishanga, basanga nta nkweho yambaye, yabaye umweru umubiri wose kubera ubukonje, atavuga, nta rugingo na rumwe rw’umubiri rukora. [19] Umutangabuhamya Umutesi Aline avuga ko yari asanzwe ari Minani Frédéric kuko baturanye i Gitarama mu Ruvumera, ariko ko nta bucuti bwihariye bigeze bagirana, ko umugoroba Nkurikiyimana Jean Claude yibiweho moto yamubonye mu kabari yakoreragamo i

Page 10

Nyanza aho bita icyuzi, amunyuraho agiye ku cyokezo afite n’icupa rya Mützig mu ntoki, aramusuhuza, nyuma amubona yinjiye muri bingaro (bungalow) aho Nkurikiyimana Jean Claude yari yicaye. Yongeraho ko Minani Frédéric yari yambaye jaket y’agatiriningi (training) k’umukara gafite amabara y’umweru ku maboko. [20] Umutangabuhamya Nshimyumuremyi Ephron nawe avuga ko umunsi Nkurikiyimana Jean Claude yibwa moto yinjiye mu kabare ku Cyuzi amushaka ngo amuhe moto, asanga ari hamwe n’abantu babiri, umwe akaba ari Minani Frédéric uregwa muri uru rubanza, Nkurikiyimana Jean Claude arayimwemerera, abandi baranga, ndetse Minani Frédéric amuha 500 Frw ngo ategere indi moto. Yongeraho ko yabonaga Nkurikiyimana Jean Claude yasinze cyane kandi yari afite Fanta, akemeza ko Minani Frédéric yari yambaye ikoti ry’umukara ririho uturongo twera ku mpande no ku maboko. [21] Nyuma yo kumva ubwo buhamya, ababuranyi bahawe umwanya wo kugira icyo babuvugaho no gusoza imiburanire yabo, Minani Frédéric avuga ko ntaho yigeze abona Umuhoza Saouda, ko atamuzi, ko atigeze agera iwe, ko ikoti ry’umukara rifite amabara y’umweru ku maboko ari iryo Umutesi Aline yari yaramuguriye bakiri “fiancés” akaba ariyo mpamvu ari ryo rivugwa, ko nta kuntu yaba yaramubonye afite icupa rya Mützig mu ntoki kandi atanywa inzoga, ko Ndagijimana Thierry nawe atashoboraga kumubona ari kuri polisi kuko haba hafunze, ko imvugo zabo zitagomba gufatwaho ukuri

Page 11

kuko bavuguruzanya, bamwe bakaba bavuga ko yari yambaye ikoti rya “mauve” abandi bakavuga ikoti ry’umukara, ubundi bamwe bakavuga ko babonye Nkurikiyimana Jean Claude ari kumwe n’abantu babiri, abandi bakavuga batatu, uko kuvuguruzanya kukaba kugaragaza ko bose bamubeshyera. [22] Me Nsengiyaremye Jean Claude umwunganira nawe avuga ko abatangabuhamya badakwiye kwizerwa kuko bavuguruzanya. Asaba kandi urukiko kuzasuzuma niba ibigize icyaha cy’ubwinjiracyaha bw’ubuhotozi byuzuye kuko nta kigaragaza ko Nkurikiyimana Jean Claude yakubiswe icyuma cyangwa yahawe uburozi bwica. Ku bijyanye n’icyaha cy’ubujura, avuga ko nta n’ikigaragaza ko Nkurikiyimana Jean Claude yakorewe ubujura bukomeye, akaba asanga ahubwo icyaha yakorewe niba cyaranabaye ari ubujura busanzwe buhanishwa ingingo ya 300 y’igitabo cy’amategeko ahana ibyaha. [23] Me Mwizerwa wunganira uregera indishyi arasaba urukiko guha agaciro ubuhamya bwatanzwe kuko abatangabuhamya bahuje imvugo. [24] Uhagarariye Ubushinjacyaha nawe avuga ko abatangabuhamya baturiza ku kuba barabonye Minani Frédéric mu kabare icyuzi no ku ikoti yari yambaye, akaba asanga ubuhamya bwabo bukwiye guhabwa agaciro. Yongeraho ko no kuba Minani Frédéric yemera ko yatanze amafaranga 100.000 Frw nk’ikiguzi cya moto ari ikigaragaza ko afite uruhare mu iyibwa rya moto,

Page 12

ibyo avuga ko yayatanze yigura akaba atabitangira ibimenyetso. [25] Ku bijyanye n’icyaha cy’ubwinjiracyaha bw’ubuhotozi Ubushinjacyaha bwakurikiranyeho Minani Frédéric, avuga ko bwashingiye ku kuba Nkurikiyimana Jean Claude baramuhaye umuti usinziriza bakajya kumujugunya mu mugezi, ariko akaba asanga icyo cyaha yagihanagurwaho kuko muganga muri raporo ye atagaragaza niba umuti bahaye Nkurikiyimana Jean Claude warashoboraga kumuviramo urupfu cyangwa niba waracaga intege gusa, iyo raporo ikaba ndetse igaragaza ko nta kintu gikomeye yari yabaye. [26] Ku bijyanye n’icyaha cy’ubujura, avuga ko asanga icyaha cyakozwe ari ubujura bukomeye buhanishwa ingingo ya 302 y’igitabo cy’amategeko ahana ibyaha, iteganya igihano kuva ku myaka 3 kugeza ku myaka 5 n’ihazabu y’amafaranga yikubye inshuro 5 kugeza ku nshuro 10 z’agaciro k’icyibwe.

- a) Ku byerekeye icyaha cy’ubujura [27] Urukiko rusanga imvugo z’abatangabuhamya zumvikanisha ko Nkurikiyimana Jean Claude yibwe moto mu ijoro ryo kuwa 03/02/2007 n’abantu bari kumwe mu kabare icyuzi kari mu Mujyi wa Nyanza bahavuye bamuhetse kuri moto ye asa n’uwasinze cyane bakajya kumujugunya mu gishanga. [28] Urukiko rusanga nubwo Minani Frédéric ahakana kuba yarageze i Nyanza kuri uwo mugoroba, abatangabuhamya

Ndagijimana

Thierry,

Page 13

Nshimyumuremyi Ephron na Umutesi Aline bemeza ko bamubonye muri ako kabare, n'umutangabuhamya Umuhuza Saouda akemeza ko yari i Nyanza kuko yaje kumureba iwabo i Mugandamure, bamarana iminota igera kuro 40 mbere yo kugenda hari umuntu umubipye. [29] Urukiko rusanga izo mvugo zigomba guhabwa agaciro kuko bose bahuriza ku ikoti Minani Frédéric yari yambaye ririho utubara tw'umweru ku maboko, iryo koti Minani Frédéric akaba yemera ko yari aryambaye afatwa, ibyo avuga ko impamvu barihurizaho ari uko Umutesi ariwe warimuguriye bakiri "fiancé" bikaba bitahabwa agaciro kuko nta bindi bimenyetso abitangira, bikaba bitanasobanura impamvu Ndagijimana Thierry na Nshimyumuremyi Ephron nabo bamubeshyera kandi nawe yemera ko batari baziranye cyangwa impamvu Umuhuza Saouda yamubeshyera kandi we atavuga ko hari icyo bapfa. [30] Iyo ruhuje izo mvugo no kuba Minani Frédéric yaremeye gutanga 100.000 Frw yo kwishyura moto yari yibwe Nkurikiyimana Jean Claude, Urukiko rusanga nta gushidikanya ko Minani Frédéric afite uruhare mu iyibwa rya moto kuko nta kigaragaza na kimwe ukuri kw'ibyo avuga ko yayatanze yigura. [31] Ku bijyanye n'uburyo icyaha cyakozwemo, Urukiko rusanga imvugo z'abatangabuhamya Ndagijimana Thierry na Nshimyumuremyi Ephron ko babonaga Nkurikiyimana Jean Claude yasinze kandi anywa Fanta zigaragaza ko atasindishijwe n'inzoga, ndetse iyo zirebewe hamwe na raporo ya muganga igaragaza ko Nkurikiyimana Jean Claude ashobora kuba

Page 14

yarahawe umuti usinziriza, zumvikanisha ko Nkurikiyimana Jean Claude yahawe koko umuti wamuzinze cyangwa wamutesheje ubwenge, ari nayo mpamvu yari ameze nk'uwashinze kandi atanyoye inzoga. [32]

Urukiko rusanga kuba abasangiye na Nkurikiyimana Jean Claude ari nabo bamutwaye kuri moto yataye ubwenge hanyuma akaza gutoragurwa mu gishanga, naho moto ikabura, bigaragaza ko aribo bayibye. [33] Ku bijyanye n'inyito y'ubwo bujura, Urukiko rusanga hakurikijwe ingingo ya 297 y'igitabo cy'amategako ahana cyariho igihe icyaha cyakorwaga isobanura ko "gukoresha kiboko ni ugukora ibikorwa by'agahato ku mubiri w'umuntu", Nkurikiyimana Jean Claude yarakorewe ubujura bukoreshwe kiboko kuko yahawe umuti usinziriza atabizi muri Fanta yanywaga ku buryo atamenye ibyakurikiyeho kugeza ubwo abamutwaye kuri moto bamujugunya mu gishanga ninjoro akahaguma kugeza mu gitondo ataragarura ubwenge. [34] Ku bijyanye n'ibihano, ingingo ya 401 y'igitabo cy'amategako ahana ibyaha cyariho igihe icyaha cyakorwaga yateganyaga igifungo kuva ku myaka 5 kugera ku myaka 10 ku muntu ukoze ubujura bukoreshwe kiboko, naho ingingo ya 403 igateganya igifungo kuva ku myaka 10 kugera ku myaka 15 iyo hari impamvu nkomezacyaha zirimo kuba ubujura bwakozwe

Page 15

n'injoro n'abajura barenze umwe. Ibyo bihano ariko hakurikijwe ibivugwa mu ngingo za 302 na 303 y'Igitabo gishya cy'amategeko ahana byasimbujwe igifungo kuva ku myaka 3 kugeza ku myaka 5 ku muntu ukoze ubujura bukoreshajwe kiboko cyangwa ibikangisho n'ihazabu y'amafaranga yikubye inshuro kuva kuri 5 kugeza ku 10 z'agaciro k'icyibwe, n'igifungo kuva ku myaka 7 kugeza ku myaka 10 iyo hariho impamvu nkomezacyaha.

[35] Urukiko rusanga rero Minani Frédéric agomba guhanwa hakurikijwe ingingo ya 303 y'Igitabo gishya cy'amategeko ahana kuko ubujura bukoreshajwe kiboko bumuhama bwakozwe ninjoro n'abajura barenze umwe, bityo akaba ahanishijwe igifungo cy'imyaka 10 kuri icyo cyaha.

b) Ku byerekeye icyaha cy'ubwinjiracyaha bw'ubuhotozi. [35] Urukiko Rukuru ntabwo rwagaragaje icyo rwashingiyeho ruhamya Minani Frédéric icyaha cy'ubwinjiracyaha

bw'ubuhotozi,

ndetse n'Ubushinjacyaha

ntabwo

bwagaragaje

icyo bwashingiyeho bumukurikiranaho icyo cyaha. [36]

Muri raporo ye Muganga wasuzumye Nkurikiyimana Jean Claude ku itariki ya 05/02/2007 avuga ko yasanze afite udukomere duto mu maso, ku itako ry'iburyo no ku ivi ry'ibumoso dushobora kuba twaratewe n'ibyatsi bamusanzemo mu gitondo, ananiwe kandi azungera (état de fatigue avec des vertiges), atibuka ibyamubayeho nyuma yo kunywa Fanta,

Page 16

arangiza avuga ko ashobora kuba yarahawe ibinini bisinziriza. [37] Urukiko rusanga, iyo rurebeye hamwe iyo raporo n'imvugo ya Nkurikiyimana Jean Claude ubwe muri uru rukiko ko bamusanze aryamye ku mugende nta bikomere afite usibye ko bari bamuteye urushinge mu itako, bigaragara ko nta kintu gikomeye yari yabaye ku buryo hakwemezwa ko abamutwaye moto bashatse no kumwica, cyane cyane ko nta kigaragaza icyaba cyaratumye umugambi batawugeraho. [38] Urukiko rusanga rero ubujurire bwa Minani Frédéric bufite ishingiro ku bijyanye n'icyaha cy'ubwinjiracyaha bw'ubuhotozi kuko yagihamijwe nta bimenyetso

bigaragajwe,

akaba

agomba kugihanagurwaho. B.

KU

BIJYANYE

N'INDISHYI NKURIKIYIMANA JEAN CLAUDE ASABA [39] Nkurikiyimana Jean Claude n'umwunganira bavuga ko indishyi zingana na 1.000.000 Frw Nkurikiyimana Jean Claude yagenewe ku rwego rwa mbere zikwiye gukubwa 2 kubera ko yahohotewe akamara igihe kinini aryamye nta kintu yimarira, akaba yarakomeje gusiragizwa mu nkiko. [40] Minani Frédéric avuga ko indishyi zisabwa nta shingiro zifite kuko ntaho ahuriye n'icyaha, akaba asaba ko zavanwaho zose. Uko urukiko rubibona:

Page 17

[41] Nkurikiyimana Jean Claude ntabwo yajuririye urubanza rwaciwe n'Urukiko Rukuru ku bijyanye n'indishyi, nta nubwo yigeze atanga ubujurire bwuririye ku bundi asaba guhabwa indishyi yaba yarasabye ku rwego rwa mbere ntazihabwe, Urukiko rukaba rero ntaho rwahera rwongera indishyi yagenewe ku rwego rwa mbere, cyane ko nta bimenyetso yazitangiye, bityo hakaba hagomba kugumaho izo yagenewe n'Urukiko Rukuru. III. ICYEMEZO CY'URUKIKO: [42] Rwemeje ko ubujurire bwa Minani Frédéric bufite ishingiro kuri bimwe; [43] Rwemeje ko urubanza RP 0466/07/HC/NYA rwo kuwa 31/03/2010 rwaciwe n'Urukiko Rukuru Urugereko rwa Nyanza ruhindutse kuri bimwe. [44] Rwemeje ko Minani Frédéric adahamwa n'icyaha cy'ubwinjiracyaha bw'ubuhotozi. [45] Rwemeje ko ahamwa n'icyaha cy'ubujura bukoreshye kiboko bukozwe n'injoro n'abantu barenze umwe. [46] Rumuhanishije igifungo cy'imyaka 10 ku cyaha kimuhama cy'ubujura bukoreshye kiboko bukozwe n'injoro n'abantu barenze umwe.

Page 18

[47] Ruvuze ko nta gihindutse kubijyanye n'indishyi za 1.000.000 frw Urukiko Rukuru rwategetse Minani Frédéric kwishyura Nkurikiyimana Jean Claude. [48] Ruvuze ko amagarama y'urubanza aherera ku isanduku ya Leta kuko uwajuriye afunze.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.amategeko.gov.rw/view/doc/7929/8207>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/robberywithviolence-supreme-court-2014>

Prepared on 10 October 2026 · Esheria