

RWANDA / JUDGMENT

UBUSHINJACYAHA v BIZIMANA

RPAA 01340/2024/CA

COURT

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UBUSHINJACYAHA v BIZIMANA

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Text

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UBUSHINJACYAHA v BIZIMANA [Rwanda URUKIKO RW'UBUJURIRE - RPAA 01340/2024/CA (Kanyange, P.J.) 30 Ukwakira 2025] Amategeko agenga imanza z'inshinjabyaha – icyaha - Ibishingirwaho ngo hemezwe ko uregwa ahamwa n'icyaha - Kugira ngo Umucamanza afate icyemezo gihamya icyaha, agomba kuba afite ibimenyetso bihamya nta gushidikanya (preuves à conviction au-delà de tout doute raisonnable) ko ushinjwa ariwe wakoze icyaha, ko Umucamanza agomba gusesengurana ubushishozi uruhurirane rw'ibimenyetso, agahamya ushinjwa icyaha mu gihe gusa asanga nta wundi mwanzuro wagerwaho n'isesengura yakoze uretse iryo gusanisha uwakoze icyaha n'icyaha cyakozwe. Incamake y'ikibazo: Bizimana yaketsweho gusambanya umwana we w'imyaka 14 ubwo yamujyanaga kwa mubyara we witwa Niyonsaba Jeannette wabaga mu Bugesera, amugejejeyo uwo mubyara we abona uwo mwana atameze neza ngo amubajije icyo yabaye amubwira ko se yaje amusambanya mu nzira kandi ko ngo asanzwe abikora iyo mu ka se adahari. Uwo mwana yajyanwe kwa muganga ngo apimwe, ndetse Ubushinjacyaha burega Bizimana mu Rukiko rwisumbuye rwa Gasabo icyaha cyo gusambanya umwana. Urukiko rushingiye k' ubuhamya bwa Niyonsaba Jeannette n'umugabo we witwa Bihoyiki Emmanuel, ku mvugo z'umwana wasambanyijwe na raporo ya muganga igaragaza ko

uwo mwana nta karangabusugi yari afite ndetse ko no kugitsina cye hatukuraga, rwemeje ko Bizimana ahamwa n'icyaha aregwa rumuhanisha igihano cy'igifungo cy'imyaka 25. Uyu yajuririye icyo cyemezo mu Rukiko Rukuru avuga ko yahamijwe icyaha atakoze. Urukiko Rukuru rwasanze ubujurire bwe nta shingiro bufite ariko kubera ko ari ubwa mbere yari akoze icyaha rumuhanisha igihano cy'igifungo cy'imyaka 15 n'ihazabu ya 3.000.000 Frw. Uregwa yajuririye icyo cyemezo mu Rukiko rw'Ubujurire, ubujurire burakirwa, hasuzumwa ikibazo cyo kumenya niba hari ibimenyetso Urukiko rwirengagije bigatuma Bizimana Aloys ahamwa n'icyaha atakoze. Bizimana asobanura ko atigeze akora icyaha ashinjwa ko ahubwo abamurega babikora kubera amazu basigiwe n'ababyeyi babo akaba aribyo byatumye mushiki we n'umukobwa we barahimbye icyaha cyo kumufungisha. Agaragaza ko hari raporo yakozwe n'inzego zibanze igaragaza ko atigeze atoroka nkuko inkiko zabanjye zagite zibivuga agakomeza avuga ko n'ibindi bimenyetso byashingiweho ahamwa icyaha bitahabwa ishingiro kuko bitera gushidikanya. Ubushinjacyaha buvuga ko ibivugwa n'uregwa ko yahimbiwe icyaha kubera amakimbirane afitanye na mushiki we atari byo kuko nta bimenyetso abitangira ndetse n'abo avuga bayafitanye bakaba bivugira ko nta makimbarane bafitanye. Naho ku kijyanye n'ibimenyetso, ubushinjacyaha buvuga ko nta nenge bifite kuko bigaragaza ko umwana yasambanyijwe bityo bihuriye hamwe bikaba bigaragaza ko uregwa ari we wakoze icyo cyaha. Incamake y'icyemezo: Kugira ngo Umucamanza afate icyemezo gihamya icyaha, agomba kuba afite ibimenyetso bihamya nta gushidikanya (preuves à conviction au-delà de tout doute raisonnable) ko ushinjwa ariwe wakoze icyaha, ko Umucamanza agomba gusesengurana ubushishozi uruhurirane rw'ibimenyetso, agahamya ushinjwa icyaha mu gihe gusa asanga nta

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wundi mwanzuro wagerwaho n'isesengura yakoze uretse iryo gusanisha uwakoze icyaha n'icyaha cyakozwe. Ubujurire bufite ishingiro. Nta mategeko yashingiweho Imanza zifashishijwe RPAA 010/09/CS, Ubushinjacyaha na NZAJYIBWAMI Emmanuel, rwaciwe n'Urukiko rw'Ikirenga ku wa 09/03/2012; RPAA 00737/2021/CA, Ubushinjacyaha na Uwayisaba Habimana Antoine, rwaciwe n'Urukiko rw'Ubujurire ku wa 16/12/2022; RPAA 00389/2023/CA, Ubushinjacyaha na Nsengiyumva Sam rwaciwe n'Urukiko rw'Ubujurire ku wa 29/05/2025. Urubanza I. IMITERERE Y'URUBANZA [1] Uwitwa Niyonsaba Jeannette yatanze ikirego mu Bugenzacyaha avuga ko Bizimana Aloys yasambanyije umwana we (wa Bizimana) w'imyaka cumi n'itatu (13) y'amavuko witwa U.A.1, uwo mwana akaba yaravuze ko se yamusambanyije inshuro 4 mu bihe bitandukanye, igihe mukase yabaga adahari, yongera kumusambanyiriza mu nzira amuvanye mu Karere ka Nyanza amujyanye mu Karere ka Bugesera kwa mubyara we Niyonsaba Jeannette, ari nabwo byamenyekanye ko asambanya uwo mwana, Bizimana Aloys atangira gukurikiranwa. [2] Nyuma y'iperereza, Ubushinjacyaha bwareze Bizimana Aloys mu Rukiko Rwisumbuye rwa Gasabo icyaha cyo gusambanya umwana, bushingiye ku bimenyetso birimo imvugo z'uwo mwana, imvugo z'abatangabuhamya na raporo ya muganga, bumusabira guhanishwa igifungo cya burundu. [3] Bizimana Aloys yaburanye ahakana icyaha, asobanura ko ari akagambane n'urwango yagiriwe n'abamurega, kandi ko uwo mwana batabanaga, asaba ko hakorwa iperereza na nyina w'umwana akabazwa. [4] Urukiko rwaciye urubanza N° RP 00037/2019/TGI/GSBO ku wa 29/11/2019, rusanga

hari ibimenyetso bihamya ko Bizimana Aloys yakoze icyaha akurikiranweho bigizwe n'imvugo za U.A. wasobanuye ko yamusambanyije inshuro zirenga enye; ubuhamya bwa Niyonsaba Jeannette n'umugabo we witwa Bihoyiki Emmanuel, basobanuye ko umwana yageze iwabo ananiwe kandi agenda nabi no ku myenda ye hariho amaraso, bamubajije icyo yabaye ababwira ko se yamusambanyije, runashingira ku kuba Bizimana Aloys yaravuze ko yumvise batangiye kuvuga iby'isambanywa ry'uwo mwana agahitamo kwigendera kuko basanzwe bafitanye amakimbirane, 1 Amazina arahinwe kubera kamere y'icyaha n'imyaka y'uwahohotewe.

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no kuri raporo ya muganga.² Rwasanze ariko yahabwa igihano kigabanyije cy'imyaka 25 kubera ko ari ubwa mbere akurikiranweho icyaha. [5] Bizimana Aloys yajuriye mu Rukiko Rukuru, avuga ko Urukiko rwa mbere rwamuhamije icyaha rwirengagije ibisobanuro yatanze by'uko kumushinja icyaha byatewe n'amakimbirane yagiranye n'abavandimwe be ashingiye ku mirima basigiwe n'ababyeyi babo, kandi ko atari we wakuye umwana we mu Karere ka Nyamasheke. [6] Ubushinjacyaha bwashubije ko ubujurire bwa Bizimana Aloys nta shingiro bufite kuko atavuguruza ibimenyetso byashingiweho bimuhamya icyaha, bigizwe n'imvugo z'abatangabuhamya, imvugo z'umwana umushinja na raporo ya muganga. [7] Mu rubanza N°RPA 00331/2021/HC/KIG rwaciwe ku wa 14/11/2024, Urukiko rwasanze Bizimana Aloys atavuguruza ibimenyetso byashingiweho n'Urukiko Rwisumbuye rwa Gasabo rumuhamya icyaha, bigizwe n'imvugo za U.A. umushinja kumusambanya, ubuhamya bwa Niyonsaba Jeannette n'umugabo we Bihoyiki Emmanuel basobanuye ko uwo mwana yabagezeho ananiwe, agenda nabi no ku myenda (inyuma) hariho amaraso, imvugo ya Bizimana Aloys wavuze ko yumvise bavuga iby'isambanywa ry'uwo mwana agahitamo kwigendera kuko basanzwe bafitanye amakimbirane, na raporo ya muganga igaragaza ko umwana yasambanyijwe (hymen absent, rougeur de la grande lèvre). Narwo rwamugabanyirije igihano rushingiye ko ari ubwa mbere ahamijwe icyaha kandi nta kigaragaza ko yari asanganwe imyitwarire mibi no kuba nta ngaruka zikomeye icyaha yakoze cyateje, rumuhanisha igifungo cy'imyaka (15) n'ihazabu ya 3.000.000 Frw.³ [8] Bizimana Aloys yatanze ubujurire bwa kabiri mu Rukiko rw'Ubujurire, urubanza rwandikwa kuri N° RPAA 01340/2024/CA, ruburanishwa mu ruhamwe ku wa 09/09/2025 Bizimana Aloys yunganiwe na Me MUNINI Patrick, Ubushinjacyaha buhagarariwe na GAKWERERE Javan, Umushinjacyaha ku rwego rw'Igihugu. Rwongeye kuburanishwa ku wa 09/10/2025 rwumva MUKANGARAMBE Espérance na Niyonsaba Jeanette,⁴ uwo munsu Bizimana Aloys akaba yari yunganiwe nka mbere naho Ubushinjacyaha buhagarariwe na UWANZIGA Lydia, Umushinjacyaha ku rwego rw'Igihugu. [9] Mu myanzuro y'ubujurire no mu miburanire, Bizimana Aloys n'umwunganira bavugaga ko Urukiko rwamuhamije icyaha cyo gusambanya umwana rwirengagije ibimenyetso yarugaragarije by'uko gishingiye ku makimbirane yo mu muryango, ntihagaragazwa ibimenyetso byemeza ko yatorokanye uwo mwana amuvana i Nyamasheke kandi ntihakorwa iperereza yari yasabye. [10] Uhagarariye Ubushinjacyaha avugaga ko izo mpamvu nta shingiro zifite, kuko iby'amakimbirane Bizimana Aloys avugaga atabigaragariza ibimenyetso, ko n'ibyo gutorokana umwana amuvana i Cyangugu atari byo byashingiweho ahamya n'icyaha, naho iperereza akaba ntaryo yasabye uretse ko Urukiko rudategiwe kurikora.

2 Hymen absent, rougeur de la grande lèvre 3 Icyo gihano cy'ihazabu ariko ntigiteganyijwe ku cyaha cyo gusambanya umwana 4 A.U. nawe yari yahamagajwe ariko ntiyabasha kuboneka.

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[11] Muri uru rubanza harasuzumwa niba hari ibimenyetso Urukiko rwirengagije bigatuma Bizimana Aloys ahamwa n'icyaha atakoze II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba hari ibimenyetso Urukiko rwirengagije bigatuma Bizimana Aloys ahamwa n'icyaha atakoze [12] Bizimana Aloys n'umwunganira bavuga ko Urukiko rwamuhamije icyaha rwirengagije inyandiko y'Umudugudu n'Akagari igaragaza ko kuva yafungurwa ku wa 01/07/2017 agizwe umwere n'Urukiko Rukuru ku cyaha cyo gusambanya umwana yari yarezwe, yahise ajya gucumbika mu Karere ka Nyanza, iyo nyandiko ikaba ivuguruza ibyo ashinjwa ko yavuye mu Karere ka Nyamasheke atorotse ahunga icyaha; ko ahubwo mushiki we witwa Mukangarambe Espérance utuye i Gasanze muri Kigali ari we wakuye uwo mwana i Cyangugu aho yabaga kwa Mukacyubahiro Josephine kuva afite imyaka 3, Mukangarambe akaba ari nawe wamuhamagaye (Bizimana) ngo aze atware uwo mwana, araza amujyana i Nyanza aho yari atuye, iryo joro yongerera kumuhamagara ngo amushyire umukobwa we utuye i Nyamata witwa Niyonsaba Jeannette kugira ngo azamujyane i Cyangugu, amumushyira aho yabaga mu Bugesera, asanga ari kumwe n'umugabo we, bahageze Jeannette ajyana na U.A. kugura isukari, bagaruka Jeanette avuga ngo atava aho kuko umwana yavuze ko yamusambanyije, ko rero ibyo gusambanya umwana n'ibyo bavuga ko yahise atoroka byahimbwe na Jeanette na nyina. [13] Banavuga ko Urukiko rwirengagije inyandiko yafunguriweho ku wa 01/07/2017, afungishijwe kubera akagambane ka mushiki we n'umukobwa we bamuhimbiye icyaha cyo gusambanya umwana, bapfa amazu basigiwe n'ababyeyi babo, imanza z'amasambu bakaba baraziburanye mu Mudugudu wa Bweranyange no mu Kagari nk'uko byemezwa n'inyandiko iri muri dosiye, icyo kimenyetso kikaba kigaragaza ko abamurega atari ubwa mbere bamureze kandi bamurega icyaha kimwe. [14] Bizimana Aloys n'umwunganira bavuga kandi ko basabye ko Ubushinjacyaha bugaragaza ikimenyetso cyemeza ko yatorokanye U.A. akajya kumuhisha mu Karere ka Bugesera nk'uko bubimushinja ariko ntibwakigaragaza, kandi ko mbere bwavugaga ko umwana yamusambanyirije i Nyamasheke no mu nzira, ariko ubu bukaba buvuga ko yamusambanyirije i Nyanza. Naho ikijyanye no kuba hari raporo ya muganga bikaba bidasobanuye ko ari we wamusambanyije, ko ahubwo umwana yavuye kwa nyirasenge byateguwe, bityo ko n'ubwo yaba yarasambanyijwe nta kigaragaza ko ari Bizimana Aloys wamusambanyije ahubwo babimugeretseho kubera amakimbirane bafitanye. [15] Bavuga kandi ko Urukiko rutakoze iperereza yari yasabye, kandi ryari kugaragaza ko ibyo aregwa bishingiye ku makimbirane akomoka ku mitungo y'umuryango, ko rero iryo perereza iyo rikorwa hari kumenyekana uwakuye uwo mwana i Nyamasheke, cyangwa se ko yaba yarigeze abana n'uwo mwana i Nyanza, ndetse ko hakorwa iperereza aho uwo mwana yarererwaga i Shanghi, bikaba byari no gusobanuka iyo Urukiko ruza kwibariza uwo mwana ariko ko ubu ntawe uzi aho bamushyize. [16] Banavuga ko abatangabuhamya bavuze ko babonye umwana agenda nabi n'imyenda iriho amasohoro, ariko muganga akaba nta

masohoro cyangwa amaraso yabonye ku gitsina cy'umwana

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kandi yarahise ajyanwa kwa muganga, bityo kuba muganga yaragaragaje ko ku gitsina cy'umwana hari hatukuye akaba atari ikimenyetso cy'uko yasambanyijwe. [17] Ku byavuzwe n'abumviswe n'uru Rukiko, Bizimana Aloys n'umwunganira bavuga ko kuba Mukangarambe Esperance yaremeje ko yabonye U.A. afite uburara bukabije arara aho abonye, byahuzwa n'ibyo muganga yagaragaje ko atari isugi, bikaba bivuze ko yashoboraga gusambanywa n'abandi, ko kandi ubuhamya bwe bwumvikanisha ko atari Bizimana Aloys wavanye uwo mwana i Nyamasheke kuko yavuze ko yizanye, akaba yaranemeje iby'amakimbirane yari ahari nk'uko binagaragazwa n'impapuro zo mu Mudugudu zivuga ko baburanye, hakaba n'urubanza yarezwemo gusambanya abana ba musaza w'umugore wa mukuru we, ko kandi ibyo avuga ko ikibazo cy'amakimbirane cyakemutse atari byo, kuko nyuma y'uko umubyeyi wabo (nyina) apfuye yishwe, Bizimana Aloys n'umugore we babifungirwe, muri icyo gihe bari bafunzwe abavandimwe be bagurisha isambu yose n'inzu, atashye abura aho aba. [18] Basanga rero ibimenyetso byatanze n'Ubushinjacyaha birebwe hamwe n'ibyo abatangabuhamya bavuga ndetse n'ibyo Bizimana Aloys yireguza, bigaragaza ko nta kimenyetso gihari gihamya ko yasambanyije umwana we, bityo ko yarenganurwa hashingiwe ku ngingo ya 111 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha. [19] Uhagarariye Ubushinjacyaha avuga ko ikibazo cy'uko Bizimana Aloys atatorokanye umwana we n'icy'uko nyuma yo gufungurwa ataturye mu Karere ka Nyamasheke, ntaho Urukiko rwabishingiyeho, ko icyaha yarezwe ari icyo gusambanya umwana kandi mu kwemeza ko kimuhama hakaba harashingiwe ku bimenyetso bigizwe n'imvugo z'uwo mwana umushinja kumusambanya inshuro enye (4), iz'abatangabuhamya bemeza ko umwana yabagezeho azanywe na se, imyenda ye iriho amaraso, bamubaza akababwira ko se yamusambanyije, bigashimangirwa na raporo ya muganga igaragaza ko yasambanyijwe (hymen absent, rougeur de la grande lèvre). [20] Uhagarariye Ubushinjacyaha avuga kandi ko ibyo kuba Bizimana Aloys avuga ko yageretsweho icyaha kubera amakimbirane yo mu miryango bitahabwa agaciro, kuko abivuga mu magambo gusa nta kimenyetso atanga kibigaragaza, ko kandi iyo ayo makimbirane aza kuba ariho, mushiki we atari kujya kuzana umwana i Cyangugu, akaba atari no gusaba Bizimana Aloys kuza kumutwara ngo amusubize i Cyangugu, bityo ibyo Jeanette yavuze ko ari Bizimana Aloys wavanye uwo mwana i Cyangugu akabana nawe i Nyanza, akaza kumuvanayo akamujyana mu Bugesera kugira ngo amuhisheyo kuko byari byamenyekanye ko ajya amusambanya mu gihe umugore we yabaga adahari, ari ukuri. [21] Avuga kandi ko ibyo Bizimana Aloys anenga ko hatagaragajwe ibimenyetso by'uko yatorokanye umwana nta shingiro bifite, kuko atarezwe icyaha cyo gutoroka inzego z'ubuyobozi ahubwo yarezwe icyo gusambanya umwana we, ari nacyo cyakozweho iperereza rikagaragaza ko umwana yasambanyijwe nk'uko raporo ya muganga ibigaragaza, n'umwana akaba amushinja, Bizimana Aloys nawe abazwa mu Bugenzacyaha akaba yaremeye ko ariwe wagejeje uwo mwana mu Bugesera, n'abatangabuhamya bakemeza ko umwana yabagezeho azanywe na se akababwira ko yamusambanyije, babibaza Bizimana Aloys agahita yigendera.

5 Iyo ngingo iteganya ko: 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”.

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[22] Uhagarariye Ubushinjacyaha avuga kandi ko ntaho bigaragara ko Bizimana Aloys yasabye Urukiko gukora iperereza, uretse ko n'iyi arisaba ntirikorwe bitaba inenge ku rubanza kuko Urukiko rudategetswe gukora iperereza igihe cyose umuburanyi abisabye, ahubwo rubikora mu bushishozi bwarwo mu gihe rusanze ari ngombwa nk'uko byatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza N° RPA0101/09/CS rwaciwe ku wa 01/06/2012. [23] Ku bijyanye n'imvugo z'abumviswe n'uru Rukiko, Uhagarariye Ubushinjacyaha avuga ko imvugo zabo zumvikanisha ko nta makimbirane yari ahari kuko basobanuye ko kitari ikibazo gikomeye ku buryo cyatuma afungwa, ko kandi iyo kiba ari ikibazo gikomeye kirebana n'amasambu kitari kurangirira mu Mudugudu, ndetse akaba atari gushyira umwana Jeannette nk'uko yabikoze, ko rero gukurikiranwa bitatewe n'amakimbirane ahubwo yakurikiranwe kubera icyaha yakoze nk'uko byasobanuwe n'Urukiko Rukuru. Naho ku bijyanye na raporo ya muganga bavuga ko itagaragaza ko umwana yasambanyijwe, na byo bikaba nta shingiro bifite kuko muganga yasanze ku gitsina cye hatukuye, bikaba byahuzwa n'imvugo z'umwana n'iz'abatangabuhamya.

UKO URUKIKO RUBIBONA [24] Impaka muri uru rubanza zishingiye ku kumenya niba hari ibimenyetso Urukiko rwirengagije bigatuma Bizimana Aloys ahamwa n'icyaha atakoze. [25] Ku bijyanye n'ibishingirwaho ngo hemezwe ko uregwa ahamwa n'icyaha byasobanuwe n'Urukiko rw'Ubujurire mu manza zitandukanye harimo urubanza N° RPAA 00737/2021/CA6, no mu zindi manza zaciwe nyuma yarwo harimo urubanza N° RPAA 00389/2023/CA7, muri izo manza Urukiko rukaba rwaremeje ko kugira ngo Umucamanza afate icyemezo gihamya icyaha, agomba kuba afite ibimenyetso bihamya nta gushidikanya (preuves à conviction au-delà de tout doute raisonnable) ko ushinjwa ariwe wakoze icyaha, ko Umucamanza agomba gusesengurana ubushishozi uruhurirane rw'ibimenyetso, agahamya ushinjwa icyaha mu gihe gusa asanga nta wundi mwanzuro wagerwaho n'isesengura yakoze uretse iryo gusanisha uwakoze icyaha n'icyaha cyakozwe. [26] Nk'uko urubanza rujuririrwa rubigaragaza, Bizimana Aloys yahamijwe icyaha hashingiwe ku mvugo y'umwana we U.A. wamushinje kumusambanya, ku mvugo z'abatangabuhamya Niyonsaba Jeannette n'umugabo we Bihoyiki Emmanuel bavuze ko uwo mwana yageze iwabo ananiwe, agenda nabi kandi ku myenda ye (inyuma) hariho amaraso, ku byo Bizimana Aloys yavuze ko yumvise bavuga ibyo gusambanya umwana agahitamo kwigendera na raporo ya muganga yagaragaje ko umwana atari agifite akarangabusugi no ku gitsina cye hatukuye. [27] Ku birebana n'imvugo za U.A. mu nyandikomvugo yo mu Bugenzacyaha, yasobanuye uburyo se yamusambanyaga, ko yafataga amavuta akayamusiga mu kibuno andi akayisiga ku gitsina cye akagishyira mu cy'uwo mwana, ko yamusambanyije inshuro enye mu rugo no mu

6 Reba urubanza N° RPAA 00737/2021/CA rwaciwe ku wa 16/12/2022, haburana Ubushinjacyaha na Uwayisaba Habimana Antoine igika cya 16-17. 7 Reba urubanza N° RPAA 00389/2023/CA rwaciwe ku wa 29/05/2025, haburana Ubushinjacyaha na Nsengiyumva Sam igika cya 20.

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nzira, anavuga ko atibuka igihe yamusambanyirije, ariko ko bageze mu Bugesera nabwo yamusambanyije inshuro ebyiri (2). [28] Naho ku birebana n'abatangabuhamya, uwitwa Niyonsaba Jeannette mu nyandikomvugo yakoreye mu Bugenzacyaha, yasobanuye ko Bizimana Aloys yageze iwe i Ntarama azanye na U.A., amubwira ko bucya bajya kwa nyirasenge i Kigari, ariko ko nyuma yabonye umwana agenda atagataga afite n'amaraso ku myenda, amubaza icyo yabaye undi amubwira ko se yamukuye kwa nyirasenge amubwira ko amushyiriye nyina, bageze mu nzira amujyana mu gihuru aramusambanya, ko no mu rugo yahengaga umugore we yagiye guhinga akamusiga amavuta mu gitsina nawe akayisiga ku cye akamuryama hejuru akamubwira ko ntacyo aba ngo n'abandi bajya babikora, kandi ko mu kumuzana yagiye amunyuzza mu bihuru arimo kumutorokeshya. Niyonsaba Jeannette yavuze kandi ko yabajije Bizimana Aloys icyatumye asambanya umwana we, ahita asohoka ajyana uwo mwana avuga ko amushyiriye ba nyirasenge, hashize umwanya amuhamagara kuri telefone amubwira ngo arebe U.A. aho amusize ku muhanda, amaze kuzana uwo mwana mu rugo ajya gutanga amakuru kuri Polisi i Ntarama nabo bamwohereza i Nyamata, aba aribo bajya kumufata aho yari ari kwa mubyara we. [29] Naho imbere y'uru Rukiko, Niyonsaba Jeannette yasobanuye ko Bizimana Aloys yaje iwe ari nimugoroba azanye na U.A., amubwira ko amumuzaniye ngo azamushyire nyirasenge, arahamushya aragenda, ariko akimara kuhava U.A. amusanga mu gikari amubwira ko se yamusambanyije ahita yiyambaza abanyerondo baramushaka baramubura, atanga ikirego mu Bugenzacyaha bajya kumufata kwa mubyara we aho yari yagiye, we bamwohereza gupimisha umwana kwa muganga, anavuga ko atamenye niba uwo munsu Bizimana Aloys yaramusambanyije, ko n'aho yamusambanyirije atahamenye, kandi ko nta kibazo bari bafitanye n'uwo nyirarume kuko n'icyo gihe yari aje amuzaniye uwo mwana. [30] Ku birebana n'undi mutangabuhamya witwa Bihoyiki Emmanuel akaba umugabo wa Niyonsaba Jeannette, mu nyandikomvugo yakoreye mu Bugenzacyaha yasobanuye ko bamenye ko Bizimana Aloys yasambanyije umwana we ku wa 12/12/2019 ubwo yazanaga na se iwe ngo bazamwohereze kwa nyirasenge i Kigali, ariko babona uwo mwana yananiwe, bamubwira kujya koga ngo aruhuke, ariko umugore we amurebye abona adahagarara kandi ku myenda hariho amaraso, amubajije amubwira ko se yamusambanyije kandi ko amaze kumusambanya inshuro enye (4), anababwira ko yamuvanye aho babaga abaturage bamaze kubimenya aramuhungisha, babajije se arasohoka arabacika asiga umwana aho, biyambaza inzego zibishinzwe arafatwa. [31] Mu bimenyetso byashingiweho hari kandi raporo ya muganga igaragaza ko U.A. yasuzumwe ku wa 14/12/2019, mu byo yagaragaje hakaba harimo ko ku gitsina cy'uwo mwana hatukuraga (rougeur de la grande lèvre), ko nta karangabusugi agifite (hymen absent), ko nta masohoro yagaragaye (absence de spermatozoïde), ko ibindi byose muganga yapimye nta kidasanzwe yabonye, naho mu mwanzuro ivuga ko afite uburwayi (infection bactérienne), kandi ko hakekwa ko yaba yarasambanyijwe (suspicion de viol sexuel). [32] Ku bivugwa na Bizimana Aloys n'umwunganira ko Urukiko

rwirengagije ibimenyetso bigaragaza ko atari we wakuye umwana i Cyangugu amuzanye i Kigali, Urukiko rw'Ubujurire rurasanga mu buhamya bwa Mukangarambe Esperance, yaravuze ko atazi uwazanye uwo mwana kuko yamugezeho aho atuye i Gasanze yizanye amubwira ko avuye i Nyamasheke aje ngo babane

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kuko yashakaga kumushyira mu ishuri, bityo iyo mvugo ye ikaba igaragaza ko atari Bizimana Aloys wamukuye i Nyamasheke. [33] Naho ku bijyanye n'iperereza Bizimana Aloys n'umwunganira bavuga ko ritakozwe kandi ryari kugaragaza ko ibyo aregwa bishingiye ku makimbirane akomoka ku mitungo y'umuryango, kandi ko iyo rikorwa hari kumenyekana uwakuye uwo mwana i Nyamasheke, rikanagaragaza niba yarigeze abana n'uwo mwana i Nyanza, Urukiko rw'Ubujurire rurasanga kudakora iperereza bitaba inenge ku rubanza rujuririrwa kuko nk'uko byatanzweho umurongo n'Urukiko rw'Ikirenga, Urukiko ntirutegetswe gukora iperereza cyangwa kubaza abatangabuhamya igihe cyose bisabwe n'umuburanyi iyo rwumva ibimenyetso rwashyikirijwe bihagije.8 Naho ku bijyanye n'ibimenyetso bigaragaza amakimbirane yari ahari, uru Rukiko rurasanga n'ubwo baba bafite ibyo bapfa, cyane cyane ko n'ababajijwe muri uru rubanza bemeje ko ibibazo by'amasambu byabayeho, ubwabyo bitaba ikimenyetso kimushinjura ahubwo hakwiye gusesengurwa niba ibimenyetso byashingiweho byemeza nta gushidikanya ko yakoze icyaha akurikiranweho. [34] Ku birebana n'ikimenyetso kigizwe n'ubuhamya bwa Niyonsaba Jeannette n'ubw'umugabo we Bihoyiki Emmanuel nk'uko bwibukijwe mu bika bya 28-31 by'uru rubanza, Urukiko rw'Ubujurire rurasanga isesengurwa ryabwo rigaragaza ibintu bitera urujijo ku birebana n'imikorere y'icyaha Bizimana Aloys akurikiranweho, bitewe n'uko mu nyandikomvugo bakoreye mu Bugenzacyaha, bavuze ko U.A. akibageraho babonye ameze nabi atabasha kugenda no ku myenda ye hariho amaraso, bamubajije ababwira ko se yamusambanyije inshuro 4, ko yamusambanyirije mu rugo iwe no mu nzira bava kwa nyirasenge, kandi ko mu kumusambanya yamusigaga amavuta mu gitsina, nawe akayasiga ku cye, agashyira igitsina mu cy'umwana, mu gihe imbere y'uru Rukiko Niyonsaba Jeannette yavuze ko uwo mwana ariwe wamusanze mu gikari akamubwira ko se yamusambanyije, ariko ko atazi igihe yamusambanyirije n'aho byabereye, izi mvugo rero zikaba zitera gushidikanya kuko zidahuza ku bijyanye n'uburyo bamenyemo uko uwo mwana yasambanyijwe, n'uburyo bavuga aho yasambanyirijwe, kandi n'ubwo haba hashize igihe bibaye bikaba ari ibintu umuntu mukuru atakwibagirwa. [35] Naho ku bijyanye n'imvugo za U.A. wavuze ko se yari amaze kumusambanya inshuro enye, agasobanura ko mu kumusambanya yamusigaga amavuta mu gitsina akamusambanya ashyize igitsina mu cye, kandi ko bageze mu Bugesera nabwo yamusambanyije inshuro 2, Urukiko rw'Ubujurire rurasanga iyo mvugo ye irebwe hamwe n'ibyo raporo ya muganga yagaragaje ko ku gitsina cye hari hatukuye, ko nta masohoro yari amuriho no kuba yarasanganwe uburwayi, nayo itera gushidikanya, kuko kuba yarahise ajyanwa kwa muganga hatari kubura ibimenyetso bya vuba muganga abona, cyane cyane ko yavuze ko bageze no mu Bugesera yamusambanyije inshuro 2, naho kuba raporo ya muganga yaragaragaje ko ku gitsina cye hari ahari hatukuye (rougeur de la grande lèvre), nta cyakwemeza ko byatewe no gusambanywa cyangwa n'uburwayi muganga yamusanganye (infection bacterienne). [36] Urukiko rw'Ubujurire rurasanga na none n'imvugo

z'abatangabuhamyu bavuzwe haruguru zirebewe hamwe na raporo ya muganga, nazo zitera gushidikanya, kuko bavuze ko umwana yabagezeho agenda nabi atagataga afite n'amaraso ku myenda, mu gihe muganga wasuzumye uwo mwana atavuze iby'ayo maraso cyangwa ngo agaragaze ko hari igikomere umwana yari afite cyari

8 Reba urubanza n° RPAA 010/09/CS rwaciwe ku wa 09/03/2012 haburana Ubushinjacyaha na Nzajyibwami Emmanuel, igika cya 9

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gutuma ava amaraso, cyangwa se ngo agaragaze ikindi kibazo yamubonyeho, nko kuba atarabashaga kugenda neza nk'uko abo batangabuhamyu babivuze. Naho ibyo muganga yagaragaje ko nta karangabusugi umwana yari afite bikaba bitashyingirwaho hemezwa ko byatewe n'uko gusambanywa na se, kuko nta bindi bimenyetso bidasanzwe muganga yabonye mu gihe abatangabuhamyu bo bavuze ko bamubonye atagataga atabasha kugenda. [37] Ku bijyanye n'imvugo Bizimana Aloys yavugiyemo mu Bugenzacyaha ko yumvise bavuga ibyo gusambanya umwana agahitamo kwigendera nayo yashyingirwaho nk'ikimenyetso kimushinja icyaha, Urukiko rw'Ubujurire rurasanga iyo mvugo itashyingirwaho yonyine nk'ikimenyetso kihagije kimushinja icyaha, kuko byagaragajwe ko ibindi bimenyetso bitera gushidikanya. [38] Hashingiwe ku byasobanuwe, Urukiko rw'Ubujurire rurasanga ibimenyetso byose byashyingirwaho n'Urukiko Rukuru mu guhamya icyaha Bizimana Aloys nk'uko byasesengurwe haruguru, bidahamya mu buryo budashidikanywaho ko yakozwe icyaha cyo gusambanya umwana, bityo hashingiwe ku murongo watanze mu manza zavuzwe haruguru no ku ngingo ya 111 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ivuga ko gushidikanya birengera ushinjwa, ko iyo urubanza rwakurikiranwe mu buryo bwose ntihagire ibimenyetso nyakuri biboneka byemeza abacamanza ko ushinjwa yakozwe icyaha koko, bagomba kwemeza ko atsinze, bityo Bizimana Aloys akaba agizwe umwera kubera gushidikanya, bivuze ko imikirize y'urubanza rwajuririwe ihindutse.

III. ICYEMEZO CY'URUKIKO [39] Rwemeje ko ubujurire bwa Bizimana Aloys bufite ishingiro; [40] Rwemeje ko urubanza No RPA 00331/2021/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 14/11/2024 ruhindutse; [41] Rwemeje ko Bizimana Aloys adahamwa n'icyaha cyo gusambanya umwana yari akurikiranwaho, akaba agomba kurekurwa.

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