

RWANDA / JUDGMENT

UBUSHINJACYAHA v. NDUNGUTSE N'ABANDI

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UBUSHINJACYAHA v. NDUNGUTSE N'ABANDI [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00269/2023/CA (Ndahayo, P.J.) 28 Mutarama 2026] Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – Ubujurire – Ingingo y'Ubujurire itanzwe nyuma y'ibihe byo kujurira – Ingingo iyo ariyo yose itanzwe nyuma y'ibihe ntarengwa byo kujurira, uretse iyuzuza cyangwa isobanura iyatanzwe mu bihe byemewe byo kujurira, itagomba kwakirwa. Amategeko agenga imanza z'inshinjabyaha – Ubujura bukoreshwe intwari – Kugira ngo umuntu yitwe ko yakozwe icyaha cyo kwiba hakoreshejwe intwari, uwiba agomba kuba yari yitwajwe igikoresho icyo ari cyo cyose, imbunda, icyuma cyangwa ikindi kintu cyose gituma, gitobora cyangwa gisekura, gishobora kwica, gukomeretsa cyangwa gukubitishwa kigaragara cyangwa gihisha cyangwa kibonetse hafi y'aho icyaha cyakorewe. Amategeko agenga imanza ibimenyetso – Inshingano yo gutanga ibimenyetso mu manza nshinjabyaha – Mu manza z'inshinjabyaha, ntabwo buri ruhanda rufite inshingano y'ibyo rugomba gutangaho ibimenyetso, ahubwo iyo inshingano ifitwe n'urega ijana ku ijana, ni ukuvuga Ubushinjacyaha cyangwa uregere indishyi iyo ahari. Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – Kuganya igihano – Urukiko ntirutegetswe kugabanya igihano n'iyi hari impamvu nyoroshyacyaha, ahubwo rugena igihano mu bushishozi bwawo rurebye imikorere y'icyaha uregwa akurikiranyweho cyangwa uburyo cyakozwemo. Incamake y'ikibazo: Abitwa TWAHIRWA Jean Baptiste, NSABIMANA Gilbert na NDUNGUTSE Etienne bakurikiranyweho n'Ubushinjacyaha icyaha cyo kurema umutwe w'abagizi ba nabi maze, nyuma yuko bitandukanye kandi mu Turere dutandukanye bitwikira ijoro bitwaje intwari, bakamena inzu bakiba ibikoresho bitandukanye nka za Flat screen n'ibindi. Nyuma y'iperereza bubaregere Urukiko Rwisumbuye rwa Nyarugenge busaba kwemeza ko ibyaha baregwa bigize impurirane mbonezamugambi, kandi ko bibahama, rukabahanisha igifungo cy'imyaka makumyabiri (20) n'ihazabu ya miliyoni zirindwi (7.000.000 Frw) kuri buri wese. Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza rwemeza ko abaregwa bahamwe n'icyaha cyo kwiba hakoreshejwe guca icyuho bikoze nijoro n'abantu barenze umwe hamwe n'icyaha cyo kwiba hakoreshejwe intwari, bikaba bigize impurirane mbonezamugambi, rubahanisha igihano cy'igifungo cy'imyaka 20 n'ihazabu y'amafaranga y'u Rwanda miliyoni eshanu (5,000,000 Frw) kuri buri wese. Abaregwa bajuririyemo mu Rukiko Rukuru, bavuye ko Urukiko rwabanye rwabahanijwe icyaha cy'ubujura bukoreshwe intwari kandi ataribwo, icyo bemera kikaba ari ubujura buciye icyuho naho TWAHIRWA Jean Baptiste we yajuririyemo avuye ko yagombaga guhamwe n'icyaha cy'ubujura busanzwe kuko aricyo yakozwe. Urwo Rukiko rwaciye urubanza rwemeza ko ubujurire bwabo nta shingiro bufite, rwemeza ko hagumye imikirize y'urubanza rujuririrwa.

Abaregwa bajuririye mu Rukiko rw'Ubujurire, Twahirwa yemera ko yakoze ubujura kandi ko aho hose nta cyuho yaciye cyangwa ngo akoreshe intwaro bityo asaba ko hakwemezwa ko icyaha yakoze ari ubujura busanzwe. Asaba ko yaganyirizwa ibihano kuko yaburanye yemera icyaha. Ndungutse ku ruhande rwe yajuriye avuga ko Urukiko Rukuru rwamuhamije ibyaha byo kwibisha intwaro rwirengagije ibimenyetso yarugaragariye, asaba guhindurirwa inyito y'icyaha agahamwa n'ubujura buciye icyuho gusa. Asaba ko yanaganyirizwa ibihano kuko yaburanye yemera icyaha. Nsabimana yajuriye avuga ko atishimiye imikirize y'urubanza rwaciwe n'Urukiko Rukuru, ko azagaragaza impamvu ze z'ubujurire mu buryo burambuye. Nyuma yakoze umwanzuro w'inyongera asaba guhindurirwa inyito y'icyaha, kandi ko aho yibye ijeki yagiye yitwaje itafatwa nk'intwaro. Ku rundi ruhande Ubushinjacyaha bwagize icyo buvuga ku bujurire bw'abaregwa, kuri Nsabimana buvuye ko ubujurire bwe butakwagirwa kuko ntacyo anenga urubanza urubanza rujurirwa, uretse kuvuga gusa ko atishimiye imikirize y'urwo rubanza, naho impamvu ze z'ubujurire zikaba zaratanze nyuma y'ibihe byo kujurira bityo zikaba zitakwagirwa kuko zituzuzwa, cyangwa ngo zisobanure ibyo yajuririye. Kuri Twahirwa, Ubushinjacyaha buvuye ko ibijyanye no kuvuga ko icyaha yagihaniwe kuko yajyanwe iwawa nta shingiro bifite kuko atari Urukiko, kandi ko ibijyanye n'imyanzuro y'inyongera yatanze nyuma asaba kugabanyirizwa ibihano idakwiye kwakirwa kuko ituzuzwa iyatanze mbere. Ku bijyanye no guhindurirwa inyito y'icyaha bisabwa na bose, Ubushinjacyaha busaba Urukiko kuzemeza ko nta shingiro bifite. Kuri Ndungutse, Ubushinjacyaha buvuye ko uregwa adakwiriye guhindurirwa inyito y'icyaha, kandi kuba yarafatanywe ijeki, nubwo ahakana ko atari intwaro, bidakwiye kuba bimuvanaho icyaha cyo kwiba hifashishijwe intwaro, nkuko byatanzweho umurongo mu manza zitandukanye ko:” kugira ngo byitwe ko uregwa yakoze icyaha cyo kwiba hakoreshejwe intwaro, agomba kuba yari yitwaje igikoresho icyo ari cyo cyose (...).” Bukavuga kandi ko yakomeje gushinjwa na Nsabimana icyo cyaha. Incamake y'icyemezo: 1. Ingingo iyo ariyo yose itanzwe nyuma y'ibihe ntarengwa byo kujurira, uretse iyuzuzwa cyangwa isobanura iyatanze mu bihe byemewe byo kujurira, itagomba kwakirwa. 2. Kugira ngo umuntu yitwe ko yakoze icyaha cyo kwiba hakoreshejwe intwaro, uwiba agomba kuba yari yitwaje igikoresho icyo ari cyo cyose, imbunda, icyuma cyangwa ikindi kintu cyose gitama, gitobora cyangwa gisekura, gishobora kwica, gukomeretsa cyangwa gukubitishwa kigaragara cyangwa gihisha cyangwa kibonetse hafi y'aho icyaha cyakorewe. 3. Mu manza z'inshinjabyaha, ntabwo buri ruhande rufite inshingano y'ibyo rugomba gutangaho ibimenyetso, ahubwo iyo nshingano ifitwe n'urega ijana ku ijana, ni ukuvuga Ubushinjacyaha cyangwa uregera indishyi iyo ahari. Ibyo bimenyetso bikaba bireba ibigize icyaha byose. Ni nako bigenda iyo uregwa yisobanuye ariko hakabaho kudashira amakenga ku bisobanuro bye, urega ni we ugomba gutanga impamvu ashingiraho avuga ko muri ibyo bisobanuro nta kuri kurimo. 4. Urukiko ntirutegetswe kugabanya igihano n'iyi hari impamvu nyoroshyacyaha, ahubwo rugena igihano mu bushishozi bwariwe rurebye imikorere y'icyaha uregwa akurikiranyweho cyangwa uburyo cyakozwemo.

Ubujurire bwa Nsabimana ntibwakiriwe, Ubujurire bwa Ndungutse bufite ishingiro gusa kukuganyizwa igihano, Ubujurire bwa Twahirwa bufite ishingiro. Imikirize y'urubanza rwaciwe n'Urukiko Rukuru ihindutse kuri bimwe. Amategeko yashingiweho: Ingingo ya 6 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha; Imanza

zifashishijwe: RCOMAA 00071/2017/CS; MBUTO AIMABLE vs BRD rwaciwe n'Urukiko rw'Ikirenga ku wa 26/10/2018; RPA 0282/08/CS; Ubushinjacyaha vs NYIRANGONDO Virginie rwaciwe n'Urukiko rw'Ikirenga ku wa 12/03/2010; RPAA 00521/2023/CA; Ubushinjacyaha vs NSENGIYUMVA Vianney bita KIDERI rwaciwe n'Urukiko rw'Ubujurire ku wa 27/01/2025; RPAA 00436/2023/CA; Ubushinjacyaha vs RUKUNDO Elia rwaciwe n'Urukiko rw'Ubujurire ku wa 28/05/2025. Urubanza I. IMITERERE Y'URUBANZA [1] Kuva mu mwaka wa 2015, hari ingo z'abaturage i Kigali no mu tundi turere dutandukanye zagiye ziterwa n'abajura bakitwikira ijoro bitwaje intwaro, bakamena inzu bakiba ibikoresho bitandukanye nka za Flat screen n'ibindi. Mu bantu baketsweho gukora ibyo bikorwa harimo TWAHIRWA Jean Baptiste, NSABIMANA Gilbert na NDUNGUTSE Etienne. [2] Iperereza rirangiye Ubushinjacyaha buvuga ko bwasanze bari bararemye umutwe w'abagizi ba nabi maze bubarega mu Rukiko Rwisumbuye rwa Nyarugenge busaba kwemeza ko ibyaha baregwa bigize impurirane mbonezamugambi, kandi ko bibahama, rukabahanisha igifungo cy'imyaka makumyabiri (20) n'ihazabu ya miliyoni zirindwi (7.000.000 Frw) kuri buri wese. [3] NSABIMANA Gilbert yaburanye ahakana ibyaha aregwa avuga ko nta mutwe w'abagizi ba nabi yashyizeho, ntawo yagiyemo nta n'uwo yabayemo kuko mubo baregwa hamwe ntawe asanzwe azi, ko icyo yemera ari uko yajyanye na NDUNGUTSE Etienne kwiba umuturanyi wabo MUJAWASE Germaine, ari mu ma saa kumi n'imwe za mugitondo, binjira mu nzu ye babanje kugonda grillage bakoresheje ijeke, bamwiba televiseur yari muri salon. [4] NDUNGUTSE Etienne yaburanye avuga ko yemera ko yajyanye na NSABIMANA Gilbert kwiba uwo muturanyi wabo, yongeraho ko ibindi yavuze mu ibazwa rye yabitewe n'agahato yashyizweho.

- [5] TWAHIRWA Jean Baptiste nawe yaburanye avuga ko icyo yemera ari uko yagiye kwiba televiseur kwa mukuru we n'izindi yibye muri atelier ko ariko ibyo yamaze kubihanirwa kuko yajyanywe i Wawa akamarayo umwaka wose. [6] Mu rubanza RP 00433/2021/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 31/12/2021, hemejwe ko NDUNGUTSE Etienne, NSABIMANA Gilbert na TWAHIRWA Jean Baptiste bahamwa n'icyaha cyo kwiba hakoreshejwe guca icyuho bikozwe nijoro n'abantu barenze umwe hamwe n'icyaha cyo kwiba hakoreshejwe intwaro, bikaba bigize impurirane mbonezamugambi, rubahanisha igihano cy'igifungo cy'imyaka 20 n'ihazabu y'amafaranga y'u Rwanda miliyoni eshanu (5,000,000 Frw) buri wese. [7] Ku bijyanye na NSABIMANA Gilbert Urukiko rwashingiye ku kuba yemera ko yatangiye kwiba mu mwaka wa 2020, agasobanura uko mu bihe bitandukanye yagiye yinjira mu bipangu by'abantu akanura imyenda n'ibindi bintu asanze hanze birimo amasafuriya akabyiba, akaza gufatwa akajyanwa i Gikondo kwa Kabuga, aho yahuriye na NDUNGUTSE Etienne uyu nawe bakaba barajyanye kwiba inshuro imwe ku muturanyi wabo Germaine, izindi nshuro ebyiri ajya kwiba ari wenyine, hamwe akaba yaribye amaze kwica ingufuri. [8] Ku bijyanye na NDUNGUTSE Etienne, Urukiko Rwisumbuye rwashingiye ku kuba nawe abazwa yeremeye ko yajyanye na NSABIMANA Gilbert kwiba inshuro ebyiri, bakagenda bitwaje ibiti bakoreshaga bagonda grillage z'amadirishya banyuramo binjira mu nzu bakiba, akaba kandi yemera ko yafatanywe icyuma cy'ijeke avuga ko yahawe na mugenzi we ngo ajye akoresha muri ubwo bujura. [9] Ku bijyanye na TWAHIRWA Jean Baptiste Urukiko Rwisumbuye rwasobanuye ko ahakana ibyaha ariko akaba mu Bugenzacyaha yaravuze ko yatangiye ubujura mu mwaka wa 2015,

agafatwa amaze kwiba televiseur 3 ahantu hatandukanye, ari kumwe n'abandi bajura barimo na murumuna we. [10] NDUNGUTSE Etienne, NSABIMANA Gilbert na TWAHIRWA Jean Baptiste bajuririyeye Urukiko Rukuru, NDUNGUTSE Etienne na NSABIMANA Gilbert bavugaga ko Urukiko rwabanje rwabahamije icyaha cy'ubujura bukoreshye intwari kandi ataribye, icyo bemera kikaba ari ubujura buciye icyuho naho TWAHIRWA Jean Baptiste we yajuririyeye avugaga ko yagombaga guhamwa n'icyaha cy'ubujura busanzwe kuko aricyo yakozwe. [11] Mu rubanza RPA 00206-CMB 00137-CMB 00148-00212/2022/HC/KIG, rwaciye n'Urukiko Rukuru ku wa 5/4/2023, rushingiye ku mvugo za NDUNGUTSE Etienne, NSABIMANA Gilbert na TWAHIRWA Jean Baptiste zo mu Bugenzacyaha nk'uko Urukiko Rwisumbuye rwazigarutseho, no ku mvugo za BAYINGANA Jean Paul zigaragaza ko yaguraga ibikoresheho n'abajura, rwemeje ko bese nta wabashije kugaragaza ibimenyetso bivuguruzwa ibyashyingiweho ku rwego rwa mbere, bityo ko nta makosa urukiko rwabanje rwakozwe rubahamya ibyaha byo kwiba hakoreshejwe guca icyuho bikozwe nijoro n'abantu barenze umwe hamwe n'icyaha cyo kwiba hakoreshejwe intwari, rugumishaho imikirize y'urubanza rwajuririyeye. [12] TWAHIRWA Jean Baptiste, NSABIMANA Gilbert na NDUNGUTSE Etienne, bajuririyeye mu Rukiko rw'Ubujurire, urubanza ruhabwa RPAA 00269/2023/CA ruburanishwa ku wa 09/1/2026, TWAHIRWA Jean Baptiste yunganiye na Me NKUNDIMPAYE Ismaël,

NSABIMANA Gilbert yunganiye na Me KARANGWA Olivier naho NDUNGUTSE Etienne yunganiye na Me MUTABARUKA Aristide. [13] Mu myanzuro y'ubujurire ya TWAHIRWA Jean Baptiste yo ku wa 16/4/2023 yavuze ko Urukiko Rukuru nta kindi kimenyetso rwashyingiyeho rumuhamya ibyaha uretse imvugo ze gusa zigaragaza ko mu mwaka wa 2015 yakozwe ubujura bwa televiseur yibye kwa mukuru we NGIRABABYEYI Jean Claude aho yabaga, n'izindi 2 yibye muri atelier zari iza NIYIBIGENA Emmanuel, kandi aho hose akaba nta cyuho yaciye cyangwa ngo akoreshe intwari bityo akaba asaba ko hakwemezwa ko icyaha yakozwe ari ubujura busanzwe. [14] Anavugaga ko ashingiye ku ngingo ya 6 y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha mu gika cyayo cya kabiri iteganyaga ko ikurikiranacyaha ry'icyo cyaha ari imyaka 3, ngo abona ko icyo cyaha cyashajwe harebwe igihe yafatiwe ku wa 18/2/2021, akaba asaba uru Rukiko gukosora ayo makosa ariko rwabibona ukundi rukamuhindurira inyito y'icyaha agahamwa n'icyaha cy'ubujura busanzwe kuko Ubushinjacyaha nta kindi kimenyetso bwabashije gutanga kimuhuza n'ubundi bujura bivugwa ko yaba yarakoranye nabo baregwa hamwe. [15] Ku wa 1/5/2023 yakozwe umwanzuro w'inyongera anenga Urukiko Rukuru kuba rwaremeje ko atabashije gutanga ibimenyetso bivuguruzwa iby'urukiko rwabanje rwashyingiyeho rumuhamya ibyaha, birimo no kuba hari ibyo yemeye mu Bugenzacyaha yagera mu rukiko akabihakana kandi atarigeze ahindura imvugo ze, ko ahubwo yagaragaje neza ko ubujura yakozwe mu mwaka wa 2015 ari ubusanzwe. [16] Mu myanzuro y'ubujurire ya NDUNGUTSE Etienne yo ku wa 16/4/2023 mu Rukiko rw'Ubujurire avugaga ko Urukiko Rukuru rwamuhamije ibyaha byo kwibisha intwari rwirengagije ibimenyetso yarugaragariye, akaba asaba guhindurirwa inyito y'icyaha agahamwa n'ubujura buciye icyuho gusa. [17] Ku wa 5/6/2023, yakozwe umwanzuro w'inyongera avugaga ko anenga Urukiko Rukuru kuba rwaremeje ko atabashije kuvuguruzwa ko atakozwe icyaha cy'ubujura bwitwaje intwari rugaragaza ijeke nk'intwari yakoreshejwe, nyamara ijeke itafatwa nk'intwari ashingiye ku zindi

manza zaciwe zabaye itegeko nk'urubanza RP 00657/2021/TB/GSBO rwarezwemo NTAKIRUTIMANA Claude na TUYISENGE Eric nabo bafatanywe ijeke na tourne-vis bakoreshaga baca icyuho bakaba barahamijwe icyaha cy'ubujura buciye icyuho hakoresheje ijeke ariko ko batahamijwe kwibisha intwaro, nawe akaba abona aricyo cyaha yahanirwa. Akomeza avuga ko ikindi anenga ari uko ashinjwa icyaha cy'ubujura bwakorewe UWIMANA Ferdinand, atakoze, kuko cyahamijwe MUGENERWA mu rubanza RP 00250/2021/TB/NYGE kandi uwo akaba ntaho yagaragaje ko yigeze aba umufatanyacyaha we, ari nabyo bigaragaza ko atibye ahantu henshi hatandukanye nk'uko abishinjwa, akaba asaba uru Rukiko kumuhindurira inyito y'icyaha agahamwa n'ubujura buciye icyuho gusa aho kuba n'ubwitwaje intwaro. [18] Ku wa 17/4/2023, NSABIMANA Gilbert yajuririye Urukiko rw'Ubujurire avuga ko atishimiye imikirize y'urubanza rwaciwe n'Urukiko Rukuru, ko azagaragaza impamvu ze z'ubujurire mu buryo burambuye.

[19] Ku wa 5/6/2023, NSABIMANA Gilbert yakoze umwanzuro w'inyongera avuga ko yajuriye asaba urukiko kumuhindurira inyito y'icyaha, ko aho yemera yakoreye ubujura ari kwa MUJAWASE Germaine gusa kandi ko ijeke yagiye yitwaje yo kugonda grillage y'idirishya ngo abone uko yinjira mu nzu yibe itagombaga gufatwa nk'intwaro, kuko ukurikije urubanza RP 00657/2021/TB/GSBO rwarezwemo NTAKIRUTIMANA Claude na TUYISENGE Eric rwemeje ko ijeke bafatanywe yari iyo guca icyuho, ntibahamwa no kwibisha iyo jeke nk'intwaro ahubwo bahamwa n'ubujura buciye icyuho, ko rero nawe aricyo cyaha gikwiye kumuhama. [20] Ku bijyanye na NSABIMANA Gilbert Ubushinjacyaha buvuga ko busanga iyi mpamvu y'ubujurire itagomba kwakirwa ngo isuzumwe kuko atigeze agaragaza icyo anenga urubanza ajurira mu mwanzuro we usibye kuvuga gusa ko atishimiye imikirize y'urubanza, impamvu z'ubujurire akaba yarazitanze mu mwanzuro w'inyongera bukaba bubona zaratanzwe igihe cyo kujurira cyarangiyeye zikaba zitagomba kwakirwa ngo zisuzumwe kuko zituzuzwa cyangwa ngo zisobanure izatanzwe mu gihe gikurikije amategeko. [21] Kuri TWAHIRWA Jean Baptiste, Ubushinjacyaha bwavuze ko ibijyanye no kuvuga ko icyaha yagihaniwe kuko yajyanwe iwawa nta shingiro bifite kuko atari Urukiko, kandi ko ibijyanye n'inyanzuro y'inyongera yatanzwe nyuma asaba kugabanyirizwa ibihano idakwiye kwakirwa kuko ituzuzwa iyatanzwe mbere. Ku bijyanye no guhindurirwa inyito y'icyaha bisabwa na bese, Ubushinjacyaha busaba Urukiko kuzemeza ko nta shingiro bifite. [22] Urukiko ruherereye kuri izi mpaka, rusanga ibibazo bikwiye gusuzumwa ari ibi bikurikira: 1) Kumenya niba ubujurire bwatanzwe na NSABIMANA Gilbert bwakwagirwa bugasuzumwa; 2) Kumenya niba inyito y'icyaha TWAHIRWA Jean Baptiste aregwa yahinduka ikaba ubujura bworoheje aho kuba ubujura bwitwaje intwaro no kumenya niba yarahaniwe icyo cyaha kandi cyarashaje; 3) Kumenya niba inyito y'icyaha NDUNGUTSE Etienne yahamijwe yahinduka ikaba ubujura buciye icyuho aho kuba ubujura bwitwaje intwaro; 4) Kumenya niba NDUNGUTSE Etienne na TWAHIRWA Jean Baptiste bagabanyirizwa ibihano. II. IBIBAZO BIGIZE URU RUBANZA N'ISESENGURA RYABYO 1) Kumenya niba ubujurire bwatanzwe na NSABIMANA Gilbert bwakwagirwa bugasuzumwa

[23] Uburanira Ubushinjacyaha avuga ko ubujurire bwa NSABIMANA Gilbert budakwiye kwakirwa1 kuko mu mwanzuro we atigeze agaragaza icyo anenga urubanza ajuririra cyangwa amakosa yakozwe n'Urukiko Rukuru, uretse kuvuga gusa ko atishimiye imikirize y'urubanza. [24] Ku bijyanye n'impamvu z'ubujurire yashyize mu mwanzuro w'inyongera wo ku wa 5/6/2023 n'uw'umwunganizi we wo ku wa 3/10/2025, Ubushinjacyaha buvuga ko impamvu zikubiye muri iyo myanzuro zatanzwe igihe cyo kujurira cyararangiyeyeho, ko zitagomba kwakirwa ngo zisuzumwe kuko zituzura cyangwa ngo zisobanure izatanzwe mu gihe gikurikije amategeko. [25] Bukomeza buvuga ko uru Rukiko rubibonye ukundi ikibazo cy'uko ijeke yari yitwaje ajya kwiba idakwiye gufatwa nk'intwari nta shingiro iyo mpamvu ye y'ubujurire yahabwa kuko ikibazo nk'icyo cyatanzweho umurongo mu rubanza RPAA 00521/2023/CA, rwaciye ku wa 27/01/2025 haburana Ubushinjacyaha na NSENGIYUMVA Vianney bita KIDERI (igika cya 16), Urubanza RPAA 00248/2021/CA, rwaciye ku wa 28/03/2025 haburana Ubushinjacyaha na Michael SULULU MARUGIRA, zasobanuye ubujura bukoreshejwe intwari nk'uko zagariyeho haruguru, ko rero icyaha cy'ubujura bukoreshejwe intwari nacyo gikwiye kumuhama kuko adahakana ko yitwazaga iyo jeke. UKO URUKIKO RUBIBONA [26] Impaka kuri iki kibazo zishingiye ku kumenya niba ubujurire bwatanzwe na NSABIMANA Gilbert ku wa 17/04/2023 butakwagirwa ngo busuzumwe kuko Nsabimana Gilbert atigeze agaragaza icyo anenga urubanza ajurira. [27] Ikibazo cy'igihe impamvu z'ubujurire cyangwa igihe inenge ziri mu rubanza rujuriyirwa bigomba gutangwa, cyatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza RCOMAA 00071/2017/CS rwaciye ku wa 26/10/2018 haburana MBUTO AIMABLE NA BRD ahemejwe ko ingingo iyo ariyo yose itanzwe nyuma y'ibihe ntarengwa byo kujurira, uretse iyuzura cyangwa isobanura izatanzwe mu bihe byemewe byo kujurira, itagomba kwakirwa. Uyu murongo kandi wakomeje kugenderwaho mu manza zitandukanye zaciye n'uru Rukiko zirimo n'urubanza RPAA 00436/2023/CA, rwaciye n'Urukiko rw'Ubujurire ku wa 28/05/2025, haburana Ubushinjacyaha na RUKUNDO Elia (igika cya 18). [28] Dosiye igaragaza ko urubanza rujuriyirwa RPA 00206-CMB 00137-CMB 00148- 00212/2022/HC/KIG, rwaciye n'Urukiko Rukuru ku wa 5/4/2023, maze kopi ishyirwa muri dosiye ku wa 10/04/2023, ku wa 17/4/2023 NSABIMANA Gilbert ajuririra Urukiko rw'Ubujurire avuga ko atishimiye imikirize y'urubanza rwaciye n'Urukiko Rukuru, ariko avuga ko azagaragaza 1 Ikibazo cyo kumenya niba umuburanyi ashobora kujurira avuga gusa ko atemera imikirize y'Urukiko cyatanzweho umurongo n'Urukiko rw'ubujurire mu manza zitandukanye ziyobowe n'Urubanza N° RPAA 00194/2021/CA rwaciye n'Urukiko rw'Ubujurire ku wa 22/07/2022 haburana Ubushinjacyaha na NDAYISHIMIYE Emmanuel alias Shema (igika cya 18) kuko arirwo rwaciye mbere, Urubanza N° RPAA 00562/2024/CA, rwaciye ku wa 17/10/2025, Ubushinjacyaha buburana na NDACYAYISENGA Achel (igika cya 15) [...], zose zasobanuye ko” :” Uwajuriye afite inshingano yo kugaragaza ukwibeshya kwakozwe n'Urukiko rubanza gushingiye ku mategeko cyangwa ku byabaye kwatumye urubanza rujuriyirwa rucibwa nabi cyangwa kwatuma ruta agaciro. Iyo atabikoze ubwo bujuriye burakirwa, urukiko rukemeza ko nta shingiro bufite”

impamvu ze z'ubujurire mu buryo burambuye nyuma, hanyuma bigeze ku wa 05/06/2023, atanga imyanzuro y'inyongera asaba ko yahindurirwa inyito y'icyaha. [29] Urukiko rw'ubujurire rero rurasanga kuba urubanza rujuririrwa rwaraciwe ku wa 05/04/2023, NSABIMANA Gilbert akandika avuga ko ajuriye ku wa 17/04/2023, ariko atagaragaza impamvu z'ubujurire, bituma ubujurire bwe budakwiye kwakirwa hashingiwe ku murongo watanze mu rubanza RCOMAA 00071/2017/CS rwavuzwe haruguru kuko icyo gihe atatanze impamvu z'ubujurire ahubwo yazitanze igihe cyo kujurira giteganyijwe n'amategeko cyararenze ni ukuvuga ku wa 05/06/2023 kandi zituzura izatanzwe mu bihe biteganywa n'amategeko. 2) Kumenya niba inyito y'icyaha TWAHIRWA Jean Baptiste yahamijwe yahinduka ikaba ubujura bworoheje aho kuba ubujura bwitwaje intwaro no kumenya niba yarahaniwe icyo cyaha kandi cyarashaje. [30] TWAHIRWA Jean Baptiste avuga ko ashingiye ku ngingo ya 6 y'Itegeko No 027/2019 ryo ku wa 19/09/2019 mu gika cyayo cya kabiri iteganya ko ikurikiranacyaha ry'icyo cyaha ari imyaka 3, akavuga ko ngo yagaragaje ko icyo cyaha cyashaje harebwe igihe yafatiwe ku wa 18/2/2021 ariko ngo ntibyitabwaho yongeraho ko ngo uretse n'ibyo ngo urwo Rukiko rwamuhamije ibyaha rugenekereje nta bimenyetso bifatika bikimuhamya rugendeyeho, akaba asaba uru Rukiko gukosora ayo makosa. [31] Me NKUNDIMPAYE Ismaël wunganira TWAHIRWA Jean Baptiste avuga ko inkiko zibanza zose zashingiye ku kuba TWAHIRWA yaremeye ko yibye flat screen 2 kwa mukuru we muri 2015 kandi akaba atarabikoze nijoro cyangwa ngo ace icyuho, ikindi kandi Urukiko ngo rwashingiye ku kuba BAYINGANA yari asanzwe acuruza ibikoresho bya occasion bituma bamushyira hamwe n'abajura bitwaje intwaro. [32] Avuga rero ko yahindurwa inyito y'icyaha kuko ibyabaye ari ubujura busanzwe muri 2015 kandi byararangiyeye yongeraho ko bibaye ngombwa ko ahanwa ngo yahanwa hashingiwe ku ngingo ya 166 y'itegeko n° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange. [33] Akomeza buvuga ko n'ubwo mu ibazwa rye mu Bugenzacyaha TWAHIRWA Jean Baptiste yari yaremeye icyaha yagera mu Bushinjacyaha akagihakana, bitari kuba impamvu yo kumuhanisha igihano gikakaye, cyane ko agifatwa hari uruhare yagize mu gutanga amakuru no korohereza inzego z'iperereza, bikaba byaragombaga kumubera impamvu nyoroshyacyaha. [34] Ubushinjacyaha buvuga ko ibivugwa na TWAHIRWA Jean Baptiste by'uko nta kindi kimenyetso cyashingiweho ahamwe n'ibyaha uretse imvugo ze gusa, nta shingiro bifite, kuko nk'uko Urukiko rwabisobanuye atabashije kuvuguruza ibyashingiweho n'Urukiko Rwisumbuye bigizwe n'imvugo ze bwite aho yemeye ko yibye television 3, ibyo kandi bikaba bishimangirwa n'imvugo z'abatangabuhamya barimo BAYINGANA Jean Paul wavuze ko TWAHIRWA Jean Baptiste yamugurishije television enye (4). [35] Ubushinjacyaha bukomeza buvuga ko kandi mu bimenyetso byatanzwe harimo n'ibyafatiwe mu ngo z'abibaga bakoreshaga mu kwica grillage z'amadirishya cyangwa inzugi ku mazu y'abaturage, birimo itindo (01), tournes vice eshatu (03), secateurs ebyiri (02) intoya n'inini

bakoresha mu gukata, hamwe n'amajeki abiri (02), ndetse n'imfunguzo zitandukanye, no kuba hari bimwe mu byibwe byafatiriwe birimo flat screen zitandukanye. [36] Bukomeza buvuga ko TWAHIRWA Jean Baptiste yashyize umukono kuri iyi nyandiko mvugo y'ifatira, n'ubwo abazwa mu bushinjacyaha yavuze ko ibikoresho yafatanywe iwe mu rugo ari ibyo akoresha mu buhinzi, nyamara ari ibyifashishwaga mu bujura, ko rero hagendewe kuri ibyo bimenyetso, ubujura yakoze ari ubwo yahamijwe n'inkiko aho kuba ubujura busanzwe nk'uko abivugaga. [37] Bukomeza

buvuga ko ibyo avuga by'uko yahaniwe ibyo byaha kuko yajyanywe i Wawa nta shingiro bikwiye guhabwa kuko i wawa atari Urukiko, n'ubwo nta n'ibimenyetso abitangira ngo anagaragaze ko yajyanyweyo kubera ubwo bujura bw'izo television yibye mu mwaka wa 2015, nyamara ibyagaragajwe ko byibwe ari ibyabaye guhera mu mwaka wa 2018 kugeza mu mwaka wa 2021 igihe yafatiwe. [38] Buvuga kandi ko ibyo TWAHIRWA Jean Baptiste avuga ko ntaho ahurira na bagenzi be bitagomba guhabwa ishingiro kuko nk'uko bigaragara muri dosiye, television zose zibwaga zashyikirizwaga BAYINGANA Jean Paul akabaha amafaranga, kandi ko nk'uko bigaragara mu mvugo z'aba baregwa nka NDUNGUTSE Etienne na NSABIMANA Gilbert mu Bugenzacyaha bavuze ko ariwe wabatumaga kuzimuzanira akabishyura. [39] Ku bijyanye n'uko Urukiko rwaba rwaramutwerekereye imvugo y'uko hari ibyo yemereye mu Bugenzacyaha kubera inkoni kandi ntabyo yavuze, Ubushinjacyaha buvuga ko nta na hamwe Urukiko rwashingiye kubyo atavuze kuko mu Bushinjacyaha ku gisubizo cye cya 14 yivugiye ko ibyo yavugiye mu Bugenzacyaha yabitewe n'uko yakubiswe. [40] Ku bijyanye n'ibikubiye mu mwanzuro w'umwunganizi we, by'uko yajuriye kubera ko yahanishijwe igihano kirekire, Ubushinjacyaha buvuga ko bidakwiye kwakirwa kuko bidahuye, bituzura cyangwa ngo bisobanure ibikubiye mu mwanzuro uregwa yatanze ku gihe nk'uko byatanzweho umurongo mu rubanza RCOMAA 00071/2017/CS3 rwaciwe n'Urukiko rw'Ikirenga ku wa 26/10/2018 haburana MBUTO Aimable na BRD, uyu murongo urukiko rw'ubujurire rukaba rwarakomeje kuwurikiza nk'uko bigaragara mu rubanza RPAA 00444/2023/CA, rwaciwe ku wa 23/10/2025 haburana Ubushinjacyaha na NSANZIMANA Frederick. UKO URUKIKO RUBIBONA [41] Impaka kuri iki kibazo zishingiye ku kumenya niba TWAHIRWA Jean Baptiste inyito y'icyaha yahamijwe yahinduka ikaba ubujura bworoheje aho kuba ubujura bwitwaje intwari no kumenya niba yarahanijwe icyo cyaha kandi cyarashajwe. 2 aho mu magambo ye yagize ati : « [...] Bangejeje ku ka etage, bambaza ku bijyanye nuko BAYINGANA yavuze ko yampaye Flat 3, niho nasanze aba bose, barankubise koko, birangira nemeye ko nazimuhaye ngo ndebe ko nahava, mvuga aho nazikuye ngo mugashyekerere, ubundi mbambwira ko namuhaye izamaromba, ari ukugira ngo nirengere. Nyuma yaho bahise bantwara kuri RIB, gusa kugeza izi saha sinzi ko BAYINGANA anshinja ko nazimuhaye ». 3 "Ingingo iyo ariyo yose itanzwe nyuma y'ibihe ntarengwa byo kujurira, uretse iyuzura cyangwa isobanura iyatanzwe mu bihe byemewe byo kujurira, ntigomba kwakirwa".

[42] Ingingo ya 6 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko uretse ibyaha bidasaza biteganywa n'amategeko, ikirego cy'ikurikiranacyaha ku bindi byaha gisaza: 1° mu gihe cy'imyaka icumi (10) yuzuye ku byaha by'ubugome; 2° mu gihe cy'imyaka itatu (3) yuzuye ku byaha bikomeye; 3° mu gihe cy'umwaka umwe (1) wuzuye ku byaha byoroheje. [43] Mu gusesengura ikibazo kijyanye no kumenya niba kwiba byarabayeho hakoreshejwe intwari hakwifashishwa umurongo watanze mu rubanza RPAA 00521/2023/CA, rwaciwe n'Urukiko rw'Ubugurire ku wa 27/01/2025 haburana Ubushinjacyaha na NSENGIYUMVA Vianney bita KIDERI (igika cya 16), uvuga ko, kugira ngo umuntu yitwe ko yakoze icyaha cyo kwiba hakoreshejwe intwari, uwiba agomba kuba yari yitwaje igikoresheho icyo ari cyo cyose, imbunda, icyuma cyangwa ikindi kintu cyose gituma, gitobora cyangwa gisekura, gishobora kwica, gukomeretsa cyangwa gukubitishwa kigaragara cyangwa gihisha cyangwa kibonetse hafi y'aho icyaha

cyakorewe. [44] Dosiye y'urubanza igaragaza ko TWAHIRWA Jean Baptiste abazwa mu bugenzacyaha ku wa 18/02/2021, yemeye icyaha asobanura ko yibye televiseur 1 muri 2015 kwa mukuru we aho yabaga I Gikondo, izindi 2 aziba kuri atelier ari ahitwa Karugira I Gikondo, aho yakoranaga na NDAHAYO Germain na SINDAYIGAYA Steven, kandi izo zose akazigurisha BAYINGANA Jean Paul, asoza avuga ko yabihaniwe ajyanwa kwa Kabuga ndetse n'Iwawa muri 2017. [45] Dosiye igaragaza na none inyandikomvugo y'ifatira yo ku wa 18/02/2021 igaragaza ibyafatiwe mu ngo z'abibaga ubushinjacyaha bwavugaga ko bakoreshe mu kwica grillage z'amadirishya cyangwa inzugi ku mazu y'abaturage, birimo itindo (01), tournes vice eshatu (03), secateurs ebyiri (02) intoya n'inini bakoresha mu gukata, hamwe n'amajeki abiri (02), ndetse n'imfunguzo zitandukanye, no kuba hari bimwe mu byibwe byafatirwe birimo flat screen zitandukanye, TWAHIRWA Jean Baptiste akaba yarashyize umukono kuri iyi nyandiko mvugo y'ifatira, n'ubwo abazwa mu bushinjacyaha yavuze ko ibikoresho yafatanywe iwe mu rugo ari ibyo akoresha mu buhinzi. [46] Urukiko rurasanga kuba TWAHIRWA Jean Baptiste n'umwunganira bavuga ko yahindurirwa inyito y'icyaha kuko icyaha yakoze ari ubujura busanzwe kuko ataciye icyuho cyangwa ngo akoreshe intwari bifite ishingiro, kuko kuba yaremeye ko mu bujura yakoraga yabaga afatanyije na NDAHAYO Germain na SINDAYIGAYA Steven, kuba ashinjwa na BAYINGANA Jean Pierre ko yamugurishije flats 4, bigaragaza koko ko yakoze ubujura bworoheje akaba aribwo akwiye guhanirwa, aho kuba ubujura bwitwaje intwari kuko uretse kuba ubushinjacyaha buvuga ko ibikoresho byafatiwe iwe, no kuba yarashyize umukono ku nyandikomvugo y'ifatira, nta kimenyetso kidashidikanywaho bwagaragaje cy'uko yabikoresheje muri ubwo bujura koko, kuburyo urukiko rwabiharaho rumuhamya icyaha cyo kwiba hakoreshejwe intwari cyangwa guca icyuho kuko icyo yemera ari uko yibye televiseur 1 muri 2015 kwa mukuru we aho yabaga I Gikondo, izindi 2 aziba kuri atelier ari ahitwa Karugira I Gikondo, aho yakoraga. [47] Urukiko rw'Ubujurire rero rurasanga ntaho rwahera rwemeza ko ubwo bujura yabukozwe yitwaje intwari cyangwa akoresheje guca icyuho, cyane ko n'abo bareganwa muri uru rubanza batamushinja, bityo, ibyo Urukiko Rukuru rwashingiyeho rumuhamya icyaha cy'ubujura bwitwaje intwari no guca icyuho nta shingiro bifite.

- [48] Ibi kandi bikaba bihura n'umurongo watanze mu rubanza RS/INJUST/RP 00007/2018/SC, rwaciwe n'Urukiko rw'Ikirenga ku wa 30/10/2020 Ubushinjacyaha buburana na SAMUDUHA INTEGRATED COLLEGE (SICO), mu izina ry'Umuyobozi wayo, na MBARUSHIMANA Bernard, MURANGIRA Gilbert na NZABAHIMANA Thomas, (igika cya 25), uvuga ko mu manza z'inshinjabyaha, ntabwo buri ruhande rufite inshingano y'ibyo rugomba gutangaho ibimenyetso, ahubwo iyo nshingano ifitwe n'urega ijana ku ijana, ni ukuvuga Ubushinjacyaha cyangwa uregere indishyi iyo ahari. Ibyo bimenyetso bikaba bireba ibigize icyaha byose. Ni nako bigenda iyo uregwa yisobanuye ariko hakabaho kudashira amakenga ku bisobanuro bya urega ni we ugomba gutanga impamvu ashingiraho avuga ko muri ibyo bisobanuro nta kuri kurimo. [49] Naho kuba TWAHIRWA Jean Baptiste n'umwunganira bavuga ko, icyaha yakoze cyo kwiba kwa mukuru we muri 2015 yagihaniwe ajyanwa iwawa no kwa Kabuga, ndetse ko ikurikiranacyaha ryashajwe, nta shingiro byahabwa kuko yaba I

Wawa cyangwa kwa Kabuga avuga atari inkiko ahubwo ibyo avuga yagiyemo ari ibigo ngorora muco, ikindi kandi kuba nawe ubwe yiyemerera ko yakurikiranwe na polisi muri 2018 bituma ntaho Urukiko rwahera rwemeza ko igihe cy'ubusaze giteganywa n'amategeko cyari cyarageze kuko nta bimenyetso rwagaragarijwe na TWAHIRWA Jean Baptiste. 3) Kumenya niba inyito y'icyaha NDUNGUTSE Etienne yahamijwe yahinduka ikaba ubujura buciye icyuho aho kuba ubujura bwitwaje intwaro. [50] NDUNGUTSE Etienne na Me MUTABARUKA Aristide umwunganira bavuga ko hari inenge mu nyito y'icyaha kuko icyo yahamijwe cy'ubujura bwitwaje intwaro ataricyo, ko yasobanuye uko yibye nta ntwaro afite icyo yemeye akaba ari uko yagonze grillage gusa, ndetse televiseur yibye aciyeho akaba yarayifatanywe akayisubiza, ibyo ngo akaba abisabira imbabazi, kandi Ubushinjacyaha bukaba butarigeze buvuguruzwa uko kwirega kwe. [51] Bakomeza bavuga ko kuba we na bagenzi be barakoresheje ijeke bakagonda grillage kugira ngo babone aho baca bibe bitari bikwiye kwitwara ubujura bukoreshwe intwaro kuko itegeko risobanura neza itandukanirwo riri hagati y'ubujura bukoreshwe intwaro n'ubuciyeho icyuho, kandi mu bujura bakoze nta muntu bigeze bica cyangwa ngo bamukomeretse bakoresheje iyo jeke, ko rero basaba uru Rukiko kwemeza ko icyaha cyo kwiba hakoreshejwe intwaro atari cyo yakoze 4 Ingingo 167, 60 y'itegeko n°68/2018 ryo ku wa 30/08/2018 riteganyaho ibyaha n'ibihano muri rusange isobanura ubujura buciye icyuho ko ari: a) uguhata, konona, kumena, gucukura, gusenya uruzitiro, urukuta, amadirishya, inzugi, igisenge by'inzu cyangwa inyubako izo ari zo zose, cyangwa bikozwe ku modoka, ubwato, indege cyangwa gariyamosh; b) ugukingura ku gahato utubati cyangwa ibintu byose bikinze, bibikwamo ibintu ibyo ari byo byose n'aho icyo cyuho cyaba kitaciriwe aho ibintu byari biri. Kandi iyo ngingo mu gace ka 20 isobanura icyo kwiba witwaje intwaro ari cyo aho ivugako :ari ukwiba witwaje igikoreshe icyo ari cyo cyose, imbunda, icyuma cyangwa ikindi kintu cyose gituma, gitobora cyangwa gisekura, gishobora kwica, gukomeretsa cyangwa gukubitishwa kigaragara cyangwa gihishe cyangwa kibonetse hafi y'aho icyaha cyakorewe;

ahubwo ngo agahanwa hashingiwe ku ngingo ya 1665 agahanishwa igihano cy'igifungo cy'imyaka 2 ukubye kabiri ikaba 4 kubera ko hari impamvu nkomezacyaha zo kuba yaracyeho icyuho kandi akiba mu nzu ituwemo. [52] Ubushinjacyaha buvugako ku bijyanye n'ubujurire bwa NDUNGUTSE Etienne usaba guhindurirwa inyito y'icyaha, hashingirwa ku murongo watanze n'Urukiko rw'Ubujurire mu manza zitandukanyeho zirimwo urubanza RPAA 00521/2023/CA, rwaciye ku wa 27/01/2025 haburana Ubushinjacyaha na NSENGIYUMVA Vianney bita KIDERI (igika cya 16), Urubanza RPAA 00248/2021/CA7, rwaciye ku wa 28/03/2025, haburana Ubushinjacyaha na Michael SULULU MARUGIRA, zasobanuye ko kugira ngo byitwe ko uregwa yakoze icyaha cyo kwiba hakoreshejwe intwaro, agomba kuba yari yitwaje igikoreshe icyo ari cyo cyose (...) [53] Bukomeza buvugako NDUNGUTSE Etienne nawe adahakana ko yajyaga kwiba television yitwaje ijeke, mu Bugenzacyaha akaba yaremeye ko ijeke yasanze iwe ubwo yafatwaga, ndetse na NSABIMANA Gilbert amushinja ko bayikoresheje bagiye kwiba ubwo bajyanaga, ko rero ibyo bihujwe n'ibiteganywa n'ingingo ya 165, igika cya 2, n'ya 1708 z'itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaho ibyaha n'ibihano muri rusange uko ryahinduwe kugeza ubu, icyaha cyo kwiba hakoreshejwe intwaro nacyo kimuhama. [54] Ku bijyanye nibyo avugako by'uko yashinjwe

icyaha cyakorewe kwa UWIMANA Ferdinand atakoze, Ubushinjacyaha buvuga ko bidakwiye guhabwa agaciro kuko NDUNGUTSE Etienne na mugenzi we NSABIMANA Gilbert ubwo babazwaga mu Bugenzacyaha bivugiyeye ko bibye ahantu hatandukanye, rimwe bakaba bari kumwe cyangwa se buri wese akagenda ukwe. Naho kuba avuga ko icyo cyaha cyahamijwe undi muntu witwa MAGERA nabyo bikaba bidakwiye guhabwa 5 iteganya ko Umuntu wese uhamijwe n'urukiko icyaha cyo kwiba, ahanishwa igifungo kitari muni y'umwaka umwe (1) ariko kitarenze imyaka ibiri (2), ihazabu y'amafaranga y'u Rwanda atari muni ya miliyoni imwe (1.000.000 FRW) ariko atarenze miliyoni ebyiri (2.000.000 FRW), imirimo y'inyungu rusange mu gihe cy'amezi atandatu (6) cyangwa kimwe gusa muri ibyo bihano, ndetse rugashingira ku ngingo ya 167, 1°, 20 iteganya ko ibihano ku cyaha cyo kwiba byikuba kabiri (2) iyo: 1° uwibye yakoresheje guca icyuho, kurira cyangwa yakoresheje igikoresho icyo ari cyo cyose gifungura aho utemerewe kwinjira; 2° kwiba byakozwe mu nzu ituwemo cyangwa isanzwe ibamo abantu cyangwa mu nyubako ziyikikije; 6 zasobanuye ko:” Kugira ngo umuntu yitwe ko yakoze icyaha cyo kwiba hakoreshejwe intwari, uwiba agomba kuba yari yitwaje igikoresho icyo ari cyo cyose, imbunda, icyuma cyangwa ikindi kintu cyose gituma, gitobora cyangwa gisekura, gishobora kwica, gukomeretsa cyangwa gukubitishwa kigaragara cyangwa gihisha cyangwa kibonetse hafi y'aho icyaha cyakorewe”. 7 :”Urukiko rw'Ubujurire rurasanga ibivugwa n'abaregwa ko batari guhamwa n'icyaha cyo kwiba hakoreshejwe intwari kuko batakoresheje ibikoresho bari bafite bagira uwo bakomeretse cyangwa bagirire nabi, bitahabwa agaciro kuko uretse no kuba barabikoresheje baca idirishya rya cantine kugira ngo bagere ku mugambi wabo, kubahamya icyo cyaha ntibisaba ko baba babikoresheje cyangwa batari bafite ubushake bwo kubikoresha bagirira abantu nabi, babakubita, babakomeretsa cyangwa bashakira kubica, kuba bari bitwaje ibyo bikoresho, byonyine birahagije kugira ngo bahamwe n'icyo cyaha, 8 “kwiba witwaje intwari bisobanuye kwiba witwaje igikoresho icyo ari cyo cyose, imbunda, icyuma cyangwa ikindi kintu cyose gituma, gitobora cyangwa gisekura, gishobora kwica, gukomeretsa cyangwa gukubitishwa kigaragara cyangwa gihisha cyangwa kibonetse hafi y'aho icyaha cyakorewe”” Umuntu wese wiba akoresheje intwari, aba akoze icyaha cyo kwiba hakoreshejwe intwari”,

agaciro kuko ibyo uwo yahamijwe kwiba ari telephone na computer laptop gusa bikaba ari nabyo byafashwe kandi yemera, ko atigeze yemera television kandi nayo yaribwe, ko rero kuba ntacyo yayivuzeho bidakuraho NDUNGUTSE Etienne icyaha yahamijwe cyo kuyiba. UKO URUKIKO RUBIBONA [55] Impaka muri uru rubanza, zishingiye ku kumenya niba inyito y'icyaha NDUNGUTSE Etienne yahamijwe yahinduka ikaba ubujura buciye icyuho aho kuba ubujura bwitwaje intwari. [56] Mu gusesengura iki kibazo hakwifashishwa umurongo watanze mu rubanza RPAA 00521/2023/CA, rwaciye n'Urukiko rw'Ubujurire ku wa 27/01/2025 haburana Ubushinjacyaha na NSENGIYUMVA Vianney bita KIDERI (igika cya 16), uvuga ko kugira ngo umuntu yitwe ko yakoze icyaha cyo kwiba hakoreshejwe intwari, uwiba agomba kuba yari yitwaje igikoresho icyo ari cyo cyose, imbunda, icyuma cyangwa ikindi kintu cyose gituma, gitobora cyangwa gisekura, gishobora kwica, gukomeretsa cyangwa gukubitishwa kigaragara cyangwa gihisha cyangwa kibonetse hafi y'aho icyaha cyakorewe. [57] Dosiye y'urubanza igaragaza ko NSABIMANA Gilbert abazwa mu bugenzacyaha ku wa 18/02/2021, yasobanuye ko yagiye kwiba ari kumwe na NDUNGUTSE Etienne ku itariki 15/02/2021 mu masaha ya saa kumi za

mu gitondo, bitwaje umutarimba n'ijeki bagondeshaga ama grillage bibamo flat TV pousse 32. Hari kandi NDUNGUTSE Etienne nawe wabajijwe ku wa 18/02/2021, yemera ko yajyanye na NSABIMANA Gilbert kwiba ku wa 15/02/2021 saa kumi za mu gitondo, bafite ibiti, ariko ko ijeki bamusanganye ariyo yahawe n'inshuti ye ngo aje ayikoresha muri ubwo bujura n'ubwo basanze atayikoresha. [58] NDUNGUTSE Etienne kandi abazwa mu bushinjacyaha ku wa 24/02/2021, nabwo yemeye ko yajyanye na NSABIMANA Gilbert kwiba Flat TV bakoresheje ijeki, yanze bakoresha igiti kugira ngo babashe kugonda grillage, bishimangirwa na NSABIMANA Gilbert nawe bari kumwe uwo munsu babazwa aho yasobanuye ko, yaciye mu idirishya akuramo Flat TV ayiha Etienne ayishyira mu gikapu arayitwara, bageze mu rugo bahita bafatwa. Bose bemera ko bakoze ibyaha bagasaba imbabazi. [59] Hari kandi abatangabuhamya babashinje barimo MUJAWASE Germaine wasobanuye ko NDUNGUTSE Etienne na NSABIMANA Gilbert babibye bamennye amadirishya bakiba ibikoresho bitandukanye birimo Flat TV, hakaba n'undi mutangabuhamya witwa UWIMANA Ferdinand abazwa mu bugenzacyaha yashinje NDUNGUTSE Etienne kuba yaremeye ko yibye mu murenge wa Kigali kandi ariho UWIMANA Ferdinand atuye, ndetse n'abandi batangabuhamya babashinje bavuga ko bahuriye ku kuba baragiye bibwa ama Flat TVs n'ibindi bikoresho byo mu rugo. [60] Hari inyandiko ifatira, ry'ibyuma n'ibindi bikoresho birimo itindo (01), tourne vice eshatu (03), Secateur ebyiri (02) intoya hamwe n'inini bakoresha mu gukata, hamwe n'amajeki abiri (02), ndetse n'imfunguzo zitandukanye abaregwa bose bashyizeho umukono. [61] Dosiye igaragaza na none ko NDUNGUTSE Etienne hamwe nabagenzi be basanganwe imfunguzo, maze bigaragara ko muri izo mfunguzo harimo urufunguzo rufungura selire iri ku rugu

rwinjira muri salon kwa UWIMANA Ferdinand, ubushinjacyaha bukaba bubiharaho buvuga ko ariho banyuze binjira bagatwara Flat Screen ubwoko bwa SHARP yari muri salon. [62] Urukiko rurasanga kuba NDUNGUTSE Etienne n'umwunganira bavuga ko Urukiko Rukuru rwamuhamije inyito y'icyaha idahuye n'ibikorwa yakoze bagasaba ko inyito y'icyaha yahinduka ikaba ubujura buciye icyaho, kuko nta ntwaro yakoresheje, nta shingiro bifite, kuko mu mabazwa ya NDUNGUTSE Etienne na NSABIMANA Gilbert bemeye icyaha bakoze, bavuga ko bagiye kwiba flat screen bitwaje ijeki, n'ibiti bifashishaga bagonda grillage, bituma ibikorwa bakoze biba ubujura bwitwaje intwaro kandi bikaba bihura neza n'ibiteganywa n'umurongo watanze mu rubanza N° RPAA 00521/2023/CA rwavuzwe haruguru, kuko ibiti n'ijeki byakomeretsa, byakwica, byatobora, byakubitishwa [...]. [63] Urukiko rurasanga rero, hashingiwe kandi ku murongo wavuzwe haruguru no ku bisobanuro byatanze na NDUNGUTSE Etienne ndetse n'ubushinjacyaha, hagashingirwa kandi ku ngingo ya 165, igika cya 2, n'ya 1709 z'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange uko ryahinduwe kugeza ubu, icyaha cyo kwiba hakoreshejwe intwaro aricyo kimuhama bityo rero nta makosa urukiko Rukuru rwakoze mu kukimuhamya. 4) Kumenya niba TWAHIRWA Jean Baptiste na NDUNGUTSE Etienne bagabanyirizwa ibihano. [64] TWAHIRWA Jean Baptiste n'umwunganira basabye Urukiko rw'Ubujurire kuzashingira ku ngingo ya 60 y'Itegeko no 68/2018 ryo ku wa 30/8/2018 nk'uko ryahinduwe n'Itegeko no 59/2023 ryo ku wa 4/12/2023 riteganywa ibyaha n'ibihano muri rusange, mu ngingo yaryo ya 2(a) na (d), ryasohotse nyuma y'uko urubanza rujuririrwa rucibwa, rukamugabanyiriza igihano akabona uko asubira mu muryango nyarwanda. [65] NDUNGUTSE

Etienne n'umwunganira bavuga basaba ko yagabanyirizwa igihano kuko kuva yafatwa haba mu Bugenzacyaha, mu Bushinjacyaha no mu Rukiko yemeraga icyaha yakoze akagisabira n'imbabazi, ndetse na Flat Screen yibye arayisubiza, ko rero basaba uru Rukiko guca inkoni izamba rukamugabanyiriza igihano aho guhanishwa igifungo cy'imyaka ine (4) agahanishwa igihano cy'igifungo cy'imyaka ibiri (2) kuko yemera icyaha kandi akaba agisabira imbabazi akakicuza. [66] Uburanira Ubushinjacyaha avuga ko, kuri TWAHIRWA Jean Baptiste n'umwunganira, impamvu y'ubujurire yo gusaba kugabanyirizwa ibihano itagomba kwakirwa ngo isuzumwe, kuko yatanze ibihe byo kujurira byararenze, kandi ikaba ituzura cyangwa ngo isobanure iyatanze ku gihe. [67] Ubushinjacyaha bubisobanura buvuga ko TWAHIRWA Jean Baptiste ajurira yavugaga ko yahamijwe icyaha kandi cyarashaje, nta bimenyetso bimuhuza na bagenzi be, no kuba urukiko rwaramutwerereye imvugo yo guhakana icyaha ngo abitewe n'inkoni kandi ntaho yabivuze, kuba rero mu mwanzuro w'inyongera avuga ko ajurira kubera ko yahanishijwe igihano kiremereye, 9 "kwiba witwaje intwari bisobanuye kwiba witwaje igikoreshe icyo ari cyo cyose, imbunda, icyuma cyangwa ikindi kintu cyose gituma, gitobora cyangwa gisekura, gishobora kwica, gukomeretsa cyangwa gukubitishwa kigaragara cyangwa gihisha cyangwa kibonetse hafi y'aho icyaha cyakorewe" Umuntu wese wiba akoresheje intwari, aba akoze icyaha cyo kwiba hakoreshejwe intwari",

bigakorwa mu mwanzuro watanze kuwa 30/10/2025, ajuririra urubanza rwaciwe kuwa 5/4/2023, uyu mwanzuro ukaba utuzura cyangwa ngo usobanure uwatanze mu bihe byemewe n'amategeko, ibikubiyemo ntibigomba gusuzumwa. [68] Ubushinjacyaha bushingira ku mirongo yatanze n'Urukiko rw'Ikirenga ndetse n'uru Rukiko irimo: umurongo n'Urukiko rw'Ikirenga mu rubanza rubanziriza urundi RCOMAA 00071/2017/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 26/10/2018 haburana MBUTO Aimable na BRD (igika cya 22) ari narwo ruyoboye izindi kuri uyu murongo usobanura ko: "Ingingo iyo ariyo yose itanzwe nyuma y'ibihe ntarengwa byo kujurira, uretse iyuzura cyangwa isobanura iyatanze mu bihe byemewe byo kujurira, ntigomba kwakirwa", uyu murongo urukiko rw'ubujurire rukaba na n'ubu rukiwukurikiza nk'uko bigaragara mu rubanza RPAA 00444/2023/CA, rwaciwe ku wa 23/10/2025 haburana Ubushinjacyaha na NSANZIMANA Frederick n'undi (igika cya 20), urubanza RPAA 00386/2020/CA rwaciwe ku wa 11/06/2020 haburana Ubushinjacyaha na MUSHINZIMANA Daniel (igika cya 16) [...], busaba uru Rukiko kwemeza ko urubanza RPA 00206,00137,00148 na 00212/2022/HC/KIG rwaciwe ku wa 05/04/2023 n'Urukiko Rukuru rwa Kigali rugumye mu ngingo zarwo zose. UKO URUKIKO RUBIBONA [69] Impaka kuri iki kibazo zishingiye ku kumenya niba ingingo yo kugabanyirizwa igihano kuri TWAHIRWA Jean Baptiste yakwakirwa igasuzumwa, we na NDUNGUTSE Etienne bagabanyirizwa ibihano. [70] Mu gusesengura iki kibazo, hakwifashishwa umurongo watanze mu rubanza RPA 0282/08/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 12/03/2010 haburana Ubushinjacyaha na NYIRANGONDO Virginie, (Icyegeranyo cy'ibyemezo by'inkiko, Igitabo cya mbere, n° 8, Mutarama 2011, page 21-22). Urukiko ntirutegetswe kugabanya igihano n'iyi hari impamvu nyoroshyacyaha, ahubwo rugena igihano mu bushishozi bwarwo rurebye imikorere y'icyaha uregwa akurikiranyweho cyangwa uburyo cyakozwemo. [71] Ku kijyanye no kongera kugabanyiriza umuburanyi kubera impamvu nyoroshyacyaha, hakwifashishwa umurongo watanze mu rubanza RPAA 00406/2020/CA rwaciwe n'Urukiko

rw'Ubujuje ku wa 22/10/2021, haburana Ubushinjacyaha na NAHAYO Ignace (igika cya 22), usobanura ko nta cyabuza Urukiko rwajurirwe kongera kugabanya igihano mu gihe rusanga igihano cyatanze n'Urukiko rubanza kitaragabanyijwe mu buryo buhagije ubirebeye hamwe n'uburemere bw'icyaha cyakozwe. [72] Dosiye igaragaza ko NDUNGUTSE Etienne, na TWAHIRWA Jean Baptiste bahamijwe n'Urukiko Rukuru icyaha cyo kwiba hakoreshejwe guca icyuho bikozwe nijoro n'abantu barenze umwe hamwe n'icyaha cyo kwiba hakoreshejwe intwari, rubahanisha igihano cy'igifungo cy'imyaka 20 n'ihazabu y'amafaranga y'u Rwanda miliyoni eshanu (5,000,000 Frw) buri wese. [73] Urukiko rurasanga kuri NDUNGUTSE Etienne yarakomeje kwemera ibikorwa bigize icyaha aregwa kuko icyo ahakana ari inyito y'ibikorwa bigize icyaha yemera mu mategeko ibyo bikaba atari uguhakana icyaha aregwa bityo rero akaba agomba kugabanyirizwa ibihano hashingiwe kuri uko kwemera icyaha no gusaba imbabazi.

[74] Urukiko rurasanga kandi kuri TWAHIRWA Jean Baptiste ubujurire bwe ku bijyanye no kugabanyirizwa ibihano kwasuzumwa n'uru rukiko kuko uretse kuba ubushinjacyaha buvuga ko yabisabye akerebwe ariko kuba ubujurire bwe bwakiriwe ntacyabuza urukiko gusuzuma niba igihano cyatanze gihuye n'uburemere bw'icyaha cyakozwe. [75] Urukiko rurasanga nk'uko byasobanuwe, icyaha gihama TWAHIRWA Jean Baptiste ari ubujura bworoheje giteganywa n'ingingo ya 166 y'itegeko N°68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange ivuga ko umuntu wese uhamijwe n'urukiko icyaha cyo kwiba, ahanishwa igifungo kitari muni y'umwaka umwe (1) ariko kitarenze imyaka ibiri (2) n'ihazabu y'amafaranga y'u Rwanda atari muni ya miliyoni imwe (1.000.000 FRW) ariko atarenze miliyoni ebyiri (2.000.000 Frw). [76] Urukiko rw'Ubujuje rurasanga TWAHIRWA Jean Baptiste agomba guhanishwa igifungo cy'imyaka 2 n'ihazabu ya 2 000 000frw kuko rubona aricyo gihuye n'icyaha yakoze cyo kwiba ibikoreshe bifite agaciro kanini akabyiba aho yakoraga ndetse no ku muvandimwe we babanaga, yirengagije ikizere yagiriwe n'abo bantu. [77] Urukiko rurasanga ariko icyo gihano cy'igifungo cy'imyaka ibiri kandi akaba yarakimaze muri gereza harebwe igihe yafatiwe agafungwa ku wa 18/02/2021 bityo hakaba hagomba kwemezwa ko ahita afungurwa uru rubanza rukimara gusomwa. [78] Kuri NDUNGUTSE Etienne, Urukiko rurasanga hashingiwe ku kuba aho yaburanye hose yaragiye yemera ibikorwa bigize icyaha aregwa nk'uko byasobanuwe haruguru byatuma agabanyirizwa ibihano agahanishwa igifungo cy'imyaka 15 n'ihazabu ya 5 000 000frw. III. ICYEMEZO CY'URUKIKO [79] Rwemeje ko bujuje bwatanze na NSABIMANA Gilbert butakiriwe ngo busuzumwe; [80] Rwemeje ko ubujurire bwatanze NDUNGUTSE Etienne bufite ishingiro gusa ku bijyanye no kugabanyirizwa ibihano [81] Rwemeje ko ubujurire bwatanze na TWAHIRWA Jean Baptiste bufite ishingiro; [82] Rwemeje ko TWAHIRWA Jean Baptiste ahamwe n'icyaha cyo kwiba [83] Rwemeje ko imikirize y'urubanza RPA 00206-CMB 00137-CMB 00148- 00212/2022/HC/KIG, rwaciye n'Urukiko Rukuru ku wa 5/4/2023 rujurirwa ihindutse kuri bimwe; [84] Rutegetse ko NDUNGUTSE Etienne ahanishijwe igifungo cy'imyaka 15 n'ihazabu ya 5.000.000 Frw. [85] Rutegetse ko TWAHIRWA Jean Baptiste ahanishwa igifungo cy'imyaka 2 n'ihazabu ya 2 000 000 Frw. [86] Rutegetse ko TWAHIRWA Jean Baptiste ahita arekurwa uru rubanza rukimara gusomwa.

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