

RWANDA / JUDGMENT

UBUSHINJACYAHA v. UMUBYEYI

RPAA 00012/2021/CA

COURT

Court of Appeal

DECIDED

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UBUSHINJACYAHA v. UMUBYEYI

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Text

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UBUSHINJACYAHA v. UMUBYEYI [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00012/2021/CA (Rutazana, P.J.) 29 Mata 2025] Amategeko agenga ibyaha n'ibihano – Ibimenyetso – icyaha cyo guteza imvururu cyangwa imidugararo muri rubanda – Mu manza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye (principe de la liberté de la preuve en matière pénale), abaturanyi bakaba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi ko Urukiko arirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa. Amategeko agenga ibyaha n'ibihano – Kugabanya ibihano – Nta cyabuza Urukiko kugabanyiriza igihano uregwa, hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha kabone n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro. Incamake y'ikibazo: Nyuma y'iperereza yakozwe n'inzego zibishinzwe, Ubushinjacyaha bushingiye ku mvugo z'abatangabuhamy, bwareze Umubyeyi Yvette mu Rukiko Rukuru, Urugereko rwa Nyanza, bumukurikiranyeho icyaha cyo guteza imvururu cyangwa imidugararo muri rubanda, maze busaba ko icyo cyaha kimuhama agahanishwa igifungo cy'imyaka 10. Umubyeyi Yvette yaburanye ahakana icyaha, asaba kugirwa umwere. Urukiko Rukuru, Urugereko rwa Nyanza rushingiye ku bimenyetso bitandukanye, rwemeje ko Umubyeyi Yvette ahamwa n'icyaha ashinjwa cyo guteza imvururu cyangwa

imidugararo muri rubanda, maze rutegeka ko ahanishwa igifungo cy'imyaka 10. Umubyeyi Yvette yajuririye mu Rukiko rw'Ubujurire, avuga ko yahamijwe icyaha hashingiwe ku mvugo z'abatangabuhamya bamushinje ibinyoma kuko atemera icyaha ashinjwa cyo guteza imvururu cyangwa imidugararo muri rubanda. Uhagarariye Ubushinjacyaha avuga ko ubujurire bw'uregwa nta shigiro bufite kuko atanenga urubanza rujuririrwa kandi ntagaragaze impamvu ifatika yari gutuma abatangabuhamya bamushinje bamuhimbira icyaha atakoze, bityo asaba Urukiko kwemeza ko imikirize y'urubanza rwajuririwe idahindutse. Urukiko rw'Ubujurire rwemeje ko kuba nta kindi cyaha cyagaragajwe Umubyeyi Yvette yahamijwe n'inkiko mu buryo buzwi, byamubera impamvu nyoroshyacyaha yashingirwaho agabanyirizwa igihano, maze agahanishwa igifungo cy'imyaka umunani (8). Incamake y'icyemezo: 1. Mu manza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye (principe de la liberté de la preuve en matière pénale), ababuranyi bakaba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi ko Urukiko arirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa.

2. Nta cyabuza Urukiko kugabanyiriza igihano uregwa, hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha kabone n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro.

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Ubujurire nta shingiro bufite. Nta mategeko yashingiweho. Imanza zifashishijwe: Urubanza RPAA 00692/2021/CA rw' Ubushinjacyaha na Ndayishimiye Jean Damascène, rwaciwe n'Urukiko rw'Ubujurire ku wa 20/01/2023; Urubanza RPAA 00946/2024/CA rw' Ubushinjacyaha na Mukantwari Eugénie, rwaciwe n'Urukiko rw'Ubujurire ku wa 27/03/2025; Urubanza RPAA 00039/2021/CA rw' Ubushinjacyaha na Shakabatenda Jean de Dieu, rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07 /2021; Urubanza RPAA 00582/2021/CA rw' Ubushinjacyaha na Nyiraminani Julienne n'abandi, rwaciwe n'Urukiko rw'Ubujurire ku wa 25/02/2025; Urubanza RPAA 00529/2023/CA-CMB RPAA 00531/2023/CA rw' Ubushinjacyaha na Iyakare Lambert n'undi, rwaciwe n'Urukiko rw'Ubujurire ku wa 26/02/2025. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 19/05/2019 ubwo Umubyeyi Yvette yari mu kabari k'uwitwa Nyiritunga Cécile gaherereye mu Mudugudu wa Kamayanja, Akagari ka Karengera, Umurenge wa Musambira, Akarere ka Kamonyi mu Ntara y'Amajepfo asangira inzoga n' abandi bantu, yafashwe akekwa kuba yarabwiye abo basangiraga inzoga amagambo agamije guteza imvururu cyangwa imidugararo muri rubanda, ko ubwo yabaga mu gihugu cya Uganda hari abo mu ngabo za Kayumba Nyamwasa bamwegereye incuro nyinshi bakamusaba kubasanga mu ishyamba rya Nyungwe aho bakambitse akajya abatekera ariko araabyanga, ko noneho agiye kujya muri izo ngabo akazagaruka yambaye gisirikare kugira ngo ahore abahutu barengaye mu Rwanda barimo na mama we; ngo anababwira ko Perezida Museveni yamukundaga Perezida Kagame akamufata nk'umwana we ariko uyu aza kumwishongoraho, ngo akaba ari yo mpamvu u Rwanda rufitanye ikibazo na Uganda. [2] Nyuma y'iperereza Ubushinjacyaha bwareze Umubyeyi Yvette mu Rukiko Rukuru, Urugereko rwa Nyanza, bumukurikiranyeho icyaha cyo guteza imvururu cyangwa imidugararo muri rubanda, bushingiye ku mvugo z' abatangabuhamya bari kumwe nawe bumvise avuga amagambo yavuzwe haruguru, busaba ko icyo cyaha kimuhama agahanishwa igifungo cy'imyaka 10. [3] Umubyeyi Yvette yaburanye avuga ko icyaha ashinjwa ntacyo yakoze asaba kugirwa

umwere, ashingiye ku mpamvu y'uko n'ubwo yemera ko yari muri ako kabari, icyo yavuze ari uko ubuyobozi bw'Umurenge wa Musambira butanga serivisi mbi kuko bwamwimye icyangombwa cy'ikibanza cye kandi atarahwemye kugisaba, naho andi magambo bavuga ko yavuze ntayabayeho, abo bari kumwe mu kabari babajijwe nk'abatangabuhamya bakaba bamubeshyera ku mpamvu atazi nyamara nta n'icyo basanzwe bapfa.

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[4] Mu rubanza RP 00009/2019/HC/NYZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza ku wa 29/09/2020 rwemeje ko Umubyeyi Yvette ahamwa n'icyaha ashijwa rutegeka ko ahanishwa igifungo cy'imyaka 10, rushingiye ku bimenyetso n'impamvu bikurikira:

- Kuba amagambo yavuzwe haruguru (mu gika cya 1 cy'uru rubanza) Umubyeyi Yvette yarayavuze, hashingiwe ku buhamya bwatanzwe mu Bugenzacyaha n'abatangabuhamya Habimana Ernest, Nyiritunga Céline, Nayihoranye Rivine na Rwandenzi Epimaque basangiraga nawe inzoga mu kabari ubwo yafatwaga, kandi nawe (Umubyeyi Yvette) akaba yemera ko yari kumwe nabo bose ndetse ko ntacyo yari asanzwe apfa nabo cyari gutuma bamuhimbira ibyo atavuze,
- Kuba mu ibazwa rye mu Bugenzacyaha, mu makuru Umubyeyi Yvette yitangiye ubwe harimo ajyanye n'uko umugabo we aba mu gihugu cya Uganda n'ay'uko nawe (Umubyeyi Yvette) yabaye muri icyo gihugu yotsa inyama kandi ko hari abasirikare bo kwa Kayumba Nyamwasa bamusabye kenshi ko yabasanga mu ishyamba rya Nyungwe aho bakambitse akajya abatekera ariko akabyanga, bityo abatangabuhamya bamushinja bakaba ntaho bashoboraga gukura aya makuru Umubyeyi Yvette yitanzeho we ubwe mu gihe yari kuba atayabaganirijeho mu bwisanzure;
- Kuba nta bimenyeso Umubyeyi Yvette yatanze bivuguruzwa ubuhamya bwavuzwe haruguru, kuko umutangabuhamya witwa Kamanzi Aloys yavugaga ko amushinjura mu ibazwa rye mu Bugenzacyaha yemeje ko ubwo ibyo Umubyeyi Yvette aregwa byabaga ndetse n'igihe yafatwaga we yari yatashye;
- Kuba nta kimenyetso na kimwe Umubyeyi Yvette yatanze Urukiko rwashingiraho rwemeza ko imyiregurire ye y'uko icyo yavuze gusa ari uko inzego z'ubuyobozi bw'Umurenge wa Musambira zitanga «services» mbi kuko zamwangiye kubaka ikibanza cye ariyo y'ukuri kandi afite inshingano yo gushyigikiza imiburanire ye ibimenyetso.¹¹

1 Ibi Urukiko Rukuru, Urugereko rwa Nyanza rwabyemeje rushingiye ku ngingo ya 107 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha igira iti: igira iti: «Ubushinjacyaha, uwakorewe icyaha cyangwa se abamufiteho uburenganzira iyo baregeye indishyi z'akababaro cyangwa biregeye umuburanyi, ni bo bagomba gutanga ibimenyetso byemeza icyaha. Ukurikiranyweho icyaha afatwa nk'umwere igihe cyose urubanza rutaramwemeza icyaha burundu. Iyo icyaha cye kitaragaragazwa, ushinjwa ntagomba gutanga ibimenyetso byo kwiregura. Ariko, iyo icyaha cyabonewe ibimenyetso bikigaragaza, ugukurikiranyweho cyangwa umwunganira agomba kwerekana impamvu zose yireguza, zerekana

ko ikirego kitakwemerwa, zihamya ko icyo aregwa atari icyaha cyangwa se ko ari umwere, n'izindi mpamvu zose zivuguruzwa izimuhamya icyo cyaha. Uretse igihe itegeko ribiteganywa ukundi, ku byerekeranye n'itangwa ry'ibimenyetso hakurikizwa itegeko rijyanye n'itangwa ry'ibimenyetso»; n'ingingo ya n'ingingo ya 2, 3, 4, 9 n'ya 119 z'itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ryakurikizwaga icyo gihe, aho ingingo ya 2 yateganyaga ko ikimenyetso cyo mu rubanza ari uburyo bukoreshwa kugira ngo ukuri kw'ibyabaye kugaragare, ingingo ya 3 igasobanura ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana, ariko ko umucamanza ashobora gutegeka umuburanyi wese gutanga gihamya y'ibimenyetso afite ; ingingo ya 4 igateganywa ko urukiko ruca urubanza rwaregewe hakurikijwe ibimenyetso bihuje na kamere y'ikiburanwa ; ingingo ya 9 igasobanura ko ibimenyetso bihamya amasezerano cyangwa ibindi bikorwa bishobora gutangwa hakoreshejwe inyandiko, ubuhamya, uburyo bwo gucukumbura, ukwiyemerera k'umuburanyi cyangwa herekanywe ibindi bintu bifatika ; naho ingingo ya 119 igateganywa ko mu manza nshinjabyaha, ibimenyetso bishingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ko ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye, ko urukiko ari rwo ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa.

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- Kuba amagambo yavuzwe haruguru Umubyeyi Yvette yavuze agaragaza ko icyari kigamijwe (intention) ari ukwangisha rubanda ubutegetsu buriho agaragaza ko bukora nabi, bugomba kuvaho akangurira abamwumva kumujya inyuma mu rwego rwo gushyigikira ivanwaho ryabwo binyujijwe mu gushyigikira ingabo za Kayumba Nyamwasa hicwa abarenganyije abahutu; aya magambo rero yavuze akoresha mu ruhamwe imvugo yangisha rubanda ubutegetsu buriho akaba agize icyaha giteganywa mu ngingo ya 2042 y'itegeko N°68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange. [5] Umubyeyi Yvette yajuririye Urukiko rw'Ubujurire, urubanza ruhabwa RPAA 00012/2021/CA, ruburanishwa mu ruhamwe ku wa 08/04/2025 yunganiwe na Me Kananga Protogène naho Ubushinjacyaha buhagarariwe na Butera Oscar, Umushinjacyaha ku rwego rw'Igihugu.

- [6] Mu bujurire bwe Umubyeyi Yvette avuga ko yahamijwe icyaha hashingiwe ku mvugo z'abatangabuhamya bamushinje ibinyoma ku bw'akagambane yakorewe, hirengagizwa imiburanire ye n'ibimenyetso yatanze bigaragaza ko amagambo ashinjwa ko yavuze ntayabayeho. [7] Uhagarariye Ubushinjacyaha avuga ko Umubyeyi Yvette atanenga urubanza rujuririrwa kuko atagaragaza impamvu ifatika yari gutuma abatangabuhamya bamushinje bamuhimbira icyaha atakoze, bityo ubujurire bwe bukaba nta shigiro bufite. [8] Urukiko rurasuzuma niba mu rubanza rujuririrwa Umubyeyi Yvette yarahamijwe icyaha cyo gukoresha mu ruhamwe imvugo yangisha rubanda ubutegetsu buriho nta bimenyetso bikimuhamya bishingiweho. II. ISESENGURA RY' IKIBAZO KIGIZE URUBANZA Kumenya niba mu rubanza rujuririrwa Umubyeyi Yvette yarahamijwe icyaha cyo gukoresha mu ruhamwe imvugo yangisha rubanda ubutegetsu buriho nta bimenyetso bikimuhamya bishingiweho. [9] Umubyeyi Yvette avuga ko Urukiko Rukuru, Urugereko rwa Nyanza

rwamuhamije icyaha rushingiye ku mvugo z'abatangabuhamya bamushinje ibinyoma, ntirwaha agaciro imvugo ze n'ibimenyetso byose yatanze bigaragaza ko atigeze avuga amagambo yashingiweho ashinjwa icyaha cyo gukoresha mu ruhame imvugo yangisha rubanda ubutegetsu buriho. [10] Umubyeyi Yvette asobanura ko yahamijwe icyaha hashingiwe ku buhamya bwatanzwe n'abatangabuhamya barimo Rwandenzi Epimague wari Umunyamabanga Nshingwabikorwa w'Akagari yari atuyemo, ngo nyamara yaragaragaje ko uyu yari yaramwishyizemo kuko yahoraga

2 Iyo ngingo ya 204 y'Itegeko N°68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange igira iti" «Umuntu wese, mu ruhame, ukoresha imvugo, inyandiko z'ubwoko bwose, amashusho cyangwa ibimenyetso by'amoko yose, bimanitswe, bitanzwe, biguzwe cyangwa bigurishijwe cyangwa bitangajwe mu bundi buryo bwose, uwangisha rubanda ubutegetsu buriho, utera imvururu mu baturage ashaka ko basubiranamo cyangwa utera rubanda intugunda ashaka kubutsa imidugararo muri Repubulika y'u Rwanda, aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari munsi y'imyaka icumi (10) ariko kitarenze imyaka cumi n'itanu (15) ».

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agaya serivisi batanga kuko bari baramwimye icyangombwa cy'ubutaka bwe. Akomeza asobanura ko abo batangabuhamya bamushinje yahuriye nabo mu kabari basangira inzoga baranaganira, bamubaza amakuru yo muri Uganda kuko bari bazi ko yabagaye, nawe arayabwirira, bagera n'aho bamubaza ku birebana n'ingabo za Kayumba Nyamwasa abasobanurira ko nawe zamugezeho kenshi zigira ngo azajye azitekera mu ishyamba rya Nyungwe ariko akabyanga ndetse akaza no gufata icyemezo cyo kugaruka mu Rwanda. Avuga ko Rwandenzi Epimague ari we wamuhururije inzego z'umutekano kuko yari umuyobozi bityo kuba yabahamagaye akanababwirira uwo bafata bakaba batazuyaza kubikora bamuziza ubusa. [11] Umubyeyi Yvette akomeza asobanura ko mu rubanza rujuzirirwa yarenganyijwe kuko Urukiko rwemeje ko nta bimenyetso bifatika yatanze bishyigikira imvugo ze aho kugira ngo rwikorere iperereza kugira ngo rushobore gutahura ukuri, rwirengagije ko atari kubona abatangabuhamya bamushinjura mu gihe abamushinje babibwirijwe na Rwandenzi Epimague kandi bakaba batari kwiteranya nawe nk'umuyobozi; asaba uru Rukiko gukora iperereza aho atuye kugira ngo rumenye ukuri ku byo aregwa kandi rwibonere ko nta muntu yari asanzwe afitanye nawe ikibazo ndetse ko nta kindi cyaha yigeze akurikiranwaho. Avuga ko icyaha yaba yarakoze ari icy'uho atatanze amakuru y'ibyamubayeho ubwo yari muri Uganda. [12] Umubyeyi Yvette akomeza avuga ko abatangabuhamya bamushinje ibinyoma ku bw'akagambane ashingiye ku mpamvu zikurikira:

- Kuba yari yemereye Rwandenzi Epimague kumuha ruswa ingana na 50.000 Frw kugira ngo amufashe kubona icyangombwa cy'ubutaka bwe, ariko ubwo bari kumwe mu kabari uyu Rwandenzi Epimague akabona Umubyeyi Yvette ahamagaye Ubuyobozi bw'Umurenge (kuri telefone) maze yikanga ko agiye kumutanga kubera iyo ruswa yagombaga kumuha bituma agira uburakari maze aramubeshyera;

- Kuba Nyiratunga Céline yaravugaga ko Umubyeyi Yvette yamutwariye abakiriya b'abari ke kandi akaba inshoreke ya Rwandenzi Epimaque;
- Kuba atari aziranye na Nayihoranye Rivini na Nziyumvira, bityo bakaba baramushinje babibwirijwe na Rwandenzi Epimaque kugira ngo dosiye ya Umubyeyi Yvette itamwitirirwa kandi ari umuyobozi. [13] Me Kananga Protogène nawe ashimangira ko Umubyeyi Yvette yunganira yahamijwe icyaha hashingiwe ku mvugo z'abatangabuhamya bashatswe na Rwandenzi Epimaque nyamara uyu atari inyangamugayo kuko yakatiwe n'inkiko kubera icyaha cya ruswa agatoroka ubutabera, kandi kuba Umubyeyi Yvette arengana bikaba bigaragazwa n'invugo z'umutangabuhamya witwa Kamanzi Aloys wari Umukuru w'Umudugudu Umubyeyi Yvette yari atuyemo, wavuze mu ibazwa rye mu Bugenzacyaha ko ako kabari nawe yari akarimo guhera 4h30 kugeza 20h30, ariko ko invugo bashinja Umubyeyi Yvette ntazo yumvise. Me Kananga Protogène avuga kandi ko mu iperereza yikoreye aho Umubeyi Yvette yari atuye yasanze abaturage hafi ya bose bavuga ko Umubyeyi Yvette yazize akagambane ka Rwandezi Epimaque n'inshuti ye Nyiratunga Céline, harimo nk'uwitwa Mugabonacyera Emmanuel wemeza ko Umubyeyi Yvette yari umuturage ukurikiza gahunda za Leta, ko nta magambo yavuze ahubwo bamubeshye, ngo bikaba buhura n'ibyo Kamanzi Aloys yavuze. [14] Me Kananga Protogène avuga ko n'ibikorwa bigize icyaha Umubyeyi Yvette yahamijwe bituzuye kuko nta bushake bwo gukora icyaha bwagaragajwe, dore ko nta n'icyari gutuma avuga

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ayo magabo ashinjwa; ko icyo yemerera ari uko yavuze ko ushinzwe imiturire yadindije dosiye ye yo gusaba icyangombwa cy'ubutaka kandi ibyo bikaba ntaho bihuriye no kwangisha abaturage ubuyobozi, dore ko ntaho bigaragara ko yigeze akoresha inama cyangwa yigisha abaturage kugandira ubuyobozi. [15] Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Umubyeyi Yvette nta shingiro bufite ashingiye ku mpamvu zikurikira:

- Kuba mu bujurire bwe avuga ko yashinje ibinyoma n'abatangabuhamya bashatswe na Rwandenzi Epimaque wari Umunyamabanag nshingwabikorwa w'Akagari ngo bari bafitanye ikibazo cy'uko yajyaga abagaya kubera serivise mbi batanga, mu gihe mu ibazwa rye mu gihe cy'iperereza yemeye ko yamaze umwanya asangira n'abo batangabuhamya inzoga mu kabari kandi ko nta kibazo bari bafitanye; bityo invugo ye mu gihe cy'iperereza ikaba ariyo igomba gufatwaho ukuri kuko atagaragaza impamvu ifatika yari gutuma bamubeshyera;
- Kuba umutangabuhamya witwa Kamanzi Aloys atarigeze amushinjura nk'uko abivugaga kuko ko yasize Umubyeyi Yvette mu kabari ari kumwe n'abatangabuhamya bavuzwe haruguru bamushinje, amagambo ashinjwa ataravugwa, ibi kandi na Umubyeyi Yvette akaba ariko yabyemeje ubwo yabazwaga mu Bushinjacyaha (reba igisubizo cya 7 mu nyandiko mvugo yakorewe) ndetse n'Urukiko rukaba rwarabigarutseho mu gika cya 17 cy'urubanza rujurirwa [16] Uhagarariye Ubushinjacyaha asoza avuga ko hashingiwe ku byasobanuwe haruguru, amagambo Umubyeyi Yvette ashinjwa yayavuze kuko abishinjwa n'abo bari kumwe; naho ibyo avuga ko Rwandezi Epimaque yakatiwe icyaha igihano kubera icyaha cya ruswa bikaba

ntaho bihuriye n'uru rubanza, asaba Urukiko kwemeza ko imikirize y'urubanza rwajuririwe idahindutse. UKO URUKIKO RUBIBONA [17] Impaka kuri iyi ngingo zishingiye kumenya niba Urukiko Rukuru, Urugereko rwa Nyanza rwaremeje ko Umubyeyi Yvette ahamwa n'icyaha cyo gukoresha mu ruhame imvugo yangisha rubanda ubutegetsi buriho nta bimenyetso bikimuhamya bishingiweho, kuko ubuhamya bwashingiweho bwatanzwe n'abatangabuhamya bashatswe na Rwandenzi Epimaque wari Umunyamabanga Nshinngwabikorwa w'Akagari akababwiriza kumubeshyera kuko hari ibyo bapfaga. [18] Mu rubanza RPAA 00692/2021/CA rwaciwe ku wa 20/01/2023 haburana Ubushinjacyaha na Ndayishimiye Jean Damascène, Urukiko rw'Ubujurire rwasobanuye ko mu manza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye (principe de la liberté de la preuve en matière pénale), ababuranyi bakaba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi ko Urukiko arirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa³. Uyu murongo washingiwaho no mu zindi manza zaciwe n'uru Rukiko, mu

3 N'ubwo uyu murongo ushingiyeye ku isesengura ry'ingingo ya 119 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ryakurikizwaga urubanza RPAA 00692/2021/CA rucibwa, ibyateganywaga n'iyi ngingo bihura n'ubundi n'ibiteganywa n'ingingo ya 87 y'Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso rikurikizwa ubu, iteganya ko mu rubanza nshinjabyaha ikimenyetso gishingira ku

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ziheruka gucibwa harimo nk'urubanza RPAA 00946/2024/CA rwaciwe ku wa 27/03/2025 haburana Ubushinjacyaha na Mukantwari Eugénie (igika cya 14). [19] Nk'uko bigaragara mu rubanza rujuririrwa (igika cya 16 kugeza ku cya 21), Urukiko Rukuru, Urugereko rwa Nyanza rwasanze icyaha Umubyeyi Yvette ashinjwa yaragikoze hashigiwe ku buhamya bwatanzwe mu Bugenzacyaha na Habimana Ernest, Nyiratunga Céline, Nayihoranye Rivine na Rwandenzi Epimaque basangiraga nawe inzoga mu kabari (ka Nyiratunga Céline) ubwo yafatwaga, bemeje ko amagambo ashinjwa kuvuga yayavuze koko, kandi na Umubyeyi Yvette akaba yaremeye ko yari kumwe nabo akanemera ko ntacyo yari asanzwe apfa nabo cyari gutuma bamuhimbira ibyo atavuze; Urukiko kandi rwasanze imiburanire ye y'uko uwitwa Kamanzi Aloys amushinjura nta shigiro ifite kuko mu ibazwa rye mu Bugenzacyaha uyu yemeje ko ibyo Umubyeyi Yvette aregwa byabaye atakiri muri ako kabari. Ikindi Urukiko rwashingiyeho ni uko ayo magambo ashijwa ko yavuze ahuye n'amakuru yitangiye ubwe mu ibazwa rye mu Bugenzacyaha, ajyanye n'uko we n'umugabo we babaga mu gihugu cya Uganda, ay'uko we (Umubyeyi Yvette) yotsa inyama hakaba hari abasirikare bo kwa Kayumba Nyamwasa bamwegereye bakamusaba inshuro nyinshi ko yabasanga mu ishyamba rya Nyungwe aho bakambitse nk'abateye u Rwanda akajya abatekera ariko akabyanga, abo batangabuhamya bakaba ntaho bari gukura ayo makuru ngo bayamuhimbire mu gihe yari kuba atari we wayabaganirijeho. [20] Urukiko Rukuru, Urugereko rwa Nyanza kandi rwemeje ko nta kimenyetso yatanze rwashingiraho rwemeza ko imyiregurire ye y'uko icyo yavuze ari uko inzego z'ubuyobozi bw'Umurenge wa Musambira zitanga serivise mbi ariyo y'ukuri kandi afite inshingano yo gushyigikiza imiburanire ye ibimenyetso; runemeza

ko ayo magambo yavuze mu ruhamwe agize icyaha cyo gukoresha imvugo yangisha rubanda ubutegetsu buriho kuko agaragaza ko icyo yari agamije (intention) ari ukwangisha rubanda ubutegetsu buriho agaragaza ko bukora nabi, bugomba kuvaho akangurira abamwumva kumujya inyuma mu rwego rwo gushyigikira ivanwaho ryabwo binyujijwe mu gushyigikira ingabo za Kayumba Nyamwasa hicwa abarenganyije abahutu. [21] Urukiko rw'Ubujurire rurasanga kuri uru rwego, uretse gusa kuvuga ko abatangabuhamya bamushinje bamubeshyeye babibwirijwe na Rwandenzi Epimague bari bafite ibyo bapfa, nta bimenyetso atanga bigaragaza ko ibyo avuga ari ukuri, haba ku bijyanye n'ibyo avuga ko yapfaga na Rwandenzi Epimague, haba ku bijyanye no kuba Nyiritunga Céline yari inshoreke ya Rwandenzi Epimague, haba no ku bijyanye no kuba avuga ko Rwandenzi Epimague ari we wabwirije abatangabuhamya kumubeshyera; uru Rukiko rukaba ntacyo rwagaragarijwe rwashingiraho rwemeza ko ibyo Umubyeyi Yvette avuga bigize inenge mu buhamya bwashingiweho ahamwe n'icyaha mu rubanza rujuririrwa. [22] Urukiko rw'Ubujurire rurasanga ahubwo, nk'uko Urukiko Rukuru, Urugereko rwa Nyanza rwabibonye, kuba Umubyeyi Yvette ashinjwa n'abatangabuhamya bari kumwe nawe mu kabari basangira, nawe koko akaba yemera ko bari kumwe, kandi ibyo bamushinje bikaba bihura n'amakuru yitangiye ubwe ubwo yabazwaga mu Bugenzacyaha, byumvikanisha ko abo batangabuhamya batari kumenya ayo makuru atayababwiye; bikaba rero bishimangira ko amagambo ashinjwa yayavuze.

mpamvu zose z'ibyabaye n'ibyemejwe n'amategako, ababuranyi bapfa kuba barahawe umwanya wo kubijyaho impaka.

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[23] Urukiko rw'Ubujurire rurasanga ibyo asaba kuri uru rwego ko hakorwa iperereza aho atuye nta shingiro bifite kuko mu miburanire ye avuga ko iryo perereza ryagaragariza Urukiko ko atashoboraga kuvuga amagambo nk'ayo ashinjwa kuko yari asanzwe yitwara neza dore ko nta muntu yari afitanye nawe ikibazo nk'uko umwunganira yabibonye mu iperereza yikoreye, kandi akaba nta kindi cyaha yigeze akurikiranwaho, izi mpamvu yireguza zikaba ntaho zihuriye n'icyaha ashinjwa bityo zikaba zitashingirwaho hateshwa agaciro ibimenyetso byagaragajwe haruguru bikimuhamya. [24] Hashingiwe ku bisobanuro byose byatanze, ubujurire bwa Umubyeyi Yvette bukaba nta shingiro bufite. [25] Urukiko rw'Ubujurire rurasanga ariko n'ubwo ubujurire bwe budahawe ishingiro, nta cyabuza ko hasuzumwa ibijyanye n'igihano yahanishijwe hagamijwe kureba niba gihwanye n'uburemere bw'icyaha yakoze, nk'uko byatanze umurongo n'uru Rukiko mu rubanza RPAA 00039/2021/CA rwaciwe ku wa 02/07/2021 haburana Ubushinjacyaha na Shakabatenda Jean de Dieu, aho rwasobanuye ko "nta cyabuza Urukiko kugabanyiriza igihano uregwa, hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha kabone n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro; uwo murongo kandi ukaba waragiye ukurikizwa mu zindi manza zaciwe n'uru Rukiko, mu zaciwe vuba twavugaga nk'Urubanza RPAA 00582/2021/CA rwaciwe ku wa 25/02/2025 haburana Ubushinjacyaha na Nyiraminani Julienne n'abandi (igika cya 27 n'icya 28) n'urubanza RPAA 00529/2023/CA-CMB RPAA 00531/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 26/02/2025 haburana Ubushinjacyaha na Iyakare Lambert

n'undi (igika cya 26). [26] Hashingiwe ku murongo wagaragajwe mu gika kibanziriza iki, Urukiko rw'Ubujurire rurasanga kuba nta kindi cyaha cyagaragajwe Umubyeyi Yvette yahamijwe n'inkiko mu buryo buzwi byamubera impamvu nyoroshyacyaha yashingirwaho agabanyirizwa igihano, agahanishwa igifungo cy'imyaka umunani (8). III. ICYEMEZO CY'URUKIKO [27] Rwemeje ko ubujurire bwa Umubyeyi Yvette nta shingiro bufite. [28] Rwemeje ko urubanza RP 00009/2019/HC/NYZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza ku wa 29/09/2020 ruhindutse gusa ku bijyanye n'igihano Umubyeyi Yvette ahanishijwe. [29] Ruhanishije Umubyeyi Yvette igifungo cy'imyaka umunani (8). [30] Rutegetse ko Umubyeyi Yvette asonewe amagarama y'urubanza kuko aburana afunze.

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