

RWANDA / JUDGMENT

UBUSHINJACYAHA v. USABAMUNGU

RPAA01369/2024/CA

COURT

Court of Appeal

DECIDED

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UBUSHINJACYAHA v. USABAMUNGU

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Text

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UBUSHINJACYAHA v. USABAMUNGU [Rwanda URUKIKO RW'UBUJURIRE – RPAA01369/2024/CA (Umugwaneza, J. P.) 30 Ukwakira 2025] Amategeko agenga imanza nshinjabyaha – Igabanyagihano – Uregwa ntiyongera kugabanyirizwa ibihano, iyo mu bujurire Urukiko rusanga yarabigabanyirijwe bihagije, harebwe uburemere bw'icyaha n'uburyo icyaha cyakozwemo. Incamake y'ikibazo: Police, ishami rishinzwe kurwanya ibiyobyabwenge, ku bufatanye n'inzego z'ibanze hamwe n'abaturage bafashe uwitwa Nsanzuwera afite udupfunyika tw'urumogi 152 n'amafaranga 21.000Frw, avuga ko arurangura n'uwitwa Usabamungu, bamusaba ko amuhamagara ko ashaka urumogi, maze aza ahetswe kuri moto n'uwitwa Kubwimana amuzaniye udupfunyika 200. Izo nzego zimaze kubafata, zagiye gusaka mu rugo rwa Usabamungu bamusangana udupfunyika 1.923 tw'urumogi, maze bose barafatwa bashyikirizwa Ubugenzacyaha. Nyuma yo gushyikirizwa Ubushinjacyaha bose barezwe mu Rukiko Rwisumbuye rwa Gasabo bubakurikiranyeho icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshe nkabyo mu buryo bunyuranyije n'amategeko, aho Nsanzuwera yaburanye yemera icyaha ko acuruza urumogi, nk'uko yabyemeye akimara gufatwa, naho Usabamungu aburana ahakana avuga ko nta rumogi acuruza ko nta n'urwo yafatanwe.

Urukiko Rwisumbuye rwasanze hari ibimenyetso bitandukanye byemeza ko Nsanzuwera na Usabamungu bacuruza urumogi, maze rwemeza ko bahamwa n'icyo cyaha, Nsanzuwera ahanishwa igifungo cy'imyaka 10 n'ihazabu ya miliyoni 20.000.000Frw, kuko ari ubwa mbere akurikiranywe n'inkiko kandi akaba yaraburanye yemera icyaha. Naho Usabamungu ahanishwa igifungo cya burundu n'ihazabu ya 20.000.000Frw kuko atari ubwa mbere yari akurikiranweho icyaha cy'ikoreshwa ritemewe ry'ibiyobyabwenge, ahubwo hari izindi manza zamuhamije icyo cyaha akagihanirwa kandi akaba aburana ahakana icyaha. Usabamungu na Nsanzuwera bajuririye mu Rukiko Rukuru, Usabamungu noneho yemera icyaha asaba kugabanyirizwa ibihano, ariko Ubushinjacyaha buvuga ko uko kwemera icyaha mu bujurire ntacyo byamumarira, bityo ko atagabanyirizwa. Nsanzuwera yajuriye asaba kugabanyirizwa ngo kuko yaburanye yemera icyaha, ariko Ubushinjacyaha bwamusabiye ko atagabanyirizwa kuko yagabanyirijwe ibihano ku buryo buhagije. Urukiko Rukuru rwaciye urubanza rwemeza ko Usabamungu yagabanyirizwa ibihano n'ubwo impamvu ze nyoroshyacyaha zitahawe ishingiro, ariko hakitabwa ku kuba atari ubwa mbere akoze icyaha nk'icyo, rumuhanisha igifungo cy'imyaka 25 n'ihazabu ya 5.000.000Frw. Naho kuri Nsanzuwera, Urukiko rwasanze igifungo cy'imyaka 10 yahanishijwe kitakongera kugabanywa, kuko cyagabanyijwe ku buryo buhagije, rusanga ariko ihazabu yo ikwiye kugabanywa, ahanishwa igifungo cy'imyaka 10 n'ihazabu ya 5.000.000Frw. Usabamungu yajuririye uru Rukiko rw'Ubujurire asaba kongera kugabanyirizwa ibihano, kuko yemera icyaha, akaba yaragororotse no kugira ngo ajye kwita ku muryango we yasize, ngo dore ko abana be bavuye mu ishuli batiga. Avuga kandi ko Urukiko Rukuru rwamuhanishije igihano kiremereye ruvuga ko ari isubiracyaha kandi ari ubwa mbere yari akoze icyaha cyo gucuruza ibiyobyabwenge, ko icyaha yigeze guhanirwa ari icyo kunywa ibiyobyabwenge. Akomeza avuga ko umucamanza adategetswe kugabanya ibihano, ariko mu rwego rwo gutanga ubutabera buboneye, ko Urukiko Rukuru rwagomgabaga gutanga ibihano bingana ku bantu baregwa mu rubanza rujuririrwa kuko bose bakoze icyaha kimwe n'uburemere bwacyo bukaba ari bumwe, ariko ko we yahanishijwe igifungo cy'imyaka 25 naho Nsanzuwera ahanishwa igifungo cy'imyaka 10 gusa.

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Muri ubu bujurire, Ubushinjacyaha buvuga ko igihano Usabamungu yahanishijwe kitakongera kugabanywa kuko cyagabanyijwe bihagije, kandi kuba ku rwego rwa mbere yaraburanye ahakana icyaha akacyemera mu bujurire, ibyo bikaba bitamubera impamvu nyoroshyacyaha ituma agabanyirizwa igihano, ndetse akaba atari ubwa mbere yakora icyaha cy'ikoreshwa ritemewe ry'ibiyobyabwenge, kuko hari urubanza yaregwagamo ndetse ahanirwa icyaha cy'ikoreshwa ritemewe n'amategeko ry'ibiyobyabwenge n'urundi yahaniwe icyaha cyo gufatanwa urumogi, ibi bikaba bigaragaza ko ari ibintu yagize umwuga atashobora kureka. Incamake y'icyemezo: Uregwa ntiyongera kugabanyirizwa ibihano, iyo mu bujurire Urukiko rusanga yarabigabanyirijwe bihagije, harebwe uburemere bw'icyaha n'uburyo icyaha cyakozwemo. Ubujurire nta shingiro bufite. Amategeko yashingiweho: Itegeko Nshinga rya Repubulika y'u Rwanda ryo ku wa 04/08/2023, ingingo ya 29. Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 2. Itegeko N° 69/2019

ryo ku wa 08/11/2019 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 11. Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 60. Imanza zifashishijwe: RS/ICONST/SPEC00003/20219/CA, Kabasinga Florida na Leta y'u Rwanda rwaciwe n'Urukiko rw'Ikirenga ku wa 04/12/2019. RPA0129/10/CS, Ubushinjacyaha na Mpitabakana rwaciwe n'Urukiko rw'Ikirenga ku wa 7/03/2014. RPAA00893/2024/CA, Ubushinjacyaha na Bahati Manasse, rwaciwe n'Urukiko rw'ubujurire ku wa 29/09/2025. RPAA00157/2022/CA, Ubushinjacyaha na Munyaribanje Vincent rwaciwe n'Urukiko rw'Ubujujire ku wa 22/12/2023. RPAA00194/2021/CA, Ubushinjacyaha na Ndayishimiye Emmanuel alias Shema, rwaciwe n'Urukiko rw'Ubujujire ku wa 22/07/2022. RPAA00032/2029/CA, Ubushinjacyaha na Nzafashwanimana Jean de Dieu, rwaciwe n'Urukiko rw'Ubujujire ku wa 28/02/2020. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 16/09/2022, ku bufatanye bwa Police ishami rishinzwe kurwanya ibiyobyabwenge, inzego z'ibanze hamwe n'abaturage, hakoze umukwabo wo gufata abacuruzi b'urumogi mu Mudugudu wa Karukamba, Akagari ka Kamatamu, Umurenge wa Kacyiru, nibwo hafashwe uwitwa Nsanzuwera Théophile alias Master, afatanwa udupfunyika 152 tw'urumogi n'amafaranga 21.000Frw, yemera ko urumogi arucuruza, ko ayo mafaranga ari ayo yarucuruje, avuga ko urumogi arurangura n'uwitwa Usabamungu Emmanuel alias Issa utuye mu Mudugudu wa Rinini, mu Kagari ka Gahanga, Umurenge wa Gahanga, Akarere ka Kicukiro, bamusaba kumuhamagara akamubwira ko ashaka urumogi, nibwo yamuhamagaye aza ahekanye n'uwitwa Kubwimana Kassim kuri moto ifite plaque RF319 T, bafite urumogi udupfunyika 200, bakimara gufata Usabamungu Emmanuel nawe bagiye kumusaka iwe aho atuye i Gahanga bahasanga udupfunyika 1.923 tw'urumogi, Usabamungu Emmanuel alias Issa na Nsanzuwera Théophile alias Master bahise bashyikirizwa Ubugenzacyaha batangira gukurikiranwa.

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- [2] Ubushinjacyaha bwabareze mu Rukiko Rwisumbuye rwa Gasabo, bubakurikiranyeho icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshewa nkabyo mu buryo bunyuranyije n'amategeko, Usabamungu Emmanuel alias Issa aburana agihakana akavuga ko ntarumogi acuruza ko nta n'urwo yafatanwe, ko kuba yarabyemewe mu nzego z'iperereza yabitewe n'iyicarubozo yakorewe. Nsanzuwera Théophile alias Master we yaburanye yemera icyaha, akavuga ko yacuruje urumogo kubera ko yari amaze kwirukanwa kukazi kandi afite abana biga, ko yaruranguraga na Usabamungu Emmanuel alias Issa. [3] Mu rubanza RP00990/2022/TGI/GSBO rwaciwe ku wa 31/10/2022, Urukiko Rwisumbuye rwa Gasabo rwasanze hari ibimenyetso byemeza ko Usabamungu Emmanuel alias Issa na Nsanzuwera Théophile alias Master bacuruza urumogi, birimo:
- a. ukwemera icyaha kwa Nsanzuwera Théophile alias Master haba mu Bugenzacyaha no mu Bushinjacyaha ndetse no mu Rukiko, akanashinja Usabamungu Emmanuel alias Issa ko ariwe umuranguza urumogi acuruza;

- b. inyandikomvugo y'ifatira y'urumogi Nsanzuwera Théophile yashyizeho umukono igaragaza ko yafatanwe udupfunyika 152 tw'urumogi ndetse n'amafaranga 21.000Frw yari amaze gucuruza urumogi;
- c. kuba Usabamungu Emmanuel alias Issa abazwa mu Bugenzacyaha no mu Bushinjacyaha yaremeye ko acuruza urumogi kandi ko atari ubwa mbere afungiwe icyo cyaha;
- d. Ubuhamya bwa Kubwimana Issa ushinja Usabamungu Emmanuel alias Issa ko yafatanwe udupfunyika 200 tw'urumogi amutwaye kuri moto bagiye no gusaka iwe mu rugo i Gahanga basangayo urundi rumogi rungana n'udupfunyika 1.923. Urukiko rushingiye kuri ibyo bimenyetso, rwemeje ko Usabamungu Emmanuel alias Issa na Nsanzuwera Théophile alias Master bahamwa n'icyaha cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi, Usabamungu Emmanuel alias Issa ahanishwa igifungo cya burundu n'ihazabu ya 20.000.000Frw kuko atari ubwa mbere yakurikiranwaho icyaha cy'ikoreshwa ritemewe ry'ibiyobyabwenge ahubwo hari izindi manza zamuhamije icyo cyaha akagihanirwa kandi akaba aburana ahakana icyaha, naho Nsanzuwera Théophile alias Master ahanishwa igifungo cy'imyaka 10 n'ihazabu ya 20.000.000Frw kuko ari ubwa mbere akurikiranywe n'inkiko kandi akaba yaraburanye yemera icyaha. [4] Usabamungu Emmanuel alias Issa na Nsanzuwera Théophile alias Master bajuririye Urukiko Rukuru, Usabamungu avuga ko noneho yemera icyaha aregwa agasaba imababazi no kugabanyirizwa ibihano. Naho Nsanzuwera ajurira avuga ko yahanishijwe igihano kirekire kandi yemera icyaha ndetse akaba ari n'ubwa mbere akurikiranywe mu butabera mu buryo buzwi, agasaba ko cyagabanywa. [5] Ubushinjacyaha bwavuze ko ukwemera icyaha bwa mbere mu bujurire kwa Usabamungu Emmanuel alias Issa ntacyo byamumarira, bityo ko atagabanyirizwa ibihano, ko na Nsanzuwera Théophile alias Master atagabanyirizwa ibihano kuko yagabanyirijwe bihagije. [6] Mu rubanza RPA 00014/2023/HC/KIG rwaciwe ku wa 21/11/2024, Urukiko Rukuru rwasanze kuba Usabamungu Emmanuel alias Issa, yemeye icyaha mu bujurire yaragihakanye ku rwego rwa mbere bitamubera impamvu nyoroshyacyaha ituma agabanyirizwa ibihano, rusanga ariko hashingiwe ku murongo watanze n'Urukiko rw'Ubujurire mu rubanza RPAA00194/2021/CA rwaciwe ku wa 22/07/2022, rw'Ubushinjacyaha na Ndayishimiye Emmanuel alias Shema, uvuga ko nta cyabuza Urukiko kugabanyiriza igihano uregwa hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha cyakozwe kabone n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro; Usabamungu Emmanuel alias Issa yagabanyirizwa igihano kuko agikenye kwiteza imbere, ariko kandi mukumugabanyiriza hakitabwa ku kuba atari ubwambere akoze icyaha nk'icyo, ahanishwa igifungo cy'imyaka 25 n'ihazabu ya 5.000.000Frw.

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- [7] Kuri Nsanzuwera Théophile alias Master, Urukiko rwasanze igifungo cy'imyaka 10 yahanishijwe kitakongerwa kugabanywa kuko cyagabanyijwe kuburyo buhagije, rusanga ariko ihazabu yo ikwiye kugabanywa, ahanishwa igifungo cy'imyaka 10 n'ihazabu ya 5.000.000Frw. [8] Usabamungu Emmanuel alias Issa yajuririye Urukiko rw'Ubujurire, urubanza ruhabwa

RPAA01369/2024/CA, ruburanishwa mu ruhame ku wa 14/10/2025, yunganiwe na Me Musasangohe Illuminée, Ubushinjacyaha buhagarariwe na Bideri Diogène, Umushinjacyaha ku rwego rw'Igihugu. [9] Mu myanzuro y'ubujurire no mu miburanire yabo, Usabamungu Emmanuel alias Issa n'umwunganira bavuga ko yahanishijwe igihano kiremereye, bagasaba ko cyagabanywa agahanishwa igihano gito gishoboka. [10] Ubushinjacyaha buvuga ko, Usabamungu Emmanuel alias Issa atakongera kugabanyirizwa igihano kuko yagabanyirijwe bihagije. [11] Muri uru rubanza harasuzumwa ikibazo cyo kumenya niba Usabamungu Emmanuel alias Issa yakongera kugabanyirizwa igihano. II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba Usabamungu Emmanuel alias Issa yakongera kugabanyirizwa igihano [12] Usabamungu Emmanuel alias Issa avuga ko, Urukiko Rukuru rwamuhanishije igihano kiremereye ruvuga ko ari isubiracyaha kandi ari ubwa mbere yari akoze icyaha cyo gucuruza ibiyobyabwenge, ko icyaha yigeze guhanirwa ari icyo kunywa ibiyobyabwenge, asaba kugabanyirizwa igihano kuko yemera icyaha ndetse akaba yaragorotse no kugira ngo abone uko ajya kwita ku muryango we yasize ubu abana bakaba baravuye mu ishuli. Asaba ko hashingirwa ku rubanza RPAA00032/2029/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/02/2020 haburana Ubushinjacyaha na Nzafashwanimana Jean de Dieu, aho muri urwo rubanza mu gika cya 18, Urukiko rwisunze urubanza RS/ICONST/SPEC00003/20219/CA rwaciwe n'Urukiko rw'Ikirenga ku wa 04/12/2019 haburana Kabasinga Florida na Leta y'u Rwanda, rwemeje ko Umucamanza ashobora kugabanya gihano ndetse akajya muni y'igihano gito giteganywa n'Itegeko igihe hari impamvu nyoroshyacyaha zikomeye zituma uregwa agabanyirizwa igihano. [13] Me Musasangohe Illuminée avuga ko, n'ubwo Umucamanza adategetswe kugabanya ibihano, ariko mu rwego rwo gutanga ubutabera buboneye buvugwa mu ngingo ya 29 y'Itegeko Nshinga ya Repubulika y'u Rwanda, Urukiko Rukuru rwagomgabaga gutanga ibihano bingana ku bantu baregwa mu rubanza rujuririrwa kuko bose bakoze icyaha kimwe n'uburemere bwacyo bukaba ari bumwe, ariko ko Usabamungu Emmanuel alias Issa yahanishijwe igifungo cy'imyaka 25 naho Nsanzuwera Théophile alias Master ahanishwa igifungo cy'imyaka 10 gusa. Asaba ko Usabamungu Emmanuel alias Issa nawe yagabanyirizwa ibihano kugeza ku gihano gito giteganywa mu ngingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange. [14] Ubushinjacyaha buvuga ko, Usabamungu Emmanuel alias Issa uretse kuvuga ko atagabanyirijwe igihano nta nenge agaragaza mu cyemezo cyafashwe n'Urukiko Rukuru rwamuhanishije igifungo cy'imyaka 25, ko rero icyo gihano kitakongera kugabanywa kuko cyagabanyijwe bihagije, ikindi kandi kuba ku rwego rwa mbere yaraburanye ahakana icyaha akacyemera mu bujurire, ibyo bikaba bitamubera impamvu nyoroshyacyaha ituma agabanyirizwa igihano, ndetse akaba atari ubwa mbere yakora icyaha cy'ikoresha ritemewe ry'ibiyobyabwenge kuko nk'uko byagaragajwe n'Ubushinjacyaha mu rubanza rujuririrwa, hari izindi manza yaburanye nk'urubanza RP00112/2016/TB/NYGE aho yaregwaga gukoresha ibiyobyabywenge mu buryo bunyuranije n'amategeko, ahanishwa igifungo cy'umwaka umwe n'amezi atandatu n'ihazabu ya 50.000Frw n'urubanza RP00565/2019/TB/NYM aho yaregwaga gufatanwa urumogi maze ahabwa igihano cyo gukora imirimo y'inyungu rusange mugihe cy'amezi

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atandatu, bivuze ko ari ibintu yagize umwuga atashobora kureka. Bityo ko hashingirwa ku murongo watanzwe mu rubanza RPA00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022, haburana Ubushinjacyaha na Nsabimana Callixte alias Sankara na bagenzi be, maze Urukiko rukabona ko Usabamungu Emmanuel alias Issa atakongera kugabanyirizwa ibihano kuko yagabanyirijwe bihagije. [15] Ku bijyanye n'urubanza RPAA00032/2029/CA Usabamungu Emmanuel alias Issa asaba ko rwashingirwaho akagabanyirizwa ibihano, Ubushinjacyaha buvuga ko, rudashobora gushingirwaho kuko ikibazo nk'icyo cyakemuwe mu rubanza RPAA 00157/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 22/12/2023, haburana Ubushinjacyaha na MUNYARIBANJE Vincent, mu gika cyarwo cya 26, aho rwasanze mu kugena igihano, rudashobora gushingira ku mirongo yatanzwe mu rubanza RS/INCONST/SPEC00003/2019/SC n'urubanza RPAA00032/2019/CA kimwe n'izindi manza zagendeye muri uwo murongo kuko izo manza zaciwe hakurikijwe ingingo ya 60 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusanga, iyo ngingo ikaba yarahinduwe n'ingingo ya 2 y'Itegeko N° 059/2023 ryavuzwe haruguru ari nayo igomba gukurikizwa. UKO URUKIKO RUBIBONA [16] Impaka muri uru rubanza zishingiye ku kumenya niba Usabamungu Emmanuel alias Issa yaragabanyirijwe igihano mu buryo buhagije bityo akaba atakongera kugabanyirizwa. [17] Ikibazo kijyanye no kumenya niba umuburanyi wagabanyirijwe ibihano mu nkiko zibanza yakongera kugabanyirizwa mu bujurire, cyatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza RPA0129/10/CS1 rwaciwe ku wa 7/03/2014, Ubushinjacyaha buburana na Mpitabakana wakurikijwe no muzindi manza, harimo urubanza RPAA00893/2024/CA2 rwaciwe n'Urukiko rw'ubujurire ku wa 29/09/2025 haburana Ubushinjacyaha na Bahati Manasse, uwo murongo ukaba uvuga ko uregwa ntuyongera kugabanyirizwa ibihano, iyo mu bujurire Urukiko rusanga yarabigabanyirijwe bihagije, harebwe uburemere bw'icyaha n'uburyo icyaha cyakozwemo. [18] Dosiye y'uru rubanza igaragaza ko Usabamungu Emmanuel alias Issa yafatanwe urumogi rungana n'udupfunyika 200 aruzaniye Nsanzuwa Théophile ango arugure, bagiye kumusaka iwe murugo bahasanga urundi rumogi rungana n'udupfunyika 1.923, bivuze ko urumogi yafatanwe rwose hamwe rungana n'udupfunyika 2.123 rwo gukwirakwiza mu bantu arugurisha. Aburana mu Rukiko Rwisumbuye rwa Gasabo yahakanye icyaha, acyemera mu bujurire mu Rukiko Rukuru no mu Rukiko rw'Ubujurire. [19] Igaragaza kandi ko atari ubwa mbere Usabamungu Emmanuel alias Issa yari akoze icyaha cy'ikoreshwa ritemewe ry'ibiyobyabwenge kuko yigeze kubihanirwa mu rubanza RP00112/2016/TB/NYGE rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge ku wa 24/06/2016 aho yahamijwe icyaha cyo gukoresha ibiyobyabwenge mu buryo bunyuranyije n'amategeko ahanishwa igifungo cy'umwaka umwe n'amezi atandatu n'ihazabu ya 50.000Frw ndetse no mu rubanza RP00565/2019/TB/NYM rwaciwe n'Urukiko rw'Ibanze rwa Nyamabuye ku wa 03/09/2019 aho naho yahamijwe icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshwa nka byo, ahanishwa igiho cyo gukora imirimo y'inyungu rusange mu gihe kingana n'amezi 6. [20] Nk'uko bigaragara mu gika cya 10 – 13 by'urubanza rujuririrwa, Urukiko Rukuru, rwasanze kuba ku rwego rwa mbere Usabamungu Emmanuel alias Issa yaraburanye ahakana icyaha akacyemera mu bujurire, bitamubera impamvu ituma agabanyirizwa igihano, rusanga ariko hashingiwe ku murongo watanzwe n'Urukiko rw'Ubujurire

mu rubanza RPAA00194/2021/CA rwaciwe ku wa 22/07/2022 Ubushinjacyaha buburana na Ndayishimiye Emmanuel alias Shema, uvuga ko nta cyabuza Urukiko kugabanyiriza igihano uregwa hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha cyakozwe kabone n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro; yagabanyirizwa igihano kuko agikeneye

1 Reba icyegeranyo cy'ibyemezo by'inkiko, V. 2, Ukwakira 2014. p.127. 2 Reba igika cya 15 cy'urwo rubanza.

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kwiteza imbere ubwe ndetse n'igihugu muri rusange, rusanga ariko kandi mukumugabanyiriza hakwiye kwitabwa ku kuba atari ubwa mbere akoze icyaha nk'icyo, ahanishwa igifungo cy'imyaka 25 n'ihazabu ya 5.000.000Frw. [21] Urukiko rw'Ubujurire rurasanga Usabamungu Emmanuel alias Issa yarahamwe n'icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, bivuze ko iyo atagabanyirizwa yakagombye kuba yarahanishijwe igifungo cya burundu n'ihazabu y'amafaranga y'u Rwanda arenze miliyoni 20.000.000Frw ariko atarenze miliyoni 30.000.000Frw kuko urumogi ruri mu biyobyabwenge bihambaye. Rurasanga ariko Urukiko Rukuru rwaramugabanyirije igihano rumuhanisha igifungo cy'imyaka 25 n'ihazabu ingana na 5.000.000Frw. [22] Harebwe uburemere bw'icyaha cyo gucuruza ibiyobyabwenge bihambaye gihama Usabamungu Emmanuel alias Issa, bugagarira mu bwinshi by'urumogi yafatanwe rungana n'udupfunyika 2.123 yagombaga gukwirakwiza mu bantu arugurisha, kuko ubwo bwinshi bwabyo bwerekana ko yari umucuruza uri mu bakomeye, harebwe no kuba ukwemera icyaha kwe kutuzuye kuko aburana ku rwego rwa mbere yagihakanye acyemera mu bujurire bwa mbere no mu bujurire bwa kabiri, harebwe no kuba atari ubwa mbere yakora icyaha cy'ikoreshwa ritemewe ry'ibiyobwenge ahubwo yabigize akamenyero kuko ari inshuro ya 3 abihaniye nk'uko izindi manza zabimuhaniye zagaragajwe mu gika cya 19 cy'uru rubanza, Urukiko rw'Ubujurire rurasanga igihano yahanishijwe n'Urukiko Rukuru gihujwe n'uburemere bw'icyaha yakoze, kidashobora kongera kugabanywa kuko gihuye n'uburemere bw'icyaha yahamijwe. [23] Ku bijyanye n'imiburanire ya Me Musasangohe Illuminée y'uko mu rwego rwo gutanga ubutabera buboneye Usabamungu Emmanuel alias Issa akwiye guhanishwa igifungo cy'imyaka 10 nk'icyo Nsanzuwera Théophile alias Master baregwa hamwe mu rubanza rujuririrwa yahawe kuko icyaha bakoze ari kimwe n'uburemere bwacyo bukaba bumwe; Urukiko rw'Ubujurire rurasanga nta shingiro ifite, kuko mu gika cya 35 cy'urubanza RP0990/2022/TGI/GSBO rwaciwe ku wa 31/10/2022, Urukiko Rwisumbuye rwa Gasabo rwasobanuye neza impamvu Nsanzuwera Théophile agabanyirijwe igihano kugeza ku gifungo cy'imyaka icumi, zirimo kuba ari ubwa mbere yakurikiranwaho icyaha mu nkiko no kuba yaraburanye acyemera. [24] Urukiko rw'Ubujurire rurasanga rero n'ubwo Usabamungu Emmanuel alias Issa yakoze icyaha kimwe na Nsanzuwera Théophile aricyo cyo gucuruza ibiyobyabwenge, bakaba baranakurikiranwe mu rubanza rumwe, ariko batahanwa kimwe kuko nk'uko byasobanuwe haruguru, Usabamungu Emmanuel alias Issa yafatanwe ibiyobyabwenge bikabije kuba byinshi (udupfunyika 2.123 tw'urumogi) ugereranyije n'urwo Nsanzuwera Théophile alias Master yafatanwe (udupfunyika 152 tw'urumogi), akandi ukwemera icyaha kwa Usabamungu kukaba gushidikanywaho kuko aburana ku rwego rwa mbere yahakanye icyaha acyemera ageze mu bujurire, mu gihe

Nsanzuwera we yacyemeye aburana ku rwego rwa mbere mu buryo budashidikanywaho, ndetse akaba atari ubwa mbere Usabamungu yahanirwa icyaha cyo gukoresha ibiyobyabwenge mu buryo bunyuranyije n'amategeko kuko hari izindi manza zakimuhamije aranagihanirwa, naho Nsanzuwera Théophile we akaba bwari ubwa mbere yakurikiranwa n'inkiko. Bivuze ko icyaha Usabamungu Emmanuel alias Issa yakoze gifite uburemere buruta icyo Nsanzuwera Théophile yakoze, bityo bakaba batahanwa kimwe. [25] Hashingiwe ku bisobanuro byose byatanzwe muri uru rubanza, Urukiko rw'Ubujurire rurasanga ubujurire bwatanzwe na Usabamungu Emmanuel alias Issa nta shingiro bufite, urubanza yajuririye rukaba rudahindutse. III. ICYEMEZO CY'URUKIKO [26] Rwemeje ko ubujurire bwatanzwe na Usabamungu Emmanuel alias Issa nta shingiro bufite. [27] Rwemeje ko urubanza, RPA00014/2023/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 21/11/2024, rudahindutse.

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[28] Rwemeje ko igihano cy'igifungo cy'imyaka 25 n'ihaza ya 5.000.000Frw Usabamungu Emmanuel alias Issa yahanishijwe muri urwo rubanza kidahindutse.

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