

RWANDA / JUDGMENT

UBUSHINJACYAHA vs NIYONKURU

RPAA00358/2023/CA

COURT

Court of Appeal

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UBUSHINJACYAHA vs NIYONKURU

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Text

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UBUSHINJACYAHA vs NIYONKURU [Rwanda URUKIKO RW'UBUJURIRE – RPAA00358/2023/CA (Mukamurenzi, P.J.) 29 Mutarama 2025] Amategeko mpanabyaha – Ibimenyetso – Ibimenyetso byose bishobora gushingirwaho mu manza nshinjabyaha, 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 Urukiko nirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa. Amategeko mpanabyaha – impamvu nyoroshyacyaha – Ubujurire – Umucamanza w'ubujurire, ku rwego urwo ari rwo rwose, ashobora kugabanyiriza uregwa igihano hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha, uburyo cyakozwemo n'uko uwagikoze yari asanzwe yitwara, N'ubwo impamvu z'ubujurire zaba zitahawe ishingiro. Incamake y'ikibazo: Uru rubanza rwatangiye Ubushinjacyaha burega Niyonkuru mu Rukiko Rwisumbuye rwa Nyagatare bumukurikiranyeho icyaha cyo gusambanya umwana, busaba ko cyamuhama agahanishwa igifungo cya burundu. Niyonkuru yaburanye ahakana icyaha avuga ko atigeze asambanya I.F, ko banamumweretse agasanga atamuzi, kandi ko nta bimenyetso bihari bigaragaza ko yakozwe icyaha aregwa. Urukiko mu rubanza RP01375/2019/TGI/NYG rwasanze hari ibimenyetso bihamya Niyonkuru icyaha aregwa birimo imvugo z'abatangabuhamya, raporo ya muganga yagaragaje ko

umwana I.F yasambanyijwe rwemeza ko Niyonkuru ahamwa n'icyaha cyo gusambanya umwana, rumuhanisha igifungo cy'imyaka makumyabiri (20). Niyonkuru ntiyishimiye imikirize y'urubanza, arujuririra mu Rukiko Rukuru, urugereko rwa Rwamagana asaba kurenganurwa akagirwa umwere, kuko I.F amushinja ibinyoma mu gihe ubuyobozi n'ababyeyi be bagiye kumushakira mu nzu ye bakamubura, avuga kandi ko n'abatangabuhamya batemeza ko bamubonye iwe cyangwa ngo babone amusambanya. Anavuga ko raporo ya muganga itagaragaza ko ariwe wakuyeho akarangabusugi ka I.F, avuga na none ko imyaka y'amavuko ya I.F ishidikanywaho. Urukiko mu rubanza RPA00310/2022/HC/RWG, rushingiye ku bimenyetso birimo icyemezo cy'amavuko cya I.F imvugo z'abatangabuhamya Mujawimana nyina wa I.F, Munyazikwiye na Mukamuhire, no ku mvugo y'umwana I.F ndetse no kuri raporo ya muganga igaragaza ko I.F adafite akarangabusugi, rwemeje ko Niyonkuru ahamwa n'icyaha akurikiranyweho cyo gusambanya umwana uri muni y'imyaka 14 y'amavuko, rwemeza ko hagumaho igifungo cy'imyaka makumyabiri (20) yahanishijwe mu rubanza rujuririrwa. Niyonkuru yongeye kujuririra urwo rubanza mu Rukiko rw'Ubujurire, anenga ibimenyetso byashingiweho n'Urukiko Rukuru avuga ko rutari gushingira ku mvugo z'umwana I.F kuko yagaragaje ko atari ukuri, avuga kandi ko n'abatangabuhamya bamushinje nta n'umwe uvuga ko yamubonye ari gusambanya uwo mwana cyangwa bari kumwe. Ubushinjacyaha buvuga ko impamvu z'ubujurire za Niyonkuru nta shingiro zifite kuko umwana yasobanuye uko bamenyanye n'uko yamushukishaga amafaranga akamusambanya, n'imvugo z'abatangabuhamya ndetse n'ibindi bimenyetso biri muri dosiye. Urukiko mu rubanza RPAA00358/2023/CA rwemeje ko Ubujurire bwa Niyonkuru nta shingiro bufite ariko rwemeza ko agabanyirizwa igihano, rumuhanisha igifungo cy'imyaka cumi n'itanu. Incamake y'icyemezo: 1. Ibimenyetso byose bishobora gushingirwaho mu manza nshinyabwaho, mu gihe bigaragaza ukuri kw'ibyabaye (principe de la liberté de la preuve en matière pénale), abaturanyi bakaba

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barahawe uburyo bwo kuhaba ngo banyomozanye, kandi Urukiko nirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa. 2. Umucamanza w'ubujurire, ku rwego urwo ari rwo rwose, ashobora kugabanyiriza uregwa igihano hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha, uburyo cyakozwemo n'uko uwagikoze yari asanzwe yitwara, N'ubwo impamvu z'ubujurire zaba zitahawe ishingiro. Ubujurire nta shingiro bufite. Amategeko yashingiweho: Itegeko N°68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 49 Imanza zifashishijwe: Urubanza RPAA00692/2021/CA haburana Ubushinjacyaha na Ndayishimiye Jean Damascène, rwaciwe n'Urukiko rw'Ubujurire ku wa 20/01/2023, Urubanza RPAA00420/2023/CA, haburana Ubushinjacyaha na Zaninka Clémentine rwaciwe n'Urukiko rw'Ubujurire ku wa 20/12/2024, Urubanza RPAA00039/2021/CA, haburana Ubushinjacyaha na Shakabatenda Jean de Dieu rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07/2021, igika cyarwo cya 38; Urubanza RPAA00253/2024/CA, haburana Ubushinjacyaha na Mugabonake Védaste rwaciwe n'Urukiko rw'Ubujurire ku wa 13/12/2024; Urubanza RPAA00114/2024/CA, haburana Ubushinjacyaha na Niyomugabo Cedrick rwaciwe n'Urukiko rw'Ubujurire ku wa 19/12/2024 Urubanza RPAA00367/2023/CA, haburana Ubushinjacyaha na Bapfakurera Jean Claude bita Kazungu,

rwaciwe n'Urukiko rw'Ubujurire ku wa 20/12/2024 Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 29/09/2019, Niyonkuru Patrick yahuye na n'umwana wahawe izina rya I.F ku bw'umutekano we, wari ufite imyaka cumi n'itatu (13) y'amavuko, amusaba kujya kumusura ageze iwe aramusambanya, bikomeza gutyo umwana ajyaye akaharara amushukisha amafaranga magana atandatu (600), biza kumenyekana ku wa 06/10/2019, Niyonkuru ashyikirizwa inzego zibishinzwe atangira gukurikiranwa. [2] Iperereza rirangiye, Ubushinjacyaha bwaregeye Niyonkuru Patrick Urukiko Rwisumbuye rwa Nyagatare bumukurikiranyeho icyaha cyo gusambanya umwana, busaba ko cyamuhama agahanishwa igifungo cya burundu. [3] Niyonkuru Patrick yaburanye ahakana icyaha avuga ko atigeze asambanya I.F, ko banamumweretse agasanga atamuzi, kandi ko nta bimenyetso bihari bigaragaza ko yakozwe icyaha aregwa. [4] Mu rubanza RP01375/2019/TGI/NYG rwaciwe ku wa 28/01/2022, Urukiko Rwisumbuye rwa Nyagatare rwasanze hari ibimenyetso bihamya ko Niyonkuru Patrick yakozwe icyaha akurikiranyweho bikurikira : Imvugo z'abatangabuhamya Munyazikwiye Jean Damascène na Mukamuhire Francine bamushinja ko yasambanyije umwana I.F; Raporo ya muganga yagaragaje ko umwana yasambanyijwe akanatakaza akarangabusugi.

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Urukiko rushingiye kuri ibyo bimenyetso rwemeje ko Niyonkuru Patrick ahamwe n'icyaha cyo gusambanya umwana, rumuhanisha igifungo cy'imyaka makumyabiri (20). [5] Niyonkuru Patrick ntiyishimiye imikirize y'urubanza, ajuririra Urukiko Rukuru, urugereko rwa Rwamagana asaba kurenganurwa akagirwa umwere, kuko I.F amushinja ibinyoma mu gihe ubuyobozi n'ababyeyi be bagiye kumushakira mu nzu ye bakamubura, ko n'abatangabuhamya batemeza ko bamubonye iwe cyangwa ngo babone amusambanya. Anavuga ko raporo ya muganga nayo itagaragaza ko ariwe wakuyeho akarangabusugi ka I.F, n'imyaka y'amavuko ye ishidikanywaho kuko hari icyemezo cy'amavuko kigaragaza ko yavutse ku wa 01/03/2001. [6] Mu rubanza RPA00310/2022/HC/RWG rwaciwe ku wa 27/06/2023, Urukiko Rukuru, urugereko rwa Rwamagana rushingiye ku bimenyetso birimo icyemezo cy'amavuko kigaragaza ko I.F yavutse 1/1/2006, imvugo z'abatangabuhamya Mujawimana Berthilde nyina wa I.F, Munyazikwiye Jean Damascène na Mukamuhire Francine, ku mvugo y'umwana I.F wahohotewe no kuri raporo ya muganga yo ku wa 08/10/2019 igaragaza ko I.F adafite akarangabusugi (hymen abscent), rwemeje ko Niyonkuru Patrick ahamwe n'icyaha akurikiranyweho cyo gusambanya umwana uri muni y'imyaka 14 y'amavuko, rwemeza ko hagumaho igifungo cy'imyaka makumyabiri (20) yahanishijwe mu rubanza RP01375/2019/TGI/NYG. [7] Niyonkuru Patrick, yajuririye imikirize y'urwo rubanza mu Rukiko rw'Ubujurire, urubanza ruhabwa RPAA00358/2023/CA, ruburanishwa mu ruhame ku itariki ya 08/01/2025, Niyomugabo Félicien yunganiwe na Me Uwitonze JMV, naho Ubushinjacyaha buhagarariwe na Uwizeye Jean Marie, Umushinjacyaha ku rwego rw'Igihugu. [8] Mu mwanzuro w'ubujurire ndetse no mu miburanire ye, Niyonkuru Patrick n'umwunganira bongeye ku nenga ibimenyetso byashingiye n'Urukiko Rukuru bavuga ko rutari gushingira ku mvugo z'umwana I.F kuko yagaragaje ko atari ukuri, ndetse n'abatangabuhamya bamushinja nta n'umwe uvuga ko yamubonye ari kumwe n'uwo mwana cyangwa se ngo abe yaramubonye amusambanya, ndetse ko na raporo ya muganga igaragaza ko I.F atakigira akarangabusugi atari

ikimenyetso cyashingirwaho hemezwa ko ari we wamusambanyije. [9] Uhagarariye Ubushinjacyaha avuga ko impamvu z'ubujurire za Niyonkuru Patrick nta shingiro, zifite kuko umwana yasobanuye uko bamenyanye n'uko yamushukishaga amafaranga, abatangabuhamya nabo buri wese yagaragaje ubumenyi afite ku cyaha Niyonkuru yakoze kandi akaba atagaragaza ko hari icyo bapfa, ibyo bimenyetso bikaba bishimangirwa na raporo ya mugaga ibyo yagaragaje bihura n'ibyabaye ku mwana I.F nko kuba atagifite akarangabusugi no kuba mu gitsina cye hinjiramo intoki 2 nk'uware umaze icyumweru asambanywa, naho imyaka y'umwana ikaba idashikanywaho kuko umubyeyi we yavuze ko yari afite imyaka 13 n'umwana akavuga ko yavutse 2006, agasambanywa mu mwaka wa 2019. [10] Urukiko ruherereye kuri izo mpaka, rurasanga ikibazo gikwiye gusuzumwa ari ukumenya niba hari ikosa ryakozwe n'Urukiko Rukuru, urugereko rwa Rwamagana mu kwemeza ko Niyonkuru Patrick ahamwa n'icyaha cyo gusambanya umwana. II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba hari ikosa ryakozwe n'Urukiko Rukuru, urugereko rwa Rwamagana mu kwemeza ko NIYONKURU Patrick ahamwa n'icyaha cyo gusambanya umwana [11] Niyonkuru Patrick n'umwunganira bavuga ko imvugo z'umwana I.F zitagombaga gushingirwaho kuko atari ukuri, ko Urukiko rutari kwemera ibyo avuga ko yamusambanyaga akamuha 600 Frw mu gihe aterekanye ayo amafaranga avuga ko yamuhaga cyangwa ngo yerekane icyo yayakoresheje, uretse ko atari kubona ayo amuha kandi we yarinjizaga amafaranga 1000Frw, anagomba kurya, ko ikindi I.F abazwa

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yavuze kitari ukuri ari uko ngo iwabo baje kumushaka yihishe muni y'urugi ntibamubona kandi yarabaga muri chambrette, nta n'ikindi kintu yagiraga uretse matela yo kuraraho, akibaza ukuntu basatse bakabura umwana, akaba ataranabajijwe ikintu yaba yarabonye mu nzu ye nk'umuntu bavuga ko yararanye kuva ku itariki ya 29/09/2019 kugeza ku ya 06/10/2019, uretse ko n'ababyeyi be bari kumwe n'abashinzwe umutekano baje kumushakira mu nzu ye ntibahamutse. [12] Banavugaga ko Urukiko rutagombaga no gushingira ku mvugo z'abatangabuhamya, kuko bese nta n'umwe wigeze avuga ko yababonye cyangwa ngo abe yemeza ko yamubonye amusambanya, ko Munyazikwiye Jean Damascène nta kindi ashingiraho amushinja uretse kuvuga ko yamubonye imbere y'aho yabaga bwije kandi bitavuze ko ariho yari aje kuko hari ku muhanda, inzu yabagamo ikaba yari ifite imiryango myinshi, we aba mu karyango kamwe gafite icyumba kimwe (chambrette), bivuze ko uwo mwana atari no kwihisha inyuma y'urungi nk'uko babivugaga ngo babura kumubona, cyane ko nta n'ikindi kintu yagiraga uretse matela yo kuryamaho. Bavuga kandi ko n'ibivugwa na Mukamuhire Francine ari ukubivugaga gusa atigeze abibonana, kuko yavuze ko ikigaragaza ko umwana yasambanyijwe ari uko yari amaze iminsi ataba mu rugo. [13] Bakomeza bavuga ko raporo ya muganga nayo atari ikimenyetso cyashingirwaho hemezwa ko yakoze icyaha aregwa, kuko kuba I.F atari akigira akarangabusugi bitavuze ko ari we wagakuyeho, kuko bombi batabajyanye kwa muganga ngo bapimwe, harebwe niba koko ari we wagakuyeho. Basaza basaba ko ibi byose byasuzumwa, bigahuzwa n'ibaruwa yanditswe na I.F amushinjura, akagirwa umwere kuko nta kimenyetso kidashikanywaho cyahingirwaho. [14] Uhagarariye Ubushinjacyaha avuga ko ibyo Niyonkuru Patrick anenga ibimenyetso byashingirwaho nta shingiro bifite, kuko umwana abazwa yasobanuye

neza uko bamenyanye, uburyo yamuhaga amafaranga ; ko kuba uyu muni yaranditse ibaruwa yivuguruza, agamiye gushinjura Niyonkuru Patrick, kandi akabikora hasigaye umuni umwe ngo uru rubanza ruburanishwe bigaragaza ko ari ibyakozwe na Niyonkuru ngo arebe uko yahunga icyaha. Anavuga ko abatangabuhama Munyazikwiye Jean Damascène na Mukamuhire Francine bo buri wese yagaragaje ubumenyi afite ku cyaha cyakozwe, kuba bataramubonye asambanya I.F bikaba atari igitangaza kuko icyaha cy'ubusambanyi gikorera mu bwihisho, uretse ko n'uregwa atagaragaza ko hari icyo bapfa cyatuma bamubeshyera. [15] Akomeza avuga ko ibyo Niyonkuru Patrick avuga ko raporo ya mugaga nayo itari gushingirwaho nabyo nta shingiro, kuko ibyo yagaragaje bihura n'ibyabaye ku mwana nko kuba atagifite akarangabusugi no kuba mu gitsina cye hinjiramo intoki 2 nk'uwari umaze icyumweru asambanywa. Asoza avuga ko ibyo Niyonkuru n'umwunganira bavuga ko hari ugushidikanya ku bimenyetso, asanga ataribyo ahubwo ibimenyetso byashyingiweho byose byuzuzanya, akaba ari nta gushidikanya guhari ko Niyonkuru yakozwe icyaha aregwa, n'ibyo avuga ko atari we musore wenyine wahabaga bidakwiye kwitabwaho kuko nta wundi umwana yavuze. UKO URUKIKO RUBIBONA [16] Impaka kuri iyi ngingo zishingiye ku kumenya niba Niyonkuru Patrick yarahamijwe icyaha cyo gusambanya umwana nta bimenyetso bidashidikanywaho byashyingiweho. [17] Ikibazo cy'ibimenyetso mu manza n'itangwa ryabyo cyasesengurwe mu rubanza RPAA00692/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 20/01/2023, haburana Ubushinjacyaha na Ndayishimiye Jean Damascène. Muri urwo rubanza uru Rukiko rwasobanuye ko mu manza nshinyabwaho, 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. Uyu murongo wakurikijwe

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mu manza zitandukanye zaciwe n'uru Rukiko, mu ziheruka harimo nk'urubanza RPAA00420/2023/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 20/12/2024 Ubushinjacyaha buburana na Zaninka Clémentine¹. [18] Nk'uko urubanza rujuririrwa rubigaragaza, Urukiko Rukuru, urugereko rwa Rwamagana rwasesenguye ibimenyetso biri muri dosiye, rusanga, n'ubwo Niyonkuru Patrick ahakana ko atigeze asambanya I.F, ariko uyu mwana amushinja kumusambanyiriza aho yari acumbitse inshuro nyinshi, ko yararaga iwe akamuha amafaranga magana atandatu (600 Frw). Rwanasanze imvugo ya I.F ishyigikirwa n'ubuhama bwa Munyazikwiye Jean Damascène wemeza ko yabonaga I.F aje kwa Niyonkuru Patrick, agahagarara ku muryango w'inzu ye ategereje ko amuha karibu no kuba Mukamuhire Francine yemeza ko I.F yababwiye ko yararagayo akamusambanya akamuha amafaranga, ko mu gihe bajyaga kumushakayo yabihishe inyuma y'urugi. Iryo sesengura rikaba ryaragaragariye urwo Rukiko ko hari ibimenyetso bihagije bigaragaza nta shiti ko Niyonkuru Patrick yasambanyije I.F akiri umwana muto wavutse ku wa 01/01/2006, akamwambura ubusugi bwe nk'uko byemejwe na muganga wa Leta ; maze rwemeza ko nta kosa ryakozwe n'Urukiko Rwisumbuye rwa Nyagatare mu kwemeza ko ahamwa n'icyaha cyo gusambanya umwana uri muni y'inyaka cumi n'ine (14) y'amavuko. [19] Urukiko rw'Ubujurire rurasanga ibyo Niyonkuru Patrick avuga ko imvugo z'umwana zitagombaga

gushingirwaho mu gihe aterekanye amafaranga yamuhaga cyangwa ngo agaragaze icyo yayakoresheje nta shingiro bifite, kubera ko umwana abazwa yamushinje kumurarana akamusambanya, n'uko yajyaga amuha amafaranga magana atandatu (600Frw), kuba atarerekanye ayo mafaranga cyangwa icyo yayakoresheje bikaba bitatesha agaciro ibyo yavuze bijyanye n'imikorere y'icyaha mu gihe imvugo ze zunganirwa n'iz'umutangabuhamya Munyazikwiye Jean Damascène wavuze ko yabonaga umwana ahagaze inyuma y'urugi ategereje ko Niyonkuru Patrick amukingurira, ndetse ibyo uwo mutangabuhamya yabonye akaba atarabyihereyeranye kuko yabibwiye Mukamuhire Francine aho uyu, mu mvugo ze, yavuze ko amakuru y'uko I.F asambanywa yayahawe na Munyazikwiye amusaba gukurikirana icyo kibazo nk'ushinzwe abagore mu mudugudu. Mukamuhire Francine yanavuze ko na nyina wa I.F nawe yaje kumubwira ko umwana yamunaniye, ko bigera nimugoroba agasohoka akajya kurara ahantu bataramenya, babajije umwana ababwira ko amaze iminsi irindwi ararana na Niyonkuru Patrick. [20] Urukiko runasanga ibyo Niyonkuru Patrick n'umwunganira bavuga ko imvugo z'abo batangabuhamya nazo zitagombaga gushingirwaho kubera ko batigeze bamubona ari kumwe na I.F cyangwa ngo babone amusambanya nabyo nta shingiro bifite, kuko amakuru yatanze n'abatangabuhamya ariyo yatumye habaho gukurikirana, agahuzwa n'uko nyina w'umwana yavugaga ko umwana yananiranye, ko bigera ku mugoroba akajya kurara ahantu batazi, n'uko umwana I.F nawe yabajijwe akemera ko arara kwa Niyonkuru Patrick kandi ko amusambanya. [21] Urukiko runasanga raporo ya muganga nayo ari ikimenyetso gishimangira izo mvugo, kuko igaragaza ko akarangabusugi ka I.F kavuyeho, kandi mu gitsina cye hinjiramo intoki ebyiri. Kuba karavuyeho ndetse n'igitsina cye kikaguka, bigaragaza nta shiti ko yasambanyijwe. Naho ibyo Niyonkuru Patrick avuga ko atapimwe ngo hemezwe ko ariwe wagakuyeho bikaba bitatesha agaciro ibindi bimenyetso byavuzwe haruguru bigaragaza ko yamusambanyaga, kuko raporo ya muganga idasuzumwa yonyine ahubwo ihuzwa n'ibindi bimenyetso bigaragaza ko ari we wamusambanyije atabashije kuvuguriza. [22] Ibyo Niyonkuru Patrick avuga ko yabaga mu cyumba kimwe (chambre), ko I.F atari kwihisha inyuma y'urugi nk'uko bivugwa, ngo ababyeyi be n'abayobozi babure kuba baramubonye ubwo bazaga kuhamushakira, nabyo atari impamvu ifatika yatesha agaciro ibimenyetso byashingiweho, kuko Mujawimana Berthilde nyina wa I.F yabisobanuye, bagiye kureba I.F kwa Niyonkuru Patrick, abanza kwanga gukingura n'aho akinguriye umwana abihisha mu rugo, kandi ko nyuma bamubajije abemerera ko yararanaga n'uwo musore. Naho inyandiko yo ku wa 24/09/2021 yanditswe n'umuyobozi w'Umudugudu

1 Reba igika cya 18 cy'urwo rubanza

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wa Muzizi, igaragaza ko ubwo bajya kumusaka batahasanze I.F, nk'uko bigaragara mu gika cya 32 cy'urubanza rujuririrwa, yateshejwe agaciro n'Urukiko Rukuru. Kuri uru rwego uretse gukomeza kubigarukaho nk'ikimenyetso kigaragaza ko atigeze ararana uwo mwana, ntagaragaza ikosa ryakozwe n'Urukiko Rukuru mukudaha agaciro ibiyikubiyemo, uretse ko n'uru Rukiko rusanga itaragombaga gushingirwaho, kuko yakozwe nyuma y'imyaka ibiri Niyonkuru Patrick yaratangiye gukurikiranwa mu rukiko, hakaba hatagaragazwa impamvu itahise ikorwa ngo ishyirwe muri dosiye, igakorwa nyuma ari uko bisabwe n'umuvandimwe we. [23] Ku byerekeye inyandiko iri

muri dosiye yanditswe na I.F ku wa 09/01/2025 amushinjura, uru Rukiko rusanga ibyo avuga muri iyo nyandiko ko Niyonkuru Patrick atigeze amusambanya, ko yamuvuze bitewe n'uko ari we ababyeyi be baketse, bikaba nta shingiro bifite kuko mu gihe yabazwaga cyangwa nyuma y'aho atari kunanirwa kuvugisha ukuri, akaba atanagaraza impamvu yatumye atavuga ibyo avuga ubu nyuma y'igihe kirekire Niyonkuru Patrick akurikiranwa ndetse yaramaze guhamwa n'icyaha hashingiwe ku bimenyetso birimo imvugo ze abazwa mu Bugenzacyaha nk'uwahohotewe, agasobanura neza uko bamenyanye, uko yagiye kumusura akararayo n'amafaranga yamuhaga. [24] Hashingiwe ku bimaze gusobanurwa, uru Rukiko rurasanga nta kosa byakozwe n'Urukiko Rukuru, urugereko rwa Rwamagana rwemeza ko Niyonkuru Patrick ahamwa n'icyaha cyo gusambanya umwana kuko ibimenyetso rwashingiyeho bigaragaza nta gushidikanya ko yagikoze. [25] Urukiko rw'Ubujurire ruributsa ariko na none ko mu rubanza RPAA00039/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07/2021 haburana Ubushinjacyaha na Shakabatenda Jean de Dieu mu gika cyarwo cya 38; uwo murongo akaba ari nawo wakomeje gukoreshwa mu manza zaciwe n'uru Rukiko zirimo n'urubanza RPAA00253/2024/CA rwaciwe ku wa 13/12/2024 haburana Ubushinjacyaha na Mugabonake Védaste; uru Rukiko rwemeje ko, n'ubwo impamvu z'ubujurire zaba zitahawe ishingiro, umucamanza w'ubujurire, ku rwego urwo ari rwo rwose, ashobora kugabanyiriza uregwa igihano hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha, uburyo cyakozwemo n'uko uwagikoze yari asanzwe yitwara. [26] Mu manza ziheruka gucibwa n'uru Rukiko, harimo nk'urubanza RPAA00114/2024/CA rwaciwe ku wa 19/12/2024 haburana Ubushinjacyaha na Niyomugabo Cedrick warezwe icyaha cyo gusambanya umwana w'imyaka cumi n'umwe (11) y'amavuko we afite imyaka makumyabiri (20), yaburanye ahakana icyaha ariko biza kugaragara ko kimuhama, Urukiko rubyibwirije rumugabanyiriza igihano rumuhanisha igifungo cy'imyaka cumi n'itandatu (16); Urukiko rw'Ubujurire rukaba rwarasobanuye ko impamvu rutamuhanishije igifungo cy'imyaka 15 nk'abandi bantu bakoze icyaha gisa n'icye kandi bari mu kigero cye, ari uko yari umukozi wo mu rugo, akarenga ku nshingano no ku cyizere ababyeyi b'umwana yakoreraga bamugiriye cyo kumumusigira, ariko akarenga akamuhohotera. Hari kandi n'urubanza RPAA00367/2023/CA rwaciwe ku wa 20/12/2024 haburana Ubushinjacyaha na Bapfakurera Jean Claude bita Kazungu, uyu yakoze icyaha cyo gusambanya umwana w'imyaka cumi n'itatu (13) y'amavuko, ariko agabanyirizwa igihano kuko yagikoze akiri muto, afite imyaka cumi n'icyenda (19) y'amavuko, kandi ari ubwa mbere akurikiranwe mu butabera ku buryo buzwi, ahanishwa igifungo cy'imyaka 15. [27] Ku byerekeye uru rubanza, Urukiko rw'Ubujurire rurasanga Niyonkuru Patrick ahamwa n'icyaha cyo gusambanya umwana w'imyaka cumi n'itatu (13) y'amavuko, ariko kandi bigaragara ko icyo cyaha yagikoze aribwo akiva mu bwana, kuko yari afite imyaka makumyabiri n'umwe (21) y'amavuko; dosiye ntigaragaza ko yari asanganywe imyitwarire mibi, ahubwo inyandiko ya komite y'umudugudu wa Nyarurembo yo ku wa 10/12/2021 n'ya kagari ka Rukomo yo ku wa 13/12/2021 zigaragaza ko yitwaraga neza, akaba ari n'ubwa mbere akurikiranwe mu butabera ku buryo buzwi. Ibi bikaba bigombaga kwitabwaho nk'impamvu nyoroshyacyaha yatumye nawe agabanyirizwa igihano yahawe, kigahuzwa n'uburemere bw'icyaha yakoze n'uburyo yari asanze yitwara.

2 Reba n'ingingo ya 49 y'Itegeko N°68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange

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[28] Kubera izo mpamvu, mu rwego rwo gutanga ubutabera busa ku bibazo bisa, Uru Rukiko rusanga Niyonkuru Patrick agomba guhabwa igihano nk'icya Bapfakurera Jean Claude Kazungu, kuko bombi bari mu kigero kimwe cy'imyaka kuko Niyonkuru Patrick yakoze icyaha afite imyaka 21 y'amavuko, asambanya umwana ufite imyaka 13 y'amavuko, akaba atahanwa kimwe na Niyomugabo Cedrick wasambanyije umwana wo mu rugo yakoragamo; bityo Niyonkuru Patrick akaba ahanishijwe igifungo cy'imyaka 15 gisimbura igifungo cy'imyaka 20 yahanishijwe mu rubanza rwaciwe n'Urukiko Rukuru, urugereko rwa Rwamagana. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko ubujurire bwa Niyonkuru Patrick nta shingiro bufite ; [30] Rwemeje ko urubanza no RPA00310/2020/HC/RWG rwaciwe n'Urukiko Rukuru, urugereko rwa Rwamagana ku wa 27/06/2023 ruhindutse gusa ku byerekeye igihano ; [31] Ruhanishije Niyonkuru Patrick igifungo cy'imyaka cumi n'itanu (15) kubera guhamwa n'icyaha cyo gusambanya umwana w'imyaka cumi n'itatu (13) y'amavuko ; [32] Rutegetse ko asonerwa gutanga amafaranga y'amagarama y'urubanza kuko aburana afunzwe.

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