UBUSHINJACYAHA v NTAKIRUTIMANA

[Rwanda URUKIKO RW'UBUJURIRE – RPAA 00325/2020/CA – (Nyirandabaruta, P.J.) 21 Werurwe 2022]

Amategeko Mpanabyaha – Igabanyagihano – Uwagabanyirijwe ibihano mu buryo bukurikije amategeko, ntiyakongera kubigabanyirizwa mu rwego rw'ubujurire, mu gihe impamvu agaragaza mu bujurire ari nazo zashingiweho mu Nkiko zibanza.

Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Muhanga, Ubushinjacyaha burega Ntakirutimana icyaha cyo kwangiza imyanya ndangagitsina, yakoze ku wa 03/08/2017 ubwo umwana we witwa I. V. yarwanye n'umwana wa M V witwa U. D. ufite imyaka itandatu (6) y'amavuko, maze uregwa yirukankana U. D. aramufata aramukubita anamujomba igiti mu gitsina aramukomeretsa. Urwo Rukiko rwaciye uubanza rwemeza ko uregwa ahamwa n'icyaha, rumuhanisha igifungo cy'imyaka cumi n'itanu.

Uregwa yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Nyanza, avuga ko nubwo yari yaburanye ku rwego rwa mbere ahakana icyaha, hari ibikorwa yemera byo gukubita umwana U. D. nyuma yo kurwana n'uwe akamukomeretsa; ko yamwirukankanye akagwa maze akamukubita igiti ku kibuno, maze ku bw'amahirwe make kikamukomeretsa ku gitsina. Urwo Rukiko rwaciye urubanza rwemeza ko nta gihindutse ku mikirize y'urubanza rwajuririwe rushingiye ku mvugo y'umwana kimwe n'iz'abatangabuhamya babajijwe kandi ko atagabanyirizwa igihano kuko Urukiko Rwisumbuye rwa Muhanga rwamugabanyirije bihagije, kuko ubundi icyaha yakoze gihanishwa igifungo cya burundu, ariko akaba yarahawe igihano cy'igifungo cy'imyaka 15.

Uregwa yarongeye ajuririra mu Rukiko rw'Ubujurire, avuga ko Urukiko Rukuru rwamuhanishije igihano kinini ntirwamugabanyiriza kandi yaremeye icyaha, asaba uru Rukiko guca inkoni izamba, rukamugabanyiriza ibihano ndetse bigasubikwa. Avuga kandi ko Urukiko Rukuru rwemeye ko kwemera icyaha kwabayeho ariko ntirumugabanyirize kugera ku gihano gito gishoboka kandi rwari rubifitiye ububasha, ibyo akaba ari byo asaba ko byakorwa n'Urukiko rw'Ubujurire, kuko akomeje kwemera icyaha akagisabira imbabazi.

Ubushinjacyaha bwo buvuga ko ubujurire bwa kabiri bw'urega budakwiye guhabwa ishingiro, kuko yabonye umwanya uhagije mu nkiko ebyiri zamaze kumuburanisha ariko agakomeza guhunga icyaha gifitiwe ibimenyetso, ko rero ataza ku munsi w'iburanisha avuga ko ''yemera icyaha'', kuko byaba ari nko gusubira mu rwego rwa mbere asaba Urukiko rw'Ubujurire kuburanisha imikorere y'icyaha, ko ahubwo nk'uko biteganywa n'ingingo ya 183 y'Itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha, yakagombye kwerekana amakosa yakozwe n'inkiko zabanje mu gusesengura imikorere yacyo.

Incamake y'icyemezo: 1. Uwagabanyirijwe ibihano mu buryo bukurikije amategeko, ntiyakongera kubigabanyirizwa mu rwego rw'ubujurire, mu gihe impamvu agaragaza mu bujurire ari nazo zashingiweho mu Nkiko zibanza, bityo uregwa ntago yakongera kugabanyirizwa igihano.

Ubujurire nta shingiro bufite.

Amategeko yashingiweho:

Itegeko N°30/2013 ryo kuwa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryakoreshwaga igihe icyaha cyakorwaga Ingingo ya 34 n'iya 35.

Itegeko Ngenga N° 01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ryakoreshwaga igihe icyaha cyakorwaga, ingingo ya 78,85 n'iya 187.

Imanza zifashishijwe:

Ubushinjacyaha v. Twagiramungu Wellars, RPA 0002/14/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 22/9/2017

Ubushinjacyaha v. Ahishakiye, RPA 0200/13/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 10/02/2017.

Ubushinjacyaha v. Muhawenimana Clarisse, RPA 0194/13/CS rwaciwe n'Urukiko rw'Iirenga ku wa 17/02/2017 igika cya 13.

Ubushinjacyaha v. Munyagishari, RPA / GEN 00004/2019/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 7/5/2021, pp. 17-18

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Muhanga, Ubushinjacyaha burega Ntakirutimana Véstine icyaha cyo kwangiza imyanya ndangagitsina, yakoze ku wa 03/08/2017 ubwo umwana we witwa I. V. yarwanye n'umwana wa M. V witwa U. D. ufite imyaka itandatu (6) y'amavuko, maze uyu Ntakirutimana Véstine yirukankana U. D., aramufata aramukubita anamujomba igiti mu gitsina aramukomeretsa.

[2] Urwo Rukiko rwaciye uubanza n° RP 00382/2017/TGI/MHG ku wa 28/02/2018, rwemeza ko Ntakirutimana Véstine ahamwa n'icyaha, rumuhanisha igifungo cy'imyaka cumi n'itanu (15ans).

[3] Ntakirutimana Véstine yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Nyanza, avuga ko nubwo yari yaburanye ku rwego rwa mbere ahakana icyaha, hari ibikorwa yemera byo gukubita umwana U.D. nyuma yo kurwana n'uwe akamukomeretsa ; ko yamwirukankanye akagwa maze akamukubita igiti ku kibuno, maze ku bw'amahirwe make kikamukomeretsa ku gitsina.

[4] Mu rubanza n˚ RPA 00291/2018/HC/NYZ, rwaciwe n'Urukiko Rukuru Urugereko rwa Nyanza ku wa 07/12/2018, rwemeje ko nta gihindutse ku mikirize y'urubanza n° RP 00382/2017/TGI/MHG rwaciwe n'Urukiko Rwisumbuye rwa Muhanga ku wa 28/02/2018.

[5] Urukiko rushingiye ku mvugo y'umwana kimwe n'iz'abatangabuhamya babajijwe aribo Uwishyaka Divine na Mukabutera Petronille bemeje ko Ntakirutimana Vestine yirukanse ku mwana U. D. amufashe aramukubita no ku cyemezo cya muganga cyagaragaje ko umwana U. D. yajombwe ikintu kinjira (objet pénétrant) mu gitsina, rwasanze Ntakirutimana Vestine atagabanyirizwa igihano kuko Urukiko Rwisumbuye rwa Muhanga rwamugabanyirije bihagije,

kuko ubundi icyaha yakoze gihanishwa igifungo cya burundu, ariko akaba yarahawe igihano cy'igifungo cy'imyaka 15.

[6] Ntakirutimana Véstine ntiyishimiye imikirize y'urwo rubanza arujuririra mu Rukiko rw'Ubujurire ku wa 20/12/2018, avuga ko Urukiko Rukuru rwamuhanishije igihano kinini ntirwamugabanyiriza kandi yaremeye icyaha, asaba uru Rukiko guca inkoni izamba, rukamugabanyiriza ibihano ndetse bigasubikwa.

[7] Iburanisha ryabereye mu ruhame ku wa 02/03/2022, Ntakirutimana Vestine yunganiwe na Me Sadi Jashi naho Ubushinjacyaha buhagarariwe na Rudatinya Nyangezi Gaspard, Umushinjacyaha ku Rwego rw'Igihugu.

II. IKIBAZO KIRI MU RUBANZA N'ISESENGURWA RYACYO

Kumenya niba Ntakirutimana Vestine yaraburanye yemera icyaha ntagabanyirizwe ibihano kandi niba yagabanyirizwa kuri uru rwego.

[8] Ntakirutimana Véstine avuga ko impamvu zamuteye kujurira ari uko yahanishijwe igihano kinini ntagabanyirizwe igihano kandi yaremeye icyaha, ko noneho yiyemeje kuvugisha ukuri, gusaba imbabazi no kwicuza. Avuga ko yemera icyaha akagisabira imbabazi, akaba yaragikoze ubwo yirukanse ku mwana igiti kikamwica bitewe nawe ariko ntagire icyo akora, akaba aribyo asabira imbabazi akanabyicuza. Nyuma y'iyo mvugo ye, Ntakirutimana Vestine yarongeyeye avuga ko yafashe igiti akakimujomba amukanga, akagwa akakimujomba buhoro, ko asaba imbabazi aciye bugufi kuko yajombye igiti mu gitsina cy'umwana witwa U. D. kandi ko yabikoze yihimura kuko yari asanze umwana we ava amaraso nawe bamujombye igiti, noneho kuko yahungabanye kubera ko yarokotse jenoside yakorewe Abatutsi yabaye muri 1994, akaba yaragize ubwoba ko umwana we ashobora gupfa, kuko abana n'ubumuga bwo kutavuga.

[9] Me Sadi Jashi umwunganira, yasabye Urukiko kugabanyiriza igihano Ntakirutimana Vestine mu bushishozi bwarwo, rushingiye ku ngingo ya 35 y'Itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha kuko yemera icyaha mu buryo budashidikanywaho, kandi asaba imbabazi uwo yakoreye icyaha n'umuryango nyarwanda bivuye kumutima. Avuga kandi ko Urukiko rukwiye no gushingira ku ngingo ya 77 y'Itegeko Ngenga n° 01/2012 ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana, no ku ngingo ya 78 y'iryo Tegeko agahanishwa imyaka 5, kuko icyaha nta ngaruka zikomeye cyateje uwagikorewe nta kibazo kidasanzwe yagize kandi gikomeye kuko nta muganga wigeze atanga ikigero cy'ububabare cyangwa ubumuga yagize.

[10] Akomeza avuga ko kuba Ntakirutimana Vestine yemeye icyaha kuri uru rwego ari amahirwe ya nyuma adashaka kwitesha, ariyo mpamvu atakambira Urukiko rw'Ubujurire arusaba guca inkoni izamba agahabwa amahirwe yo gusubira mu muryango kurera abana be kuko bandagaye badafite ubitaho, rugafata icyemezo rushingiye no ku ngingo ya 4 y'Itegeko n° 71/2018 ryo ku wa 31/08/2018 rirengera abana, iteganya uburenganzira bw'umwana n'imikurire ye.

[11] Avuga ko mu kugabanyiriza ibihano, uwo yunganira, Urukiko rwashingira no ku nyandiko y'abahanga iri ku rubuga http://www.ledroitcriminel.free.fr, aho bavuga ko mu mpamvu nyoroshya cyaha, izikunze kubaho kandi zashingirwaho harimo n'imyitwarire isanzwe irangwa

uregwa, uburere, imyaka, icyamuteye gukora icyaha, amarangamutima, ubumenyi buke mu mategeko n'ibindi.

[12] Me Sadi avuga ko banenga Urukiko Rukuru kuba rwaravuze ko uwo yunganira yagabanyirijwe ibihano ku buryo buhagije, rukaba rwaremeye ko kwemera icyaha kwabayeho ariko ntirumugabanyirize kugera ku gihano gito gishoboka kandi rwari rubifitiye ububasha, ibyo akaba ari byo asaba ko byakorwa n'Urukiko rw'Ubujurire, kuko akomeje kwemera icyaha akagisabira imbabazi.

[13] Ubushinjacyaha buvuga ko ubujurire bwa 2 bwa Ntakirutimana Vestine budakwiye guhabwa ishingiro, kuko yabonye umwanya uhagije mu nkiko ebyiri zamaze kumuburanisha ariko agakomeza guhunga icyaha gifitiwe ibimenyetso, ko rero ataza ku munsi w'iburanisha avuga ko ''yemera icyaha'', kuko byaba ari nko gusubira mu rwego rwa mbere asaba Urukiko rw'Ubujurire kuburanisha imikorere y'icyaha, ko ahubwo nk'uko biteganywa n'ingingo ya 183 y'Itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha, yakagombye kwerekana amakosa yakozwe n'inkiko zabanje mu gusesengura imikorere yacyo iryo sesengura rikanzura ryica itegeko.

[14] Uhagarariye Ubushinjacyaha akomeza avuga ko Ntakirutimana Vestine atavugisha ukuri, kuko hari aho avuga ko umwana witwa E. yamubwiye ko uwe bamujombye igiti mu gitsina, nyamara akaba nta bundi yigeze abivuga, ko kandi gutekereza kujomba umwana w'umukobwa igiti mu gitsina nk'uko byagiye bikorwa muri Jenoside yakorewe abatutsi, ahubwo byongera ububi bw'icyaha yakoze aho kumubera impamvu yacyoroshya kuko nawe avuga ko yacitse ku icumu rya jenocide. Avuga ko akurikije ibyateganywaga n'ingingo ya 187 y'Itegeko Ngenga N° 01/2012/OL ryo kuwa 02/05/2012 rishyiraho Igitabo cy"amategeko ahana ryakoreshwaga igihe icyaha cyakorwaga, yakagombye kuba yarahanishijwe ''gufungwa burundu y'umwihariko, ariko igihano Urukiko Rukuru rwagumijeho cyari cyagabanijwe n'ubundi n'Urukiko Rwisumbuye, ko ibyo asaba yabikorewe. Ko naho isubikwagihano asaba atarihabwa kuko yahanishijwe igihano kiri hejuru y'imyaka itanu.

[15] Ubushinjacyaha buvuga ko mbere Ntakirutimana Vestine yaburanye atemera icyaha, ariko agahanishwa igifungo cy'imyaka 15, ko yajuriye asa nushaka kwemera icyaha ariko atacyemera nk'uko bigaragara mu nyandikomvugo y'iburanisha mu Rukiko Rukuru, kuko yavuze ko yajombye igiti mu kibuno ko atazi ko cyahingutse mu gitsina, mu Rukiko rw'Ubujurire akaba yaciye mu nzira nyinshi kugira ngo agire icyo yemera, akaba atavuga ko yajombye uwo mwana igiti mu gitsina atabigambiriye kandi atabishaka, uko kwemera kwe kukaba kudahura n'ibiteganywa n'ingingo ya 59 y'Itegeko ryerekeye ibyaha n'ibihano muri rusange.

[16] Avuga kandi ko niyo Ntakirutimana Vestine aba yemera icyaha, ukwemera kwe kutaza bwa mbere mu Rukiko rw'Ubujuire, ko uwo ari nawo murongo watanzwe n'uru Rukiko mu rubanza no RPA/GEN/00004/2020/2019/CA rw'Ubushinjacyaha na Munyagishari Bernard, aho rwagaragaje ko rudafite mu nshingano zarwo kuburanisha urubanza muri rusange ahubwo ko icyo rushinzwe ari ugusuzuma amakosa aba yakozwe ku rwego rwo hasi, ko kandi uretse n'ibyo, kuba Ntakirutimana Vestine yaragabanyirijwe igihano, atakongera kugabanyirizwa, nk'uko n'Urukiko rw'Ikirenga rwabyemeje mu rubanza n° RPA 0066/08/CS rwaciwe ku wa 06/02/2009, Ubushinjabyaha buburana na Kabahizi Jean.

UKO URUKIKO RUBIBONA

[17] Ingingo ya 187y'Itegeko Ngenga N° 01/2012/OL ryo kuwa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana ryakoreshwaga igihe icyaha cyakorwaga, iteganya ko: «Kwangiza imyanya ndangabitsina bihanishwa igifungo cya burundu cy'umwihariko».

[18] Ingingo ya 78 igika cya 1, 1° y'Itegeko Ngenga N° 01/2012/OL ryavuzwe haruguru, iteganya ko: Iyo hari impamvu zoroshya uburemere bw'icyaha, ibihano bigabanywa ku buryo igihano cyo gufungwa burundu cyangwa cya burundu y'umwihariko gisimbuzwa igihano cy'igifungo kitari munsi y'imyaka icumi (10);

[19] Ingingo ya 35 y'Itegeko N°30/2013 ryo kuwa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryakoreshwaga igihe icyaha cyakorwaga iteganya ko "Iyo ukurikiranyweho gukora icyaha acyiyemereye mu buryo budashidikanywa, hubahirizwa mu kumukurikirana ibiteganywa n'ingingo ya 34 y'iri tegeko, kandi umucamanza waregewe urwo rubanza ashobora kugabanya ibihano byari biteganyijwe kugeza kuri kimwe cya kabiri (½) cyabyo. Iyo yari guhabwa igihano cyo gufungwa burundu ashobora kugabanyirizwa kugera ku gifungo cy'imyaka makumyabiri (20).

[20] Mu rubanza rujuririrwa, mu gika cyarwo cya 9, Urukiko Rukuru Urugereko rwa Nyanza rwasanze kuba Ntakirutimana Véstine asaba kugabanyirizwa igihano, nta shingiro byahabwa kuko icyaha yakoze cyo kwangiza imyanya ndangagitsina ingingo ya 187 y'Itegeko Ngenga nº 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana ryariho igihe icyaha cyakorwa, yagihanishaga igifungo cya burundu y'umwihariko, ko kuba Urukiko rubanza rwaramuhanishije igifungo cy'imyaka cumi n'itanu (15) bigaragara ko yagabanyirijwe cyane. Urukiko Rukuru rwavuze ko none kandi kuba mu gihe uru rubanza rwari rukiburanishwa Itegeko Ngenga nº 01/2012/OL ryo ku wa 02/05/2012 ryarasimbuwe n'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo yaryo ya 114 ikaza iteganyiriza icyo cyaha igifungo cya burundu, byumvikana ko iri Tegeko ari ryo ryaje rigabanya igihano, ariko na none kuba igihano cyatanzwe ari gito cyane ugereranyije n'ikiri mu itegeko rishya, bituma nta cyahinduka ku gihano yahawe.

[21] Kubijyanye no kuba Ntakirutimana Véstine yaraburanye yemera icyaha ariko ntagabanyirizwe ibihano, Urukiko rw'Ubujurire rurasanga ibihano yarabigabanyirijwe, kuko nk'uko byagaragajwe haruguru, Urukiko Rukuru, Urugereko rwa Nyanza, rwasanze kuba icyaha cyo kwangiza imyanya ndangabistina cyateganyirijwe igihano cy'igifungo cya burundu y'umwihariko ariko Urukiko rubanza rukaba rwaramuhanishije igifungo cy'imyaka cumi n'itanu (15), bigaragara ko yagabanyirijwe, rusanga nta mpamvu yakongera kugabanyirizwa ibihano. Rusanga kandi kuba Urukiko Rukuru rwabonye ko atari ngomba kongera kumugabanyiriza ibihano nta kosa rwakoze, kuko rwasanze Ntakirutimana Véstine adakwiriye guhabwa igihano kiri munsi y'icyo yahawe, ikindi rukaba rudategetswe kugabanyiriza ushinjwa igihano uko abisabye kandi rubona atabikwiye.

[22] Ku bijyanye n'uko Ntakirutimana Vestine atagabanyirijwe ibihano kuri uru rwego hashingiwe ku ngingo ya 35 y'Itegeko N°30/2013 ryo kuwa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryakoreshwaga igihe icyaha cyakorwaga, Urukiko rurasanga nubwo inkiko zombi zitashingiye ku ngingo ya 35 y'Itegeko N°30/2013 ryavuzwe, ibyo ubwabyo bitakwitwa ko izo Nkiko zitamugabanyirijwe ibihano, kuko iyo ngingo iteganya ko yashoboraga kugabanyirizwa kugeza ku gifungo cy'imyaka 20, ariko aho guhanishwa icyo gihano,

ahanishwa igifungo cy'imyaka 15, zibishingiye ku ngingo ya 78 igika cya 1, 1° y'Itegeko Ngenga N° 01/2012/OL ryavuzwe haruguru.

[23] Urukiko rusanga n'ubwo kugabanya igihano atari itegeko ku mucamanza bikorwa mu bushishozi bwe, ibyakozwe n'Inkiko zombi zarabishingiye ku mategeko, zinabikora mu nyungu za Ntakirutimana Vestine, kuko aho guhanishwa igifungo cy'imyaka 20, yahanishijwe icy'imyaka 15. Rusanga kandi itegeko ridateganya ko nyuma yo kugabanyirizwa hashingiwe ku ngingo ya78,1o y' Itegeko Ngenga N° 01/2012/OL ryo kuwa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana ryakoreshwaga icyo gihe, umucamanza yari ategetswe na none kongera kumugabanyiriza ashingiye ku ngingo ya 35 y'Itegeko N°30/2013 ryo kuwa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, naryo ryakoreshwaga igihe icyaha cyakorwaga.

[24] Ku bijyanye nuko Ntakirutimana Vestine yakongera kugabanyirizwa ibihano kuko yemera icyaha muri uru Rukiko rw'Ubujurire, rurasanga iyo harebwe imiburanire ye kuri uru rwego, ukwemera icyaha kwe gushidikanywaho, kuko mbere y'uko yemera ko yafashe igiti akagishinga mu gitsina cy'umwana, yabanje gusa nushaka guhunga icyaha avuga ko yirutse ku mwana nawe akiruka akagwa ku giti ku buryo bishoboka ko ari cyo cyamukomerekeje akaba asaba imbabazi z'uko uwo mwana yakomeretse ari we ubiteye; ubundi avuga ko yamushinze inkoni mu kibuno bikaba bishoboka ko iyo nkoni yaba yarayobye ikajya mu gitsina, ubundi avuga ko yakimujombye mu gitsina abishaka mu rwego rwo kwihimura kuko umwana we nawe bari bamuvushije amaraso, ibyo bikagaragaza ko ukwemera icyaha kwe kutaturutse mu mutima wicuza, bityo ko kudakwiye no gushingirwaho agabanyirizwa ibihano.

[25] Urukiko rusanga kandi n'iyo Ntakirutimana Vestine aza kuba yaraburanye yemera icyaha ku buryo budashidikanywaho bwa mbere mu rwego rw'ubujurire, uko kwemera kwe kutashingirwaho ngo agabanyirizwe ibihano kubera impamvu zikurikira: impamvu ya 1° ni uko ibyo asaba byo kugabanyirizwa ibihano yabikorewe n'Urukiko rwamuburanishije ku rwego rwa mbere, rwamuhanishije igihano gito gishoboka (peine minimale) ndetse kiri munsi y'igiteganywa n'itegeko kuko rwamuhanishije igifungo cy'imyaka 15.

[26] Ibyo kutongera kugabanya ibihano mu bujurire byanemejwe mu manza zitandukanye zaciwe n'Urukiko rw'Ikirenga, ndetse n'uru Rukiko, zemeje ko uwagabanyirijwe ibihano mu buryo bukurikije amategeko, atakongera kubigabanyirizwa mu rwego rw'ubujurire, mu gihe impamvu agaragaza mu bujurire ari nazo zashingiweho mu Nkiko zibanza[1]. Ibi bikaba binavanaho icyifuzo cy'uwunganira Ntakirutimana Vestine cy'uko hashingirwa ku mvugo y'abahanga igaragara ku rubuga http://www.ledroitcriminel.free.fr. kugira ngo uwo yunganira yongere agabanyirizwe.

[27] Impamvu ya 2° ituma Ntakirutimana Vestine atakongera kugabanyirizwa, ni uko Urukiko rw'Ubujurire rusuzuma inenge z'amategeko zitesha agaciro urubanza rujuririrwa cyangwa izishingiye k'uko ibintu byagenze zatumye mu rubanza rujuririrwa hafatwa icyemezo kidakwiye,

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[1] Reba urubanza Nº RPA 0002/14/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 22/9/2017 igika cya cya 20, haburana Ubushinjacyaha na TWAGIRAMUNGU Wellars.
Reba urubanza Nº RPA 0200/13/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 10/02/2017, igika cya 11 haburana ubushinjacyaha na AHISHAKIYE Sylvestre
Reba urubanza RPA 0194/13/CS rwaciwe n'Urukiko rw'Iirenga ku wa 17/02/2017 igika cya 13, haburana Ubushinjacyaha na MUHAWENIMANA Clarisse.

zagaragajwe n'uwajuriye, rukaba rudahamagariwe gusuzuma bwa mbere ibijyanye no kwemera icyaha, kuko ibyo byakagombye kuba byarakozwe bwa mbere mu rwego rw'iperereza cyagwa mu Rukiko urubanza rwatangiriyemo; kubikora mu Rukiko rujuririrwa bikaba ntacyo byamarira ushinjwa wemera icyaha, kuko aba yarivukije ubwo burenganzira bwo kubikora mu gihe gikwiye2.

[28] Hashingiwe ku bimaze kugaragazwa haruguru, rusanga Ntakirutimana Vestine atakongera kugabanyirizwa ibihano.

[29] Ku bijyanye n'isubikagihano, Urukiko rusanga nk'uko byemejwe n'Urukiko Rukuru, mu rubanza rujuririrwa, kuba Ntakirutimana Vestine yarahanishijwe igihano kiri hejuru y'imyaka 5, nta subikagihano yahabwa3.

[30] Hashingiwe ku bisobanuro byose byatanzwe no ku ngingo z'amategeko zagaragajwe, Urukiko rw'Ubujurire rurasanga nta mpamvu n'imwe yatuma urubanza n°RPA 00291/2018/HC/NYZ Ntakirutimana Vestine yajuririye rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza ku wa 07/12/2018, ruhinduka.

III. ICYEMEZO CY'URUKIKO

[31] Rwemeje ko ubujurire bwatanzwe na Ntakirutimana Vestine nta shingiro bufite ;

[32] Rwemeje ko nta gihindutse ku rubanza n° RPA 00291/2018/HC/NYZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza, ku wa 07/12/2018 ;

[33] Ruvuze ko amagarama y'urubanza aherera ku isanduku ya Leta.

[2] Urubanza Nº RPA / GEN 00004/2019/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 7/5/2021, haburana Ubushinjacyaha na Munyagishari Bernard, pp. 17-18, igika cya 70, (Or, la Cour d'Appel n'a pas, dans ses attributions, la faculté de juger à nouveau l'ensemble de l'affaire comme au premier degré, son pouvoir se limitant uniquement à l'examen des critiques articulées par l'appelant portant sur une erreur de droit invalidant la décision attaquée ou portant sur une erreur de fait ayant entraîné une erreur judiciaire ou un déni de justice. En plus, on ne peut passer outre le fait que l'appelant Bernard MUNYAGISHARI avait l'opportunité d'avouer les faits mis à sa charge depuis la phase préliminaire et devant la Haute Cour. N'ayant pas saisi cette opportunité et ayant librement choisi de ne pas comparaître aux audiences de la Haute Cour et de plaider, par le biais de ses conseils, son innocence sur certaines charges et l'irrecevabilité d'autres chefs d'accusation, il faut en déduire qu'il a légitimement et définitivement renoncé à plaider coupable en la présente procédure)

[3] Reba ingingo ya 85 y'Itegeko Ngenga N° 01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ryakoreshwaga igihe icyaha cyakorwaga.