UBUSHINJACYAHA v. MUKANZARAMBA

[Rwanda URUKIKO RW'UBUJURIRE – RPA 00019/2021/CA (Tugireyezu, P.J.) 21 Mutarama 2022]

Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – Ibimenyetso mu manza nshinjabyaha – Ibimenyetso bidashidikanywaho – Ushinjwa aba umwere iyo Ubushinjacyaha budashoboye kugaragaza ibimenyetso bidashidikanywaho bimushinja.

Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi ruri i Nyanza, Ubushinjacyaha bukurikiranyeho uregwa icyaha cyo gucuruza abantu n'icyo guteza imbere no korohereza undi gukora icuruzwa ry'abantu, buvuga ko ariwe washakishije uwitwa Mukayisenga amubeshya ko agiye kumushakira akazi ko kwakira no kwandika impunzi mu nkambi iri muri Uganda, amushyikiriza uwitwa Habanabakize wamujyanye muri Uganda bagezeyo amuha muramu we witwa Hakizimana alias Asimwe amugira umugore, nyuma amaze kumuhararukwa apanga kumutoroka, ariko asiga amuhaye abashumba, bamukoresheje ibikorwa by'ubucakara. Mu ibazwa rye mu gihe cy'iperereza, uregwa yahakanye uruhare urwo ari rwo rwose mu ijyanwa rya Mukayisenga muri Uganda no mu ihohoterwa yaba yaragiriwe, akavuga ko ahubwo yagiye ku bushake bwe agiye gushaka umugabo. Urubanza rwaburanishijwe uregwa adahari kuko yahamagawe kuburana nk'uregwa udafite aho abarizwa hazwi ntiyitaba urukiko. Urwo Rukiko rwaciye urubanza rwemeza ko uregwa ahamwa n'icyaha cyo gucuruza abantu; rumuhanisha igifungo cy'imyaka 20 n'ihazabu ingana na 20.000.000Frw ndetse agatanga 40.000 Frw y'amagarama y'urubanza.

Uregwa yasubirishijemo urwo rubanza rwaburanishijwe adahari mu Rukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi ruri i Nyanza, maze urwo Rukiko ruca urubanza RP 00013/2020/HC/HCCIC ku wa 20/01/2021, rwemeza ko icyo kirego cyo gusubirishamo urubanza nta shingiro gifite, rwemeza ko urubanza RP 00044/2019/HC/HCCIC rwaciwe ku wa 27/02/2020 rusubirishwamo ruguma uko rwaciwe nta gihindutseho.

Uregwa yajuririye imikirize y'urwo rubanza mu Rukiko rw'Ubujurire, avuga ko Urukiko rubanza rutitaye ku bisobanuro yatanze ndetse ntirwaha agaciro ubuhamya bw'abamushinjura ahubwo rushingira gusa ku buhamya bw'abamushinja burimo ibinyoma.

Ubushinjacyaha bwo mu bihe by'iburanisha bwagezaho buvuga ko nubwo bwari bwaburanye bushinja uregwa ariko busanga noneho nyuma yo kumva ibisobanuro by'uwitwa Mukayisenga avuye mu Rukiko, busanga hari ugushidikanya ku ruhare rw' uregwa mu kumujyana muri Uganda kuko Mukayisenga we ubwe mu ibazwa rye mu Bushinjacyaha ku wa 12/07/2019 , ku kibazo cya 13 na 14 yivugiye ko uregwa na Komite ye aribo bamuvanye muri système bituma adakomeza kwishyurirwa na FARG kubera kubura icyangombwa, bivuze ko bari basanzwe bafitanye amakimbirane.

Incamake y'icyemezo: 1. Uko byagenda kose, umucamanza ntashobora guhamya umuntu icyaha mu gihe nta bimenyetso bidatera gushidikanya byagaragajwe.

Ubujurire bufite ishingiro;
Uregwa ntahamwa n'icyaha.

Amategeko yashingiweho:
Itegeko Nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, Ingingo ya 111.
Itegeko N° 15/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, Ingingo ya 62 niya 65.

Imanza zifashishijwe:
Ubushinjacyaha v. Ntawicumurame, RPAA 0149/10/CS rwaciwe n'Urukiko Rw'Ikirenga ku wa 14/03/2014

Inyandiko z'abahanga:
Herny BOSLY et Damien VANDERMEERSCH, Droit de la procédure pénale, 2è Edition, 2001, p. 930 : "En tout état de cause, le juge ne peut déclarer une personne coupable que s'il considère que la preuve de sa culpabilité a été rapportée au-delà de tout doute raisonnable".

Urubanza

I. IMITERERE Y'URUBANZA

[1] Urubanza rwatangiriye mu Rukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi ruri i Nyanza, Ubushinjacyaha bukurikiranyeho Mukanzaramba Donatille icyaha cyo gucuruza abantu n'icyo guteza imbere no korohereza undi gukora icuruzwa ry'abantu, buvuga ko ariwe washakishije Mukayisenga Sandrine amubeshya ko agiye kumushakira akazi ko kwakira no kwandika impunzi mu nkambi iri muri Uganda, amushyikiriza Habanabakize Oreste wamujyanye muri Uganda bagezeyo amuha muramu we witwa Hakizimana Emmanuel alias Asimwe amugira umugore, nyuma amaze kumuhararukwa apanga kumutoroka, ariko asiga amuhaye abashumba, bamukoresheje ibikorwa by'ubucakara.

[2] Mu ibazwa rye mu gihe cy'iperereza, Mukanzaramba Donatille yahakanye uruhare urwo ari rwo rwose mu ijyanwa rya Mukayisenga Sandrine muri Uganda no mu ihohoterwa yaba yaragiriwe, akavuga ko ahubwo yagiye ku bushake bwe agiye gushaka umugabo. Urubanza rwaburanishijwe uregwa adahari kuko yahamagawe kuburana nk'uregwa udafite aho abarizwa hazwi ntiyitaba urukiko.

[3] Mu rubanza n° RP 00044/2019/HC/HCCIC rwaciwe ku wa 27/02/2020, Urukiko rwaregewe, rwemeje ko Mukanzaramba Donatille ahamwa n'icyaha cyo gucuruza abantu; rumuhanisha igifungo cy'imyaka 20 n'ihazabu ingana na 20.000.000 Frw ndetse agatanga 40.000 Frw y'amagarama y'urubanza.

[4] Mukanzaramba Donatille yasubirishijemo urwo rubanza rwaburanishijwe adahari mu Rukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi ruri i Nyanza, maze urwo Rukiko ruca urubanza n° RP 00013/2020/HC/HCCIC ku

wa 20/01/2021, rwemeza ko icyo kirego cyo gusubirishamo urubanza nta shingiro gifite, rwemeza ko urubanza nº RP00044/2019/HC/HCCIC rwaciwe ku wa 27/02/2020 rusubirishwamo ruguma uko rwaciwe nta gihindutseho.

[5] Mukanzaramba Donatille yajuririye imikirize y'urubanza mu Rukiko rw'Ubujurire, avuga ko Urukiko rubanza rutitaye ku bisobanuro yatanze ndetse ntirwaha agaciro ubuhamya bw'abamushinjura ahubwo rushingira gusa ku buhamya bw'abamushinja burimo ibinyoma.

[6] Iburanisha ryabaye mu ruhame ku wa 30/11/2021, Mukanzaramba Donatille yitaba yunganiwe na Me Sebukonoke Innocent naho Ubushinjacyaha buhagarariwe na Nkusi Faustin, Umushinjacyaha ku rwego rw'Igihugu.

[7] Muri iri buranisha no mu mwanzuro, Mukanzaramba Donatille na Me Sebukonoke Innocent umwunganira bavuga ko mu guhamya Mukanzaramba Donatille icyaha, urukiko ntacyo rwavuze ku buhamya bw'abatangabuhamya bamushinjura ko ahubwo rushingira gusa ku buhamya bw'abamushinja ndetse no ku mvugo z'urega birimo ibinyoma no kwivuguruza gukomeye, bityo Urukiko rukaba rwarashingiye ku bimenyetso bidashidikanywaho maze basaba ko abatangabuhamya ndetse n'uwareze bahamagazwa n'Urukiko kugira ngo rubumve.

[8] Uhagarariye Ubushinjacyaha nawe muri iri buranisha yavuze ko nabwo bwifuza ko abo batangabuhamya bahamagarwa kugira ngo bagire ibyo basobanurira Urukiko ku birebana n'icyaha kiregwa Mukanzaramba Donatille.

[9] Urukiko rwafashe icyemezo cyo guhamagara abatangabuhamya aribo Mukayisenga Sandrine urega, se na nyina aribo Nkurizumwami Chrysostome na Mukarurangwa Venantie, Ntawanga Justin na Uwineza Liberatha, maze urubanza rwimurirwa ku wa 06/01/2022.

[10] Mu iburanisha ryo ku wa 06/01/2022, Mukanzaramba Donatille yitabye yunganiwe na Me Sebukonoke Innocent naho Ubushinjacyaha buhagarariwe na Nkusi Faustin, Umushinjacyaha ku rwego rw'Igihugu, naho mu batangabuhamya batumijwe hitaba Mukayisenga Sandrine wareze na Nkurizumwami Chrysostome se umubyara, abandi batangabuhamya bahamagawe batitabye.

[11] Mu iburanisha uwatanze ikirego, Mukayisenga Sandrine yatanze ubuhamya avuga yajyanwe i Bugande na Mukanzaramba Donatille amubeshya ko agiye kumushakira akazi ko kujya akora mu mpunzi, ariko bikarangirangira atariko bigenze ahubwo yagiye gucuruzwa, avuga ko ibi yabimusabye ubwo yari amaze gusoza ikizamini gisoza amashuri yisumbuye tariki 22/12/2020 kandi ko yagombaga kumwizera kuko ise yari amubereye nyirarume, ariko ko yagiye amubwira ko atata iwabo kandi ko yari ategereje kubona diplôme ngo ashake ubuzima.

[12] Avuga ko yaje akamushukashuka, akamubwira ko afata utwenda duke ubundi baragenda bageze iwabo ahasanga umugabo witwa Habanabakize Oreste, amusaba ko bajyana undi aramuhakanira, aza gufata moto aragenda abasiga aho, asigarana na Mukanzaramba Donatille akomeza kumusaba kujya Uganda ariko aranga, hashize akanya gato yumva ubwenge buragiye kuko Mukanzaramba Donatille yamuteye imiti, Habanabakize Oreste agaruka kuri moto nka saa munani afite igikapu bamusaba kugenda ariko agenda azi ko bamujyanye gusura Claire.

[13] Mukayisenga Sandrine avuga ko Mukanzaramba Donatille yamushyize kuri moto ku ngufu, bakamujyana yagera i Kayonza Habanabakize Oreste akamubwira ko ubu agiye

kurongorwa, ko nyirasenge yamutanze kandi agiye kubona ibihembo bye, ariko we akamubwira ko yamubwiye ko agiye gukora akazi mu mpunzi ndetse akamusaba kumureka ngo asubire mu rugo kuko yari yagiye ababyeyi batabizi, asoza avuga ko bagiye kuri Jaguar gukatisha amatike ariko bakamuha iya saa cyenda z'ijoro.

[14] Asobanura ko byageze nijoro, Habanabakize Oreste akamusaba kumujyana kurara mu i Logde ariko akamwangira, haza kuza umusore baziranye witwa Karegeya akajya kubacumbikira bwacya bagatega ariko akamubwira ko nibagera ku ruhande rwa Uganda ababwira ko ajyanye na se biba ari nako bigenda, bageze Uganda amwereka uwari ugiye kumugira umugore, ariko kandi ko na Mukanzaramba Donatille yari arimo akurikirana uko bimeze kuri telefoni.

[15] Avuga kandi ko yagiye asimburana mu nzu aho yashatse abagabo batandukanye ariko akabikora atabishaka kubera ko yari asumbirijwe cyane ariko akaba yaravugaga ko ubwo azagera mu Rwanda azatanga ikirego. Asobanura ko yaje kuvugana na mukuru we uba i Kigali nyuma akaza kumwoherereza amafaranga y'itike ubundi agatoroka umugabo babanaga akaza mu Rwanda ari nabwo yahise atanga ikirego arega Mukanzaramba Donatille.

[16] Umutangabuhamya Nkurizumwami Chrysostome, se wa Mukayisenga Sandrine nyuma yo kurahira yavuze ko uretse kumva bavuga ko umwana we yagiye Uganda ajyanywe na Mukanzaramba Donatille nta yandi makuru yari afite, ariko ko aho yabimenyeye, yabimenyesheje ubuyobozi bw'aho bari batuye. Ikindi avuga ni uko nta kibazo bari bafitanye na Mukanzaramba Donatille kuko ahubwo bafite n'icyo bapfana kuko uyu Mukanzaramba Donatille ari mwishywa we. Abajijwe ku birebana n'urupapuro yandikiye imbere ya notaire we n'umugore we bashinjura Mukanzaramba Donatille ko atagize uruhare mu kujyana umwana wabo muri Uganda, yavuze ko izo nyandiko ziriho umukono wa notaire zigaragaraho amazina ye atariwe wazishyizeho umukono, ko kandi izo mpapuro atazizi. Ku kibazo cyo kumenya niba azi ko Mukayisenga Sandrine yahagaze kwiga kubera Mukanzaramba Donatille yaba yaramwimishije icyangombwa cya FARG kimuhesha uburenganzira bwo kwishyurirwa, yavuze ko yamenye ko Mukayisenga Sandrine yahagaritse amashuri, ko ariko atamenye icyabiteye nyamara avuga ko ntacyo asanzwe apfa na Ntawanga Justin wemeje ko Mukanzaramba Donatille yari afitanye amakimbirane n'umuryango wa Mukayisenga Sandrine aturuka ku kuba Mukanzaramba Donatille yaramwimishije icyangombwa cya FARG cyatumye ahagarikirwa kwishyurirwa ishuri.

II. IBIBAZO BIRI MU RUBANZA N'ISESENGURWA RYABYO

Kumenya niba Urukiko Rukuru rwarahamije Mukanzaramba Donatille icyaha cyo gucuruza abantu kandi nta bimenyetso bidashidikanywaho rushingiyeho.

[17] Mukanzaramba Donatille avuga ko yahamijwe icyaha kandi ntacyo yakoze, ko mu kumuhamya icyaha, Urukiko ntacyo rwavuze ku buhamya bw'abatangabuhamya bamushinjura, ko ahubwo rwashingiye gusa ku buhamya bw'abamushinja ndetse no ku mvugo z'urega birimo ibinyoma no kwivuguruza gukomeye, ko Urukiko rwashingiye ku bimenyetso bidashidikanywaho, ko ahubwo ikibazo kiri hagati ye na Mukayisenga Sandrine cyatumye amushinja ibinyoma ari uko yamwimishije icyangombwa cya FARG cyo kwiga, we akavuga ko azabimuryoza, bityo akaba ariho yahereye amugerekaho iyi dosiye ko yamucuruje, asobanura kandi ko nta hantu ahuriye na Habanabakize Oreste wajyanye Mukayisenga Sandrine muri Uganda kuko atigeze akandagira iwe,

kandi ko ibyo Mukayisenga Sandrine avuga ko bamwurije moto ku ngufu bageze i Kayonza bitigize bibaho.

[18] Me Sebukonoke Innocent wunganira Mukanzaramba Donatille avuga ko Mukayisenga Sandrine yagiye muri Uganda ku bushake bwe, ajyanywe na Habanabakize Oreste, agiye gushaka umugabo kubera ko hari abandi bakobwa benshi bajyaga bajyayo bagiye nabo kubashaka, bakababakwa inka nyinshi ndetse n'amafaranga nawe akaba aricyo cyatume agenda.

[19] Ku birebana n'imvugo ya Mukayisenga Sandrine yavugiye mu iburanisha ryo ku wa 06/01/2022, Me Sebukonoke Innocent avuga ko bigaragara ko Mukayisenga Sandrine abeshya kuko adasobanura uburyo Mukanzaramba Donatille yamuteye imiti n'ubwoko bwayo niba ari iy'umwuka ndetse ugereranije n'imyaka 25 yari afite, Mukanzaramba Donatille atari gushobora kumufata ku ngufu ngo amushyire kuri moto ku manywa y'ihangu, umumotari nawe ngo yemere kumutwara abona ko bamwurije moto ku ngufu n'uburyo yageze i Kayonza ubwenge bwagarutse ariko ntatabaze mu nzego z'umutekano cyangwa mu baturage bari hafi aho. Asobanura ko bitumvikana kandi ukuntu yaba yarajyanywe kwa mubyara wa Habanabakize Oreste ariwe Karegeya akararayo,ariko ntamubwire ko ajyanywe ku ngufu kandi yivugira ko ubwenge bwari bwagarutse, bikaba kandi bitumvikana ukuntu yakomeje urugendo atabishaka bikageza n'aho ajya guca ku biro by'Abinjira n'Abasohoka bajya Uganda atanyuze ku biro by'Abinjira n'Abasohoka by'u Rwanda ngo abatabaze ko ajyanywe ku ngufu, ibi byose bigaragaza ko yajyanywe na Habanabakize Oreste abishaka nta gahato kabayeho, ko kandi ntaho Mukanzaramba Donatille ahuriye nabyo

[20] Uhagarariye Ubushinjacyaha avuga ko n'ubwo mu iburanisha riheruka bwari bwaburanye bushinja Mukanzaramba Donatille ariko busanga noneho nyuma yo kumva ibisobanuro bya Mukayisenga Sandrine avuye mu Rukiko, busanga hari ugushidikanya ku ruhare rwa Mukanzaramba Donatille mu kumujyana muri Uganda kuko Mukayisenga Sandrine we ubwe mu ibazwa rye mu Bushinjacyaha ku wa 12/07/2019 , ku kibazo cya 13 na 14 yivugiye ko Mukanzaramba Donatille na Komite ye aribo bamuvanye muri système bituma adakomeza kwishyurirwa na FARG kubera kubura icyangombwa, bivuze ko bari basanzwe bafitanye amakimbirane. Ikindi ni uko ugereranije n'ibyo avugiye mu iburanisha birebana n'igihe yamaze Kayonza cyo kuva saa munani z'amanywa (14h00) kugeza saa cyenda z'ijora (3h00) atatabaje cyangwa ngo agaragaze ko yashyizweho iterabwoba muri urwo rugendo kandi yaravugaga ko yajyanywe na Mukanzaramba Donatille ku gahato amaze no kumutera imiti ituma atakaza ubwenge, mu gihe nyamara mu ibazwa rye mu Bugenzacyaha ho yavugaga ko yajyanywe ku bushake yizezwa na Mukanzaramba Donatille ko agiye gushakirwa akazi keza ko mu mpunzi, izo mvugo ze zombi zikaba zihabanye ku buryo zitera ugushidikanya ku kuri kw'ibyabaye.

UKO URUKIKO RUBIBONA

[21] Ingingo ya 62 y'itegeko n° 15/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko ubuhamya ari ibivugwa mu rukiko bivuzwe n'umuntu wabibonye cyangwa wabyumvise ubwe ku byerekeye ikiburanwa.

[22] Ingingo ya 65 y'iryo tegeko kandi igateganya ko Urukiko ari rwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye kandi ikaba ikwiye

kwemerwa cyangwa guhakanwa. Ntirwitsitsa ku mubare w'abatangabuhamya. Rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga uko byagenze nta cyo bihimbira.

[23] Ingingo ya 111 y'Itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko " Gushidikanya birengera ushinjwa. Iyo urubanza rwakurikiranywe mu buryo bwose ntihagire ibimenyetso nyakuri biboneka byemeza nta shiti abacamanza ko ushinjwa yakoze icyaha koko, bagomba kwemeza ko atsinze".

[24] Ikibazo nyamukuru kiri muri uru rubanza kandi uregwa yifuje ko cyakemuka ni ukuba yaba abeshyerwa ko yajyanye Mukayisenga Sandrine muri Uganda agamije kumucuruza, kandi atariko byagenze ahubwo we na musaza we Uwihoreye Sixten bakaba baramureze bamwihimuraho kubera ikibazo bari bafitanye cyo kuba yaramubujije kubona icyangombwa cyo muri FARG gituma yishyurirwa amashuri, agasaba ko yagirwa umwere cyane ko hari abatangabuhamya bamushinjura batumviswe n'Urukiko rubanza.

[25] Dosiye y'urubanza igaragaza ko hari umutangabuhamya witwa Ntawanga Justin wakoreye inyandiko ye imbere ya notaire wavuze ko impamvu yatumye umuryango wa Mukayisenga Sandrine ushinja Mukanzaramba Donatille ari inzangano zakomotse mu kuba barashatse ko abafasha kwiba Leta binyuze muri FARG, kuko bashakaga ko abana ba Nkurizumwami Chrysostome bishyurirwa na FARG kandi bataracitse ku icumu rya Jenoside ariko Mukanzaramba Donatille arabyanga, nk'umwe mu bari bagize komite ibishinzwe, ko kandi kuva icyo gihe batangiye kumureba nabi. Iby'uko kandi Mukanzaramba Donatille yari asanzwe afitanye inzangano n'umuryango wa Mukayisenga Sandrine zikomoka ku kuba yarabimishije icyangombwa cya FARG, bikaba byaranemejwe na Mukayisenga Sandrine ubwe, ubwo yabazwaga mu mu Bushinjacyaha ku wa 12/07/2019 aho yemeje ko koko Mukanzaramba Donatille yamwimishije icyangombwa cya FARG ubwo yari umunyeshuri, bigatuma ahagarika amashuri mu gihe cy'imyaka itatu.

[26] Dosiye y'urubanza igaragaza ko mu mvugo z'abatangabuhamya batandukanye aribo Ntawanga Justin wakoze inyandiko ye imbere ya notaire, Mukankwiro Primitive wakorewe inyandiko mu Bugenzacyaha ku wa 08/07/2019 na Mukarutare Veneranda ariwe nyina wa Habanabakize Oreste bemeje ko uwitwa Habanabakize Oreste ariwe mu karere watwaraga abana b'abakobwa muri Uganda kubashakira abagabo, aba bakobwa nabo bakagenda kuko bari bafite amakuru ko babona abagabo kandi bagakobwa inka nyinshi, ndetse Mukarutare Veneranda ariwe nyina wa Habanabakize Oreste akaba yaremeje ko Mukanzaramba Donatille atigeze agera mu rugo kwa Habanabakize Oreste mu gihe yasobanuye nyamara ko Mukayisenga Sandrine ariwe wahoraga mu rugo kwa Habanabakize Oreste aje kumusaba kuzamujyana muri Uganda kubera ko mu karere bari bafite amakuru ko abakobwa bagiye Uganda babona abagabo ndetse bagakobwa inka nyinshi, ikindi ntibanasabwe gushaka ibirongoranwa.

[27] Dosiye y'urubanza igaragaza ko mu gihe cy'iburansisha Mukayisenga Sandrine yasobanuye ko Mukanzaramba Donatille yamujyanye mu rugo iwe, akamutera imiti yatumye atakaza ubwenge maze akamwuriza moto ku ngufu akamujyana i Kayonza, yagerayo akagarura ubwenge akamushyikiriza Habanabakize Oreste naho we akamutoroka maze Habanabakize Oreste akamubwira ko agiye kurongorwa kuko nyirasenge ariwe Mukanzaramba Donatille yamutanze nyuma yo kubona ibihembo bye n'ubwo Mukanzaramba Donantille yari yamubwiye ko agiye gukora akazi mu mpunzi, ko ku bw'ibyo Mukayisenga Sandrine yamusabye kumureka ngo asubire

mu rugo kuko yari yagiye ababyeyi batabizi, asoza avuga ko kuva kwa Mukanzaramba Donatille kugera i Kayonza n'igihe bafatiye imodoka ijya Uganda byose hamwe byafashe amasaha menshi yo kuva saa munani kugeza sa cyenda z'ijoro, ko kandi bagiye kuri Jaguar gukatisha amatike ajya Uganda ariko bakamuha iya saa cyenda z'ijoro ari nabyo byatumye we na Habanabakize Oreste bajya gucumbika kwa Karegeya, umwe mu basore bari baziranye ndetse bakuranye iwabo ku musozi.

[28] Dosiye igaragaza ko umutangabuhamya witwa Uwihorye Sixten, musaza wa Mukayisenga Sandrine yemeje ko Mukanzaramba Donatille ariwe washishikarije Mukayisenga Sandrine kujya muri Uganda amwizeza ko azamushakira akazi keza mu mpunzi, ko kandi ari nawe watwaye abandi bakobwa barimo Mukandikumwenayo, Mukankwiro na Mugwiriza mu gihe nyamara Mukankwiro Primitive mu ibazwa rye yakorewe mu Bugenzacyaha ku wa 08/07/2019 yasobanuye ko yatwawe na Nyiramugwera, ariko ko ubuzima bumaze kumunanira yigarukiye mu Rwanda.

[29] Urukiko rw'Ubujurire rurasanga koko Mukayisenga Sandrine yarajyanywe Uganda, ariko uburyo asobanura uruhare Mukanzaramba Donatille yabigizemo bitera gushidikanya kuko ku ruhande rumwe agaragaza ko Mukanzaramba Donatille ariwe wamushishikarije kujya Uganda amwizeza kumushakira akazi mu mpunzi, ku rundi akavuga ko yamuteye imiti maze akamwuriza moto ku ngufu ndetse akamutwara ku ngufu mu gihe nyamara umutangabuhamya Mukarutare Veneranda ariwe nyina wa Habanabakize Oreste asobanura ko Mukanzaramba Donatille atigeze agera mu rugo iwabo kwa Habanabakize Oreste, ko ahubwo Mukayisenga Sandrine ariwe wahoraga mu rugo kwa Habanabakize Oreste aje kumusaba kuzamujyana muri Uganda kubera ko mu karere bari bafite amakuru ko abakobwa bagiye Uganda babona abagabo ndetse bagakobwa inka nyinshi, ikindi ntibanasabwe gushaka ibirongoranwa.

[30] Ku birebana n'uwagize uruhare mu kujyana Mukayisenga Sandrine muri Uganda, Urukiko rw'Ubujurire rurasanga kandi ubwo buhamya bwa Mukarutare Veneranda, nyina wa Habanabakize Oreste bunashimangirwa n'ubundi bw'umutangamuhamya witwa Ntawanga Justin wemeje ko Mukayisenga Sandrine atigeze ashukwa cyangwa ngo ajyannwe na Mukanzaramba Donatille muri Uganda, ko ahubwo Mukayisenga Sandrine yajyanywe n'uwitwa Habanabakize Oreste usanzwe aba Uganda, wagize umwuga guhora ajyanaga abana b'abakobwa yitwa ko agiye kubashakira abagabo, akaba ari naho na Mukayisenga Sandrine yagendeye. Rurasanga kandi ubwo buhamya bunashimangirwa n'ubwa Mukankwiro Primitive wemeje ko Habanabakize Oreste ariwe watwaraga abana b'abakobwa muri Uganda, ko kandi Mukanzaramba Donatille atigeze agira uruhare mu kumujyana we ubwe muri Uganda, ko ahubwo yari yarajyanywe n'uwitwa Nyiramugwera uvuka Uganda mu gihe nyamara umutangabuhamya witwa Uwihoreye Sixten, musaza wa Mukayisenga Sandrine yari yemeje ko uretse mushiki we wajyanywe na Mukanzaramba Donatille muri Uganda hari n'abandi bana b'abakobwa uyu yajyanye Uganda barimo Mukankwiro.

[31] Ku birebana no kuba Mukanzaramba Donatille yari asanzwe afitanye amakimbirane n'umuryango wa Mukayisenga Sandrine, ari nabyo byabaye intandaro yo kumugerekaho icyaha, Urukiko rw'Ubujurire rurasanga umutangabuhamya witwa Ntawanga Justin wakoreye inyandiko ye imbere ya notaire yaremeje ko impamvu yatumye umuryango wa Mukayisenga Sandrine ushinja Mukanzaramba Donatille ari inzangano zakomotse mu kuba barashatse ko abafasha kwiba Leta binyuze muri FARG, kuko bashakaga ko abana ba Nkurizumwami Chrysostome bishyurirwa na FARG kandi bataracitse ku icumu rya Jenoside ariko Mukanzaramba Donatille arabyanga,

nk'umwe mu bari bagize komite ibishinzwe, ko kandi kuva icyo gihe batangiye kumureba nabi ndetse na Mukayisenga Sandrine ubwo yabazwaga mu mu Bushinjacyaha akaba yaremeje ko bari bafitanye ibibazo na Mukanzaramba Donatille byaturutse ku kuba uyu yaramwimishije icyangombwa cyatumye FARG idakomeza kumwishyurira amashuri, bikaba bigaragaza ko koko Mukanzaramba Donatille n'umuryango wa Mukayisenga Sandrine bari bafitanye amakimbirane atuma imvugo ya Mukayisenga Sandrine na musaza we Uwihoreye Sixten zishinja Mukanzaramba Donantille zitashingirwaho zonyine ngo habe hakwemezwa ko Mukanzaramba Donatille yajyanye Mukayisenga Sandrine Uganda mu rwego rwo kumucuruza na cyane ko hari n'izindi mvugo z'abatangabuhamya zitera gushidakanya ku ruhare Mukanzaramba Donatille yaba yarigize mu icuruzwa rya Mukayisenga Sandrine.

[32] Urukiko rw'Ubujurire rurasanga ikindi gitera gushidikanya ku ruhare Mukanzaramba Donatille yaba yaragize mu mu kujyana Mukayisenga Sandrine muri Uganda ari uburyo uyu asobanura ko ubwo yari kwa Mukanzaramba Donatille uyu yamuteye imiti igatuma atakaza ubwenge ndetse ngo akanamushyira kuri moto ku ngufu ikamujyana ikamugeza i Kayonza saa munani z'amanywa, aho bategereje kugeza saa cyenda z'ijoro kugeza ubwo bafashe imodoka ya Jaguar yagombaga kubajyana Uganda nyamara akaba adasobanura niba iyo miti ari inshinge, ibyo ahumeka cyangwa ubundi bwoko, ku buryo byari gutuma koko atakaza ubwenge ndetse bikaba bitumvikana uburyo umukobwa ukuze w'imyaka irenga 24, yurijwe moto ku ngufu na Mukanzaramba Donatille kugera i Kayonza no kugera yambuka umupaka w'u Rwanda na Uganda, cyane ko avuga ko yarajyanywe ku ngufu na Mukanzaramba Donatille ariko ntiyigere atabaza haba ku mumotari wari umutwaye, abantu bari bari aho yanyuze hose kuva mu rugo kwa Mukanzaramba Donatille kugera i Kayonza, dore ko anavuga ko aho i Kayonza hari aga centre kariho abantu benshi kandi yarahamaze amasaha menshi kuva saa munani z'amanywa kugera saa cyenda z'ijoro, cyangwa ngo abe yaratabaje Karegeya, umusore bakuranye ku musozi w'iwabo aho bacumbitse cyangwa se ngo abe yaratabaje ku bakozi b'Ibiro by'Abanjira by'Abasohoka n'Abasohoka by'u Rwanda.

[33] Urukiko rw'Ubujurire rurasanga kandi iyi mvugo Mukayisenga Sandrine yavugiye mu Rukiko y'uko yaba yarajyanywe muri Uganda nyuma yo guterwa imiti itarasobanuwe ubwoko, no kurizwa moto ku ngufu, kubuzwa uburenganzira bwo gutabaza, no kujyanwa Uganda ku ngufu itandukanye cyane n'iyo yavugiye mu Bugenzacyaha aho yari yasobanuye ko kuva akiri mu ishuri Mukanzaramba Donatille yahoraga amushishikariza kuzajya kumushakira akazi ko gukora mu mpunzi muri Uganda, nyamara iby'uko yatewe imiti, akanamwuriza moto ku ngufu na Mukanzaramba Donatille atari yigeze abivuga mu gihe hakorwaga iperereza bikaba bigaragaza ko hari uguhinduranya imvugo ku ireme by'ibyabaye ugereranije n'ibyo yavugiye mu Bugenzacyaha no mu gihe cy'iburanisha.

[34] Urukiko rw'Ubujurire rurasanga rero uretse ubuhamya bwa Mukayisenga Sandrine butera gushidikanya kubera impamvu zasobanuwe haruguru, ikindi ni uko n'ubuhamya bwa musaza wa Mukayisenga Sandrine witwa Uwihorye Sixten ushinja Mukanzaramba Donatille kuba yarajyanye Mukayisenga Sandrine muri Uganda nabwo butera ugushikanya ku ruhare Mukanzaramba Donatille yaba yaragize mu kujyana Mukayisenga Sandrine muri Uganda kubera ikibazo cy'amakimbirane cyari hagati y'uwo muryango wabo na Mukanzaramba Donatille giturutse ku kuba Mukanzaramba Donatille ubwo yari muri komite ya FARG yaranze ko abana ba Nkurizumwami Chrysostome ariwe se wa Mukayisenga Sandrine na Uwihoreye Sixten bishyurirwa na FARG kuko batacitse ku icumu. Ikindi akaba ari uko mu buhamya bwe, Uwihorye

Sixten yari yemeje ko mu bandi bakobwa Mukanzaramba Donatille yajyanye harimo uwitwa Mukankwiro mu gihe nyamara uyu Mukankwiro Primitive we ubwe mu ibazwa rye yakorewe mu Bugenzacyaha ku wa 08/07/2019 yasobanuye ko yatwawe na Nyiramugwera, aho kuba Mukanzaramba Donatille wamutwaye muri Uganda nk'uko byari byemejwe na Uwihoreye Sixten, bityo rero iby'uko ari Mukanzaramba Donatille watwaye Mukayisenga Sandrine byemejwe na Uwihoreye Sixten bikaba nabyo bitera ugushidikanya.

[35] Hakurikijwe ibimaze kuvugwa haruguru, Urukiko rurasanga uretse imvugo ya Mukayisenga Sandrine na musaza we Uwihoreye Sixten zishidikanywaho nk'uko byagaragajwe haruguru, nta bindi bimenyetso bidashidikanywaho bihari byatuma Mukanzaramba Donatille ahamwa n'icyaha cyo gucuruza abantu, akaba agomba kugirwa umwere hashingiwe ku biteganywa n'ingingo ya 111 y'Itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko " Gushidikanya birengera ushinjwa. Iyo urubanza rwakurikiranywe mu buryo bwose ntihagire ibimenyetso nyakuri biboneka byemeza nta shiti abacamanza ko ushinjwa yakoze icyaha koko, bagomba kwemeza ko atsinze". Ibi binashimangirwa n'abahanga mu mategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha bavuga ko : " Uko byagenda kose, umucamanza ntashobora guhamya umuntu icyaha mu gihe nta bimenyetso bidatera gushidikanya byagaragajwe1, ndetse ibyemejwe n'abahanga bikaba byaranashimangiwe n'Urukiko rw'Ikirenga, mu rubanza nº RPAA 0149/10/CS haburana Ubushinjacyaha na Ntawicumurame Faustin rwaciwe ku wa 14/03/2014.

[36] Urukiko rw'Ubujurire rurasanga rero Mukanzaramba Donatille ari umwere ku cyaha akurikiranyweho cyo gucuruza abantu kubera gushidikanya, kubw'ibyo imikirize y'urubanza n° RP 00013/2020/HC/HCCIC rwaciwe ku wa 20/01/2021 n'Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha birenga imbibi ikaba ikwiye guhinduka.

III. ICYEMEZO CY'URUKIKO

[37] Rwemeje ko ubujurire bwa Mukanzaramba Donatille bufite ishingiro ;

[38] Rwemeje ko Mukanzaramba Donatille adahamwa n'icyaha cyo gucuruza abantu, akaba akigizweho umwere ;

[39] Rwemeje ko urubanza rwajuririwe ruhindutse mu ngingo zarwo zose ;

[40] Rutegetse ko Mukanzaramba Donatille ahita afungurwa uru rubanza rukimara gusomwa;

[41] Ruvuze ko amagarama y'urubanza aherera ku Isanduku ya Leta..