UBUSHINJACYAHA v HABAKURAMA

[Rwanda URUKIKO RW’UBUJURIRE – RPAA 00270/2021/CA (Kaliwabo, P.J.) 28 Nyakanga 2022]

Amategeko nshinjabyaha – Icyaha cyo gutunda ibiyobyabwenge – Ingano y’ibiyobyabwenge umuntu akwirakwiza n’imwe mu mpamvu zitabwaho mu kugena ibihano kuko, uko abantu bakwirakwiza ibiyobyabwenge byinshi ari nako bishyira ubuzima bw’abantu benshi mu kaga.

Incamake y’ikibazo: Urubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gicumbi, Ubushinjacyaha bukurikiranye Habakurama ku cyaha cyo gukora ibikorwa byerekeranye n’ibiyobyabwenge, aho bwasobanuye ko kuwa 29/5/2019 inzego zishinzwe umutekano zasatse abagenzi bari mu modoka RITCO yerekezaga i Kigali, Habakurama wari muri iyi modoka afatanwa ibiyobyabwenge byo mu bwoko bw’urumogi yari yahishe mu isarubeti, uyu akaba yarahise yemera icyaha anagisabira imbabazi. Urwo Rukiko rwaciye urubanza rwemeza ko uregwa ahamwa n’icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw’urumogi, rumuhanisha igifungo cy’imyaka makumyabili (20) n’ihazabu y’amafaranga miliyoni makumyabili (20,000,000frw), ndetse rutegeka ko urumogi rwafatanywe Habakurama Côme rutwikwa.

Uregwa yajuririye Urukiko Rukuru avuga ko yahawe igihano kiremereye kandi yaraburanye yemera icyaha kuva yafatwa, asaba kugabanyirizwa ibihano biruseho. Urwo Rukiko narwo rwaciye urubanza rwemeza ko nta gihindutse ku mikirize y’urubanza rwajuririwe kuko ngo Urukiko rubanza rwamugabanyirije ibihano ku buryo buhagije.

Uregwa yarongeye ajuririra Urukiko rw’Ubujurire avuga ko agamije kwemera icyaha mu buryo budashidikanwaho ngo kuko yakiburanye mbere atacyemera neza, akaba asaba kugabanyirizwa ibihano yahawe ngo byaba na ngombwa bigasubikwa kugira ngo ajye kwita ku muryango yasize utishoboye, ikindi kandi akaba ari ubwa mbere yari akoze icyaha.

Ubushinjacyaha bwo bwaburanye buvuga ko impamvu ye y’ubujurire nta gaciro yahabwa kubera ko mu gusobanura ubujurire bwe atagaragariza Urukiko rw’Ubujurire ikosa Urukiko Rukuru rwakoze mu rubanza yajuririye, ko kandi Urukiko rudategetswe kugabanya igihano kugeza aho umuburanyi yifuza.

Incamake y’icyemezo: 1. Ingano y’ibiyobyabwenge umuntu akwirakwiza n’imwe mu mpamvu zitabwaho mu kugena ibihano kuko, uko abantu bakwirakwiza ibiyobyabwenge byinshi ari nako bishyira ubuzima bw’abantu benshi mu kaga. Bityo ku bireba Habakurama wafashwe akwirakwiza (atunda) udupfunyika magana atanu (500 boules) by’ibiyobyabwenge bihambaye ni rwinshi kandi bifite ingaruka ziremereye, ariyo mpamvu Urukiko Rukuru rwashyize mu gaciro uburemere bw’icyaha cyakozwe n’impamvu nyoroshyacyaha yo kuba ushinjwa yemera icyaha, bituma rumuhanisha igifungo cy’imyaka 20 n’ihazabu ya 20.000.000Fr mu mwanya w’igifungo cya burundu yari guhanishwa.

2. Ntawakwitwaza ingaruka mbi z'icyaha yakoze ngo asabe kudahanishwa igihano Itegeko ryagiteganyirije, bityo imvugo ya Habakurama y'uko akwiye kugabanyirizwa igihano kugira ngo ajye kwita ku muryango we nta shingiro ifite.

Ubujurire nta shingiro bufite.

Amategeko yakoreshejwe:

Ingingo ya 11 y'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, yahinduye ingingo ya 263.

Itegeko Nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, Ingingo ya 49.

Imanza zifashishijwe:

Ubushinjacyaha v. Uyisenga Théogène, RPAA 00132/2021/CA rwaciwe n'Urukiko rw'Ubjurire ku wa 15/07/2022.

Ubushinjacyaha v. Niyitegeka Augustin alias Niyirema, RPAA 00408/2020/CA rwaciwe n'Urukiko rw'Ubjurire ku wa 27/06/2022**.**

Ubushinjacyaha v. Bigoboka Et. Al, RPA 0172/09/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 05/09/2014 haburana be mu gika cya 17,

Ubushinjacyaha v. Nshutirakiza, RPA 0047/11/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 27/03/2015 mu gika cya 15-16

Ubushinjacyaha v. Ndabarinze, RPAA 0202/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 30/07/2014 mu gika cya 11

Ubushinjacyaha v. Nyirabigirimana Olive, RPAA 0020/14/CS rwaciwe n'urukiko rw'Ikirenga ku wa 15/09/2017, ika cya 14

Ubushinjacyaha v. Nteziryayo Emmanuel, RPA 0249/13/CS rwaciwe n'urukiko rw'Ikirenga ku wa 25/11/2016, igika cya 13, icyegeranyo cy'ibyemezo by'inkiko V2, 2018.

Ibitekerezo by'abahanga:

Gaston Stefani, Georges Levasseur na Bernard Bouloc, mu gitabo Droit pénal général', Douzième édition, Dalloz, 1984, p.617, Nº 642.

Bernard Bouloc & Haritini Matsopoulou, Droit pénal général et procédure pénale'',16 ème édition, SIREY, 2006, p. 446, Nº 1006.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Urubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gicumbi, Ubushinjacyaha bukurikiranyeho Habakurama Côme icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge, aho bwasobanuye ko kuwa 29/5/2019 inzego zishinzwe umutekano zasatse abagenzi bari mu modoka RITCO yerekezaga iKigali, Habakurama Côme wari muri iyi modoka afatanwa ibiyobyabwenge byo mu bwoko bw'urumogi yari yahishe mu isarubeti, uyu akaba yarahise yemera icyaha anagisabira imbabazi.

[2] Mu rubanza RP 00279/2019/TGI/GIC rwaciwe kuwa 03/07/2019, Urukiko Rwisumbuye rwa Gicumbi rwemeje ko Habakurama Côme ahamwa n'icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, rumuhanisha igifungo cy'imyaka makumyabili (20) n'ihazabu y'amafaranga miliyoni makumyabili (20,000,000frw), ndetse rutegeka ko urumogi rwafatanywe Habakurama Côme rutwikwa.

[3] Habakurama Côme yajuririye Urukiko Rukuru avuga ko yahawe igihano kiremereye kandi yaraburanye yemera icyaha kuva yafatwa, asaba kugabanyirizwa ibihano biruseho.

[4] Mu rubanza RPA01191/2019/HC/KIG rwaciwe kuwa 9/7/2O20, Urukiko rwemeje ko ubujurire bwa Habakurama Côme nta shingiro bufite kuko urubanza ajuririra rwamugabanyirije ibihano ku buryo buhagije.

[5] Habakurama Côme yajuririye Urukiko rw'Ubujurire avuga ko agamije kwemera icyaha mu buryo budashidikanwaho ngo kuko yakiburanye mbere atacyemera neza, akaba asaba kugabanyirizwa ibihano yahawe ngo kuko byaba na ngomba bigasubikwa kugira ngo ajye kwita ku muryango yasize utishoboye, ikindi kandi akaba ari ubwa mbere yari akoze icyaha.

[6] Ubushinjacyaha bwasubije buvuga ko impamvu ye y'ubujurire nta gaciro yahabwa kubera ko mu gusobanura ubujurire bwe, Habakurama atagaragariza Urukiko rw'Ubujurire ikosa Urukiko Rukuru rwakoze mu rubanza yajuririye, ko kandi Urukiko rudategetswe kugabanya igihano kugeza aho umuburanyi yifuza.

[7] Iburanisha ryabaye kuwa 7/7/2022 Habakurama Côme yunganiwe na Me Faida Jean Bosco naho Ubushinjacyaha buhagarariwe na Dushimirimana Claudine, Umushinjacyaha ku Rwego rw'Igihugu.

[8] Uru rukiko rurasuzuma niba Habakurama Côme yakwongera kugabanyirizwa ibihano kubera kwemera icyaha no kugisabira imbabazi, runasuzume niba yasubikirwa ibihano.

II. ISESENGURWA RY'IKIBAZO KIGIZE URUBANZA.

a. Kumenya niba Habakurama Côme yakwongera kugabanyirizwa ibihano kubera kwemera icyaha no kugisabira imbabazi.

[9] Habakurama Côme yajuriye avuga ko inkiko zamuhanishije ibihano biremereye kandi yaraburanye yemera icyaha kuva agifatwa, ko ukuri avugira muri uru Rukiko aruko yatanze amakuru kuri Rukundo nawe wafatanwe urumogi, ibyo ngo bikaba byaratumye afatwa. Urukiko rwamubajije uburyo yatanze amakuru, asubiza avuga ko abapolisi bahagaritse imodoka hanyuma Rukundo akiruka, ariko we arafatwa ndetse ashinja Rukundo bafatanije gutunda urumogi.

[10] Habakurama yasabye kugabanyirizwa igihano kugeza ku myaka 10 no kugisubikirwa kugira ngo asange imfubyi yasize kandi ko yamaze kumenya ububi bw'icyaha ashinjwa, ko kandi rwashingira ku kuba ari ubwa mbere aguye mu cyaha.

[11] Me Faida Jean Bosco wunganira Habakurama Côme avuga ko kuba Urukiko Rukuru rwaragumishijeho igihano yahawe bihabanye n'ubutabera buboneye, ko rwagombye kwita ku myifatire ya Habakurama waburanye yemera icyaha no kuba ari ubwa mbere akoze icyaha.

Yakomeje avuga ko ntacyagombye kuzitira ubwigenge n'ubwisanzure by'umucamanza mu kugena igihano gikwiye nk'uko byatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza RS/INCONST/SPEC/00003/2019/SC rwaciwe ku wa 04/12/2019 ndetse n'Urukiko rw'Ubujurire mu rubanza RPAA 00032/2019/CA rwaciwe kuwa 28/02/2020 ndetse n'urubanza RPAA 000 60/2021/CA rwa Nsabimana Callixte alias Sankara na bagenzi be.

[12] Ubushinjacyaha bwasubije buvuga ko Habakurama atagaragariza Urukiko rw'Ubujurire ikosa Urukiko Rukuru rwakoze mu rubanza yajuririye, kuko uretse kuvuga gusa ko nta cyabuzaga Urukiko Rukuru kongera kumugabanyiriza igihano, atanagaragaza icyabirutegekaga, bityo kuba avuga ko kuba Urukiko Rukuru rutarongeye kumugabaniriza igihano bihabanye n'ubutabera buboneye, nta shingiro bifite. Bwavuze kandi ko ushinjwa atagaragaza uburenganzira ku butabera buboneye buteganijwe mu ngingo ya 29 al.1 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015 yaba yaravukijwe.

[13] Ku birebana n'imanza uwunganira Habakurama ashingiraho, Ubushinjacyaha bwavuze ko ntacyo zamumarira kuko nubundi yahawe igihano kiri munsi y'igihano gito giteganyijwe n'Itegeko kuko yahanishijwe igifungo cy'imyaka 20 mu gihe igihano gito agenerwa n'Itegeko ari igifungo cy'imyaka 25, bityo akaba agomba kuguma ku bihano yahawe kuko ntacyo anenga urubanza yajuririye. Ku birebana n'isubikagihano, Ubushinjacyaha bwavuze ko ntaryo akwiye kuko yahanishijwe igifungo kirenze imyaka 5.

UKO URUKIKO RUBIBONA

[14] Ingingo ya 11 y'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, yahinduye ingingo ya 263 iteganya ko « (...) Umuntu wese ukora, uhinga, uhindura, utunda, ubika, uha undi, ugurisha mu gihugu ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshwa nka byo mu buryo bunyuranyije n'amategeko, aba akoze icyaha. Iyo abihamijwe n'urukiko ahanishwa: 1 º igifungo cya burundu n'ihazabu y'amafaranga y'u Rwanda atari munsi ya miliyoni makumyabiri (20.000.000 Frw) ariko atarenze miliyoni mirongo itatu (30.000.000 Frw), ku byerekeye ibiyobyabwenge bihambaye. (…).

[15] Ingingo ya 49 y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ko "Umucamanza atanga igihano akurikije uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo''.

[16] Dosiye igaragaza ko kuwa 29/5/2019 inzego zishinzwe umutekano zafatanye Habakurama Côme udupfunyika tw'urumogi 500 ari mu modoka itwara abagenzi (RITCO) yerekeza iKigali, uregwa akaba yaraburanye yemera icyaha avuga ko uru rumogi yari yaruguze mu mujyi wa Musanze akaba yari arujyanye iKigali , ko yaragiye kurucuruza kugira ngo abone amafaranga yo kubakisha inzu ye yamunaniye kuzuza iherereye mu Karere ka Bugesera, ko agapfunyika 1 yakaranguye ku mafranga 150frw ,nawe akaba yaragombaga kujya akagurisha 250 frw.

[17] Urukiko rurasanga impamvu y'ubujurire bwa Habakurama Côme muri uru Rukiko igamije gusaba urukiko rw'ubujurire kumugabanyiriza ibihano hashingiwe ku kuba yemera icyaha, kuba

aribwo bwa mbere aguye mu cyaha, kuba yararangije kugororoka bihagije no kuba afite umuryango yasize utishoboye ashaka kujya kwitaho.

[18] Urukiko rurasanga Habakurama Côme yarahaniwe icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, hashingiwe ku mvugo ye yemera icyaha, iyi mvugo ikaba yuzuzwa n'inyandiko mvugo y'ifatira yasinyeho ndetse n'ubuhamya bwa Mundege Bernard na Nirere Ange, abapolisi bashinnzwe umutekano wo mu muhanda, bamushinja kuba baramufatanye udupfunyika 500 tw'urumogi arukuye iMusanze arujyanye iKigali. Rurasanga Habakurama Côme yarahanishijwe igifungo cy'imyaka 20 n'ihazabu y'amafaranga 20.000.000 mu mwanya w'igifungo cya burundu n'ihazabu irihagati ya 20.000.000Frw na 30.000.000Frw kubera ko yaburanye yemera icyaha, ushinjwa akaba asanga ataragabanyirijwe bihagije.

[19] Urukiko rurasanga imvugo ya Habakurama muri uru Rukiko ko yagabanyirizwa biruseho kubera ko ari we watanze amakuru yatumye uwitwa Rukundo nawe afatirwa gutunda ibiyobyabwenge, nta shingiro ifite, kuko uretse no kuba nta kimenyetso gihamya ibyo avuga ndetse akaba atagaragaza uwo yahaye amakuru habe n'umwirondoro w'uwo yita Rukundo, nta nubwo muri iyi dosiye byafatwa ko avugishije ukuri kuruse uko yavugiye mu nkiko zibanza kuko ntacyo byongera ku kuri kw'ibyabaye mu rubanza rumureba ubwe, cyangwa ngo byerekane icyo umucamanza yaba yaribeshyeho mu kumuhanisha igihano ajuririra.

[20] Urukiko rurasanga, ingingo ya 263 y'itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko yahinduwe n'ingingo ya 11 y'Itegeko n° 69/2019 ryo kuwa 08/11/2019, igaragaza ko Umushingamategeko yashatse gutandukanya abantu bakoresha ibiyobyabwenge mu guhaza irari ryabo (consommation à usage personnel) n'abababikwirakwiza mu bantu (drugs trafficking network), urugero rw'ibihano byagenewe icyiciro cy'ababikwirakwiza rukaba rwerekana ko ari ikibazo gifite ingaruka zikomeye ku muryango nyarwanda ku buryo kidakwiye kwihanganirwa. Zimwe muri izi ngaruka, nuko ibiyobyabwenge bizahaza ubuzima bw'ababikoresha, bikenesha ababyishoramo n'imiryango yabo, ndetse iki cyaha kikaba inkomoko y'ibindi byinshi birimo gusambanya abana, ubujura, gukubita no gukomeretsa. Rurasanga kuba Habakurama yarafashwe mu ruhererekane rw'ibiyobyabwenge adashobora kuvuga ko nta ngaruka byateye kubera ko byafatiriwe, kuko izi ngaruka zidatangirira ku munsi byafatiriwe, ahubwo uko ibiyobyabwenge bihererekanwa ninako ingaruka zabyo zibiherekeza, bityo ingaruka zivuzwe haruguru zikaba zibarwa ku muntu wese wemeye kujya mu runana rw'ababikwirakwiza.

[21] Urukiko rurasanga nanone, nk'uko rwabitanzeho umurongo mu rubanza RPAA 00132/2021/CA rwaciwe kuwa 15/07/2022 haburana Ubushinjacyaha na Uyisenga Théogène no mu rubanza RPAA 00408/2020/CA rwaciwe kuwa 27/06/2022 haburana Ubushinjacyaha na Niyitegeka Augustin alias Niyirema, ingano y'ibiyobyabwenge umuntu akwirakwiza ari imwe mu mpamvu zitabwaho mu kugena ibihano kuko, uko abantu bakwirakwiza ibiyobyabwenge byinshi ari nako bishyira ubuzima bw'abantu benshi mu kaga. Ku birebana na Habakurama wafashwe akwirakwiza (atunda) udupfunyika magana atanu (500 boules) by'ibiyobyabwenge bihambaye (urumogi), rurasanga ari rwinshi kandi bifite ingaruka ziremereye, ariyo mpamvu Urukiko Rukuru rwashyize mu gaciro uburemere bw'icyaha cyakozwe n'impamvu nyoroshyacyaha yo kuba ushinjwa yemera icyaha, bituma rumuhanisha igifungo cy'imyaka 20 n'ihazabu ya 20.000.000Fr mu mwanya w'igifungo cya burundu yari guhanishwa hashingiwe ku ngingo ya 11 y'Itegeko n° 69/2019 ryavuzwe haruguru.

[22] Urukiko rurasanga kuba umuntu aburana yemera icyaha bitavanaho ko Urukiko rushyira mu gaciro uburemere bw'icyaha no gutanga igihano gikwiranye n'icyaha cyakozwe nk'uko bitaganywa mu ngingo ya 49 y'Itegeko n° 68/2018 ryo kuwa 30/08/2018 ryavuzwe, ndetse bikaba byaragarutsweho mu manza zitandukanye zaciwe n'Urukiko rw'Ikirenga[1], bityo ushinjwa akaba adashobora kuvuga ko yimwe ubutabera buboneye hashingiwe gusa ku buremere bw'igihano yahawe.

[23] Urukiko rw'Ubujurire rurasanga imvugo ya Habakurama y'uko akwiye kugabanyirizwa igihano kugira ngo ajye kwita ku muryango we udafite kivurira nta shingiro ifite, kuko atakwitwaza ingaruka mbi z'icyaha yakoze ngo asabe kudahanishwa igihano Itegeko ryagiteganyirije. Uwo akaba ari nawo murongo watanzwe n'Urukiko rw'Ikirenga mu rubanza n° RPAA 0020/14/CS rwaciwe ku wa 15/09/2017, Ubushinjacyaha buburana na Nyirabigirimana Olive[2]

[24] Urukiko rushingiye ku bisobanuro byavuzwe haruguru, rurasanga igihano cy'igifungo cy'imyaka 20 n'ihazabu ya 20.000.000Frw Habakurama yahanishijwe gikwiranye n'uburemere bw'icyaha yakoze kandi yahamijwe cyo gutunda no gucuruza urumogi (500 boules), bityo igabanyagihano asaba akaba yaramaze kurihabwa ku buryo nta rindi yahabwa kuri uru rwego. Icyo ninacyo gitekerezo kiboneka mu rubanza RPA 0249/13/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 25/11/2016 aho rwavuze ko bitari ngombwa kongera kugabanyiriza ibihano umuntu wagabanyirijwe mu buryo buhagije mu rubanza ajuririra[3].

b. Kumenya niba Habakurama Côme yahabwa isubikagihano

[25] Habakurama Côme asaba ko igihano urukiko rwamuhanisha rwakimusubikira kugira ngo ajye kwita ku muryango we wandagaye dore ko abana be batiga ndetse hakaba harimo n'uwatewe inda.

[26] Uhagarariye Ubushinjacyaha avuga ko Habakurama Côme atahabwa isubikagihano asaba kubera ko yahanishijwe igifungo kirenze imyaka 5.

UKO URUKIKO RUBIBONA

[27] Ku birebana n'isubikagihano Habakurama Côme asaba, ingingo ya 64, igika cya mbere, y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ko "isubikagihano ari icyemezo cy'urukiko gihagarika irangizarubanza ku gihano itegeko riteganyiriza igifungo kitarengeje imyaka itanu (5).

---

[1] Urubanza RPA 0172/09/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 05/09/2014 haburana Ubushinjacyaha v. Bigoboka na bagenzi be mu gika cya 17,
- Urubanza RPA 0047/11/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 27/03/2015 haburana Ubushinjacyaha v. Nshutirakiza mu gika cya 15-16
- Urubanza RPAA 0202/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 30/07/2014 haburana Ubushinjacyaha v. Ndabarinze mu gika cya 11

[2] Reba igika cya 14 cy'urubanza RPAA 0020/14/CS rwaciwe n'urukiko rw'Ikirenga ku wa 15/09/2017, Ubushinjacyaha buburana na Nyirabigirimana Olive.

[3] Igika cya 13 cy'urubanza RPA 0249/13/CS rwaciwe n'urukiko rw'Ikirenga ku wa 25/11/2016, Ubushinjacyaha buburana na Nteziryayo Emmanuel, icyegeranyo cy'ibyemezo by'inkiko V2, 2018.

[28] Iyo ngingo yumvikanisha kandi ko isubikagihano rituruka ku cyemezo cy'umucamanza, usuzuma niba rikwiye cyangwa ridakwiye, yaryemeza akabitangira impamvu. Ubwo bwisanzure bw'umucamanza bunasobanurwa n'abahanga mu mategeko, bagaragaza ko n'iyo ibisabwa n'Itegeko byaba byujujwe kugira ngo umuntu abe yasubikirwa igihano, umucamanza adategetswe kugisubika[4].

[29] Hashingiwe ku ngingo ivuzwe haruguru, Urukiko rurasanga Habakurama Côme atahabwa isubikagihano asaba kubera ko yahanishijwe igifungo kirengeje imyaka itanu (5) nk'uko byasobanuwe haruguru.

III. ICYEMEZO CY'URUKIKO

[30] Rwemeje ko ubujurire bwa Habakurama Côme nta shingiro bufite;

[31] Rwemeje ko imikirize y'urubanza RPA 01191/2019/HC/KIG, rwaciwe n'Urukiko Rukuru kuwa 9/7/2020, igumyeho mu ngingo zayo zose.

[32] Rwemeje ko igihano cy'igifungo cy'imyaka makumyabiri (20ans) n'ihazabu y'amafaranga miliyoni makumyabiri (20.000.000frw) Habakurama Côme yahanishijwe kubera icyaha cyo gutunda no gucuruza ibiyobyabwenge (urumogi), kigumyeho.

[33] Rutegetse ko Habakurama Côme asonerwa amagarama y'urubanza kuko yaburanye afunzwe.

[4] Reba Gaston Stefani, Georges Levasseur na Bernard Bouloc, mu gitabo '' Droit pénal général'', Douzième édition, DALLOZ, 1984, p.617, nº 642, aho bagira bati : ''Lorsque toutes les conditions légales sont remplies, le juge n'est jamais tenu de faire bénéficier le condamné du sursis simple... '' Reba na Bernard Bouloc na Haritini Matsopoulou, mu gitabo ''Droit pénal général et procédure pénale'',16 ème édition, SIREY, 2006, p. 446, nº 1006, aho bagira bati:'' C'est la juridiction de jugement qui apprécie s'il y a lieu d'accorder le sursis au condamné qui réunit les conditions d'en bénéficier.''