UBUSHINJACYAHA v. MUKESHIMANA N'ABANDI

[Rwanda URUKIKO RUKURU - RPA/ECON 00055/2021/HC/MUS (Mukamuhire, P.J.) 13 Mata 2022]

Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – Ibimenyetso mu manza n'itangwa rya byo – Agaciro k'icyimenyetso cy'amajwi yafatiwe muruhame – Amajwi yafatiwe muruhame ntiyafatwa nk'ikimenyetso cyabonywe muburyo bunyuranyije n'amategeko ngo giteshwe agaciro mugihe ibiyakubiye mo bishimangirwa n'ibindi bimenyetso kandi bikaba byaragiwe ho impaka n'ababuranyi bose mu iburanisha ry'urubanza, ndetse na ba nyiri amajwi bakaba batarashyizwe ho agahato akariko kose mukuyatanga.

Incamake y'icyibazo: Urubanza rwatangiriye m'Urukiko Rwisumbuye rwa Rubavu, ubushinjacyaha bukurikiranye ho Mukeshimana Adrien icyaha cyo kwaka no kwakira indonke areganwa n'abandi bakurikiranywe ho icyaha cy'ubufatanyacyaha kuri icyo cyaha busobanura ko Nzakizwanimana Etienne (umukozi wa MAJ) na mubyara we Ndagiwenimana Elimereki baje kureba umushinjacyaha wo ku rwego rwisumbuye rwa Rubavu witwa Mukeshimana Adrien, bamusaba ubufasha kuri dosiye ya Uwihaye Clessance wari ufunzwe. Uwihaye Cressance amaze kurekurwa, umushinjacyaha Mukeshimana Adrien yasabye ababyeyi ba Uwihaye amafaranga 500.000 frws ababwira ko ayaha umushinjacyaha Kabeja Dan wamurekuye kugirango atazongera kumufunga na dosiye ye ayishyingure by'agateganyo. Bizimana Venerand, se wa Uwihaye yashakishije ayo mafaranga, ayohereza ayanyujije kuri konti ya Nzakizwanimana Etienne, arayabikuza ayaha mubyara we Ndagiwenimana Lameki na nyirabukwe Mukankusi Jeanne, bayashyikiriza Mukeshimana Adrien. Mu ica ry'urubanza, Urukiko rwisumbuye rwa Rubavu, rwemeza ko Mukeshimana Adrien ahamwa n'icyaha cyo gusaba no gutanga indonke, ko Nzakizwanimana Etienne ahamwa n'icyaha cy'ubufatanyacyaha mu cyaha cyo gutanga indonke, rubahanisha igifungo cy'imyaka umunani (8) n'ihazabu ya miliyoni ebyiri (2.000.000frw) kuri buri wese, Ruhanisha Bizimana Venerand, Mukankusi Jeanne na Ndagiwenimana Erimereki igifungo cy'imyaka itatu (3) n'ihazabu ya miliyoni imwe n'ibihumbi magana atanu (1.500.000frw) kuri buri wese, rwemeza ko igihano cy'igifungo cy'imyaka itatu (3) Mukankusi Jeanne ahanishijwe gisubitswe cyose mu gihe cy'imyaka ibiri (2).

Abaregwa ntibishimiye imikirize y'urubanza, bajuiriye icyo cyemezo m'Uurukiko Rukuru Urugereko rwa Musanze bavuga ko Urukiko rwaciye urubanza mu buryo bugenekereje, ndetse n'Urukiko rukaba rwarashingiye kubimenyetso bigenekereje kuko amajwi yafashwe na Kabeja Dan kuri telefoni ubwo yaganiraga na Ndagiwenimana Elimereki amusobanurira uburyo yahayemo Mukeshimana Adrien amafaranga, adakwiye gufatwaho ikimenyetso kubera ko yafashwe mu buryo bunyuranyije n'amategeko. Mu iburanisha Ubushinjacyaha bwasobanuye ko impamvu z'ubujurire nta shingiro zikwiye guhabwa kuko urukiko rwabahamije icyaha rushingiye ku bimenyetso bifatika naho imvugo y'uko amajwi yafashwe na Kabeja Dan adakwiye gufatwaho ikimenyetso kubera ko yafashwe mu buryo bunyuranyije n'amategeko idakwiye guhabwa agaciro kuko ibyo Ndagiwenimana Elimereki yavuze muri kiriya kiganiro bishimangira ibindi bimenyetso byagaragajwe kandi ariya majwi yafashwe mu ruhame, nta gahato na gato Ndagiwenimana Elimereki yashyizweho na Kabeja Dan kandi muri ayo majwi, Ndagiwenimana Elimereki, akaba yemera ko ariwe wazanye amafaranga akayahereza Mukeshimana Adrien nawe yayahawe na Nzakizwanimana Etienne, akaba yari yoherejwe na Bizimana Venerand. Bukomeza busaba urukiko Rukuru kwemeza ko ubujurire nta shingiro bufite.

Incamake y'icyemezo: Amajwi yafatiwe muruhame ntiyafatwa nk'ikimenyetso cyabonywe muburyo bunyuranyije n'amategeko ngo giteshwe agaciro mugihe ibiyakubiye mo bishimangirwa n'ibindi bimenyetso kandi bikaba byaragiwe ho impaka n'ababuranyi bose mu iburanisha ry'urubanza, ndetse na ba nyiri amajwi bakaba batarashyizwe ho agahato akariko kose mukuyatanga. Bityo amajwi yafashwe na Kabeja Dan aganira na Ndagiwenimana Elimereki ni ikimenyetso kidakwiye guteshwa agaciro murubanza kuko gishimangira ibindi bimenyetso.

Ubujurire nta shingiro bufite.
Urubanza ruhindutse kubirebana n'ibihano gusa.

Amategeko yakoreshejwe:
Itegeko Nº68/2018 ryo ku wa 30/08/2018 Itegeko riteganya ibyaha n'ibihano muri rusange, ingingo ya 84,
Itegeko n°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa, ingingo ya 2, 4 na 5,
Itegeko No 15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 119

Imanza zifashishijwe:
Urubanza RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/02/2020 haburana Ubushinjacyaha na Nzafashwanimana Jean de Dieu

Urubanza

I. MITERERE Y'URUBANZA

[1] Ubushinjacyaha ku rwego rw'Ibanze bwakurikiranyeho Uwihaye Cressance, icyaha cy'ubuhemu no kwiyitirira umwirondoro, bavuga ko yambuye Nyiransababera Christine amafaranga mu bucuruzi bwa mobile money bakoranaga.

[2] Kuwa 04/02/2021, nibwo Nzakizwanimana Etienne (umukozi wa MAJ) na mubyara we Ndagiwenimana Elimereki baje kureba umushinjacyaha wo ku rwego rwisumbuye rwa Rubavu witwa Mukeshimana Adrien, bamusaba ubufasha kuri dosiye ya Uwihaye Clessance wari ufunzwe. Mukeshimana Adrien yarebye muri système, asanga iyo dosiye ifitwe n'umushinjacyaha wo ku rwego rw'ibanze rwa Gisenyi Kabeja Dan, ahita amwohereza message amusaba kurekura uwo mukobwa.

[3] Uwihaye Cressance amaze kurekurwa, umushinjacyaha Mukeshimana Adrien yasabye ababyeyi ba Uwihaye Clessance 500.000 frws ababwira ko ayaha umushinjacyaha Kabeja Dan kugirango atazongera kumufunga na dosiye ye ayishyingure by'agateganyo. Bizimana Venerand, se wa Uwihaye Clessance yashakishije ayo mafaranga, ayohereza ayanyujije kuri konti ya Nzakizwanimana Etienne, arayabikuza ayaha mubyara we Ndagiwenimana Lameki na nyirabukwe Mukankusi Jeanne, bayashyikiriza Mukeshimana Adrien.

[4] Mukeshimana Adrien yagiye kureba umushinjacyaha Kabeja Dan, amubwira ko ababyeyi ba Uwihaye Clessance yafunguye, bamwohereje ishimwe rya 150.000 frws, ariko ko kubera ko bayamuhaye mu mpera z'icyumweru, yanywereyeho 50.000 frws, asigaranye 100.000 frws ari nayo

amuzaniye. Kabeja Dan yamusubije ko nta mafaranga yamutumye, amusaba kuyasubiza abayamuhaye, ariko ntiyayabasubiza. Hagati aho Kabeja Dan yagize amakenga, ashakisha nimero ya telefoni ya Uwihaye Clessance, ashaka kumubaza niba barabasubije amafaranga yabo arazibura, abura n'iya se Bizimana Venerand, abona iy'umunyamabanga Nshingwabikorwa w'akagari batuyemo witwa Munyaneza Alexis amuhuza na Bizimana Venerand, amubwira ko yamenye ko hari 150.000 Frws batanze byitwa ko bayamwoherereje, undi amubwira ko Atari 150.000 Frws gusa ahubwo ko yohereje 500.000 Frws, amwohererezaga bordereau yohererejeho ayo mafaranga nk'ikimenyetso cy'uko ibyo amubwiye ari ukuri. Kabeja Dan amaze kumenya ko Mukeshimana Adrien atigeze asubiza ayo mafaranga abayamuhaye, kandi ko bamuhaye 500.000frw aho kuba 150.000frw nk'uko yabimubwiye, yahise abimenyesha inzego zimukuriye, zitangira gukurikirana abaregwa.

Nyiransababera Christine yatanze ikirego kiregera indishyi.

> Urukiko rwisumbuye rwa Rubavu rwaregewe ku rwego rwa mbere, rwemeje ko ikirego cy'Ubushinjacyaha gifite ishingiro, rwemeza ko Mukeshimana Adrien ahamwa n'icyaha cyo gusaba no gutanga indonke, rwemeza ko Nzakizwanimana Etienne ahamwa n'icyaha cy 'ubufatanyacyaha mu cyaha cyo gutanga indonke, rwemeza ko Bizimana Venerand ahamwa n'icyaha cyo gutanga indonke. Rwemeza kandi ko Mukankusi Jeanne na Ndagiwenimana Erimereki bahamwa n'icyaha cy'ubufatanyacyaha mu cyaha cyo gutanga indonke. Urukiko rwahanishije Mukeshimana Adrien na Nzakizwanimana Etienne igifungo cy'imyaka umunani (8) n'ihazabu ya miliyoni ebyiri (2.000.000frw) kuri buri wese. Ruhanisha Bizimana Venerand, Mukankusi Jeanne na Ndagiwenimana Erimereki igifungo cy'imyaka itatu (3) n'ihazabu ya miliyoni imwe n'ibihumbi magana atanu (1.500.000frw) kuri buri wese. Rwemeje ko igihano cy'igifungo cy'imyaka itatu (3) Mukankusi Jeanne ahanishijwe gisubitswe cyose mu gihe cy'imyaka ibiri (2). Rwemeje kandi ko nta ndishyi zitangwa muri uru rubanza.

[5] Nzakizwanimana Etienne ntiyishimiye imikirize y'urubanza, ajuririra urukiko rukuru, urugereko rwa Musanze, ubujurire bwe buhabwa nimero RPA/ECON.00055/2021/HC/MUS.

[6] Mukeshimana Adrien nawe ntiyishimiye imikirize y'urubanza, ajurira muri uru rukiko, ubujurire bwe buhabwa nimero CMBRPA/ECON.00056/2021/HC/MUS.

[7] Bizimana Venerand ntiyishimiye imikirize y'urubanza, ajurira muri uru rukiko, ubujurire bwe buhabwa nimero CMBRPA/ECON.00057/2021/HC/MUS.

[8] Mukankusi Jeanne ntiyishimiye imikirize y'urubanza, ajurira muri uru rukiko, ubujurire bwe buhabwa nimero CMBRPA/ECON.00058/2021/HC/MUS. Niyo mpamvu uru rubanza rwahawe nimero RPA/ECON.00055/2021/HC/MUS- CMBRPA/ECON.00056/2021/HC/MUS- CMBRPA/ECON.00057/2021/HC/MUS- CMBRPA/ECON.00058/2021/HC/MUS.

[9] Iburanisha mu ruhame ry'uru rubanza ryabaye kuwa 05/01/2022, ababuranyi bose bitabye urukiko uretse Ndagiwenimana Elimereck wahamagajwe ahatazwi akaba ataritabye urukiko, Mukeshimana Adrien na Nzakizwanimana Etienne bunganiwe na Me Badiga Mbonimpa Oscar na Me Habingabire Bahati Pierre Canisius, Bizimana Venerand na Mukankusi Jeanne bunganiwe na Me Habinshuti Jean Bosco.

[10] Mukeshimana Adrien na Nzakizwanimana Etienne bunganiwe na Me Badiga Mbonimpa Oscar na Me Habingabire Bahati Pierre Canisius, yavuze ko impamvu zatumye ajurira ari izi zikurikira:

- Urukiko rwaciye urubanza mu buryo bugenekereje, ibikorwa bavuga ko bigize icyaha ntaho bihuriye n'icyaha akurikiranyweho cya ruswa, ahubwo ngo ugenekereje byaba nk'icyaha cy'ubwambuzi bushukana uretse ko nacyo ntacyo yakoze, ntacyo yemera;
- Urukiko rwamuhamije icyaha cyo kwaka no kwakira ruswa nta bimenyetso bifatika rushingiyeho, bitanahuje kamere n'ibikorwa bigize icyaha yahamijwe kuko kuba yarandikiye Umushinjacyaha Kabeja Dan amubaza niba umukobwa Uwihaye atakurikiranwa ari hanze bitagize icyaha cya ruswa.
- Ubuhamya bwatanzwe Kabeja Dan na mugenzi we bakorana Mukarugambwa Amina ntibukwiye guhabwa ishingiro kuko afite ibyo asanzwe apfa na Kabeja Dan.

Yasoje asaba urukiko kumurenganura akagirwa umwere kuko Kabeja Dan yamureze ibinyoma ashaka kumufungisha kuko yigeze kumuguriza amafaranga ntiyayamwishyura.

[11] Nzakizwanimana Etienne yunganiwe na Badiga Mbonimpa Oscar na Me Habingabire Bahati Pierre Canisius, yavuze ko impamvu zatumye ajurira ari izi zikurikira:

- Urukiko rwisumbuye rwa Rubavu rwaciye urubanza mu buryo bugenekereje, rushingiye no ku bimenyetso bigenekereje.
- Urukiko rwaciye urubanza rudahuje ibikorwa bigize icyaha n'amategeko kuko gutiza abantu compte ngo bacisheho amafaranga ntibigaragaza ko yari azi icyo bagiye kuyakoresha, ko bagiye kuyatanga ho indonke;
- Yavuze ko ikindi cyamuteye kujurira aruko nubwo we yumva nta cyaha yigeze akora, ariko ko habayeho kumurobanura muri bagenzi be baregwa bimwe maze bakamuhanisha igihano kiremereye cyane, igifungo cy'imyaka umunani (8), mu gihe abandi bahanishijwe igifungo cy'imyaka itatu (3), ibi bikaba binyuranye n'ibitaganywa n'Itegeko ry'u Rwanda aho rivuga ko abantu bose bareshya imbere y'amategeko.

[12] Bizimana Venerand na Mukankusi Jeanne bunganiwe na Me Habinshuti Jean Bosco bavuze ko impamvu zatumye bajurira ari izi zikurikira:

- Urukiko ntirwasesenguye ibiteganywa n'ingingo ya 2, 3, na 4 z'Itegeko n°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa, ngo iyo rukora isesengura neza rwari gusanga harabayeho ubwambuzi bushukana, icyaha giteganywa n'ingingo ya 174 y'Itegeko riteganya ibyaha n'ibihano muri rusange aho kuba icyaha cyo gutanga ruswa;
- Urukiko rwirengagije ibimenyetso byose batanze bigaragaza ko nta muntu wabatse ruswa kandi ko nta n'uwo bayihaye;

Buri wese ku giti cye, yasoje asaba urukiko kumurenganura akagirwa umwere kuko nta cyaha bigeze bakora kuko amafaranga batanze yari ayo kugirango umukobwa wabo Uwihaye Clessance abashe kwikiranura na mugenzi we wamuregaga, ngo ntiyari ayo gutangaho ruswa.

[13] Kuwa 05/01/2022 iburanisha ntiryarangiye kubera ikibazo cy'ikoranabuhanga cyabayeho, iburanisha ryaje gusubukurwa kuwa 03/03/2022, Umushinjacyaha ahabwa ijambo ngo asubize ku mpamvu z'ubujurire z'abaregwa bose. Yazisubijeho ku buryo bukurikira:

✓ **Kuri Mukeshimana Adrien**

[14] Ku mpamvu yo kuba ibikorwa biri muri dosiye bigize icyaha cyo kwihesha ikintu cy'undi hakoreshejwe uburiganya aho kuba icyaha cya ruswa, Umushinjacyaha yavuze ko urukiko rwahamije Mukeshimana Adrien icyaha cyo gusaba no kwakira indonke kuko amafaranga yatanzwe na Bizimana Venerand yayatanze azi neza ko agomba gushyikirizwa umushinjacyaha wari ufite dosiye y'umukobwa we Uwihaye Clessance wari wafunguwe by'agatagenyo yanategetswe kujya yitaba Ubushinjacyaha kugira ngo atazongera kumufunga, nk'uko byasobanuwe n'Ubushinjacyaha mu gika cya 9 cy'urubanza rujuririrwa. Iki gikorwa cyakozwe kikaba gihura n'ibiteganywa n'ingingo ya 4 y'itegeko n°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa iteganya ko umuntu wese usaba, utanga cyangwa wakira, mu buryo ubwo ari bwo bwose, indonke iyo ari yo yose, kuri we cyangwa ku wundi muntu cyangwa wemera amasezerano yabyo kugira ngo akore cyangwa adakora ikiri mu nshingano ze cyangwa yifashishije imirimo ye kugira ngo gikorwe cyangwa kidakorwa aba akoze icyaha.

[15] Umushinjacyaha yakomeje avuga ko urukiko rwashingiye icyemezo cyarwo ku bimenyetso bikurikira:

- Imvugo z'umutangabuhamya Kabeja Dan, Umushinjacyaha wari ufite dosiye ya Uwihaye Clessance, usobanura uburyo Mukeshimana Adrien yaje amuzaniye 100.000frws amubwira ko ari ayo yatse se wa Uwihaye Clessance ariwe Bizimana Venerand kuko yamurekuriye umukobwa, Kabeja Dan arayanga amusaba kuyasubiza abayamuhaye. Ibyo byatumye Kabeja Dan ashaka kumenya koko ko se wa Uwihaye Clessance yasubijwe amafaranga ye, bavuganira kuri telefoni ya Munyaneza Alexis, nibwo Bizimana Venerand yamubwiye ko ahubwo yohereje 500.000frws, amwohererereza na bordereau yayohererejeho;
- Ubutumwa bugufi Mukeshimana Adrien yoherereje Kabeja Dan atararekura Uwihaye Clessance, amubaza niba atamukurikirana ari hanze, aha Urukiko rwabonye ko ubwo butumwa bushimangira imvugo za Kabeja Dan ko amafaranga yari amuzaniye yari ruswa yatse ababyeyi ba Uwihaye Clessance (igika cya 43 cy'urubanza rujuririrwa).
- Imvugo za Munyaneza Alexis usobanura uburyo yahamagawe na Kabeja Dan akamuhuza na Bizimana Venerand bakavuganira kuri telefoni ye (ya Munyaneza Alexis), kandi ko yumvaga ibyo bavugana kuko yari yashyize muri haut parleur yumva ibyo Kabeja Dan abwira Bizimana Venerand, aho Kabeja Dan yamubwiye ko abo yahaye amafaranga ngo bayamuzanire bamuzaniye 100.000frws akayanga abasaba kuyasubiza abayatanze, Bizimana amubwira ko atabahaye 100.000frws gusa ahubwo yabahaye 500.000frws (igika cya 44 cy'urubanza).
- Imvugo z'umutangabuhamya MUKARUGAMBWA Amina, akaba umushinjacyaha ku rwego rw'Ibanze rwa Gisenyi, wasobanuye ko hari abantu baje mu biro bya Kabeja Dan, umwe avuga ko sebukwe yohereje 500.000frw kugira ngo bayahe Mukeshimana Adrien nawe ayashyire Kabeja Dan (igika cya 45). Urukiko rwabonye ko ibyo yireguza avuga ko ubuhamya bwe bwateshwa agaciro kuko akorana na Kabeja Dan nta shingiro bifite kuko ubuhamya bwe bwunganirwa n'ibindi bimenyetso birimo

imvugo za Munyaneza Alexis ndetse na bordereau yatangiweho ayo mafaranga (igika cya 46 cy'urubanza rujuririrwa).

- Amajwi Kabeja Dan yafashe y'ikiganiro yagiranye na Ndagiwenimana Elimereki amusobanurira uburyo yahayemo Mukeshimana Adrien amafaranga (igika cya 49). Yakomeje asobanura ko Urukiko rwabonye ko ibyo Mukeshimana Adrien yireguza ahakana icyaha avuga ko Kabeja Dan amubeshyera kubera urwango amufitiye rwo kuba yaramugurije amafaranga akanga kuyamwishyura, nta shingiro bifite kuko nta kimenyetso na kimwe agaragaza cyerekana ko yayamugurije, ndetse nta n'ikigaragaza urwango amufitiye rwatuma amugerekaho icyaha (igika cya 42 cy'urubanza rujuririrwa).

Umushinjacyaha yasoje asaba urukiko rwajuririwe kuzabona ko imvugo za Kabeja Dan ari ukuri kuko zifite ibindi bimenyetso bizunganira, kandi ko iyo Mukeshimana Adrien atajya kumureba amubwira ko amuzaniye 100.000frws yatse ababyeyi ba Uwihaye kuko yamurekuye, Kabeja Dan atari no kumenya ko ababyeyi be batanze 500.000frws.

✓ **Kuri Nzakizwanimana Etienne**

[16] Umushinjacyaha yavuze ko impamvu z'ubujurire za Nzakizwanimana Etienne nta shingiro zikwiye guhabwa kuko Urukiko rwasobanuye neza ibimenyetso binyuranye rwashingiyeho rumuhamya ubufatanyacyaha mu cyaha cyo gusaba no kwakira ruswa:

- Imvugo za Nzakizwanimana Etienne bwite aho yemera ko ariwe wahuje Ndagiwenimana Lameki na Mukeshimana Adrien, kandi ko amafaranga yatanzwe yanyujijwe kuri konti ye (igika cya 50 cy'urubanza rujuririrwa);
- Amajwi yafashwe na Kabeja Dan kuri telefoni mu kiganiro yagiranye na Ndagiwenimana Elimereki, aho uyu yemera ko ariwe wazanye amafaranga akayahereza Mukeshimana Adrien nawe yayahawe na Nzakizwanimana Etienne, akaba yari yoherejwena Bizimana Venerand (igika cya 50 cy'urubanza).
- Urukiko rwabonye ko nk'umukozi wa MAJ, Nzakizwanimana Etienne atari guhuza abamusanze bamugisha inama n'umushinjacyaha bitewe n'ikibazo bafite, ku munsi ukurikiyeho bakamusaba kunyuza amafaranga kuri konti ye, akabyemera atazi neza icyo ayo mafaranga agiye gukoreshwa, akanabwira ugiye kuyashyiraho gukoresha irindi zina ritari irye. Yasobanuye ko Urukiko rwabonye ko iyo myitwarire ye igaragaza ko nawe yari muri uwo mugambi wo kwaka no gutanga indonke (igika cya 52 cy'urubanza). Kuba yari azi icyo amafaranga yanyujijwe kuri konti agamije gukoreshwa, bishimangirwa kandi n'amasano bafitanye aho yemera ko ari mubyara wa Ndagiwenimana Elimereki, uyu nawe akaba muramu wa Uwihaye Clessance wari ufunzwe, dosiye ifitwe na Kabeja Dan, bigaragaza ko mubyara we Ndagiwenimana Elimereki atari kujya guha Mukeshimana Adrien amafaranga we atabizi, atazi n'icyo ayamuhereye kandi ari nawe wabahuje.

✓ **Kuri Bizimana Venerand**

[17] Umushinjacyaha yavuze ko impamvu z'ubujurire za Bizimana Venerand nta shingiro zikwiye guhabwa kuko urukiko rwasobanuye ibimenyetso byemeza nta gushidikanya ko yatanze 500.000frws azi neza ko ari ruswa igomba guhabwa umushinjacyaha wari ufite dosiye y'umukobwa we Uwihaye Clessance, nk'uko bigaragara mu gika cya 54, 55 n'icya 56 by'urubanza rujuririrwa:

- Imvugo za Bizimana Venerand bwite, aho yemera ko yatanze 500.000frws akayanyuza kuri konti ya Nzakizwanimana Etienne, kandi ko yayashyizeho yiyita irindi zina rya Ndagijimana Jean Pierre. Urukiko rwabonye ko iyo aba nta cyaha yumvaga agiye gukora nta mpamvu yari gutuma yohereza amafaranga kuri konti ya Nzakizwanimana Etienne yiyise Ndagijimana Jean Pierre;
- Imvugo za Munyaneza Alexis wemeza ko yumvise ikiganiro Bizimana Venerand yagiranye na Kabeja Dan kuri telefoni, aho yemeza ko yamwumvise abwira Kabeja Dan ko yohereje 500.000frws kugira ngo umukobwa we atazongera gufungwa. Mu mvugo za Munyaneza Alexis abazwa mu Bugenzacyaha, asubiza ikibazo cya 6, yashoje agaragaza ko impamvu Bizimana Venerand yabwije Kabeja Dan ukuri akanagaragaza bordereau yohererejeho 500.000frws kwari kugira ngo asubizwe amafaranga ye yatanze.

Umushinjacyaha yakomeje asobanura ko Urukiko rwabonye ko ibyo yireguza avuga ko 500.000frws yayohererereje umugore we ngo ayahahishe, ubundi akavuga ko yari ayo gukemura ikibazo umukobwa we Uwihaye yari afitanye na mugenzi we cy’ubuhemu, nta shingiro bifite, kuko iyo ayohereza ari ayo guhahisha atari kohereza Kabeja Dan bordereau abinyujije kuri telephone ya Munyaneza Alexis (igika cya 55 cy’urubanza); kandi ko Nyiransababera Christine yagaragaje ko nta muntu wo mu muryango wa Uwihaye Clessance wigeze aza kumusaba ubwiyunge (igika cya 56 cy’urubanza).

✓ **Kuri Mukankusi Jeanne**

[18] Umushinjacyaha yavuze ko impamvu za Mukankusi Jeanne nta shingiro zikwiye guhabwa kuko urukiko rwasobanuye ibimenyetso byemeza nta gushidikanya ko yagize uruhare mu gutanga indonke ya 500.000frws azi neza ko ari ruswa igomba guhabwa umushinjacyaha wari ufite dosiye y’umukobwa we Uwihaye Clessance, nk’uko bigaragara mu gika cya 58 n’icya 59 by’urubanza rujuririrwa:

- Imvugo ze yagiye avuga zivuguruzanya ku bijyanye n’impamvu umugabo we Bizimana Venerand yohereje 500.000frws acishijwe kuri konti ya Nzakizwanimana Etienne, aho yabanje kuvuga ko yari ayo guhahisha, ubundi akavuga ko yari ayo gukemura ikibazo umukobwa we Uwihaye yari afitanye na Christine. Umushinjacyaha yasobanuye ko urukiko rwabonye ko ibyo yireguza nta shingiro bifite kuko iyo ayahabwa ari ayo guhahisha, umugabo we Bizimana aba atarohereje Kabeja Dan bordereau agamije ko yamufasha agasubizwa amafaranga ye kuko yari amaze kumumenyesha ko ntayo yakiriye; kandi ko Nyiransababera Christine yagaragarije ko nta muntu wo mu muryango wa Uwihaye Clessance wigeze aza kumusaba ubwiyunge. Urukiko rwabonye ko uko guhindagura icyo amafaranga yatangiwe bigaragaza ubufatanyacyaha mu gutanga ruswa (igika cya 58 cy’urubanza).
- Mukankusi Jeanne yemera ko Nzakizwanimana Etienne amaze kubikuza 500.000frws, yayamuhaye ari kumwe na Ndagiwenimana Elimereki (umukwe we); ari naho Urukiko rubona ko yari kumwe na Ndagiwenimana Elimereki kuva Nzakizwanimana Etienne yabageza ku mushinjacyaha Mukeshimana Adrien kugeza ruswa itanzwe (igika cya 59 cy’urubanza rujuririrwa).

[19] Umushinjacyaha yasoje asaba urukiko kwemeza ko ubujurire bw’abaregwa bose nta shingiro bufite, ko ibikubiye mu rubanza rwaciwe ku rwego rwa mbere bidahindutse.

Urukiko rugiye gusuzuma ibibazo bikurikira

- Kumenya icyari kigamijwe ubwo Bizimana Venerand yohererezaga Ndagiwenimana Elimerek alias Lameki na Mukankusi Jeanne 500.000 Frws;
- Kumenya niba hari ibikorwa Mukeshimana Adrien na Nzakizwanimana Etienne bakoze bigize icyaha gihanwa n'amategeko.
- Kumenya ibihano buri wese mu baregwa yahanishwa baramutse bahamwe n'ibyaha baregwa.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

❖ **Ibyerekeye kumenya mu by'ukuri icyari kigamijwe ubwo Bizimana Venerand yohererezaga Ndagiwenimana Elimerek alias Lameki na Mukankusi Jeanne 500.000 Frws**

[20] Urukiko rwisumbuye rwa Rubavu rumaze gusesengura dosiye, rwemeje ko Bizimana Venerand yohereje umukwe we Ndagiwenimana Elimereki alias Lameki 500.000 Frws yo gutangaho indonke ku Mushinjacyaha kugirango umukobwa we Uwihaye Clessance wari ufunze abashe gufungurwa, rwemeza ko Bizimana Venerand, Mukankusi Jeanne na Ndagiwenimana Elimereki bahamwa n'icyaha cy'ubufatanyacyaha mu cyaha cyo gutanga indonke kuko ariya mafaranga yaje guhabwa umushinjacyaha Mukeshimana Adrien wari wabasezeranyije ko azakorana n'umushinjacyaha wo ku rwego rw'Ibanze, Kabeja Dan, maze akazarekura umukobwa wabo Uwihaye Clessance.

[21] Bizimana Venerand na Mukankusi Jeanne ntibishimiye icyemezo bafatiwe ku rwego rwa mbere, bituma bajurira, bunganiwe na Me Habinshuti Jean Bosco. Bavuze ko impamvu zatumye bajurira aruko urukiko rwemeje ko ariya 500.000 Frws avugwa muri uru rubanza yakoreshejwe mu guha Mukeshimana Adrien indonke ngo umukobwa wabo wari ufunzwe, Uwihaye Clessence, abashe gufungurwa kandi atari byo. Bavuze ko ubwo Bizimana Venerand yohererezaga Ndagiwenimana Elimereki 500.000 Frws hari hagenderewe gukemura ikibazo cy'amafaranga cyari hagati ya Uwihaye Clessance na mugenzi we witwa Nyiransababera Christine.

[22] Umushinjacyaha yavuze ko kuba Bizimana Venerand na Mukankusi Jeanne bavuga ko ariya 500.000 Frws umwe yohereje undi yari ayo gukemura ikibazo umukobwa wabo Uwihaye Clessance yari afitanye na mugenzi we witwa Nyiransababera Christine atari ukuri kuko iyo biba ukuri, bombi bakibazwa ku ikubitiro baba barahise bahuriza ku mvugo y'ukuri ariko Bizimana Venerand abajijwe impamvu umugore we yamubwiye ubwo bamuhamagaraga bamusaba ariya mafaranga, yavuze impamvu 3 zinyuranye, rimwe ngo yari ayo guhaha, ubundi ngo ntacyo bamubwiye bashaka kuyakoresha, ubundi ngo yari ayo gukemura ikibazo umukobwa wabo yari afitanye na mugenzi we bakoranaga. Yavuze ko uku guhindagura imvugo bigaragaza ko yashakaga guhishira ukuri. Yavuze kandi ko ikindi kigaragaza ko yashakaga guhishira ukuri aruko mu gihe yohererezaga Mukankusi Jeanne ariya mafaranga kuri Banque, yanze kwandika amazina ye kuri bordereau nk' uwohereje amafaranga, yandikaho amazina y'undi muntu.

[23] Mu gusesengura dosiye, Urukiko rwasanze harimo urwandiko Bizimana Venerand yanditse ubwo yabazwaga muri RIB avuga ko 500.000 Frws yohereje umugore we Mukankusi Jeanne yari

ayo guhahisha utuntu tunyuranye. Ageze mu Bushinjacyaha, avuga ko ubwo yohererezaga umugore we Mukankusi Jeanne 500.000 Frws yari ayo gukemuza ikibazo cy'umukobwa wabo Uwihaye Clessance yari afitanye n'uwitwa Nyiransababera Christine. Naho ubwo yabajijwe ku yindi ncuro mu Bushinjacyaha yavuze ko Mukankusi Jeanne n'uwitwa Ndagiwenimana Elimereki bamusabye kubohererereza 500.000 Frws ariko ko batamubwiye icyo bayashakira.

[24] Ubwo yabazwaga mu Bushinjacyaha, Bizimana Venerand yabajijwe impamvu ibyo avuga bidahuye n'ibyo yanditse muri ruriya rwandiko yanditse ari kuri RIB, asubiza ko byatewe nuko yavugaga ibyo atabanje gutekereza kubera ko bamukubise cyane bikabije akajya apfa kuvuga ngo badakomeza kumukubita.

[25] Hashingiwe ku bimaze kuvugwa haruguru, urukiko rurabona harabaye guhindagura imvugo kuri Bizimana Venerand wasabwe n'umugore we 500.000 Frws yose, akanamugora kuyabona kuko yivugira ko yabanje kuyaguzaguza, bikaba bidashoboka ko yari kuyohereza atazi neza icyo ayohererereje, ndetse batabanje kubyumvikanaho n'umugore we Mukankusi Jeanne. Kuriya guhingagura imvugo rero kukaba kugaragaza ko yashakaga guhishira ukuri.

[26] Ikindi kigaragaza ko Bizimana Venerand yashakaga guhishira ukuri nuko ubwo yoherezaga ariya mafaranga kuri banque, kuri bordereau yanditseho amazina atari aye, yandikaho amazina y'uwitwa Ndagijimana Jean Pierre, ari imbere y'uru rukiko akaba yarasobanuye ko impamvu yanditseho amazina ya Ndagijimana Jean Pierre aho kwandikaho aye, ngo nuko ari we wamugurije ariya 500.000 Frws, hanyuma asaba ko amazina ye ari yo yandikwa kuri bordereau ngo bikazamubera ikimenyetso cy'uko yayamugurije, ariko urukiko rurabona nta shingiro byahabwa kuko amakuru ari kuri iriya bordereau nta sano namba afitanye na Bizimana Venerand ku buryo byafasha Ndagijimana Jean Pierre mu gihe bibaye ngombwa ko yishyuza ariya mafaranga yamugurije cyane ko na compte banyujijeho ariya mafaranga atari iya Bizimana Venerand cyangwa se undi muntu bafitanye isano ahubwo n'iya Nzakizwanimana Etienne, umuntu na Bizimana ubwe atazi. Kuba rero Bizimana Venerand avuga ko iriya borderau yari nka recu yazafasha Ndagijimana Jean Pierre mu gihe cyo kwishyuza si ukuri, iyo aba akeneye ikimenyetso cy'uko agurije Bizimana Venerand amafaranga baba barandikiranye akandiko ku ruhande kagaragaza neza ko amugurije ariya 500.000 Frws maze akakabika.

[27] Mu gusesengura dosiye, urukiko rwasanze harimo ikimenyetso cy'amajwi yafashwe n'Umushinjacyaha Kabeja Dan ubwo yaganiraga na Ndagiwenimana Elimereki amubwira uko ibintu byose byagenze, asobanura ko ubwo bari bageze ku rukiko we na nyirabukwe Mukankusi Jeanne baje gukurikirana ikibazo cya Uwihaye Clessance wari umaze iminsi afunze, bifashishije Nzakizwanimana Etienne, mubyara wa Ndagiwenimana Elimereki ukora muri MAJ, amusaba kumwereka aho babariza ikibazo cyabo, undi amujyana ku Mushinjacyaha Mukeshimana Adrien, uyu arababafasha abarebera muri systeme, ababwira ko umushinjacyaha ufite dosiye ari uwitwa Kabeja Dan wo ku rwego rw'Ibanze, anababwira ko abona ikibazo kidakomeye cyane. Ngo yababwiye ko yumva yazababafasha agakorana na Kabeja Dan maze umwana wabo agafungurwa, ariko ababwira ko bagomba kumuha Fanta akazayishyikiriza uriya mushinjacyaha, bumvikana 500.000 Frws. Yakomeje asobanura ko Uwihaye Clessance yaje kurekurwa hanyuma Mukeshimana Adrien amubwira ko agomba gukora ibyo basezeranye aribwo rero ngo bahamagaraga Bizimana Venerand bamusobanurira neza uko ikibazo giteye, nawe ashakisha aho akura ariya mafaranga kuko ntayo yari afite mu rugo iwe, ayabonye arayohereza. Mu by'ukuri rero nk'uko byasobanuwe haruguru, Bizimana Venerand yohereza ariya mafaranga yari azi neza ko ari ayo guha umushinjacyaha Mukeshimana Adrien akazayashyikiriza umuhinjacyaha wari ufite dosiye ya Uwihaye Clessance akaba

yaranamurekuye, ntiyari ayo guhaha cyangwa se ayo gukemura ikibazo cya Uwihaye Clessance na mugenzi we Nyiransababera Christine, cyane ko uyu yivugiye ubwe ko nta muntu n'umwe wo mu muryango wa Uwihaye Clessance bigeze bavugana ku byerekeye ubwumvikane. Ibi bikaba bivuguruza ibyo ababyeyi ba Uwihaye Clessance bavuze ubwo babazwaga mu Bugenzacyaha ko bavuganye na Nyiransababera Christine ngo akababwira ko amafaranga badahurizaho na Uwihaye Clessance ari 500.000 Frws, ubundi ngo ni 700.000 Frws.

[28] Hashingiwe ku bimaze kuvugwa haruguru byose, urukiko rurabona mu by'ukuri ubwo Bizimana Venerand yohererezaga Ndagiwenimana Elimereki n'umugore we Mukankusi Jeanne 500.000 Frws, yari asobanukiwe neza ko ari ayo gutangaho indonke nk'uko byahamijwe n'umukwe we Ndagiwenimana Elimereki wavuze ko yabanje kumusobanurira neza icyo bayashakira nk'uko bari babivuganye na Mukeshimana Adrien, akaba rero atari kubeshyera sebukwe na nyirabukwe cyangwa se gutanga ubuhamya bubashyirisha mu kaga, cyane cyane ko n'igihe yabutangaga yari kumwe na Mukankusi Jeanne ndetse na Uwihaye Clessance, bose bari mu biro by'umushinjacyaha Kabeja Dan.

[29] Abaregwa bose bavuze ko ariya majwi yafashwe na Kabeja Dan adakwiye gufatwa nk'ikimenyetso kubera ko yafashwe mu buryo butemewe n'amategeko ariko uru rukiko siko rubibona kuko nubwoariya majwi yafashwe na Kabeja Dan ugaragara nk'aho ari we wabaye imbarutso y'iyi dosiye, ariko yayafashe ari kuganira na Ndagiwenimana Elimereki, bari mu ruhame nk'uko byasobanuwe haruguru, hari Mukankusi Jeanne, Uwihaye Clessance n'Umushinjacyaha Mukarugambwa Amina, ntiyamwihereranye wenyine cyangwa se ngo amushyireho agahato runaka, urukiko rukaba rero rutabura guha agaciro iki kimenyatso cyane cyane ko kije gishimangira ibindi bimenyetso kandi kikaba cyaragiweho impaka n'ababuranyi bose mu iburanisha, ibi bikaba byubahirije ibiteganywa n'ingingo ya 119 y'itegeko No 15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko "Mu manza nshinjabyaha, ibimenyetso bishingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye. Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa".

[30] Hashingiwe ku bimaze kuvugwa haruguru byose no ku biteganywa n'iriya ngingo y'itegeko yavuzwe haruguru, urukiko rurabona Ndagiwenimana Elimereki, Mukankusi Jeanne na Bizimana Venerand bose bakomeje Guhamwa n'icyaha cy'ubufatanyacyaha mu cyaha cyo gutanga indonke nk'uko byemejwe n'urukiko rwisumbuye rwa Rubavu.

- **Ibyerekeye kumenya niba hari ibikorwa Mukeshimana Adrien na Nzakizwanimana Etienne bakoze bigize icyaha gihanwa n'amategeko**

    - ✓ **Kuri Mukeshimana Adrien**

[31] Nyuma yo gusesengura dosiye, Urukiko rwisumbuye rwa Rubavu rwahamije Mukeshimana Adrien icyaha cyo gusaba no gutanga indonke, rumuhanisha igifungo cy'imyaka umunani (8) n'ihazabu ya 2.000.000 Frws.

[32] Mukeshimana Adrien yunganiwe na Me Habingabire Bahati Pierre Claver na Me Badiga Mbonimpa Oscar, yavuze ko impamvu zatumye ajurira aruko Urukiko rwaciye urubanza mu buryo bugenekereje, ko ibikorwa bavuga ko bigize icyaha ntaho bihuriye n'icyaha akurikiranyweho cya ruswa, ahubwo ko ugenekereje byaba nk'icyaha cy'ubwambuzi bushukana uretse ko nacyo ntacyo yakoze, ngo ntacyo yemera. Yakomeje avuga ko Urukiko rwamuhamije icyaha cyo kwaka no kwakira ruswa nta bimenyetso bifatika rushingiyeho, bitanahuje kamere n'ibikorwa bigize icyaha yahamijwe

kuko kuba yarandikiye Umushinjacyaha Kabeja Dan amubaza niba umukobwa Uwihaye atakurikiranwa ari hanze bitagize icyaha cya ruswa, asoza asaba urukiko kumurenganura maze rukamugira umwere.

[33] Umushinjacyaha yavuze ko impamvu z'ubujurire za Mukeshimana Adrien nta shingiro zikwiye guhabwa kuko urukiko rwamuhamije icyaha cyo gusaba no gutanga ruswa rushingiye ku bimenyetso bifatika bikurikira:

- ✓ Imvugo y'umushinjacyaha Kabeja Dan wavuze ko Mukeshimana Adrien yamusanze mu biro bye amubwira ko amuzaniye 100.000 Frws yoherejwe na se wa Uwihaye Clessance ngo kuko yamurekuriye umukobwa.
- ✓ Ubutumwa bugufi (message) Mukeshimana Adrien yandikiye Kabeja Dan atararekura Uwihaye Clessance amubaza niba atamurekura agakurikiranwa ari hanze, ibi bikaba bishimangira ibyavuzwe na Kabeja Dan;
- ✓ Imvugo ya Munyaneza Alexis, Umunyamabanga nshingwabikorwa w'akagari Bizimana Venerand na Mukankusi Jeanne batuyemo, yavuze ko Bizimana yavuganye na Kabeja kuri telephone ye, yumva Kabeja amubwira ko hari abantu bamushyiye 100.000 FRws bamubwira ko bayamuzanuye kuko yarekuye Uwihaye Clessance, ngo arayanga abasaba kuyasubiza, ko yifuza kumenya niba barayamusubije, asubiza ko batayamusubije, avuga kandi ko atohereje 100.000 Frws yonyine ahubwo ko yohereje 500.000 Frws, akaba ngo yaranafotoye bordereau akayimwoherereza nk'ikimenyetso;
- ✓ Ubutumwa bugufi Mukeshimana Adrien yandikiye Kabeja Dan atararekura Uwihaye Clessance amubaza niba atamurekura maze agakurikiranwa ari hanze, amubwira ko ari n'inshuti yabo;
- ✓ Imvugo y'umushinjacyaha Mukarugambwa Amina ukorana na Kabeja Dan, wavuze ko hari abantu baje mu biro bya Kabeja Dan harimo umugabo wavugaga ko sebukwe yoherereje Mukeshimana Adrien 500.000 Frws ngo ayashyikirize Kabeja Dan;
- ✓ Amajwi yafashwe na Kabeja Dan y'ikiganiro yagiranye na Ndagiwenimana Elimereki amusobanurira uburyo yahayemo Mukeshimana amafaranga 500.000 Frws.

[34] Umushinjacyaha yakomeje avuga ko kuba Mukeshimana Adrien n'abunganizi be bavuga ko ibikorwa biri muri dosiye bigize icyaha cyo kwihesha ikintu cy'undi hakoreshejwe uburiganya aho kuba icyaha cya ruswa nta shingiro bikwiye guhabwa kuko Urukiko rwamuhamije icyaha cyo gusaba no kwakira indonke kubera ko amafaranga yatanzwe na Bizimana Venerand yayatanze azi neza ko agomba gushyikirizwa umushinjacyaha wari ufite dosiye y'umukobwa we Uwihaye Clessance wari wafunguwe by'agatagenayo yanategetswe kujya yitaba Ubushinjacyaha kugira ngo atazongera kumufunga. Iki gikorwa cyakozwe kikaba gihura n'ibiteganywa n'ingingo ya 4 y'itegeko n°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa iteganya ko umuntu wese usaba, utanga cyangwa wakira, mu buryo ubwo ari bwo bwose, indonke iyo ari yo yose, kuri we cyangwa ku wundi muntu cyangwa wemera amasezerano yabyo kugira ngo akore cyangwa adakora ikiri mu nshingano ze cyangwa yifashishije imirimo ye kugira ngo gikorwe cyangwa kidakorwa aba akoze icyaha.

[35] Mu gusesengura dosiye, urukiko rwasanze intandaro y'bivugwa muri iyi dosiye byose ari umwana w'umukobwa witwa Uwihaye Clessance wari ufunzwe kubera ikibazo yagiranye na mugenzi we bakoranaga witwa Nyiransababera Christine. Uwihaye Clessance akaba ari mwene Bizimana Venerand na Mukankusi Jeanne. Mukankusi Jeanne yafatanyije n'umukwe we

Ndagiwenimana Elimereki alias Lameki gukurikirana ikibazo cya Uwihaye Clessance, ni muri urwo rwego bageze kuri Nzakizwanimana Etienne ukora muri MAJ I Rubavu, bamutekerereza uko ikibazo cyabo kimeze, bamubaza aho babariza umwana wabo kuko bari batamubonye mu bari bazanywe kubazwa mu Bushinjacyaha. Ubwo rero nibwo Nzakizwanimana Etienne yabajyanye abashyikiriza umushinjacyaha wo ku rwego rwisumbuye Mukeshimana Adrien, amusobanurira ikibazo cyabo uko giteye, nawe ahita atangira kubafasha, abarebera muri systeme ababwira ko ufite dosiye ya Uwihaye ari Kabeja Dan. Nzakizwanimana Etienne yasubiye mu kazi ke hanyuma Ndagiwenimana Elimereki na Mukankusi Jeanne basigarana na Mukeshimana Adrien, abasobanurira uburyo dosiye y'umwana wabo idakomeye cyane, ariko ko bisaba kuzareba Kabeja Dan akamusaba kubafasha, ababwira ko bagomba kumuha agafanta ka 500.000 Frws.

[36] Urukiko rwasanze Mukeshimana Adrien yaratangiye ibikorwa byo gufasha Ndagiwenimana Elimereki na Mukankusi Jeanne kuko yahamagaye Kabeja Dan kuri telephone ntiyamwitaba, amwandikira message kuri whatsapp ivuga itya: "Bjr Dani we! Niko ye, akana k'agakobwa kitwa Uwihaye urabona bifatika ra kuburyo katakurikiranwa kari hanze? Ni gacuti kacu".

[37] Kabeja Dan yaje gukora inshingano ze uko bisanzwe kugeza ubwo afata icyemezo cyo kurekura Uwihaye Clessance atarabona message yandikiwe na Mukeshimana Adrien. Hanyuma rero ubwo Mukeshimana Adrien yari akimenya ko Uwihaye Clessance yarekuwe, nibwo yavuganye na Ndagiwenimana Elimereki amwibutsa ibyo bari basezeranye ko azamurebera Kabeja Dan, akaba rero agomba kumuha ibyo basezeranye.

[38] Ndagiwenimana Elimereki na Mukankusi Jeanne bumvise Mukeshimana Adrien abishyuje amafaranga bari bumvikanye, bahamagaye Bizimana Venerand wari wasigaye I Nyabihu mu rugo bamumenyesha ndetse bamusobanurira neza uko ikibazo giteye, bamumenyesha ko umwana bamufunguye, ariko ko bagomba gutanga 500.000 Frws agahabwa umushinjacyaha wamurekuye. Batangiye rero gutekereza aho ariya mafaranga yava kuko bo ntayo bari bafite iwabo mu rugo, Bizimana aza kuyabona hakurikira gushaka uburyo aza kugera ku mugore we n'umukwe wabo bari I Rubavu. Aha nibwo hatekerejwe kuri compte ya Ndagiwenimana Elimereki, basanga irimo ikibazo cy'ideni, batinya ko anyujijweho Bank yayiyishyura, nibwo Elimereki yatekereje gusaba ubufasha mubyara we Nzakizwanimana Etienne nanone wari wabafashije abahuza na Mukeshimana Adrien, uyu abatiza compye ye muri BK, ari ho banyujije ariya 500.000 Frws yoherejwe mu izina ry'uwitwa Ndagijimana Jean Pierre aho kuyohereza mu izina rya Bizimana Venerand.

[39] Nzakizwanimana Etienne yagiye kubikuza ariya mafaranga ayashyikiriza Ndagiwenimana Elimereki, uyu nawe ayashyira Mukeshimana Adrien nk'uko bari babisezeranye.

[40] Urukiko rwasanze Kabeja Dan yaravuze mu Bugenzacyaha ko Mukeshimana Adrien yaje kumureba mu biro bye amubwira ko ababyeyi ba Uwihaye Clessance bamuhaye 150.000 Frws ngo amuzanire kuko yabarekuriye umwana, gusa ngo muri week-end yariyeho 50.000 Frws, ko amuzaniye 100.000 Frws undi arayanga, amubwirako atigeze amutuma kumushakira amafaranga, amusaba kuzayasubiza ba nyirayo, ko adashaka ko izina rye ryandura.

[41] Nyuma yo gusaba Mukeshimana Adrien gusubiza ariya mafaranga ba nyirayo, Kabeja Dan yagize amakenga, ashaka gukurikirana ngo amenye by'amashirakinyoma ko ariya mafaranga yasubijwe ba nyirayo, ashakisha nimero ya telephone ya Uwihaye, asanga telephone ye iri bloque, ashakisha iya Bizimana Venerand se w'uriya mukobwa, ntiyayibona, ashakisha noneho iy'umunyamabanga nshingwabikorwa w'akagari batuyemo, witwa Munyaneza Alexis, arayibona

baravugana amusaba kumushakira Bizimana Venerand bakavugana. Aho abonekeye rero, yamubwiye ko yamenye ko hari abantu bamwiyitiriye maze bakabasaba amafaranga 150.000 Frws ngo arekure umukobwa we, ariko ko yamurekuye atabisabwe n'uwo ariwe wese, ko ari cyo cyemezo cyagombaga gufatwa. Bizimana Venerand yahise amubwira ko atohereje 150.000 Frws yonyine, ko ahubwo yohereje 500.000 Frws kandi ko abifitiye ibimenyetso, bituma afotora bordereau arayimwoherereza.

[42] Nyuma yo kwegeranya ibimenyetso binyuranye, Kabeja Dan yahamagaye Ndagiwenimana Elimereki amusaba kuza mu biro bye bakavugana, Ndagiwenimana Elimereki azana na Mukankusi Jeanne n'umukobwa we Uwihaye Clessance. Ndagiwenimana Elimereki yasobanuriye Kabeja Dan uko byose byagenze kugira ngo bahe Mukeshimana Adrien ariya 500.000 Frws, ikiganiro cyose bagiranye Kabeja Dan akaba yarafataga amajwi.

[43] Ibimaze kuvugwa haruguru byose ni uruhererekane rw'ibikorwa bigize ibimenyetso, bimwe bigenda bishimangira ibindi maze byose bikaba byarashimangiwe na kiriya kiganiro cyabereye mu ruhame, hagati ya Kabeja Dan na Ndagiwenimana Elimereki hari n'abandi bantu barimo nyirabukwe Mukankusi Jeanne, Uwihaye Clessance na Mukarugambwa Amina,umushinjacyaha ukorana na Kabeja Dan, aho Ndagiwenimana Elimereki yasobanuye neza ibintu uko byagenze kuva ku itangiriro kugeza ku iherezo kandi urukiko mu kubisuzuma byose, rwasanze bigaragaza neza ukuri kw'ibyabaye.

[44] Imvugo ya Mukeshimana Adrien ko amajwi yafashwe na Kabeja Dan ubwo yaganiraga na Ndagiwenimana Elimereki adakwiye gufatwaho ikimenyetso kubera ko yafashwe mu buryo bunyuranyije n'amategeko, urukiko rurabona idakwiye guhabwa agaciro kuko ibyo Ndagiwenimana Elimereki yavuze muri kiriya kiganiro bishimangira ibindi bimenyetso byagaragajwe haruguru kandi ariya majwi yafashwe mu ruhame, nta gahato na gato Ndagiwenimana Elimereki ashyizweho na Kabeja Dan, bityo rero ibyo yavuze bikaba bigomba guhabwa agaciro hashingiwe ku biteganywa n'ingingo ya 119 y'Itegeko No 15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo yavuzwe mu gika cya 29 cy'uru rubanza.

[45] Mukeshimana Adrien yavuze kandi ko ibyavuzwe na Kabeja Dan byose bidakwiye guhabwa agaciro kuko ari ibyo yahimbye gusa agambiriye kumufungisha kubera urwango yari asanzwe amufitiye rukomoka ku kuba yari yaramugurije amafaranga hanyuma Kabeja Dan ntayamwishyure.

[46] Mu iburanisha, urukiko rwabajije Mukeshimana Adrien niba yari asanzwe azi ko Kabeja Dan amufitiye urwango asubiza ko yari abizi.

[47] Mu gusesengura ubutumwa Mukeshimana Adrien yoherereje Kabeja Dan buvuga butya: "Bjr Dani we! Niko ye, akana k'agakobwa kitwa Uwihaye urabona bifatika ra ku buryo katakurikiranwa kari hanze? Ni gacuti kacu", urukiko rurabona iyi message itagaragaza ko hagati ya Mukeshimana Adrien wayanditse na Kabeja Dan yayandikiye harimo ikibazo cy'urwango, ahubwo hagaragaramo kwisanga kuko umuntu uzi ko agufitiye urwango ntiwamusaba service nk'iriya, noneho ukanavuga ko uwo uyisabira ari inshuti yawe. Kubera iyi mpamvu rero urukiko rurabona iriya mvugo ya Mukeshimana Adrien ko ibyo Kabeja Dan yakoze byose yabitewe n'urwango yari asanzwe amufitiye ashaka kumufungisha nta gaciro yahabwa.

[48] Ikindi nuko haramutse hari n'ikibazo runaka hagati ya Mukeshimana Adrien na Kabeja Dan sibyo byahabwa agaciro kurusha ibimenyetso binyuranye kandi bifatika byagaragajwe haruguru byerekana ibikorwa Mukeshimana Adrien yakoze kandi biriya bikorwa bikaba bigize icyaha.

[49] Mu gusesengura uruhererekane rw'ibikorwa rwagaragajwe haruguru, urukiko rwasanze Mukeshimana Adrien yaragaragaje ubushake bwo gusaba ruswa kuko ubwo yaganiraga na Ndagiwenimana Elimereki yamuhaye amakuru yose yamubajije kuri dosiye ya Uwihaye Clessance, kuko yamubwiye ko dosiye ye ifitwe n'Umushinjacyaha witwa Kabeja Dan, amubwira ko atari n'ibintu bikomeye cyane, amwemerera ko azakorana n'uriya mushinjacyaha ufite dosiye, yongera ho ko agomba kumuha agafanta akazagashyira uriya mushinjacyaha ufite dosiye. Ibi kandi babivuganye, Kabeja Dan atararekura Uwihaye Clessance. Ikimenyetso kigaragaza ko yabasezeranyije ubufasha kandi akanabishyira mu bikorwa nuko yagerageje guhamagara Kabeja Dan, abonye atitabye telephone amwandikira message urukiko rwagaragaje haruguru, mu by'ukuri igaragaramo ubushake bwo kuvuganira Uwihaye Clessance ngo abe yarekurwa akurikiranwe ari hanze. Ibi bigaragaza mu buryo butaziguye ko Mukeshimana Adrien yateye intambwe yo gukorana n'umushinjacyaha wari ufite dosiye ya Uwihaye nk'uko yari yabisezeranyije Ndagiwenimana Elimereki na Mukankusi Jeanne nyina w'umwana wari ufunzwe. Nubwo rero ibyo yakoze atari byo byagize uruhare mu kurekurwa kwa Uwihaye Clessence ariko bigaragara ko yari yateye intambwe yo kubigiramo uruhare.

[50] Ingingo ya 4 (1) y'itegeko n°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa iteganya ko umuntu wese usaba, utanga cyangwa wakira, mu buryo ubwo ari bwo bwose, indonke iyo ari yo yose, kuri we cyangwa ku wundi muntu cyangwa wemera amasezerano yabyo kugira ngo akore cyangwa adakora ikiri mu nshingano ze cyangwa yifashishije imirimo ye kugira ngo gikorwe cyangwa kidakorwa aba akoze icyaha. Naho ingingo ya 5 y'iri tegeko yo iteganya ko Umwanditsi w'urukiko, umushinjacyaha, umufasha w'umushinjacyaha, umwunganizi mu mategeko, intumwa ya Leta mu nkiko, umuhesha w'inkiko, umukozi wa Leta ushinzwe gusesengura imanza ku mpamvu z'akarengane, umukozi wa Leta ushinzwe gutanga ubufasha mu by'amategeko, umugenzacyaha cyangwa umuntu wahamagajwe mu nzego z'ubutabera nk'umuhanga wasabye cyangwa wakira indonke cyangwa wemera amasezerano yo kuyihabwa kugira ngo abone gukora ibiri mu nshingano ze, areke gukora igikorwa kiri mu nshingano ze cyangwa atume hafatwa icyemezo kidahuje n'amategeko, aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kirenze imyaka irindwi (7) ariko kitarenze imyaka icumi (10) n'ihazabu y'amafaranga y'u Rwanda yikubye inshuro kuva kuri eshatu (3) kugeza kuri eshanu (5) z'agaciro k'indonke yasabye, yakiriye cyangwa yasezeranyijwe.

[51] Hashingiwe ku byavuzwe haruguru byose no ku biteganywa n'ingingo z'itegeko zavuzwe mu gika kibanziriza iki, urukiko rurabona ibikorwa Mukeshimana Adrien yakoze bigize icyaha cyo gusaba no kwakira indonke kuko byagaragaye ko yasabye Ndagiwenimana Elimereki na Mukankusi Jeanne 500.000 Frws abizeza ko azagira uruhare mu irekurwa ry'umwana wabo Uwihaye Clessance, akaba kandi yaranakiriye iriya ndonke. Asaba iriya ndonke yabasezeranyije ko azakorana n'umushinjacyaha wo ku rwego rw'Ibanze kuko nyine nawe ari Umushinjacyaha, hanyuma akamusaba ko Uwihaye Clessance yarekurwa maze agakurikiranwa ari hanze kandi nk'uko byagaragajwe haruguru, yashyize mu bikorwa ibyo yabasezeranyije kuko yandikiye Kabeja Dan wari ufite dosiye, amusaba kureba neza niba Uwihaye atarekurwa maze agakurikiranwa ari hanze, anasobanura n'impamvu amusabye ibyo, ngo nuko kariya gakobwa ari agacuti kabo. Kuba rero Kabeja Dan yarafashe icyemezo akarekura Uwihaye Clessance nta ruhare Mukeshimana Adrien abigizemo ntibikuraho ko uyu yakoze icyaha kuko ibikigize byose yabikoze, yasabye kandi yakira indonke asezeranya abayimuhaye ko azagira uruhare mu irekurwa ry'umwana wabo wari ufunzwe.

✓ **Kuri Nzakizwanimana Etienne**

[52] Urukiko rwisumbuye rwa Rubavu rwasesenguye dosiye hanyuma rwemeza ko Nzakizwanimana Etienne ahamwa n'icyaha cy'ubufatanyacyaha mu cyaha cyo gutanga indonke, rumuhanisha igifungo cy'imyaka umunani (8) n'ihazabu ya miliyoni ebyiri (2.000.000frw).

[53] Nzakizwanimana Etienne ntiyishimiye icyemezo yafatiwe, arajurira hanyuma ari imbere y'uru rukiko, yunganiwe na Me Badiga Mbonimpa Oscar na Me Habingabire Bahati Pierre Canisius yavuze ko yajuriye ashingiye ku mpamvu zikurikira:

- Urukiko rwisumbuye rwa Rubavu rwaciye urubanza mu buryo bugenekereje, rushingiye no ku bimenyetso bigenekereje.
- Urukiko rwaciye urubanza rudahuje ibikorwa bigize icyaha n'amategeko kuko gutiza abantu compte ngo bacisheho amafaranga ntibigaragaza ko yari azi icyo bagiye kuyakoresha, ko bagiye kuyatanga ho indonke, akaba asaba urukiko kumurenganura.
- Ikindi kandi ngo nubwo we yumva nta cyaha yigeze akora, ariko ko habayeho kumurobanura muri bagenzi be baregwa bimwe maze bakamuhanisha igihano kiremereye cyane, igifungo cy'imyaka umunani (8), mu gihe abandi bahanishijwe igifungo cy'imyaka itatu (3), ibi bikaba binyuranye n'ibiteganywa n'Itegeko Nshinga ry'u Rwanda aho rivuga ko abantu bose bareshya imbere y'amategeko. Yasoje asaba urukiko kumurenganura maze rukamugira umwere.

[54] Umushinjacyaha yavuze ko impamvu z'ubujurire za Nzakizwanimana Etienne zidakwiye guhabwa ishingiro kuko Urukiko rwasobanuye neza ibimenyetso binyuranye rwashingiyeho rumuhamya ubufatanyacyaha mu cyaha cyo gutanga ruswa:

- Imvugo ze bwite aho yemera ko ariwe wahuje Ndagiwenimana Lameki na Mukeshimana Adrien, kandi ko amafaranga yatanzwe yanyujijwe kuri konti ye;
- Amajwi yafashwe na Kabeja Dan kuri telefoni mu kiganiro yagiranye na Ndagiwenimana Elimeleki, aho uyu yemera ko ariwe wazanye amafaranga akayahereza Mukeshimana Adrien nawe yayahawe na Nzakizwanimana Etienne, akaba yari yoherejwe na Bizimana Venerand;
- Urukiko rwabonye ko nk'umukozi wa MAJ, Nzakizwanimana Etienne atari guhuza abamusanze bamugisha inama n'umushinjacyaha bitewe n'ikibazo bafite, ku munsi ukurikiyeho bakamusaba kunyuza amafaranga kuri konti ye, akabyemera atazi neza icyo ayo mafaranga agiye gukoreshwa, akanabwira ugiye kuyashyiraho gukoresha irindi zina ritari irye.

[55] Umushinjacyaha yakomeje avuga ko Urukiko rwabonye ko imyitwarire ya Nzakizwanimana Etienne igaragaza ko nawe yari mu mugambi wo kwaka no gutanga indonke. Kuba rero yari azi icyo amafaranga yanyujijwe kuri konti ye agamije gukoreshwa, bishimangirwa kandi n'amasano bafitanye aho yemera ko ari mubyara wa Ndagiwenimana Elimereki, uyu nawe akaba muramu wa Uwihaye Clessance wari ufunzwe, dosiye ifitwe na Kabeja Dan, bigaragaza ko mubyara we Ndagiwenimana Elimereki atari kujya guha Mukeshimana Adrien amafaranga we atabizi, atazi n'icyo ayamuhereye kandi ari nawe wabahuje.

[56] Mu gusesengura dosiye, urukiko rwasanze Ndagiwenimana Elimereki na Mukankusi Jeanne bagera I Rubavu gukurikirana ikibazo cya Uwihaye Clessance wari ufunzwe, uwo babonanye bwa mbere ni Nzakizwanimana Etienne, bamuyoboza aho babariza ikibazo cyabagenzaga, abahuza n'umushinjacyaha Mukeshimana Adrien ngo abafashe.

[57] Ikindi gihe Ndagiwenimana Elimereki yongeye kubonana na Nzakizwanimana Etienne ni ubwo yamusabaga kumutiza konti ye ngo Bizimana Venerand anyuzeho amafaranga kuko ngo konti ye yari ifite ikibazo cy'uko yarimo umwenda wa Banki atinya ko acishijeho amafaranga bahita bayafata. Nzakizwanimana Etienne yemereye mubyara we Ndagiwenimana Elimereki kumuha service yari amusabye, amafaranga bayacishaho, undi aza kuyamubikuriza arayamuha.

[58] Mu kiganiro Ndagiwenimana Elimereki yagiranye na Kabeja Dan akamufata amajwi, Ndagiwenimana Elimereki yasobanuye neza ukuntu byagenze, ko ubwo yari amaze kumvikana na Bizimana Venerand ko agiye kumwoherereza amafaranga, yahise yumva nta wundi yakwiyambaza keretse Nzakizwanimana Etienne, aragenda amusobanurira neza ikibazo uko kimeze, amubwira ko ari amafaranga se wa Uwihaye Clessance ashaka kohereza kugirango bayabikuze bayahe Umushinjacyaha Mukeshimana Adrien. Aha rero, byumvikana neza ko Nzakizwanimana Etienne yatije mubyara we Ndagiwenimana Elimereki compte yo gucishaho 500.000 Frws azi neza ko ari indonke yoherejwe na Bizimana Venerand akaba agomba gushyikirizwa Mukeshimana Adrien.

[59] Nk'uko byavuzwe haruguru, ntibishoboka ko Nzakizwanimana Etienne wari wahuje Ndagiwenimana Elimereki na Mukeshimana Adrien, kandi ari na mubyara we, yari kubona Ndagiwenimana Elimereki aje kumutira compte yo kunyuzwaho amafaranga yari yohererejwe ngo atamubaza impamvu y'ayo mafaranga, ngo anamubaze aho ikibazo cyabagenzaga kigeze. Imvugo ya Ndagiwenimana Elimereki rero ikaba ari ikimenyetso gihagije, kigaragaza ubwo Nzakizwanimana Etienne yamutizaga compte ye yari azi neza ko ariya mafaranga agiye kunyuzwaho ari ayo gutangaho indonke. Ibi bikaba bisobanura ko Nzakizwanimana Etienne yorohereje Ndagiwenimana Elimereki na Mukankusi Jeanne uburyo bwo gukora icyaha cyo gutanga indonke, akaba rero agomba gufatwa nk'icyitso mu cyaha cyo gutanga indonke nk'uko biteganywa n'ingingo ya 2 (5,b) y'itegeko ryavuzwe haruguru iteganya ko icyitso ari umuntu wafashije uwakoze icyaha mu byagiteguye bigaragarira muri kimwe mu bikorwa nko gufasha uwakoze icyaha mu byagiteguye, mu byoroheje imikorere yacyo cyangwa mu byakinonosoye kandi yarabikoze abizi, cyangwa uwashishikaje uwakoze icyaha.

[60] Nzakizwanimana Etienne yavuze ko amajwi yafashwe na Kabeja Dan adakwiye gufatwaho ikimenyetso kuko yayafashe mu buryo bunyuranyije n'amategeko, ariko uru rukiko siko rubibona, kuko ibikubiye mu kiganiro Ndagiwenimana Elibeleki yagiranye na Kabeja Dan biza bishimangira ibindi bimenyetso byagaragajwe mu rubanza, ariya majwi akaba kandi yarafashwe mu ruhame, ntabwo Kabeja Dan yihereranye Ndagiwenimana Elimeleki, nta n'agahato runaka yamushyizeho. Ikindi kandi ibyerekeye ariya majwi yafashwe na Kabeja Dan byagiweho impaka n'ababuranyi bose ku buryo bikwiye gufatwa nk'ibimenyetso hashingiwe ku biteganywa n'ingingo ya 119 y'Itegeko No 15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ivuga ko mu manza nshinjabyaha, ibimenyetso bishingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye. Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa".

- **Ibyerekeye kumenya ibihano abaregwa bahanishwa mu gihe baba bahamwa n'ibyaha baregwa**

  - **Kuri Bizimana Venerand, Ndagiwenimana Elimereki alias Lameki na Mukankusi Jeanne**

[61] Nk'uko byasobanuwe haruguru, urukiko rwagaragaje neza ko hari ibimenyetso bifatika byemeza ko Bizimana Venerand, Ndagiwenimana Elimereki alias Lameki na Mukankusi Jeanne bahamwa n'icyaha cyo gutanga indonke, bakaba rero bagomba gukomeza guhanishwa igifungo cy'imyaka itatu (3) n'ihazabu ya miliyoni imwe n'ibihumbi magana atanu (1.500.000frw) kuri buri wese nk'uko byemejwe n'urukiko rwisumbuye rwa Rubavu, kandi igihano cy'igifungo Mukankusi Jeanne ahanishijwe gisubitswe cyose mu gihe cy'imyaka ibiri (2) nk'uko byemejwe ku rwego rwa mbere.

  - **Kuri Mukeshimana Adrien**

[62] Nk'uko byasobanuwe bihagije haruguru, Mukeshimana Adrien akomeje guhamwa n'icyaha cyo gusaba no kwakira indonke, akaba rero agomba kugihanirwa nk'uko biteganywa n'amategeko.

[63] Urukiko rwisumbuye rwa Rubavu rwahanishije Mukeshimana Adrien igifungo cy'imyaka umunani (8) n'ihazabu ya 2.000.000 Frws rushingiye ku ngingo ya 5(4) y'itegeko n°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa iteganya ko iyo uregwa ahamijwe n'urukiko icyaha cyo gusaba, gutanga cyangwa kwakira indonke, ahanishwa igifungo kirenze imyaka irindwi (7) ariko kitarenze imyaka icumi (10) n'ihazabu y'amafaranga y'u Rwanda yikubye inshuro kuva kuri eshatu (3) kugeza kuri eshanu (5) z'agaciro k'indonke yasabye, yakiriye cyangwa yasezeranyijwe, ibihano yahanishijwe rero bikaba byubahirije iriya ngingo y'itegeko, bityo bikaba bigomba kugumaho.

[64] Mu gusuzuma dosiye, urukiko rwasanze umwirondoro wa Mukeshimana Adrien ugaragaza ko ari ubwa mbere akurikiranyweho icyaha, iyi ikaba ari impamvu nyoroshyacyaha yashingirwaho maze akagabanyirizwa ibihano hashingiwe ku ngingo ya 49 y'itegeko riteganya ibyaha n'ibihano muri rusange ryavuzwe haruguru 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, maze aho gukomeza guhanishwa igifungo cy'imyaka umunani (8), agahanishwa igifungo cy'imyaka itanu (5) n'ihazabu ya 2.000.000 Frws.

[65] Ibyavuzwe mu gika kibanziriza iki birashimangirwa n'ibyemejwe n'urukiko rw'Ubujurire mu rubanza RPAA 00032/2019/CA rwaciwe ku wa 28/02/2020 haburana Ubushinjacyaha na Nzafashwanimana Jean de Dieu aho rwasesenguraga urubanza Nº RS/INCONST/SPEC 00003/2019/SC rwaciwe ku wa 04/12/2019, aho rwahanishije uregwa igihano kiri munsi y'igihano gito ntarengwa giteganywa n'itegeko rushingiye ku mpamvu nyoroshyacyaha.

  - **Kuri Nzakizwanimana Etienne**

[66] Ku rwego rwa mbere, urukiko rwisumbuye rwa Rubavu rwahamije Nzakizwanimana Etienne icyaha cy'ubufatanyacyaha cyo gutanga no kwakira indonke, rumuhanisha igifungo cy'imyaka umunani (8) n'ihazabu ya 2.000.000 Frws.

[67] Nk'uko byasobanuwe haruguru aho urukiko rwemeje ko Nzakizwanimana Etienne ahamwa n'icyaha cyo kuba icyitso mu cyaha cyo gutanga indonke, urukiko rurabona agomba guhanwa hashingiwe ku ngingo ya 4(1-2) y'itegeko n°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya

ruswa iteganya ko Umuntu wese usaba, utanga cyangwa wakira, mu buryo ubwo ari bwo bwose, indonke iyo ari yo yose, kuri we cyangwa ku wundi muntu cyangwa wemera amasezerano yabyo kugira ngo akore cyangwa adakora ikiri mu nshingano ze cyangwa yifashishije imirimo ye kugira ngo gikorwe cyangwa kidakorwa aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kirenze imyaka itanu (5) ariko kitarenze imyaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda yikubye inshuro kuva kuri eshatu (3) kugeza kuri eshanu (5) z'agaciro k'indonke yatse cyangwa yakiriye.

[68] Nk'uko byavuzwe haruguru, Nzakizwanimana Etienne yabaye icyitso cya Bizimana Venerand, Ndagiwenimana Elimereki alias Lameki na Mukankusi Jeanne kuko yaborohereje gukora icyaha cyo gutanga indonke ubwo yabatizaga compte yo kunyuzaho 500.000 Frws yoherejwe na Bizimana Venerand akabikuzwa na Nzakizwanimana Etienne, uyu nawe akayaha Ndagiwenimana Elimereki, nawe akayashyikiriza Mukeshimana Adrien.

[69] Urukiko rwemeje ko Bizimana Venerand, Ndagiwenimana Elimereki alias Lameki na Mukankusi Jeanne bakomeza guhaniswa igifungo cy'imyaka itatu (3) n'ihazabu ya 1.500.000 Frws buri wese nk'uko byari byemejwe n'urukiko rwisumbuye rwa Rubavu. Kubera ko bariya batatu aribo bahamwe n'icyaha cyo gutanga indonke bakaba barahanishijwe igifungo cy'imyaka itatu (3) n'ihazabu ya 1.5000.000 Frws, urukiko rurabona Nzakizwanimana Etienne, nk'uwahamwe n'icyaha cyo kuba icyitso cyabo mu cyaha cyo gutanga indonke, adakwiye guhaniswa igihano kimwe nk'icyabo nk'uko biteganywa n'ingingo ya 84 y'Itegeko Nº68/2018 ryo ku wa 30/08/2018 Itegeko riteganya ibyaha n'ibihano muri rusange iteganya ko:" … Icyitso kidahanwa kimwe n'uwakoze icyaha keretse igihe: itegeko ribiteganya ukundi; umucamanza abona ko uruhare rw'icyitso mu gukora icyaha rungana cyangwa ruruta urw'uwakoze icyaha, bityo rero akaba agomba guhanishwa igifungo cy'imyaka ibiri (2) n'amezi atandatu (6) n'ihazabu ya 1.000.000 Frws.

III. ICYEMEZO CY'URUKIKO

[70] Urukiko rwemeje ko ubujurire bwa Mukeshimana Adrien na Nzakizwanimana Etienne nta shingiro bufite ariko bakaba bagomba kugabanyirizwa ibihano kubera impamvu zasobanuwe haruguru.

[71] Urukiko rwemeje ko Mukeshimana Adrien akomeje guhamwa n'icyaha cyo gusaba no kwakira indonke.

[72] Urukiko ruhanishije Mukeshimana Adrien igifungo cy'imyaka itanu (5) n'ihazabu ya 2.000.000 Frws.

[73] Urukiko rwemeje ko Nzakizwanimana Etienne ahamwa n'icyaha cyo kuba icyitso mu cyaha cyo gutanga indonke.

[74] Urukiko ruhanishije Nzakizwanimana Etienne igifungo cy'imyaka ibiri (2) n'amezi atandatu (6) n'ihazabu ya 1.000.000 Frws.

[75] Urukiko rwemeje ko Bizimana Venerand na Mukankusi Jeanne bakomeje guhamwa n'icyaha cyo gutanga indonke, bakaba kandi bakomeje guhanishwa igifungo cy'imyaka itatu (3) n'ihazabu ya 1.500.000 Frws.

[76] Urukiko rwemeje ko igihano cy'igifungo cy'imyaka itatu (3) Mukankusi Jeanne yahanishijwe gisubitswe cyose mu gihe cy'imyaka ibiri (2).

[77] Urukiko rutegetse ko urubanza RP/ECON 00042/2021/TGI/RBV rwaciwe n'urukiko rwisumbuye rwa Rubavu, kuwa 30/09/2021, ruhindutse kuri bimwe.

[78] Urukiko rutegetse Mukeshimana Adrien, Nzakizwanimana Etienne, Bizimana Venerand basonewe amagarama y'urubanza kuko bafunzwe.