URUKIKO RW'IBANZE RWA KICUKIRO, RURI KU CYICARO CYARWO KU KICUKIRO, RUHABURANISHIRIZA URUBANZA RW'IMBONEZAMUBANO MU RUHAME, MU RWEGO RWA MBERE, RUCIYE MU RUHAME URUBANZA RC 00515/2020/TB/KICU, NONE KUWA 21/01/2022 MU BURYO BUKURIKIRA:

ABABURANA:

UREGA: KAYIRANGA UMWIZA Francine mwene KAYIRANGA Claver na KAMPIRE Bernadette utuye mu Mudugudu wa Rwinyana, Akagari ka Rwimbogo, Umurenge wa Nyarugunga, Akarere ka Kicukiro, Umujyi wa Kigali, Tel +250788523514 uburanirwa na Me KAGAME KIMONYO Alexis

UREGWA : HIGIRO Robert mwene HIGIRO Christian na MUTESI Marie (abarizwa ahatazwi).

IKIREGERWA: Gusaba ubutane bwa burundu

I. IMITERERE Y'URUBANZA

[1] KAYIRANGA UMWIZA Francine yaregeye Urukiko asaba ubutane bwa burundu, avuga ko kuwa 04/05/2002 yashakanye na HIGIRO Robert mu buryo bwemewe n'amategeko, basezerana imbere y'ubuyobozi bw'Akarere ka Rubavu, basezerana ivangamutungo rusange, ariko ntabwo bashoboye kubana nk'umugabo n'umugore nkuko bitegnywa n'itegeko kuko hashize imyaka cumi n'ibiri(12ans) batabana, ariko bari babyaranye abana batatu(3) aribo: HIGIRO RIAN SHAMI wavutse kuwa 23/11/2002, HIGIRO ROMEO SHEMA wavutse kuwa 15/06/2004 , HIGIRO ROLLY SHIMA wavutse kuwa 21/07/2006

[2] Akomeza avuga ko Intandaro yo gutana kwabo ni uko uwo HIGIRO Robert amaze guhagarikwa mu kazi k'Igisirikare mu Ngabo z'Igihugu yaje gusohoka mu nzu asiga umugore n'abana batatu ajya i Kampala ari naho babyeyi be babaga, agezeyo yakuyeho Telephone ze zose kandi agenda atanamubwiye umugore we KAYIRANGA UMWIZA Francine aho agiye kuko byari amabanga ye wenyine ntawe yigeze ayabwira ku buryo umugore we ntacyo abiziho, nyuma umugore we KAYIRANGA UMWIZA Francine yaje kumwumva yageze mu binyamakuru no mu ma radio yarageze muri Amerika ariho asebya igihugu ntiyongeye kugaruka, none ubu amakuru agera kuri KAYIRANGA UMWIZA Francine ngo ni uko HIGIRO Robert yibereye mu ngabo za KAYUMBA ukorera muri Amerika. kandi kuva HIGIRO Robert yagenda kugeza ubu amaze imyaka cumi n'ibiri (12 ans) batabana mu nzu nk'umugabo n'umugore, kandi usibye n'ibyo, KAYIRANGA UMWIZA Francine nk'umugore wa HIGIRO Robert kumwumva n'ibyo yagiyemo byo kugambanira igihugu n'igisebo gikabije yamusigiye, kandi akaba yaragiye abimuhishe nta n'inama amugishije, akaba yaramutereranye mu nshingano zose z'urugo, ubu KAYIRANGA UMWIZA Francine akaba ariwe urera abana wenyine, akabishyurira amashuri n'ibindi byose bya ngomwa umwana akenera mu mibireho ye ya buri munsi naho HIGIRO Robert ntacyo akora cyangwa ngo agaragaze ko azirikana abana yabyaye n'uko bagomba kubaho. Kubera izo mpamvu bikaba bibaye ngombwa ko KAYIRANGA UMWIZA Francine atanga ikirego y'ubutane kugira ngo atandukane na HIGIRO Robert mu buryo bwemewe n'amategeko dore ko nta n'umutungo yigeze agira ngo abe yarawumusigiye ku buryo byakwitwa ko ariwo ufasha mu mibereho KAYIRANGA UMWIZA Francine n'abana batatu yasigaranye wenyine muri icyo gihe cyose gishize, hajuru y'ibyo hakiyongeraho n'icyo gisebo cyo kumva ko umugabo we ari mu

[3] Urubanza rwaburanishirijwe, KAYIRANGA UMWIZA Francine aburanirwa na Me KAGAME KIMONYO Alexis naho HIGIRO Robert yaburanishijwe adahari kuko adafite aho abarizwa hazwi.

Muri uru rubanza, hakaba hagomba gusuzumwa ibi bikurikira:

- ❖ Ku byerekeye kumenya niba impamvu z'ubutane zitangwa na KAYIRANGA UMWIZA Francine zashingirwaho hagatangwa ubutane
- ❖ Ku birebana n'uwahabwa uburere bw'abana babyaranye
- ❖ Ku bijyanye no kugabana imitungo bafitanye

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

❖ ***Ku byerekeye kumenya niba impamvu y'ubutane zitangwa na KAYIRANGA UMWIZA Francine zashingirwaho hagatangwa ubutane***

[4] Me KAGAME KIMONYO Alexis umuhagarariye avuga ko hashingiye ku biteganywa n'ingingo ya 218 y'itegeko rigenga abantu n'umuryango igira iti : Impamvu zo gutana burundu. Buri wese mu bashyingiranywe ashobora gusaba gutana burundu kubera imwe mu mpamvu zikurikira akagemo kayo ka 2° : "guta urugo nibura igihe cy'amezi cumi n'abiri (12) akurikirana". Kuba rero HIGIRO Robert yaravuye mu rugo nta kintu na kimwe abwiye umugore we agafata ibintu bye akagenda avuga ngo asubiye iwabo muri Ugada azi neza ko afite urugo n'ishingano z'urugo zimureba, ibyo byose akabyirengagiza, nk'aho akiri ingaragu atigeze ashinga urugo, kandi kuva yagenda akaba atarigeze asubiza amaso inyuma ngo yibuke ko yasize umugore nabana bagomba kugira uburyo bwo kubaho, ubu hakaba hashize imyaka12 yose, ibi ni mpamvu yashingirwaho n'urukiko kugira ngo rutange ubutane bwa burundu hagati ya KAYIRANGA UMWIZA Francine na HIGIRO Robert ku makosa ya HIGIRO Robert. Akomeza avuga ko nk'uko kandi biteganywa n'ingingo ya 218 y'itegeko ryavuzwe haruguru akagemo kayo ka 3 ° kagira kati : "igihano cy'icyaha gisebeje". Kuba HIGIRO Robert yaraharabitse isura ye ndetse n'iy'umugore we ubwo yagaragaye nk'ugambanira igihugu kandi nyamara yarahoze mu ngabo z'u Rwanda, ni igisebo cye ku giti cye by'umwihariko ariko n'igisebo ku mugore we n'abana bagize umuryango muri rusange, kubera ko biteza umugore we ipfunwe mu bandi, hatirengagijwe n'ingaruka zabyo, ubu abana bakaba babaho nk'impfubyi kandi bafite umubyeyi wabo udashobora kubavugisha nta n'icyo abamariye uretse gusa kubakoza isoni muri rubanda kubera iyo myitwarire idakwiye kandi igaragaza igisebo mu bandi. Ibi nabyo akaba ari impamvu yashingirwaho n'urukiko mu kwemeza ko hatangwa ubutane bwa burundu. Ku makosa ya HIGIRO Robert.

✓ UKO URUKIKO RUBIBONA :

[5] Urukiko rushingiye ku ngingo ya 218 y'itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango nk'uko ryahinduwe kugeza ubu iteganya ko: «Buri wese mu bashyingiranywe ashobora gusaba gutana burundu kubera imwe mu mpamvu zikurikira: ° guta urugo nibura igihe cy'amezi cumi n'abiri(12) akurikirana», rusanga KAYIRANGA UMWIZA Francine agaragaza ko hashize igihe kirenga imyaka cumi n' ibiri atakibana nk'umugore n'umugabo na HIGIRO Robert kuko yataye Urugo bakaba batazi aho aba ko kandi baje gutungurwa no ku mwumva mu bitangazamakuru ko arwanya ubuyobozi bw'urwanda , bikaba ari impamvu yashingirwaho ubutane butangwa

❖ ***Ku birebana no kumenya uwahabwa uburere bw abana babyaranye***

[6] Me KAGAME KIMONYO Alexis uhagarariye urega avuga ko bafitanye abana babiri HIGIRO

✓ UKO URUKIKO RUBIBAONA:

[7] Urukiko rushingiye ku ngingo ya 18 y'itegeko N° 001/2020 ryo ku wa 02/02/2020 rihindura itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango iteganya ko :« Abana bahabwa umubyeyi watsindiye ubutane. Undi mubyeyi asigarana uburenganzira bwo gusura abana, kubavugisha cyangwa gusurwa na bo. Mu ica ry'urubanza, umucamanza agena uburyo bukwiye kugira ngo ubwo burenganzira bwubahirizwe. Urukiko rubyibwirije cyangwa rubisabwe n'umwe mu basaba ubutane cyangwa n'undi muntu wese ubifitemo inyungu, rushobora gutegeka ko umwana ahabwa umubyeyi utatsinze urubanza cyangwa se undi muntu wese, rushingiye ku byagirira abana akamaro. Urukiko rushobora kandi gutegeka ko abana bamwe barerwa n'umubyeyi umwe, abandi nabo bakarerwa n'undi mubyeyi mu gihe biri mu nyungu z'abana. Ibyemezo urukiko rufata rushingiye kuri iyi ngingo bihora ari agateganyo, rushobora buri gihe kubikuraho bisabwe n'ubifitemo inyungu mu buryo bw'ikirego gitanzwe n'umuburanyi umwe».bityo rurasanga abana babo HIGIRO ROMEO SHEMA wavutse kuwa 15/06/2004 na HIGIRO ROLLY SHIMA wavutse kuwa 21/07/2006 bakomeza kurerwa na nyina KAYIRANGA UMWIZA Francine, naho HIGIRO Robert akaba afite uburenganzira bwo gusura abana mu gihe abishaka kandi abana nabo bakaba afite uburenganzira bwo gusura se mu gihe babishaka

❖ ***Ku birebana n'igabana ry'imitungo y'abashakanye***

[8] Me KAGAME KIMONYO Alexis uhagarariye urega avuga ko nta mutungo bafitanye

[9] Urukiko rurasanga hashingiwe ku ngingo ya 8 y'itegeko N°27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura iteganya ko: « Iyo uburyo bw'ivangamutungo rusange busheshwe ku mpamvu z'ubutane cyangwa guhindura uburyo bw'imicungire y'umutungo, abari barashyingiranywe kuvanga umutungo bagabana ku buryo bungana cyangwa mu bundi buryo bumvikanye imitungo n'imyenda. Icyakora, urukiko rushobora gutegeka ko agaciro k'ibyangijwe n'umwe mu bashyingiranywe gakurwa mu mugabane we. », rurasanga kuba hagaragazwa ko nta mutungo bafitanye nta cyemezo cyafatwa ku mitungo.

III. <u>ICYEMEZO CY'URUKIKO</u>

[10] Rwemeje ko KAYIRANGA UMWIZA Francine na HIGIRO Robert , bari barashyingiranywe ku wa 04/05/2002 mu murenge wa GISENYI , batandukanye burundu ku makosa ya HIGIRO Robert yo guta urugo;

[11] Rwemeje ko abana babo HIGIRO ROMEO SHEMA wavutse kuwa 15/06/2004 na HIGIRO ROLLY SHIMA wavutse kuwa 21/07/2006 bakomeza kurerwa na nyina KAYIRANGA UMWIZA Francine, naho HIGIRO Robert akaba afite uburenganzira bwo gusura abana mu gihe abishaka kandi abana nabo bakaba afite uburenganzira bwo gusura se mu gihe babishaka;

[12] Rwemeje ko nta mutungo ababuranyi bafitanye wafatwaho icyemezo muri uru rubanza ;

[13] Rutegetse ko iki cyemezo cyandukurwa mu bitabo by'irangamimerere by'aho bashyingiriwe,

[14] Rutegetse ko ingwate y'amagarama yatanzwe, iheze mu isanduku ya Leta

NI UKO RUKIJIJWE KANDI RUSOMEWE MU RUHAME NONE KUWA 21/01/2022

UMUCAMANZA

/Sé/

KWIZERA Gilbert

UMWANDITSI

/Sé/

UWERA Marcelline

Iyi kopi ihuye n`urubanza rw`umwimerere
Bikorewe I Kicukiro ku wa 18/03/2022
Umwanditsi w`Urukiko Samy Sylvie MUSHIMIYIMANA