

UBUSHINJACYAHA v. GATABAZI

[Rwanda URUKIKO RW'IKIRENGA – RPA 0263/12/CS
(Hatangimbabazi, P.J., Gakwaya na Karimunda) 20 Gicurasi
2016]

Amategeko agenga ibimenyetso – Ibimenyetso mu manza nshinjabyaha – icyaha cy'ubwicanyi – Mu manza z'ubwicanyi, gutera urupfu “to cause the death” bisobanuye kurutera ku gihe n'ahantu nyakwigendera yapfiriye – Ntawugomba guhamwa n'icyaha hashingiwe ku gukuka gusa ko ariwe wari ufite inyungu mu rupfu ariko nta kimenyetso kimuhamya ko ariwe wishe – Uregwa ntabwo yahamwa n'icyaha hashingiye gusa ku kuba byari gushoboka ko agikora, ahubwo icyo gihe, uko gukekeranya kuramurengera akagirwa umwere.

Incamake y'ikibazo: Ubushinjacyaha bwareze Gatabazi n'undi mu Rukiko Rukuru bakurikiranyweho icyaha cyo guhitora Mukakabera, umugore wa Gatabazi. Mu kuburana kwabo abaregwa baburanye bahakana icyaha. Urwo Rukiko rwasanze Gatabazi ahamwa n'icyaha rumuhanisha igifungo cya burundu, naho mugenzi we, rusanga hari ugushidikanya maze rwemeza ko ari umwere.

Gatabazi Félicien ntiyishimiye icyo cyemezo ajuririra mu Rukiko rw'Ikirenga. avuga ko yahamijwe icyaha cyo kwica umugore we urukiko rushingiye ku kuba yarasabye umugore we gutaha kare ava mu kabari, nyamara icyo atari ikimenyetso cy'uko yamwishe ahubwo ari ikigaragaza ko yagiraga ngo atagira icyo aba, kandi ko ibyo bene Se bamushinja ko yabasabye kugenzura ubusambanyi bw'umugore we n'uwo baregwanaga n'uko yashyinyuye nyakwigendera hutihuti yanga ko apimwa

hakamenyekana icya mwishe ari ibinyoma, asoza avuga ko nta sano riri hagati y'urupfu rw'umugorewe na we.

Ubushinjacyaha buvuga ko nyakwigendera yishwe n'umugabo we wamufuhiye ubwo uwo bareganaga yamusomeje ku nzoga kandi ko adahakana ko yafuhiye umugore we kuko yabiganirije bakuru be bamushinja ko yabasabye kumucungira umugore we ngo barebe ko adasambana n'uwo mugabo naho iby'uko muganga atagaragaje icyamwishe nta gitangaza kirimo mu gihe umurambo wapimwe nyuma y'iminsi itandatu ushyinguwe. Busoza buvuga ko nubwo ntawamubonye amwica ariko kuba nyakwigendera yarasomejwe ku nzoga n'umugabo uwajuriye yakekaga ko amusambanya, bugacya yapfuye bihagije kumukeka kuko ariwe wari ufite inyungu muri urwo rupfu.

Incamake y'icyemezo: 1. Ntawugomba guhamwa n'icyaha hashingiwe ku gukeka gusa ko ariwe wari ufite inyungu mu rupfu mu gihe nta kimenyetso kimuhamya ko ariwe wishe.

2. Mu manza z'ubwicyanyi, gutera urupfu “to cause the death” bisobanuye kurutera ku gihe n'ahantu nyakwigendera yapfiriye. Nubwo uwajuriye yagaragaje imyitwarire igayitse nyuma y'urupfu rwa nyakwigendera yukwanga kumenya amakuru y'uwamutelefonye bwa nyuma cyangwa akavuga ko nta mafaranga afite yo gupimisha umurambo mbere y'uko ushyingurwa, si ikimenyetso kimuhamya icyaha kuko itagaragaza ko afite uruhare mu rupfu rwa nyakwigendera.

3. Uregwa tabwo yahamwa n'icyaha hashingiye gusa ku kuba byari gushoboka ko agikora, ahubwo icyo gihe, uko gukekeranya kuramurengera akagirwa umwere, bityo Uwajuriye ntabwo yahamwa n'icyaha hashingiwe gusa ku kuba yarashoboraga kugikora.

Uwajuriye n’umwere ku cyaha cy’ubuhotozi yari akurikiranweho.

Amategeko yashingiweho:

Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n’itangwa ryabyo, ingingo 119

Itegeko N° 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y’imanza z’inshinjabyaha (ryakoreshwaga icyo gihe), ingingo ya 165

Inyandiko z’abahanga:

CR Snyman, Criminal Law, Durban, Lexis-Nexis, 2002, P. 75.

Nyabirungu mwene Songa, Traité de droit pénal Congolais, Kinshasa, Editions Universitaires, 2007, P. 321.

Urubanza

I. IMITERERE Y’URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rukuru, Urugereko rwa Rusizi, Gatabazi Félicien na Kanyarukiga Jean-Pierre baregwa kuba mu mugoroba wo ku wa 26/05/2011 barahotoye Mukakabera Donata umugore wa Gatabazi Félicien basangiraga mu kabari ariko akabatanga gutaha, akaboneka mu gitondo cyo ku wa 26/05/2011 yishwe, umutwe we ucuramye mu mugezi wa Kadasomwa. Gatabazi Félicien na Kanyarukiga Jean-Pierre baburanye bahakana icyaha.

[2] Mu rubanza no RP 0015/12/HC/RSZK rwaciye ku wa 31/05/2012, Urukiko rwasanze hari ibimenyetso bihamya Gatabazi Félicien icyaha akurikiranweho, rwemeza ko ari we

wiyiciye umugore amuziza kumukekaho ubusambanyi, rumuhanisha igifungo cya burundu, rumutegeka no kwishyura amagarama y'urubanza. Naho kuri Kanyarukiga Jean-Pierre, Urukiko rwasanze hari ugushidikanya ku bimenyetso Ubushinjacyaha bushingiraho, rwemeza ko ari umwere.

[3] Gatabazi Félicien ntiyishimiye icyo cyemezo ajuririra mu Rukiko rw'Ikirenga.

[4] Iburanisha mu ruhame ryashizwe ku wa 07/03/2016, uwo muni Gatabazi Félicien yitaba yunganiwe na Me Hakizimana martin na me Rwigema Vincent naho ubushinjacyaha buhagarariwe na Munyaneza Nkwaya Eric, Umushinjacyaha ku rwego rw'Igihugu. Abunganira Gatabazi Félicien bamenyesheje Urukiko ko batabonye umwanya wo gusoma dosiye no kuganira n'uwo bunganira basaba ko urubanza rwimurwa kugirango babone igihe cyo kwitegura. Iburanisha ryimuriwe ku wa 18/04/2016.

[5] Uwo muni ugeze, iburanisha ryabereye mu ruhame, Gatabazi Félicien yunganiwe na Me Hakizimana Martin naho Ubushinjacyaha buhagarariwe na Munyaneza Nkwaya Eric, Umushinjacyaha ku rwego rw'Igihugu.

II. IKIBAZO KIGIZE URU RUBANZA N'ISESENGURWA RYACYO

Kumenya niba hari ibimenyetso bihamya Gatabazi Félicien icyaha akurikiranweho.

[6] Gatabazi Félicien avuga ko yajurijwe n'uko Urukiko Rukuru rwamuhamije icyaha ku mpamvu z'akarengane, ko

ntacyo yapfaga n'umugore we kuburyo yamuhotora kandi ko iyo aba yarabikoze yari kubyemera, akabisabira imbabazi. Asobanura ko we yabaga ku kabari, nyakwigendera apfa we yagiye kurangura inzoga kuko ariyo gahunda yari yararanye, bamuhurije asanga Mukakabera Donata yaguye mu mugezi acuramyeye, inzoga zamuciye mu kanwa no mu mazuru, bigaragaza ko yishwe n'inzoga kuko muganga yamusuzumye akemeza ko nta kintu bamukubise. Asobanura ko bamushyunguye umuryango we uhari, babihereye uburenganzira n'Ubuyobozi ndetse hari n'icyemezo cyatanzwe na Polisi, ariko ko icyo cyemezo cyaje guhira muri Gereza ya Muhanga.

[7] Avuga kandi ko ibyo bene Se bitwa Riberakurora na Bavugirije bamushinja ko yabasabye kugenzura ubusambanyi bw'umugore we na Kanyarukiga Jean-Pierre, yabacecekesheje bagiye kumubwira amakuru y'umuntu wa telefonye nyakwigendera bwa nyuma cyangwa se ko yashyunguye nyakwigendera hutihuti yanga ko apimwa hakamenyekana icya mwishye ari ibinyoma bahimbye bagamije kumuheza mu munyororo kugirango bigarurire amasambu basanzwe bapfa. Asoya asaba uru Rukiko kumurenganura akagirwa umwere kuko yahamijwe icyaha atakoze.

[8] Me Hakizimana Martin avuga ko Urukiko rwahamije Gatabazi Félicien kwica umugore we rushyungiyeye ku kuba yarababye umugore we gutaha kare aya mu kabari, nyamara icyo atari ikimenyetso cy'uko yamwishe ahubwo ari ikigaragaza ko yagiraga ngo atagira icyo aba, rwongera gushingira ku kuba bwarakuye akajya kurangura inzoga kandi umugore we yapfuye, rwirengagiza ko akabari katabaga mu rugo aricyo cyatumaga ataha rimwe na rimwe, uwo muni azinduka mu rukerera ajya kurangura atazi ko umugore we yapfuye kuko iyo aba afite icyo

yishinja yari kuba hafi ndetse agatabara mu ba mbere kugirango asibanganye ibimenyetso, ahandi rushingira ku kuba yarashyinyuye nyakwigendera atamupimishije ngo hamenyekane icyamwishe nyamara byaratangiwe uburengenzira n'Ubuyobozi bw'Inzego z'Ibanze hamwe na Polisi yari yabimuhereye icyemezo cyahiriye muri Gereza ya Muhanga, ibyo bikaba bitari gukorwa iyo haba hari ugukeka ko urupfu rukomoka ku cyaha.

[9] Me Hakizimana Martin avuga kandi ko Urukiko rwongeye gushingira ku kuba Riberakurora na Bavugirije baravuze ko bashatse kubwira Gatabazi Félicien uwatelefonye umugore we bwa nyuma akabacecekesha no kuba ariwe wabatelefonye muri iryo joro umugore we apfamo, nyamara ayo ari amagambo adafite ikindi kimenyetso kiyashimangira cyane cyane ko nta mpamvu yari gutuma abacecekesha mu gihe Ubuyobozi na Polisi bari aho, byose bigaragaza ko Gatabazi Félicien yahamijwe icyaha hashingiwe ku kinyoma cya Kanyarukiga Jean-Pierre ubundi utaragombaga kubazwa muri uru rubanza kuko nawe yakekwagaho icyaha ariko naho abarijwe ntiyasobanura aho yagejeje nyakwigendera kandi ari we baherukanaga bwa nyuma, no ku kagambane ka bene Se bashaka kumuhuguza isambu ye ari nacyo cyatumye bataburura umurambo ngo upimwe kandi warashinguwe bahari ariko naho upimiwe muganga nta shobore kwerekana icyishe nyakwigendera.

[10] Asoza avuga ko nta sano riri hagati y'urupfu rwa Mukakabera Donata na Gatabazi Félicien kandi ko iyo uyu aba yarakoze icyaha ntacyari kumubaza kucyemera kuko imyaka irindwi amaze muri gereza yari gutuma amenya ububi bwacyo, ariko ko yanze kwigerekaho amaraso atamennye, akaba asaba uru

Rukiko kwemeza ko nta bimenyetso bihamya Gatabazi Félicien icyaha akurikiranweho akagirwa umwere.

[11] Uhagarariye Ubushinjacyaha avuga ko Mukakabera Donata yishwe n’umugabo we Gatabazi Félicien wamufuhiye Kanyarukiga Jean Pierre amusomeje ku nzoga. Asobanura ko Gatabazi Félicien adahakana ko yafuhiye umugore we kuko yabiganirije bakuru be bamushinja ko yabasabye kumucungira umugore we ngo barebe ko adasambana na Kanyarukiga Jean-Pierre kandi ko kugeza ubu nta kimenyetso atanga cy’ibyo apfa nabo, bigaragaza ko nubwo Kanyarukiga Jean-Pierre ari we ntandaro y’urupfu rwa nyakwigendera atari we wamwishe, ndetse n’ibyo gatabazi Félicien aburanisha ko yahawe uburengenzira bwo gushingura nyakwigendera huti huti ariko icyemezo kigahira muri Gereza ya Muhanga nta shingiro bifite kuko ari indirimu imenyereye mu bagororwa iyo babuze ibimenyetso by’ibyo bavuga naho iby’uko muganga atagaragaje icyishe Mukakabera Donata, ko nta gitangaza kirimo mu gihe umurambo wapimwe nyuma y’iminsi itandatu ushinguwe.

[12] Asoza avuga ko nubwo ntawabonye Gatabazi Félicien yica Mukakabera Donata, kuba yarasomejwe ku nzoga n’umugabo gatabazi Félicien yakekaga ko amusambanya, bugacya yapfuye bihagije kumukeka kuko ariwe wari ufite inyungu muri urwo rupfu, icyo kimenyetso gisesenguwe hamwe n’imvugo z’abatangabuhamya bikaba byari bihagije ndetse nubwo bihagije kugira ngo Gatabazi Félicien ahamwe n’icyaha akurikiranweho, bityo akaba asaba ko imikirize y’urubanza rwajuririwe igumaho.

UKO URUKIKO RUBIBONA

[13] Ingingo ya 119 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 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."

[14] Ingingo ya 165 y'Itegeko N° 30/2013 ryo ku wa 24/5/2013 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."

[15] Dosiye y'urubanza igaragaza ko Gatabazi Félicien yavugiye mu Bugenzacyaha no mu Bushinjacyaha ko Mukakabera Donata atari yasinze cyane ubwo yatahanaga na Kanyarukiga Jean-Pierre, ko mu gitondo abana bagiye kuvoma aribo bamusanze mu mazi, igikanu cyatabwe mu cyondo, amaguru ari hejuru, Se wabo bana witwa Busenyi Jean-Pierre ahita amuhamagara kuri telefone, ahageze ahasanga abapolisi, anahita ahamagara bene wabo wa nyakwigendera, nyuma yo kumushingura aza kumenya ko yakomeje guhamagarana na Kanyarukiga Jean-Pierre kuri telefoni mbere y'uko apfa. Asobanura ko icyatumye amushingura atabanje kumupimisha ari uko nta mafaranga yari afite, ariko ko musaza we witwa Gahima yari ahari ndetse anasinya ku nyandiko yo kumushingura ibitswe na Polisi y'Umurenge (cotes 22-25 na 67-70). Uwitwa Busenyi Jean-Pierre we yavuze ko ari mu barohoye umurambo wa nyakwigendera, bamubwirwa nuko abana bari aho bamubonye bakarira bavuga ko ari nyina ariko ko atazi abamwishe (cotes 52).

[16] Dosiye y’urubanza igaragaza kandi ko Kanyarukiga Jean-Pierre yavugiye mu Bugenzacyaha no mu Bushinjacyaha ko yari mu kabari kwa Gatabazi Félicien, uyu atongana n’umugore we amubaza icyo agikora mu kabari hamwe n’abagabo, abibonye atyo kandi umugore ariwe wamusomyaga aritahira, umugore aza amukurikiye, barajyana, uwo mugore aza kumusaba kumufasha gushaka umwuzukuru we wari wabuze, ariko ko bageze imbere Mukakabera Donata abanza guca kwa Riberakurora, undi aramanuka, abonye atinze kandi bafitanye gahunda yo gushaka umwuzukuru aramutelefona, abonye ataje arigendera, mu gitondo yumva inkuru ko Mukakabera Donata yapfuye ariko ko atazi uwamukurikiye ngo amwice uretse ko yumvise amakuru y’uko Gatabazi Félicien yari yasabye Riberakurora na bavugirije kubagenda inyuma ngo barebe ko badasambana, kandi ko Riberakurora atamushira amakenga kubera ko yigeze gutaburura urwibutso rwa Jenocide yakorewe Abatutsi yibamo ibiringiti (cotes 12-15, 62 na 63).

[17] Naho Riberakurora Théodor yabwiye Umugenzacyaha ko Mukakabera Donata yari asanzwe abana n’umugabo we neza, ko uwo munsu apfa yanyuze iwe, Kanyarukiga Jean-Pierre akomeza kumuhamagara amubwira ko amutinza, ku nshuro ya gatatu amubwira ko agiye, aribumusange ku mugezi, uwo mugezi akaba ariwo basanzemo Mukakabera Donata, umutwe winjiye mu isayo, bamukuramo ariko mbere yo kumushingura babikorera inyandiko, abwiye Gatabazi Félicien ko hari uwahamagaraga umugore we mbere y’uko apfa, amusaba guceceka kugirango babone uko bamushingura (cotes 26-32).

[18] Dosiye y’urubanza igaragaza kandi ko Bavugirije Vedaste yavugiye mu Bugenzacyaha ko Gatabazi Félicien yamusabye kumucungira umugore kuko yari yasinze, undi

akamusubiza ko atacunga umugore badasangiye, bukeye yumva inkuru y’uko Mukakabera Donata yapfuye (cotes 34-38). Naho Ngarukiye Damien na Ntawugayumugabo Phénias bari ku ironde bavuga ko Kanyarukiga Jean-Pierre yabanyuzeho ari kumwe n’umugore batamenye, kandi ko bari bataragera kwa Riberakurora, ariko ko muri iryo joro batigeze babona Gatabazi Félicien (cotes 46 na 49).

[19] Mujawamaliya Donatila, umuvandimwe wa Mukakabera Donata, yavugiye mu Bugenzacyaha ko akeka ko ari Kanyarukiga Jean-Pierre na Gatabazi Félicien bishe Mukakabera Donata kubera ko Riberakurora yamubwiye ko mbere y’uko apfa Kanyarukiga JeanPierre yamuhamagaye kuri telefone, ubwa mbere amusaba kumusanga k’uwitwa Fidèle, ubwa kabiri amusaba kumusanga kuri Kadasobwa, umugezi bamusanzemo yapfuye, Gatabazi Félicien we akaba yarasanze umugore we yaguye ku gasozi aho kugirango amupimishe amenye icya mwishe akajijisha Polisi ko ari impanuka bigatuma ashyingurwa batamenye icyo yazize, ariko ko bashyingura musaza we witwa Munyandamutsa n’abandi bo mu muryango bari bahari kandi ko yumvise ko mbere yo gushyingura hakoze inyandiko nubwo ntayo yabonye (cotes 8-9). Naho Ntawiragira Théogène we yavugiye mu Bugenzacyaha ko Gatabazi Félicien atari abanye neza n’umugore we kuko yigeze kumuvuna akaboko, ariko ko yamenye ko imiryango yanditse ngo nyakwigendera ashingurwe ariko atamenye impamvu yashyinguwe adapimwe n’icyatumye Gatabazi Félicien yarabanje kujya kurangura inzoga kandi yagize ibyago (cotes 4142).

[20] Urukiko rurasanga, nk’uko bigaragara mu bika bya 11 na 12 by’urubanza rujuririrwa, Gatabazi Félicien yarahamijwe icyaha hashingiwe ku kuba yarasabye Mukakabera Donata kuva

mu kabari kare, no gusaba Bavugirije Vedaste na Ribera kurora Théodore kumurebera ko umugore we adasambana na Kanyarukiga Jean-Pierre, byagera mu gitondo bagasanga yapfuye, bituma Urukiko rwanzura ko ari we wamwishe kuko yari yamufuhiye, byumvikanisha ko ariwe wari ufite unyungu mu rupfu rwe, nyamara abatangabuhama bese babajijwe harimo n’abari ku ironde ijoro Mukakabera Donata apfamo ndetse na Kanyarukiga Jean-Pierre watahanye na nyakwigendera kandi bari bafitanye gahunda yo kujya gushaka umwuzukuru we wari wazimiye, nta numwe uvuga ko yabonye Gatabazi Félicien akurikira Mukakabera Donata na Kanyarukiga Jean-Pierre cyangwa se ngo avuye ko na nyuma y’uko bagiye bamubonye aca mu nzira banyuzemo bataha, bigaragaza ko kuri iyi ngingo Gatabazi Félicien yahamijwe icyaha hashingiwe ku gukuka gusa ko ari we wari ufite unyungu mu rupfu ariko nta kimenyetso cy’uko ariwe wamwishe.

[21] Urukiko rurasanga kandi mu gihe nta kindi kimenyetso gihama Gatabazi Félicien urupfu rwa Mukakabera Donata, imyitwarire ye yabaye nyuma y’urupfu rwa nyakwigendera y’uko yanze kumenya amakuru y’uwamutelefonye bwa nyuma cyangwa yavuze ko nta mafaranga afite yo gupimisha umurambo mbere y’uko ushyingurwa, sibyo byafatwa nk’ikimenyetso gihama Gatabazi Félicien icyaha akurikiranweho kuko iyo myitwarire, kabone nubwo igayitse, itagaragaza ko afite uruhare mu rupfu rwa nyakwigendera. Uyu murongo kandi uhura n’ibyemezwa n’umuhanga mu mategeko Snyman uvuga ko gutera urupfu bisobanuye kurutera ku gihe n’ahantu nyakwigendera yapfiriye.¹

¹ « ... in cases of murder or culpable homicide it must be remembered that « to cause the death » actually means to cause the death at the time when, and

[22] Urukiko rurasanga kandi abatangabuhama babajijwe bemeza ko umurambo wavanywe mu mazi na Polisi, imvugo zabo zikaba zishimangirwa n'inyandiko yitwa "P.V. de descente" yakozwe na OPJ Nzaramba Remy, ikemezwa n'Umukuru w'Umudugudu wa Kazizi, witwa Ahishakiye Célestin ndetse n'abaturage bitwa Mbarubukeye Théogène na Nyabyenda Boniface (cote 58), kandi abagize umuryango wa nyakwigendera barimo basaza be bitwa Gahima na Munyandamutsa bakaba baremeranyijwe n'umuryango wa Gatabazi Félicien ko Mukakabera Donata ashingurwa ndetse babanza kubikorera inyandiko bashikirije Abayobozi b'Umurenge, ashingurwa abaturage n'Abayobozi b'Inzego z'ibanze barimo Kanyarukiga Jean-Pierre, ushinze umutekano mu Mudugudu wa Kazizi, bahari, byumvikanisha ko iyo haba hari ugukeka ko Makakabera Donata yishwe, izo nzego zose, basaza be ndetse n'abaturage bari aho ntibari kwemera ko Mukakabera Donata ashingurwa adapimwe ngo hamenyakane icyamwishe, bityo ibyo Ubushinjacyaha buburanisha ko Gatabazi Félicien yashinguye nyakwigendera hutihuti ntawubizi agamije gusibanganya ibimenyetso bimuhama icyaha bikaba nta shingiro bifite.

[23] Urukiko rurasanga hashingiwe ku byasobanuwe no kumategeko yibukijwe hejuru, nta kimenyetso Urukiko rwagaragarijwe gihama Gatabazi Félicien urupfu rwa Mukakabera Donata, bityo amakosa yakozwe n'Urukiko Rukuru, Urugereko rwa Rusizi rukorera i Karongi rwo guhama Gatabazi Félicien icyaha rushingiye gusa ku kuba yarashoboraga kugikora, akaba akwiye gukosorwa, Gatabazi Félicien akagirwa umwere. Ibi kandi bihura n'ibyemezwa n'abahanga mu mategeko ko Urukiko rudakwiye guhama uregwa icyaha rushingiye gusa ku

the place where, Y died. » CR Snyman, *Criminal Law*, Durban, Lexis-Nexis, 2002, P. 75.

kuba byari gushoboka ko agikora, ahubwo icyo gihe, uko gukekeranya gukwiye kumurengera akagirwa umwere,² nabyo bishimangira ko Gatabazi Félicien akwiye kugirwa umwere ku cyaha akurikiranweho cyo kwica Mukakabera Donata.

III. ICYEMEZO CY'URUKIKO

[24] Rwemeje ko ubujurire bwa Gatabazi Félicien bufite ishingiro;

[25] Rwemeje ko Gatabazi Félicien ari umwere ku cyaha cyo guhotora Mukakabera Donata yari akurikiranweho;

[26] Rwemeje ko imikirize y'urubanza N^o RP 0015/11/HC/RSZK rwaciwe n'Urukiko Rukuru, Urugereko rwa Rusizi rukorera i Karongi ruhindutse kuri byose;

[27] Rutegetse ko amagarama y'urubanza aherera ku Isanduku ya Leta.

² “*Le juge ne saurait se contenter d'un lien probable ou possible. Il s'abstient de déduire la causalité de la simple succession des faits, et le moindre doute devra bénéficier au prévenu. Le lien de causalité manque si la possibilité d'autres causes n'est pas exclue.* » Nyabirungu mwene Songa, *Traité de droit pénal Congolais*, Kinshasa, Editions Universitaires, 2007, P. 321.