



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT BUNGOMA**

**Criminal Case 40 of 2003**

**REPUBLIC.....**  
**PROSECUTOR**

**VS**

**CHRISANTUS JUMA WAFULA.....**  
**ACCUSED**

**RULING**

The accused herein Chrisantus Juma Wafula is before this court facing a charge of murder. The particulars are that, on the 24<sup>th</sup> day of April 2003, at Siumbwa Village, Chwele Location in Bungoma District within Western Province murdered Charles Wafula. The prosecution lined up the evidence of 5 witnesses. Upon closing its case the parties were invited to make submissions under Section 306 of the Criminal Procedure Code.

I have considered the evidence of these five witnesses. I have also taken into account the submissions made by Mr. Gichana advocate for the accused and that of the Learned Principal State Counsel.

It is quite clear that the deceased was killed at night when it was dark just outside his house. There was no eye witness. The only evidence connecting the accused with the offence is a blood stained jacket and a kitchen knife – which were taken for examination. A government analyst report was produced by one PC. Benjamin Musa (P.W.4). He indicated that the blood stains on the jacket and on the knife were of the same blood group B as that of the accused. There was no nexus between the blood group of the deceased and that found on the jacket and the knife.

In the end, there was no credible evidence that the accused committed the offence he is now facing. What is there is a strong suspicion that he committed the offence. For the foregoing reasons the accused is acquitted and ordered set free forthwith unless lawfully held. The assessors are hereby discharged. They may be ressumoned to serve in other cases. They should however be paid today's allowances.

Dated and delivered this 1<sup>st</sup> day of August, 2006.

J. K. SERGON

JUDGE

1.08.2006