

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA**

**HOLDEN AT MBALE**

**HCT-O4-CR-SC-0085/2002**

**UGANDA.....PROSECUTOR**

**VERSUS**

**JOSEPH KIGANGA.....ACCUSED**

**BEFORE: THE HON. MR. JUSTICE RUGADYA-ATWOKI**

**RULING**

After careful perusal of evidence as given by the prosecution and after hearing counsel for the defence on a submission of no case to answer, I am not satisfied that a prima facie case has been made out to require the accused to be put on his defence. I am aware that a prima facie case is not a case proved beyond reasonable doubt, but it is a case where a reasonable tribunal properly directing its mind on the law and evidence, can convict if no reasonable explanation is given. The principle of the law is that the accused is presumed innocent until he is proven guilty. If this is the law then the evidence of the prosecution at its close of its case must be such that if the accused opted to keep quiet the court would go ahead and convict. Which means that if there was any doubt by lack of strong circumstantial or direct evidence pointing to the guilt of the accused, then it would be a waste of time to call the accused for his defence. The accused has no obligation whatsoever to prove his innocence. The instant case is one of the kind that the most essential ingredient of participation was not proved at all. If PW.3 testified that the accused came and reported to him with a knife which was blood stained, and it looked like the one used for circumcision, how does the court know if the accused was not a dealer in circumcision and was being chased out of malice. How is the court sure that the stains of blood corresponded to the deceased in order to warrant the accused to be called to give his defence.

For the reasons said above and concurring with counsel for the defence, the State has failed to establish a prima facie case.

I consequently find no case to answer for the accused and he is therefore not guilty. He is acquitted accordingly.

Right of appeal explained.

**Faith Mwendha**

**Judge**

**23/3/2004**