



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MAKUENI**

**HIGH COURT CRIMINAL CASE NO. 94 OF 2017**

**(FORMERLY MACHAKOS HCCRC 19 OF 2016)**

**REPUBLIC.....PROSECUTION**

**-VERSUS-**

**SHADRACK KYALO NDAMBUKI.....ACCUSED**

**RULING ON SENTENCE**

1. **Shadrack Kyalo Ndambuki** the accused herein was initially charged with murder contrary to section 203 as read with section 204 of the Penal Code. He was finally found guilty and convicted of manslaughter contrary to section 202 as read with section 205 of the Penal Code.
2. The court called for a pre-sentencing report which has been filed. It is not a favorable report. Both the family and community have explained the need for rehabilitation of the accused. Prior to his arrest he was involved heavily in drug abuse, and he used to steal. He has a previous conviction for theft.
3. Basically, reports by the administration including the area chief, OCS Mavoko and Kavumbu police post on the accused reveal a person with a violent character. He needs rehabilitation.
4. The deceased was the accused's elder brother whom he brutally killed. It is however acknowledged that he was drunk at the time.
5. The accused was first arraigned in court on 18<sup>th</sup> April 2016. He has therefore been in prison custody for four (4) years and two (2) months.
6. I have therefore considered the circumstances of the case, the period spent in custody and the pre-sentencing report. The accused is hereby sentenced to five (5) years imprisonment.

Orders accordingly.

**Delivered, signed & dated this 26<sup>th</sup> day of June 2020, in open court at Makueni.**

**H. I. Ong'udi**

**Judge**