

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HCCRC NO.4B OF 2018

FORMERLY MACHAKOS HCCRC NO. 39 OF 2014

REPUBLIC.....PROSECUTION

-VERSUS-

NZUKI KYALO WAMBUA.....ACCUSED

RULING ON SENTENCE

1. **Nzuki Kyalo Wambua** the accused herein was charged and convicted of the offence of murder contrary to section 203 as read with section 204 of the Penal Code.
2. The prosecution indicated that the accused was a first offender. The court called for a pre-sentencing report which confirms that the accused has never been convicted of any offence prior to the present one.
3. He is a single man aged 30 years old. The deceased and accused were neighbours. The bone of contention between them was a woman (Pw1) who had already parted ways with the accused who refused to accept the reality.
4. The accused's family and the village elder found the accused to be of good behavior and not a security risk. However, the assistant chief was of a different view. He said the accused was a habitual thief and so a threat to the family.
5. The report also revealed that the family of the accused and the deceased had already reconciled and negotiated on compensation according to Kamba customs. That the accused's family had already paid the deceased's family Kshs.45,000/= and an initial cow referred to as "*ng'ombe ya uumo*".
6. I have considered all that has happened between the two families. The accused has all along been in custody since he first appeared in court on 9th July 2014. He has therefore been in custody for a period of close to (6) years. This is not a short time and he is expected to have learnt his lessons.
7. I have equally considered that the accused is now aged 30 years and is single. He needs to settle down in family life. I therefore place him on three (3) years' probation under the supervision of the Makueni county probation officer. The consequences of non-adherence to the probation conditions are clearly explained to him.

Orders accordingly.

Delivered, signed & dated this 25th day of June 2020, in open court at Makueni.

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H. I. Ong'udi

Judge