



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MAKUENI**

**HCCR NO. 81 OF 2017**

**REPUBLIC ..... PROSECUTION**

**-VERSUS-**

**ONESMUS NTHALE MUTUA .....ACCUSED**

**RULING ON SENTENCE**

1. **Onesmus Mutua Nthale** was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. After a full hearing the court made a special finding of “guilty but insane”.
2. The accused and deceased quarreled over a hammer which the deceased had borrowed but refused to return on demand by the accused person. The accused has had a history of leading a lonely without interacting much with others.
3. The presentencing report shows that the deceased’s and accused’s families are neighbours and they held no bad blood between them before this incident.
4. I have carefully considered the mitigation and the presentencing report filed by Mr. S. M. Munyasia the County Probation Officer on 22<sup>nd</sup> September 2020. The report shows that the two families and their respective clan officials met on 6<sup>th</sup> April 2016 in pursuit of reconciliation between them. An agreement was reached and Mr. Munyasia saw the agreement.  
  
The same has been complied with. Generally the report from the family and administration is favorable.
5. Following a direction by this court, the accused was subjected to a mental re-assessment by Dr. Joseph Masila on 30<sup>th</sup> November 2020. He was found to be in a good mental condition to stand trial. The report by the doctor was filed on 2<sup>nd</sup> December 2020.
6. The accused has been in remand custody since 8<sup>th</sup> September 2016 when he was first arraigned in court (4 years + 3 months + 1 week). The reports on him are favourable. What he requires is supervision and monitoring, and support from the family.
7. He is therefore placed on probation for three (3) years under the supervision of the County Probation Officer. The conditions to be observed are explained to the accused person.

**Delivered, signed & dated in open court this 16<sup>th</sup> day of December 2020, at Makueni.**

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**H. I. ONG’UDI**

**JUDGE**