



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HCCR NO. 04 OF 2017

REPUBLIC.....PROSECUTION

-VERSUS-

LUCAS MUNANDU MALILE.....ACCUSED

RULING ON SENTENCE

1. **Lucas Munandu Malile** was convicted of murder contrary to section 203 as read with section 204 of the Penal Code on 12th November 2020. The matter is now before me for sentencing. The deceased in this case was the accused’s wife of one year only.

2. A presentencing report was filed by the County Probation Officer Mr. S. M. Munyasya on 9th December 2020. In his mitigation through his counsel Mr. Hassan, the accused asks for leniency and a non-custodial sentence. He says he has young children to take care of. He also asks the court to consider the period he has been in custody.

3. It is clear from the record that the accused and deceased had been married for about a year. At the time of marriage the deceased had two children who were not the accused’s. When this incident that led to her death occurred the deceased had just gotten her 3rd child who was less than three (3) weeks old.

4. The report by the probation officer shows that the three (3) minors have been placed in a children’s home in Kitui for their care and custody.

5. The report also shows that the deceased was not the accused’s first wife. The circumstances under which he parted with 1st wife with whom he had equally stayed with for a year are in the presentencing report. The two instances i.e. of the accused’s first wife and the deceased reveal that the accused is a person of unmanageable anger and emotions. He was glued to alcohol and bhang, and the repercussions have been disastrous. He actually hit the deceased with a hammer and the result was fatal.

6. I have considered the following:-

- Accused’s mitigation.
- Reports from prison.
- The period he has been in remand custody (3 years + 9 months).
- His age (48 years).
- Presentencing report which did not support a non-custodial sentence.
- The loss of a human life.

7. After considering the above I sentence the accused to **eight (8) years imprisonment**. Right of appeal explained.

Delivered, signed & dated this 15th day of December 2020, in open court at Makueni.

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H. I. Ong'udi

Judge