



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MAKUENI**

**HCCR NO. 152 OF 2017**

**FORMERLY MACHAKOS HCCR. NO. 38 OF 2012**

**REPUBLIC.....PROSECUTION**

**-VERSUS-**

**KYALO NZYUKO.....ACCUSED**

**RULING ON SENTENCE**

1. **Kyalo Nzyuko** the accused, was charged with the offence of murder contrary to Section 203 as read with Section 204 Penal Code. After a plea bargain agreement, the charge was reduced to manslaughter contrary to Section 202 as read with Section 205 Penal Code. The particulars were that on the night of 30<sup>th</sup> and 31<sup>st</sup> October, 2012 at Miaani village, Kalamba location in Nzau district within Makeni county caused the death of **Kyvi Kiamba**.

2. He pleaded guilty and was convicted. From the facts it was revealed that the accused and deceased were very good friends and relatives to the extent that even the accused's father could identify the deceased by his voice. It has also been shown that both the accused and deceased were drunk on the material night.

3. The social inquiry report filed herein on 26<sup>th</sup> September, 2019 is a detailed one. The community and the administration indicate that the accused lived well among them and they are willing to have him back. The two affected families are working on a reconciliation formula.

4. The accused has shown remorse, and has behaved well during his stay in prison. He was first arraigned in court on 8<sup>th</sup> November, 2012 at Machakos High court. He has been in custody since then which is roughly seven (7) years.

5. Having considered the facts of this case, the circumstances under which the offence was committed, the social inquiry report and the period the accused has been in prison, I find that he has learnt good lessons. He should be able to adjust back into family and community with their support.

6. I therefore discharge him under Section 35(1) Penal Code on condition that he remains of good conduct for twelve (12) months. This condition is well explained to him.

Orders accordingly.

**DELIVERED, SIGNED & DATED THIS 27<sup>TH</sup> DAY OF SEPTEMBER 2019, IN OPEN COURT AT MAKUENI.**

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**H. I. ONG'UDI**

**JUDGE**