



**REPUBLIC OF KENYA**

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

**CRIMINAL APPEAL NO. 317 OF 2013**

**LUCAS KIMEU NG'ANG'A ..... APPELLANT**

**VERSUS**

**REPUBLIC**

*(Being an appeal from the conviction and sentence of Hon. S.K. Mutai Ag. Principal Magistrate delivered on 22/11/2010 in Mutomo Senior Resident Magistrate Criminal Case No. 185 of 2013)*

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*(Before Hon. B. Thurania Jaden J)*

**J U D G M E N T**

1. The Appellant, **Lucas Kimeu Ng'ang'a**, was charged with the offence of Manslaughter contrary to section 202 as read with section 205 of the penal code.
2. The particulars of the offence were that on the 20th July 2013 at 11.00 p.m, at **Kangala** village **Nguuni** sub location, **Kisauni** location of **Ikutha** District within **Kitui** County, unlawfully killed Kinyamasyo Syengo.
3. When the Appellant was arraigned before the trial court, he pleaded not guilty. After a full trial, the Appellant was convicted and sentenced to serve 10 years imprisonment.
4. The Appellant was aggrieved by both the conviction and sentence and appealed to this court. However, on the hearing date, the Appellant withdrew his appeal on conviction. This appeal is therefore on the sentence only. The Appellant prayed for leniency.
5. I have considered the mitigation offered by the Appellant. The Appellant has stated that he is a father of five and the sole bread winner for his family. I have also considered the circumstances of the offence. It seems the Appellant was provoked when he found his wife in his house with the deceased. Consequently, I substitute the sentence of 10 years **to that of** five years. Orders accordingly.

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**B. THURANIRA JADEN**

**JUDGE**

**Dated and delivered at Kitui this 29<sup>th</sup> day of January 2015.**

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**B. THURANIRA JADEN**

**JUDGE**