



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KISII**  
**CRIMINAL CASE NO.18 OF 2011**

**REPUBLIC**  
**VERSUS**  
**SAMUEL MAKORI NYAKUNDI - ACCUSED**

**SENTENCE**

1. The accused **Samuel Makori Nyakundi** was charged with **manslaughter contrary to Section 202** as read with **Section 205 of the Penal Code**. He pleaded guilty to the said charge through the prices of plea bargaining.

The particulars thereof that on 28<sup>th</sup> day of January 2011 at Moitunya sub-location in Nyamira District within Nyamira County unlawfully caused the death of Thomas Nyangau Makori.

2. The accused admits that he committed the offence charged and agrees that the facts in the statement annexed to the agreement as true.
3. Brief facts of the case are that the accused came home while drunk. He took a panga and started shouting at his wife, telling her to leave his house, threatened to cut her into pieces. The wife ran away. However, the accused proceeded to set the house on fire. The house had 3 children and two of them managed to escape but the deceased Thomas Nyangau aged 3 years burnt inside the house.

The accused was subsequently arrested. A post-mortem revealed that the boy died as a result of direct cause of extensive burns.

4. The accused is remorseful.

What happened was, unfortunate but was not intentional; it was the issue of unintended consequences that were fragile. He seeks leniency. The period he has been in remand now almost 4 years has made him realize his folly. He seeks to join his family and support his wife and children.

5. Accordingly, this court releases the accused person, **Samuel Makori Nyakundi** to serve three years non-custodial sentence under the supervision of the Probation Officer of the area.

6. It is so ordered.

**Dated, signed and delivered in open court this 31<sup>st</sup> day of July 2015**

**HON. C. B. NAGILLAH**

**JUDGE**

**In the presence of:**

- Mrs. Sepele for the State
- M/S Sagwe for the accused
- Samuel Omuga: court clerk