



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MAKUENI**

**HCCRC NO. 29 OF 2017**

**FORMERLY MACHAKOS HCCRC. NO. 84 OF 2015**

**REPUBLIC.....PROSECUTION**

**-VERSUS-**

**NGUI MUTUKU .....ACCUSED**

**RULING**

1. **Ngui Mutuku** was convicted of manslaughter contrary to section 202 as read with section 205 of the Penal Code after a full trial.
2. In mitigation on the accused's behalf Mr. Hassan told the court that the accused was a family man and had a daughter aged eight (8) years. He is an orphan and his siblings depend on him. That he was remorseful for his actions.
3. The pre-sentencing report filed on 12<sup>th</sup> February 2020 shows that the accused and deceased were distant relatives. The accused is a single man and has made peace with the deceased's mother. Generally, the accused is shown not to be a security risk if released back into society.
4. The report does not seem to say anything about any interview with the family of the deceased. The deceased has a living mother and maybe siblings. The report should not have concentrated only on the accused's side. The county probation officer Mr. Munyasya knows very well what a report like this should contain.
5. I have considered the circumstances of this case. I have also considered the period the accused has been in custody before determination of the case. The period is from 19<sup>th</sup> November 2015 – 17<sup>th</sup> December, 2019, which is four (4) years one (1) month.
6. It's also noted that accused is a 1<sup>st</sup> offender and is remorseful. However, what he did was uncalled for.
7. I therefore sentence him to serve five (5) years imprisonment.

Orders accordingly.

**Delivered, signed & dated this 3<sup>rd</sup> day of April 2020, in open court at Makueni.**

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**H. I. Ong'udi**

**Judge**