

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HIGH COURT CRIMINAL CASE NO. 11 OF 2018

REPUBLICPROSECUTION

-VERSUS-

MATHIAS MUTINDA MUNGUTIACCUSED

RULING ON SENTENCE

1. **Mathias Mutinda Munguti** the accused was initially charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. After a full hearing the court found him guilty of manslaughter contrary to section 202 as read with section 205 of the Penal Code and he was convicted.
2. The prosecution confirmed that the accused has no previous records and so was a 1st offender. In mitigation Mr. Hassan for the accused said the accused was remorseful for what he did and had acted under the influence of drink. Further that he is a married man with four (4) children.
3. The court called for a pre-sentencing report which was filed. There was an attempt for an agreement on kikamba compensation but the same was thwarted by the deceased's family. The report shows that the accused loved drinking alcohol and he would turn into something else while under the influence of drink and bhang.
4. His stay in prison has however denied him the said luxuries and he claims to have improved socially. It is said his family is very ready and willing to give him the necessary support. The report recommends a non-custodial sentence for purposes of behavioral management and supervision.
5. The evidence on record shows that both the deceased and the accused were under the influence of hot drinks on the night of incident. The said drinks had been supplied by a neighbor to the deceased's employer. The accused has been in custody since 9th April 2018 when he first appeared in court as he was not released on bond. He has therefore been in prison for two (2) years and six months.
6. The court also takes into account that the accused's action unlawfully cut short the deceased's life.
7. I have taken into account all the above including the time he has been in prison custody.
8. I hereby sentence the accused to serve five (5) years imprisonment.

Orders accordingly.

Delivered, signed & dated this 10th day of November 2020, in open court at Makueni.

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H. I. Ong'udi

Judge