



**REPUBLIC OF KENYA**

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

**HCCR NO. 46 OF 2017**

**REPUBLIC.....PROSECUTOR**

**-VERSUS-**

**CARLOS MUYA MUTUA ..... ACCUSED**

***(Formerly Machakos High Court Criminal Case No. 31 of 2016)***

**RULING ON SENTENCE**

1. The accused was initially charged with murder contrary to section 203 as read with section 204 of the Penal Code. He was later convicted of manslaughter contrary to section 202 as read with section 205 of the Penal Code after a plea bargain.
2. The court called for a pre-sentence report which was filed on 11/07/2019. The report is favourable.
3. The deceased was the accused's younger brother. The family has come to terms with the deceased's death. The accused was first arraigned in court on 17/08/2016. He has therefore been in prison custody for 3 years. He is a first offender.
4. I have considered the circumstances leading to the incident, the pre-sentence report, the period the accused has been in custody and the fact that the family is ready and willing to receive the accused back home.

**ORDER**

- (i)** The accused is hereby placed on probation for three (3) years.
- (ii)** The county probation officer to organize for him to report to the Mukaa sub-county probation officer.
- (iii)** The conditions of probation are explained to the accused.

Orders accordingly.

**DELIVERED, SIGNED & DATED THIS 18<sup>TH</sup> DAY OF JULY, 2019 AT MAKUENI IN OPEN COURT.**

.....

**HON. H. I. ONG'UDI**

**JUDGE**